

Deed Administrators' Update

5 July 2006

In section 6 of the last update to creditors dated 15 March 2006, the Deed Administrators reported that the Full Court of the Federal Court in the *Sons of Gwalia* case held that:

- (a) a transferee shareholder (ie a shareholder who purchased his shares 'on-market') is entitled to prove as a creditor under the Sons of Gwalia deed of company arrangement in relation to his misleading conduct claim against the company; and
- (b) his claim is not postponed until non-shareholder creditors' debts and claims have been paid.

The Deed Administrators of Sons of Gwalia and ING applied to the High Court for special leave to appeal. On 16 June 2006 the High Court granted special leave and ordered that the hearing of the appeal be listed for 7 and 8 August 2006, to be heard in Adelaide. Given that the High Court decided to expedite hearing of the appeal, it might reasonably be expected that the High Court will deliver its judgment within a few months after the hearing.

Once the High Court delivers judgment the ION Deed Administrators will have certainty about this important threshold issue relating to the adjudication of the proofs of debt of ION shareholders.

Colin Nicol and Peter Anderson

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