

**TO** : **Mr. J. Lucy** ASIC Chairman.  
**CC** : **Hon. Peter Costello** Treasurer of the Commonwealth Government  
**CC** : **Hon. Kim Beazley** The Leader of the Opposition

**FROM** : Graham MacAulay



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**DATE** : 5 January 06

**Subject** **The failure of the Westpoint Mezzanine Companies.**

Dear Sir,

My wife and I are retirees' with a substantial amount of money invested in the Westpoint Mezzanine funds. Like many other investors we depend on income derived from our investments to maintain a moderate lifestyle as self-funded retirees.

Over recent days, many fellow investors in the Westpoint Mezzanine companies have told me of their anger towards the mezzanine directors, the Westpoint parent directors, numerous financial advisers, and ASIC. I well understand their anger. We all believed that ASIC would take a far greater interest in investor protection after the Henry Kaye scandal. Investors are currently forming into ever larger groups, and deciding the best courses of action. I have spoken to a number of people who stand to lose their homes, and in addition, face the repayment of bank loans. No doubt some will suicide as was the case in the Henry Kaye affair. The collective anger of Westpoint investors is now about to reverberate around the media, and send shockwaves through the financial community.

It is not only Australian investors that are angry. I am informed that dismayed overseas investors can't understand how Australian regulatory bodies allowed the current situation to arise. There can be no doubt that the laxity of our regulatory bodies will reflect badly on Australia's reputation in the financial world, and impact on investment by individuals and smaller companies.

I read in the Media release of 21-12-2005 that ASIC applied to the court to wind up the Westpoint parent companies. For legal reasons, I realise ASIC is unable at this time to answer a number of pertinent questions. I now ask the following questions arising out information drawn from the media.

- Can ASIC explain how it allowed Westpoint Constructions to fail to lodge accounts for the years 2003, and 2004, without prosecution? How many other Westpoint companies failed to lodge accounts during the period 2002-2005?
- In respect of the above, can ASIC please explain how an investor can carry out effective due diligence when Australian regulatory bodies fail to carry out their duties?
- Given that an Information Memorandum is an ASIC-APPROVED document, how did ASIC fail to take action when more than one Westpoint Mezzanine company accepted excessive amounts of money, in the form of promissory notes, above that specified in the respective IM's?

- The following quote is from the West Australian of 17/12/2005. "My biggest criticism of ASIC, at this stage, is that it didn't move on this four years ago when I first warned them about it," Ms Brailey said. What warning did Ms. Brailey give ASIC, and why did ASIC not heed it?

Given that the wide interest in the above questions goes beyond Westpoint Investors, could ASIC please send me an immediate reply, as none of the above questions require any form of research on ASIC's part.

Yours Sincerely,

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Graham MacAulay