"The Script"
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The official newsletter of the New Zealand Shareholders' Association Incorporated

FLETCHER FORESTS

A separate letter has been sent to all shareholders on Fletcher Forests. We are recommending that all members/shareholders vote against the proposed transaction. In the process of reviewing the information document, a number of interesting points have popped up which will be relevant, not only to Fletcher Forests but all transactions of a similar nature:

1. **ADR's**
   7% of Fletcher Forests' stock is held by Americans under American Depository Receipts (ADR's). Under the terms of the Depository agreement, if the Americans do not vote, Fletchers is entitled to call upon the Depository to deliver to Fletchers an undirected proxy in respect of any shareholders under such regime that do not vote. In essence, this delivers to the Chairman of Fletcher Forests a significant pool of votes. This issue will also be relevant for other New Zealand companies, including Telecom and others. The Fletchers' Board has a discretion as to whether or not to call upon the Depository to deliver to them the undirected proxy. You can be certain that that discretion will be exercised in the circumstances. The moral issue is whether or not management should interfere in the democratic process of shareholder voting. If a shareholder chooses not to vote, should management be entitled to vote for them, frustrating and skewing the results of those that have chosen to vote. Our answer to this dilemma is that they should not.
2. **Notice of Meeting**
   Shareholders could be forgiven for being confused at the Notice of Meeting and the business presented to it. In effect, two resolutions are being put to shareholders. One resolution is a Special Resolution under the Companies Act and the other, a substantially identical resolution, is an Ordinary Resolution under the Listing Rules and to comply with the Takeovers Code. Due to the Listing Rules requirements, the second resolution (the ordinary one), cannot be voted on by Rubicon. The Special Resolution under the Companies Act can be voted on by Rubicon as the company is arguing that the voting restrictions contained in the Listing Rules do not apply to the Companies Act. The Shareholders' Association considers that this analysis is wrong.
3. **Information**
   - The independent expert has stated that high gearing in commodity companies is inappropriate, but has not expressed an opinion on the level of debt that Fletchers is taking on board, and whether or not that is appropriate.
   - Under the Takeovers Code, Grant Samuel is obliged to report on the appropriateness of Seawi taking a strategic shareholding. Again, they have waxed lyrical on the merits of the transaction, but have not analysed the strategic benefits, if any that Seawi will bring to Fletchers. Presumably that is because there are none.
   - As usual, the disclaimers make the most interesting reading.

We reiterate that, in our view, the transaction does not make economic sense.

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IT CAPITAL

Much has been reported in the Press regarding IT Capital. In essence, the managers were proposing to sell three start-up ventures with limited turnover and virtually no net assets or cash, to ITC for effectively 137.5m shares, representing a transfer of control to the managers.

Grant Samuel valued these enterprises at approximately half this sum. The company adopted the high end range of the Grant Samuel valuation.

There were two issues:

a. What were the three new projects worth?
b. What were the shares in ITC worth?

ITC is now simply its holdings in DVI. There has been much media debate about the value of ITC and DVI, and concerns have been expressed over the completeness of information given to Grant Samuel by the directors.

The meeting closed with the resolutions put to shareholders being amended in such a manner as to provide the directors with flexibility to negotiate a more equitable settlement with management regarding the transfer of their assets.

The net result has been that a number of the cash investors have elected not to proceed, and have blamed the Shareholders' Association and myself for this. The reality is that, since they agreed to contribute their funds, equity markets have collapsed, significantly knocking investor confidence. More likely this is the most significant event that has spooked them. As a result, ITC has had to scale back its plans and Data Squirt is now not being bought. The remaining assets appear to have been bought for full valuation, rather than the lower value, which should have prevailed.

The ITC meeting closed with me challenging the Board to negotiate the transaction and challenging the management to behave fairly. The outcome was that the directors have not negotiated the transaction and, in my view, management has not behaved fairly. It should, of course, be remembered that a majority of shareholders approved the transaction in its original form and, accordingly, there is no more to be done.

