

**CORPORATIONS ACT 2001**

**REPORT BY ADMINISTRATOR**

**PURSUANT TO INSOLVENCY PRACTICE RULES  
(CORPORATIONS) SECTION 75-225**

**Sommer & Staff Constructions Pty Ltd  
(Administrator Appointed)  
ACN 010 038 758 ("the Company")**

**12 October 2018**

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**Geoffrey Trent Hancock**

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## Definitions

Act	The Corporations Act 2001 Cth
Administrator	Mr Geoffrey Trent Hancock
All PAP	All Present and After-acquired Property
ANZ	Australia and New Zealand Banking Group Limited
ARITA	Australian Restructuring Insolvency & Turnaround Association
ASIC	Australian Securities & Investments Commission
ATO	Australian Taxation Office
COD	Cash on delivery
Company	Sommer & Staff Constructions Pty Ltd
Director	Mr Daniel John Burley
DIRRI	Declaration of Independence, Relevant Relationships & Indemnities
DOCA	Deed of Company Arrangement
ERV	Estimated realisable value
ILRA	Insolvency Law Reform Act 2016 (Cth)
IT	Income Tax
LPI	Land and Property Information
PAYG	Pay As You Go
PPSR	Personal Property & Securities Register
POD	Proof of Debt
QBCC	Queensland Building and Construction Commission
RATA	Report as to Affairs
SCA	Subcontractors' Charges Act 1974

## **1. Executive Summary**

### **1.1. Appointment of Administrators**

I, Geoffrey Trent Hancock, was appointed Administrator of the Company on 14 September 2018 by the Director of the Company pursuant to Section 436A of the Act, as the Director was of the opinion that the Company was insolvent or was about to become insolvent.

### **1.2. Purpose of the Report**

The purpose of this Report is to table the findings of my investigations into the Company's business, property, affairs and financial circumstances, as well as my opinion on the various options available to creditors in deciding the future of the Company at the Second Meeting of Creditors.

### **1.3. Trading of the business**

Prior to my appointment, the QBCC suspended the Company's builder's licence and therefore, the Company was prohibited from undertaking its projects or carrying out any building work.

For further information in relation to the Company's projects, please refer to section 7 of this report.

### **1.4. Summary of Investigation**

Section 438A of the Act provides that as soon as practicable after an administration begins, the Administrator must investigate the Company's business, property, affairs and financial circumstances.

I have conducted our preliminary investigations into the Company's business, property, affairs and financial circumstances.

I have also conducted investigations in respect of transactions that appear to be voidable transactions. My review of the Company's records identified several transactions that require further investigations and enquiries. These investigations are further discussed in Section 8 of this report.

### **1.5. Deed of Company Arrangement**

I have not received a proposal for a DOCA for the Company as at the date of this report. Should this change, we will advise creditors accordingly.

### **1.6. Return to Creditors**

Based on the asset realisations and investigations to date, it is unlikely that there will be a return to any class of creditors.

## **1.7. Administrators' Recommendation**

As Administrator, I am required by Section 439A (4) of the Act to provide my opinion of the merits of the options available to creditors, namely whether it would be in the creditors' interests for:

- the Company to execute a DOCA; or
- the administration of the Company to end; or
- the Company to be wound up.

It is my opinion that the Company should be placed in liquidation. The reasons for this opinion are detailed in section 10 of this report.

## **1.8. Second Meeting of Creditors**

Attached is a Notice of Meeting of Creditors, marked **Annexure B**, convened in accordance with Section 439A of the Act. The meeting is to be held on Monday, 22 October 2018 at 11.30am local time at the Novotel Hotel, 200 Creek Street, Brisbane, QLD.

**Creditors wishing to attend and vote at the meeting must complete the attached forms of Proxy and POD, marked Annexures C and D respectively and lodge same with this office by 4pm on Friday, 19 October 2018.**

Creditors must ensure they attach full supporting documentation to the POD form to substantiate their debts, e.g. copies of invoices, statements and other relevant information.

Creditors who have previously lodged a POD form are not required to lodge another one.

## **2. Introduction**

This Report to Creditors concerns the Voluntary Administration of the Company. This Report should be read in conjunction with my previous advice to creditors dated 18 September 2018.

### **2.1. Purpose of the Appointment and Report**

The purpose of the appointment of Administrator is to allow for independent insolvency practitioners to take control of and investigate the affairs of the insolvent company. Creditors' claims are put on hold as at the date of the appointment of the Administrator and remain so for the duration of the administration.

The purpose of the Report is to outline:

- The Company's current financial position;
- The results of the likely realisation of the Company's assets;
- The Administrator's investigations into the affairs of the Company, including any insolvent transactions;
- My recommendation on the future of the Company;
- The anticipated dividend to creditors;
- Creditors' voting options; and
- My remuneration.

## **2.2. Declaration of Independence, Relevant Relationships and Indemnities**

My previous advice to creditors dated 18 September contained a DIRRI. A copy of the DIRRI was lodged with ASIC on 18 September 2018 and is attached as **Annexure A**.

I note that the DIRRI identifies one relevant relationship with a creditor, being the ATO. Subsequent to my appointment, the ATO indicated that they were not a creditor of the Company and therefore, this relationship is no longer relevant. As this change is insignificant and does not affect my independence in any way, I will not be lodging another DIRRI with ASIC.

## **2.3. The Voluntary Administration Process**

As noted earlier in this report I, Geoffrey Trent Hancock, was appointed Administrator of the Company on 14 September 2018 by the Director of the Company pursuant to Section 436A of the Act, as the Director was of the opinion that the Company was insolvent or was about to become insolvent.

On 26 September 2018, the first meeting of creditors was held. There were no nominations for an alternate Administrator prior to or at the meeting and therefore, I remained as Administrator of the Company. At the first meeting of creditors, the creditors in attendance also resolved to form a Committee of Inspection consisting of the following representatives:

1. Mr Esposito of Imperial Coatings QLD;
2. Mr Durwich of NABA Plumbing Contractors Pty Ltd;
3. Mr Beames of AAI Limited;
4. Mr Wong of 77 Developments Pty Ltd;
5. Mr Humble of HGH International; and
6. Mr Holden of Orbitz Elevators.

The next step in the Voluntary Administration process is to convene a second meeting of the Company's creditors to decide the future of the Company. That meeting will be held on Monday, 22 October 2018 at 11.30am local time at the at the Novotel Hotel, 200 Creek Street, Brisbane, QLD. A Notice of Meeting and other relevant documents are included with this report.

## **2.4. Conduct of Administration**

Upon my appointment, I took immediate steps to safeguard the Company's assets. The key activities that I have undertaken include, but not limited to:

- Liaising with the Director, accountants and Company's personnel in order to obtain a thorough understanding of the Company's business, its operations and reasons for my appointment;
- Liaising with QBCC in respect of the contracts the Company was undertaking;
- Liaising with the Department of Housing and Public Works in respect of show cause notices and projects it was responsible for;
- Liaising with the interested parties in relation to a potential sale of business;
- Review of the projects and an assessment of their profitability;
- Assessment of the Company's financial position;

- Conducting preliminary investigations into the affairs of the Company utilising books and records held by the Company;
- Conduct investigations pursuant to sec 438d of the Act in respect of offences and misconduct committed by the Company and its officers;
- Collection of the pre-appointment cash at bank balances;
- Notify all secured creditors and liaise with them in respect to their securities and amounts owing;
- Conduct Director personal searches and searches of the LPI Register;
- Engaged an expert to value and realise some of the Company's assets;
- Calculate the employees' entitlements and superannuation entitlements based on the Company records; and
- Prepare and issue the Administrator's report to creditors.

### 3. Overview and Statutory Information

#### 3.1. Shareholders, Officers and Security Charges

The search of ASIC corporate database identified that the Company was incorporated on 24 April 1978 and operated construction and development business. The Company's head office is located at 25 Argon Street, Sumner Park QLD 4074.

#### Officers

The search of the ASIC database shows the current and former Director of the Company to be as follows:

Name	Position	Appointment Date	Cessation Date
Daniel John Burley	Current Director	29 March 2011	N/A
Natasha-Emma Sommer-Burley	Former Director	29 November 2011	31 March 2017
Walter Heinrich Sommer	Former Director	25 May 1978	24 September 2014
Michael Troy Conway	Former Director	29 March 2011	6 February 2014
Brian Patrick Ryan	Former Director	30 May 2006	16 May 2012
Michael John Douglas Meadows	Former Director	25 September 2001	2 November 2011
Roger Grant Donald	Former Director	30 May 2006	3 March 2011
Ronald Sorel Perel	Former Director	6 June 1978	25 September 2001
Geoffrey James Warman	Former Director	28 January 1940	13 April 1988
Harold Leslie Brooke	Former Director	Unknown	3 April 1986

The personal name search has identified the following companies that the current Director, Mr Daniel John Burley, has been appointed to as a Director:

Company Name	Position	Appointment Date	Cessation Date
Client Tell Solutions Pty Ltd	Director	30 November 2009	Current
DDD Projects Pty Ltd	Director	26 April 2016	1 July 2018
Sombur Pty Ltd	Director	4 February 2011	1 July 2018
City, Town and Country Hire Pty Ltd	Director	15 October 2014	15 March 2018
Murarrie Holdings Pty Ltd	Director	15 June 2015	29 April 2016
Super Burley Pty Ltd	Director	21 March 2016	Current
Yeronga Project Pty Ltd	Director	13 March 2015	25 May 2016

### Shareholders

The search of ASIC database indicates that the Company's shareholding at the date of appointment is 510 fully paid ordinary beneficiary owned shares held by the following members:

Shareholder	Joint Holding	Number of shares	Shareholding
Sombur Pty Ltd	Yes	306	60%
Daniel John Burley	Yes		
Natasha-Emma Sommer-Burley	Yes		
Isobel Rebekka Mary Tuqiri	No	102	20%
Isobel Anne Sommer	No	102	20%

There have been no changes to shareholders or officers of the Company in the previous 12 months.

