

Liquidators' Final Report on the State of Affairs of

Western Pacific Insurance Limited (in Liquidation)

Company number: 1222877

NZBN: 9429036425587

14 December 2021



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Introduction

David Ian Ruscoe (IP#50) and Simon John Thorn, of Grant Thornton New Zealand, were appointed jointly and severally as liquidators of Western Pacific Insurance Limited (in Liquidation) (“the Company”) on 1 April 2011 at 4:00 pm by special resolution of the Shareholders.

Simon John Thorn vacated the position of liquidator on 26 June 2013 and was replaced by Richard Grant Simpson.

Richard Simpson vacated the position of Liquidator on 17 December 2018 and was replaced by Malcolm Russell Moore (IP#42).

Liquidators of insolvent companies are required to be licensed insolvency practitioners. Information about the regulation of insolvency practitioners is available from the Registrar of Companies.

In accordance with Section 257 of the Act, we now advise all creditors and shareholders that the liquidation has been completed as at 15 December 2021. This is the 23rd and final report on the liquidation.

Restrictions

All information contained in this report is provided in accordance with Section 257 of the Act. This report is not intended for general circulation, nor is it to be reproduced or used for any purpose without the liquidators’ written permission in each specific instance.

The Liquidators, their employees and agents do not assume any responsibility or liability for any losses occasioned to any party for any reason including as a result of the circulation, publication, reproduction or use of this report contrary to the provisions of this paragraph.

The Liquidators reserve the right (but will be under no obligation) to review this report and, if considered necessary, to revise the report in light on any information existing at the date of this report which becomes known to them after that date.

We have not independently verified the accuracy of the information provided to us and have not conducted any form of audit in respect of the Company. We express no opinion on the reliability, accuracy or completeness of the information provided to us and upon which we have relied. Whilst all care and attention has been taken in compiling this report, we do not accept any liability whatsoever arising from this report.

The statements and opinions expressed in this report are based on information available and assumptions made as at the date of this report. It is possible that actual outcomes may be significantly different from those disclosed in this report.

In addition, the following should be noted:

- Certain values included in tables in this report have been rounded and therefore may not add exactly; and
- All amounts are stated in New Zealand dollars.

Statement of Receipts and Payments

Sealed Orders and reporting

Following the Judgement of Simon France J on 9 December 2011, we received the Order of the Court dated 14 June 2012 (“Court Order”). The Court Order confirms the reinsurance monies payable to the Company and/or the liquidators are charged to the Canterbury Policy Holders (“CPH”).

In addition to the six monthly statutory reports, the Court Order also includes a requirement for the Liquidators to provide bi-monthly reports to creditors and policyholders. As the reinsurance funds had been paid in full as of 28 February 2020 to Canterbury Policy Holders, we reverted to reporting on a 6 monthly basis as required under the Act.

Copies of all reports in respect of this liquidation are available from our website: <https://www.grantthornton.co.nz/western-pacific-insurance-limited/>. These will remain available on our website for three months following the completion of this liquidation.

Directors Conduct

As part of the liquidation, we reviewed the director’s duties and obligations imposed on them under the Act.

Our investigations did not identify a clear claim against the directors. Accordingly, we deemed that it was not in the best interests of the creditors of WPI for action to be taken.

Statement of Realisation and Distribution

Please refer to Appendix A: Statement of Receipts and Payments for the period 11 April 2011 to 14 December 2021, being the last day of the liquidation.

Asset Realisations

Claim Assessments

The table below provides a summary of the accepted claims. The figures include claims which were finalised prior to liquidation and loss assessment costs incurred, against which reinsurance monies can be recovered.

Type of claim	September 2010 Earthquake		February 2011 Earthquake		Total both events	
	No. of claims	Value (\$) (excl. GST)	No. of claims	Value (\$) (excl. GST)	No. of claims	Value (\$) (excl. GST)
Accepted/ closed claims	98	23,243,792	117	41,965,796	215	65,209,588

Distribution

The Liquidators have made four distributions in respect of reinsurance funds to Canterbury Policy Holders. The following provides details of the distributions:

Distribution date	Earthquake	Sep-10	Feb-11
		Value (\$) (incl. GST)	Value (\$) (incl. GST)
23.01.17	Distribution (amount incl. GST)	9,171,742	9,577,786
	Distribution (% of total loss)	35%	20%
29.06.17	Distribution (amount incl. GST)	8,385,593	6,704,450
	Distribution (% of total loss)	32%	14%
29.11.17	Distribution (amount incl. GST)	1,572,299	1,436,668
	Distribution (% of total loss)	6%	3%
28.02.20	Distribution (amount incl. GST)	207,200	640,000
	Distribution (% of total loss)	0.79%	1.34%
Total (value NZ\$)		19,336,834	18,358,904
Total (percentage)		73.79%	38.34%

The level of pay-out for each earthquake is different because of the different level of re-insurance held by Western Pacific and because of the higher value of claims for the February earthquake.

