

# Meltzer Mason Heath

Chartered Accountants practising as insolvency specialists

**Refer to: Arron Heath**

## Liquidators' First Report

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

#### 1. Appointment

We advise that Jeffrey Philip Meltzer, Arron Leslie Heath and Lloyd James Hayward were appointed joint and several Liquidators of the above company on 15 April 2008 by special resolution of the shareholder.

Jeff Meltzer, Arron Heath and Lloyd Hayward are Chartered Accountants and full time Insolvency Practitioners. They have not previously acted for the company or its officers. They are acting as liquidators of 20 other companies involved in the Blue Chip operation in New Zealand.

#### 2. Background

<b><i>Date of Incorporation:</i></b>	11 April 2003
<b><i>Trading Address:</i></b>	Level 20, 191 Queen Street, Auckland
<b><i>Type of Business:</i></b>	Trading Company for Blue Chip New Zealand Operation
<b><i>Date Ceased Trading:</i></b>	February 2008 (main activity ceased with formation of New Zealand Master Franchise in August/September 2007)
<b><i>Shareholder:</i></b>	Northern Crest Investments Limited (This company was previously called Blue Chip Financial Solutions Limited)
<b><i>Director:</i></b>	Ronald Macgregor Irvine
<b><i>Share Capital:</i></b>	61,833,333 ordinary shares
<b><i>Date of Liquidation:</i></b>	15 April 2008

On 1 July 2004, Blue Chip New Zealand Limited changed its name to Blue Chip Corporation Limited and on 24 October 2005 changed its name back to the present style.



### **3. Events Leading to Appointment**

Prior to August/September 2007 the company acted as the trading entity for the New Zealand Blue Chip operation. In that capacity it had employees, received funds and paid creditors. It had received deposits and other monies from investors.

In August/September 2007 Blue Chip's operations in New Zealand were re-organised with a Master Franchise being granted to Diem Limited. The transaction had the effect of transferring the business undertaken by Blue Chip New Zealand Limited and some of its subsidiaries to the franchisee and its trading entity, Mide Limited, now in liquidation.

As has been previously reported, the new arrangement resulted in "legacy issues" being shifted to the franchisee. It also resulted in a wind down of Blue Chip New Zealand Limited's operation, as it was no longer trading and most of its employees had transferred to Mide Limited.

However, Blue Chip New Zealand Limited had guaranteed payment of rental income to investors in Blue Chip promoted properties and also appeared to have given indemnities in relation to income tax assessed on alterations compensation payments. Both the guarantees and the indemnities gave rise to possible claims against the company.

Concerns had been expressed regarding the investor funds previously paid to Blue Chip New Zealand Limited and the guarantees and indemnities position was being queried by investors. Accordingly, the liquidators of companies formerly in the Blue Chip group have been urging the shareholder to place the company in liquidation and this was eventually agreed to by the shareholder's board of directors.

### **4. Statement of Affairs**

The Liquidators have prepared an Estimated Statement of Affairs being the assets and liabilities of the company at the date of liquidation. We attach a copy. Some of the figures referred to in the Estimated Statement of Affairs are based on assumptions – for instance an average amount has been assumed for the rental guarantee liability and no account has been taken of possible mitigation of claims. The Estimated Statement of Affairs has several asset categories where it has not been possible to provide estimated realisable values. Details of these categories have been provided in the Notes to the Estimated Statement of Affairs. The Liquidators have taken a conservative approach to possible asset realisations, and have indicated that in their initial view, it is unlikely that the company has any realisable assets. However, this initial situation may alter, should subsequent investigations uncover the existence of realisable assets and funds are available to pursue recovery of these assets.

The Liquidators have also taken a conservative approach regarding the company's liability position and have included in the Estimated Statement of Affairs, at their book value, all known liabilities as at the date of liquidation.

## **5. Proposals for Conducting the Liquidation**

### **5.1 *Realisation of Assets***

The Liquidators will review the company's records for potentially realisable assets and will initiate recovery action where required and subject to funding being available. The main areas of possible recovery are:

Sundry Debtors;  
Inter Company Advances; and  
Directors' Liability.

More details concerning the company's assets are provided in the notes accompanying the Estimated Statement of Affairs.

