



**Australian Government**

**Takeovers Panel**

# MEDIA RELEASE

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**No: TP15/58**

**Monday, 26 October 2015**

## **CuDeco Limited – Panel Receives Application**

The Panel has received an application from Mr Neville Lowe in relation to the affairs of CuDeco Limited. Mr Lowe is a CuDeco shareholder.

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**

CuDeco has the following disclosed substantial holders:

- Sinosteel Equipment & Engineering Co Limited – 6.23%
- New Apex Asia Investment Limited – 8.88% and
- China Oceanwide International Investment Co. Limited – 19.74%.

On 23 July 2015, Sinosteel, New Apex and China Oceanwide lodged separate substantial holder notices, disclosing that all three companies:

- have been in discussions in relation to mutual concerns about the financial performance of CuDeco and
- are proposing to act in concert in relation to the funding of CuDeco.

On 17 September 2015, CuDeco announced a fully underwritten renounceable rights issue to raise \$88.3 million. CuDeco confirmed that Sinosteel, New Apex and China Oceanwide would take up their full entitlement under the rights issue and the rights issue was underwritten equally in thirds by New Apex, China Oceanwide and Infinitus Limited.

On 15 October 2015, CuDeco announced that it is required to prepare a full prospectus.<sup>1</sup> CuDeco has not yet lodged its prospectus.

Mr Lowe submits (among other things) that:

- the rights issue has a control effect giving rise to unacceptable circumstances
- CuDeco cannot rely on the exceptions in items 10 and 13 of s611
- Sinosteel, New Apex and China Oceanwide did not include their combined voting power in their 23 July 2015 substantial holding notices and
- Infinitus has failed to lodge a substantial holding notice in relation to CuDeco.

Mr Lowe seeks interim orders, including that Sinosteel, New Apex and China Oceanwide not acquire any shares in CuDeco. Mr Lowe seeks final orders, including that:

- the rights issue not proceed or
- in the alternative, the right issue only proceed subject to conditions designed to mitigate any control effect.

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<sup>1</sup> Under s710. All references are to the *Corporations Act 2001* (Cth) unless otherwise stated