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Letter handed to;
Minister Commerce, Hon Lianne Dalziel
at a meeting with EUFA in the Beehive, Nov 2007

23 November 2007

Vallant Hooker & Partners
Solicitors
AUCKLAND

Attn: JB Murray

Dear Bruce,

Bridgecorp

1. You have asked me for my opinion about what avenues are open to achieve the best recovery for investors in Bridgecorp, some of whom are members of Exposing Unacceptable Financial Activities Society Inc ("EUFA"), an organisation coordinated by Mrs Suzanne Edmonds of Auckland.

2. It is understood that there are something approaching 15,000 secured debenture investors in Bridgecorp with claims of about \$480 million. The preliminary estimates from the receivers are that investors could recover between 25c and 74c in the dollar.

3. Given that these investors are spread throughout the country, often with investments in (relatively) small amounts, and with the restrictions of a receiver appointed under the terms of security agreements, there is considerable public confusion and desperation about exactly what can or should be done in this imbroglio.

4. I consider that a statutory manager should be appointed to the Bridgecorp group of companies which have been operating in New Zealand. The provisions for the appointment of a statutory manager are set out in the Corporations (Investigation and Management) Act 1989.

5. The general objects of the Corporations (Investigation and Management) Act 1989 which I consider apply in this case are (taken from section 5(1) of the Act):

“(c) In the case of a corporation referred to in section 4(b) of this Act, to preserve the interests of its members or creditors or beneficiaries or the public interest:

“(d) To provide for the affairs of corporations to which this Act applies to be dealt with in a more orderly and expeditious way.”

Section 4(b) states:

“This Act applies to any corporation—

(a) That is, or may be, operating fraudulently or recklessly; or

(b) To which it is desirable that this Act should apply—

(i) For the purpose of preserving the interests of the corporation's members or creditors; or

(ii); or

(iii) For any other reason in the public interest,—

if those members or creditorsor the public interest cannot be adequately protected under the...Companies Act 1993 or in any other lawful way.”

6. The grounds for my opinion that a statutory manager should be appointed are:

6.1 I consider it is desirable that the Act should apply to the group, to preserve the interests of the group's members or creditors, and for a number of other reasons in the public interest, and I consider that those interests cannot be adequately protected under the Companies Act 1993 or in any other lawful way.

- 6.2 I also consider that the affairs of the group may be dealt with in a more orderly and expeditious way under statutory management.
- 6.3 The receivers' first role will have been to maximise the mortgage lending investments but these are still expected to leave a substantial shortfall.
- 6.4 The conventional role of a receiver is not to take recovery action against parties such as directors and auditors.
- 6.5 This is reflected in the statement in the receivers' report that they "have referred certain events leading up to receivership to various authorities for investigation".
- 6.6 No doubt the Registrar of Companies, the Securities and Commerce Commissions, and even perhaps the Serious Fraud Office, will have had Bridgecorp matters referred to them or taken an interest in the failure of the group. Investigation by these bodies may result in enforcement of offences and a punitive penalty.
- 6.7 But the powers of the Securities Commission to obtain compensation are limited to events after 24 October 2006 and to actions against directors and promoters. The Commission's enforcement role, such as in relation to the accuracy of the prospectus, with criminal consequences and reparation, cannot achieve actual monetary recovery for Bridgecorp investors, where the great majority will have invested before then.
- 6.8 The disestablishment of the SFO will prevent a repeat of an Equiticorp scenario (SFO investigation and prosecution, followed by the statutory manager taking successful recovery action).

- 6.9 So a statutory manager in a failure of this magnitude and complexity can carry out an investigation which is directed at recovery for investors.
- 6.10 The receivers' first report states there are 14,361 secured debenture investors with \$459 million involved, and unsecured creditors are estimated to receive nothing. Many of those investors will be private individuals, the retired and the elderly. Some of the EUFA members are in this category. They do not have the personal or financial resources to follow their own legal remedies, even if they may have them against financial advisers in particular cases.
- 6.11 Recovery action against parties with statutory or other responsibility, such as directors and/or auditors, is the only route for those thousands of investors.
- 6.12 A statutory manager will centralize and synchronise recovery action.
- 6.13 The principal New Zealand company, Bridgecorp Ltd, was ultimately owned by the Australian entity, Bridgecorp Holdings Limited, which is subject to voluntary administration in Australia. Funds invested in the group appear to have been transferred to or invested in Australia and Fiji.
- 6.14 The auditors, PKF, described as "a NSW partnership", are overseas parties.
- 6.15 The statutory authority of a statutory manager, backed by government appointment and Securities Commission

recommendation, carries greater weight with overseas agencies and parties than a receiver in the investigation of investment and funds transfer overseas.

6.16 Bridgecorp appears to be the largest and most prominent of the many recent finance company failures. I note from the Companies Registry records that there are 24 companies associated in the group, apart from the Australian parent.

6.17 I consider the overall 'umbrella' of statutory management to be the most orderly and expeditious way of winding up the affairs of the group.

6.18 This will not only produce the maximum benefit to investors, but also demonstrate that the government has the power to ensure that parties in circumstances such as these may be held accountable for this significant failure.

7. Clearly, a full enquiry under the auspices of a statutory manager is the only practical solution to assuage the plight of the 14,000 investors.

Yours faithfully

Charles E Sturt