### **5.2 *Examination of Books and Records***

The Liquidators will examine the company's available books and records and conduct a brief review of the company's affairs.

### **5.3 *Further Investigation***

The Liquidators will enquire as to the availability of funding in order to undertake further investigations. The Liquidators were successful in obtaining funds from the Liquidation Surplus Account administered by the Registrar of Companies in order to undertake investigation into possible areas of recovery in the other 20 companies they are liquidating. The Liquidators are hopeful that further funds will be available for Blue Chip New Zealand Limited.

Depending on the conditions attached to any funding that may be obtained the Liquidators intend to investigate the disbursement of investor deposits (for purchases in developments that ultimately did not proceed) that were paid to the company.

Investigations will necessarily be constrained by the amount of funding available.

### **5.4 *Knowledge of Information Relevant to the Liquidation***

Should creditors and other parties possess any information that may be relevant to the liquidation, or may lead to realisations for the benefit of creditors, please advise the Liquidators in writing and provide them with copies of supporting documents.

## **6. List of Creditors**

A list of known and possible creditors has been compiled by the Liquidators and is available for inspection on the Liquidators' website at [www.mmh.co.nz](http://www.mmh.co.nz). Alternatively, any creditor/possible creditor who does not have access to the internet or who wishes to have a copy posted to them should telephone Meltzer Mason Heath on (09) 357 6150 to request a copy.

## **7. Creditors Claim Form**

Creditors should complete and return the enclosed Creditor's claim form by 16 May 2008. Creditors who do not make a claim within the period may be excluded from any distribution that may be made.

### **7.1 Entitlement to Claim**

#### ***Claims for Rental Income***

Creditors who have not received their guaranteed rental income should at this stage claim for the amount not received as at the date of liquidation. Creditors may have a claim for rental payments until expiry of the lease term. However, such a claim will be subject to mitigation and will need to take into account any future rental income received. Other issues may affect the quantum of the claim.

#### ***Alterations Compensation Payments***

Creditors claiming under any indemnity they consider has been provided by the company should attach a copy of the Notice of Assessment or Notice of Proposed Adjustment (NOPA) issued by the Inland Revenue Department, and a copy of the indemnity.

## **8. Retention of Title Claims/Security Interests**

Please note, if you believe you have a valid retention of title claim or security interest over goods or equipment supplied to Blue Chip New Zealand Limited (In Liquidation), and you have not yet contacted the Liquidators, please contact us immediately.

## **9. Initial Creditors Meeting**

Pursuant to s245 of the Companies Act 1993 the Liquidators propose to dispense with the meeting of creditors to consider whether to appoint different Liquidators, and to consider the views of creditors.

### ***Explanation***

Most investor creditors are either creditors of ART Apartments Limited (In Liquidation) or Auckland Residential Tenancies Limited (In Liquidation) and Bribanc Property Group Limited (In Liquidation). Creditors meetings for those companies were held in Auckland on 26 March 2008. The Liquidators do not consider that, in the time that has elapsed since those meetings, there has been any significant alteration in the position for creditors and believe that creditors concerns were canvassed at the meetings. At those meetings a substantial majority in number and value of creditors voted to confirm the original appointment of Messrs Meltzer, Hayward and Heath as liquidators.

Many of the other creditors of Blue Chip New Zealand Limited are related parties. There is only a small number of trade/professional creditors.

It is the Liquidators' view that because of the past interrelationship of Blue Chip New Zealand Limited with the other 20 companies of which they are liquidators, and given the knowledge of the Blue Chip Group's affairs which the Liquidators have gained over the last two months, it is in the interests of creditors of Blue Chip New Zealand Limited that the liquidators of that company be the same as the liquidators for the other companies currently in liquidation.

Because of the Liquidators' view that a meeting of creditors is not justified, the Liquidators have endeavoured to provide a more detailed report than is usual. Given the number of creditors or possible creditors of the company (in excess of 1,600) the costs of convening a meeting will be significant. For the reasons referred to above the Liquidators do not consider that those costs can be justified.

Consequently, a meeting of creditors will not be called unless a creditor gives notice in writing to the Liquidators within 10 working days after receiving this notice, requiring a meeting to be called.

