



McDonald  
Vague

business recovery partners

## Wenztro Co-operation Limited (In Liquidation)

### Formerly Trojan Foods (NZ) Limited

### Liquidators' Fifteenth Report

### (for the period from 9 October 2018 to 8 April 2019)

McDonald Vague Limited

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## 1 INTRODUCTION AND APPOINTMENT

On 9 October 2012 Rob Merlo was appointed as liquidator of Wenztro Co-operation Limited (In Receivership & In Liquidation). On 8 February 2013 Rob Merlo was appointed as receiver of the company. On the same day Paul Sargison and Simon Dalton of Gerry Rea Partners, replaced Rob Merlo as joint and several liquidators of the company. On 21 August 2013, Henry David Levin and Vivien Judith Madsen-Ries, of Deloitte, replaced Paul Sargison and Simon Dalton as joint and several liquidators of the company. On 31 July 2013 Rob Merlo resigned his position as receiver of the company.

On the resignation of Henry David Levin and Vivien Judith Madsen-Ries, of Deloitte, Auckland, on 4 February 2016, Peri Micaela Finnigan and Boris van Delden, CAANZ Accredited Insolvency Practitioners of Auckland, were appointed as joint and several replacement liquidators of Wenztro Co-operation Limited ("the company").

Pursuant to Section 255(2)(d) of the Companies Act 1993 ("the Act"), the liquidators herewith report on the progress of the liquidation. This fifteenth report should be read in conjunction with the twelve previous liquidators' reports. This report is being sent to all shareholders and all creditors who have filed a claim in the liquidation.

A Statement of Realisations and Distributions is **attached** for the period that McDonald Vague liquidators' have been appointed.

## 2 RESTRICTIONS

Whilst all care and attention has been taken in compiling this report, we do not accept any liability whatsoever to any party because 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 CONDUCT OF THE LIQUIDATION DURING THE PRECEDING SIX MONTHS

#### *Asset Realisations*

The company was a start-up involved in exporting infant milk formula. It's first order could not be delivered according to the customer requirements however the company acquired the benefit of 100% of the order value. The customer fully paid for the product before it was delivered. The company spent some of the funds on illiquid "assets".

Its first order was defective due to critical mislabelling. The company was financially unprepared for a product recall event and had no capital. The company agreed to replace the defective product but never supplied it. The purchaser had incurred significant costs in China. The customer was awarded summary judgment in its claims against the company in late 2012.

The company by its liquidators subsequently pursued the company directors for breaches of duties in the High Court, Auckland. In May 2018 the High Court found the 3 directors jointly and severally liable for a 100% contribution to the company for its creditor losses, plus interest. Costs were subsequently awarded against the directors.

The liquidators recovered a sum of \$200,000 from one of the directors in part payment of the total sum due. A director has appealed that decision.

In November 2018 the major creditor and funder in protecting and preserving the company asset sought the assignment of the benefits of the directors' litigation. The Court has approved the assignment.

Prior to the assignment the liquidators attended to the following enforcement actions:

- Formal demand of all debtors
- Incomplete settlement discussions with Mr Williams
- Adjudication of Mr Black as bankrupt on 31 October 2018

### 4 CREDITORS' CLAIMS

The liquidators received the following claims:

Related Creditor	\$82,049
Employee	\$59,000
Unsecured	\$624,643

The validity of the security claimed by the related creditor was challenged in the litigation. The liquidators sought the Court to void the security and priority of the claim.

By formal notice of rejection, the liquidators reduced the related GSA creditor's claim from \$90,734 to \$82,049. No objection to the notice of rejection was received. The Court has subsequently agreed that the GSA is void.

Contingent claims relating to damages and losses claimed by two creditors were withdrawn by each creditor during the trial following the High Court Judge's comments and taking legal advice. IN addition, a director, prior to trial, lodged an additional claim for \$398,835. The liquidators challenged the additional claim and sought evidence and supporting documents. These were not provided, and the claim was withdrawn during the substantive directors action hearing.

## 5 LIQUIDATORS' FEES

According to the former liquidator reports and calculations provided by the funding creditor, liquidators' fees paid to prior liquidators totalled \$112,513 and creditor funding pre-our appointment was \$92,251.

Liquidators' paid fees (including disbursements) for the current liquidators' appointment are \$340,488 excluding GST. This includes fees associated with a section 266 claim of \$11,348 and the costs seeking records and information from the former liquidators of \$14,951. The fees billed to report date are based on 1,285 hours of work undertaken as follows:

Work Category	Hours	Billed - Paid	Unpaid
		\$	\$
Appointment functions/Management	182	36,468	6,092
Asset realisations	24	9,062	160
Creditors' claims, enquiries and reports	32	8,399	76
Taxation	10	1,454	240
Investigations/Legal work	1,027	285,104	3,330
<b>Total Billed</b>	<b>1,285</b>	<b>\$340,487</b>	<b>\$9,898</b>

Fees continue to accrue as a result of collection actions and on the Appeal lodged up to the date of assignment. Since then fees relate entirely to providing documentation to the assignee's solicitor, responding to requests and attending to statutory obligations. 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.

## 6 FUNDS / LIKELY OUTCOME

It is too early to determine whether or not there will be a distribution to unsecured creditors. This is dependent upon the outcome of the Appeal, recovery of the judgment sum, and repayment of the litigation costs funded.

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## 7 MATTERS DELAYING THE COMPLETION OF THE LIQUIDATION

The following matters are outstanding:

- Payment of balance of judgment sum
- Appeal – Court of Appeal
- Distributions (if any)
- Completion

## 8 ESTIMATED DATE OF COMPLETION

It is too soon to report on a likely conclusion date for this liquidation.

## 9 CONTACT DETAILS

Enquiries should be directed to Iain McLennan on DDI (09) 303 9512 or by email to [imclennan@mvp.co.nz](mailto:imclennan@mvp.co.nz).

The Liquidators can be contacted at:

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PERI M FINNIGAN  
LIQUIDATOR

DATED this 29 day of April 2019

# Realisations and Distributions

## Wenztro Co-Operation Limited (In Liquidation) 4 February 2016 to 8 April 2019

Realisations	Cash Received \$
Advance from Creditor	830,345
McDonald Vague Advance	15,000
Part Recovery – Directors Action	200,000
Interest	384
GST Refund relating to the period prior to McDonald Vague’s Appointment	47
<b>Total Realisations</b>	<b>\$1,045,776</b>
Payments	
Liquidators Fees	
Liquidators Fees	340,487
Disbursements	5,745
<b>Total Liquidators Fees</b>	<b>\$346,232</b>
Other Costs of Liquidation	
Consultancy Fees	18,704
Legal Fees – Main Case	472,137
Legal Fees – Section 266 High Court	10,000
Legal Fees – Section 266 Appeal	20,833
Costs Award – Mr G Williams (Awarded)	11,240
Filing Fees	39,674
Translating disbursements	9,202
Ministry of Justice – Security for Costs	38,798
Costs Award (s261/s266)	19,170
Prior Liquidators Fees - Deloitte	44,520
Residents Withholding Tax	66
<b>Total Costs of Liquidation</b>	<b>\$684,344</b>
 <b>Total Payments</b>	 <b>\$1,030,576</b>
 <b>BALANCE HELD</b>	 <b>\$15,200</b>

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