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06-332 ASIC bans Victorian Builders Warranty provider

Wednesday 20 September 2006

ASIC has banned Mr Dennis Murvan Gentry, of Collingwood, Victoria, from providing financial services for five years.

ASIC banned Mr Gentry after finding that he had not complied with financial services laws and that there was reason to believe he would not comply with financial services laws in the future.

ASIC found that Mr Gentry engaged in dishonest and misleading or deceptive conduct in relation to a financial product and financial service between June 2003 and September 2004.

During this period Mr Gentry had been operating as an insurance broker and working for several insurance broking businesses. His dishonest conduct related to the purported issuing of Builders' Warranty Insurance (BWI) by the New Zealand-based insurer, Contractor's Bonding Limited (CBL).

ASIC formed the view that:

- Mr Gentry issued false certificates of insurance to clients Tenth Zital, Emval Pty Ltd and Como Constructions Pty Ltd without CBL's consent;
- the persons to whom the certificates were issued assumed that the certificates were valid, afforded insurance protection and undertook building on that basis; and
- Mr Gentry held \$14,135 on trust for the benefit of Tenth Zital, to be paid to CBL, or returned to Tenth Zital, however he used the monies for other purposes.

Mr Gentry has the right to appeal to the Administrative Appeals Tribunal for a review of ASIC's decision.

Background

Victorian legislation requires that registered builders of domestic dwellings must have BWI to obtain a building permit. For builders to become eligible for BWI they must obtain a letter of eligibility from an insurer, who will first assess the financial and historical information provided by the builder to the insurer. The Building Commission requires all registered builders to obtain and provide a letter of eligibility as a condition of their registration. During this twelve-month eligibility period, the builder is required to make an insurance application for each new project they commence.

REGULATORY NEWS

Dexta co-founder due to face court



Former Dexta Corporation MD and co-founder Ashraf Kamha (pictured) and his old FAI Insurance colleague Daniel Wilkie - the company's COO - are due to face court next month to answer charges related to their involvement in the collapse of HIH.

Mr Kamha and Mr Wilkie will face court on August 14 for a six-week hearing on charges related to an alleged \$30 million accounting scam, which involved deceiving the stock exchange about FAI's profits.

The Australian Securities and Investments Commission (ASIC) alleges both men knew about the accounting scandal, which resulted in improper reductions of more than \$31 million in FAI's books.

They were originally charged in November at the same time as former FAI Financial Controller Anthony Boulden, who last month pleaded guilty in the NSW Supreme Court to breaching section 590(1) of the Corporations Act. The matter was adjourned for a two-day sentencing hearing on October 12.

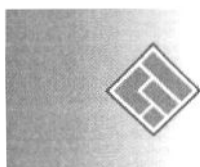
Should you have any further questions please [click here](#) to contact us.

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DEXTA Corporation.

Footnote: Phil Dwyer

DEXTA Corporation were authorised providers of Builders Warranty Insurance through the goodwill of the Victorian Government who underwrote their re-insurance up until the 07.09.2002 when they withdrew that support and Dexta exited the warranty market, leaving only RS&A and Reward.



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FAI General Insurance

Footnote: Phil Dwyer
FAI were providers of Builders Warranty from the inception of the privatised scheme.
Note Mr Kamha founded Dexta.

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05-363 ASIC lays charges against FAI officers

Tuesday 22 November 2005

Mr Jeffrey Lucy, Chairman of ASIC, today confirmed that criminal charges have been laid against Messrs Daniel Wilkie, Ashraf Kamha and Antony Boulden, former officers of FAI General Insurance Company Limited (FAIG).

All three appeared in the Downing Centre Local Court in Sydney this morning.

The charges arise from the investigation by ASIC into the affairs of the HIH group of companies.

Messrs Wilkie and Kamha have both been charged with one count of failing to act honestly in the exercise of their powers and discharge of their duties as officers of FAIG.

It is alleged this was done with the intention of deceiving the Australian Stock Exchange (ASX), resulting in a falsely inflated profit result in the accounts of FAI Insurances Limited released to the ASX for the half-year ended 31 December 1997. They have also both been charged with one count of being privy to the fraudulent altering of a book affecting or relating to the affairs of FAIG. The charges relate to reductions in the recording of case estimates (estimates of claims made on insurance policies written by FAIG).

