

**Senate Economics Legislation Committee**

**ANSWERS TO QUESTIONS ON NOTICE**

**Treasury Portfolio**

Budget Estimates 30 May – 1 June 2006

**Question: bet 99 (ASIC)**

**Topic: Letter written to 250 investors**

**Hansard Page: E76-77**

**Senator SHERRY asked:**

Approximately how long after the order were those letters sent out?

**Mr Lucy**—We think it was 4 June. If that is incorrect, we will advise.

**Senator SHERRY**—So a couple of days?

**Mr Lucy**—Yes.

**Senator SHERRY**—If you could, let me know. I will not hold you to that precise date. Can you provide a copy of that letter for estimates?

**Mr Lucy**—Certainly. We probably will not have the title of the investor, respecting the names of the investors; we will just send you a—

**Senator SHERRY**—Just blank it out?

**Mr Lucy**—Yes. Would you have any appetite to let us have a look at that letter that you refer to?

**Senator SHERRY**—Which letter?

**Mr Lucy**—That Freehills letter?

**Senator SHERRY**—I will have to check on that. I do not think I have it here. I am not sure.

**Answer:**

See attachment.

*Information letter sent to  
290 investors (as per attached  
list)*

3 June 2004

«Investor\_Name»  
«Investor\_Address»  
«Suburb» «State» «PCode»

Dear Sir/Madam

**BAYSHORE MEZZANINE PTY LTD**

According to the records held by Bayshore Mezzanine Pty Ltd ("Bayshore"), you are an investor in the promissory notes issued by Bayshore under its information memorandum.

Bayshore has commenced proceedings in the Supreme Court, being action CIV 1623 of 2004. In those proceedings, Bayshore claims declarations as are set out in paragraph 1 of the originating summons (a copy of which is attached).

ASIC has filed a counterclaim. In its counterclaim, ASIC seeks declarations in the terms of paragraph 2 of its minute of proposed counterclaim (which was ordered to stand as the counterclaim).

On 1 June 2004, the Supreme Court ordered that each investor who wishes to become a party to or intervene in the action may do so by giving written notice of intention to do so to the Court, to the plaintiff and to the defendant. Such notice is to be given within 21 days of the date of this letter. A copy of the orders made on 1 June 2004 is also attached.

The Court's decision in the case may affect your rights as the holder of a promissory note. The action is back before the Supreme Court on 2 July at 9.15 am, at which time it is anticipated the Court will make further orders as to how the action is to proceed.

Whether you wish to become a party to or intervene in the proceedings is, of course, a matter for your decision. You may wish to take your own legal advice in that regard.

If you have any queries in relation to this letter, please contact ASIC on (08) 9261 4108.

Yours faithfully



**Michael Gething**  
Regional Commissioner WA

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*Information letter sent to  
123 ministers (as per attached  
list)*

3 June 2004

«Investor\_Name»  
«Investor\_Address»  
«Suburb» «State» «PCode»

Dear Sir/Madam

**EMU BREWERY MEZZANINE LIMITED**

Based upon the records of Emu Brewery Mezzanine Limited ("EBM"), the Australian Securities & Investments Commission ("ASIC") understands that you invested in the promissory notes issued by EBM pursuant to its information memorandum.

ASIC has commenced proceedings in the Supreme Court of Western Australia in matter COR 120 of 2004. In those proceedings, ASIC alleges that the conduct of EBM in offering investment under the information memorandum contravened the Corporations Act. ASIC also makes other claims. Details of ASIC's claims can be seen in the amended originating process, a copy of which is attached.

EBM denies ASIC's claims.

On 1 June 2004, the Supreme Court ordered that each investor wishing to become a party to or intervene in the action may do so by giving written notice of intention to do so to the Court, to the plaintiff and to the defendant. Such notice is to be given within 21 days of the date of this letter.

The Court's decision in the case may affect your rights as the holder of a promissory note. The action is back before the Supreme Court on 2 July at 9.15 am, at which time it is anticipated the Court will make further orders as to how the action is to proceed.

Whether you wish to become a party in or intervene in the litigation is, of course, a matter for your decision. You may wish to take your own legal advice in that respect.

If you have any queries in relation to this letter, please contact ASIC on (08) 9261 4108.

Yours faithfully



**Michael Gething**  
**Regional Commissioner WA**

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