



McDonald  
Vague

business recovery partners

## MODERN BUILT INVESTMENTS LIMITED (IN LIQUIDATION)

**McDonald Vague Limited**  
Level 1, 136 Greenlane East,  
Auckland 1051

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

### Liquidators' Third Report For the period from 1 April 2022 to 30 September 2022

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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

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.

We continued to operate the properties whilst they were being marketed and sold. The 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 has taken assignment of the secured creditor's security over EBL assets and has registered its security interest in the PPSR.

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 has been 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 an asset sale. All known third party creditors have been paid in full except for two which are disputed.

#### 5 INVESTIGATIONS

The liquidators are continuing their 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.

Our investigations have identified amounts that may be owed to the company and liabilities of the company that have to be met.

The matters being investigated include –

- The level and responsibility for legal fees paid by the company in the High Court and Court of Appeal proceedings which resulted in the liquidators' appointment.
- The correcting of the company's share register in accordance with the Court's judgment.
- 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.
- 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 settle 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	6	155,663	74,331	

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 has been paid as part of the distribution to unsecured creditors.

## 7 LIQUIDATORS' FEES

The Company has paid liquidators' fees and disbursements to the end of the reporting period totalling \$124,621 plus GST.

The fees are based on 468.1 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:

- Complete unsecured creditor assessment
- Completion of the investigations/shareholder issues
- Recovery of any outstanding amounts owing to the company
- Tax finalisation
- 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](mailto:csanderson@mvp.co.nz).

The Liquidators can be contacted at:

McDonald Vague Limited  
Level 1, 136 Greenlane East  
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PO Box 6092  
Victoria Street West  
Auckland 1142



Iain McLennan  
LIQUIDATOR (Licence No: IP82)

Dated this 18<sup>th</sup> day of October 2022

# Realisations and Distributions

## Modern built Investments Limited (In Liquidation) 1 October 2021 to 30 September 2022

	30/09/2022 Total	Last Report	Movement Last 6 months
<b>Realisations</b>			
Advance from Shareholders	-	-	-
Bank Account Closure	-	-	-
Cash on Hand	-	-	-
Sale of Grasslands Place	2,025,217	2,025,217	0
Sale of Richard Pearse Dr	10,100,000	10,100,000	-
Fresh Office Rent	77,710	77,710	0
Fresh Office Opex	17,274	14,813	2,461
National Product Rent	43,183	43,183	(0)
National Product Opex	11,220	6,101	5,119
Everyman Rent	48,000	48,000	-
Everyman Opex	10,931	10,780	151
Interest	34,099	2,344	31,755
Insurance Refund	14,307	11,455	2,852
Pre receivership GST Refund	-	-	-
<b>Total Realisations</b>	<b>12,381,942</b>	<b>12,339,603</b>	<b>42,339</b>
<b>Payments</b>			
<b>Liquidators Fees</b>			
Liquidators Fees	124,221	78,386	45,835
Disbursements	399	396	3
<b>Total Liquidators Fees</b>	<b>124,621</b>	<b>78,782</b>	<b>45,839</b>
<b>Other Costs of Liquidation and Trading On</b>			
Legal Fees	68,821	25,126	43,695
Tax advice	5,300	-	5,300
Commissions Costs	165,644	165,644	0
RWT on Interest	9,546	656	8,890
Insurance	21,432	21,432	(0)
Bank Interest & Fees	72,577	72,577	(0)
Building WOF	1,908	1,908	0
Watercare	1,598	1,598	(0)
Council Rates	14,137	12,750	1,387
R & M	1,401	1,401	(0)
Prepaid Opex - Repayments to Tenants	13,690	13,690	(0)
Income Tax 2022	106,005	106,005	(0)
Marketing Costs	13,539	13,539	0
<b>Total Costs of Liquidation and Trading On</b>	<b>495,599</b>	<b>436,326</b>	<b>59,273</b>
<b>Distributions</b>			
Secured Creditor	4,377,189	4,377,189	(0)
Secured creditor - guarantee	471,379	471,379	(0)
Preferential Wages and Holiday Pay	-	-	-
Preferential GST and PAYE	6,394	6,394	0
Dividends to Unsecured Creditors	74,331	18,754	55,577
<b>Total Distributions to Unsecured Creditors</b>	<b>4,929,293</b>	<b>4,873,716</b>	<b>55,577</b>
<b>Total Payments</b>	<b>5,549,512</b>	<b>5,388,824</b>	<b>160,688</b>
<b>BALANCE HELD</b>	<b>6,832,429</b>	<b>6,950,779</b>	<b>(118,350)</b>

MODERN BUILT INVESTMENTS LIMITED (IN LIQUIDATION)

REMUNERATION SUMMARY

Appendix 2

1 October 2021 to 30 September 2022

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	12.3	\$ 3,419	79.1	\$ 24,168	19.5	\$ 6,332	22.5	\$ 8,604	22.7	\$ 7,435	156.1	\$ 49,958
Forensic Accountants / Associates	\$300 - \$380	13.37	\$ 3,719	111.65	\$ 29,432	14.65	\$ 3,811	34.4	\$ 8,751	99.63	\$ 25,637	273.7	\$ 71,350
Insolvency Managers	\$140 - \$280												
Insolvency Accountants	\$140 - \$200	1.9	\$ 380	0.4	\$ 80	1.3	\$ 260	34.7	\$ 4,190			38.3	\$ 4,910
Secretarial & Clerical Assistants	\$50 - \$170												
<b>Total</b>		<b>27.57</b>	<b>\$ 7,518</b>	<b>191.15</b>	<b>\$ 53,680</b>	<b>35.45</b>	<b>\$ 10,403</b>	<b>91.6</b>	<b>\$ 21,545</b>	<b>122.33</b>	<b>\$ 33,072</b>	<b>468.1</b>	<b>\$ 126,218</b>

Disbursements	Cost
Airfares - domestic	0
Local Travel	0
General Expenses	399
<b>Total</b>	<b>399</b>