

Perpetual Guardian Newsletter Autumn 2016



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0800 737 738 www.perpetualguardian.co.nz

Kia ora koutou katoa,

I hope you and your families had a restful break over Christmas and the New Year. It is already feeling quite long ago as 2016 swings into full gear.

We are looking forward to being of service to you again this year and helping you achieve your estate planning goals.

We will soon be rolling out our Will review programme – starting at a small scale but gradually increasing the scope. We will be contacting some of you around this, however, if you need to update your Will now, please don't hesitate to contact your local branch. Just as it can be hard for your family if you don't have a Will, it can also be difficult if you don't keep your

Will up-to-date. You may need to update your Will if:

- You have begun a new relationship or a previous relationship has ended;
- You have a new child or relative in your family;
- You have undergone a significant change in assets (for example, you've bought a new house); or,
- Someone you named in your Will has passed away.

In addition to our Will review programme, we offer 'WILLplus' – a convenient service which allows you to review your Will on an annual basis to account for any changes which may have happened throughout the year. To find out more about this service, you can get in touch with your local Perpetual Guardian team.

We are also pleased to share with you that New Zealand Trustee Services (NZTS) has joined the Perpetual Guardian family. Complectus (which owns Perpetual Guardian) purchased the Cantabrian-founded business in December 2015. You can read more about NZTS and the expert services they offer inside this issue.

Ngā mihi,

Grant Kemble,
Perpetual Guardian CEO



What's been happening?

Relocation, relocation!

We have kept moving companies across the country very busy recently. Since December, three of our branches have moved to new premises. Here are our new locations:

- **Nelson:** 15 Buxton Square, Nelson 7010 (previously 151a Trafalgar Street)
- **Timaru:** 2 Sefton Street East, Timaru 7910 (previously 7 Sophia Street)
- **Takapuna:** 495 Lake Road, Takapuna 0622 (previously based at 191 Queen Street, Auckland CBD).

For the Takapuna team, their move was particularly momentous as it marked a return to their North Shore roots – after almost two years in the CBD.



The new Takapuna branch, located in the suburb's CBD.

Gail Stevens, a Takapuna Client Manager, said, "We have been letting our clients know of our return to Takapuna and have had really positive feedback from them – they are eagerly awaiting a visit to the offices".

"Lynn, Marg, and Maria are happy to be able to get back to our Takapuna identity and looking forward to inviting new and

existing clients into our bright, new branch".

In addition to our moving branches, you may notice that your regular branch is sporting a new look. Our Dunedin branch at 83a Princes Street has had a makeover. As always, we welcome you to drop by for a visit or arrange an appointment with your local client manager.

Our Timaru branch is part of a set of new office blocks built in 2015.



Legislative update

Trusts

The current law regulating Family Trusts in New Zealand (The Trustee Act) has been part of our legislation for 60 years and is well due for an update. It is a complex piece of legislation and does not reflect modern Trust practices. People say that in some places the Act is simply unreadable!

Consequently, in 2009 the Law Commission commenced a very thorough review of our laws in this area, culminating in a report which was presented to the House of Representatives in September 2013. This report contained 51 recommendations to modernise and clarify Trust law. It highlights that, while Trusts are widely used in New Zealand, there is a widespread misunderstanding among New Zealanders as to exactly what a Trust is and the rules which relate to them. The Law Commission recommends new legislation, to be called simply the "Trusts Act". It will modernise the law of Trusts, making it clearer and more user-friendly. It will apply to existing as well as new Trusts from the date it comes into force.

The Government is yet to form a final view on all of the Law Commission's recommendations and the timing of implementation

will depend on other Government priorities. However, Perpetual Guardian welcomes any changes which make the laws in this area clearer and easier for individuals and businesses to understand.

Clayton vs. Clayton case

Following on from the Court of Appeal judgment, the Supreme Court has now released its judgments which have the potential to affect many New Zealand Trusts. The Claytons have settled out of court but the Supreme Court – because of wide public interest, issued its decision and the message is loud and clear.

The Supreme Court decided that the Trust was not a sham and while the power to appoint and remove beneficiaries did not in itself constitute property under the Property (Relationships) Act it did hold that such power combined with other personal powers under a Trust Deed could amount to relationship property as the holder of all such powers is not constrained by any fiduciary duty when exercising the powers. The Court found that the value of the powers that Mr. Clayton held in relation to the Trust were equal to the value of the net assets of the Trust.

