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HD **Australia acts on failed fund LM**

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Regulator to seek fines and bans on executives after collapse of **property** fund robs thousands of investors in HK and elsewhere of their savings

Australia's securities regulator announced yesterday it is taking legal action seeking fines and disbarment orders against directors of an A$800m (HK$5.3 **billion**) **property** fund whose collapse in March last year spelt financial ruin for thousands of Australian and expatriate investors around the world, including **Hong Kong**.

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Directors of **Gold** Coast-based LM Investment Management, including founder Peter Drake, are accused of "failing to act with the proper degree of care and diligence" regarding **transactions** in the A$400m Managed Performance fund, the Australian Securities and Investment Commission (ASIC) said in a press release.

According to the announcement, ASIC is commencing civil penalty proceedings in the Federal Court of Australia against Drake and fellow LM directors Francene Mulder, Eghard van der Hoven, Simon Tickner, and Lisa Darcy, in relation to loans made by the fund to a Drake-controlled development called Maddison **Estate**.

"These allegations are flimsy at best and in some instances, totally misleading and incorrect," and LM directors "will vigorously defend these allegations", Drake said in response to the ASIC announcement.

The fund was LM's flagship product and was heavily marketed overseas as a low-risk, stable-return vehicle ideal for people planning a retirement. Investors interviewed for an earlier Post Magazine investigation into LM said they were neither told the fund was unlicensed nor that redemption request delays had begun as early as 2009. The fund is now valued at 5 Australian cents on the dollar by administrators.

Between 2008 and 2012, Maddison's loan limit was increased from A$40m to A$280m and loans from the fund were approved by LM directors "in the absence of independent valuations or feasibility studies", according to ASIC. The **site** at Maddison in Queensland remains undeveloped.

Drake rebutted allegations against LM in the earlier interview. He blamed the fund's failure on foreign exchange hedging costs. He also slammed administrators for selling fund assets at fire-**sale** prices, diminishing its value.

Howard Clark-Burton, senior executive at Financial Partners, one of the biggest sellers of LM funds in **Hong Kong**, resigned and left the **firm** days after the Post story was published.

He and his co-director, Peter Kende, were quoted as saying, “Once we became aware of issues at the Managed Performance Fund, Financial Partners ceased all new offerings, and programmed all existing clients to redeem their holdings at their next maturity date.”

This was refuted by investors who said they only learnt the fund was in trouble after it went into administration.

The fund paid high up-front indemnified commissions, equivalent to three per cent of the sum invested for every year an investor locked up their money. Originally structured as a one-year investment term, by late 2012 the fund was offering a five-year fixed-return product that paid 15 per cent commission to advisers.

Hong Kong investors have filed complaints against their financial advisers with the Securities and Futures Commission, the Confederation of Insurance Brokers and the **Hong Kong** Police.

According to ASIC, the maximum fine for a director breaching their duties is A$200,000. The regulator also wants to disqualify LM directors from managing companies and providing financial services in Australia.

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