



CKP CONSTRUCTIONS PTY LTD
(IN LIQUIDATION)

File Details

A.C.N. 105 552 510
Director: Craig Petersen
Names of Liquidators: Lee Crosthwaite & Chris Cook
Date of Appointment: 23 March 2017

This update should be read in conjunction with my previous Report to Creditors dated 2 May 2017 and Advice to Creditors dated 19 May 2017. A copy of these Reports are available on my website, www.worrells.net.au, by scrolling to the File Information form.

Investigations into Checkpoint Constructions Pty Ltd

As reported in my Report to Creditors of 2 May 2017 I had been requested to review the circumstances surrounding the incorporation of Checkpoint Constructions Pty Ltd (Checkpoint). As part of my further investigations into the entity I conducted searches, received subpoenaed documents in relation to Checkpoint, reviewed the CKP Constructions Pty Ltd (CKP) computer servers and records as well as performed a formal interview of Mr Craig Petersen pursuant to Section 530A(2) of the *Corporations Act 2001*.

My investigations revealed the following:

Company Structure:

The following details have been obtained from a search of the Australian Securities and Investment Commission (ASIC) records:

Director: George Petersen
Secretary: George Petersen
Shareholder: George Petersen
Incorporation: 13 February 2017
ABN: 69 617 358 666

I am informed that George Petersen is the father of the director, Craig Petersen, of CKP. Checkpoint holds a Queensland Building and Construction Commission (QBCC) contractor licence. The nominee on the contractor license is Mr George Petersen.

As part of my further investigations Mr Craig Petersen confirmed to me that he held a beneficial interest within the company by way of being a part beneficiary of a Trust structure that held the shareholdings of Checkpoint.

Mr Craig Petersen confirmed to me that he is at the time of the interview the sole employee of Checkpoint, other than the director (George Petersen). I have sighted a copy of Mr Craig Petersen's employment contract with Checkpoint and have reviewed his position description as Site Administrator.

Brisbane

File Number: 8526

ABN 40 151 214 174

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Mr Craig Petersen confirmed that due to the liquidation of CKP he is an excluded individual with the Queensland Building and Construction Commission (QBCC). Due to that exclusion Mr Craig Petersen's contractor licence has been cancelled and he is prevented from being a director, secretary or influential person for a QBCC licensed company during this time.

Current Projects:

I have viewed the current projects of Checkpoint and have confirmed none of the current works were transferred from works that CKP had at the time of liquidation, nor had CKP tendered for the work.

I have viewed the relevant contract and subcontractor arrangements in respect to the current projects of Checkpoint and note all arrangements have been entered in the name of Checkpoint. I am not aware of any works or debts having been incurred by CKP in respect to any of the projects of Checkpoint.

I have identified two of the projects of Checkpoint were being performed for RT Edwards. I have identified that CKP had previously performed works for RT Edwards, however within the last two years those works have been minimal. I have specifically queried Mr Craig Petersen in relation to the relationship with RT Edwards and he advised:

- Mr George Petersen has a long history with the relevant contact person at RT Edwards;
- RT Edwards was initially introduced to CKP by Mr George Petersen;
- CKP has not performed significant works for RT Edwards in recent history.

I have noted that both Mr Craig Petersen and Mr George Petersen have extensive experience within the QLD construction industry which has enabled them to develop a number of contacts in their personal capacity.

Assets of CKP:

At the time of my appointment, I attended CKP's office to meet with the director, collect records and secure the office equipment. It did not appear that any assets had been removed from the office prior to the administration.

My auctioneer agents subsequently collected all items that were commercially viable to sell. The company also had tools and equipment on various worksites and my auctioneers recovered all that were unencumbered and commercially saleable.

I am not aware of any tangible assets having been transferred from CKP to Checkpoint. Mr Craig Petersen has also confirmed this to me.

Further I am not aware of any intellectual property (for example trademarks, logos, phone numbers) having been transferred from CKP to Checkpoint. I have specifically reviewed whether any intellectual property that CKP has owned or developed, for example trade documentation, had been in use or transferred. From my review I have confirmed that CKP did not own a custom suite of documents, and all used forms were commonly available within the building and construction industry.

Accordingly I am not aware of any tangible or intangible transfer of assets.

Employees:

As detailed earlier I believe that Mr Craig Petersen is the only current employee of Checkpoint Constructions. Mr Craig Petersen has confirmed no former employees of CKP have been transferred to Checkpoint. I have identified one former employee of CKP recently undertook some works on a contract basis for Checkpoint, however that appears to have only occurred after CKP ceased trading.

