

# MEMORANDUM

**TO**                    **The Hubbard Support Group**

**FROM**                **Kerry Grass**

**DATE**                **26 August 2011**

**SUBJECT**            **STATUTORY MANAGEMENT**

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My findings establish that the statutory management against Aorangi Securities Limited and Allan Hubbard was materially flawed and unlawful.

These findings may have a significant and adverse reputational consequence to the regulators.

The regulators may have an interest in discussing issues on a confidential basis before the report is publically released.

## **RELEVANT EXPERIENCE**

I have accumulated 18 years of investigation and analytical experience. I am familiar with presenting evidence in criminal trials and the necessary threshold to prove matters beyond reasonable doubt.

My relevant experience includes –

- 7-8 years with the NZ Police;
- 2-3 years with the National Enforcement Unit. In this Unit I conducted investigations on behalf of the Registrar of Companies and the Securities Commission;
- 2 years with the Enforcement Directorate of the Australian Securities and Investments Commission.

I have previously worked with the UK's Financial Services Authority as a supervisor of firms and have held senior compliance positions within the private and public sectors.

I hold a Diploma in Financial Markets and am midway through a Masters in Applied Finance.

## **INTRODUCTION AND BACKGROUND**

On or about 28 February 2010 the Securities Commission received an anonymous written complaint alleging Aorangi Securities Ltd (Aorangi) was a company that required a registered prospectus.

In March 2010 the Securities Commission wrote to Aorangi and sought further information of the company's underlying business.

The Securities Commission's opinion was that Aorangi required a registered prospectus. Written communications were then exchanged between Aorangi and the Securities Commission. Aorangi considered its investors were habitual investors who met the exemption requirements of the Securities Act. Nevertheless, Aorangi agreed to proceed with issuing a prospectus.

Aorangi commenced administrative actions to meet the Securities Commission's request. In doing so Aorangi engaged auditors, lawyers and trustees.

A registered prospectus qualified for a public offering. To meet requirements of a public offering Aorangi undertook capital restructuring. Capital ratios required an injection of approximately \$20 million. Allan Hubbard, the principal of Aorangi, introduced capital of approximately \$50 million. This was approximately \$30 million more than what was required.

Aorangi continued with administrative matters for the registered prospectus. Responsibilities were put in the hands of various third-party professionals including Deloitte and Perpetual Trustees.

In May 2010 the Securities Commission then wrote to the Registrar of Companies (the Registrar) and suggested the Registrar conduct an inspection of Aorangi for alleged breaches under the Financial Reporting Act. (NB: This in my opinion is a double-jeopardy regulatory action.)

After considering the complaint from the Securities Commission, the Registrar appointed four inspectors for the purpose of conducting investigations relevant to Aorangi. The inspectors were officially appointed on Friday 4 June 2010.

Aorangi was not aware that the Securities Commission had commenced an additional regulatory action.

On the afternoon of 4 June 2010 the Companies Office communicated to Aorangi that an inspection would be undertaken the following business day - 8 June 2010 (7 June being a public holiday).

Aorangi assumed the inspection was in relation to the registered prospectus. At that time Aorangi had relevant documents in the possession of third-party professionals. The professionals were assisting with the prospectus. Allan Hubbard suggested the visit be delayed for a further week. The inspectors responded they were not in a position to delay the inspection and the inspection would proceed forthwith.

On Tuesday 8 June 2010 at 8.30 am, four inspectors arrived at Aorangi's business premises. The inspectors were greeted by Mr Hubbard. Mr Hubbard allowed the inspectors full access to Aorangi's business records. He reminded the officials that some documents were in the hands of auditors.

The inspectors concluded their inspection of documents on Wednesday 9 June 2010 at approximately 10.30 am.

On Friday 18 June 2010, the Registrar of Companies furnished a 17-page report to the Securities Commission. The Registrar's report set out the findings of the inspection. The report was supported by appendices.

At approximately 4pm on Friday 18 June 2010, the Securities Commission considered the Registrar's report and accepted the recommendation. The Securities Commission then advanced the recommendation to the Minister of Commerce. The Minister at that time was overseas, returning to New Zealand on 19 June 2010.

On Sunday 20 June 2010, the Minister of Commerce approved the recommendation. The recommendation was also supported by Cabinet and the Governor-General.

On the afternoon of 20 June 2010, the order for statutory management was declared against Aorangi Securities (and related entities), including Allan Hubbard and his wife, Margaret Jean Hubbard.

