

**COMPANY NO. 1479414**

**LIQUIDATORS' FIRST REPORT**  
**Section 255 of the Companies Act 1993**

**LDC FINANCE LIMITED (IN RECEIVERSHIP AND IN LIQUIDATION)**

**On 24 September 2012, Iain Shephard and Heath Gair were appointed liquidators jointly and severally of LDC Finance Limited by order of the High Court.**

*We have made the appropriate enquiries and are of the opinion that we are not barred from acting as Liquidators under Section 280 of the Companies Act 1993.*

*The Liquidators take no responsibility for any misinformation contained in this report that has been supplied by the company, its officers or other persons. The report is also based upon information available at this date, the Liquidators reserve the right to renew, and if necessary, amend the report.*

**COMPANY INFORMATION**

Date of incorporation:	5 February 2004
Trading address:	38 Halifax Street Nelson
Type of business:	Finance
Date ceased trading:	4 September 2007
Directors:	David Gordon Miller Kevin Elliott Christopher John Hardiman John Charles Janetto
Shareholders:	Andrew John Harding and Murray Scholfield  John Charles Jannetto, Eleni Nikki Sakellar and David Gordon Phillips  Kevin Elliott, Catharina Petronella Elliott and David Gordon Miller  Christopher John Hardiman, Catherine Anne Hardiman and David Gordon Miller



Richard Alfred Jenkins, Carole Florence Jenkins and Lindsay Russell Robinson

Miller Holdings Limited

Richard Alfred Jenkins, Lynn Judith Stevenson and Ross Andrew Stevenson

GKW Limited

## THE COMPANY

LDC Finance Limited (In Receivership and Liquidation) (“the Company”) traded as a finance company from its office on Halifax Street, Nelson.

The Company accepted both secured and unsecured deposits and provided loans to members of the public as well as other retail finance companies.

On 4 September 2007, Malcolm Hollis and John Fisk of PricewaterhouseCoopers (“the First Receivers”) were appointed Receivers of the Company under the terms of a Debt Securities Trust Deed dated 18 June 2004.

From 4 September 2007 to 24 July 2012, the First Receivers managed the collection of the Company’s finance receivables and defended legal action by Finance and Investments (“F&I”) investors who were seeking to have funds obtained by the Company returned to F&I.

While a more detailed explanation of the Receivership is contained in the First Receivers’ reports, in summary there were insufficient funds realised to repay the Company’s investors and the legal action by F&I investors was not successfully defended.

On 24 July 2012, the First Receivers vacated due to a conflict of interest and David Ruscoe and Richard Simpson of Grant Thornton (“the Second Receivers”) were appointed as successors.

The Second Receivers continue to manage the collection of the Company’s finance receivables and are appealing the High Court’s decision in relation to F&I.

## LIQUIDATORS’ APPOINTMENT

The Liquidators understand that in mid-2012 a group of the Company’s investors formed the LDC Investor Recovery Group (“the Recovery Group”) to determine if anything further could be done to recover their deposits.

Following extensive gathering of information, the Recovery Group concluded that claims should be brought against those who caused the Company loss, that these claims would be best brought in conjunction with a liquidator, and that the claims would need to be brought urgently as they would soon be time barred.

Urgent proceedings were commenced to place the Company in liquidation without notice, and on 27 August 2012 Iain Shephard and Heath Gair were appointed Interim Liquidators.



In order to preserve limitation periods, the Court granted the Interim Liquidators the ability to exercise all rights and powers available to liquidators under the Companies Act 1993 until the full hearing for the appointment of liquidators on 24 September 2012.

Immediately after their appointment the Interim Liquidators reviewed potential claims and instructed counsel to draft proceedings against the Company's directors and others for losses to the Company and its investors. Proceedings were filed against the Company's directors, trustee and advisors on 17 September 2012.

On 24 September the liquidation application was heard and Iain Shephard and Heath Gair were appointed liquidators.

## **LEGAL PROCEEDINGS**

As previously mentioned, proceedings have been filed which seek to recover the shortfall of monies owed to the Company's investors and creditors.

The proceedings are being brought by the Liquidators on behalf of the Company, as well as specific investors, with the intention that those specific investors represent all investors for any claims that may lie with investors rather than the Company.

An application has been made to the Court for approval of the specific investors to represent all investors, and whether or not the proceedings can progress on a representative basis will likely be decided in early 2013.

