



McDonald
Vague

business recovery partners

MODERN BUILT INVESTMENTS LIMITED (IN LIQUIDATION)

Liquidators' First Report

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

McDonald Vague Limited

Level 10, 33 Federal Street,
Auckland Central

PO Box 6092, Victoria Street West,
Auckland 1142, New Zealand

p: 09 303 0506

f: 09 303 0508

e: insol@mvp.co.nz

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1 INTRODUCTION AND APPOINTMENT

Modern Built Investments Limited (in Liquidation) (“the company”) was placed into liquidation by the Court of Appeal at Wellington pursuant to Section 241(2)(c) of the Companies Act 1993 (“the Act”) on 01 October 2021 at 10.00 am on the application of Tracey Ann O’Brien and McCaw Lewis Trustees (TA O’Brien) Limited. Iain McLennan Licence No: IP82 and Colin Sanderson Licence No: IP89, Licensed 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. We are not aware of any real or perceived conflicts of interest or risks to our independence.

4 ATTACHMENTS

The following documents are attached to this report:

- Appendix 1: Statement of Affairs
- Appendix 2: Declaration of independence, relationships, indemnities, and upfront payments
- Appendix 3: Schedule of 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:	17 September 1997	
Company number:	873392	
New Zealand Business Number:	9429038011160	
Date ceased trading:	The company continues to trade	
Nature of business:	Commercial Rental	
Trading address:	23 Grasslands Place, Frankton, Hamilton, Hamilton	
Previous names/Trading name:	Nil	
Share capital:	2000 Ordinary Shares	
Shareholders:	Trustees of the RDS Trust	980
	Russell David Spiers	20
	Trustees of the T A O'Brien Family Trust	980
	Tracey Ann O'Brien	20
Directors:	Russell David Spiers	
Related companies:	Everyman Boats Limited	
	Steel Building Solutions Limited	

The Court of Appeal appointed liquidators to this company in a case involving relationship property.

The company owns commercial properties in Auckland and Hamilton and has continued to trade since the appointment of the liquidators pending the sale of the properties. It is expected that all creditors will be paid in full, from the proceeds of the sales.

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. The amount recorded in the Statement of affairs for accounts receivable and the shareholders' current accounts, are as shown in the draft financial statements for 31 March 2021. We are reviewing these figures. The liquidators will be selling the two commercial properties owned by the company and are withholding certain information in relation to the potential value of the properties to avoid prejudicing the sale process.

7 ASSETS AND PROPOSED ACTIONS IN THE LIQUIDATION

We will realise all available assets. It is anticipated that the sale of the properties will be completed within the next 6 months

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.

It is anticipated that all unrelated creditors, whose claims have been verified and accepted, will be paid in full. Surplus funds will be distributed to the shareholders. We will then complete the liquidation and request that the Registrar of Companies remove the company from the register.

8 LIABILITIES AND CALL FOR CREDITOR CLAIMS

The liquidators have compiled a schedule of the company's creditors and their addresses as required by Section 255(2)(c) of the Act, which is at Appendix 3. The schedule has been compiled from company records and information provided to the liquidators at the time of preparing this report. The schedule may not list all of the company's creditors and all of the parties listed on the schedule may not be creditors of the company.

There are no known contingent creditors. There are no known current or pending proceedings to which the company is a party.

A notice to creditors to prove debts or claims is provided at Appendix 5 and an unsecured creditor's claim form is provided at Appendix 6. If you are an unsecured creditor and you wish to lodge a claim in the company's liquidation, please complete the unsecured creditor's claim form then return the completed form together with supporting documentation to our offices by Monday, the 1st day of November 2021. Creditors that have not made a claim by this date may be excluded from any distribution made.

If you believe that you are a secured creditor, you should not complete the unsecured creditor's claim form. Please contact us and request that a secured creditor's claim form be sent to you.

8.1 Secured Creditors

As at the date of liquidation 1 secured party had a registered security interest against the company on the Personal Property Securities Register.

