



McDonald  
Vague

business recovery partners

## First Agenda Limited (In Liquidation)

### Liquidators' Nineteenth Report (for the period from 24 February 2019 to 23 August 2019)

McDonald Vague Limited

Level 10, 52 Swanson Street,  
Auckland Central

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

p: 09 303 0506

f: 09 303 0508

e: [insol@mvp.co.nz](mailto:insol@mvp.co.nz)

[www.mvp.co.nz](http://www.mvp.co.nz)

#### 1 INTRODUCTION AND APPOINTMENT

Boris van Delden and Iain McLennan, Insolvency Practitioners of Auckland, were appointed jointly and severally as liquidators of First Agenda Limited ("the company") on 24 August 2010 by the High Court at Auckland.

Pursuant to Section 255(2)(d) of the Companies Act 1993 ("the Act"), the liquidators herewith report on the progress of the liquidation. This nineteenth 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

This report has been prepared in accordance with section 255(2)(d) of the Act. 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

##### *Asset Realisations*

##### **3.1 Office furniture**

Office furniture totalling \$2,849 has been sold.

##### **3.2 Intellectual property**

As previously advised, the company's software and database in development in relation to the "iCashbook" accounting product was purportedly sold in October 2009 to another company operated by or for the benefit of the then directors of First Agenda.

The liquidators have received back part of the software and database suite however have not in their opinion received back all of the IP, particularly given the funding and creditors obligations incurred by the company and its directors in further development work following that purported sale.

The liquidators have received subsequent advice that the company's non-software and database IP has been illegally removed from the company, and that no party is entitled to use the IP, in whatever form it is now in, until such time as the improper transfer of all of the IP to any party is remedied.

Mr Williams disputed the liquidators' position re ownership and there has been extensive communication between the liquidators and Mr William's as directors. As a result, the liquidators continue to pursue the sale proceeds due on 30 September 2014 as an alternative course of action.

Written demands for repayment have been returned gone no address or not known at this address despite the postage being sent to the purchaser's proper addresses as recorded on the Companies Office website.

#### 4 INVESTIGATIONS

The liquidators' investigations into the books, records and affairs of the company continue on a cost benefit basis.

#### 5 CREDITORS' CLAIMS

##### 5.1 *Preferential creditors*

A preferential claim of \$8,367 was received in respect of the applicant creditor's costs of placing the company into liquidation. This claim has been paid in full. We are not aware of any other preferential claims.

##### 5.2 *Unsecured creditors*

As at the date of preparing this report, 16 unsecured creditors' claims have been received which total \$1,242,211. In the interests of minimising liquidators' fees, the liquidators will review the creditors' claims for items and issues that will assist the completion of the liquidators' investigations, but will not attend to the formality of accepting or rejecting creditors' claims unless they are in a position to pay a distribution.

#### 6 LIQUIDATORS' FEES

The liquidators' time and cost to 23 August 2019 totalled \$61,974 excluding disbursements and GST. These costs are based on the work undertaken as follows:-

<b>Work Category</b>	<b>Hours</b>	<b>\$</b>
Appointment and statutory functions	28.2	7,734
Management and administration	39.2	9,027
Creditors' claims, enquiries and reports	30.5	7,689
Taxation	26.6	6,987
Investigations and asset realisations	85.3	30,637
<b>Total</b>	<b>209.8</b>	<b>\$61,974</b>

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**

All known preferential claims have been paid in full. The level of any dividend to unsecured creditors will depend on the resolution of the legal matter referred to above.

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

The following matters are outstanding:

- Resolution of the sale transaction
- Completion of investigation

## **9 ESTIMATED DATE OF COMPLETION**

Based on the information contained in this report the liquidators presently propose to complete all outstanding matters with a view to retiring as liquidators within the next six months.


## **10 CONTACT DETAILS**

Enquiries should be directed to the writer on DDI (09) 303 9512 or by email to [imclennan@mvp.co.nz](mailto:imclennan@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



IAIN McLENNAN  
LIQUIDATOR

DATED this  day of August 2019

# Realisations and Distributions

## First Agenda Limited (In Liquidation) 24 August 2010 to 23 August 2019

Realisations	Cash Received \$
GST Refund – Additional Invoices	56,239
Interest	1,531
Pre-Liquidation GST Refund	12,187
Sundry Refund	11
Sale of Assets	2,849
<b>Total Realisations</b>	<b>\$72,817</b>
Payments	
Liquidators Fees	
Liquidators Fees	60,974
Disbursements	2,074
<b>Total Liquidators Fees</b>	<b>\$63,048</b>
Other Costs of Liquidation	
Auction Costs	833
Bank Fees	174
Residents Withholding Tax	387
<b>Total Costs of Liquidation</b>	<b>\$1,394</b>
Distribution	
Applicant Creditor – Preferential Court Costs	8,367
<b>Total Distribution to Preferential Creditor</b>	<b>\$8,367</b>
<b>Total Payments</b>	<b>\$72,809</b>
<b>BALANCE HELD</b>	<b>\$8</b>

Note: the above figures are GST exclusive