The defendants in the proceeding are the directors of the Company, the accounting firm Carran Miller Strawbridge Limited, the Company's trustee Perpetual Trust Limited and its auditors Sherwin Chan and Walshe.

The Liquidators are also investigating potential claims against additional parties.

## **STATEMENT OF POSITION**

We will provide an estimated statement of position in due course, but can confirm that as at 24 July 2012 secured investors were owed \$3,747,021.95, unsecured investors were owed \$8,805,796.02, Inland Revenue have lodged a preferential claim for \$10,278, and unsecured creditor claims total \$58,031.

## **MEETING OF CREDITORS**

A liquidator may call a meeting of creditors in order to decide whether an application should be made to the Court to appoint a replacement liquidator. Having regard to the assets and liabilities of the company, the likely result of the liquidation and other relevant matters, the liquidator considers in accordance with Section 245 of the Companies Act 1993, a meeting will not be called unless, within 10 working days after receiving this notice, a creditor gives notice in writing to the liquidator requiring a meeting to be called.

In accordance with Section 314 of the Companies Act 1993 a creditor or shareholder may request the liquidator to call a meeting of creditors or shareholders at any time in the course



of the liquidation to vote on a proposal that a Liquidation Committee be appointed to act with the liquidator. This request must be in writing.

The liquidator may decline a request by a creditor or a shareholder to call a meeting on the ground that:

- (a) the request is frivolous or vexatious; or
- (b) the request was not made in good faith; or
- (c) the costs of calling the meeting would be out of proportion to the value of the company's assets.

The decision to decline a request may be reviewed by the Court on the application of any creditor or shareholder.

## **ACCESS TO REPORT**

The Liquidators are also under an obligation to provide a copy of this report to every known creditor. The report is available on Shephard Dunphy's website ([www.shepharddunphy.co.nz](http://www.shepharddunphy.co.nz)) as well as the Company Office's website ([www.business.govt.nz](http://www.business.govt.nz)).

If you would like a paper copy of the report sent to your address please contact our office.

## **ESTIMATED DATE OF COMPLETION**

It is not practicable to estimate the date of completion of the liquidation at this stage.

Should you have any information that you believe would lead to realisations for the benefit of creditors, please set it out in writing, attaching copies of all documentary evidence, and send it to the Liquidators. Please note that the Liquidators can only act on written information as telephone, or other, conversations will be regarded as hearsay by any court.

Enquiries should be directed to Heath Gair.



**IAIN SHEPHARD**  
Liquidator

Dated 14 December 2012



## LDC FINANCE LIMITED (IN LIQUIDATION)

### *Schedule of Trade Creditors*

<b>Name</b>	<b>Address 1</b>	<b>Address 2</b>	<b>Address 3</b>
ACC Processing centre	PO Box 38 023	Te Puni	Wellington
Argos Financial Systems	7 Levinge Lane	Middleton	Christchurch
Baycorp (NZ) Limited	Private Bag 92063	Auckland	
Buddle Finlay	PO Box 2694	Wellington	
Carran Miller Strawbridge Limited	PO Box 210	Nelson 7040	
Central Self Storage Limited	2 Echodale Place	Stoke	Nelson
Chevron New Zealand	PO Box 3221	Wellington	
Fish Serve	PO Box 297	Wellington 6140	
Fuji Xerox	PO Box 5948	Auckland	
Full Circle Business Solutions	PO Box 4012	Palmerston North	
Graeme Reid Consulting			
Inland Revenue	PO Box 3754	Christchurch	
Knapps Lawyers	PO Box 3300	Richmond	Nelson
McFadden McMeeken Phillips	PO Box 656	Nelson	
Ministry of Economic Development	Private Bag 92513	Wellesley Street	Auckland
Ministry of Fisheries	PO Box 482	Wellington 6140	
New Zealand Couriers	195 Aotea Quay	Thorndon	Wellington
Perpetual Trust	PO Box 112	Christchurch	
Richmond Office Products Depot	PO Box 3225	Nelson	
Shell New Zealand	PO Box 2091	Wellington	
Sturrock & Greenwood Limited	8 Gloucester Street	Nelson	
Telecom New Zealand Limited	Private Bag 4742	Christchurch	
Thompson Daly & Co	266 Haedy Street	Nelson	
Veda Advantage	Private Bag 92156	Victoria Street	Auckland
Waimea Print	5 McGlashen Avenue	Richmond	Nelson 7020

