



# POTENTIAL LEGAL ACTION AGAINST STORM FINANCIAL LIMITED (STORM) AND OTHERS

## FREQUENTLY ASKED QUESTIONS

### Our investigations

#### 1. Who is investigating this potential legal action against Storm?

Slater & Gordon Limited (**Slater & Gordon**) (ASX code: SGH) is Australia's largest plaintiff law firm and the first publicly-listed legal practice in the world. Slater & Gordon has considerable experience in conducting large-scale and class action litigation in Australia. Recent examples include the action against BHP in relation to the Ok Tedi Mine pollution (Papua New Guinea), negotiating a \$1.5 billion settlement in the James Hardie Inquiry and recent class actions in relation to the failed Westpoint, Centro and Opes Prime investments.

For more information about the history of Slater & Gordon and our expertise, please visit our website at [www.slatergordon.com.au](http://www.slatergordon.com.au).

#### 2. What is Slater & Gordon's goal in investigating a potential legal action on behalf of former Storm clients?

The goal is to investigate whether we are able to recover money for former Storm clients, either by direct negotiation with Storm, and/or its insurers and/or the banks, or by the commencement of legal proceedings on their behalf.

#### 3. How long will this investigation and potential legal action take?

We are currently investigating this matter on behalf of approximately 1,300 former Storm clients. The result is that we are processing a very high number of enquiries, documents and other information. There are also many complex legal issues to be considered, as well as a large number of interested parties involved in this matter.

Given the above, we cannot, at this stage, provide an accurate estimate of when we may be able to finalise our investigations. However, we are working as quickly as possible and we ask for your patience and understanding during this busy time.

If we ultimately advise you to take legal action, you should be aware that any potential legal action will be subject to certain procedural steps, all of which take time. We always do our best to resolve all matters in an orderly and expeditious manner, and wherever possible, without the need to go to court.

We will provide you with advice on what action we believe can be taken once our investigations are complete. In the meantime, we will continue providing updates on our progress as regularly as possible.

#### 4. What are the potential legal fees involved?

There is **no obligation** for you to pay legal fees until and unless we enter into a costs agreement with you. The scope of our retainer and basis for our legal fees will be set out in this costs agreement.

Until this agreement is signed, there is **no obligation** on you or Slater & Gordon to commence legal proceedings. Please note that if you do instruct us to commence legal proceedings or resolve your case without legal proceedings being commenced, costs for our

time to date in progressing this claim will be shared on a pro-rata basis between enquirers who subsequently become our clients.

**5. If I don't know what the legal fees are now, why should I proceed with this investigation? I don't want a massive bill for legal fees which I can't afford to pay.**

We reiterate that there is **no obligation** for you to pay legal fees until we enter into a costs agreement with you. In other words, there is **no cost to you** currently to have registered your interest with us and to be informed about our investigations.

If and when we provide a costs agreement to you, it will explain how we calculate our fees, and at what point they will become payable by you. It is simply **not possible** to estimate what our fees may be at this point in time, as they are subject to many variables such as the number of claims involved and the ultimate method of resolution.

We confirm however that if a successful outcome is achieved, you will not be left in a worse position than you are now by virtue of the legal costs involved. We will only offer a costs agreement if we believe that your claim is both legally and financially worthwhile for you.

**6. Will I be liable to pay for the other party's legal fees if I lose?**

The general rule is that the losing party to a legal action will be ordered to pay the winning party's legal fees. This rule is generally followed in most cases, although the judge has discretion to order otherwise.

Although this is an inherent risk to litigation, we would only recommend to a client to take legal action if we believed they had *reasonable prospects* with their claim. In other words, the benefits of winning your claim would outweigh the comparatively lower risk of a potential costs order against you.

We advise that we will discuss this risk with you further if and when we recommend that you commence proceedings.

**7. What are my prospects of recovering everything?**

In our experience, it is extremely unlikely that you will recover everything that you have lost. At best, you will recover *some* of your financial losses. Please note that in these sorts of cases, unfortunately, the law generally does not provide compensation for your emotional anguish and distress as would be the case in, for example, a personal injuries matter.