Two distinct and clear points have emerged:

- For a Trust to be effective there needs to be a clear delineation

and transfer of powers from the individual; and,

- For Trusts to be an effective mechanism in estate and relationship planning, it is strongly recommended that a section 21 Contracting out agreement (prenuptial agreement) be entered into, that may safeguard against claims made on Trust assets.

Enduring Powers of Attorney

Enduring Powers of Attorney (EPAs) are as essential as an up-to-date Will. The legislation governing their creation and use is the Protection of Personal and Property Rights Act 1988.

Amendments are being made to this Act which are intended to make it easier and more affordable for people to set up EPAs, and increase understanding around how they work.

It is intended that, in future, EPA forms will be written in plain language and will be easier to understand. Witnessing requirements will be simplified. Other amendments are more technical, but are all intended to improve and streamline the processes associated with their use.

The amendments to the Act are expected to come into effect this year.

Trust providing a brighter future for teens

Thanks to a generous gift from businessman Charles Bennett, teens today are gaining skills and confidence to set them up for positive lives.

Mr. Charles Bennett was born in Thames. He originally worked as a dentist, and later became a prominent real estate agent and a Justice of the Peace in Auckland. He was an active member of several societies and Trust boards in Auckland – notably he was a trustee of three Church of England children's homes, and was the founder and president of the Auckland Orphanages United Council from 1941.

He passed away in 1957, aged 78. As a result of his experiences with orphaned children, Mr Bennett set aside a capital fund of £1,000 through his Will to be invested and the net annual income to be applied as a bursary. In 2003, the fund criteria were updated so that the bursary is used to benefit Auckland children who display potential but are not supported by their natural parents. Perpetual Guardian works with the Ministry of Social Development and four

Youth Provider contractors – Solomon Group, Strive, Youth Horizons and Youthline to determine the bursary recipients. Here are the stories of some of the people the Charles Frederick Bennett Estate has helped (names have been changed):

Building a career path

"The year before I entered the Massey High School Building Academy, I was so tempted to leave school because I hated it," says James. "I never thought school was for me and my attendance was below 70%".

During 2015, James began working with a social services agency who helped him meet and exceed his own expectations – he completed NCEA Level 2, gained his learner's licence and attended a budgeting course.

Late last year, a social worker put James forward for a grant from the Charles Frederick Bennett Estate for construction tools. Despite James not having any work confirmed, his social worker was confident that James' determination and strong work ethic would land him a job.

"Now, I have found a job and I'm starting my carpentry apprenticeship with Cuneen Construction. I have all my tools and I'm ready for work. I'd like to

say thank you so much to the Charles Frederick Bennett Estate for funding me with money to buy tools for my apprenticeship".

Creating confidence

When Sarah came to Youth Service West in early 2015, she suffered from bad anxiety after being disowned and mistreated by her family. Her fear of being judged was so bad that she refused to attend any group workshops.

With the help of social workers, Sarah began to regain her confidence and get back on track with her education. With assistance from the Charles Frederick Bennett Estate, social workers were able to purchase a laptop to help Sarah complete her course assignments. She has now achieved NCEA Level 1, NCES, and is working towards gaining NCEA Level 2 this year. It is her goal to complete a Certificate in Accounting/Business.

Her social worker told Perpetual Guardian, "Sarah has come a long way from the time I first met her to now. She has a real spark in her eyes now which wasn't visible in the start. It has been a privilege to see her grow and develop".

To find out more about establishing a Charitable Trust of your own, contact our team at philanthropy@pgtrust.co.nz.

The life and art of Olivia Spencer Bower

A new biography by Julie King, sponsored by Auckland Chartwell Trust, *Olivia Spencer Bower: Making Her Own Discoveries* sheds light on the Cantabrian artist who belonged to an iconic network of New Zealand artists in the 1930s (including Rita Angus, Ngaio Marsh, Rata Lovell-Smith, Evelyn Page and Louise Henderson).

Olivia was born in Cambridgeshire, England on 13 April 1905 and died in Christchurch, New Zealand on 8 July 1982. Her mother, Rosa Dixon, was an established painter and encouraged her to pursue art as a career.

