



**Restaurant Physic Pty Ltd
(Administrators Appointed)
A.C.N. 601 468 231
Trading as No. 1 Bent Street by Mike**

Administrators' Report to creditors

Pursuant to Section 439A of the Corporations Act 2001 and 75-225 of the Insolvency Practice Rules

18 December 2018

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ABBREVIATIONS

Act	Corporations Act 2001
Administrators	Christian Sprowles and Michael Hogan
ALLPAP	All present and after acquired property
ARITA	Australian Restructuring Insolvency and Turnaround Association
ASIC	the Australian Securities & Investments Commission
ATO	Australian Taxation Office
COD	Cash on delivery
Company	Restaurant Physic Pty Ltd (Administrators Appointed)
CY	Calendar Year
Deed Proponent	MikeRest Pty Limited
DoCA	Deed of Company Arrangement
EBIT	Earnings Before Interest and taxes
EBITDA	Earnings Before Interest, Tax, Depreciation and Amortization
ERV	Estimated Realisable Value
PPSA	Personal Property Securities Act 2009
PPSR	Personal Properties and Securities Register
ROCAP	Report on Company Activities and Property
YTD	Year to Date

1. EXECUTIVE SUMMARY

1.1. Introduction

Christian Sprowles and I were appointed Joint and Several Voluntary Administrators of the Company on 29 November 2018 pursuant to a resolution passed by the Company's director.

The Company has operated a restaurant from May 2016 at No1 Bent Street with the restaurant continuing to trade during our appointment.

A search of the Australian Securities & Investments Commission ("ASIC") records indicate the Company was registered in New South Wales on 26 August 2014. The Director is Michael Robert McEnearney.

A proposal for a Deed of Company Arrangement ("DoCA") has been received from Mikerest Pty Ltd, which will enable the business to continue, employees to continue their employment and provide for a better return to creditors compared to a winding up.

This is the Administrators report to creditors pursuant to Section 439A of the Act.

If creditors have any queries, please contact Dilyana Panova on (02) 8020 5858 or by email at dpanova@hogansproawles.com.au

1.2. Purpose of this report and second meeting of creditors

The purpose of this report is to provide creditors with details about the Company's business, property, affairs and financial circumstances in preparation for the upcoming second creditors meeting.

This report informs creditors of our investigative findings and sets out the Administrators' opinion about each of the options available to creditors at the second meeting, together with our opinion as to the best course of action. Creditors will be entitled to vote on the future of the Company at the second meeting (often referred to as the decision meeting).

We have recommended creditors accept the DoCA at the second meeting. The reasons for our opinion have been provided at section 11 of this report and in the attached Statement of Administrators' Opinion. In summary, the DoCA provides for a greater return to creditors compared with the alternatives. Details of the estimated returns are summarised at section 1.5 of this report.

The meeting of creditors will be held on **Friday, 28 December 2018 at 11:00 am** at the offices of **HoganSprowles at Level 9, 60 Pitt Street, Sydney NSW.**

1.3. Administrators' opinion

Having regard to the matters set out in this report, creditors will be able to vote on one of the following outcomes at the next meeting:

- The administration comes to an end (and control of the Company reverts to its director); or
- The Company execute a Deed of Company Arrangement ("DoCA"); or

- The Company be wound up.

We recommend that it is in creditors' interests to resolve for the Company to execute a DoCA at the Second Meeting of Creditors. A statement of our opinion is provided at annexure A of this report.

Creditors may also resolve to adjourn the Second Meeting of Creditors for a period of up to 45 days.

1.4. Deed of Company Arrangement proposal

A draft DoCA proposal was received from MikeRest Pty Limited ("Deed Proponent) on 18 December 2018. The intent of the DoCA is to facilitate the sale of the business, transfer of employees and their associated entitlements and allow a return to creditors greater than a return under a liquidation scenario.

Upon execution of the DoCA, the plant and equipment, IP and lease will be transferred to the Deed Proponent. Consideration for these assets will be an immediate payment of outstanding superannuation (\$137k) together with a further \$175k in equal monthly instalments over a two year period. At the same time, a contribution of \$50k will be made as a deed contribution.

