

IN THE FEDERAL COURT OF AUSTRALIA
VICTORIAN DISTRICT REGISTRY

No. VID 95 of 2010

IN THE MATTER OF THE *CORPORATIONS ACT 2001*.

AND

IN THE MATTER OF MARK RONALD LETTEN AND OTHERS
(as described in the attached Schedule)

BETWEEN

AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION

Plaintiff

-and-

MARK RONALD LETTEN AND OTHERS
(as described in the attached Schedule)

Defendants


AFFIDAVIT OF GLENN JOHN CHILDS

On 13 April 2011, I, **GLENN JOHN CHILDS**, of 120 Collins Street, Melbourne, in the State of Victoria, Public Servant, MAKE OATH AND SAY:-

1. I am employed by the Australian Securities and Investments Commission (**ASIC**) as a Senior Investigator in ASIC's Deterrence Directorate.
2. I am duly authorised to swear this affidavit on behalf of ASIC.
3. I am an authorised delegate of ASIC pursuant to s102 of the *Australian Securities and Investments Commission Act 2001* (Cth) (**ASIC Act**) and have been delegated certain functions and powers, including the functions and powers under Part 3 of the ASIC Act which relate to ASIC's investigation and information gathering powers.

Date of Document: 13 April 2011
Filed on behalf of: The Plaintiff
Prepared by:
Australian Securities and Investments Commission
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4. In the course of my employment with ASIC, I conduct investigations into suspected contraventions of the laws regulated by ASIC, including the *Corporations Act 2001* (Cth) (the Act).
5. Unless otherwise stated, I make this affidavit from information within my own knowledge and from an examination of the records of, or otherwise in the possession of ASIC. Where I depose to matters from information and belief, I do so after having made all relevant enquiries and I believe those matters to be true and correct. In this context, I seek leave to refer to the fifth, sixth, tenth, sixteenth and eighteenth affidavits of Damian John Templeton sworn in this proceeding on 12 April 2010, 27 April 2010, 9 June 2010, 27 August 2010 and 4 October 2010 respectively.
6. I have made five previous affidavits in this proceeding sworn on 17 February 2010, 3 March 2010, 4 May 2010, 21 July 2010 and 29 July 2010 and seek leave to refer to these affidavits if necessary.

PURPOSE OF AFFIDAVIT

7. This affidavit is made in support of ASIC's application for orders under s461(1)(k) of the Act that the following defendants be wound up and that Mr Damian Templeton and Mr Philip Hennessy of KPMG be appointed as joint and several liquidators of each of the defendants:
 - (a) the second defendant, LGH Holdings Limited;
 - (b) the third defendant, 211 Wellington Road Pty Ltd;
 - (c) the fourth defendant, Bluemist Holdings Pty Ltd;
 - (d) the fifth defendant, Dellwood Holdings Pty Ltd;
 - (e) the sixth defendant, Enmore Enterprises Pty Ltd;
 - (f) the ninth defendant, Gerling Holdings Pty Ltd;
 - (g) the tenth defendant, LGH Administration Pty Ltd;
 - (h) the sixteenth defendant, Simms Investments Pty Ltd;
 - (i) the eighteenth defendant, The Glen Centre Hawthorn Pty Ltd;



- (j) the nineteenth defendant, Castello Holdings Pty Ltd;
- (k) the twentieth defendant, Twinview Nominees Pty Ltd;
- (l) the forty-sixth defendant, Melville Corporation Pty Ltd;
- (m) the forty-seventh defendant, Tilley Lane Pty Ltd;
- (n) the forty-eighth defendant, HPSC Pty Ltd;
- (o) the forty-ninth defendant, Jensdale Pty Ltd;
- (p) the fiftieth defendant, Oakdale Rise Pty Ltd;
- (q) the fifty-first defendant, Maywood Investments Pty Ltd;
- (r) the fifty-second defendant, Acetrain Pty Ltd;
- (s) the fifty-third defendant, Sagebay Pty Ltd; and
- (t) the fifty-fourth defendant, Tobago Holdings Pty Ltd.

COMPANY EXTRACTS

8. On 12 April 2011, I caused a search of the national database maintained by ASIC to be conducted in respect of each of the defendants referred to in paragraph 7 above. Now produced and shown to me and marked:
- (a) Exhibit **GC-94** is a true copy of an historical company extract for LGH Holdings Limited dated 12 April 2011.
 - (b) Exhibit **GC-95** is a true copy of an historical company extract for 211 Wellington Road Pty Ltd dated 12 April 2011.
 - (c) Exhibit **GC-96** is a true copy of an historical company extract for Bluemist Holdings Pty Ltd dated 12 April 2011.
 - (d) Exhibit **GC-97** is a true copy of an historical company extract for Dellwood Holdings Pty Ltd dated 12 April 2011.
 - (e) Exhibit **GC-98** is a true copy of an historical company extract for Enmore Enterprises Pty Ltd dated 12 April 2011.
 - (f) Exhibit **GC-99** is a true copy of an historical company extract for Gerling Holdings Pty Ltd dated 12 April 2011.



- (g) Exhibit **GC-100** is a true copy of an historical company extract for LGH Administration Pty Ltd dated 12 April 2011.
- (h) Exhibit **GC-101** is a true copy of an historical company extract for Simms Investments Pty Ltd dated 12 April 2011.
- (i) Exhibit **GC-102** is a true copy of an historical company extract for The Glen Centre Hawthorn Pty Ltd dated 12 April 2011.
- (j) Exhibit **GC-103** is a true copy of an historical company extract for Castello Holdings Pty Ltd dated 12 April 2011.
- (k) Exhibit **GC-104** is a true copy of an historical company extract for Twinview Nominees Pty Ltd dated 12 April 2011.
- (l) Exhibit **GC-105** is a true copy of an historical company extract for Melville Corporation Pty Ltd dated 12 April 2011.
- (m) Exhibit **GC-106** is a true copy of an historical company extract for Tiley Lane Pty Ltd dated 12 April 2011.
- (n) Exhibit **GC-107** is a true copy of an historical company extract for HPSC Pty Ltd dated 12 April 2011.
- (o) Exhibit **GC-108** is a true copy of an historical company extract for Jensdale Pty Ltd dated 12 April 2011.
- (p) Exhibit **GC-109** is a true copy of an historical company extract for Oakdale Rise Pty Ltd dated 12 April 2011.
- (q) Exhibit **GC-110** is a true copy of an historical company extract for Maywood Investments Pty Ltd dated 12 April 2011.
- (r) Exhibit **GC-111** is a true copy of an historical company extract for Acetrain Pty Ltd dated 12 April 2011.
- (s) Exhibit **GC-112** is a true copy of an historical company extract for Sagebay Pty Ltd dated 12 April 2011.
- (t) Exhibit **GC-113** is a true copy of an historical company extract for Tobago Holdings Pty Ltd dated 12 April 2011.



CONSENT TO ACT AS JOINT AND SEVERAL LIQUIDATORS

9. Mr Templeton and Mr Hennessy have provided their consent to act as joint and several liquidators of each of the defendants referred to in paragraph 7 above. It is intended that the Form 8 Consents of Liquidator signed by Mr Templeton and Mr Hennessy will be filed contemporaneously with this affidavit.

WINDING UP ORDERS —UNREGISTERED MANAGED INVESTMENT SCHEMES

10. On 25 February 2010 this Honourable Court made Orders pursuant to s601EE(1) of the Act (the **25 February Orders**), winding up eleven unregistered managed investment schemes which were known as the 211 Wellington Road Joint Venture, George Street Joint Venture, Cimitiere House Joint Venture, Reef House Resort, Queen Street Joint Venture, Low Head Joint Venture, Nicholson Street Joint Venture, The Glen Centre Joint Venture, Twinview Joint Venture, Yarra Valley Golf Joint Venture and Glenbelle Project (being the schemes numbered 1, 4 to 9 and 13 to 16 respectively in Annexure A to the Order made on 25 February 2010).
11. Mr Templeton and Mr Hennessy (the **Receivers**) were also appointed as joint and several receivers and managers of certain property of each of the second to sixteenth and eighteenth to forty-fifth defendants (the **Corporate Defendants**) and as joint and several receivers and managers of the identified property of each of the schemes listed in Annexure A to the 25 February Orders (the **Schemes**) except for the scheme numbered 12, the SY21 Joint Venture.
12. On 4 March 2010, Orders were made pursuant to s601EE(1) of the Act (the **4 March Orders**), winding up the unregistered managed investment scheme known as the SY21 Joint Venture, being the scheme numbered 12 in Annexure A to the 25 February Orders (the **SY21 Scheme**). The Receivers were also appointed as joint and several receivers and managers of the property of the SY21 Scheme defined in those orders as "*the funds invested, contributed or deposited by investors for the purpose of acquiring an interest in the project known as SY21 Retail Complex Project*".



