

IN THE FEDERAL COURT OF AUSTRALIA
VICTORIAN DISTRICT REGISTRY

No.

IN THE MATTER OF GLENHURST CORPORATION PTY LTD (ACN 006 277 087)
(ADMINISTRATOR APPOINTED)

BETWEEN

JOSEPH GOODMAN

APPLICANT

AND

GLENHURST CORPORATION PTY LTD (ACN 006 277 087) (IN
LIQUIDATION)

RESPONDENT

STATEMENT OF CLAIM
(Order 4 rule 6 and Order 11)

The Proceedings

1. The Applicant brings this proceeding as a representative party in a group proceeding pursuant to Part IVA of the *Federal Court of Australia Act 1976* (Cth).

The Parties

2. Between August 2004 and September 2005 the Applicant:
 - (a) was a client of the Respondent; and
 - (b) invested in one or more of the following investment products issued by Westpoint Corporation Pty Ltd ("Westpoint") or related entities of Westpoint ("**the Westpoint Entities**");

Filed by the Applicant

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- (i) the financial product known as York Street Mezzanine Finance Promissory Notes;
- (ii) the financial product known as Market Street Mezzanine Finance Promissory Notes;
- (iii) the financial product known as Bayview Heritage Mezzanine Finance Promissory Notes;
- (iv) the financial product known as Market Street Mezzanine No. 2 Finance Promissory Notes;
- (v) the financial product known as Ann Street Mezzanine Finance Promissory Notes;
- (vi) the financial product known as Mount Street Mezzanine Finance Promissory Notes;
- (vii) the financial product known as Bayshore Development Mezzanine Finance Promissory Notes; and
- (viii) the financial product known as North Sydney Finance Unsecured Notes (“NSFN”);

(“the Westpoint Products”).

(c) the Westpoint Entities referred to in paragraph (b) above included the following companies:

- (i) in relation to York Street Mezzanine Finance Promissory Notes, the Westpoint entity was York Street Mezzanine Pty Ltd;
- (ii) in relation to the Market Street Mezzanine Finance Promissory Notes, the Westpoint entity was Market Street Mezzanine Ltd;

- (iii) in relation to the Bayview Heritage Mezzanine Finance Promissory Notes, the Westpoint entity was Bayview Heritage Mezzanine Pty Ltd;
- (iv) in relation to the Market Street Mezzanine No. 2 Finance Promissory Notes, the Westpoint entity was Market Street Mezzanine No. 2 Pty Ltd;
- (v) in relation to the Ann Street Mezzanine Finance Promissory Notes, the Westpoint entity was Ann Street Mezzanine Pty Ltd;
- (vi) in relation to the Mount Street Mezzanine Finance Promissory Notes, the Westpoint entity was Mount Street Mezzanine Pty Ltd;
- (vii) in relation to the Bayshore Mezzanine Finance Promissory Notes, the Westpoint entity was Bayshore Mezzanine Pty Ltd; and
- (viii) in relation to the NSFN, the Westpoint entity was North Sydney Finance Limited.

3. The Applicant sues on his own behalf and on behalf of all other persons who:

- (a) were clients of the financial services business of the Respondent between 2002 and 2005;
- (b) received financial services including investment advice from the Respondent or a representative of the Respondent;
- (c) invested in one or more of the Westpoint Products;
- (d) were advised to invest in one or more of the Westpoint Products by the Respondent or a representative of the Respondent;

- (e) invested in one or more of the Westpoint Products in reliance on advice provided by the Respondent or a representative of the Respondent;
- (f) suffered financial loss or damage as a result of their investment in one or more of the Westpoint Products;
- (g) are not carrying on any other Court proceedings against the Respondent in relation to financial loss or damage suffered as a result of their investment in the Westpoint Products as a result of (b) to (e) above.

(collectively the “**Group Members**”).

4. At the date of commencement of this proceeding, there are, in addition to the Applicant, six or more Group Members.
5. The Respondent is and was at all material times:
 - (a) a company incorporated pursuant to the *Corporations Act 2001* (Cth) and able to be sued in its corporate name and style;
 - (b) carrying on a business of providing financial services, further and alternatively securities recommendations under the *Corporations Act 2001* (Cth) (as it was prior to the commencement of the *Financial Services Reform Act 2001* (Cth) (the “*Pre-FSR Act*”) including financial product advice to investors;
 - (c) a company which for the purpose of its business maintained an Approved Product List (“**APL**”) being a list which the Respondent compiled and which set out investments which the Respondent’s representatives were authorised by the Respondent to recommend to the Respondent’s clients;
 - (d) was from 7 June 2000 until 1 March 2004, the holder of a securities dealers licence pursuant to the *Pre-FSR Act*; and

Particulars

ASIC issued Dealers Licence number 196881 to the Glenhurst Corporation on 7 June 2000.

