



McDonald  
Vague

business recovery partners

## Viaduct Capital Limited (In Receivership)

### Receivers' Nineteenth Report

McDonald Vague Limited

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#### 1 INTRODUCTION AND APPOINTMENT

Boris van Delden and Iain McLennan, Insolvency Practitioners, of Auckland, were appointed jointly and severally as receivers and managers of all the assets, property and undertakings of the company on 13 May 2010 by Prince & Partners Trustee Company Limited.

Pursuant to section 24 of the Receiverships Act 1993, the receivers report herewith on the progress of the receivership. This nineteenth report should be read in conjunction with the receivers' prior reports.

A statement of realisations and distributions is **attached**.

#### 2 RESTRICTIONS

This report has been prepared in accordance with Section 24 of the Act. Whilst all care and attention has been taken in compiling this report, we do not accept any liability whatsoever to any party as a result of the circulation, publication, reproduction or use of this report.

We reserve the right (but are under no obligation) to review and, if we consider necessary, revise this report in respect of any information existing at the date of this report which becomes known to us after that date.

#### 3 CONDUCT OF THE RECEIVERSHIP DURING THE PRECEDING SIX MONTHS

##### *Asset Realisations*

We continue to wait for finalisation of a proposal we put to the receivers of Mutual Finance Limited and Treasury concerning the split of realisations on properties involving security sharing deeds. We understand the proposal is being considered by Treasury and we have recently re confirmed our position in regard to these funds.

In August 2017 FMA reported it had reached a \$4.5 million settlement with Viaduct's Trustee. We provided assistance to FMA with its intended distribution. FMA proceeded with its prosecution of Viaduct's two directors in a new trial that started in July 2018. On 27 March 2019 Viaduct's two directors were found guilty of several charges of theft by a person in a special relationship.

#### 4 PROPOSALS FOR DISPOSAL OF RECEIVERSHIP PROPERTY

As referred to above, we continue to pursue lines of recovery to proceeds from security sharing deeds which we say were not valid. A proposal (referred to in the previous section) has been made to settle this matter.

#### 5 CREDITORS' CLAIMS

##### 5.1 *Secured Creditor*

The secured creditor was Prince & Partners Trustee Company Limited, Level 9, 50 Anzac Ave, Auckland, secured by way of a Trust Deed dated 6 October 2006 and a GSA dated 15 August 2005, which GSA was held in trust for all depositors.

The Trustee submitted a claim in the receivership for \$13,670 in respect of unpaid fees as at the date of receivership which has been paid pursuant to the Trust Deed. The Trustee however has not been granted a licence by the FMA to act as Trustee following the commencement of the Trustee licencing regime with effect from 30 September 2012. A new Trustee has not been appointed. Until that happens, despite not being licensed, the former Trustee remains in place.

There are 18 secured depositors who have advanced funds totalling \$7,853,139 as follows:

Pre 20 April 2009	1	\$7,320,046
Post 20 April 2009	17	<u>\$533,093</u>
Total Secured		\$7,853,139

The above amounts included any accrued capitalised interest as at the date of receivership.

The receivers paid a first distribution of 7 cents in the dollar in June 2015. As a result of the FMA settlement we estimate that depositors should have received a further 40-50 cents in the dollar approximately.

##### 5.2 *Preferential Creditors*

As at the date of receivership there were claims totalling \$1,514 of preferential creditors. No payments have been made to preferential creditors.

##### 5.3 *Unsecured Creditors*

To date, we have received unsecured claims totalling \$52,824. It is unlikely that there will be surplus funds available for unsecured creditors.

#### 6 MATTERS DELAYING THE COMPLETION OF THE RECEIVERSHIP

The following matters are outstanding:

- Final asset realisation; and
- Distribution to secured creditors.

## 7 ESTIMATED DATE OF COMPLETION

It is currently too early to estimate a date of completion for the receivership.

## 8 CONTACT DETAILS

Enquiries should be directed to the writer on (09) 303 9512 or by email to [imclennan@mvp.co.nz](mailto:imclennan@mvp.co.nz).

The Receivers can be contacted at:

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P O Box 6092, Wellesley Street, Auckland 1141



IAIN McLENNAN  
RECEIVER

DATED this 21<sup>st</sup> day of May 2019

# Realisations and Distributions

## Viaduct Capital Limited (In Receivership) 13 May 2010 to 12 May 2019

	As per Statement Of Affairs \$	Cash Received \$
<b>Realisations</b>		
Bank Account	57,526	57,526
Cost Recoveries	-	350
Debtors	30,000	3,593
Prepayments	4,645	4,932
Security Realisations	2,380,000	841,042
Interest	-	5,042
Income Tax Refund	-	12,795
RWT Refund	-	14,321
GST pre-appointment return refund	102,055	94,737
<b>Total Realisations</b>	<b>\$2,574,226</b>	<b>\$1,034,338</b>
<b>Payments</b>		
<b>Receivers Fees</b>		
Receivers Fees		333,911
Disbursements		4,519
<b>Total Receivers Fees</b>		<b>\$338,430</b>
<b>Other Costs of Receivership and Trading On</b>		
Legal Fees		73,127
Bank Fees		297
Resident Withholding Tax		1,200
Loan Related Payments		24,955
Consulting Fees		101
GST – Non-Recoverable		6,722
<b>Total Costs of Receivership and Trading On</b>		<b>\$106,402</b>
<b>Distributions to Creditors</b>		
Secured Creditor		13,670
Investors		549,720
<b>Total Distributions</b>		<b>\$563,390</b>
<b>Total Payments</b>		<b>\$1,008,222</b>
<b>BALANCE HELD</b>		<b>\$26,116</b>

Note: the above figures are GST exclusive