13. On 13 April 2010, the Receivers filed Disclosure Reports for the Schemes numbered 1 to 5 and 7 to 14, being exhibits DJT-16 to DJT-28 to the fifth affidavit of Damian John Templeton sworn on 12 April 2010.
14. The Disclosure Reports for the Schemes numbered 6, 15 and 16 were filed on 28 April 2010, being exhibits DJT-31 to DJT-32 to the sixth affidavit of Damian John Templeton sworn on 27 April 2010.
15. By Order made on 30 July 2010 (the **30 July Orders**), the Receivers were also appointed joint and several receivers and managers of the identified property of five additional unregistered managed investment schemes known as the Tomasetti House Joint Venture, Aurora Park Project, Moorhouse Shopping Centre Project, Cass Bay Spur Project and Mount Hutt Project, being the schemes numbered 17 to 21 respectively in Annexure A to the 30 July Orders (the **Additional Schemes**). The Receivers were also appointed as joint and several receivers and managers of certain property of each of the forty-sixth to fifty-fourth defendants. The Schemes numbered 19 (Moorhouse Shopping Centre Project), 20 (Cass Bay Spur Project) and 21 (Mount Hutt Project) were wound up pursuant to s601EE(1) of the Act.
16. Disclosure Reports for the **Additional Schemes** were filed on 30 August 2010 (exhibits DJT-43 to DJT-47 to the sixteenth affidavit of Damian John Templeton sworn on 27 August 2010).
17. In the Disclosure Reports, the Receivers reported on, amongst other things:
 - (a) the nature and identity of the property of the Schemes and **Additional Schemes**;
 - (b) the claims of third parties in relation to the property of the Schemes and **Additional Schemes**; and
 - (c) the identities of the investors and the nature and extent of their interests.
18. The Schemes numbered 2, 3, 10, 11, 17 and 18 in Annexure A to the 25 February Orders and 30 July Orders (known as the Healesville Walk Shopping Centre Joint Venture, Howleys Road Joint Venture, National Boulevard Joint Venture, Simms Investment Project, Tomasetti House Joint Venture and Aurora Park Project respectively) (the **Concluded Schemes**) were not wound up because they were no



longer operating. Notwithstanding this, and as detailed above, on 25 February 2010 and 30 July 2010 orders were made by this Honourable Court appointing the Receivers as receivers and managers to the assets of each of the Concluded Schemes and to the assets of the Corporate Defendants associated with those Concluded Schemes.

19. Disclosure Reports that covered issues relevant or common to all the Schemes and to the second defendant (LGH Holdings Ltd) (**LGHH**), the tenth defendant (LGH Administration Pty Ltd) (**LGHA**) and the eleventh defendant (LGH Finance Pty Ltd) (**LGHF**) (collectively, the **Letten Entities**) were also prepared and filed by the Receivers. These Disclosure Reports are exhibits DJT-15 to the fifth affidavit of Damian John Templeton sworn on 12 April 2010 (Disclosure Report – Overview) and DJT-37 to the tenth affidavit of John Damian Templeton sworn on 9 June 2010 (LGH Companies' Report).

OVERVIEW — LETTEN ENTITIES

20. As stated above, the Receivers were, pursuant to the 25 February Orders, also appointed as receivers and managers of certain property of the Letten Entities.
21. Set out below is a summary of the information contained within the Disclosure Report - Overview and LGH Companies' Report filed by the Receivers in relation to the Letten Entities and their apparent role and association with the Schemes.
22. The Receivers ascertained the following regarding LGHA:
- (a) LGHA is wholly owned by its director, Mark Letten.
 - (b) LGHA acts as trustee for the 'LGH Family Trust' whose beneficiaries include Letten family members. The Receivers sighted a trust deed dated 6 February 1997 formalising this arrangement.
 - (c) In relation to the Schemes subject to the appointment of the Receivers, LGHA performed a 'treasury' function. This included receipt of investor funds, payment of funds related to Schemes (such as asset acquisition and ongoing expenses), payment of distributions and return of investor funds and receipt of asset sale proceeds.

- (d) LGHA as well as other investors/Schemes provided financing (whether its own or other monies is not clear) to various Schemes, such as advancing funds for use in the Yarra Valley Golf Joint Venture.
 - (e) LGHA did not segregate funds paid and/or received in its two significant roles, that as trustee of the Family Trust and that of treasurer for the Schemes. Further, the financial records of LGHA did not distinguish transactions between 2002 and 2008. The Receivers could not identify all of the transactions from the MYOB records of LGHA that related to the role of LGHA as trustee and which related to other business.
 - (f) LGHA has raised funds from investors that relate to schemes outside those over which the Receivers were appointed.
23. The Receivers ascertained the following regarding LGHH:
- (a) LGHA is the sole shareholder of LGHH.
 - (b) LGHH appears to have been a promoter of the Schemes. The Receivers obtained and reviewed various documentation bearing the name of LGHH that related to the Schemes, including investment overviews and project reports regarding some of the properties over which they were appointed (referred to below).
 - (c) LGHH accordingly appears to have been involved in raising funds from investors for advancement to the Schemes and/or LGHA.
24. The Receivers ascertained the following regarding LGHF:
- (a) LGHF is owned by two of its director, Mr Letten and Lea Letten.
 - (b) It appears that the sole role of LGHF was to hold units in the Reef House Unit Trust on behalf of investors in the Reef House Resort.
25. A number of bank accounts were operated by LGHA and/or LGHH that related to funds received and/or debited in relation to the Schemes. The three main accounts operating between 2002 and 2010 that the majority of Scheme transactions occurred through were:



- (a) LGHA Projects/Investments account with Westpac Banking Corporation (Westpac);
 - (b) LGHA Admin #1 account with Westpac; and
 - (c) LGHA Operating Account with Westpac.
26. There was significant movement of funds between these three accounts and various other LGHA/LGHH and Scheme accounts. In these three accounts there were in excess of 110,000 individual transactions between FY02 and FY10.
27. Whilst bank accounts were held relating to individual Schemes, for example accounts held in the name of the relevant joint venture manager Corporate Defendant, the majority of investor transactions appeared to occur through the LGHA Projects/Investments and LGH Admin #1 accounts. These accounts appear to have been utilised at different points in time for the comingling of investor capital contributions. That is, investor funds raised for the various Schemes were comingled with other investor funds and that such comingled funds were disbursed across Schemes.

War Chest

28. The 'war chest' related to a fundraising by LGHA during 2008 and 2009 that was not specific to individual Schemes but apparently to the benefit of all the properties held. The promotional material sighted by the Receivers suggests the funds were required to build a fund to assist the Schemes withstand the global financial crisis.
29. The documents sighted by the Receivers suggest efforts were made by LGHA after October 2008 to raise in excess of \$30 million from investors in the various Schemes. This was to occur through contribution to the 'war chest' (or 3% capital fund as it was also called) or via contribution to 'Project Reserve Bond'.
30. MYOB records suggest \$1.3 million was raised for these purposes during October 2008 to March 2009, consisting of \$0.767 million for the war chest and \$0.565 million for the Project Reserve Bond.



31. The funds were deposited to a NAB account in the name of LGHA. As at 25 February 2010, the balance of the account was \$543. Whilst the Receivers have not verified or traced transactions within this account, it appears money was often transferred to other LGHA bank accounts. No distributions appear to have been paid to the investors.

OVERVIEW — UNREGISTERED MANAGED INVESTMENT SCHEMES

32. ASIC alleges that each of the Schemes and Additional Schemes was an unregistered managed investment scheme which was required to be registered under the Act but was not registered. ASIC alleges that the Schemes and Additional Schemes were variously established, promoted and/or operated by Mr Letten and the Corporate Defendants.
33. The Schemes and Additional Schemes appear to have been quite similar in nature, in that they related to the purchase of real properties during the period 1998 to 2007 generally by way of investor contribution and bank funding. The properties were commonly commercial premises to be tenanted or land purchased for future development. Some of the properties consisted of an investment property and various on-site operating businesses, such as a hotel or golf club.
34. Depending upon the scheme, funds were often raised from investors around the time of property acquisition. However, funds were also raised during the life of the holding of the property. From ASIC's investigations, it appears that investor contributions to the Schemes and Additional Schemes generally came about through the following means:
- (a) issuing of investment overviews to investors regarding the scheme and investment conditions, commonly in the name of LGHH;
 - (b) subsequent provision of funds before or after execution of a joint venture agreement by investors with one of the relevant joint venture managers;
 - (c) provision of funds from investors without execution of any documentation;
 - (d) roll-over of investor funds (including capital gains, if any) from one scheme to another.



35. A review of the investor promotional material (investment overviews), joint venture agreements and general investigation undertaken by me suggests the following about the nature of the anticipated investment returns:
- (a) an ongoing 'income return' at an estimated annual rate (generally to be paid monthly);
 - (b) a return of capital invested, plus any profit (capital growth) achieved, upon sale of scheme property and/or termination of a scheme.
36. These matters are confirmed and expanded on in the Receivers' Disclosure Reports (referred to below). As at the date of swearing my affidavit, Mr Letten has not filed any material disputing these matters.
37. Set out below is a summary of the information contained within the Disclosure Reports filed by the Receivers in relation to each of the Schemes numbered 1 to 3, 5 to 7 and 11 to 14 and the Additional Schemes numbered 17 to 21 in Annexure A.

