

Finance and Leasing Limited (In Receivership & In Liquidation)

Receivers' Sixth Report

Pursuant to Section 24 of the Receiverships Act 1993

31 August 2013

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Important Notice

The information required to complete this report was obtained from company records. Values are based on book values from the financial statements and accounting records of the company.

We have relied on the information provided by the company and on company records in preparing this report. We have not completed any form of audit or verification procedures on the financial information and we do not express any form of audit opinion on the financial information.

We take no responsibility for any incorrect information contained in this report that has been supplied by the company, its officers or other persons. This is a report prepared by the Receivers in terms of Section 24 of the Receiverships Act 1993. This report is not to be reproduced or used for any other purpose without our prior written consent in each case. We do not accept any liability whatsoever to any party from any use of, or reliance on, this report.

Any realisation projections, time taken to complete realisations and related costs were all subject to uncertainty at the time that these projections were prepared. We express no opinion on the likelihood of any projections being achieved. Financial projections are based on assumptions and estimates of future events which cannot be estimated with any certainty. Actual results are likely to be different from projections and the variations could be material since anticipated events frequently do not occur as expected.

In accordance with standard practice neither Deloitte, the Receivers, nor any member or employee of Deloitte, undertakes responsibility arising in any way whatsoever to any person in respect of realisation projections, the related commentary on options available to the receivership, any estimate of outcome for creditors, or any report content based on information supplied by the company, including any errors or omissions herein arising through negligence or otherwise however caused.

1. Introduction

Brett Chambers and Paul Munro of Deloitte were appointed Receivers and Managers (“Receivers”) of all the assets, property and undertakings of Finance and Leasing Limited (“Finance and Leasing” or the “company”) on 18 January 2011 by Perpetual Trust Limited (“the Trustee”) pursuant to a Trust Deed dated 20 October 1986 (as amended) (the “Trust Deed”). The appointment was made under the powers contained in the Trust Deed.

We set out below our report on the state of the company affairs as at 31 August 2013 in accordance with Section 24 of the Receivership Act 1993. This is the sixth report provided by the Receivers.

This report should be read in conjunction with the Receivers’ previous reports. A statement of receipts and payments is attached in Section 6.

2. Receivership Matters

2.1. Events Leading Up to the Appointment of Receivers

Perpetual Trust Limited is the Trustee for the secured debenture stock (and deposits) issued by Finance and Leasing.

New Reserve Bank regulations for finance companies came into force on 1 December 2010 with respect to capital ratio requirements. Finance and Leasing was unable to meet the required covenants on a consistent basis within the required timeframe.

Without a registered prospectus, the company was unable to trade as a finance company and therefore the Directors requested the Trustee to place the company in receivership.

As at the date of receivership, the assets of Finance and Leasing included gross loan receivables of \$15.9 million less the Directors' impairment provision for specific loans of \$1.15 million.

Based on the accounting records of the company, the loan book as at 31 December 2010 comprised the following:

LOAN RECEIVABLES – AS AT 31 DECEMBER 2010 (\$000's)				
Loan Type	No	Gross Loan Receivable	Impairment Provision	Net Loan Receivable
Commercial	45	\$1,196	\$0	\$1,196
Consumer	16	\$302	\$0	\$302
Hotel Holdings	13	\$7,078	\$0	\$7,078
Land Holdings	1	\$1,450	\$0	\$1,450
Property Development	4	\$5,842	\$1,150	\$4,692
Total	79	\$15,868	\$1,150	\$14,718

2.2. Appointment of Liquidator

On 27 November 2012 the Official Assignee was appointed as the Liquidator of Finance and Leasing Limited (In Receivership and Liquidation).

The on-going day to day administration of the company, including the collection of loan receivables and payments of proceeds to investors continues to be managed by the Receivers. The appointment of the Liquidators will allow the Liquidators to exercise powers under the Companies Act 1993 that are broader than those available to the Receivers. For example the Receivers have handed over the files in respect of certain transactions authorised by the Directors of Finance and Leasing prior to the receivership. The Liquidators are carrying out their investigations into these transactions to determine whether there have been breaches of company law and whether it is in the interests of creditors and the wider public to pursue these.

The Receivers will continue to assist the Liquidators in any way they can.

