

ANNUAL REPORT 2002

**Laid before the House of Representatives pursuant to section 16 Takeovers Act 1993
and section 44A Public Finance Act 1989.**

FUNCTIONS AND POWERS OF THE PANEL

The functions of the Takeovers Panel are set out in Section 8 of the Takeovers Act 1993. In summary the Panel's functions are:

- > To formulate and recommend a takeovers code applying to takeovers of specified companies;
- > To formulate and recommend amendments to the takeovers code;
- > To keep under review practices relating to takeovers of specified companies;
- > To investigate any act or omission or practice for the purpose of exercising its powers under the enforcement provisions of the Act;
- > To make determinations and orders and make applications to the Court under the enforcement provisions of the Act;
- > To promote public understanding of the law and practice relating to takeovers.

In exercising its functions and powers the Panel shall comply with the principles of natural justice.

The powers of the Panel are set out in sections 9 and 13 and Part III of the Takeovers Act 1993. In summary the powers of the Panel are:

- > To issue summonses and to take evidence on oath;
- > To make confidentiality orders;
- > To authorise the Registrar of Companies to undertake inspections;
- > To grant exemptions from the code;
- > To enforce the takeovers code by:
 - making determinations on whether a person is complying with the code;
 - issuing restraining orders; and
 - applying for Court orders.

Under the takeovers code the Panel has powers to approve independent advisers and appoint independent experts.

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CHAIRMAN'S REVIEW

John King

THE CODE COMES INTO FORCE

The Takeovers Code has been operating for one year. The commencement date, 1 July 2001, was a Sunday, and on that day at 9:30am a division of the Panel held its first meeting in connection with the contested bid for Montana Group (NZ) Limited. Later that day the Panel gave its first notice calling a meeting under the enforcement provisions of the Code accompanied by the first restraining order. After little more than a week the Panel had called a further enforcement meeting and issued more restraining orders. It was a demanding start but it signalled clearly to the market that the Panel was up and operating and willing to exercise its powers outside normal working hours where necessary.

The Code has had a very successful introduction. It has been well received by most people, with some very positive and supportive comments about its operation even from former opponents of the Code. Media commentators have generally approved of the Code's operation in practice. Takeovers are taking place in an orderly fashion and investors are being kept well informed.

ACHIEVEMENTS IN 2001-2002

Preparations for the Code The smooth introduction of the Code was due to a considerable extent to the Panel's preparatory work before 1 July 2001. The market was informed about the Code through the Panel's website and newsletter, *Code Word*, for several months before it took effect. Class exemptions, a standard form of exemption applying to common classes of transactions, were in place by 1 July 2001. The Securities Commission also assisted by granting an exemption from certain requirements of the Securities Act 1978 to facilitate takeovers where securities form all or part of the consideration.

Policies formulated The Panel has published several policies relating to the Code and its application. These included policies on the approval of independent advisers, the appointment of experts and the receipt of takeover documents. Guides to applying for an exemption from the Code, for approval to act as an independent adviser, and for appointment as an expert, were also published.

Approvals under the Code The Code requires reports from independent advisers in various circumstances. The independent adviser's report is of fundamental importance. It is a report on the merits of the offer, allotment or acquisition, and is not simply a valuation. Before approving the appointment of an independent adviser the Panel must be sure that the person is, and is seen to be, independent and has the appropriate qualifications for the task. The Panel received 42 applications for, and approved the appointment of 35 independent advisers. Four applications were declined and three were withdrawn. The Panel also approved two requests for withdrawal of takeover offers.

In certain circumstances the Code requires an expert appointed by the Panel to make a determination in relation to the price at which compulsory acquisition of the last 10% of a company's shares is to be effected. The Panel was not required to appoint any experts during the year.

Exemptions from the Code It is recognised that from time to time there may be technical difficulties in complying with the Code which create the need for exemptions. Dealing with applications for exemption is an important activity of the Panel. The Panel will only grant exemptions that are appropriate and consistent with the Code. Where necessary, exemptions are subject to conditions that ensure that the underlying purpose and intent of the Code is fulfilled. By law the Panel is required to give reasons for granting an exemption which must include why it is appropriate to grant the exemption and how the exemption is consistent with the objectives of the Code. All exemptions, and the Panel's reasons for granting them, are published on our website.