- (e) was, from 1 March 2004, the holder of a financial services licence pursuant to the *Corporations Act 2001* (Cth);

Particulars

ASIC issued Australian Financial Services Licence number 244323 to the Glenhurst Corporation. The Licence was effective from 1 March 2004.

- (f) from 14 December 2007 until 17 January 2008 had an administrator appointed pursuant to s.436A of the *Corporations Act 2001* (Cth);
- (g) in relation to which on 17 January 2008 a resolution that the Respondent be placed into liquidation was passed.

6. At all material times, the Respondent authorised persons to be their representatives, including persons who were specifically authorised by the Respondent under the terms of the financial services licences referred to in paragraphs 6(d) and (e) above and pursuant to section 916A of the *Corporations Act 2001* (Cth) further and alternatively ss.88 and 806 of the *Pre-FSR Act* (“**the representatives**”), to act on its behalf in relation to providing financial services further and alternatively securities recommendations including investment advice to clients of the financial services business further and alternative the securities recommendation business of the Respondent.
7. At various times in the period 2002 to 2005, the Respondent by itself and the representatives provided financial services further and alternatively securities recommendations including advice in relation to the Westpoint Products to clients of the financial services business further and alternatively the securities recommendation business of the Respondent.

The Westpoint Products

8. At various dates between 2002 and late 2005 Westpoint and/or one or more of the Westpoint Entities offered to accept and accepted monies lent to it and/or them by investors in exchange for promissory notes in relation to the Westpoint Products issued to investors by Westpoint or one of the Westpoint Entities.

Particulars

Each of the Westpoint Products was offered through separate written Information Memoranda (and, in the case of NSFN, a written Prospectus) issued by Westpoint and/or the relevant Westpoint entity which were distributed by the Respondent and/or its representatives to investors including the Applicant and the Group Members.

- (1) In relation to the York Street Mezzanine Finance Promissory Notes, the Westpoint entity was York Street Mezzanine Pty Ltd;
 - (2) In relation to the Market Street Mezzanine Finance Promissory Notes, the Westpoint entity was Market Street Mezzanine Ltd;
 - (3) In relation to the Bayview Heritage Mezzanine Finance Promissory Notes, the Westpoint entity was Bayview Heritage Mezzanine Pty Ltd;
 - (4) In relation to the Market Street Mezzanine No. 2 Finance Promissory Notes, the Westpoint entity was Market Street Mezzanine No. 2 Pty Ltd;
 - (5) In relation to the Ann Street Mezzanine Finance Promissory Notes, the Westpoint entity was Ann Street Mezzanine Pty Ltd;
 - (6) In relation to the Mount Street Mezzanine Finance Promissory Notes, the Westpoint entity was Mount Street Mezzanine Pty Ltd;
 - (7) In relation to the Bayshore Mezzanine Finance Promissory Notes, the Westpoint entity was Bayshore Mezzanine Pty Ltd;
 - (8) In relation to the NSFN, the Westpoint entity was North Sydney Finance Limited.
9. Under the terms of the offer of the Westpoint Products referred to in paragraphs 3(b) and 9 above, Westpoint and/or the relevant Westpoint Entity agreed to:
- (a) issue unsecured promissory notes in the Westpoint Entity associated with a particular Westpoint Product;
 - (b) make interest payments to the investor, at the rate of 12% per annum payable monthly in arrears plus (except in the case of NSFN) an

additional 2% payable with the repayment of capital on the expiry date of the Westpoint Products;

- (c) repay the investor's capital within a fixed period of time; and
- (d) except in the case of NSFN provide guarantees or cause guarantees to be issued as part of the security associated with each of the Westpoint Products.

(the "Terms of Offer").

