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Westpac embroiled in alleged \$240m WA 'Ponzi scheme'

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Westpac's role in an unlicensed investment scheme allegedly responsible for \$240 million in investor losses is under scrutiny, as the corporate regulator and courts examine deposits into the personal bank accounts of controversial Perth businessman Chris Marco.

On Wednesday, May 27, the Federal Court appointed McGrath Nicol as interim receivers over the assets of Mr Marco's Coastline Group and related party AMS Holdings after an application for wind-up orders from the Australian Securities and Investments Commission.





A 1971 Holden Monaro GTS coupe was among Chris Marco's personal assets, the Federal Court heard. **Justin McManus**

ASIC's case against Mr Marco alleges he owes about \$240 million to investors and broke the law by operating an unregistered managed investment scheme and provided financial services without a licence.

Mr Marco opposed the appointment of receivers on the basis that the investigation could prejudice any criminal proceedings against him that may be forthcoming.

Westpac has now been dragged into the dispute, with court documents revealing transactions at the heart of the alleged misconduct relate to savings and mortgage accounts held with the bank.

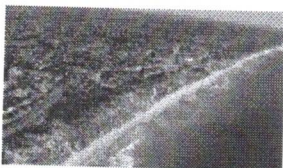
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"One hundred and thirty-two investors deposited approximately \$240 million into Mr Marco's personal bank accounts, a nominated Westpac Banking Corporation home loan account and a nominated Westpac eSaver account," the documents state.

Documents provided to the court by Westpac, under notices issued by ASIC, show Mr Marco had access to an offshore bank account in Jersey and that a number of multimillion-dollar transactions were made to and from that account, including a "telegraphic transfer" of \$14 million in June 2016.



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'Extraordinary amount'

Westpac is not a party to the proceedings and the Federal Court made no finding of wrongdoing against the bank in its judgment granting receivership orders on May 27. ASIC declined to comment on Westpac's role in the saga. Westpac also declined, given the legal proceedings are ongoing.

However, financial services lawyer David Huggins, who is not involved in the lawsuit, said Westpac could face repercussions over its involvement in the transactions.

"This is an extraordinary amount of money to be going into someone's personal accounts and was highly indicative of there being [allegedly] illegal activity, that should have been prevented and or reported to AUSTRAC," Mr Huggins told *The Australian Financial Review*.

Insofar as Mr Marco's investors were also Westpac banking customers, Mr Huggins also suggested the bank should have "warned" them that they were transferring funds into an account that could be associated with illegal activity or was flagged as suspicious.

"They probably have a cause of action against Westpac that they could pursue at the Australian Financial Complaints Authority," said the solicitor, who has extensive experience defending and prosecuting matters relating to managed investment schemes.

The court's mention of Westpac follow an investigation by the Financial Review into the risk management protocols and failures at Australia's oldest bank in the wake of AUSTRAC's explosive lawsuit alleging 23 million breaches of anti-money laundering laws.



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The so-called CPS 220 review conducted by big four consulting firm EY, which has been the subject of parliamentary committee inquiry, found "less involvement from Westpac's board" on non-financial risk issues "compared to peer institutions".

The bank has since appointed a new group executive to focus on risk management, and IBM-owned regulatory consulting firm Promontory Group is examining the failures that led to the AUSTRAC matter.

'Blue Sky picture'

According to ASIC, Mr Marco lured investors with a "declaration of trust" that laid out the terms of investment, commence and maturity date and expected rates of return. Most investors believed they were investing in overseas "private placement programmes".

The investor funds were then pooled and used by a variety of purposes, including the purchase of real estate and cars by AMS and related parties or transferred to Mr Marco's family members, who then also purchased shares, cars or property, the court documents explain of ASIC's allegations.

The payment of some "returns" to investors came from contributions made by subsequent investors, the regulator alleged.

"His own investor updates produced in evidence from ASIC have revealed that Mr Marco's attempts to realise any of the alleged private placement programmes have been unsuccessful and that he is continuing to operate a financial services business," the documents state.

"They also show that there are communications to investors which have not presented any realistic assessment of a likelihood of recovery on investments. Mr Marco has continued to paint a blue sky picture to investors in his communications."



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Media reports have described Mr Marco's business operations as an "alleged Ponzi scheme". The Federal Court judgment makes one mention of that kind of fraudulent activity, explaining that Mr Marco made a public communication in which he was "at pains to stress ... that he was not conducting a Ponzi scheme".

According to ASIC's evidence of Mr Marco's own disclosures, the businessman had personal bank accounts holding \$6.9 million and personal assets of \$10.5 million, including a fleet of muscle cars such as a Mercedes GLC 220D wagon, Datsun 260z

coupe 1975, Holden Monaro GTS HQ coupe 1971 and Holden Torana Bathurst LJ GTR XU-1 1972.

"As at 11 December 2019, however, Mr Marco only had a Jeep Grand Cherokee 2018 registered in his name," the court documents continued.

The interim receivers will provide a report to the court on Mr Marco's assets, liabilities and solvency by July 26.

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