

NOTICE OF FILING

This document was lodged electronically in the FEDERAL COURT OF AUSTRALIA (FCA) on 3/05/2017 3:48:34 PM AEST and has been accepted for filing under the Court's Rules. Details of filing follow and important additional information about these are set out below.

Details of Filing

Document Lodged:	Statement of Claim - Form 17 - Rule 8.06(1)(a)
File Number:	QUD591/2015
File Title:	Graeme Clarke and Marion Clarke in their capacity as trustees of the G&M Clarke Superannuation Fund v Sandhurst Trustees Limited ACN 004 030 737
Registry:	QUEENSLAND REGISTRY - FEDERAL COURT OF AUSTRALIA



A handwritten signature in blue ink, reading "Warwick Soden".

Dated: 4/05/2017 12:33:23 PM AEST

Registrar

Important Information

As required by the Court's Rules, this Notice has been inserted as the first page of the document which has been accepted for electronic filing. It is now taken to be part of that document for the purposes of the proceeding in the Court and contains important information for all parties to that proceeding. It must be included in the document served on each of those parties.

The date and time of lodgment also shown above are the date and time that the document was received by the Court. Under the Court's Rules the date of filing of the document is the day it was lodged (if that is a business day for the Registry which accepts it and the document was received by 4.30 pm local time at that Registry) or otherwise the next working day for that Registry.



Form 17

Rule 8.05(1)(a)

Further Amended Statement of Claim

Filed pursuant to leave granted by Greenwood J on

28 April 2017

No. QUD591 of 2015

Federal Court of Australia

District Registry: Queensland

Division: General

GRAEME CLARKE AND MARION CLARKE
in their capacity as Trustees of the G & M CLARKE SUPERANNUATION FUND

Plaintiffs

SANDHURST TRUSTEES LIMITED ACN 004 830 737

Defendant

The Plaintiffs

1. The Plaintiffs bring this proceeding as a representative party of the Group Members pursuant to Pt IVA of the *Federal Court of Australia Act 1976* (C'th) ("**Federal Court of Australia Act**").
2. The Plaintiffs are, and were at all material times, the trustees of the G & M Clarke Superannuation Fund.

Filed on behalf of (name & role of party)	Graeme Clarke and Marion Clarke in their capacity as trustees of the G&M Clarke Superannuation Fund, Plaintiffs
Prepared by (name of person/lawyer)	Greg Drew, counsel and settled by Tony Martin SC
Law firm (if applicable)	Shine Lawyers
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3. The Plaintiffs are, and have been since 4 September 2008, holders of unsecured deposit notes ("**Notes**") issued by Wickham Securities Limited (in liquidation) ACN 111 421 811 ("**Wickham**").

Particulars

Date	Term of investment	Amount
4 September 2008	5 years	\$45,000.00
4 September 2008	5 years	\$45,000.00
9 August 2010	5 years	\$50,000.00
3 September 2012	1 year	\$100,000.00
	Subtotal	\$240,000.00
	Amount paid back or withdrawn	<u>20,000.00</u>
	Total	\$220,000.00

Wickham

4. Wickham:

- (a) is a corporation duly registered under the *Corporations Act 2001* (C'th) ("**Corporations Act**")
- (b) was incorporated on or about 18 October 2004;
- (c) at all material times carried on the business of borrowing money from the public by issuing Notes under Chapter 2L of the *Corporations Act*;
- (d) at all material times invested those funds so raised in first and second ranking mortgages;
- (e) entered into voluntary administration by resolution of its directors under s.436A of the *Corporations Act* on 21 December 2012;
- (f) entered into liquidation pursuant to a creditors' voluntary winding up on 6 February 2013.

The Group Members

5. The members of the Group to whom this proceeding relates ("**Group Members**") are those persons and entities:
- (a) who were a holder of Notes issued by Wickham as at 21 December 2012; and
 - (b) who have suffered loss and damage by reason of the conduct of the Defendant as pleaded in this Statement of Claim; and
 - (c) who have signed a relevant funding agreement with Litman Holdings Pty Ltd.

Particulars

At the time of filing of the Statement of Claim the Group Members exceeded 7 persons or entities in number.

The Defendant

6. The Defendant, Sandhurst Trustees Limited ("**Sandhurst**"):
- (a) is a company duly registered under the *Corporations Act*;
 - (b) at all material times carried on the business of providing trustee services, including trustee services to companies which had issued Notes under Chapter 2L of the *Corporations Act*;
 - (c) at all material times held itself out as having particular knowledge, skill and experience in the provision of trustee services.

Trust Deed for Notes

7. Sandhurst was at all material times the trustee for holders of Notes issued by Wickham under Chapter 2L of the *Corporations Act* and under the Trust Deed made between Sandhurst and Wickham ("**the Trust Deed**").

Particulars

- (a) On about 7 June 2005 Wickham and Sandhurst executed an Unsecured Note Trust Deed pursuant to which Sandhurst was appointed as Trustee ("**Unsecured Note Trust Deed**");
- (b) The Unsecured Note Trust Deed was amended by Supplemental Note Trust Deed No 1 dated 7 July 2006 ("**Supplemental Unsecured Note Trust Deed No 1**") and Supplemental Unsecured Note Trust Deed No 2 dated 23 April 2009 ("**Supplemental Unsecured Note Trust Deed No 2**")

8. At all material times the Trust Deed:

- (a) provided that Sandhurst was appointed by Wickham to act as trustee for the Noteholders pursuant to the terms and conditions of the Trust Deed.

Particulars

Unsecured Note Trust Deed, clause 1.1(a)

- (b) provided that Sandhurst agreed to hold on trust for the benefit of the Noteholders for so long as the trust established by the Trust Deed continued:
 - (i) the right to enforce Wickham's duty to pay any money owing to the Noteholders under the Trust Deed;

Particulars

Unsecured Note Trust Deed, clause 1.1(b)(i)

- (ii) any charge or security for the payment of any money owing to the Noteholders under the Trust Deed;

Particulars

Unsecured Note Trust Deed, clause 1.1(b)(ii)

- (iii) the right to enforce any other duties Wickham has under Chapter 2L of the *Corporations Act* and the Trust Deed;

Particulars

Unsecured Note Trust Deed, clause 1.1(b)(iii)

- (iv) all other property acquired by Sandhurst and intended to be held for the benefit of Noteholders on the trust established by the Trust Deed;

Particulars

Unsecured Note Trust Deed, clause 1.1(b)(iv)

- (c) Wickham could from time to time determine the types or classes of Notes it was willing to issue in accordance with the terms and conditions of the Trust Deed and subject to the applicable conditions.

Particulars

Unsecured Note Trust Deed, clause 2.1(a).

- (d) The Notes would be issued subject to the Trust Deed and upon the terms and conditions set out in a Prospectus.

Particulars

Unsecured Note Trust Deed, clause 2.1(c).

- (e) provided that despite anything else in the Trust Deed, Wickham could only apply the money raised through the issue of Notes ("**Note Money**") for the following purposes:

- (i) to provide finance in accordance with the Lending and Security Criteria ("**Lending and Security Criteria**") for the acquisition and/or development of real property and/or related working capital purposes;

Particulars

Unsecured Note Trust Deed, clause 2.11(a)(i)

- (ii) in payment of any commission, procuration fee or brokerage Wickham may pay in accordance with clause 2.5 of the Trust Deed and the terms of the Prospectus;

Particulars

Unsecured Note Trust Deed, clause 2.11(a)(ii)

- (iii) to invest from time to time in Authorised Investments;

Particulars

Unsecured Note Trust Deed, clause 2.11(a)(iii)

- (iv) in payment of the principal amount of any Note on its maturity date or earlier repayment;

Particulars

Unsecured Note Trust Deed, clause 2.11(a)(iv)

- (v) for Wickham's own working capital purposes;

Particulars

Unsecured Note Trust Deed, clause 2.11(a)(v)

- (vi) for any other purpose disclosed in the Prospectus.

Particulars

Unsecured Note Trust Deed, clause 2.11(a)(vi)

- (f) defined "Lending and Security Criteria" to include the following criteria:

- (i) all loans were to be fully documented and made on an arm's length, commercial basis as to interest, terms and security;

Particulars

Unsecured Note Trust Deed, Schedule 1 and Schedule 4 (Commercial terms).

- (ii) loans made prior to 9 July 2006 could be made for terms of no more than 12 months but loans made on or after 9 July 2006 could be made for terms of no more than 24 months;

Particulars

(A) Unsecured Note Trust Deed, Schedule 1 and Schedule 4 (Term of loans).

(B) Supplemental Note Trust Deed No 1, clause 2.

- (iii) Wickham would not advance loan funds until obtaining from the borrower (and any applicable guarantors) security which was sufficient to satisfy all

of the obligations owed to Wickham under the applicable loan and, where applicable, any prior-ranking security interests;

Particulars

Unsecured Note Trust Deed, Schedule 1 and Schedule 4 (Security).

- (iv) Wickham would not advance loan funds unless a registrable first or second mortgage over real property security was held to secure the principal and interest under the applicable loan;

Particulars

Unsecured Note Trust Deed, Schedule 1 and Schedule 4 (Security).

- (v) if Wickham required collateral security, then it would not advance loan funds until it had first obtained the required collateral security;

Particulars

Unsecured Note Trust Deed, Schedule 1 and Schedule 4 (Security).

- (vi) the maximum amount that could be advanced in respect of any loan ("**Facility Limit**") was 85% of the independent valuation of the real property held to secure the loan;

Particulars

Unsecured Note Trust Deed, Schedule 1 and Schedule 4 (Security).

- (vii) the amount of a proposed loan must be aggregated with any amounts secured by prior or equal ranking Security Interest when calculating the Facility Limit;

Particulars

Unsecured Note Trust Deed, Schedule 1 and Schedule 4 (Security).

- (viii) the value of real property offered as security must be determined at the market value for mortgage lending purposes by a registered valuer approved by, but independent of, Wickham;

Particulars

Unsecured Note Trust Deed, Schedule 1 and Schedule 4 (Independent valuation of real property provided as security).

- (ix) valuations must be less than 6 months old at the time of any loan approval;

Particulars

Unsecured Note Trust Deed, Schedule 1 and Schedule 4 (Independent valuation of real property provided as security).

- (x) in the case of development of real property (where permitted under the terms of the relevant Prospectus) Wickham would only advance funds after reviewing, and being satisfied with, a detailed feasibility report prepared by or for the borrower which evidenced the viability and profitability of the development project;

Particulars

Unsecured Note Trust Deed, Schedule 1 and Schedule 4 (Development projects).

- (xi) where the construction phase of the development had not commenced, the value of real property would be taken as the higher of its purchase price or its "as is" value as determined by the valuer;

Particulars

Unsecured Note Trust Deed, Schedule 1 and Schedule 4 (Development projects).

- (xii) where the construction phase had commenced, the value would be calculated as the "on completion" value multiplied by the percentage of completion of the development works;

Particulars

Unsecured Note Trust Deed, Schedule 1 and Schedule 4 (Development projects).

- (xiii) where the security property was improved land, it must be insured at the cost of the borrower to its full replacement value as at the date of the loan;

Particulars

Unsecured Note Trust Deed, Schedule 1 and Schedule 4 (Insurance of real property security).

- (xiv) prior to agreeing to any proposed loan, Wickham would assess the ability of any potential borrower to meet payments of interest and principal when due under the proposed loan;

Particulars

Unsecured Note Trust Deed, Schedule 1 and Schedule 4 (Credit assessment of borrowers).

- (xv) the credit assessment process would include obtaining a credit bureau reference check in respect of each borrower or third party security provider, which must be less than 6 months old at the time of the loan approval.

Particulars

Unsecured Note Trust Deed, Schedule 1 and Schedule 4 (Credit assessment of borrowers).

- (g) provided that the terms and conditions of the Trust Deed and the conditions of the Notes are binding on Wickham, Sandhurst, each Noteholder and all persons claiming through them respectively as if those persons were a party to the Trust Deed.

Particulars

Unsecured Note Trust Deed, clause 3.1.

- (h) provided that the Conditions applicable to all Notes set out in Schedule 3 and any Condition determined by Wickham, in accordance with the Trust Deed, apply in respect of a Note would, so far as that Note was concerned, be deemed to be part of the Trust Deed and to have effect as contained in the Trust Deed.

Particulars

Unsecured Note Trust Deed, clause 3.2.

- (i) provided that Wickham covenanted with Sandhurst and for the benefit of Noteholders.

- (i) Wickham would at all times comply in all material respects with the *Corporations Act* and the provisions of the Trust Deed.

Particulars

Unsecured Note Trust Deed, clause 6.1(a).

- (ii) Wickham would execute and do all things necessary to give effect to the Trust Deed and confer the full benefit of the Trust Deed upon the Noteholders.

Particulars

Unsecured Note Trust Deed, clause 6.1(b).

- (iii) Wickham would at all material times conduct its business in a proper and efficient manner ("**Business Conduct Obligation**").

Particulars

Unsecured Note Trust Deed, clause 6.1(c).

- (iv) Wickham would promptly, and to the extent practicable within 5 business days give to Sandhurst any information it may reasonably require for the purposes of the Trust Deed or to discharge its obligations at law.

Particulars

Unsecured Note Trust Deed, clause 6.1(d).

- (v) Wickham would promptly and, in any event within 5 business days of becoming aware of the happening of an Event of Default, provide Sandhurst with written notice of an Event of Default and the action proposed to be taken by Wickham to remedy it.

Particulars

Unsecured Note Trust Deed, clause 6.1(f).

- (vi) Wickham would at all times observe and perform in all material respects all the relevant covenants, obligations and conditions contained in any Security Interest to which it or any of its assets are subject.

Particulars

Unsecured Note Trust Deed, clause 6.1(g).

- (j) defined "Security Interest" to mean any mortgage, charge, pledge, bill of sale, title retention arrangement, trust or power which was or had the effect of a security for the payment of a debt or other monetary obligation or the compliance with any other obligation.

Particulars

Unsecured Note Trust Deed, Schedule 1.

- (k) provided that Wickham would duly comply with all requirements of the *Corporations Act* and any other statutory requirements including, without limitation, with respect to the filing or giving of reports and statements, the registration or any Security Interest and the administration and keeping open of registers of Noteholders for inspection.

Particulars

Unsecured Note Trust Deed, clause 6.2(a).

- (l) provided that Wickham would at all material times maintain Net Tangible Assets with a value at least equal to the Minimum Capital.

Particulars

Unsecured Note Trust Deed, clause 6.4(a).

- (m) defined "Net Tangible Assets" to mean in relation to the date at which the determination is made, the value of the total assets of Wickham, less the aggregate value of all intangible assets and liabilities of Wickham, which would be disclosed in the balance sheet of Wickham prepared in accordance with the *Corporations Act* and (unless inconsistent with the *Corporations Act*) generally accepted accounting principles consistently applied.

Particulars

Unsecured Note Trust Deed, Schedule 1.

- (n) defined "Minimum Capital" to mean the greater of \$300,000 or 3% of the aggregate Principal Amount of the Notes Outstanding.

Particulars

Unsecured Note Trust Deed, Schedule 1.

- (o) defined "Principal Amount" to mean the principal amount outstanding from time to time under the Notes.

Particulars

Unsecured Note Trust Deed, Schedule 1.

- (p) defined "Notes Outstanding" to mean all the Notes other than Notes which have been redeemed or purchased by Wickham and cancelled as provided for in clause 2.6.

Particulars

Unsecured Note Trust Deed, Schedule 1.

- (q) Wickham would at all times comply with, observe and perform each of the covenants, obligations, expressly or impliedly contained in the Trust Deed.

Particulars

Unsecured Note Trust Deed, clause 6.5.

- (r) Wickham would ensure any Security Interest given under the Trust Deed, or under Collateral Security, is registered or recorded as required by law in each place in which the property and assets so charged are or may be situated.

Particulars

Unsecured Note Trust Deed, clause 8(a)(i)

- (s) provided that Wickham would keep financial records which:
 - (i) correctly record and explain its transactions and financial position and performance; and

Particulars

Unsecured Note Trust Deed, clause 9.1(a)

- (ii) enable true and fair annual financial statements to be prepared and audited;

Particulars

Unsecured Note Trust Deed, clause 9.1(b)

- (t) provided that Wickham agreed to provide Sandhurst promptly, and to the extent practicable within 5 business days, with such information as Sandhurst reasonably requested about Wickham and any of its subsidiaries to enable Sandhurst to carry out its duties under the Trust Deed and the *Corporation Act*.

