



McDonald  
Vague

business recovery partners

## Wenztro Co-operation Limited (In Liquidation)

### Formerly Trojan Foods (NZ) Limited

### Liquidators' Sixteenth Report

### (for the period from 9 April 2019 to 8 October 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 from his position as receiver of the company.

On 4 February 2016, Peri Micaela Finnigan and Boris van Delden, CAANZ Accredited Insolvency Practitioners of Auckland replaced Henry David Levin and Vivien Judith Madsen-Ries, of Deloitte, Auckland, as 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 sixteenth report should be read in conjunction with the 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.

The major creditor is seeking for the current liquidators to be replaced with a fifth replacement liquidator.

## 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*

There have been no further asset recoveries in the last six months that the liquidators are aware of.

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 approved the assignment.

The major creditor has not confirmed what further recovery has been made in the last twelve months.

### 4 CREDITORS' CLAIMS

As reported in former reports, the liquidators received the following claims:

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

By formal notice of rejection, the liquidators successfully reduced the related GSA creditor's claim from \$90,734 to \$82,049. 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. The Court agreed that the GSA was 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. 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. The funding creditor seeks to review prior liquidation fees and total liquidator fees.

Liquidators' paid fees (including disbursements) for the current liquidators' appointment are \$340,487 excluding GST. This includes fees associated with a section 266 claim advanced at the approval and insistence of the funding creditor of \$11,348, and the costs seeking records and information from the former liquidators of \$14,951. The fees billed 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>

Further time has been incurred but not charged that relates to matters raised by the major funding creditor. During the liquidation further time was also incurred but not charged.

## 6 FUNDS / LIKELY OUTCOME

It is too early to determine whether or not there will be a distribution to unsecured creditors. There are significant funds owing to the preferential creditors (including funding creditor) which rank ahead. This is dependent upon the recovery of the judgment sum and actions taken by the assignee of the actions.

## 7 MATTERS DELAYING THE COMPLETION OF THE LIQUIDATION

The following matters are outstanding:

- Fee review by High Court
- Court review of \$200,000 recovery from a director and distribution
- Reporting by assignee of success with recoveries
- Completion of liquidation

## 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 11<sup>th</sup> day of November 2019

# Realisations and Distributions

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

Realisations	Cash Received \$
Advance from Creditor	830,345
McDonald Vague Advance	18,441
Part Recovery – Directors Action	200,000
Interest	398
GST Refund relating to the period prior to McDonald Vague's Appointment	47
<b>Total Realisations</b>	<b>\$1,049,231</b>
<b>Payments</b>	
<b>Liquidators Fees</b>	
Liquidators Fees	340,487
Disbursements	5,745
<b>Total Liquidators Fees</b>	<b>\$346,232</b>
<b>Other Costs of Liquidation</b>	
Consultancy Fees	18,704
Legal Fees – Major Creditor Assignment – Creditor Position	20,608
Legal Fees – Main Case	469,742
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	71
<b>Total Costs of Liquidation</b>	<b>\$702,562</b>
<b>Total Payments</b>	<b>\$1,048,794</b>
<b>BALANCE HELD</b>	<b>\$437</b>

**Note 1:** the above figures are GST exclusive

**Note 2:** this report records only realisations and distributions during the period of appointment of the current liquidators, not the former three liquidation firms involved.