



Australian Government

Takeovers Panel

**Reasons for Decision
NGM Resources Limited
[2010] ATP 11**

Catchwords:

declaration – orders – bidder’s statement – defeating conditions – efficient, competitive and informed market – material adverse change – material adverse effect – force majeure event – failure of bid conditions – terrorism – kidnapping – unacceptable circumstances – non reliance on defeating conditions

Corporations Act 2001 (Cth), sections 602(a), 602(b), 602(c), 629, 630, 631

Novus Petroleum [2004] ATP 2, Goodman Fielder Limited 01 [2003] ATP 1

INTRODUCTION

1. The Panel, John Fast, Robert Johanson and Norman O’Bryan (sitting President), made a declaration of unacceptable circumstances in relation to the affairs of NGM Resources Limited because Paladin’s purported reliance on defeating conditions 10.12(l) and 10.12(m) of its bid for NGM was not justified.

2. In these reasons, the following definitions apply.

16 September Event matters relating to the abduction on or about 16 September 2010 of seven people from Arlit in Niger, described in more detail in Paladin’s ASX announcement dated 24 September 2010

AQIM al-Qaeda in the Maghreb (North Africa)

FM Condition condition 10.12(l) of Paladin’s bid, set out in paragraph 6 of these reasons

MAC Condition condition 10.12(m) of Paladin’s bid, set out in paragraph 7 of these reasons

NGM NGM Resources Limited

Paladin Paladin Energy Limited

FACTS

3. NGM is an ASX listed company (ASX code: NGM).

4. On 21 July 2010, Paladin and NGM announced an intention by Paladin to make an off-market scrip takeover bid for NGM. At the time of the announcement, Paladin had voting power of approximately 22.5% in NGM.

5. The NGM directors unanimously recommended that NGM shareholders accept the bid, in the absence of a superior offer. Paladin issued its bidder’s statement on 2 September 2010. Paladin’s bid is subject to defeating conditions.

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6. Condition 10.12(l) to Paladin's bid, headed "No force majeure event", provides:

During the Condition Period, no outbreak of hostilities (whether war is declared or not) or terrorism, mobilisation of armed forces, civil or political unrest or labour disturbance, fire or natural disaster, material increase in the intensity of any of the above events or other event beyond the control of NGM or the relevant subsidiary occurs which affects or is likely to affect the assets, liabilities, financial position, performance, profitability or prospects of NGM or any of its subsidiaries.

7. Condition 10.12(m) to Paladin's bid, headed "No material adverse change to NGM", provides:

During the Condition Period, no change occurs, is discovered or becomes public which has or could reasonably be expected to have a materially adverse effect on the:

- (i) assets, liabilities, financial position, performance, profitability or prospects of NGM and its subsidiaries taken as a whole or of any of them; or*
- (ii) status or terms of any material Approvals from Public Authorities applicable to NGM or any of its subsidiaries,*

including:

- (iii) any creditor demanding repayment of a debt of A\$100,000 or more;*
- (iv) NGM or a subsidiary of NGM entering into an agreement (including an option agreement) in relation to acquiring or disposing of assets the price or aggregate unencumbered value of which is A\$100,000 or more;*
- (v) any person accelerating or adversely modifying the performance of any obligations of NGM or any of its subsidiaries under any agreements, contracts or other legal arrangements;*
- (vi) any of the Niger Tenements (or the extension of any of these tenements for a period of 27 months ending December 2012) is discovered to be not valid or binding.*

8. On or about 16 September 2010, seven people were abducted from Arlit in Niger. On 24 September 2010, Paladin made an ASX announcement regarding the event. It said:

On 16 September 2010, forces associated with al-Qaida in the Magreb (North Africa) (AQIM) entered the town of Arlit in Niger's uranium mining region and abducted seven people, employed by the French uranium company Areva and its construction contractor, Vinci. Areva subsequently evacuated expatriate personnel from its operations in the north of the country and, in response to a request by the Government of Niger, France has dispatched anti-terrorism forces and reconnaissance aircraft to Niger. According to The Associated Press, in order "to kidnap seven foreigners from inside their homes, al-Qaida-linked gunmen in northern Niger forced their way past the security cordon of one of the world's most heavily guarded mining towns." Such action "shows a new level of brazenness".