At this time, given the evidence I have obtained or been provided to date, I do not consider that phoenix activity has taken place and I am of the opinion that Mr George Petersen has control of the entity.

Update on Current Matters

Creditors may be aware of the distinction between circulating assets and non-circulating assets and how the liquidators' and company's rights are affected in recovering those assets when subject to security interests. The company held non-circulating assets (ie. plant & equipment, tools, office equipment) and the recoveries from these assets are required to be supplied to the ALLPAAP secured creditor pursuant to their security interest.

Circulating asset recoveries (ie. trade debtors, progress claims, loan accounts) need to be withheld from the secured creditor pursuant to *section 561* of the *Corporations Act 2001* until such time as outstanding employee entitlements are paid in full.

Distribution to ALLPAAP Secured Creditor (Westpac) from realisation of non-circulating assets

As detailed in my Report of 2 May 2017, commercially recoverable office equipment, tools, and equipment were collected from the company's head office and former construction sites.

The following table details the proceeds from the auctions of these assets:

	Amount (\$)
	Inclusive GST
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<u>Recoveries from non-circulating assets</u>	
<u>Plant and Equipment</u>	
Proceeds from auction sale of Plant and Equipment	4,047.00
Proceeds from auction sale of Unencumbered Motor Vehicle	8,699.00
Less:	
Agent's selling costs and commissions	3,738.63
Net Proceeds from sale of P&E	9,007.37
Liquidators preservation & realisation fees for non-circulating assets	6,000.00
Distribution to Westpac from Auction Sale	3,007.37
GST payable	273.40
Net Amount payable to Westpac from non-circulating assets	2,733.97
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Proceeds of non-circulating assets are required to be remitted to the ALLPAAP secured creditor, less preservation costs, and an amount of \$2,733.97 will be remitted to the Westpac in reduction of their secured debt.

I am aware of one further non-circulating asset, a storage shed which is currently on one of the project sites. The shed is below street level, unable to be removed until completion of the project, and may not be commercial to sell. I am still monitoring that situation.

Motor Vehicles subject to Westpac PMSI Security

I was engaged by the Westpac to act on their behalf in securing and realising the Motor Vehicles of the company subject to their security. The vehicles had been previously disclaimed by the company as holding insufficient equity. Five of the six vehicles have sold at auction, with the remaining auction to conclude on 1 August 2017. I will recover remuneration of \$1,600.00 (Including GST) from this source.

Circulating Asset Recoveries

Trade Debtors:

Raphill Pty Ltd:

I served a statutory demand on Raphill Pty Ltd for \$52,138.11 on 20 April 2017. That demand expired on 11 May 2017 without any response. I have subsequently received offers of settlement from Raphill Pty Ltd's solicitors in the amounts of \$10,000 and \$20,000.

I still believe we have a strong basis to claim the full amount, and my solicitors are presently liaising with Raphill Pty Ltd's solicitors in this regard.

Cameron McColl and Ella Riggert:

The company books and records detailed an amount of \$110,631.50 outstanding from the above debtor for a residential construction. I served a demand upon the debtor, however I have received a response disputing the debt on the following basis:

- No variation of the initial contract was approved;
- The building is not in accordance with the building code;

- A number of payments were made by the debtor direct to suppliers;
- The company never provided the final building certificates.

I have requested the director's assistance in providing further information on the dispute. I have confirmed that the company never supplied the final building certificates. To proceed further with this matter I will require the assistance of the director to review further the debtor's claims more thoroughly. It is difficult to confirm what amount, if any, will be recovered from this debtor.

Gabba Holdings Pty Ltd (In Liquidation):

The company holds a judgement debt against Gabba Holdings Pty Ltd and I have lodged a Proof of Debt for \$701,321 in the liquidation of Gabba Holdings Pty Ltd.

I am awaiting a formal update from the Liquidator of the likely expectations of recovery. Initial indications from Gabba Holding's liquidator suggest that there will be no dividend payable to unsecured creditors and Gabba Holdings Pty Ltd may have a counter claim in excess of the lodged formal proof of debt.

Ongoing Projects – Progress Claim

Full details of the progress claim were included in the Administrator's Report to Creditors. I am still awaiting practical completion of the company's former projects to determine any likely recovery, the table below sets out the estimated practical completion dates of the company's former projects:

Principal	Site	Estimated Practical Completion
P3 Projects Pty Ltd	"Ison 3.9" Ison & Lawson St, Morningside QLD	15 October 2017
Aqui Projects Pty Ltd	30 Trackson Street, Alderley QLD	14 November 2017
Definitive Developments Pty Ltd	"Nido Apartments" 59 Lapraik Street, Ascot QLD	17 November 2017
Glenday Group of Companies	63 Ison St, Morningside QLD	31 January 2018

A third Sub-contractors Charge claim has been lodged against the project Ison 3.9.

