

	
Incorporated Society Number 217833 Registered 25/09/75	

**SOCIETY FOR PROMOTION OF COMMUNITY STANDARDS INC.**  
 Registered Charity No. CC 20268  
 Registered 17 December 2007  
 P.O. Box 13-683 JOHNSONVILLE 6440 NZ  
 E-mail: [spcs.org@gmail.com](mailto:spcs.org@gmail.com)  
 Website: [www.spcs.org.nz](http://www.spcs.org.nz)  
**Newsletter July 2014**  
 Issue 119  
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The SPCS, a recognised charitable entity, has standing in the Courts as an organisation that is entitled to appeal the classification decisions issued by the Office of Film and Literature Classification (OFLC) and the Film and Literature Board of Review. It has successfully used the legitimate avenues in law open to it to do so, both in the High Court and Court of Appeal. It has also made applications to the Broadcasting Standards Authority relating to such matters. However, it has not pursued any legal action in the courts, thus far, since being registered as a charity on 17 December 2007. Membership is by way of donation to those who agree to support our objectives. See p. 12 for details.

### Announcing AGM 2014

All members are invited to attend

**Time/Date: 7.30 pm Monday 18 August 2014**

**Venue: Central Baptist Church, 46 Boulcott Street, Wellington (Basement Hall)**



**Speaker: Suzanne Snively ONZM**

**Topic: Transparency International (NZ) claims:**



**BUT IS THIS A FALSE HOPE?**

## Moral Corruption ‘White Collar’ Crime Introduction

The Society for Promotion of Community Standards Inc., as one of its objects, seeks to “*focus attention on the harmful nature and consequences of ... fraud, dishonesty in business ... and other forms of moral corruption, for the purpose of moral and spiritual improvement.*” [SPCS Constitution s. 2(d)]

The Society contends that terms such as “moral corruption”, “morally objectionable”, “moral deviancy” and “moral decay” have often been too freely bandied about by the public, censors, moral “watchdogs” and social media commentators, as the *primary* causal factors leading to social behaviour that is perceived to “injurious to the public good” and “detrimental to public values and/or standards” etc. This has often been done without any or only limited attempts to delineate the nature of any moral framework applied and the meaning of such “morally charged” terms highlighted.

The SPCS contends that the “moral framework” which forms the foundation of our country’s Westminster system of democracy and judiciary and undergirds our understanding of the concept of “public good” and legal framework of human rights law; is historically Judeo-Christian and is one that can accommodate a secular approach in the delivery of public service activities (e.g. public education).

Note: The former Chief Censor, Bill Hastings, referred publicly to certain publications that came before him for classification, as containing “morally ‘toxic’” content that had the ability to desensitise viewers who were repeatedly exposed to them, and thereby implied that such viewing could potentially adversely influence their behaviour in a manner that was harmful to themselves and/or others. He never defined what he meant by “morally ‘toxic’” – perhaps assuming that the public already knew.

## “Corruption of the Companies Act”

What about the term “*moral corruption*” used with reference to ‘white collar crime’ – is it appropriate? Is such crime undertaken by individuals who are already “morally corrupt” *prior* to engaging in business? Or is it only the law itself that corrupts them, by reason of being flawed/deficient, for example leaving open too many loopholes for vulnerable good business people to be tempted into committing corrupt practices?

One insolvency practitioner, a Wellington-based chartered accountant, Mr Robert Bruce Walker MA (Hons), CA, sees the Companies Act 1993 as being so problematic that he believes it is part of the “corruption” problem. New Zealand’s corporate regime he says, “has become profoundly corrupted”.

Walker was appointed by the High Court of New Zealand on the recommendation of the Commissioner of the Inland Revenue Department (IRD) as liquidator of a company called Property Ventures Ltd, directed by **David (Dave) Ian Henderson** of Christchurch. It owed its creditors around \$69 million when put into receivership on 5 March 2010, and on 27 July 2010 it was put into liquidation. (See articles on SPCS web blog). In his Liquidation report on PVL dated 30 April 2012, Walker states under the heading “*My purpose*”.

*There are people who think that I am engaged in some kind of personal battle with **Dave Henderson** and that is my focus in the various liquidations. This is very far from the truth. The only reason that Henderson is important is that he holds, or possibly holds – I can no longer be sure – records that are necessary for me to execute my strategy.*

*“I have two objectives in the liquidation of PVL and its various subsidiaries to which Henderson is merely incidental. These are: To maximise the return for creditors as best I can, and as an incidental purpose to show how New Zealand’s corporate regime has become profoundly corrupted.”*



**Twice Bankrupted property developer  
David Ian Henderson**

[Photo reproduced with permission.  
Credit: Iain McGregor / Fairfax NZ]

## “The corruption of the Companies Act”

*To a degree I have alluded to my difficulties as liquidator of PVL. One of the most effective methods used to thwart liquidation is to cause the proliferation of companies. This is very common particularly amongst property developers.*

