



McDonald  
Vague

business recovery partners

## CM Contracting Limited (In Liquidation)

### Liquidators' First Report

McDonald Vague Limited

33 Federal Street,  
Auckland Central

PO Box 6092, Wellesley Street,  
Auckland 1141, New Zealand

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**TO: The directors, shareholders, and known creditors of the company**

#### 1 INTRODUCTION AND APPOINTMENT

CM Contracting Limited ("the company") was placed into liquidation by the High Court at Auckland pursuant to Section 241(2)(c) of the Companies Act 1993 ("the Act") on 17 December 2019 at 11:12 a.m. on the application of Atlas International Freight Limited. Boris van Delden and Iain McLennan, RITANZ Accredited Insolvency Practitioners, of Auckland, were appointed as joint and several liquidators of the company.

#### 2 RESTRICTIONS

In preparing this report and its appendices, we have relied upon information provided to us. We have not independently verified or audited that information. 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, amend this report to take into account any information existing at the date of this report that becomes known to us after this report is published.

#### 3 INDEPENDENCE

A declaration of independence is attached at Appendix 2. As far as we are aware there are no conflicts real, perceived, or risks of independence.

#### 4 ATTACHMENTS

The following documents are attached to this report:

- Appendix 1: Statement of Affairs setting out the company's estimated financial position
- Appendix 2: Declaration of independence / relationships / indemnities and upfront payments
- Appendix 3: Schedule of company creditors' names and addresses
- Appendix 4: Notice of Liquidators' decision to dispense with meeting of creditors
- Appendix 5: Notice to creditors to prove debts or claims
- Appendix 6: Creditors claim form

## 5 COMPANY STRUCTURE AND BACKGROUND

Date of incorporation:	12 December 2013	
Company number:	4840500	
Nature of business:	Construction	
Trading address:	12 Cape Hill Road, Unit G, Pukekohe 2120	
Share capital:	100 Shares	
Shareholders:	Samuel Like Capper	90 Shares
	Teau Moana McKenzie	10 Shares
Directors:	Samuel Luke Capper	
	Teau Moana McKenzie	
Related companies:	CM Contracting Cook Islands	

The company engaged a freight company to move building supplies to Rarotonga, Cook Islands. When the freight company wasn't paid, it served a statutory demand and subsequently applied to the High Court to have the company placed in liquidation.

Media reports state that one of the company's directors, Samuel Capper, was remanded in custody after appearing in court on drug related charges. Further media reports from the Cook Islands, suggest that the remaining director is in Rarotonga, working to assist affected customers of the company. Neither we nor creditors we have been in contact with, have yet been able to contact or interview either of the directors nor locate any of the company's assets. We are investigating and have been sharing information and working with secured creditors to locate and recover the company's assets and records.

## 6 STATEMENT OF AFFAIRS

A Statement of Affairs showing the company's estimated financial position as at the date of our appointment is provided at Appendix 1.

## 7 ASSETS AND PROPOSALS FOR CONDUCTING THE LIQUIDATION

We will realise all available assets.

We will complete a thorough review of the company's books, records and affairs to:

- ensure that all assets have been properly accounted for,
- determine if there are any other avenues of recovery for creditors,
- determine if the company's officers have properly carried out their duties and take appropriate steps where necessary.

If there are funds available for distribution to creditors, we will verify creditors' claims and make a distribution. We will then complete the liquidation and request that the Registrar of Companies remove the company from the register.

## 8 LIABILITIES AND CREDITOR CLAIMS

A schedule of known creditors and their addresses is provided at Appendix 3, as required by Section 255(2)(c) of the Act.

A notice to creditors to prove debts or claims is provided at Appendix 5. Also provided is a creditor's claim form at Appendix 5 for completion and return to this office by Friday, the 7<sup>th</sup> day of February 2020. Creditors that have not made a claim by the date on the notice may be excluded from any distribution made. If you believe that you are a secured creditor, please contact us and the appropriate form will be sent to you.

### 8.1 *Secured Creditors*

As at the date of liquidation several secured parties (noted on the attached Estimated Statement of Affairs – Appendix 1) had registered security interests against the company on the Personal Property Securities Register.

#### *Personal Property Securities Act / Reservation of Title*

If any creditor believes that they hold a Purchase Money Security Interest entitling them to any goods or proceeds from realisation of goods, they should contact us immediately.

If any creditor believes that they have a Reservation of Title over goods and they have not perfected their interest, they should also contact us immediately.

### 8.2 *Preferential Creditors*

The applicant creditor's claim amounts to \$4,787 being Court awarded costs in the liquidation application.

