



HIGH COURT OF AUSTRALIA

Public Information Officer

3 April, 2003

YOUYANG PTY LTD AS TRUSTEE OF THE BILL HAYWARD DISCRETIONARY TRUST
v MINTER ELLISON MORRIS FLETCHER (LATER MINTER ELLISON)

A family trust which lost a \$500,000 investment today won its High Court of Australia appeal against a firm of solicitors for errors made in the handling of the investment.

Youyang was trustee of a family trust which controlled substantial funds through various companies and trusts.

In 1993, Youyang invested \$500,000 in a preference share issue by EC Consolidated Capital Limited (ECCCL). The money was paid into Minter Ellison Morris Fletcher's trust account. ECCCL was to use part of each subscription to purchase a bearer deposit certificate issued by Dresdner Bank subsidiary, Dresdner International Financial Markets (Australia) Limited, which could then be traded on the money market.

In Youyang's case, Minters deposited with Dresdner \$256,800 – due to grow to \$500,000 on maturity in 2003 – but there was no bearer certificate of deposit and therefore no security of the kind agreed. Minters paid ECCCL the rest of the money (apart from legal fees) in breach of an obligation not to do so unless the certificate of deposit had been procured. ECCCL went into liquidation in 1997.

The High Court, upholding an appeal from the New South Wales Court of Appeal, unanimously held that the unauthorised disbursements involved dealing with Youyang's property in breach of trust and ordered Minters to restore the trust fund in the amount of \$500,000 plus interest and costs.

- *This statement is not intended to be a substitute for the reasons of the High Court or to be used in any later consideration of the Court's reasons.*