

## Vienna Group Limited (In Liquidation)

### Liquidators' First Report

#### 1 INTRODUCTION AND APPOINTMENT

Vienna Group Limited ("the company") was placed into liquidation by a special resolution of the shareholders pursuant to Section 241(2)(a) of the Companies Act 1993 ("the Act") on 23 July 2015. Peri Micaela Finnigan and Iain McLennan, 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, 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 of Liquidators' decision to dispense with meeting of creditors
- Appendix 4: Notice to creditors to prove debts or claims
- Appendix 5: Creditors claim form

#### 4 COMPANY STRUCTURE AND BACKGROUND

Date of incorporation:	21 July 2006
Company number:	1844619
Date ceased trading:	22 July 2015
Nature of business:	German Beer Importer and Wholesaler

Trading address:	From home office – Stocks were stored in an offsite, secured facility
Share capital:	1,000 Shares
Shareholders:	Scott Micheal Browne Gudrin Maria Browne
Director:	Scott Micheal Browne

The company were advised of a contingent liability that arose from a calculation error on Customs duty. The company could not meet the obligation and liquidation is the result.

## 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. If any creditor is interested or knows of any other party who may be interested in purchasing any of the stock, please advise us urgently. The director has agreed to assist with providing contacts to clear stocks promptly.

The liquidators have agreed to sell the home office furniture to the director at market value.

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 two secured parties had registered security interests against the company on the Personal Property Securities Register.

- Brambles New Zealand Limited T/As Chep New Zealand
- Gudrun Maria Browne

*Personal Property Securities Act / Reservation of Title*

Should any creditor believe that they are entitled to any goods, or proceeds from realisation of goods, due to holding a 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 of approximately \$13,245.

We also understand that there are preferential amounts due to Customs New Zealand of approximately \$2,335,895. This has arisen from a purported agent error in calculation of duty due. The director advises he is unaware if fines have been imposed on the broker. The director advises he paid when due, the Customs obligations notified as owing, and the company had no deliberate intention to defraud Customs or any awareness of the under payment in duty until the recent notice.

**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 \$1,600. The company traded profitably and was solvent until it became aware of the Customs obligation that dates back years. 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 4. Also enclosed is a creditor's claim form for completion and return to this office by Friday, 11 September 2015. 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 3.

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 Tracy Yelverton on DDI (09) 969 5336 or by email to [tyelverton@mvp.co.nz](mailto:tyelverton@mvp.co.nz) or to Peri Finnigan on DDI (09) 303 9519.

The Liquidators can be contacted at:

McDonald Vague Limited  
Level 10, 52 Swanson Street  
Auckland 1010

P O Box 6092  
Wellesley Street  
Auckland 1141



PERI M FINNIGAN  
LIQUIDATOR

DATED this 28<sup>th</sup> day of July 2015

## Vienna Group Limited (In Liquidation) Statement of Affairs

Statement of Affairs for the above named company as at 23 July 2015 (being the date of liquidation) showing assets at estimated realisable values and liabilities expected to rank.

<b>ASSETS AVAILABLE FOR PREFERENTIAL CREDITORS</b>	<i>Book Value</i>	<i>Estimated to Realise</i>
Accounts receivable	142,165	125,000
Bank account balances	159,597	159,597
Stock	248,367	250,000
<b>Total</b>	<b>\$550,129</b>	<b>\$534,597</b>
 <i>Less preferential creditors</i>		
Customs New Zealand - Duty		2,335,895
Inland Revenue Department		13,245
<b>Total</b>		<b>\$2,349,140</b>
 <i>Estimated deficiency as regards preferential creditors</i>		<b>(\$1,814,543)</b>
 <b>ASSETS AVAILABLE FOR SECURED CREDITORS</b>		
	<i>Book Value 31 March 2015</i>	
Goodwill	-	2,000
Furniture and Fixtures	27,615	10,000
<b>Total</b>	<b>\$27,615</b>	<b>\$12,000</b>
 <b>LESS GENERAL SECURITY AGREEMENT HOLDERS</b>		
Brambles New Zealand Limited T/As Chep New Zealand - Specific Security Held		100
Private Security Holder - General Security Agreement holder		105,564
<b>Total</b>		<b>\$105,664</b>
 <i>Estimated deficiency as regards General &amp; Specific Security Agreement holders</i>		<b>(\$93,664)</b>
 <b>LESS UNSECURED CREDITORS</b>		
Estimated deficiency as regards General & Specific Security Agreement holders		93,664
Estimated deficiency as regards preferential creditors		1,814,543
Trade creditors		1,600
<b>Estimated (deficiency) as regards unsecured creditors</b>		<b>(\$1,909,807)</b>

**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 General Security Agreement holder's claim will continue to accrue interest until fully paid.
5. The Customs duty arises from an historical book keeping error. The company paid Customs duty but calculated at an incorrect rate. The company relied on a professional to calculate Customs duty obligations. The director was only recently made aware of the error and the recalculation. The liquidation is the result of this liability that the company has no ability to settle in full. The liquidators will investigate this matter.

**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.

## Vienna Group Limited (In Liquidation) Schedule of Creditors' Names and Addresses

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

Creditor Names	Address 1	Address 2	Address 3
Accident Compensation Corporation	P O Box 3248	WELLINGTON 6140	
Brambles New Zealand Limited	T/As Chep New Zealand	P O Box 76 556	AUCKLAND 2241
Gudrun Maria Browne	3 Coronet Lane	Flat Bush	AUCKLAND 2016
Hellfire Technologies Limited	44 Khyber Pass Road	Grafton	AUCKLAND 1023
Inland Revenue Department	P O Box 39 010	Wellington Mail Centre	LOWER HUTT 5045
Kerry Logistics (Oceania) Limited	7 Kingsford Smith Place	Mangere	AUCKLAND 2022
New Zealand Customs Service	P O Box 29	Shortland Street	AUCKLAND 1140
Spark NZ Trading Limited	P O Box 1473	CHRISTCHURCH 8140	
TVR Chartered Accountants Limited	P O Box 8155	Symonds Street	AUCKLAND 1150
Vodafone New Zealand Limited	Private Bag 92 143	AUCKLAND 1142	

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

After having regard to the assets and liabilities of Vienna Group 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 Tracy Yelverton of this office on DDI (09) 969 5336 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.



PERI M FINNIGAN  
LIQUIDATOR

DATED this 28<sup>th</sup> day of July 2015

IN THE MATTER of                    The Companies Act 1993

and

IN THE MATTER of                    Vienna Group Limited (In Liquidation)

### Notice to Creditors to Prove Debts or Claims

Notice is hereby given that the undersigned, the liquidator of Vienna Group Limited (In Liquidation) ("the company"), does hereby fix Friday, the 11<sup>th</sup> day of September 2015, 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.

  
PERI M FINNIGAN  
LIQUIDATOR

DATED this 28<sup>th</sup> day of July 2015

#### ADDRESS OF LIQUIDATOR

McDonald Vague Limited  
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:** 23 July 2015



**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)

(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

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)  Tick if Applicable

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

**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 \$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: \$ \_\_\_\_\_