In discussions with the Trustee, and given there are very few assets still to be realised, it is likely that the Receivers will resign within the next few months and allow the Liquidator to realise the remaining assets.

3. Finance and Leasing Loan Book

Since their appointment the Receivers have managed the loan book of Finance and Leasing to ensure loan repayments are being made and appropriate actions are initiated for loans in arrears or default.

The loan book contains loans for business activities including property development and asset acquisition or retention. As at 31 August 2013 there were 25 loans (79 loans at date of receivership) with balances outstanding. Only 6 loans are expected to provide any further cash flow.

At the date of receivership the loan book comprised a small number of loans with material outstanding sums. Substantial client concentration existed with the top three client exposures representing more than 90% of the loan balances (when related individuals or parties are consolidated).

The overall success of the receivership as measured by the return to secured parties is therefore highly dependent on the successful realisation of these loans.

The following observations can be made in relation to each class of loan:

Commercial Loans

Finance and Leasing advanced loans to commercial clients, secured over motor vehicles and other equipment. These loans balances made up 3% of the total balance receivable. The majority of the loan balances were less than \$50,000. One commercial loan has settled and repaid since the Receivers last report.

Consumer Loans

There are a small number of consumer loans, largely secured over motor vehicles. In general these loans performed adequately and three loans have settled and repaid since our last report.

Hotel and Land Holdings

Finance and Leasing had a significant exposure to a borrower that operates hotels in Auckland, Hamilton and Rotorua. This group is the largest exposure in the Finance and Leasing loan book at approximately \$8.6 million.

The security for the loans were mortgages over ordinary shares in the borrowing companies and this has made realisation a complex and difficult process not assisted by the poor trading performance of the companies. The Receivers have held discussions with the principal of the borrowing companies and guarantor of the loans to attempt to negotiate a satisfactory settlement of the loans. It has been difficult to make progress due to the weak security position and the borrowers and guarantors disputing certain aspects of the loan documentation. It is likely that litigation will be necessary to achieve any further realisation on these loans.

Property Development Loans

Finance and Leasing held interests in two significant property developments in Christchurch.

1. Harewood

One advance was secured by a second ranking mortgage over two titles in Canterbury. The value of the securities was primarily derived from their potential use as a shingle quarry.

There was a dispute between Finance and Leasing and the first mortgagee regarding whether any funds were secured by the first mortgage. The first mortgagee refused to discharge its mortgage and the Receivers successfully obtained an interim injunction compelling it to do so. This enabled the Receivers to negotiate with interested parties which led to a sale of the securities.

A substantive hearing relating to the priority ranking was concluded in late February. The court ruled that advances by the first mortgagee were secured under the mortgage and ordered that approximately \$461,000 of the proceeds of sale be paid to the first mortgagee. These funds had been held in trust pending the outcome of the court proceedings.

The amount the first mortgagee claimed was payable was \$495,000 (based on the likely date of sale had Finance and Leasing not disputed that funds were owed under the first mortgage). The difference of \$34,000 relates to an argument regarding the applicable interest rate in respect of which Finance and Leasing was successful.

2. Woolston

The other property development loan has been managed by Finance and Leasing since the borrower company was placed in liquidation. The property comprises a subdivision in the east of Christchurch.

The receivers recommended disposal of the proposed sub division by Public Tender. Following the 2011 earthquakes, the land presented considerable challenges for a prospective purchaser to complete the subdivision. Because of this it was unlikely that any unconditional auction bid would be received. The receivers view, on advice, was that the property may attract more interest if purchasers were given the opportunity to work with the receiver to resolve challenges associated with current consent conditions and ownership.

A preferred tenderer was selected following the tender close period but it then took a number of months to satisfy the purchaser's terms and conditions, meet Christchurch City Council requirements, deal satisfactorily with easements relevant to part of the lots and to reach unconditional agreement on the sale.

The price obtained was validated against updated valuation advice and the receivers are satisfied that an acceptable outcome was achieved.

Specific Loan Details

The Receivers believe releasing specific details of loans and collections to date or other commercially sensitive information would materially prejudice the exercise of their functions and possibly the outcome for secured debenture holders. Accordingly, under Section 24 (3) of the Receiverships Act 1993 the Receivers have omitted specific details in this section.

Land Held for Sale and Other Assets

Finance and Leasing has the following assets held for sale. Typically, these represent assets acquired by the company when loans defaulted. With the exception of one bus, these assets were held by Finance and Leasing at the date of receivership.

