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***Receivers' Report on the State of Affairs of***  
***OPI Pacific Finance Limited (In Receivership and In Liquidation)***

Company Number: 977908

***May 2023***





## IMPORTANT NOTE

- This report has been prepared in accordance with and for the purpose of Section 24 of the Receiverships Act 1993, for the sole purpose of reporting on the state of affairs with respect to the property in receivership and the conduct of the receivership for the six month period 14 September 2022 to 14 March 2023.
- All information contained in this report is provided in accordance with Sections 26 and 27 of the Receiverships Act 1993.
- This report is subject to the restrictions set out at Appendix A. In particular, in preparing this report we have relied upon and not independently verified or audited information or explanations provided to us.

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# *Table of contents*

1.	<i>Introduction .....</i>	<i>4</i>
2.	<i>Events following appointment .....</i>	<i>4</i>
3.	<i>Particulars of assets and proposal for disposal of property in receivership .....</i>	<i>5</i>
4.	<i>Particulars of debts and liabilities outstanding and requiring to be satisfied from the property in receivership .....</i>	<i>6</i>
5.	<i>Receipts and payments .....</i>	<i>7</i>
6.	<i>Other matters .....</i>	<i>7</i>

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## 1. Introduction

Colin McCloy and Maurice Noone were appointed receivers of OPI Pacific Finance Limited (In Receivership and In Liquidation) (**PAC** or the **Company**) by Perpetual Trust Limited (the **Trustee**) on 15 September 2009. The Company had been subject to a moratorium arrangement that was approved by creditors on 19 May 2008. The receivership ended that moratorium arrangement.

We were appointed under the terms of a security agreement giving the secured party a security interest over all of the assets and undertakings of PAC. The property in receivership comprises all of the assets, property and undertakings of PAC.

On 3 November 2011 Aaron Walsh and Andrew McKay of Corporate Finance Limited were appointed liquidators of PAC by the shareholders of PAC, OPI Pacific Limited (In Liquidation) (**OPL**). Justin Bosley replaced Aaron Walsh as liquidator on 6 July 2012. On 19 December 2014 James Greenway was appointed liquidator following the resignation of Justin Bosley. Andrew McKay was also the liquidator of OPL and other related New Zealand companies,. We note these related entities have now been struck from the Register of Companies. Placing PAC into liquidation does not affect the operation of the receivership or the rights of secured debenture holders.

This report provides an update of the receivership, any potential returns for PAC investors and the receivers' investigations into the financial affairs of PAC in the period prior to receivership.

## 2. Events following appointment

As you are aware, following our appointment as receivers we attended the offices of PAC to secure the books and records and we determined the most appropriate method of realisation of the assets. Our actions have included:

- Securing key assets;
- Contacting all borrowers and guarantors regarding the recovery of loans;
- Developing asset realisation strategies where applicable;
- Investigating potential claims in respect of the loan book and insurance policies;
- Providing updates and communicating with investors and the Trustee;
- Investigating the affairs of PAC;
- Crystallising PAC's security in respect of its loan to OPI Pacific Investment Pty Limited (**PIC**); and
- Attending various meetings held by the liquidators of Octaviar Limited (Receivers and Managers appointed) (In Liquidation) (**Octaviar**) and Octaviar Administration Pty Limited (In Liquidation) (**OCVA**).

At the commencement of the receivership of PAC, Colin McCloy and Maurice Noone were appointed as joint and several receivers. However, Mr Noone subsequently resigned as receiver of PAC on 8 May 2014. John Fisk of PricewaterhouseCoopers was appointed receiver of PAC on 8 May 2014. Colin McCloy resigned as a receiver on 7 December 2020.

We have also written to investors on 26 November 2009, 4 May 2010, 23 July 2010, 22 December 2010, 8 June 2011, 18 February 2013, 17 December 2013, 23 December 2014, 9 October 2015, 20 December 2017, 12 April 2018, 30 September 2021 and 14 September 2022.

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### ***3. Particulars of assets and proposal for disposal of property in receivership***

#### *Loan assets*

As discussed in our previous reports the recorded loan assets of PAC and PIC have been realised by the receivers. No further material loan related recoveries are expected.

#### *Unsecured claims against Octaviar and OCVA*

As previously reported, substantial unsecured claims were lodged and formally admitted in the liquidations of Octaviar, the ultimate parent entity of PAC's related parties and its subsidiary, OCVA.

As at the end date of the reporting period, we had received NZD14.34m in distributions from the liquidations of Octaviar and OCVA.

Included in the above total, during the period covered by this report, we received funds from the liquidators of Octaviar and OCVA of NZD2.7m. The liquidations are currently being completed and no further funds will be received by PAC.

## 4. *Particulars of debts and liabilities outstanding and requiring to be satisfied from the property in receivership*

### *Secured debenture holders*

At the date of the receivership, PAC's records indicated it owed NZ\$198.4m to secured debenture holders, predominately located in New Zealand and Australia.