Particulars

Unsecured Note Trust Deed, clause 9.2(a).

- (u) provided that where the information requested in clause 9.2(a) of the Trust Deed related to financial information, Sandhurst could request Wickham to provide an auditor's certificate stating that the auditor had reviewed that financial information and acknowledged that based on the auditor's reasonable enquiries, nothing had come to the auditor's attention which caused the auditor to believe that the information provided to Sandhurst was incorrect or incomplete.

Particulars

Unsecured Note Trust Deed, clause 9.2(b).

- (v) provided that Sandhurst covenanted to do the following:
 - (i) exercise reasonable diligence to ascertain whether the property of Wickham that was or should have been available (whether by way of security or otherwise) would be sufficient to repay the amount deposited or lent when it became due;

Particulars

Unsecured Note Trust Deed, clause 12.1(a).

- (ii) exercise reasonable diligence to ascertain whether Wickham had committed any breach of the terms of the Notes, the Trust Deed or Chapter 2L of the *Corporations Act* ("**Reasonable Diligence Covenant**");

Particulars

Unsecured Note Trust Deed, clause 12.1(b).

- (iii) do everything in its power to ensure Wickham remedied any breach known to Sandhurst of the terms of the Notes, the Trust Deed or Chapter 2L of the *Corporations Act* unless Sandhurst was satisfied any such breach did not materially prejudice the Noteholders' interest or any security for the Notes;

Particulars

Unsecured Note Trust Deed, clause 12.1(c).

- (iv) notify ASIC as soon as possible if Wickham had not complied with ss.283BE, 283BF, 318(1) or 318(4) of the *Corporations Act*.

Particulars

Unsecured Note Trust Deed, clause 12.1(e).

- (w) provided that Sandhurst could (whenever it thought it expedient and in the interest of the Noteholders) apply to the Court for directions in relation to any questions arising either before or after the Outstanding Money had become payable and assent to and approve of or oppose any application to a Court made by or at the instance of any Noteholder.

Particulars

Unsecured Note Trust Deed, clause 15.7(a)

- (x) provided that Sandhurst could (whenever it thought it expedient and in the interests of the Noteholders) at any time after the money owing under the Trust Deed became payable, apply to a Court for an order that the trusts under the Trust Deed be carried into execution under the direction of a Court and for any other order or directions in relation to the administration of the trusts as Sandhurst may have deemed expedient.

Particulars

Unsecured Note Trust Deed, clause 15.7(b).

- (y) provided that Wickham agreed the Outstanding Money would, at the option of and upon service of a written notice by Sandhurst, become immediately due and payable by Wickham upon the occurrence of any of the following Events of Default:

- (i) Wickham fails to make payment of any principal and interest in respect of any Note when due and such failure continues for a period of 14 days after the due date;

Particulars

Unsecured Note Trust Deed, clause 16.1(a).

- (ii) Wickham is in default of any of its obligations under the Trust Deed (other than an obligation to pay money) or the Conditions of any Note issue and such default is not remedied within 30 days.

Particulars

Unsecured Note Trust Deed, clause 16.1(b).

- (z) defined "Outstanding Money" to mean the aggregate of:

- (i) all amounts of principal and interest in respect of the Notes payable from time to time to, or at the direction of, Sandhurst or the Noteholders pursuant to the Trust Deed and the Conditions applicable to those Notes; and
- (ii) all other amounts payable from time to time to Sandhurst pursuant to the Trust Deed, less amounts of principal and interest paid to Noteholders in respect of the Notes in accordance with the Conditions applicable to those Notes.

Particulars

Unsecured Note Trust Deed, Schedule 1.

- 9. Under the Trust Deed, Sandhurst held the Reasonable Diligence Covenant on trust for the benefit of the Noteholders.

Particulars

Unsecured Note Trust Deed, clause 11.1(a) & 12.1(b).

Prospectus

10. During the period from 8 June 2005 to 22 December 2010 Wickham issued to investors Prospectuses for an offer of Notes pursuant to Chapter 6D.2 of the *Corporations Act* (**Prospectus**).

Particulars

- (a) Prospectus lodged with ASIC on 8 June 2005 (**8 June 2005 Prospectus**);
- (b) Supplementary Prospectus lodged with ASIC on 28 June 2006 (**28 June 2006 Prospectus**);
- (c) Prospectus lodged with ASIC on 7 July 2006 (**7 July 2006 Prospectus**);
- (d) Prospectus lodged with ASIC on 8 August 2007 (**8 August 2007 Prospectus**);
- (e) Supplementary Prospectus lodged with ASIC on 29 February 2008 (**29 February 2008 Prospectus**);
- (f) Prospectus lodged with ASIC on 22 September 2008 (**22 September 2008 Prospectus**);
- (g) Supplementary Prospectus lodged with ASIC on 23 April 2009 (**23 April 2009 Prospectus**);
- (h) Prospectus lodged with ASIC on 6 November 2009 (**6 November 2009 Prospectus**);
- (i) Supplementary Prospectus lodged with ASIC on 17 June 2010 (**17 June 2010 Prospectus**);
- (j) Prospectus lodged with ASIC on 15 December 2010 (**15 December 2010 Prospectus**);
- (k) Supplementary Prospectus lodged with ASIC on 22 December 2010 (**22 December 2010 Prospectus**);

11. The Prospectus provided:

- (a) Wickham would primarily lend funds through the issue of Notes to borrowers to assist in financing property investments and property-related transactions.

Particulars

- (i) 8 June 2005 Prospectus, sections 2.1 and 3.2;
- (ii) 28 June 2006 Prospectus, p.1;

- (iii) 7 July 2006 Prospectus, sections 1.2 and 3.2;
- (iv) 8 August 2007 Prospectus, sections 2.1 and 3.3;
- (v) 22 September 2008 Prospectus, section 3.1;
- (vi) 6 November 2009 Prospectus, section 3.1;
- (vii) 15 December 2010 Prospectus, section 3.1.

- (b) Wickham would invest the funds so raised in a portfolio of high-yielding loans with a predetermined risk profile.

Particulars

- (i) 8 June 2005 Prospectus, p.7;
- (ii) 7 July 2006 Prospectus, p.4;
- (iii) 8 August 2007 Prospectus, p.4;
- (iv) 22 September 2008 Prospectus, p.4;
- (v) 6 November 2009 Prospectus, p.4;
- (vi) 15 December 2010 Prospectus, p.4.

- (c) Investors would benefit from Wickham's risk mitigation and management skills, comprehensive investment due diligence process and prudent credit criteria and loan structuring requirements.

Particulars

- (i) 8 June 2005 Prospectus, p.7;
- (ii) 7 July 2006 Prospectus, p.4;
- (iii) 8 August 2007 Prospectus, p.4;
- (iv) 22 September 2008 Prospectus, p.4;
- (v) 6 November 2009 Prospectus, p.4;
- (vi) 15 December 2010 Prospectus, p.4.

- (d) Wickham applied strict Lending Criteria prior to approving loans, including the requirement for either a first or second registered mortgage over real property.

Particulars

- (i) 8 June 2005 Prospectus, section 2.1;
- (ii) 7 July 2006 Prospectus, section 2.1;

- (iii) 8 August 2007 Prospectus, section 2.1;
- (iv) 22 September 2008 Prospectus, section 2.1;
- (v) 6 November 2009 Prospectus, section 2.1;
- (vi) 15 December 2010 Prospectus, section 2.1.

- (e) Prior to 8 July 2006 Wickham would not lend funds raised through the issue of Notes to borrowers to finance property development projects.

Particulars

- (i) 8 June 2005 Prospectus, section 3.2;
- (ii) 28 June 2006 Prospectus, p.1

- (f) On or after 9 July 2006 Wickham would lend funds to borrowers to finance property development projects, subject to the following limitations:

- (i) Only funds raised pursuant to a disclosure document issued by Wickham on or after 9 July 2006 could be applied for the financing of property development projects;

Particulars

28 June 2006 Prospectus, p.1.

- (ii) No more than 40% of the total asset of Wickham could be applied in the financing of property development projects.

Particulars

- (A) 28 June 2008 Prospectus, p.1;
- (B) 7 July 2006 Prospectus, section 3.3;
- (iii) Loans made for the purpose of financing property development projects must be secured and otherwise be made in accordance with the Lending Criteria and as permitted by the Trust Deed.

Particulars

- (A) 28 June 2006 Prospectus, p.1;
- (B) 7 July 2006 Prospectus, section 3.3;
- (C) 8 August 2007 Prospectus, section 3.3;

- (D) 22 September 2008 Prospectus, section 2.1;
 - (E) 6 November 2009 Prospectus, section 3.1;
 - (F) 15 December 2010 Prospectus, section 2.1;
- (g) Wickham would not lend funds raised through the issue of Notes to borrowers who are deemed to be “related parties” to Wickham under the *Corporations Act*.

Particulars

- (i) 8 June 2005 Prospectus, section 3.2;
 - (ii) 7 July 2006 Prospectus, section 3.3;
 - (iii) 8 August 2007 Prospectus, section 3.3;
 - (iv) 22 September 2008 Prospectus, section 2.6;
 - (v) 6 November 2009 Prospectus, section 2.6;
 - (vi) 15 December 2010 Prospectus, section 2.6;
- (h) A typical process Wickham would follow in making investments and loans were summarised as follows:

Stage	Action	Responsibility
Stage 1	Sourcing investment opportunities and market research	Board
Stage 2	Board evaluation – feasibility study, credit analysis and deal structuring	Board
Stage 3	Preliminary evaluation by Investment Committee	Investment Committee
Stage 4	Indicative letter of offer provided to prospective borrower	Board
Stage 5	Initial due diligence and documentation of loan	Board
Stage 6	Final approval by Investment Committee	Investment Committee
Stage 7	Final letter of offer provided to prospective borrower	Board
Stage 8	Final due diligence (if applicable)	Board
Stage 9	Execution and drawdown	Board

Particulars

- (i) 8 June 2005 Prospectus, section 3.2;
 - (ii) 7 July 2006 Prospectus, section 3.3;
 - (iii) 8 August 2007 Prospectus, section 3.3;
 - (iv) 22 September 2008 Prospectus, section 4.3;
 - (v) 6 November 2009 Prospectus, section 4.3;
 - (vi) 15 December 2010 Prospectus, section 4.3
- (i) All loans and investments, other than permitted investments made by Wickham, by a unanimous decision of Wickham's Investment Committee which was appointed by and reported directly to the Board of Directors.

Particulars

- (i) 8 June 2005 Prospectus, section 3.5;
 - (ii) 7 July 2006 Prospectus, section 3.6;
 - (iii) 8 August 2007 Prospectus, section 3.6;
 - (iv) 22 September 2008 Prospectus, section 4.6;
 - (v) 6 November 2009 Prospectus, section 4.6;
 - (vi) 15 December 2010 Prospectus, section 4.6
- (j) Investment decisions were made only after a thorough assessment process had involved due diligence, market research and feasibility study.

Particulars

- (i) 8 June 2005 Prospectus, section 3.5;
 - (ii) 7 July 2006 Prospectus, section 3.6;
 - (iii) 8 August 2007 Prospectus, section 3.6;
 - (iv) 22 September 2008 Prospectus, section 4.6;
 - (v) 6 November 2009 Prospectus, section 4.6;
 - (vi) 15 December 2010 Prospectus, section 4.6
- (k) The Investment Committee actively monitored Wickham's risk exposure and level of return and was involved in the ongoing management of loans which included periodically monitoring the amount of new loans against the value of real estate taken as security for loans.

Particulars

- (i) 8 June 2005 Prospectus, section 3.5;
 - (ii) 7 July 2006 Prospectus, section 3.6;
 - (iii) 8 August 2007 Prospectus, section 3.6;
 - (iv) 22 September 2008 Prospectus, section 4.6;
 - (v) 6 November 2009 Prospectus, section 4.6;
 - (vi) 15 December 2010 Prospectus, section 4.6.
- (l) The Board of Directors of Wickham was responsible, among other things, for implementing Wickham's investment strategy and monitoring its investments.

Particulars

- (i) 8 June 2005 Prospectus, section 3.3;
 - (ii) 7 July 2006 Prospectus, section 3.4;
 - (iii) 8 August 2007 Prospectus, section 3.4;
 - (iv) 22 September 2008 Prospectus, section 4.4;
 - (v) 6 November 2009 Prospectus, section 4.4;
 - (vi) 15 December 2010 Prospectus, section 4.4.
- (m) Wickham would not apply more than 40% of its total assets in the financing of the construction of property development projects.

Particulars

- (i) 28 June 2006 Prospectus, p.1;
- (ii) 7 July 2006 Prospectus, section 3.3;
- (iii) 8 August 2007 Prospectus, section 3.3;
- (iv) 22 September 2008 Prospectus, section 4.3;
- (v) 6 November 2009 Prospectus, section 4.3;
- (vi) 15 December 2010 Prospectus, section 4.3.

12. The matters referred to in paragraph 11 above set out the manner in which Wickham would comply with the Business Conduct Obligation and its obligations under s.283BB(a) of the *Corporations Act*.

Duties of Wickham under the *Corporations Act*

13. At all material times, Wickham had obligations to:

- (a) carry on and conduct its business in a proper and efficient manner;

Particulars

Corporations Act, s 283BB(a)

- (ai) keep written financial records that:

- (A) correctly recorded and explained its transactions and financial position and performance;

Particulars

Corporations Act, s 286(1)(a)

- (B) would enable true and fair financial statements to be prepared and audited;

Particulars

Corporations Act, s 286(1)(b)

- (aii) retain the financial records for 7 years after the transactions covered by the records are completed;

Particulars

Corporations Act, s 286(2)

- (b) make all of its financial and other records available for inspection by Sandhurst, an officer or employee of Sandhurst authorised to carry out the inspection or a registered company auditor appointed by Sandhurst to carry out the inspection, and give them any information, explanations or other assistance that they may require about matters relating to those records;

Particulars

Corporations Act, s 283BB(c)

- (c) within one month after the end of each quarter, give Sandhurst a quarterly report that set out the information required by s.283BF(4), (5) and (6) of the *Corporations Act*.

Particulars

Corporations Act, s 283BF(1)(a)

13A. As soon as practicable after the administration of Wickham began, each of its directors was required to:

- (a) deliver to the administrators all books in the director's possession that related to Wickham, other than books that the director was entitled, as against Wickham and the administrators, to retain; and
- (b) if the director knew where other books relating to Wickham were - tell the administrators where those books were.

Particulars

Corporations Act, s 438B(1)

13B. As soon as practicable after Wickham resolved to be wound up, each of its officers was required to:

- (a) deliver to the liquidators all books in the officer's possession that related to Wickham, other than books that the officer was entitled, as against Wickham and the liquidators, to retain; and
- (b) if the officer knew where other books relating to Wickham were - tell the liquidators where those books were.

Particulars

Corporations Act, s 530A(1)

Duties of Sandhurst under the *Corporations Act*

14. At all material times, Sandhurst as trustee of the Trust Deed, had obligations to:
- (a) exercise reasonable diligence to ascertain whether the property of Wickham that was or should have been available (whether by way of security or otherwise)

would be sufficient to repay the amount deposited or lent when it became due;
and

Particulars

Corporations Act, s 283DA (a)

- (b) exercise reasonable diligence to ascertain whether Wickham had committed any breach of the provisions of the Trust Deed or Chapter 2L of the *Corporations Act*; and

Particulars

Corporations Act, s 283DA (b) (ii)

- (c) do everything in its power to ensure that Wickham remedied any breach known to Sandhurst of any provision of the Trust Deed or Chapter 2L of the *Corporations Act* unless Sandhurst was satisfied that the breach would not materially prejudice the Noteholders' interests or any security for the Notes; and

Particulars

Corporations Act, s 283DA (c)(ii)

- (d) notify ASIC as soon as practicable if Wickham had not complied with section 283BF of the *Corporations Act*.

Particulars

Corporations Act, s 283DA (e)(i)

Powers of Sandhurst under Corporations Act and Federal Court of Australia Act

- 14A. At all material times Sandhurst had power to apply to the Court for an order that a receiver be appointed to the property of Wickham.

