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ASIC

Australian Securities &
Investments Commission

HIGH COURT ALLOWS ASIC APPEAL IN YANDAL LITIGATION

The High Court has allowed ASIC's appeal from the Full Federal Court in the Yandal litigation.

In June 1999, Justice Merkel found that Yandal Gold Pty Ltd, Edensor Nominees Pty Ltd (the trustee of the Gutnick Family Trust) and subsidiaries of Normandy Mining Ltd breached the takeover provisions of the Corporations Law in relation to the takeover of Great Central Mines Ltd.

Justice Merkel ordered Edensor to pay \$28.5 million to be distributed to shareholders.

Edensor appealed the decision and in March 2000, the Full Federal Court found that the order by Justice Merkel that Edensor pay \$28.5million was invalid for want of jurisdiction and that the Federal Court had no jurisdiction to hear and determine the proceedings under the Corporations Law.

ASIC appealed to the High Court. At the end of the hearing, after a short adjournment, the High Court granted ASIC special leave to appeal and ordered that:

- ASIC's appeal be allowed;
- the orders of the Full Federal Court be set aside;
- the matter be remitted back to the Full Federal Court;
- the respondents pay ASIC's costs.

The matter will now go back to the Full Federal Court for a decision on the merits of the balance of Edensor's appeal.

The High Court has not yet published reasons for its decision.

Edensor and Normandy/Yandal also sought special leave to appeal the orders of the Full Federal Court. These applications were dismissed with no order as to costs.

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