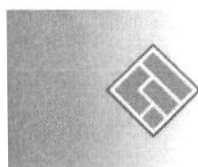
Mr Boulden has been charged with one count of being privy to the fraudulent altering of a book affecting or relating to the affairs of FAIG concerning case estimates for the same financial period.

The matter involving Mr Wilkie returns to court on 31 January 2006 and the matters involving Messrs Kamha and Boulden were adjourned to 28 February 2006.

This matter is being prosecuted by the Director of Public Prosecutions.

Updated: 22/11/2005

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05-331 Homesafe director found guilty of providing builders warranty insurance without a licence

Friday 21 October 2005

Mr Geoffrey Wade, of Castlemaine, Victoria, today pleaded guilty in the Melbourne Magistrates Court to one charge of carrying on a financial services business service without holding an Australian financial services licence (AFSL).

Mr Wade, a director of Homesafe Equities Pty Ltd (Homesafe) appeared before the Court on the charge following an investigation by the Australian Securities and Investments Commission (ASIC) in relation to the provision and distribution of builders warranty insurance by Homesafe in Victoria between 1 July 2003 and 14 February 2004.

Magistrate John Dugdale, in consideration of Mr Wade's undertaking to co-operate with ASIC and the Commonwealth Director of Public Prosecutions, under the *Crimes Act 1914*, sentenced Mr Wade to a non conviction bond under the *Crimes Act 1914 (Cth)* (the Act) in the amount of \$2,000 to be of good behaviour for 24 months subject to a condition that he pay \$2,000 to the Court fund and costs.

The Commonwealth Director of Public Prosecutions prosecuted the matter.

Background

Builders in Victoria are required, under the *State Building Act 1993* (the Act), to be covered by an insurance policy that complies with the Act and a related Ministerial Order. For domestic building contracts, the required insurance covers property owners against non-completion of work and structural defects for a specified period, where the builder dies, disappears or becomes insolvent.

ASIC conducted an investigation into the activities of Homesafe, Home & Renovators Group Pty Ltd (HRG) and Builders Owners Pty Ltd (B&O) and alleges that between June 2003 and February 2004, Homesafe issued approximately 790 builder's warranty and financial guarantee bonds to builders in Victoria. B&O distributed a large number of the bonds as agent for Homesafe.

ASIC obtained orders in the Supreme Court of Victoria in August 2004 appointing Mr Gess Rambaldi as liquidator to Homesafe and HRG. In his report to the court, Mr Rambaldi found that both companies were insolvent.

Mr James Alexander Scott, of Mentone, Victoria, was charged with 231 offences, including providing a financial service without holding an Australian financial services licence, making misleading statements in relation to financial products and engaging in dishonest conduct in relation to financial products between 1 July 2003 and 25 March 2004. His father, Mr Anthony John Scott, of Blackburn, Victoria, faces 15 similar charges.

Messrs James Scott and Anthony Scott were directors of Homesafe, and will both appear again in the Melbourne Magistrates Court for a committal hearing on 4 November 2005.

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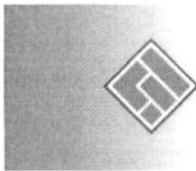
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Further, ASIC permanently banned Mr James Scott from providing any financial services, and banned Mr Anthony Scott from providing any financial services for five years. ASIC has also banned Mr Mepstead from providing any financial services for three years. Mr James Scott has appealed ASIC's decision to the Administrative Appeals Tribunal.

Today's hearing follows the earlier sentencing of Mr Gary Mepstead of Patterson Lakes in July this year (see **ASIC Media Release 05-212**). Mr Mepstead pleaded guilty to one charge of providing a financial service without holding an Australian financial services licence between 1 July 2003 and 15 February 2004 under the *Corporations Act*. Magistrate Lisa Hannon sentenced Mr Mepstead to a non conviction bond under the Crimes Act 1914 (Cth) in the amount of \$2,000 to be of good behaviour for a period of 12 months subject to a condition that he pay \$1,500 to the Court Fund and costs.

Updated: 21/10/2005

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05-212 ASIC charges three former builders warranty insurance providers

Wednesday 27 July 2005

Three Victorian men have appeared before the Melbourne Magistrates Court on charges in relation to Homesafe Equities Pty Ltd (Homesafe) and Builders & Owners Pty Ltd (B&O) following an investigation by the Australian Securities and Investments Commission (ASIC). The charges relate to the provision and distribution of builders warranty insurance in Victoria between June 2003 and February 2004.