In December 2010 I was commissioned by the Hubbard Support Group to undertake investigations relevant to the regulatory affairs of the statutory management against Aorangi and Allan Hubbard.

## **SCOPE OF INVESTIGATION**

My investigations have evaluated the grounds relied upon to bring about the statutory management and fraud investigation against Aorangi Securities and Allan Hubbard. Specifically I have evaluated whether those grounds were reasonably formed.

In conducting my investigations I have—

- Reviewed information releases obtained under the Official Information Act;
- Conducted interviews with Aorangi investors;
- Conducted interviews with persons associated to the regulatory affairs of Aorangi;
- Conducted interviews with Allan Hubbard;
- Engaged in discussions with Allan Hubbard's legal representatives;
- Reviewed governmental reports recommending the statutory management and SFO referral;
- Reviewed affidavits from government officials;
- Conducted independent research of actions, events and circumstances relevant to underlying issues;

## **INVESTIGATION FINDINGS**

1. The Securities Commission set out on a course of action that hindered and prevented Aorangi from issuing a prospectus.
2. The Registrar's inspection obstructed Aorangi in meeting the regulatory requirements set by the Securities Commission.
3. Collectively the Securities Commission and Companies Office failed to carry out their duties objectively or reasonably.

4. Actions from the Securities Commission and Companies Office resulted in financial risk to Aorangi's investors. The risk crystallised when Aorangi was placed under statutory management.
5. The Companies Office investigation was materially flawed in that the inspectors –
  - Did not review all available evidence;
  - Eliminated opportunities to either allay or further advance their suspicions;
  - Failed to test the validity of their opinions;
  - Formed inferences that lacked objectivity;
  - Failed to conduct a proper and reasonable review of all relevant and material facts;
  - Obstructed Aorangi Securities in issuing a registered prospectus;
  - Obstructed Aorangi Securities in meeting the Securities Commission's regulatory recommendation;
  - Overlooked pertinent information that materially impaired overall findings;
  - Failed to effectively manage conflicts of interests;
  - Materially misunderstood the operations and capital structure of Aorangi;
  - Materially misunderstood the underlying securities of Aorangi;
  - Failed to examine all relevant records pertaining to Aorangi's underlying securities despite those records being readily available;
  - Failed to examine all relevant records pertaining to Aorangi's investors, despite those records being readily available;
  - Failed to evaluate the true position of Aorangi's investors;
  - Failed to form a reasonable basis for commencing an action of statutory management against Aorangi Securities;
  - Failed to form a reasonable basis for recommending a fraud investigation to the Serious Fraud Office;
  - Withheld information that prevented decision-makers from forming an objective view of all relevant matters under consideration.
6. The Registrar's report dated 18 June 2010 was materially misleading in that –
  - The Minister of Commerce was not informed of all relevant facts;
  - The report omitted pertinent information;
  - The Registrar failed to reach the threshold of **satisfied on reasonable grounds** - a requirement under the Corporations (Investigation and Management) Act.
7. The accountancy firm Grant Thornton held conflicts of interest in their role as statutory manager. These conflicts were material and have consequently impaired the integrity of the SFO investigation and subsequent charges.
8. The statutory managers improperly influenced investors at a time when the Serious Fraud Office was obtaining witness statements from the investors.

9. Transactions undertaken by the statutory managers resulted in the contamination of evidence. The contaminated evidence is now relied on to support charges against Allan Hubbard.
10. The Securities Commission, over a period of some 18 months, sought to bring complaints against Allan Hubbard when the foundation of those complaints were frivolous.
11. The Companies Office and Securities Commission created a sense of urgency when the urgency was false. The urgency resulted in decision-makers failing to consider all relevant facts.
12. The Securities Commission and Companies Office withheld pertinent information from the Minister of Commerce in that they failed to fully inform the Minister of adverse implications towards South Canterbury Finance.

## COMPANIES OFFICE REPORT

As stated above, on 18 June 2010 the Registrar of Companies furnished an investigation report to the Securities Commission. This report was pivotal in bringing about the statutory management order against Aorangi and Mr Hubbard. Without the report the statutory management would not have occurred.

