

Senate Economics Legislation Committee
ANSWERS TO QUESTIONS ON NOTICE
Treasury Portfolio
Budget Estimates 29, 30 & 31 May 2007

Question: bet 51 (ASIC)

Topic: Letter to 20 Trustees (Bridgecorp Proceedings)

Hansard Page: E77

Senator SHERRY asked:

Could we be provided with a list of those entities? Obviously you cannot do that now.

Mr Cooper—I am sure we can do that for you.

Senator SHERRY—Perhaps we could have a little bit of basic information on where their headquarters are and who at a state level is responsible for their regulatory oversight, to the extent that state governments are responsible in this area. I must say there has been a lot of research from our point of view to try to identify which particular government departments, statutory authorities and entities at a state level are overseeing these trustee entities. There is an added on issue that they are operating interstate, which begs a fundamental question for another time.

Answer:

ASIC wrote to the Public Trustee of Queensland and 23 trustee companies on or about 4 September 2006. The table below is a list of these trustees and their registered office.

COMPANY NAME	REGISTERED OFFICE
Sandhurst Trustees Limited ACN 004 030 737	BENDIGO VIC 3552
JP Morgan Trust Australia Ltd ACN 050 294 052	SYDNEY NSW 2000
Australia Executor Trustees Limited ACN 007 869 794	SYDNEY NSW 2000
Tasmanian Perpetual Trustees Ltd ACN 009 475 629	LAUNCESTON TAS 7250
National Australia Trustees	NORTH SYDNEY NSW 2060

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Limited ACN 007 350 405	
State Trustees Limited ACN 064 593 148	MELBOURNE VIC 3000
Equity Trustees Limited ACN 004 031 298	MELBOURNE VIC 3000
Tower Trust (NSW) Limited ACN 000 329 706 (now known as Australian Executor Trustees (NSW) Limited)	SYDNEY NSW 2000
Perpetual Trustee Company Limited ACN 000 001 007	SYDNEY NSW 2000
Perpetual Trustees Consolidated Limited ACN 004 029 841	SYDNEY NSW 2000
Perpetual Trustee Company (Canberra) Ltd ACN 008 393 806	SYDNEY NSW 2000
Perpetual Trustees Victoria Limited ACN 004 027 258	SYDNEY NSW 2000
Perpetual Trustees WA Ltd ACN 008 666 886	SYDNEY NSW 2000
Permanent Trustee Company Limited ACN 000 000 993 (now known as Trust Company Fiduciary Services Limited)	SYDNEY NSW 2000
The Trust Company of Australia Limited ACN 004 027 749	SYDNEY NSW 2000
Permanent Nominees (Aust) Limited ACN 000 154 441	SYDNEY NSW 2000

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AET Structured Finance Services Pty Limited ACN 106 424 088	MILSONS POINT NSW 2061
Perpetual Custodian Nominees Pty Ltd ACN 004 540 756	SYDNEY NSW 2000
Huntley Custodians Limited ACN 082 237 241	SYDNEY NSW 2000
Lowell Capital Limited ACN 006 844 588	MELBOURNE VIC 3000
ANZ Executors & Trustee Company Ltd ACN 006 132 332	MELBOURNE VIC 3000
National Mutual Life Nominees Ltd ACN 004 387 133	MELBOURNE VIC 3000
Professional Funds Management Pty Ltd ACN 064 139 877	OSBORNE PARK WA 6017
The Public Trustee of Queensland	BRISBANE QLD 4000

State governments are not responsible for the regulation of these entities in their role as debenture trustees. Section 283AC stipulates who can be a trustee for the purposes of Chapter 2L of the Act.

25 August 2006

The Directors

Entity

Address 1

Address 2

Dear

Trustee Obligations

I am writing to you in relation to your company's role as a trustee for debenture holders and in particular to bring to your attention a recent court decision involving a debenture issuer, Bridgecorp Finance Limited ('Bridgecorp').

In the Bridgecorp case (copy enclosed) ASIC applied to the court for orders under section 283HB of the Corporations Act 2001 ('the Act'). The consent orders made in that case follow a number of surveillances recently undertaken by ASIC in relation to debenture issuers, prospectuses and advertising. This is the first action taken under this section, and offers trustees a precedent to use when concerned about the position of debenture holders. Importantly Barrett J stated:

"Absent ASIC interest and involvement, however, it would be expected that the trustee might bring a matter such as the present before the court. The aim of the statutory provisions in this area is to stock the armouries of trustees so that they may be active in the protection of debenture holders."

Section 283HB of the Act also allows trustees to seek court orders regarding:

- § Restraining the borrower from paying any money to the debenture holders.
- § Restricting advertising by the borrower.
- § Restricting borrowing by the borrower.
- § The appointment of a receiver over property that is security for the debentures.
- § Enforcing the security for the debentures.
- § Staying an action or other civil proceeding before a court by or against the borrower or a guarantor.

When engaging with debenture issuers and products going forward, ASIC will continue to focus on the role of the trustee. In particular ASIC will consider the effectiveness of the compliance processes implemented by trustees in performing the important oversight role of helping to protect the interests of investors. Section 283HB is an important tool for trustees in this respect.

The Bridgecorp judgment is a timely reminder to you, as trustee, of the assistance you may seek from the court to assist you in fulfilling your duties, and we encourage you to take the opportunity to review your practices in light of that judgement.

If you have any questions in relation to this letter, please feel free to contact me on 02 9911 2123.

Yours sincerely,

Jennifer O'Donnell
Executive Director, Compliance

Enclosed:

- § Copy of judgment: Australian Securities & Investments Commission v Bridgecorp Finance Ltd [2006] NSWSC 836
- § ASIC Media Release 06-287