211 Wellington Road Joint Venture

(third Defendant, 211 Wellington Road Pty Ltd)

38. The information contained within the 211 Wellington Road Joint Venture Disclosure Report (exhibit DJT-25 to the fifth affidavit of Damian John Templeton sworn on 12 April 2010) is summarised in the table below:

Property	211 Wellington Road Mulgrave VIC (sold)
Property purchase	May 2000
Purchase value (approximately)	\$6.9 million
Land title holder	211 Wellington Road Pty Ltd
Secured Debt Raised (during the life of the scheme)	\$10.6 million
Initial investor fundraising (year)	May 2000
Initial investor funds raised (approximately)	\$5.6 million – 117 investors

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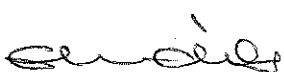
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Additional investor fundraising	Commencing 2001
Additional funds raised and contributed (approximately)	\$216,000
Total number of investors identified over scheme life	117
Total number of investors as at 25 February 2010	101
Property sold	March 2008
Property sale value	\$13.3 million
Total payments to investors (approximately):	
-Periodic distributions	\$3 million
-Return of capital/capital gain	\$600,000
Funds not yet returned following sale (as at 25 February 2010)	\$5.2 million (not including profit from property sale)

39. The property at 211 Wellington Road, Mulgrave, Victoria was purchased in May 2000 for \$6.9 million by the third defendant, 211 Wellington Road Pty Ltd (**211 Wellington Road**). The deposit was paid by LGHA. Prior to settlement, LGHA raised an initial \$5.6 million from third party investors and \$4.2 million debt from Westpac to fund the acquisition. Additional debt of \$6.4 was raised in the first half of 2007. These funds were not however, utilised by the scheme and remained with LGHA. The property was sold for \$13.3 million in March 2008.
40. The form of investment fell into two broad categories, those who invested in the joint venture (117 investors), contributing approximately \$5.8 million to the project, and those who invested through what were described as 'Equity Deposit Bonds' (58 investors), contributing \$3.8 million. The Equity Deposit Bond investors were not recorded in the books and records. Their contribution of funds is not included in the above table.
41. Investments in the scheme by the joint venture investors came about by the following means:




- (a) Execution of a joint venture agreement (60 investors);
 - (b) Roll over from another scheme (5 investors);
 - (c) Payment of funds without execution of a joint venture agreement or any other document (52 investors).
42. LGHA performed the treasury function of the scheme, collecting all receipts from any debt or investment raising, funding distributions to investors and receiving rental income receipts from tenants. It also collected the surplus proceeds (\$7 million) from the sale of the property.
43. Cash investments were made by investors to LGHA, with cheques payable to LGHA.
44. In May 2000, an information memorandum was issued for investors to contribute to the scheme. The joint venture agreements sighted by the Receivers identified 211 Wellington Road as the manager of the joint venture.
45. LGHH appears to have issued at least two information memoranda for the Equity Deposit Bonds on 31 October 2002 and 1 May 2005 (exhibit DJT-58 to the eighteenth affidavit of Damian John Templeton).
46. Despite the sale of the property in March 2008 at a profit of \$6.9 million, only \$0.6 million of investors' initial contributions has been returned. 101 investors are still to receive repayment of their initial investment totalling \$5.2 million and undistributed earnings of \$1.3 million. The Receivers are yet to ascertain the amount outstanding to the 58 Equity Deposit Bonds investors.
47. LGHA was allocated a 21.65% interest in the scheme at the beginning of the project to reflect 'intellectual property' it provided to the scheme. It is unclear if investors were aware of this arrangement. The Receivers have seen no documentation to support LGHA's claim.
48. It appears the proceeds of the property investment (including monies borrowed against the property) have been dispersed amongst the other Schemes directly, or by LGHA. The property of the Scheme is accordingly represented by claims that may be made against LGHA or other Schemes of a trust/tracing nature. The books and records indicate that the total quantum of these claims is \$7 million.



**Healesville Walk Shopping Centre Joint Venture
(the fourth defendant, Bluemist Holdings Pty Ltd)**

49. The information contained within the Healesville Walk Shopping Centre Joint Venture Disclosure Report (exhibit DJT-24 to the fifth affidavit of Damian John Templeton sworn on 12 April 2010) is summarised in the table below:

Property	251-263 Maroondah Highway Healesville VIC (sold)
Property purchase	July 2001
Purchase value (approximately)	\$11.9 million
Land title holder	Bluemist Holdings Pty Ltd
Secured Debt Raised (during the life of the scheme)	\$9.2 million
Initial investor fundraising (year)	August 2001
Initial investor funds raised (approximately)	\$5.5 million – 117 investors
Additional investor fundraising	2003
Additional funds raised and contributed (approximately)	\$400,000
Total number of investors identified over scheme life	117
Total number of investors as at 25 February 2010	46
Property sold	October 2007
Property sale value	\$19.5 million
Total payments to investors (approximately):	
-Periodic distributions	\$3.3 million
-Return of capital/capital gain	\$4 million
Funds not yet returned to investors following sale (as at 25 February 2010)	\$1.9 million (not including profit from sale)

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50. The property at 251-263 Maroondah Highway, Healesville, Victoria was acquired by the fourth defendant, Bluemist Holdings Pty Ltd (**Bluemist**) in July 2001 for \$11.9 million. The property was sold to Australand for \$19.5 million in October 2007.
51. The form of investment fell into two broad categories, those who invested in the joint venture (117 investors), contributing \$5.9 million to the project, and those who invested through what was described as the 'equity deposit bonds' (30 investors), contributing \$3 million (the **Healesville Equity Joint Venture**). The Healesville Equity Joint Venture investors were not recorded in the books and records. Their funds have not been incorporated in the table above.
52. Investments in the scheme by the joint venture investors came about by the following means:
 - (a) Execution of a joint venture agreement (16 investors);
 - (b) Roll over from another scheme (3 investors);
 - (c) Payment of funds without execution of a joint venture agreement or any other document (98 investors).
53. LGHA performed the treasury function of the scheme, collecting all receipts from any debt or investment raising, funding distributions to investors and receiving rental income receipts from tenants. A debt of approximately \$3.6 million is owing to the scheme by LGHA.
54. Cash investments were made by investors to LGHA.
55. The joint venture agreements sighted by the Receivers identified Bluemist as the manager of the joint venture.
56. LGHH issued at least three information memoranda for the Healesville Equity Joint Venture in 2002 and on 1 March 2005 and 1 May 2007 (exhibit DJT-59 to the eighteenth affidavit of Damian John Templeton).
57. As at 25 February 2010 (the date of appointment of the Receivers) approximately \$4 million in capital returns had been paid to investors, together with distributions of \$3.3 million. Despite the sale of the property in October 2007, 46 joint venture investors are yet to receive repayment of their initial investment totalling



approximately \$1.9 million, and retained earnings of \$1.8 million. The amount outstanding to the Healesville Equity Joint Venture investors is approximately \$3 million.

58. In the 2008 financial statements, LGHA is recorded as having received a 43% share (\$3.9 million) of profit on the sale of the property on the basis of the 'intellectual property' contributed by LGHA. It is unclear if investors were aware of this arrangement. The Receivers have seen no documentation to support LGHA's claim.
59. As the proceeds of the property investment (including monies borrowed against the property) appears to have been dispersed amongst the other Schemes directly, or by LGHA, the property of the scheme is represented by claims that may be made against LGHA or other schemes of a trust/tracing nature. The books and records indicate that the total quantum of these claims is \$3.6 million (excluding Healesville Equity Joint Venture claims).

Howleys Road Joint Venture

(the fifth defendant, Dellwood Holding Pty Ltd)

60. The information contained within the Howleys Road Joint Venture Disclosure Report (exhibit DJT-26 to the fifth affidavit of Damian John Templeton sworn on 12 April 2010) is summarised in the table below:

Property	40-48 Howleys Road Notting Hill VIC (sold)
Property purchase	February 2002
Purchase value (approximately)	\$8.1 million
Land title holder	Dellwood Holdings Pty Ltd
Secured Debt Raised (during the life of the scheme)	\$6.4 million
Initial investor fundraising	February 2002
Initial investor funds raised (approximately)	\$5.3 million – 113 investors
Additional investor fundraising (year)	April 2002 onwards

Additional funds raised and contributed (approximately)	\$200,000
Total number of investors identified over scheme life	113
Total number of investors as at 25 February 2010	24
Property sold	April 2007
Property sale value	\$11.2 million
Total payments to investors (approximately):	
-Periodic distributions	\$3.4 million
-Return of capital/capital gain	\$4.3 million
Funds not yet returned to investors following sale (as at 25 February 2010)	\$1.2 million (not including profit from sale)

61. The property at 40-48 Howleys Road, Melbourne, Victoria was purchased by the fifth defendant, Dellwood Holding Pty Ltd (**Dellwood**) in February 2002 for approximately \$8.1 million. The property was sold to Becton Investment Management Limited for \$11.2 million in April 2007.
62. Investments in the scheme came about by the following means:
- (a) Execution of a joint venture agreement (61 investors);
 - (b) Roll over from another scheme (2 investors);
 - (c) Payment of funds without execution of a joint venture agreement or any other document (50 investors).
63. LGHA performed the treasury function of the scheme, collecting all receipts from any debt or investment raising, funding distributions to investors and receiving rental income receipts from tenants. A debt of approximately \$1.8 million is owing to the scheme by LGHA.
64. Cash investments were made by investors to LGHA, with cheques payable to LGHA.
65. 113 investors contributed \$5.5 million during the life of the scheme.