Total sale consideration/deed contribution being \$362k. Should any funds be realised from the return of the landlord's bond (bond held being \$49k net of outstanding lease obligations) will offset the requirement to meet deed contribution payments. A further guarantee against any trading losses in excess of \$10k has also been provided.

We understand it is the intention of the Deed Proponent to relaunch the business focusing on a broader customer base.

The anticipated returns for creditors are as follows:

Priority Employee Entitlements	Value of Claim \$	Liquidation	DoCA
Superannuation	137,000	88 c/\$	100 c/\$
Annual Leave	17,487	Nil	100 c/\$*
Payment in Lieu of Notice	13,423	Nil	100 c/\$*
Unsecured Creditors			
Class A – Admitted Priority Creditors	233,589	Nil	50 c/\$
Class B – Subordinated Claims	400,857	Nil	3 c/\$
Class C – Excluded Creditors (Related Parties)	206,113	Nil	Nil

*Obligations to be assumed by the new company and employees to be offered employment contracts on similar terms to existing contracts.

The admitted priority creditors are considered by the Deed Proponent to be essential to the ongoing trading of the relaunched business. Without their support, continued operations would be difficult and the sale of the business as a going concern would be unlikely.

1.5. Investigation summary

Based on our preliminary investigations, the Company was likely cash flow insolvent around August 2017. From that date it appears sales revenue decreased significantly (14%) leading to ongoing losses with creditors increasing from that date.

From a balance sheet perspective, the Company had a negative net asset position shortly after trading commenced in May 2016. This appears to be a result of initial undercapitalisation of the business.

The Corporations Act 2001 prescribes the cash flow insolvency indicator test which dictates that a Company is solvent if, and only if, the Company is able to pay its debts, as and when they become due and payable.

Assuming the above approximate date of insolvency, the quantum of any insolvent trading action, and the commercial likelihood of a return, will need to be considered having regard to the movement of creditor liabilities from that date. In addition, there are several defences available to the Director against an insolvent trading claim.

The cash flow test indicates the Company was insolvent from August 2017. According to statements made by the Director and a search of the land title register, the Director does not appear to have any personal assets.

The following transactions may also be recoverable by a Liquidator under sections 588FA, 588FD and 588FDA:

- Preferential payments made to the ATO during the relation back period of approximately \$176k;
- Loan repayment of \$49k to a related creditor;
- Loan repayment of \$37.6K to a creditor;
- Director's loan account of approximately \$117k. The claim may be potentially offset by a formal proof of debt submitted by the Director against the Company for unpaid wages and annual leave in the amount of \$123k. In addition, the personal asset position of the Director would make a recovery by a liquidator unlikely.

Further details of our investigations are provided at section 10 of this report.

1.6. Reasons for the Company's failure

In our opinion the reasons for the Company's failure are as follows:

- Initial undercapitalisation of the business as evidenced by negative \$264k net asset position on 30 June 2016 being 1.5 months after the business commenced trading.
- Significant losses during FY18 principally due to the reduction in sales revenue (\$500k or 14%) due to the following:

- increased competition from opening of the Barangaroo area;
- commencement of the light rail construction reducing foot traffic; and
- the redevelopment of various office blocks in the area.
- Insufficient working capital available to adjust the cost base adequately for the impact of the changing trading conditions as detailed above.

2. INTRODUCTION

2.1. Role of the Administrator

Administrators are empowered by the Act to assume control of an insolvent company, to manage the Company's affairs and deal with its assets in the interests of its creditors and members.

The intention of a Voluntary Administration is to maximise the prospects of a company, or as much as possible of its business, continuing in existence or, if that is not possible, to achieve a better return to creditors and members than would be achieved by its immediate liquidation. During an administration, there is a moratorium over most pre-administration creditor claims. Administrators are required to investigate a company's affairs and report to creditors on the Administrators' opinion as to which outcome of the administration process is in the best interest of creditors.

In my opinion, the Voluntary Administration leading into the proposed DOCA, has met the obligations pursuant to section 435A of the Act.

2.2. First Meeting of Creditors

The First Meetings of creditors, convened under Section 436E of the Act, was held on Tuesday, 11 December 2018 at 11:00 am at HoganSprowles, Level 9, 60 Pitt Street, Sydney, NSW 2000.

