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#### **SENIOR ASSOCIATES**

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#### **DIRECTOR**

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### **EXFTX LIMITED (IN RECEIVERSHIP & IN LIQUIDATION) ("Feltex")**

**(This company was called Feltex Carpets Limited until 1 December 2006)**

#### **LIQUIDATORS THIRD REPORT**

Pursuant to Section 255(2)(d)  
of the Companies Act 1993

**For the Period from 13 June 2007  
to 12 December 2007**

#### **1. PROGRESS OF THE ADMINISTRATION OF THE LIQUIDATION**

The liquidators report herewith on the progress made in the liquidation of EXFTX Limited (In Receivership & In Liquidation). **Attached** to this report is a copy of the Receivers' Statement of Realisations and Distributions to 22 September 2007.

This third report to creditors follows the second and earlier reports and should be read in conjunction with previous reports. This report is being sent to all shareholders and to all creditors who have filed a claim in the liquidation.

#### **2. REALISATION OF COMPANY ASSETS**

The Receivers sold all of the business and assets of Feltex to Godfrey Hirst. The Godfrey Hirst offer was accepted by the receivers for all of the assets and business of Feltex in New Zealand, Australia and the U.S.A. on 3 October 2006. A condition of sale was the change of company name to EXFTX Limited.

Settlement of the sale to Godfrey Hirst took place on 30 November 2006.

The Deed Administrators in Australia sold a 50% share of an Australian subsidiary. The amount to come from this sale is contingent upon litigation which is presently on foot. We have been advised that if the litigation is successful an amount of approximately A\$10 million could be available to reduce the amounts owing to the banks. Of this amount approximately A\$2.4 million would flow through to reduce the shortfall in New Zealand.

#### **3. CREDITORS CLAIMS**

##### **3.1 Secured Creditors**

The Feltex Group of companies were served with demands from Australia and New Zealand Banking Group Limited and ANZ National Bank Limited dated 20 September 2006, for A\$119.5 million. Interest and charges have continued to accrue since that date.

The receivers advise that in the period up to 21 September 2007 the following repayments have been made to the ANZ bank.

	A\$
By the New Zealand receivers	\$49.2 million
By the Australian receivers	\$56.3 million
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Total	A\$105.5 million
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The remaining balance due to the General Security Agreement holder as at 21 September 2007 (according to the receivers' reports) was A\$14 million, plus accrued interest.

### 3.2 Preferential Creditors

The receivers have paid the following preferential claims:

	NZ\$
Employee claims – Holiday pay and redundancy	5,714,703
Inland Revenue Department – PAYE	599,236
Customs	120,958
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Total	NZ\$6,434,897
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According to the Receivers' reports, there are no outstanding preferential claims. All remaining employees' claims are unsecured claims in the liquidation. These claims represent redundancy, long service leave entitlements, holiday pay and expenses.

### 3.3 Unsecured Creditors

As at the date of preparing this report 610 unsecured creditors claims have been received which total \$15,818,602 and 146 Shareholders claims have been received totalling \$6,287,619. The top 20 creditors represent \$6.45 million of the total claims.

Many employees have not lodged claims for the unsecured amounts that they may be entitled to.

### 3.4 Shareholders

Many Shareholders have lodged claims as unsecured creditors. Further detailed information has been sought from these shareholder claimants and no decisions have been made as yet to admit or reject such claims. A letter requesting further information is posted on our website [www.mvp.co.nz](http://www.mvp.co.nz).

It is important if shareholders wish to sustain their claims that the information is provided. There will come a time when we will make a decision and if the information has not been provided (and by then there will have been a substantial period of time provided), the decision will be based on the information received. There will be no further opportunities extended.

#### 4. INVESTIGATIONS AND LEGAL ISSUES

##### **Receivers Issues**

The receivers in New Zealand have advised they have two outstanding matters to attend to before retirement. Both are challenges to the rights in legal issues. Both are litigation proceedings commenced by suppliers and regard interpretation of unpaid goods at the date of receivership. Neither supplier had registered securities on the Personal Property Securities Register. The first decision was in the receivers' favour but has been appealed. The second decision has also been held in the receivers' favour but is expected to also be appealed.