- Finance and Leasing owns a development property in South Beach, Greymouth which was purchased from a Finance and Leasing borrower in November 2008. The property has previously been marketed for sale by the Receivers by way of Deadline Sale but did not attract any acceptable offers. Subsequently the Receivers worked with two parties who conducted due diligence on the subdivision but ultimately that interest did not result in a sale.

The property is currently relisted for sale by Private Treaty.

Pre-receivership, the property was on the books of Finance and Leasing at \$3.1 million and was provisioned for a loss of \$0.3 million. Recent updated valuation advice would suggest that the realisable market value of the property is considerably weaker than the Receivers have been seeking to date.

- At the date of receivership Finance and Leasing had repossessed three buses. The Receivers subsequently repossessed a further bus. Three buses have been sold and the Receivers continue to pursue buyer interest in the remaining bus.

3.1. Disposal of Property

The Receivers have considered various options for the disposal of Finance and Leasing property. Where the options are in the best interests of the appointer, the Receivers have moved to realise these assets.

Settlement of 54 loans has been completed since 18 January 2011.

4. Amounts Owed by Finance and Leasing

4.1. Amounts Owing to Appointer (On Behalf of Secured Debenture Holders)

Finance and Leasing had 227 investors and \$17.2 million in depositor funds at receivership date (including funds held by the Trustee), with an average deposit of \$76,000. All debenture stock is secured under the Trust Deed.

Approximately \$16.5 million is invested in secured debentures (“debenture stock”) and approximately \$0.7 million was held in trust by the Trustee.

Prior to the receivership, the funds of 22 investors were held in trust due to Finance and Leasing not having a registered prospectus. As a consequence, any new deposit or deposits that matured during the period could not be reinvested.

These funds have subsequently been returned to the investors by the Trustee since they were unable to be accepted by Finance and Leasing.

To date \$3.8 million or 23 cents in the dollar has been distributed to secured debenture holders with the last distribution being on 28 February 2013. The remaining principal balance owing to secured debenture holders following the 28th February 2013 distribution is \$12.7 million or 77 cents in the dollar.

Interest continues to accrue to secured debenture holders until date of full repayment, although it is not anticipated that there will be sufficient funds to pay interest to secured debenture holders.

4.2. Amounts Owing to Other Preferential Creditors

Finance and Leasing’s preferential creditors are its employees and the Inland Revenue Department (“IRD”).

At the date of appointment the Receivers adopted approximately \$14,000 of employee preferential creditor payments and \$97,166 of IRD’s preferential claims.

The full value of employee and IRD preferential creditors has been established and claims settled.

4.3. Amounts Owing to Unsecured Depositors

Finance and Leasing had no unsecured deposits as at 18 January 2011.

4.4. Amounts Owing to Unsecured Creditors

Unsecured creditors were notified of the receivership subsequent to our appointment. As at the date of this report the Receivers have received confirmations from unsecured creditors for approximately \$205,000. We expect we are unlikely to receive any further confirmations of debt from unsecured creditors.

4.5. Amounts Owing to Redeemable Preference Shareholders

The company has 600,000 Perpetual Cumulative Redeemable Preference Shares (RPS). These shares have a fixed value of \$1.00 each. The RPS rank behind all secured and unsecured creditors of the company and all payments having priority at law, but rank ahead of the ordinary shares of the company.

4.6. Amounts Owing to Ordinary Shareholders

At the date of receivership Finance and Leasing had share capital with a book value of \$3.0 million comprising of ordinary shares. These shares have no par value and rank equally with regard to the company's residual assets.

4.7. Amounts Likely to be Available to Secured and Other Creditors

The Receivers noted earlier in this report that the top three client exposures account for more than 90% of the total loan book. The return of funds to investors ultimately depends on the recovery of monies lent to these three clients.

The security positions are not strong and there has been a significant decline in the value of security held. In recent months the Receivers successfully concluded the disposal of one of the major loans but at a significant loss compared to the value attributed to the security by Finance and Leasing.

In our previous report, the Receivers estimated a total return to secured parties in the range 30 to 33 cents in the dollar. In the six months since this estimate a number of assets have been realised at levels roughly consistent with that estimate. With the settlement of two legal proceedings, the Receivers estimates of costs have reduced slightly. These factors are however offset by the lower realisation prospects for the remaining assets.

