

"The Script"

April 2004

The official newsletter of the New Zealand Shareholders' Association Incorporated

Welcome to the first Newsletter for 2004. There has not been a lot of company reporting or NZSA branch activity this far, so we have delayed publishing for a month or so. Later in the year we intend to publish more frequently than two-monthly, to accommodate the expected increase in activity by the NZSA Board and branches.

Those of you who read the article on Shareholder Activism on pages 16-17 in *the Independent* of 31 March would have been as pleased as we were with the concerns, voiced by leading company directors, about our involvement in their operations. Also, following the demise of the Hon Lianne Dalziel, we have assurances from the Hon Margaret Wilson, the new Minister of Commerce, that she will be "endeavouring to progress the heavy legislative programme in the Commerce portfolio as expeditiously as possible". **There is no doubt that NZSA is punching well above its weight.**

Our membership has reached 550 this month, but we have failed to meet the board target of 700 members for the year that ended on 31 March. **There is no doubt that you are our best recruiters, so please make every effort to bring in at least one new member this year, which would take our membership to over 1000.** This would give us more political clout and more funds to increase our activities.

You will have just received your subscription renewal notice, together with a 2004 Diary, provided free to NZSA. We hope this can become an annual gift, sent out to you at the beginning of each calendar year, and with more information about meeting dates and activities. Please return your payment as soon as possible. Remember, we have no paid staff to organise reminders etc.
Russell Hodge

STOP PRESS

REVIEW OF THE NEW ZEALAND FINANCIAL REPORTING REGIME

Members should be aware that the Ministry of Economic Development has issued a discussion paper called "Review of the Financial Reporting Act 1993 – Part 1 The Financial Reporting Structure". Submissions are sought by the Ministry by Friday 14 May 2004.

The Association has been asked to comment on the Review and we will be preparing a short paper setting out our views. Copies of the discussion paper may be obtained from the Ministry website – www.med.govt.nz. Click on What's New – Documents under discussion on the home page, right hand side.

There is a strong commitment with the Australian government that a joint institution be developed to cover the area of financial reporting. Therefore many substantive matters have been omitted from the discussion paper; it being the intention that these are covered in a Part 2 document in due course.

If you have a particular comment that is appropriate and would like to include it with our submission please email to Oliver Saint at judenol@ihug.co.nz. Preferably your comments should arrive by the end of April so that they may be incorporated into our submission.

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HIDDEN AGENDAS

In August 2002, the Institute of Chartered Accountants of New Zealand (ICANZ) published a booklet, Corporate Transparency – Making Markets Work Better. Those with interest in corporate governance were invited to submit comments by mid October. Your Association debated whether to participate and decided not to make representations. Mainly we were concerned that there was little time to prepare a submission, the results would lack the necessary authority and the matter was deserving of a government led investigation. We also were conscious that our time, being a relatively newly formed organisation, would be better spent on specific matters more closely aligned with our members' interests. This did not stop some of us wondering at the objective behind the initiative.

In May 2003, the Institute produced its report. The recommendations, of which there were 22, covered liaison with other organisations and government departments, internal housekeeping, rotation of auditors (7 years) and changes in disclosure requirements.

The response from the Minister of Commerce in June 2003 was to instruct the Securities Commission to take a lead in developing a framework for corporate governance in New Zealand. The Securities Commission (SC) called for comments from interested parties. The comments sought were in the form of a response to a questionnaire by the SC; our own submission is on our website. Last month the SC submitted their report to the Minister of Commerce follow-

ing 160 written responses of which more than 50% were written in a personal capacity. The very first recommendation made, with minimal prompting from those responding to the questionnaire, was as follows: "The Commission considers that independent oversight of auditors would contribute to confidence in audit quality and in particular auditor independence".

The pieces of the jigsaw have now all fallen neatly into place. The Institute prepared its booklet because it was aware that oversight was a distinct possibility and wanted to be seen to be addressing corporate governance before it was forced to do so by a government itself under pressure. That objective does not appear to have worked.

The Minister of Commerce (the government) on the other hand was looking for a practical and unarguable way to ensure that the auditing profession came under some sort of control (oversight), hence the instructions to the SC to 'take a lead'. Why?

