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ASIC starts another Westpoint action

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The corporate watchdog says it will start civil proceedings against a Perth financial advisory to recover \$14 million investors had sunk into the firm in relation to the failed Westpoint Group.



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The Australian Securities and Investments Commission said it had filed an application for leave in the Federal Court in Perth to start proceedings against Brighton Hall Securities, which had operated from Applecross and South Perth before it entered liquidation in late 2007.

ASIC will allege that Brighton was negligent in relation to its investigations of Westpoint products and its subsequent recommendations to clients to invest in the failed property developer.

The watchdog said it will try to recover compensation totalling \$14 million, however given Brighton is in liquidation, the claim will be limited to any available insurance proceeds.

"Approximately 170 investors could possibly benefit from the action should the application for leave to file succeed," ASIC said in a statement.

"An investor's entitlement to benefit from the action will depend on the product type and the investor's individual circumstances."

The matter is expected to return to court on November 16.

Westpoint collapsed in February 2006, leaving 4,000 investors out of pocket by a combined \$300 million.

The announcement is below:

ASIC has filed an application for leave in the Federal Court in Perth to commence proceedings against Brighton Hall Securities Pty Ltd (in Liquidation). This action, which will seek damages on behalf of a number of Westpoint investors who were clients of Brighton Hall Securities, is one of 19 civil actions ASIC is now taking to recover funds for the benefit of Westpoint investors.

ASIC will allege that Brighton Hall Securities was negligent in relation to its investigation of Westpoint products and its subsequent recommendations to its clients to invest in Westpoint products.

Brighton Hall Securities carried on a financial services business from Applecross and South Perth in Western Australia prior to entering into liquidation in September 2007.

ASIC's proposed claim against Brighton Hall will seek to recover compensation in the order of \$14 million. However, given Brighton Hall's liquidation, it is anticipated that the funds available to satisfy this claim will be limited to any available insurance proceeds.

ASIC has filed this application following negotiations with the relevant parties aimed at preventing the need to commence litigation.

ASIC is using its power under section 50 of the ASIC Act, which enables it to begin and carry on civil proceedings for damages for investors where it appears to ASIC that such proceedings are in the public interest.

Approximately 170 investors could possibly benefit from the action should the application for leave to file succeed. An investor's entitlement to benefit from the action will depend on the product type and the investor's individual circumstances.

The matter will return to the Court on 16 November 2009.

ASIC will continue to keep Westpoint investors informed of the progress of the application for leave to commence these proceedings via its dedicated Westpoint investor website (westpoint.asic.gov.au). Investors with questions about ASIC's Westpoint compensation actions can also call 1300 300 630.

Background

ASIC has commenced compensation proceedings against six other financial licensees that recommended Westpoint products:

In December 2007 and February 2008, ASIC commenced proceedings against Bongiorno Financial Advisers Pty Ltd and Bongiorno Financial Advisers (Aust) Ltd respectively on behalf of clients of Bongiorno alleging negligence and breach of licence conditions.

ASIC commenced proceedings against State Trustees Limited (STL) in March 2008 alleging that STL had breached its duties to the holders of Market Street Mezzanine notes and its obligations under the Corporations Act.

Also in March 2008, ASIC commenced proceedings against Strategic Joint Partners Pty Ltd (SJP) on behalf of

the firm's clients, alleging negligence and breach of licence conditions by SJP in recommending Westpoint products.

In August 2008, ASIC commenced proceedings against Glenhurst Corporation Pty Ltd on behalf of clients who had invested in Westpoint products on the advice of Glenhurst. As Glenhurst was in liquidation, ASIC subsequently commenced proceedings against the company's professional indemnity insurer QBE Insurance.

ASIC settled a claim on behalf of investors against Masu Financial Management Pty Ltd in November 2008.

In September 2009 ASIC reached an agreement to settle the ASIC initiated Federal Court class action proceeding against Queensland based financial services firm, Professional Investment Services Pty Ltd (PIS). This settlement is subject to the approval of the court.

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