

Initial information for creditors

Express Formwork Supply Pty Ltd
(In Liquidation)
A.C.N 646 572 082 ("the Company")

The purpose of this document is to provide you with information about the liquidation of Express Formwork Supply Pty Ltd and your rights as a creditor.

1. Information for creditors

1.1 Notification of appointment

I was appointed as Liquidator of the Company on 7 September 2018 pursuant to an order made by the Federal Court of Australia. The petitioning creditor, the Deputy Commission of Taxation ("the petitioning creditor") lodged a winding up application with the Federal Court of Australia on 1 August 2018.

1.2 What is a court liquidation?

A court liquidation is where an order to place a Company into liquidation is made by the court. Usually this is on application of a creditor where the Company has not paid its outstanding debt. In most circumstances, this means that the Company is insolvent.

My role as Liquidator is to administer the affairs of the Company, realise the assets and pay dividends (if any). I am also required to investigate the affairs of the Company and report any offences to Australian Securities and Investment Commission ("ASIC").

1.3 What happens to your debt?

The Company books and records indicate that you may be a creditor.

All creditors of the Company are now creditors in the liquidation. As a creditor, you have certain rights, although your debt will now be dealt with in the liquidation. Information regarding your rights as a creditor is provided in the information sheet included at **Annexure A**. This includes your right to:

- Make reasonable requests for a meeting;
- Make reasonable requests for information
- Give directions to me;
- Appoint a reviewing liquidator; and
- To replace me as liquidator.

If you have leased the Company property, have a retention of title claim or hold a Personal Property Security in relation to the Company, please contact my staff as soon as possible.

I have been advised that the Company has ceased trading prior to my appointment.

2. Summary of the Company's affairs

The Company operated a labour hire business in the Western Sydney area.

The petitioning creditor, the Australian Taxation Office ("ATO") is owed \$501,316 for Income tax liabilities and debt arising from Business Activity Statement ("BAS") lodgements.

At the date of this report, I have not been able to contact the director and have not received a Report as to Affairs (RATA) nor have I received any Company books and records.

3. Update on liquidation to date

My investigations are continuing and in particular with the following:

- Collection of books and records;
- Breaches of director's duties under S180 of the Corporations Act 2001;
- Likelihood of phoenix activity;
- Voidable Transactions available to the liquidator;
- Insolvent trading;
- Recovering and selling any available property;
- Investigating the Company's affairs; and
- Reporting to the corporate regulator, ASIC.

I will write to you within three months of my appointment advising whether a dividend is likely and update you on the progress of my investigations.

Whilst I have only commenced my preliminary investigations into the Company, I am seeking creditors assistance in providing any additional information which may assist with further asset recoveries. Please contact Jonas Wu of my office at Jwu@hogansproawles.com.au or by phone on 02 8020 5857, if you have any information which may lead to further asset recoveries.

I may write to you again after that with further information on the progress of the liquidation however creditors are welcome to contact my office to obtain an update on the progression of the liquidation.

4. Costs of the liquidation

Included at **Annexure B** is my Initial Remuneration Notice. This document provides you with information about how I propose to be paid for undertaking the liquidation.

I may write and ask that you approve my remuneration for the work that me and my firm do in completing the liquidation. If I do, I will provide you with detailed information so that you can understand what tasks I have undertaken and the costs of those tasks.

Annexure C is the Proof of Debt Form

The Australian Restructuring Insolvency and Turnaround Association ("ARITA") provides information to assist creditors with understanding liquidations and insolvency.

This information is available from ARITA's website at www.arita.com.au/creditors.

ASIC also provides information sheets on a range of insolvency topics. These information sheets can be accessed on ASIC's website at www.asic.gov.au (search for "insolvency information sheets").

Should you have any questions in relation to this matter, please contact Jonas Wu via phone (02) 8020 5857 or via email Jwu@hogansprowles.com.au of this office.

DATED this 17th day of September 2018
Express Formwork Supply Pty Ltd



Christian Sprowles
Liquidator

Attachments

| | |
|------------|--|
| Annexure A | Information Sheet - Creditor Rights in Liquidation |
| Annexure B | Initial remuneration notice |
| Annexure C | Proof of Debt form |

Creditor Rights in Liquidations

As a creditor, you have rights to request meetings and information or take certain actions:



Right to request a meeting

In liquidations, no meetings of creditors are held automatically. However, creditors with claims of a certain value can request in writing that the liquidator hold a meeting of creditors.

