

# Liquidators' Six Monthly Report on the State of Affairs of

**Western Pacific Insurance Limited (In Liquidation)**

18 October 2013

Company Number: 1222877

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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 27 June 2013 and was replaced by Richard Grant Simpson.

We set out below our report on the state of the affairs of the above named 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

## **Reporting**

In addition to our six monthly statutory reports we are also provided bi-monthly reports to creditors and policyholders in accordance with the Order of the Court dated 14 June 2012 (the "Court Order").

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

## **Conduct of liquidation**

As outlined in our previous reports, we had initially been limited in our ability to complete loss adjustment of claims and therefore recover reinsurance proceeds due to the lack of funds in the liquidation. Loss adjusters had ceased working for the company prior to liquidation due to non-payment of significant arrears for work completed prior to our appointment.

Given the limited funds available in the liquidation, it was agreed with the loss adjusters that a targeted approach to assessment of claims be undertaken. In short, we have selected a small number of claims aimed at recovering reinsurance proceeds which may then be utilised for wider assessment of claims. Although this process is continuing, the loss adjusters have limited capacity to take multiple assessments simultaneously.

In June, \$1,935,919 was received from one of the Reinsurers as full and final settlement of its obligations under both the 2010 and 2011 treaties. These funds have allowed us to fund further assessments and schedule loss adjusters for future assessments as well as paying a portion of the liquidator and legal fees that had not been paid since the start of the liquidation.

Since our last statutory report dated 24 April 2013, we have undertaken the following:

- Negotiated and received a \$1.9m settlement from one of the Reinsurers
- Submitted a further claim to a panel of reinsurers
- Liaised with loss adjusters regarding the progression of claims assessments
- Reviewed claims received in respect of the Canterbury earthquakes and maintained claims estimates and kept the Reinsurers apprised of such amounts

- Continued recovery efforts to realise the significant unremitted premiums held by brokers
- Repaid financiers \$346,403 in accordance with the Court Order.
- Relocated the claims department to Wellington which will provide cost savings going forward

### **Statement of Realisation and Distribution**

Attached as Appendix A is a statement of realisation and distribution showing the receipts and payments for the period ending 30 September 2013 along with a summary of cash movements since our appointment.

### **Sealed Orders**

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

The order provides for specific charges to the ANZ National Bank Limited, Kiwibank Limited, Rabobank New Zealand Limited, Counsel for the Canterbury Policy Holders and the Liquidators. A summary of the specific charges and a copy of the order are included in our report dated 29 August 2012 and are available from the Grant Thornton website.

We are required to publish a report to creditors on the Grant Thornton website every two months from the date of the order, and will include the information in our statutory reports. The reports will include details of the work completed and costs and expenses incurred in relation to the realisation of the reinsurance proceeds. Below is a summary of costs incurred between 1 August and 30 September 2013.

	\$
Claim office costs	18,474
Claim assessment payments	6,061
Legal and Advisory Fees	3,653
Liquidators fees (non-earthquake)	1,280
Liquidators fees (reinsurance)	17,583
Liquidators insurance	2,506
Total	<hr/> <hr/> 49,557

### **Asset Realisation**

During the last six months we have continued with our efforts to collect the company's debtors, which include unremitted premiums held by various brokers and amounts due from individual policy holders. Over \$140,000 has been received in the last six months.

The current balance of debtors to be collected is \$776,708. Recovery action is ongoing in respect of the balance of outstanding debtors which includes using debt collection agencies and taking actions as per broker agreements.

### **Secured Creditors**

The ruling and subsequent order from the High Court means that Canterbury Policyholders, being those policyholders with claims in respect of the Canterbury earthquakes on 4 September 2010 and 22 February 2011, have a charge over the reinsurance recoverable in respect of such events.

There are no other secured claims, with the exception of the specific securities held in respect of office equipment which we are continuing to use in the claims office. The debt owing to the General Security Agreement holder was satisfied at the time of our appointment.

The following is a summary of the estimated claims in relation to the Canterbury Policy Holders.

	\$
September 2010 Earthquake	13,919,085
February 2011 Earthquake	<u>34,408,143</u>
Total	<u>48,327,228</u>

### **Preferential Creditors**

Inland Revenue has a preferential claim of \$87,559 and amounts' owing to employees at our appointment was \$117,932. At the date of the preparation of this report, these claims have not been reviewed by the liquidators.