### Security Charges

The search of the PPSR disclosed 106 security registration at the date of my appointment. Further commentary with respect to securities is detailed in section 5 and Schedule 1 of this report.

#### 3.2. Winding Up Applications and Legal Actions

There has been no winding up applications filed against the Company prior to my appointment.

#### 3.3. Background and history

As noted earlier, the Company was incorporated on 24 April 1978 and operated a building construction and development business in Queensland.

The Company had two offices located at 25 Argon Street, Sumner Park QLD and 149 Torquay Road Scarness, QLD. At appointment, the Company had 21 permanent and 2 casual employees. Subsequent to my appointment, I terminated 17 employees and preserved employment for 6 employees.



At the date of my appointment, the Company had the following projects on foot:

<b>Name</b>	<b>Developer</b>	<b>Address</b>
Citro	77 Developments Pty Ltd	77 Victoria Street, West End QLD
Bohemia Apartments	River Quarter No 5 Development Co Pty Ltd	73 -77 Jane Street, West End QLD
The Ivory Apartments	Nan Xin Investment Brisbane Pty Ltd	12 Sanders Street, Upper Mt Gravatt
Kent Street, Maryborough	Fraser Island Council	331 Kent Street, Maryborough
Maryborough Government Office	QLD Government	123 Wharf Street, Maryborough, QLD
Maryborough Hospital	QLD Government	Neptune Street, Maryborough QLD
Eidsvold Hospital	QLD Government	Cracow Road, Eidsvold, QLD
Everton Park Housing	QLD Government	21 Newhaven Street, Everton Park QLD

On 3 September 2018, 77 Developments Pty Ltd issued a contract termination notice in respect of Citro project on the basis of repudiation and insolvency. As a result, on 5 September 2018, QBCC suspended the building licence of the Company which in turn led to other contracts that were in various stages of completion also being suspended. Please refer to section 7 of this report for further details in respect of the projects.

#### **4. Historical Financial Information**

Subsequent to my appointment, I have been provided with the Company's audited financial statements for the years ended 30 June 2016 and 30 June 2017 and draft management accounts for the period ending 30 June 2018.

The summary of the Company's financial statements and management accounts is outlined below:

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#### 4.1. Statements of Financial Performance

Below is the summary of the Company's financial performance for the periods ended 30 June 2016, 30 June 2017 and 30 June 2018:

	30 June 2018 \$	30 June 2017 \$	30 June 2016 \$
Revenue	50,184,462.00	55,196,016.00	97,050,057.00
Cost of Sales	49,244,527.00	56,869,135.00	94,863,384.00
<b>Gross Profit/ (Loss)</b>	<b>939,935.00</b>	<b>(1,673,119.00)</b>	<b>2,186,673.00</b>
Other revenue	938,995.00	168,919.00	364,157.00
Expenses	2,247,670.00	2,363,979.00	2,410,089.00
<b>Operating Profit/ (Loss)</b>	<b>(368,740.00)</b>	<b>(3,868,179.00)</b>	<b>140,741.00</b>

I make the following comments in respect of the financial performance of the Company:

- The revenue of the company relates to construction contract revenue which is recognised in accordance with the percentage of the projects' completion method. Other revenue is represented by interest income and rent received for 25 Argon Street, Sumner, QLD that the Company owned until January 2018.
- The Company made an operating profit of \$140,741.00 in the 2016 financial year.
- The revenue declined by 43% in the 2017 financial year. Although in the 2017 financial year the Company's cost of sales declined by 40% along with the revenue, the expenses of the Company remained approximately the same which resulted in operating loss of \$3,868,179 in that financial year.
- In the 2018 financial year, there was a 9% decrease in revenue and 13% decrease in cost of sales, which resulted in small gross profit of \$939,935. The Company incurred an operating loss of \$368,740 due to the continued high level of expenses.

#### 4.2. Statement of Financial Position

Below is the summary of the Company's financial position for the periods ended 30 June 2016, 30 June 2017 and 30 June 2018:

	30 June 2018 \$	30 June 2017 \$	30 June 2016 \$
<b>Current Assets</b>			
Cash	1,426,750.00	1,935,360.00	3,164,469.00
Receivables	3,856,827.00	5,621,323.00	10,636,613.00
Inventory	168,614.00	2,282,675.00	2,398,461.00
Other	26,783.00	94,697.00	87,371.00
<b>Total Current Assets</b>	<b>5,478,974.00</b>	<b>9,934,055.00</b>	<b>16,286,914.00</b>
<b>Non-current assets</b>			
Property, plant & Equipment	712,053.00	2,416,544.00	2,455,065.00
Deferred Tax Assets	1,222,988.00	1,317,344.00	161,125.00
<b>Total non-current</b>	<b>1,935,041.00</b>	<b>3,733,888.00</b>	<b>2,616,190.00</b>
<b>Total Assets</b>	<b>7,414,015.00</b>	<b>13,667,943.00</b>	<b>18,903,104.00</b>
<b>Current Liabilities</b>			
Payables	3,476,925.00	9,327,351.00	11,096,286.00
Provisions	382,299.00	306,710.00	473,987.00
Current tax liabilities	0.00	0.00	63,656.00
<b>Total Current Liabilities</b>	<b>3,859,224.00</b>	<b>9,634,061.00</b>	<b>11,633,929.00</b>
<b>Non-Current Liabilities</b>			
Payables	883,718.00	1,768,313.00	2,281,368.00
Provisions	65,185.00	51,978.00	62,256.00
<b>Total non-current liabilities</b>	<b>948,903.00</b>	<b>1,820,291.00</b>	<b>2,343,624.00</b>
<b>Total Liabilities</b>	<b>4,808,127.00</b>	<b>11,454,352.00</b>	<b>13,977,553.00</b>
<b>Net Assets</b>	<b>2,605,888.00</b>	<b>2,213,591.00</b>	<b>4,925,551.00</b>

I make the following comments in respect of the financial performance of the Company:

#### Assets

- Cash at bank includes ANZ term deposits held as security for bank guarantees and credit card debt. I note that no recoveries were made from these deposits.

- Approximately 80% of the Company's receivables relate to progress claims in respect of the Company's projects. The balance of the receivables relates to sundry debtors and interest receivable.
- The Company's inventory relates to construction Work-in-Progress. WIP declined by 92% from \$2,114,061.00 in the 2017 financial year to \$168,614.00 in the 2018 year. I understand that this decrease was partly caused by the suspension of construction works at the Citro site in June 2018.
- The Company's non-current assets in 2016 and 2017 financial years primarily comprise the industrial property located at 25 Argon Street, Sumner, QLD. The property was sold on 29 January 2018 to improve the Company's cash position.

#### Liabilities

- The Company's current payables comprise trade creditors and retention creditors;
- Current and non-current provisions represent employees' current and non-current entitlements and expenses.

#### **4.3. Working Capital Analysis**

Working capital is a financial measure which represents operating liquidity available to a company. Net working capital is calculated as current assets less current liabilities. Detailed below is a comparison of the working capital position of the Company as at 30 June 2016, 30 June 2017 and 30 June 2018.

The liquidity ratio below is a measure that is used to determine a company's ability to pay its short-term obligations. A liquidity ratio below 1.00 is generally considered to be an indicator of a company's inability to pay its debts as and when they fall due.

	<b>14 September 2018</b>	<b>30 June 2018</b>	<b>30 June 2017</b>	<b>30 June 2016</b>
	<b>\$</b>	<b>\$</b>	<b>\$</b>	<b>\$</b>
Total Current Assets	46,126.26	5,478,974.00	9,934,055.00	16,286,914.00
Less: Other assets	Nil	26,783.00	94,697.00	87,371.00
<b>Adjusted Current Assets</b>	<b>46,126.26</b>	<b>5,452,191.00</b>	<b>9,839,358.00</b>	<b>16,199,543.00</b>
Total Current Liabilities	14,306,056.63*	3,859,224.00	9,634,061.00	11,633,929.00
<b>Working Capital</b>		<b>1,592,967.00</b>	<b>205,297.00</b>	<b>4,565,614.00</b>
<b>Liquidity Ratio</b>	<b>0.00</b>	<b>1.41</b>	<b>1.02</b>	<b>1.39</b>

I make the following comments:

- Other assets relate to prepayments. Prepayments are not readily realisable assets and as such they have not been accounted for in the calculations of the total value of current assets for the purposes of analysis of the working capital

- Total current liabilities include all known creditor amounts and all claims received to date.
- It appears that the Company had adequate working capital in the 2016, 2017 and 2018 financial years. However, by the date of my appointment, the Company's working capital position significantly deteriorated due to suspension of work on all projects being undertaken by the Company.

## 5. Director's RATA

Under Section 438B of the Act, a director is required to provide a RATA as at the date of the appointment of an Administrator. In line with his obligations, the director of the Company provided me with a RATA, summarising the Company's financial position.

The RATA was completed by the Director on the basis of the information at hand and from the available books and records at the date of my appointment. I note the information contained in the RATA is currently being verified by the external accountant of the Company.

I provide a comparison of the Director's RATA compared to the amounts realised to date by the Administrator.