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9. In its 24 September announcement, Paladin said that its offer for NGM would lapse at the end of the offer period (8 October 2010), relying on the FM Condition and the MAC Condition.
10. NGM's main asset is a uranium prospect in Niger. Arlit, the town in which the 16 September Event occurred, is about 240km from Agadez (the closest town to NGM's tenements) and about 150km from NGM's tenements.
11. At the date of our decision (8 October 2010), Paladin had voting power of 78.92% in NGM.

APPLICATION

Declaration sought

12. By application dated 29 September 2010, NGM sought a declaration of unacceptable circumstances. It submitted, among other things, that:
 - (a) the FM Condition and the MAC Condition were subjective conditions within Paladin's control and so uncertain as to contravene s629¹
 - (b) the FM Condition and the MAC Condition effectively provided Paladin with an option whether to proceed with the bid
 - (c) Paladin had failed to properly inform the market about the FM Condition and the MAC Condition such that the market was not efficient, competitive and informed and
 - (d) even if the FM Condition and the MAC Condition were valid, they were not triggered by the 16 September Event.

Orders sought

13. NGM did not ask for any interim orders.²
14. NGM sought final orders to the effect that:
 - (a) the FM Condition and the MAC Condition contravened s629 and were void or
 - (b) neither the FM Condition nor the MAC Condition had "*become incapable of being fulfilled*" and that Paladin provide corrective disclosure.
15. NGM also sought a final order that Paladin not extend its bid beyond 8 October 2010 (or such later date determined by the Panel pursuant to an interim order) if the 90% minimum acceptance condition to its bid had been satisfied or waived prior to that time.

¹ References are to the *Corporations Act 2001* (Cth) unless otherwise indicated

² NGM foreshadowed that it may seek interim orders to extend the offer period in its application

DISCUSSION

Section 629

16. NGM submitted that the circumstances in which the FM Condition and the MAC Condition could be triggered were so uncertain as to contravene s629 and that the conditions effectively provided Paladin with an option whether to proceed with the bid.
17. Paladin submitted that the FM Condition and the MAC Condition were capable of being tested objectively, were not “*inherently uncertain*” and did not contravene s629.
18. Section 629 prohibits off-market bids being subject to defeating conditions if the fulfilment of the condition depends on (among other things) the bidder’s, or its associate’s, opinion belief or other state of mind or on the happening of an event that is within the sole control of the bidder or its associate. It renders void any such conditions.
19. Conditions like the FM Condition and the MAC Condition are common in bids and, if properly drafted, are not unacceptable.
20. The conditions on their face do not contravene s629, in our view, as they are objective in the sense that Paladin does not have control over the triggers. We therefore consider whether they are too broad and potentially give Paladin an option whether to proceed with the bid.

Materiality requirement

21. There is a policy of certainty inherent in the requirements of Chapter 6 for takeover bids, as evidenced, for example, in ss629 and 631. The FM Condition offends this policy because it is sought to be applied too broadly, leaving Paladin with a discretion about proceeding with its bid. There is no express materiality requirement, suggesting that even relatively minor events would allow Paladin to withdraw its bid. The MAC Condition does not offend this policy because it expressly includes a ‘material adverse effect’ requirement.
22. NGM submitted that, if the FM Condition did not contravene s629, it should be read subject to an overriding materiality requirement.
23. Paladin submitted that the FM Condition had been agreed by NGM during negotiations and that no materiality qualifiers were required. It submitted that the events listed in the condition were by their nature, at the very least, likely to have a “material” (adverse) effect on the business and prospects of NGM. It further submitted that the conditions were not inherently uncertain.

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24. If bid conditions are too broad or vaguely drafted they risk being uncertain in their operation, “in effect, giving the bidder a discretion in relation to their interpretation of the condition”.³ In *Goodman Fielder 01*,⁴ the Panel said:

The Panel considered that the Markets MAC (set out in 9.6(l) of the bidder's statement) suffered many of the faults of the Burns Philp MAC i.e. [it] was drafted very broadly and non-specifically, it was subject to uncertainty as to what would trigger the condition. In addition, there was no materiality test applied to this condition, and there was inadequate disclosure of the risk factors which might cause it to be triggered, such that Goodman Fielder shareholders would find it difficult to assess the likelihood of the bid proceeding and the merits of the bid.

