

Class actions loom on margin loan win

Report Marsha Jacobs

Macquarie Bank and margin lender Leveraged Equities face a mass of lawsuits potentially worth hundreds of millions of dollars after a court ruled that a Sydney barrister's shares were unconscionably sold after a margin call.

In a judgement that has wide-ranging implications, Justice Steven Rares ruled on Friday that the transfer of 18,500 margin loans worth \$3 billion from Macquarie to Leveraged Equities in January last year was "legally ineffective".

As a result, Macquarie and Leveraged Equities must spend more than \$3 million to re-buy Ross Goodridge all the units in Macquarie Countrywide Trust that they sold out from under him in March last year, after making a call on his margin loan.

Mr Goodridge was emotional in court as the decision was delivered, and afterwards said he was very pleased with the outcome.

"If you believe you are right - fight," he said.

His lawyer, Stephen Firth, from law firm Firths, said there were potentially quite a number of people affected by the decision.

"I imagine Leveraged Equities made a number of margin calls - this period coincided with a low point in the market - there could be far-flung implications,"

Mr Firth said.

Mr Goodridge owned 5.6 million units in the MCW trust, most of which were sold for between 10.5¢ and 11.5¢. The company's share price closed at 58¢ on Friday, meaning Macquarie and Leveraged Equities will have to spend \$3.2 million buying back the shares on market.

The decision means that all client transfers from Macquarie to Leveraged Equities are invalid, and any clients who had shares sold after facing a margin call are entitled to their shares back at

current market prices. It is possible clients in that position will form a class action.

Two major national law firms - Allens Arthur Robinson and Piper Alderman - are believed to have drafted the contracts transferring the loan book, and could face action from Macquarie and Leveraged Equities if they are forced to compensate clients who had shares sold.

Piper Alderman managing partner Gordon Grieve said his firm acted for Leveraged Equities, and as far as he was concerned, "our client has a legal interest in the loans they bought - the judgement doesn't affect that".

Allens declined to comment.

Mr Firth said the judgement strengthened the position of other investors considering suing their margin lender. "The courts have shown they are prepared to hold margin lenders to the strict terms of a margin loan agreement, and if they don't, clients have rights, and breaches of those agreements are unconscionable conduct," Mr Firth said.

Justice Rares ruled that Leveraged Equities "misused its power of sale unconscientiously without any right to do so".

He said that Macquarie and Leveraged Equities were jointly liable: "The bank is as liable as Leveraged Equities because I have found that the attempted novation and assignment failed. The bank appointed or authorised Leveraged Equities to act as its agent in dealing with Mr Goodridge's position as its customer."

Leveraged Equities spokesman Will Rayner said the decision was being considered but the circumstances were specific to Mr Goodridge.

Macquarie declined to comment on the case or the implications it has for other clients whose loans were transferred to Leveraged Equities.