	RATA Book Value	RATA ERV	Administrator's ERV
	\$	\$	\$
<b>Assets</b>			
Cash at Bank	578,911.26	46,126.26	46,126.26
Debtors	377,577.90	377,577.90	TBD
WIP	168,614.00	0.00	TBD
Plant & Equipment	72,819.00	0.00	68,201.00
Real Property	0.00	0.00	0.00
Other Assets			28,852.35
<b>Total Assets</b>	<b>1,197,922.16</b>	<b>423,704.16</b>	<b>143,179.61</b>
<b>Liabilities</b>			
Priority Claim	356,064.48	356,064.48	505,484.84
Secured Creditors	0.00	0.00	311,843.91
Subcontractor Charges			1,615,039.42
Statutory Creditor			5,954.22
Unsecured Creditors			
incl. retentions	4,993,333.28	4,993,333.28	14,306,056.63
Related Party Claims	0.00	0.00	217,842.14
<b>Total Liabilities</b>	<b>5,349,397.76</b>	<b>356,064.48</b>	<b>16,962,221.16</b>
<b>Deficiency</b>	<b>(4,151,475.60)</b>	<b>(4,925,693.60)</b>	<b>(16,819,041.55)</b>

## 5.1. Assets

### Cash at Bank

The Director's RATA discloses cash at bank in the amount of \$578,911.26 (including term deposits in support of guarantees)

Immediately after my appointment, I conducted a search of bank accounts held in the name of the Company. I have identified the following with ANZ:

	<b>Balance at appointment</b>
	<b>\$</b>
Trading account	46,112.63
Trading account	387.69
Credit Card account	7,498.10 DR
Term Deposit	230,735.01
Term Deposit	49,030.07

The Company had two trading accounts at appointment. The funds from the trading accounts with a combined balance of \$46,126.26 have been transferred to Administrator's account and utilised in the trading of the business.

Two term deposits are held by the bank as a security for bank guarantees and business credit card debt. No recovery has been made from these term deposits.

### Debtors

The Company had the following debtors at appointment:

<b>Debtor name</b>	<b>Amount</b>
	<b>\$</b>
Department of Housing & Public Works & Asset Services	361,007.90
Portfolio Group of Companies	16,500.00
<b>Total</b>	<b>377,507.90</b>

The debt owed by Portfolio Group of Companies was over 90 days overdue and therefore, is considered a doubtful debt.

The claim against the Department of Housing & Public Works & Asset Services relates to a progress claim for Maryborough Hospital Upgrade Air/Con & Switchboard. The sum of \$361,007.90 was to payable to the Company as at 10 September 2018 and has now been withheld on account of the receipt of two Sub-contractor Charge Notices.

## Plant & Equipment

I have been provided with a listing of the Company's asset register that indicates the written down or depreciated book value of the Company's plant & equipment in the amount of \$72,819.00 including 5 motor vehicles.

Subsequent to my appointment I secured the motor vehicles and engaged Slattery Auctions QLD Pty Ltd to sell these motor vehicles at the weekend auction starting on 5 October 2018. Four motor vehicles have been sold for the gross amount of \$72,860.00. Agent's commission of \$4,659.00 has been retained by Slattery Auctions QLD Pty Ltd. I am now in the process of collecting the net proceeds of \$68,201.00.

I am yet to realise the balance of the plant & equipment and one motor vehicle. The outcome of recoveries from this source will depend on the future options available to the Company. Should the Company execute a sale of business agreement, I will consider selling the balance of the equipment to the purchaser. If such option is not available, I will consider selling the balance of equipment at the auction. However, I anticipate nominal recoveries from this source.

## Real Property

Upon appointment, I conducted searches with the LPI Register in QLD in order to identify if there were any real property holdings in the name of the Company. I have not identified any current real property holding registered in the name of the Company.

As indicated earlier in this report, the Company owned industrial property located at 25 Argon Street, Sumner, QLD. The property was sold on 29 January 2018 to repay debt and improve the Company's cash position. The sale is discussed further in section 8.1.3 of this report.

## Other assets

Other assets relate to the following refunds received after my appointment:

Name	Amount
	\$
Energex	27,402.26
Master Builders Insurance Services	1,450.09
<b>Total</b>	<b>28,852.35</b>

## 5.2. Liabilities

### Priority Creditors

The Act provides for priority to be given to the various entitlements that are due to employees of the Company.

The records provided at appointment disclose the priority claims in the amount of \$388,220.12.

In order to quantify the position of the employees, I set about reconciling the known employee entitlements based on the relevant awards, the current wages and salaries of the employees at the date of my appointment. I also took into consideration whether they were related parties and therefore, would be predominantly excluded.

The table below sets out the book value of each class of employee entitlement, and the corresponding value of priority entitlements calculated by the Administrator:

Entitlement	RATA Values	Administrators Value
	\$	\$
Superannuation	30,577.56	27,591.02
Wages	77,977.39	68,101.42
Allowance	1,578.08	1,578.08
Annual Leave	149,973.33	101,838.65
Long Service Leave	128,133.76	68,557.24
Redundancy	Nil	237,818.43
<b>Total</b>	<b>388,240.12</b>	<b>505,484.84</b>

At the date of my appointment, the Company had 23 employees, 2 of whom were casual and 2 employed on a part-time basis. Subsequent to my appointment, I terminated 17 employees and preserved employment for 6 employees.

The discrepancy between the RATA values and the Administrator's values are caused by the following:

- **Redundancy**

Given that the Company had more than 15 employees at the date of my appointment, the Company is not a Small Business Employer pursuant to Fair Work Act 2009 and therefore, the employees are entitled to redundancy. The redundancy has been calculated based on the National Employment Standards.

- **Excluded employees**

The company's director, former director and one other employee are excluded employees as defined in section 556(2) of the Act. In respect of wages and superannuation, each excluded employee can receive a maximum priority payment of \$2,000. In respect of annual and long service leave, an excluded employee's claim in priority is limited to a claim of up to \$1,500 for both entitlements. The excess amounts are treated as unsecured claims of the Company.



If it is expected that insufficient funds will be recovered to enable a full distribution to employees, the government Fair Entitlements Guarantee ("FEG") scheme may be of assistance to those employees. It specialises in assisting employees with outstanding entitlements that become due because of employers becoming insolvent.

The scheme provides assistance with regard to the following employee entitlements:

- up to a maximum of 13 weeks unpaid wages for the period prior to the appointment of the Liquidator;
- unpaid annual leave;
- unpaid long service leave;
- up to a maximum of 5 weeks unpaid payment in lieu of notice; and
- up to a maximum of 4 weeks unpaid redundancy entitlement for each completed year of service.

In the event that it is established that there are outstanding employee entitlements that will not be met by realisations I will be liaising with the Department of Jobs and Small Business to enable that distribution to be made to employees. In the interim, employees should contact us with details of their outstanding entitlements.

Please refer to <https://www.jobs.gov.au/fair-entitlements-guarantee-feg> for further information.

### **Secured Creditors**

The search of the PPSR disclosed 106 security registration at the date of my appointment. 21 security registrations have been discharged since the date of my appointment.

The summary of claims received to date is as follows:

	<b>RATA amount</b>	<b>Claims received</b>
	<b>\$</b>	<b>\$</b>
<b>Secured creditor claims</b>	213,519.96	311,843.91

Please refer to Schedule 1 of this report for detailed listing of security registrations.

### **Subcontractor charges**

Pursuant to section 5 of the SCA any subcontractor who has been engaged to carry out work by a contractor is entitled to claim a charge over money payable to the contractor by a principal or superior contractor. It enables subcontractors to secure a statutory charge over money payable (or to be paid in the future) to them by their contractor.

By giving a charge, in effect, the subcontractor is classed as a secured creditor for the purposes of any administration or liquidation.

To date of this report, I have received notices of subcontractor charges in the total amount of \$1,615,039.42.

I note that during Voluntary Administration of the Company, the subcontractors are temporarily prevented by the Corporations Act 2001 from beginning proceedings to enforce the charge due to moratorium period during Voluntary Administration.

### **Statutory Debt**

Upon appointment I have written to the ATO and OSR requesting that they provide me with the particulars of their debt if any.

As noted earlier in this report, the ATO advised that the Company did not have any outstanding tax liability.

The Company has outstanding payroll tax liability to the OSR in the amount of \$5,954.22 for the period 1 July 2018 to 14 September 2018.

### **Unsecured Creditors**

Unsecured claims of the Company are mostly represented by ordinary trade creditor and retention creditors.

Retention claims relate to the amounts of the contract price retained during the progress or after the completion of the work the subject of a contract or subcontract as security for rectification of defects in the work during the period of maintenance provided for by the contract or subcontract or to be payable after such rectification or on the expiration of such period of maintenance.

The summary of unsecured creditors' claims including retention creditors is outlined below:

	<b>RATA amount</b>	<b>Claims received</b>	<b>Projected Claims</b>
	<b>\$</b>	<b>\$</b>	<b>\$</b>
<b>Unsecured creditor claims</b>	4,993,333.28	12,119,403.61	14,306,056.63

I note that claims received to date and projected claims include the portion of Subcontractor charges, and therefore, some amounts may be double proved (claimed). Should there be a dividend to unsecured creditors, I will adjudicate on these claims and verify the balances. At this stage, the total amounts are estimate only.

## Related party claims

Related party claims relate to unsecured portion of debt owed to excluded employees, being the Director and excluded individuals. The summary of these claims is outlined below:

Entitlement	Unsecured portion
	\$
Superannuation	6,062.39
Wages	9,875.96
Annual Leave	48,134.67
Long Service Leave	59,556.52
Redundancy	94,212.60
<b>Total</b>	<b>217,842.14</b>

## 5.3 Reasons for failure

### Director's Explanation

Upon my appointment, I issued correspondence to the Director of the Company requesting that he complete and return the director's questionnaire which outlines the explanation for the Company's insolvency.