A meeting may be requested in the first 20 business days in a creditors' voluntary liquidation by $\geq 5\%$ of the value of the debts held by known creditors who are not a related entity of the company.

Otherwise, meetings can be requested at any other time or in a court liquidation by:

- $> 10\%$ but $< 25\%$ of the known value of creditors on the condition that those creditors provide security for the cost of holding the meeting
- $\geq 25\%$ of the known value of creditors
- creditors by resolution, or
- a Committee of Inspection (this is a smaller group of creditors elected by, and to represent, all the creditors).

If a request complies with these requirements and is 'reasonable', the liquidator must hold a meeting of creditors as soon as reasonably practicable.

Right to request information

Liquidators will communicate important information with creditors as required in a liquidation. In addition to the initial notice, you should receive, at a minimum, a report within the first three months on the likelihood of a dividend being paid.

Additionally, creditors have the right to request information at any time. A liquidator must provide a creditor with the requested information if their request is 'reasonable', the information is relevant to the liquidation, and the provision of the information would not cause the liquidator to breach their duties.

A liquidator must provide this information to a creditor within 5 business days of receiving the request, unless a longer period is agreed. If, due to the nature of the information requested, the liquidator requires more time to comply with the request, they can extend the period by notifying the creditor in writing.

Requests must be reasonable.

They are not reasonable if:

Both meetings and information:

- (a) complying with the request would prejudice the interests of one or more creditors or a third party
- (b) there is not sufficient available property to comply with the request
- (c) the request is vexatious

Meeting requests only:

- (d) a meeting of creditors dealing with the same matters has been held, or will be held within 15 business days

Information requests only:

- (e) the information requested would be privileged from production in legal proceedings
- (f) disclosure would found an action for breach of confidence
- (g) the information has already been provided
- (h) the information is required to be provided under law within 20 business days of the request

If a request is not reasonable due to (b), (d), (g) or (h) above, the liquidator must comply with the request if the creditor meets the cost of complying with the request.

Otherwise, a liquidator must inform a creditor if their meeting or information request is not reasonable and the reason why.

Right to give directions to liquidator

Creditors, by resolution, may give a liquidator directions in relation to a liquidation. A liquidator must have regard to these directions, but is not required to comply with the directions.

If a liquidator chooses not to comply with a direction given by a resolution of the creditors, they must document their reasons.

An individual creditor cannot provide a direction to a liquidator.

Right to appoint a reviewing liquidator

Creditors, by resolution, may appoint a reviewing liquidator to review a liquidator's remuneration or a cost or expense incurred in a liquidation. The review is limited to:

- remuneration approved within the six months prior to the appointment of the reviewing liquidator, and
- expenses incurred in the 12 months prior to the appointment of the reviewing liquidator.

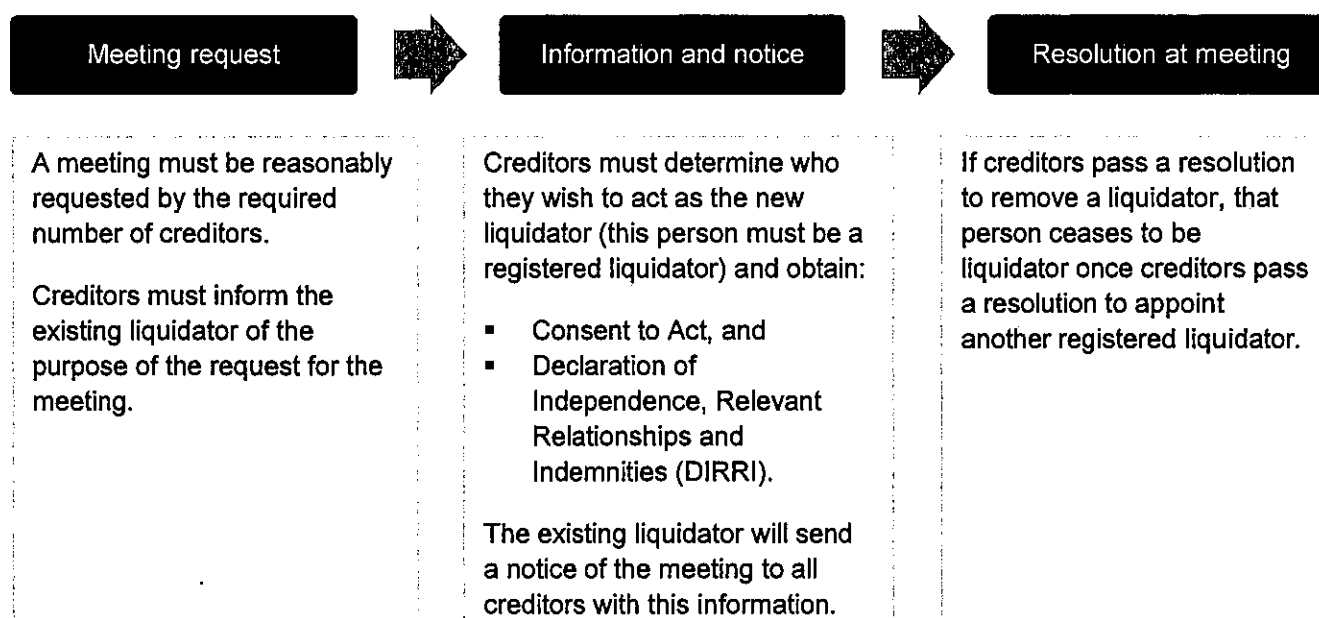
The cost of the reviewing liquidator is paid from the assets of the liquidation, in priority to creditor claims.