Mr Gary Mepstead, of Patterson Lakes, Victoria, pleaded guilty to one charge of providing a financial service without holding an Australian Financial Services licence between 1 July 2003 and 15 February 2004 under the *Corporations Act 2001*.

Magistrate Lisa Hannon sentenced Mr Mepstead, a director of B&O, to a non-conviction bond under the Crimes Act 1914 (Cth) in the amount of \$2,000 to be of good behaviour for 12 months subject to a condition that he pay \$1,500 to the Court Fund and costs.

Mr James Alexander Scott, of Mentone, Victoria, was charged with 231 offences, including providing a financial service without holding an Australian Financial Services licence, making misleading statements in relation to financial products and engaging in dishonest conduct in relation to financial products between 1 July 2003 and 25 March 2004. His father, Mr Anthony John Scott, of Blackburn, Victoria, faces 15 similar charges.

Messrs James Scott and Anthony Scott were directors of Homesafe, and will both appear again in the Melbourne Magistrates Court for a filing hearing on 25 August 2005.

The Commonwealth Director of Public Prosecutions is prosecuting the matter.

Background

Builders in Victoria are required, under the *Building Act 1993* (the Act), to be covered by an insurance policy that complies with the Act and a related Ministerial Order. For domestic building contracts, the required insurance covers property owners against non-completion of work and structural defects for a specified period, where the builder dies, disappears or becomes insolvent.

ASIC conducted an investigation into the activities of Homesafe, Home & Renovators Group Pty Ltd (HRG) and B&O and alleges that between June 2003 and February 2004, Homesafe issued approximately 790 builder's warranty and financial guarantee bonds to builders in Victoria. B&O distributed a large number of the bonds.

ASIC obtained orders in the Supreme Court of Victoria in August 2004 appointing Mr Gess Rambaldi as liquidator to Homesafe and HRG. In his report to the court, Mr Rambaldi found that both companies were insolvent.

Further, ASIC permanently banned Mr James Scott from providing any

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06-166 Former builders warranty insurance providers to face trial

May 2006

Two Victorian men have been committed to stand trial in the Victorian County Court in relation to numerous charges brought by ASIC.

Mr Anthony John Scott, of Blackburn, Victoria, and his son, Mr James Alexander Scott, of Mentone, Victoria, appeared before the Melbourne Magistrates Court on charges in relation to Homesafe Equities Pty Ltd (Homesafe) following an investigation by ASIC. The charges relate to the provision and distribution of builders warranty insurance in Victoria between June 2003 and February 2004.

Mr Anthony Scott has pleaded not guilty to 15 charges including providing a financial service without holding an Australian Financial Services licence (AFSL), making misleading statements in relation to financial products, and engaging in dishonest conduct in relation to financial products.

Mr James Scott has reserved his plea in relation to 231 similar offences. Both men have been bailed to appear before the County Court on 1 August 2006.

The Commonwealth Director of Public Prosecutions is prosecuting the matter.

Background

Builders warranty insurance protects homeowners in the event that the builder goes bankrupt, disappears, or dies and therefore cannot complete or make good any defects in construction.

Homesafe Equities Pty Ltd issued insurance certificates in relation to 792 projects in Victoria that provided insurance over building contracts with a potential value in excess of \$100,000,000. ASIC alleges that, unknown to the builders who obtained the certificates, there was no pool of money set aside in what Homesafe Equities Pty Ltd called the 'Captive Pool' to pay any claims, and that contrary to what was claimed, full reinsurance was not in place in respect of any claims that might have been made.

Further, ASIC alleges that neither Mr Anthony Scott nor Mr James Scott were appropriately licensed to deal in financial products.

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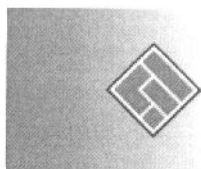
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Media and information releases

05-108 Former HIH managing director jailed

Friday 29 April 2005

Mr Jeffrey Lucy, Chairman of the Australian Securities and Investments Commission (ASIC), today announced that Mr Terry Cassidy, the former Managing Director, Australia of HIH Insurance Limited, has been sentenced to 15 months imprisonment, to be released on 28 February 2006 after serving 10 months, in relation to three criminal charges arising from his management of the HIH group of companies from 1998 to 2000.