ANZ BANK NEW ZEALAND LIMITED All present and After Acquired Personal Property

The company provided a guarantee to ANZ for the debts of the related company, Everyman Boats Limited. It is expected that the guarantee will be called up on the sale of the company's properties. The amount covered by the guarantee at the date of appointment was \$489,000 but this is subject to any steps or repayments Everyman Boats Limited may make and accordingly the amount may be different on the date of settlement. The liquidators will take steps to recover any debt arising from Everyman Boats Limited.

Personal Property Securities Act / Reservation of Title

If you have not registered a financing statement on the PPSR and you believe you have:

- a Purchase Money Security Interest entitling them to any goods in the possession or control of the company and/or proceeds from the realisation of those goods; and/or
- a Reservation of Title over goods;

you should contact us immediately.

8.2 Preferential Creditors

The Inland Revenue Department has not included a preferential amount in the claim form they have filed, but we understand that there is an amount of \$6,515 due in respect of GST.

We estimate that preferential creditors will recover 100 cents in the dollar.

8.3 Unsecured Creditors

From our review of the company's accounting records and other information we estimate that the amount due to unsecured creditors is approximately \$138,761. This includes amounts owed to the Inland Revenue Department for the Small Business Cashflow loan received by the company and a potential claim for unpaid income tax for the 2019 and 2020 years. We estimate that unsecured creditors may receive 100 cents in the dollar.

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 <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 Colin Sanderson on DDI +64 (7) 838 0908 or by email to csanderson@mvp.co.nz.

The Liquidators can be contacted at:

McDonald Vague Limited
Level 10
33 Federal Street
Auckland 1010


P O Box 6092
Victoria Street West
Auckland 1142


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Iain McLennan
LIQUIDATOR (Licence No: IP82)

Dated this 8th day of November 2021

Appendix 1

			McDonald Vague
Appendix 1			
MODERN BUILT INVESTMENTS LIMITED (IN LIQUIDATION)			
Statement of Affairs			
Statement of Affairs for the above named company as at 1 October 2021 (being the date of liquidation) showing assets at estimated realisable values and liabilities expected to rank.			
ASSETS SPECIFICALLY PLEDGED			
<i>Land and Buildings</i>			
ASSETS AVAILABLE FOR PREFERENTIAL CREDITORS			
		<i>Book Value</i>	<i>Estimated to Realise</i>
Accounts receivable		-	-
Recovery of Bank guarantee for related company (See Note 4 below)			489,000
Shareholders Current Accounts (As at 31 March 2021 per draft accounts)		233,380	233,380
Total		233,380	722,380
Less preferential creditors			
Inland Revenue Department			6,515
Total			6,515
Estimated surplus as regards preferential creditors			\$715,865
ASSETS AVAILABLE FOR GENERAL SECURITY AGREEMENT HOLDER/S			
		<i>Book Value</i>	<i>Estimated to Realise</i>
Estimated surplus as regards preferential creditors			715,865
72 Richard Pearse Drive Mangere Auckland (See Note 5 below)			Withheld
23 Grasslands Place Frankton Hamilton (See Note 5 below)			Withheld
Total		-	715,865
LESS GENERAL SECURITY AGREEMENT HOLDER			
ANZ Bank New Zealand Limited (incl contingent amounts- See note 4)			4,884,000
Total			4,884,000
Estimated surplus as regards General Security Agreement holders			surplus expected
Surplus/(Deficiency)			surplus expected
AVAILABLE FOR UNSECURED CREDITORS			
LESS UNSECURED CREDITORS			
Estimated deficiency as regards General Security Agreement holders	(See note 6 below)		surplus expected
Trade creditors			6,882
IRD unsecured debt re Small Business Cashflow loan			11,800
IRD unsecured debt re Income Tax			120,079
Estimated surplus/(deficiency) as regards unsecured creditors			surplus expected

Notes:				
1. There is no unpaid capital liable to be called up.				
2. The above estimates are subject to continuing investigations into the draft accounts the costs of the liquidation.				
3. The General Security Agreement holder's claim will continue to accrue interest until fully paid.				
4. There is a contingent liability to the ANZ Bank in relation to a guarantee provided by the company for Everyman Boats Limited				
5. The estimated value of the properties is withheld so as not to prejudice the sale process				
6. Following the sale of the company's properties it is expected that all creditors will be paid in full				
Disclaimer of Liability:				
The information contained in the Statement of Affairs has been supplied by the company. 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.				