There are a number of critical errors in the report. I will summarise my findings of the pertinent issues -

- **The Registrar misunderstood the operations, capital and underlying securities of Aorangi.** These misunderstandings resulted in the decision-makers believing statutory management should proceed. These errors of judgement were a consequence of an inadequate investigation undertaken by the Registrar's inspectors.
- **There was no reasonable basis to form the view that Aorangi was insolvent.** The statutory managers have since reported on the solvency position of Aorangi and have corrected the Registrar's understanding. From the introduced capital Aorangi had a surplus of assets over liabilities of approximately \$40 million to \$50 million. The Registrar's misunderstanding of Aorangi's solvency was critical to the decision-makers in forming the view that statutory management should proceed.
- **The Registrar led decision-makers to believe Mr Hubbard was withdrawing assets from Aorangi and transferring the assets for his personal benefit.** The public announcement on 20 June 2010 provided a flow-chart depicting Aorangi capital transferring to Mr Hubbard. The opposite was in fact the case. This was a significant oversight by the Registrar. Mr

Hubbard was introducing assets into Aorangi for the purpose of meeting capital ratios for the registered prospectus.

- **At no stage was Mr Hubbard informed of the Registrar’s concerns. Nor was Mr Hubbard made aware of the recommendation for statutory management.** By suppressing their suspicions from Mr Hubbard (the principal of Aorangi) the regulators eliminated opportunities to either allay or further advance their suspicions. This approach resulted in the Registrar materially misunderstanding Aorangi’s business operations.
- **The report implied Aorangi required a registered prospectus.** It did not. Investors in Aorangi met exemption requirements under the Securities Act.
- **The report lacked objectivity and failed to report on favourable findings.** The report omitted information on Aorangi’s long term successes. Aorangi had been operating for 35 years and had always paid its interest payments one week in advance. It had no history of interest default. It had no default history in repaying investors’ deposits. There were no liquidity issues. Aorangi had a surplus of assets over liabilities of approximately \$40 million to \$50 million. At the time of the statutory management order, Aorangi had cash in its account to meet interest payments for the quarter ending June 2010. The Registrar failed to identify these facts to the decision-makers.
- **The Companies Office allowed no reasonable time for Aorangi to respond to its correspondence sent on 15 June 2010.** The Companies Office wrote to Aorangi’s lawyers requesting clarification of a number of points. Without giving the company a reasonable time to respond, the Registrar completed his report (dated 18 June) and recommended statutory management.
- **The Securities Commission and Companies Office obstructed Aorangi’s progress in issuing a prospectus.** Had the prospectus proceeded investors would have had the option of receiving their deposits in full or re-investing under the new capital structure. The actions of the Securities Commission and Companies Office prevented this from occurring. The actions of the Securities Commission and Companies Office created significant financial risk of Aorangi’s investors.

## APPOINTMENT OF STATUTORY MANAGERS

### Conflicts of Interest

Partners from the chartered accountancy firm Grant Thornton were appointed as statutory managers of Allan Hubbard and Aorangi. One of these partners was Graeme McGlenn .

Mr McGlinn was also an inspector appointed on 4 June 2010 by the Registrar for the purpose of conducting investigations in to the affairs of Aorangi. As a Companies Office inspector, Mr McGlinn contributed to the Registrar's final report. The Registrar's report recommended statutory management and a formal fraud investigation.

Prior to the appointment of Grant Thornton as statutory managers, Mr McGlinn had already formed an opinion as to fraud and wrongdoing by Mr Hubbard. The position of Mr McGlinn and Grant Thornton was such that a bias towards Mr Hubbard was held. This created a material conflict of interest.

Mr McGlinn and the firm Grant Thornton were not independent from the Registrar's recommendation. Nor were they independent from the Serious Fraud Office investigation.

Mr McGlinn's recommendation contributed to the demise and receivership of South Canterbury Finance – a company closely linked to Mr Hubbard. It is not difficult to imagine the complications that would have arisen had Mr McGlinn uncovered information that did not support his original findings.

Graeme McGlinn and the firm Grant Thornton were significantly influential in the Serious Fraud Office investigation and subsequent criminal charges. The firm's conflict and close ties to the SFO investigation has adversely affected the integrity of the SFO outcome.

### **Statutory Management Reporting**

Investors have advised the reporting from the statutory managers has not been helpful. They have not understood their financial position.

The investors have stated they felt the reports were designed to criticise Mr Hubbard and further harm his reputation.

I am firmly of the view the statutory management reporting from Grant Thornton has had the primary objective to improperly influence investors, the public and the Serious Fraud Office.

