

**Lift Capital Partners Pty Ltd, ACN 111 015 500
Lift Capital Nominees No. 1 Pty Ltd, ACN 112 913 532
(In Liquidation) ("Lift")**

NSW Proceedings Update

5 February 2009

As many of you will now be aware, judgment was delivered on 3 February 2009 in the NSW Proceedings.

Justice Barrett allowed the parties a further 14 days from 3 February 2009 to prepare draft orders for the Court's consideration having regard to the contents of the judgment.

In summary, his Honour has held that the proprietary interest of those particular 5 Lift clients who were parties to the NSW proceedings in the shares of 3 listed entities they had mortgaged to Lift or were acquired in Lift's name (and which are currently held by Merrill Lynch pending the outcome of the proceedings), continued to survive when those shares were transferred by Lift to Merrill Lynch.

Once the Court makes final orders (anticipated to be within about 3-4 weeks from 3 February 2009), this will be of considerable assistance to the liquidators in determining how the shares in approximately 120 listed companies still held by Merrill Lynch (the surplus securities) ought to be distributed among certain Category 2 and 3 Lift clients. The judgment may also be of general assistance to Lift clients in relation to any claims available to them.

The timing of the return of the surplus securities to certain Category 2 and 3 Lift clients will be dependent upon the following:

- + the preparation and handing down of the Court Orders;
- + the request and receipt of the surplus securities from Merrill Lynch;
- + the calculation and determination of the method of distribution of the surplus securities, including in those instances where the number of securities in a particular listed company which are available for distribution is less than the number of securities in that company which Lift clients mortgaged to Lift or were acquired in Lift's name; and
- + the collection of clients' Outstanding Facility Amounts, where applicable.

We are presently considering the reasons for judgment in more detail, together with our solicitors and counsel and will provide further information in due course.

The Court Orders add considerable clarity to the position and are of assistance in now determining how ownership or proceeds of surplus securities should be dealt with.

Dated: 5 February 2009



A G McGrath
Liquidator



J D Hayes
Liquidator