A committee of inspection was formed by creditors. The functions of the committee are as follows:

- (a) to advise and assist the external administrator of the Company;
- (b) to give directions to the external administrator of the Company;
- (c) to monitor the conduct of the external administrator of the Company;
- (d) such other functions as are conferred on the committee by the Corporations Act;
- (e) to do anything incidental or conducive to the performance of any of the above functions.

An external administrator of a company must have regard to any directions given by the Committee of Inspection but is not required to comply.

The Committee of Inspection has the power to determine the administrator's remuneration in a manner prescribed by the Act.

An alternate Administrator was not proposed and as a result we remain the Administrators of the Company.

2.3. Second Meeting of Creditors

The Second Meeting of Creditors will be held at **HoganSprowles at Level 9, 60 Pitt Street, Sydney NSW on Friday, 28 December 2018 at 11:00 am.**

Creditors are encouraged to attend at least 15 minutes prior to this time to enable orderly registration for the meeting, please submit proxy and proof of debt forms by 4:00 pm on Thursday, 27 December 2018.

Attendance at the meeting, whilst encouraged, is not mandatory and non-attendance will not impact the rights of creditors.

Appendix B includes the Notice of Meeting, proxy form and informal proof of debt.

3. DISCLAIMER AND INDEPENDENCE

3.1. Disclaimer

In reviewing this report, creditors should note the following:

- The statements and opinions given in this report are given in good faith and in the belief that such statements and opinions are not false or misleading. Except where otherwise stated, we reserve the right to alter any conclusions reached on the basis of any changes or additional information which may be provided to us between the date of this report and the date of the Second Meeting of Creditors.
- Neither we, nor HoganSprowles nor any member or employee thereof is responsible in any way whatsoever to any person in respect of any errors in this report arising from incorrect information provided to us.
- In considering the options available to creditors and formulating their recommendation, the Administrators have necessarily made forecasts of asset realisations and total creditors. These forecasts and estimates may change as asset realisations and any claims progress.

3.2. Independence

In accordance with Section 436DA of the Act and the ARITA Code of Professional Practice, our Declaration of Independence, Relevant Relationships and Indemnities was tabled at the first meeting of creditors and provided to creditors in my first circular dated 3 December 2018.

This declaration disclosed information regarding the independence, any prior personal or professional relationships the Administrators or HoganSprowles had with the Company or related parties and any indemnities received in relation to this appointment.

There is no change to the information provided in the Declaration of Independence, Relevant Relationships and Indemnities dated 3 December 2018.

4. STATUTORY INFORMATION

4.1. ASIC Database

Below is a summary of the ASIC database for the Company.

Company Details		
Date of Registration	26 August 2014	
Registered Office	Equil Advisory, Suite 601, Level 6, 89 York Street, Sydney	
Principal Place of Business	466 Bronte Road Bronte NSW 2024	
Location	1/7 Bent Street, Sydney NSW 2000	
Trading Name	No. 1 Bent Street by Mike	
Current Director	Appointed	Ceased
Michael Robert McEnearney	26 August 2014	-
Share Structure	Amount Paid	Amount Unpaid
150 Ordinary Shares	\$150	\$0
Current Shareholder	Shares Held/Type	Fully Paid
Richard Enthoven	Ordinary	15
J&D Restaurant Pty Ltd	Ordinary	15
McEnearney & Best Pty Ltd	Ordinary	120
Former Shareholders	Shares Held/Type	Paid Up Capital
Michael Robert McEnearney	120 Ordinary	Yes

4.2. Personal Properties and Securities Register

PPSR legislation became operational on 30 January 2012 and among other things replaced the previous system of security registration and retention of title. To claim a security interest in the Company (i.e. as a secured or retention of title creditor), creditors are required to have registered their interest on the PPSR.

Creditors that haven't registered their interest on the PPSR, prior to the date of the Administrators' appointment, are not entitled to claim a security interest in goods held by the Company. The fact that a creditor has or cannot register their interest on the PPSR, does not prevent that creditor from asserting its claim as an unsecured creditor of the Company, and subject to the availability of funds, receipt of a dividend through a liquidation or DoCA.