The reinsurance proceeds have now been distributed in full and there will be no further distributions from reinsurance proceeds.

Creditors

The following is a summary of the assessed claims in the liquidation in relation to the CPH.

	Claims value (\$) (excl. GST)	GST (\$)	Claim value (\$) (incl. GST)
September 2010 earthquake	22,786,937	3,418,041	26,204,978
February 2011 earthquake	41,642,548	6,246,382	47,888,930
Total claims	\$64,429,485	\$9,664,423	\$74,093,908

Please note that the estimated claims detailed above differ from the previous page due to the ability to include certain costs some \$780,000 of the loss assessments in the claim to the reinsurers.

Following the final payment of the reinsurance funds there was a shortfall of \$36,398,170 to the CPH which was subsequently classified as unsecured creditors.

Preferential Creditors

Employees' preferential claims of \$45,653 were paid out of money not charged to the CPH in March 2016.

The Inland Revenue Department advised of a preferential claim of \$87,559. This was paid in October 2017.

Unsecured Creditors

The following is a summary of the total unsecured creditors' claims accepted:

	\$
Total accepted non-CPH unsecured creditor claims	7,704,659
CPH Shortfall	36,398,170
Total Unsecured Creditors	44,102,829

The final distribution of funds held by the Public Trust was made on 31 March 2021. These funds totalled \$500,000 and are held as a deposit as is required by the Insurance Companies' Deposits Act 1953. Distribution of funds was limited to policy holders only and included the extent of the shortfall of CPH reinsurance funds.

A distribution from the remaining monies held by the Company was made on 31 March 2021 and amounts to a recovery of 0.55%.

Liquidators' Statement

We advise that:

- 1 All known assets have been disclaimed, or realised, or distributed without realisation;
- 2 All proceeds of realisation have been distributed; and
- 3 The Company is ready to be removed from the New Zealand Registrar of Companies.

Further Matters

Unclaimed Monies

If you are a creditor and we have not received any response from you in respect of a distribution you are owed, your distribution monies have been paid to the Public Trust as unclaimed monies pursuant to Section 316 (1) of The Companies Act 1993.

Public Trust will hold the monies paid for your dividend for a period of 12 months, during which time claims can be established. After 12 months the amount will be transferred to the Liquidation Surplus Account for distribution in accordance with s.316 of the Companies Act 1993. If you wish to make a claim please contact the Public Trust at 0800 371 471 or info@publictrust.co.nz with your details.

Bona Vacantia monies

Bona Vacantia Money, or 'Ownerless Money', refers to money owing to a company which has been removed from the Companies Register. If you are a creditor who has been removed from the Companies Register prior to the date of a distribution, your distribution was transferred to the Treasury, who will hold the money on behalf of the Crown.

If you wish to make an application to the Treasury for distribution of these funds please visit <https://www.treasury.govt.nz/information-and-services/other-services/bona-vacantia-ownerless-property/standard-requirements/bona-vacantia-money> for more information.

Removal from New Zealand Registrar of Companies

As Liquidators, we are obliged to give public notice of our intention to have the Company removed from the Register of Companies. A copy of our notice is enclosed as Appendix B.

The attention of all creditors and shareholders is drawn to section 321 of the Companies Act 1993 which provides that, where public notice is given of an intention to remove a company from the Registrar, any person may send or deliver to the Registrar, not later than the date specified in the notice, an objection to the removal on any one or more of the following grounds:

- a That the company is still carrying on business or there is other reason for it to continue in existence; or
- b That the company is a party to legal proceedings; or
- c That the company is in receivership, or liquidation, or both; or
- d That the person is a creditor, or a shareholder, or a person who has an undischarged claim against the company; or
- e That the person believes that there exists, and intends to pursue, a right of action on behalf of the company under Part IX of this Act; or
- f That, for any other reason, it would not be just and equitable to remove the company from the New Zealand register.

