

“The costs were paid during the year 1931 and thereafter the agreement was cancelled by endorsement about April, 1932. Upon payment of Redwood costs we had no further interest in the agreement of 1930, and no further use for the company. Mr. McArthur intimated that the company might be useful to him and it was agreed that we would obtain transfers of the shares to him or as he might direct provided we were reimbursed for the formation expenses of the Wynwood Company, amounting approximately to £40.

“All documents of the company were forwarded to Mr. McArthur on 6th April, 1932, and we were paid the costs of approximately £40 at a later date.”

It will be noted from the foregoing that Messrs. Hampson and Wiseman state that they had “no further use for the company” after payment of their costs against N.Z. Redwood Forests, Ltd., and that on reimbursement to them by J. W. S. McArthur of the formation expenses of the company they would obtain transfers of the shares to him or as he might direct. Pursuant to this arrangement, ninety of the shares were transferred on or about 7th April, 1932, from K. Forrest, M. D. Grayson, and A. W. Coffey to the Sterling Investments Co. (N.Z.), Ltd., a company from which at this time J. W. S. McArthur, as managing director of the Investment Executive Trust of New Zealand, Ltd., held a power of attorney, and which was controlled by him, and ten shares from A. W. Coffey to the Investment Securities Association, Ltd., a company which was controlled by C. G. Alcorn.

This completed the first phase of the company’s activities. So far as can be ascertained, the company at this time had neither assets nor liabilities, there were no books of account, nor had any bank account been opened, although authority to do this was taken at the first “meeting” of the directors.

Nothing had actually been paid by shareholders in respect of their shares, and the expenses of formation had been paid by Hampson and Wiseman.

A copy of the agreement between Modern Homes, Ltd., and Wynwood Investments, Ltd., is appended to this report as Exhibit “D.”

9. SECOND PHASE OF THE COMPANY’S OPERATIONS.

As mentioned in the last preceding section of this report, the shares held by the original shareholders, Messrs. Forrest, Grayson, and Coffey, who were also the directors of the company, were transferred to the Sterling Investments Co. (N.Z.), Ltd., and the Investment Securities Association, Ltd. The minutes record the holding of an extraordinary general meeting of shareholders on 11th April, 1932, at which there were present J. W. S. McArthur and C. G. Alcorn, representing the above-named transferee companies.

It may here be pointed out that at this time neither of these companies was registered as a shareholder. His Honour Mr. Justice Halse Rogers during the session of the Royal Commission in Sydney on 18th September, 1934, drew attention to this and stated that because of this apparent irregularity it was possible that all subsequent acts of the company were invalid. I cannot express an opinion on this point, but, in view of His Honour’s remarks, suggest that this possibility be given consideration.

At this meeting on 11th April, 1932, it was resolved :—

- (1) That the transfers from the original shareholders to the Sterling Investment Co. (N.Z.), Ltd., and the Investment Securities Association, Ltd. [already referred to in this report], be approved.
- (2) That the registered office be removed to Third Floor, Yorkshire House, Auckland—*i.e.*, to the office of the Investment Executive Trust of New Zealand, Ltd. :
- (3) That the capital be increased to £1,000 by issuing an additional 900 shares :
- (4) That Messrs. C. G. Alcorn and J. W. S. McArthur be appointed the directors of the company for the ensuing year.

Meetings of directors were held on the 12th and 20th April, 1932. J. W. S. McArthur and C. G. Alcorn attended and the following business was transacted :—

- (a) Allotment of 900 shares created by increase of capital above mentioned.
- (b) Appointment of H. C. Glasson as Secretary.
- (c) Decision to open a banking account with the Commercial Bank of Australia, Ltd., in Auckland.

A further meeting of directors, held on 5th October, 1933, approved various transfers whereby all shares passed into the hands of R. Glover-Clark and Stanley Grange.

It must be noted here that the minutes of the three meetings of directors last referred to bear no signature or other evidence of their approval or confirmation either at the time or at subsequent meetings.

An examination of the evidence given before the Royal Commission in Sydney and of the circumstances surrounding these transfers of shares leads me to the conclusion that the shares were transferred in order to facilitate the carrying out of certain agreements concerning a number of assets and “rights of action” which intimately affected J. W. S. McArthur personally. These agreements, which are discussed at some length in section 10 of this report, are dated 9th October, 1933—*i.e.*, four days after the approval of the share transfers. It is presumed that it was thought the validity of the agreements would be less likely to be questioned if J. W. S. McArthur were neither a shareholder nor a director of the company purchasing the assets.