My reading of the reason is that corporate governance and the auditing function are increasingly coming under international pressure to conform. Capital movements are driving international compliance. I would be astonished if the recommendation of the SC in this respect was not accepted. I sense that the government agenda was always auditor oversight, after all it is in place in most countries of the world. We are all just the meat in the sandwich that makes life easy for government. So much for agendas!

Oliver Saint

CORPORATE GOVERNANCE

Results from the questionnaire circulated by the Securities Commission have now been collated and the Commission has published a set of Principles in a document 'Corporate Governance in New Zealand - Principles and Guidelines'. Copies of this document may still be available from the Commission (telephone 4 472 9830) or can be downloaded from the website at www.sec-com.govt.nz.

The Report provided guidelines for proper ethical standards and produced a summary and critique of the responses from the participants. Generally however the guidelines set out were not set in stone and it was agreed that a different approach was acceptable if this was explained to issuers. One significant recommendation was brought to the notice of the Minister of Commerce. This was:

1 Independent oversight of auditors would contribute to confidence in audit quality and in particular auditor independence.

The Commission additionally commented decisively on four further matters:

2 Boards should adopt and publish a written code of ethics

3 The CEO and CFO should certify the correctness of the financial statements

4 No non-executive director should receive retirement payments unless approved by shareholders.

5 The partner in charge of the audit should be changed every 5 years.

The Securities Commission does not intend to publish the submissions of the participants.

SITE VISIT TO TENON LTD

Tuesday 27 April 2004

The next site visit by the Auckland Branch is to Tenon Ltd, the new wood processing, marketing and distribution part of the old Fletcher Forests Ltd, at their Taupo moulding factory and modern sawmill. This site has been chosen as a great chance for all NZSA members, including Fletcher Forest shareholders who now hold Tenon shares, to better understand the new company, its aims and potential.

A coach will leave from the Institute of Accountants Conference Centre, to take members to and from the Tenon site. The factory and mill are in Centennial Drive Taupo and is approximately 10 km from Taupo. Centennial drive is a continuation of Spa Rd. All NZSA members are invited, along with Auckland, Tauranga and Waikato branch members.

8.30am Coach departs 27-33 Ohinerau St Remuera car park
Stop at Hamilton and Tirau (Tauranga members)

12.30pm Arrive Taupo

12.40pm Lunch provided by Tenon

1.30pm Address by John Dell
CEO Tenon and management.
Tour of the modern moulding and sawmill site

4.00pm Coach departs Taupo

8.00pm Coach arrives Auckland

During the coach trips there will be brief comfort stops, and on the return journey there will also be a brief stop for refreshments. Cost for those travelling by coach from Auckland will be \$10, others \$5.

Phone (09 376 7368) or email (nzsavisit@invested.co.nz) Graham Wilson to book your place on the trip if you are not on the Auckland Branch list.

AGMs

Contact Energy

Contact's AGM was held in Dunedin. They were expecting 500. On reflection they decided to set up seats for only 300 in the magnificent town hall. 106 attended. The meeting was tame. The company's proposals regarding directors fees and retirement allowances were easily passed both by number of shares and number of shareholders, apparently a first for the company. Our support and hand in drafting these proposals apparently struck a chord with shareholders. One shareholder, who looked like he could audition for the Speight's ad, commended the Board on adopting a proposal that paid them for their success in mustering sheep rather than their time in the saddle. Our words from our letter.

Phil Pryke's address was solid on all counts but noteworthy for its challenge to the industry to get fuel sources sorted quickly. He gave the industry 18 months to sort new energy sources or the national interest would be adversely affected. A loosely veiled criticism of the Resource Management Act. Happily for Contact Shareholders, regardless, the company is poised to profit handsomely from future electricity shortages but the company is acting responsibly to create new generating capacity. So, full marks to Contact and Phil Pryke, who has gone from NZSA Glob winner to compelling corporate leader. The NZSA is having an impact.

Bruce Sheppard

Sanford

This was a real mixed bag AGM. The highlights however outnumber the low lights, so I will start with the disappointments.

The 2003 year produced an adequate result but Mr. Barrett indicated that operationally the first quarter's result was down considerably and the full year's operating result was entirely dependent on the Tuna hunt/catch.