A search of the PPSR has revealed the following security interests:

Secured Party	Registration Number	Collateral Class	Start Date	Notes
Westpac Banking Corporation	201509190005818	ALLPAP – with exceptions	19/09/2015	1
Samuel Smith & Son Pty Ltd	201604180048426	Other goods	18/04/2016	2
BHD Leasing Pty Ltd	201606150001482	Other goods	15/06/2016	3
Whole Bunch Wines Pty Ltd	201810110061068	Chattel paper	11/10/2018	3

Secured Party	Registration Number	Collateral Class	Start Date	Notes
Capital Finance Australia Ltd	201605030000744	Other goods	03/05/2016	4
Silver Chef Rentals Pty Ltd	201605030016067	Other goods	03/05/2016	4
	201606200022293		09/06/2017	
	201706090010384		09/06/2017	
	201706090010397		09/06/2017	
	201808270023100		27/08/2018	
	01808270023163		27/08/2018	
Water Vend Pty Ltd	201712060038681	Other goods	06/12/2017	4
McWilliam's Wine Group Pty Ltd, Echelon Wine Partners Pty Ltd	201706280089244	Other goods	28/06/2017	5
Tooheys Pty Ltd, Lion Victoria Pty Ltd, Castlemaine Perkins Pty Ltd, The South Australian Brewing Company Ltd, The Swan Brewery Company Pty Ltd, J.Boag & Son Brewing Pty Ltd, Lion-Wine Pty Ltd	201605100005019	Other goods	10/05/2016	5
Tyrrells' Vineyards Pty Ltd	201803160029882	Other goods	16/03/2018	5

Notes:

1. According to the Director of the Company, the secured creditor has been paid in full. I have written to the secured creditor on the day of my appointment requesting discharge documents and I am currently waiting for the requested documentation to be provided.
2. The secured creditor has security over trading stock provided to the Company only if the stock has not been used in the trade of business. If the stock remains as of my appointment date, the secured creditor can collect it due to a valid purchase money security interest. The creditor will have a claim as unsecured creditor for any unpaid invoices.
3. I have written to the secured creditor upon my appointment and I am currently awaiting to receive the requested documentation. It is likely this security interest is over leased equipment or stock which has been returned and/or paid in full and thus the security interest should have been discharged.
4. I have been provided with documentation showing a valid security interest over equipment leased to the Company. The Company continues to use the equipment as it is trading.
5. The secured creditor has discharged the security interest after my request for documentation at the date of my appointment.

4.3. Books and Records

The Administrators are required to provide an opinion as to whether the Company's books and records are maintained in accordance with Section 286 of the Act for a period of seven years. The Act requires that a company maintain financial records that correctly record and explain its transactions, financial position and performance, and enable true and fair financial statements to be prepared and audited.

Failure to maintain books and records may give rise to a presumption of insolvency pursuant to Section 588E of the Act. This presumption may be relied upon by the Liquidator in an application for compensation for insolvent trading and other actions for recoveries pursuant to Part 5.7B of the Act from the directors and related parties.

We have been provided with access to the management accounts and books and records of the Company and these appear to have been well maintained and up to date.

In our opinion, the books and records of the Company have been kept in a manner that complies with Section 286 of the Act.

4.4. Information for Creditors

To assist creditors, employees and shareholders understand the Voluntary Administration process ASIC has released a package of insolvency information sheets. These have the endorsement of the ARITA and are attached as **Appendix E**. You can download these as PDF files from the ASIC and ARITA. The respective websites are:

- www.arita.com.au
- www.asic.gov.au

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5. OVERVIEW OF THE COMPANY

5.1. Organisational Chart

Restaurant Physic Pty Ltd ACN: 601 468 231	
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Directors	Appointed	Ceased
Michael Robert Mceneaney	26-August-2014	-

Registered Office	Appointed	Ceased
Equil Advisory	10-April-2018	-

Secretary	Appointed	Ceased
Michael Robert Mceneaney	26-August-2014	-

PPSR Summary	
Security Interests	15
PMSI Interests	11
Transitional Interest	1
Commercial Registrations	15
TOTAL	42