We are in the process of determining if there are any unpaid wages, holiday pay or redundancy pay owing to former employees.

The Inland Revenue Department has not yet provided us with a creditor's claim form but we expect there will be amounts due in respect of GST, PAYE and other payroll deductions.

### 8.3 *Unsecured Creditors*

We are at this stage aware of \$23,262 owing to unsecured creditors.

## 9 CREDITORS' MEETING / LIQUIDATION COMMITTEE

A notice of the Liquidators' decision to dispense with the meeting of creditors is provided at Appendix 4.

Any creditor or shareholder may at any time in the course of the liquidation request that the liquidators call a meeting pursuant to Section 314 of the Companies Act 1993, for the purpose of

appointing a liquidation committee. Any request for a meeting must be submitted to the liquidators in writing.

## 10 FURTHER INFORMATION

If you are aware of any information that would assist the Liquidators, please set the details out in writing, attach any supporting evidence, and send it to us. Please note that it can be difficult for liquidators to act in reliance on information that is not provided in writing.

If any creditor wishes to receive the six monthly reports by email as and when they are published, please ensure that an email address is provided on your creditors' claim form.

This report and all subsequent reports will be available on the Liquidators' website at [www.mvp.co.nz](http://www.mvp.co.nz)

## 11 ESTIMATED DATE OF COMPLETION

It is currently too early to estimate a date of completion for the liquidation.

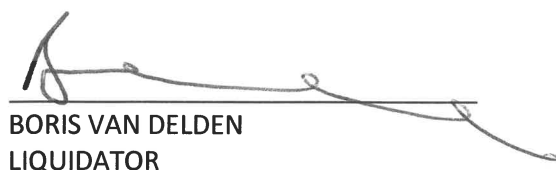
## 12 CONTACT DETAILS

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, 52 Swanson Street  
Auckland 1010

P O Box 6092  
Wellesley Street  
Auckland 1141



BORIS VAN DELDEN  
LIQUIDATOR

DATED this 12<sup>th</sup> day of February 2020

## CM Contracting Limited (In Liquidation) Estimated Statement of Affairs

Statement of Affairs for the above named company as at 17 December 2019 (being the date of liquidation) showing assets at estimated realisable values and liabilities expected to rank.

<b>ASSETS SPECIFICALLY PLEDGED</b>	<i>Estimated to Realise</i>	<i>Est Due to Secured Creditor</i>	<i>Est Deficiency Ranking as Unsecured</i>	<i>Surplus</i>
Victory VL200E - BOQ Equipment Finance Ltd	unknown	-	-	-
Goods - Formula Four Investments Limited	unknown	-	-	-
Ford Ranger KFH874 - Heartland Bank	unknown	37,113	(19,000)	-
Euromach ETL160 Excavator - UDC Finance Ltd	unknown	-	-	-
Euromach ES18ZT Excavator - UDC Finance Ltd	unknown	-	-	-
Goods - Tyremax LP	unknown	-	-	-
Steelbro Deck Trailer 4206U - Oxford Finance Limited	unknown	-	-	-
<b><i>Estimated surplus / (deficiency) as regards specifically pledged assets</i></b>	<b>\$ -</b>	<b>\$ 37,113</b>	<b>(\$19,000)</b>	<b>\$ -</b>

### ASSETS AVAILABLE FOR PREFERENTIAL CREDITORS

	<i>Book Value</i>	<i>Estimated to Realise</i>
Accounts receivable	unknown	-
Bank account balances	nil	-
Inventory	unknown	-
Total	-	-

### Less preferential creditors

Applicant creditor	4,787
Total	<u>4,787</u>

### Estimated deficiency as regards preferential creditors

(\$4,787)

### LESS UNSECURED CREDITORS

Estimated deficiency as regards Secured Creditors	19,000
Estimated deficiency as regards preferential creditors	4,787
Trade creditors	23,263
<b><i>Estimated surplus/(deficiency) as regards unsecured creditors</i></b>	<b><u>(\$47,050)</u></b>

#### Notes:

1. The above estimates are subject to the costs of the liquidation.

#### Disclaimer of Liability:

The information contained in the Statement of Affairs has been gathered from third party sources. We have not verified the information supplied. The Statement of Affairs has been prepared for the purpose of the liquidation and we do not accept any responsibility on any grounds whatsoever, including liability in negligence, to any party.

