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Claims and rebuttals as steel class action heads toward the furnace

Sally Lindsay

Steel & Tube has written to its shareholders saying a class action launched by Auckland-based Adina Thorn Lawyers over its seismic steel mesh used in building foundations over the past four years has little chance of succeeding.

The company says it is confident its steel mesh is compliant and therefore there can be no case, even though it has told shareholders in a letter it “inadvertently” used the testing house logo of a well-known engineering company which didn’t carry out any testing.

The law firm is taking registrations from building owners for a class action funded by Britain’s biggest litigation funder over non-compliant seismic steel mesh.

The issue first emerged in March when it was revealed that hundreds of thousands of non-complying steel mesh sheets had been supplied to builders throughout New Zealand from mid-2012.

The Commerce Commission launched an investigation into Steel & Tube Holdings’ claims that its products had been certified as complying with standard 500E by using the logo of Holmes Solutions, an arm of engineering and professional services company

Holmes Consulting.

The commission is looking at whether Steel & Tube breached the Fair Trading Act by producing testing certificates which included the logo of a laboratory which did not undertake the testing or by making misleading or unsubstantiated representations that the steel it supplied complied with the standard.

The Commerce Commission made Steel & Tube sign court enforceable undertakings that it will only sell 500E grade seismic reinforcing steel mesh that passes stringent independent testing. All test results have to be given to the commission.

Revealing letter

In the letter to shareholders Steel & Tube chief executive Dave Taylor says the company “inad-

Thorn says. “Who did sign off the compliance testing? Was the steel mesh complaint at all?”

In a 2016 investors’ update the company says the Holmes Solution logo has been resolved and the company is awaiting the results of the Commerce Commission investigation, which it is cooperating with.

Compliance issues

Steel & Tube in its shareholder letter says the potential class action faces a number of significant hurdles, “the first and probably the most significant is that we believe Steel & Tube’s seismic mesh is compliant and therefore there can be no claim.”

In the investors’ update the company says mesh is a dual tested product and it has confidence

new guidelines.

Ms Thorn says it’s ironic Steel & Tube have told shareholders it is confident its products are compliant and its processes work when the Commerce

2016 and most could be affected by the non-compliant steel mesh. Building surveyors say just about all foundations include seismic steel mesh.”



ADINA THORN: “It was a big oversight and leaves more questions than answers”

Commission ordered it to sign court enforceable undertakings about its mesh product and

The proposed class action will be asking for monetary compensation for building owners as it will be difficult to pull out and replace the non-compliant steel mesh in buildings’ foundations.

“After the Christchurch earthquakes new standards on ductility were introduced so buildings don’t fall over. Some manufacturers didn’t comply and bought steel from China and Thailand that was not tested, so now the million dollar question is how much is that going to cost?” she says.

“The use of non-complying steel mesh could

compromise insurance claims, pose a risk to life and cause widespread financial losses.”

Steel & Tube has told shareholders: “In respect of home owners feeling uncertain of the status of their insurance, we have spoken to the Insurance Council of New Zealand and also note comments issued in a statement on September 1 by the council’s chief executive Tim Grafton, who says ‘people with home and contents insurance in houses built with steel slabs using sub-standard steel mesh in the past four years should not be unduly concerned about their insurance coverage.’”

Ms Thorn’s law firm is taking registrations for the class action from people who have had buildings erected in the past four years. “They don’t have to know where the steel mesh came from. Experts will determine the steel manufacturer,” Ms Thorn says.

“This issue is a walking time bomb. In an earthquake, what is going to happen? Nobody knows. The steel mesh sold was non-compliant technically.”

She says a number of other companies in addition to Steel & Tube may also be named in the class action.

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– Adina Thorn

the investigation into the non-compliant mesh is still proceeding.

“This issue is huge. There were 91,834 new residential building consents issued between March 2012 and March

vertently used the testing house logo on its test certificate and it was an oversight by the company.”

“It was a big oversight and leaves more questions than answers,” law firm principal Adina

in its testing regime, although there is significant ambiguity in the standards, leading to variable interpretations and the Ministry of Business, Innovation and Employment (MBIE) is issuing

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