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ASIC in 4th Westpoint settlement

16-December-09 by Edited announcement

The corporate watchdog has reached an agreement to settle a class action against Melbourne-based trustee company, State Trustees Ltd for \$13.5 million, in relation to securities issued by failed property group Westpoint.

The settlement of the class action is subject to the approval of the Court.

The class action, initiated in the Federal Court, relates to investments made in mezzanine notes issued by Market Street Mezzanine Ltd (Market Street Mezzanine Notes), a company in the failed Westpoint group.

This settlement approval application results from the global mediation initiated by ASIC to resolve the litigation commenced by it seeking compensation on behalf of Westpoint investors.

It is the fourth settlement ASIC has reached following settlements with Masu Financial Management Pty Ltd, Professional Investment Services Pty Ltd and Bongiorno Financial Advisers Pty Ltd and Bongiorno Financial Advisers (Aust) Ltd.

ASIC commenced proceedings against State Trustees in March 2008 alleging that State Trustees, as the trustee of an unsecured mezzanine note issue by Market Street Mezzanine Ltd (In Liquidation), breached its duty to the holders of Market Street Mezzanine Notes and failed to comply with its obligations under the Corporations Act.

The settlement with State Trustees, if approved by the Court, will result in compensation being paid by State Trustees to approximately 525 eligible investors in Market Street Mezzanine Notes (Group Members). The settlement was reached without any admission of liability by State Trustees.

The process for approval of the settlement will include:

ASIC writing to Group Members to provide details of the compensation they may receive and to advise Group Members of their right to lodge with the Court any objection to the settlement;

ASIC placing an advertisement in a national newspaper advising that a settlement of the proceedings will shortly be considered by the Court; and
the Court considering ASIC's, State Trustees' and any Group Member's submissions as to why the settlement should or should not be approved.

Following ASIC's application to seek Court approval of the settlement, the Court made orders on 14 December 2009. The Court gave ASIC approval to communicate with Group Members, providing details of the compensation they will likely receive and advising them of their right to object to the settlement. The Court will hear submissions for and against the approval of the settlement at 9 am on 26 February 2010.

If the Court does approve the settlement ASIC will, following State Trustees' payment of \$13.5 million and after the determination of any appeals from any court order approving the settlement, distribute compensation to Group Members who submit a valid proof of claim.

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