Class exemptions exempt any class of person, transaction or offer from compliance with any particular provision of the Code. Class exemptions reduce significantly the need for individual exemptions. The first class exemption notice was gazetted and could be relied on when the Code came into force. This notice provides a standard form of exemption to apply to common classes of transactions. The Panel granted further class exemptions during the year. One of these applies to trustee corporations and another was for offers unconditional as to level of acceptances. The Panel considered 32 applications for individual exemptions. Of

these 14 were granted and two were approved but withdrawn by the applicants before gazettal.

Enforcement of the Code The Panel is in a strong position regarding enforcement. Where a breach of the Code is suspected it has the power to call a meeting and issue restraining orders. Following that meeting, if the Panel is not satisfied that the Code is being complied with, it may seek the appropriate Court orders. Other parties may apply to the Court only in limited circumstances. The Takeovers Act aims to ensure that those opposed to a particular takeover should not be able to use the litigation process to frustrate the takeover.

The contested takeovers of Montana Group (NZ) Limited in July 2001 and Otago Power Limited in May and June 2002 called for significant involvement of the Panel. These contests for control showed that the Panel was prepared to take action both on its own initiative and at the request of other parties. The Panel also intervened in the purchase of 55.98% of the issued shares in Seafresh New Zealand Limited by four buyers acting in concert.

The Panel called 10 meetings under section 32 of the Act where it considered parties may not have complied with the Act or the Code. Determinations were published after each meeting. The Panel issued 13 restraining orders. The Act imposes severe time constraints on the Panel when dealing with matters under section 32. When a meeting is called it must take place within seven days. Once the meeting is held a decision must be made within two days otherwise any restraining order will lapse.

In the first year of the Code's operation the Panel has dealt with many first time issues including

- >differential pricing offers which are not permitted;
- >application of the transitional provisions in section 23(b) of the Act;
- >actions by directors of a target company which may be construed as defensive tactics; and
- >procedures for variation of an offer not in compliance with the Code.

The Panel's decisions have been accepted and non-complying behavior rectified. The Panel has not yet had to use its powers to seek either orders or pecuniary penalties from the Court. As a result, the Panel has not made any calls on its litigation fund.

In fulfilling its enforcement role, the Panel does not take a narrow legalistic approach to the interpretation of the Code, but seeks to interpret and apply the Code in accordance with its underlying policy and intent. It can be expected that the Panel will look to the commercial substance of events.

Review of takeover documents Most takeover documents are required to be sent to the Panel. The Panel is not obliged to vet those documents, but the executive generally reviews them for compliance with the Code. In a case of non-compliance the Panel decides what action, if any, to take. The Panel received and reviewed 18 takeover notices (of which 14 proceeded to takeover offers) and nine sets of documents provided to meetings of shareholders for the purposes of the Code.

Accurate disclosure in accordance with the requirements of the Code is of fundamental importance. It has been necessary for the Panel to highlight that all directors are responsible for disclosure in the target company statement. Although a group of independent directors may be managing the process for the target company, this does not absolve the other directors

from their responsibility to make full disclosure especially of information which may pertain particularly to them.

Public understanding of the Code The Panel is committed to making its decisions and the reasons for them widely known. Five issues of *Code Word* have been published which contain our policies, guidelines for applications and comments on Panel decisions. This information is also readily available on our website, www.takeovers.govt.nz. All relevant legislation, exemptions and Panel determinations are published in full on the website. We have undertaken a series of feedback sessions with commercial lawyers and advisory firms who deal with the Panel. These have been very useful and we intend to continue them. The Chairman has taken opportunities to speak at seminars during the year and to publish articles on the Code. The Code and the Panel's activities were widely reported in the news media. Panel staff responded to 232 inquiries from the public.