In his questionnaire, Mr Burley provided the following reasons for the Company's failure:

*"The failure of the company was caused by the Developer of the Citro Apartments project refusing to pay \$3.1M in owed monies for the current progress claim plus considerable EOT's that were in dispute (yet the Developer still instructed the Superintendent to apply LD's), as well as over \$2M worth of unapproved variations that were also in dispute.*

*Construction works were suspended by the Superintendent on the 22nd June 2018 due to the Principal's failure to approve the Provisional Sum for the QUU water meters. The next two months were spent trying to reach an agreement which culminated in a meeting with Opencorp/Equire, their solicitors, NAB representatives, Sommer & Staff and our solicitor. It was agreed that all legal/contractual items be placed on hold until the 31st August, but the Developer requested various information which we provided them as a matter of urgency due to the importance of the situation including Opencorp paying all outstanding monies to the subcontractors/suppliers and then complete the project on a new CM contract with a cost to complete.*

*On the 3rd September 2018, Opencorp/Equire blindsided us by issuing a termination letter for the contract but not before cashing in over \$1.1M in unconditional bank guarantees with our bank that were secured by our cash term deposits. It was at this point that it became apparent that the company was now going to have financial issues that could potentially lead to the failure of the company.*

*This was followed on the 5th September 2018 after COB, by the QBCC issued a Notice of the Intention to Suspend our Builders licence followed 15 minutes later by the Suspension Notice and Intent to Cancel our Builders licence, which therefore forced us to cease Works on all our current Construction projects."*

### **Administrator's opinion**

My investigations concur with the director's comments in respect of the reasons for Company's failure and a further review of the Company suggests that inadequate cash flow and high level of expenses in the 2017 and 2018 financial years also attributed to the financial difficulties of the Company.

As discussed earlier, there was a significant decrease in revenue in the 2017 financial year, however the expenses remained at the same level. It appears that the Company was unable to meet these expenses which in resulted operating loss in excess of \$3 million.

I note that this is a preliminary view and further investigations will be conducted should the Company be placed in liquidation.

### **6. Administrator's Prior Involvement**

In accordance with Section 436DA of the Act and the ARITA Code of Professional Conduct, a copy of DIRRI is attached to this report.

I have undertaken a proper assessment of the risks to my independence prior to accepting the appointment as Administrator of the Company in accordance with the law and applicable professional standards. This assessment identified no real or potential risks to my independence. I am not aware of any reasons that would prevent us from accepting this appointment.

### **Circumstances of appointment**

The Director was referred to me by a former creditor of St Hilliers Constructions Pty Ltd.

On 10 September 2018, I had a telephone conversation with the Director regarding potential appointment.

On 13 September 2018, Tom Lesnikowski from my office and I met with the Director to discuss the Company's financial position and advise on the options available to him.

On 13 September 2018, I provided the director with a copy of the appointment documents and my consent to act. The Director appointed me as Administrator of the Company on 14 September 2018.

I believe that this does not result in a conflict of interest or duty because:

- The courts and the ARITA's Code of Professional Practice ('the Code') specifically recognise the need for practitioners to provide advice on the insolvency process and the options available and do not consider that such advice results in a conflict or is an impediment to accepting to appointment. The relevant section of the Code relating to this is Section 6.8.1, Part B;

- The nature of the advice provided to the Company is such that it would not be subject to review and challenge during the course of the Administration; and
- The pre-appointment advice will not influence our ability to be able to fully comply with the statutory and fiduciary obligations associated with this Administration in an objective and impartial manner.

I have not provided any personal insolvency advice during these discussions or meetings. I have not received any remuneration for the above activities relating to the Company.

I confirm that I consider that the information provided, and meetings would not be subject to review during the Administration of the Company and will not impact on compliance with our statutory and fiduciary duties and for these reasons the advice does not, in our opinion, give rise to a conflict of interest or duty.

I declare that no information or advice, beyond which is outlined in this document, was provided to the Company, its officers or its advisors.

#### **Relevant relationships (excluding Professional Services to the Insolvent)**

In the DIRRI lodged with ASIC and circulated to creditors I disclosed one relevant relation with a creditor being the ATO. After my appointment, the ATO indicated that they were not a creditor of the Company and therefore this relationship is no longer relevant.

#### **7. Current projects and potential sale of business**

The summary of the projects the Company had been undertaking prior to my appointment is outlined below:

<b>Name</b>	<b>Developer</b>	<b>Address</b>
Citro	77 Developments Pty Ltd	77 Victoria Street, West End QLD
Bohemia Apartments	River Quarter No 5 Development Co Pty Ltd	73 -77 Jane Street, West End QLD
The Ivory Apartments	Nan Xin Investment Brisbane Pty Ltd	12 Sanders Street, Upper Mt Gravatt
Kent Street, Maryborough	Fraser Island Council	331 Kent Street, Maryborough
Maryborough Government Office	QLD Government	123 Wharf Street, Maryborough, QLD
Maryborough Hospital	QLD Government	Neptune Street, Maryborough QLD
Eidsvold Hospital	QLD Government	Cracow Road, Eidsvold, QLD
Everton Park Housing	QLD Government	21 Newhaven Street, Everton Park QLD

## **Citro**

Citro Apartments is a residential apartment project consisting of a 7-storey residential unit development, 106 units, 3 levels of basement car parks and service areas.

Significant issues with this project arose when the Developer failed to approve the provisional sum for the water meters and as a result of this on or around 22 June 2018, the Company suspended all construction work in order to reach an agreement with the Developer. On 3 September 2018, the Developer issued a contract termination notice in respect of Citro project on the basis of repudiation and insolvency. As a result, on 5 September 2018, QBCC suspended the licence of the Company which in turn led to other contracts that were in various stages of completion also being suspended. As the contact was terminated, I have no control over the project.

## **Bohemian Apartments**

The Bohemian Apartments project is a multi-storey residential development including basement car parking, and 94 residential apartments, with a pool deck.

This project is complete pending the defect run-off.

## **The Ivory Apartments**

The Ivory Apartments is multi-storey mixed-use project with 3 sub-basement car park levels, ground floor retail with 64 one- two- and three-bedroom units over 5 levels to the roof.

The contact was terminated by the Developer and I have no control over the project.

## **Kent Street, Maryborough**

The contact was terminated by the Developer and I have no control over the project.

## **Maryborough Government Office**

Maryborough Government Office project relates to a refurbishment and alterations of the government building.

I understand that this project is now complete with a practical certification issued on 4 December 2017 and is effectively in defect run-off with a cash retention to be released to the Company on 4 December 2018.

## **Maryborough Base Hospital**

This project relates to Air/Con and Switchboard upgrade in building 1 of Maryborough Base Hospital. The project is in its early stage. I note however that the sum of \$361,007.90 was to payable to the Company as at 10 September 2018 and has now been withheld on account of the receipt of two Sub-contractor Charge Notices.

## **Eidsvold Hospital**

Eidsvold Hospital project relates to refurbishment of the main hospital building. I understand that this project is now complete with a certificate of practical completion issued on 10 July 2018 and is effectively in defect run-off with a cash retention currently due to the Company.

## **Everton Park Housing**

Everton Park Housing is a 7 x 1 Bed Apartments project. I understand that several variations require approval in respect of this project and that for any works to re-commence or the project be completed that the remaining works would need to be re-costed and approved accordingly prior to any further work commencing.

## **Potential Sale of Business**

Subsequent to my appointment I liaised with QBCC in respect of the Company's business licence and a possibility of obtaining restricted licence to complete four QLD government project. Given this option was not available to the Company, I am now considering potential sale of business that would include be a novation or assignment of the 4 contracts that were not terminated, all intellectual property (including certification), the business name and the transfer of key employees.

## **8. Investigations**

I have undertaken the following investigations to prepare this report and formulate my opinions:

- Searches of ASIC corporate database and PPSR;
- Searches of LPI Register;
- Review of books and records of the Company;
- Discussions with the Director, key management and staff;
- Review of the financial accounts of the Company; and
- Correspondence with the creditors of the Company.

My review of this information is ongoing and will continue should the Company be placed into liquidation.

### **8.1. Offences, Voidable Transactions and Insolvent Trading**

#### **8.1.1. Adequacy of Books and Records**

Section 286 of the Act requires a company to keep written financial records that correctly record and explain the company's transactions, financial position and performance and would enable true and fair financial statements to be prepared. The financial records must be retained for a period of seven (7) years after the transactions covered by the records are completed.

Financial records are defined in Section 9 of the Act as including documents of prime entry and working papers and other documents needed to explain the methods by which financial statements are made up and any adjustments to them in preparing same.

Upon appointment I took control of the Company's books and records and have obtained a copy of all electronic records maintained by the Company.

Based on the records obtained, I believe that the books and records have been maintained by the Company pursuant to Section 286 of the Act as they record and explain the financial position and performance and enable accurate financial statements to be prepared and audited.

### **8.1.2. Offences**

Pursuant to Section 438D of the Act I have conducted my investigations as to the:

- Existence of offences committed by any past or present officers or members; and
- Existence of any misapplication, retention, liabilities, accountability, negligence, default, breach of duty or trust by persons who have taken part in the formation, promotion, administration, management of the Company.

### **8.1.3. Voidable Transactions**

In the course of my investigations, I have endeavoured to ascertain whether there are any transactions that appear to be voidable in respect of which money, property or other benefits might be recoverable by a Liquidator under Part 5.7B of the Act.