Particulars

- (i) *Corporations Act*, s 283HB(1)(g);
(ii) *Corporations Act*, s 1323(1)(h);
(iii) *Federal Court of Australia Act*, s 57.

Loan Transactions

15. During the period from about 8 June 2005 until 21 December 2012, Wickham used Note Money to provide loans to borrowers ("**Wickham Loans**").

Particulars

- (ai) Allville Pty Ltd ("Allville");

Sub-particulars

Wickham advanced a loan to Allville on or about 11 May 2007.

- (a) SP3 Avalon Pty Ltd ATF Avalon Unit Trust Deed ("**Avalon**");

Sub-particulars

- (A) Unexecuted facility agreement between Wickham and Avalon dated 23 December 2010
- (B) Unexecuted variation of agreement between Wickham and Avalon dated 14 March 2012.

- (b) Avpri Pty Ltd ATF Avpri Unit Trust ("**Avpri**");

Sub-particulars

- (A) Unexecuted facility agreement between Wickham and Avpri dated 15 September 2006.
- (B) Unexecuted variation of agreement between Wickham and Avpri.
- (C) Unexecuted deed of assignment of debt between Wickham, Avpri and Blue Diamond Investments Pty Ltd dated 3 March 2009.

- (c) Ball Constructions Pty Ltd ("**Ball Constructions**");

Sub-particulars

Unexecuted facility agreement between Wickham and Ball Constructions dated 28 February 2008.

- (d) Jason Thomas Humphreys and Afton Ashley Ball ("**Ball & Humphreys**");

Sub-particulars

Unexecuted facility agreement between Wickham and Ball & Humphreys dated 13 May 2010.

- (e) Back Georgiadis Stoyel Pty Ltd ATF BGS Investment Trust ("**BGS**");

Sub-particulars

Unexecuted letter agreement between Wickham and BGS dated 6 March 2006.

Unexecuted facility agreement between Wickham and BGS undated

(f) [deleted]

(g) Bucasia Holdings Pty Ltd ATF Bucasia Development Unit Trust ("**Bucasia**");

Sub-particulars

(A) Facility agreement between Wickham and Bucasia dated 9 July 2008.

(B) Variations of agreement between Wickham and Bucasia dated 24 April 2009, 15 May 2009, 1 September 2009 and 3 March 2010.

(h) Cadex Varsity Partners Pty Ltd ATF Cadex Varsity Partners Unit Trust ("**Cadex Varsity**");

Sub-particulars

Unexecuted facility agreement between Wickham and Cadex Varsity dated 23 February 2010.

(i) Central Avenue Project Pty Ltd ("**Central Avenue**");

Sub-particulars

Unexecuted facility agreement between Wickham and Central Avenue dated 24 October 2006.

(ii) Graham and Robyn Cleary ATF the Graham William Cleary Family Trust, Steven Clements ATF SAC Family Trust and Gary Radford ATF Radford Family Trust ("**Cleary, Clements and Radford**");

Sub-particulars

Facility agreement between Wickham and Cleary, Clements and Radford dated 2 May 2008.

(j) Robert John Conquest & Ann Conquest ("**Conquest**");

Sub-particulars

Unexecuted facility agreement between Wickham and Conquest dated 30 August 2006.

(k) Andrew Geoffrey James Dean ("**Dean**");

Sub-particulars

(A) Unexecuted facility agreement between Wickham and Dean dated 18 October 2007.

(B) Extension approval by Wickham dated 1 June 2008.

(C) Refinance approval by Wickham dated 8 July 2008.

- (l) John Patrick Dooney ("**Dooney**");

Sub-particulars

- (A) Facility agreement between Wickham and Dooney dated 1 November 2006.
- (B) Variation of agreement between Wickham and Dooney dated 15 January 2008.

- (m) Epsaltos Pty Ltd ATF The Iskander Family Trust ("**Epsaltos**");

Sub-particulars

Unexecuted facility agreement between Wickham and Epsaltos dated 21 December 2010.

- (n) Everton Park Development Pty Ltd ATF Everton Park Development Unit Trust ("**Everton Park**");

Sub-particulars

Facility agreement between Wickham and Everton Park dated 10 October 2006.

- (o) Ian Charles George ("**George**");

Sub-particulars

- (A) Deed of assignment between Astor Funds Pty Ltd and Wickham dated 18 October 2005 ~~Facility agreement between Wickham and George dated 30 May 2005.~~
- (B) Facility agreement between Wickham and George dated 13 July 2006.
- (C) Unexecuted variation of agreement between Wickham and George dated 13 September 2007.

- (p) Giant Developments Pty Ltd ("**Giant Developments**");

Sub-particulars

Facility agreement between Wickham and Giant Developments dated 26 February 2008 as amended by letter agreement between Wickham and Giant Developments dated 8 September 2008 (countersigned by Giant Developments on 8 September 2007).

- (q) Glenview Projects Pty Ltd ("**Glenview**");

Sub-particulars

- (A) Facility agreement between Wickham and Glenview dated 19 November 2007.

- (B) Variations of agreement between Wickham and Glenview dated 20 October 2008 and 14 December 2009.

- (r) Goodwood Terraces Pty Ltd ATF 38 Brays Road Unit Trust ("**Goodwood**");

Sub-particulars

- (A) Unexecuted facility agreement between Wickham and Freshwater Villas Pty Ltd ATF 38 Brays Road Unit Trust dated 3 December 2010.
- (B) Deed of Removal and Appointment of Trustee of the 38 Brays Road Unit Trust between Goodwood, CCSC27 Pty Ltd ATF the Keating Family Trust and Allville Pty Ltd ATF the DJB Investment Trust, dated 26 May 2011.

- (s) Harbour Arbour Developments Pty Ltd ATF Harbour Arbour Unit Trust ("**Harbour Arbour**");

Sub-particulars

- (A) Facility agreement between Wickham and Harbour Arbour dated 30 August 2006 as amended by extension approval given by Wickham 27 April 2007.
- (B) Facility agreement between Wickham and Harbour Arbour dated 16 October 2006 as amended by extension approval given by Wickham 27 April 2007.

- (t) Hardel Investments Pty Ltd ATF Hardel Investments Unit Trust ("**Hardel**");

Sub-particulars

- (A) Facility agreement between Wickham and Hardel dated 9 December 2005.
- (B) Facility agreement between Wickham and Hardel dated 14 November 2006 as amended by variations to agreement between Wickham and Hardel dated 23 January 2008 and 3 March 2009.

- (u) Hongrove Pty Ltd ATF Williams Family Trust No 2, Vintage Property Group Pty Ltd ATF the Vintage Property Trust and WRL Holdings Pty Ltd ATF for WRL Trust, as joint borrowers ("**Hongrove**");

Sub-particulars

- Unexecuted facility agreement between Wickham and Hongrove dated 4 May 2012.

- (v) Barry Edward Ingleton ("**Ingleton**");

Sub-particulars

- (A) Facility agreement between Wickham and Ingleton dated 11 October 2007.
- (B) Unexecuted variation to agreement between Wickham and Ingleton dated 6 March 2009.

- (w) Ivory Properties Pty Ltd ATF The Kurrajong Estate Family Trust ("**Ivory Properties**");

Sub-particulars

Unexecuted facility agreement between Wickham and Ivory Properties dated 28 November 2006.

- (wi) JAR Developments Pty Ltd ("**JAR Developments**");

Sub-particulars

Wickham advanced a loan to JAR Developments on or about 24 October 2005.

- (wii) CJ & ML Kahler ("**Kahler**");

Sub-particulars

Wickham advanced a loan to Kahler on or about 13 April 2006.

- (x) Stephanie Therese Kent ("**Kent**");

Sub-particulars

Unexecuted facility agreement between Wickham and Kent dated 13 May 2010.

- (y) Keytan Pty Ltd ATF the Keytan Trust ("**Keytan**");

Sub-particulars

Facility agreement between Wickham and Keytan dated 23 July 2007.

- (z) Revon Aden Slade King ("**King**");

Sub-particulars

(AA) Deed of assignment between Astor Funds Pty Ltd and Wickham dated 18 October 2005.

(A) Facility agreement between Wickham and King dated 13 July 2006.

(B) Unexecuted variation of agreement between Wickham and King dated 13 September 2007.

- (aa) Michael Kirby ATF the BTN1 Unit Trust ("**Kirby BTN1**");

Sub-particulars

- (A) Facility agreement between Wickham and Kirby BTN1 dated 2 October 2006.
- (B) Unexecuted letter agreement between Wickham and Kirby dated 20 September 2007.

- (bb) Michael Kirby ATF the BTN5 Unit Trust ("**Kirby BTN5**");

Sub-particulars

- (A) Unexecuted facility agreement between Wickham and Kirby BTN5 dated 13 October 2006.
- (B) Unexecuted facility agreement between Wickham and Kirby BTN5 dated 19 April 2007.
- (C) Unexecuted variation of agreement between Wickham and Kirby BTN5 dated 8 August 2007 2008.

- (cc) Kirby ATF BTN6 Unit Trust ("**Kirby BTN6**");

Sub-particulars

- (A) Unexecuted facility agreement between Wickham and Kirby BTN6 dated 16 January 2008
- (B) Extension approval by Wickham dated 18 August 2008.
- (C) Unexecuted facility agreement between Wickham and Kirby BTN6 dated 24 July 2009.

- (dd) Kopaka Holdings Pty Ltd ("**Kopaka**");

Sub-particulars

- (A) Facility agreement between Wickham and Kopaka dated 5 April 2007.
- (B) Letter agreements between Wickham and Kopaka dated 6 August 2008 (countersigned by Kopaka on 6 August 2008) and 12 February 2009 (countersigned by Kopaka on 12 February 2009).

- (ee) LCL Developments Pty Ltd ("**LCL Developments**");

Sub-particulars

- (A) Unexecuted facility agreement between Wickham and LCL Developments dated 17 March 2008.
- (B) Unexecuted letter agreement between Wickham and LCL Developments dated 23 September 2008.

- (ff) Lifestyle Resorts Riverside Project Pty Ltd ATF the Riverside Village Development Unit Investment Trust ("**Lifestyle Resorts**");

Sub-particulars

Unexecuted facility agreement between Wickham and Lifestyle Resorts dated 25 May 2007.

- (gg) Living on Lee Street Pty Ltd ("**Living on Lee**");

Sub-particulars

Unexecuted facility agreement between Wickham and Living on Lee dated 1 November 2010.

- (hh) Helene Jane Lynch ("**Lynch**");

Sub-particulars

(AA) Deed of assignment between Astor Funds Pty Ltd and Wickham dated 18 October 2005.

(A) Facility Agreement between Wickham and Lynch dated 12 July 2006.

(B) Unexecuted variation of agreement between Wickham and Lynch dated 12 September 2007.

- (ii) Mackay Living Pty Ltd ("**Mackay Living**");

Sub-particulars

(A) Facility agreement between Wickham and Mackay Living dated 19 April 2007.

(B) Variation of agreement between Wickham and Mackay Living dated 24 January 2008.

- (jj) Mali Global Trading Pty Ltd ATF Prime Capital Investments Unit Trust ("**Mali Global**");

Sub-particulars

Unexecuted facility agreement between Wickham and Mali dated 1 August 2006.

- (kk) Magnolia Grove Investments Pty Ltd ATF Magnolia Grove Unit Trust ("**Magnolia Grove**");

Sub-particulars

Facility agreement between Wickham and Magnolia Grove dated 10 July 2007.

(II) Mintgrove Pty Ltd ATF the Mintgrove Trust ("**Mintgrove**");**Sub-particulars**

- (A) Unexecuted facility agreement between Wickham and Mintgrove dated 2 March 2007.
- (B) Unexecuted facility agreement between Wickham and Mintgrove dated 30 October 2007.
- (C) Unexecuted facility agreement between Wickham and Mintgrove dated 29 January 2008.

(mm) MSM Developments Pty Ltd ATF The Sure Frank Family Trust ("**MSM Developments**");**Sub-particulars**

- (A) Facility agreement between Wickham and MSM Developments dated 24 November 2005.
- (B) Variation of agreement between Wickham and MSM Developments dated 10 May 2006.
- (C) Facility agreement between Wickham and MSM Developments dated 10 27 March 2006.
- (D) Facility Agreement between Wickham and MSM Developments dated 25 July 2006.
- (E) Variation of agreement between Wickham and MSM Developments dated 23 February 2007.

(nn) PBI Kelvin Grove Pty Ltd ("**PBI Kelvin Grove**");**Sub-particulars**

Facility agreement between Wickham and PBI Kelvin Grove dated 8 June 2007.

(oo) Plantation Rise Pty Ltd ("**Plantation Rise**");**Sub-particulars**

- (A) Facility agreement between Wickham and Plantation Rise dated 12 May 2006.
- (B) Variations of agreement between Wickham and Plantation Rise on 9 July 2007 and 28 March 2008.

- (pp) Pressmint Ltd ATF the Pressmint Trust ("**Pressmint**");

Sub-particulars

- (A) Facility agreement between Wickham and Pressmint dated 1 November 2006.
- (B) Letter of agreement between Wickham and Pressmint dated 9 November 2007 (countersigned by Pressmint on 12 November 2007).

- (qq) Queensland Property Partners Pty Ltd ("**QPP**");

Sub-particulars

Unexecuted facility Agreement between Wickham and QPP dated 4 December 2009.

- (rr) Rangegale Pty Ltd ("**Rangegale**");

Sub-particulars

- (A) Unexecuted facility agreement between Wickham and Rangegale dated 30 October 2006.
- (B) Unexecuted facility agreement between Wickham and Rangegale dated 28 March 2007.

- (ss) Rebellious Pty Ltd ATF the Andrew Dean Family Trust ("**Rebellious**");

Sub-particulars

Unexecuted facility agreement between Wickham and Rebellious dated 13 November 2007.

- (tt) John Reichstein ("**Reichstein**");

Sub-particulars

Unexecuted facility agreement between Wickham and Reichstein dated 13 July 2010.

- (tta) SEQ Developments No 3 Pty Ltd ATF SEQ Developments Trust 3 ("**SEQ Developments**")

Sub-particulars

Facility agreement between Wickham and SEQ Developments dated 18 March 2008.

- (uu) Sherben Developments Pty Ltd ATF The Lucas Street Trust ("**Sherben**");

Sub-particulars

Facility agreement between Wickham and Sherben dated 19 May 2006.

- (vv) Sherwin Financial Planners Pty Ltd ("**Sherwin Financial Planners**");

Sub-particulars

Letter of offer from Wickham to Sherwin Financial Planners dated 17 August 2012.

- (ww) Sirford Pty Ltd ATF the Sirford Trust ("**Sirford**");

Sub-particulars

Unexecuted facility agreement between Wickham and Sirford dated 15 January 2008.

- (xx) Summit View Meritor Pty Ltd ATF K2 Trust ("**Summit View Meritor**");

Sub-particulars

(A) Loan application by Summit View Meritor to Wickham dated 23 March 2010.

(B) Letter of approval by Wickham dated 26 March 2010.

(C) On or about 26 March 2010 Wickham paid to Summit View Meritor an amount of \$1,805,000.

(D) On or about 1 July 2010 Wickham paid to Summit View Meritor an amount of \$1,000,000.

(E) On or about 8 December 2010 Wickham paid to Summit View Meritor an amount of \$40,000.

(F) On or about 15 December 2010 Wickham paid to Summit View Meritor an amount of \$500,000.

(G) On or about 27 April 2011 Wickham paid to Summit View Meritor an amount of \$66,545.

(H) On or about 25 May 2011 Wickham paid to Summit View Meritor an amount of \$160,000.

- (yy) Summit View No.1 Pty Ltd ATF Summit View Property Trust No. 1 ("**Summit View No.1**");

Sub-particulars

(A) Loan application by Summit View No.1 to Wickham dated 23 June 2010.

(B) On or about 25 June 2010 Wickham paid to Summit View No.1 an amount of \$470,000.

(C) On or about 20 July 2010 Wickham paid to Summit View No.1 an amount of \$530,000.

- (D) On or about 17 August 2010 Wickham paid to Summit View No.1 an amount of \$1,440,000.
- (E) On or about 8 September 2010 Wickham paid to Summit View No.1 an amount of \$1,940,000.
- (F) On or about 20 December 2010 Wickham paid to Summit View No.1 an amount of \$200,000.
- (G) On or about 24 January 2011 Wickham paid to Summit View No.1 an amount of \$150,000.