International liaison The Minister of Commerce appointed Denis Byrne, a member of the Australian Takeovers Panel to the New Zealand Panel and Chairman John King was appointed to the Australian Panel. There is no doubt that this trans-Tasman involvement fosters relationships between the Panels and increases understanding of the regimes operating in each country. The Director of the Australian Takeovers Panel, Nigel Morris, spoke at a seminar in Auckland earlier this year. The New Zealand Chairman visited Australia and met with Senator Ian Campbell, Parliamentary Secretary to the Treasury, and with the Chairman and Executive of the Australian Securities and Investments Commission.

LEGISLATIVE CHANGES IN FUTURE

The Securities Markets and Institutions Bill was reported back to Parliament by the Finance and Expenditure Select Committee in June 2002. The Bill, as reported, envisages increased powers for the Panel to conduct inspections, summon witnesses and to accept and enforce written undertakings. It will also remove the Panel's exclusive role to formulate amendments to the Code. This role will rest with the Minister of Commerce subject to consultation with the Panel. The Panel will retain the function to keep under review the law relating to takeovers and to recommend to the Minister any changes it considers necessary. The Bill also proposes increases in the number of Panel members from eight to 11 while removing the existing provisions for three associate members. The Bill was not enacted when Parliament rose for the general election.

ADMINISTRATION

The Takeovers Panel is provided with executive, administrative and support services by the Securities Commission under a Memorandum of Understanding. The Panel does not directly employ its own staff. Under its arrangements with the Commission the Panel initially sought three full-time equivalent (FTE) professional staff from the Commission. This has not proved adequate and usage throughout the year has averaged 3.7 FTEs. The Panel is seeking an increase to approximately 5.5 FTEs in the coming year. The Panel has a good working relationship with the Commission and appreciates the support that it provides to the Panel.

WORKLOAD OF THE PANEL

The Panel's role under the Code is demanding, particularly in relation to exemption and enforcement matters. Exemptions are often complex but need urgent action to fit in with deadlines for company meetings or takeovers that are under way. The Takeovers Act puts extraordinary time pressures on enforcement action. When takeover activity is happening, the decision on whether to call a meeting under section 32 needs to be made without delay. Once called, the meeting must be held within seven days. During that time the parties make written submissions and provide supporting information which is reviewed by the Panel and circulated between the parties. The meeting is then held and, as any interim restraining orders expire two days after the meeting, the full written decision needs to be made within that time.

These requirements place enormous strains on Panel members and executives and can only be met with many hours of work often outside normal business hours. It means that Panel members, notwithstanding their own business activities, with little if any notice, may be required to be involved with enforcement matters for 10 or more consecutive days. With only eight members, one of whom is in Australia, demands on individual members are very high. The situation is equally demanding and stressful for the Panel's executive. I pay tribute to members and to the executive for the way in which they have coped with their responsibilities.

Panel members must have genuine experience in the market to be able to make quality decisions within tight timeframes. They must also be available virtually on call. These requirements make resourcing the Panel quite difficult and raise the question of what is an appropriate level of remuneration for members. The proposal to increase the number of members to 11 is welcome.

Market demands for approvals, exemptions and enforcement, and the resourcing constraints of the Securities Commission, have delayed some of the Panel's other intended activities. In particular we have not been able to make as much progress as we would have liked in identifying areas for improving and recommending amendments to the Code. We expect to have increased resources next year and to undertake an expanded workload.

FINANCIAL POSITION

Parliament appropriated the Panel \$822,000 for the year for operational requirements and \$675,000 for a litigation fund. The Panel also anticipated fee revenue of \$120,000 for the year. As the financial statements show, the Panel received or accrued fee revenue of \$551,000 and disclosed an unexpected surplus of \$266,000 for the year. The Takeovers (Fees) Regulations 2001 enable the Panel to recover costs for approvals, exemptions and, in certain circumstances, for section 32 actions. Recoveries under the fees regulations were higher than expected. Furthermore the resource constraints have restricted some of the Panel's research, policy and other activities unrelated to the demands of market activity thereby reducing unfunded expenditure and contributing to the surplus. The surplus is being carried forward to provide additional resources for an anticipated increase in workload, taking into account that the Panel's baseline funding for 2002/2003 has not been increased.

