



McDonald
Vague

business recovery partners

**Viaduct Capital Limited
(In Receivership)
Receivers' Sixteenth Report**

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1 INTRODUCTION AND APPOINTMENT

Boris van Delden and Iain McLennan, Insolvency Practitioners, of Auckland, were appointed jointly and severally as receivers and managers of all the assets, property and undertakings of the company on 13 May 2010 by Prince & Partners Trustee Company Limited.

Pursuant to section 24 of the Receiverships Act 1993, the receivers report herewith on the progress of the receivership. This sixteenth report should be read in conjunction with the receivers' prior reports.

A statement of realisations and distributions is **attached**.

2 RESTRICTIONS

This report has been prepared in accordance with Section 24 of the Act. Whilst all care and attention has been taken in compiling this report, we do not accept any liability whatsoever to any party as a result of the circulation, publication, reproduction or use of this report.

We reserve the right (but are under no obligation) to review and, if we consider necessary, revise this report in respect of any information existing at the date of this report which becomes known to us after that date.

3 CONDUCT OF THE RECEIVERSHIP DURING THE PRECEDING SIX MONTHS

The appointment arose following a request from the directors to the Trustee to have the company placed into receivership. The directors had assessed that a default under the Trust Deed was about to occur.

Asset Realisations

We continue to wait for finalisation of a proposal we put to the receivers of Mutual Finance Limited and Treasury concerning the split of realisations on properties involving security sharing deeds. We understand the proposal is being considered by Treasury and we have recently re confirmed our position in regard to these funds.

We understand that the FMA is considering what steps it will take in regard to the aborted trial of Viaducts two directors and others involved in Mutual Finance Limited. As at the date of this report being signed we understand the FMA is seeking to continue to prosecute Viaducts two directors.

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FMA have reported that is has agreed a \$4.5 million settlement with Viaduct's Trustee. The FMA has advised it is in the process of determining the amounts that will be distributed to investors. Where required to, the receivers will assist.

4 PROPOSALS FOR DISPOSAL OF RECEIVERSHIP PROPERTY

As referred to above, we continue to pursue lines of recovery to proceeds from security sharing deeds which we say were not valid. A proposal (referred to in the previous section) has been made to settle this matter.

5 CREDITORS' CLAIMS

5.1 *Secured Creditor*

The secured creditor was Prince & Partners Trustee Company Limited, Level 9, 50 Anzac Ave, Auckland, secured by way of a Trust Deed dated 6 October 2006 and a GSA dated 15 August 2005, which GSA was held in trust for all depositors.

The Trustee submitted a claim in the receivership for \$13,670 in respect of unpaid fees as at the date of receivership which has been paid pursuant to the Trust Deed. The Trustee however has not been granted a licence by the FMA to act as Trustee following the commencement of the Trustee licencing regime with effect from 30 September 2012. A new Trustee has not been appointed. Until that happens, despite not being licensed, the former Trustee remains in place.

There are 18 secured depositors who have advanced funds totalling \$7,853,139 as follows:

Pre 20 April 2009	1	\$7,320,046
Post 20 April 2009	17	<u>\$533,093</u>
Total Secured		\$7,853,139

The above amounts included any accrued capitalised interest as at the date of receivership.

The receivers paid a first distribution of 7 cents in the dollar in June 2015. As a result of the FMA settlement we estimate that depositors could receive approximately 40-50 cents in the dollar.

5.2 *Preferential Creditors*

As at the date of receivership there were preferential creditors for the following:

Resident Withholding Tax (RWT)	\$1,280
Non Resident Withholding Tax (NRWT)	\$50
Employee Deductions	<u>\$184</u>
Total Preferential Creditors	\$1,514

At this time no payments have been made to preferential creditors.

5.3 Unsecured Creditors

To date, we have received unsecured claims totalling \$52,824. It is unlikely that there will be surplus funds available for unsecured creditors.

6 MATTERS DELAYING THE COMPLETION OF THE RECEIVERSHIP

The following matters are outstanding:

- Litigation attendances if any
- Final asset realisation; and
- Distribution to secured creditors.

7 ESTIMATED DATE OF COMPLETION

It is currently too early to estimate a date of completion for the receivership.

8 CONTACT DETAILS

Enquiries should be directed to the writer on (09) 303 9512 or by email to imclennan@mvp.co.nz.

The Receivers can be contacted at:

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IAIN McLENNAN
RECEIVER

DATED this 28th day of November 2017

Realisations and Distributions

Viaduct Capital Limited (In Receivership) 13 May 2010 to 12 November 2017

	As per Statement Of Affairs \$	Cash Received \$
Realisations		
Bank Account	57,526	57,526
Cost Recoveries	-	350
Debtors	30,000	3,593
Prepayments	4,645	4,932
Security Realisations	2,380,000	818,103
Recovery of Loan Costs Paid	-	22,939
Interest	-	4,220
Income Tax Refund	-	12,795
RWT Refund	-	14,321
GST pre appointment return refund	102,055	94,737
Total Realisations	\$2,574,226	\$1,033,516
Payments		
Receivers Fees		
Receivers Fees		315,939
Disbursements		3,832
Total Receivers Fees		\$319,771
Other Costs of Receivership and Trading On		
Consulting Fees		101
Legal Fees		72,384
Bank Fees		297
Resident Withholding Tax		970
Loan Related Payments		24,955
GST – non-recoverable		6,722
Total Costs of Receivership and Trading On		\$105,429
Distributions to Creditors		
Secured Creditor		13,670
Investors		549,720
Total Distributions		\$563,390
Total Payments		\$988,590
BALANCE HELD		\$44,926

Note: the above figures are GST exclusive