## SERIOUS FRAUD OFFICE

I have received reports that elderly people who were investors in Aorangi have felt intimidated by the approach of the Serious Fraud Office. I have been advised the SFO wrote to various investors with warnings if they did not co-operate with their investigation. I am told that an offence of imprisonment was set out in their written correspondence.

I am aware of at least one incident in which an elderly woman, aged 90-years, received such notice. I was advised two SFO staff members arrived at her house to take a statement. The elderly lady was confused about the situation. She felt intimidated and unsure of her rights. The SFO staff took a statement from her. This elderly lady spoke to Jan MacPherson from the Hubbard Support Group on a number of occasions, expressing her concerns to Mrs MacPherson. The 90-year old has recently passed away.

There are a number of aspects relating to the SFO's approach to this investigation that I question.

**Trial by media** - I note that the CEO Adam Feeley has publicly stated that he sees an importance for the SFO to receive front page headlines. Mr Feeley stated the headlines allow the public to appreciate the work being undertaken by the SFO – *“If we can't make the front page, we almost need to ask ourselves, is there any public interest in this?”*

I strongly disagree with this approach. A fraud investigation is a line of enquiry to establish whether there has been any wrongdoing. Speaking to the media in detail during an investigation is unwise. Unnecessary communications during an on-going investigation should be prohibited.

## CONFLICTS OF INTERESTS

There are a number of significant conflicts of interest that, in my opinion, were not effectively managed. I believe these conflicts have contributed to the current injustices to Mr Hubbard and the investors. Some of these conflicts are highlighted below –

**John McPherson** – Mr McPherson is a senior inspector of the Companies Office. I understand he was also the primary inspector appointed by the Registrar to oversee the investigation of Aorangi. Mr McPherson is likely to have been the primary author of the Registrar's report.

I am advised that some months prior to Aorangi's inspection, Mr McPherson unjustifiably delayed the prospectus of South Canterbury Finance (SCF). This delay caused all incoming deposits to be placed into a trust account. This caused SCF to experience severe liquidity issues. Funds were going out of SCF but not coming in. The incoming funds were required to be held in trust. The actions by Mr McPherson resulted in SCF's cash balances running to an unacceptable level, almost enforcing SCF to invoke the government guarantee.

Due to the seriousness of the situation, SCF's solicitors were required to make an approach to the Head of Treasury. After this complaint was raised the prospectus was approved the next day.

Correspondence establishes that following the approval of the prospectus the Securities Commission then raised an allegation of fraud relating to details within the SCF prospectus. After receiving advice from another regulator to be certain of their actions, the Securities Commission did not proceed with their course of action.

Given Treasury's interjection against Mr McPherson's conduct, it is probable Mr McPherson held a malice toward SCF and/or Allan Hubbard. It is also possible that the Securities Commission and Companies Office collaborated to bring actions against SCF and/or Allan Hubbard.

Mr McPherson was the primary Companies Office inspector of Aorangi. If there was any malice or ill-will this may have led Mr McPherson to conduct a haphazard inspection that intentionally lacked objectivity.

The Registrar's report, dated 18 June 2010, certainly confirms a significant amount of misleading information. Whether the misleading information was intentional or inadvertent is not yet known.

**Simon Botherway** – Mr Botherway was a senior member of the Securities Commission. He was appointed to Chair the Establishment Board of the Financial Markets Authority. Mr Botherway was also one of the four Commission members who recommended the statutory management against Allan Hubbard. The recommendation was made on 18 June 2010.

During 2009 SCF had taken receivership action against Mr Botherway's brother. The receivership action was related to liabilities of approximately \$6.6m. SCF was closely linked to Allan Hubbard.

Following the receivership action, Mr Botherway's brother was adjudicated bankrupt on 14 June 2010. This occurred 4 days **prior** to Mr Botherway's recommendation for Allan Hubbard to be placed into statutory management.

At no time during the Aorangi investigation did Mr Botherway disclose this conflict. At no time during the Commission's meeting, held on 18 June 2010, did Mr Botherway disclose this conflict. The disclosure was only made after media contacted Mr Botherway to ask whether he had made such disclosure.

**Adam Feeley** – Mr Feeley was appointed a Director and Chief Executive of the Serious Fraud Office in November 2009. In his past employment with the Ministry of Economic Development, Mr Feeley worked closely with the Registrar of Companies and with John McPherson.