Following the period covered by this report, we made a final distribution related to the funds received from the liquidation of Octavier and OCVA totalling \$2.39m.

Based on balances owing at the start of the Company's moratorium and following this final distribution, the total amount repaid to secured debenture holders is approximately 37.28 cents in the dollar.

During the receivership, the following distributions to secured debenture investors have been made as follows:

- NZ\$4.35m on 22 December 2010;
- NZ\$4.05m on 18 February 2013
- NZ\$12.50m on 23 December 2014
- NZ\$3.10m on 9 October 2015;
- NZ\$3.90m in April 2018;
- NZ\$7.28m in October 2021; and
- NZ\$2.39m in October 2022.

- The October 2022 distribution was the final distribution of the receivership. We note that we held unclaimed monies for investors we were unable to complete distributions to, due to insufficient payment information. Majority of these funds have been transferred to Inland Revenue, who will hold the funds on investors' behalf until claimed. The remaining balance of the unclaimed monies relates to international investors and therefore can not be transferred to Inland Revenue. These funds will shortly be transferred to the appropriate authorities as we finalise the receivership.

### *Preferential and other unsecured creditors*

We are not aware of any preferential claims. As at the date of receivership, PAC's records indicated it owed NZ\$57.5m to unsecured note holders.

Given the significant estimated shortfall to secured debenture investors, we have regretfully advised that there are no amounts available for payment to unsecured noteholders or other creditors.

## 5. Receipts and payments

The table below sets out the receipts and payments for the receivership of PAC to 14 March 2022.

### OPI Pacific Finance Limited (In Receivership and In Liquidation)

#### Receipts and payments

For the Period from 15 September 2022 to 14 March 2023

NZ\$

#### Receipts

Pre-Receivership	2,522,166.77
Trust Account	1,726,922.32
Net GST	785,487.17
Recoveries	38,200,801.00
Reimbursement of costs	182,933.55
Interest received	296,170.45
Other	5,811,330.62

**Total Receipts** **49,525,811.87**

#### Payments

Legal fees	3,147,124.23
Trustee fees	710,280.11
Receivers fees and disbursements	3,840,855.27
Taxation Fees	1,665.56
Computershare registry fees	683,606.47
Other professional & consulting fees	433,550.88
Reef Cove Loan	582,611.38
Bank fees	8,614.22
Interest expense	49.34
Insurance	10,528.64
Resident withholding tax	28,388.14
Other expenses	2,486,843.43
Foreign currency movements	2,291.83

**Total Payments** **11,936,409.50**

**Net funds prior to distributions** **37,589,402.38**

Distributions to secured debenture holders 37,551,123.47  
*less unclaimed monies (held aside)* (15,780.31)

**Net funds** **54,059**

## 6. Other matters

We carried out an initial investigation into the activities of PAC, its directors and third parties and reported our findings to the relevant Government Authorities.

We also assisted the Financial Markets Authority (FMA) with its investigation into the affairs of PAC and directors, and provided assistance with other related cases that the FMA was investigating.

Proceedings brought by the receivers against the Company's auditors resulted in a settlement agreement, the terms of which are confidential.

In November 2013 the FMA laid charges against four directors of PAC. All four directors entered guilty pleas on various dates in August/September 2015 for charges in relation to the issuance of a prospectus containing untrue statements. They were sentenced to community service and ordered to pay reparations to PAC of A\$100k each. All of these amounts have been received.

Should stakeholders have any queries arising from this report, please contact us via our website or private bag address as follows:

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John Fisk  
Receiver

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# Appendix A

## ***Restrictions***

- All information contained in this report is provided in accordance with Sections 26 and 27 of the Receiverships Act 1993.
- The statements and opinions expressed herein have been made in good faith, and on the basis that all information relied upon is true and accurate in all material respects, and not misleading by reason of omission or otherwise.
- We have not independently verified the accuracy of information provided to us, and have not conducted any form of audit in respect of the Company. Accordingly, we express no opinion on the reliability, accuracy, or completeness of the information provided to us and upon which we have relied. Whilst all care and attention has been taken in compiling this report, we do not accept any liability whatsoever arising from this report.
- The statements and opinions expressed in this report are based on information available as at the date of the report.
- We reserve the right, but will be under no obligation, to review or amend our Report, if any additional information, which was in existence on the date of this Report was not brought to our attention, or subsequently comes to light.
- We have relied on forecasts and assumptions prepared by the Company about future events which, by their nature, are not able to be independently verified. Inevitably, some assumptions may not materialise and unanticipated events and circumstances are likely to occur. Therefore, actual results in the future will vary from the forecasts upon which we have relied. These variations may be material.
- In addition the following should be noted:
  - Certain numbers included in tables throughout this report have been rounded and therefore do not add exactly.
  - Unless otherwise stated all amounts are stated in New Zealand dollars.