Elderslie creditors gun for Hewson

Scott Rochfort The Sydney Morning Herald *August 4, 2011*

The former Liberal leader **John Hewson** may have to prepare for another court appearance to explain his role at Elderslie Finance Corporation, after creditors passed a resolution yesterday to engage a litigation funder willing to subsidise various claims against the failed company's former directors.

Three years since Elderslie collapsed owing $140 million to 4000 noteholders, creditors have agreed to separate claims of up to $32 million to be made against Hewson and other directors of the company. One claim, of between $3 million and $30 million, relates to the allegation that Hewson (who resigned as Elderslie's chairman shortly before its collapse) and his fellow directors were aware the company had been trading while insolvent. Another claim, of about $2 million, relates to allegations that Elderslie's former directors - including its former chief executive **Peter George** - obtained unreasonable benefits from the company.

The litigation funder will be chosen by a committee of inspection within the next two weeks. It is two years since Hewson appeared at a public examination into the collapse of Elderslie in the NSW Supreme Court.

Hewson has previously expressed consternation at allegations surrounding the company's failure, telling the *Herald's* Kate Lahey last year about claims that he may have received preferential payments before Elderslie collapsed: ''That's ridiculous. I was owed money. I was a creditor. I don't know who's feeding you this stuff, but I was a creditor.''

Hewson also has problems on another front with Elderslie's liquidator, **Nicholas Crouch**, of Crouch Amirbeaggi. Crouch reported Hewson to the Australian Securities and Investments Commission yesterday for an alleged breach of section 530A of the Corporations Act for failing to assist the liquidator in his investigations.

SOLVENCY DOUBTS

In a circular last month to Elderslie creditors, Crouch said up to $140 million of the group's assets were over-stated in its March 2008 accounts. This was before Hewson resigned as Elderslie chairman in June of the same year and before receivers were appointed that September.

''From 17 March, 2008, the company 'rolled over' or authorised new debentures and unsecured notes in the amount of $14,016,610. If the 'roll-over' constitutes a new debt … the directors may be liable for an insolvent trading claim of $14 million,'' the circular said.

Crouch said in the circular that a group solvency report indicated ''the process of 'dipping into trust money' occurred as [far] back as July 2007''.

''The balance sheet of Elderslie indicates that it has a net asset deficiency in excess of $100 million during the relevant period, commencing 17 March, 2008,'' the circular noted.

This was all after Elderslie failed in its attempts to raise $60 million in secured debentures in February 2008. In the prospectus for the failed raising, Hewson appeared oblivious of any storm clouds gathering for the doomed company.

''I am glad to say that Elderslie has no direct exposure to this market,'' he said, referring to the then sub-prime meltdown.

''Ironically, much of our leasing business tends to be countercyclical, performing better in more difficult market circumstances, thereby giving us the capacity to offer even more attractive interest rates to our debenture holders.''