Collateral Summary	
All pap with Except	1
Other goods	13
Chattel paper	1
TOTAL	15

PPSR

GSA	Type	Other	Type
Westpac	APAP	Samuel Smith & Sons Pty Ltd	Other goods
		Capital Finance Australia Ltd	PMSI
		Silver Chef Rentals Pty Ltd	PMSI
		Lion Victoria Pty Ltd	PMSI
		BHD Leasing Pty Ltd	PMSI
		McWilliam's Wines Group	PMSI
		Water Vend Pty Ltd	Other goods
		Tyrells' vineyards Pty Ltd	PMSI
		Whole Bunch Wines Pty Ltd	Chattel paper

5.2 Background

The Company was registered on 26 August 2014 and trading commenced on 16 May 2016. The Company's trading name is No. 1 Bent Street by Mike. The Company operates a restaurant located on 1/7 Bent Street, Sydney, NSW 2000.

At the date of my appointment the Company had four (4) full-time employees and utilised the services of a labour hire Company for additional fifteen (15) staff to be employed as needed.

The Company changed accountants in August 2017. In the latest financial statements prepared by the accountants (FY June 18), annual turnover was \$3.3 million.

The FY17 results were breakeven on an EBITDA basis. However, a net asset deficiency of \$341k was evident as at 30 June 2017 principally due to the initial undercapitalisation of the business.

During FY18, sales decreased as a result of the increased competition from the development of the Barangaroo area, the reduction of foot traffic due to the light rail construction and the redevelopment of various office blocks in the area. To maintain profitability operating costs were reduced. During that period, the company lost on an EBITDA basis \$214k.

The Company was unable to meet all its goods and services tax and pay as you go tax liabilities from November 2016 (ATO debt being \$129k). By August 2017, the payments made to the ATO decreased as the debt continued to increase to \$324k. It is around that time that the Company started to accumulate trade creditor debt (\$217k).

The Company obtained finance on several occasions from different sources which assisted the continued operations of the business (capital injections totalling \$736k) and enabled the Company to enter into payment plans with suppliers. At the date of our appointment the majority of creditors were on COD with arrears being quarantined on payment plans. The ATO was also on a payment plan with substantial payments (\$132k) being paid through the six months prior to our appointment in addition to current obligations.

Without external funding, the Company was unable to make sufficient profits to comply with its payment plans and current obligations, and as a result the Company was placed into Administration.

5.2. Administrators trading position

Below is a summary of the forecasted trading position during the period 29 November 2018 to the signing of the Deed (anticipated date of 18 January 2019). We forecast a net surplus position of \$8.4k.

Trading Position	(\$'000)
Sales	444
COGS	(134)
Gross Profit	311
<i>Gross Margin</i>	<i>70%</i>
Trading Expenses	
Wages & Superannuation	207
Rent	23
Other trading expenses	72
Total Expenses	302
Profit/Loss	8

6. HISTORICAL FINANCIAL RESULTS

6.1. Profit and loss

The Company's financial year ends on 30 June of each year. Financial statements were provided for years ending June 16, June 17, June 18, with management accounts relied upon from 1 July 2018.

Comparative Profit & Loss	Management	Financials	Financials	Financials
	YTD	Jun-18	Jun-17	Jun-16
	\$	\$	\$	\$
Income				
Sales - Restaurant Operations	1,339,528	3,174,045	3,790,293	452,118
Other Income	3,039	131,537	3,194	1,665
Total Income	1,342,567	3,305,582	3,793,487	453,783
Total Cost of Sales	427,846	1,084,520	1,166,321	165,138
Gross Profit	914,721	2,221,062	2,627,166	288,645
Gross Profit %	68%	67%	69%	64%
Less Operating Expenses				
Operating Expenses	130,723	311,551	402,661	169,049
Cleaning Materials	23,336	51,250	45,817	8,738
Hire of Plant	34,419	102,582	113,567	19,357
Insurance	10,524	18,913	38,765	3,496
Laundry	13,198	34,223	33,915	4,657
Legal	-	15,044	5,096	1,486
Merchant Fees	19,124	56,699	65,041	3,144
Rental Expenses	57,737	207,006	233,627	31,667
Subscription and Licenses	7,657	12,222	10,635	269
Labour Costs Inc Wages	661,901	1,626,310	1,678,248	250,660
Total Operating Expenses	958,619	2,435,800	2,627,372	492,523
EBITDA	(43,898)	(214,738)	(206)	(203,878)
Depreciation Expense	-	18,315	48,293	51,571
EBIT	(43,898)	(233,053)	(48,499)	(255,449)
Interest Expense	5,823	49,662	28,812	9,286
Net Profit	(49,721)	(282,715)	(77,311)	(264,735)