25. The FM Condition needs to be considered in its context. This includes that the FM Condition and the MAC Condition coexist and each should have some meaning. While the FM Condition is headed “No force majeure event”,⁵ it is not a “force majeure” condition as generally understood by the law (i.e., an overwhelming event outside the control of a party which excuses its performance of a contract), particularly as it purports to cover a wider set of circumstances. Therefore, we need to consider what was intended.
26. Paladin referred in its bidder’s statement to its experience in Africa and its ability to manage the risks attendant upon prospecting and mining in remote and often troubled parts of Africa.⁶ It also submitted that the events listed in the condition were by their nature, “likely to have a ‘material’ (adverse) effect on the business and prospects of NGM”.
27. We consider that, properly understood, the FM Condition requires there to be an event having (or likely to have) a materially adverse effect on NGM to trigger it. If the FM Condition is understood in this way, we think it does not offend the policy of certainty in bids.
28. In addition, given the statements that Paladin has made about its experience in Africa and its ability to manage the risks, and the heading to the FM Condition,⁷ a reasonable market participant would, we think, interpret it as requiring there to be an event having a materially adverse effect on NGM to trigger it.
29. We are of the view that the MAC Condition is similar to material adverse change conditions in other bids and does not offend the policy of certainty in bids.

³ *Novus Petroleum* [2004] ATP 2 at [43]

⁴ *Goodman Fielder Limited 01* [2003] ATP 1 at [76]

⁵ We note clause 11.2(b) of the bidder’s statement that headings are for convenience only and do not affect interpretation

⁶ See, for example pp 1 and 5 of Paladin’s Bidder’s Statement dated 2 September 2010

⁷ Despite clause 11.2(b) – see n 5 – since we do not consider that the market would take the same technical approach reading the document that a lawyer would. In addition, clause 11.2(b) was not included in Paladin’s announcement of the bid

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30. NGM submitted that if a defeating condition is so likely to be triggered as to make the bid illusory, the bidder should clearly disclose sufficient information to enable NGM shareholders to assess this risk so that they can form a view on the likelihood that the bid will proceed (which it submitted Paladin had not done). In our view, if the condition goes so far as to make the bid illusory, disclosure alone will not resolve the concern. However, given what we have said about how the FM Condition should be understood, we do not need to consider this issue further.

Has the 16 September Event resulted in a material adverse effect?

31. The FM Condition will be triggered if there is a specified event that materially adversely affects or is likely to materially adversely affect the:

assets, liabilities, financial position, performance, profitability or prospects of NGM or any of its subsidiaries.

32. The MAC Condition will be triggered if there is a change that has or could reasonably be expected to have a materially adverse effect on the:

(i) *assets, liabilities, financial position, performance, profitability or prospects of NGM and its subsidiaries taken as a whole or of any of them; or*

(ii) *status or terms of any material Approvals from Public Authorities applicable to NGM or any of its subsidiaries...*

33. On the question of whether the 16 September Event had, was likely to or could reasonably be expected to have had a materially adverse effect, Paladin made a number of submissions including the following.

Ability to access tenements and title to tenements

34. Paladin submitted that the 16 September Event and the deterioration of the security situation had a material adverse effect on Paladin's valuation of NGM, including because of Paladin's inability to access the Niger tenements, the risk of losing title to those tenements and accounting rule valuation policies. Any period during which it is unable to access the Niger tenements will compromise the ability to meet minimum expenditure requirements.
35. NGM responded that Paladin had not provided sufficient evidence to prove that the 16 September Event would lead to NGM being unable to access the tenements in Niger, "or that access to the Niger Tenements will be prevented over the longer term as a result of the 16 September Event". NGM also submitted that there was no reason to believe that the Nigerien government would not extend the tenure of mining and exploration tenements if there was an issue with access to tenements as a result of the 16 September Event (as the Nigerien government had done when NGM could not access them during the Mise en Garde⁸ between 2007 and 2009).

⁸ State of alert

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36. In our view, the material available does not establish that NGM (or Paladin if the bid is successful) would not be able to access the tenements for a period that would have (or would be likely to or reasonably expected to have) a material adverse effect, or that NGM would lose title to the tenements.

