**IN THE HIGH COURT OF NEW ZEALAND**
**CHRISTCHURCH REGISTRY**

**I TE KŌTI MATUA O AOTEAROA**
**ŌTAUTAHI ROHE**

**CIV-2025-409-753**
**[2025] NZHC 3937**

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| UNDER | Part 16 of the Companies Act 1993 and part 31 of the High Court Rules 2016 |
| IN THE MATTER | of an application for the liquidation of the defendant companies |
| BETWEEN | FINANCIAL MARKETS AUTHORITY<br>Plaintiff |
| AND | CHANCE VOIGHT INVESTMENT CORPORATION LTD<br>First Defendant |

continued …

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| Hearing: | 12 December 2025<br>(Telephone Conference) |
| Counsel: | J S Cooper KC and J C Adams for Plaintiff<br>S Shamy and D J C Russ for the Defendants<br>C Vinnell for Interim Liquidators |
| Judgment: | 12 December 2025 |

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**JUDGMENT OF ASSOCIATE JUDGE LESTER**
**(application for interim stay of advertising following orders for interim liquidation)**

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This judgment was delivered by me on 12 December 2025 at 1 pm
pursuant to Rule 11.5 of the High Court Rules 2016

Registrar/Deputy Registrar

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| AND | CHANCE VOIGHT INVESTMENT PARTNERS LIMITED<br>Second Defendant |
| AND | CVI PARTNERS MORTGAGE FUND LTD<br>Third Defendant |
| AND | CVI PARTNERS MORTGAGE INCOME FUND LTD<br>Fourth Defendant |
| AND | CVI SECURITIES LTD<br>Fifth Defendant |
| AND | CVI FINANCIAL LTD<br>Sixth Defendant |

[1] On 9 December 2025, I issued a decision at 2.30 pm, that placed the defendant companies into interim liquidation.[1] At the same time, Harland J issued a judgment containing associated orders relating to asset preservation [redacted].[2]

[2] A telephone conference was held at 10.00 am on 12 December 2025 with me to address an interlocutory application made by the defendants to effectively stay the process of interim liquidation. Orders were sought staying the public notification of the appointment of the interim liquidators, staying delivery to the Registrar of Companies of the notice of interim liquidation, preventing the interim liquidators from contacting any creditor or shareholder until further order of the Court, and preventing the interim liquidators from otherwise publishing their appointment. While Mr Shamy, counsel for the defendants, submitted that the defendant companies were not seeking a stay of the liquidation orders, in practical terms that is what is being sought.

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1 *Financial Markets Authority v Chance Voight Investment Corporation Ltd* [2025] NZHC 3825.
2 *Financial Markets Authority v Chance Voight Investment Corporation Ltd* [2025] NZHC 3834.

[3] The application is opposed by the Financial Markets Authority (FMA), represented by Ms Cooper KC. Mr Vinnell, counsel for the interim liquidators, advised that upon receiving this application the interim liquidators held off notifying the Registrar of Companies of their appointment and publicly notifying their appointment but doing so puts them in breach of their obligations under s 255 of the Companies Act 1993 (the Act). I confirm the interim liquidators awaiting the outcome of the application was a responsible position to adopt.

[4] Inherent in making the orders for interim liquidation is that I accepted the submissions on behalf of the FMA that there was an urgent need to preserve the assets of the defendant companies. Also inherent in the orders is acceptance that the directors of the companies cannot be relied on to achieve that objective.

[5] Leaving to one side the issue of public notice, before an order for interim liquidation would be stayed, the Court will need to be presented with evidence that the concerns leading to the order being made were wrong, overstated, or perhaps the Court being presented with some alternative and less interventionist means of achieving the objects of the order.

[6] Mr Vinnell, in his memorandum of 12 December 2025, advised that following the interim liquidators' appointment, they have already issued notices under s 261 of the Act to the defendant companies' banks, lawyers and IT providers. At the telephone conference on 12 December 2025, Mr Vinnell advised that the 44 employees of the defendant companies had been sent home. The reality is, the fact interim liquidation is known to a inconsiderable number of people in the public arena.

[7] Mr Whimp and Mr Currie, who are between them directors of the defendant companies, have provided a joint undertaking to the Court that they will not have any dealings with the companies' bank accounts or other assets, not engage in the management of the companies and either directly or indirectly contact or otherwise deal with the current investors. However, Mr Vinnell submitted the undertaking adds little to the state of affairs applying upon the defendant companies being placed into interim liquidation as upon liquidation, the directors' powers are effectively curtailed.

**Is there jurisdiction to make the orders sought?**

[8] Ms Cooper KC submitted the application was misconstrued as the Court did not have jurisdiction to make the orders sought.

[9] Section 255(2)(a) and (b) of the Act provide a liquidator ***must*** give public notice of their appointment and give notice to the Registrar of Companies of their appointment.

[10] Section 255(4) of the Act provides:

> (4) The court may, on the application of a liquidator,—
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> (a) exempt the liquidator from compliance with subsection (2)(c) or (d); or
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> (b) modify the application of those provisions in relation to the liquidator,—
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> on such terms and conditions as the court thinks fit.

[11] Subsection 2(c) of the Act requires a liquidator to prepare a list of every known creditor and to send to every known creditor an initial report in respect of the liquidation. Subsection 2(d) of the Act is an obligation to within 20 working days after the end of each period of six months following the date of commencement of the liquidation, to send an updating report as to the state of the liquidation to creditors.

[12] The FMA's submission is that the restrictive power in s 255(4) of the Act to modify the requirements of s 255(2)(c) or (d) must mean that the Court has no power to modify to s 255(2)(a) or (b) of the Act.