It is unknown at this stage what distribution, if any, will be available for preferential creditors. Any such distribution will be dependent on recovery of outstanding debtors.

### **Unsecured Creditors**

The following is a summary of the Company's estimated total unsecured claims at the date of this report:

	\$
Estimated insurance claims	15,776,288
Trade creditors	1,154,394
Unexpired premiums	740,794
Broker commissions	10,967
Total estimated unsecured claims	<u>17,682,443</u>

It is noted the estimated insurance claims include all claims other than those in respect of the Canterbury Earthquakes on 4 September 2010 and 22 February 2011.

# Proposals for completing the liquidation

The liquidation is unlikely to be completed in the next six months as there is considerable work to be done in assessing and agreeing insurance claims in respect of the Canterbury earthquakes and recovering proceeds from reinsurance in respect of such claims.

## **Canterbury Policy Holders**

Policyholders with claims in respect of the Canterbury earthquakes on 4 September 2010 and 22 February 2011 are encouraged to provide any and all information they may hold to substantiate the insurance claims made in respect of these events.

The claims office is collecting information from the Canterbury Policy Holders relating to claims and we recommend all Canterbury Policy Holders contact the claims office on 09 365 1642 or [claims@westernpacins.com](mailto:claims@westernpacins.com) to confirm the information we hold on file is the most recent information available to date.

## **Claims Assessment**

As outlined above, loss adjustment is progressing on a targeted basis and is being intensified as loss adjusters become available.

## **Investigation**

An investigation into the affairs of the company is ongoing to determine if there are possible recoveries in respect to voidable transactions and whether the company traded recklessly.

## **Likelihood of Dividend to Unsecured Creditors**

It is not possible at this stage to determine whether any dividend will be available for ordinary unsecured creditors, however based on the information available, it appears unlikely. The recovery of unremitted premiums from brokers and/or any other source identified by the liquidators will determine what funds are available for distribution to creditors.

### **Concluding the Liquidation**

At this stage it is not practicable to estimate a completion date for the liquidation.

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 on [westernpac@nz.gt.com](mailto:westernpac@nz.gt.com) or refer to the Grant Thornton website.

**Dated:** 18 October 2013

For and on behalf of  
**Western Pacific Insurance Limited (In Liquidation)**



David Ruscoe  
**Joint Liquidator**

## Appendix A – Statement of realisation & distribution

	For the 6month period ending 30 September 2013	For the combined period from 1 April 2011 to 30 September 2013
	\$	\$
<b>Opening funds on hand</b>	<b>96,530</b>	<b>246,918</b>
<b>Receipts (excluding GST where applicable)</b>		
Interest received	15,658	72,650
Collection of debtors	141,530	281,062
Insurance premiums received post appointment	-	10,877
Reinsurance proceeds	1,935,919	2,193,174
Sale of assets (net of expenses)	-	26,286
Proceeds from claims settled	-	24,398
Liquidator's funding for reinsurance premiums		346,403
Sundry receipts	452	3,002
GST on receipts	68	4,663
GST refund received	41,514	287,025
<b>Total receipts</b>	<b>2,135,140</b>	<b>3,249,540</b>
<b>Payments (excluding GST where applicable)</b>		
Claim office costs:	73,477	625,344
Claim assessment payments:	11,809	26,788
Repayment of Liquidator's funding for reinsurance premiums:	346,403	346,403
Other costs incurred:		-
Reinsurance premiums	-	430,173
Bank fees	115	802
Consultant fees	-	41,761
Professional Services Other	-	11,197
Public Trust Fees	-	3,469
Debt collection costs	-	2,322
Liquidator's insurance	5,446	17,147
Legal fees - Canterbury Policy Holders	-	103,236
Legal and Advisory Fees	315,147	338,458
Liquidators fees and disbursements	573,108	576,765
Distribution to secured creditor	-	4,739
Refund of premiums received post liquidation	-	3,453
GST on payments	139,154	197,391
<b>Total Payments</b>	<b>1,464,660</b>	<b>2,729,447</b>
<b>Net receipts/payments for the period</b>	<b>670,481</b>	<b>520,093</b>
<b>Closing funds on hand</b>	<b>767,011</b>	<b>767,011</b>
<b>Represented by:*</b>		
Funds charged to Canterbury Policy Holders		167,198
Funds charged to other creditors		607,238
Funds received post appointment to be refunded		(7,424)
<b>Total funds on hand</b>		<b>767,011</b>

\* split is an approximation based on information currently available



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