

# Meltzer Mason Heath

Chartered Accountants practising as insolvency specialists

Refer to: Lloyd Hayward

No. of Company: 1490879

## Liquidators' Further Report

**ART Apartments (2006) Limited (In Liquidation)**

**For the period to 11 February 2010**

### Introduction

ART Apartments (2006) Limited was placed into voluntary liquidation on 12 February 2008 when Jeff 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 to 11 February 2010

### Action to Date

The Liquidators have previously reported on actions undertaken. See below for further comment on actions proposed by the Liquidators.

### Receipts and Payments

There have been no receipts and no payments during the period covered by this report.

### Asset Realisations

There have been no realisations of assets during the period covered by this report.

### Dividends

There have been no dividends paid during the period covered by this report. At this time the Liquidators do not expect that there will be any dividend available for creditors.

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Jeff Meltzer  
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Karen Mason  
\_\_\_\_\_  
Arron Heath



**The following sections of this report incorporate comments relating to all of the Blue Chip companies to which we have been appointed.**

The Liquidators have continued with their investigations into possible breaches by directors of the reckless trading and other provisions of the Companies Act 1993 and potential claims arising from advice given to the Blue Chip Group in relation to its products. They are awaiting an opinion from Queen's Counsel on possible causes of action and the strength of any claims that may be made.

If it is concluded that there are strong claims available to the Liquidators, a funding proposal will need to be promoted to potential funders. There is no certainty that the existence of such claims will be confirmed, nor is there any certainty that the Liquidators will be able to obtain funding on the strength of such claims.

Judgments have now been delivered in the investor groups' proceedings. (Those proceedings involved a claim against a finance company which provided mortgage finance to investors and claims against developers of three apartment buildings in Auckland.)

The finance company was accused of breaching its duty of care to "Mum and Dad" investors by lending them money which they then used to buy Blue Chip apartments. The High Court found that the finance company did not owe a duty of care to the investors. However, the Court did find against the lawyer who advised the investors. (That lawyer has since been adjudicated bankrupt.)

The other proceedings where a judgment has been delivered were against the developers of three central Auckland apartment buildings where investors had purchased apartments utilising the various investment products promoted by Blue Chip, in particular the PIP or Premium Income Product. Investors purchasing this product believed they would not have to settle the sale and purchase agreements they had signed, but the High Court has ruled that the agreements are valid.

The Liquidators understand that both judgments have been appealed by the investors but, at the date of this report, no appeal judgments had been issued.

Blue Chip's co-founder, Mark Bryers, was made bankrupt in October 2009 owing an estimated \$173 million to creditors. Mr Bryers was due to be sentenced in October for his guilty pleas on three criminal charges – failing to attend meetings or keep adequate accounting records – but the matter has been deferred for a status hearing during this month. Mr Bryers is still facing around 60 charges in relation to alleged breaches of the Companies Act 1993.

The Liquidators' view that it is unlikely that creditors will receive a dividend from the liquidations remains unchanged. Any recovery action(s) that may be pursued by the Liquidators will require funding which may or may not be available in the current economic climate.

Please contact Lloyd Hayward of this office should you require any further information.

Dated this 23<sup>rd</sup> day of February 2010

L J Hayward  
**Liquidator**