

Lawyers look at SCF disclosure timing

By Hamish Fletcher (published and last updated on the Herald website May 26, 2015)

Broker alleges a string of instances where information about the company was not made known to the market.

A South Canterbury Finance investor who is helping fund a legal probe says he bought preference shares on the back of statements the company made about its prospects only months before it collapsed.

The Auckland investor was one of about 40 who attended a meeting at Ellerslie racecourse yesterday to discuss funding an investigation into a legal claim.

The claim, if it goes ahead, would try to recoup money for holders of the company's ill-fated NZX-listed preference shares.

The precise nature of any potential claim or the possible defendants is yet to be finalised but a legal team has focused on the possibility of non-compliance by South Canterbury Finance with its continuous disclosure obligations. It is hoped a decision on whether to proceed with a claim will be made by the end of June.

The aforementioned investor at yesterday's Ellerslie meeting said he was disappointed that preference share holders weren't included in the Government's \$1.7 billion bailout of the company and had already put money forward to help the investigation.

More than 500 others have put forward around \$117,000 towards it after six other meetings around the country organised by Paraparaumu sharebroker Chris Lee.

Lee, who was late to yesterday's meeting after a flock of seagulls delayed his flight, believed preference share holders had not been properly informed.

He detailed a string of instances where he claimed information about the company had not been communicated to the market.

These included when South Canterbury Finance's trustees wrote to accounting firm McGrathNicol in August 2009 asking them to not accept any assignments from the company as they believed they were likely to appoint them as receivers in the near future.

That same year a report from KordaMentha, who analysed the firm's loan book, claimed the company's collectable advances had been overstated by \$170 million and it didn't appear as though it would meet solvency tests.

Less than 12 months later in August 2010, the company was put into receivership with an expected shortfall of at least \$600 million.

"Not once had any continuous disclosure announcement been made, nobody at any stage had said, this company has got a whole lot of bad debts which are growing," Lee claimed.

"Effectively we are asked to believe that until 31st of August [2010] nobody knew that roughly \$600 million - plus capital which was said to be \$200 million even in May so \$800 million - had disappeared," Lee said. It was still being investigated as to whether the information not disclosed was material, Lee said.

He could not say how much shares could have been sold for if this information was disclosed but said that "millions and millions" were traded when the company was in a "dire position" and later in receivership.

"What I can tell you is that unquestionably we were robbed of our rights to accurate and timely information about the company and those that bought the shares ... they were playing with fool's gold."

Lee said he would love to get compensation for the \$270,000 he personally lost on the shares but believed the moral issues were more important. "What we endured was wrong," he said.

Around 4000 investors had bought SCF preference shares, which at one point were worth a total of \$120 million but tanked when the company hit the rocks.

QC sees merit in case: broker

The Queen's Counsel looking into potential legal action for South Canterbury Finance investors was part of the team who reached an \$18.5 million settlement with Capital+Merchant Finance's auditors.

A legal team fronted by Queen's Counsel Chris Gudsell has spent three months researching whether or not it was worth investigating a claim that would try to recover funds for holders of South Canterbury Finance preference shares.

"The QC and the law firm have concluded that there is a case worth investigating and that they wish to do it," share broker Chris Lee told a South Canterbury Finance investor meeting in Auckland yesterday.

Lee raised a lawsuit launched against Capital+Merchant Finance's auditors as to why Gudsell and the team were appointed in the first place.

That lawsuit was filed by the Official Assignee after Capital+Merchant's receivers believed there was nothing more to collect from the company, Lee said.

The OA then referred the file to Gudsell and his team. "They decided there was, they proceeded and last year the QC and the legal team triumphantly settled the case against the auditor for \$18.5 million. That's an awful lot of money that someone else thought wasn't worth pursuing," Lee said.

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