June 2016 (1.5 months reported EBITDA Loss \$203k)

The loss is a result of significant operating costs in the business (\$169k expected to be circa \$50k) which is disproportionately high. It appears initial start-up costs have been written off as expenses during this period. We have not been provided with supporting documentation of these ledgers from the Company's prior accountants.

The period also reflects higher than usual marketing, promotion and consulting expenses and lower GP which is not uncommon during the initial start-up phase of operations.

Financial Year 2017 (EBITDA \$0)

The Company's highest sales revenue is during the financial year June 17. The Company was in breakeven position on an EBITDA basis during this period, with GP peaking at 69% and sales at \$3.8m.

Financial Year 2018 (EBITDA Loss \$214k) and YTD November 2018 (EBITDA loss \$43k)

Sales revenue decreased during this period from \$3.8m to \$3.3m (14%) due to the following:

- increased competition from opening of the Barangaroo area;
- commencement of the light rail construction reducing foot traffic; and
- the redevelopment of various office blocks in the area.

In an attempt to adapt to the changing market, the Company introduced discount deals to increase revenues which resulted in a fall in GP by 2% and undertook to reduce costs \$114k (operating expenses \$91k and rental rebate \$23k). The adjustment was not sufficient to ensure the business became profitable and losses continued to accrue.

Summary

Based on the changing market condition during FY18 the company was unable to make a profit within the existing structure. Whilst an attempt was made to address costs, sales were ultimately not enough to make a profit and with insufficient capital to restructure and address accruing creditor debts, the Company was not sustainable.

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6.2. Balance Sheet

Comparative Balance Sheet	Management 29-Nov-18 \$	Financials 30-Jun-18 \$	Financials 30-Jun-17 \$	Financials 30-Jun-16 \$
Current Assets				
Cash and Cash Equivalents	(23,119)	132,409	135,079	191,350
Trade Receivables	5,198	3,420	-	-
Provision for GST	-	-	-	7,970
Inventory	10,000	10,000	10,000	-
Other Current Assets	-	3,432	3,712	20,640
Total Current Assets	(7,922)	149,261	148,791	219,960
Non Current Assets				
Leasehold Improvements	224,027	205,836	205,836	164,011
Less Accumulated Depreciation & Impairment	(59,190)	(40,999)	(22,684)	(2,334)
Property, Plant & Equipment	58,989	58,989	58,989	-
Less Accumulated Depreciation	(58,989)	(58,989)	(58,989)	-
Intangible Assets	-	4,896	6,528	-
Lease Guarantee	83,283	-	-	-
Bond Payment	12,945	12,945	12,945	12,945
Related Party Loans	117,068	122,819	36,421	102,448
Formation & Interest	8,328	-	-	-
Total Non Current Assets	386,461	305,497	239,046	277,070
Total Assets	378,539	454,758	387,837	497,030
Current Liabilities				
Trade Payables	295,545	262,732	86,368	90,493
Wages Related Payables	17,322	(7,979)	4,494	23,950
Vouchers & Function Deposits	28,697	19,562	5,616	-
Current Tax Liabilities	392,316	416,305	298,624	45,152
Financial Liabilities	3,896	30,924	24,117	34,191
Loan- Westpac	-	-	84,194	250,000
Loan- KBM Restaurant Pty Ltd	-	-	-	93,000
Loan- Richard Enthoven	206,113	255,499	155,472	200,000
Superannuation Payable	113,775	102,652	61,230	24,859
Accrued Charges	-	-	9,648	-
Total Current Liabilities	1,057,665	1,079,695	729,763	761,645
Total Liabilities	1,057,665	1,079,695	729,763	761,645
Net Assets	(679,126)	(624,937)	(341,926)	(264,615)
Equity				
Issued Capital	150	120	120	120
Accumulated Losses	(679,276)	(625,057)	(342,046)	(264,735)
Total Equity	(679,126)	(624,937)	(341,926)	(264,615)
Current Ratio	-0.01	0.14	0.20	0.29
Debt to Equity Ratio	-1.56	-1.73	-2.13	-2.88