66. An undated information memorandum was issued by LGHH for investors to contribute to the scheme in late 2001/early 2002.
67. The joint venture agreements sighted by the Receivers identified Dellwood as the manager of the joint venture.
68. Despite the sale of the property, 24 investors are yet to receive repayment of their initial investment totalling approximately \$1.2 million and retained earnings of \$0.7 million.
69. LGHA is recorded as having received an 18.18% share (\$0.9 million) of profit on the sale of the property on the basis of the 'intellectual property' contributed by LGHA. It is unclear if investors were aware of this arrangement. The Receivers have seen no documentation to support LGHA's claim.
70. As the proceeds of the property investment (including monies borrowed against the property) appears to have been dispersed amongst the other Schemes directly, or by LGHA, the property of the scheme is represented by claims that may be made against LGHA or other Schemes of a trust/tracing nature. The books and records indicate that the total quantum of these claims is \$1.8 million.

George Street Joint Venture

(the sixth defendant, Enmore Enterprises Pty Ltd)


71. The information contained within the George Street Joint Venture Disclosure Report (exhibit DJT-19 to the fifth affidavit of Damian John Templeton sworn on 12 April 2010) is summarised in the table below:

Property	34 George Street Launceston TAS
Property purchase	September 2002
Purchase value (approximately)	\$542,000
Land title holder	Enmore Enterprises Pty Ltd
Secured Debt Raised (during the life of the scheme)	\$731,000
Initial investor fundraising	August 2004




Initial investor funds raised (approximately)	\$1.16 million – 26 investors
Additional investor fundraising (year)	N/A
Additional funds raised and contributed (approximately)	\$60,000
Total number of investors identified over scheme life	26
Total number of investors as at 25 February 2010	25
Property sold	Still held as at 25 February 2010
Property sale value	N/A
Total payments to investors (approximately):	
-Periodic distributions	\$348,000
-Return of capital/capital gain	Nil

72. The property at 34 George Street, Launceston, Tasmania is a commercial property purchased by the sixth defendant, Enmore Enterprises Pty Ltd (Enmore) in September 2002 for \$542,000. The property purchase was funded via bank debt of \$260,000 and an LGHA investment of \$290,000.
73. In August 2004, third party investors purchased LGHA's interest in the property when they contributed \$1.16 million into the scheme, of which \$850,000 was used to purchase LGHA's initial investment (LGHA making a profit of \$560,000).
74. A total of 26 investors contributed \$1.16 million (net of returns to 1 investor who left the scheme) as consideration to acquire rights to benefits intended to be produced from the project.
75. Investments in the scheme came about by the following means:
- (a) Execution of a joint venture agreement;
 - (b) Payment of funds without execution of a joint venture agreement or any other document.

76. LGHA performed the treasury function of the scheme, collecting all receipts from any debt or investment raising, funding distributions to investors and receiving rental income receipts from tenants.
77. Cash investments were made by investors to LGHA.
78. An information memorandum for investors in the scheme dated 1 August 2004 was issued by LGHH for the purposes of acquiring an interest in the project.
79. The joint venture agreements sighted by the Receivers identified Enmore as the manager of the joint venture.

Cimitiere House Joint Venture

(the sixth defendant, Enmore Enterprises Pty Ltd)

80. The information contained within the Cimitiere House Joint Venture Disclosure Report (exhibit DJT-20 to the fifth affidavit of Damian John Templeton sworn on 12 April 2010) is summarised in the table below:

Property	113-115 Cimitiere House Launceston TAS
Property purchase	April 2006
Purchase value (approximately)	\$1.1 million
Land title holder	Enmore Enterprises Pty Ltd
Secured Debt Raised (during the life of the scheme)	\$8.4 million
Initial investor fundraising	May 2006
Initial investor funds raised (approximately)	\$2 million - 28
Additional investor fundraising (year)	Between 2007 to 2009
Additional funds raised and contributed (approximately)	\$6.7 million
Total number of investors identified over scheme life	106

Total number of investors as at 25 February 2010	100
Property sold	Still held as at 25 February 2010
Property sale value	N/A
Total payments to investors (approximately):	
-Periodic distributions	\$900,000
-Return of capital/capital gain	\$600,000

81. The property at 113-115 Cimitiere Street, Launceston, Tasmania is a commercial/retail complex acquired by Enmore in April 2006 for approximately \$1.1 million. The initial deposit was paid by LGHA. Prior to settlement in July 2006, Letten raised \$2 million from third party investors and \$800,000 in bank debt to help fund the purchase. Throughout FY08 and FY09 the building on the property was demolished and rebuilt at a cost of \$12.4 million. Between 2007 and 2009 further funds of \$6.6 million (net of returns to investors who left the scheme) were raised from investors and additional debt of \$7.6 million to fund the construction.
82. Investments in the scheme came about by the following means:
- (a) Execution of a joint venture agreement (23 investors);
 - (b) Roll over from another scheme (52 investors);
 - (c) Payment of funds without execution of a joint venture agreement or any other document (25 investors).
83. A total of 106 investors contributed \$8.7 million over three stages (\$2.4 million in Phase I, \$5.3 million in Phase II and \$900,000 in Phase III) to acquire rights to benefits intended to be produced from the project. \$600,000 of contributions was returned to investors who left the scheme. \$900,000 million in monthly distributions was also paid to investors.
84. LGHA performed the treasury function of the scheme, collecting all receipts from any debt or investment raising, funding distributions to investors and receiving rental income receipts from tenants.

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85. Cash investments were made by investors to LGHA
86. An information memorandum for investors to contribute in the scheme was issued by LGHH.
87. The joint venture agreements sighted by the Receivers identified Enmore as the manager of the joint venture.

**Queen Street Joint Venture
(the ninth defendant, Gerling Holdings Pty Ltd)**

88. The information contained within the Queen Street Disclosure Report (exhibit DJT-23 to the fifth affidavit of Damian John Templeton sworn on 12 April 2010) is summarised in the table below:

Property	118-126 Queen Street Melbourne VIC
Property purchase	May 2003 (settlement in August 2003)
Purchase value (approximately)	\$6.8 million
Land title holder	Gerling Holdings Pty Ltd
Secured Debt Raised (during the life of the scheme)	\$5.2 million
Initial investor fundraising (year)	June to August 2003
Initial investor funds raised (approximately)	\$5.1 million
Additional investor fundraising	2007
Additional funds raised and contributed (approximately)	\$400,000
Total number of investors identified over scheme life	103
Total number of investors as at 25 February 2010	91
Property sold	March 2008
Property sale value	\$10.6 million

Total payments to investors (approximately):	
-Periodic distributions	\$2.2 million
-Return of capital/capital gain	\$0.2 million
Funds not yet returned following sale (as at 25 February 2010)	\$5.4 million (not including profit from property sale)

89. The property at 118-126 Queen Street, Melbourne, Victoria is a retail/commercial complex purchased in May 2003 for \$6.8 million by the ninth defendant, Gerling Holdings Pty Ltd (**Gerling**). The deposit was paid by LGHA. Prior to settlement, LGHA raised an initial \$5.1 million from third party investors (\$2.1 million higher than initial requirement) and \$3.8 million debt from Westpac to fund the acquisition.
90. In 2006, additional debt of \$1.4 million was raised from Westpac and in 2007 an additional \$400,000 in investor funds was raised for a proposed redevelopment of the property. The property was sold for \$10.6 million in March 2008.
91. Investments in the scheme and came about by the following means:
- (a) Execution of a joint venture agreement (52 investors);
 - (b) Payment of funds without execution of a joint venture agreement or any other document (51 investors).
92. LGHA performed the treasury function of the scheme, collecting all receipts from any debt or investment raising, funding distributions to investors and receiving rental income receipts from tenants. It also collected the surplus proceeds from the sale of the property, with a total debt of \$6.1 million owing to investors by LGHA.
93. At least one information memorandum was issued by LGHH in 2003 for investors to contribute to the scheme.
94. The joint venture agreements sighted by the Receivers identified Gerling as the manager of the joint venture.




