

## Phoenix Forex Limited (In Liquidation)

### Liquidators' First Report

#### 1 INTRODUCTION AND APPOINTMENT

Phoenix Forex Limited (“the company”) was placed into liquidation by a special resolution of the sole shareholder pursuant to Section 241(2)(a) of the Companies Act 1993 (“the Act”) on 24 October 2013. Jared Waiata Booth and Tony Leonard Maginness, Insolvency Practitioners of Auckland, were appointed as joint and several liquidators of the company.

#### 2 RESTRICTIONS

This report has been prepared in accordance with Section 255(2)(c) of the Act. 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, revise this report in respect of any information existing at the date of this report which becomes known to us after that date.

#### 3 ATTACHMENTS

The following documents are attached to this report:

- Appendix 1: Statement of Affairs setting out the company’s estimated financial position
- Appendix 2: Schedule of company creditors’ names and addresses
- Appendix 3: Notice to creditors to prove debts or claims
- Appendix 4: Notice of Liquidators’ decision to dispense with meeting of creditors
- Appendix 5: Creditors claim form

#### 4 COMPANY STRUCTURE AND BACKGROUND

Date of incorporation:	16 August 2011
Company number:	3515632
Date ceased trade:	May 2013
Nature of business:	Software Distribution

Trading address: Level 2, 14 Viaduct Harbour Avenue, Auckland 1010  
Share capital: 1,000 Shares  
Shareholder: Phoenix Group Ventures Limited  
Director: Kendall Twigden

The director advises that the business of company involved the distribution of finance related software. She states that subsequent to the Financial Markets Authority ruling that the company required a license to distribute the software, the company ceased trade.

## 5 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.

## 6 ASSETS AND PROPOSALS FOR CONDUCTING THE LIQUIDATION

We will realise all available assets.

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.

If there are funds available for distribution to creditors we will verify creditors' claims and make a distribution. We will then complete the liquidation and request that the Registrar of Companies remove the company from the register.

## 7 LIABILITIES AND CREDITOR CLAIMS

### 7.1 Secured Creditors

As at the date of liquidation there are no parties that have registered security interests against the company on the Personal Property Securities Register.

Should any creditor believe that they are entitled to any goods, or proceeds from realisation of goods, due to holding a perfected Purchase Money Security Interest, they should contact us immediately.

If any creditor believes that they have a Reservation of Title over goods and they have not perfected their interest, they should also contact us immediately.

### **7.2 Preferential Creditors**

The Inland Revenue Department has not yet provided us with a creditor's claim form but we understand that there are amounts due in respect of GST, PAYE and other payroll deductions.

### **7.3 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 \$251,500. A schedule of known creditors and their addresses is provided at Appendix 2, as required by Section 255(2)(c) of the Act.

A notice to creditors to prove debts or claims is included at Appendix 3. Also enclosed is a creditor's claim form for completion and return to this office by Friday, 6 December 2013. Creditors that have not made a claim by the date on the notice may be excluded from any distribution made. If you believe that you are a secured creditor please contact us and the appropriate form will be sent to you.

## **8 CREDITORS' MEETING / LIQUIDATION COMMITTEE**

A notice of the Liquidators' decision to dispense with the meeting of creditors is provided at Appendix 4.

Pursuant to Section 314 of the Companies Act 1993, creditors are advised that at any time in the course of the liquidation the Liquidator shall, at the request in writing of any creditor or shareholder, call a meeting for the purpose of appointing a liquidation committee.

## **9 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 the Liquidators are more able to act on written information.

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 the attached creditor claim form. This report and all subsequent reports will be available on the Liquidators' website at [www.mvp.co.nz](http://www.mvp.co.nz)

## **10 ESTIMATED DATE OF COMPLETION**

It is currently too early to estimate a date of completion for the liquidation.

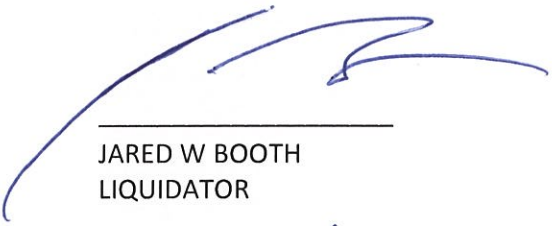
**11 CONTACT DETAILS**

Enquiries should be directed to Murray Matthews on DDI (09) 969 1518 or by email to [mmatthews@mvp.co.nz](mailto:mmatthews@mvp.co.nz).

The Liquidators can be contacted at:

McDonald Vague  
Level 10, 52 Swanson Street  
Auckland 1010

P O Box 6092  
Wellesley Street  
Auckland 1141



\_\_\_\_\_  
JARED W BOOTH  
LIQUIDATOR

DATED this 31<sup>st</sup> day of October 2013

JWB/MM/gck/150  
Phoenix Forex/205 First Report

## Phoenix Forex Limited (In Liquidation) Statement of Affairs

Statement of Affairs for the above named company as at 24 October 2013 (being the date of liquidation) showing assets at estimated realisable values and liabilities expected to rank.