Voidable transactions include:

- Unfair preferences (Section 588FA);
- Uncommercial transactions (Section 588FB);
- Unfair loans to a company (Section 588FD);
- Unreasonable director-related transactions (Section 588FDA);
- Transactions with the purpose of defeating creditors (Section 588FE(5));
- Voidable security interests (Section 588FJ); and
- Arrangements to avoid employee entitlements (Section 596AB).

### **Relation back date**

Pursuant to section 513C of the Act, the relation back date is the date when the administration began. Accordingly, the relation back date is 14 September 2018.

### **Unfair Preferences – Section 588FA**

The provisions of the Act allow certain payments made to creditors within the 6 months before the relation back date (4 years for related parties) to be recovered by a liquidator should those payments prove to be "preferential" to the recipients.

I have conducted a review of the Company's records in my possession for the relevant period and identified several transactions that require further investigations.



I further note that in order to prove a creditor received an unfair preference payment, a liquidator must demonstrate that a company was insolvent at the time the creditor received the payment/benefit. My preliminary investigations in respect of insolvent trading are still on-going.

I also note that there are defences available for the creditor who received unfair preference payments which may affect the recoverability of these payments.

Should the Company be placed into Liquidation and I am appointed Liquidator I will continue my investigations and where viable to do so and if appropriate instigate recovery actions in relation to any amounts that have the characteristics of unfair preferences.

### **Uncommercial Transactions – Section 588FB**

Certain transactions may be voidable if they are of no benefit or of some detriment to the company and the transactions were entered into within 2 years (4 years for related parties) before the relation back date. My investigations are on-going.

#### Pre-appointment sale of Property

As indicated earlier in this report, on 29 January 2018, the Company sold and leased back the industrial property located at 25 Argon Street, Sumner Park, QLD 4074 and known as Lot 175 in RP207057 (“the Property”). The Property was sold for \$2,075,000.00 to a related party, Walter Sommer Pty Ltd.

Prior to the sale, the Company engaged an independent valuer to conduct a valuation of the Property. I have obtained a copy of the valuation report prepared by the valuer. I note that the property was valued using a “Market Value- As Is” methodology. I advise that the purchase price for the Property was in line with the estimated market value provided in the valuation report. At the date of the sale, the property was subject to a registered mortgage and a loan. The proceeds from the sale were distributed to pay off these encumbrances provide cash security for guarantees. The balance of proceeds was received by the Company and used as working capital.

I am of the opinion that this transaction commercial and reasonable and was not completed with the intention to defraud creditors.

### **Unfair Loans - Section 588FD**

A loan to a company may be regarded as an unfair loan where interest or fees and charges in relation to the loan were extortionate. Transactions relating to unfair loans may be recovered by a liquidator if they occurred at any time on or before the relation back date.

My investigations regarding the Company's records have not revealed any loan to or from any parties which can be considered unfair.

#### **Unreasonable director-related transactions - Section 588FDA**

Any payments, dispositions or issuing of securities made to or on behalf of a director or a close associate of a director may be voidable if they occurred within 4 years before the relation back date causing detriment to the Company.

My investigations in this regard are ongoing and should the Company be placed in liquidation those investigations will continue. To date I have not identified any transactions of such nature.

#### **Transactions with the purpose of defeating creditors - Section 588FE(5)**

I have conducted a preliminary review of the transactions of the Companies for the six months prior to the relation back day to identify any transactions that may have been entered into with the purpose of defeating creditors.

I have not to date identified any transactions undertaken for the purposes of defeating creditors that would be recoverable by a liquidator.

#### **Voidable security interests - Section 588FJ**

Upon appointment, I conducted a review of the security interests registered against the Company, in particular the agreements entered into with the security charge holders and the date these charges were registered.

I have identified 9 security interests registered in the 6 months prior to my appointment. I will continue my investigations in relation to these registrations should the Company be placed in liquidation.

#### **Arrangements to avoid employee entitlements - Section 596AB**

My investigations of the Company's records have not revealed any arrangements to avoid employee entitlements. Further investigations will be undertaken should the Company be placed into Liquidation.

#### **8.1.4. Insolvent Trading – Section 588G**

Part of my role as Administrator is to conduct a preliminary examination of the Company's solvency to determine whether the Company is insolvent and when the Company first became insolvent. This examination is preliminary and based on the best information available at this time.

The definition of solvency requires an assessment as to whether a company is able to "pay all its debts as and when they fall due". The assessment of solvency is primarily based therefore on an expectation that a company would be able to meet its current obligations to creditors, and not simply whether a company's assets exceed its liabilities.

There is also a number of factors, which serve collectively as “key indicators” of insolvency which are useful in determining whether the Company is insolvent and when it became insolvent. My preliminary investigations have revealed the following relevant indicators of insolvency in respect to the Company:

<b>Indicia of Insolvency</b>	<b>Present</b>
Continuing losses	Yes
Working capital deficiency/ Liquidity ratio below one (1)	Yes
Overdue Commonwealth & State Taxes	No
Inability to borrow funds/ No access to alternative finance/ inability to raise further capital	Unknown
Supplier placing the debtor on COD terms, other otherwise demanding special payments before resuming supply/ Creditors unpaid outside trading terms	No
Issuing of post-dated cheques	No
Dishonoured cheques	No
Special arrangements with selected creditors/ Payments to creditors of rounded figures, which are irreconcilable to specific invoices	No
Solicitors' letter, summons(es), judgments or warrants issued against the company	Yes
Inability to produce timely and accurate financial information to display the company's trading performance and financial position, and make reliable forecasts.	No

I note that based on the Company's background and historical financial performance, I believe that the Company started experiencing financial difficulties in the 2017 financial year when the revenues of the Company's dropped, but the expenses remained at a high level which in turn resulted in a significant operating loss.

However, given the history of the Company and the nature of its business, in particular the method of recognition of the revenues and expenses, I am of the opinion that the Company became insolvent on or around 5 September 2018 when its construction licence was suspended.

Prior to that date, it appears that the Company had some profitable projects on foot and some liquid assets that it could utilise to pay its outstanding short-term liabilities. However, upon suspension of the licence, the projects of the Company became static and therefore, the Company was unable to receive any progress claims or turnover its WIP whilst the trade payables and retention claims became due and payable.

I note that this opinion is preliminary due to the time constrains of the Voluntary Administration. Should the Company be placed in Liquidation, I will continue my investigations in this regard.

## **Defences to Insolvent Trading Claim**

The Act provides several defences to any potential insolvent trading claims. These defences are available to any person the subject of such a claim and are similar for claims against directors and holding companies. The defences can be summarised as follows:

- Reasonable Presumption of Solvency

It is a defence to a claim for insolvent trading if a person can prove that they had reasonable grounds to presume the company was solvent and would remain solvent even if a debt or other debts were incurred at that time.

- Reliance on Others

It is a defence to a claim for insolvent trading if a person had reasonable grounds to rely on a competent and reliable person to provide information regarding the company's solvency and that the information provided the person could reasonably presume that the company was solvent.

- Reasonable Steps

It is a defence to a claim for insolvent trading if a person can prove that they took all reasonable steps to prevent the company incurring the debt, including but not limited to appointing a Voluntary Administrators.

- Illness

It is a defence to a claim for insolvent trading if a person can prove that at the time due to illness or some other good reason that the person did not take part in managing the company.

## **Director's Potential to satisfy Insolvent Trading Claim**

The merit of pursuing any insolvent trading claim depends on the personal asset position of the Director.

I have performed searches with the Land and Property Information Register in QLD in order to identify if there were any real property holdings in the name of the Director. I have identified that the Director holds one real property. This property is jointly owned with his spouse, Mrs Sommer-Burley and is subject to two mortgages. I am unable to determine whether there is any equity in the property.

Section 545 of the Act exonerates a Liquidator from having to incur the expense of legal action if the company in Liquidation has no funds or assets from which to pay the Liquidator's legal costs and remuneration. If I become Liquidator, I will have to consider what funds will be available to commence legal action against any potential defendant.

A Liquidator without adequate funds could seek funding from creditors to commence legal action. In this regard, I note that Section 564 of the Act allows a court to make orders in favour of a funding creditor, effectively giving the creditor the right to a priority distribution over other unsecured creditors (from recoveries by the Liquidator).

Any creditor that has information that may assist in my investigations should provide details of same in writing to our office as a matter of urgency. If the Company is wound up, I will consider this information and whether further investigations are required to pursue a claim, if any.

I bring creditors attention to Section 588R of the Act which allows a Liquidator to consent to a creditor commencing proceedings for insolvent trading on their own account. Should the Company be placed into Liquidation and I receive a written request for such consent I would be prepared to consider same.

### **Return to Creditors from an Insolvent Trading Action**

I currently do not have conclusive evidence that an action is available against the Directors for trading the Company whilst insolvent due the defences available to him. Further investigations which are normally conducted by a Liquidator(s) are therefore necessary to determine whether a claim can be made against the Director. In the event that the Director defends any such claims, I would anticipate that a claim for insolvent trading would incur significant legal costs. In consideration of the above, I am not in a position to advise on the likely return to creditors from an insolvent trading action.

### **9. Estimated Return Analysis**

The likelihood of a dividend being paid to creditors is generally affected by a number of factors including:

- the size and complexity of the administration;
- the amount of assets realisable and the costs of realising those assets;
- the statutory priority of certain claims and costs;
- the value of various classes of claims including secured, priority and unsecured creditor claims;
- and the volume of enquiries by creditors and other stakeholders.

