

# Liquidators' six-monthly report on the State of Affairs of

Western Pacific Insurance Limited (in Liquidation)

Company Number: 1222877

21 October 2019



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# Introduction

David Ian Ruscoe 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.

We set out below our report on the state of the affairs of the Company as required by section 255 of the Companies Act 1993.

# Restrictions

All information contained in this report is provided in accordance with Section 255 of the Companies Act 1993.

The statements and opinions expressed herein have been made in good faith, and on the basis that all information relied upon by us is true and accurate in all material respects, and not misleading by reason of omission or otherwise.

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.

We reserve the right, but will be under no obligation, to review or amend our report, as additional information becomes available.

In addition, the following should be noted:

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

# Conduct of the liquidation in the preceding six months

## 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 our six monthly statutory reports, the Court Order also includes a requirement for the Liquidators to provide bi-monthly reports to creditors and policyholders. These reports must include details of the work completed and costs and expenses incurred in relation to the realisation of the reinsurance proceeds. As such, below is a summary of costs incurred during the two months ended 30 September 2019.

|                                   | \$            |
|-----------------------------------|---------------|
| Loss adjustors and engineers      | -             |
| Bank Fees                         | 33            |
| Computer Costs and Photocopier    | 110           |
| Storage Costs                     | 198           |
| Legal fees (reinsurance)          | 9,539         |
| Liquidators fees (non-earthquake) | 0             |
| Liquidators fees (reinsurance)    | 4,301         |
| <b>Total</b>                      | <b>14,181</b> |

Copies of all reports in respect of this liquidation are available from our website:  
[www.granthornton.co.nz/Western-pacific-insurance/index.html](http://www.granthornton.co.nz/Western-pacific-insurance/index.html).

## Statement of Realisation and Distribution

Attached as an appendix is a statement of realisation and distribution showing the receipts and payments for the six month period ending 30 September 2019, along with a summary of cash movements since our appointment.

## Asset Realisations

### Claim Assessments

As reported in our previous report, one final claim was being disputed by the Claimant. All efforts to settle have been declined by the claimant and as such we will defend the litigation to ensure all CPH's are treated equally.

| 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             |

The table above 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.

## Distribution

To date, the Liquidators have made three distributions in respect of reinsurance funds. The following provides details of the distribution:

| Distribution date | Earthquake                      | Sep-10                    | Feb-11                    |
|-------------------|---------------------------------|---------------------------|---------------------------|
|                   |                                 | Value (\$)<br>(incl. GST) | Value (\$)<br>(incl. GST) |
| 23.01.17          | Distribution (amount incl. GST) | 9,171,742                 | 9,529,612                 |
|                   | 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%                        |

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.

On the basis of the reinsurance monies received and the costs estimated to be incurred, we estimate CPH will receive the following percentages of their losses as a final payment.

| Earthquake                                    | Sep-10     | Feb-11   |
|---|------------|----------|
|   | %          | %        |
| Further percentage estimated you will receive | Up to 1.5% | Up to 1% |

Due to the pending court hearing we have been unable to make the final distribution as anticipated. As soon as the final claim is resolved, we will the final distribution.

## Creditors

### Secured Creditors

As detailed on page 4, the Court Order confirms the reinsurance monies payable to the Company and/or the Liquidators are charged to the CPH.

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

|                               | Claims value (\$)<br>(excl. GST) | GST (\$)           | Claim value (\$)<br>(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                      |
| <b>Total estimated claims</b> | <b>\$64,429,485</b>              | <b>\$9,664,423</b> | <b>\$74,093,908</b>             |

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.

## 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 as at the date of this report:

|   | \$        |
|---|-----------|
| <b>Total accepted non-CPH unsecured creditor claims</b> | 7,687,096 |

We note that the shortfall from claims by the CPH will be classified as unsecured creditors. We estimate this additional amount to be in the range of \$37 million.

There will also be a distribution of funds held by the Public Trust. These funds total \$500,000 and are held as a deposit as is required by the Insurance Companies' Deposits Act 1953. Distribution of these funds are limited to policy holders only, this will include the extent of the shortfall of CPH reinsurance funds. It is expected that distribution of Public Trust funds will amount to less than a 1% recovery.

