

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

April 2009

Dear Investor

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

### **Background to this update**

Nathans is a subsidiary of VTL, which is an NZX listed company. At the date of Nathans' receivership VTL owned a number of vending machine franchise businesses which operated in New Zealand and Australia (“24seven Australasia”), North America (“24seven US”), and Shop 24 Europe and US (“Shop24”).

At the date of receivership Nathans had advanced \$171m of debt to VTL, 24seven Australasia, 24seven US, Shop 24, their franchisors and franchisees. In addition Nathans owned \$10m of fixed assets, mainly vending machines. Accordingly, Nathans' vending-related assets at receivership totalled \$181m, or 93% of its total assets, which were recorded at a book value of \$194m. Recoveries from Nathans' vending assets will therefore have the single largest impact on the ultimate returns for Nathans investors.

As noted previously, in our view the recoverable value of the assets of Nathans was materially overstated at 20 August 2007, being the date of our appointment as receivers of Nathans. In this regard we note that shortly after the receivership of Nathans, the directors of VTL reported a loss of \$133m for the 14 month period ended 31 August 2007. The loss will have a direct impact on the potential recoveries for the Nathans receivers and ultimately Nathans investors. The magnitude of the loss is a serious concern and has been the subject of investigation by the receivers of Nathans. A number of matters of concern have since been reported to certain Government Authorities, who are investigating the matters.

## **Progress of VTL's Sale and Restructuring Processes**

Ultimately the recoveries for Nathans investors will be determined by recoveries from VTL's 24seven Australasia, 24seven US and Shop24 business units; and recovery of other assets. We comment on each below:

### ***24seven Australasia (Australia and New Zealand)***

24seven Australasia was offered for sale by way of a formal competitive tender process, managed by PwC. A number of bids were received and a sale as a going concern was concluded at the end of May 2008.

### ***24seven US (California and Texas)***

The 24seven US business comprises operations in California and Texas. 24seven California was sold as a going concern with the proceeds of sale received in late April 2008. The receivers are finalising a settlement agreement with a third party in relation to the business operations in Texas. However, realisations are not expected to be significant in terms of potential returns to investors.

### ***Shop24 (Europe and United States)***

As previously advised, a detailed fund raising information memorandum was prepared and issued to interested parties earlier in the receivership. A number of parties expressed interest and have been evaluating the opportunity. The receivers are finalising negotiations with an interested party. However, once again realisations are not expected to be significant in terms of potential returns to investors.

### ***Recovery of Other Assets***

The receivers have finalised the collection of Nathans' commercial loans. Legal proceedings in respect of the loans to related parties of Nathans and VTL continue to progress.

We continue to assess the best strategy to realise loans to VTL franchisees on a case by case basis, and note that some of Nathans' franchisee loans were realised in conjunction with the sale of the 24seven Australasia and 24seven US California businesses.

Please note that we have omitted certain details concerning our proposal for the disposal of receivership property as we believe that their inclusion would materially prejudice the exercise of our duties to obtain the best price reasonably obtainable for the sale of receivership property.

### ***Anticipated Further Dividends***

As mentioned previously, it is clear that, in light of the pre-receivership losses reported by the directors of VTL and the impact of worsening global economic conditions on our ability to realise the assets of Nathans and VTL, investors face a significant loss. As advised in earlier

reports, in our view it is unlikely that secured debenture investors will recover more than 10% of their principal investment and the return could be less than this.

We made payment of 2.2% of the principal investment to secured debenture investors of Nathans in December 2008. Further dividends will be paid as funds are available, over the remainder of 2009.

### **Investigation into VTL's \$133m Loss**

As mentioned previously, in light of the significant trading losses incurred by VTL in the period prior to receivership, the receivers initiated an investigation into the affairs of both Nathans and VTL. As a result of these investigations (which are ongoing), a number of serious matters came to our attention and were referred to a number of Government agencies, including the New Zealand Securities Commission ("Securities Commission").

On 23 December 2008 the Securities Commission announced that it has laid criminal charges and issued civil proceedings against Nathans directors John Hotchin, Donald Young, Kenneth Moses and Mervyn Doolan. The Securities Commission alleges (amongst other things) that the directors made untrue statements in the registered prospectus and investment statement. The charges relate to statements concerning:

- Lending to related parties;
- Nathans' bad debts disclosure;
- Nathans' liquidity;
- The diversification of Nathans' lending;
- Management of the loans in accordance with robust policies and processes; and
- Nathans' disclosure of all material matters.

The Securities Commission also alleges that letters sent to members of the public advertising Nathans Finance debenture stock contained untrue statements about some of the matters referred to above. These claims do not apply to Mr Hotchin who had resigned his directorship by the time the letters were sent out.

Three of Nathans' directors (Hotchin, Young and Moses) appeared in the Auckland District Court on 23 January 2009 in respect of the above charges. They entered no plea and were granted bail. All four directors are due to reappear in Court on 20 April 2009 for a preliminary hearing.

We have also identified potential claims that can be made against various parties associated with Nathans and VTL. Legal action respect of these claims is progressing.

We continue to investigate the affairs of both Nathans and VTL and assist various Government agencies with their investigations.

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  
Private Bag 92-162  
AUCKLAND  
Telephone: +64 9 355 8451  
Facsimile: +64 9 355 8013  
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)



Colin McCloy  
Receiver