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Following is a summary of the estimated return to creditors should the Company be placed in liquidation:

	<b>Liquidation</b>
	<b>\$</b>
Cash at Bank	46,126.26
Debtors	TBD
Other Assets	28,852.35
Sale of PP&E	68,201.00
WIP	TBD
<b>Total Asset Realisations</b>	<b>143,179.61</b>
Less: Costs of Administration (incl accruals)	(60,000.00)
Less: Estimated Cost of Administration/ Liquidation	
Administrator's Remuneration	(99,004.50)
Administrator's Expenses	(15,000.00)
Liquidator's Remuneration	(73,195.00)
Liquidator's Expenses	(15,000.00)
Total Estimated Cost of Administration/ Liquidation	(202,199.50)
<b>Assets Available for Priority and Secured Creditors</b>	<b>Nil</b>
<b>Estimated Return for Unsecured Creditor</b>	<b>Nil</b>

#### 10. Administrator's Recommendation

The provisions of Section 439A(4) of the Act, require the Administrator to provide opinions on each of the three options, and which one would be in the creditors' best interests. After considering the above issues and in accordance with my obligations under Section 439A(4)(b) of the Act, I set out my opinions below.

Creditors are required to vote on three motions relating to the Company's future and, in particular, whether it would be in creditors' interest for the:

- Administration to end; or
- The Company to execute a DOCA; or
- The Company to be wound up.

For each of the alternatives, I provide our opinion as follows:

##### I. Whether the Administration should end

It is not my opinion that the Administration should end, as the Company is insolvent.

There appears to be no valid commercial reason why control of the Company should revert to its Directors. If the Administration were to end, there is no mechanism controlling an orderly realisation of remaining assets and distribution to creditors.

## **II. Execution of a DOCA**

As I have not received a DOCA proposal at this point of time, this option is not available to creditors.

## **III. Winding up of the Company:**

It is my opinion that the Company should be placed into liquidation. A liquidator would be in a position to conduct detailed investigations into the conduct of directors and the financial affairs of the Company.

A liquidator will also be empowered to:

- Realise any remaining assets of the Company in an orderly manner;
- Pursue various potential recoveries under the Act;
- Distribute recoveries made in accordance with the priority provisions of the Act;
- Report to ASIC on the results of investigations into the Company's affairs; and
- Conduct examinations of relevant persons to assist in determining cause(s) of failure of the Company

Should creditors resolve to pursue this course of action, I will be seeking to be appointed Liquidator of the Company.

## **11. Remuneration and Disbursements**

At the forthcoming meeting, creditors will be asked to consider and approve the remuneration of the Administrator and the future remuneration of the Liquidator, if appointed. Further information regarding my remuneration is contained in the attached Remuneration Report, marked **Annexure E**.

Creditors are referred to the Creditors' Information Sheet regarding remuneration which can be accessed via the following link:

<http://www.pkf.com.au/Our-Services/Business-Recovery-and-Insolvency/Insolvency-Guides>

This sheet contains further information for creditors on approving remuneration in external administrations and creditors should read this notice carefully.

In summary, at the forthcoming meeting we will seek the creditors approval of the following resolutions:

### **Administrator's Remuneration and Disbursement:**

Remuneration for the period from 14 September 2018 to 9 October 2018

"That the remuneration of the Administrator, his partners and staff, for the period from 14 September 2018 to 9 October 2018, calculated at the hours spent at the rates detailed in the Initial Remuneration Notice dated 18 September 2018, is approved for payment in the amount of \$84,799.50, exclusive of GST, to be drawn from available funds immediately or as funds become available"

#### Remuneration for the period from 10 October 2018 to 22 October 2018

"That the future remuneration of the Administrator for the period from 10 October 2018 to 22 October 2018, is determined at a sum equal to the cost of time spent by the Administrator and his partners and staff, calculated at the hourly rates as detailed in the Initial Remuneration Notice dated 18 September 2018 provided to creditors, up to a capped amount of \$14,205.00 exclusive of GST, and that the Administrator can draw the remuneration from available funds as time is incurred on a monthly basis or as funds become available."

#### Internal disbursements from 14 September 2018 to 22 October 2018

"That the internal disbursements claimed by my firm for the period 14 September 2018 to 22 October 2018 calculated at the rates detailed in the Initial Remuneration Notice dated 18 September 2018, are approved up to a capped amount of \$5,000.00, exclusive of GST, and that the Administrator can draw the disbursements from available funds as incurred or as funds become available."

### **Liquidator's Remuneration and Disbursements**

#### Remuneration for the period from 22 October 2018 to the conclusion of the Liquidation

"If the Company is wound up, that the future remuneration of the Liquidator for the period from 22 October 2018 to the finalisation of the Liquidation, is determined at a sum equal to the cost of time spent by the Liquidator, and his partners and staff, calculated at the hourly rates as detailed in the Initial Remuneration Notice dated 18 September 2018 provided to creditors, up to a capped amount of \$73,195.00, exclusive of GST, and that the Liquidator can draw the remuneration from available funds as time is incurred on a monthly basis or as funds become available."

#### Internal disbursements from 22 October 2018 to the conclusion of the Liquidation

"That the internal disbursements claimed by my firm for the period from the commencement of the liquidation to the conclusion of the liquidation, calculated at the rates detailed in the Initial Remuneration Notice dated 18 September 2018, are approved up to a capped amount of \$1,000.00, exclusive of GST, and that the Liquidator can draw the disbursements from available funds as incurred or as funds become available."

### **12. Meeting**

Attached is a Notice of Meeting of Creditors, marked **Annexure B** convened in accordance with Section 439A of the Act. The meeting is to be held on Monday, 22 October 2018 at 11.30am at the Novotel Hotel, 200 Creek Street, Brisbane, QLD

The purpose of the meeting is to decide the future of the Company and consider the Administrator's remuneration and Liquidator's remuneration, if the Company proceeds to Liquidation.

**Creditors wishing to attend and vote at the meeting must complete the attached forms of Appointment of Proxy and POD, marked Annexures C and D respectively and lodge same with this office by 4pm on 19 October 2018.**



Creditors must ensure they attach full supporting documentation to the POD form to substantiate their debts, e.g. copies of invoices, statements and other relevant information. Creditors who have previously lodged a POD form are not required to lodge another one.

Where a creditor wishes to vote at the meeting but is unable to attend, they may still do so by completing the attached Proxy form and appointing another person to attend and vote on their behalf. Corporate creditors wishing to vote at the meeting must complete the Proxy form and forward same to this office.

### **13. Disclaimer**

The report, statement and investigation of the Company's affairs has been prepared and conducted from the books and records of the Company in my possession and other information provided by the Director, his advisers and other parties. In these circumstances creditors must appreciate the limitations in the information provided. Whilst I have used my best endeavours, I am unable to warrant the accuracy, completeness or reliability of the information provided.

The statement of financial position recorded earlier in this report and the estimated outcome is an estimate only based on information available at the date of this report. Many factors affect the estimated outcome to creditors.

The data used in this report may change as further information becomes available and after all matters in the administration are finalised. If there is any additional material information received in the Administration then it will be presented to creditors as soon as practicable.

Should any creditor require assistance in completing the attached forms, please contact Alena Khudyakova of our office on (02) 8346 6000 or email [alenak@pkf.com.au](mailto:alenak@pkf.com.au).

### **14. Queries**

If you have any queries in relation to this matter, please contact Alena Khudyakova of our office on (02) 8346 6000 or email [alenak@pkf.com.au](mailto:alenak@pkf.com.au).

Yours faithfully,



**Geoffrey Trent Hancock**  
**Administrator**

**Schedule 1 - Secured creditors' registrations**

Number	Secured Party Group	PMSI	Collateral Class	Registration Start Time
201510010029929	A QUICK FIX GLAZING CONTRACTORS PTY LTD ACN 072 932 382	Yes	Other Goods	1/10/2015
201207040042384	ACCESS HARDWARE PTY. LTD. ACN 006 426 820; ACCESS CORPORATE SERVICES PTY LTD ACN 142 688 284; ACCESS HARDWARE (TAS) PTY. LTD. ACN 080 370 109; ACCESS HARDWARE (S.A.) PTY. LTD. ACN 120 943 697; ACCESS HARDWARE (QLD) PTY. LTD. ACN 125 789 497; ACCESS COMMERCIAL SECURITY PTY LTD ACN 115 389 707; ACCESS LOCKSMITHS (TAS) PTY LTD ACN 131 987 570; ACCESS SPECIALTY HARDWARE PTY LTD ACN 142 683 770	Yes	Other Goods	4/07/2012
201702170018939	ACTION ACCESS HIRE PTY LTD ACN 151 664 774; AUSTRALIAN ACCESS HIRE PTY LIMITED ACN 120 792 323	Yes	Other Goods	17/02/2017
201702170019214	ACTION ACCESS HIRE PTY LTD ACN 151 664 774; AUSTRALIAN ACCESS HIRE PTY LIMITED ACN 120 792 323	Yes	Motor Vehicle	17/02/2017
201602030031643	ALLFIX FASTENERS PTY LTD ACN 114 733 229	Yes	Other Goods	3/02/2016
201705020025588	ASP PILING PTY LTD ACN 154 520 046	Yes	Other Goods	2/05/2017
201705020025693	ASP PILING PTY LTD ACN 154 520 046	Yes	Motor Vehicle	2/05/2017
201507170019724	ATCO STRUCTURES & LOGISTICS PTY LTD ACN 083 902 309	Yes	Other Goods	17/07/2015
201505260033666	ATF SERVICES PTY LTD ACN 060 402 048	Yes	Other Goods	26/05/2015
201203200072017	AUSCO MODULAR PTY LIMITED ACN 010 654 994	Yes	Other Goods	20/03/2012
201112051297979	AUSTRALIA AND NEW ZEALAND BANKING GROUP LIMITED ACN 00 005 357 522		All PAP	30/01/2012
201401200057312	AUSTRALIA AND NEW ZEALAND BANKING GROUP LIMITED ACN 00 005 357 522		All PAP with Exception	20/01/2014
201401200058361	AUSTRALIA AND NEW ZEALAND BANKING GROUP LIMITED ACN 00 005 357 522	No	General Intangible	20/01/2014
201401200059000	AUSTRALIA AND NEW ZEALAND BANKING GROUP LIMITED ACN 00 005 357 522		Account	20/01/2014
201406160044764	AUSTRALIA AND NEW ZEALAND BANKING GROUP LIMITED ACN 00 005 357 522		Account	16/06/2014
201705020024527	AUSTRALIAN DEWATERING SYSTEMS PTY LTD ACN 110 584 453	Yes	Motor Vehicle	2/05/2017