*What typically happens is that there is one central guiding mind. This person has a number of ventures. Each venture is carried out in one company. Frequently these collections of companies are not subject to a group structure that is characteristic of PVL. However, an examination of the companies’ website would reveal that PVL has had control of many companies within and without PVL group which numbers about 30 companies.*

*The guiding minds of these companies then treat the collection of companies as one entity. This is done in two ways.*

*1. Cash belonging to one company is redeployed for the use by another where it is expedient to do so without regard to the corporate distinction.*

*2. Each company is prevailed upon to guarantee the borrowing of each other company irrespective of whether that is in the interest or not.*

**Dave Henderson** – [Court judgment cited] confirmed that PVL and its subsidiaries and related companies operated as a single economic unit in that matter he swore an affidavit which was recorded in the judgment...

*Of especial note is that Henderson's deposition does not restrict his claim that the single economic unit does not end at the formal PVL group, it goes beyond that to state that the single economic unit encompasses companies which have no direct ownership with PVL..... As I play out my strategy a by-product of what I do will be to demonstrate what happened and the extent to which the Companies Act 1993 has been abused and therefore how it has failed to the detriment of finance company investors including the Crown itself.*

In the last decade New Zealand investors have lost millions of dollars in the collapse of property venture and investment companies (e.g. Hanover, Strategic Finance), a number run by directors who have been convicted and sentenced in court for breaching the Insolvency Act 2006, the Financial Reporting Act 1993 and/or the Companies Act 1993. Others for criminal behaviour, including fraud (Ponzi schemes), dishonesty and for allowing their companies to trade when insolvent. Others have been banned for their incompetence and risk-taking in allowing multiple companies they direct to go into liquidation owing creditors hundreds of thousands of dollars. Others have been convicted and fined for running companies while they are banned from doing so by the Registrar of Companies.

In a Determination of the Disciplinary Tribunal of the NZ Institute of Chartered Accountants dated 24/04/14, Robert Bruce Walker (quoted above) was found to have engaged in “unprofessional conduct ... at the lower end of the scale ... in the tone and content of his liquidator's reports for PVL filed with the Companies Office on 30 April 2012 and/or 24 July 2013”. The SPCS has quoted extensively from his report dated 30 April 2012, because it, like Walker, has contended for over five years that the Companies Act 1993 has “been abused” [by some company directors] and [it has] sought to show “how it has failed to the detriment of finance company investors including the Crown itself” [quoting Walker]. [Emphasis added]

Note: The Society's Newsletter of December 2009 (Issue 110) demonstrated how our research based on public records has exposed “a series of ‘dead-ends’ (defunct company names) and complex diversions throughout the convoluted maze of company connections” that a named company director “has established stretching from San Antonio Texas to New Zealand” .

John Mills, SPCS president wrote in his editorial at the time:

*In the past the Society has focused on high profile moral issues, considered low-level by some and it has gained a measure of experience, notoriety, and success in these endeavours.*

*It is our intention to expand and extend the influence of the Society, not merely by continuing to be engaged in these same moral issues, but **focusing on the possible money sources that fuel morally corrupting activities...***

The Society's “focus on the harmful nature and consequences of fraud, dishonesty in business and other forms of moral corruption, in corporate business” is “for the purpose of moral and spiritual improvement”. Legislators and enforcement agencies must recognise the serious harm inflicted on those who fall victim to dishonest operators within the financial sector. Community standards are embodied in our legislation governing for example the actions and responsibilities of company directors, and are enforced to ensure honesty and fairness – essentials for the success of civil society.

Failure(s) by a company director(s) to file an annual return(s) and/or annual financial statement(s) may appear to some to be only a minor matter. However, failure to do so constitutes a serious offence of non-compliance that is dealt with by The Registries Integrity and Enforcement Team (RIET), part of the Companies Office. Its role is to ensure the integrity of the registers that are administered by the Companies Office, by proactively monitoring their use. RIET primarily acts by seeking compliance or preventing misuse but, where appropriate, it prosecutes offences on behalf of the Registrar of Companies – Ms Mandy McDonald.

Investors and creditors involved in business with a company must have access to up to date, accurate information. Just as the issuing of a prospectus to potential investors, which contains false information, is a criminal offence, submitting false information on the Companies Office website can lead to prosecution. Transparency and integrity are the two qualities than are so needful for practitioners to operate successfully within our financial sector.

Tim Hunter (“Chalkie”), deputy editor of the Fairfax Business Bureau recently had his major investigation into Property Ventures Ltd (Dave Henderson's company) published under the heading “Duped Investors want full disclosure”. He wrote on 11 June 2014:

... Documents come from the old Securities Commission, since renamed the Financial Markets Authority [FMA], and the Ministry for Business Innovation and Employment. They reveal how overseas investors were stiffed by Christchurch-based property developer Property Ventures, more than two years before the company fell into receivership owing \$69 million. They show an impotent regulator, unable to act and repeatedly complaining about unanswered correspondence.