(zz) Surobesh Pty Ltd ATF RGSL Unit Trust ("**Surobesh**");

Sub-particulars

Unexecuted facility agreement between Wickham and Surobesh dated 26 September 2006.

(aaa) TBB Holdings Pty Ltd ATF Cedar Rise Trust ("**TBB Holdings**");

Sub-particulars

- (A) Facility agreement between Wickham and TBB Holdings dated 19 January 2006.
- (B) Variations of agreement between Wickham and TBB Holdings dated 10 August 2006, 4 May 2007, 17 December 2007, 25 September 2008, 25 March 2009 and 9 October 2009.

(bbb) Tibbing Pty Ltd ("**Tibbing**");

Sub-particulars

Unexecuted facility agreement between Wickham and Tibbing dated 6 June 2006.

(ccc) Tiggi K Pty Ltd ("**Tiggi**");

Sub-particulars

Unexecuted facility agreement between Wickham and Tiggi dated 28 June 2006.

(ddd) Tomkat Projects Pty Ltd ATF Breeze Properties Trust ("**Tomkat Projects**");

Sub-particulars

- (A) Unexecuted facility agreement between Wickham and Tomkat Projects dated 30 January 2007.
- (B) Unexecuted facility agreement between Wickham and Tomkat Projects dated 6 May 2008.

- (eee) Trihedral Properties (No. 3) Pty Ltd ("**Trihedral**");

Sub-particulars

Facility agreement between Wickham and Trihedral dated 10 October 2005.

- (fff) Universal Self Storage Pty Ltd ("**Universal**");

Sub-particulars

Unexecuted facility agreement between Wickham and Universal dated 30 June 2008.

- (ggg) Zoran Vela and Sarah Jane Vela ATF Z & S Vela Trust ("**Vela**");

Sub-particulars

Unexecuted facility agreement between Wickham and Vela dated 28 January 2010.

- (hhh) Wincorp (Australia) Pty Ltd ("**Wincorp**");

Sub-particulars

(A) Facility agreement between Wickham and Wincorp dated 23 June 2008

(B) Letter agreements between Wickham and Wincorp dated 9 July 2009 (countersigned by Wincorp on 10 July 2009) and 24 February 2010 (countersigned by Wickham on 22 March 2010).

- (iii) WLP Pty Ltd ATF WL Projects Discretionary Trust ("**WLP**");

Sub-particulars

(A) Wickham advanced a loan to WLP on or about 16 November 2006.

(AA) Wickham advanced a loan to WLP on or about 31 March 2009.

(B) Wickham advanced a loan to WLP on or about 31 March 2011.

- (jjj) Zen Foundation One Pty Ltd ("**Zen Foundation**").

Sup-particulars

Wickham advanced a loan to Zen Foundation on or about 2 February 2006.

- (kkk) Zinlarge Pty Ltd ("**Zinlarge**")

Sub-particulars

(A) Facility agreement between Wickham and Zinlarge dated 6 March 2008.

Breaches of Lending and Security Criteria

16. During the period from about 8 June 2005 until 21 December 2012, Wickham breached the Lending and Security Criteria by:

- (a) failing to ensure that all Wickham Loans were fully documented;

Particulars

(ia) Allville

- (i) Avalon
- (ii) Avpri
- (iii) Ball Constructions
- (iv) Ball & Humphreys
- (v) BGS
- (vi) Cadex Varsity
- (vii) Central Avenue
- (viii) Dean
- (ix) Epsaltos
- (x) George
- (xi) Hongrove
- (xii) Ivory Properties

(xiia) JAR Developments

(xiib) Kahler

- (xiii) King
- (xiv) Kirby BTN1
- (xv) Kirby BTN5
- (xvi) LCL Developments
- (xvii) Lifestyle Resorts
- (xviii) Living on Lee
- (xix) Lynch
- (xx) [deleted]
- (xxi) Mintgrove

- (xxii) QPP
- (xxiii) [deleted]
- (xxiv) Rebellious
- (xxv) Sherwin Financial Planners
- (xxvi) Sirford
- (xxvii) Summit View No.1
- (xxviii) Summit View Meritor
- (xxix) Surobesh
- (xxx) TBB Holdings
- (xxxi) Tibbing
- (xxxii) Tiggi
- (xxxiii) [deleted]
- (xxxiv) Universal
- (xxxv) Vela
- (xxxvi) WLP
- (xxxvii) Zen Foundation
- (xxxviii) Zinlarge

(b) [deleted]

(c) failing to ensure that Wickham Loans made on or after 9 July 2006 were made for terms of no more than 24 months;

Particulars

- (i) WLP
- (d) failing to ensure that loan funds were not advanced until obtaining from the borrower (and any applicable guarantors) security which was sufficient to satisfy all of the obligations owed to Wickham under the applicable loan and, where applicable, any prior-ranking security interests;

Particulars

- (i) Avpri
- (ia) Allville

- (ii) Ball Constructions
- (iii) BGS
- (iv) Central Avenue
- (v) Conquest
- (vi) Dooney
- (via) George
- (vib) Giant Developments
- (vic) Glenview
- (vid) Harbour Arbour
- (vii) Hardel
- (viii) Ingleton
- (viiia) Ivory Properties
- (viiib) JAR Developments
- (viiic) Kahler
- (ix) King
- (x) Kirby BTN1
- (xi) Kirby BTN5
- (xii) Kopaka
- (xiii) LCL Developments
- (xiv) Lynch
- (xv) Mackay Living
- (xva) Magnolia Grove
- (xvi) Mali Global
- (xvii) Mintgrove
- (xviii) MSM Developments
- (xix) Plantation Rise
- (xx) Pressmint
- (xxi) Rangegale
- (xxii) Sirford
- (xxiia) Sherben

(xxiii) Sherwin Financial Planners

(xxiv) Summit View No.1

(xxv) Summit View Meritor

(xxvi) Surobesh

(xxvii) TBB Holdings

(xxviii) Tibbing

(xxix) Tiggi

(xxx) Tomkat Projects

(xxxi) Wincorp

(xxxii) WLP

(xxxiii) Zen Foundation

- (e) failing to ensure that loan funds were not advanced unless a registrable first or second mortgage over real property security was held to secure the principal and interest under the applicable Wickham Loan;

Particulars

(i) Allville

(i) Avpri

(ii) Ball Constructions

(iii) Conquest

(iv) Dean

(v) Giant Developments

(vi) Glenview

(vii) Hardel

(viii) JAR Developments

(ix) Kahler

(x) Keytan

(xi) King

(xii) Kirby BTN1

(xiii) Kirby BTN5

(xiv) LCL Developments

- (xiii) Living on Lee
- (xiv) Lynch
- (xv) Mackay Living
- (xvi) Mintgrove
- (xvii) MSM Developments
- (xviii) Plantation Rise
- (xix) Pressmint
- (xx) Rebellious
- (xxi) Reichstein
- (xxii) Sherwin Financial Planners
- (xxiii) Sirford
- (xxiv) Summit View No.1
- (xxv) Summit View Meritor
- (xxvi) Tibbing
- (xxvii) Tiggi
- (xxviii) Tomkat Projects
- (xxix) Vela
- (xxx) Wincorp
- (xxxi) WLP
- (xxxii) Zen Foundation

- (f) if Wickham required collateral security, failing to ensure that loan funds were not advanced until it had first obtained the required collateral security;

Particulars

- (i) [deleted]
- (ia) Allville
- (ii) Ball Constructions
- (iii) Ball & Humphreys
- (iv) Conquest
- (v) Dooney
- (vi) Epsaltos

(vii) George

(viia) Ingleton

(viii) Giant Developments

(ix) Glenview

(x) Hardel

(xa) JAR Developments

(xb) Kahler

(xi) King

(xii) Kirby BTN1

(xiii) Kirby BTN5

(xiv) Kopaka

(xv) LCL Developments

(xvi) Lifestyle Resorts

(xvii) Living on Lee

(xviii) Lynch

(xix) Mackay Living

(xx) Mali Global

(xxi) Mintgrove

(xxii) Pressmint

(xxiii) Rebellious

(xxiv) Reichstein

(xxv) Sirford

(xxvi) Summit View No.1

(xxvii) Summit View Meritor

(xxviii) Surobesh

(xxix) Tibbing

(xxx) Tiggi

(xxxi) Tomkat Projects

(xxxii) Vela

(xxxiii) Zen Foundation

- (g) failing to ensure that the maximum amount that was advanced in respect of any Wickham Loan did not exceed the Facility Limit;

Particulars

(ia) Allville

- (i) Ball Constructions
- (ii) Ball & Humphreys
- (iii) BGS
- (iv) [deleted]
- (v) Bucasia
- (vi) Central Avenue
- (vii) Conquest
- (viii) Dean
- (ix) Dooney
- (x) Epsaltos
- (xi) George
- (xii) Giant Developments
- (xiii) Glenview
- (xiv) Harbour Arbour
- (xv) Hardel
- (xvi) Ingleton
- (xvii) Ivory Properties
- (xviii) Keytan

(xviiiia) JAR Developments

(xviiiib) Kahler

- (xix) King
- (xx) Kirby BTN1
- (xxi) Kirby BTN5
- (xxii) Kopaka
- (xxiii) LCL Developments
- (xxiv) Lifestyle Resorts

- (xxv) Living on Lee
- (xxvi) Lynch
- (xxvii) Mackay Living
- (xxviii) Magnolia Grove
- (xxix) Mali Global
- (xxx) Mintgrove
- (xxxi) MSM Developments
- (xxxii) Plantation Rise
- (xxxiii) Pressmint
- (xxxiv) Rangegale
- (xxxv) Rebellious
- (xxxvi) Sherben
- (xxxvii) Sherwin Financial Planners
- (xxxviii) Sirford
- (xxxix) Summit View No.1
- (xl) Summit View Meritor
- (xli) Surobesh
- (xlii) TBB Holdings
- (xliii) Tomkat Projects
- (xliv) Vela
- (xlv) Wincorp
- (xlvi) WLP
- (xlvii) Zen Foundation

(g) failing to aggregate the amounts secured by prior ranking security interests when calculating the Facility Limit for the amount of the proposed loan;

Particulars

The particulars at sub-paragraph (g) above are repeated.

- (h) failing to ensure that the value of real property offered as security was determined at the market value for mortgage lending purposes by a registered valuer approved by, but independent of, Wickham;

Particulars(ia) Allville

- (i) Ball Constructions
- (ii) Ball & Humphreys
- (iii) BGS
- (iv) [deleted]
- (v) Bucasia
- (vi) Central Avenue
- (vii) Dooney
- (viii) Epsaltos
- (ix) George
- (x) Giant Developments
- (xi) Harbour Arbour
- (xii) Hardel
- (xiii) Ingleton
- (xiv) Ivory Properties
- (xv) Keytan

(xva) JAR Developments(xvb) Kahler

- (xvi) King

(xvia) Kirby BTN1

- (xvii) Kirby BTN5
- (xviii) Kopaka
- (xix) Lifestyle Resorts
- (xx) Living on Lee
- (xxi) Lynch

(xvia) Mackay Living

- (xxii) Magnolia Grove
- (xxiii) Mali Global
- (xxiv) Mintgrove

- (xxv) MSM Developments
- (xxva) Plantation Rise
- (xxvi) Pressmint
- (xxvii) Rangegale
- (xxviii) Sherwin Financial Planners
- (xxix) Sirford
- (xxx) Summit View No.1
- (xxxi) Summit View Meritor
- (xxxii) Surobesh
- (xxxiii) TBB Holdings
- (xxxiiia) Tomkat Projects
- (xxxiv) Vela
- (xxxv) WLP
- (xxxvi) Zen Foundation

- (i) failing to ensure that valuations were less than 6 months old at the time of any Wickham Loan approval;

Particulars

- (i) Avalon
- (ii) Ball Constructions
- (iii) Ball & Humphreys
- (iv) BGS
- (v) [deleted]
- (vi) Bucasia
- (vii) Central Avenue
- (viii) Dean
- (ix) Dooney
- (x) Epsaltos
- (xi) George
- (xii) Giant Developments
- (xiii) Harbour Arbour

- (xiv) Hardel
- (xv) Ingleton
- (xvi) Ivory Properties
- (xvii) Keytan
- (xviii) King
- (xix) Kirby BTN5
- (xx) Kopaka
- (xxi) Lifestyle Resorts
- (xxii) Living on Lee
- (xxiii) Lynch
- (xxiv) Mackay Living
- (xxv) Magnolia Grove
- (xxvi) Mali Global
- (xxvii) Mintgrove
- (xxviii) MSM Developments
- (xxix) Plantation Rise
- (xxx) Pressmint
- (xxxi) Rangegale
- (xxxii) Sherwin Financial Planners
- (xxxiii) Sirford
- (xxxiv) Summit View No.1
- (xxxv) Summit View Meritor
- (xxxvi) Surobesh
- (xxxvii) TBB Holdings
- (xxxviii) Vela
- (xxxix) WLP
- (xl) Zen Foundation

- (j) in the case of development of real property (where permitted under the terms of the relevant Prospectus), failing to ensure that funds were advanced only after reviewing, and being satisfied with, a detailed feasibility report prepared by or for the borrower which evidenced the viability and profitability of the development project;

Particulars**(ia) Allville**

- (i) Avalon
- (ii) Ball Constructions
- (iii) Ball & Humphreys
- (iv) Bucasia
- (v) Central Avenue
- (vi) Dean
- (vii) Dooney
- (viii) Epsaltos
- (ix) George
- (x) Giant Developments
- (xi) Glenview
- (xii) Goodwood
- (xiii) Harbour Arbour
- (xiv) Hardel
- (xv) Hongrove
- (xvi) Ingleton
- (xvii) Ivory Properties

(xviiia) JAR Developments**(xviiib) Kahler**

- (xviii) Kent
- (xix) Keytan
- (xx) King
- (xxi) Kirby BTN5
- (xxii) Kopaka
- (xxiii) LCL Developments
- (xxiv) Living on Lee
- (xxv) Magnolia Grove
- (xxvi) Plantation Rise

- (xxvii) Pressmint
- (xxviii) QPP
- (xxix) Sirford
- (xxx) Summit View No.1
- (xxxi) Summit View Meritor
- (xxxii) Surobesh
- (xxxiii) TBB Holdings
- (xxxiv) Tibbing
- (xxxv) Trihedral
- (xxxvi) Universal
- (xxxvii) Vela
- (xxxviii) Zen Foundation

- (k) where the construction phase of the development had not commenced, failing to ensure that the value of real property was taken as the higher of its purchase price or its "as is" value as determined by the valuer;

Particulars

(ia) Allville

- (i) Ball Constructions
- (ii) Ball & Humphreys
- (iii) Bucasia
- (iv) George
- (v) Hardel
- (vi) Ingleton
- (vii) Ivory Properties

(viiia) JAR Developments

(viib) Kahler

- (viii) Keytan
- (ix) King
- (x) Kirby BTN5
- (xi) Kopaka

- (xii) Lifestyle Resorts
- (xiii) Living on Lee
- (xiv) Plantation Rise
- (xv) Pressmint
- (xvi) Sirford
- (xvii) Summit View No.1
- (xviii) Summit View Meritor
- (xix) Surobesh
- (xx) TBB Holdings
- (xxi) Vela
- (xxii) Zen Foundation

- (l) where the construction phase had commenced, failing to ensure that the value was calculated as the "on completion" value multiplied by the percentage of completion of the development works;

Particulars

(ia) Allville

- (i) Ball Constructions
- (ii) Ball & Humphreys
- (iii) Bucasia
- (iv) Cadex Varsity
- (v) George
- (vi) Hardel
- (vii) Ivory Properties

(viiia) JAR Developments

(viiib) Kahler

- (viii) Keytan
- (ix) King
- (x) Kopaka
- (xi) Living on Lee
- (xii) Surobesh

- (xiii) TBB Holdings
- (xiv) Vela
- (xv) Zen Foundation

(m) where the security property was improved land, failing to ensure that it was insured at the cost of the borrower to its full replacement value as at the date of the Wickham Loan;

Particulars

(ia) Allville

- (i) Ball & Humphreys
- (ii) BGS
- (iii) [deleted]
- (iv) Dean
- (v) Dooney
- (vi) Giant Developments

