



**Bay Café Limited (In Liquidation)  
Trading as Hollywood Bakery & Espresso Browns Bay**

**Liquidators' Fourth Report to creditors and shareholders,  
for the period from 28 November 2019 to 27 May 2020**

McDonald Vague Limited

Level 10, 33 Federal Street,  
Auckland Central

PO Box 6092, Victoria Street West,  
Auckland 1142, New Zealand

p: 09 303 0506

f: 09 303 0508

e: insol@mvp.co.nz

www.mvp.co.nz

## 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 255(2)(d) of the Companies Act 1993 ("the Act"), the liquidators herewith report on the progress of the liquidation. This fourth report should be read in conjunction with the liquidators' previous reports. This report is being sent to all shareholders and all creditors who have filed a claim in the liquidation.

A Statement of Realisations and Distributions is **attached**.

## 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 CONDUCT OF THE LIQUIDATION DURING THE PRECEDING SIX MONTHS

### *Asset Realisations*

#### **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.

## **6 FUNDS / LIKELY OUTCOME**

It is not anticipated there will be any further distributions to creditors.

## **7 MATTERS DELAYING THE COMPLETION OF THE LIQUIDATION**

There are no further matters delaying completion of the liquidation, which will now be finalised.

## **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:

McDonald Vague Limited  
Level 10, 33 Federal Street  
Auckland 1010

P O Box 6092  
Victoria Street West  
Auckland 1142



PERI M FINNIGAN  
LIQUIDATOR

DATED this 11<sup>th</sup> day of June 2020

# Realisations and Distributions

## Bay Café Limited (In Liquidation) 28 November 2018 to 27 May 2020

| Realisations                                       | Cash<br>Received<br>\$ |
|--|------------------------|
| 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