

INTERIM SUPPRESSION ORDERS APPLY: THE CONTENT OF THE REPORT, SUBJECT OF THIS JUDGMENT, IS SUPPRESSED FOR A PERIOD OF 10 WORKING DAYS. SEE PARA [80(c)].

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

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

**CIV-2025-409-753
[2026] NZHC 805**

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 Plaintiff
AND	CHANCE VOIGHT INVESTMENT CORPORATION LTD First Defendant
AND	CHANCE VOIGHT INVESTMENT PARTNERS LTD Second Defendant
AND	CVI PARTNERS MORTGAGE FUND LTD Third Defendant

[continued over page]

Hearing: 3 March 2026

Counsel: R S May and S T Hartley for Plaintiff
B T Whimp (as director of defendant companies)
in person by leave

Judgment: 31 March 2026

JUDGMENT OF OSBORNE J

AND CVI PARTNERS MORTGAGE INCOME
FUND LTD
Fourth Defendant

AND CVI SECURITIES LTD
Fifth Defendant

AND CVI FINANCIAL LTD
Sixth Defendant

Introduction

[1] In December 2025 a group of companies was placed in interim liquidation. In January 2026, the interim liquidators provided a report to the Court in relation to their investigation of the group’s affairs. This judgment deals with issues that have arisen in relation to the publication of that report.

The parties

[2] The first defendant, Chance Voight Investment Corporation Ltd (CVIC Ltd) was established and incorporated in May 2021 as the parent holding company of a group of companies (self-described as “Chance Voight Investment Partners”), intended by its director Bernard Whimp to own and control operating subsidiaries engaged in investing shares on the Australian stock market and in real estate investment activities.

[3] The Financial Market Authority (FMA) is an independent Crown entity established under the Financial Markets Authority Act 2011 (FMA Act). The FMA monitors compliance with a range of legislation affecting financial markets and the participants in those markets and investigates conduct that may constitute a contravention of that legislation.¹

¹ Financial Markets Authority Act 2011, s 9(1)(c).

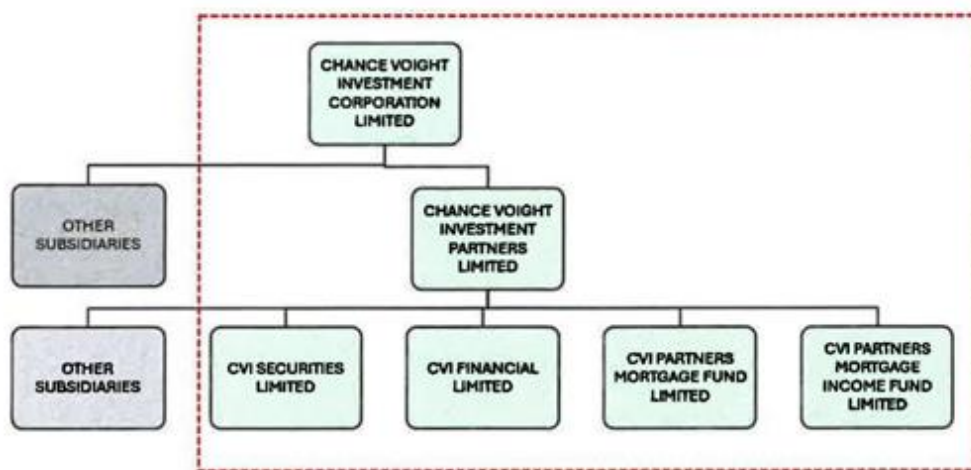
[4] From September 2025 the FMA investigated various entities associated with CVIC Ltd.

The Group

[5] For the purpose of this judgment, I refer to the six defendant companies in particular as “the Group”.

[6] The Group is illustrated in Table A being the entities within the box.²

Table A



[7] To summarise:

- CVIC Ltd, the parent company, offers shares to the public;
- the second defendant, Chance Voight Investment Partners Ltd (CVIP Ltd), a wholly-owned subsidiary of CVIC Ltd, is a non-trading company which operates as a holding company of the other four defendants, sitting between CVIC Ltd and them;
- the third defendant, CVI Partners Mortgage Fund Ltd (CVIPMF Ltd), solicited funds on the basis it will provide (second or lesser ranking) mortgage-backed lending to CVIC Ltd subsidiaries for acquisitions of

² As set out in the affidavit of Matthew Welch dated 2 December 2025 at [30].

property, with quarterly returns between 10–12 per cent per annum;

- the fourth defendant, CVI Partners Mortgage Income Fund Ltd (CVIPMIF Ltd), is a mortgage investment fund, providing first ranking mortgages for properties purchased by the Group, with quarterly returns between 10–12.75 per cent per annum;
- the fifth defendant, CVI Securities Ltd (CVIS Ltd), solicited investments in the Group as a whole, with deposited funds to be used to meet the Group’s wider corporate purposes, with returns ranging from 5–12 per cent per annum; and
- the sixth defendant, CVI Financial Ltd (CVIF Ltd), solicited funds for investment in the Australian stock market to provide consistent quarterly returns of 10–13 per cent per annum.