CONCLUSION

The Panel has had a successful first year in its role of facilitating and enforcing the Code and achieving its policy objectives. However it is still early days. The Panel must remain vigilant and identify any adverse developments which occur in the takeovers market.

A handwritten signature in black ink, appearing to read 'J.C. King', written over a horizontal line.

J.C. King

CHAIRMAN

*ANNUAL REPORT 2002**FINANCIAL REPORT***SOURCES OF FUNDING**

The Panel is funded by the appropriation of money by Parliament and the payment of fees by the users of its services, and parties to its enforcement actions. It is responsible for the allocation of the money. It sets priorities with care and reviews them constantly to ensure that the money is used to best advantage.

STATEMENT OF RESPONSIBILITY

We acknowledge responsibility for the preparation of these financial statements and for the judgements used in them.

We acknowledge responsibility for establishing and maintaining a system of internal control designed to provide reasonable assurance as to the integrity and reliability of the Panel's financial reporting.

In our opinion these annual financial statements fairly reflect the financial position as at 30 June 2002 and the operations of the Takeovers Panel for the year ended 30 June 2002.



J.C. King

CHAIRMAN*7 August 2002*

D.M.D. Rawstorne

CHAIRMAN, AUDIT COMMITTEE*7 August 2002*

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STATEMENT OF FINANCIAL PERFORMANCE

for the year ended 30 June 2002

<i>Budget</i> 2002 \$		<i>Note</i>	<i>Actual</i> 2002 \$	<i>Actual</i> 2001 \$
	Operating income			
822,000	Government grant — baseline funding		822,222	569,778
10,000	Interest		14,423	10,187
120,000	Application fees and costs recoverable	<u>6</u>	551,390	-
952,000	Total operating income		1,388,035	579,965
	Income for litigation fund matters			
-	Government grant — litigation fund		675,000	-
-	Interest — litigation fund		24,208	-
-	Total litigation fund income	<u>3</u>	699,208	-
952,000	Total income		2,087,243	579,965
	Operating expenditure			
6,000	Audit fees		3,500	3,500
7,000	Communication charges		19,031	1,779
225,000	Members' fees	<u>4</u>	257,338	65,657
35,000	Printing and stationery		26,551	8,506
94,000	Consultants and legal		114,575	81,371
64,000	Services and supplies		35,944	56,937
85,000	Travel and accommodation		50,902	18,880
12,000	Use of assets	<u>5</u>	9,849	3,001
488,000	Securities Commission services		603,716	226,871
1,016,000	Total operating expenditure		1,121,406	466,502
-	Expenditure on litigation fund matters	<u>3</u>	-	-
1,016,000	Total operating expenditure		1,121,406	466,502
(64,000)	Net operating surplus / (deficit) before transfer to litigation fund		965,837	113,463
-	Transfer to litigation fund		699,208	-
\$(64,000)	Net surplus(deficit) transferred to accumulated funds		\$266,629	\$113,463

STATEMENT OF FINANCIAL POSITION

as at 30 June 2002

<i>Budget</i>		<i>Note</i>	<i>Actual</i>	<i>Actual</i>
<i>2002</i>			<i>2002</i>	<i>2001</i>
\$			\$	\$
Current assets				
5,000	Bank		20,829	3,006
-	- Petty cash		100	-
600,000	Short term deposit ‐ litigation fund		617,906	-
154,000	Short term deposits ‐ other		287,203	216,163
10,000	GST receivable		75,000	14,060
-	- Interest receivable		791	-
-	- Interest receivable ‐ litigation fund		6,302	-
35,000	Sundry debtors and prepayments		219,802	20,515
12,000	Prepayment for use of assets	<u>5</u>	10,407	8,349
816,000	Total current assets		1,238,340	262,093
Non-current assets				
22,000	Prepayment for use of assets	<u>5</u>	16,222	21,959
\$838,000	Total assets		\$1,254,562	\$284,052
Current liabilities				
140,000	Creditors and accruals		118,150	121,589
-	- GST payable		8,112	-
140,000	Total current liabilities		126,262	121,589
Equity				
98,000	Accumulated funds		429,092	162,463
600,000	Litigation fund	<u>3</u>	699,208	-
698,000	Total equity		1,128,300	162,463
\$838,000	Total equity and liabilities		\$1,254,562	\$284,052

The accompanying notes form part of these financial statements.

