

## Viaduct Capital Limited (In Receivership)

### Receivers' Tenth Report

#### 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 tenth 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*

Where possible, we have acted to be more directly involved with the secured assets. We have realised funds from two small securities, however, as most of the loans are likely to rank behind other lenders, we assess that on many of those loans there will be little or no direct recovery given the state of the secured assets and economic conditions.

We have sold a minority shareholding that was owned in conjunction with Crown Asset Management Limited. We have received a partial realisation from that sale with the remaining funds due to be paid in the middle of 2015. We await finalisation of a proposal we put to the receivers of Mutual Finance Limited concerning the split of realisations on properties involving security sharing deeds. We understand the proposal is being considered by Treasury.

#### 4 PROPOSALS FOR DISPOSAL OF RECEIVERSHIP PROPERTY

We also continue to pursue lines of recovery to proceeds from security sharing deeds which we say were not valid. A proposal 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 however has not been granted a licence by the FMA to act as Trustee. We are working with the FMA and with the former Trustee to appoint a new Trustee. Until that happens, despite not being licensed, the former Trustee remains in place.

There are 17 secured depositors who have advanced funds totalling \$7,835,501.30 as follows:

Pre 20 April 2009	1	\$7,320,046
Post 20 April 2009	16	\$515,455
Total Secured		<u>\$7,835,501</u>

These amounts include any accrued capitalised interest as at the date of receivership.

Approximately 95% by value of the company's investors qualified for repayment under the Crown's Retail Deposit Guarantee Scheme. Accordingly the Crown is now the sole depositor for the funds owed to depositors who invested prior to 20 April 2009.

The Post 20 April 2009 depositors will have funds repaid to them as realisations of loans occur, *pari passu* with the claims of the Crown under the Retail Deposit Guarantee Scheme.

As a result of the realisations made in the last period, our estimate of recovery for depositors has reduced. We now estimate that depositors could receive approximately 10 to 15 cents in the dollar.

### **5.2 Preferential Creditors**

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

Resident Withholding Tax (RWT)	\$1,280
Non Resident Withholding Tax (RWT)	\$50
Employee Deductions	\$184
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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. The Receivers are not responsible for the administration of unsecured creditors' claims, however, it appears unlikely that there will be surplus funds available for unsecured creditors.

## **6 MATTERS DELAYING THE COMPLETION OF THE RECEIVERSHIP**

The following matters are outstanding:

- 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.



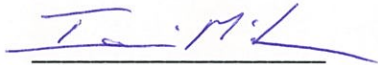
## 8 CONTACT DETAILS

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

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IAIN McLENNAN  
RECEIVER

DATED this 13<sup>th</sup> day of November 2014

# Realisations and Distributions

## Viaduct Capital Limited (In Receivership) 13 May 2010 to 12 November 2014

Realisations	As per Statement Of Affairs \$	Cash Received \$
Bank Account	57,526	57,526
Cost Recoveries	-	350
Debtors	30,000	3,593
Prepayments	4,645	4,932
Security Realisations	2,380,000	136,707
Recovery of Loan Costs Paid	-	22,939
Interest	-	730
Income Tax Refund	-	12,795
RWT Refund	-	14,321
GST	102,055	94,737
<b>Total Realisations</b>	<b>\$2,574,226</b>	<b>\$348,630</b>
<b>Payments</b>		
<b>Receivers Fees</b>		
Receivers Fees		244,173
Disbursements		2,430
<b>Total Receivers Fees</b>		<b>\$246,603</b>
<b>Other Costs of Receivership and Trading On</b>		
Legal Fees		70,134
Bank Fees		177
Loan Related Payments		24,955
GST not recoverable		6,285
<b>Total Costs of Receivership and Trading On</b>		<b>\$101,551</b>
<b>Total Payments</b>		<b>\$348,154</b>
<b>BALANCE HELD</b>		<b>\$476</b>

Note: the above figures are GST exclusive

*J.M.K.*  
13/11/14