95. Despite the sale of the property in March 2008 for \$10.6 million, 91 investors are still to receive repayment of their initial investment totalling approximately \$5.4 million. As at 25 February 2010 (the date of appointment of the Receivers) only \$169,000 had been returned to investors. There were also retained earnings of \$700,000, including profit from the sale of the property.
96. As the proceeds of the property investment (including monies borrowed against the property) appears to have been dispersed amongst the other Schemes directly, or by LGHA, the property of the scheme is represented by claims that may be made against LGHA or other Schemes of a trust/tracing nature. The books and records indicate that the total quantum of these claims is \$6.1 million.

Simms Investment Project

(the sixteenth defendant, Simms Investment Pty Ltd)

97. The information contained within the Simms Investment Project Disclosure Report (exhibit DJT-27 to the fifth affidavit of Damian John Templeton sworn on 12 April 2010) is summarised in the table below:

Property	626 Pittwater Road Brookvale NSW (sold)
Property purchase	March 2001
Purchase value (approximately)	\$1.4 million
Land title holder	Simms Investments Pty Ltd
Secured Debt Raised (during the life of the scheme)	\$0.8 million
Initial investor fundraising	April-May 2001
Initial investor funds raised (approximately)	\$800,000 – 19 investors
Additional investor fundraising (year)	October 2006
Additional funds raised and contributed (approximately)	\$1.24 million
Total number of investors identified	38




over scheme life	
Total number of investors as at 25 February 2010	19
Property sold	October 2007
Property sale value	\$1.8 million
Total payments to investors (approximately):	
-Periodic distributions	\$800,000
-Return of capital/capital gain	\$1.2 million
Funds not yet returned following sale (as at 25 February 2010)	\$900,000 (not including any profit from sale)

98. The property at 626 Pittwater Road, Brookvale, New South Wales was purchased by the sixteenth defendant, Simms Investment Pty Ltd (**Simms Investment**) in March 2001 for \$1.4 million. Prior to settlement, LGHA raised \$0.8 million from third party investors and \$0.8 million from Westpac to fund the acquisition (Phase 1). In October 2006, a further \$1.24 million was raised from investors (rollovers from existing schemes) to construct a commercial/retail complex on the site (Phase 2). In June 2007, prior to commencing construction, the property was sold to Australand for \$1.8 million.
99. Investments in the scheme came about by the following means:
- (a) Execution of a joint venture agreement (9 investors);
 - (b) Roll over from another scheme (15 investors);
 - (c) Payment of funds without execution of a joint venture agreement or any other document (14 investors).
100. LGHA performed the treasury function of the scheme, collecting all receipts from any debt or investment raising and funding distributions to investors. It also collected the surplus proceeds from the sale of the property. As at 25 February 2010, the scheme had a loan receivable from LGHA of \$0.4 million (i.e. comprised of net funds provided by the scheme to LGHA).




101. At least one information memorandum was issued by LGHH for investors to contribute to Stage 2 of the scheme.
102. The joint venture agreements sighted by the Receivers identified Simms Investment as the manager of the joint venture.
103. After realising a profit of \$0.3 million on the sale, distributions made to investors exceeded retained profits by \$0.5 million, indicating that distributions were being paid from other sources.
104. Despite the sale of the property, a total of 19 investors are yet to receive repayment of their initial investment totalling approximately \$0.9 million.
105. The Receivers received one claim from an investor claiming to have invested in Simms Investment Project but who was not recorded in the books and records. Their funds have not been incorporated in the above table.
106. As the proceeds of the property investment (including monies borrowed against the property) appears to have been dispersed amongst the other Schemes directly, or by LGHA, the property of the scheme is represented by claims that may be made against LGHA or other Schemes of a trust/tracing nature. The books and records indicate that the total quantum of these claims is \$379,000.

The Glen Centre Joint Venture

(the eighteenth defendant, The Glen Centre Hawthorn Pty Ltd)

(the nineteenth defendant, Castello Holdings Pty Ltd)

107. The information contained within The Glen Centre Joint Venture Disclosure Report (exhibit DJT-17 to the fifth affidavit of Damian John Templeton sworn on 12 April 2010) is summarised in the table below:

Property	673-681 Glenferrie Road, Hawthorn VIC
Property purchase	15 October 1999
Purchase value (approximately)	\$5.2 million
Land title holder	The Glen Centre Hawthorn Pty Ltd




Secured Debt Raised (during the life of the scheme)	\$7.95 million
Initial investor fundraising	November/December 1999
Initial investor funds raised (approximately)	\$4.8 million – 92 investors
Additional investor fundraising (year)	N/A
Additional funds raised and contributed (approximately)	-
Total number of investors identified over scheme life	92
Total number of investors as at 25 February 2010	70
Property sold	Still held as at 25 February 2010
Property sale value	N/A
Total payments to investors (approximately):	
-Periodic distributions	\$2.8 million
-Return of capital/capital gain	\$0.6 million

108. The property at 673-681 Glenferrie Road, Hawthorn, Victoria is a retail complex purchased by the eighteenth defendant, The Glen Centre Hawthorn Pty Ltd (**The Glen Centre**) in October 1999 for approximately \$5.2 million. The deposit was paid by LGHA.
109. Prior to inviting investors to participate in the scheme, Mr Letten sold a 15% interest in the property to one investor (Mr Kroight) for \$0.3 million and a further 15% to a group of three investors for \$0.53 million. Of the remaining 70% of the project, 65% was initially sold to approximately 92 investors, with the remaining 5% held by LGHA to reflect the 'intellectual property' it provided to the scheme. LGHA purchased the 15 % interest from Mr Kroight in 2004 for \$0.6 million, which increased LGHA's share in the scheme to 20%.




110. Investments in the scheme came about by the following means:
- (a) Execution of a joint venture agreement;
 - (b) Roll over from another scheme;
 - (c) Payment of funds without execution of a joint venture agreement or any other document.
111. LGHA performed the treasury function of the scheme, collecting all receipts from any debt or investment raising, funding distributions to investors and receiving rental income receipts from tenants.
112. 92 investors contributed approximately \$4.8 million as consideration to acquire rights to benefits intended to be produced by the project. 22 investors left the scheme. \$0.6 million of contributions was returned to these investors. \$2.8 million in monthly distributions was also paid to investors.
113. At least one information memorandum dated October 1999 was issued to investors to contribute in the scheme.
114. The joint venture agreements in the main identified The Glen Centre as the manager of the joint venture. There were a small number of joint venture agreements for the scheme that were entered into between individual investors and the nineteenth defendant, Castello Holdings Pty Ltd (**Castello Holdings**). It is not clear which assets (if any) are held by Castello Holdings. The Receivers have not sighted any documented arrangement between The Glen Centre and Castello Holdings.
115. The Receivers also received investor claims from 49 investors not recorded in the books and records but whom claimed to hold an interest in the scheme. Their funds have not been incorporated in the above table.

Twinview Joint Venture

(the twentieth defendant, Twinview Nominees Pty Ltd)

116. The information contained within the Twinview Joint Venture Disclosure Report (exhibit DJT-16 to the fifth affidavit of Damian John Templeton sworn on 12 April 2010) is summarised in the table below:

Property	167-173 Flinders Lane, Melbourne VIC
Property purchase	September 2001
Purchase value (approximately)	\$3.9 million
Land title holder	Twinview Nominees Pty Ltd
Secured Debt Raised (during the life of the scheme)	\$6.2 million
Initial investor fundraising	October/November 2001
Initial investor funds raised (approximately)	\$3.6 million – 74 investors
Additional investor fundraising (year)	N/A
Additional funds raised and contributed (approximately)	-
Total number of investors identified over scheme life	82
Total number of investors as at 25 February 2010	75
Property sold	Still held at 25 February 2010
Property sale value	N/A
Total payments to investors (approximately):	
-Periodic distributions	\$1.95 million
-Return of capital/capital gain	\$0.1 million

117. The property at 163-173 Flinders Lane, Melbourne, Victoria is a retail/commercial complex purchased by the twentieth defendant, Twinview Nominees Pty Ltd (Twinview) in September 2001 for \$3.9 million.
118. Prior to settlement in October 2006, LGHA raised \$3.6 million from third party investors and \$2 million from Westpac to fund the acquisition. The Receivers have been informed by Mr Letten that the surplus funds raised from investors (\$1.7 million) was retained by LGHA for the purposes of funding the property upgrade

during FY04 to FY07. Additional bank debt of \$4.2 million was also raised during the life of the scheme, which appears to have been used in part to fund distributions to investors, for capital expenditure and/or retained by LGHA. As at 25 February 2010, the scheme had a loan receivable from LGHA of \$1.53 million.