[8] With the exceptions of CVIC Ltd and CVIP Ltd, Mr Whimp has been the sole director of all the other Group companies throughout. CVIC Ltd and CVIP Ltd, until recently (see below at [27]) had two directors, namely Mr Whimp and the Group’s solicitor, Paul Currie).

This liquidation proceeding

[9] In early December 2025, the FMA commenced this proceeding under pt 16 Companies Act 1993 and pt 31 High Court Rules 2016 for the liquidation of the six defendants. At the same time, the FMA applied for a number of orders including the appointment of interim liquidators to each defendant and asset preservation orders (APOs).

[10] The FMA’s substantive application for liquidation of the defendants has been set down for a three-day hearing commencing 29 June 2026.

[11] On 9 December 2025, the Court appointed John Fisk, Lara Bennett and Malcolm Hollis (the interim liquidators) of PricewaterhouseCoopers (PwC) to be the

interim liquidators of the defendants (the Interim Liquidation Judgment).³ Ancillary orders were made at the same time. The interim liquidators were directed to investigate the affairs of the defendants and to provide an initial report to the Court by 26 January 2026.

[12] The FMA's application for interim APOs and ancillary orders was determined by Harland J, also on 9 December 2025 (the Interim APO Judgment).⁴ APOs were made against Mr Whimp and a subsidiary of CVICL namely Hanmer Equities Ltd (Hanmer). The ancillary orders included an order (the Affidavit Order) that Mr Whimp serve on the FMA within 10 working days an affidavit in prescribed form detailing his property interests and liabilities.⁵ The Affidavit Order was subsequently suspended, on Mr Whimp's application, on the basis it could offend the privilege he has against self-incrimination.⁶

The interim liquidators' report

[13] The interim liquidators completed their report, as directed, by 26 January 2026 (the Report), and provided it both to the Court and to the FMA.⁷ Shortly afterwards, pursuant to a direction of the Court, Mr Whimp also received a copy of the Report. The Report was provided on a confidential basis to enable the Court to determine to what extent (if any) the Report should be redacted before going into wider circulation.⁸

The suppression and disallowance applications

The range of applications

[14] Now before the Court is an application filed by Mr Whimp for orders that the Report be permanently suppressed from publication and disallowed for use in this (liquidation) proceeding. Mr Whimp seeks additional orders:

³ *Financial Markets Authority v Chance Voight Investment Corporation Ltd* [2025] NZHC 3825 [Interim Liquidation Judgment].

⁴ *Financial Markets Authority v Whimp* [2025] NZHC 3834 [Interim APOs Judgment].

⁵ At [67], [68].

⁶ *Financial Markets Authority v Whimp* [2025] NZHC 4137 at [19], [22].

⁷ *Report to the High Court of New Zealand on the affairs of Chance Voight Investment Corporation Limited and certain subsidiaries (subject to Interim Liquidation)* (PwC, 26 January 2026).

⁸ *Financial Markets Authority v Chance Voight Investment Corporation Ltd*, CIV-2025-409-753, 3 February 2026 (Minute).

- (a) requiring the interim liquidators to “properly interview” him and to prepare and file a new report;
- (b) that the interim liquidators and the FMA “properly understand the business relationship” between two other companies associated with Mr Whimp being CVI Management Services LP (CVIMS Ltd) and CVI Projects Limited (CVIP Ltd); and
- (c) that Mr Whimp have the opportunity “to affidavit as to the affairs of those companies” and to “interview with [the interim liquidators]” as to those affairs.

The suppression application

[15] Mr Whimp specified six grounds in support of his suppression application. He went on to identify four “risks” that would follow from publication of the Report. I summarise Mr Whimp’s grounds, several of which overlap:

- (a) the Report contains incorrect, inaccurate and improper analysis and conclusions because:
 - (i) it contains at least 70 blatant errors;
 - (ii) the interim liquidators had insufficient detail about the Group and its operations to enable them to prepare and file a reliable report;
 - (iii) the Report displays a poor understanding of the Group’s operations;
 - (iv) gaps in the interim liquidators’ understanding have been “glossed over”;
 - (v) the Report’s inaccuracies flowed largely from the fact the interim liquidators never interviewed Mr Whimp (instead

obtaining answers from CVICL's other director, Mr Currie, who knows little about the Group's operations).

- (b) publication of the Report will prejudice the defendants and breach their fair trial rights by:
 - (i) exposing the defendants to a "trial by media", with no forum for the defendants to refute misleading claims made by the FMA in support of their application and by the interim liquidators in the Report;
 - (ii) "bending of the narrative" ahead of the substantive hearing and "baking in" incorrect statements and descriptions about the Group's operations, thereby creating a "false narrative".

The disallowance application

[16] In relation to Mr Whimp's application for an order disallowing the use of the Report in this proceeding, Mr Whimp similarly asserted the Report will otherwise be used to enable the FMA and the interim liquidators to build a "false narrative" about the Group's operations before the issues are properly argued at the substantive hearing.

The new report application

[17] Implicitly, Mr Whimp sought pursuant to his ground of application at [15(a)(ii)] above, a direction to the interim liquidators to prepare a new report.