Mr Cassidy was sentenced before Justice Wood in the New South Wales Supreme Court, having earlier pleaded guilty to two criminal charges under the Crimes Act (NSW) and one criminal charge under the Corporations Act.

In sentencing, His Honour Justice Wood recognised that Mr Cassidy has, and will continue to provide assistance to ASIC during the course of its investigations and any future prosecutions.

'The sentencing of Mr Cassidy to 15 months jail reflects the community's belief that company directors who act recklessly, and by so doing, distort the true financial position of a company, should be held accountable for their actions', Mr Lucy said.

'Conduct which misleads regulators, and the market more generally, undermines public confidence and puts at risk the investments of shareholders. The jailing of Mr Cassidy sends a very strong message that this type of conduct will not be tolerated', Mr Lucy said.

Mr Cassidy was sentenced in relation to criminal charges that he:

- acted with reckless disregard in the making of a false or misleading statement to the Australian Prudential Regulation Authority (APRA) by not disclosing, contrary to the Insurance Act, that \$129 million in assets of CIC Insurances Ltd (CIC) were charged for the benefit of a party other than CIC;
- acted with reckless disregard in the making of a false or misleading statement to APRA that CIC had exceeded the minimum solvency requirements of the Insurance Act by approximately \$17 million, when in fact there was a deficiency of approximately \$111 million;
- was reckless and failed to properly exercise his powers and discharge his duties for a proper purpose as a director of HIH Investment Holdings Ltd (HIH) and FAI Insurances Limited (FAI), in that he signed a series of documents concerning an application by HIH for 200 million shares in FAI which documents he knew had been backdated to 23 June 2000.

'This is the fourth guilty plea, and third jailing that ASIC has achieved as part of its HIH investigation. ASIC will continue to ensure that company directors or officers who act recklessly or dishonestly are brought before the Courts', Mr Lucy said.

ASIC's investigation into the collapse of HIH is continuing.

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Background

- On 23 December 2003, Mr William Howard, a former General Manager of HIH Insurance Limited, was sentenced to three years imprisonment, fully suspended on the basis of on-going assistance to the HIH investigation. Mr Howard had pleaded guilty to two counts of criminal misconduct, namely that he dishonestly received from Mr Brad Cooper approximately \$124,000 in return for facilitating payments by HIH directly or indirectly in favour of Mr Cooper. Mr Howard also admitted facilitating a payment of \$737,000 to a company associated with Mr Cooper knowing that the payment obligation had already been discharged.
- On 22 October 2004, Mr Bradley Cooper was committed for trial on six charges of corruptly giving a cash benefit to influence an agent of HIH Insurance Limited, namely Mr Howard, and seven charges of publishing a false or misleading statement with intent to obtain financial advantage. The trial is set down to commence on 1 August 2005.
- On 20 April 2004, Mr Charles Abbott, the former Deputy Chairman of HIH Insurance Limited, was charged with dishonestly using his position as a company director. The committal hearing is set down to commence on 30 May 2005.
- On 19 July 2004, Mr Timothy Maxwell Mainprize was committed for trial on charges of failing to act honestly in the exercise of his powers and discharge of his duties as an officer of FAI General Insurance Company Limited. He was also committed on one count of providing false and misleading information. His trial is set down to commence on 5 September 2005.
- On 19 July 2004, Mr Daniel Wilkie was committed for trial on charges of failing to act honestly in the exercise of his powers and discharge of his duties as an officer of FAI General Insurance Company Limited. He was also committed on one count of providing false and misleading information. His trial is set down to commence on 5 September 2005.
- On 19 July 2004, Mr Stephen Burroughs was committed for trial on charges of failing to act honestly in the exercise of his powers and discharge of his duties as an officer of FAI General Insurance Company Limited.
- On 16 February 2005, Mr Rodney Adler pleaded guilty to four charges, two of disseminating false information that was likely to induce people to buy HIH shares, one of making and publishing false statements and one of being intentionally dishonest and failing to discharge his duties in good faith. Mr Adler was sentenced on 14 April 2005 to four-and-a-half years' jail with a non-parole period of two-and-a-half years.
- On 15 December 2004, Mr Ray Williams pleaded guilty to three charges, namely of failing to properly exercise his duties as company director by signing a misleading letter to FAI Note Holders, giving investors misleading information in the HIH 1998-99 Annual Report and omitting information from a prospectus to raise up to \$155 million for the takeover of FAI. On 15 April 2005, Mr Williams was sentenced to four-and-a-half years jail, with a non-parole period of two years and nine months.

