



Australian Government

Takeovers Panel

# MEDIA RELEASE

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No: TP12/82

Friday, 23 November 2012

## **CMI Limited – Panel Receives Request for Further Stay of Final Orders**

On 22 February 2011, the Panel made a declaration of unacceptable circumstances on an application dated 6 January 2011 by Mr Gerry Pauley and Mr Gordon Elkington in relation to the affairs of CMI Limited (see [TP11/15](#)).

On 25 February 2011, the Panel made final orders and stayed the orders pending Panel review of the decision (see [TP11/16](#)). The stay was lifted following completion of the Panel review proceedings (see [TP11/21](#)). Further stays were granted to allow the Federal Court judicial review application (see [TP11/23](#) and [TP 11/26](#)).

The stay was lifted following completion of the Federal Court proceedings (see [TP12/81](#)).

The review Panel has received a request from Tinkerbell Enterprises Pty Ltd as trustee for the Leanne Catelan Trust for a further stay as it is considering whether to appeal the Federal Court decision.

The Panel has made orders granting the request (Annexure A). The main effect of the orders is that the process of selling the shares will be stayed.

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**Annexure A**

**CORPORATIONS ACT  
SECTION 657D  
FURTHER VARIATION OF ORDERS**

**CMI LIMITED**

On 25 February 2011 the Takeovers Panel made orders in CMI Limited (**the orders**)

On 25 February 2011 the Panel stayed the orders pending Panel review. The stay was lifted following completion of the Panel review proceedings

On 21 March 2011 the Panel stayed orders 2, 3, 4 and 7 of the orders pending consideration of judicial review and on 7 April 2011 continued that stay until the conclusion of an application for judicial review filed in the Federal Court of Australia on 5 April 2011

On 16 November 2012 the stay was lifted following completion of the judicial review proceedings

Tinkerbelle Enterprises Pty Ltd as trustee for the Leanne Catelan Trust (**Tinkerbelle**) is considering whether it will appeal the judicial review proceedings and seeks a further stay of the orders

**THE PANEL ORDERS**

Pursuant to section 657D(3) of the *Corporations Act 2001* (Cth):

1. Orders 2, 3, 4 and 7 in CMI Limited dated 25 February 2011 are stayed until the earliest of:
  - a) if an appeal is filed on or before 7 December 2012, 2 business days following either the determination by the Full Court of the Federal Court of Australia or the appeal to the Full Court being otherwise resolved (whichever occurs first) or
  - b) if no appeal is filed, 2 business days following either Tinkerbelle informing the Panel that it will not appeal or the expiry of the appeal period (whichever occurs first) or
  - c) further order of the Panel.

2. Tinkerbelle must inform the Panel within 24 hours of deciding not to appeal or (if it appeals) the appeal to the Full Court being otherwise resolved.

**Alan Shaw**  
**Counsel**  
**with authority of Kathleen Farrell**  
**President of the review Panel**  
**Dated 23 November 2012**