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Farmers all class in AWB settlement

Marsha Jacobs

Their smiles said it all. From the moment retired wheat farmers John and Kaye Watson and their legal team stepped out of the elevator at the Federal Court in Sydney yesterday, it was obvious something was up.

That something turned out to be the settlement of a \$100 million class action against AWB for \$39.5 million.

The Watsons are two of more than 1000 shareholders who were suing the grain company for breaching its continuous disclosure obligations and engaging in misleading and deceptive conduct by sending money to the Iraq government in breach of the United Nations Oil-for-Food program and Australian export rules.

AWB yesterday settled the case without admissions, but has agreed to pay shareholders \$39.5 million — including interest and costs — subject to approval from the Federal Court.

Outside the court, Maurice Blackburn principal Ben Slade said the settlement was fair in the circumstances and that principles

for assessing damages for class actions in Australia were not completely clear.

“We are pleased we can settle without going through a tortuous court action — AWB settled because they could see the uncertainty going forward,” Mr Slade said.

Mr Watson said he was pleased with the settlement, saying the case was always about corporate accountability.

Litigation funder IMF Australia funded the case, and yesterday told investors it expected to generate a profit after costs of between \$6 million and \$7 million from the settlement.

AWB chairman Peter Polson said in an ASX announcement that the “commercially acceptable settlement was in the best interest of shareholders”.

He said the proposed settlement had no impact on the company’s commercial operations or its strategic direction.

“The company is pleased to put this matter behind it as this is the final legal matter directed against the company in Australia arising out of activities under the United Nations Oil For Food Program.”

The allocation of funds to



A matter of corporate accountability . . . John and Kaye Watson are pleased with the settlement yesterday.

Photo: MICHELE MOSSOP

shareholders who bought shares between March 11, 2002, and January 13, 2006, is still being calculated. The shareholders were arguing the shares lost roughly \$2 because of AWB’s conduct, while AWB was arguing the price fall attributable to its conduct was between 5¢ and 19¢.

The \$39.5 million is calculated with an acknowledgement of an 80¢ price drop.

Last week the grain trader admitted for the first time that it knew it was sending money to Saddam Hussein’s government in Iraq.

It denied the payments were in breach of United Nations Oil-for-Food program and Australian export rules in place at the time.

While the case settlement is good news for shareholders, it means that

Australia will continue to have no case law in relation to class actions, as all cases have been settled before reaching judgement.

The case returns to court on Friday so the court approval process can begin. Justice Lindsay Foster is expected to approve the settlement within a month.

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