<b>ASSETS</b>	<i>Estimated to Realise</i>
Receivables: Restaurant Limited (In Liquidation)	unknown
Fixed Assets	unknown
Total	<u>unknown</u>
<b>LESS PREFERENTIAL CREDITORS</b>	
Inland Revenue Department - GST and PAYE	50,000
Total	<u>50,000</u>
<i>Estimated deficiency as regards preferential creditors</i>	<u>unknown</u>
<b>LESS UNSECURED CREDITORS</b>	
Net Bank Account Balances	6,400
Trade Creditors (see Note 4)	65,000
Inland Revenue Department - Penalties, Interest	110,000
Inland Revenue Department - Income Tax (see Note 5)	40,000
Director's Current Account	30,000
Total	<u>251,400</u>
<i>Estimated deficiency as regards unsecured creditors</i>	<u>unknown</u>
 <i>Total estimated deficiency as regards preferential and unsecured creditors</i>	 <u><u>unknown</u></u>

**Notes:**

1. There is no unpaid capital liable to be called up.
2. The above estimates are subject to the costs of the liquidation.
3. Assets held may be subject to Purchase Money Security Interest ("PMSI") or Reservation of Title claims.
4. The director advises that trade creditor balances include disputed amounts.
5. This relates to an assessment in the absence of an income tax return being filed for the year ended 31 March 2013. The director advises that the company traded at a loss, and that there is therefore no income tax liability.

**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.

## Phoenix Forex Limited (In Liquidation) Schedule of Creditor's Names and Addresses

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

Creditor name	Address 1	Address 2	Address 3
Accident Compensation Corporation	P O Box 3248	WELLINGTON	
ASB Bank Limited	PO Box 90 649	AUCKLAND 1142	
Inland Revenue Department	P O Box 39 010	Wellington Mail Centre	LOWER HUTT 5045
Kendall Twigden	P O Box 105 758	Auckland Mail Centre	AUCKLAND 1143
Mercury Energy	Private Bag 92008	AUCKLAND	
Sharp Corporation of New Zealand Limited	C/- Dun & Bradstreet (New Zealand) Limited	P O Box 9589, Newmarket	AUCKLAND 1031
The Radio Network Limited	C/- EC Credit Control	P O Box 368	NAPIER 4140
Westpac New Zealand Limited	PO Box 7740	Wellesley Street	AUCKLAND 1141

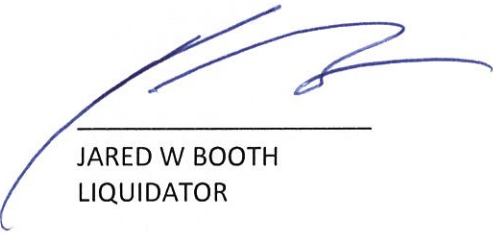
IN THE MATTER of                    The Companies Act 1993

and

IN THE MATTER of                    Phoenix Forex Limited (In Liquidation)

### Notice to Creditors to Prove Debts or Claims

Notice is hereby given that the undersigned, the liquidator of Phoenix Forex Limited (In Liquidation) ("the company"), does hereby fix Friday, the 6<sup>th</sup> day of December 2013, as the day on or before which the company's creditors are to make their claims, and to 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.



JARED W BOOTH  
LIQUIDATOR

DATED this 31<sup>st</sup> day of October 2013

#### ADDRESS OF LIQUIDATOR

McDonald Vague  
Level 10, 52 Swanson Street  
Auckland 1010

PO Box 6092  
Wellesley Street  
AUCKLAND 1141

Telephone: (09) 303 0506  
Facsimile: (09) 303 0508  
Website: [www.mvp.co.nz](http://www.mvp.co.nz)

**DATE OF LIQUIDATION:** 24 October 2013

## Notice of Liquidators' Decision to Dispense with Meeting of Creditors

After having regard to the assets and liabilities of Phoenix Forex Limited (In Liquidation) and the likely result of the liquidation, it is proposed to dispense with a meeting of creditors pursuant to Section 245 of the Companies Act 1993.

We do not, however, wish to preclude creditors from expressing their views. Please contact Murray Matthews on DDI (09) 969 1518 if you have any specific enquiries.

You are advised that should you desire a creditor's meeting, notice in writing is required within 10 working days of receiving this notice.

At the time of giving notice you must also state the reason you require a meeting so that an agenda can be prepared and advertised and creditors can be given the opportunity to vote on any issue by voting letter.



---

JARED W BOOTH  
LIQUIDATOR

DATED this 31<sup>st</sup> day of October 2013





The Insolvency & Business Recovery Specialists

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](http://www.mvp.co.nz) or email [claims@mvp.co.nz](mailto: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. My total claim is 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 Tick if Applicable   
Note: If you are a secured creditor contact this office and a Secured Creditors Claim Form will be sent to you. (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: / /

Preferential Claim for: \_\_\_\_\_ Ordinary Claim for: \_\_\_\_\_

CLAIM REJECTED FOR PAYMENT: \$ \_\_\_\_\_ \$ \_\_\_\_\_

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.



The Insolvency & Business Recovery Specialists



The Insolvency & Business Recovery Specialists

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 \$20,340 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: \$ \_\_\_\_\_