

OPI Pacific Finance Limited (In Receivership)

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

**For the six month period from 15 March 2010 to 14 September 2010
Pursuant to Section 24 of the Receiverships Act 1993**

Company Number 977908

November 2010

OPI Pacific Finance Limited (In Receivership) ("PAC")

Receivers' third report on the state of affairs of PAC pursuant to Section 24 of the Receiverships Act 1993

1. Introduction

As previously reported, Colin McCloy and Maurice Noone were appointed receivers of PAC by Perpetual Trust Limited ("Perpetual") on 15 September 2009. 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.

This report has been prepared in accordance with and for the purpose of Section 24 of the Receiverships Act 1993. It is prepared for the sole purpose of reporting on the state of affairs with respect to the property in receivership and the conduct of the receivership.

The report is subject to the restrictions set out at Appendix I.

2. Events following our 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 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 Perpetual;
- Commencing an investigation into 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").

We have also written to investors on

- 26 November 2009;
- 4 May 2010; and
- 23 July 2010.

Copies are available on our website www.pwc.com/nz/opipacific.

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

As previously reported PAC has negative net assets of NZ\$418m, as presented below in the summary of management's unaudited balance sheet as at 31 August 2009. Note the balance sheet has been prepared from PAC's accounting records and information supplied to us by management. It has not been audited by the receivers or any other third parties. Total actual recoveries from the assets are expected to be significantly less than the book value.

| OPI Pacific Finance Limited (In Receivership) | | As as 31 August 2009 |
|--|-------------|-----------------------------|
| Draft Management Unaudited Balance Sheet | Note | (NZ\$'000) |
| Assets | | |
| Cash assets | A | 2,630 |
| Funds held in trust | B | 1,388 |
| Secured loans | C | 270,632 |
| Provision for loans | C | (237,354) |
| OPI Pacific Investment Loan | C | 184,418 |
| Provision for OPI Pacific Investment Loan | C | (163,566) |
| Contribution under Put Option | D | (24,600) |
| Miscellaneous assets | D | 541 |
| Total Assets | | 34,089 |
| Liabilities | | |
| Funding - Debentures NZD | | 143,412 |
| Funding - Debentures AUD | | 55,014 |
| Funding - Unsecured Notes NZD | | 19,689 |
| Funding - Unsecured Notes AUD | | 37,838 |
| Accrued Interest | | 45,632 |
| Loan - PIF/MYF | | 150,279 |
| Total Liabilities | | 451,864 |
| Net liabilities | | (417,775) |

Source: Management information

A Cash assets

Cash held by PAC at the date of our appointment has been transferred into receivership bank accounts. As at 14 March 2010, PAC held cash on hand of NZ\$2.4m.

B Funds held in trust

At the date of our appointment, NZ\$1.4m (plus accrued interest) was being held in a solicitor trust account pending the resolution of a dispute with a third party. We are continuing to pursue recovery of these funds.

C Loan book

As previously reported, PAC held the following assets at 31 August 2009:

- NZ\$33.3m (net of provision) in respect of the PAC loan book; and
- NZ\$20.9m (net of provision) in respect of the loan to PIC, which is secured over PIC's loan book.

As previously advised, in order to gain control over the PIC loans and secured properties, receivers were appointed to PIC in November 2009.

PAC and PIC hold second or third ranking mortgages.

At the date of receivership, there were loans outstanding to 18 borrowers in respect of the PAC and PIC loan books where property had not yet been sold. The first ranking mortgagees have taken control over all remaining properties and many borrowers are in some form of insolvency or have been deregistered.

We are disappointed to advise that it is unlikely PAC will recover any material funds from properties to be sold given the losses the first ranking mortgagees are likely to incur.

Notices of demand have been issued to guarantors and borrowers. The receivers are in the process of taking legal action on a case by case basis to pursue recovery in respect of the loan book. As many borrowers and guarantors have already been placed in some form of insolvency or have been declared bankrupt there are unlikely to be material recoveries.

We are continuing to investigate potential claims PAC may have in respect of valuations obtained for lending purposes and various insurance policies held by PAC.

We are pleased to advise that we have settled a claim for A\$2.1m in respect of a claim against one valuer. Whilst PAC has received the settlement funds, there remains uncertainty regarding ownership of the proceeds. We are in the process of negotiating with a counter party regarding ownership of these funds.

D Other assets

As previously reported, PAC entered into a put option with Octaviar dated 24 July 2006. In May 2008, PAC received part payment of A\$20m (NZ\$24.6m) from Octaviar in respect of its put option liability to PAC. These funds were distributed to secured debenture holders following the approval of the moratorium.

We have lodged a claim in the liquidation of Octaviar for A\$418m in relation to the put option. We have reserved our rights to amend the claim should further amounts become claimable. We are waiting to receive a formal response from the liquidators regarding the claim and any likely distribution from the liquidation of Octaviar.

A claim has also been lodged against OCVA, a subsidiary of Octaviar that was responsible for the management of both the PAC and PIC loans. We are also waiting to receive a formal response from the liquidators regarding the claim and any likely distribution from the liquidation of OCVA.

