



McDonald  
Vague

business recovery partners

## POINT CHEVALIER SOCIAL ENTERPRISE TRUST (IN LIQUIDATION)

McDonald Vague Limited

Level 1, 136 Greenlane East,  
Auckland 1051

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### Liquidators' First Report

**TO: The trustees and known creditors of the trust**

#### 1 INTRODUCTION AND APPOINTMENT

Point Chevalier Social Enterprise Trust (In Liquidation) ("the trust") was placed into liquidation by a special resolution of the trustees of the trust pursuant to Section 241(2)(a) of the Companies Act 1993 and section 24(1) of the Charitable Trusts Act 1957, on 08 August 2023 at 13:00 p.m. Keaton Pronk Licence No: IP107 and Iain McLennan Licence No: IP82, Licensed Insolvency Practitioners, of Auckland, were appointed as joint and several liquidators of the trust.

#### 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 TRUST STRUCTURE AND BACKGROUND

Date of Trust Registration:	13 March 2019
Charities Registration number:	CC57177
New Zealand Business Number:	N/A
Date ceased trading:	8 August 2023
Nature of business:	Promoting Social Enterprise in Point Chevalier
Trading address:	Nil
Previous names/Trading name:	Nil
Share capital:	N/A
Shareholders:	N/A
Trustees:	Christopher Casey, Graeme Bennett and Alex Woodley

The Trust was registered as a Charitable Trust on 13 March 2019. Its purpose was to activate local opportunities to support community, youth, art and culture, heritage renewal, urban design, affordable housing and social enterprise.

The Trust initiated proceedings in the High Court, in February 2023, against Auckland Council and others in relation a proposed development of the property known as Carrington Hospital. In its judgment, delivered on 21 July 2023, the Court ruled against the trust and awarded costs in favour of Auckland Council, 3 other respondent parties to the proceedings and a further party that the trust had unsuccessfully attempted to join to the proceedings.

The Trust did not have the funds, or any realisable assets, to meet the anticipated costs and the trustees made the decision to appoint the liquidators.

## 6 STATEMENT OF AFFAIRS

A Statement of Affairs showing the trust's estimated financial position as at the date of our appointment is provided at Appendix 1.

## 7 ASSETS AND PROPOSED ACTIONS IN THE LIQUIDATION

We will realise all available assets. This is expected to be completed within 4 weeks.

We will complete a thorough review of the trust'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 trust'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 trust be removed from the Register.

## **8 LIABILITIES AND CALL FOR CREDITOR CLAIMS**

The liquidators have compiled a schedule of the trust'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 trust records and information provided to the liquidators at the time of preparing this report. The schedule may not list all of the trust's creditors and all of the parties listed on the schedule may not be creditors of the trust.

There are no known contingent creditors. Other than the pending decision by the High Court on the quantum of the costs awarded against the Trust, there are no known current or pending proceedings to which the trust 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 trust's liquidation, please complete the unsecured creditor's claim form then return the completed form together with supporting documentation to our offices by 18 September 2023. 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 no secured parties had registered security interests against the trust on the Personal Property Securities Register.

#### *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 trust 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**

At this time, we are unaware of any preferential claims.

### **8.3 Unsecured Creditors**

From our review of the trust's accounting records and other information we estimate that the amount due to unsecured creditors is approximately \$97,000. We estimate that unsecured creditors are unlikely to receive any distribution in the liquidation.

## 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

We estimate that the liquidation could be completed within the next 6 months.

## 12 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 Green Lane East, Greenlane  
Auckland 1051

P O Box 6092  
Victoria Street West  
Auckland 1142




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Keaton Pronk  
LIQUIDATOR (Licence No: IP107)

Dated this 15th day of August 2023

**Appendix 2**

<b>Appendix 1</b>		 McDonald Vague	
<b>POINT CHEVALIER SOCIAL ENTERPRISE (IN LIQUIDATION)</b>			
<b>Statement of Affairs</b>			
Statement of Affairs for the above named trust as at 8 August 2023 (being the date of liquidation) showing assets at estimated realisable values and liabilities expected to rank.			
<b>ASSETS SPECIFICALLY PLEDGED</b>			
<i>No securities are registered on the Personal Property Securities Register</i>			
		-	-
<b>ASSETS AVAILABLE FOR PREFERENTIAL CREDITORS</b>		<i>Book Value</i>	<i>Estimated to Realise</i>
Accounts receivable		1,800	1,800
Bank account balances		285	285
<b>Total</b>		<b>2,085</b>	<b>2,085</b>
<b>Less preferential creditors</b>			
Nil			-
<b>Total</b>			<b>-</b>
<b>Estimated surplus as regards preferential creditors</b>			<b>\$2,085</b>
<b>AVAILABLE FOR UNSECURED CREDITORS</b>			<b>2,085</b>
<b>LESS UNSECURED CREDITORS</b>			
Legal fees			3,292
Court awarded costs from proceedings			93,708
<b>Estimated surplus/(deficiency) as regards unsecured creditors</b>			<b>(\$94,915)</b>
<b>Notes:</b>			
1. The above estimates are subject to the costs of the liquidation.			
<b>Disclaimer of Liability:</b>			
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.			

## POINT CHEVALIER SOCIAL ENTERPRISE TRUST (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.
- (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) An upfront fee of \$5,600 + GST was received from the Trustees to cover initial remuneration and expenses associated with the appointment. The funds are held in a Trust account and will be drawn on as work is produced and expenses incurred. There is no condition on the conduct or outcome of the liquidation attached to the provision of these funds.



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Keaton Pronk  
LIQUIDATOR

Dated this 15th day of August 2023

## POINT CHEVALIER SOCIAL ENTERPRISE TRUST (IN LIQUIDATION)

### Schedule of Creditors' Names and Addresses

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

<b>Creditor Name</b>	<b>Address 1</b>	<b>Address 2</b>	<b>Address 3</b>	<b>Postcode</b>
Auckland Council	Private Bag 92300	Victoria Street West	Auckland	1142
DK Law	PO Box 10161	Dominion Road	Auckland	1446
Marutuaha Ropu	C/- Atkins Holm Majurey	PO Box 1585	Auckland	1140
Ockham Group Limited	C/- Brookfields Lawyers	<u>PO Box 240</u>	Auckland	1140
Stuart Ryan Barrister Waiohua Ropu	C/- Atkins Holm Majurey	<u>stuart@stuartryan.co.nz</u> PO Box 1585	Auckland	1140

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

After having regard to the assets and liabilities of Point Chevalier Social Enterprise Trust (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 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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Keaton Pronk  
LIQUIDATOR

Dated this 15th day of August 2023



## Appendix 5

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IN THE MATTER of                    The Companies Act 1993

and

IN THE MATTER of                    Point Chevalier Social Enterprise Trust (In Liquidation)

### **Notice to Creditors to Prove Debts or Claims**

Notice is given that the liquidator of Point Chevalier Social Enterprise Trust (In Liquidation) (“the trust”), fix 18 September 2023, as the day on or before which the trust’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.



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Keaton Pronk  
LIQUIDATOR

Dated this 15th day of August 2023

#### **ADDRESS OF LIQUIDATOR**

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

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: 08 August 2023**



McDonald Vague

business recovery partners

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](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. 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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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: \$ \_\_\_\_\_