Increased expenses (including expenditure on security) and decreased funding

37. Paladin submitted that “[T]here is a high risk of further abductions” and it “would not be responsible [or] reasonable... to expect its expatriate employees to work or live in such a high risk environment”. Even if it were possible to find suitably qualified and experienced people willing to work at NGM’s tenements, the costs of protecting such staff would be uncommercial and significantly greater than contemplated at the time of the announcement of the bid. Paladin’s financial advisers, Azure Capital Pty Ltd, provided a “generic hypothetical model” analysis of the 16 September Event⁹ that concluded that the 16 September Event has had a material adverse effect on the value of the tenements. It also stated that the ability to obtain third party investment funding in projects would be affected.
38. NGM submitted that early “stage exploration projects with little or no resources have numerous unknown factors, and so it is not appropriate to use a discounted cash flow methodology to value such projects”. NGM also submitted that Azure Capital had assumed a development timetable of 8-9 years and, if an economically mineable deposit is discovered (which is not guaranteed), “it will be security events that occur closer to the time that project finance is required that are likely to impact on the ability to develop this project”.
39. In our view, the material available does not establish that the 16 September Event has resulted in a material adverse financial impact on NGM or its subsidiaries. A pre-bid report obtained by Paladin¹⁰ recommended that Paladin should enhance site and residence security at NGM’s tenements, train employees in good security practice and emergency procedures and hire a French-speaking, dedicated, professional security manager. It also recommended that Paladin provide situational awareness and incident management training, including for risk of kidnap, robbery and carjacking. A post-16 September Event report obtained by Paladin¹¹ concluded that Paladin would need to undertake extensive and costly security assessments and training exercises, including providing training to expatriate staff on preventing and surviving kidnappings and that an in-house expatriate country security manager should be hired.
40. In our view, the recommendations in the post-event report do not differ materially from the recommendations in the pre-bid report, suggesting that what would have been required before the 16 September Event and after it are not very different.
41. We conclude that, on the material available, neither the FM Condition nor the MAC Condition has been triggered by the 16 September Event.

⁹ Paladin stated that Azure Capital’s work was based on a hypothetical scenario and assumed that there would be no access or title issue as a result of the 16 September Event and that NGM’s exploration would lead to an economically viable ore body

¹⁰ Field Security Services Limited’s report dated 20 March 2010

¹¹ Good Governance Report dated 28 September 2010

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Is the 16 September Event an event of the type required by the FM Condition?

42. The types of events required to trigger the FM Condition are:

...outbreak of hostilities (whether war is declared or not) or terrorism, mobilisation of armed forces, civil or political unrest or labour disturbance, fire or natural disaster, material increase in the intensity of any of the above events or other event beyond the control of NGM or the relevant subsidiary...

43. On the question of whether the 16 September Event was an event of the type required by the FM Condition, Paladin submitted:

- AQIM's activities in Niger have historically been less significant and generally more geographically confined, and the threat could previously have been managed with effective use of security forces and vehicle escorts.
- The scale and manner of the 16 September Event was entirely unforeseeable and was a material escalation. NGM responded that there was speculation that the 16 September Event was "*in retaliation to a failed mission by French Special Forces to release a French national held hostage [by] AQIM in Mali in July 2010*", an event that occurred before Paladin lodged its bidder's statement, and that it was therefore "*credible to conclude that the 16 September Event may have been specifically targeted at French interests operating in the region*".
- Areva had evacuated all expatriate employees and their families and all subcontractors "*in the areas of Arlit, Akojan or Imouraren*". NGM noted an announcement from Areva dated 1 October 2010, which stated that Areva "*will not leave Niger and that business will continue for the long term*".

44. We do not consider that the 16 September Event is an "*outbreak of... terrorism... mobilisation of armed forces*" or similar event. Nor do we consider that the 16 September Event represents "*a material increase in the intensity of such events*" since the date of Paladin's bid. Events of this type were, unfortunately, not uncommon¹² and had been reported on to Paladin before it bid.¹³

45. Perhaps the strongest argument that the FM Condition had been triggered was Paladin's submission that the 16 September Event involved the "*abductions of 7 people (including 5 French citizens) from a heavily guarded mining town*" and that the French government had responded by mobilising "*80-100 French anti-terrorist specialists and aircraft, with the French military being permitted into Niger's airspace in the first time in 25 years*". In our view, however, the "mobilisation" is more a police action than a calling out of armed forces on a scale that the condition seems to contemplate.

46. In our view, the 16 September Event did not trigger the FM Condition.

¹² In 2008 Areva announced that some of its employees working in Niger had been kidnapped by the Movement for Justice

¹³ Field Security Services Limited report, March 2010 lists numerous events of kidnapping and other attacks

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47. Moreover, conducting mining operations in many parts of Africa (and this region in particular) carries significant security risks, including the risk of kidnapping of foreigners which is specifically included in government warnings,¹⁴ and this was well known. Paladin addresses such issues in its bidder's statement and describes its experience in dealing with them. It has other mining operations in Africa and is familiar with their political, economic and other risks and it sought advice on the security situation in Niger before it made its bid.
48. Therefore, if the FM Condition is understood against that background, we think a reasonable market participant would not have expected it to extend to the 16 September Event.