They reveal a conflict of interest at the Companies Office [directly involving the registrar of companies Mr Neville Harris] that might have affected an inspection of Property Ventures [directed by **David Ian Henderson**] under the Securities Act....”

Here we see a very courageous journalist who is prepared to call to account the top man in the Companies Office! The catastrophic collapse of so many NZ finance and property investment companies would seem to be linked to a level of corruption that appears to be endemic at all levels within the financial section. Liquidator Robert Walker, as noted, has identified the Companies Act itself as fostering corruption.

### Amendments to Companies Act

On 12 March 2013 the Registrar of Companies, **Ms Mandy McDonald**, was reported as saying that the **Companies and Limited Partnership Bill**, awaiting its third reading in Parliament, would give regulators more ‘teeth’ to investigate suspect companies. The Bill would also require all New Zealand-registered companies to reveal their ultimate owners and have a local director who would be required to disclose their date and place of birth.

(Note: The ultimate owner of any company was already able to be traced via shareholder listings prior to the amendment!).



New Zealand Parliament debating chamber

"The Bill provides the New Zealand corporate registries system with effective tools to maintain its integrity and deal with those who seek to take advantage of it," McDonald said.

Dr David Parker (Labour – Dunedin North) described the bill in the House on 17 June 2014:

*It is a call for transparency and finding out for the Registrar of Companies who indeed is not complying with the Companies Act. It gives new powers to the registrar, and these include the power to flag companies on the register that are under investigation. This has got to be a good thing. It also lays out the consequences, and that too is a good thing. The removal of companies from the register if they provide inaccurate information or persistently fail to comply with the Act is something that should be allowed for, and it is indeed in this bill. The bill also aims, as we had it first off, to make similar changes to the Limited Partnerships Act so that those misusing New Zealand companies cannot avoid the new regime by registering as a limited partnership instead.*

The SPCS, which last year became a Bronze level member of Transparency International (NZ), fully supports the legislation which addresses the need for greater transparency and integrity in the Companies Act 1993 and Limited Partnerships Act 2008. It was introduced to the House in October 2011 by then-Commerce Minister Hon. Simon Power, but languished for nearly three years. On the evening of 24 June 2014, Parliament passed the two parts of the Bill at the Third Reading. Stuff News signalled the imminent passage of the Bill into law under the headline “Shell-company crackdown imminent”.

*The Companies Amendment Bill (No 4) will require all New Zealand-registered companies to have a local director, and all directors to file identifying information to the registrar of companies, including the company's ultimate owner, and their date and place of birth.*

*Parallel legislation requiring limited partnerships to have practically identical residency requirements, the Limited Partnerships Amendment Bill (No 2), will also receive its third reading tonight.*

*The new law's genesis came from revelations in early 2010 that a New Zealand-registered company, SP Trading, had leased a plane loaded with 35 tonnes of guns and explosives that was later intercepted in Bangkok trying to smuggle the arms from North Korea to Iran.*

*Since the SP Trading story broke, generating considerable international media attention, media have discovered widespread use of New Zealand shell companies for illegal activities including the laundering of drug-sale proceeds, the looting of Eastern European state coffers, and international financial scams.*

*The vast majority of these shells have used New Zealand companies directed by foreign nominees, often residing in jurisdictions such as Cyprus and Panama, making enforcement by local authorities impossible.*

*A report prepared for Commerce Minister Craig Foss in August 2012 said New Zealand shell companies allowed money laundering totalling \$1.5 billion a year, and warned the country was becoming a "domicile of choice" for those seeking to engage in illegal activities.*



Note: Over the last five years the SPCS has submitted numerous reports to the Companies Office National Enforcement Unit (NEU) providing examples of a lack of compliance by company directors to the Companies Act and highlighting flaws with the law – which it believes opens the door to corruption – due largely to limited efforts in enforcement (partly due to lack of resources). It has also highlighted the damage such offending does to our country's reputation: See for example: <http://www.spcs.org.nz/lu-zhang-convicted-sp-trading-ltd-and-false-residential-addresses/>

“The corruption of the Companies Act” as liquidator Robert Walker CA, referred to it in his Liquidation report on Property Ventures Ltd (PVL), was a clear signal in 2012 that the Act needed amendment and the officials within our enforcement agencies needed to step up to the plate and fulfil their statutory duties. Liquidators are reliant on being able to access company records when they seek to maximise the return for creditors as best they can. Section 261 of the Act grants them “power to obtain documents and information”.