QBCC – Deed of Covenant

As outlined in the Administrator's Report to Creditors, the company and the director entered into a Deed of Covenant with the QBCC (QBSA as it was then) in 30 March 2010. As a result of this Deed the director was guaranteeing an amount of \$106,143 for that licence renewal.

As previously foreshadowed I have obtained legal advice to confirm whether the guarantee could be enforced due to the time that had elapsed since the deed was entered into and last relied upon. The legal advice I obtained advised the Deed of Covenant was unable to be relied upon. Accordingly, there will be no claim under this deed.

Director related loan accounts

As detailed within my Administrator's Report to Creditors I identified director related loan accounts in the company records totaling \$1,062,973. The administrators were served with an application by Mrs Petersen to join the administrators and the company to the matrimonial court proceedings between Mr and Mrs Petersen. The application also sought (as relevant to us) an injunction be granted restraining us from making any demand or commencing any proceedings of any nature against Mrs Petersen, and also the disclosure of a significant amount of company records.

As part of the court process I performed a reconciliation of the loan account and supplied all supporting documentation to the court. I identified the total amount outstanding across the loan accounts was \$1,141,003 split as follows:

Account	Amount
Craig Petersen	\$311,032
Craig & Kathy Petersen	\$610,302
Kathy Petersen	\$219,669

The initial application was heard on 19 May 2017 and the company was joined to the proceedings. The real property owned by Mrs Petersen sold at auction on 27 May 2017 for an amount of \$1,661,000. On 2 June 2017 the order was obtained confirming for the net proceeds, after mortgage and marketing costs, of the property sale to be placed in Trust.

The Liquidators agreed to a settlement conference between the relevant parties to determine the distribution of the net proceeds of the property to be held on 31 July 2017. Mrs Petersen has since filed an appeal of the order of 2 June 2017. A hearing date for the appeal is yet to be set, however, my solicitor and counsel will be in attendance to represent the company's interests.

I am of the understanding that the significant asset of the matrimonial estate is the property sale proceeds and likely the only avenue of recovery of this loan account.

Insolvent Trading:

As detailed in the administrator's report to creditors, I estimate a possible insolvent trading claim against Mr Petersen in the order of \$2,080,000. It appears Mr Petersen's financial capacity to pay such a claim is very much dependent upon the outcome of the matrimonial court proceedings. I do not expect Mr Petersen's financial position will be determined until the conclusion of the proceedings.

Administrators' Lien

As Administrator I held statutory and equitable rights of indemnity and lien under sections 443D and 443F of the *Corporations Act 2001* in respect of my disbursements and remuneration.

Given the nature of the recoveries made in the Voluntary Administration period, as reported in my Advice to Creditors 19 May 2017, I required the assistance of solicitors in pursuing these claims. The total costs of the voluntary administration inclusive of legal fees and my remuneration is \$125,902.57.

Employee Claims

I have verified eligible employee claims with the Fair Entitlements Guarantee Scheme. The claims are awaiting assessment with the Department of Employment and I am awaiting advice from the department as to the timing of the distribution to the employees.

Subcontractor Charges Claims

Three claims under the Subcontractors Charges Act (Qld) have been received in respect of the 'Ison 3.9' contract. Where possible I have assisted the claimants with their claims to avoid the claimant incurring further costs and delays.

Trade Creditor Insurance Claims

I have received requests for assistance by seven creditors in respect of trade credit insurance. I have been able to assist and admit five of those claims. I have partially admitted the remaining two and am working with those creditors in order to adjudicate upon the remaining portions of their claims.

Dividend Prospects

Any dividend are at this stage reliant on significant recovery either from the loan accounts, progress claims, trade debtors and/or insolvent trading.

Next Update

A further update will be provided to creditors in the event of any significant developments in relation to this matter. A copy of this update, as well as our previous advices and reports, can be found on our web site at www.worrells.net.au.






In the event that you have any queries regarding this matter, please do not hesitate to contact Gray Hewson on (07) 3225 4317 or gray.hewson@worrells.net.au.

Declaration of Independence, Relevant Relationships and Indemnities

Our initial advice to creditors dated 27 March 2017 included a Declaration of Independence, Relevant Relationships and Indemnities (DIRRI), signed by both liquidators of the company. There have been no changes to the position of this DIRRI.



Lee Crosthwaite
Liquidator

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