Particulars

The Terms of Offer were in writing and were contained in each of the Information Memoranda (and in the case of NSFN, the Prospectus) applicable to each of the Westpoint Products issued by Westpoint and/or the Westpoint Entities that are referred to in the particulars to paragraph 9 above. Further, in relation to the Market Street Mezzanine Finance Promissory Notes, the Bayview Heritage Mezzanine Finance Promissory Notes, the Market Street Mezzanine No. 2 Finance Promissory Notes, the Ann Street Mezzanine Finance Promissory Notes, the Mount Street Mezzanine Finance Promissory Notes and the Bayshore Mezzanine Finance Promissory Notes, it was stated in each of the applicable Information Memoranda relating to those Westpoint Products that the guarantee was to be provided by the "*Westpoint Group*" defined as Westpoint Corporation Pty Ltd and associated entities ("**the Guarantors**").

10. At various dates in 2005 and 2006, Westpoint, the Westpoint Entities and the Guarantors went into liquidation and as a result investors are not expected to receive a complete return of the funds they invested in respect of their investments in the Westpoint Products.

Particulars

- (a) in respect of York Street Mezzanine Promissory Notes they are expected to receive between 17 cents and 23 cents in the dollar;
- (b) in respect of Market Street Mezzanine Promissory Notes they are expected to receive nil;
- (c) in respect of Bayview Heritage Mezzanine Promissory Notes they are expected to receive nil;

- (d) in respect of Market Street Mezzanine No. 2 Promissory Notes they are expected to receive nil;
 - (e) in respect of Ann Street Mezzanine Promissory Notes they are expected to receive from 7 cents to 9 cents in the dollar;
 - (g) in respect of Mount Street Mezzanine Promissory Notes the amount they are expected to receive is unknown;
 - (h) in respect of Bayshore Mezzanine Promissory Notes they are expected to receive nil.;
 - (i) in respect of NSFN they are expected to receive between nil and 32 cents in the dollar.
11. Between 2002 and late 2005 the Applicant and the Group Members invested in one or more of the Westpoint Products.
12. The Applicant and the Group Members invested in one or more of the Westpoint Products in the following circumstances:
- (a) the Respondent had at all relevant times placed all of the Westpoint Products on its APL;
 - (b) as a result of the Westpoint Products being placed on the Respondent's APL, the Respondent and the representatives recommended that the Applicant and the Group Members invest in one or more of the Westpoint Products; and
 - (c) in reliance upon the recommendation alleged in paragraph 13(b) above, the Applicant and the Group Members invested in one or more of the Westpoint Products.

Negligence

13. At all material times, the Respondent knew or ought to have known that the Applicant and the Group Members relied on the Respondent to exercise reasonable care to provide them with financial services further and alternatively securities recommendations and advice in a proper and competent manner in relation to the Westpoint Products.

Particulars

The Respondent carried on the business of providing financial services further and alternatively securities recommendations including advice to investors and promoted itself as providing that service. The Applicant and the Group Members consulted the Respondent for financial advice further and alternatively securities recommendations and the Respondent was paid a fee and/or received a commission or other valuable consideration for that advice. In the premises the Respondent knew or ought to have known the matters alleged.

14. Further, at all material times, the Respondent knew or ought reasonably to have known that the Applicant and the Group Members:
 - (a) were persons who did not have the skills, expertise or experience to make informed investment decisions for themselves unaided by professional financial advice;
 - (b) relied on the Respondent to provide them with financial advice with due care in a proper and competent manner;
 - (c) would invest following the advice of the Respondent as they relied on the Respondent's skill and expertise in assisting them to determine how to invest their money.

Particulars

The Applicant and the Group Members consulted the Respondent in its business to provide them with financial advice as the Respondent held itself out to be an expert in the provision of financial advice to investors. The Applicant and the Group Members proceeded on the reasonable assumption that the Respondent would provide that service in the manner which they could reasonably expect professional people would provide such a service.

15. Further, it was reasonably foreseeable that if the Respondent did not take reasonable care in placing the Westpoint Products on its APL and providing financial advice to its clients, including the Applicant and the Group Members, in relation to the Westpoint Products, its clients, including the Applicant and the Group Members, would or would be likely to suffer loss and damage.
16. By reason of the matters alleged in paragraphs 14 to 16 above, the Respondent owed the Applicant and the Group Members a duty to take reasonable care in placing products including each of the Westpoint Products on its APL and

performing the service of providing the Applicant and the Group Members by itself and through its representatives with financial advice in relation to the Westpoint Products.