It is possible that a final return in the 30 to 33 cent range is still achievable but a more prudent estimate would now be 28 to 30 cents in the dollar.

The Receivers are conscious that this represents a significant difference to estimates given early in the receivership process. However the significant concentration of loans to a small number of parties meant that the final outcome was always going to be highly dependent on successful realisation of the securities held in respect of these loans. Sadly that has proved to be very challenging.

This estimate is by no means a guarantee that the actual return will be in this range. Actual results may vary from the assumptions applied and this could have a material impact on the final recovery. The Receivers will continue to review these assumptions and update the estimate of realisation as the receivership progresses.

The Receivers have distributed 23 cents in the dollar to secured debenture holders and expect to make a further distribution of 3 cents in the dollar before the end of October 2013.

The Receivers continue to accrue interest on deposits held but it is unlikely that any interest will be paid to debenture holders.

The Receivers do not expect any funds will be available to repay redeemable preference shareholders, unsecured creditors or ordinary shareholders.

5. State of Affairs

5.1. Assets

The assets of Finance and Leasing principally comprise its loan book assets, cash, land, and other assets including office equipment and computers used to carry on business activities.

According to the company records, the primary assets of Finance and Leasing relate to loan receivables. As at 31 August 2013 the loan receivables are as follows:

Loan Receivables	Book Value ('000s)
Gross Loan Receivables	16,701
Less: Impaired Loans	(1,150) ¹
Loan Receivables Net of Impairments	15,551
Less: Other Accruals	(2)
Total Book Value of Loan Receivables	15,549

The only other assets of the company available as of 31 August 2013 are:

Other Assets	Book Value ('000s)
Bank	776
Accruals and Other Receivables	21
Office Equipment / Computers	0
Land and Other Assets Held For Sale	2,800
Deferred Tax	343
Total Other Assets	3,940

The Receivers have examined the deferred tax asset that existed at the date of receivership. No value is expected to be realised from the deferred tax asset.

Total assets are therefore recorded at a book value of \$19.5 million as of 31 August 2013 or \$19.1 million after the deferred tax asset is excluded.

¹ This represents impairment provisions made by the Directors' prior to the receivership. The Receivers have not attempted to update this impairment assessment.

5.2. Summary of Debts and Liabilities

Particulars of debts and liabilities as of 31 August 2013:

Debts and Liabilities	Book Value ('000s)
Secured Creditors	
Perpetual Trust (for Debenture Holders)	12,685
Preferential Creditors	-
Unsecured Creditors	
Unsecured Debenture and Deposit Holders	-
Creditors ¹	227
Redeemable Preference Shares	600
Total	13,512

Notes:

1. All creditors (both secured and unsecured) were notified of the receivership at appointment and were provided Confirmation of Debt forms to complete

5.3. Encumbrances Over the Property in Receivership

Particulars of encumbrances over the property in receivership are registered on the PPSR. A search of the PPSR dated 13 September 2013 revealed that the Trustee and Crown Asset Management Limited (CAML) hold a registered interest.

CAML hold this interest as a result of the transfer of the South Canterbury Finance Limited assets to the Crown. Following legal validation that interest was settled in August 2013. The Receivers have requested CAML to discharge their registered interest.

5.4. Any Default by the Grantor in Making Information Available

There has been no default by the Grantor in making information available.

6. Receipts and Payments

Finance & Leasing Limited (In Receivership & Liquidation) Receipts and Payments	1 March 2013 to 31 August 2013
Receipts	\$
Loan Receipts	725,317
Interest Received	4,909
Net Proceeds from the Sale of Assets	94,048
GST Refunds	13,127
Total Receipts in the Period	837,401
Payments	
Distribution to Secured Debenture Holders	492,528
<i>Capitalised Loan Costs:</i>	
Rates and other expenses	273,062
Interest and Bank Fees	369
IT Software and Support	1,352
Rates on Finance and Leasing Assets	2,288
Receivers Fees	44,016
Telephone and Communications	487
Trustee Fees	8,371
Total Payments in the Period	822,473
NET RECEIPTS IN THE PERIOD (INCLUDING GST)	14,928
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7. Receivers' Contact Details

The Receivers can be contacted at the address below.

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