Mr. Goodfellow, now in his advanced years, struggling with his spectacles in the harsh light to read from prepared notes, pointed out that next year's result would be more or less the same as last year's with operations about breaking even at current exchange rates but the hedging arrangements

producing a considerable profit. These arrangements remain in place for another 12 months, and effectively hedge all net exchange positions to a rate of 50c to the US dollar. So if exchange rates don't fall to this level within 12 months profits will start to decline sharply. This position is of course not different from any other export business.

The highlight of the meeting was the preparation for the meeting itself. As you know we are encouraging boards to treat shareholders like business owners, so that shareholders will start to behave like owners. You could not possibly have left the Sanford AGM without feeling that you were part of the company's history and future. There was no doubt that the executive team went to considerable lengths to treat shareholders as owners and to make them feel part of the company, or if you like, a business owner. Around the room were large blocks of Ice encasing fish that the company hunts, beautifully back lit. The meeting started with an address from Barry Sanford a descendant of the company's founder on the family and company history and its role in the fishing industry over the last 100 years, and indeed the role of the company in the history of the development of NZ. You may well ask why this was relevant to the prospects of the company going forward. Simply, it underlined in dramatic detail the frontier nature of the industry and the company and also underlined the no nonsense approach of the company to managing the risks inherent in the industry. In short' shareholders came to understand the strategy and risks of the company much better than any financial presentation could ever do.

Finally shareholders were presented with a substantial gift pack of smoked salmon, snapper and tooth fish together with a book on the history of Sanford, which is really a history of Auckland. God, it makes you proud to be a New Zealander and part of all that history. All this said, the Chairman is aging, the Board is stacked with ex CEO's the existing CEO is paid a flat salary with no performance incentives and there is real risk associated with catch levels and exchange rates. Will they manage these risks, I don't know, but they are fighters which is what the industry is all about anyway.

Bruce Sheppard

Tower

Your representative had an enjoyable time at the AGM, addressing the following matters of business.

MR O'DUILL'S RE-ELECTION

He has done a good job as Chairman, so we were never going to vote against him. But this did give the chance to voice our displeasure over the GPG underwriting (which at the time of the AGM did not seem to have resulted in the required divestiture of shares) and the failure to seek ratification of overpayments of director's fees. Our view was that these two issues did not reflect well on the Chairman. His reply was that NZX did not require ratification of the overpayments (which means that NZX is happy for Tower to act in breach of the Listing Rules and Tower's Constitution) and that the underwriting issue was still being pursued by Tower.

At a matter of principle we believe a shareholder resolution to ratify the payments is necessary, and we intend putting that matter to the next AGM. We will wait to see what transpires on the underwriting issue.

MR TAYLOR'S OPTION PACKAGE

The Australian Shareholders' Association was particularly concerned that this package had no performance criteria and a price (to be exercised between September 2005 and September 2006) of \$1.39 - 2 cents higher than the share price on the day of the AGM. In effect it locked in the price at date of grant of the package, and for Mr Taylor to benefit, all that was needed was for the share price to increase a very small amount. A "soft" package, given the very poor performance of the company over the last two years.

DIRECTORS' REMUNERATION

This addressed the overpayment issue as far as future payments were concerned. As a result of restructuring over the last few years, the total cost to Tower of such fees has been reducing, but that was cold comfort given the company performance.

In fairness however, the Board itself has been revolutionised and the most recent financial information does at last look positive. So it may be that shareholders are now getting value for money. And at least they now have clear control of the purse strings.

CONSTITUTIONAL AMENDMENTS

These were largely technical but one was of concern. It allows NZX to approve a change to an employee or director's share options scheme, without reference to shareholders. Although this resolution was passed (by a very slim margin), the Association proposes to file a resolution for next year's AGM that will require any such changes to obtain both NZX and shareholders' approval. The simple principle behind this requirement is that if the company needs shareholder approval to implement a scheme, it should need shareholder approval to change that scheme. Simple, really.