Olivia travelled back to England to study drawing and painting at the Slade School of Fine Art in London, and also made an extended painting trip to France and Italy where she developed her skills. She returned to New Zealand in 1931, armed with a knowledge of early European Modernism and aligned herself with a circle of artists known as The Group. King says they were “able to make a notable contribution to life in New Zealand between the First and Second World Wars. They were distinguished by their independent



Photograph of Olivia Spencer Bower. (Photo credit: Marti Friedlander)

attitude and shared commitment to work.”

Only five days before her death, she established the Olivia Spencer Bower Foundation, a Charitable Trust of which Perpetual Guardian is a proud trustee, together with the founder trustee, Malcolm Ott. The Foundation administers The Olivia Spencer Bower Art Award – which since it began in 1987 has built a reputation as one of the most valuable and prestigious forms of sponsorship available to emerging New Zealand artists. The award is given annually but chosen biennially and its general purpose is to “encourage and promote New Zealand artists and sculptors with particular emphasis on future artistic potential rather than financial need.” Winners receive financial support, an artist’s

studio and accommodation for 12 months. There have been 30 awards to date.

In Julie King’s book, the 2013 award recipient, Miranda Parkes said about the award: “I can tell it was set up by an artist who understood the artistic process. I feel free to do whatever I need to do to nourish my practice.”

Through her Charitable Trust, Olivia ensured that her legacy and contribution to the arts didn’t end with her death, and that she was able to support new generations of artists for decades to come.

• ***Olivia Spencer Bower: Making Her Own Discoveries*, by Julie King. Canterbury University Press, \$49.99.**

NZ Trustees joins the Complectus family

In December 2015, Complectus (the company which owns Perpetual Guardian) purchased New Zealand Trustee Services (NZTS).

“NZTS establishes a significant number of new Trusts annually and its specialist focus on Wills and Trusts presents the opportunity for the Perpetual Guardian group to enhance services to new and existing clients”, Perpetual Guardian CEO, Grant Kemble, said about the purchase.

NZTS was created in 1999 by Director/General Manager

Jonathan Cron and National Operations Manager, Penny Cron out of their desire to bridge the gap between trustee companies and other professional entities. The company was originally called Canterbury Trustee Services Limited but changed to NZTS in 2004 due to their involvement with clients nationally.

Jonathan is no stranger to Perpetual Guardian – he has over 20 years of experience in the trustee industry, including ten years as a Trust Manager and Business Development Manager at both Perpetual Trust and Guardian Trust.

In 2010 he published his first book, *Family Trusts in New Zealand*, which is recommended reading for all Trusts in New Zealand (although the book is sold-out, you can pick up a copy at libraries

across the country). Jonathan is also President of the NZ Trustee Association.

As National Operations Manager, Penny takes control of Trust compliance and service delivery. Through timely liaison with advisors and institutions, Penny ensures the continued legal compliance (and therefore the ongoing financial effectiveness) of a Trust by managing critical records and their various reporting regimes across New Zealand.

Penny’s attention to detail combined with her ability to comprehend the big picture goal for clients, results in crucial advice, which is fundamental to establishing an enduring Trust structure.

We are pleased to welcome NZTS to the Complectus family and look forward to the improved services we will be able to bring together.

NZTS General Manager, Jonathan Cron, and Operations Manager, Penny Cron.



NZTS has branches in the following locations:

- **Auckland:** 343 Remuera Road, Remuera, Auckland 0622; and,
- **Christchurch:** 329 Durham Street North, Christchurch 8013.

You can find out more about NZTS by visiting www.nztrustees.co.nz.

Kiwi grant improves lives of Alzheimer's patients

This year a combination of foresight, generosity and sound financial management is proving a blessing to patients of Ramat Gan Alzheimer Research and Treatment Centre in Jerusalem, Israel. The centre will benefit from a US\$500,000 distribution from the Lady Marion Davis Memorial (Hospitals) Foundation, established by Perpetual Guardian in 1997 for the purpose of assisting hospitals in New Zealand, Israel and around the world. The foundation was set up by Lady Marion's son, Desmond Davis.

The funds will be provided over a five-year period to help construct and support a new outpatient daycare centre within the organisation. The unique daycare centre's services will be available to people with Alzheimer's who live at home and allow staff to provide the extensive inpatient services to outpatients. Patients and their families will receive essential services including medical assistance, nursing care, emotional therapies and social and occupational assistance.



