

# Meltzer Mason Heath

Chartered Accountants practising as insolvency specialists

Refer to: Lloyd Hayward

No. of Company: 1523868

## Liquidators' Further Report Pendale Limited (In Liquidation) For the period to 11 August 2010

### Introduction

Pendale Limited was placed into voluntary liquidation in Auckland on 12 February 2008 when Jeff Meltzer, Arron Heath and Lloyd Hayward of Meltzer Mason Heath were appointed joint and several Liquidators.

In accordance with section 255 of the Companies Act 1993 the Liquidators are obliged to report to all creditors and shareholders on the conduct of the liquidation during the preceding six months. This report covers the period to 11 August 2010.

### Action to Date

The Liquidators have previously reported on actions undertaken. See below for further comment on actions proposed by the Liquidators.

### Receipts and Payments

There have been no receipts and no payments during the period covered by this report.

### Asset Realisations

There have been no realisations of assets during the period covered by this report.

### Dividends

There have been no dividends paid during the period covered by this report. At this time the Liquidators do not expect that there will be any dividend available for creditors.

**The following sections of this report incorporate comments relating to all of the Blue Chip companies to which we have been appointed.**

\_\_\_\_\_  
Jeff Meltzer  
\_\_\_\_\_  
Karen Mason  
\_\_\_\_\_  
Arron Heath



The Liquidators have received an opinion from Queen's Counsel on possible causes of action that may be available to them. The opinion is currently being evaluated. As reported previously, the Liquidators will need to obtain funding should they decide to commence proceedings for breach of duty by directors and/or in relation to advice given to the Blue Chip Group in relation to its products. Such funding may or may not be available in the current economic climate.

The Liquidators understand that the present position in the investor groups' proceedings are:

1. The appeal in the case which some investors brought against G E Custodians Limited has been allowed, with the Court of Appeal finding that the loan agreements between those investors and the finance company were oppressive in terms of Part 5 of the Credit Contracts and Consumer Finance Act 2003. The Court of Appeal has remitted the case back to the High Court for appropriate remedy. At the date of this report the Liquidators understand that the finance company has applied for leave to appeal the decision and that the High Court had not yet decided on a remedy for the plaintiffs.
2. The other proceeding involved the developers of three central Auckland apartment buildings where Blue Chip investors had purchased apartments. Investors who purchased the apartments believed they would not have to settle the sale and purchase agreements they had signed, but the High Court ruled that the agreements were valid and the investors were obliged to settle. As far as the Liquidators are aware the investors appeal against this judgment has not yet been heard.

Investors may be aware that compensation orders have been made against two Blue Chip recommended lawyers (Jonathan Mathias and Zel Unkovich), for failing to advise the plaintiff investors of the risks of the investment. The Court found that the lawyers had failed in their duty of care to the investors they were advising by conveying in Mathias' case, a "very misleading impression" of the Blue Chip investment, and in Unkovich's case, failing "in his duty to his clients to see that they understood the transaction". The Liquidators understand that there are further cases pending against advisors recommended by Blue Chip.

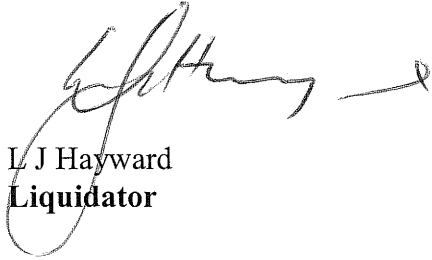
Blue Chip's co-founder, Mark Bryers, was sentenced in May 2010 to 75 hours community work and a fine of \$37,490, plus Court costs in relation to 34 charges including failing to file accounts, failing to complete financial statements and failing to attend the Blue Chip creditors' meetings in March 2008. Mr Bryers has also been banned from being a director or manager of a company for five years, the longest period possible.

The Liquidators' view is that whether creditors will receive any dividend from the liquidations will depend on whether a decision is made to issue proceedings against directors and others. Those proceedings will require funding, the availability of which is uncertain, and may involve a protracted time frame. The Liquidators will issue a media release if funding is obtained to enable proceedings to be issued with the details being posted on the Meltzer Mason Heath website.

Not all Blue Chip companies will be involved in any proceedings. Only the creditors of those Blue Chip companies that are involved have any prospect of receiving a dividend.

Please contact Lloyd Hayward of this office should you require any further information.

Dated this 1<sup>st</sup> day of September 2010

A handwritten signature in black ink, appearing to read 'I. J. Hayward', with a horizontal line extending to the right from the end of the signature.

I. J. Hayward  
**Liquidator**