(vii) Harbour Arbour

(viiia) Central Avenue

(viiib) George

- (viii) Hardel
- (ix) Hongrove
- (x) Ivory Properties
- (xi) Keytan

(xia) JAR Developments

(xib) Kahler

(xic) King

(xid) Kirby BTN1

(xie) Kirby BTN5

(xii) Living on Lee

(xiia) Lynch

(xiib) Mackay Living

(xiii) Magnolia Grove

(xiiia) Mali Global

- (xiv) Mintgrove
- (xv) MSM Developments
- (xvi) Plantation Rise
- (xvii) Rangegale
- (xviii) Rebellious
- (xix) Surobesh
- (xx) TBB Holdings
- (xxi) Tomkat Projects
- (xxii) Wincorp
- (xxiii) WLP

- (n) failing to ensure that, prior to agreeing to any proposed loan, the ability of any potential borrower to meet payments of interest and principal when due under the proposed loan had been assessed;

Particulars

(ia) Allville

- (i) Avalon
- (ii) Avpri
- (iii) Ball Constructions
- (iv) Ball & Humphreys
- (v) BGS
- (vi) [deleted]
- (vii) Bucasia
- (viii) Cadex Varsity
- (ix) Central Avenue
- (ixa) Cleary, Clements and Radford
- (x) Conquest
- (xi) Dean
- (xii) Dooney
- (xiii) Epsaltos

- (xiv) Everton Park
- (xv) George
- (xvi) Giant Developments
- (xvii) Glenview
- (xviii) Goodwood
- (xix) Harbour Arbour
- (xx) Hardel
- (xxi) Hongrove
- (xxii) Ingleton
- (xxiii) Ivory Properties
- (xxiiia) JAR Developments
- (xxiiib) Kahler
- (xxiv) Kent
- (xxv) Keytan
- (xxvi) King
- (xxvii) Kirby BTN1
- (xxviii) Kirby BTN5
- (xxviiia) Kirby BTN6
- (xxix) Kopaka
- (xxx) LCL Developments
- (xxxi) Lifestyle Resorts
- (xxxii) Living on Lee
- (xxxiii) Lynch
- (xxxiv) Mackay Living
- (xxxv) Magnolia Grove
- (xxxvi) Mali Global
- (xxxvii) Mintgrove
- (xxxviii) MSM Developments
- (xxxix) PBI Kelvin Grove
- (xl) Plantation Rise
- (xli) Pressmint

- (xlii) QPP
- (xliii) Rangegale
- (xliv) Rebellious
- (xlv) Reichstein
- (xlva) SEQ Developments
- (xlvi) Sherben
- (xlvii) Sherwin Financial Planners
- (xlviii) Sirford
- (xlix) Summit View No.1
- (l) Summit View Meritor
- (li) Surobesh
- (lii) TBB Holdings
- (liii) Tibbing
- (liv) Tiggi
- (lv) Tomkat Projects
- (lvi) Trihedral
- (lvii) Universal
- (lviii) Vela
- (lix) Wincorp
- (lx) WLP
- (lxi) Zen Foundation
- (lxii) Zinlarge

- (o) failing to ensure that the credit assessment process included obtaining a credit bureau reference check in respect of each borrower or third party security provider, which was less than 6 months old at the time of the Wickham Loan approval.

Particulars

- (ia) Allville
- (i) Avalon
- (ii) Avpri

- (iii) Ball Constructions
- (iv) Ball & Humphreys
- (v) BGS
- (vi) [deleted]
- (vii) Bucasia
- (viii) Cadex Varsity
- (ix) Central Avenue
- (ixa) Cleary, Clements and Radford
- (x) Conquest
- (xi) Dean
- (xii) Dooney
- (xiii) Epsaltos
- (xiv) Everton Park
- (xv) George
- (xvi) Giant Developments
- (xvii) Glenview
- (xviii) Goodwood
- (xviiiia) Harbour Arbour
- (xix) Hardel
- (xx) Hongrove
- (xxi) Ingleton
- (xxii) Ivory Properties
- (xxiia) JAR Developments
- (xxiib) Kahler
- (xxiii) Kent
- (xxiv) Keytan
- (xxv) King
- (xxvi) Kirby BTN1
- (xxvii) Kirby BTN5
- (xxviiia) Kirby BTN6

- (xxviii) Kopaka
- (xxix) LCL Developments
- (xxx) Lifestyle Resorts
- (xxxi) Living on Lee
- (xxxii) Lynch
- (xxxiii) Mackay Living
- (xxxiv) Magnolia Grove
- (xxxv) Mali Global
- (xxxvi) Mintgrove
- (xxxvii) MSM Developments
- (xxxviii) PBI Kelvin Grove
- (xxxix) Plantation Rise
- (xl) Pressmint
- (xli) QPP
- (xlii) Rangegale
- (xlili) Rebellious
- (xliv) Reichstein
- (xliva) SEQ Developments
- (xlv) Sherben
- (xlvi) Sherwin Financial Planners
- (xlvii) Sirford
- (xlviii) Summit View No.1
- (xlix) Summit View Meritor
- (l) TBB Holdings
- (li) Tibbing
- (lii) Tomkat Projects
- (liii) Trihedral
- (liv) Universal
- (lv) Vela
- (lvi) Wincorp
- (lvii) WLP

(lviii) Zen Foundation

Breaches of the Business Conduct Obligation

17. During the period from about 8 June 2005 until 21 December 2012, Wickham breached the Business Conduct Obligation and section 283BB(a) of the *Corporations Act* by:

- (a) providing finance in a manner that did not comply with the Lending and Security Criteria;

Particulars

- (i) The pleadings and particulars at paragraph 16 above are repeated.
- (ii) The time period in respect of each breach of the Lending and Security Criteria set out in paragraphs 16(a)-(o) above is specified below in respect of each of the loans:

<u>1a. Allville</u>	<u>11.05.07 to 09.11.07</u>
1. Avalon	21.01.11 to 21.12.12
2. Avpri	30.09.06 to 21.12.12
3. Ball Constructions	29.02.08 to <u>30.04.08</u>
4. Ball & Humphreys	26.05.10 to 21.12.12
5. BGS	06.04.06 to <u>27.07.06</u>
<u>5a. Bucasia</u>	<u>09.07.08 to 21.12.12</u>
6. Cadex Varsity	26.02.10 to <u>30.07.10</u>
7. Central Avenue	24.10.06 to <u>07.01.08</u>
<u>7a. Cleary, Clements and Radford</u>	<u>02.05.08 to 15.09.09</u>
8. Conquest	30.08.06 to <u>01.03.07</u>
9. Dean	23.11.07 to <u>08.07.08</u>
10. Dooney	01.11.06 to <u>14.07.10</u>
11. Epsaltos	06.01.11 to 21.12.12
<u>11a. Everton Park</u>	<u>10.10.06 to 20.04.07</u>

12. George	<u>11.08.05 to 21.12.07</u>
<u>12a. Giant Developments</u>	<u>26.02.08 to 10.09.10</u>
<u>12b. Glenview</u>	<u>19.11.07 to 21.12.12</u>
<u>12c. Goodwood</u>	<u>03.12.10 to 21.12.12</u>
<u>12d. Harbour Arbour</u>	<u>31.08.06 to 06.07.07</u>
13. Hardel	09.12.05 to <u>14.01.09</u>
14. Hongrove	08.06.12 to 21.12.12
15. Ingleton	<u>11.10.07</u> to 21.12.12
16. Ivory Properties	13.12.06 to <u>17.12.07</u>
<u>16a. JAR Developments</u>	<u>24.10.05 to 13.04.06</u>
<u>16b. Kahler</u>	<u>13.04.06 to 02.03.07</u>
<u>16c. Kent</u>	<u>03.05.10 to 21.12.12</u>
<u>16d. Keytan</u>	<u>23.07.07 to 21.12.12</u>
17. King	<u>11.08.05 to 25.01.08</u>
18. Kirby BTN1	24.10.06 to <u>13.10.08</u>
19. Kirby BTN5	24.10.06 to <u>27.03.09</u>
<u>19a. Kirby BTN6</u>	<u>16.01.08 to 01.10.08</u>
20. Kopaka	05.04.07 to 21.12.12
21. LCL Developments	20.03.08 to 21.12.12
22. Lifestyle Resorts	13.06.07 to 21.12.12
23. Living on Lee	01.12.10 to <u>11.01.12</u>
24. Lynch	<u>11.08.05 to 11.01.08</u>
<u>24a. Magnolia Grove</u>	<u>14.07.06 to 14.10.07</u>
25. Mackay Living	<u>19.04.07 to 28.04.09</u>
26. Mali Global	01.08.06 to 15.08.07
27. Mintgrove	13.03.07 to 21.12.12
28. MSM Developments	<u>30.11.05 to 06.03.07</u>

29. PBI Kelvin Grove	08.06.07 to <u>14.12.07</u>
30. Plantation Rise	12.05.06 to 21.12.12
31. Pressmint	01.11.06 to 21.12.12
32. QPP	09.12.09 to 21.12.12
33. Rangegale	06.11.06 to <u>10.10.07</u>
34. Rebellious	23.11.07 to <u>21.05.08</u>
35. Reichstein	13.07.10 to 21.12.12
<u>35a. SEQ Developments</u>	<u>18.03.08 to 20.10.09</u>
36. Sherben	19.05.06 to <u>28.09.06</u>
37. Sherwin Financial Planners	17.08.12 to <u>11.05.10</u>
38. Sirford	18.01.08 to 21.12.12
39. Summit View No.1	20.07.10 to 21.12.12
40. Summit View Meritor	30.04.10 to 21.12.12
41. Surobesh	27.09.06 to <u>01.03.07</u>
42. TBB Holdings	23.01.06 to 21.12.12
43. Tibbing	06.06.06 to <u>15.01.07</u>
44. Tiggi	29.06.06 to <u>27.04.07</u>
45. Tomkat Projects	05.03.07 to <u>30.04.09</u>
46. Trihedral	10.10.05 to <u>02.10.06</u>
47. Universal	08.07.08 to <u>08.07.09</u>
48. Vela	04.02.10 to <u>07.03.11</u>
49. Wincorp	23.06.08 to 21.12.12
50. WLP	16.11.07 to 21.12.12
51. Zen Foundation	08.02.06 to <u>18.01.08</u>
52. <u>Zinlarge</u>	<u>06.03.08 to 13.11.09</u>

- (b) failing to properly conduct and manage its business operations, including in that:

Particulars

- (i) from 8 June 2005 to 21 December 2012, Wickham did not maintain or keep any ~~or any proper~~ management accounts or ~~loan balance~~ records that correctly recorded and explained its loan transactions and financial position and performance.

Particulars

- (A) Report to creditors dated 29 January 2013 by PPB Advisory, p15;
- (B) Email sent at 3.22pm on 28 November 2012 from M. Griffin, Bendigo and Adelaide Bank Ltd, to H. Williams, Sandhurst;
- (C) Such management accounts and records (to be kept and maintained by Wickham) were never prepared by Wickham;
- (D) The statement that a document or record was "never prepared by Wickham" means:
- (1) such document or record does not exist in Wickham's books and records;
 - (2) Wickham's books and records consist of:
 - a. all loan files and documents held in Wickham's office, and the data images of Wickham's records on the computer server and laptop computers that were obtained by the liquidators immediately following their appointment as administrators of Wickham on 21 December 2012;
 - b. all documents and records of Wickham held by Gaden Lawyers that were obtained by the liquidators;
 - c. all electronic books and records of Wickham on the personal laptops of Mr Bradley Sherwin, Mr Garth Robertson and Mr Brian Kingston (auditor) that were obtained by the liquidators;
 - (3) there is no evidence that such a document or record was ever maintained or kept by Wickham;
 - (4) there is no evidence that such a document or record was created by Wickham but subsequently destroyed;

- (5) there is no evidence that any director of Wickham upon or after the appointment of administrators to Wickham did not ultimately comply with his obligations under s 438B(1) of the Corporations Act;
 - (6) there is no evidence that any officer of Wickham upon or after the appointment of liquidators to Wickham did not ultimately comply with his obligations under s 530A(1) of the Corporations Act;
 - (7) upon and after their appointment as administrators and then liquidators of Wickham, the liquidators took all reasonable steps to identify and take possession of all the documents of Wickham;
- (E) The pleadings and particulars at paragraph 17(a) are repeated.
- (ii) from 8 June 2005 to 21 December 2012, Wickham did not maintain or keep any ~~or any proper~~ records, either electronic or hard copy, detailing how interest had been calculated ~~or~~ on the individual loan transactions themselves.

Particulars

- (A) Report to creditors dated 29 January 2013 by PPB Advisory, p15;
 - (B) Email sent at 3.22pm on 28 November 2012 from M. Griffin, Bendigo and Adelaide Bank Ltd, to H. Williams, Sandhurst;
 - (C) Such records detailing how interest had been calculated on the individual loan transactions (to be kept and maintained by Wickham) were never prepared by Wickham.
 - (D) The particulars at paragraph 17(b)(i)(D) are repeated.
- (iii) from 8 June 2005 to 21 December 2012, Wickham did not maintain or keep records that correctly recorded or explained its loan transactions and financial position and performance in accordance with s.286(1)(a) of the Corporations Act.

Particulars

- (A) Report to creditors dated 29 January 2013 by PPB Advisory, p22;
- (B) Email sent at 3.22pm on 28 November 2012 from M. Griffin, Bendigo and Adelaide Bank Ltd, to H. Williams, Sandhurst;

(C) Such records (to be kept and maintained by Wickham) were never prepared by Wickham.

(D) The particulars at paragraph 17(b)(i)(D) are repeated.

- (iv) from 8 June 2005 to 21 December 2012, Wickham did not maintain or keep records that would enable true and fair financial statements to be prepared and audited in accordance with s.286(1)(b) of the *Corporations Act*.

Particulars

(A) Report to creditors dated 29 January 2013 by PPB Advisory, p22;

(B) Email sent at 3.22pm on 28 November 2012 from M. Griffin, Bendigo and Adelaide Bank Ltd, to H. Williams, Sandhurst;

(C) Such records (to be kept and maintained by Wickham) were never prepared by Wickham.

(D) The particulars at paragraph 17(b)(i)(D) are repeated.

- (v) from 8 June 2005 to 21 December 2012, Wickham did not have cash flow forecasts demonstrating it was able to pay its debts as and when they fell due.

Particulars

(A) Report to creditors dated 29 January 2013 by PPB Advisory, p24;

(B) Such cash flow forecasts (to be kept by Wickham) were never prepared by Wickham.

(C) The particulars at paragraph 17(b)(i)(D) are repeated.

- (vi) from 8 June 2005 to 21 December 2012, Wickham maintained two different versions of lists of loans: one list detailed 18 loans with outstanding balances of \$27.094m and the other detailing 21 loans with a total outstanding balance of \$28.180m.

Particulars

Report to creditors dated 29 January 2013 by PBB Advisory, p.26

- (vii) from 8 June 2005 to 21 December 2012, Wickham did not issue loan statements to borrowers on a regular basis.

Particulars

(A) Report to creditors dated 16 June 2014 by PBB Advisory, p.11;

(B) Email sent at 3.22pm on 28 November 2012 from M. Griffin, Bendigo and Adelaide Bank Ltd, to H. Williams, Sandhurst.

(viii) from 8 June 2005 to 21 December 2012, Wickham did not have relied upon valuation reports which had been ~~neither~~ addressed or ~~to nor~~ assigned to it for the loans referred to in the particulars at sub-paragraphs (D) and (E) below.

Particulars

(A) Report to creditors dated 29 January 2013 by PBB Advisory, p.16;

(B) Email sent at 1.03pm on 10 September 2008 from R. Maxwell, Wickham, to H. Williams, Sandhurst.

(C) Report of Katherine Elizabeth Barnet dated 24 December 2016 ('Barnet Report'), paras 7.32, 8.31 and 9.28.

(D) The particulars at paragraph 16(h) above are repeated. None of the valuation reports contained in any of the loan files had been addressed or assigned to Wickham.

