

Court blasts short-seller for 'false' Rural Funds Group allegations

By [Colin Kruger](#)

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Rural Funds Group achieved a comprehensive legal victory over Texas-based short-seller Bonitas



Research on Wednesday, as the NSW Supreme Court found that allegations against the real estate investment trust were "false in material particulars or were materially misleading".

Bonitas sent RFG's share price plunging in August last year after it released a report alleging RFG's accounts included fabricated rental income and claiming the trust was ultimately worthless.

"I am satisfied that they knew or ought reasonably to have known that the statements and information were false in material particulars or were materially misleading. They did not care that they were false," said the judgment from Justice David Hammerschlag.



Rural Funds Group owns more than \$900 million worth of agricultural assets, including vineyards leased to Treasury Wine Estates. MILTON WORDLEY

Bonitas is a short-selling operation founded by Matt Wiechert, the co-founder of Glaucus Research which launched a withering assault on Australia's Blue Sky Alternative Investments in 2018. Short-selling is a trading strategy in which the trader profits from a fall in the target company's share price.

The ruling could prove to be significant, as a rising tide of attacks by overseas short sellers has led to complaints being lodged with the Australian Securities and Investments Commission (ASIC).

The regulator reiterated that the ASX remains the best platform for response to these attacks.

"We would not be able to comment on a specific matter – particularly one still before the courts," said an ASIC spokesman.

"But ASIC's general position has consistently been to encourage companies, where possible, to address specific external criticisms with sufficient, usable information so that the market can form its own view."

In 2018, hedge fund VGI Partners publicly accused the \$3 billion travel specialist Corporate Travel Management of aggressive accounting, poor disclosure and running "phantom" offices in Europe and America.

In October, WiseTech shares plunged after it was attacked by Beijing-based short seller J Capital, not long after US based Bayberry Capital targeted Treasury Wine Estates.

'I have no difficulty in concluding that they did not care whether what they were saying was false.'

Justice David Hammerschlag

Wednesday's judgment said the dissemination from Bonitas and Mr Wiechert "were of the most serious kind" and noted that they did not check with the group on any of the matters they made public and noted the obvious commercial interest in depressing the company's share price.

"I have no difficulty in concluding that they did not care whether what they were saying was false."

Bonitas and Mr Wiechert declined to defend themselves in court.

A market expert, who did not want to be named in connection with the case, said it is a "pyrrhic victory" with regards to the fact that Bonitas is outside of the jurisdiction of Australia's regulators and courts. But he saw it as an important step for RFG in refuting the allegations.

"Australian courts have no jurisdiction over us, and we will contest enforcement of any orders or judgments you obtain that certainly will be contrary to the discoverable facts, as well as United States and Texas law and policy," Mr Wiechert said in an email to RFG's lawyers which was submitted before the court.

The court is expected to make an assessment of damages but the judgment said this would not include profits made by Bonitas as a result of the contravention.

RFG shares rose 3.4 per cent to close at \$1.985 after the judgment was released. The shares were worth \$2.35 before the short attack.



Colin Kruger



Colin Kruger is a business reporter. He joined the Sydney Morning Herald in 1999 as its technology editor. Other roles have included the Herald's deputy business editor and online business editor.