Bruce Sheppard

Other AGMs:

Capital Properties AGM

The AGM was held on 19th July in Wellington. The Chairman, Colin Beyer, was well prepared for any request for a poll, presenting the total number of proxies and votes the Chairman had received, including the tally of votes for and against each resolution, before beginning his address. Key points from the meeting were:

- the company is actively looking for assets to acquire;
- the company made a couple of offers in Wellington and Auckland, but the price was too high for their liking;
- a rights issue (1 share for every 3 at 72cps, underwritten by Forsyth Barr) will be made to give the company more flexibility to pursue opportunities that may arise, no doubt a reflection of the company's high debt to equity ratio;
- the company is looking to maintain a gross dividend payout of 9cps for the next 2 financial years, equating to a 10.7% gross yield (ex-issue) based on a share price of 90cps.

Another point of interest is the 'over-renting' of the company's portfolio, which was covered in some detail in their annual report. The lease on the largest over-rented property (estimated at $2.65m pa) does not expire until 2006, but the company has started discussions with the tenants already. Alternative uses for the property are also being explored.

During question time, two interesting points arose. In talking about the sustainability of the dividend, the Chairman noted that company pays out 80-85% of net profits, so there is scope to maintain dividend payments even if income falls. Also, in the company's modelling, they assume a 3 month vacancy at the end of every lease, even though in most cases the tenants continue occupying the building.

A question about management remuneration was raised, noting the big increase compared with last year. The chairman responded that the increases were due to performance bonuses being paid. Some 30% of top management's remuneration was 'at risk', but not tied to share price performance.

By Khoon Goh
Disclosure of interest: none.

Owens Group

The 2002 AGM was held on 29th July in Auckland. The chairman's address covered future prospects. He advised that in view of the uncertain times it was not possible to forecast the first half results with any certainty. The probability is that results will fall short of the comparable period of the previous year. However following recent rationalisations there is an expectation that the full year 2003 figures will not be disappointing. The message from a number of shareholders to the CEO was that the time had come for performance instead of promises and inspirational rhetoric. A NZSA member from Tauranga queried the large payments for directors' fees. The chairman responded that there were three categories - fees, consultancy and retirement allowances. The latter were in accordance with the constitution and Stock Exchange rules (amounts disclosed varied due to payments being made in different accounting periods). Consultancy fees for Mr McDonald were for special expertise and advice on the Australian operations and there was no conflict of interest. His own consultancy arose as a result of his period as acting CEO. On retirement allowances, the formula adopted by the Company is there will only be a retirement allowance if a director has served for more than three years. The full amount of 3 years' fees will only be paid to a director who has served in excess of 9 years.

Mr Shane's relationship with KPMG Legal was brought up in view of the auditors being KPMG. Mr. Shane advised that he was senior partner of Kensington Swan and had retained a consultancy position when his firm merged with KPMG Legal. This situation stopped on 31 July when this consultancy ended.

Oliver Saint

OUR FIRST AGM

The meeting on 2 July, which was initially open to the public, was well attended by over 60 members, 40 guests and the Press.

The Hon Paul Swain, Minister of Commerce, was the first guest speaker. He reported on Government initiatives to improve corporate governance and the performance of the Stock Exchange during the last 2½ years, with particular reference to the Takeovers Code. He also outlined more legislative changes that the Labour Party intended to promote if re-elected, which would further safeguard the rights of small shareholders.

Joseph Healey, head of regional investment banking for the ANZ Bank, then addressed the meeting on the subject of Corporate Governance. His research for a book he was about to publish showed that the standard of corporate performance and governance in New Zealand was generally abysmal, when measured by Economic Value-added Accounting (EVA). His message to institutional investors was to put more pressure on companies to perform, and he urged shareholders to ask probing questions about shareholder value performance and what steps company boards were taking to align incentives with the interests of shareholders.

Bruce Sheppard followed with his Chairman's Address. He reported on a pleasing end-year membership level of 271, a sound financial position, and on a high level of activity during the first year of the Association's history. He reported that the association had advocated for shareholder's interests at a number of company AGMs, with mixed results but good publicity. A branch of the association had been formed in Tauranga, and others would be commissioned this year in Auckland and Wellington. Bruce said proudly that 'The New Zealand Shareholders' Association is now on the radar screen of all these (relevant) public bodies and receives copies of all discussion documents, and is requested to provide submissions from time to time'. Bruce said too that 'The audit profession is now also aware that shareholders will review their conduct. They now also appear to be prepared to self-police.'

