



McDonald  
Vague

business recovery partners

**Vintage 2008 (A) Limited  
(In Receivership & In Liquidation)**

**Vintage 2008 (B) Limited  
(In Receivership & In Liquidation)**

**Vintage 2009 (A) Limited  
(In Receivership & In Liquidation)**

**Vintage 2009 (B) Limited  
(In Receivership & In Liquidation)**

**McDonald Vague Limited**

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**“Vintage Companies”**

## **Receivers’ Twelfth Report**

### **1 INTRODUCTION AND APPOINTMENT**

On 9 December 2010, Boris van Delden and Dennis John Wood, Insolvency Practitioners of Auckland, were appointed jointly and severally as receivers and managers of the property of Vintage 2008 (A) Limited (In Receivership), Vintage 2008 (B) Limited (In Receivership), Vintage 2009 (A) Limited (In Receivership), and Vintage 2009 (B) Limited (In Receivership) which consists of all present and after acquired personal property of the companies, the meaning ascribed to that term in the general security agreements dated the 8<sup>th</sup> day of April 2008, the 8<sup>th</sup> day of April 2008, the 9<sup>th</sup> day of March 2009, and the 9<sup>th</sup> day of March 2009 respectively, executed by the companies in favour of the secured creditor and registered on the Personal Property Securities Register on 9<sup>th</sup> day of April 2008 at 12:16 p.m. under financing statement FP6M9UOB2229T135, the 9<sup>th</sup> day of April 2008 at 12:21 p.m. under financing statement FJ79PJOU27G38793, 12<sup>th</sup> day of March 2009 at 11:05 a.m. under financing statement FG7KW1C86562C169, and 12<sup>th</sup> day of March 2009 at 10:53 a.m. under financing statement FP04999D5B4912F respectively.

They were appointed under the powers contained within a General Security Agreement in favour of Orakei Securities Limited.

On 30 March 2011, Orakei Securities Limited completed an assignment of the Vintage 2008 (A) Limited and Vintage 2008 (B) Limited financing statement security to the Swindle Family Trust, and the Vintage 2009 (A) Limited and Vintage 2009 (B) Limited financing statement security to Aorangi Forests Limited.

We advise that Vivian Judith Fatupaito and Glen David Gernhoefer were appointed jointly and severally as liquidators of the companies on 10 August 2011 by the High Court pursuant to section 241(2)(c) of the Companies Act 1993. Vivian Judith Fatupaito resigned her position as liquidator on 10 May 2013 and Aaron Douglas Walsh was appointed as her successor.

3 November 2011 Dennis John Wood resigned his position as receiver. Boris van Delden remains as sole receiver of the company.

Pursuant to section 24 of the Receiverships Act 1993 (“the Act”), the receivers report herewith on the progress of the receivership. This twelfth report should be read in conjunction with the receivers’ previous reports.

A statement of Realisations and Distributions is **attached**.

## **2 RESTRICTIONS**

This report has been prepared in accordance with Section 24 of the Act. 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 EVENTS LEADING UP TO OUR APPOINTMENT**

The appointment arose as a result of the companies default in meeting payments due to the secured lender. All the Vintage companies were provided with funding by the secured lenders to enable grape juice to be purchased which in turn was later to be delivered to Goldridge Estate Limited (In Liquidation) (“GEL”) per a supply agreement as bottled and cased product.

At the date of receivership, some of the Vintage companies product was delivered to Matakana Estate Limited (In Liquidation) (“MEL”), GEL and Dream Bay Limited (In Liquidation) (“DBL”) and the balance remained in tanks on land and buildings leased by MEL.

The MEL, GEL and DBL companies were placed in liquidation on 21 November 2010 owing considerable moneys to all the Vintage Companies. Two of the MEL, GEL and DBL directors are also directors of the Vintage companies.

## **4 TRADING ON – CLOSURE OF BUSINESS**

At the date of receivership the management accounts show bulk wine stock of \$344,289 remaining on hand and trade receivables and unsecured advances to be collected of \$2,590,154.

#### **4.1 *Guarantor Demands***

Peter and Helen Vegar have had judgment entered for the amount owed, however, bankruptcy proceedings have not commenced yet. Paul Vegar adjudicated himself bankrupt by debtors' petition on 1 December 2011.

#### **4.2 *Vintage Inventory***

As previously noted, the liquidator of MEL claimed a right to the Vintage company inventory held in the vats at the Matakana winery. A stock take of the wine undertaken with the assistance of an industry expert provided an indicative value of \$432,000 in December 2010.

#### **4.3 *Settlement for Bulk Wine Converted by MEL Liquidators***

The successful High Court hearing in July 2011 declared the MEL liquidator had converted Vintage companies wine by continuing to sell the bulk wine when Vintage had sole or common ownership. The High Court awarded Vintage costs of \$57,605.

The MEL liquidator had a industry expert value the wine sold at \$208,513. The receivers also received a further independent valuation of \$254,084.

A settlement agreement was reached for \$200,000 on 5 April 2012, which included a deduction for costs to sell the wine.