Though this relationship between the SFO and the Companies Office is not necessarily a conflict, the close relationships between the heads of these organisations is relevant to the circumstances of this enquiry.

## **AORANGI INVESTORS**

My communications with investors have revealed that many were dependent on their quarterly interest payments to meet day-to-day living costs. Since the freezing of their funds many have undergone extreme levels of stress. Some have since died from stressed related illnesses.

I have heard one investor say that before going to sleep each night she prays that she will not wake up the next morning.

These investors are not being melodramatic. Their suffering is real. The funds they relied on have been frozen. They require the funds to support their living.

The investors I have met are suffering at various degrees. I would describe most as suffering a high level of stress to extreme. The suffering is not only as a result of not being able to meet regular living

costs but also the uncertainty of not knowing when their situation will change. They are heavily reliant on the statutory managers conducting their operations orderly and fairly.

Some investors have been forced into positions of selling houses and moving in with relatives. The investors are suffering on an on-going and daily basis.

I struggle to see how the statutory management of Aorangi has, in anyway, benefited the interests of investors. These investors are the silent victims of this improper and unlawful regulatory action.

Through the assistance of the Hubbard Support Group I have collected a number of victim impact statements from the investors.

These statements are distressing. It is clear that the situation of statutory management has had a significant and severe impact upon them, many of whom are retired and elderly. They have left the work force and do not have a secondary source of income.

Aorangi has approximately 400 investors. I have copied a few of their statements below –

#### **Victim Impact Statement**

*The impact of this situation on all of our lives has been enormous. The worry and stress endured is unbelievable.*

*We invested with Allan after meeting with him in Timaru because we trusted his integrity and knack of wise investing. He was a well-respected businessman for around 60 years and was a self-made man.*

*My parents had known him personally and had happily invested with him for many years. They supported our decision to put our money with him.*

*We have been planning for our retirement (as the government wants us to do) but when you get to our age and stage in life, it is extremely hard to get your head around how to start again from scratch. This puts pressure on any healthy relationship.*

*We have no complaints with the investments Allan chose for us. They had been doing very well. On the odd occasion that we required money out, there was never any problem.*

*I firmly believe that this whole Hubbard 'set-up' has been a catalyst to my mother's death. Six months ago my mother was driving and gardening. She had recently developed many stress related problems which seemed odd as she has always been a very active and well person.*

*This has been incredibly stressful for both my parents and really saddens me that this seemed her only escape from an uncontrollable situation. My poor dad is now living with the consequences of all this.*

*Our families are feeling like a 'by-product' of a few other people's selfish gains. They have misused the system to distort things for their own benefit and the most frustrating thing is the powers that be have closed ranks and are turning a blind eye to things that are far worse than what Allan has been accused of.*

### **Victim Impact Statement**

*I would like to say that this year (2010) has been the worst year in my whole life. I feel the government has a lot to answer for. There are many questions.*

- 1. Why did they make such a hasty decision to put the Hubbards into statutory management without any discussion with the Hubbards and allowing them more time to sort out this problem with the **one** disgruntled investor?*
- 2. Why did the government give the Hubbards such despicable treatment such as closing their accounts, removing their cheque books and cards, when they are such a frugal living couple and are elderly?*
- 3. Why was it such a rushed decision with no forethought for the consequences of the investors who are the innocent party who are benefiting from Allan's investments?*
- 4. I know that the investors are not a large percentage of the general public but the government did what "one" disgruntled investor wanted them to do.*
- 5. Why are we not getting any simple and straight answers from the government ministers and statutory managers for their actions? Is there a devious agenda just to get rid of Allan Hubbard?*
- 6. Why did the government reject the bailout offer from the American who Allan quoted to save SCF?*
- 7. Why have our two local MPs been so non-committal and unsupportive to the Hubbard and investors when they are so aware of all he has accomplished for the South Island?*
- 8. The statutory management was the last nail in the coffin for SCF which could have been avoided if Allan had been allowed more input with his knowledge. Instead the unnecessary action of the statutory*

*management has stuffed the South Canterbury region which was prosperous.*

- 9. How would the government ministers and back bencher MPs react if their salaries and parliamentary perks, which they so enjoy, were suddenly stopped through no fault of theirs. This has happened to the investors and a time when the funds were solvent.*

*My wife and I have had to cut our cloth considerably. We have stopped our health insurance to save money. Our daughter, son and their spouses have been most supportive in paying vehicle expenses, food etc. We are also grateful for the support from our neighbours and friends.*

