

ASIC was derelict in their duty

- ASIC got it wrong in August 2000 when they conducted a 4 month investigation and declared promissory notes legal. Had they got it right Westpoint would have ceased using promissory notes;
- When, in 2003, ASIC changed its mind it should have informed the Minister so that due process could be followed to amend the legislation;
- Rather than 'imposing its will' on Westpoint using aggressive and inappropriate investigation techniques ASIC should have realized that promissory notes were a Managed Investment Scheme (not debentures as they claimed and were clearly wrong) and commenced the Declaration proceeding in the Supreme Court, rather than Westpoint commencing the action;
- When the Full Court released its decision that promissory notes were a Managed Investment Scheme (not debentures as ASIC claimed) ASIC should have allowed Westpoint and their investors the opportunity to come to a 'commercial solution';
- Instead ASIC took the 'legal solution' knowingly causing the collapse of the Westpoint Group and the loss of \$280 million in investors funds;
- ASIC has been derelict in its duties by not acting on the decision of the Full Court and stopped other businesses using promissory notes and in doing so has failed to protect investors who, every day, continue to plough millions of dollars into an illegal product; and
- In acting in this way ASIC was derelict in their duties, acted unconscionably and with an absence of good faith by:
 - ❖ raising allegations of insolvency that they knew to be unfounded
 - ❖ provided false evidence to the Federal Court and suppressed key evidence from the Court, and/or knew about and failed to prevent false evidence being provided and crucial evidence being suppressed
 - ❖ provided false evidence in a Senate Estimates Committee hearing in order to hide their dereliction of duty and unconscionable conduct;
 - ❖ mislead investors and the public by making false and defamatory statements in the media, and/or incited or supported those statements being made by others
 - ❖ acted to 'shut down' Westpoint and all related entities with the purpose being to prevent Norm Carey defending the unfounded allegations.