



McDonald
Vague

business recovery partners

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

McDonald Vague Limited
Level 10, 52 Swanson Street,
Auckland Central

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

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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 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

(Statement of Affairs: \$89,200)

The business was sold for \$61,000 and 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 expressed interest in purchasing the business as a going concern but would not do so with the company's accumulated debt. The liquidation ensured the debt remained with the company rather than its business, however the franchisor, for other reasons, subsequently withdrew its interest in purchasing the business as a going concern.

The liquidators then worked with the franchisor to find a new franchisee, but without success. In order to minimise accumulating liquidation costs 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 franchisee could be found and would be able to immediately start trading.

The liquidators, franchisor and shareholders agreed the sale could benefit all parties, as the franchisor would be able to retain a flagship franchise, the landlord would minimise any loss in rental whilst a different tenant completed a new fit-out, and by extension the claim against shareholders as guarantors on the company's lease would also be minimised.

Unfortunately, the landlord has since advised that they received no offers from any new franchisee, and that the premises are being re-purposed. The landlord also reported that it has incurred further time and cost obtaining building consent which the company had failed to do during its tenure.

3.2 Sale of Secured Assets

The company's point of sales system was subject to the security of Finance Now. The liquidators sold the system and accounted to the secured creditor for the proceeds.

4 INVESTIGATIONS

The liquidators' investigations to date into the trading affairs of the company prior to liquidation indicate that the company may have paid an excessive amount in purchases in proportion to the company's turnover. It is not economically viable to continue investigations.

5 CREDITORS' CLAIMS

5.1 Secured Creditors

Secured claims have been received from three secured creditor for the amount of \$12,019. To date distributions have been made to ANZ Bank New Zealand Limited in full, and a partial payment to Finance Now. The third claim relates to a Purchase Money Security Interest, however there was no stock or proceeds of stock available to the secured creditor and their claim is unsecured.

5.2 Preferential Creditors

The director of the company personally paid the amounts to the former employees for holiday pay and to the Inland revenue Department which would have ranked as preferential claims in the liquidation.

5.3 Unsecured Creditors

Following a review of the claims received in the liquidation, including from the director for their unsecured advances to the company, thirteen unsecured claims totalling \$521,558 have been accepted by the liquidators. A distribution of approximately 5.8 cents in the dollar has been paid in respect of those claim.

6 FUNDS / LIKELY OUTCOME

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

7 MATTERS DELAYING THE COMPLETION OF THE LIQUIDATION

The following matter is outstanding:

- Completion of the liquidation

8 ESTIMATED DATE OF COMPLETION

It is estimated the liquidation will be completed within three months.


9 CONTACT DETAILS

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

The Liquidators can be contacted at:

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PERI M FINNIGAN
LIQUIDATOR

DATED this 10th day of December 2019

Realisations and Distributions

Bay Café Limited (In Liquidation) 28 November 2018 to 27 November 2019

| Realisations | Cash Received \$ |
|--|------------------------|
| Sale of Business | 61,000 |
| Cash on Hand | 258 |
| Interest | 62 |
| Sale of Assets subject to security – Finance Now | 1,500 |
| Total Realisations | \$62,820 |
| Payments | |
| Liquidators Fees | |
| Liquidators Fees | 25,791 |
| Disbursements | 594 |
| Total Liquidators Fees | \$26,385 |
| Other Costs of Liquidation | |
| Electricity Costs | 116 |
| Residents Withholding Tax on Interest | 16 |
| Total Costs of Liquidation | \$132 |
| Distributions | |
| Secured Creditor – ANZ Bank of New Zealand Limited | 4,572 |
| Secured Creditor - Finance Now Limited | 1,140 |
| PAYE on unsecured distribution to employees | 105 |
| Unsecured Creditors | 30,225 |
| Total Distributions to Creditors | 36,042 |
| Total Payments | \$62,559 |
| BALANCE HELD | \$261 |

Note: the above figures are GST exclusive