201705020024734	AUSTRALIAN DEWATERING SYSTEMS PTY LTD ACN 110 584 453	Yes	Other Goods	2/05/2017
201401300099866	BIDFOOD AUSTRALIA LIMITED ACN 000 228 231	Yes	Other Goods	30/01/2014
201705220025978	BIG RIVER GROUP PTY LTD	Yes	Other Goods	22/05/2017
201312180023382	BLUESCOPE STEEL LIMITED ACN 000 011 058	Yes	Other Goods	18/12/2013
201804270098355	BORAL LIMITED ACN 008 421 761; ALLEN TAYLOR & COMPANY LTD ACN 000 003 056; ALLEN'S ASPHALT PTY LTD ACN 103 076 508; ALSAFE PREMIX CONCRETE PTY LTD ACN 003 290 999; BARNU PTY. LTD. ACN 050 051 360; BAYVIEW PTY LIMITED ACN 004 428 148; BAYVIEW QUARRIES PROPRIETARY LIMITED ACN 004 258 262; BITUMAX PTY. LIMITED ACN 007 591 835; BITUMEN IMPORTERS AUSTRALIA PTY LTD ACN 141 170 658; BITUPAVE LTD ACN 000 102 376; BORAL BRICKS PTY LTD ACN 082 448 342; BORAL BRICKS WESTERN AUSTRALIA PTY LTD ACN 008 674 244; BORAL BUILDING MATERIALS PTY LIMITED ACN 090 736 888; BORAL BUILDING PRODUCTS LIMITED ACN 004 496 940; BORAL CEMENT LIMITED ACN 008 528 523; BORAL CONCRETE CONTRACTING PTY LIMITED ACN 620 531 820; BORAL CONSTRUCTION MATERIALS GROUP LTD ACN 000 028 080; BORAL CONSTRUCTION MATERIALS LIMITED ACN 000 614 826; BORAL CONSTRUCTION RELATED BUSINESSES PTY LTD ACN 052 451 626; BORAL CONTRACTING PTY LTD ACN 008 872 884; BORAL CORPORATE SERVICES PTY LIMITED ACN 009 483 765; BORAL FINANCE PTY LIMITED ACN	Yes	Other Goods	27/04/2018
201401140116819	BRADNAM'S WINDOWS AND DOORS PTY. LTD. ACN 010 409 819	Yes	Other Goods	14/01/2014
201112201728827	COATES HIRE OPERATIONS PTY LIMITED ACN 074 126 971	Yes	Motor Vehicle	30/01/2012
201112201728964	COATES HIRE OPERATIONS PTY LIMITED ACN 074 126 971	Yes	Other Goods	30/01/2012
201809070016483	COATES HIRE OPERATIONS PTY LIMITED ACN 074 126 971	Yes	Other Goods	7/09/2018
201809070016611	COATES HIRE OPERATIONS PTY LIMITED ACN 074 126 971	Yes	Motor Vehicle	7/09/2018
201304240023513	COMMERCIAL FLEET RENTAL INVESTMENTS PTY LTD ACN 151 696 445	No	Motor Vehicle	24/04/2013
201312050020451	COVENTRY GROUP LIMITED ACN 008 670 102	Yes	Other Goods	5/12/2013
201711060001677	CSR BUILDING PRODUCTS LIMITED ACN 008 631 356	Yes	Other Goods	6/11/2017

201202020011121	ENERGY POWER SYSTEMS AUSTRALIA PTY. LIMITED. ACN 055 274 514	Yes	Other Goods	2/02/2012
201202020011420	ENERGY POWER SYSTEMS AUSTRALIA PTY. LIMITED. ACN 055 274 514	Yes	Motor Vehicle	2/02/2012
201808070082362	FALCON CRANES PTY LTD ACN 616 067 951	Yes	Other Goods	7/08/2018
201712190019391	FIREMEX PTY. LTD. ACN 010 806 774	Yes	Other Goods	19/12/2017
201503100066641	FORCE CORP PTY LTD ACN 109 630 079	Yes	Motor Vehicle	10/03/2015
201702230013701	FTI GROUP PTY LTD ACN 609 425 452	No	Other Goods	23/02/2017
201211270066200	GILL & CO. PTY. LTD. ACN 009 685 349; GILL & CO. (CLEVELAND) PTY. LTD. ACN 009 706 772	Yes	Other Goods	27/11/2012
201601140011426	HAFELE AUSTRALIA PTY. LTD. ACN 006 021 432	No	Other Goods	14/01/2016
201801250036128	HARDINGS HARDWARE PTY. LTD. ACN 064 548 349	Yes	Other Goods	25/01/2018
201507210080264	HOLCIM (AUSTRALIA) PTY LTD ACN 099 732 297	Yes	Other Goods	21/07/2015
201209080004478	JONDAY HOLDINGS PTY. LTD. ACN 011 049 531	Yes	Motor Vehicle	8/09/2012
201201051166687	KENNARDS HIRE PTY LIMITED ACN 001 740 727	Yes	Other Goods	30/01/2012
201508180023154	KENNARDS HIRE PTY LIMITED ACN 001 740 727	Yes	Motor Vehicle	18/08/2015
201508180023165	KENNARDS HIRE PTY LIMITED ACN 001 740 727	Yes	Other Goods	18/08/2015
201403240030247	MASTER CARPET COMPANY (QLD.) PTY. LTD. ACN 010 444 167	Yes	Other Goods	24/03/2014
201305290017165	MASTER HIRE PTY. LTD. ACN 063 866 928	Yes	Other Goods	29/05/2013
201511180011906	METZ SPECIALTY MATERIALS PTY LIMITED ACN 140 636 639	Yes	Other Goods	18/11/2015
201803060032158	MODDEX GROUP PTY LTD ACN 146 767 866		All PAP	6/03/2018
201806190074450	NEILSENS CONCRETE PTY. LTD. ACN 055 131 283; NEILSENS QUALITY GRAVELS PTY. LTD. ACN 010 620 916	Yes	Other Goods	19/06/2018
201507130038853	NEWNHAM SCAFFOLDING PTY LTD ACN 166 110 961		Account	13/07/2015
201507130038869	NEWNHAM SCAFFOLDING PTY LTD ACN 166 110 961	No	Other Goods	13/07/2015
201805020031893	NORFOLK BLINDS PTY LTD ACN 117 232 283; The Trustee for NORFOLK TRUST ABN 99 644 225 637	Yes	Other Goods	2/05/2018

201601190044608	ONESTEEL TRADING PTY LIMITED ACN 007 519 646; ONESTEEL REINFORCING PTY LIMITED ACN 004 148 289; ONESTEEL RECYCLING PTY LIMITED ACN 002 707 262; THE AUSTRALIAN STEEL COMPANY (OPERATIONS) PTY LTD ACN 069 426 955; ONESTEEL MANUFACTURING PTY LIMITED ACN 004 651 325; ONESTEEL WIRE PTY LIMITED ACN 000 010 873; ONESTEEL NSW PTY LIMITED ACN 003 312 892; AUSTUBE MILLS PTY LTD ACN 123 666 679; XMS HOLDINGS PTY LIMITED ACN 008 742 014; P & T TUBE MILLS PTY LTD ACN 010 469 977; LIBERTY ONESTEEL (MANUFACTURING) PTY LTD ACN 623 194 070; LIBERTY ONESTEEL (NEWCASTLE) PTY LTD ACN 623 285 718	Yes	Other Goods	19/01/2016
201701170025979	PITNEY BOWES AUSTRALIA PTY LIMITED ACN 001 475 921	No	Other Goods	17/01/2017
201701170026044	PITNEY BOWES AUSTRALIA PTY LIMITED ACN 001 475 921	No	Other Goods	17/01/2017
201701170026102	PITNEY BOWES AUSTRALIA PTY LIMITED ACN 001 475 921	No	Other Goods	17/01/2017
201701170026156	PITNEY BOWES AUSTRALIA PTY LIMITED ACN 001 475 921	No	Other Goods	17/01/2017
201701170057207	PITNEY BOWES AUSTRALIA PTY LIMITED ACN 001 475 921	No	Other Goods	17/01/2017
201701170057230	PITNEY BOWES AUSTRALIA PTY LIMITED ACN 001 475 921	No	Other Goods	17/01/2017
201701170057248	PITNEY BOWES AUSTRALIA PTY LIMITED ACN 001 475 921	No	Other Goods	17/01/2017
201701170057269	PITNEY BOWES AUSTRALIA PTY LIMITED ACN 001 475 921	No	Other Goods	17/01/2017
201404160007725	PIVOT AUSTRALIA PTY LTD ACN 142 651 170	No	Other Goods	16/04/2014
201610040011762	PRINT MANAGEMENT FACILITIES AUSTRALIA PTY LTD ACN 142 681 114	No	Other Goods	4/10/2016
201509240006646	Q-PRESS TRADING PTY LTD ACN 100 031 598	Yes	Other Goods	24/09/2015

