

# Meltzer Mason Heath

Chartered Accountants practising as insolvency specialists

Refer to: Arron Heath

No. of Company: 1279229

## Liquidators' Further Report

**Blue Chip New Zealand Limited (In Liquidation)**

**For the period 16 April 2009 to 15 October 2009**

### *Introduction*

Blue Chip New Zealand Limited was placed into voluntary liquidation in Auckland on 15 April 2008 when Jeffrey Meltzer, Arron Heath and Lloyd Hayward of Meltzer Mason Heath were appointed joint and several Liquidators.

In accordance with section 255 of the Companies Act 1993 the Liquidators are obliged to report to all creditors and shareholders on the conduct of the liquidation during the preceding six months. This report covers the period 16 April 2009 to 15 October 2009.

### *Schedule of Receipts and Payments*

A schedule of receipts and payments for the period 16 April 2009 to 15 October 2009 is attached.

### *Asset Realisations*

There were no asset realisations during the period covered by this report.

### *Dividends*

There have been no dividends paid during the period covered by this report.

**The following sections of this report incorporate comments relating to all of the Blue Chip companies which we are liquidating.**

As mentioned in our previous report, the Liquidators filed an Application for Directions with the High Court in Auckland under section 284 of the Companies Act 1993. The Application was for a direction as to whether the products sold by Blue Chip to investors breached any New Zealand legislation, in particular, provisions of the Securities Act 1978.

While the Application was made at the same time as the investor groups' proceedings against certain developers for recovery of deposits, which were being heard initially by the Court during May 2009, the Court decided that the Application should not be heard with these proceedings.



The Court directed that the Application proceed separately and that all parties potentially affected by the Application should be served with notice of the proceedings.

Sufficient funding is not presently available to enable the Liquidators to proceed with the Application for Directions. While funding is still being sought by the Liquidators they are not confident that it can be obtained and, as at the date of this report, the Liquidators cannot commit to proceed to a point where a Court direction is made.

During the period covered by this report the Liquidators have undertaken investigations into possible breaches by directors of the reckless trading and associated provisions of the Companies Act 1993 and advice given to the Blue Chip Group in relation to its products. These may, in turn, involve some responsibility by other parties. Those investigations are at a sufficiently advanced stage for the Liquidators to seek an opinion from Queens Counsel on possible causes of action and the strength of any claims. If it is concluded that there are strong claims, a funding proposal can be promoted to potential funders. Again, there is presently no certainty of funding.

Creditors and investors may be aware that criminal charges have been laid by the National Enforcement Unit (“NEU”) of the Companies Office against Blue Chip’s co-founder, Mark Bryers. On 21 August 2009 Mr Bryers pleaded guilty to three charges, including failing to attend the Creditors’ Meeting for Brianc Property Group Limited (In Liquidation). Sentencing for the three guilty charges and ongoing hearings for other charges faced by Mr Bryers will take place during October 2009. On 1 October 2009 Mr Bryers was declared bankrupt by the Auckland High Court. The Liquidators understand that investigations into the conduct of persons involved in the management and operation of Blue Chip companies are ongoing. The Liquidators continue to assist the various agencies investigating these matters as and when requested.

Investors may also be aware that the investor groups’ proceedings concluded during July 2009. At the date of this report a judgment in those proceedings had not yet been issued. As mentioned in our previous report, if the investors are successful, this will benefit only those investors (2006 and subsequent years) whose deposits are held in a solicitor’s trust account. Pre-2006 investors (who agreed to release their deposits to Blue Chip in return for receiving some form of return on the funds paid) will benefit only if the Liquidators are successful with their separate recovery initiatives.

The Liquidators’ current view is that it is unlikely that creditors will receive a dividend from the liquidations. While the Liquidators have continued to seek funding, the current economic climate, together with the risks inherent in all litigation matters, means that the actions are not presently attractive to funders. That position may change if a positive direction can somehow be obtained from the Court.

Please contact Arron Heath of this office should you require any further information.

Dated this 16<sup>th</sup> day of October 2009

A L Heath  
**Liquidator**

# Blue Chip New Zealand Limited (In Liquidation)

## Receipts and Payments

For the period 16 April 2009 to 15 October 2009

		\$
<b>Balance brought forward</b>		5,271.27
<b>Receipts</b>		
Interest		49.19
		<u>5,320.46</u>
<b>Payments</b>		
Liquidators' Remuneration	1,701.50	
Liquidators' Disbursements	212.25	
GST Paid	239.22	
	<u>2,152.97</u>	<u>(2,152.97)</u>
<b>Balance carried forward</b>		<u><u>3,167.49</u></u>

Notes: The funds held are subject to further costs of winding up.