**8. Is this a class action?**

A class action is a particular form of legal proceedings provided for, relevantly, within the Federal Court jurisdiction. Essentially, it is a lawsuit commenced by a large group of claimants who share a common interest.

Under the Queensland Court system, there are no 'class actions' as such, but there are representative actions and individual actions which may be progressed in accordance with case management procedures.

A class action is not necessarily more advantageous to claimants than other forms of action. Once we have furthered our investigations we will recommend to you what, if any, form of court action should be taken.

**9. Is there a case against the banks?**

Slater & Gordon is investigating the role played by **all** parties in the Storm investment scheme. These investigations are continuing, but as this information will no doubt be accessed by representatives of those parties, we cannot divulge such information in this public domain. We can say however that documents provided by former Storm clients have raised significant questions which call out for explanation. To that end, provided you register with us as a client, we intend to continue to call on the Banks to enter into discussions so that we are able to properly assess your situation.

We will advise you privately of whether and how we may be able to assist you further once our investigations have been completed.

**10. I didn't obtain my loans with the Commonwealth Bank or Colonial. Does that matter?**

Slater & Gordon are investigating the conduct of **all** banks involved.

**11. I didn't borrow against my home to invest. Does that matter?**

Slater & Gordon are investigating **all** types of investment in the Storm investment scheme.

**12. Aren't the directors and shareholders of Storm potentially liable as well?**

It is probably the case that the receiver and the Australian Securities and Investments Commission (**ASIC**) are both investigating the role of the founders of Storm and certain individuals within that organisation.

Slater & Gordon has no direct role in any potential regulatory prosecutions, but we remain interested in any funds that these parties may have to disgorge at any time in the future for the benefit of our clients. We intend to co-operate fully with ASIC and to urge it to fully investigate the collapse of Storm.

**My loans with the banks**

**13. Should I sell my house or some other asset to pay out my loans?**

Slater & Gordon is **unable** to provide financial advice to you. Our expertise is as lawyers, and not financial advisers.

For example, your decision to sell your house or to pay off your loans may have flow-on tax implications. This will require specialised financial advice as to what would be the best decision in your current circumstances.

We strongly recommend that you contact your own accountant or a *competent* financial adviser and obtain financial advice. You may wish to consult the Financial Planning Association (**FPA**) who have established a referral system for former Storm clients. You can find out more via their website at [www.fpa.asn.au](http://www.fpa.asn.au).

**14. If I sell my house or pay off my loans, will this affect my potential claim?**

In brief, it will not affect whether or not you have a claim, however it may have an effect later in the assessment of damages.

As a rule of thumb in most lawsuits, you should ordinarily conduct your affairs as though there is no lawsuit contemplated. In other words, we strongly suggest that you do whatever you or your financial advisor believes should be done to mitigate or reduce the loss you have suffered if that is possible.

**15. What if the bank attempts to sell my house?**

If you receive a **written** statutory notice from a bank as mortgagee advising that it intends to sell your property, please contact our Brisbane office urgently on **(07) 3220 2555** so that we can assess whether we can help you with this.

**16. My bank / margin lender is calling me to pay it money which I don't have. What should I do?**

You need to speak urgently with your accountant or a competent financial advisor. Our role is limited to investigating whether we can recover money from parties involved in your Storm investment and if we determine that we can, to set about doing so. Again, we recommend that you consult the FPA website: [www.fpa.asn.au](http://www.fpa.asn.au).

**17. My margin lender is charging me break fees to exit my margin loan. Are they allowed to do this, and can I get these fees waived somehow?**

We presume that your lender asserts that it is entitled to charge you a termination penalty or "break fees", pursuant to the terms and conditions of your loan. You may wish to negotiate with your lender to waive these fees due to financial difficulties or hardship. However, we advise that there is no guarantee that your lender will do so.