*Sadly we are going to lose our home as a result of this unfortunate business. I know of others who are in a similar situation.*

### **Victim Impact Statement**

*Since the statutory management of Aorangi Securities it has turned our life upside down.*

*We worked our business for 22 years and were on call 24/7 to cater to clients' needs. This was to set us up, our children and also our grandchildren. It has destroyed our dreams for the family.*

*We have had sleepless nights and horrible dreams on how we are going to cope. We worry and argue about financial matters now instead of getting on and enjoying our twilight years.*

*We are unable to support our children or grandchildren and are worried that we may become a burden on them.*

*If finances become much tighter we will have to drop our medical insurance which we are quite high users of. We would be unable to pick this up again as nobody would want us.*

*Statutory management has denied us not only of our access to our capital but also of our interest which was our life.*

### **Victim Impact Statement**

*I am concerned that our investments are being dwindled away on needless expenses of the statutory managers. On whose authority have they made the decision to liquidate our funds?*

*This whole debacle has left many investors and businesses in a dilemma and I am also appalled at the way the Hubbards have been treated – very similar to the crucifixion story without the cross and nails, targeting an honest man.*

*It is also sad that Mr Allan Hubbard's reputation and dignity is being destroyed by some media propaganda. While nobody is perfect, I hope that Allan's critics will read the NZ Farmers' Weekly to see how much he had contributed to young farmers, charities and businesses, and many others. This debacle is a very poor reward for all his hard work, generosity and sound advice to many people.*

*If answers are not forthcoming from the statutory managers, also the government, I feel there should be an investors and supporters meeting with the statutory managers and hopefully some ministers of the Crown present.*

*At the end of the day it is our money and our fundamental rights to know what is happening to our investments. We investors do not deserve this treatment as we have not done anything wrong.*

*We have waited long enough. It is time for action and time for our investments to be working again.*

### **Victim Impact Statement**

*Dear Messrs Key, English and Power*

*Know doubt you will have had plenty of emails from angry people, and I wish to express my disappointment and disgust at the Gestapo like treatment of Allan and Jean Hubbard. You obviously underestimated the reaction from thousands of people. This act is outrageous and ill-considerate. The SFO's action is similar to the way Hitler and the Nazis invaded continents of Europe during World War Two.*

*I know over the last decade there have been many finance company failures with thousands of investors losing hard earned savings. In some cases the finance company crooks have managed to emerge from the financial wreckage, living the life of luxury in their plush Auckland homes, driving expensive European cars and owning holiday homes etc.*

*So why pick on Mr Hubbard who is not a high-flyer, lives a humble lifestyle, lives in a modest home, drives an old Volkswagon and rejected a Knighthood which he so richly deserved.*

*Mr and Mrs Hubbard have done nothing but give to the community charities, help farmers and business people to get established all over New Zealand, and so much more. Mr and Mrs Hubbard are decent and honourable people and they do not deserve this treatment. As for them having their personal bank cards removed – this is an act of misjudgement and shame. So please have the decency*

*to enforce the SFO to return their bank cards asap so they can purchase groceries and necessities.*

*I would have thought that in a democratic country the majority rules, to think you took notice of one disgruntled investor and disregarded thousands of other investors who have had their money frozen and are suffering.*

*This action has made the word 'democracy' a joke. Where were you and the SFO when Hanover and Bridgecorp fell over?*

*I am in my mid 60s and have always been a loyal National party supporter and voter. Please National politicians, do not under estimate the memories of the swinging voters in the next election.*

*When this unnecessary debacle is finished, I hope for a full public apology, especially to the Hubbards with compensation to them. Then there may be a faint possibility some people may forgive.*

### **Victim Impact Statement**

*I know that 400 investors may seem a small number in your eyes, but we have human rights just like everyone else. I know thousands of people who are not connected with the Hubbards financially but very much admire them. They are horrified and disgusted at the way this whole Hubbard affair has been handled. Many have said they will not vote for National in the next election on principle.*

*My daughter and I sent emails two months ago and have not had any answers. There are obviously many other people who have sent emails requesting answers and still no replies.*

*I do not wish to be disrespectful but I feel this is an arrogant attitude or is it a tinge of guilt about a hidden agenda from the public?*

*I wonder how all the ministers would feel if their salaries and parliamentary perks were suddenly cut with no reason or fault of theirs. I guess they would not be amused.*