MODERN BUILT INVESTMENTS 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 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 a potential risk and that they are independent.

B DECLARATION OF RELATIONSHIPS

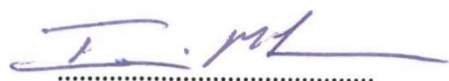
- (ii) The appointed and McDonald Vague Limited have no prior business or professional or personal relationship with known associates of the insolvent or with the major secured creditors that are a real or potential risk with the exception and to the extent of:

Name	Relationship	Reason
ANZ Bank New Zealand Limited (Mortgagee and General Security Holder)	We have previously been appointed on insolvency matters by ANZ and have dealt with them as a creditor on others.	The previous involvements with the ANZ do not provide any expectation for the result of this liquidation

- (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.



Iain McLennan
LIQUIDATOR

Dated this 8th day of November 2021

MODERN BUILT INVESTMENTS LIMITED (IN LIQUIDATION)**Schedule of Creditors' Names and Addresses**

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

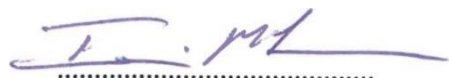
Creditor Name	Address 1	Address 2	Address 3	Postcode
ANZ Bank New Zealand Limited	P O Box 788		Auckland	1142
Assetcare	PO Box 24343	Royal Oak	Auckland	1345
Hamilton City Council	Private Bag 3010	Hamilton		3240
Inland Revenue Department	PO Box 39010	Wellington Mail Centre	Lower Hutt	5045
Lyon O'Neale Arnold	PO Box 746	Tauranga		3144

Notice of Liquidators' Decision to Dispense with Meeting of Creditors

After having regard to the assets and liabilities of Modern Built Investments 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 Colin Sanderson of this office on DDI +64 (7) 838 0908 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.


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Iain McLennan
LIQUIDATOR

Dated this 8th day of November 2021

Appendix 5

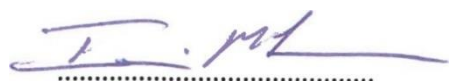
IN THE MATTER of The Companies Act 1993

and

IN THE MATTER of Modern Built Investments Limited (in Liquidation)

Notice to Creditors to Prove Debts or Claims

Notice is given that the liquidator of Modern Built Investments Limited (in Liquidation) ("the company"), fix 01 November 2021, 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.



Iain McLennan
LIQUIDATOR

Dated this 8th day of November 2021

ADDRESS OF LIQUIDATOR

McDonald Vague Limited
Level 10
33 Federal Street
Auckland 1010

P O Box 6092
Victoria Street West
Auckland 1142

Telephone: +64 (9) 303 0506
Facsimile: +64 (9) 303 0508
Website: <http://www.mvp.co.nz>

DATE OF LIQUIDATION: 01 October 2021



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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

Telephone Numbers: ()

()

E-Mail

My Reference is:
(if applicable)

* 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.)

NAME OF COMPANY IN LIQUIDATION:

(IN LIQUIDATION)

I _____
(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. I am an unsecured creditor 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

(Refer details on reverse)

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: / /

CLAIM REJECTED
FOR PAYMENT:

\$

Preferential Claim for:

Ordinary Claim for:

\$

or
CLAIM ADMITTED
FOR PAYMENT:

\$

Preferential Claim for:

Ordinary Claim for:

\$

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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McDONALD VAGUE LIMITED

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

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 \$25,480 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: _____

\$