



CRITERION

with TIM BOREHAM

Reporting follies

litigation suits put firms against deception

STUART WILSON
SHAREHOLDER



ritory. New entrants into this dglng industry will generate e much-needed competition to ve the price of litigation fund-; down.

IMF claims its fees are on a ling scale — the longer the e runs, the bigger the slice of onings. However, these cases ve a history of running for ars, meaning that shareholders ould expect to pay the maxi-um fee, usually 40 per cent, ery time.

The fact remains that even er paying IMF its whopping , shareholders are miles ahead where they would have been d they not participated. Signif-nt shareholder success stories, h as the class actions against istocrat and GIO that settled over \$100 million, reflect a w mindset among investors.

Companies face the reality that sleading shareholders carries a role range of risks. This in-ides not just the potential of a e from the Australian Securi-s and Investments Commis-sion or suspension from trade on e Australian Securities Ex-

change, but a long, well-funded lawsuit by its owners. With the use of a litigation funder, justice for millions of individual shareholders has become much more accessible.

While legal redress has become more affordable, there is not a great risk that the flood-gates will open for shareholder class actions in Australia.

There are two main reasons why we will not follow the US's lead in relation to frivolous shareholder actions. The first is that in Australia, costs can be awarded against the plaintiff, and are paid by the funder. In addition, IMF is highly conservative in its assessment of what prospective cases will cost, whether shareholders will win, and the amount of any settlement or judgment. With the risk of having to pay costs, only the strongest cases are considered.

There is still a lot of action to be pursued in coming years. IMF is funding cases against ABC Learning, Allco, MFS, Centro and AWB, and shareholders are lining up to participate. One can only hope that class actions become a victim of their own success, where companies eventually give their owners no reason to sue.

Stuart Wilson is the chief executive of the Australian Shareholders' Association

hopeful Agri Energy (AAE, 27c) is that it reduced its net loss by 69 per cent. And the bad? Agri still lost \$24.3 million, including \$12.3 million in write downs from selling its European and Australian projects.

Perhaps all is not lost, in that Agri has procured \$US30 million (\$35.1 million) to ward off creditors and finance the start of its residual project, its biodiesel plant in Nebraska. But only the true bio-believers are still listening.

Fellow biofueller Australian Biodiesel Group (ABJ, 13c) narrowed a previous \$10.8 million loss to a \$497,000 deficit, a result of focusing on its modestly profitable Scanline cooking oil collection business. But with management having given up on government supporting its mantra with real support for alternative fuels, its mainstay Berkely Vale project is up for sale.

Then there's TZ Limited (TZL, \$3.52), which devotes seven pages to cataloguing its industrial IP innovations such as the Larson Storm Door, which could come in handy in New Orleans at the moment.

Alas, those who read far enough will discover that TZ turned in a \$12.29 million loss, following on from the previous \$8.8 million shortfall. But at least TZ has \$23 million in the bank to pursue its dreams.

Of course a wrap-up of the reporting laggards isn't complete without a look at Traffic Technology (TTI, 6c), the traffic-management equipment play which blunders on at the grace of its banker, Westpac.

Traffic reported a monstrous \$16 million bottom-line loss,

purchasing vet practices and running them more efficiently.

As well as targeting baby-boomer practitioners, Greencross also wants to woo graduate vets who would rather tend to the animals than the grind of running their own practice.

Greencross posted a \$2.4 million net result on revenue of \$34.4 million, with earnings beating the prospectus forecast of \$2.01 million.

Greencross chief Glen Richards says the first (December) half was "exceptionally buoyant", but in the woeful March to June period revenue growth slowed to 3.7 per cent from 8 per cent previously. Richards reports "very pleasing" trading so far this financial year.

Criterion last rated Greencross as a hold at \$1.54 in June last year, after the group listed at \$1 a pop.

Greencross has retreated into buy territory, although we warn that consolidation plays often have failed in other disciplines such as accounting and dentistry. The trick is not to overpay for practices: Greencross has so far acquired 41 practices — mainly in Brisbane and the Gold Coast — and hopes to pick up 5 to 15 more in the next year.

borehamt@theaustralian.com.au

The Australian accepts no responsibility for stock recommendations. Readers should contact a licensed financial adviser. The author does not hold shares in the companies mentioned.

compared with break-even status previously. As usual management highlights the EBITDA line, which came in at \$4.7 million after a \$5.2 million second-half profit overcame a first half loss of \$400,000.

While the trend's improving, at least before interest costs are taken into account, Traffic's survival rests on its ability to refinance a \$34 million term facility and \$12 million of working capital in July next year.

"Accordingly, in the absence of such (an) outcome these conditions would indicate the existence of a material uncertainty about whether the