CHANGES TO ACCOUNTING POLICIES

For those of you that can understand such things, we sought an explanation to two changes of accounting policy noted in the annual report. One related to statutory obligations on life insurance companies, that the new auditors had insisted upon. The other dealt with accounting treatment of shares held by Tower in itself. We were told that the second question itself has now disappeared, as the shares have since been sold and the proceeds used to further reduce debt.

UNDIRECTED PROXY VOTES

The AGM presented another opportunity to press an issue of concern to the Association. This issue arises when a director uses undirected proxy votes in favour of his own re-election. Our view is that this is a clear conflict of interest and either is or should be prohibited. The usual reply is that giving an undirected proxy is a vote of confidence in the proxy holder. We believe a directed "yes" vote is the only reliable vote of confidence. Anything less is a vote of no confidence. It shows the shareholder has reservations. In light of those reservations, how can a director vote "Yes" to himself? We are taking the issue up with NZX. Watch this space.
Ross Dillon

Proxies

Please remember as a matter of principle to assign your proxies to NZSA if you cannot attend the AGM of any of the companies in your portfolio. Upcoming are Waste Management on 20 April, and Carter Holt Harvey on 5 May. NZSA will probably be represented at both of these.

BRANCHES

Auckland Branch

The first meeting for the year was held on 12 February, attended by over 60 members and visitors, and addressed by the then Minister of Commerce Hon Lianne Dalziel. In her talk the minister discussed the legislative changes that had been made in her portfolio during her tenure, and outlined the matters for future change and review.

The Minister said that in her Commerce Portfolio she was focussing on issues relating to the securities market. She had been impressed with the contribution to the debate by New Zealand Shareholders' Association, and with its willingness to engage with her.

The takeovers code was a matter of great interest and she was awaiting a report on corporate governance from the Securities Commission. In takeovers legislation it was important to align New Zealand with international law. In particular there must be protection for minor shareholders to ensure that they get equal treatment.

NZX had a pivotal role in monitoring listed companies and in the new continuous disclosure regime. The NZX had a memorandum of understanding with the Securities Commission and would notify the commission if it were concerned that breeches had occurred.

In future the Securities Trading Law Review would be outlining changes to address the issues of insider trading and market manipulation. There would also be a review of the Securities Act particularly addressing the licensing of intermediaries and problems associated with contributory mortgages.

The Minister acknowledged that there were views for and against legislation to ensure standards of corporate governance. However she believed that New Zealand could not stand apart or be different to other countries. The rules for NZX could not differ from those of ASX, NYSE or LSX if we wished to retain credibility. "There is a cost to being different."

However the Minister indicated that it was unwise to assume that legislation was the only way. Ticking boxes is not the answer. She believed in the positive influence on

companies that could be exerted by informed shareholders. Also she believed in the good influence that could be exerted by independent directors, pointing to the positive role that the two independent directors had played in advising against acceptance of the offer by INL for Sky TV.

The meeting concluded with a short address by Bob Boas on the biotech industry. He gave an insight into the capacity of this sector to transform the New Zealand economy over the next 20 years. He also outlined the most important factors to take into account when looking at these companies. This was a useful exercise prior to the site visit to be to Genesis Research and Development Ltd

Approximately 80 members and visitors attended the Branch Meeting on 24 March, which was addressed by Carmel Fisher of Fisher Funds Management. The visit coincided with the IPO of the Kingfish Fund Limited on the NZX taking place. However this was not the reason Carmel was invited by the Auckland NZSA Committee and she emphasised that she was not here to promote this new listing.

The company manages two unit trusts and a number of other funds for individual and private investors. An interesting fund within this group is the Fledgling Fund, which provides an investment programme with an education component for parents and their children so they can get a good financial start in life. Once she has received Fisher's portion of the Cullen superannuation fund to manage Carmel estimates that her organization will have about \$250million in management.

Her philosophy is that the organization is a stock picker. At present there are 15 stocks in her various portfolios and these are chosen because of their growth potential. The investments are made in smaller New Zealand companies and the definition of smaller is those outside the top 10. Once a stock is chosen they regard themselves as business owners. Regular contact is made with management. The focus is on earnings growth. The philosophy is to 'buy and hold'. The companies are invested in as quality proven businesses. When contemplating purchase a history of 3 years earning growth would be required.