Following the above payments we expect there to be a small distribution to all unsecured creditors of less than one cent in the dollar. As mentioned above, CPH are entitled to claim as unsecured creditors to the extent of their shortfall from the reinsurance funds.

# Proposals for completing the liquidation

## Canterbury Policy Holders

The loss assessment work has been completed and we have made three distributions out of reinsurance proceeds on hand. Following the outcome of the pending court judgement, we expect to make the final distributions to CPH.

## Likelihood of Dividend to Unsecured Creditors

We expect there to be a small distribution to unsecured creditors of approximately one cent in the dollar. As mentioned above, CPH are entitled to claim as unsecured creditors to the extent of their shortfall from the reinsurance funds. It will not be possible to undertake a distribution to the unsecured creditors until all reinsurance funds have been received and distributed because the CPH entitlement to the unsecured distribution cannot be quantified until this occurs.

## Concluding the Liquidation

The liquidation will be completed once the distributions to the CPH and other creditors are made.

The liquidators will provide further updates to creditors when sufficient information becomes available. Should you have any queries in relation to any matter raised in this report please contact us at [westernpac@nz.gt.com](mailto:westernpac@nz.gt.com) or refer to the Grant Thornton website.

Dated: 21 October 2019



David Ruscoe  
Liquidator



# Appendix A – Statement of Realisation and Distribution

|  | For the 6 month<br>period ending 30<br>September 2019 | For the combined<br>period from 11 April<br>2011 to 30<br>September 2019<br>\$ |
|--|---|--|
| <b>Opening funds on hand</b>                                       | <b>1,242,246</b>                                      | <b>246,918</b>   |
| <b>Receipts (excluding GST where applicable)</b>                   |   |  |
| Interest received  | 108   | 229,844  |
| Collection of debtors  | -   | 546,769  |
| Insurance premiums received post appointment                       | -   | 10,877   |
| Reinsurance proceeds (net of premiums due)                         | -   | 38,577,604   |
| Sale of assets (net of expenses)                                   | -   | 26,634   |
| Proceeds from claims settled                                       | -   | 24,398   |
| Liquidator's funding for reinsurance premiums                      | -   | 346,403  |
| Sundry receipts  | -   | 8,826  |
| GST on receipts  | -   | 6,124  |
| GST refund received  | 42,711  | 5,470,321  |
| <b>Total receipts</b>  | <b>42,819</b>   | <b>45,247,801</b>  |
| <b>Payments (excluding GST where applicable)</b>                   |   |  |
| <b>Claims office costs:</b>  | <b>923</b>  | <b>1,038,220</b>   |
| ACC  |   | 2,073  |
| Cleaning   |   | 9,162  |
| Computer costs and photocopier                                     | 330   | 102,776  |
| 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  | 593   | 11,122   |
| Sundry office expenditure  | -   | 2,608  |
| Telephone & internet   | -   | 27,834   |
| Wages and employee entitlements                                    | -   | 735,019  |
| <b>Claim assessment payments:</b>                                  | <b>-</b>  | <b>1,019,970</b>   |
| <b>Repayment of Liquidator's funding for reinsurance premiums:</b> |   | <b>346,403</b>   |
| <b>Other costs incurred:</b>                                       |   |  |
| Reinsurance premiums paid directly                                 |   | 430,173  |
| Bank fees  | 110   | 2,489  |
| 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                             | 22,533  | 189,012  |
| Legal and advisory fees  |   | 706,160  |
| Liquidators fees   | 22,045  | 2,614,114  |
| Distribution to preferential creditor <sup>1</sup>                 | -   | 45,653   |
| Distribution to secured creditor                                   | -   | 4,739  |
| Distribution to CPHs   | -   | 32,075,347   |
| Refund of premiums received post liquidation                       | -   | 3,453  |
| GST on payments  | 6,825   | 5,483,474  |
| <b>Total Payments</b>  | <b>- 35,123</b>                                       | <b>44,174,530</b>  |
| <b>Net receipts/payments for the period</b>                        | <b>77,942</b>   | <b>1,073,270</b>   |
| <b>Closing funds on hand</b>                                       | <b>1,320,188</b>                                      | <b>1,320,188</b>   |

1. Preferential Creditor payment (made in 2017) was refunded back to us in error. We are liaising with the IRD to return the funds to them.



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