17. Negligently, and in breach of the duty of care which was owed by the Respondent to the Applicant and the Group Members, the Respondent:
 - (a) failed to undertake any, alternatively any adequate, due diligence to investigate the characteristics of and the risks associated with the Westpoint Products prior to placing each of those products on its APL;
 - (b) placed each of the Westpoint Products on its APL;
 - (c) failed to adequately describe the characteristics of the Westpoint Products;
 - (d) failed to place any or any sufficient adequate restrictions on the recommendations which its representatives could make to the Applicant and the Group Members in respect of the Westpoint Products;
 - (e) failed to warn the Applicant and the Group Members that the Westpoint Products were highly risky investments;
 - (f) advised the Applicant and the Group Members, to invest in one or more of the Westpoint Products.
18. As a result of the Respondent's negligence, the Applicant and the Group Members have suffered loss and damage.

Particulars

The Applicant and the Group Members invested in one or more of the Westpoint Products. As a result of Westpoint, the Westpoint Entities and the Guarantors being placed into liquidation, the Applicant and the Group Members will receive little or no return on their investment. If the Respondent had not been negligent as alleged, the Applicant and the Group Members would not have invested in one or more of the Westpoint Products and would not have suffered the loss and damage.

Further particulars of the Applicant's and each Group Members' loss and damage will be provided prior to trial.

Breach of Statutory Duty

19. Further, after 1 March 2004 in:

- (a) placing all of the Westpoint Products on its APL; and
- (b) advising, or permitting or encouraging its representatives to advise, the Applicant and the Group Members to invest in one or more of the Westpoint Products;

the Respondent failed to do all things necessary to ensure that the financial services covered by its financial services licence were provided efficiently, honestly and fairly in breach of s.912A(1)(a) of the *Corporations Act 2001* (Cth).

Particulars

There was no reasonable basis for having any of the Westpoint Products on the Respondent's APL or for the Respondent by itself and through its representatives recommending that the Applicant and the Group Members invest in any of the Westpoint Products. This is because the structure and characteristics of each of the Westpoint Products provided little security for investors and provided for a return that was not sustainable and therefore each of the Westpoint Products represented a very significant risk, which was rewarded by an inadequate and uncertain return. Accordingly, by having the Westpoint Products on the Respondent's APL and recommending that the Applicant and the Group Members invest in the Westpoint Products, the Respondent did not do all things necessary to ensure that the financial services covered by the financial services licence were provided efficiently, honestly and fairly.

20. As a result of the Respondent's breach of s.912A of the *Corporations Act 2001* (Cth) alleged in paragraph 20 above, the Applicant and the Group Members have suffered loss and damage.

Particulars

The Applicant and the Group Members refer to and repeat the particulars to paragraph 19 above.

Misleading or Deceptive Conduct

21. The Respondent by itself and through its representatives represented to the Applicant and the Group Members as follows:
- (a) that one or more of the Westpoint Products was an appropriate investment for the Applicant and the Group Members;
 - (b) that the Applicant and the Group Members should invest in one or more of the Westpoint Products;
 - (c) that the Applicant and the Group Members would likely obtain a return of 12% interest per annum paid monthly in arrears plus (except on the case of NSFN) an additional 2% paid on the repayment of capital (“**the Represented Return**”) from one or more of the Westpoint Products;
 - (d) that one or more of the Westpoint Products were sufficiently secure to make it reasonable for the Applicant and the Group Members to invest in it;
 - (e) the Respondent had undertaken a reasonably careful and prudent review of one or more of the Westpoint Products prior to placing it on the Respondent’s APL;
 - (f) the Respondent had a reasonable basis for placing one or more of the Westpoint Products on the APL; and
 - (g) the Respondent and/or the Respondent’s representatives would be acting reasonably and prudently in recommending one or more of the Westpoint Products to the Respondent’s clients.

(the “**Representations**”).

Particulars

The Representations were made partly in writing, partly orally and are partly to be implied.

Insofar as they were in writing, they were made in the written advice from the Respondent and/or its representatives to the Applicant and the Group Members.

Insofar as they were oral, the Respondent and/or its representatives made the representations to the Applicant and the Group Members.

Insofar as they are to be implied, they are to be implied by reason of the fact that the Westpoint Products were included on the APL of the Respondent and by reason of the fact the Respondent and its representatives did not at any time tell the Applicant or the Group Members that there were any reasons not to invest in any of the Westpoint Products.

The Applicant may provide further particulars in due course.