119. Investments in the scheme came about by the following means:
- (d) Execution of a joint venture agreement (35 investors);
 - (e) Roll over from another scheme (4 investors);
 - (f) Payment of funds without execution of a joint venture agreement or any other document (43 investors).
120. LGHA performed the treasury function of the scheme, collecting all receipts from any debt or investment raising, funding distributions to investors and receiving rental income receipts from tenants.
121. Cash investments were made by investors to LGHA, with cheques payable to LGHA.
122. A total of 82 investors contributed \$3.54 million in the scheme. 7 investors left the scheme. \$0.1 million of contributions was returned to these investors. \$1.95 million in monthly distributions was also paid to investors.
123. The Receivers also received investor claims from 4 investors not recorded in the books and records but whom claimed to hold an interest in the scheme. Their funds have not been incorporated in the above table.
124. An information memorandum for investors to contribute in the scheme dated 25 September 2001 was issued by LGHH.
125. The joint venture agreements sighted by the Receivers identified Twinview as the manager of the joint venture.
126. LGHA assumed a 10% investment in the scheme in lieu of 'intellectual property' it provided to the scheme. It is unclear if investors were aware of this arrangement. The Receivers have seen no documentation to support LGHA's claim.



**Tomasetti House Joint Venture
(the forty-sixth defendant, Melville Corporation Pty Ltd)**

127. The information contained within the Tomasetti House Joint Venture Disclosure Report (exhibit DJT-43 to the sixteenth affidavit of Damian John Templeton sworn on 27 August 2010) is summarised in the table below:

Property	277-279 Flinders Lane Melbourne VIC (sold)
Property purchase	22 December 2003
Purchase value (approximately)	\$7.22 million
Land title holder	Melville Corporation Pty Ltd
Secured Debt Raised (during the life of the scheme)	\$4.45 million
Initial investor fundraising	2003
Initial investor funds raised (approximately)	\$5.1 million
Additional investor fundraising (year)	2005-2007
Additional funds raised and contributed (approximately)	\$3 million
Total number of investors identified over scheme life	122
Total number of investors as at 30 July 2010	78
Property sold	22 November 2007
Property sale value	\$12.2 million
Total payments to investors (approximately):	
-Periodic distributions	\$2.4 million
-Return of capital/capital gain	\$3.03 million
Funds not yet returned following sale (as at 30 July 2010)	\$3.25 million (capital) and \$4.17million (undistributed earnings)

128. The property at 277-279 Flinders Lane, Melbourne, Victoria is a commercial/retail office building acquired by the forty-sixth defendant, Melville Corporation Pty Ltd (**Melville**) in December 2003 for \$7.22 million. During the period of ownership, the building was refurbished and re-tenanted at a cost of \$1.08 million. The property was sold to Ghale Investments Pty Ltd for \$12.2 million on 22 November 2007.
129. Investments in the scheme were in three stages and came about by the following means:
- (a) Execution of a joint venture agreement;
 - (b) Roll over from another scheme;
 - (c) Payment of funds without execution of a joint venture agreement or any other document.
130. LGHA performed the treasury function of the scheme, collecting all receipts from any debt or investment raising, funding distributions to investors and receiving rental income receipts from tenants.
131. Cash investments were made by investors to LGHA.
132. 122 investors contributed \$8.1 million over the three stages (\$5.1 million raised in late 2003 with bank debt of \$4.45 million; \$1.6 million raised in FY05; and \$1.4 million raised in FY07). 44 investors left the scheme. \$3.03 million of contributions was returned to these investors. \$2.4 million was also paid to investors in respect of other distributions.
133. An undated information memorandum was issued by LGHH in late 2003 for investors to contribute to the scheme.
134. The joint venture agreements sighted by the Receivers identified Melville as the manager of the joint venture.
135. LGHA assumed a 15% investment in the scheme in lieu of 'intellectual property' it provided to the scheme. The Receivers have seen no documentation to support LGHA's claim.
136. At least \$7.42 million of the investor contributions appear to have been retained or applied by LGHA for other purposes of the scheme, including meeting the demands



in other Schemes. Further, it appears that money advanced to LGHA by investors in other Schemes were used to acquire and develop the property and/or to make payments to investors in this scheme

137. Despite the sale of the property realising a \$3.7 million profit, a total of 78 investors are yet to receive repayment of their initial investment totalling approximately \$3.25 million and retained earnings of \$4.17 million.
138. As the proceeds of the property investment (including monies borrowed against the property) appear to have been dispersed amongst the other Schemes directly, or by LGHA, the property of the scheme is represented by claims that may be made against LGHA or other Schemes of a trust/tracing nature. The books and records indicate that the total quantum of these claims is \$7.42 million.

Aurora Park Project

(the forty-seventh defendant, Tilley Lane Pty Ltd)

(the fifty-first defendant, Maywood Investments Pty Ltd)

(the fifty-second defendant, Acetrain Pty Ltd)

(fifty-third defendant, Sagebay Pty Ltd)

(the fifty-fourth defendant, Tobago Holdings Pty Ltd)

139. The information contained within the Aurora Park Joint Venture Disclosure Report (exhibit DJT-44 to the sixteenth affidavit of Damian John Templeton sworn on 27 August 2010) is summarised in the table below:

Property	443 -447 Warringah Road French Forest NSW (Lots 2-13) (sold)
Property purchase	June 1999
Purchase value (approximately)	\$6.3 million
Land title holder	Tilley Lane Pty Ltd
Secured Debt Raised (during the life of the scheme)	\$5.3 million
Initial investor fundraising	Commencing 2002
Initial investor funds raised	\$4.8 million

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(approximately)	
Additional investor fundraising (year)	Various stages between 2002-2004 through the entities: -Tobago Holdings Pty Ltd -Sagebay Pty Ltd -Acetrain Pty Ltd -Maywood Investments Pty Ltd
Additional funds raised and contributed (approximately)	\$8.2 million
Total number of investors identified over scheme life	229
Total number of investors as at 30 July 2010	39
Property sold	2003-2007
Property sale value	\$12.13 million (approximately)
Total payments to investors (approximately):	
-Periodic distributions	\$4.56 million
-Return of capital/capital gain	\$10.26 million
Funds not yet returned following sale (as at 30 July 2010)	\$2.7 million (including profit from sale) – However, taking account of periodic distributions and capital returned over the life of the scheme there appears to have been a net 'overpayment' to investors of \$2.3 million.

140. The property at 443-447 Warringah Road, Frenchs Forest, New South Wales was purchased by the forty-seventh defendant, Tilley Lane Pty Ltd (**Tilley Lane**) for \$6.3 million in June 1999.
141. The subdivision and development of the property was undertaken in various stages by the following entities:
- (a) Lots 9 and 13 by the fifty-fourth defendant, Tobago Holdings Pty Ltd (**Tobago**);

- (b) Lot 9 (said to be different to the Tobago project) by the fifty-first defendant, Maywood Investments Pty Ltd (**Maywood**);
- (c) Lot 8 by the fifty-third defendant, Sagebay Pty Ltd (**Sagebay**);
- (d) Lots 2-7 and 10-12 by the fifty-second defendant, Acetrain Pty Ltd (**Acetrain**).

142. The form of investment fell into two broad categories, those who invested in the joint venture and those who invested through what was described as the 'ABC Equity Mortgage Investment'. Investments in the scheme accordingly came about by the following means:

- (a) Execution of a joint venture agreement;
- (b) Roll over from another scheme;
- (c) Payment of funds without execution of a joint venture agreement or any other document;
- (d) Investing in the ABC Equity Mortgage Investment.

143. The joint venture agreements sighted by the Receivers identified Tobago, Maywood and Sagebay as managers of the various stages of the joint venture. Funds raised through Acetrain were raised via an Equity Mortgage Investment signed by LGHH.

144. LGHA performed the treasury function of the scheme, collecting all receipts from any debt or investment raising and funding distributions to investors.

145. Cash investments were made by investors to LGHA.

146. At least three information memoranda dated 7 February 2001 (Lot 8), 1 December 2003 (Lot 9) and undated (Lots 9 and 13) appear to have been issued by LGHH for investors to contribute to the various stages of the joint venture.

147. A total of 229 investors contributed approximately \$13 million to the scheme:

- (a) 115 investors contributed \$5.8 million in the Lots 9 and 10 developments (Tobago);
- (b) 29 investors contributed \$2.1 million in the Lot 9 development (Maywood);
- (c) 41 investors contributed \$2.1 million in the Lot 8 development (Sagebay);



- (d) 45 investors contributed \$3 million in the Lots 2-7 and 10-12 developments (Acetrain).
148. The property was fully divested between 2003 and 2007 for a total of \$12.3 million without the full development being undertaken.
149. LGHA paid returns of investment of \$10.3 million and distributions of \$4.6 million to investors throughout the life of the scheme. This resulted in an 'overpayment' to investors of \$2.3 million (given the losses of \$0.4 million incurred by the scheme). The overpayment appears to have been funded by LGHA or other Schemes, giving rise to a potential claim against the Aurora Park Project. Notwithstanding this, at least 39 of the investors are yet to receive repayment of their initial investment totalling approximately \$2.7 million (9 Tobago investors, \$627,000; 26 Maywood investors, \$1.93 million; and 4 Acetrain investors, \$151,000).

