

MURRAY GOULBURN: Slater & Gordon to Proceed with Class Action

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Paris Faint, writing for Business News Australia, reports that Slater and Gordon (ASX: SGH) confirmed it is going ahead with a class action against one of Australia's largest milk suppliers

Murray Goulburn.

The firm has formally opened registrations for shareholders and the proposed lawsuit will be backed by litigation funder IMF Bentham.

Slater and Gordon will allege that Murray Goulburn misled its investors by issuing its FY16 profit forecast in a product disclosure statement, and subsequent revision, without a reasonable basis.

It will also allege that Murray Goulburn is responsible for breaches of continuous disclosure obligations by failing to announce a second FY16 downgrade prior to 27 April 2016.

"Thorough analysis of the recent ACCC and ASIC inquiries into Murray Goulburn have strengthened our initial findings that suggest the company misled the market by forecasting profits it could never have achieved in the 2016 financial year," said Andrew Paull, senior associate at Slater and Gordon.

"We have identified significant inconsistencies between Murray Goulburn's statements to the market regarding its likely revenue and profits that year and the information available to the company's management internally.

"As a result, we now have increased confidence the 27 April 2016 profit downgrade was the result of an overly optimistic forecast, rather than any factors beyond its control."

The timeline in question

On 29 May 2015, Murray Goulburn's subsidiary MG Responsible Entity issued a product disclosure statement which forecast a full year net profit after tax (NPAT) of \$85.8 million.

In February 2016, the company went on to revise its NPAT guidance at \$63 million stating that the dairy market had been historically weak.

Murray Goulburn then downgraded its forecast again to between \$39 million and \$42 million just two months before the end of the financial year.

Regarding its second and most severe downgrade, which occurred on

27 April 2016, the company blamed weak growth in Chinese markets, the AUD-USD exchange rate and a downward revaluation of milk product inventory.

Corporate watchdog inquiries lend weight to Slater's case Slater and Gordon's proposed class action against Murray Goulburn cites separate investigations by watchdogs the Australian Securities and Investments Commission (ASIC) and the Australian Competition and Consumer Commission (ACCC).

In April 2017, the ACCC launched proceedings against the company alleging it contravened Australian Consumer Law after suddenly reducing its prices.

The ACCC claimed Murray Goulburn engaged in unconscionable conduct and made false or misleading representations and filed proceedings in the Federal Court.

Later that year, ASIC alleged that the company failed to meet its continuous disclosure obligations when it forecast the price of milk at \$5.60 and subsequently slashed its profit guidance and announced retrospective price cuts on its milk payments to farmers.

Murray Goulburn admitted to breaching its disclosure obligations in the ASIC case and agreed to pay a \$650,000 settlement.

Registrations for the class action will remain open until 18 May 2018 with formal proceedings expected to be filed soon after.

Murray Goulburn the subject of a Saputo takeover At the company's extraordinary general meeting (EGM), Murray Goulburn shareholders voted in the clear majority to approve the sale of all MG operating assets to Canadian dairy company Saputo for \$1.31 billion.

The ACCC confirmed it would not oppose the buyout, on the condition that Saputo accept a court-enforceable undertaking to divest Murray Goulburn's Koroit plant once purchased.

Saputo owns the Allansford plant at Warrnambool, and the ACCC said it would substantially lessen competition if Saputo were to also own the Koroit plant which is based in the same region.

Under the buyout, Saputo would also assume all liabilities associated with Murray Goulburn.

The company made no mention of a looming class action at its EGM. However, it released a statement on April 9 denying that any action had commenced against Murray Goulburn Co-operative (MG) and MG Responsible Entity (MGRE).

"[Murray Goulburn] notes the media release on 6 April from Slater and Gordon Lawyers of the opening of registrations for a proposed unitholder class action against MG and MGRE, which would be conditionally funded by IMF Bentham," said the company.

"MG and MGRE note that no such action has been commenced." [GN]

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