An individual creditor can appoint a reviewing liquidator with the liquidator's consent, however the cost of this reviewing liquidator must be met personally by the creditor making the appointment.

Right to replace liquidator

Creditors, by resolution, have the right to remove a liquidator and appoint another registered liquidator.

For this to happen, there are certain requirements that must be complied with:



For more information, go to www.arita.com.au/creditors

INITIAL REMUNERATION NOTICE

Insolvency Practice Schedule (Corporations) 70-50
Insolvency Practice Rules (Corporation) 70-35

Express Formwork Supply Pty Ltd (In Liquidation)
ACN 646 572 082 ("the Company")

The purpose of the Initial Remuneration Notice is to provide you with information about how I propose my remuneration for undertaking the Liquidation will be set.

1 Remuneration Methods

There are four basic methods that can be used to calculate the remuneration charged by an insolvency practitioner. They are:

- A. **Time based / hourly rates:** This is the most common method. The total fee charged is based on the hourly rate charged for each person who carried out the work multiplied by the number of hours spent by each person on each of the tasks performed.
- B. **Fixed Fee:** The total fee charged is normally quoted at the commencement of the administration and is the total cost for the administration. Sometimes a practitioner will finalise an administration for a fixed fee.
- C. **Percentage:** The total fee charged is based on a percentage of a particular variable, such as the gross proceeds of assets realisations.
- D. **Contingency:** The practitioner's fee is structured to be contingent on a particular outcome being achieved.

2 Method chosen

Given the nature of this liquidation I propose that my remuneration be calculated on a time based/hourly rates basis. The amount of work required and the recoveries from Company assets are at this stage not known to me and accordingly the time based/hourly rates basis best allows me to accurately determine how much work has been completed in the liquidation and remunerate accordingly. I have chosen the time based/hourly rates method because:

- This method is considered to be the most suitable for this appointment as it ensures creditors are only charged for work that is performed in the liquidation, which can be difficult to accurately estimate at the date of appointment.
- Even later than the date of appointment, it can be difficult to estimate the time that may be required in advance of the substantive work being undertaken. The time based method in this case again ensures that creditors are only charged for work that is actually performed in the external Liquidation.

- The practitioner is required to perform a number of tasks which do not relate to the realisation of assets, for example, reporting to the Australia Securities and Investments Commission ("ASIC"), undertaking investigations, responding to creditor enquiries and distributing funds to creditors.
- The practitioner has a time recording system that can produce a detailed analysis of the time spent on each type of task by each individual staff member in the liquidation.
- Time based remuneration calculates fees upon a basis of time spent at the level appropriate to the work performed.

3 Explanation of Hourly Rates

The rates for my remuneration calculation are set out in the following table together with a general guide showing the qualifications and experience of staff engaged in the administration and the role they take in the administration. The hourly rates charged encompass the total cost of providing professional services and should not be compared to an hourly wage. Time is charged in six-minute increments.