*A liquidator may, from time to time, by notice in writing, require a director or shareholder of the company or any other person to deliver to the liquidator such books, records, or documents of the company in that person's possession or under that person's control as the liquidator requires.*

The problem is the apparent reluctance of the Registrar of Companies, to enforce this “power” and seek to prosecute directors who breach s. 261 and other statutes. Prosecutions can be made and enforced under s. 261(6A) of the Act. (McDonald in her role as The Official Assignee also has enforcement powers under the Insolvency Act 2006)

A well-publicised case involving s. 261 involves the refusal of the former director of Property Ventures Ltd, twice-bankrupted property developer **David Ian Henderson**, to supply to the Liquidator records he has requested. A court order was obtained by the Liquidator against Henderson ordering him to release records in his possession, but still he has refused to release them. Henderson has issued a ‘counter claim’ suing the Attorney-General for breach of privacy which has meant that the release of the records is on hold until the case is settled.

The number of company directors successfully prosecuted for breaches of the Companies Act, Financial Reporting Act (FRA) etc. is very small, despite well-documented widespread offending.

The SPCS referred a matter to the National Enforcement Unit (NEU) in 2010 involving a company director who had been banned from directing or managing companies for four years, yet continued to be involved in the management of a company. To the credit of the NEU, the case was taken to court and the banned director was convicted of the offences and fined. Another company director was referred by SPCS to the NEU regarding alleged failures to comply with the FRA. He was also convicted and fined on multiple offences.

Once the recent amendments to the Companies Act take force in about six months time, every director will be required to submit their date of birth and place of birth to the Registrar of Companies as well as their true New Zealand residential address and the true ultimate owner of all companies they direct.

The Society believes that legislators should not be engaged in mere tokenism (the practice of making only a perfunctory or symbolic effort to do a particular thing) when amending legislation. Laws should never be made which cannot be enforced they fail to ensure that offences can be enforced. Some of the amendments to the Companies Act do little more than ensure that a warm *living human* fills the listed role of company director! **END**

### **Promoting Marriage consistent with the moral teachings of the Bible**

“Let marriage be held in honour among all” Heb. 13:4

One of the Society’s objects is to “*To promote wholesome personal values consistent with the moral teachings of the Bible, including strong family life and the benefits of lasting marriage as the foundation of stable communities.*” [SPCS Constitution s. 2(c)].



#### **Marriage is God's plan for our happiness**

It is disturbing to read in a recent media report that: “New Zealand has become something of a marital wasteland.... Last year, for every 1000 single people of a marriageable age, 22 got married. That’s less than a quarter of the 1971 peak rate of 91 per 1000.”

The Society finds the responses of those recently interviewed by Stuff News on the meaning and importance of marriage, very encouraging (in particular the case quoted below).

Stuff News spoke with couples about what marriage means to them:

Names: **Amy** and **Brett** [surnames deleted]; business owners, Christchurch. Marital status: Engaged

#### **How long have you known each other, and how long have you been a couple?**

**Amy:** We met when I was nine and Brett was 10, we were in standard four and both in the same class. Brett used to buy me 50c mixtures. We got together 12 months ago when I was 28 and Brett 29. Brett proposed last month.

#### **Why is marriage important to you?**

**Amy:** For me it’s a commitment, a decision to share everything I am, my faith, ups and downs, to care and love someone who has declared to do the same for me. We want to celebrate the start of our lives together in ceremony that includes our families and friends supporting us on our journey.

**Brett:** It’s a declaration and commitment before God that you are going to love and support that person, care and grow with them for life.

#### **What is the role of marriage in society, why do people still get married?**

**Amy:** It’s the foundation of society, a team of two who recognise that with each other they can support and encourage each other in every area of life, raise a strong healthy family as a unit with similar core values and beliefs. People get married for various reasons; romantic, religious and convenience. Mostly though because at some level couples still see the value or specialness of a public ceremony. It still holds a romantic buzz that declares that this relationship is special, we are in love and we want to make a statement to the world!

**Brett:** To create a family together which has a stable foundation and the skills to have a positive impact on our future. A family with a social and moral conscience. People still get married because it’s a very special moment in someone’s life when they feel ridiculously comfortable, happy and couldn’t imagine their life without them, aka love.

**Why do you think the number of marriages is in decline?**

**Amy:** High divorce rates possibly takes the sparkle or allure out of marriage, especially for children who have experienced it. Pursuing careers and getting financially ahead is a pretty strong focus these days before considering marriage.

**Brett:** I guess some people have seen marriages implode and question its relevance or value in their own lives. It is a shame that marriage doesn't have a better track record.

**Have your views on marriage changed over time? How?**

**Amy:** No I'm a traditional girl and have always dreamed of my wedding day and waiting for the right guy at the right time.

**Brett:** Apart from the fact I thought I was going to get married at 23 (when I was young this seemed like the right time) and I'm now 30 it's pretty much the same. Amy: I actually thought I would marry at 23 too, I think that was what both our parents did. So maybe our views on marriage did change along the way!