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STATEMENT OF MOVEMENTS IN EQUITY

for the year ended 30 June 2002

<i>Budget</i>		<i>Note</i>	<i>Actual</i>	<i>Actual</i>
<i>2002</i>			<i>2002</i>	<i>2001</i>
\$			\$	\$
162,000	Equity at start of period		162,463	-
	Surplus/(deficit) for period			
(64,000)	(Total recognised revenues and expenses)		965,837	113,463
-	- Government equity capital		-	49,000
\$98,000	Equity at end of period		\$1,128,300	\$162,463
	Comprising:			
98,000	Accumulated funds		429,092	162,463
-	- Litigation fund		699,208	-
\$98,000	Equity at end of period		\$1,128,300	\$162,463

STATEMENT OF CASH FLOWS

for the year ended 30 June 2002

<i>Budget</i> 2002 \$		<i>Note</i>	<i>Actual</i> 2002 \$	<i>Actual</i> 2001 \$
Cash flows from operating activities				
	Cash was provided from:			
822,000	- Government grant — baseline funding		822,222	569,778
-	- Government grant — litigation fund		600,000	-
120,000	- Application fees & costs recoverable		354,328	-
10,000	- Interest		14,294	9,525
-	- Interest on litigation fund		17,906	-
	Cash was disbursed to:			
(1,012,000)	- Suppliers		(1,095,711)	(409,134)
(60,000)	Net cash flows from operating activities	<u>7</u>	713,039	170,169
Cash flows from investing activities				
	Cash was provided from:			
62,000	- Net decrease in bank deposits		-	-
	Cash was applied to:			
(600,000)	- Net increase in bank deposits		(688,946)	(216,163)
-	- Prepayment for use of assets		(6,170)	-
(538,000)	Net cash flows from investing activities		(695,116)	(216,163)
Cash flows from financing activities				
	Cash was provided from:			
-	- Government equity capital		-	49,000
-	Net cash flows from financing activities		-	49,000
2,000	Net increase (decrease) in cash balance		17,923	3,006
3,000	Add opening cash balance		3,006	-
\$5,000	Closing cash balance carried forward		\$20,929	\$3,006

The accompanying notes form part of these financial statements.

NOTES TO THE FINANCIAL STATEMENTS

for the year ended 30 June 2002

NOTE 1 STATEMENT OF ACCOUNTING POLICIES

1. Reporting Entity

The Takeovers Panel is a body corporate established by the Takeovers Act 1993. The financial statements presented here are prepared pursuant to section 16 of the Takeovers Act 1993 and section 41 of the Public Finance Act 1989.

2. Measurement System

The accounting principles recognised as appropriate for the measurement and reporting of results and financial position on an historical cost basis have been applied.

3. Specific Accounting Policies

- i. *Budget Figures*
The budget figures are those approved by Panel members on 6 June 2001. The budget figures are prepared in accordance with generally accepted accounting practice.
- ii. *Short Term Deposits*
Short term deposits are shown at cost.
- iii. *GST*
The Panel is registered for GST and GST is accounted for by the net method.
- iv. *Financial Instruments*
Financial instruments recognised in the statement of financial position include cash balances, receivables, payables, and investments.
- v. *Income Tax*
The Panel is exempt from income tax under the Income Tax Act 1994.
- vi. *Sundry Debtors*
Sundry debtors are stated at their expected realisable value after providing for doubtful and uncollectable debts.
- vii. *Revenue Recognition*
The Government grant is recognised as revenue when it becomes due. Revenue from application fees and costs recoverable is recognised when the relevant services are provided or when the Panel has made the relevant determination under section 32 of the Takeovers Act 1993.
- viii. *Litigation Fund*
Interest income and expenditure on approved litigation fund matters are reported as income and expenditure of the Panel in the financial period in which they were derived or incurred. Reimbursements from the Crown to top up the fund are reported as income in the period in which the Panel's claim for reimbursement is accepted by the Crown.
The balance of the fund is disclosed as a component of equity in the statement of financial position.
- ix. *Prepayment for Use of Assets*
This represents amounts paid to the Securities Commission to finance the purchase of assets required by the Commission to service the requirements of the Panel. The amounts are being written off, having regard to the expected life of the assets and the estimated period of the arrangements with the Commission, over the following periods:

Furniture, fittings and library	5 years
Office equipment	3 years

NOTE 2 CHANGES IN ACCOUNTING POLICIES

There have been no changes in the Panel's accounting policies. All of the policies have been applied on bases consistent with those used last year.

NOTE 3 LITIGATION FUND

The Panel has established a litigation fund from an appropriation of \$675,000 made by Parliament. The fund is to be used solely for litigation costs that are incurred by the Panel as it enforces compliance with the Takeovers Code or responds to litigation brought against it. It is being held on short term deposit. Parliament has made a further appropriation of \$675,000 for the year ending 30 June 2003 to top up the fund to the set level of \$675,000, should this be required during the year.

There have been no calls on the resources of the litigation fund to date.

The fund was originally appropriated as GST inclusive, but subsequently changed to a status of GST not applicable. As a result the Panel is due a refund of GST and use of money interest from Inland Revenue.

	<i>2002</i>	<i>2001</i>
	\$	\$
Opening balance 1 July 2001	-	-
Government grant received	600,000	-
GST refund due from Inland Revenue	75,000	-
Interest received	17,906	-
Interest accrued	6,302	-
Expenditure on approved litigation	-	-
Balance at 30 June 2002	\$699,208	-

NOTE 4 REMUNERATION OF MEMBERS OF THE PANEL

Members are remunerated on the basis of time spent on the work of the Panel. Members' fees for the year ended 30 June 2002 were:

	<i>2002</i>	<i>2001</i>
	\$	\$
J.C. King (Chairman)	61,267	31,057
D.O. Jones (Deputy Chairman)	76,550	5,950
D.M. Byrne	6,195	-
C.G. Giffney	25,788	-
G.G.H. Gilmour	-	5,300
A. Lawrence	26,297	4,000
K.J. O'Connor	23,118	4,700
J.M. Ott	-	3,800
D.J. Quigg	17,357	-
P.A. Randall	566	5,550
D.M.D. Rawstorne	20,200	5,300
	\$257,338	\$65,657

NOTE 5 PREPAYMENT FOR USE OF ASSETS

	<i>2002</i>	<i>2001</i>
	\$	\$
Opening balance	30,308	-
Amount paid to finance the purchase of additional assets	6,170	33,309

Amount amortised for use of assets	(9,849)	(3,001)
Balance at 30 June 2002	\$26,629	\$30,308
Current portion	10,407	8,349
Non-current portion	16,222	21,959
Balance at 30 June 2002	\$26,629	\$30,308

NOTE 6 APPLICATION FEES AND COSTS RECOVERABLE

The Takeovers (Fees) Regulations 2001 came into force on 1 July 2001 and enable the Panel to recover costs with respect to applications received for various approvals, for exemptions, and for certain enforcement actions pursuant to the Takeovers Act. An analysis of the amounts earned for the year ending 30 June 2002 is as follows:

	2002
	\$
Exemptions	213,294
Approvals	86,782
Enforcement - section 32	250,676
Miscellaneous	638
Total	\$551,390

NOTE 7 RECONCILIATION OF STATEMENT OF FINANCIAL PERFORMANCE WITH STATEMENT OF CASH FLOWS

	2002	2001
	\$	\$
Reported surplus (deficit)	965,837	113,463
Add prepayment for use of assets	6,170	-
Movement in working capital:		
- Increase (decrease) in creditors	4,673	121,589
- (Increase) decrease in receivables	(263,641)	(64,883)
	(258,968)	56,706
Net cash flows from operating activities	\$713,039	\$170,169

NOTE 8 CASH FLOWS

The cash flows relating to the Panel's investing activities are reported on a net basis in the statement of cash flows. The amounts involved are held in short term deposits that are rolled over frequently through the year.