22. The Respondent by itself and through its representatives made the Representations in relation to financial services within the meaning of s.12DA of the *Australian Securities and Investments Commission Act 2001* (Cth).
23. Further the Respondent by itself and through its representatives made the Representations in relation to a financial product or a financial service within the meaning of s.1041H of the *Corporations Act 2001* (Cth), further and alternatively s.999 of the *Pre-FSR Act*.
24. Acting in reliance upon the Representations and induced thereby, the Applicant and the Group Members invested in one or more of the Westpoint Products which was recommended to them by the Respondent through its representatives.
25. The representations were inaccurate and were misleading or deceptive or likely to mislead or deceive in that:
 - (a) each of the Westpoint Products was not an appropriate investment for the Applicant and the Group Members;
 - (b) the Applicant and the Group Members should not have invested in any of the Westpoint Products;
 - (c) it was not likely that the Applicant and the Group Members would obtain the Represented Return from any one of the Westpoint Products;
 - (d) the Westpoint Products were not sufficiently secure to make it reasonable for the Applicant and the Group Members to invest in any of them;

- (e) the Respondent had not undertaken a reasonably careful and prudent review of each of the Westpoint Products prior to placing it on the Respondent's APL;
 - (f) the Respondent had no reasonable basis for placing one or more of the Westpoint Products on its APL; and
 - (g) the Respondent and/or the Respondent's representatives were not acting reasonably and prudently in recommending each of the Westpoint Products to the Respondent's clients.
26. The Representation alleged in paragraph 22(c) was a representation as to a future matter without a reasonable basis for it, and the Applicant and the Group Members rely on s.12BB of the *Australian Securities and Investments Commission Act 2001* (Cth) and section 769C of the *Corporations Act 2001* (Cth) further and alternatively s.765 of the *Pre FSR Act* respectively.
27. In the premises, the Respondent engaged in conduct that was misleading or deceptive or was likely to mislead or deceive in contravention of s.12DA of the *Australian Securities and Investments Commission Act 2001* (Cth) and s.1041H of the *Corporations Act 2001* (Cth) further and alternatively s.999 of the *Pre-FSR Act*.
28. By reason of the Respondent's contraventions of the *Australian Securities and Investments Commission Act 2001* (Cth) and the *Corporations Act 2001* (Cth) the Applicant and the Group Members have suffered loss and damage.

Particulars

The Applicant and the Group Members refer to and repeat the particulars to paragraph 19 above.

Negligent Misstatement

29. At the time of making the representations, the Respondent by itself and through its representatives intended and knew or ought to have known that the Applicant and the Group Members would rely or would likely rely on the Representations

and would be induced thereby to invest in one or more of the Westpoint Products.

Particulars

The Applicant and the Group Members refer to and repeat the allegations contained in paragraph 15 above.

30. In the premises, the Respondent was under a duty of care to the Applicant and the Group Members to take reasonable care in making the Representations.
31. Acting on the faith of the Representations and induced thereby, the Applicant and the Group Members invested in one or more of the Westpoint Products.
32. In breach of the said duty, the Respondent was negligent in making the representations.

Particulars

Paragraph 26 above is repeated.

33. The representations were incorrect by reason of the matters alleged in paragraph 26.
34. By reason of the Respondent's breaches of its duty of care to the Applicant and the Group Members, the Applicant and the Group Members have suffered loss and damage.

Particulars

The Applicant and the Group Members refer to and repeat the particulars to paragraph 19 above.

Breach of s.945A of the *Corporations Act*

35. Further, in:
 - (a) placing the Westpoint Products on its APL; and

- (b) advising, or thereby permitting or encouraging its representatives to advise the Applicant and the Group Members to invest in one or more of the Westpoint Products,

the Respondent failed to give such consideration to, and conduct such investigation of, the Westpoint Products as was reasonable in all the circumstances, in order to have a reasonable basis for the advice given to the Applicant and the Group Members to invest in one or more of the Westpoint Products, in breach of s.945A of the *Corporations Act 2001* (Cth), further and alternatively s.851 of the *Pre-FSR Act*.

36. As a result of the Respondent's breach of s.945A of the *Corporations Act 2001* (Cth) further and alternatively s.851 of the *Pre-FSR Act* alleged in paragraph 36 above, the Applicant and the Group Members have suffered loss and damage.

Particulars

The Applicant and the Group Members refer to and repeat the particulars to paragraph 19 above.

37. In the premises, the Applicant and the Group Members are entitled to recover pursuant to s.953B of the *Corporations Act 2001* (Cth) further and alternatively s.852 of the *Pre-FSR Act* the loss and damage they have suffered as a result of the Respondent's failure to comply with s.945A of the *Corporations Act 2001* (Cth) further and alternatively s.851 of the *Pre-FSR Act*.

