



McDonald
Vague

business recovery partners

MODERN BUILT INVESTMENTS LIMITED (IN LIQUIDATION)

Liquidators' Fourth Report For the period from 1 October 2022 to 31 March 2023

McDonald Vague Limited
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1 INTRODUCTION AND APPOINTMENT

Iain McLennan and Colin Sanderson, Licensed Insolvency Practitioners, of Auckland, were appointed as joint and several liquidators of Modern Built Investments Limited (In Liquidation) (“the company”) on 1 October 2021.

This report has been prepared pursuant to Section 255(2)(d) of the Companies Act 1993 (**Act**) for the purpose of reporting on the liquidation of the Company. A Statement of Realisations and Distributions is **attached** as Appendix 1.

The report is being sent to all shareholders and all creditors who have filed a claim in the liquidation.

2 RESTRICTIONS

This report should be read in conjunction with the liquidators’ previous reports.

This report has been prepared using the information known to us. We have not independently verified the accuracy or reliability of the information provided or undertaken audit of the Company. 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 at the date of this report which becomes known to us after that date.

3 UPDATED INTERESTS STATEMENT

We have not become aware of any circumstances, relationships, or other facts that create, or could reasonably be perceived as creating, a conflict of interest for us in relation to our independence as liquidators since we last prepared an interests statement.

4 CONDUCT OF THE LIQUIDATION DURING THE PRECEDING SIX MONTHS

In the last reporting period the liquidators have -

- Finalised the companies share register
- Realised the amount owed by EBL
- Advanced recovery of a claimed overpayment of legal fees, directors fees and other intercompany amounts
- Met with both shareholders and their advisers to advance resolution
- Paid a first distribution of a portion of the company's capital reserves to all shareholders
- Advanced tax finalisation

Background

The liquidators were appointed by the Court of Appeal and it was anticipated that all creditors would be paid in full, from the proceeds of the sale of the company's commercial properties, which were located in Hamilton and Auckland.

Asset sales have been completed and the purchase price for each has been received in full.

The secured creditor has been paid in full for the company's debt and for the debt of the related company, Everyman Boats Limited (EBL), which had been guaranteed by the company and was secured by the company's properties. The company took assignment of the secured creditor's security over EBL assets and the debt has subsequently been settled.

Tax matters existed at the date of liquidation and also arising from the sale of the company assets. The income tax payable by the company for the year ending 31 March 2022 financial years was calculated and paid. The other tax issues are being attended to and will be finalised in due course.

The company is solvent as the result of significant capital gain on the asset sales. All known third party creditors have been paid in full except for two which are disputed.

5 INVESTIGATIONS

The liquidators have largely finished their core investigations into the books, records and affairs of the company, in order to address a range of issues concerning the shareholders and their respective current accounts. The liquidators have advised the relevant parties of the issues faced.

Our investigations have identified amounts that may be owed to the company and liabilities of the company that have to be met. The matters investigated include –

- The level of personal responsibility for legal fees paid by the company on various matters.

- The liability of the company to a related company that has been removed from the Register of Companies and the recovery of a receivable from a related company. That company has been restored to the register in the reporting period and the liquidators have reserved funds to distribute to that related company creditor.
- The final position of the shareholders' current accounts.

Because of the complex nature of the issues, the liquidators have engaged legal counsel and are involved in detailed negotiations with legal advisors for each of the shareholders in an endeavour to recover the various issues. This process is on-going, and the director and shareholders are cooperating with the liquidators.

There are no known current or pending proceedings for which the company is a party.

6 CREDITORS' CLAIMS

In the interest of minimising liquidator's fees, the liquidators will only formally accept or reject creditors' claims if there are funds available to pay a distribution.