#### **10. Liquidation Committee**

At any time during the liquidation, any creditor may in writing, request the Liquidators to call a meeting of creditors to consider whether a Liquidation Committee should be appointed, and if so, to choose the members of the Committee. A Liquidation Committee has certain powers set out in s315 of the Companies Act 1993, including to assist the Liquidators as appropriate in the conduct of the liquidation.

The Liquidators may decline a request for a meeting on the grounds that, unless a creditor agrees to meet the costs, the costs of calling a meeting would be out of all proportion to the value of the company's assets. Based on the information available to the Liquidators at present, the costs would be out of all proportion to the value of the company's assets and any creditor wishing the Liquidators to call a meeting may be required to meet all or part of the costs of doing so.

#### **11. Estimated Date of Completion of Liquidation**

It is not practicable to estimate the date of completion of the liquidation at this stage.

Enquiries should be directed to: Arron Heath



A L Heath  
**Liquidator**

Dated this 18<sup>th</sup> day of April 2008

Attach:

**Estimated Statement of Affairs of  
Blue Chip New Zealand Limited (In Liquidation)  
As at the date of the Appointment of Liquidators  
Being 15 April 2008**

	<i>Note</i>	<i>Book Value</i>	<i>Estimated Realisable Value</i>
		\$	\$
<b>Assets:</b>			
Sundry Debtors	<b>1</b>	175,675	Unable to Estimate
Fixed Assets	<b>2</b>		Nil
Intercompany	<b>3</b>	6,652,992	<u>Nil/Unable to Estimate</u>
<b>Estimated Assets Available for Preferential Creditors</b>			Nil
<i>Less</i> – First Ranking Preferential Creditors			
Holiday Pay Provision		5,000	Nil
<i>Less</i> – Second Ranking Preferential Creditors			
Inland Revenue Department	GST PAYE	(205,817) <u>478,000</u>	
			<u>272,183</u>
<b>Estimated Deficiency as regards Preferential Creditors</b>	<b>4</b>		<u>(272,183)</u>
<i>Less</i> – Secured Creditors			Nil
			<u>(272,183)</u>
<i>Less</i> – Unsecured Creditors			
Trade and Professional Creditors		1,923,628	
Bank		217,373	
Rent Guarantees		9,500,000	
Indemnities for Alterations Compensation Payments		1,500,000	
Guarantee		5,434,664	
Intercompany	<b>3</b>	<u>65,452,286</u>	
			<u>84,027,951</u>
<b>Estimated Deficiency as regards Unsecured Creditors</b>			<u>(84,300,134)</u>

**Notes:**

- The Liquidators have not yet been able to ascertain the validity of the amounts comprising this balance.
- The company's fixed assets comprise mainly computer software which the Liquidators assume have no realisable value, leasehold improvements, furniture and fittings and office equipment. Some minor items of furniture and fittings and office equipment have been sent to auctioneers for sale. No value has been attributed to these items in the Estimated Statement of Affairs.
- The intercompany position, according to the company's records can be summarised, as follows:

	\$
Advances to companies in liquidation	5,274,842
Advances to companies not in liquidation	1,378,150
Payables	(65,452,286)

The Liquidators have assumed that no recoveries will be achieved in respect of advances to companies in liquidation. At this time they are unable to estimate what recoveries might be achieved from advances to companies not presently in liquidation.

- Lombard Finance & Investments Limited has been granted a General Security Agreement by the company. This security supports a guarantee given by the company in respect of borrowings by other Blue Chip companies.

5. The above estimates are subject to the costs of realisation, including Liquidators' fees.

**Disclaimer of Liability:**

We have prepared the Estimated Statement of Affairs as at the date of liquidation being 15 April 2008.

The Estimated Statement of Affairs has been prepared based on information from the books and records of the company together with information supplied by the Director. This information has not been verified. The Liquidators have not carried out an audit or reviewed the information supplied and therefore they do not accept any responsibility for the accuracy of the information from which the Estimated Statement of Affairs has been prepared. Further, the Estimated Statement of Affairs has been prepared for the purpose of the liquidation only, and the Liquidators do not accept any responsibility on any ground whatever, including liability in negligence, to any other person.

A L Heath

15 April 2008