

[The Sydney Morning Herald](#)

## Business

### ASIC's \$67m Westpoint deal

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February 2, 2011

LONG-SUFFERING Westpoint investors will be paid cash after the corporate regulator won compensation of up to \$67.5 million from auditor KPMG and four former Westpoint directors yesterday.

The settlement ends the Australian Securities and Investments Commission's lengthy pursuit of compensation from directors, financial planners, trustees and auditors associated with Westpoint.

The high-risk property scheme masterminded by Norm Carey and Richard Beck was wound up by ASIC late in 2005, with investor losses of about \$390 million.

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The business solicited investments through financial planners for mezzanine financing of property developments. The unsecured investments were piled on top of bank loans, exposing investors to significant losses.

ASIC chairman Tony D'Aloisio said a settlement was the preferred course because of the age of Westpoint's investors.

"This settlement will avoid the delays associated with conducting the proceedings through to a trial in September 2011," Mr D'Aloisio said.

"It provides an additional return for investors in the plaintiff mezzanine companies who lost money as a result of the collapse of the group in 2005."

Graham MacAulay, the president of the Westpoint Investors Group, said the losses had exacted a heavy toll.

"I have copped the suicides and the would-be suicides and the people who have become sick worrying about their money," he said.

Vigorous opposition mounted by KPMG included a High Court challenge to ASIC's ability to seek compensation on behalf of investors.

That challenge, which was due to be heard yesterday, has been dropped as part of the settlement.

KPMG said the settlement involved no admission of liability. "We share ASIC's view that the resolution of the proceedings has been achieved in a constructive manner," KPMG said.

Mr Carey, Mr Beck, Graeme Rundle and John Dixon were directors of Westpoint who were the subject of a court action by ASIC seeking a total of \$273 million in compensation.

Yesterday's settlement does not preclude further action against Westpoint directors, with Mr Rundle, Westpoint's former chief financial officer, facing criminal charges in Sydney later this year. Neither Mr Carey nor Mr Beck has been charged in relation to Westpoint.

Mr Carey is pursuing a court case against ASIC, arguing that it wrongly moved to wind up his companies.

Yesterday's payout brings the total compensation for investors in Westpoint to \$93 million, achieved through a "global mediation" with the players that ASIC ran alongside court action seeking \$550 million.

When compensation is added to the recovery of about \$77 million from Westpoint companies, investors can expect to recoup between \$160 million and \$170 million.

The liquidator, PricewaterhouseCoopers, is making an application to the courts for a division between different Westpoint companies.

ASIC will retain the money until such a decision.

It is believed more than \$60 million is likely to be received, after accounting for PwC's costs.

A partner with PwC, Derrick Vickers, said: "It will provide for returns to investors in a number of companies where there have been no returns to date, as well as additional returns for York Street and Ann Street mezzanines which have already received some distributions."

## Cost, consequences and compensation

**December 2005** Westpoint collapses, owing an estimated \$390 million.

**November 2007** ASIC launches 16 court actions seeking compensation of \$550 million.

**September 2008** Westpoint's east coast fund-raiser, Neil Burnard, receives a suspended 12-month sentence and is fined \$50,000.

**August 2009** Enforceable undertakings ban three KPMG partners for between five months and two years.

**September 2009** ASIC settles with Queensland financial planner Professional Investment Services.

**Compensation** \$6 million.

**November 2009** A sham Adelaide financial planner is jailed for six months for selling Westpoint investments.

**November 2009** A Brisbane financial planner is banned for three years for selling Westpoint investments.

**November 2009** ASIC settles with Melbourne financial planner Bongiorno Financial Advisors.

**Compensation** \$2.5 million.

**December 2009** ASIC settles with Melbourne trustee business State Trustees.

**Compensation** \$13.5 million.

**March 2010** A sham Queensland financial planner is jailed for six months for selling Westpoint investments.

**May 2010** ASIC settles with NSW financial planner Glenhurst and its insurer, QBE.

**Compensation** \$2.5 million.

**May 2010** KPMG takes ASIC to the High Court, challenging its ability to obtain compensation.

**September 2010** ASIC settles class action against Melbourne financial planner Dukes Financial Services.

**Compensation** \$1 million.

**December 2010** Professional Investment Services signs enforceable undertaking after ASIC finds it may have breached 11 laws.

February 2011 ASIC settles with Westpoint directors and KPMG as auditor of Westpoint.

Compensation Up to \$67.5 million.

LOSSES \$390 million.

COMPENSATION \$93 million.

RECOVERIES \$77 million.

RETURN (approx) 43¢ in the dollar.



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