Source: <http://www.stuff.co.nz/life-style/love-sex/10173666/The-aisle-less-travelled>

**Note: Registered Charities promoting Biblical Faith-based Marriage**

**Catholic Network of Marriage Educators**  
CC36165 Registered 18/12/2008

**Marriage Ministries International New Zealand Trust Board** CC44563 registered 6/07/2010

Purposes includes: "to establish and conduct a ministry to enhance and encourage the strengthening of marriage relationships following scriptural [biblical] principles ... to strengthen the theological base of marriages by encouraging theological discussion, reflection, study and writing."

**World Wide Marriage Encounter New Zealand**  
CC10554 Registered 4/07/2007

See website: [www.marriageencounter.org.nz](http://www.marriageencounter.org.nz)

*Q. Is there a specific religious orientation to the weekend?*

*"Marriage Encounter does present God as a focus for successful marriage. There are many faith expressions of Marriage Encounter Weekends - Catholic, as well as several Protestant denominations. While the Weekend may be presented in a given Faith expression, each is open to couples from other orientations. The opportunities of the Weekend go beyond the boundaries of any one expression."*

**The LORD Jesus Christ** in response to a question on divorce put to him by the Pharisees, replied: "Have you not read that He who made [them] at the beginning 'made them male and female' and said, 'For this reason a man shall leave his father and mother and be joined to his wife, and two shall become one flesh'? So then, they are no longer two but one flesh. Therefore what God has joined together, let no man separate." (Matt 19:3-6)



The man [Adam] said, "This is now bone of my bones, And flesh of my flesh; She shall be called Woman, Because she was taken out of Man." [23] For this reason a man shall leave his father and his mother, and be joined to his wife, and they shall become one flesh." [24] Genesis Chapter 2.

Marriage is a covenant relationship between a man, a woman, and God. When a Christian couple decides to marry, they must do so with an understanding that their marriage is an agreement to mutually honour God in and through the marriage.

Source of billboard above: <http://www.nomblog.com/2777/>

## Presidential Urgent Appeal for Funding Support for 2014/15



Dear members, friends and supporters of SPCS

The Society will soon embark on its 15th year of operation since the passing of its founder Patricia Bartlett OBE (d. 8/11/2000) and its 40<sup>th</sup> year since becoming an Incorporated Society (25/09/75).

The executive is very conscious of the challenges it faces to continue the “Stand for Decency” and the “Promotion of Community Standards” begun back in 1970 by our Founder and the thousands of financial Society members throughout the country who so valiantly supported her and the national executive.

On behalf of the current executive I appeal to you to give generously and help us find funding sources for the Society so it can continue its important work. We are most grateful to those who have made very generous donations and these are indicative of the wonderful goodwill that exists among members.

The prompt renewal of your membership donations for the new financial year, commencing 1 January 2015, would be greatly appreciated. All donations are tax deductible (33% deductible against taxable income) and we will send you a receipt if requested.

The hard working five-member SPCS executive is in good heart and we are always encouraged by your support.

**Please send donations to P.O. Box 13-683  
Johnsonville, 6440 marked “Presidential Appeal”**

Kind regards

**John Mills – President elect**

On behalf the SPCS Executive Committee

## Scandals tarnish NZ’s corrupt-free image

Scandals in sport, politics and business beg the question: **Is New Zealand complacent about corruption?** Nick Perry of the Associated Press reports.

If any country has a squeaky-clean image, it is New Zealand. It’s a place where police officers won’t even accept freebies from burger joints. It’s been ranked the world’s least corrupt nation for eight years straight by the watchdog group **Transparency International**.

Recent scandals in business, politics and sports, however, may put that reputation under threat. Some observers say the South Pacific nation’s sterling record for fairness may have made it complacent and less watchful for shady behaviour.

See [full story](#) Stuff News 29/05/14

<http://www.stuff.co.nz/business/industries/10096613/Scandals-tarnish-NZs-corrupt-free-image>

## Integrity Plus 2013 New Zealand National Integrity System

This report was released by Transparency International New Zealand (TINZ) on International Anti-Corruption Day - 9 December 2013. TINZ states on its website [www.transparency.org/nz](http://www.transparency.org/nz)

*“This landmark report reveals that serious and urgent action is needed to protect and extend integrity in New Zealand. Recent incidents and increasing public concern, provide a compelling case for a more pro-active approach to these issues.”*

The government has perhaps taken on board these concerns when on Wednesday 25 June 2014 the Minister of Justice, Hon. Judith Collins, unveiled a range of law changes to crack down on corruption. The **Organised Crime and Anti-corruption Legislation Bill** was tabled in Parliament. Once passed it will enable the government to ratify the **United Nations Convention Against Corruption**. The SPCS applauds this action that has been taken by the government.

