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# Bay Cafe Limited (In Liquidation) Trading as Hollywood Bakery & Espresso Browns Bay Liquidators' Final Report

## 1 INTRODUCTION AND APPOINTMENT

Boris van Delden and Peri Micaela Finnigan, CAANZ Accredited Insolvency Practitioners, of Auckland, were appointed jointly and severally as liquidators of Bay Café Limited (“the company”) on 28 November 2018 by resolution of the shareholders

Pursuant to section 257(1)(a)(i) of the Companies Act 1993 (“the Act”) the liquidators herewith report to all creditors and shareholders that the liquidation of the company has been completed. This final report should be read in conjunction with the liquidators’ previous reports.

## 2 RESTRICTIONS

Whilst all care and attention has been taken in compiling this report, we do not accept any liability whatsoever to any party as a result of the circulation, publication, reproduction or use of this report.

We reserve the right (but are under no obligation) to review and, if we consider necessary, revise this report in respect of any information existing at the date of this report which becomes known to us after that date.

## 3 REALISATION OF ASSETS

### 3.1 *Fixed Assets and Intangibles*

The business was sold for \$61,000 plus a waiver of rent for January 2019 for both the company and its guarantors in recompense for a claim in equity for improvements.

Prior to liquidation the franchisor had expressed interest in purchasing the business as a going concern, however negotiations stalled because the franchisor had concerns over the company’s accumulated debt. The liquidation procedure addressed these concerns, and the liquidators restarted negotiations with the franchisor. The franchisor subsequently revised its needs from interest in the business as a going concern to interest only in purchasing its assets.

The liquidators then sought other purchasers for the business as a going concern, in order to maximise realisable value. This approach was also intended to minimise losses to both the landlord and shareholders as guarantors of the lease.

In order to minimise liquidation costs and occupational rent, the liquidators set a deadline for interested parties to submit tenders for the business and/or its assets. The liquidators sold the assets to the highest bidder, being the landlord, who wished to preserve the integrity of the fit-out, in the hope that a new Hollywood Bakery franchisee would be found who could quickly start trading and paying rent.

The stakeholders agreed the above sale offered the best opportunity for the landlord to secure a new rent-paying tenant as quickly as possible, which would in turn minimise any claim against the shareholders as guarantors of the lease. It was also hoped the franchisor might still retain a flagship Hollywood Bakery franchise.

Subsequently the landlord and franchisor were unable to find a suitable new tenant/franchisee and the premises had to be re-purposed. The landlord also reported incurring further time and cost finalising a building consent which the company had previously failed to do.

### **3.2 Sale of Secured Assets**

The company's point of sales system was sold by the liquidators on behalf of the secured creditor, Finance Now, who received the net proceeds.

## **4 INVESTIGATIONS**

Our investigations into the trading affairs of the company are complete and have not revealed any issues of further interest or claims that are economically viable to pursue.

## **5 CREDITORS' CLAIMS**

### **5.1 Secured Creditors**

Claims from secured creditors amounted to \$12,019. The claim made by the ANZ Bank was paid in full. The liquidators realised a secured asset on behalf of Finance Now and have paid the net proceeds to the secured creditor. The third secured creditor Coca Cola Amatil has dealt with the assets subject to its security.

### **5.2 Preferential Creditors**

Preferential claims in respect of final wages paid post liquidation amounted to \$7,148.07 and were paid in full.

### **5.3 Unsecured Creditors**

Following a review of claims lodged, unsecured claims totalling \$531,589 were admitted in the liquidation. Distributions amounting to 5.7 cents in the dollar were made in respect of these claims.

## **7 REMOVAL OF COMPANY FROM THE REGISTER**

The liquidators have given public notice pursuant to Section 320(4) of the Act of the intention to remove the company from the register.

The attention of all creditors or shareholders is drawn to Section 321 of the Act which provides that any person may send to the Registrar of Companies, not later than the date specified in the notice, an objection to the removal on any one or more of the following grounds:

- (a) That the company is still carrying on business or there is other reason for it to continue in existence; or
- (b) That the company is party to legal proceedings; or
- (c) That the company is in receivership, or liquidation, or both; or
- (d) That the person is a creditor, or a shareholder, or a person who has an undischarged claim against the company; or
- (e) That the person believes that there exists, and intends to pursue, a right of action on behalf of the company under Part 9 of the Act; or
- (f) That, for any other reason, it would not be just and equitable to remove the company from the New Zealand register.

Note: Section 321(2) of the Act provides that a claim by a creditor or a shareholder or any other person against a company is not an “undischarged claim” if a receiver or liquidator has notified that person that the company has no surplus assets. The date by which objections must be lodged with the Registrar is 31 July 2020.

## 8 PREVIOUS REPORTS

Creditors are advised that all previous reports relating to the conduct of the liquidation are available on the liquidators’ website [www.mvp.co.nz](http://www.mvp.co.nz).

## 9 CONTACT DETAILS

Enquiries should be directed to Dalwyn Whisken on DDI (09) 969 5336 or by email to [dwhisken@mvp.co.nz](mailto:dwhisken@mvp.co.nz).

The Liquidators can be contacted at:

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PERI M FINNIGAN  
LIQUIDATOR

DATED this 18<sup>th</sup> day of June 2020

# Realisations and Distributions

## Bay Cafe Limited (In Liquidation) 28 November 2018 to 18 June 2020

	<b>Cash Received \$</b>
<b>Realisations</b>	
Sale of Business	61,000
Cash on Hand	258
Interest	63
Sale of Assets subject to security – Finance Now	1,500
<b>Total Realisations</b>	<b>\$62,821</b>
<b>Payments</b>	
<b>Liquidators Fees</b>	
Liquidators Fees	26,215
Disbursements	636
<b>Total Liquidators Fees</b>	<b>\$26,851</b>
<b>Other Costs of Liquidation</b>	
Electricity	116
Residents Withholding Tax on Interest	16
<b>Total Costs of Liquidation</b>	<b>\$132</b>
<b>Distributions</b>	
Secured Creditor – ANZ Bank of New Zealand Limited	4,572
Secured Creditor - Finance Now Limited	1,140
Preferential Wages	7,148
Unsecured Creditors	22,978
<b>Total Distributions to Creditors</b>	<b>35,838</b>
<b>Total Payments</b>	<b>\$62,821</b>
<b>BALANCE HELD</b>	<b>\$0</b>

**Note:** the above figures are GST exclusive