



## ***Nathans Finance NZ Limited (In Receivership) (“Nathans”) – Update to Investor***

5 August 2011

Dear Investor

We write to provide an update to Nathans’ secured debenture investors on the progress of the receivership.

### ***Background to this update***

On 23 December 2008 the Securities Commission laid criminal charges and issued civil proceedings against Nathans’ directors John Hotchin, Donald Young, Kenneth Moses and Mervyn Doolan in relation to making untrue statements in the Company’s registered prospectus, investment statement and letters sent to members of the public advertising Nathans’ debenture stock offer documents in 2006 and 2007.

In February 2010 there was a depositions hearing in which it was determined that there was a case to be answered by Nathans’ directors in respect of their actions. The main trial was set down for 14 March 2011.

Prior to trial, John Hotchin pled guilty to three charges of making untrue statements in relation to Nathans’ bad debts and liquidity. He was sentenced to 11 months home detention and was ordered to pay \$200,000 to Nathans. This amount has since been received.

### ***The trial***

The trial went for 12 weeks and at the conclusion of the trial, Donald Young, Kenneth Moses and Mervyn Doolan were all found guilty on five charges laid by the Securities Commission:

- Count 1: Between 13 December 2006 and 30 August 2007, distributing an investment statement dated 13 December 2006 containing an untrue statement.
- Count 2: Between 13 December 2006 and 30 March 2007, distributing Prospectus No 8 dated 13 December 2006 containing an untrue statement.
- Count 3: Between 29 March 2007 and 30 August 2007, distributing Prospectus No 8 (pursuant to an extension certificate) containing an untrue statement.
- Count 4: On 14 May 2007, distributing an advertisement (a letter to investors dated 14 May 2007) containing an untrue statement.
- Count 6: On 6 August 2007, distributing an advertisement (a letter to investors dated 6 August 2007) containing an untrue statement.

The directors were found to be not guilty of one charge:

- Count 5: On 12 July 2007, distributing an advertisement (a letter to investors dated 12 July 2007) containing an untrue statement.



In respect of Count 5, it was held that the letter sent to investors dated 12 July 2007 was not an advertisement.

The sentencing has been set down for 2 September 2011. The directors could potentially face prison terms of up to five years or a fine of \$300,000.

***Receivers' legal action against Nathans' directors and auditors***

We are continuing to focus our efforts on legal action against the directors, a former director, and the auditors of Nathans for breaches of the Companies Act 1993 and their common law obligations (in relation to the directors) and for breach of contract and negligence (in relation to the auditors).

As discussed in our previous update to investors, we are unable to disclose details of the claims for legal reasons or predict a timeframe for resolution of the matters due to their complexity.

We will continue to update investors on a regular basis. Should you wish to contact us, please do so via our website, telephone, facsimile, or private bag address, as follows:

Nathans Finance NZ Limited (In Receivership)  
c/- PricewaterhouseCoopers  
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Auckland

Telephone: +64 9 355 8451  
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Website: [www.pwc.com/nz/NathansFinance](http://www.pwc.com/nz/NathansFinance)

We would like to take this opportunity to thank you for your ongoing patience and support.

Yours faithfully  
Nathans Finance NZ Limited (In Receivership)

A handwritten signature in black ink, appearing to read 'Colin McCloy'.

Colin McCloy  
Receiver