The short form report proposal

[18] In his written submissions filed for this hearing, Mr Whimp recorded he respected the interest depositors in the Group's companies may have in hearing directly from the interim liquidators — he proposed that interest be met by "a separate short form report of a few pages which would inform depositors without inflaming media coverage".

The FMAs grounds of opposition

[19] The FMA filed detailed grounds of opposition.

The suppression application

[20] In relation to suppression, the FMA asserts the defendants are unable to demonstrate to the highest standard required that specific adverse consequences would result from publication of the Report, such as to displace the open justice principle. The FMA asserts there is significant, legitimate public interest in understanding the affairs of the defendants. The FMA disputes that any statements or conclusions in the report are seriously inaccurate such that unfairness would result from publication. Further, FMA refers to public statements made by Mr Whimp putting in issue the accuracy and probity of the FMA intervention, in the context of at least one meeting in which Mr Whimp was soliciting donations from depositors for the purpose of meeting litigation costs.

The new report application

[21] The FMA opposes the new report application in the absence of any material inaccuracies in the Report. It suggests the jurisdictional basis for such an order is unclear and notes, in any event, the interim liquidators have discharged the directed task of interim reporting.

The disallowance application

[22] The FMA opposes the making of a “disallowance” order, on the basis the defendants have not demonstrated the Report has any material inaccuracies or omissions. The FMA asserts there is no basis (or jurisdiction) to make a “disallowance” order in relation to this proceeding or any future proceedings.

The Report

[23] Counsel for the FMA helpfully summarised the key conclusions of the Report. As I consider the summary is an accurate reflection of conclusions, it is here reproduced, including with the specific page references in the Report:

- The Group’s parent company, CVICL, and most of its subsidiaries (including the second through fifth defendants) are both balance sheet and cashflow insolvent on a stand-alone and consolidated, book value basis.⁹ While the sixth defendant is balance sheet solvent on a book value basis,¹⁰ there is real doubt over the liquidity and achievable realisation of the shareholdings representing that value.¹¹
- On a consolidated basis, as at 30 September 2025, the Group reported a negative net asset position of \$11,800,000,¹² and a \$5,500,000 consolidated loss for the six-month period to 30 September 2025.¹³ These losses were not linked to timing nor any temporary disruption, confirming the Group’s business activities are “not viable”.¹⁴
- There is an absence of evidence of “financial, governance, legal, and operational maturity” or a “clearly articulated strategic plan supported by financial forecasts demonstrating future revenue generation or growth”¹⁵ to support Mr Whimp’s claims that the Group was a debt-funded startup “focused on creating and developing ‘a large scale investment business’ that would, presumably eventually, be of significant value”.¹⁶
- Consistently with Mr Whimp’s statement that the Group does not “require external revenue to succeed” as a “start-up”,¹⁷ the companies’ records indicated that interest payments to investors, redemption payments, and other outgoings were “funded predominantly through new investor funds (via intercompany advances) rather than from external income or realised investment returns.”¹⁸
- There is reason for concern as to apparently widespread governance and record-keeping failures across the Group, including decision-making highly centralised to Mr Whimp with “no independent oversight, inadequate governance records, and significant related-party transactions ... financial record keeping practices are poor”.¹⁹ Financial information had not been audited.²⁰
- The interim liquidators had been unable, except in three cases, to locate registered valuations for the eleven properties owned by the Group (four of which, as noted below, had been acquired from entities related to Mr Whimp).²¹ Some of security for investors was lower than that advertised,²² with the properties having materially lower realisable values than those assessed by Mr Whimp in his

⁹ Report to High Court of New Zealand, above n 7, at 6. Further details are given at 24–26.
¹⁰ At 26.

¹¹ At 30 and appendix iv.

¹² At 6. Further details are given at 11.

¹³ At 6. Further details are given at 24.

¹⁴ At 6–7. Further details are given at 24.

¹⁵ At 6, 11, and 33–34.

¹⁶ At 6 and 11.

¹⁷ At 6.

¹⁸ At 6, 11, 13–16, and 18–26.

¹⁹ At 6. Further details are given at 19 and 33–34.

²⁰ At 33.

²¹ At 27–28.

²² At 27–28.

assessments.²³ The nature and status of the properties did not indicate they were capable of rapidly “accumulating value”²⁴ as Mr Whimp had suggested to the FMA, with any potential capital gains apparently less than the holding costs.²⁵

- There had been distributions of funds (originating from the proceeds of investment in the Group) to entities related to Mr Whimp outside of the Group for the purposes of the payment of “management fees”, to fund “property development or refurbishment activities”.²⁶ These include, most significantly, advances in respect of the purchase of four properties by the Group (using investor funds)²⁷ from Mr Whimp’s family interests and related parties,²⁸ and amounts advanced by way of deposits (sourced out of investor funds)²⁹ in respect of two properties purchased by associated persons of Mr Whimp’s.³⁰ Further work was required to understand the manual journal entry recording the accounting treatment of the most substantial such transfer.³¹

[24] The Report commenced with the interim liquidators’ recommendations, prefaced by a summary of “key findings”.