Conclusion

49. In our view Paladin's announcement on 24 September 2010 was not justified by the 16 September Event and has resulted in the acquisition of control over NGM shares not taking place in an efficient, competitive and informed market.
50. Moreover, purported reliance by Paladin on those conditions has resulted in NGM shareholders not having enough information to enable them to assess the merits of the bid and as far as practicable, NGM shareholders not having a reasonable and equal opportunity to participate in any benefits accruing to NGM shareholders through the bid.

DECISION

Declaration

51. It appears to us that the circumstances are unacceptable having regard to s657A(2)(a) and s657A(2)(c). Accordingly, we made the declaration in Annexure A and consider that it is not against the public interest to do so. We had regard to the matters in s657A(3).

Orders

52. Following the declaration, we made the final orders in Annexure B. Under s657D, the Panel's power to make orders is very wide. The Panel is empowered to make 'any order'¹⁵ if 4 tests are met:
 - (a) It has made a declaration under s657A. This was done on 8 October 2010.

¹⁴ See, for example, Travel Advice for Niger issued by the Australian Department of Foreign Affairs and Trade (at 26 September 2010), travel advice issued by the UK Foreign & Commonwealth Office and US State Department Travel Advice for Niger dated 11 May 2010

¹⁵ Including a remedial order but other than an order requiring a person to comply with a provision of Chapters 6, 6A, 6B or 6C

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- (b) It must not make an order if it is satisfied that the order would unfairly prejudice any person. We are satisfied that the orders do not unfairly prejudice any person. This is because they remedy the unacceptable circumstances by preventing reliance on the 16 September Event as a trigger of the conditions, requiring withdrawal of the s630 notice that purported to rely upon the event and giving shareholders additional time to consider whether to accept the bid. This ensures that the bid proceeds as it would have if the unacceptable circumstances had not occurred but goes no further.
- (c) It gives any person to whom the proposed order would be directed, the parties and ASIC an opportunity to make submissions. This was done on 6 October 2010. NGM submitted that the Panel's orders should extend Paladin's bid for a month, and should prevent Paladin from extending its bid for more than one month at a time and in circumstances where the 90% minimum acceptance condition has been satisfied or waived prior to the scheduled closing date of the bid. We consider that the additional orders suggested by NGM are not necessary and that a 2-week extension is sufficient. ASIC submitted that Paladin should dispatch a notice of variation and a supplementary bidder's statement. We agree that Paladin should provide NGM shareholders with a notice of variation (so that shareholders are aware of the situation, noting that s650D would have required dispatch of a notice of variation if the bid had been extended in the ordinary course) but we do not consider it is necessary to order Paladin to dispatch a supplementary bidder's statement.
- (d) It considers the orders appropriate to either protect the rights and interests of persons affected by the unacceptable circumstances, or any other rights or interests of those persons, or ensure that a takeover or proposed takeover proceeds as it would have if the circumstances had not occurred. The orders do this.

53. We do not make any orders as to costs.

54. We made our decision on the basis of the information available at the time and recognise that things may change. Paladin is free to rely on those conditions, or indeed any others, if warranted and permitted by law before the end of the bid period.

Norman O'Bryan AM SC
President of the sitting Panel
Decision dated 8 October 2010
Reasons published 19 October 2010



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Annexure A

CORPORATIONS ACT

SECTION 657A

DECLARATION OF UNACCEPTABLE CIRCUMSTANCES

NGM RESOURCES LIMITED

CIRCUMSTANCES

1. NGM Resources Limited (**NGM**) is the subject of an off-market scrip takeover bid by Paladin Energy Limited (**Paladin**). Paladin's bid is subject to defeating conditions, including:

(a) condition 10.12(l), which provides:

No force majeure event

During the Condition Period, no outbreak of hostilities (whether war is declared or not) or terrorism, mobilisation of armed forces, civil or political unrest or labour disturbance, fire or natural disaster, material increase in the intensity of any of the above events or other event beyond the control of NGM or the relevant subsidiary occurs which affects or is likely to affect the assets, liabilities, financial position, performance, profitability or prospects of NGM or any of its subsidiaries.

