

EUFANZ

‘Exposing Unacceptable Financial Activities’

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Hon Simon Power
Minister Commerce
Parliament Buildings
Wellington 6160

Dear Minister

Whilst we await a response to the issues of regulatory authorities neglect, that we presented to you at our meeting in May, we have become concerned at the authorities reaction.

At the May meeting we raised the matter of the prudential values of the ‘Corporations (Investigations and Management) Act 1989 (the Act)’. Gray Eatwell referred to the Act as the nearest thing New Zealand has to chapter 11 in the USA, (albeit to be enforced by Government in NZ rather than a voluntary option as in USA) and how Parliament intended the Act to enable immediate protection of public interests when a company appears to be acting recklessly. (We have studied the benefits of the Act to which the attached letter written by the Former Director of the SFO Chas Sturt provides guidance)

Accordingly we have been somewhat alarmed by the gung-ho manner in which the Act has been imposed on the Hubbard Companies (and the Hubbard’s personally), causing serious implications for the investors, in particular investors with savings invested in South Canterbury Finance.

While it is of particular concern to learn of the belated admission by Securities Commission Member Simon Botherway (also chairman of the new FMA) that he may have a “potential conflict of interest” due to his involvement in the process.

The fact is that Standard and Poor’s instantly downgraded South Canterbury Finance’s credit rating following the action taken against the other Hubbard companies, clearly showing that there is no separation between SCF and the other Hubbard Companies under Statutory Management, in the view of the financial markets, therefore the line of the Securities Commission defence of the ethics of Mr. Botherway is highly questionable.

While it could be judged that, if the Securities Commission truly believes its stance is the correct one; that consequence would impose a duty on it to reprimand Standard and Poor's for seriously jeopardising the value of investor's security in SCF. Furthermore the increased risk to the Taxpayer backed guarantee of SCF has been caused by what would be an unwarranted action of Standard and Poor's causing an unacceptable threat to the New Zealand economy.

Given a long history of pleading with Government agencies to enforce prudential enforcement on most of the failed Finance Companies, to no avail, it is extremely disappointing to witness the lack of acumen in assessing the ramifications to market confidence that has been caused by the reckless manner in which actions have been taken in the Hubbard case.

From the public information offering justification for the actions taken, there doesn't appear to be grounds for the SFO to be involved at this stage, assuming the accuracy of the reasons given to us in the past by the SFO as to why NO action against the other Finance companies was possible; irrespective of evidence of identical indiscretions as were reported to exist in the Hubbard case.

Currently there are several company names before the Courts that should have been Governed at the outset, but notwithstanding the previous failure to act there are many companies still at large (using our Members savings) with arrangements in place that were coerced to disguise the real purpose of keeping Company Directors out of Court, with no protection being available for the investors.

Many such Finance Companies still operate under the jurisdiction of the New Zealand Government while little or no protection of the law is being offered to the investors and creditors of those Companies.

Yours sincerely

Suzanne Edmonds