

Juliet Low

Senator the Hon Nick Sherry
Minister for Superannuation & Corporate Law
Parliament House

2 July 2009

(update to submission dated 28 May 2009)

**Great Southern Limited & Great Southern Managers Australia Limited
(GSMAL)**

Senator Sherry,

Thankyou for announcing a parliamentary inquiry into agribusiness managed investment schemes such as those run by Great Southern Limited (GS). I also urge you to ensure the Australian Securities & Investments Commission (ASIC) investigates the collapse of GS from the point of view of the significant losses that are likely to be sustained by investors such as myself and my husband.

To assist the inquiry I would like to provide some information concerning our position as investors in three of the MIS run by GSMAL (now in administration and receivership).

For most investors including myself and my husband, I believe it is not so much the loss of potential income for the next 20 years that hurts, rather the cashflow impact that investors are left to pay their loan payments every month for the next 10 years at fixed rates of over 10%.

I have already lodged a complaint with ASIC, which referred to the following points which may be relevant for the inquiry:

- (a) finance to growers in relation to the 2006 Plantations project was originally provided by a GS company, being Great Southern Finance Pty Ltd (GSFPL);
- (b) in the case of the 2007 and 2008 Wine Grape Income Projects, the lender was either GSFPL or ABL Nominees Pty Ltd (which I now understand to be Adelaide Bank but this was never disclosed). Loan documentation was always poor (as confirmed by a number of investors) however our understanding is that our loans were always with GSFPL as all loan documentation was issued by them in their name and direct debit authorities were with GSFPL (loan documentation appears to make it clear that the loan is with whoever issues the documentation);
- (c) GSFPL transferred its loans effective 30 April 2009 to Bendigo and Adelaide Bank Limited (“Bendigo”) as communicated in a letter from Bendigo to us. The press reported this transfer was for 38 cents in the dollar but Bendigo has subsequently denied this;

(d) particularly important is that the loans were transferred / sold to Bendigo and Adelaide Bank Limited, the same entity for whom GSFPL ostensibly acted as agent in providing finance to investors;

(e) on 16 May 2009, GSFPL entered administration, and then into receivership on 18 May 2009, less than 3 weeks after the loan book transfer, leaving investors to pay their loan payments for the next 10 years with potentially no income to do so;

(f) Bendigo has not been forthcoming with information to investors in relation to this transfer and won't even confirm whether the loans have been assigned to them. They claim to be "perfecting title" on the loans. They appear to have used a Power of Attorney to effect the transfer. The PoA should only be used for the benefit of investors;

(g) what would have been the position of investors if GSFPL had not transferred / sold those loans? Was Bendigo and Adelaide Bank so eager to keep GS alive that it bought these receivables at a discount? What was the actual date of transfer / sale? Did the bank know, or should it have known, that GS was on the verge of collapse? Did it therefore buy / transfer the loans to ensure a better chance of recouping directly from investors, the monies originally lent through its partnership with GSFPL?

(h) Bendigo and Adelaide Bank has not been transparent in its disclosures to the market about the loan book transfer, the increased concentration risk in its portfolio through its partnership with GSFPL, or the subsequent likely need for increased loss provisions.

(i) In entering into these schemes, we relied *inter alia* on the representations made to us by GS in relation to their financial strength, past performance, and future projections. If any of these representations by GS prove to have been misleading or deceptive, should the loans made by GSFPL not be set aside?

I trust the inquiry will be able to address these issues. Please do not hesitate to contact me should you require further information.

Yours sincerely,

Juliet Low