NOTE 9 FINANCIAL INSTRUMENTS

1. Credit Risk

Financial instruments which potentially subject the Panel to credit risk consist of bank balances, bank short term deposits, sundry debtors, and accrued interest receivable. The Panel's investments are deposited with a registered bank in New Zealand. The Panel does not require collateral or security to support financial instruments. There are no concentrations of credit risk.

2. Fair Values

All financial instruments are recognised in the statement of financial position and are stated at fair values.

3. Currency Risk

The Panel does not hold any overseas securities or deposits and is therefore not exposed to any currency risk.

4. Interest Rate Risk

The Panel has not purchased any financial instruments that may be subject to interest rate risk.

NOTE 10 COMMITMENTS

There were no lease commitments at balance date. (2001 - no commitments)

The Panel has capital commitments of \$34,000 at balance date. (2001 - no material commitments)

NOTE 11 CONTINGENT LIABILITIES

There were no contingent liabilities at balance date. (2001 - no contingent liabilities)

NOTE 12 TRANSACTIONS WITH RELATED PARTIES

There were no transactions with related parties during the year. (2001 - no related party transactions)

NOTE 13 SUBSEQUENT EVENTS

There were no material events subsequent to balance date that would affect the interpretation of the financial statements or the performance of the Panel. (2001 — no subsequent events)

NOTE 14 SEGMENTAL INFORMATION

The Takeovers Panel operates in one industry segment administering the Takeovers Act and Code and is based in one geographical segment, which is New Zealand.

NOTE 15 BUDGET VARIANCES

Significant variances from budget were:

Income

Recoveries under the Takeovers (Fees) Regulations 2001 were higher than budgeted due to a greater number of hours being required for applications for exemptions and approvals than had been estimated. In addition the Panel had not budgeted for recoveries for section 32 matters but was able to make significant recoveries in relation to the Montana Group Limited, Otago Power Limited, and Seafresh New Zealand Limited matters.

Expenditure

The higher than expected workload of the Panel throughout the year resulted in higher

expenditure on Securities Commission services to the Panel and on members' fees. Much of this additional expenditure was able to be recovered under the Takeovers (Fees) Regulations 2001.

Net Surplus

The Panel achieved a reasonable surplus where a modest deficit had been expected. The activities of the Panel are influenced significantly by the level of takeover activity and the needs of the market for exemptions and approvals. The Panel also has obligations to keep the Code under review and to review market practices. When resources came under pressure, as they did throughout the year, it was inevitable that the Panel's efforts would be concentrated on enforcement matters and applications for exemptions and approvals. As a result the Panel members and executive spent a far higher proportion of time than expected on fee-producing activities.

REPORT OF THE AUDITOR-GENERAL

TO THE READERS OF THE FINANCIAL STATEMENTS OF THE TAKEOVERS PANEL FOR THE YEAR ENDED 30 JUNE 2002

We have audited the financial statements on pages 12 to 20. The financial statements provide information about the past financial performance of the Takeovers Panel and its financial position as at 30 June 2002. This information is stated in accordance with the accounting policies set out on pages 16 to 17.

Responsibilities of the Members of the Takeovers Panel

The Public Finance Act 1989 require the Members of the Takeovers Panel to prepare financial statements in accordance with generally accepted accounting practice in New Zealand that fairly reflect the financial position of the Takeovers Panel as at 30 June 2002 and the results of its operations and cash flows for the year ended on that date.

Auditor's responsibilities

Section 15 of the Public Audit Act 2001 and Section 43(1) of the Public Finance Act 1989 requires the Auditor-General to audit the financial statements presented by the Members of the Takeovers Panel. It is the responsibility of the Auditor-General to express an independent opinion on the financial statements and report that opinion to you.

