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OBI sees red over MFS junk

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Litigation

NEW evidence is emerging of unusual activity in the desperate last days of the former MFS Ltd, as the New Zealand arm of the funds manager alleges breach of contract in its \$270 million damages claim against the company.

Auckland-based OPI Pacific Finance says it has not yet filed its damages claim in a court — revealed to the ASX on Tuesday — but has detailed the claim to Octaviar.

The claim comes on top of allegations on Tuesday that the former MFS siphoned off almost \$150 million from its Premium Income Fund in Australia.

Jason Maywald, a director of OPI Pacific Finance, told *The Australian* yesterday that OPI's claim concerned "alleged breaches of the management contract for administration services including loans management between OPI Pacific Finance and a subsidiary of Octaviar".

Mr Maywald said OPI, formerly MFS Pacific Finance, and Octaviar were in discussions over the alleged breaches.

Octaviar has acknowledged \$246 million in debt to OPI in its accounts, but the claim revealed this week adds a potential further \$24 million outstanding.

Sources say OPI could be in a worse situation than other creditors, with MFS having shifted many of its non-performing loans off its own balance sheet and into the New Zealand operation.

Loans held by OPI are understood to be all to Australian developers and companies.

"All of the garbage loans, all of the worst-performing assets, were shifted to New Zealand," one source said yesterday.

OPI's claims follow allegations this week from Jenny Hutson, managing director of Wellington Investment Management, that the former MFS had breached the Corporations Code and the Premium Income Fund's product disclosure statement and constitution.

PIF, which is now managed by Wellington, has issued a \$147.5 million damages claim against the former MFS. With the MFS satel-



On the case: Wellington Investment Management's Jenny Hutson says her view of the goings-on at MFS Ltd had been turned on its head

SINKING FEELING

OCTAVIAR ASSETS

- 35 per cent stake in Stella tourism business, worth \$535 million based on the price for which the remainder of the company was sold in January
- 19.8 per cent stake in Living and Leisure Australia, worth about \$1.68 million on market capitalisation, \$30.5 million on net tangible assets
- Sheraton Mirage Port Douglas \$70 million-\$80 million
- Circle on Cavill, Gold Coast office, retail, carpark complex, \$50 million to \$120 million

lite entities now separating from the parent and asserting their rights, details are emerging of allegedly illegal transactions in the complex web of companies and

OCTAVIAR LIABILITIES

- Public Trustee of Queensland — \$351 million
- Challenger Managed Investments — \$100 million
- Australian Tax Office — \$56 million
- Premium Income Fund — \$50 million and damages claim for a further \$147.5 million
- NAB loan guarantee for Living and Leisure Australia — \$40 million
- OPI Pacific Finance — \$246 million and damages claim for \$24 million

funds that was MFS Ltd — now Octaviar. The head company is technically still alive, but only with the support of its lenders, and only perhaps until September when its

biggest creditor will be in the Supreme Court of Queensland seeking a wind-up.

Ms Hutson said yesterday her view on the goings-on at MFS Ltd had turned on its head since Wellington settled on its purchase of the Premium Income Fund management rights two weeks ago.

"Absolutely it's changed," she said. "The situation is that there is zero value in the assets that have been transferred for \$147 million."

Ms Hutson said she was not aware of the full detail of the transactions when her company agreed to buy the PIF management rights, but it was now her job to recover the money for unitholders.

PIF's \$147.5 million damages claim is in addition to \$50 million it is owed by its former parent.

PIF has 10,700 unitholders who each invested an average of \$70,000.

"I will chase that \$147 million to the end of the world," Ms Hutson said. "I will stay on the battlefield until I get it."

One analyst who monitors Octaviar on behalf of a number of clients that invested in the former MFS said it remained "an extremely difficult situation".

"It is a wait-and-see process until we see what's left of the business," said the analyst, who declined to be named.

Octaviar was "not like a normal company".

"You probably need an insolvency degree to work out exactly what is happening, and with all the politics behind it, it's not simple at all," the anonymous analyst said.

Octaviar shares have never resumed trading since the stock went into freefall in January after the then-MFS announced a \$550 million capital raising.