[13] Mr Shamy relies on the broad powers the Court has under s 284 of the Act to supervise a liquidation. Under that section, the Court may give directions in relation to any matter arising in connection with the liquidation or confirm, reverse, or modify an act or decision of the liquidator.

[14] Ms Cooper relies on the following passage from *Re Auckland Maritime Investment Ltd (in liq)*[3] as authority for the proposition that s 284 of the Act does not empower the Court to direct a liquidator to not comply with a statutory obligation. Associate Judge Bell in that decision said:[4]

> In giving directions to the liquidators, the Court's role is to say how they may carry out their functions. Except where the Companies Act expressly gives the Court the power to relieve the liquidators from carrying out certain tasks, the Court cannot exempt the liquidators from fulfilling their duties. In particular, the Court cannot alter or extinguish the shareholders' rights.

[15] Mr Shamy submitted the authority was fact specific. I do not accept that.

[16] In my view, the Court does not have jurisdiction to make the orders sought by Mr Shamy in respect of the public notification of the liquidation and the notification to the Registrar of Companies. The particular over-rules the general. That s 255(4) of the Act prescribes that a liquidator may only seek limited exemption or modification of their obligations under s 255 of the Act tells squarely against the idea that s 284 confers wider powers on the Court. A liquidator may make an application under s 284 of the Act and it would be a curious outcome if a liquidator could circumvent the restrictions in s 255(4) of the Act by seeking the same orders under s 284. While Mr Shamy emphases the breadth of the reference to "any matter" in s 284 of the Act, Mr Shamy's submission would make s 255(4) redundant.

[17] Mr Shamy also submitted the Court's inherent jurisdiction was available. The inherent jurisdiction does not apply where by necessary implication it has been removed by statute. Where the advertising and notification obligations on a liquidator are mandatory, and where the statutory regime excludes the Court's ability to relieve the liquidators of those mandatory obligations, there is no room for the inherent jurisdiction to, in effect, contradict the statutory position.

[18] Mr Shamy also refers to the ability of the Court to restrain the advertising of an application to liquidate a company. However, that advertising concerns giving

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3 *Re Auckland Maritime Investment Ltd (in liq)* [2014] NZHC 2317.
4 Above n 3, at [6].

notice of the substantive application to liquidate a company. Powers in the High Court Rules 2016 do not override mandatory statutory timeframes.

[19] Mr Shamy submits that Ms Cooper's submission amounts "to the …. ouster of the Court's jurisdiction over an interim liquidator". That is an overly broad submission. Once a company is in interim liquidation certain statutory consequences follow. I am satisfied s 284 of the Act does not provide a basis for the Court to expand the jurisdiction conferred on the Court by s 255(4) of the Act. The Court's jurisdiction in relation to interim liquidation otherwise remains intact. In short, either a company is in liquidation or it is not—if it is in liquidation, the public and the Registrar of Companies have a statutory right to be informed of the liquidation and the liquidator has a statutory obligation to provide that advice.

[20] I find the Court does not have jurisdiction to make the orders sought at paragraphs 1.1 and 1.2 of the application concerning public notification and notification to the Registrar of Companies. However, even if I had jurisdiction, I would not have been minded to make the orders.

[21] I accept the difficult position Mr Shamy is in, in terms of being able to address the substantial material relied on by the FMA. However, the fact is that the situation described in the judgments referred to at [1] above, has been brought about through the companies' failure to meet their obligations under the various pieces of legislation that apply to companies that obtain money from the public. Even at the most general level, the directors of the companies were not able to provide Mr Shamy with an explanation to address the concerns raised by the FMA. Mr Shamy rightly pointed out that the expert evidence from the FMA as to insolvency was somewhat qualified but ultimately that does not assist the companies because that qualification was only necessary because of the inadequacies in the information provided by the companies.

[22] The grounds relied on in Mr Shamy's application boil down to a request for more time to review the material relied on by the FMA. However, the companies should already be on top of their financial position and able to provide detailed financial information to rebut the suggestion of insolvency. Mr Shamy referred to needing "a few days" to bring a further application and that by virtue of the

undertakings his clients gave and the fact that the interim liquidators had already frozen the companies' bank accounts, the status quo is in fact being maintained.

[23] However, I accept Ms Cooper's submission that there is a need for disclosure to the public to be completed in an orderly way. Public notification is part of the process of protecting assets.

**Decision**

[24] As already noted, I do not consider there is jurisdiction to make the orders sought at paragraphs 1.1 and 1.2 of the application.

[25] Paragraph 1.3 of the application sought an order preventing the interim liquidators from contacting any creditor or shareholder of the defendant companies until further order of the Court.

[26] Paragraph 1.4 of the application was a catch-all seeking an order that the interim liquidators not otherwise publish their appointment. This order becomes redundant with the public notification and notice to the Registrar.

[27] Similarly, the order in paragraph 1.3 of the application—prohibition on contacting creditors or shareholders also becomes redundant.

[28] ***I decline*** to make the orders sought. Again, even if there had been jurisdiction, I would not have made the orders sought. The fact of liquidation is already known, there has been no attempt, even at the highest of levels, to address the substance of the FMA's concerns that led to the interim liquidations being ordered.

[29] The orders for interim liquidation were made with full awareness of their significance and their implication for the defendant companies. With the office of the defendant companies no longer operating and with staff having been sent home, the fact of liquidation is already in the public domain.

[30] Accordingly, the applications are ***declined***.

## Costs

[31] Costs are reserved.

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**Associate Judge Lester**

Solicitors:
Luke Cunningham Clere, Wellington (for Plaintiff)
Weston Ward & Lascelles, Christchurch (for Defendants)
Anthony Harper, Christchurch (for Interim Liquidators)

Copy to counsel:
D J C Russ and S J Shamy, Barristers, Christchurch (for Defendants)