The Auditor-General has appointed H C Lim, of Audit New Zealand, to undertake the audit.

Basis of opinion

An audit includes examining, on a test basis, evidence relevant to the amounts and disclosures in the financial statements. It also includes assessing:

- the significant estimates and judgements made by the Members of the Takeovers Panel in the preparation of the financial statements; and
- whether the accounting policies are appropriate to the Takeovers Panel's circumstances, consistently applied and adequately disclosed.

We conducted our audit in accordance with the Auditing Standards published by the Auditor-General, which incorporate the Auditing Standards issued by the Institute of Chartered Accountants of New Zealand. We planned and performed our audit so as to obtain all the information and explanations which we considered necessary in order to provide us with sufficient evidence to give reasonable assurance that the financial statements are free from material misstatements, whether caused by fraud or error. In forming our opinion, we also evaluated the overall adequacy of the presentation of information in the financial statements.

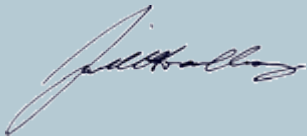
Other than in our capacity as auditor acting on behalf of the Auditor-General, we have no relationship with or interests in the Takeovers Panel.

Unqualified opinion We have obtained all the information and explanations we have required.

In our opinion the financial statements of the Takeovers Panel on pages 12 to 20:

- comply with generally accepted accounting practice in New Zealand; and
- fairly reflect:
 - the Takeovers Panel's financial position as at 30 June 2002; and
 - the results of its operations and cash flows for the year ended on that date.

Our audit was completed on 7 August 2002 and our unqualified opinion is expressed as at that date.



H C Lim
Audit New Zealand
On behalf of the Auditor-General
Wellington, New Zealand

MEMBERS OF THE TAKEOVERS PANEL

CHAIRMAN

John King Consultant with Russell McVeagh. Director of Telecom Corporation of New Zealand Limited, WestpacTrust Investments Limited and the New Zealand Guardian Trust Company Limited. Board member of the Employers and Manufacturers Association (Northern) Inc., the Spirit of Adventure Trust and a member of the Council of the Auckland College of Education. Chairman of the Panel since it was created in 1994 and previously of the Takeovers Panel Advisory Committee. Member of the Australian Takeovers Panel

DEPUTY CHAIRMAN

David Jones Principal of Jones Young, Auckland, specialising in commercial and company law. Personal adviser to the Minister of Justice on the company law reform programme 1991. Member of the Company Law Monitoring Group 1993. Lecturer in company law for the Institute of Directors. Member of the Panel from its inception as an advisory group.

Denis Byrne Brisbane-based commercial lawyer specialising in corporate, infrastructure and resource matters. Member of the Australian Takeovers Panel since 1997. Appointed to the Panel in 2001.

Colin Giffney Principal of Giffney & Jones, specialist corporate advisers. Previously partner and managing director of JB Were in New Zealand. Member of the New Zealand Stock Exchange and a founding member of the Market Surveillance Panel. Appointed to the Panel in 2001.

Alastair Lawrence Auckland-based investment banker and principal of Antipodes, a private investment bank which provides specialist mergers and acquisitions advice in addition to private equity. Member of the Panel since 1993

Kevin O'Connor Wellington company director. Chairman of utilities investment company Infratil Limited, director of a range of private companies and a previous chairman of the Market Surveillance Panel of the New Zealand Stock Exchange. Member of the Panel since 1994.

David Quigg Partner of Quigg Partners, barristers and solicitors of Wellington, specialising in mergers and acquisitions, takeovers and corporate law. Lecturer in takeovers and mergers and acquisitions law for the Institute of Directors. Member of the Panel since 2001.

Daphne Rawstorne Wellington-based accountant, former managing partner of Deloitte Touche Tohmatsu, company director and business consultant. Member of the Panel since 1999.

TAKEOVERS PANEL EXECUTIVE

Kerry Morrell, Senior Executive
Marion Hemphill, Senior Lawyer
Tim Dolan, Secretary to the Panel
Catherine Chapman, Communications Manager

HOW TO CONTACT US

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