Moorhouse Shopping Centre Project
(the forty-eighth defendant, HPSC Pty Ltd)

150. The information contained within the Moorhouse Shopping Centre Project Disclosure Report (exhibit DJT-45 to the sixteenth affidavit of Damian John Templeton sworn on 27 August 2010) is summarised in the table below:

Property	Direct interest or claim over the property located at 343-359 Moorhouse Avenue Christchurch Canterbury NZ
Property purchase	March 2006
Purchase value (approximately)	NZD\$14.4 million
Land title holder	Moorhouse Avenue 343 Ltd (NZ)
Secured Debt Raised (during the life of the scheme)	NZD\$14.4 million
Initial investor fundraising	2005-2006
Initial investor funds raised (approximately)	\$7 million

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Additional investor fundraising (year)	2007-2008
Additional funds raised and contributed (approximately)	\$9.4 million
Total number of investors identified over scheme life	227
Total number of investors as at 30 July 2010	193
Property sold	Stage 1 (supermarket) sold 2009 Holding land and buildings (Stage 2) of \$2.9 million as at 30 June 2010
Property sale value	Stage 1 sold 2009 - NZD\$21.5 million
Total payments to investors (approximately):	
-Periodic distributions	\$2.69 million
-Return of capital/capital gain	\$1.94 million
Funds not yet returned following sale (as at 30 July 2010)	\$7.2 million (capital) This figure represents total investor funds held by LHGA that were contributed by investors but apparently not called upon for use in the scheme NZD\$6.4 million (undistributed earnings, including profit from the sale)

151. The property at 343-359 Moorhouse Avenue, Christchurch, New Zealand was acquired by Moorhouse Avenue 343 Limited (a New Zealand incorporated entity) (**Moorhouse Avenue**) for NZD\$14.4 million in March 2006. Stage 1 of the scheme was a shopping centre that was redeveloped and sold to a Proportional Ownership Scheme for NZD\$21.5 million in FY09. Stage 2 is still owned by Moorhouse Avenue and is an incomplete retail/office building development next to the shopping centre. The forty-eighth defendant, HPSC Pty Ltd (**HPSC**) was appointed the manager of the joint venture.




152. The Receivers have not been appointed as receivers and managers to Moorhouse Avenue. ASIC has been informed by the Receivers that Shaun Adams and Ian Thursfield of KPMG, New Zealand were appointed as liquidators to Moorhouse Avenue on 10 August 2010.
153. Investments in the scheme came about by the following means:
- (a) Execution of a joint venture agreement with HPSC;
 - (b) Roll over from another scheme;
 - (c) Payment of funds without execution of a joint venture agreement or any other document.
154. There were 227 investors in the joint venture. Funds from investors were paid to LGHA (in its role as treasurer for the scheme), with the exception of the contributions made by 53 New Zealand domiciled investors which were paid to Ascent Business Directions Limited (**ABD**), a New Zealand entity associated with Mr Letten and Mark Salmon.
155. An undated information memorandum was issued by LGHH in mid 2005 for investors to contribute to the scheme.
156. The joint venture agreements sighted by the Receivers identified HPSC as the manager of the joint venture.
157. In its role as treasurer, LGHA collected investor funds and paid distributions/returns of capital to investors, except for some contributions by New Zealand investors which may have been contributed via ABD rather than LGHA. It also collected the surplus proceeds from the sale of Stage 1.
158. \$16.4 million was contributed by investors to LGHA. 34 investors left the scheme. \$1.94 million of contributions was returned to these investors. \$2.69 million was also paid to investors in respect of other distributions.
159. LGHA claims to retain a 9% interest in the scheme for the 'intellectual property' it provided to the scheme. The Receivers have seen no documentation to support this claim.



160. The Receivers have been unable to quantify the extent to which investor funds were transferred to Moorhouse Avenue. The balance sheet for Moorhouse Avenue indicates that only NZD\$11.9 million (or \$9.4 million based on an exchange rate of 0.733) of investor contributions were advanced by LGHA to Moorhouse Avenue (i.e. as at 31 March 2009, Moorhouse Avenue had an outstanding liability to LGHA of NZD\$11.9 million). The balance of the purchase price of the property appears to have been funded by Westpac.
161. Despite the sale of Stage 1 of the scheme, no proceeds from this sale appear to have been repaid to HPSC or investors via LGHA or any other entity. From Moorhouse Avenue's financial statements, it appears that NZD\$6.1 million was returned by Moorhouse Avenue to LGHA following the sale of Stage 1, reducing the outstanding liability to LGHA (as at 31 March 2010) to NZD\$5.8 million.
162. It appears that the balance of funds contributed by investors to the scheme has been used by LGHA for other purposes, including potentially paying money to other Schemes. It also appears that money advanced to LGHA by investors in other Schemes was used to acquire the property and/or to make payments to investors in the scheme. The Receivers have been unable to trace how the funds have been applied by LGHA.
163. As the proceeds of the property investment (including monies borrowed against the property) appear to have been dispersed amongst the other Schemes directly, or by LGHA, the property of the scheme is represented by claims that may be made against LGHA or other Schemes of a trust/tracing nature. The books and records indicate that the total quantum of these claims is \$7.2 million.

Cass Bay Spur Project

(the forty-ninth defendant, Jensdale Pty Ltd)

164. The information contained within the Cass Bay Spur Project Disclosure Report (exhibit DJT-46 to the sixteenth affidavit of Damian John Templeton sworn on 27 August 2010) is summarised in the table below:



Property	Governors Bay Road Lyttelton Harbour NZ
Property purchase	September 2005
Purchase value (approximately)	NZD\$1.05 million
Land title holder	Cass Bay Spur Ltd (NZ)
Secured Debt Raised (during the life of the scheme)	NZD\$0.5 million
Initial investor fundraising	September 2005
Initial investor funds raised (approximately)	\$1.8 million
Additional investor fundraising (year)	2007-2008
Additional funds raised and contributed (approximately)	\$1.16 million
Total number of investors identified over scheme life	46
Total number of investors as at 30 July 2010	24
Property sold	Still held as at 30 July 2010
Property sale value	N/A
Total payments to investors (approximately):	
-Periodic distributions	\$0.49 million
-Return of capital/capital gain	\$1.26 million

165. The property at Governors Bay Road, Lyttelton Harbour, New Zealand was acquired by Cass Bay Spur Limited (a New Zealand incorporated entity) (**Cass Bay**) for approximately NZD\$1.05 million in September 2005. The forty-ninth defendant, Jensdale Pty Ltd (**Jensdale**) was appointed the manager of the joint venture.




166. Cass Bay remains the registered proprietor of the property and is in liquidation. ASIC has been informed by the Receivers that Shaun Adams and Ian Thursfield of KPMG, New Zealand were appointed as liquidators to Cass Bay on 10 August 2010. The Receivers have not been appointed as receivers and managers to Cass Bay.
167. Investments in the scheme came about by the following means:
- (a) Execution of a joint venture agreement with Jensdale;
 - (b) Roll over from another scheme;
 - (c) Payment of funds without execution of a joint venture agreement or any other document.
168. There were 46 investors in the joint venture who contributed \$2.96 million directly to LGHA in its role as treasurer for the scheme. 22 investors left the scheme. \$1.21 million of contributions was returned to these investors. \$0.49 million was also paid to investors in respect of other distributions.
169. The property is yet to be developed with construction remaining on hold.
170. LGHA appears to have paid NZD\$0.976 million (or \$0.78 million) towards the purchase of the property. It is not known what funds LGHA used or what happened to the \$2.96 million in funds contributed by the investors to the scheme. It also appears that money advanced to LGHA by investors in other Schemes was used to acquire the property and/or to make payments to investors in the scheme.
171. An undated information memorandum was issued by LGHH in early 2005 for investors to contribute to the scheme.
172. The joint venture agreements sighted by the Receivers identified Jensdale as the manager of the joint venture.
173. In its role as treasurer, LGHA collected investor funds and paid distributions/returns of capital to investors.
174. LGHA claims to retain a 5% interest in the scheme for the 'intellectual property' provided to the scheme. The Receivers have seen no documentation to support LGHA's claim.



175. A total of 24 investors are yet to receive repayment of their initial investment.
176. As the proceeds of the property investment (including monies borrowed against the property) appear to have been dispersed amongst the other Schemes directly, or by LGHA, the property of the scheme is represented by claims that may be made against LGHA or other Schemes of a trust/tracing nature. The books and records indicate that the total quantum of these claims is \$437,000.