[25] The first recommendation was that the Court order the defendants be placed into liquidation on the basis:

- they are both balance sheet and cash flow insolvent and lack a viable path to solvency;
- material governance, financial reporting, and control deficiencies are evident; and
- further investigation, asset realisation, and potential recovery actions are required to protect investor and other creditor interests.

[26] The interim liquidators made a second recommendation, namely that three further subsidiaries of CVIC Ltd be placed in liquidation, namely CVIMS LP; CVIP

²³ At 27–28.

²⁴ At 27–28.

²⁵ At 27.

²⁶ At 10 and 19–24.

²⁷ At 18–20.

²⁸ At 27–28.

²⁹ At 18–20.

³⁰ At 29.

³¹ At 24–25.

Ltd; and CVI Accountants Limited Partnership (CVIA LP) (together the Three Related Entities). To summarise the interim liquidators' explanations:

- CVIMS LP (of which Mr Whimp is sole limited partner) has received payments of \$9.2 million since mid-2023, representing approximately 24 per cent of funds received by the Group from external investors as at 30 September 2025, supported by minimal detail;
- CVIP Ltd (of which Mr Whimp is sole shareholder) has received substantial investor funds, much of which appears to the interim liquidators to relate to the matter/properties of Mr Whimp and his family's personal interests, with no identified security registered; and
- CVIA LP (of which Mr Whimp is the sole limited partner) held the bank account through which all investor funds flowed until November 2024 (at which point separate bank accounts were established for the defendant companies).

The directorship of CVIC Ltd

[27] The interim liquidators identified Mr Currie, the Group's solicitor, as the only individual identified as a director across certain CVI entities (other than Mr Whimp).

[28] The interim liquidators, following their appointment (on 9 December 2025), learned from notice provided to the Companies Office on 12 December 2025 that Mr Currie had ceased to be a director of CVI entities purportedly with effect from 3 December 2025. Inconsistent with that documentation is an undertaking provided by Mr Currie (and Mr Whimp) on 12 December 2025 in which it was recorded Mr Currie was a director of one or more of the defendants. Mr Currie subsequently explained to the interim liquidators that he was not aware of the day-to-day activities of the Group and had acted as a director only to assist Mr Whimp commence business activities, whereupon he had intended to resign as a director "some time ago".

[29] Relevantly that appears to have left Mr Whimp as the only person actively involved in governance matters during the Group's operations.

The principle of open justice

[30] The rationale and significance of the principle of open justice was explained by the Supreme Court in *Erceg v Erceg*:³²

The principle of open justice is fundamental to the common law system of civil and criminal justice. It is a principle of constitutional importance, and has been described as “an almost priceless inheritance”. The principle’s underlying rationale is that transparency of court proceedings maintains public confidence in the administration of justice by guarding against arbitrariness or partiality, and suspicion of arbitrariness or partiality, on the part of courts. Open justice “imposes a certain self-discipline on all who are engaged in the adjudicatory process – parties, witnesses, counsel, Court officers and Judges”. The principle means not only that judicial proceedings should be held in open court, accessible by the public, but also that media representatives should be free to provide fair and accurate reports of what occurs in court. Given the reality that few members of the public will be able to attend particular hearings, the media carry an important responsibility in this respect. The courts have confirmed these propositions on many occasions, often in stirring language.

[31] There are circumstances in which the interests of justice require that the general rule of open justice be departed from but that will only be to the extent necessary to serve the ends of justice.³³ A party seeking to justify suppression will have to show specific adverse consequences that are exceptional in the sense that they are sufficient to justify an exception to the fundamental rule.³⁴ The standard is a high one because the courts adhere to a stringent principle.³⁵

[32] In this case the grounds advanced by Mr Whimp (above at [15]) may be further summarised as involving two propositions:

- (a) the publication of the Report risks in relation to this proceeding and future proceedings the fair trial rights of the defendants and of connected persons;

³² *Erceg v Erceg* [2016] NZSC 135, [2017] 1 NZLR 310 at [2] (footnotes omitted).

³³ *Erceg v Erceg*, above n 32, at [3].

³⁴ At [13].

³⁵ At [13]–[14], citing *John Fairfax Group v Local Court of New South Wales* (1991) 26 NSWLR 131 (NSWCA) at 142–143.

- (b) publication of the Report risks the defendants suffering lasting damage through inaccurate and false allegations regarding their solvency, operating practices and particular transactions or purchases.

Fair trial rights

[33] Mr Whimp submits there is no proper reason to publish the Report before the substantive liquidation hearing. He records he is concerned that incorrect statements and descriptions of how the Group operated will become “baked in” and have the effect of creating a “false narrative” about the Group if the Report is released to the media.

[34] He explains there is intense media interest in the interim liquidations of the defendants. He characterises media coverage as having involved speculation and outlandish and incorrect claims based on the Interim Liquidation Judgment and the Interim APO Judgment.

[35] Mr Whimp submits that speculation and misreporting is made possible by the fact the December judgments followed without notice applications, undefended by the defendants.