The only material outstanding matter in relation to the Australian subsidiaries is the Court proceeding being undertaken by the Voluntary Administrator of Allmere in relation to its Carpet Call share holding. The hearing of evidence concluded on Thursday, 29 November 2007 however, I am not aware of any ruling being made as yet. We do not expect the outcome of the hearing to have any material impact on the receivership realisations.

The receivers are also dealing with an Accident Compensation Corporation claim relating to pre-receivership levies.

##### **Liquidators Issues**

The Liquidators are pleased to advise two significant events which assist in advancing recovery proceedings.

##### **i) Security Commission Report**

The Securities Commission released their report in October 2007. The report covered three main issues:-

- a) A review of the Prospectus dated 5 May 2004.
  - b) Compliance with Financial Reporting.
  - c) Compliance with the continuous disclosure obligations imposed by the Stock Exchange between listing in 2004 and the appointment of the liquidators in late 2006.
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- a) The inquiry concluded that the Prospectus was not misleading in any material particulars. It pointed out that the reasonableness of the assumptions and projection figures in the Prospectus were supported by the company's actual performance for the six month period ended 31 December 2004.
  - b) The company prepared half year financial statements for 31 December 2005. The Commission found that the company had breached its banking covenants and that this breach was material information which should have been shown in the interim financial statements.

The Commission also found that the company classified the ANZ bank debt as non-current in the 31 December 2005 financial statements. It found this not only to be incorrect, but to be misleading.

- c) On 27 October 2005 there were four relevant changes to the loan facility agreement with the ANZ bank. Under these changes marginal interest rates were increased and the ANZ bank gained the ability to declare all sums owed by the company to be immediately due and payable with at least 30 days notice upon a review of the facilities. The Commission concluded that the company should have disclosed these changes to the market.

### **Action Taken**

- The Commission has referred the Board's failure to disclose the breach of the banking covenants to the Registrar of Companies
- The Commission has stated that there have been corporate governance failures on the part of the Board.
- Ernst & Young reviewed the 31 December 2005 half year financial statements. The Commission concluded that Ernst & Young failed to meet the standards required for such an engagement and referred the Commission's report to the New Zealand Institute of Chartered Accountants to consider whether any action should be taken against Ernst & Young New Zealand.

### **ii) ANZ Bank Documents**

The Court hearing at which an application by the liquidators for production of ANZ bank records was heard on 19 November 2007 in the High Court at Auckland. Preceding the Court hearing there were constructive discussions between the parties. As a result of such discussions the banks agreed to provide the documents sought by the liquidators and full argument in the Court was avoided. The ANZ indicated that further records will be made available if the liquidators can show they have a need for them. The proceeding has been adjourned until the liquidators have inspected and assessed the records now being made available so that if we are not satisfied with the process we can resume our litigation rights.

The liquidators comment that this is a good result which would not have been reached without goodwill on both sides. The records will greatly assist the liquidators in their examination of the affairs and governance of the company. We have been advised that the records are presently being sorted and we will soon start receiving them.

The liquidators have previously been able to assess sufficient information to make demand on the directors of the Company alleging breaches of various provisions of the Companies Act 1993 and Financial Transaction Reporting Act and also foreshadowing other possible claims. The issues are detailed in our earlier report.

We are hopefully of being in a position to proceed with action early in 2008. Before starting any claim, we intend to invite the directors again to put any arguments in defence that they may have so we can assess them.

### **Other Recovery Actions**

There are several potential voidable transactions with payments being made to creditors/suppliers to the Company in circumstances that appear to infringe s 292 of the Act. The liquidators have made demand on a number of preferential payments. These are being disputed.

The liquidators are currently considering all avenues of recovery.

## **5. FUNDS / LIKELY OUTCOME**

The receivers have reported that there may be a shortfall out of the physical assets to the debentureholder. It therefore follows that any return to creditors and to shareholders will be through successful Court actions taken by the liquidators.