Updated: 29/04/2005

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SAVILLE HICKS CORP P/L

2001 media and information releases

01/373 Insurance broker suspended

Editor's note: Changes were made to this media release on 3 September 2003

Wednesday 17 October 2001

The Australian Securities and Investments Commission (ASIC) has suspended the registration of Perth-based insurance broker Savill Hicks Corp Pty Ltd (Savill Hicks) for one year, after Savill Hicks illegally invested \$200,000 held in its insurance broking account.

ASIC required Savill Hicks to deposit \$200,000 of its own money into the insurance broking account to make up the shortfall caused by the illegal investments.

'It is vital that insurance brokers comply with the regulatory requirements for the operation of their accounts. Improper investment of the money held in these accounts can lead to irrecoverable losses, and ASIC will take action against brokers that expose insurers and consumers to this risk', an ASIC Director of Financial Services Regulation, Sean Hughes said.

In July 1999, Savill Hicks invested \$200,000 from its insurance broking account into two loans of \$100,000, to be secured by second mortgages over two houses. It was illegal for Savill Hicks to make these investments, as they were not prescribed under the Insurance (Agents and Brokers) Act (IABA) and the IABA Regulations.

Under IABA, insurance brokers may keep clients' premiums in an insurance broking account for up to 90 days and can retain interest earned on the account, subject to legislative requirements. They can also invest account moneys in 'prescribed investments' which are safe and liquid, such as government securities and bank deposits, cash management trusts or bills of exchange.

The loans were made to a separate entity, the sole director of which was a family friend of Mr Hicks, managing director of Savill Hicks. The loans in this case were not in writing, and NO interest or principal repayments were ever received under the loans, which are now in default.

During the course of the suspension period, ASIC will permit Savill Hicks to carry on business as an insurance broker provided it meets additional audit and audit reporting obligations which show that it is operating correctly its insurance broking account.

Savill Hicks is based in Perth, with operations in Sydney and Melbourne.

Savill Hicks is entitled to apply to review ASIC's decision in the Administrative Appeals Tribunal.

Perth based broker who provided Builders Warranty on behalf of Master Builders WA.



OAMPS



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Purchased Reward Insurance which has since been sold to Westfarmers the owner of Bunnings Hardware.

Note the involvement of other warranty providers in these proceedings

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01/187 OAMPS director Kingsley Lamont gives court undertaking to resign from board

Friday June 1 2001

Kingsley Lamont, an executive director and former chairman of OAMPS Ltd, has today agreed to resign from the OAMPS board, as part of an undertaking to the Court that he will not act as a director of either any public company or certain specified proprietary companies for a period of three years.

Mr Lamont gave this undertaking to the Supreme Court of Victoria this morning in order to resolve civil proceedings initiated against him by the Australian Securities and Investments Commission (ASIC) in August 2000.

ASIC alleged that during 1998 Mr Lamont breached his statutory duties as Managing Director of Steadfast Insurance Brokers Management Group Ltd (Steadfast), from which he resigned in December 1998.

ASIC contended that while in office, Mr Lamont negotiated with Mr Rodney Adler, the then Chief Executive of FAI Insurances Ltd (FAI), for FAI to provide a loan to Mr Lamont's private company for the purpose of purchasing OAMPS shares.

ASIC also alleged that Mr Lamont negotiated with Mr Adler for the interest payments on the loan to be tied to the volume of insurance business generated for FAI by the insurance brokers who were shareholders of Steadfast.

The trial of these proceedings was due to commence this morning.

In the agreement between ASIC and Mr Lamont to resolve these civil proceedings, Mr Lamont gave an undertaking to the Court that he would not act as a director of any public company or any subsidiary of OAMPS Ltd, Australian International Insurance Ltd, OAMPS Funds Management Pty Ltd or OAMPS Insurance Brokers Ltd, for a period of three years from 1 July 2001.

Mr Lamont has already contributed to ASIC's costs by a payment of \$30,000.

ASIC did not allege any wrongdoing by Steadfast, OAMPS, FAI or Mr Adler, in this proceeding.

For further information contact:

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