[36] In the course of his submissions, Mr Whimp could not explain to me in any developed way how his identified and/or alleged consequences arising from the publication of the Report would affect the way in which a Judge sitting alone to determine the liquidation application would be affected by the way in which matters relating to the Group have been reported or commented upon in the meantime.

[37] Mr Whimp has established no basis for suggesting the defendants will not, in relation to the liquidation applications, receive a fair hearing, based solely on admissible evidence. The news media coverage exhibited in affidavit evidence provided for this hearing, while being relevant for the purposes of these interlocutory issues, will not be relevant to the issues that fall to be determined on the liquidation applications.

[38] Mr Whimp did not particularly develop submissions in relation to fair trial rights that might arise in relation to criminal proceedings that could later arise, as for instance if there are prosecutions of Mr Whimp himself or of companies in the Group. If there are to be such prosecutions the trials would occur well after the civil proceedings take place in the insolvency context. The Report is specifically focused on matters relating to the finances, liquidity and solvency of the Group rather than breaches of statutory requirements. Issues Mr Whimp raises as to media coverage “[baking] in” conclusions before the defendants have had an opportunity to respond to and/or rebut conclusions or observations in court will be overtaken by the evidence and submissions the defendants present for the (June 2026) liquidation hearing. And the “unbaking” (so to speak) will have occurred within a relatively short period of months compared to the much longer period that would then elapse before any criminal trial (if such ensues).

[39] I am not satisfied that any fair trial rights of the defendants, Mr Whimp or associated persons will be materially impacted through publication of the Report at this time. I am not satisfied there arises a real risk of prejudice to fair trial rights from the publication of the Report.

The prospect of damage from inaccurate conclusions in the Report

Embarrassment

[40] The principle of open justice does not bend merely because the publicity associated with particular legal proceedings may, from the perspective of one or other party, be embarrassing or unwelcome.³⁶ The example given by the Supreme Court in *Erceg* of such (unqualifying) embarrassment is where publication will reveal that a person is under financial pressure.³⁷

The pre-hearing/post-hearing distinction

[41] There remains an appropriate distinction to be drawn between the pre-hearing and post-hearing stages of a proceeding. As recognised by the Court of Appeal in

³⁶ *Erceg v Erceg*, above n 32, at [13].

³⁷ At [13].

Greymouth Petroleum Holdings Ltd v Empresa Nacional del Petróleo and in *Crimson Consulting Ltd v Berry*, the open justice principle carries less weight where the Court has yet to make a decision following a contested hearing and there is a risk of only “one side of the story” being published if access is granted to evidential material.³⁸ The Court has taken a similar approach to access to documents requests in situations where there has yet to be a defended hearing.³⁹

[42] Notwithstanding the pre-hearing/post-hearing distinction, there will be cases where the nature of the material under discussion—although pre-hearing—makes it appropriate for publication.

[43] In a situation bearing some resemblance to the present, this Court in *Financial Markets Authority v Du Val Capital Partners Ltd (Du Val)* granted the media access to a report presented to the High Court by the receivers of the Du Val Group.⁴⁰ The receivers had been appointed in the context of interim APOs, with certain liquidator powers. Their report was presented 15 days after the receivers’ appointment.

[44] In *Du Val*, the Court determined applications made for access to court documents including the FMA’s application and supporting documents and the subsequent report of the receivers. Campbell J declined the access application in relation to the FMA’s application and supporting documents but granted access to the receivers’ report. The Judge explained:

[36] I consider a clear line can be drawn between the Receivers’ Report and the FMA’s application and supporting documents. The former is quantitatively and qualitatively different from the latter. The FMA’s application alone ran to 16 pages. There were two affidavits in support, plus an associated 65-page application for a search warrant (with another affidavit in support of that). A 27-page memorandum of counsel made submissions on the applicable law and charted the way through the other material. These documents included extensive and detailed allegations against the respondents.

[37] The Receivers’ Report is very different. The body of the report, leaving aside contents and title pages, consists of 25 pages. It is mostly a very high-level report. It identifies three main reasons for its recommendation that

³⁸ *Greymouth Petroleum Holdings Ltd v Empresa Nacional del Petróleo* [2017] NZCA 490, [2017] NZAR 1617 at [25]; *Crimson Consulting Ltd v Berry* [2018] NZCA 460, [2019] NZAR 30 at [39].

³⁹ *Commissioner of Police v Borlase* [2017] NZHC 2753; *Commissioner of Police v Doyle* [2018] NZHC 1561.

⁴⁰ *Financial Markets Authority v Du Val Capital Partners Ltd* [2024] NZHC 2527.

the majority of the Du Val entities be placed into statutory management: (1) there are “irregularities that warrant further investigation”; (2) there are complexities which make it difficult to treat some Du Val entities independently from others; and (3) there are risks to investors and creditors that would arise from a multiplicity of insolvency processes across the Du Val group of entities.

[38] Granting the media access to this Report will allow the public to understand, at a general level, the reasons that the interim orders were made in the first place and some of the reasons that the Minister accepted the FMA’s recommendation that statutory managers be appointed to many of the Du Val entities. Granting access does not give rise to the same concerns that would arise were access granted to the FMA’s application and supporting documents. The Report lacks the detail found in the FMA’s documents, and consequently there is no commercially-sensitive material and almost no private information. The Report does not make allegations, but rather expresses concerns and the need for further investigation. The lack of detail in the Report means that, as Ms Cooper confirmed, the FMA’s ongoing investigation would not be prejudiced.