(E) In addition to the loans referred to in sub-paragraph (D) above, the following loans:

- (1) Avalon
- (2) Avpri
- (3) Cadex Varsity
- (4) Cleary, Clements and Radford
- (5) Conquest
- (6) Dean
- (7) Everton Park
- (8) Glenview
- (9) Goodwood
- (10) Hongrove
- (11) Kirby BTN6
- (12) LCL Developments
- (13) PBI Kelvin Grove
- (14) QPP
- (15) Rebellious

- (16) SEQ Developments
- (17) Sherben
- (18) Tibbing
- (19) Tiggi
- (20) Trihedral
- (21) Universal
- (22) Wincorp
- (23) Zinlarge

- (ix) from ~~23 January 2006~~ 11 August 2005 to 21 December 2012, Wickham did not hold held loan files which did not contain a copy of the loan approval by its Board or its Investment Committee for the loans set out in the particulars at sub-paragraph (B) below.

Particulars

- (A) Report to creditors dated 29 January 2013 by PBB Advisory, p.16;
- (B) Such loan approvals (to be held by Wickham) were never prepared by Wickham during that period for the following loans:
 - (1) Allville
 - (2) Avpri
 - (3) Ball Construction
 - (4) BGS
 - (5) Central Avenue
 - (6) Conquest
 - (7) Dean
 - (8) Dooney
 - (9) Everton Park
 - (10) George
 - (11) Giant Developments
 - (12) Harbour Arbour
 - (13) Hongrove
 - (14) Ingleton
 - (15) Ivory Properties
 - (16) JAR Developments

- (17) Kahler
- (18) King
- (19) Kirby BTN1
- (20) Kirby BTN5
- (21) Kirby BTN6
- (22) Lynch
- (23) Mackay Living
- (24) Mali Global
- (25) Magnolia Grove
- (26) MSM Developments
- (27) PBI Kelvin Grove
- (28) Pressmint
- (29) Rangegale
- (30) Rebellious
- (31) Sherben
- (32) Sherwin Financial Planners
- (33) Summit View Meritor
- (34) Summit View No. 1
- (35) Surobesh
- (36) Tibbing
- (37) Tiggi
- (38) Tomkat
- (39) Trihedral
- (40) WLP
- (41) Zen Foundation

(C) The particulars at paragraph 17(b)(i)(D) are repeated.

(x) [deleted]

(xi) from 8 June 2005 to 21 December 2012, Wickham did its own research utilising R.P. data to determine the value of the security properties rather than relying on valuation reports.

Particulars

(A) Email sent at 2.55pm on 19 September 2012 from G. Robertson, Wickham, to F. O'Brien, Sandhurst.

- (xii) from 8 June 2005 to 21 December 2012, Wickham held loan files all of the loan files held by Wickham did not contain current correspondence between it and its borrowers.

Particulars

(A) Report to creditors dated 29 January 2013 by PBB Advisory, p.16.

- (xiii) from 8 June 2005 to 21 December 2012, Wickham did not hold ~~held loan files, the majority of which contained no~~ approvals of loan extensions beyond the initial approved term for the loans set out in the particulars at sub-paragraph (C) below.

Particulars

(A) Report to creditors dated 29 January 2013 by PBB Advisory, p.16;

(B) Email sent at 3.22pm on 28 November 2012 from M. Griffin, Bendigo and Adelaide Bank Ltd., to H. Williams, Sandhurst.

(C) Such approvals of loan extensions (to be held by Wickham) were never prepared by Wickham during that period for the following loans:

- (1) Avalon
- (2) Avpri
- (3) Ball & Humphreys
- (4) Dooney
- (5) George
- (6) Giant Developments
- (7) Goodwood
- (8) Harbour Arbour
- (9) Ingleton
- (10) King
- (11) Kirby BTN1
- (12) Kirby BTN5
- (13) Kirby BTN6

- (14) Lynch
- (15) Mackay Living
- (16) Mintgrove
- (17) MSM Developments
- (18) Plantation Rise
- (19) Pressmint
- (20) Summit View Meritor
- (21) Summit View No. 1
- (22) TBB Holdings
- (23) Tomkat Projects
- (24) WLP

(D) The particulars at paragraph 17(b)(i)(D) are repeated.

(xiv) Wickham falsified its records by:

- (A) from 8 June 2005 to 21 December 2012, recording inaccurately the position and quality of its loan portfolio;

Particulars

Report to creditors dated 29 January 2013 by PBB Advisory, p.6.

- (B) from 14 January 2012 to 21 December 2012, recording transfers from Noteholders received after the closing of the 15 December 2010 Prospectus as secured loan repayments;

Particulars

Report to creditors dated 16 June 2014 by PBB Advisory, p.16.

- (C) from 8 June 2005 to 21 December 2012, recording two secured loans totally \$699,000 that never existed;

Particulars

Report to creditors dated 16 June 2014 by PBB Advisory, p.15.

- (D) from 15 December 2010 to 27 November 2012, recording the transfers of \$42,050 to the Robertson Super Fund and \$719,454 to Garth Robertson as loan drawdowns for borrowers;

Particulars

Report to creditors dated 16 June 2014 by PBB Advisory, p.16.

- (E) from 1 July 2010 to 21 December 2012, not recording in any loan ledger payments totalling \$4,730,000 made to Summit View;

Particulars

Report to creditors dated 16 June 2014 by PBB Advisory, p.16.

- (F) on or about 30 June 2012, recording that its loan portfolio consisted of 21 loans totalling \$28.81m as at 30 June 2012 when it actually consisted of 22 loans;

Particulars

Report to creditors dated 29 January 2013 by PBB Advisory, p.6.

- (G) on or about 30 November 2012, creating a bank account statement indicating the balance of its "Application Account" was \$10,779,835m as at 30 November 2012, when in fact the actual balance was \$264,892 as at that date.

Particulars

Report to creditors dated 16 June 2014 by PBB Advisory, p.16.

- (H) from 8 June 2005 to 21 December 2012, reporting loans as repaid when in fact they had not been;

Particulars

Report to creditors dated 29 April 2013 by PBB Advisory, p.2.

- (xv) from January 2008 to 21 December 2012, Wickham did not maintain any records for 146 of the total of 2,026 debt and credit transactions recorded in its bank accounts since January 2008 (total unreconciled deposits of \$7,328,959 and total unreconciled withdrawals of \$6,710,102).

Particulars

- (A) Report to creditors dated 29 January 2013 by PBB Advisory, p.17;
 (B) Such records (to be held by Wickham) were never prepared, maintained or kept by Wickham during that period.
 (C) The particulars at paragraph 17(b)(i)(D) are repeated.

- (xvi) from 14 January 2012 to 21 December 2012, Wickham continued to accept amounts from Noteholders after the 15 December 2010 Prospectus had closed on 14 January 2012.

Particulars

Report to creditors dated 29 January 2013 by PBB Advisory, p.6.

- (xvii) from 8 June 2005 to 21 December 2012, Wickham continued to record loans as current loans and as "current assets" in its financial accounts despite the fact that:

- (A) first mortgagees had issued notices of default to borrowers, entered into possession of security properties or taken some other recovery action;

Particulars

Report to creditors dated 16 June 2014 by PBB Advisory, p.17.

- (B) winding up proceedings against borrowers had commenced;

Particulars

Report to creditors dated 16 June 2014 by PBB Advisory, p.17.

- (C) a liquidator to a borrower had been appointed;

Particulars

Report to creditors dated 16 June 2014 by PBB Advisory, p.17.

- (D) a lender had appointed a controller to repossess and sell leased assets of a borrower;

Particulars

Report to creditors dated 16 June 2014 by PBB Advisory, p.17.

- (E) a guarantor director of a borrower had entered into bankruptcy;

Particulars

Report to creditors dated 16 June 2014 by PBB Advisory, p.17.

- (F) a corporate borrower had been struck off the ASIC register;

Particulars

Report to creditors dated 16 June 2014 by PBB Advisory, p.17.

- (xviii) As at 30 June 2008, 2009, 2010, 2011 and 2012, Wickham provided for doubtful debts of \$105,000 for FY08, \$625,000 for FY09 to FY12 when such provisioning was not consistent with the loan balances as at 30 June of each of those years.

Particulars

Report to creditors dated 16 June 2014 by PBB Advisory, p.18.

- (xix) During the 6 months ended 31 December 2005 Wickham breached clause 6.4(a) of the Trust Deed by failing to maintain its Net Tangible Assets ("NTA") with a value of at least equal to the Minimum Capital of \$300,000 at the time.

Particulars

Wickham's financial accounts for the half year to December 2005 recorded the NTA of \$160,969.

- (xx) During the 6 months ended 30 June 2010 Wickham breached clause 6.4(a) of the Trust Deed by failing to maintain its Net Tangible Assets ("NTA") with a value of at least equal to Minimum Capital of \$662,906 at the time.

Particulars

Wickham's financial accounts for the year ended 30 June 2010 recorded the NTA of \$618,341.

- (xxi) For each quarter commencing 31 December 2010 and continuing to 21 December 2012, Wickham failed to comply with its undertaking to Sandhurst given on 18 December 2009 as varied on 28 March 2010 that it would retain a minimum of 10% of its profits as retained profits each quarter with a minimum quarterly retention of \$15,000 (increased to \$40,000 from 28 March 2010) until total equity equalled \$1,000,000.

Particulars

- (A) Email sent at 9.12am on 18 December 2010 from B. Sherwin, Wickham, to H. Williams, Sandhurst;
- (B) Email sent at 4.27pm on 28 March 2010 from B. Sherwin, Wickham, to H. Williams, Sandhurst.

- (xxii) From 15 December 2010 to 21 December 2010 Wickham caused transfers totalling \$44,050 to be made from its bank account to an account held by Robertson Super Fund.

Particulars

Report to creditors dated 16 June 2014 by PBB Advisory, p.15.

- (xxiii) On or about 22 February 2011, 21 July 2011, 26 October 2011, 29 May 2012, 8 June 2012, 12 November 2012, 21 November 2012 and 27 November 2012 Wickham caused transfers totalling \$719,454 to be made from its bank account to an account held by Mr. Garth Robertson, a former director of Wickham.

Particulars

Report to creditors dated 16 June 2014 by PBB Advisory, p.15.

- (xxiv) On 6 December 2011 Wickham caused the payment of \$95,113 to be made from its bank account to the building company contracted by Bradley Sherwin's wife, Deborah Sherwin, to complete renovations to the former residence of Bradley Sherwin, a director of Wickham.

Particulars

Report to creditors dated 16 June 2014 by PBB Advisory, p. 16.

- (xxv) During the 6 months ended 31 December 2009 Wickham made payments to its shareholders, Sherwin Financial Planners Pty Ltd and Reacraft Pty Ltd, as dividends in circumstances where the payments exceeded by an amount of \$1,089,883 the funds available to be paid as dividends.

Particulars

(A) Report to creditors dated 16 June 2014 by PBB Advisory, p.19.

(B) 17 June 2010 Prospectus, p.1.

- (xxvi) Wickham re-categorised the overpayment of \$1,089,883 as an unsecured loan to Sherwin Financial Planners Pty Ltd, which was a related party, and without proper documentation or loan approval before it was made.

Particulars

(A) Report to creditors dated 16 June 2014 by PBB Advisory, p.19.

(B) 17 June 2010 Prospectus, p.1.

- (xxvii) Wickham failed to follow the 9-stage decision making process for making loans to borrowers.

Particulars

There is no evidence in any of Wickham's books and records or loan files that Wickham ever followed the 9-stage decision making process.

- (xxviii) From 8 June 2005 to 8 July 2006 Wickham lent funds raised through the issuing of capital in notes to finance property development projects.

Particulars

Wickham lent funds raised through the issuing of capital in notes to finance property development projects for the following loans:

- (A) Hardel
- (B) JAR Developments
- (C) Kahler
- (D) MSM Developments
- (E) Plantation Rise
- (F) TBB Holdings
- (G) Trihedral
- (H) Sherben
- (I) Zen Foundation

- (xxix) On or after 9 July 2006 to 21 December 2012 Wickham applied more than 40% of its total assets in the financing of property development projects.
- (xxx) From 8 June 2005 to 21 December 2012, Wickham failed to make loans, or extend loans, by the unanimous decision of the Investment Committee.

Particulars

There is no evidence in any of Wickham's books and records or loan files that Wickham made loans, or extended loans, by unanimous decision of the Investment Committee for the loans particularised at sub-paragraphs 17(b)(ix)(B) and 17(b)(xiii)(C) above.

- (xxxi) From 8 June 2005 to 21 December 2012, Wickham failed to conduct a thorough assessment process, or at all, involving due diligence, market research and feasibility studies before deciding to make any loan to a borrower.

Particulars

There is no evidence in any of Wickham's books and records or loan files, that Wickham ever conducted any such assessment process.

- (xxxii) From 8 June 2005 to 21 December 2012, the Investment Committee failed to monitor actively or at all Wickham's risk exposure and level of return.

Particulars

There is no evidence in any of Wickham's books and records or loan files, that the Investment Committee ever monitored such matters.

- (xxxiii) From 8 June 2005 to 21 December 2012, the Investment Committee was not involved in the ongoing management of loans which included periodically monitoring the amount of new loans against the value of real estate taken as security for those loans.

Particulars

There is no evidence in any of Wickham's books and records or loan files that the Investment Committee was involved in such ongoing management of loans.

- (c) from 8 June 2005 to 21 December 2012, failing to establish and maintain adequate systems and management control processes to monitor and ensure Wickham's compliance with the Trust Deed, the *Corporations Act* and the Lending and Security Criteria in that:

Particulars

- (i) there was no system or management control process to ensure that all Wickham Loans were fully documented and made on an arm's length, commercial basis as to interest, terms and security;

Particulars

- (A) The pleadings and particulars at paragraphs 8(f)(i) & (g)(i) are repeated.
- (B) Report to creditors dated 16 June 2014 by PPB Advisory, p17.
- (C) There is no evidence in any of Wickham's manuals, checklists or documented processes, procedures or systems ~~books and records or loan files~~ that any such system or management control process had been established and followed by Wickham during that period.
- (D) It is to be inferred from Wickham's failures to comply with this Lending and Security Criteria, as pleaded and particularised at paragraph

16(a) above, that no such system or management control process had been established or followed by Wickham during that period.

(ii) [deleted]

(iii) on or after 9 July 2006 there was no system or management control process to ensure that Wickham Loans made were made for terms of no more than 24 months;

Particulars

(A) The pleadings and particulars at paragraphs 8(f)(i) & (g)(ii) are repeated.

(B) There is no evidence in any of Wickham's manuals, checklists or documented processes, procedures or systems ~~books and records or loan files~~ that any such system or management control process had been established and followed by Wickham during that period.

(C) It is to be inferred from Wickham's failures to comply with this Lending and Security Criteria, as pleaded and particularised at paragraph 16(c) above, that no such system or management control process had been established or followed by Wickham during that period.

(iv) there was no system or management control process to ensure that each Wickham loan or extension of the term of a Wickham Loan was properly documented and made in accordance with reasonably prudent lending practices;

Particulars

(A) Report to creditors dated 16 June 2014 by PPB Advisory, p17.

(B) There is no evidence in any of Wickham's manuals, checklists or documented processes, procedures or systems ~~books and records or loan files~~ that any such system or management control process had been established and followed by Wickham during that period.

(C) It is to be inferred from Wickham's failures to comply with this Lending and Security Criteria, as pleaded and particularised at paragraph 16 above, that no such system or management control process had been established or followed by Wickham during that period.

- (v) there was no system or management control process to ensure that loan funds would not be advanced until obtaining from the borrower (and any applicable guarantors) security that was sufficient to satisfy all of the borrower's obligations under the applicable Wickham Loan and, where applicable, any prior-ranking security interests;

Particulars

- (A) The pleadings and particulars at paragraphs 8(f)(i) & (g)(iii) are repeated.
- (B) There is no evidence in any of Wickham's manuals, checklists or documented processes, procedures or systems ~~books and records or loan files~~ that any such system or management control process had been established and followed by Wickham during that period.
- (C) It is to be inferred from Wickham's failures to comply with this Lending and Security Criteria, as pleaded and particularised at paragraph 16(d) above, that no such system or management control process had been established or followed by Wickham during that period.

- (vi) there was no system or management control process to ensure that loan funds would not be advanced unless a registrable first or second mortgage over real property security was held to secure the principal and interest under the applicable Wickham Loan;

Particulars

- (A) The pleadings and particulars at paragraphs 8(f)(i) & (g)(iv) are repeated.
- (B) There is no evidence in any of Wickham's manuals, checklists or documented processes, procedures or systems ~~books and records or loan files~~ that any such system or management control process had been established and followed by Wickham during that period.
- (C) It is to be inferred from Wickham's failures to comply with this Lending and Security Criteria, as pleaded and particularised at paragraph 16(e) above, that no such system or management control process had been established or followed by Wickham during that period.

