



McDonald
Vague

business recovery partners

CTPartners New Zealand Limited (In Liquidation)

Liquidators' Fifth Report (for the period from 23 April 2017 to 22 October 2017)

McDonald Vague Limited

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1 INTRODUCTION AND APPOINTMENT

Boris van Delden and Jared Waiata Booth, Insolvency Practitioners of Auckland, were appointed joint and several liquidators of CTPartners New Zealand Limited ("the company") on 23 October 2015 by the High Court at Auckland. On 18 March 2016, Jared Waiata Booth resigned his position as liquidator, appointing Peri Micaela Finnigan as his successor.

Pursuant to Section 255(2)(d) of the Companies Act 1993 ("the Act"), the liquidators are reporting on the progress of the liquidation. This fifth 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 arising from 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 light of any information existing at the date of this report but that becomes known to us after that date.

3 CONDUCT OF THE LIQUIDATION DURING THE PRECEDING SIX MONTHS

Asset Realisations

3.1 Bank Account Closure

On closure of the company bank account, the liquidators received \$2,109.

3.2 Debtors

The liquidators recovered \$73,600 from pre-liquidation debtors. There are no further pre-liquidation debtors to be recovered.

3.3 Sale of Assets

The liquidators recovered \$11,798 from the sale of the company's assets.

3.4 GST Refund & Bank Interest

The liquidators received \$18,564 from a pre-liquidation GST refund.

Bank interest of \$2,119 has been earned on funds held by the liquidators for the benefit of the company. RWT of \$583 has been paid on the interest earned.

3.5 Legal Action

The liquidators settled a claim with a third party relating to funds received by that company pre-liquidation, which resulted in a recovery of \$114,990.

4 INVESTIGATIONS

The liquidators are continuing their investigations into the books, records, and affairs of the company and, in particular, possible grounds for recovery of funds paid to certain creditors prior to the date of liquidation.

The liquidators have obtained documents relating to guarantees provided by the company for the benefit of the parent company and general security agreements provided to third parties to secure obligations of the parent company prior to the company's liquidation. Legal advice has been sought on potential remedies available under the Companies Act and action for recovery has been and is being taken by the liquidators.

5 CREDITORS' CLAIMS

5.1 Secured Creditors

Secured claims have been received in respect of General Security Agreements from:

- PHL Variable Insurance Company & Phoenix Life Insurance Company for the amount of US\$6,540,922; and
- Built Limited for the amount of \$206,914

and a PPSR claim from:

- Fuji Xerox Finance Limited for the amount of \$11,604

Interest continues to accrue on these amounts.

JP Morgan Chase Bank had a General Security Agreement registered against the company as at the date of liquidation. The liquidators challenged the security and payment received pursuant to the security, which resulted in a recovery of \$114,990.

The liquidators have rejected the PHL Variable Insurance Company and Phoenix Life Insurance company claim on 19 October 2017, and they have 20 working days to object.

5.2 *Preferential Creditors*

The liquidators have received preferential claims in the liquidation totalling \$163,850.

Simon Monks held a preferential claim of \$4,303 in relation to costs and disbursements awarded by the High Court to him when he successfully applied to have the company put into liquidation. This preferential claim has been paid in full.

Built Limited, who supported the liquidation application of Simon Monks, held a preferential claim of \$892 in relation to costs and disbursements awarded by the High Court as a creditor in support of the liquidation. This preferential claim has been paid in full.

The liquidators accepted employees' preferential claims to the extent of \$26,981. The accepted preferential claims have been paid in full. The balance of the employees' claimed preferential claims totalling \$131,674 have been rejected by the liquidators as being preferential amounts payable but those claims have been accepted as unsecured claims in the liquidation.

To date, the Inland Revenue Department has not submitted a preferential claim but we understand the IRD has a preferential claim for PAYE totalling \$20. No distribution has been made in respect of the outstanding PAYE.

5.3 *Unsecured Creditors*

As at the date of preparing this report, 13 unsecured creditors' claims have been received, which total \$291,847. When the employees' non-preferential unsecured claims are added, the unsecured claims in the liquidation total \$423,521. In the interests of minimising liquidators' fees, the liquidators will not attend to the formality of accepting or rejecting creditors' claims until such time as we are in a position to pay a distribution.

6 LIQUIDATORS' FEES

Liquidators' fees and office disbursements to the date of this report total \$80,949 excluding GST. The fees are based on the hours of work undertaken as follows:

Work Category	Hours	\$
Appointment functions and statutory requirements	88.02	24,737
Asset realisations	36.10	9,552
Creditors' claims, queries, and distributions	54.80	19,394
Taxation	7.90	1,801
Investigations and legal	124.90	41,860
Office disbursements		1,069
Total	311.72	\$98,413

The liquidators have incurred disbursements totalling \$12,503 excluding GST in relation to their conduct of the liquidation as follows:

Legal fees	13,456
Debt collection costs	22
Auctioneer costs	660
Total	<u>\$14,138</u>

Liquidators' fees in a Court ordered liquidation are to be approved by the Court and if required a retrospective application for fee approval will be made by the liquidators.

Section 284 (1) of the Act provides that an application (with the leave of the Court) may be made by a creditor, shareholder or director of a company in liquidation to review or fix the remuneration of the liquidators. In circumstances where no application has been made to review or fix the liquidators' remuneration the Court will be less inclined to rigorously examine the fees submitted by the liquidators for subsequent approval.

7 FUNDS / LIKELY OUTCOME

It is too early to determine whether there will be a distribution to unsecured creditors.

8 MATTERS DELAYING THE COMPLETION OF THE LIQUIDATION

The following matters are outstanding:

- Obtaining further documents from third parties
- Reviewing creditors' claims
- Taking legal action arising from the liquidators' investigations and reviewing of creditors' claim, if appropriate.

9 ESTIMATED DATE OF COMPLETION

Based on the information contained in this report, the liquidators cannot provide a date yet for the completion of the liquidation.

10 CONTACT DETAILS

Enquiries should be directed to the writer on DDI (09) 306 3342 or by email to bvandelden@mvp.co.nz.

The Liquidators can be contacted at:

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BORIS VAN DELDEN
LIQUIDATOR

DATED this 24th day of October 2017

Realisations and Distributions

CTPartners New Zealand Limited (In Liquidation) 23 October 2015 to 22 October 2017

Realisations	Cash Received \$
Bank Account Closure	2,109
Debtors	73,600
Settlement re legal action	114,990
Interest	2,119
Sale of Assets	11,798
GST Refunds	18,564
Total Realisations	\$223,180
Payments	
Liquidators Fees	
Liquidators Fees	98,413
Disbursements	946
Total Liquidators Fees	\$99,359
Other Costs of Liquidation and Trading On	
Legal Fees	13,456
Debt Collection Costs	22
Auctioneer Costs	660
Residents Withholding Tax on Interest	563
Total Costs of Liquidation and Trading On	\$14,701
Distributions	
Preferential court costs	5,195
Preferential employee claims – PAYE and GST	26,981
Total Distributions to Unsecured Creditors	\$32,176
Total Payments	\$146,236
BALANCE HELD	\$76,944

Note: the above figures are GST exclusive