

# COMPETITION TRIBUNAL OF SOUTH AFRICA

Case No: 33/ LM/Mar07

In the matter between

**Gold Reef Resort Ltd**

Acquiring Firm

**And**

**Akani Leisure Msunduzi Investments (Pty) Ltd**

**Richard Moloko Consortium Holdings (Pty) Ltd**

**Akani Leisure Investments (Pty) Ltd**

**And Akani Leisure Investment**

**Casino Management**

Primary Target Firms

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Panel : D Lewis (Presiding Member), Y Carrim (Tribunal Member) and M Mokuena (Tribunal Member)

Heard on : 06 June 2007

Decided on : 06 June 2007

Reasons Issued : 04 September 2007

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## REASONS FOR DECISION

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### Approval

[1]. On 06 June 2007 the Competition Tribunal issued a Merger Clearance Certificate approving the merger between Gold Reef Resort (Pty) Ltd and Akani Leisure Msunduzi Investment (Pty) Ltd, Richard Moloko Consortium Holdings (Pty) Ltd, Akani Leisure Investment (Pty) Ltd and Akani Leisure Investment Casino Management unconditionally. The reasons appear below.

### Parties

[2]. The acquiring firm is Gold Reef Resort Ltd (“GRR”)<sup>1</sup>, a public company listed on the JSE Stock Exchange. GRR controls Gold Reef Management (Pty) Ltd (“Gold Reef Management”), Gold Reef Share Scheme (“Gold Reef Share Scheme”), West Coast Leisure (Pty) Ltd (“West Coast Leisure”) and Aldis Investments (“Aldis”).

[3]. The target firms are Akani Leisure Goldfields Investments (Pty)Ltd (“ALGI”), Akani Leisure Msunduzi Investment (Pty) Ltd (“ALMI”), Akani Msunduzi (Pty)Ltd (“Akani

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<sup>1</sup> GRR is jointly controlled (through voting pool arrangements) by Casinos Austria International GmbH holding 27.3%, Maxim Krok 1994 Trust holding 7.02%, Elna Pincus 1994 Trust holding 5.38%, Shelley Krok 1994 Trust holding 5.38%, The Simone Lerman 1994 Trust holding 5.22%, the David Krok 1994 Trust holding 4.74% and Mark Krok holding 4,18%.

Msunduzi”), Richard Moloko Consortium Holdings (Pty) Ltd (RMCH”), Newshelf 786 (Pty)Ltd (“Newshelf 786”), Akani Leisure (Silverstar Holdings) (Pty)Ltd (“ALSH”), Silverstar Development Ltd ( “Silverstar Development”), Silverstar Management (Pty)Ltd (“Silverstar Management”), Akani Leisure Investment (Pty) Ltd (“ALI”) Akani Egoli (Pty) Ltd ( “Akani Egoli”)and Akani Leisure Investment Casino Management(“ALC”).<sup>2</sup>

## **Transaction**

[4]. In terms of the proposed transaction the Gold Reef Group and BEE co-shareholders wish to consolidate the BEE interests held by the aforementioned BEE shareholders through a series of cross conditional transactions. BEE interests, which are generally held directly, or by a special purpose vehicle, are sold to Gold Reef Resorts Ltd in consideration for new GRR shares issued by GRR to the BEE co-shareholder. The effect of the transaction is such that the BEE interests in the casino holding entities are effectively swapped for interests directly into GRR.

## **Rationale**

[5]. From the acquiring firm’s perspective the proposed transaction provides it with an opportunity to exercise sole and direct control over its licence holding subsidiaries and operating companies.

[6]. From the target firm’s perspective, the BEE co-shareholders each wish to enter into the proposed transaction in order to diversify their shareholding in the GRR group. The proposed transaction will also convert their shareholding to shareholding in the entire GRR group.

## **Parties’ Activities**

[7]. GRR owns, operates and invests in hotels, casinos, conference facilities and theme parks in South Africa. The primary target firms and their subsidiaries operate hotels, casinos and conference facilities.

## **Relevant Market**

[8]. The activities of the merging parties overlap in the development, ownership, operation and management of casino resorts and hotels. In its analysis of the relevant product market the Commission considered the impact of the proposed transaction in the market for the development, operation and management of casino resorts and hotels. The Commission defined the geographic market as regional. We agree with the Commission’s conclusions.

## **Market Shares**

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<sup>2</sup> For a list of all firms directly or indirectly controlling the Primary Target firms please pages 11-13 of the record.

[9]. The following tables contain market share data of each market participant in the market for the development, operation and management of casino resorts and hotels. Table 1 shows the market shares for the week ending 29 April 2007 for the Gauteng Province and Table 2 shows the annual market shares for Casinos operating in the Gauteng Province for the year 2006/2007.

**Table 1: Market shares for casinos for the week ending 29 April 2007 for the Gauteng province.**

<b>Operating Casino</b>	<b>Market Share</b>
Montecasino	32.6%
Emperors Palace	23.1%
Gold Reef City Casino	16.9%
Carnival City	16.9%
Emerald	5.2%
Morula	4.7%

Source: Gauteng Gambling Board

**Table 2: Annual market shares for Casinos operating in the Gauteng province for 2006/2007**

<b>Operating Casino</b>	<b>Market Share</b>
Montecasino	29.77%
Emperors Palace	26.21%
Gold Reef City Casino	17.37%
Carnival City	17.45%
Emerald	5.29%
Morula	3.92%

Source: Gauteng Gambling Board

[10]. According to the merging parties, GRR is in the process of developing the Silverstar Casino in the West Rand. The parties also submitted that Silverstar will have a market share of 8.7%. The Commission could not conclude what the effect would be on the market shares of other players once Silverstar comes into operation as there are no turnover figures available at this stage.

### **Competition Analysis**

[11]. In its assessment of the horizontal effects of the proposed transaction the Commission found that the primary acquiring firm is involved in the markets where the primary target firms are involved through their prior shareholding in the primary target firms. Therefore the Commission concluded that the apparent product overlap will not result in a change in the market structure or accretion of the market share in the market for development, ownership, operation and management of casino resorts and hotels as the market currently stands. The Commission's investigation also revealed that there are a number of competitors in the relevant product and geographic market to effectively exercise a competitive constraint on the merged entity.

[12]. The Commission's investigation also revealed that during 2006 financial year GRR and Gold Reef Management (Pty)Ltd ("GRM") rendered management and administrative services to Akani Egoli, Mykonos Casino, AMM, Garden Route Casino, Goldfields Casino and Gold Reef City Theme Park. Akani Egoli also provides internal audit services to the aforementioned companies. In its analysis of the vertical integration the Commission concluded that that the proposed transaction will not result in input foreclosure as the above arrangement is not brought about by the merger and was accordingly not merger specific. The Commission found both GRR and GRM provided management and administrative services to the above mentioned casinos and companies pre-merger and will continue to do so post-merger.

[13]. We agree with the Commission's approach and conclude that the transaction will not give rise to a substantial lessening or prevention of competition in the market. In addition, the transaction does not raise any public interest concerns.

## Conclusion

[14]. Based on the above, the transaction is approved unconditionally.

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Y Carrim

Tribunal Member

**04 September 2007**

**Date**

D Lewis and M Mokuena concurring.

Tribunal Researcher : Jabulani Ngobeni

For the merging parties : Lee Mendelson and Justin Balkin  
(Edward Nathan Sonnenbergs)

For the Commission : Edwina Ramohlola (Mergers and Acquisitions).