

## COMPETITION TRIBUNAL SOUTH AFRICA

Case NO: 39/LM/Apr09

In the matter between:

**Aquarius Platinum Ltd**

Acquiring Firm

And

**Ridge Mining PLC**

Target Firm

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Panel : D Lewis (Presiding Member); M Mokuena (Tribunal Member) and N Manoim (Tribunal Member)

Heard on : 27 May 2009

Decided on : 27 May 2009

Reasons Issued on : 17 July 2009

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### Reasons for Decision

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#### Approval

[1] On 27 May 2009 the Competition Tribunal issued a Merger Clearance Certificate unconditionally approving the merger between Aquarius Platinum Ltd and Ridge Mining PLC. The reasons appear below.

#### Parties

[2] The acquiring firm is Aquarius Platinum Ltd (“Aquarius”), a company incorporated in accordance with the laws of Bermuda. The company’s primary listing is on the Australian Securities Exchange, with a secondary listing on the London Stock Exchange and the Johannesburg Stock Exchange, in addition to level 1 American Depository Receipt Programme in the United States. Aquarius controls in excess of sixteen subsidiaries worldwide. Aquarius is not controlled by any single shareholder. The following are its major shareholders: Nutraco Nominees Ltd with 6.61%; JP Morgan Nominees Australia Ltd with 5.10% and HSBC Nominees (Australia) Ltd with 5.04% shares.<sup>1</sup>

[3] The primary target firm is Ridge Mining PLC (“Ridge”) a company incorporated under the laws of the United Kingdom and is an Alternative Investment Market ( “AIM”) and PLUS traded company. Ridge is not controlled by any single shareholder. The followings are

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<sup>1</sup> In South Africa it controls the following firms: Aquarius Platinum (South Africa) (Pty)Ltd; Magaliesburg Properties (Pty)Ltd; TKO Investments Holdings Ltd; TKO Family Enterprises (Pty)Ltd; TKO Properties (Pty)Ltd; Natal Kwi Orchards (Pty)Ltd; SA Kiwifruit Industries (Pty)Ltd; Aquarius Platinum (South Africa) Corporate Services (Pty)Ltd; Platinum Mile Resources (Pty)Ltd and Chrome Tailings Retreatment Plant.

its major shareholders: Gold Mountains (HK) international Mining Co Ltd with 20.01%; SIS Segaintersettle AG with 12.43%; Black Rock Investment Man with 11.32% and Skagen Kontiki verdipapirfond with 7.98% shares.<sup>2</sup>

## **Transaction**

[4] In terms of the proposed transaction, Aquarius intends to acquire the entire issued capital of Ridge, in exchange of shares in Aquarius at a ratio of 1 Aquarius share for every 2.75 Ridge shares in issue. Post merger Aquarius will have the sole control over Ridge.

## **Parties Activities**

[5] Aquarius is a focussed platinum group metals (“PGM”) producer with operations in the Bushveld Complex of South Africa and the Great Dyke of Zimbabwe. The company is involved in mineral exploration, mine development, concentrate production and investment. In particular it mines and produces platinum, palladium, rhodium, ruthenium, iridium and osmium as well as gold, nickel, chrome and copper concentrate as a by-product of its PGM concentrate production. Aquarius mines and produces its PGMs from the following mines: Kroondal mine; Marikana Mine; Everest Mine and Mimosa Mine.<sup>3</sup>

[6] The primary target firm is involved in the exploration and mining of PGMs. In particular it mines and produces platinum, palladium, rhodium, ruthenium, iridium, gold and nickel.<sup>4</sup>

## **Rationale for the Transaction**

[7] Both parties believe that the companies combined are an excellent strategic fit as the proposed transaction will, *inter alia*, enable them to combine their expertise in shallow low-cost mechanised mining.

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<sup>2</sup> Ridge has an excess of fifteen subsidiaries worldwide. In South Africa it controls: Ridge Mining (Pty)Ltd (Ridge Mining”); Ridge Mining Services (Pty)Ltd; Braggite Resources (Pty)Ltd (“Braggite”); Sheba’s Ridge Platinum (Pty)Ltd; Blue Ridge Platinum (Pty)Ltd; Southern Era Mining and Exploration South Africa (Pty)Ltd; Premetals (Pty)Ltd; Hariv Investments (Pty)Ltd; Woodbrush Minerals (Pty)Ltd; Fonte Verde Mining (Pty)Ltd; Argent Lead and Zinc Company (Pty)Ltd and Grootpan Coal (Pty)Ltd.

<sup>3</sup>Aquarius also owns chrome tailing retreatment plant located in Kroondal and Platinum Mile’s tilings reprocessing joint venture located in Rustenburg.

<sup>4</sup> It mines its PGMs ore from the following mines: Blue Ridge Mine and Sheba’s Ridge Project. According to the parties the Blue Ridge Mine and Sheba’s Ridge Project are Ridge Mining’s two most advanced PGM projects. The Blue Ridge Mine is on the eastern limb of the Bushveld where development commenced in January 2007 and first production was scheduled for March 2009. The Sheba’s project is a joint venture with Anglo Platinum and Industrial Development Corporation of South Africa where a full feasibility study was completed at the end of 2007.

## Competition Analysis

[8] The Commission found that the proposed transaction results in a product overlap in respect of exploration and mining of PGMs in particular platinum; palladium and rhodium as well as gold, nickel and copper. In line with our previous ruling<sup>5</sup> the Commission defined the market as the market for the production of PGMs, in particular; platinum, palladium, rhodium gold, nickel and copper. The Commission defined the geographic market as international. We agree with the Commission's conclusions.

## Market Shares

**Table1. Market share of the merging parties**

PGMs	Acquiring firm		Target firm		Combined market shares
	Production ounces p.a	Market share	Production ounces p.a	Market share	
Platinum	304 058	4.86%	160 000	<b>2.55%</b>	<b>7.41%</b>
Palladium	155 771	2.39%	285 000	<b>4.37%</b>	<b>6.76%</b>
Rhodium	49 059	6.51%	18 700	<b>2.48%</b>	<b>8.99%</b>
Nickel		0.4%		1.71%	<b>1.94%</b>
Copper		0.01%		0.6%	<b>0.7%</b>
Gold		0.01%		0.03%	<b>0.4%</b>

*Source: Merging parties and JP Morgan Research Report 9 March 2009*

[9] According to the Commission it is clear from the above table that the parties combined post merger market shares in the relevant PGM's are low and are unlikely to raise any competition concerns. The Commission also found that the merging parties compete with firms such as AngloPlats; Implats; Northam and Lonmin. We therefore agree with the Commission's conclusion that the proposed transaction is unlikely to substantially prevent or lessen competition in the markets in which the parties compete.

<sup>5</sup> See Tribunal Case No: 32/LM/Apr08

## **Conclusion**

[10] There are no public interest issues and accordingly the transaction is unconditionally approved.

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**D Lewis**

Tribunal Member

N Manoim and M Mokuena concurring

Tribunal Researcher : Jabulani Ngobeni

For the merging parties : Werksmans

For the Commission : Kwena Mahlakoana (Mergers and Acquisitions)

**17 July 2009**

**Date**