- (vii) there was no system or management control process to ensure that, if collateral security was required, then loan funds would not be advanced until the required collateral security had first been obtained;

Particulars

- (A) The pleadings and particulars at paragraphs 8(f)(i) & (g)(v) are repeated.
 - (B) There is no evidence in any of Wickham's manuals, checklists or documented processes, procedures or systems ~~books and records or loan files~~ that any such system or management control process had been established and followed by Wickham during that period.
 - (C) It is to be inferred from Wickham's failures to comply with this Lending and Security Criteria, as pleaded and particularised at paragraph 16(f) above, that no such system or management control process had been established or followed by Wickham during that period.
- (viii) there was no system or management control process to ensure that the maximum amount that was advanced in respect of any Wickham Loan did not exceed the Facility Limit;

Particulars

- (A) The pleadings and particulars at paragraphs 8(f)(i) & (g)(vi)(vii) are repeated.
 - (B) There is no evidence in any of Wickham's manuals, checklists or documented processes, procedures or systems ~~books and records or loan files~~ that any such system or management control process had been established and followed by Wickham during that period.
 - (C) It is to be inferred from Wickham's failures to comply with this Lending and Security Criteria, as pleaded and particularised at paragraph 16(g) above, that no such system or management control process had been established or followed by Wickham during that period.
- (ix) there was no system or management control process to ensure that the value of real property offered as security was determined at the market value for mortgage lending purposes by a registered valuer approved by, but independent of, Wickham;

Particulars

- (A) The pleadings and particulars at paragraphs 8(f)(i) & (g)(viii) are repeated.

- (B) There is no evidence in any of Wickham's manuals, checklists or documented processes, procedures or systems ~~books and records or loan files~~ that any such system or management control process had been established and followed by Wickham during that period.
 - (C) It is to be inferred from Wickham's failures to comply with this Lending and Security Criteria, as pleaded and particularised at paragraph 16(h) above, that no such system or management control process had been established or followed by Wickham during that period.
- (x) there was no system or management control process to ensure that valuations were less than 6 months old at the time of any Wickham Loan approval;

Particulars

- (A) The pleadings and particulars at paragraphs 8(f)(i) & (g)(xi) are repeated.
 - (B) There is no evidence in any of Wickham's manuals, checklists or documented processes, procedures or systems ~~books and records or loan files~~ that any such system or management control process had been established and followed by Wickham during that period.
 - (C) It is to be inferred from Wickham's failures to comply with this Lending and Security Criteria, as pleaded and particularised at paragraph 16(i) above, that no such system or management control process had been established or followed by Wickham during that period.
- (xi) there was no system or management control process to ensure that in the case of development of real property (where permitted under the terms of the relevant Prospectus) funds were advanced only after reviewing, and being satisfied with, a detailed feasibility report prepared by or for the borrower which evidenced the viability and profitability of the development project;

Particulars

- (A) The pleadings and particulars at paragraphs 8(f)(i) & (g)(x) are repeated.
- (B) There is no evidence in any of Wickham's manuals, checklists or documented processes, procedures or systems ~~books and records or~~

loan files that any such system or management control process had been established and followed by Wickham during that period.

- (C) It is to be inferred from Wickham's failures to comply with this Lending and Security Criteria, as pleaded and particularised at paragraph 16(j) above, that no such system or management control process had been established or followed by Wickham during that period.

- (xii) there was no system or management control process to ensure that where the construction phase of the development had not commenced, the value of real property was taken as the high of its purchase price or its "as is" value as determined by the valuer;

Particulars

- (A) The pleadings and particulars at paragraphs 8(f)(i) & (g)(xi) are repeated.
- (B) There is no evidence in any of Wickham's manuals, checklists or documented processes, procedures or systems ~~books and records or loan files~~ that any such system or management control process had been established and followed by Wickham during that period.
- (C) It is to be inferred from Wickham's failures to comply with this Lending and Security Criteria, as pleaded and particularised at paragraph 16(k) above, that no such system or management control process had been established or followed by Wickham during that period.

- (xiii) there was no system or management control process to ensure that where the construction phase had commenced the value would be calculated as the "on completion" value multiplied by the percentage of completion of the development works;

Particulars

- (A) The pleadings and particulars at paragraphs 8(f)(i) & (g)(xii) are repeated.
- (B) There is no evidence in any of Wickham's manuals, checklists or documented processes, procedures or systems ~~books and records or loan files~~ that any such system or management control process had been established and followed by Wickham during that period.
- (C) It is to be inferred from Wickham's failures to comply with this Lending and Security Criteria, as pleaded and particularised at paragraph 16(l)

above, that no such system or management control process had been established or followed by Wickham during that period.

- (xiv) there was no system or management control process to ensure that where the security property was improved land, it was insured at the cost of the borrower to its full replacement value as at the date of the Wickham Loan;

Particulars

- (A) The pleadings and particulars at paragraphs 8(f)(i) & (g)(xiii) are repeated.
- (B) There is no evidence in any of Wickham's manuals, checklists or documented processes, procedures or systems ~~books and records or loan files~~ that any such system or management control process had been established and followed by Wickham during that period.
- (C) It is to be inferred from Wickham's failures to comply with this Lending and Security Criteria, as pleaded and particularised at paragraph 16(m) above, that no such system or management control process had been established or followed by Wickham during that period.

- (xv) there was no system or management control process to ensure that prior to agreeing to any proposed loan, the ability of any potential borrower to meet payments of interest and principal when due under the proposed loan had been assessed;

Particulars

- (A) The pleadings and particulars at paragraphs 8(f)(i) & (g)(xiv) are repeated.
- (B) There is no evidence in any of Wickham's manuals, checklists or documented processes, procedures or systems ~~books and records or loan files~~ that any such system or management control process had been established and followed by Wickham during that period.
- (C) It is to be inferred from Wickham's failures to comply with this Lending and Security Criteria, as pleaded and particularised at paragraph 16(n) above, that no such system or management control process had been established or followed by Wickham during that period.

- (xvi) there was no system or management control process to ensure that the credit assessment process would include obtaining a credit bureau reference check in respect of each borrower or third party security provider, which must be less than 6 months old at the time of the Wickham Loan approval;

Particulars

- (A) The pleadings and particulars at paragraphs 8(f)(i) & (g)(xv) are repeated.
- (B) There is no evidence in any of Wickham's manuals, checklists or documented processes, procedures or systems ~~books and records or loan files~~ that any such system or management control process had been established and followed by Wickham during that period.
- (C) It is to be inferred from Wickham's failures to comply with this Lending and Security Criteria, as pleaded and particularised at paragraph 16(o) above, that no such system or management control process had been established or followed by Wickham during that period.
- (xvii) there was no, or at least no adequate, system for preparing and maintaining loan records, including account ledgers and statements, for the Wickham Loans;

Particulars

- (A) Report to creditors dated 16 June 2014 by PPB Advisory, p7 and 11.
- (B) There is no evidence in any of Wickham's manuals, checklists or documented processes, procedures or systems ~~books and records or loan files~~ that any such system had been established and followed by Wickham during that period.
- (C) It is to be inferred from Wickham's failures to prepare and maintain such records, that no such system had been established or followed by Wickham during that period.
- (xviii) there was no system or management control process to identify and monitor borrowers in default of their loan agreements;

Particulars

- (A) There is no evidence in any of Wickham's manuals, checklists or documented processes, procedures or systems ~~books and records or~~

loan files that any such system or management control process had been established and followed by Wickham during that period.

(B) It is to be inferred from Wickham's failures to identify and monitor such borrowers in default, that no such system had been established or followed by Wickham during that period.

(xix) there was no system or management control process to ensure that recovery/legal action would be commenced once a Wickham Loan account remained in arrears for one month;

Particulars

(A) There is no evidence in any of Wickham's manuals, checklists or documented processes, procedures or systems ~~books and records or~~ loan files that any such system or management control process had been established and followed by Wickham during that period.

(B) It is to be inferred from Wickham's failures to ensure that such recovery/legal action was commenced, that no such system had been established or followed by Wickham during that period.

(xx) there was no, or at least no adequate, reporting to facilitate compliance monitoring for internal management, board supervision and external supervision (Sandhurst);

Particulars

There is no evidence in any of Wickham's manuals, checklists or documented processes, procedures or systems ~~books and records or loan~~ files that any such reporting had been established and followed by Wickham.

(xxi) there was no, or at least no adequate, system or procedure of reviewing valuations:

(A) to ensure that the assumptions therein were appropriately made and/or accurate;

(B) to determine the currency of the valuations;

(C) to determine whether the valuations were carried out on a consistent basis;

(D) to determine whether the valuation methodology was appropriate;

- (E) to determine whether the valuer had any conflict of interest in providing valuations to Wickham (for instance by reason of having valued the property for the borrower);

Particulars

- (1) There is no evidence in any of Wickham's manuals, checklists or documented processes, procedures or systems ~~books and records or loan files~~ that any such system or procedure had been established and followed by Wickham during that period.
- (2) It is to be inferred from Wickham's failures to do those things referred to at subparagraph 17(xxi) above, that no such system or procedure had been established or followed by Wickham during that period.
- (xxii) there was no, or at least no adequate, system of internal control which resulted in a high degree of non-existent, inadequate or incorrect valuations;

Particulars

- (A) There is no evidence in any of Wickham's manuals, checklists or documented processes, procedures or systems ~~books and records or loan files~~ that any such system of internal control had been established and followed by Wickham during that period.
- (B) It is to be inferred from Wickham's failures to obtain adequate and correct valuations, as pleaded and particularised at paragraph 16(h) above, that no such system had been established or followed by Wickham during that period.
- (xxiii) there was no, or at least no adequate, system or procedure for ensuring that valuations assumed the value of the security on the basis of a mortgagee in possession or distressed sale as was likely to be the case in relation to non-performing Wickham Loans;

Particulars

- (A) There is no evidence in any of Wickham's manuals, checklists or documented processes, procedures or systems ~~books and records or loan files~~ that any such system or procedure had been established and followed by Wickham during that period.
- (B) It is to be inferred from Wickham's failures to obtain such valuations, as pleaded and particularised at paragraph 16(h) above, that no such

system or procedure had been established or followed by Wickham during that period.

- (xxiv) there was no, or at least no adequate, a-system or procedure for determining:
- (A) whether the securities for a non-performing Wickham Loan would be enforced, and if so how;
 - (B) how long it would take to enforce a security for a non-performing Wickham Loan and the costs associated with any delays in realisation;
 - (C) the most appropriate recovery strategy in relation to non-performing Wickham Loans;

Particulars

- (A) There is no evidence in any of Wickham's manuals, checklists or documented processes, procedures or systems ~~books and records or loan files~~ that any such system or procedure had been established and followed by Wickham during that period.
- (B) It is to be inferred from Wickham's failures to do those things referred to at subparagraph 17(xxiv) above, that no such system or procedure had been established or followed by Wickham during that period.

- (xxv) there was no, or at least no adequate, system of internal control for the prompt commencement of recovery action in relation to securities for non-performing Wickham Loans and there was no system for reporting and dealing with delays in recovery;

Particulars

- (A) There is no evidence in any of Wickham's manuals, checklists or documented processes, procedures or systems ~~books and records or loan files~~ that any such system of internal control had been established and followed by Wickham during that period.
- (B) It is to be inferred from Wickham's failures to do those things referred to at subparagraph 17(xxv) above, that no such system of internal control had been established or followed by Wickham during that period.

- (xxvi) there was no, or at least no adequate, system or procedure for determining the holding costs, realisation costs and other costs associated with holding or selling securities with regard to non-performing Wickham Loans and the effect of those costs on the Facility Limit;

Particulars

- (A) There is no evidence in any of Wickham's manuals, checklists or documented processes, procedures or systems ~~books and records or loan files~~ that any such system or procedure had been established and followed by Wickham during that period.
- (B) It is to be inferred from Wickham's failures to do those things referred to at subparagraph 17(xxvi) above, that no such system or procedure had been established or followed by Wickham during that period.

- (xxvii) there was no, or at least no adequate, system or procedure for ensuring the adequacy of provisioning for non-performing loans or doubtful debts.

Particulars

- (A) Report to creditors dated 16 June 2014 by PPB Advisory, pp17-18 & 24-27.
- (B) There is no evidence in any of Wickham's manuals, checklists or documented processes, procedures or systems ~~books and records or loan files~~ that any such system or procedure had been established and followed by Wickham during that period.
- (C) It is to be inferred from Wickham's failures to do those things referred to at subparagraph 17(xxvii) above, that no such system or procedure had been established or followed by Wickham during that period.

Trustee's obligation to ensure compliance with Trust Deed and Corporations Act

18. In order to discharge its obligations to ensure that Wickham complied with the provisions of the Trust Deed and the *Corporations Act*, a trustee exercising reasonable diligence in the position of Sandhurst would have done, by its senior business manager, supervised subordinates or professional advisers, at least the following things:

- (a) prior to, or at least soon after, its appointment as trustee:

- (i) reviewed the terms of the Trust Deed to identify and understand the covenants, duties and restrictions imposed upon Wickham in carrying on and conducting its business;

Particulars

Report of Clive Thomas Guthrie dated 28 September 2016 ('Guthrie Report'), paras 22, 35 to 37

- (ii) reviewed any prospectus currently issued or proposed to be issued by Wickham for the issuing of Notes under the Trust Deed to identify and understand any representations made to prospective Noteholders about how Wickham intended to carry on and conduct its business;

Particulars

Guthrie Report, paras 29 to 31

- (iii) made enquiries about the directors and senior managers of Wickham so as to be reasonably satisfied that they had appropriate experience and qualifications to be able to ensure that the business of Wickham was carried on and conducted in a proper and efficient manner;

Particulars

Guthrie Report, paras 25, 26 & 41

- (iv) attended the offices of Wickham and made enquiries about the business operations of Wickham so as to be reasonably satisfied about the existence of adequate systems, procedures and resources that would enable the business of Wickham to be carried on and conducted in a proper and efficient manner, particularly in respect of:

(A) [deleted]

(B) [deleted]

(C) [deleted]

(D) [deleted]

(E) [deleted]

ParticularsGuthrie Report, paras 41 to 59

- (v) [deleted]
- (b) about 6 months after its appointment as trustee, and from time to time thereafter but at least every 12 months after its appointment as trustee, attended the offices of Wickham and:
 - (i) made enquiries about the business operations of Wickham so as to be reasonably satisfied that the systems, procedures and resources were adequate to enable Wickham to carry on and conduct its business in a proper and efficient manner ~~particularly in respect of;~~
 - (A) [deleted]
 - (B) [deleted]
 - (C) [deleted]
 - (D) [deleted]
 - (E) [deleted]

ParticularsGuthrie Report, paras 60 to 63, 99, 102 to 104, 193, 196 to 198, 283 and 286 to 287

- (ii) in about December 2005, inspected the physical records maintained by Wickham in respect of
 - (A) [deleted]
 - (B) [deleted]
 - (C) [deleted]
 - (D) [deleted]

all of the existing Wickham Loans so as to ascertain that such Wickham Loans complied in all material respects with the requirements of the Lending and Security Criteria, and Trust Deed and Prospectus; and

Particulars

Guthrie Report, paras 60 and 64 to 92

(iii) in or about June 2006:

- (A) inspected the physical records maintained by Wickham in respect of all, or at least most, of the existing Wickham Loans so as to ascertain that such Wickham Loans complied in all material respects with the requirements of the Lending and Security Criteria, and Trust Deed and Prospectus; and

Particulars

Guthrie Report, paras 99 and 108 to 110 478

- (B) placed any such Wickham Loans on a “watch list” if the trustee was not satisfied that it had been conducted in a manner that complied with the requirements of the Lending and Security Criteria, and Trust Deed and Prospectus and required Wickham to provide progress reports (at least together with each quarterly s283BF report) on the steps being taken to ensure that each of the loans complied with those requirements;

Particulars

Guthrie Report, paras 119(c), 122(c), 127(d), 131(d), 135(b), 143(e), 149(d), 153(d), 159(d), 162(d), 171(e) and 178(d)

(iv) in or about June 2007, inspected the physical records maintained by Wickham in respect of:

- (A) most, if not all, of the existing Wickham Loans that had been placed on the trustee’s “watch list” as a result of the June 2006 monitoring visit; and

- (B) at least 6 other mortgage loans including one or more of the 3 largest Wickham Loans and one or more of the next 3 largest Wickham Loans,

so as to ascertain that such Wickham Loans complied with the requirements of the Lending and Security Criteria, and Trust Deed and Prospectus; and

Particulars

Guthrie Report, paras 193 and 202 to 276

- (C) placed any such Wickham Loans on a "watch list" if the trustee was not satisfied that it had been conducted in a manner that complied with the requirements of the Lending and Security Criteria, and Trust Deed and Prospectus and required Wickham to provide progress reports (at least together with each quarterly s283BF report) on the steps being taken to ensure that each of the loans complied with those requirements;

Particulars

Guthrie Report, paras 208, 215(b), 221(d), 233(c), 244(b), 247(d), 252(b), 257(b), 262 (b) and 275(f)

- (v) in or about June of each year from 2008 to 2012, inspected the physical records maintained by Wickham in respect of:

- (A) most, if not all, of the existing Wickham Loans that had been placed on the trustee's "watch list" as a result of the preceding monitoring visits; and
- (B) at least 6 other mortgage loans including one or more of the 3 largest Wickham Loans and one or more of the next 3 largest Wickham Loans,

so as to ascertain that such Wickham Loans complied with the requirements of the Lending and Security Criteria, and Trust Deed and Prospectus; and

Particulars

Guthrie Report, paras 283, 292 and 294

- (C) placed any such Wickham Loans on a "watch list" if the trustee was not satisfied that it had been conducted in a manner that complied with the requirements of the Lending and Security Criteria, and Trust Deed and Prospectus and required Wickham to provide progress reports (at least together with each quarterly s283BF report) on the steps being taken to ensure that each of the loans complied with those requirements;

Particulars

Guthrie Report, paras 295(b) & (c)

- (c) [deleted]
- (d) upon receipt of each quarterly report by Wickham:
- (i) considered the information provided in the report, having regard to the matters referred to in s283BF(4) of the *Corporations Act*; and
 - (ii) exercised reasonable diligence to satisfy itself that the information provided was complete and accurate in all material respects.