**18. What if my bank offers to reduce or settle my debts?**

Some clients have been informally contacted by the banks with offers to restructure their home loan(s) and/or margin loan. Some of these offers include:

- Lump sum payments by bank customers in full and final satisfaction of their debt(s);
- Deferred repayment schedules;
- Reduction or waiver of interest charges; and
- Permanent or lifetime occupancy.

If you are contacted by your bank, please request and obtain a copy of this offer **in writing** and forward it to [storm@slatergordon.com.au](mailto:storm@slatergordon.com.au). Our team will then review and provide you with general legal advice as to its contents and your legal rights. However, we again emphasise that we cannot provide advice as to the financial merits of this offer.

Please **do not** sign any such offer from the bank without first seeking our advice. This offer may contain a waiver or release of liability which will prevent you from pursuing a claim against the bank.

**Proofs of debt, insurance and receivers**

**19. Why is the debt on the informal proof of debt form listed as "unliquidated damages"?**

"Unliquidated damages" means that the damages have not yet been calculated by a court. As this figure is to be determined by the court, you do not have to list any specific amounts or provide any supporting documentation to your informal proof of debt.

**20. Why is my name not listed as a creditor in the Worrells Administrators report to creditors?**

Due to the high volume of proofs of debt and proxies we were managing, we had arranged with Worrells to provide those forms electronically on your behalf.

The names listed in Worrells report are only those received by them as at 16 March 2009. We delivered the first batch of forms to Worrells on 18 March 2009. More forms will be forwarded to Worrells when they are provided to us.

## **21. Doesn't Storm have professional indemnity insurance that I can claim from?**

Storm was obliged by law to hold professional indemnity insurance as a term of holding a financial planning licence. We believe that such policies were in place, although as yet, we do not know the extent of the cover and the limits of the policies.

The receivers are currently in possession of all Storm records and we have contacted them with the aim of gaining access to these policies. Until we can review these policies, we are unable to offer any more information in this regard.

## **22. Who currently holds my Storm documents?**

The receivers are currently in possession of all Storm records. We have contacted them to obtain the records of all clients who have registered their interest with us and authorised us to that effect.

## **The ASIC application**

### **23. What does it mean to wind up a company?**

In this case, winding up essentially means a compulsory liquidation of a company by a Court order. Liquidation is a process whereby the assets of a company are gathered in by an independent person (the liquidator) and distributed to creditors in order of priority. On completion of the liquidation, the company ceases to exist.

### **24. Why did ASIC apply to wind up Storm?**

ASIC applied to the Federal Court as it believed that it was in the best interests of creditors to have the company immediately wound up, rather than allowing the administration to continue. ASIC also applied to the Court for the removal of certain documents which purported to summarise the DOCA proposed by Emmanuel and Julie Cassimatis on their website.

On 26 March 2009, the Federal Court ordered that Storm be placed into liquidation. Worrells have since been appointed as liquidators. You can access the relevant decision of Justice Logan of the Federal Court [here](#).

### **25. Do I still need to complete and return my proxy and informal proof of debt forms to Slater & Gordon?**

Yes. You will still need to return [the informal proof of debt form](#) to us as a matter of priority. However, you will **not** be required to return the proxy since the second creditors meeting will no longer be held.

In order of preference, you can forward your proof of debt form to us by:

1. Email to [storm@slatergordon.com.au](mailto:storm@slatergordon.com.au); or
2. Facsimile to (07) 3220 177; or
3. Post to GPO BOX 895, Brisbane QLD 4001.

## **Our relationship with SICAG and ASIC**

### **26. What is Slater & Gordon's relationship with the Storm Investors Consumer Action Group (SICAG)?**

Slater & Gordon or its lawyers are not members of SICAG and the views expressed or held by that organisation are not necessarily those held by our firm. We do not act for SICAG as an organisation but have been contacted by many of its members who have been affected by Storm.

We however share a common interest in furthering the cause of former Storm clients.

SICAG can be contacted through their website at [www.sicag.info](http://www.sicag.info).

