

Senate Economics Legislation Committee
ANSWERS TO QUESTIONS ON NOTICE
Treasury Portfolio

Supplementary Budget Estimates 1 - 2 November 2006

Question: sbt 4 (ASIC)
Topic: Paramount Financial Services
Hansard Page: Written

Senator SHERRY asked:

- 1. Has ASIC investigated or are they currently investigating Paramount Financial Services or Tax Express Pty Ltd?*
- 2. Is ASIC aware of a Mr Peter Pinkewich, he was managing director of Paramount Financial Services and General Manager of Tax Express Pty Ltd?*
- 3. Is Mr Pinkewich under investigation at this time or has he been under investigation?*
- 4. I have had several complaints in regards to Mr Pinkewich and failed investments which raise several concerns?*

Overview of Complaints

In 2001 Peter Pinkewich was introducing himself as the Managing Director of Paramount Financial Services and also the General Manager and founder of Tax Express Pty Ltd to potential investors.

A Property Development proposal was given to investors, with the advice from Mr Pinkewich, to use the equity in their homes to make a 35% return in a short period of time. They were advised that they should make the equity in their homes work for them.

The following allegations are made by victims:

- Mr Pinkewich then told them that a company called Bartux Pty Ltd was to be started for the sole purpose of providing investor's funds.
- Investors were advised a person by the name of Cecil Cheng was to be the director of this company and that he was to have no involvement whatsoever. Part of the condition of this agreement was that Bartux would be given a secured 2nd mortgage.
- Bartux in turn would loan the money to a company named T/E 5 Developments Pty Ltd.
- Three different projects with similar situations as above were being built at the same time in different municipalities.
- Each project was way over subscribed than had been documented
- Mr Pinkewich reportedly refused to give a list of investors and avoided questions being asked

Senate Economics Legislation Committee

ANSWERS TO QUESTIONS ON NOTICE

Treasury Portfolio

Supplementary Budget Estimates 1 - 2 November 2006

- The director of Bartux and of the two other investor companies Chenwell Pty Ltd and Pillinger Pty Ltd, had the same Director/Secretary at the time, Mr Cecil Cheng.
 - Each shareholder company address registered through ASIC was false
 - The director of these investor companies was not Mr Cheng but after investigation was found out to be Mr Les King, a partner of Mr Peter Pinkewich.
 - All share certificates, including a Deed and other documents were signed by Les King fraudulantly signing the name of Cecil Cheng.
 - Cheques in excess of 450,000 dollars had been made out to CASH from Bartux Pty Ltd account and signed by Peter Pinkewich. Others had been signed by Meryl Pickering (a shareholder in Tax Express)
 - Peter Pinkewich rebuilt his house with materials and labour being funded by T/E5.
 - Peter Pinkewich transferred around \$500,000 to purchase 800,000 worthless Credex Trade dollars from a previous development and sale that went wrong. Both Pinkewich and King were involved in this development.
 - Over 1 million dollars of cheques being cashed from T/E5 involve Les King fraudulently signing Peter Pinkewich's signature and making out Please Pay Cash.
 - Around 1 million dollars was paid out to companies in the name of Sawteed and Pennydale with the knowledge of Peter Pinkewich, both having false addresses on their ASIC company registration documents and both companies were believed to belong to Les King.
 - Money that should have gone back to the 1st mortgagee for the sale of units did not do so.
5. *Has ASIC been aware of any of these allegations and if so has ASIC carried out any investigations regarding these?*
6. *What, if any, has been the outcome of these investigations?*
7. *If there has been no investigation into these allegations up till now would ASIC now start an investigation into this matter?*

The main problem that faces investors is the company was put into administration with Bill Cotter who at the time was with Knights Administration

Investors had managed to secure some funds from the sale of the last unit by obtaining with great difficulty, a second mortgage.

These funds were being used for legal actions to recover stolen money however they have now been frozen by a court order by the administrator.

Allegedly, Mr Pinkewich told investors that he was going to shut them down by making sure that these funds would not be available to take any legal action.

Senate Economics Legislation Committee

ANSWERS TO QUESTIONS ON NOTICE

Treasury Portfolio

Supplementary Budget Estimates 1 - 2 November 2006

At the first Administrators meeting investors made the administrator, Mr Cotter, well aware of the information and evidence we had and offered to assist Mr Cotter in any way possible.

Mr Cotter made all the creditors a 1 share vote with the purpose of voting.

Investors made it very clear at the time that this should not be done as they were by far the highest value creditor with in excess of 2.5million dollars and that they were secured by a registered mortgage.

Investors also objected to the Pinkewich's having numerous claims being listed as creditors themselves (around 8 in total), however Bill Cotter has allowed these to remain and has continually used the proxies given to himself by the Pinkewich's to out vote investors ONE vote.

Investors have found that well before the start of each creditors meeting, Peter and/or Adrian Pinkewich have been sitting in with Bill Cotter discussing matters. Bill Cotter claims that the prior meetings are Directors meetings.

Investors have also tried on many occasions to negotiate a deal with the administrator where they would share the funds so they could progress the actions and could have an examination order of the guilty parties given by the administrator.

This has failed and they are very conscious of the fact that Knights Insolvency Pty Ltd went into liquidation themselves not long after this matter was handed to them and that the same person (Bill Cotter) has continued as the administrator.

Mr Cotter has used approx \$90,000 which was held in trust to Bartux (the investors company) prior to going into administration, and has built up a substantial legal debt of his own.

Investors feel he does not hold any interest in resolving the matters and that he is only interested in Bill Cotter being paid and not the investors.

Questions to ASIC from Investors

What action can be carried out to ensure the liquidator is working in the interests of all creditors?

Is there any avenue available to investors to object to voting rights?

Can ASIC investigate the action of the liquidator to ensure he is acting in the best interests of all creditors?

Answer:

ASIC's standard practice is to neither confirm nor deny if an entity or individual is the subject of an investigation or if a complaint is being considered.

Mr Pinkewich was declared bankrupt on 18 November 2005. Mr Pinkewich is therefore automatically disqualified from being involved in the management of a corporation.

Senate Economics Legislation Committee

ANSWERS TO QUESTIONS ON NOTICE

Treasury Portfolio

Supplementary Budget Estimates 1 - 2 November 2006

Administrators and liquidators have fiduciary duties to creditors (that is, acting independently and dealing with conflicts of interest), which arise from the common law, not the provisions of the *Corporations Act 2001 (Cth)*. If there are conflicts of interest or the external administrator is compromised, ASIC can investigate the substance of complaints from creditors. If ASIC has concerns with a liquidator, which would warrant disciplinary action, it can refer the concerns to the Companies, Auditors and Liquidators Disciplinary Board ('CALDB') for consideration. In the past, ASIC has successfully taken conflict of interest matters to the CALDB (see ASIC Media Release [MR 06-405]).

ASIC can investigate complaints from creditors about administrators and liquidators.

Creditors also have their own remedies under section 1321 of the *Corporations Act 2001 (Cth)*, which provides that 'a person aggrieved by [a]...decision of...a liquidator...may appeal to the Court...and the Court may...make such orders...as it thinks fit'.