and;

(b) condition 10.12(m), which provides:

No material adverse change to NGM

During the Condition Period, no change occurs, is discovered or becomes public which has or could reasonably be expected to have a materially adverse effect on the:

(i) *assets, liabilities, financial position, performance, profitability or prospects of NGM and its subsidiaries taken as a whole or of any of them; or*

(ii) *status or terms of any material Approvals from Public Authorities applicable to NGM or any of its subsidiaries,*

including:

(iii) *any creditor demanding repayment of a debt of A\$100,000 or more;*

(iv) *NGM or a subsidiary of NGM entering into an agreement (including an option agreement) in relation to acquiring or disposing of assets the price or aggregate unencumbered value of which is A\$100,000 or more;*

(v) *any person accelerating or adversely modifying the performance of any obligations of NGM or any of its subsidiaries under any agreements, contracts or other legal arrangements;*

(vi) *any of the Niger Tenements (or the extension of any of these tenements for a period of 27 months ending December 2012) is discovered to be not valid or binding.*

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2. On 24 September 2010, Paladin announced that its offer for NGM will lapse at the end of the offer period (8 October 2010), relying on conditions 10.12(l) and 10.12(m). It said:

On 16 September 2010, forces associated with al-Qaida in the Magreb (North Africa) (AQIM) entered the town of Arlit in Niger's uranium mining region and abducted seven people, employed by the French uranium company Areva and its construction contractor, Vinci. Areva subsequently evacuated expatriate personnel from its operations in the north of the country and, in response to a request by the Government of Niger, France has dispatched anti-terrorism forces and reconnaissance aircraft to Niger. According to The Associated Press, in order "to kidnap seven foreigners from inside their homes, al-Qaida-linked gunmen in northern Niger forced their way past the security cordon of one of the world's most heavily guarded mining towns." Such action "shows a new level of brazenness".
3. Paladin is not entitled to rely on condition 10.12(l) because:
 - (a) properly construed, the condition requires that the relevant event has a "materially adverse effect" on NGM;
 - (b) the event relied upon by Paladin (see 2 above) does not satisfy the requirements of the condition; and
 - (c) on the material available, a material adverse effect on NGM has not been established.
4. Paladin is not entitled to rely on condition 10.12(m) because, on the material available, a material adverse effect on NGM has not been established.
5. The Panel considers that purported reliance by Paladin on those conditions has resulted in:
 - (a) the acquisition of control over NGM shares not taking place in an efficient, competitive and informed market;
 - (b) NGM shareholders not having enough information to enable them to assess the merits of the bid; and
 - (c) as far as practicable, NGM shareholders not having a reasonable and equal opportunity to participate in any benefits accruing to NGM shareholders through the bid.
6. It appears to the Panel that the circumstances are unacceptable having regard to the effect that the Panel is satisfied the circumstances have had, are having, will have or are likely to have on:
 - (a) the control, or potential control, of NGM; and
 - (b) the acquisition, or proposed acquisition, by a person of a substantial interest in NGM.
7. The Panel considers that it is not against the public interest to make a declaration of unacceptable circumstances. It has had regard to the matters in section 657A(3).

DECLARATION

The Panel declares that the circumstances constitute unacceptable circumstances in relation to the affairs of NGM.

Allan Bulman
Director
with authority of Norman O'Bryan AM SC
President of the sitting Panel
Dated 8 October 2010



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Annexure B
CORPORATIONS ACT
SECTION 657D
ORDERS

NGM RESOURCES LIMITED

The Panel made a declaration of unacceptable circumstances on 8 October 2010.

THE PANEL ORDERS

1. Paladin must extend the offer period in relation to its off-market takeover bid for NGM in accordance with the Corporations Act 2001 (Cth) (**Act**) until 5.00pm (Perth time) on 22 October 2010 (or a later date permitted under the Act).
2. Paladin immediately withdraw the notice given to NGM and ASX under s630 of the Act dated 1 October 2010.
3. Paladin lodge a new notice with NGM and ASX in accordance with s630 of the Act in due course.
4. Paladin make an ASX announcement as soon as practicable after the date of these orders explaining the effect and substance of Orders 1, 2 and 3.
5. As soon as practicable, Paladin confirm in writing to the Panel that it has satisfied its obligations under these Orders.

Allan Bulman
Director
with authority of Norman O'Bryan AM SC
President of the sitting Panel
Dated 8 October 2010