Failure to Provide a Product Disclosure Statement

38. Each of the Westpoint Products issued by Westpoint and the Westpoint entities constituted a managed investment scheme within the meaning of s.9 of the *Corporations Act 2001* (Cth).
39. Each of the Westpoint Products issued by Westpoint and the Westpoint entities were financial products within the meaning of s.764A of the *Corporations Act 2001* (Cth).
40. In the premises, any advice given by the Respondent by itself and through its representatives to invest in each of the Westpoint Products issued by Westpoint

and/or the Westpoint entities comprised financial product advice within the meaning of s.766B of the *Corporations Act 2001* (Cth).

41. In the premises, at all times after 11 March 2004 the Respondent was obliged to give a product disclosure statement to the Applicant and Group Members pursuant to s.1012B of the *Corporations Act 2001* (Cth) when it by itself and through its representatives provided financial product advice to the Applicant and Group Members that included a recommendation that the person acquire one or more of the Westpoint Products.
42. The Respondent by itself and through its representatives recommended that the Applicant and the Group Members acquire one or more of the Westpoint Products issued by Westpoint and the Westpoint entities, but (except in the case of NSFN) in breach of s.1012A of the *Corporations Act 2001* (Cth) did not give the Applicant and the Group Members a product disclosure statement.
43. If the Applicant and the Group Members had been provided with a product disclosure statement in respect of one or more of the Westpoint Products other than NSFN, that statement would have disclosed that each of the Westpoint Products (other than NSFN) was part of a managed investment scheme that were not registered and therefore liable to be wound up pursuant to s.601EE of the *Corporations Act 2001* (Cth).
44. In those circumstances, the Applicant and the Group Members would not have invested in the Westpoint Products (other than NSFN) and would not have suffered the loss and damage alleged in paragraph 47.
45. As a result of the breach alleged in paragraph 43 above, the Applicant and the Group Members have suffered loss and damage.
46. In the premises, the Applicant and the Group Members are entitled to recover the loss and damage they have suffered as a result of the Respondent's failure to comply with s.1012A of the *Corporations Act 2001* (Cth) pursuant to s.1022B of the *Corporations Act 2001* (Cth).

Particulars

The Applicant and the Group Members refer to and repeat the particulars to paragraph 19 above.

Liability of Respondent for Conduct of the Representatives

47. The Applicant repeats paragraphs 4 and 6-8 above.
48. The conduct of the representatives referred to in paragraphs 14-47 above in relation to the Applicant and the Group Members concerning the Westpoint Products was conduct:
- (a) that relates to the provision of a financial service as that term is defined in the *Corporations Act 2001* (Cth);

Particulars

See ss.761A and 766A of the *Corporations Act 2001* (Cth) and ss.9 and 92 of the *Pre-FSR Act*.

- (b) on which the Applicant and the Group Members could reasonably be expected to rely; and
 - (c) on which the Applicant and the Group Members in fact relied in good faith.
49. In the premises, for the purposes of the breaches alleged above by the Respondent of the *Corporations Act 2001* (Cth), the Respondent is responsible, as between the Respondent and the Applicant and the Group Members, for the conduct of the representatives.


Particulars

The Applicant relies on ss.769B, 910A, 917A, 917B and 917C of the *Corporations Act 2001* (Cth) further and alternatively ss.817 and 819 of the *Pre-FSR Act*.

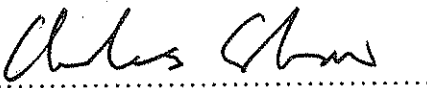
50. The Applicant and the Group Members seek the relief set out in the application.

The pleading was prepared by Norman O'Bryan SC and Charles Shaw of Counsel.



I, N. J. O'Bryan, certify to the Court that the factual and legal material available to me at present provides a proper basis for each allegation in the pleading.

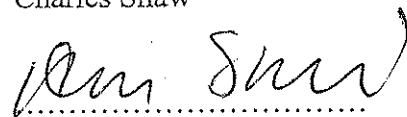

.....
N. J. O'Bryan

I, C. E. Shaw, certify to the Court that the factual and legal material available to me at present provides a proper basis for each allegation in the pleading.


.....
C. E. Shaw

DATED: 13 August 2008


Norman O'Bryan

Charles Shaw


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Australian Securities &
Investments Commission

Solicitors for the Applicant and the
Group Members