Client Manager, Tanaz Siganporia with a plaque for the Lady Marion Davis Memorial Foundation grant.

Perpetual Guardian Founder, Andrew Barnes said about the distribution, "This particular gift will have far-reaching benefits for the patients of the Ramat Gan Centre, and it is a wonderful example of the diverse ways in which philanthropy can be practiced, and how the people of one nation can help another".

Federated Farmers partnership

We are pleased to announce that we have formed a partnership with Federated Farmers. Federated Farmers are an independent and farmer-member-based advocacy and service body, consisting of 24 provinces and employing professional staff who work for their member-farmers.

They have earned their reputation as the 'voice of farmers' and are viewed both publicly and politically as the 'go-to' organisation for rural matters. As a democratic organisation, they give farmers a collective voice at both a regional, national and international level.

They have a long-term vision, beyond immediate issues, to shape a national future which will enable farmers' interests to flourish. As a pan-sector advocacy and support body, they are committed to building and enhancing relationships with their partners for the betterment of members and New Zealand farmers.

Our relationship with Federated Farmers is built on mutual trust and respect, with a shared aspiration to provide the farming community with the best value services. Aligned to deliver the best possible outcomes, Federated Farmers and Perpetual Guardian are together, stronger and better.



NORTHERN REGION

AUCKLAND

Level 13
191 Queen Street
AUCKLAND 1040

PO Box 1934
Shortland Street
AUCKLAND 1140

+64 9 927 9400
auckland@pgtrust.co.nz

REMUERA

343 Remuera Road
Remuera
AUCKLAND 1050

Private Bag 28913
AUCKLAND 1541

+64 9 927 9450
auckland@pgtrust.co.nz

HAMILTON

54 Bryce Street
HAMILTON 3204

PO Box 1375
HAMILTON 3240

+64 7 959 3570
hamilton@pgtrust.co.nz

NORTH SHORE

495 Lake Road
Takapuna
AUCKLAND 0740

PO Box 33-744
AUCKLAND 0740

+64 9 927 9460
takapuna@pgtrust.co.nz

ROTORUA

1130 Pukaki Street
ROTORUA 3010

PO Box 1040
ROTORUA 3040

+64 7 921 7680
rotorua@pgtrust.co.nz

TAURANGA

61 Willow Street
TAURANGA 3110

PO Box 13-008
TAURANGA 3141

+64 7 928 5451
tauranga@pgtrust.co.nz

WHANGAREI

110 Bank Street
WHANGAREI 0110

PO Box 547
WHANGAREI 0140

+64 9 986 5870
whangarei@pgtrust.co.nz

CENTRAL REGION

NAPIER

21 Station Street
NAPIER 4110

PO Box 162
NAPIER 4140

+64 6 974 1150
napier@pgtrust.co.nz

NEW PLYMOUTH

9 Vivian Street
NEW PLYMOUTH 4310

PO Box 8199
NEW PLYMOUTH 4342

+64 6 968 8580
newplymouth@pgtrust.co.nz

PALMERSTON NORTH

Level 1
209 Broadway Avenue
PALMERSTON NORTH 4410

PO Box 628
PALMERSTON NORTH 4440

+64 6 953 6130
palmerstonnorth@pgtrust.co.nz

WELLINGTON

Level 2
99-105 Customhouse Quay
WELLINGTON 6011

PO Box 913
WELLINGTON 6140

+64 4 901 5400
wellington@pgtrust.co.nz

SOUTHERN REGION

CHRISTCHURCH

Ground Floor
329 Durham Street North
CHRISTCHURCH 8013

PO BOX 112
CHRISTCHURCH 8140

+64 3 966 5800
christchurch@pgtrust.co.nz

DUNEDIN

83a Princes Street
DUNEDIN 9016

PO Box 295
DUNEDIN 9054

+64 3 477 6960
dunedin@pgtrust.co.nz

NELSON

15 Buxton Square
NELSON 7010

PO Box 541
NELSON 7040

+64 3 989 2900
nelson@pgtrust.co.nz

TIMARU

2 Sefton Street East
TIMARU 7910

PO Box 291
TIMARU 7940

+64 3 684 2430
timaru@pgtrust.co.nz