## **CM Contracting Limited (In Liquidation) Declaration of Independence / Relationships / Indemnities and Upfront Payments**

### **A DECLARATION OF INDEPENDENCE**

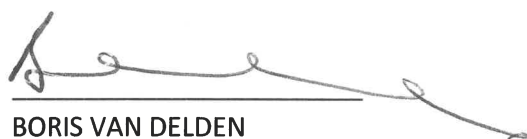
- (i) The appointed and McDonald Vague Limited have undertaken a proper assessment of the risks of independence prior to accepting appointment in accordance with the law code of conduct and applicable professional standards and have concluded that they have no prior business or professional relationship with the insolvent that is a real or potential risk and that they are independent.

### **B DECLARATION OF RELATIONSHIPS**

- (ii) The appointed and McDonald Vague Limited have no prior business or professional or personal relationship with known associates of the insolvent or the major secured creditors.
- (iii) The appointed disclose there are no other relevant relationships to declare.
- (iv) The appointed and McDonald Vague Limited have not provided any prior professional services to the insolvent or known associates of the insolvent in the prior two years.

### **C DECLARATION OF INDEMNITIES AND UPFRONT PAYMENTS**

- (v) There is no indemnity nor upfront payment.



**BORIS VAN DELDEN  
LIQUIDATOR**

**DATED this 12<sup>th</sup> day of February 2020**

## Appendix 3

# CM Contracting Limited (In Liquidation) Schedule of Creditors' Names and Addresses

Pursuant to Section 255(2)(c) of the Companies Act 1993

Creditor Names	Address 1	Address 2	Address 3
Accident Compensation Corporation	P O Box 3248	WELLINGTON 6140	
Atlas International Freight Limited c/o Secure Collections	P O Box 113 010	AUCKLAND 1149	
BOQ Equipment Finance Limited	Lvl 1, Building 3, 331 Rosedale Road	Albany	AUCKLAND
Formula Four Investments Limited	217 Manukau Road	PUKEKOHE 2120	
Heartland Bank Limited	75 Riccarton Road	Riccarton	
Inland Revenue Department	P O Box 39 010	Wellington Mail Centre	CHRISTCHURCH 8011
Oxford Finance Limited	Level 8, 34 Shortland Street	Auckland Central	LOWER HUTT 5045
Relief Transport Limited	P O Box 72 485	Papakura	AUCKLAND 1010
Samuel Luke Capper	7a Waratah Street	Birkenhead	AUCKLAND 2244
Teau Moana McKenzie	7a Waratah Street	Birkenhead	AUCKLAND 0626
Tyremax LP	PO Box 1590	INVERCARGILL 9840	AUCKLAND 0626
UDC Finance Limited	PO Box 91145	Victoria Street West	AUCKLAND 1142

## Appendix 4


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### Notice of Liquidators' Decision to Dispense with Meeting of Creditors

After having regard to the assets and liabilities of CM Contracting Limited (In Liquidation) and the likely result of the liquidation, the liquidators propose to dispense with a meeting of creditors pursuant to Section 245 of the Companies Act 1993.

The liquidators do not, however, wish to preclude creditors from expressing their views. Please contact Dalwyn Whisken of this office on DDI (09) 969 5336 if you have any specific enquiries.

If you wish to request that a creditor's meeting be called, notice in writing is required within 10 working days of receiving this notice. Your notice you must also state the reason you require a meeting so that an agenda can be prepared and circulated to creditors and creditors can be given the opportunity to vote on any proposed resolutions by voting letter.

  
BORIS VAN DELDEN  
LIQUIDATOR

DATED this 12<sup>th</sup> day of February 2020



## Appendix 5

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IN THE MATTER of                    The Companies Act 1993

and

IN THE MATTER of                    CM Contracting Limited (In Liquidation)

### **Notice to Creditors to Prove Debts or Claims**

Notice is given that the liquidator of CM contracting Limited (In Liquidation) (“the company”), fix Friday the 7<sup>th</sup> day of February 2020, as the day on or before which the company’s creditors are to make their claims and establish any priority their claims may have under Section 312 of the Companies Act 1993. Creditors not having made a claim by this date may be excluded from any distribution made.



