

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 Aktiengesellschaft 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



A handwritten signature in black ink, appearing to read 'Warwick Soden'.

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

Registrar

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

2-18



ORIGINATING PROCESS

No. of 2016

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 Cimic 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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Address for service	Australian Securities and Investments Commission Level 5, 100 Market Street, Sydney NSW 2000 Ref: 14-20093



by Hochtief Australia Holdings Limited (**Hochtief Australia**) from January 2014 to 14 February 2014 (**Variation of Instruction**);

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 2016*

[Handwritten Signature]

Kim Turner
Plaintiff's Legal Practitioner

This application will be heard by at
Federal Court of Australia, Law Courts Building, Queens Square, Sydney

at *am/*pm on

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.



Before appearing before the Court, you must file a notice of appearance, in the prescribed form, in the Registry and serve a copy of it on the plaintiff.

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:

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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