



Australian Government

Takeovers Panel

# MEDIA RELEASE

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No: TP14/69

Wednesday, 20 August 2014

## **Blackham Resources Limited – Panel Declines to Make Declaration**

The Panel has declined to make a declaration of unacceptable circumstances in response to an application dated 25 July 2014 from Blackham Resources Limited in relation to its affairs.

Blackham submitted that (among other things) Mr Joseph Gutnick, Great Central Gold Pty Ltd, Mazil Pty Ltd, Perfectus Management Limited and Polo Resources Limited were associates in relation to Blackham and, as a result, there had been contraventions of the substantial holding provisions and s606<sup>1</sup> (see [TP14/64](#)).

On 27 May 2014, Polo Resources acquired a 49% interest in Perfectus. At the time of Polo Resources' investment, Perfectus' only asset was 15,888,495 Blackham shares (approximately 15%).

Mr Gutnick previously owned 100% of Perfectus and retained a 49% interest following Polo Resources' subscription (a further 2% was subscribed for by an entity associated with Polo Resources' managing director). A shareholders' agreement between the Perfectus shareholders was entered into on this date.

Also, at 27 May 2014:

- Great Central Gold, an entity that is 100% owned by Mr Gutnick, held 15,901,505 Blackham shares (approximately 15%)<sup>2</sup> and
- Polo Resources held 4,761,905 Blackham shares (approximately 4.5%) through a nominee.

Shareholders' agreements such as the Perfectus shareholders' agreement can give rise to an association. However in this case, given the general terms of the agreement, the Panel considered the surrounding circumstances and the material presented and

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<sup>1</sup> References are to *Corporations Act 2001* (Cth) unless otherwise indicated

<sup>2</sup> On 25 June 2014, Great Central Gold transferred 15,893,505 Blackham shares (approximately 15%) to Mazil Pty Ltd, an entity that is 50% owned by Mr Gutnick and 50% owned by Mr Gutnick's son. Great Central Gold retained 8,000 Blackham shares

was not, on balance, inclined to draw the necessary inferences and find that an association in relation to Blackham existed.

The Panel considered that it is not against the public interest to decline to make a declaration of unacceptable circumstances.

On the basis of the above, the Panel decided not to make a declaration of unacceptable circumstances.

As the proceedings have concluded, the interim orders are now at an end.

The sitting Panel was Peter Hay, Rodd Levy (sitting President) and Alison Watkins. The Panel will publish its reasons for the decision in due course on its website [www.takeovers.gov.au](http://www.takeovers.gov.au).

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