Mount Hutt Project

(the fiftieth defendant, Oakdale Rise Pty Ltd)

177. The information contained within the Mount Hutt Project Disclosure Report (exhibit DJT-47 to the sixteenth affidavit of Damian John Templeton sworn on 27 August 2010) is summarised in the table below:

Property	McLennan's Bush Road Methven South Island NZ
Property purchase	February 2004 (titles CB44B/293 & CB44B/286) April 2006 (CB4B/225)
Purchase value (approximately)	NZD\$1.29 million NZD\$870,000
Land title holder	Tosswill Ltd (NZ)
Secured Debt Raised (during the life of the scheme)	NZD\$0.5 million
Initial investor fundraising	Mid 2004
Initial investor funds raised (approximately)	\$1.1 million
Additional investor fundraising (year)	2005 - 2008
Additional funds raised and contributed (approximately)	\$2.3 million
Total number of investors identified over scheme life	59

Total number of investors as at 30 July 2010	43
Property sold	September 2007 (CB4B/225) Certificate titles CB44B/293 & CB44B/286 still held as at 30 July 2010
Property sale value	Part land sale NZD\$850,000
Total payments to investors (approximately):	
-Periodic distributions	\$0.65 million
-Return of capital/capital gain	\$0.7 million

178. Three properties at McLennan's Bush Road, Methven, South Island, New Zealand were acquired by Tosswill Limited (a New Zealand incorporated entity) (**Tosswill**) for NZD\$1.29 million in 2004 (certificate titles CB44B/293 and CB44B/286) and NZD\$0.87 million in 2006 (certificate title CB4B/225). The fiftieth defendant, Oakdale Rise Pty Ltd (**Oakdale**) was appointed the manager of the joint venture.
179. One of the properties (certificate title CB44B/225) was sold by Tosswill to AD & TE Wright Ltd (a New Zealand incorporated entity) in September 2007 for NZD\$0.85 million. Tosswill remains the registered proprietor of the other two properties.
180. The Receivers have not been appointed as receivers and managers to Tosswill.
181. Investments in the scheme came about by the following means:
- (a) Execution of a joint venture agreement with Oakdale;
 - (b) Roll over from another scheme;
 - (c) Payment of funds without execution of a joint venture agreement or any other document.
182. There were 59 investors in the joint venture who contributed \$3.42 million directly to LGHA in its role as treasurer for the scheme. 16 investors left the scheme. \$0.7 million of contributions was returned to these investors. \$0.65 million was also paid to investors in respect of other distributions.




- 183. LGHA appears to have paid NZD\$1.42 million (or \$1.13 million based on an exchange rate of 0.796) to Tosswill towards the purchase of the properties. It is not known what funds LGHA used or what happened to the balance of funds contributed by the investors the project.
- 184. An undated information memorandum was issued by LGHH in mid 2004 for investors to contribute to the scheme.
- 185. The joint venture agreements sighted by the receivers and managers identified Oakdale as the manager of the joint venture.
- 186. In its role as treasurer, LGHA collected investor funds and paid distributions/returns of capital to investors.
- 187. LGHA claims to retain a 14% interest in the scheme for the 'intellectual property' it provided to the scheme. The Receivers have seen no documentation to support LGHA's claim.
- 188. A 30% interest in Tosswill or the scheme properties is also claimed by Samfer Family Trust, which is related to Mr Salmon.
- 189. A total of 43 investors are yet to receive repayment of their initial investment.
- 190. As the proceeds of the property investment (including monies borrowed against the property) appear to have been dispersed amongst the other Schemes directly, or by LGHA, the property of the scheme is represented by claims that may be made against LGHA or other Schemes of a trust/tracing nature. The books and records indicate that the total quantum of these claims is \$942,000.

Sworn at MELBOURNE in)
 the State of Victoria) *[Signature]*
 this 13th day of April 2011)

Before me: *[Signature]*

Tony Tsiavis
 of 120 Collins Street, Melbourne
 An Australian Legal Practitioner within
 the meaning of the Legal Profession Act 2004

SCHEDULE OF DEFENDANTS

Mark Letten;
First Defendant
LGH Holdings Limited ACN 077 191 943;
Second Defendant
211 Wellington Road Pty Ltd ACN 092 663 860;
Third Defendant
Bluemist Holdings Pty Ltd ACN 097 306 922;
Fourth Defendant
Dellwood Holdings Pty Ltd ACN 098 505 803;
Fifth Defendant
Enmore Enterprises Pty Ltd ACN 082 158 487;
Sixth Defendant
Firbank Arch Pty Ltd ACN 059 464 381;
Seventh Defendant
Glenline Pty Ltd ACN 098 532 364;
Eighth Defendant
Gerling Holdings Pty Ltd ACN 091 726 457;
Ninth Defendant
LGH Administration Pty Ltd ACN 077 165 069;
Tenth Defendant
LGH Finance Pty Ltd ACN 078 859 248;
Eleventh Defendant
Low Head Village Pty Ltd ACN 091 731 958;
Twelfth Defendant
Nicholson Street Pty Ltd ACN 069 104 089;
Thirteenth Defendant
Holloway Crest Pty Ltd ACN 091 731 967;
Fourteenth Defendant
Rosebery Enterprises Pty Ltd ACN 091 826 229;
Fifteenth Defendant
Simms Investments Pty Ltd ACN 093 504 511;
Sixteenth Defendant
SY21 Retail Pty Ltd ACN 107 874 564;
Seventeenth Defendant
The Glen Centre Hawthorn Pty Ltd ACN 089 906 543;
Eighteenth Defendant
Castello Holdings Pty Ltd ACN 088 204 175;
Nineteenth Defendant
Twinview Nominees Pty Ltd ACN 097 307 278;
Twentieth Defendant
Yarra Valley Golf Pty Ltd ACN 066 632 479;
Twenty-First Defendant
Adina Rise Pty Ltd ACN 083 181 122;
Twenty-Second Defendant

Albright Investments Pty Ltd ACN 088 204 166;
Twenty-Third Defendant
Ashfield Rise Pty Ltd ACN 093 504 806;
Twenty-Fourth Defendant
Bradfield Corporation Pty Ltd ACN 088 204 371;
Twenty-Fifth Defendant
Copeland Enterprises Pty Ltd ACN 093 504 824;
Twenty-Sixth Defendant
Devlin Way Pty Ltd ACN 088 264 813;
Twenty-Seventh Defendant
First Hazelwood Pty Ltd ACN 093 505 303;
Twenty-Eighth Defendant
Glenbelle Pty Ltd ACN 097 306 646;
Twenty-Ninth Defendant
Glenvale Way Pty Ltd ACN 088 287 021;
Thirtieth Defendant
Greenview Lane Pty Ltd ACN 093 505 312;
Thirty-First Defendant
Hallmark Corporation Pty Ltd ACN 083 180 812;
Thirty-Second Defendant
Moorleigh Holdings Pty Ltd ACN 088 287 058;
Thirty-Third Defendant
Norton Ridge Pty Ltd ACN 078 821 066;
Thirty-Fourth Defendant
Raleigh Glen Pty Ltd ACN 088 204 380;
Thirty-Fifth Defendant
Redcrest Holdings Pty Ltd ACN 100 836 486;
Thirty-Sixth Defendant
Suri Corporation Pty Ltd 093 505 321;
Thirty-Seventh Defendant
Sutton Rise Pty Ltd ACN 088 204 399;
Thirty-Eighth Defendant
The Virtual Milmer Pty Ltd ACN 065 374 665;
Thirty-Ninth Defendant
Tivendale Pty Ltd ACN 093 505 349;
Fortieth Defendant
Tulloch Downes Pty Ltd ACN 078 895 048;
Forty-First Defendant
Maining Pty Ltd ACN 100 790 485;
Forty-Second Defendant
Topglen Pty Ltd ACN 096 857 564;
Forty-Third Defendant
Allblue Pty Ltd ACN 100 836 388;
Forty-Fourth Defendant
Aranbay Pty Ltd ACN 098 532 319
Forty-Fifth Defendant
Melville Corporation Pty Ltd ACN 091 911 045
Forty-Sixth Defendant

Tilley Lane Pty Ltd ACN 086 136 361

Forty-Seventh Defendant

HPSC Pty Ltd ACN 059 930 139

Forty-Eighth Defendant

Jensdale Pty Ltd ACN 098 367 974

Forty-Ninth Defendant

Oakdale Rise Pty Ltd ACN 091 598 908

Fiftieth Defendant

Maywood Investments Pty Ltd ACN 091 599 218

Fifty-First Defendant

Acetrain Pty Ltd ACN 100 820 282

Fifty-Second Defendant

Sagebay Pty Ltd ACN 097 306 628

Fifty-Third Defendant

Tobago Holdings Pty Ltd ACN 093 504 520

Fifty-Fourth Defendant

**IN THE FEDERAL COURT OF AUSTRALIA
VICTORIAN DISTRICT REGISTRY**

No. VID 95 of 2010

IN THE MATTER OF THE *CORPORATIONS ACT 2001*

AND

**IN THE MATTER OF MARK RONALD LETTEN AND OTHERS
(as described in the attached Schedule)**

BETWEEN

AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION

Plaintiff

-and-

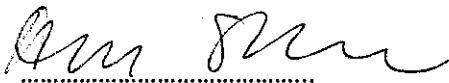
**MARK RONALD LETTEN AND OTHERS
(as described in the attached Schedule)**

Defendants

CERTIFICATE OF COMPLIANCE

I, Anna Skreiner, certify to the Court that the affidavit of Glenn John Childs sworn on 13 April 2011 filed on behalf of the plaintiff complies with Order 14, rule 2 of the Federal Court Rules.

Date: 13 April 2011



Anna Skreiner
Legal representative for the plaintiff