[45] The same quantitative and qualitative difference exists between the (interim liquidators’) Report in this case and the compendious documents filed by the FMA in support of its without notice applications. The interim liquidators expressly prepared the Report “on a high-level basis over a short period”, making recommendations for a next appropriate step (liquidation).

[46] I consider the Report is mostly very high level, as characterised by the interim liquidators themselves. The matters identified by the interim liquidators as supporting the recommendations are six-fold:

- (a) the Group is materially insolvent;
- (b) investor obligations have been met primarily through a new investor inflows;
- (c) extensive activity related to Mr Whimp’s personal interests is evident;
- (d) the business model/strategy of the Group and its governance and control deficiencies are flawed and remain unaddressed;
- (e) significant investigative work is required; and

- (f) the potential outcome for investors is uncertain but a material deficit is anticipated.

[47] The Report, fairly read, (in parallel with the receivers' report in *Du Val*) is primarily focused on expressing concerns and the need for further investigation, rather than making allegations.

[48] As in *Du Val*, there is a legitimate interest in this case in the Report being available to the public to understand, at a general level, the reasons the interim orders were made in the first place.

[49] In a subsequent decision in the *Du Val* litigation, after the Court had granted on-notice APOs, Anderson J, pursuant to the principle of open justice, declined leave to appeal a decision in which she had refused substantial redaction of the APO judgment.⁴¹ A similar situation arises here—the Report is not a document which makes any determinations of fact—the need for further—and significant-work is expressly identified.

The public interest

[50] There is a further factor, arising from the insolvency context (as in *Du Val*), that weighs in favour of the Report being publicly available. The Group exists to attract funds from the public. The Court was satisfied on evidence provided by the FMA that the interim liquidation of the defendants was appropriate. The experienced liquidators appointed to that role have identified (albeit at a high level) that the potential outcome for investors is uncertain (with a material deficit anticipated). The Court should require compelling reasons to be provided to justify withholding, from public access, the Report of such independent interim liquidators.

The risk of uncorrected flaws and unreliable media coverage

[51] Mr Whimp challenges publication of the Report on the basis it is deeply flawed in its understanding of the Group and its assessment of the dealings and financial

⁴¹ *Financial Markets Authority v Du Val Capital Partners Ltd* [2025] NZHC 3065 at [22].

position of the Group and entities within it. Mr Whimp anticipates the media picking up on the Report and subjecting the Group to “trial by media”. He records:

It is submitted that it is not in the interests of justice for this media-driven approach of FMA’s to be allowed to persist until the substantive liquidation hearings have occurred. Publication of further “one-sided” material by FMA has the effect of putting the defendant companies at a further substantial disadvantage.

[52] It is first necessary to consider how the public will read the Report when it is made available.

[53] As I have noted, the Report is expressly prepared on a high-level basis over a short period. The interim liquidators expressly identify its limitations, including the fact the interim liquidators have not independently verified the accuracy of information provided to them and have not conducted any form of audit in respect of the Group. They record they express no opinion on the reliability, accuracy or completeness of the information they have received and acted upon.

[54] While Mr Whimp views these as reservations which increase his level of concern at the possibility the Report will be published, they are equally important notes for any reader of the Report. There is repeated emphasis on the incomplete and untested state of the preliminary conclusions which have led to the interim liquidators’ recommendations. In short, the observations in the Report indicate that the Report’s conclusions are open to correction.

[55] Significantly, Mr Whimp has since the Interim Liquidation Judgment and Interim APO Judgment availed himself of the opportunity to publicly respond:

- (a) in discussions with media in December 2025, following the Interim Liquidation Judgment, Mr Whimp made statements calling into question the probity of FMA’s intervention;
- (b) on 5 February 2026, in a 10-page report apparently prepared for investors, Mr Whimp set out his assessment of the defendants’ financial positions beginning with two “Key Report Statements”:

- CVIC Ltd and funds “solvent” on an “assets compared with liability basis” prior to FMA’s interim liquidation;
 - CVIC Ltd made “insolvent” by FMA’s interim liquidation action.
- (c) by five tables included in Mr Whimp’s 5 February report, he provided detailed calculations showing “estimated position[s]” or “estimated value[s]” (all positive) and contrasting those with negative asset figures in the period following interim liquidation. The report itself contained statements as to how CVIC Ltd had been expecting to “rapidly add additional assets” from a number of identified activities.
- (d) in emails from Mr Whimp to investors and shareholders between 10 to 12 February 2026, he referred to the “insolvency that has resulted” from the interim liquidation and anticipated proposing a scheme of arrangement under pt 14 Companies Act 1993. He said he intended to defend the liquidation application, and to explore the possibility of the damages claim against the FMA — for which purposes he sought from the investors an indication of whether they would contribute to legal fees.

