



Australian Government

Takeovers Panel

MEDIA RELEASE

No: TP19/59

Monday, 30 September 2019

Benjamin Hornigold Limited 09 - Panel Declines to Conduct Proceedings

The Panel has declined to conduct proceedings on an application dated 13 September 2019 from Benjamin Hornigold Limited in relation to its affairs.

The application concerned whether the following transactions (separately and together with transactions the subject of the declaration in *Benjamin Hornigold Limited 05, 06 & 07*, see [TP19/50](#)) rendered Benjamin Hornigold a less attractive acquisition target and made it less likely to attract competing proposals from potential acquirers, in essence operating as a lock-up device:

- the novation of a loan arrangement between Benjamin Hornigold (as lender) and Genesis Proprietary Trading Pty Ltd (**Genesis**) (as borrower) for a loan amount of \$800,000 on 7 May 2019 so that the amount outstanding (including accrued, unpaid interest) was transferred from Genesis to JB Financial Group Pty Ltd (**JB Financial Group**) and
- the variation of a loan agreement between Benjamin Hornigold (as lender) and JB Financial Group (as borrower) for the purpose of allowing JB Financial Group to purchase 100% of the shares of Genesis to extend the date of repayment to 11 September 2020 and remove Benjamin Hornigold's right to convert outstanding monies under the loan into Genesis shares (see [TP19/54](#)).

The Panel considered there was no reasonable prospect that it would grant any substantive relief having regard to (among other things) the quantum and effect of the above transactions and the effect of developments since (including the close of the takeover bid by John Bridgeman Limited for all of the securities in Benjamin Hornigold on 13 September 2019 and the orders of the Panel in *Benjamin Hornigold Limited 05, 06 & 07* (see [TP19/57](#))). Accordingly, the Panel declined to conduct proceedings.

The sitting Panel was Christian Johnston, John Sheahan QC (sitting President) and Sharon Warburton.

The Panel will publish its reasons for the decision in due course on its website www.takeovers.gov.au.

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