201601210035814	R.J. BEAUMONT & CO. PTY. LTD. ACN 007 703 997; CROSBY TILES PTY. LTD. ACN 006 844 579; BEAUMONT TILES PTY LIMITED ACN 008 081 687; BEAUMONT'S DISCOUNT TILE WAREHOUSE PTY LIMITED ACN 010 757 650; TILERS PLUS PTY LIMITED ACN 050 294 169; BEAUMONT TILES (N.T.) PTY. LTD. ACN 007 788 749; BEAUMONT BATHROOMS RENOVATOR (SA) PTY LIMITED ACN 101 788 872; BEAUMONT AUSTRALIA PTY LIMITED ACN 106 666 602; LIFE'S TILES PTY LTD ACN 106 721 000; TILEWERX PTY LIMITED ACN 148 005 850	Yes	Other Goods	21/01/2016
201504210043540	RAPID METAL DEVELOPMENTS (AUSTRALIA) PROPRIETARY LIMITED ACN 004 304 447	Yes	Other Goods	21/04/2015
201411240016290	REECE AUSTRALIA PTY LTD ACN 004 097 090	Yes	Other Goods	24/11/2014
201809070010586	RELIABLE HIRE AUST PTY LTD ACN 149 347 928	No	Other Goods	7/09/2018
201507030035657	RETRACOM HIRE PTY LTD ACN 122 895 658	Yes	Other Goods	3/07/2015
201602090048816	RICHARDS STEEL FABRICATION PTY LTD ACN 109 695 650	No	Other Goods	9/02/2016
201601200011924	RTE TRADING PTY LTD ACN 132 987 967	No	Other Goods	20/01/2016
201604130008651	SAMIOS PLUMBING PTY LTD ACN 010 360 899	Yes	Other Goods	13/04/2016
201606070019659	SCHNEIDER ELECTRIC (AUSTRALIA) PTY LIMITED ACN 004 969 304; SCHNEIDER ELECTRIC IT AUSTRALIA PTY LTD ACN 088 913 866; SCHNEIDER ELECTRIC BUILDINGS AUSTRALIA PTY LTD ACN 008 059 345; SCHNEIDER ELECTRIC SYSTEMS AUSTRALIA PTY LTD ACN 000 522 261; M & C ENERGY PTY LTD ACN 104 501 091	Yes	Other Goods	7/06/2016
201401300431420	SITEMAX GROUP PTY LTD ACN 600 760 030	Yes	Other Goods	30/01/2014
201402100056286	STOCKS DISCOUNTS PTY. LTD. ACN 010 508 031	Yes	Other Goods	10/02/2014
201704120028406	SUBZERO PROJECTS PTY LTD ACN 105 249 287	Yes	Other Goods	12/04/2017
201512090032841	THE AUSTRALIAN STEEL COMPANY (OPERATIONS) PTY LTD ACN 069 426 955	Yes	Other Goods	9/12/2015
201711020032180	The Trustee for BIGGS FAMILY TRUST ABN 40 294 782 063	Yes	Other Goods	2/11/2017
201809050077789	TITAN HOISTS AND RIGGING PTY LTD ACN 161 009 383	No	Other Goods	5/09/2018
201201080172601	TOM STODDART PTY. LTD. ABN 16 009 690 251	No	Other Goods	30/01/2012

201504130093344	TRADELINK PTY LIMITED ACN 000 003 832	Yes	Other Goods	13/04/2015
201308020038548	TRU-FLOW SERVICES PTY LTD ACN 147 762 598	Yes	Motor Vehicle	2/08/2013
201308020038887	TRU-FLOW SERVICES PTY LTD ACN 147 762 598	Yes	Other Goods	2/08/2013
201505150035417	TRU-FLOW SERVICES PTY LTD ACN 147 762 598	Yes	Other Goods	15/05/2015
201607270019191	VALMONT IRRIGATION AUSTRALIA PTY LTD ACN 112 232 210; LOCKER GROUP PTY LTD ACN 004 353 922; VALMONT GROUP HOLDINGS PTY LTD ACN 094 882 210; VALMONT AUSTRALIA PTY LTD ACN 000 507 415; DELTA GALVANIZING PTY. LTD. ACN 010 309 752; HI-LIGHT INDUSTRIES PTY. LTD. ACN 003 011 167; WEBFORGE AUSTRALIA PTY LTD ACN 009 419 756; INDUSTRIAL GALVANIZERS CORPORATION PTY LTD ACN 000 545 415; DONHAD PTY LTD ACN 009 009 054; GRATINGS DGA PTY LTD ACN 058 390 579; GALVLINE TASMANIA PTY. LTD. ACN 009 519 224	Yes	Other Goods	27/07/2016
201504270067719	VERSACE TIMBERS PTY. LTD. ACN 010 145 374; VERSACE TIMBERS INSTALLATIONS PTY LTD ACN 160 148 523	Yes	Other Goods	27/04/2015

ANNEXURE A

DECLARATION OF INDEPENDENCE, RELEVANT  
RELATIONSHIPS AND INDEMNITIES



## Declaration of Independence, Relevant Relationships and Indemnities

### Sommer & Staff Constructions Pty Ltd (Administrator Appointed) ACN 010 038 758 ("the Company")

This document requires the Practitioners appointed to an insolvent entity to make declarations as to:

- A. their independence generally;
- B. relationships, including:
  - i. the circumstances of the appointment;
  - ii. any relationships with the Insolvent and others within the previous 24 months;
  - iii. any prior professional services for the insolvent within the previous 24 months;
  - iv. that there are no other relationships to declare; and
- C. any indemnities given, or up-front payments made, to the Practitioner.

In accordance with the Code of Professional Practice issued by the Australian Restructuring, Insolvency and Turnaround Association ('ARITA') I, Geoffrey Trent Hancock of PKF, on behalf of all partners of PKF ('my firm'), declare the following:

#### **A. Independence**

I have undertaken a proper assessment of the risks to my independence prior to accepting the appointment as Administrator of the Company in accordance with the law and applicable professional standards. This assessment identified no real or potential risks to my independence. I am not aware of any reasons that would prevent us from accepting this appointment.

#### **B. Declarations of Relationships**

##### **i. Circumstances of appointment**

The Director was referred to me by a former creditor of St Hilliers Constructions Pty Ltd.

On 10 September 2018, I had a telephone conversation with the Director regarding potential appointment.

On 13 September 2018, Tom Lesnikowski from my office and I met with the Director to discuss the Company's financial position and advise on the options available to him.

On 13 September 2018, I provided the director with a copy of the appointment documents and my consent to act. The Director appointed me as Administrator of the Company on 14 September 2018.

I believe that this does not result in a conflict of interest or duty because:

- The courts and the ARITA's Code of Professional Practice ('the Code') specifically recognise the need for practitioners to provide advice on the insolvency process and the options available and do not consider that such advice results in a conflict or is an impediment to accepting to appointment. The relevant section of the Code relating to this is Section 6.8.1, Part B;
- The nature of the advice provided to the Company is such that it would not be subject to review and challenge during the course of the Administration; and
- The pre-appointment advice will not influence our ability to be able to fully comply with the statutory and fiduciary obligations associated with this Administration in an objective and impartial manner.

I have not provided any personal insolvency advice during these discussions or meetings. I have not received any remuneration for the above activities relating to the Company.

I confirm that I consider that the information provided and meetings would not be subject to review during the Administration of the Company and will not impact on compliance with our statutory and fiduciary duties and for these reasons the advice does not, in our opinion, give rise to a conflict of interest or duty.

I declare that no information or advice, beyond which is outlined in this document, was provided to the Company, its officers or its advisors.

**ii. Relevant relationships (excluding Professional Services to the Insolvent)**

In regard to any relevant relationships, in the preceding 24 months, one (1) relationship with the Company has been potentially identified. This is set out at the table below.

Except for the relevant relationship tabled below, neither myself nor my firm, have or have had within the preceding 24 months, any relationships with the Company, an associate of the Company, a former insolvency practitioner appointed to the Company or any person or entity that has a charge on the whole or substantially whole of the Company property.

In investigating any prior professional relationship, members of my firm were advised of the appointment and asked to provide details of any perceived conflict and requested to provide details of any previous association with the Company, their Director or officers. In relation to those enquires, I advise that no matters of conflict have arisen.

Name	Nature of Relationship	Reasons
Australian Taxation Office ("ATO")	<p>The ATO is a creditor of the Company/Debtor/Bankrupt.</p> <p>I and my colleagues undertake and have undertaken work from time to time on behalf of the ATO.</p>	<p>I believe this relationship does not result in a conflict of interest or duty because:</p> <p>I have not acted for the ATO in respect of this matter.</p> <p>Any work previously carried out in respect of other appointments on behalf of the ATO does not have any bearing on this administration and will not impact on compliance with my/our statutory and fiduciary duties.</p> <p>These circumstances do not preclude me/us from acting under the Corporations Act 2001/ Bankruptcy Act or the ARITA Code of Professional Practice.</p>

**iii. Prior professional services with the Insolvent**

Neither I, nor my Firm, have provided any professional services to the Company in the previous 24 months, other than those outlined herein.

**iv. No Other relevant relationships to disclose**

There are no other known relevant relationships, including personal, business and professional relationships, from the previous 24 months with the Company, an associate of the Company, a former insolvency practitioner appointed to the Company or any person or entity that has a charge over the whole or substantially whole of the Company's property that should be disclosed.

**v. Indemnities and Up-front payments**

I have not received any indemnities or up-front payments in relation to this Administration, other than any indemnities that we may be entitled to under statute.