## NOTICE OF FILING AND HEARING

This document was lodged electronically in the FEDERAL COURT OF AUSTRALIA (FCA) on 2/02/2016 9:16:00 AM AEDT and has been accepted for filing under the Court's Rules. Filing and hearing details follow and important additional information about these are set out below.

#### Filing and Hearing Details

Document Lodged:

Originating process (Rule 2.2): Federal Court (Corporations) Rules 2000

form 2

File Number:

NSD160/2016

File Title:

Australian Securities and Investment Commission v Hochtief

Aktiengesellcharft ARBN 101 525 651

Registry:

NEW SOUTH WALES REGISTRY - FEDERAL COURT OF

AUSTRALIA

Reason for Listing:

To Be Advised

Time and date for hearing:

To Be Advised

Place:

To Be Advised



Dated: 2/02/2016 9:28:03 AM AEDT

Registrar

World Soden

## **Important Information**

As required by the Court's Rules, this Notice has been inserted as the first page of the document which has been accepted for electronic filing. It is now taken to be part of that document for the purposes of the proceeding in the Court and contains important information for all parties to that proceeding. It must be included in the document served on each of those parties.

The Reason for Listing shown above is descriptive and does not limit the issues that might be dealt with, or the orders that might be made, at the hearing.

The date and time of lodgment also shown above are the date and time that the document was received by the Court. Under the Court's Rules the date of filing of the document is the day it was lodged (if that is a business day for the Registry which accepts it and the document was received by 4.30 pm local time at that Registry) or otherwise the next working day for that Registry.

Date and Time to be Advised



### **ORIGINATING PROCESS**



No.

Federal Court of Australia

District Registry: New South Wales

Division: General

IN THE MATTER OF HOCHTIEF AKTIENGESELLSCHAFT (ARBN: 101 525 651)

**Australian Securities and Investments Commission** 

**Plaintiff** 

Hochtief Aktiengesellschaft (ARBN 101 525 651)

Defendant

#### A. DETAILS OF APPLICATION

This application is made under sections 1317J(1), 1317E(1)(item 45), and 1317G(1A) and (1B) of the *Corporations Act 2001* (Cth) (the Act).

This is an application for a declaration that the defendant (Hochtief AG) has contravened section 1043A(1)(d) of the Act, and for an order that Hochtief AG pay to the Commonwealth a pecuniary penalty in respect of that contravention.

On the facts stated in the supporting affidavit and Agreed Statement of Facts, the plaintiff (ASIC) claims:

- 1. A declaration that Hochtief AG contravened section 1043A(1)(d) of the Act in that:
  - 1.1 on 14 January 2014, at a meeting of the Audit Committee of Leighton Holdings Limited ACN 004 482 982 (now known as Clmic Group Limited) (Leighton), Hochtief AG, through its Chief Financial Officer, came into possession of information in relation to Leighton's expected financial result for the year ended 31 December 2013, which information it ought reasonably to have known was inside information within the meaning of sections 1042A and 1042D of the Act (the inside information);
  - 1.2 on 27 January 2014, whilst in possession of the inside information, Hochtief AG extended the completion date for the acquisition of shares in Leighton

Filed on behalf of:

Australian Securities and Investments Commission, the Plaintiff

Prepared by:

Kim Turner, Solicitor for the Plaintiff

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(02) 9911 2230

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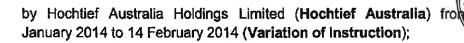
Email:

kim.turner@asic.gov.au

Address for service

Australian Securities and Investments Commission Level 5, 100 Market Street, Sydney NSW 2000

Ref: 14-20093



1.3 on 29 January 2014, whilst in possession of the inside information, Hochtief AG issued the Variation of Instruction to various directors and officers of Hochtief Australia, thereby procuring Hochtief Australia to acquire shares in Leighton, in contravention of section 1043A(1)(d) of the Act,

and that the contravention was serious within the meaning of section 1317G(1A)(c)(iii) of the Act.

- 2. An order pursuant to section 1317G(1A) of the Act that Hochtief AG pay to the Commonwealth a pecuniary penalty in respect of the declared contravention.
- 3. Costs in the amount of \$50,000.
- 4. Such further or other order as the Court sees fit.

Date: 1 February 2	20	16
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Kim Turner Plaintiff's Legal Practitioner

This application will be heard by	<i></i>
Federal Court of Australia, Law Courts Building,	Queens Square, Sydney
at *am/*pm on	ė.

B. NOTICE TO DEFENDANT

TO: Hochtief Aktiengesellschaft

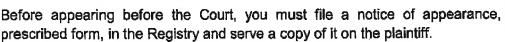
ARBN: 101 525 651

Level 18, 55 Market Street

Sydney NSW 2000

If you or your legal practitioner do not appear before the Court at the time shown above, the application may be dealt with, and an order made, in your absence. As soon after that time as the business of the Court will allow, any of the following may happen:

- (a) the application may be heard and final relief given;
- (b) directions may be given for the future conduct of the proceeding;
- (c) any interlocutory application may be heard.





Note Unless the Court otherwise orders, a defendant that is a corporation must be represented at a hearing by a legal practitioner. It may be represented at a hearing by a director of the corporation only if the Court grants leave.

### C. FILING

Date of filing:

Registrar

This originating process is filed by Kim Turner for the plaintiff.

# D. SERVICE

The plaintiff's address for service is Level 5, 100 Market Street, Sydney 2000.

The defendant's address for service is Ashurst Australia, Level 11, 5 Martin Place, Sydney NSW 2000.

It is intended to serve a copy of this originating process on the defendant and on any person listed below:

David Paul Robinson 35 Johnston Street Annandale NSW 2038