BORIS VAN DELDEN  
LIQUIDATOR

DATED this 12<sup>th</sup> day of February 2020

#### **ADDRESS OF LIQUIDATOR**

McDonald Vague Limited  
Level 10, 52 Swanson Street  
AUCKLAND 1010

PO Box 6092  
Wellesley Street  
AUCKLAND 1141

Telephone: (09) 303 0506  
Facsimile: (09) 303 0508  
Website: [www.mvp.co.nz](http://www.mvp.co.nz)

**DATE OF LIQUIDATION: 17 December 2019**



The Insolvency & Business Recovery Specialists

McDONALD VAGUE LIMITED

PO Box 6092, Wellesley St, Auckland 1141, New Zealand.  
Telephone 0-9-303 0506, Facsimile 0-9-303 0508

# Unsecured Creditor's Claim

(Also for use by Preferential Creditors)

SECTION 304(1) COMPANIES ACT 1993  
(For help see www.mvp.co.nz or email  
claims@mvp.co.nz)


NAME AND POSTAL ADDRESS OF CREDITOR IN FULL

\* Any personal information collected is for the purpose of administering the liquidation in accordance with the Companies Act 1993.

The information will be used and retained by the liquidators and McDonald Vague and will be released to other parties only with your authorisation or in compliance with the Privacy Act 1993.

Under Section 304(1) of the Companies Act 1993 any claim by an unsecured creditor against a company in liquidation must be in this prescribed form and must –  
(a) Contain full particulars of the claim; and  
(b) Identify any documents that evidence or substantiate the claim.

You may have access to and request correction of any personal information.

(\*Not applicable, if creditor is not an individual within the meaning of the Privacy Act 1993.)

Telephone Numbers: ( )

( )

E-Mail

My Reference is:  
(if applicable)

NAME OF COMPANY IN LIQUIDATION:

(IN LIQUIDATION)

(If claim is made on behalf of creditor, specify relationship to creditor and authority)

claim that the company was at the date it was put into liquidation indebted to the abovenamed creditor for the sum of (Amount in words):

### STATUS OF CLAIM:

1. I am an unsecured creditor for  
(Also applicable to secured creditors who hereby surrender their security)

\$

2. I am a preferential creditor for  
(Refer details on reverse)

\$

3. My total claim is for  
(State currency if other than \$NZ)

Other Currency

NZ \$

4. I have claimed retention/reservation of title rights pursuant to rights held by me

Note: If you are a secured creditor contact this office and a Secured Creditors Claim Form will be sent to you. Tick if Applicable

Full particulars of the claim are set out, and any supporting documents that substantiate the claim, are identified on the reverse of this form.

(The liquidator may require the production of a document under Section 304(2) of the Companies Act 1993. You are **not required to attach any supporting documents** at this stage, but you may attach them now, if you think it would expedite the processing of the claim.)

SIGNED:

Date: / /

## WARNING —

It is an offence under Section 304(6) of the Companies Act 1993 to –

Make or authorise the making of, a claim that is false or misleading in a material particular knowing it to be false or misleading; or

Omit, or authorise the omission from a claim of any matter knowing that the omission makes the claim false or misleading in a material particular.

Received  
(Date Stamp)

### RESERVED FOR OFFICE USE:

Claim admitted/rejected for voting purposes:  
(Delete one)

Signed:

Date: / /

Preferential Claim for:

Ordinary Claim for:

~~CLAIM REJECTED FOR PAYMENT:~~

\$

\$

or  
~~CLAIM ADMITTED FOR PAYMENT:~~

\$

\$

Signed Liquidator:

Date: / /

**Note:** If the decision to admit or reject a claim is amended, regulation 8 of the Companies Act 1993 Liquidation Regulations 1994 requires that it be recorded in writing.



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PO Box 6092, Wellesley St, Auckland 1141, New Zealand.  
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# Particulars of Claim

If the creditor owes money to the company, please give full details

Date	Details of Claim and Identification of Documents that Evidence or Substantiate the Claim	Amount \$

**CLAIMS AGAINST INVENTORY (Romalpa Claims)(Consignment Goods) (Retention of Title) etc.**

Please provide details of the basis of the retention of title claim filed by you and/or details of entry on the Personal Property Securities Register.

**PREFERENTIAL CLAIMANTS ONLY**

**Guideline**

The Seventh Schedule of the Companies Act 1993 sets out those claims which are regarded as preferential and shows their extent and order of priority. For example, wages and salary of any employee in respect of services rendered to the company during the four months preceding the commencement of liquidation are preferential AND the total sum to which priority is to be given in the case of any one employee for wages, holiday pay, deductions, redundancy and child support must not exceed \$23,960 or such greater amount as is prescribed at the commencement of the liquidation.

1. Why do you believe you are a preferential creditor?  
(eg. employee, GST, etc) \_\_\_\_\_
2. Details of your claim: \_\_\_\_\_  
\_\_\_\_\_

If applicable please record here your GST Registration number: \_\_\_\_\_  
and total GST included in your tax invoice: \$ \_\_\_\_\_