

ASX Circular

Date: 30 October, 2009

Key topics

1. Aequus Securities Pty Limited

Reading List

Client Advisers  
Compliance Managers  
DTR Operators  
Managing Directors  
Office Managers  
Operations Managers (back office)

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No responsibility is accepted for any inaccuracies contained in the matter published.

## DISCIPLINARY MATTERS

The ASX Disciplinary Tribunal has determined the following:

Aequus Securities Pty Limited entered an order into the Trading Platform to buy a quantity of ordinary fully paid shares in Golden West Resources Limited ('GWR') that resulted in a market for GWR that was not both fair and orderly, in contravention of ASX Market Rule 14.1.1.

Aequus did not contest the contravention before the Tribunal.

For this contravention the Tribunal imposed a fine of \$50,000 (plus GST).

The circumstances of this matter are detailed as follows:

The events referred to in this Circular occurred on 25 August 2008. Subsequent to this time, the operations, management and commercial focus of Aequus have been re-organised with the result being that the business, including its ownership and management, operated by Aequus is different to that which was operated in August 2008.

On 25 August 2008, another Participant entered an erroneous order to sell 112,678 GWR at \$0.025 ('Erroneous Ask'). Immediately prior to the entry of the Erroneous Ask the market for GWR was \$1.825/\$1.90/\$1.90 (Bid/Ask/Last). Accordingly, the Erroneous Ask was an obvious trading error.

The Erroneous Ask traded immediately with the entire Bid Schedule for 79,260 GWR, with 33,418 GWR remaining of the Erroneous Ask to be filled. The last trade executed was at a price of \$1.25.

Aequus then entered an order to buy 50,000 GWR at \$0.025 ('Relevant Bid') on behalf of a client. The Relevant Bid was authorised by an Aequus Designated Trading Representative ('DTR').

The Relevant Bid immediately traded with the residual Erroneous Ask for 33,418 GWR at \$0.025 ('the Relevant Trade'). This resulted in a 98% (or 304 Price Steps) decrease in the price of GWR from \$1.25 to \$0.025.

The Dispute Governors Committee subsequently cancelled a number of Market Transactions in GWR. The Relevant Trade was among those cancelled.

In determining penalty, the Tribunal, amongst other things, took into account the following matters:

- a) A failure by Aequus to recognise that its client placed the Relevant Bid with a clear intention to take advantage of an obvious trading error;
- b) The failure of the Aequus DTR to prevent the Relevant Bid from being entered into the Trading Platform, despite the fact that the order had been diverted to a DTR for review;

- c) The seriousness of the contravening conduct as it involved intentional and opportunistic behaviour;
- d) The disciplinary history of Aequus, having had two unrelated sanctions recorded against it by the Tribunal;
- e) The advice of Aequus that its Advisor took on the loss from closing out its client's position, which was left short as a result of the cancellation of the Relevant Trade, with the client suffering no financial loss;
- f) The misconduct was an isolated instance;
- g) The steps taken by Aequus to prevent any recurrence of the contravening conduct;
- h) The cooperation provided by the new management of Aequus to ASX in relation to the conduct of its investigation into the matter;
- i) Aequus agreed at an early stage not to contest the contravention;
- j) The importance of the strict obligation imposed on Market Participants by ASX Market Rule 14.1.1, which requires that Participants do not do anything that results in a market for a Product that is not both fair and orderly; and
- k) The importance of the role of a DTR in reviewing and preventing the entry of orders into the Trading Platform that could result in a market for a Product that is not both fair and orderly.

### Disciplinary Tribunal Sanction Guidelines

In accordance with the Tribunal sanction guidelines at Annexure A of the Procedures to the Australian Securities Exchange Disciplinary Processes and Appeals Rulebook, the Tribunal determined that this contravention was classified as a Level 2 (Serious Contravention), for which the applicable penalty range is \$20,000 to \$100,000 (plus GST). The Tribunal considered that the contravention was serious as it threatened the integrity and efficiency of the market. The Tribunal considered the aggravating and the mitigating circumstances in this matter, and determined that a fine of \$50,000 was appropriate sanction. The Tribunal is of the opinion that this sanction will act as a deterrent and appropriately serves the interests of ASX and Market Participants in maintaining a market that is fair, orderly and transparent.