Oliver Saint and Ross Dillon then spoke and answered questions about their roles as Directors of Research and Advocacy respectively, before the formal part of the meeting got under way. Resolutions to Adopt the Annual Report and Accounts and make minor adjustments to the Rules of NZSA, and to adopt the proposed Branch Rules, were all passed without dissent. A resolution to increase the number of Board members to eight, and to confirm the re-election of retiring members and the three co-opted members was approved.

At the conclusion of the meeting, two groups assembled for discussions. Those interested in forming an Auckland Branch met with Russell Hodge and Malcolm Dunphy, and a number volunteered as members of the branch committee to meet on 23 July to formally set up the branch. Others interested in becoming involved in research met with Oliver Saint. Oliver needs more assistance in researching the activities and reports of companies.

SURGE IN MEMBERSHIP

There have been a very small number of members who, for a variety of reasons, have either resigned from the association or not renewed their membership this year. On the other hand we have had at least 50 applications to become members in recent months, and our current active membership is well over 300.

The increasing number of members and additional revenue will be of great assistance in spreading the workload and activities among more members, and in funding advertisements, legal costs and other activities, such as setting up branches in other parts of New Zealand. Donations to the Association's funds are also very welcome.

BRANCHES:

Tauranga

An excellent attendance of over 50 came to the first AGM of the Tauranga Branch, held on 25 July. In addition to Tauranga members and visitors, NZSA Board Chairman Bruce Sheppard, and Oliver Saint, Research Director, also attended the meeting.

After dealing with the Branch Chairman's Report, Accounts, the existing Committee of Malcolm Dunphy (Chairman), Don Johnston (Deputy-Chairman), Allen Smith (Secretary/Treasurer), and Howard Zingel, Bruce Anderson, Russell Brown and Paul Zingel were re-elected, together with Lloyd Christie.

Bruce Sheppard then addressed the meeting and stressed the reasons for the establishment of NZSA, and the need for share investors to join to protect their own interests, and to give the Association a stronger voice. Oliver Saint also spoke about the good growth so far and the intention to form a branch in Wellington shortly.

The guest speaker was Cameron Watson, a sharebroker and Research Director for ABN AMRO Craig. Cameron gave an interesting talk about the responsibilities of sharebrokers, and also the need for investors to be aware that to make money, brokers need to be selling and buying for clients, and that the investor must balance the advice he or she is receiving with their own objectives.

At the end of the meeting, many stayed to have a chat and some light refreshments as guests of the Tauranga branch. A number of non-members were given Application Forms and the branch is following these up. Several new members have already been gained.

The Tauranga Branch address is:

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Don Johnston

Auckland

The Auckland Branch held its first committee meeting on 23 July. The Initial Branch Committee is Coralie Van Camp (Chairperson), Bryan Trenwith (Deputy Chairperson), Russell Hodge (Secretary/Treasurer), Phillip Clemow, John Clifford and Graham Wilson.

The branch intends to hold approximately 8 meetings or outings a year, with guest speakers, workshops, and visits to appropriate company sites.

The first General Meeting of the Auckland Branch will be held at the Commerce Club, Ohinerau Street, Greenlane, on Tuesday 3 September, starting at 7.30pm. The Guest Speaker is Chris Liddell, CEO of Carter Holt Harvey.

Auckland members will be given more details of this meeting shortly, and are welcome to bring prospective members as guests.

Wellington

The Board has decided to hold the Inaugural Meeting of a Wellington Branch on the evening of **Thursday 10 October,** when Board members will be in Wellington.

The venue and starting time for the meeting will be advertised to members in the Wellington region nearer the time.

The purpose of the branch is to provide a forum for members to meet to discuss live issues, to hold workshops of an educative nature, to socialize, and to organize support for Board initiatives in the area and recruit new members.

We have already had some expressions of interest in joining the committee of this branch – others interested should contact Russell Hodge or Malcolm Dunphy at their addresses on the front of this Newsletter.