

To : Mr. Michael Ridgway, Conciliation Manager

CC : Mr. Tony D'Aloisio, ASIC Chairman
CC: ASIC Oversight Committee.
CC : The Australian Media

From : Graham MacAulay, President Westpoint Investors Group
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Date : 5 November 2007

Subject **Please answer the question.**

Dear Mr. Ridgway,

It is normal protocol to thank the other party for a reply to correspondence. However, it is also normal for the other party to answer honest questions put to them. Your obscuring verbiage in your past communications, including that of 24/10/2007, does not interest me. Nor does it answer any of my questions.

FICS is an ASIC approved external resolution scheme. It would be illegal for FICS to override the law because of its own set of rules. I can understand where fault lies with both parties an amicable solution by way of negotiation is a reasonable compromise. However, when the law defines the outcome there is no reason for negotiation.

My understanding of the law is that any planner who sold a Westpoint Mezzanine product sold the investor an illegal product and is responsible for the losses incurred by the investor. While the initial cause was a colossal blunder by ASIC, it in no way reduces the legal situation on planners.

There is no doubt ASIC misled planners in not prosecuting Westpoint for marketing unregistered Managed Investment Schemes from the entry of the first one into the marketplace. However, at law, that does not in any way relieve the planners, who sold Westpoint Mezzanine products, of their legal responsibilities.

If I am in error in my interpretation of the law in this matter would you please advise me where I have made a legal error. If you cannot, please answer the following simple question.

Why has FICS not directed its adjudication panels to automatically find in favour of the investors because the planners (or their agents) sold investors illegal products?

Graham MacAulay