The following claims have been received:

CLAIMS RECEIVED	NUMBER	VALUE	DISTRIBUTIONS	¢ IN THE \$
GSA Holders	1	4,848,568	4,848,568	100
IRD Preferential Claims	1	6,394	6,394	100
Unsecured Claim	4	74,331	74,331	100
Disputed creditors	2	\$81,232		

Four unsecured claims which have been admitted by the liquidators, which amount to \$74,331 (incl GST) have been paid in full. Two further unsecured claims have been received. One is disputed by the director and the other, in relation to legal fees, forms part of the on-going settlement negotiations.

The company's income tax position for the years ending 31 March 2021 was established with the assistance of the company's external accountants. The income tax payable for the year ending 31 March 2021 of \$54,630.80 was added to the Inland Revenue department's unsecured claim and was paid as part of the distribution to unsecured creditors. This is included in the above distribution figures.

The income tax for the years ending 31 March 2019, 2020, and 2022 have also been confirmed and paid to IRD as a distribution. The 2022 year included both pre and post liquidation activity.

7 LIQUIDATORS' FEES

The Company has paid liquidators' fees and disbursements to the end of the reporting period totalling \$158,335 plus GST.

The fees are based on 582.4 hours of work undertaken as set out in the remuneration summary attached as appendix 2.

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.

8 FUNDS / LIKELY OUTCOME

All creditors will be paid in full and there will be funds available for distribution to the shareholders. As identified in section 6 above, the claim of one unsecured creditor is being assessed and remains unpaid and another claim forms part of the settlement negotiations.

9 COMPLETION DATE AND MATTERS DELAYING THE COMPLETION OF THE LIQUIDATION

The following matters are outstanding:

- Recovery of any outstanding amounts owing to the company
- Tax finalisation
- Further and Final Distributions to shareholders

We are unable to estimate when the liquidation will be completed at this time.

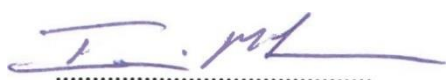
10 CONTACT DETAILS

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:

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Iain McLennan
LIQUIDATOR (Licence No: IP82)

Dated this 18th day of April 2023

Appendix Two

MODERN BUILT INVESTMENTS LIMITED (IN LIQUIDATION)

BREAKDOWN OF LIQUIDATORS REMUNERATION AND EXPENSES FOR THE PERIOD OF THE LIQUIDATION

1 Oct 2021 to 31 March 2023

Time costs by Position and Work Type	Hourly rate	Appointment Functions		Asset Realisation		Creditors & Report		Management & Tax		Investigation		Total	
		Hours	Cost	Hours	Cost	Hours	Cost	Hours	Cost	Hours	Cost	Hours	Cost
Directors /Partners /Consultants/Liquidators	\$400	23.2	\$7,494	104.7	\$33,015	41.9	\$12,759	31.3	\$11,954	33.8	\$10,745	234.9	\$75,967
Forensic Accountants / Associates	\$300 - \$380												
Insolvency Managers	\$140 - \$280	13.4	\$3,719	111.4	\$29,280	18.8	\$4,779	46.6	\$11,201	107.2	\$27,250	297.4	\$76,229
Insolvency Accountants	\$140 - \$200	2	\$400	0.4	\$80	3.2	\$640	44.3	\$5,330	0.2	\$40	50.1	\$6,490
Secretarial & Clerical Assistants	\$50 - \$170												
Total		38.6	\$11,613	216.5	\$62,375	63.9	\$18,178	122.2	\$28,485	141.2	\$38,035	582.4	\$158,686

Disbursements	Cost
Airfares - domestic	
Local Travel	
General Expenses	\$399
Total	\$399

Work completed includes but is not limited to:

Appointment	All matters on the commencement of the appointment
Creditors	All communications, claims, reporting, enquiries
Asset Realisations	All matters in respect of the potential sale of assets/business/IP and subsequent sale of assets including trading/debtors
Management & Tax	All matters in respect of statutory reporting and the management of the file
Investigation	Analysis of bank statements, review of historic transactions and accounts to identify avenues for recovery