The liquidators received moneys from the Liquidation Surplus Account managed by the Ministry of Economic Development. These funds were used to progress proceedings in relation to a directors claim, the ANZ bank matter, and associated litigations.

The liquidators have predominantly self funded their own actions to date.

## 6. MATTERS DELAYING COMPLETION OF THE LIQUIDATION

Pursuit of the recovery action, particularly the claims against directors, is expected to take some time. It has been difficult to make substantial progress on a claim without being adequately funded, and there are added complexities due to the shareholders positions. However, the preparatory work to that end is continuing.

## 7. DISCLAIMER

The Liquidators do not accept any responsibility or liability for any errors, omissions or misinformation contained in this report. The liquidators do not accept responsibility or liability for any losses occasioned to any party as a result of the circulation, publication, reproduction, or use of this report.

## 8. WEBSITE [www.mvp.co.nz](http://www.mvp.co.nz)

Creditors are advised that this report and all subsequent reports will be available on the liquidator's website. The liquidators will provide a regular bulletin updating creditors with current progress in actions taken. This bulletin will be lodged on the website to reduce costs. Please send us your email address if you would like further reports sent to you.


## 9. CONCLUSION

Based on the above the liquidators cannot yet estimate an expected date of completion.

Any queries can be directed to John Whittfield, Peri Finnigan or John Vague of these offices on 0-9-303 0506 or by visiting our website at [www.mvp.co.nz](http://www.mvp.co.nz).

Yours faithfully  
for EXFTX LIMITED  
(IN RECEIVERSHIP & IN LIQUIDATION)

  
JOHN T WHITTFIELD  
LIQUIDATOR

  
JOHN L VAGUE  
LIQUIDATOR

  
PERI M FINNIGAN  
LIQUIDATOR

DATED this 12 day of December 2007

Number of Company: 828025

Name of Company: EXFTX LIMITED (IN RECEIVERSHIP & IN LIQUIDATION)  
(This company was called Feltex Carpets Limited until 1 December 2006)

Subject: RECEIVERS' STATEMENT OF REALISATIONS AND DISTRIBUTIONS FOR PERIOD 22 MARCH 2007 TO 21 SEPTEMBER 2007

**CASH HAS BEEN RECEIVED AS FOLLOWS:**

**NZ\$**

**Opening Cash as at 22 March 2007**

**935,638**

**Receipts**

Interest Received	39,026
GST Refunds	194,920
Transfer from Receivers AU\$ Bank Account	202,214

**TOTAL REALISATIONS**

**NZ\$436,160**

**CASH HAS BEEN PAID AS FOLLOWS:**

**Payments**

Plant Overheads	45,900
Telephone, Fax and Communication Costs	37,494
Receivers Fees	218,815
Legal Fees	35,440
Net Refund Due to Godfrey Hirst	59,447

**TOTAL DISTRIBUTIONS**

**NZ\$397,096**

**Total Realisations**

**436,160**

**Less Total Distributions**

**397,096**

**39,064**

**BALANCE AS AT 21 SEPTEMBER 2007**

**NZ \$ 974,702**

Number of Company: 828025

Name of Company: EXFTX LIMITED (IN RECEIVERSHIP & IN LIQUIDATION)  
(This company was called Feltex Carpets Limited until 1 December 2006)

Subject: RECEIVERS' STATEMENT OF DISTRIBUTIONS FOR PERIOD 22 MARCH 2007 TO 21 SEPTEMBER 2007

**CASH HAS BEEN PAID AS FOLLOWS:** **AU\$**

**Opening Cash as at 22 March 2007** **\$1,000,000**

**Payments**

Repayment of General Security Agreement Holders	300,000
Funds Transferred to Receivers NZ\$ Bank Account	182,371

<b>Total Distributions</b>	<u>482,371</u>
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<b>BALANCE AS AT 21 SEPTEMBER 2007</b>	<b>AU \$ <u><u>517,629</u></u></b>
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