#### **4.4 *Sale of Pinot Gris Bulk Wine (not Sold by MEL Liquidator)***

The Pinot Gris owned by Vintage companies remained unsold in the Matakana vats. The MEL liquidator had been unable to sell the wine and with age it was deteriorating. The MEL liquidator confirmed that 26,808 litres of Pinot Gris belonged to the Vintage companies and with a potential sale of the winery the Pinot Gris had to be moved off site. The receivers, on receiving access to the wine and after approaching various interested parties, sold the Pinot Gris for \$1.40 per litre.

#### **4.5 *Other Actions – Claim Against Chartered Accountant***

The Term Loan agreements provided that all Vintage companies advances be deposited into a bank account established solely for the purpose of meeting costs specified in the costs schedule in the Term Loan documents.

A chartered accountant was designated as a mandatory joint signatory to the cost account.

Despite confirming that he was a mandatory joint signatory to the cost account, he never was a signatory on the company bank account. Legal action is in process under the direction of the appointers' agent and the receivers have provided information and documents to assist this action.

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The matter has been heard in the High Court and the decision has recently been released. The appointers' agent was successful against the chartered accountant.

**4.6 Other Actions – Possible Claim Against Costs Award Received**

The receivers have been put on notice that the funds paid by MEL for the costs award may more properly belong to a secured creditor of MEL.

**5 PROPOSALS FOR DISPOSAL OF RECEIVERSHIP PROPERTY**

All Pinot Gris bulk wine stock has now been sold.

All property has been sold and an action is proceeding against the Chartered Accountant who was supposed to be a mandatory co signatory to the cost account.

**6 CREDITORS' CLAIMS**

**6.1 Secured Creditor**

At the date of our appointment the amounts (including accrued interest) owed to our appointer was \$3,464,548.

**6.2 Preferential Creditors**

According to the records of the company as at the date of our appointment \$101,976 was owed to the Inland Revenue Department for GST arrears.

**6.3 Unsecured Creditors**

The management accounts show there are unsecured creditors of \$190,818 owed.

The Receivers are not responsible for the administration of unsecured creditors' claims however it appears unlikely that there will be surplus funds available for unsecured creditors.

**7 ESTIMATED DATE OF COMPLETION**

The receivership will be completed within the next three months.

**8 CONTACT DETAILS**

Enquiries should be directed to Boris van Delden on (09) 306 3342 or by email to [bvandelden@mvp.co.nz](mailto:bvandelden@mvp.co.nz).

The Receivers can be contacted at:

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BORIS VAN DELDEN  
RECEIVER

DATED this 12<sup>th</sup> day of July 2016

BVD/gck/220  
Vintage 2008 (A)/Reports/R9b Twelfth Report  
Vintage 2008 (B)/Reports/R9b Twelfth Report  
Vintage 2009 (A)/Reports/R9b Twelfth Report  
Vintage 2009 (B)/Reports/R9b Twelfth Report

## Realisations and Distributions

VINTAGE 2008 (A) LIMITED (IN RECEIVERSHIP & IN LIQUIDATION)  
 VINTAGE 2008 (B) LIMITED (IN RECEIVERSHIP & IN LIQUIDATION)  
 VINTAGE 2009 (A) LIMITED (IN RECEIVERSHIP & IN LIQUIDATION)  
 VINTAGE 2009 (B) LIMITED (IN RECEIVERSHIP & IN LIQUIDATION)

NUMBERS OF COMPANIES: 1199162 – 1202964 – 1286350 – 1286351 (Respectively)

9 December 2010 to 8 June 2016

Realisations	As Per Statement of Affairs \$	Cash Received \$
Damages	-	200,000
Cash at Bank	202	171
Trade Debtors	Unknown	Nil
Matakana Estate Limited (In Liquidation)	Unknown	Nil
Goldridge Estate Limited (In Liquidation)	Unknown	Nil
Pre liquidation GST Refunds	-	116,798
Interest	42	7,747
Appointer Advance	-	272,560
Stock Wine Sales	Unknown	47,073
<b>Total Realisations</b>	<b>\$244</b>	<b>\$644,349</b>
<b>Payments</b>		
<b>Receivers Fees</b>		
Receivers Fees		276,565
Disbursements		2,866
<b>Total Liquidators Fees</b>		<b>\$279,431</b>
<b>Other Costs of Liquidation</b>		
Professional Fees		196,004
Consultant Fees		5,207
Residents Withholding Tax		2,221
Insurance		2,467
Debt Collection Costs		135
<b>Total Costs of Liquidation</b>		<b>\$206,034</b>

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<b>Distributions</b>	
Secured Creditor	136,894
<b>Total Distributions to Secured Creditor</b>	<b>\$136,894</b>
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<b>Total Payments</b>	<b>\$622,359</b>
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<b>BALANCE HELD</b>	<b>\$21,990</b>

**Note:** the above figures are GST exclusive

BVD/gck/145  
Vintage 2008 (A)/R9b Twelfth Report  
Vintage 2008 (B)/R9b Twelfth Report  
Vintage 2009 (A)/R9b Twelfth Report  
Vintage 2009 (B)/R9b Twelfth Report