[56] Mr Whimp’s active engagement with media and investors since the Interim Liquidation Judgment and the APO Judgment undermines the suggestion that the contents of the Report will effectively become “baked in” without prospect of meaningful response from Mr Whimp. The steps taken by Mr Whimp both before and since the Report was published indicate both a willingness and ability on his part to front-foot his response to and critique of the Report.

The lack of interviewing

[57] In this context, Mr Whimp’s complaints as to an inadequacy of interviewing were misplaced. As it happened, Mr Hollis by affidavit corrected Mr Whimp’s assertion that “PwC have never ... interviewed me” by referring to five and a half hours of discussion he had with Mr Whimp on 10 and 11 December 2025, immediately following appointment. Mr Hollis deposes that 33 topics were discussed, reflected in

the Report. Had Mr Whimp wished to provided further information to the interim liquidators before they provided their Report, he could have done so.

The lack of understanding

[58] Mr Whimp's further assertion is that the Report displays a poor understanding of the Group's operations and the interim liquidators lacked sufficient detail about the Group to prepare a reliable report. Having regard to the detail in the Report and the explanations for conclusions reached within it, I reject Mr Whimp's criticism in this regard.

[59] The main tension is between the respective views that Mr Whimp has and the interim liquidators have as to the soundness of the model and basis upon which Mr Whimp has run the entities in the Group. An example lies in the approach Mr Whimp takes to assessing the value of shares held on the Australian stock exchange. The interim liquidators view the appropriate approach to assessing value is based on current market value. Mr Whimp's approach to valuation is to bring into account his personal assessment of the shares' potential and where he assesses their future value to lie.

[60] A further example of the different approach lies in the interim liquidators' view that Mr Whimp has run the Group with an absence of formal governance records and documentation of decisions. Mr Whimp apparently views that situation as nothing untoward. The interim liquidators take a different view.

[61] A final example relates to what have appeared to the interim liquidators to be management fees or advances made to the Three Related Entities, with \$9.2 m (representing 24 per cent of funds received by the Group from external investors over a two and a half year period) being paid to CVIMS LP alone. The interim liquidators view the minimal detail supporting those transactions to be of concern. Mr Whimp explains that the transactions all represent reimbursement of actual expenses incurred on behalf of the Group, without any "profit" element. That said, he has not provided any documentation to support his contention. Mr Whimp may be able to provide further explanation and evidence that will better inform an ultimate, substantive

assessment of the affairs of the Group. The interim liquidators in their Report did not suggest otherwise. Nor does the FMA.

The incomplete consolidated accounts

[62] A further matter of which Mr Whimp made some mention in his submissions, relates to what Mr Whimp has described as “partially completed consolidations of [the Group]”, which the interim liquidators obtained from the Group’s accountant’s desk following their appointment. The point in relation to the “consolidations” is closely related to my preceding discussion. Mr Whimp refers to the consolidations as “incomplete”, and “unreviewed by me”, but did not produce to the interim liquidators an alternative, comprehensive version. Assuming records of the nature one would have expected to have been kept for companies operating in the financial markets were kept, Mr Whimp could have referred the interim liquidators to those records and could himself have promptly assembled his own consolidations. Without Mr Whimp providing alternative documentation, it was appropriate for the interim liquidators to report, as directed, on the basis of the material available to them and exercising their judgement as to the extent conclusions could be drawn from that material. Mr Whimp is also entitled as and when he sees fit to make public his own material.

The 70 wrong or misleading statements

[63] Finally, there is Mr Whimp’s suggestion that the Report contains no fewer than 70 wrong or misleading statements. Having regard to the evidence filed by Mr Whimp and the submissions made, the Court must view that prominent statement in his submissions as hyperbolic. Despite the period between filing his interlocutory application (on 18 February 2026) and the hearing of the application on 3 March 2026, Mr Whimp did not particularise a number of complaints close to 70.

[64] It transpired that Mr Whimp, in his submissions for the hearing when identifying “problems with the PwC report”, first took issue with the interim liquidators’ reference to the “consolidations”, which I have discussed from [62] above.

[65] The balance of Mr Whimp’s complaints then appeared primarily to relate to what he described as the interim liquidators’ “extensive use of headings” by which Mr

Whimp in fact was referring to conclusions reached by the interim liquidators on the basis of their investigation. The headings included such statements as “the CVI Group is materially insolvent”; “investor obligations have been met primarily through new investor inflows”; and “extensive activity related to director’s personal interests is evident”. Mr Whimp, in his submissions, responded variously to these headings by asserting the interim liquidators did not understand the Group or (such as in relation to the director’s personal interest) that there was “good reason for this”.

[66] I am satisfied the issues raised by Mr Whimp generally are directed to conclusions and matters open to debate, rather than relating to significant underlying factual detail.

[67] Mr Whimp’s list of “erroneous claims” concluded with two of the interim liquidators’ headings which read “We recommend that the Court order the Companies be placed into liquidation” and “We further recommend that the Court orders the liquidation of further entities”. Plainly, these are not “erroneous claims”. They are self-evidently the liquidators’ recommendations, based on other material and conclusions set out in the Report.

