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**Abstracts from the Equity and Trusts Interest Group**

**Equitable remedies in New Zealand**

Sue Tappenden

*Lecturer, Law School, The University of Waikato*

**Abstract**

This paper is part of a work in progress in which the author examines the development of equitable remedies in New Zealand. In particular the Courts' attitude towards awards of compensation for loss of opportunity will be explored particularly in the realm of joint ventures. The paper looks at the way in which the Court may find fiduciary relationships within enterprises even where there is no recognizable joint venture in a commercial sense. Fiduciary relationships are said not to be limited to a closed set of categories and therefore there is no reason why they should not apply to an 'evolving' joint venture. Once the fiduciary relationship has been established the paper goes on to examine the methods of restitution that are employed in order to compensate the wronged party.

**Discretionary Distribution?**

Alan Toy

*Lecturer, Department of Accountancy and Business Law, University of Otago*

This paper explores the possibility of discretionary distribution of assets on the back of recent cases in NZ, Australia and the UK (including; *Re International Investment Unit Trust* [2005] 1 NZLR 270; *Re French Caledonia Travel Service Pty Ltd (in liq)* (2003) 204 ALR 353; *Barlow Clowes International Ltd (in liq) v Vaughan* [1992] 4 All ER 22).

Where there are claimants whose funds have been mixed, should the *pari passu* approach be applied even if tracing is possible? Should this question fall to be determined on the basis of presumptions supplied by the courts as to the intentions of the parties and, if so, what should those presumptions be?

The paper examines the justifications used in the cases to support the *pari passu* approach. It questions whether or not 'hard-nosed property rights' are being overridden in the search for the 'nearest approach practicable to substantial justice'.