Specifically, for the purpose of subsection (1)(d) of section 321 creditors and shareholders should be aware of the following:

- a A claim by a creditor against a company is not an undischarged claim if:
 - i The claim has been paid in full; or
 - ii The claim has been paid in part under a compromise entered into under Part XIV of the Act or by being otherwise compounded to the reasonable satisfaction of the creditor; or
 - iii The claim has been paid in full or in part by a receiver or a liquidator in the course of a completed receivership or liquidation; or
 - iv A receiver or a liquidator has notified the creditor that the assets of the company are not sufficient to enable any payment to be made to the creditor; and
- b A claim by a member or any other person against a company is not an undischarged claim if:
 - i Payment has been made to the member or that person in accordance with a right under the company's constitution or articles or this Act to receive or share in the company's surplus assets; or
 - ii A receiver or liquidator has notified the member or that person that the company has no surplus assets.

Should you have any queries in relation to any matter raised in this report please contact us at westernpac@nz.gt.com or refer to the Grant Thornton website.

Dated: 14 December 2021



David Ruscoe
Liquidator

Appendix A – Statement of Receipts and Payments

	For the 2 month period ending 10 December 2021	For the combined period from 11 April 2011 to 10 December 2021
	\$	\$
Opening funds on hand	993	246,918
Receipts (excluding GST where applicable)		
Interest received	-	231,905
Collection of debtors	-	546,769
Insurance premiums received post appointment	-	10,877
Reinsurance proceeds (net of premiums due)	-	38,577,604
Public Trust	126	500,126
Sale of assets (net of expenses)	-	26,634
Proceeds from claims settled	-	24,398
Liquidator's funding for reinsurance premiums	-	346,403
Sundry receipts	-	8,834
GST on receipts	-	6,124
GST refund received	4,445	5,709,300
Total receipts	4,571	45,988,975
Payments (excluding GST where applicable)		
Claims office costs:	-	1,041,479
ACC	-	2,073
Cleaning	-	9,162
Computer costs and photocopier	-	103,546
Heating, light and power	-	9,364
Merchant fees	-	388
Relocation	-	10,016
Rent	-	121,550
Security	-	4,681
Staff expenses	-	57
Stationery	-	1,570
Storage costs	-	13,612
Sundry office expenditure	-	2,608
Telephone & internet	-	27,834
Wages and employee entitlements	-	735,019
Claim assessment payments:	-	1,019,970
Repayment of Liquidator's funding for reinsurance premiums:	-	346,403
Other costs incurred:		
Reinsurance premiums paid directly	-	430,173
Bank fees	22	3,073
Claim Settlement	-	140,000
Consultant fees	-	41,761
Professional Services Other	-	53,452
Public Trust Fees	-	3,469
Debt collection costs	-	2,924
Interveners costs	-	81,742
Liquidator's insurance	-	31,977
Legal fees - Canterbury Policy Holders	-	194,165
Legal and advisory fees	-	715,680
Liquidators fees	4,619	2,739,257
Distribution to preferential creditor ¹	-	133,212
Distribution to secured creditor	-	4,739
Distribution to unsecured creditors	328	697,036
Distribution to CPHs	-	32,838,491
Refund of premiums received post liquidation	-	3,453
GST on payments	595	5,713,437
Total Payments	5,564	46,235,892
Net receipts/payments for the period	(993)	(246,918)
Closing funds on hand	0	(0)

¹ Preferential Creditor payment (made in 2017) was refunded back to us in error and was repaid to them during the period ended 31 March 2020

Appendix B – Notice of Removal

Notice of intention to apply for Removal from the Register

Western Pacific Insurance Limited (in Liquidation) (“the Company”)

Pursuant to Section 320(2) of the Companies Act 1993

We, Malcolm Russell Moore and David Ian Ruscoe, Liquidators of the Company, hereby give notice that pursuant to section 318(1)(e) of the Companies Act 1993 and having filed with the Registrar of Companies our final report on the Liquidation in terms of section 257 of the Companies Act 1993, it is intended to remove the Company from the New Zealand Register.

Any objection to the removal, pursuant to section 321 of the Companies Act 1993, must be delivered to the Registrar of Companies no later than 18 January 2022.

Dated: 14 December 2021



David Ian Ruscoe
Liquidator

Grant Thornton New Zealand Limited
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