[68] Nothing in the issues raised by Mr Whimp as to allegedly incorrect statements is of itself justification to depart from the principle of open justice in this case. While Mr Whimp did not establish to my satisfaction at the hearing that there were any materially significant matters to be corrected within the Report, it remains open to him as and when the Report is made public to critique it and correct it as he sees fit.

Conclusion

[69] Mr Whimp has not established substantial grounds to justify the Court making an order that the Report not be published.

Redactions

[70] That leaves for consideration the extent to which there should be redactions of the Report, before it is published.

[71] Before the hearing, I directed counsel for the FMA to file and serve a marked-up version of the Report identifying such redactions as had been agreed with Mr Whimp together with (if Mr Whimp had submitted a version with additional, unagreed redactions), a copy of Mr Whimp's unagreed version. Counsel for the FMA duly filed a marked-up version of the Report. In the version provided to the Court the proposed redactions agreed by the parties were marked in green, all of which I consider appropriate.

[72] Mr Whimp did not provide a separate, marked up version of the Report identifying the further redactions he sought. Instead, counsel for the FMA marked up in yellow in the submitted version of the Report the additional redactions they understood Mr Whimp to seek. Those are extensive and would substantially emasculate the Report in terms of the detail reasonably required to explain the interim liquidators' conclusions. That said, I am satisfied Mr Whimp's proposed redactions in relation to the names and relationships to Mr Whimp of his family members are appropriate. They should be redacted and replaced by a reference simply to "a family member".

[73] Beyond that, I am not satisfied there are valid grounds to make other redactions sought by Mr Whimp. I explain:

- (a) the name of and references to Mr Currie ought not to be redacted—uncertainties relating to the duration of Mr Currie's involvement in governance stem principally from a document signed by Mr Currie and provided to the Court in this proceeding. References to Mr Currie are directly relevant to governance issues;
- (b) the following matters are reasonably necessary details to be included to understand the interim liquidators' conclusions;
 - (i) references to property owned or sold by persons who are not parties to the proceeding;
 - (ii) references to the Three Related Entities (above at [26]);

- (iii) the financial detail included in the Report; and
- (c) the narrative discussion in relation to the individual topics discussed in the Report.

[74] A direction for redaction of the Report, before its public release, will be made, requiring counsel to submit for approval a final, redacted version taking into account these rulings.

The disallowance application

[75] To the extent Mr Whimp's application for "disallowance" was based on the Report being an "inadequate [and] imprecise body of work", such ground was not established by Mr Whimp, for the reasons set out above.

[76] The manner in which the FMA, as plaintiff, may wish to rely on the Report in this proceeding is a matter initially for counsel for the FMA. There is no basis for the Court to make a pre-emptive order disallowing the use of the Report in this proceeding. The extent to which the Report might actually be referred to (if at all) at the substantive hearing will be determined in accordance with the provisions of the Evidence Act by the trial Judge in light of the basis it is tendered (if at all).

Application for an interview order and for a new report

[77] The interim liquidators have presented their report to the Court as directed. The proceeding is now timetabled towards its hearing in June 2026. The Report as received is appropriate to meet its purpose of providing the Court with information as to the defendants.

[78] I do not consider there is any basis upon which to make either of the directions sought by Mr Whimp either as a matter of general principle or in terms of what I have found to be the insubstantial concerns of Mr Whimp in relation to the Report.

Appeal rights

[79] Mr Whimp addressed me on what would happen should I make the orders I have decided upon. He requested suppression be continued for a period of 10 working days to allow appeal rights to be considered. For the avoidance of doubt, I record that nothing in the leave previously granted to Mr Whimp to appear on behalf of the defendants on the present applications constitutes continuing leave either in this proceeding or on appeal.

Orders

[80] I order:

- (a) Mr Whimp's applications for orders:
 - (i) permanently suppressing the Report of the interim liquidators dated 26 January 2026 (Report);
 - (ii) disallowing the use of the Report in this proceeding;
 - (iii) requiring the interim liquidators to interview Mr Whimp; and
 - (iv) requiring the interim liquidators to prepare and file a new Reportare dismissed;
- (b) the Report is before general publication to be redacted by incorporating the material redacted in green in the version filed in Court on 2 March 2026 with the additional redactions identified at [72] above, but after a finalised, redacted version has been submitted by counsel for the plaintiff to the Court and approved by the Court for general publication;
- (c) there is an interim order suppressing the Report for a period of 10 working days, to lapse in the event the defendants do not within that period file and serve a Notice of Appeal against this judgment;

- (d) the costs and disbursements of the interlocutory application as between the plaintiff and Mr Whimp are reserved to be determined on the papers, with counsel for the plaintiff to file and serve within 10 days their memorandum (five page limit with schedule of item calculations) and Mr Whimp to file and serve his memorandum (same limit) within five working days thereafter.

Osborne J

Solicitors:

Luke Cunningham Clere, Wellington (for Plaintiff)

Currie Lawyers, Christchurch (for First to Sixth Defendants)

Anthony Harper, Christchurch (for Interim Liquidators)

Copy to counsel:

J S Cooper KC, Barrister, Auckland

J C Adams, Barrister, Auckland

Copy to:

Mr B T Whimp