See: [http://www.nzherald.co.nz/nz/news/article.cfm?c\\_id=1&objectid=11281689](http://www.nzherald.co.nz/nz/news/article.cfm?c_id=1&objectid=11281689)



## Corruption – Can we stop it?



**Corruption** manifests in different arenas of life in different ways, and can affect the corporate sector, public sector, individual politicians, political parties and governments. **Transparency International** generally defines corruption as "the abuse of entrusted power for private gain" usually through bribery or kickbacks. A broader definition of corruption encompasses undue influence over public policies, institutions, laws and regulations by vested private interests at the expense of the public interest. Corruption is often associated with fraud, which generally involves the deceitful use of documents or information for financial gain. However, fraud can occur at any level of an organisation and does not necessarily require the abuse of power.

**Longest sentence even given for white collar crime conviction in NZ - involving largest ever employee fraud (\$16.9m). Sentence 9 yrs. 6m. Fraudster released on parole after completing less than half his sentence !**

**Michael Swann** was sentenced to nine years and six months jail in March 2009 for his part in defrauding the Otago District Health Board (ODHB) of \$16.9 million, charges which he denied (he was held responsible for the theft of \$15.1million). He spent almost \$11.6 million of the stolen money on boats, flash cars and properties – buying some with suitcases of cash and was ordered by the court to pay back \$9.5 million. As of May 2011, 51 Swann assets were identified and restrained for sale, including 5 properties, 26 motor vehicles and 8 boats; \$1.2m having been recovered from Swann by the government by this date. At Swann's trial the court heard he bought almost \$8 million worth of cars and boats and \$3.6 million of real estate using money from the ODHB.

A former employee of the health board, Swann was released on parole at the end of July 2013 after serving just four years and eight months of his sentence (less than half).

As of August 2013 Mr Swann remained subject to a \$6 million pecuniary order, which effectively means any property recovered up to that amount can be used to satisfy the order made under **the Proceeds of Crime Act 1991**. Millions of dollars more remain unaccounted for. While in prison, Mr Swann, in an affidavit dated March 28, 2010, stated: "*I can definitely say that there is nothing by way of hidden or missing property.*"

Yet, a Rolls Royce tucked away in the corner of a Port Otago yard emerged in August 2013. It was not even on the list of cars subject to a confiscation order, which includes three luxury cars still to be found. The police and ODHB, and its Southern successor, have been consistently frustrated by Mr Swann's lack of cooperation and, as they see it, his obstructiveness. Under these circumstances, it just does not seem right, opined an Otago Daily Times reporter, that Mr Swann should be released after serving just under half his sentence.

**The sentencing judge, Justice Lyn Stevens, acknowledged he could have sentenced Mr Swann to as much as 21 years' jail.** It was on the basis of supposed remorse and reparations that his sentence was trimmed in the first place. Instead, the Judge settled on a 10 years and six months "starting point", and then knocked off a year for three reasons; Mr Swann's "relatively clean record", his expressed "remorse" and "attempts at reaching an agreement regarding reparation".

We know how false those second two reasons were. The judge should not have given Mr Swann any credit for empty words, and at least made parole subject to full cooperation, the ODT reporter wrote. Former ODHB chairman Richard Thomson was upset that the Parole Board had not sought to establish whether Swann had co-operated in any way, or considered his failure to do so indicative of his lack of remorse.

*Swann was not remorseful, he said, and the only lesson he had learned was not to get caught... The primary issue is whether this man co-operated to put right what he did that was wrong and I know ... that he has failed to do so.*

SPCS contends that in this case it is important to .... "*focus attention on the harmful nature and consequences of .... fraud, dishonesty in business ... and other forms of moral corruption, for the purpose of moral and spiritual improvement.*"

The sentence Swann received and the time he spent in prison, seems totally incommensurate with the serious nature of his crime which has had such a devastating financial impact on the wider community. The direct cost alone of prosecuting Swann and seizing his assets has been about \$1.24 million, not including police work. The ODHB incurred a \$16.9 million loss compounded by ongoing legal costs due to his refusal to cooperate.

The Board has also paid \$1.3 million investigating and prosecuting the case - increasing the total cost to \$18.2 million. The \$1.3m comprised \$890,000 in legal fees and \$420,000 in other costs such as the recovery, storage, security and valuation of Swann and Harford's assets, including the cost of returning a yacht from Fiji.

The SPCS sees little hope in there being a reduction in the widespread corruption in New Zealand, evidenced in part by widespread increase in white collar crime, due largely to the inability of enforcement agencies, legislators and politicians among others, to recognise that it is a symptom of a deeply imbedded widespread spiritual and moral and spiritual problem. (In philosophical, theological, or moral discussions, corruption is spiritual or moral impurity or deviation from an ideal).