Information about the smaller companies is

not easily obtained. The breadth of coverage is limited and has diminished over the last 10 years. This means there are more likely to be undervalued small NZ companies. Carmel believes that you cannot time the market. Rather than timing, it is better to buy on merit. She does not take a view on sectors or on the economy of the country. Selling is rarely done but would be considered if a key reason for buying a share of the company changed eg the CEO or a fundamental change in policy. The companies making up her portfolio included Briscoe's, Freightways, Infratil, Metlifecare, POT, Sky City, The Warehouse, F&P Appliances, GPG and Turners Auctions. Carmel described her approach as straightforward, including thinking and acting like owners, bottom up stock picking and a full time focus on one asset class, small NZ companies.

The meeting had started with an evaluation by Bob Boas of the recent site visit to Genesis Research and Development Ltd, and ended with Graham Wilson outlining plans for the next site visit to Tenon Ltd.

Bryan Trenwith

Tauranga Branch

Branch activities are back in full swing with our regular monthly committee meetings scheduled to follow within a week of the NZSA board meetings in Auckland so that committee members can be kept abreast of matters currently being pursued by the Association.

Our forthcoming activities include a monthly discussion group meeting on Friday 26 March when Richard Stevens from ABN Amro Craig will present a paper on "Investing Overseas"; shortly after, on 14 April, we have a members' visit to Zespri's head office in Mount Maunganui which will embrace a company presentation, followed by a visit to an orchard and a packhouse. An invitation has been extended to our colleagues of Waikato Branch to join in this outing.

We are also included in the Auckland arranged visit to Tenon in Taupo on 27 April and presently await details of our members' participation and also Waikato's interest in this occasion. Another prospective visit, details of which have still to be finalised, is to a local branch of Westpac Bank to learn something of the matters that occupy the time and interest of the banking community- we have a fair idea of some of them!

This gives some idea of the range of market engagement we have in store; as long as we can maintain the tempo it looks like an interesting year.

Malcolm Dunphy

Waikato Branch

The Waikato Branch committee, under Chairman Tim Rooke, met with Russell Hodge at the Hamilton Club on 16 March to discuss their plans for the 2004 programme of meetings and visits. The branch now has 25 members, and can look forward to an interesting number of events.

Wellington Branch

The first Branch meeting for 2004 was very successful with a strong turnout of over 30 members. Our new venue at First NZ Capital had ideal facilities. The meeting started with Peter Nalder (chairman) giving a brief introduction on the role of the Wellington Branch. After Peter it was my turn and I gave an entertaining presentation on investor psychology exploring the physical brain, common mental pitfalls of investors and crowd psychology.

Matthew Underwood then highlighted the branch membership target of 100 members by year-end. To achieve this target he recommended that current members should invite at least two guests each to attend future branch meetings. Since our last meeting Branch membership has grown by 9%.

The Wellington Committee also sought feedback from members as to what topics they would like to have included for future 2004 Branch meetings.

Subsequently the Committee held a meeting in March to digest the feedback and we have responded by drafting a standard agenda for all future meetings. Details of this standard agenda and the next Branch meeting will be emailed or posted to all members soon.

Finally, big thanks to First NZ Capital for providing their facilities free of charge.

Look forward to seeing you all at the next meeting.

Ray Jack

NZSA Auckland Shareholder Education Day Saturday May 22

Institute of Chartered Accountants Conference Room 3
27-33 Ohinerau St Remuera (off Greenlane Rd opposite the Novotel)
Tutor: Graham Wilson
Grad Dip Fin An and Inv (Sec. Instit. Aus.)
ASIA Dip Tchg
NZSA Director of Shareholder Education

Course A 9-12 Starting in the Sharemarket
An Introduction to Share Investing - no experience needed to attend.
Risk and return. Buying and Selling. Simple ways of analysing shares (limit 22 registrations)

Course B 1-4.30 Investing in Shares
Basic tools to assist in selecting companies. For people with shareholdings and/or those who have taken the morning course. Strategies and Information Sources, Key Financial Ratios, Emphasis on NZ companies (limit 22 registrations)

NZSA members \$50.00 for one course or \$90.00 for both
Non members \$60.00 one course or \$110.00 for both
Lunch (optional) 12 – 1pm \$20.00
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