## 27. What is Slater & Gordon's relationship with ASIC?

Slater & Gordon are liaising with ASIC but we are conducting our investigations separately. ASIC does not ordinarily reveal to anyone matters pertaining to its investigations.

ASIC can be contacted through their website at [www.asic.gov.au](http://www.asic.gov.au).

## Contact with Slater & Gordon

### 28. How do I contact you if I have questions or queries?

The *preferred* way to contact our team is **via email** to [storm@slatergordon.com.au](mailto:storm@slatergordon.com.au). This is a dedicated client enquiries inbox which is monitored constantly by our team so that enquiries can be responded to in a timely and efficient manner.

However, we kindly request that you adhere to the following guidelines **prior** to emailing us:

- A. Please read this FAQ, our previous updates and our website to see whether your question has been answered already.
- B. Please consider whether we are best placed to assist you with your enquiry, especially if it relates to financial or non-legal matters, or dealings with third parties.
- C. Please evaluate whether it is an urgent or non-urgent enquiry.

Please note that your cooperation with these guidelines will help us to prioritise and progress our legal investigations more quickly.

If your enquiry is still not answered after following the guidelines above, please send us a **brief** email summarising your question or issue. We will respond to these queries as quickly as we can.

If you cannot email us, you can call our Brisbane office on (07) 3220 2555. You may be requested to leave a message as our lawyers may not be able to take your call immediately.

### 29. What documents should I send in to Slater & Gordon?

At this stage, you should only send in your **loan application documents** from the bank where you borrowed money to invest with Storm. This includes your margin loan, home loan and / or other investment loans.

If you have not done so already, you should write to your bank(s) requesting these documents. It is *unlikely* that you have these documents within your possession. For your convenience, please click [here](#) for a pro-forma letter of request.

You may also have available other documents such as your Storm Statements of Advice. Please **do not** send us these documents at this stage. You should keep the originals in a safe place until further notice from us.

### 30. Where do I send my loan application documents?

Our address is as follows:

*GPO Box 895, Brisbane QLD 4001*

Please ensure that you also attach a cover sheet with the following details:

*Attention: Project Litigation Group*  
*Matter: Storm Financial*  
*Name: (Insert your full name here)*

**31. Can you confirm receipt of the documents that I have sent in?**

Yes we can. Please send us an email with the subject, "Confirmation of receipt of documents", to our client enquiries inbox: [storm@slatergordon.com.au](mailto:storm@slatergordon.com.au).

**32. I am registered with Slater & Gordon but I have not received your email updates. What should I do?**

You should check your junk mail folder to see whether you have received our update(s). If not, please let us know by sending an email to our client enquiries inbox. Our team will then forward you the missing update(s) as required.

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## **What should I do now?**

### ***Register your interest***

If you have **not** registered your interest with us, you should complete the online questionnaire available on our website at [www.slatergordon.com.au](http://www.slatergordon.com.au). The completed questionnaire should be forwarded in to our new client services department: [newclientservices@slatergordon.com.au](mailto:newclientservices@slatergordon.com.au).

### ***Your bank loan application documents***

After registering your interest, you should contact the bank(s) from which you borrowed money to invest (for example, a margin loan and/or home loan) and request your **loan application documents**, including any forms which you signed to obtain the loan(s).

These documents are specific forms which you would have signed in order to apply for your loan, and which would have been used by the bank(s) to assess and approve your loan. They will include details such as your financial position, your assets and liabilities and the security offered for the loan.

It is unlikely that you will have these documents in your possession so we strongly recommend that you request these documents from your bank(s). For your convenience, click [here](#) for a pro-forma letter of request to complete and send to your bank(s).

Once you have obtained these documents, please forward them to our Brisbane office by post to the following address:

*GPO Box 895, Brisbane QLD 4001*

Please ensure that you attach a cover sheet with the following details:

*Attention: Project Litigation Group*  
*Matter: Storm Financial*  
*Name: (Insert your full name here)*