| Title | Description | Hourly rate (Excl. GST) (\$) |
|------------------|---|------------------------------------|
| Partner | Registered liquidator, Chartered Accountant, degree qualified with more than fifteen years of extensive experience in insolvency, restructuring and business advisory matters. Leads engagements with full accountability for strategy and execution. | 545 |
| Director | Generally Chartered Accountant and degree qualified with more than ten years of experience. Extensive experience in managing large, complex engagements at a senior level. Autonomously leads complex insolvency appointments reporting to Partner. | 490 |
| Senior Manager | Generally Chartered Accountant and degree qualified with more than seven years of experience. Significant experience across all types of engagements. Self-sufficiently conducts small to medium insolvency appointments. | 429 |
| Manager | Generally Chartered Accountant and degree qualified with more than five years of experience. Experience in complex matters, day to day conduct of small to medium engagements. Assists senior staff on complex matters. | 385 |
| Supervisor | Generally Chartered Accountant and degree qualified with more than three years of experience. Assists senior staff in planning and conduct of small to large engagements. Supervise a small team and control small engagements. | 363 |
| Senior Analyst 1 | Generally degree qualified and undertaking Chartered Accountant's qualification. Controls certain tasks on small engagements and assists staff with completing tasks on medium to large engagements. | 319 |
| Senior Analyst 2 | Experienced graduate controlling certain tasks on small engagements. Assists senior staff in completing tasks on small to large engagements. | 308 |
| Analyst 1 | Experienced graduate. Required to assist senior staff in completing tasks on small to large engagements. | 264 |
| Analyst 2 | Generally a university graduate with appropriate qualifications. Assists with day to day tasks under the supervision of senior staff. | 198 |
| Graduate | Generally degree qualified and undertaking or about to undertake Chartered Accountant's qualification with less than one year of experience. Assists with day to day tasks under the supervision of senior staff. | 182 |

| | | |
|-------------------|--|-----|
| Undergraduate | Undertaking relevant degree. Assists with tasks within workstreams and appointments under supervision. | 165 |
| Senior Bookkeeper | Experienced bookkeeper with more than 18 months experience. Assist senior staff with accounting functions of engagement. | 165 |
| Bookkeeper | Assist senior staff with accounting functions of engagement. | 154 |
| PA | Appropriate skills and experience to support professional staff in an administrative capacity. | 132 |
| Administration | Appropriate skills and experience to support professional staff in an administrative capacity. | 105 |

4 Estimated remuneration

I have estimated that this liquidation will cost approximately \$25,000 exclusive of GST to completion, subject to the following variables which may have a significant effect on this estimate and that I am unable to determine at this early stage in the administration:

- The time required to obtain the Company books and records from the director and third parties;
- The recovery of the Company's assets (if any);
- Investigations required into the business affairs of the Company and identify any assets or recoveries available to the liquidator; and
- Any matters identified that are required to be reported to statutory authorities, such as ASIC.

The Liquidator's time costs are recoverable only against the asset realisations available.

5 Disbursements

Disbursements are divided into three types:

- **Externally provided professional services** - these are recovered at cost. An example of an externally provided professional service disbursement is legal fees.
- **Externally provided non-professional costs** such as travel, accommodation and search fees - these are recovered at cost.
- **Internal disbursements** such as photocopying, printing and postage. These disbursements, if charged to the Administration, would generally be charged at cost; though some expenses such as telephone calls, photocopying and printing may be charged at a rate which recoups both variable and fixed costs. The recovery of these costs must be on a reasonable commercial basis.

I am not required to seek creditor approval for disbursements paid to third parties, but must account to creditors. However, I must be satisfied that these disbursements are appropriate, justified and reasonable.

I am required to obtain creditor's consent for the payment of internal disbursements where there may be a profit or advantage. Creditors will be asked to approve my internal disbursements where there is a profit or advantage prior to these disbursements being paid from the liquidation.

Details of the basis of recovering disbursements in this liquidation are provided below.

Basis of disbursement claim

| Disbursements | Rate (Excl GST) |
|---|--------------------|
| Externally provided professional services | At cost |
| Externally provided non-professional services | At cost |
| Internal disbursements | |
| Advertising | At cost |
| Search fees | At cost |
| Courier | At cost |
| Printing, Faxes & Photocopies | \$0.20 per page |
| Postage | At cost |
| Stationary and other incidental disbursements | At cost |
| Travel - Staff by own vehicle | \$0.66 per km |
| Travel - other | At cost |

Scale applicable for the financial year ending 30 June 2019.

Queries

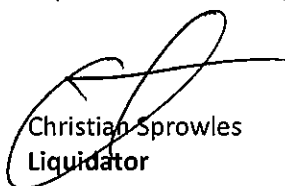
Creditors have the right to request and obtain further information from the liquidator.

Information Sheet

Creditors may access the remuneration information sheet (ASIC Information Sheet 85 – Approving fees: a guide for creditors) at ASIC's website under Regulatory Resources.