The disdain for authority and the rule of law exhibited by so many corporate leaders and their moral bankruptcy evidenced by rapacious greed and lack of empathy for their vulnerable victims, finds roots in a worldview offenders have embraced that finds no place for the transcendent spiritual values that provide direction to, and sustain the proper working of the moral compass.

When Judges fail to enforce the law in a manner whereby the sentence is seen as an appropriate deterrent to those contemplating a life of crime, the judicial system is brought into utter disrepute. Judges engage in mere tokenism when they fail to deal appropriately with white collar crime at sentencing. Legislators and politicians do the same when they draft and pass laws that lack any provisions to have compliance provisions and prohibitions vigorously enforced.

In answer to the question "Can we realistically expect to be able to stop corruption such as white collar crime altogether?" – the answer is an emphatic "No!". Realistic goals should be to significantly reduce it by focusing on (1) enforcement - investing significant resources into the most effective deterrent measures we can find, (2) educating our citizens from an early age about the importance of good moral values, taking personal responsibility for our actions and the personal rewards of commitment to serving others and (3) ensuring that full financial restitution is made by offenders to their victims.

For more on white collar crime and sentences see: [http://www.nzherald.co.nz/crime/news/article.cfm?c\\_id=30&objectid=11271814](http://www.nzherald.co.nz/crime/news/article.cfm?c_id=30&objectid=11271814)

## Measuring Corruption

**Transparency International** uses a Corruption Perception Index (CPI) to compare levels of economic crime in different countries and has consistently ranked New Zealand as one of the least corrupt countries in the world. However the rankings are primarily based on opinion surveys rather than empirical evidence – and Transparency acknowledges that corruption is "to a great extent a hidden activity that is difficult to measure". Notwithstanding the subjectivity of its corruption scale, it has ranked New Zealand as one of the least corrupt out of 183 countries since 2003. For 2013 Denmark and New Zealand tie for first place in the index due to perceptions that their public sectors have the lowest levels of corruption.



**The Integrity Plus 2013 New Zealand National Integrity System Assessment** was released by TINZ, a registered charity, on International Anti-Corruption Day, 9 December 2013. TINZ, states:

"This landmark report reveals that serious and urgent action is needed to protect and extend integrity in New Zealand. Recent incidents and investigations of corruption, and increasing public concern, provide a compelling case for a more pro-active approach to these issues."

SPCS is concerned that TINZ's focus on a "perception" scale gauged by opinion surveys rather than empirical data, is fraught with serious methodological flaws linked to potential "conflicts of interest" and thereby could be viewed as inherently suspect and lacking integrity. It is highly beneficial to many of the TINZ members to have their respective officials contribute favourable "perception" inputs to TINZ questionnaires, given that such contributors are involved in business enterprises and public service/political activities where financial success is dependent on NZ being perceived as (1) a trading partner free of serious corruption and (2) having a transparent business and public service environment [conflict of interests?]

Note: The largest contributor to the financing of TINZ in 2013 was the Officer of the Auditor-General (a platinum-level status member of TINZ) and it received the highest score on the corruption-free perception index. It donated \$40,000 to TINZ in 2013 and is the partner to TINZ in producing the Integrity Plus 2013 Report.

## Porn industry and the Money Trail Update



The SPCS Dec. 2009 Newsletter featured a report on NZ companies linked to the porn industry and showed how a money trail could be traced back through a key company's subsidiaries to a "fictitious" owner – "Cuchara Inc" (as incorrectly listed on the NZ Companies Office website), a corporation registered at the time in the US – not under this name but rather "Carr Consulting P.A.". **CVC Group Ltd** was identified as a 'mother company' operating numerous porn/adult industry subsidiaries, including **Eden Digital Ltd** and **Vixen Direct Ltd**. CVC Group was directly owned by **Velocity Partners Ltd** which was owned by the US registered. "Cuchara Inc" directed by John M Carr.

On 11/11/11 Eden Digital, which had run the Erotica Lifestyles Expo, was put into liquidation by director John M Carr. On 23/06/14 CVC Group, its parent, was struck off the register. All 11 subsidiaries of CVC Group that marketed porn failed, (either put into liquidation owing creditors hundreds of thousands of dollars, or were struck off the register of companies after failing to file annual returns), can be located on the Companies Office website.

See:

<http://www.business.govt.nz/companies/app/ui/pages/individual/search?q=CVC%20GROUP%20LIMITED&roleType=SHR>

**Payroll Solution Services Ltd**, a company which provided accounting services exclusively to companies related to the director of **Eden Digital Ltd** and CVC Group, John M Carr, was put into liquidation by the High Court of Auckland on 2/09/2011. A settlement debt against director John M Carr CA of \$90,000 was secured by the petitioning creditor (IRD), \$40,000 was paid out to unsecured creditors and \$28,828 in liquidator's fees. Payroll Solutions remains in liquidation. Another director who was banned for four years, having earlier directed Eden Digital and CVC Group, now directs a porn/adult services distribution company – **Grafton Marketing Ltd**. Its registered office is Building B, 14-22 Triton Drive, Rosedale, Auckland, 0632, New Zealand.

