

Senate Economics Legislation Committee

ANSWERS TO QUESTIONS ON NOTICE

Treasury Portfolio

Additional Estimates, 16 February 2006

Question: AT 37

Topic: *Writing to holders of promissory notes re Westpoint*

Hansard Page: E46

Senator SHERRY asked:

Was there a direction or a commitment given by ASIC to write to the holders of each promissory note with respect to Westpoint?

Mr Lucy—I will have to take that on notice. I am not aware of that requirement and I do not have anything in front of me to enable me to answer that.

Senator SHERRY—Could you check that? My information is that there was a direction from the court for ASIC to do that but that that did not happen.

Answer:

ASIC commenced proceedings against Emu Brewery Mezzanine Pty Ltd, a mezzanine company in the Westpoint group, in May 2004 seeking declaratory orders and other relief requiring Emu Brewery to comply with the debenture fundraising provisions of the Corporations Act.

ASIC's proceeding also raised concerns about the sufficiency of disclosure made by Emu Brewery to investors.

This proceedings was heard with a related proceeding commenced by Bayshore Mezzanine against ASIC seeking declaratory relief that the debenture fundraising provisions did not apply.

The Court directed ASIC to write to each promissory note holder in Emu Brewery and Bayshore Mezzanine in June 2004 and ASIC complied fully with that direction in the same month.