<http://www.asic.gov.au/regulatory-resources/insolvency/insolvency-for-creditors/approving-fees-a-guide-for-creditors/>

Dated this 17th September 2018
Express Formwork Supply Pty Ltd


Christian Spowles
Liquidator

FORMAL PROOF OF DEBT OR CLAIM (GENERAL FORM)

To the Liquidator of Express Formwork Supply Pty Ltd (In Liquidation)

1. This is to state that the company was, on 7 September 2018 ⁽¹⁾ and still is, justly and truly indebted to⁽²⁾ (full name):

.....
(‘Creditor’)

.....
of (full address)

for \$..... dollars and cents.

Particulars of the debt are:

| Date | Consideration ⁽³⁾ state how the debt arose | Amount \$ | GST included \$ | Remarks ⁽⁴⁾ Include details of voucher substantiating payment |
|------|--|-----------|--------------------|--|
| | | | | |

2. To my knowledge or belief the creditor has not, nor has any person by the creditor's order, had or received any manner of satisfaction or security for the sum or any part of it except for the following:

Insert particulars of all securities held. Where the securities are on the property of the company, assess the value of those securities. If any bills or other negotiable securities are held, specify them in a schedule in the following form:

| Date | Drawer | Acceptor | Amount \$ c | Due Date |
|------|--------|----------|-------------|----------|
| | | | | |

- I am not a related creditor of the Company ⁽⁵⁾
- I am a related creditor of the Company ⁽⁵⁾
relationship: _____

3A.^{(6)*} I am employed by the creditor and authorised in writing by the creditor to make this statement. I know that the debt was incurred for the consideration stated and that the debt, to the best of my knowledge and belief, still remains unpaid and unsatisfied.

3B.^{(6)*} I am the creditor's agent authorised to make this statement in writing. I know that the debt was incurred and for the consideration stated and that the debt, to the best of my knowledge and belief, still remains unpaid and unsatisfied.

DATED this day of 2018

Signature of Signatory

NAME IN BLOCK LETTERS.....

Occupation

Address

See Directions overleaf for the completion of this form

OFFICE USE ONLY

| | | | |
|----------------------------------|-----|--|----|
| POD No: | | ADMIT (Voting / Dividend) - Ordinary | \$ |
| Date Received: | / / | ADMIT (Voting / Dividend) - Preferential | \$ |
| Entered into CORE IPS: | | Reject (Voting / Dividend) | \$ |
| Amount per CRA/RATA | \$ | Object or H/Over for Consideration | \$ |
| Reason for Admitting / Rejection | | | |
| PREP BY/AUTHORISED | | TOTAL PROOF | \$ |
| DATE AUTHORISED | / / | | |

Proof of Debt Form Directions

- * Strike out whichever is inapplicable.
- (1) Insert date of Court Order in winding up by the Court, or date of resolution to wind up, if a voluntary winding up.
- (2) Insert full name and address (including ABN) of the creditor and, if applicable, the creditor's partners. If prepared by an employee or agent of the creditor, also insert a description of the occupation of the creditor.
- (3) Under "Consideration" state how the debt arose, for example "goods sold and delivered to the company between the dates of", "moneys advanced in respect of the Bill of Exchange".
- (4) Under "Remarks" include details of vouchers substantiating payment.
- (5) Related Party / Entity: Director, relative of Director, related company, beneficiary of a related trust.
- (6) If the Creditor is a natural person and this proof is made by the Creditor personally. In other cases, if, for example, you are the director of a corporate Creditor or the solicitor or accountant of the Creditor, you sign this form as the Creditor's authorised agent (delete item 3A). If you are an authorised employee of the Creditor (credit manager etc), delete item 3B.

Annexures

- A. If space provided for a particular purpose in a form is insufficient to contain all the required information in relation to a particular item, the information must be set out in an annexure.
- B. An annexure to a form must:
 - (a) have an identifying mark;
 - (b) and be endorsed with the words:
 - i) "This is the annexure of *(insert number of pages)* pages marked *(insert an identifying mark)* referred to in the *(insert description of form)* signed by me/us and dated *(insert date of signing)*; and
 - (c) be signed by each person signing the form to which the document is annexed.
- C. The pages in an annexure must be numbered consecutively.
- D. If a form has a document annexed the following particulars of the annexure must be written on the form:
 - (a) the identifying mark; and
 - (b) the number of pages.
- E. A reference to an annexure includes a document that is with a form.