



McDonald
Vague

business recovery partners

K. S. Johnson Construction N. Z. Limited (In Liquidation)

Liquidators' Fourteenth Report (for the period from 4 July 2019 to 3 January 2020)

McDonald Vague Limited

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1 INTRODUCTION AND APPOINTMENT

Peri Micaela Finnigan and Tony Leonard Maginness, Insolvency Practitioners of Auckland, were appointed joint and several liquidators of K. S. Johnson Construction N. Z. Limited ("the company") on 4 July 2013. On 18 December 2015, Tony Leonard Maginness resigned his position as liquidator, appointing Boris van Delden 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 fourteenth report should be read in conjunction with the liquidators' previous reports.

This report is being sent to all directors and shareholders and to 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 respect of any information existing as 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 Debtor – Mainzeal

(Statement of Affairs: \$Unknown)

The liquidators of Mainzeal have admitted a claim by the company of \$960,955, including GST and retentions.

Mainzeal's liquidators' claim against Mainzeal's directors was heard in the High Court at Auckland, starting on 17 September 2018 and ending on 13 November 2018. The substantive judgment was given on 26 February 2019. The directors were found liable for breach of their duties and were ordered to contribute \$36 million to the Mainzeal companies.

Isola Vineyards Limited (in liquidation), which was placed into liquidation on 19 April 2018, was ordered to contribute \$2.164 million to Mainzeal's liquidators, which related to a transaction for inadequate consideration. Mainzeal's liquidators' report for the period ended 28 August 2019 advises that they are pressing Isola's liquidators for their claim to be admitted and settled.

A further judgment confirming quantum and granting the Mainzeal companies and its liquidators' costs was given on 12 July 2019.

The substantive judgment has been appealed by the directors and cross-appealed by the Mainzeal companies and its liquidators. We understand that the appeal is scheduled to be heard in August 2020.

Mainzeal's liquidators' report for the period ended 28 August 2019 confirms that \$18m has been paid into a trust account by the insurers of Dame Jenny Shipley, Mr Tilby, and Mr Gomm to secure their liability under the judgment pending the outcome of the appeal and that a bankruptcy notice has been issued to Mr Yan, who applied to set the bankruptcy notice aside. The report further advises that the liquidators:

expect that there will be some funds available for distribution to unsecured creditors. The quantum of any ultimate distribution to unsecured creditors will depend on the Liquidators being able to recover the amounts awarded against the directors and Isola including the outcome of any appeals or cross-appeals.

We anticipate that there will be at least a partial debtor write off in respect of the Mainzeal debt owed to the company. The write off may result in a GST recovery for the company, depending on how the company treated the GST component of the transactions.

3.2 Tools of Trade and Trade Debtors **(Statement of Affairs: \$500)**

The liquidators recovered \$478 on the sale of the company's tools and \$3,600 from the collection of debtors. No further realisations are anticipated.

3.3 Closure of Bank Account and Cash on Hand

The liquidators received \$492 in respect of the above. No further realisations are anticipated.

3.4 Remittances and Refunds

The IRD has remitted \$1,006 to the liquidators for pre-liquidation penalties charged in error.

ACC has refunded \$991 to the liquidators for pre-liquidation ACC levies paid by the company.

4 INVESTIGATIONS

The liquidators have concluded their investigations and considered whether taking any actions was appropriate. There were no matters that came to the knowledge of the liquidators that, if pursued, could eventuate in a benefit to the company's creditors.

The only remaining recovery available to the liquidators relates to a potential distribution arising from the company's admitted claim in Mainzeal's liquidation and/or any GST recovery arising from any write off of any Mainzeal debt (depending on how the company treated the GST on these invoices).

The liquidators are currently awaiting the outcome of the appeal and cross-appeal of the High Court substantive judgment referred to above. Once Mainzeal's liquidators have made their final distribution to Mainzeal's unsecured creditors (if any), we will resolve the company's GST position in respect of the Mainzeal debt and will recover any GST payable to the company in respect of any GST write off.

5 CREDITORS' CLAIMS

5.1 *Secured Creditors*

The liquidators received one secured creditor's claim in relation to security held over the company's present and after acquired personal property and a specific security over stock supplied together with its proceeds. As at the date of liquidation, the company did not have any personal property to which the secured creditor had any entitlement. This creditor's claim is, therefore, unsecured.

ASB Bank Limited has a financing statement registered against the company's present and after acquired property. ASB Bank limited has filed a secured claim for \$294,801. No dividend has been paid to ASB Bank Limited as at the date of this report.

5.2 *Preferential Creditors*

A preferential claim has been received in from ANZ Bank in the amount of \$342. The liquidators have not reviewed this claim.

The Inland Revenue Department has submitted a preferential claim for \$87,257.

No dividend has been paid to preferential creditors at the date of this report.

5.3 *Unsecured Creditors*

As at the date of preparing this report, unsecured creditors' claims have been received from nine creditors.

Unsecured creditors' claims received total \$443,704.

In the interests of minimising liquidators' fees, the liquidators will not attend to the formality of accepting or rejecting creditors' claims unless and until we are in a position to pay a distribution.

6 FUNDS / LIKELY OUTCOME

Any distribution to creditors is dependent on the company receiving a distribution in the Mainzeal liquidation and/or the company being entitled to any GST refund on the amount owing to the company

by Mainzeal, in the event that the Mainzeal debt is written off in full or in part by the company (depending on how the company treated the GST on these invoices).

We will not be able to advise whether a distribution will be made to unsecured creditors until the final outcome of the claim by Mainzeal's liquidators against Mainzeal's directors and any associated recovery action is known.

7 MATTERS DELAYING THE COMPLETION OF THE LIQUIDATION

The following matters are outstanding:

- Recovery of any distribution from the Mainzeal liquidation
- Any debt write-off relating to the Mainzeal debt
- Admitting and/or rejecting creditors' claims
- Payment of any distribution to creditors on their admitted claims
- Completion of the liquidation

8 ESTIMATED DATE OF COMPLETION

The liquidators will not be in a position to retire until after the proceedings in the Mainzeal liquidation have been concluded and its liquidators have made their final distribution (if any) to Mainzeal's unsecured creditors. Mainzeal's liquidators' most recent report says that it is not yet practical for them to estimate the date of completion of that liquidation.

9 CONTACT DETAILS

Enquiries should be directed to Marisa Brugeyroux on DDI (09) 306 3340 or by email to mbrugeyroux@mvp.co.nz.

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PERI M FINNIGAN
LIQUIDATOR

DATED this 29 day of January 2020

Realisations and Distributions

K. S. Johnson Construction N. Z. Limited (In Liquidation) 4 July 2013 to 3 January 2020

3 July 2019

Realisations	
Bank Account Closure	310
Cash on Hand	183
Trade Debtors	3,600
Tools of Trade	478
IRD Remittance of Penalties	1,006
ACC Levy Refund	991
Total Realisations	\$6,568
Payments	
Liquidators Fees	
Liquidators Fees	6,363
Disbursements	93
Total Liquidators Fees	\$6,456
Other Costs of Liquidation	
Auction Fees	112
Total Other Costs	\$112
Total Payments	\$6,568
BALANCE HELD	\$Nil

Note: the above figures are GST exclusive