Particulars

Guthrie Report, paras 100 & 101, 194 & 195 and 284 & 285

Sandhurst's failure to exercise reasonable diligence

19. If a trustee exercising reasonable diligence in the position of Sandhurst had done the things referred to in paragraph 18 above, it would have:

- (a) prior to, or at least soon after, its appointment as trustee, ascertained all, or at least many, of the matters referred to in paragraph 17(c) above;
- (b) about 6 months after its appointment as trustee, and thereafter in or about each anniversary of its appointment as trustee 12-month period thereafter, ascertained all, or at least many, of:

- (i) the matters referred to in paragraphs 18(b) & (c) above; and/or
- (ii) the matters referred to in paragraphs 16 and 17 above that had occurred prior to that time ~~in respect of one or more of the three largest non-performing Wickham loans and at least two conforming Wickham loans;~~

(c) [deleted]

20. From about 8 June 2005 until about 21 December 2012, Sandhurst failed to do the things and did not make any, or at least any adequate, enquiries of the kind referred to in paragraphs 18 and 19 above, and therefore did not, at any time prior to 31 December 2007, or alternatively by no later than about 21 December 2012, ascertain any of the matters referred to in paragraphs 16 and 17 above.

Sandhurst's breaches of the Reasonable Diligence Covenant and contraventions of s283DA(b)(ii) of the Corporations Act

21. By reason of the matters referred to in paragraph 20 above, Sandhurst breached the Reasonable Diligence Covenant and contravened s283DA(b)(ii) of the *Corporations Act* in that it failed to exercise reasonable diligence to ascertain whether Wickham had committed breaches of:

- (a) the Lending and Security Criteria, as pleaded at paragraph 16 above;
- (b) the Business Conduct Requirement and the provisions of s 283BB (a) of the *Corporations Act*, as pleaded at paragraph 17 above.

Loss or Damage

22. In the premises, if Sandhurst had exercised reasonable diligence as required by the Reasonable Diligence Covenant and s 283DA(b)(ii) of the *Corporations Act*, it would have ascertained:

- (a) by no later than about 31 December 2005; or
- (b) if not then, by no later than about 30 June 2006; or
- (c) [deleted]

- (d) if not then, by no later than about 30 June 2007; or
- (e) [deleted]
- (f) if not then, by no later than about 30 June 2008; or
- (g) [deleted]
- (h) if not then, by no later than about 30 June 2009; or
- (i) [deleted]
- (j) if not then, by no later than about 30 June 2010; or
- (k) [deleted]
- (l) if not then, by no later than about 30 June 2011; or
- (m) [deleted]
- (n) if not then, by no later than about 30 June 2012.

("applicable dates")

~~that Wickham had committed~~ all, or at least many, of the ~~breaches~~ matters referred to in paragraphs 16 and 17 above that had occurred prior to ~~that~~ each of the applicable dates.

Particulars

Guthrie Report, paras 60 to 92, 94 to 178, 193 to 276 and 283 to 295.

22A. In or about December 2005, upon ascertaining all, or at least many, of the matters referred to in paragraphs 16 and 17 above that had occurred prior to each of the applicable dates, a trustee exercising reasonable diligence would have required Wickham to have adequately remedied any such deficiencies in a timely way and to have reported accordingly to the trustee.

Particulars

Guthrie Report, paras 61, 76, 79, 83(a) & (b), 86(a) & (b) and 92

22B. From and including about 30 June 2006, upon ascertaining all, or at least many, of the matters referred to in paragraphs 16 and 17 above that had occurred prior to each of the

applicable dates, a trustee exercising reasonable diligence would have appointed an investigator to inquire into, and report upon, at least the following matters:

- (a) whether the concerns that had been identified by the trustee were justified;
- (b) whether there were any additional concerns about any of the mortgage loans made by Wickham and, if so, the nature and factual basis of those concerns;
- (c) whether Wickham was maintaining adequate systems, processes and procedures for the management of its mortgage lending business;
- (d) whether Wickham was maintaining adequate financial and accounting records for its mortgage lending business and generally;
- (e) whether Wickham had, or had access to, adequate financial, technical and human resources to ensure that its operations would be performed and maintained to the highest standard;
- (f) whether Wickham was carrying on and conducting its business in a proper and efficient manner;
- (g) the financial condition of Wickham, including whether it had, and was likely to have, the ability to repay the amount of the notes as and when the notes became due;
- (h) whether there were any other matters that may materially prejudice the interests of note holders;
- (i) any other matter considered to be relevant.

Particulars

Guthrie Report, paras 179 to 181, 277 to 279 and 296 to 298

22C. Upon investigation into the matters referred to in paragraph 22B above, a competent and diligent investigator would have reported to the trustee that:

- (a) Wickham likely had insufficient assets to repay all of the funds owed to existing Noteholders;
- (b) Wickham had systematically and materially failed to comply with the Lending Criteria in making loans to borrowers;

- (c) Wickham had not adequately maintained financial records for its mortgage lending business;
- (d) Wickham had not carried out its mortgage lending business in a proper and efficient way;
- (e) In the circumstances referred to in sub-paragraphs (a) to (d) above, all of which placed the Noteholders' funds in a position of considerable risk of loss, the Trustee should obtain legal advice, as a matter of urgency, to:
 - (i) prevent the further raising of funds through the issuing of Notes;
 - (ii) disclose the asset deficiency in documents provided to potential Noteholders such as prospectuses (including those that roll over existing Notes);
 - (iii) have an independent person such as a receiver appointed to Wickham.

Particulars

Barnet Report, paras 4.2, 7.114 to 7.116, 8.109 to 8.111 and 9.105 to 9.107

- 22D. A trustee exercising reasonable diligence would have, within about 28 days after receiving an investigator's report of the kind referred to in paragraph 22C above, would have sought and obtained legal advice about whether, having regard to the matters identified in the investigator's report, Wickham had failed to comply with the provisions of the Trust Deed and Chapter 2L of the *Corporations Act*.

Particulars

Guthrie Report, paras 182(a), 280(a) and 299.

- 22E. Based upon the matters referred to in the investigator's report, a competent lawyer with relevant experience would have advised the trustee that all, or at least many, of those matters did comprise or evidence failures by Wickham to comply with the provisions of the Trust Deed and Chapter 2L of the *Corporations Act*.

23. Upon ascertaining all, or at least many, of the matters referred to in paragraphs 16 and 17 above Within about 7 days after obtaining the legal advice referred to in paragraph 22E above, a trustee exercising reasonable diligence in the position of Sandhurst would

have served on Wickham a notice specifying such breaches and requiring Wickham to remedy such breaches as were reasonably capable of remedy within 24 30 days.

Particulars

- (a) Unsecured Note Trust Deed, clause 12.1(c); and
- (b) *Corporations Act*, s.283DA (c)(ii)
- (c) Guthrie Report, paras 182(b), 280(b) and 299

24. A trustee exercising reasonable diligence in the position of Sandhurst, after requiring Wickham to remedy such breaches as were reasonably capable of remedy, would have ascertained whether those breaches had been remedied by Wickham.
25. If a trustee exercising reasonable diligence in the position of Sandhurst had ascertained that Wickham had committed breaches that were not reasonably capable of remedy or Wickham had failed to remedy such breaches as were reasonably capable of remedy, and if any such breaches had:
 - (a) resulted, or was likely to result, in the protective buffer intended to be maintained by compliance with the LVR limits being materially diminished or otherwise compromised;
 - (b) resulted, or was likely to result, in a higher level of loans in arrears or default that would otherwise reasonably have been expected;
 - (c) demonstrated that Wickham was not carrying on and conducting its business in a proper and efficient manner;
 - (d) demonstrated that the financial condition of Wickham was unsatisfactory, especially if it did not have, and was not likely to have, the ability to repay the amount of the Notes as and when the Notes became due;
 - (e) demonstrated a systemic and sustained pattern of material breaches by Wickham of the provisions of the Trust Deed and/or Chapter 2L of the *Corporations Act*;
 - (f) otherwise materially prejudiced the interests of Note holders.

it would have within about 7 days after the expiry of the 2430 day notice period applied to the Court for an order appointing a receiver to the property of Wickham.

Particulars

- (i) *Corporations Act*, s.283HB(1)(g);
- (ii) *Corporations Act*, s.1323(1)(h);
- (iii) *Federal Court of Australia Act 1976*, s.57;
- (iv) Guthrie Report, paras 183, 281 and 300

26. If Sandhurst had:

- (b) required Wickham to remedy all existing breaches, as pleaded in paragraph 23 above; and
- (c) ascertained that such breaches had been remedied by Wickham, as pleaded in paragraph 24 above;

or further and alternatively:

- (d) applied to the Court for, and obtained, an order appointing a receiver to the property of Wickham constituting security for the Notes, as pleaded in paragraph 25 above,

then the Noteholders would not have suffered any, or at least not so much, loss of their Note Money.

Particulars

- (i) If Wickham had remedied all breaches referred to in paragraphs 16 and 17 above, then the amount of each loan of Note Money would have been repaid or recovered in full.
- (ii) If Wickham had been placed into receivership pursuant to an order of the Court as pleaded in paragraph 26 (c) above, then the amount of ~~each loan of Note Money~~ that would have been available to be distributed to Note holders was:
 - (A) as at about 31 December 2006, about \$0.95 per dollar;
 - (B) as at about 30 June 2007, about \$0.84 per dollar;
 - (C) as at about 31 December 2007, about \$0.79 per dollar;
 - (D) as at about 30 June 2008, about \$0.71 per dollar;
 - (E) as at about 31 December 2008, about \$0.68 per dollar;

Sub-particulars

Report of Tony Samuel dated 31 October 2016 ('Samuel Report'), paras 24, 26, 73 and 75.

(iii) [deleted]

(iv) If Wickham had been placed into receivership pursuant to an order of the Court as pleaded in paragraph 26 (c) above, Group Members who were issued Notes debentures after the date receivers were appointed would not have acquired those debentures.

27. Prior to 31 December 2007, or alternatively about 21 December 2012, Sandhurst did not do any of the things referred to in paragraph 26 above.
28. By reason of Sandhurst's breaches of the Reasonable Diligence Covenant and contraventions of s 283DA(b)(ii) of the *Corporations Act*, the Group Members and each of them have suffered loss and damage.

Particulars

(a) The particulars at paragraph 26 above are repeated.

(ai) On 21 December 2012, Messrs Grant Sparkes and David Leigh of PPB Advisory were appointed joint & several administrators of Wickham and were subsequently appointed joint & several liquidators of Wickham on 6 February 2013;

(b) The assets of Wickham that have been sold by the liquidators were realised for amounts significantly less than the amounts they should have been realised if Sandhurst had done the things referred to in paragraph 26 above.

(c) There are approximately 138 Noteholders (including the Plaintiffs) who are Group Members by reason of signing the funding agreement with Litman Holdings Pty Ltd. The face value of their Notes is in excess of approximately \$23,667,403.

(d) [deleted]

(e) [deleted]

(f) [deleted]

(g) From the realisation of the assets of Wickham each Group Member has, as at 2 October 2015, received 3.43 cents in the dollar of the value of their Notes ~~debentures~~. The liquidators of Wickham have since advised that the estimated net dividend to Group Members is in the range of 3.43 cents to ~~6.0~~ 5.2 cents in the dollar.

Sub-particulars

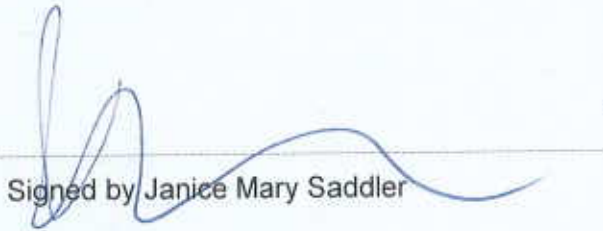
Annual Report dated 15 February 2016 from PPB Advisory to ASIC, p.9

Report to ASIC by Liquidators dated 7 April 2017, section 6, p.5

- (h) If Wickham had been placed into receivership pursuant to an order of the Court as pleaded in paragraph 26 (c) above, Group Members who held Notes debentures as at that date suffered loss of the difference in the return distribution that would have been available to Noteholders as set out in paragraph (f)(ii) of these the particulars to paragraph 26 above and the actual return distributions made to Noteholders referred to in paragraph (g) of these particulars.
- (i) If Wickham had been placed into receivership pursuant to an order of the Court as pleaded in paragraph 26 (c) above, Group Members who were issued Notes debentures after that date suffered the loss of the difference between the issue price (\$1 for each Note debenture) and the actual return distributions made to Noteholders as set out in paragraph (g) of these particulars.
- (j) [deleted]

- 29. The Plaintiffs seek damages against Sandhurst for the loss and damage suffered by each of the Group Members by reason of its breaches of the Reasonable Diligence Covenant in the Trust Deed.
- 30. Further or in the alternative, the Plaintiffs seek an order under s 283F(1)(a) of the *Corporations Act* that Sandhurst pay compensation to the Group Members and each of them for the loss or damage suffered by each of them by reason of its contraventions of s 283DA(b)(ii) of the *Corporations Act*.

Date: 2 May 2017

A handwritten signature in blue ink, consisting of a large loop followed by a series of smaller loops and a long horizontal stroke, positioned above a horizontal line.

Signed by Janice Mary Saddler

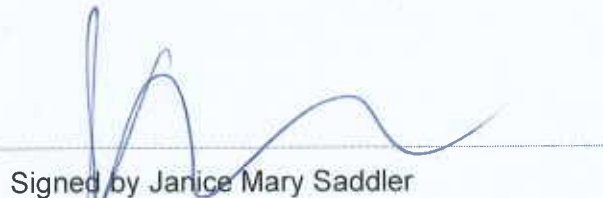
Lawyer for the Plaintiffs

This pleading was prepared by G Drew, counsel, and settled by AS Martin SC.

Certificate of lawyer

I Janice Mary Saddler certify to the Court that, in relation to the further amended statement of claim filed on behalf of the Plaintiffs, the factual and legal material available to me at present provides a proper basis for each allegation in the pleading.

Date: 2 May 2017

A handwritten signature in blue ink, identical to the one above, positioned above a horizontal line.

Signed by Janice Mary Saddler

Lawyer for the Plaintiffs