*Mr Hubbard is an honest man who is not capable of fraud or corruption. Allan and Jean are elderly but do not under estimate their mental sharpness and capacity for hard work and accuracy.*

*I am sad that this couple who have done so much for this country with their generosity are being belittled by the media with your influence behind the scenes.*

### **Victim Impact Statement**

*We have been clients of Allan Hubbard for over 40 years so decided to invest our superannuation fund with Allan as we had absolute faith in his management and ability to look after our funds. We did so and were very happy for the ensuing years as a good rate of interest was always paid each quarter, always on time.*

*We were devastated to hear the news of Aorangi being put into statutory management, especially when South Canterbury Finance was working to keep viable. Our immediate reaction when we heard the news was, "Why would the government do this now. It is obviously going to spell the end of South Canterbury Finance".*

*We could not understand how we, the investors, would not be consulted as to any concerns before such a decision was made. We have made our own decisions for many years and surely should have been consulted in such a serious matter.*

*Our major concern however was a medical one. My husband was diagnosed with cancer of the bone marrow 2 ½ years ago. This disease has an average life expectancy of 5 years. These few years were to be our time of pleasure together, travelling, spending time with our children and grandchildren. Instead they have become time of wonder and worry, waiting, waiting for the outcome – not knowing where we are or what we can afford to do. The additional stress has I am sure not helped his condition.*

*It appears to us that there has been an ulterior motive in putting Aorangi into statutory management. Whether or not this is so, the impact on our lives has been very cruel and unfair. I feel even more for those who are on their own with no one to talk things over with.*

*We still believe Allan would do nothing fraudulent. He has always been fair and honest.*

### **Victim Impact Statement**

*(This statement is from a lady in retirement who became a double amputee in 2010 losing both her legs below the knee).*

*This was a huge blow in our lives and then the statutory management and SFO takeover of Mr and Mrs Hubbards' affairs on 20 June 2010 occurred. Who is accountable for all this - one dissatisfied investor or is our government corrupt? Just how and why have all the innocent investors had to suffer from all this disruption as well?*

*We, like other investors, have tried to save for our retirement. Why are we being punished when the government so often says we must save for our retirement?*

*We have had to cut our medial health insurance, something we have had all our married life. I had insurance before being married. This to me was being independent from the public healthcare which I thought the government would have encouraged.*

*We have put our property on the market hoping for an interested buyer who will offer a price to cover paying off our mortgage plus something to add to our investments. Only God knows how we are going to survive. Our family, friends and neighbours have been exceptionally helpful in our garden and home preparing it for sale.*

*I have always said where a door shuts a window opens but when is this going to be sorted – after we have died and had no time to enjoy our retirement together or be of help to our children and grandchildren?*

## **CONCLUSION**

The Securities Commission and Companies Office held a duty to protect investors' interests. Their administrative actions have had had the opposite effect.

The Securities Commission and Companies Office failed to carry out their duties diligently and reasonably.

By undertaking a haphazard inspection of Aorangi Securities the regulatory bodies have misinterpreted material facts. The misinterpretation of facts contributed to the materially misleading information in the Registrar's report. A false sense of urgency led to an improper judgement by the decision-makers.

The decision-makers were not properly informed of all consequential actions arising from the statutory management orders. Nor were the decision-makers informed of the consequential repercussions to SCF.

Decision-makers wrongly inferred there was a need to protect Aorangi investors. The decision-makers formed this view as a result of a rushed and careless investigation on behalf of the Registrar.

The consequences of these misleading and deceptive statements (which can be proven evidentially) have resulted in the unlawful seizure of investors' funds and all of Mr Hubbard's personal assets.

At no time was Mr Hubbard made aware of the concerns as expressed in the Registrar's report. He was provided no opportunity to respond to any allegation.

After the decision was made Mr Hubbard was contacted by phone and informed Aorangi was in statutory management. He was not informed that he and his wife were also under statutory management. Mr Hubbard only came to have this knowledge when he viewed national news at 6pm on 20 June 2010.

One year later (20 June 2011) he was made aware that the Serious Fraud Office had filed 50 charges. He gained this knowledge after the Timaru Herald phoned him asking for a comment. The Timaru Herald had this information prior to Mr Hubbard or his legal representatives.

I am presently preparing my findings with supporting evidence. I am expecting to release these findings within the next fortnight.

This report serves as a summary.

KERRY GRASS

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