



**Australian Government**

**Takeovers Panel**

# MEDIA RELEASE

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**No: TP12/37**

**Wednesday, 27 June 2012**

## **The President's Club Limited - Panel Receives Application**

The Panel has received an application from The President's Club Limited in relation to its affairs.

Details of the application, as submitted by the applicant, are below.

A sitting Panel has not been appointed at this stage and no decision has been made whether to conduct proceedings. The Panel makes no comment on the merits of the application.

### **Details**

President's Club is an unlisted public company with more than 50 members. It operates a time share scheme at the Palmer Coolum Resort (formerly known as the Hyatt Coolum Resort).

Each President's Club shareholder holds:

- one or more parcels of 13 ordinary shares and
- for each parcel of shares, a corresponding  $\frac{1}{4}$  interest as tenant in common in a lot in either The President's Club Golf Community Titles Scheme or The President's Club Tennis Community Titles Scheme.

A person may only hold shares if they are the registered proprietor of a corresponding interest in a lot.

Queensland North Australia Pty Ltd (a company associated with Clive Palmer) (QNA) and its associates currently hold 44.44% of the issued share capital of President's Club.

On 12 April 2012, QNA lodged a bidder's statement with ASIC in respect of an offer to acquire all of the shares in President's Club and the corresponding villa interests. The purchase price offered was \$55,013 comprising \$13 for each parcel of 13 shares and \$55,000 for the corresponding villa interest.

On 21 May 2012, QNA lodged supplementary and replacement bidder's statements with ASIC.

*Unacceptable circumstances*

President's Club submits that the following matters give rise to unacceptable circumstances:

- QNA has breached, and continues to breach, section 606 by holding a relevant interest in excess of 20% which was acquired without relying on any of the exceptions in section 611<sup>1</sup>
- the takeover offer by QNA does not satisfy the minimum bid price principle because shares and villa interests were acquired in the four month period before the bid for a combined price higher than that offered under the bid<sup>2</sup> and
- there are a number of material disclosure and technical deficiencies in the bidder's statement.

*Orders sought*

President's Club seeks interim orders that, pending the outcome of the Panel proceedings:

- the despatch of the second replacement bidder's statement be restrained and
- QNA and its associates be restrained from exercising voting rights in excess of 20%.

President's Club seeks final orders that:

- QNA and its associates be restrained from exercising voting rights in President's Club in excess of 20%
- QNA proceed with its takeover bid on terms no less favourable than those set out in the original bidder's statement lodged with ASIC on 12 April 2012 (subject to rectification of the identified structural and disclosure issues)

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<sup>1</sup> On 1 July 2011, QNA acquired 98% of the shares in Coeur de Lion Holdings Pty Ltd (**CDLH**). At the time of the acquisition CDLH, held 41.4% of the shares in President's Club through Coeur de Lion Investments Pty Ltd (**CDLI**).

In its bidder's statement, QNA states that QNA did not acquire voting power of more than 20% at the time of the acquisition as at that time CDLI was bound by a deed poll in favour of ASIC under which it agreed not to exercise voting rights in President's Club in excess of 10%. The deed poll has since been terminated by CDLI.

<sup>2</sup> In March 2012, QNA settled the purchase of 17 parcels of 13 President's Club shares and corresponding villa interests for \$1.00 per share and prices up to \$65,000 for corresponding villa interests.

- QNA raise the offer price to the maximum price paid by QNA in the four months before the date of the bid and
- QNA prepare a second replacement bidder's statement correcting the deficiencies.

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