There is a dispute regarding priority ranking in respect of certain debts and proceedings are in place regarding this matter. Until this dispute

has been resolved by the Court, and the investigations being conducted by the liquidators have completed, the liquidators are unlikely to be in a position to assess what funds may be paid to creditors out of the assets of Octaviar and/or OCVA. Given the nature of the proceedings and the investigations, it is unlikely the liquidators will be in a position to pay a distribution to creditors this year. We note that in addition to the claims submitted by PAC, both Octaviar and OCVA have debts outstanding to other creditors. The assets in both Octaviar and OCVA are insufficient to meet all liabilities in full.

The balance sheet does not include the claims against Octaviar and OCVA as recovery from the liquidations remains uncertain at this stage.

Miscellaneous assets for PAC at 31 August 2009 are set out in the table below:

| | August 2009 (NZ\$'000) |
|-----------------------------|---------------------------|
| Miscellaneous assets | |
| Professional fees prepaid | 451 |
| Investments | 75 |
| GST Receivable | 15 |
| Total | 541 |

Source: management information

At 31 August 2009, PAC had made prepayments to professional advisors totalling NZ\$451k. At the date of receivership, funds held by professional advisors totalled approximately NZ\$350k. The funds have now been recovered.

The investments of NZ\$75k are in respect of shares held in a company in liquidation. There will be no recovery from this asset.

The GST receivable of NZ\$15k has since been received.

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

At the date of the receivership, PAC's records indicated it had the following amounts outstanding to investors:

| Investor category | Number of Investors | NZ\$m |
|---------------------|---------------------|--------------|
| NZD Debenture Stock | 7,361 | 143.4 |
| AUD Debenture Stock | 2,514 | 55.0 |
| NZD Unsecured Notes | 821 | 19.7 |
| NZD Unsecured Notes | 173 | 37.8 |
| Total | 10,869 | 255.9 |

Source: Management information

In summary, PAC owes NZ\$198.4m to secured debenture holders and NZ\$57.5m to unsecured note holders, who are predominately located in New Zealand and Australia.

Due to the complexity of the receivership, the various claims being pursued and the investigations being carried out by the receivers, it is extremely difficult to estimate the return to secured debenture holders from the receivership of PAC. Providing an estimated return to secured debenture holders may also jeopardise any actions currently being exercised by the receivers. Accordingly, an estimate of future dividends or the timing of dividends to secured debenture holders cannot be provided at this time.

5. Amounts owing to creditors with preferential claims

PAC had no employees at the date of our appointment and accordingly there are no preferential claims in respect of employee entitlements.

We have written to the Inland Revenue Department ("IRD") requesting written confirmation of any preferential claims. The IRD has verbally confirmed it has no preferential claims against PAC.

We are not aware of any other preferential claims.

6. Receipts and payments

The table below sets out the receipts and payments for PAC for the six month period 15 March 2010 to 14 September 2010.

OPI Pacific Finance Limited (In Receivership)

Receipts and payments

For the period 15 March 2010 to 14 September 2010 NZ\$

| | |
|--|--------------------|
| Balance carried forward at 15 March 2010 | 2,445,830 |
| Receipts | |
| GST refund | 67,962 |
| Loan book (PAC and PIC) | 2,589,811 |
| Reimbursement of costs | 143,567 |
| Interest received | 24,340 |
| Total Receipts | 2,825,681 |
| Payments | |
| Legal fees | (307,029) |
| Trustee fees | (61,420) |
| Receivers Fees and Disbursements | (372,027) |
| Taxation Fees | (796) |
| Computershare registry fees | (30,667) |
| Other professional & consulting fees | (272,845) |
| Bank fees | (559) |
| Resident Withholding Tax | (4,913) |
| Other Expenses | (47) |
| Total Payments | (1,050,303) |
| Gain on translation of the Australian dollar account | 25,988 |
| Balance at 14 September 2010 | 4,247,196 |

7. Other Matters

We have now completed our initial investigation into the activities of PAC, its directors and third parties, prior to the receivership. Due to the outcome of our investigation we have reported our findings to the following Government Authorities:

- The Securities Commission of New Zealand;
- The Serious Fraud Office; and
- The Ministry of Economic Development.

We will support any investigation into the affairs of PAC and/or its directors that any of the above authorities may commence.

We are also seeking advice from our legal advisors regarding any actions that may be available to the receivers to pursue in relation to the conduct of PAC and its affairs, prior to the receivership.

Due to the nature of the investigation and likely legal consequences, we are unable to provide further details regarding issues identified during the course of our investigation. Doing so could prejudice any proceedings that may be taken by the receivers and/or any Government Authority in New Zealand and/or Australia.

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

OPI Pacific Finance Limited (In Receivership)
c/- PricewaterhouseCoopers
Private Bag 92162
Auckland
New Zealand
Telephone: +64 9 355 8053
Facsimile: +64 9 355 8013
Website: www.pwc.com/nz/opipacific

Dated: November 2010



Colin McCloy
Receiver

Appendix I

Restrictions

This report has been prepared in accordance with and for the purpose of Section 24 of the Receiverships Act 1993, reporting on the state of affairs with respect to the property in receivership and the conduct of the receivership. 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 PAC. 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, 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 PAC 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; and
- Unless otherwise stated all amounts are stated in New Zealand Dollars.