

**Statement from James Whelan, owner, 194 Hereford Street (Joe's Garage)**

THAT my name is JAMES WARWICK KIERAN WHELAN. I am 46 years old and live at [REDACTED]

2. THAT I am a joint Director of Joe's Garage Franchise Services Limited ("the company") which has a license to own and operate the franchise arm of "Joe's Garage" which is a Cafe and registered trademark operating in New Zealand.

3. THAT on or about June the 1st 2007 the company purchased a building located at 194 Hereford Street in Christchurch ("the building") from Red Raspberry Company Limited with vacant possession.

4. THAT during the due diligence period for the purchase of the building a number of matters were confirmed to us. It was a permitted use under the operative district scheme to operate a Cafe which was the company's intention and further that the building had recently had considerable earthquake strengthening completed by the vendors to bring the building up to code which further attracted us to complete the purchase.

5. THAT our Solicitor whom acted for us in the purchase, Mr Steve Savill of R.A. Fraser & Associates lost his file for this purchase in the February 22 2011 earthquake as their offices in Worcester Street, Christchurch were destroyed as a result of the earthquakes.

6. THAT on or about July 2007 the company entered into a franchise agreement and memorandum of lease with Hobart Cottage Limited to own and operate a Cafe at the building to be known as Joe's Garage for a term of 15 years.

7. THAT on or about August 2007 Hobart Cottage Limited opened Joe's Garage in the building to the public fully consented and fully insured both for material damage and business interruption. The term of any such business interruption was up to 18 months.

8. THAT on or about April 2010 Hobart Cottage Limited sold and assigned its interest in Joe's Garage to La Memoire Limited to be owned and operated by Ian and Christine Watson.

9. THAT on September 4 2010 a magnitude 7.1 earthquake hit Christchurch together with on-going after-shocks causing minor to moderate damage to the building.

10. THAT after the September 4 2010 earthquakes Joe's Garage closed for approximately 4 weeks to complete such inspections and allow essential services to return to the Christchurch CBD area.

11. THAT after the September 4 2010 earthquakes and advice from our insurers and local Council we instructed the engineering firm of O'Loughlin Taylor Spence Ltd (Mr Rhys Smith) to immediately attend to a formal structural inspection of the building.

12. THAT in late September 2010 our engineers completed its structural report and pursuant to recommendations in the report the company immediately instructed its building project manager, Mr Alastair Miles of Miles Construction Limited to engage contractors to attend to any such required remedial work on the building.

13. THAT such remedial work was duly completed and included parapet repairs; the removal of roofing to allow access for inspection; the fitting of strappings to the south wall and the fitting of brackets internally to the front wall of the building.

14.THAT all such remedial work the company was required to attend to on the building it did so immediately and to the satisfaction of its engineers and local Council.

15.THAT in or about early October 2010 the building was given a "green sticker" by local Council and Joe's Garage re-opened to the public

16.THAT at 12.51pm on February 22 a magnitude 6.3 earthquake hit Christchurch severely structurally compromising the building.

17.THAT during the February 22 earthquake Gregory Tobin, a Chef whom worked at Joe's Garage was tragically killed at the building.

18.THAT as a result of the February 22 earthquakes the building was determined as total constructive loss and by order of CERA under its special powers the building was compulsorily demolished in August 2011.

I hereby solemnly declare that the foregoing are true and correct statements.

James Whelan

(received via email 10 January 2012)