## Banned company directors prone to 'hubris, humbug and hooliganism'

When a company director is prohibited by the Registrar of Companies under section 385 (3) of the Companies Act 1993 from taking part in any matter relating to the directing or management of any company, the Registrar must take action when such a director publicly disregards this prohibition and brazenly flouts the law. Such a director "*commits an offence and is liable on conviction to the penalties set out in section 373(4) of this Act.... A person convicted of an offence for failure to comply with the Act... is liable to imprisonment for a term not exceeding 5 years or to a fine not exceeding \$200,000.*"

The names of directors banned by the Ministry of Economic Development are published in the Gazette and can be easily accessed on the Companies Office website ([www.companies.govt.nz](http://www.companies.govt.nz)) by searching under their full legal names. Those banned under s. 385(3) are banned to protect the New Zealand public from such persons who have demonstrated a history of unsuccessful business ventures and are deemed unfit to be directors.

One director banned for four years from directing companies stated publicly he was "considering seeking a judicial review and suing the ministry [of Economic Development] for discrimination", merely because he claimed he was being unfairly investigated for breaching his banning order. This threat was never followed through and he was convicted and fined soon after for breaching his ban.

Another director, a twice-bankrupted Christchurch property developer, **David Ian Henderson**, recently threatened publicly to sue the NZ Insolvency and Trustee Service because of the way its staff had engaged in internal communications regarding his forthcoming bankruptcy examination. He is aware that evidence has been gathered by the Crown documenting the fact that he has been allegedly directing and managing companies while still a bankrupt. Henderson has also filed papers suing the Attorney-General for an alleged breach of his privacy – due to the removal of records involving his failed company that he was required to supply to the liquidator under a court order, but failed to do. As a bankrupt one is astonished that he can initiate such litigation when his pecuniary position is so poverty-prone. Henderson is scheduled for examination of his bankruptcy status in August 2014. **END**

## Obituary

It is with sadness that we inform SPCS members of the passing of Thomas ('Tom') James Quayle, a retired chartered accountant of Petone, who was a founding member of SPCS, passed away on 20 June 2014, after a lengthy period of declining health. He served the Society as national treasurer for many years and demonstrated his sincere and firmly held Christian faith in many spheres of his life. He was a Methodist lay preacher, a skilled debater and keen harrier in his youth and served the Methodist Mission Board in Africa for some years. Two current members of the Society went to his well-attended funeral service.

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### Reminder: Presidential Urgent Appeal Funding Support for 2014/15 (see President's letter page 8)

#### The objectives of SPCS – S. 2 Constitution

(a) To encourage self-respect and the dignity of the human person, made in the image of God. (b) To uphold the universally held principles: "Every human being has the inherent right to life" (c) To promote wholesome personal values, consistent with the moral teachings of the Bible, including strong family life and the benefits of lasting marriage as the foundation for stable communities. (d) To focus attention on the harmful nature and consequences of sexual promiscuity, obscenity, pornography, violence, fraud, dishonesty in business, exploitation, abuse of alcohol and drugs, and other forms of moral corruption, for the purpose of moral and spiritual improvement. (e) To foster public awareness of the benefits to social, economic and moral welfare of the maintenance and promotion of good community standards (f) To support responsible freedom of expression which does not injure the public good by degrading, dehumanising or demeaning individuals or classes of people (g) To raise money that will be used... to promote the moral and spiritual welfare of sectors of society that need special help .....

### The Society Welcomes New Members How to Become a Member

Please visit us our Society on the Internet for Application Forms, email us, or write to us or cut out this form, complete it and send it to us.

<http://www.spcs.org.nz>

Email: [spcs.org@gmail.com](mailto:spcs.org@gmail.com)

SPCS. PO Box 13-683 Johnsonville 6440

**Note: Membership of SPCS is by way of a donation.** Cheques should be made out to "SPCS" or "Society for Promotion of Community Standards Inc." PLEASE INDICATE IF YOU WANT A RECEIPT SENT TO YOU. Yes/ No (Circle/delete. Send stamped addressed envelope). We try and acknowledge by letter all those who send donations of \$50 or more.

Having read the Society's objectives I wish to support your work and apply for one full year's membership. I support the Society's objectives – see inset to left or [www.spcs.org.nz](http://www.spcs.org.nz)

Contact details

Name.....

Postal Address

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Tel. No. and E-mail

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Signed.....

My membership subscription/donation is enclosed (suggested minimum is \$45)

Please answer: I would like to recommend as a potential SPCS member (Please provide contact details on separate sheet to us so we can send out information) Yes/No. I wish to receive regular news updates by email Yes/No