

MEDIA RELEASE

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James Mawhinney Files High Court Application – Claims ASIC’s Right to Re-Litigate Mistaken Case is a Further Denial of Procedural Fairness

Mayfair 101 Group Managing Director James Mawhinney has filed an application for special leave to appeal to the High Court of Australia, in a case where the Full Court of the Federal Court set aside a 20-year injunction on his dealing in financial products but ordered a remittal of the case.

“Last month, the Full Court found ASIC’s original case was mistaken, and the decision couldn’t stand because I was denied procedural fairness,” said Mr Mawhinney. “And yet ASIC is allowed to go back and try again with a different case, having got it wrong the first time.”

Mr Mawhinney’s High Court application states:

“[ASIC’s] powers make it less, rather than more, excusable for ASIC to conduct a proceeding on a mistaken basis. The Full Court’s decision would stack the deck so heavily in favour of regulators that denials of procedural fairness of the kind experienced in this case would proliferate. Unless corrected, the Full Court’s decision would seriously undermine the cardinal principle of the finality of litigation.”

Mr Mawhinney said, “I will do everything I can to clear my name and ensure every one of Mayfair 101’s noteholders are made whole.

“I acknowledge the difficulty in getting an appeal to the High Court but I’m hopeful the case raises sufficiently important issues for the High Court to accept the application for special leave. I believe in my position and will stand by it to ensure Mayfair 101’s noteholders’ interests are protected.”

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MEDIA ENQUIRIES

Mark Abernethy: +61 414 310 924