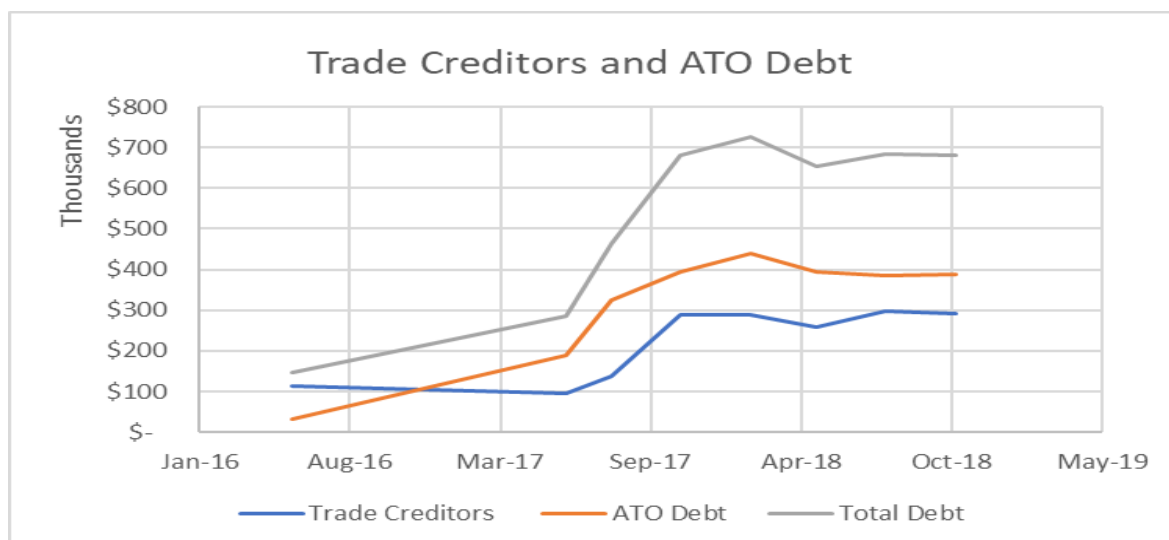
Comparative Balance Sheet Analysis:

Our observations are provided below:

- The significant negative net asset position of \$264k as at 30 June 2016 appears to be a result of the expensing of significant start-up costs through the P&L, as discussed in section 6.1. This position further deteriorates through to 29 November 2018 to \$679k.
- The related party loan of \$102k increases to \$117k by 29 November 2018. We have been unable to reconcile the initial \$102k in the 30 June 2016 without any supporting documentation from the Company's prior accountants. We do note the Director has submitted a formal proof of debt for \$123k for unpaid wages and annual leave during the period 1 July 2017 to 30 June 2018. The formal proof provided by the Director appears to be accurate. It can be used to offset any potential claim a liquidator would have against the director for this loan.
- We are also unable to determine why rental bond of \$83k is not listed as an asset until the November 2018 management accounts. Discussions with the current accountants advises that the records obtained from the prior accountants were inadequate and the booking of the bond was not included in the FY16 accounts.
- During 2017, the net asset position deteriorates further to negative \$341k. During this period a loan from KBM Restaurant Pty Limited (\$93k) is repaid prior to 30 June 2017. This loan is repaid prior to the date of insolvency and thus would not form part of any recovery actions. The above loan repayment is in conjunction with reduction in the Westpac facility by \$166k who were a secured creditor. At the same time the tax liability accrues to \$298k.
- Over the next 12 months further funds were loaned from a shareholder named Mr Richard Enthoven in the sum of \$100k which were used to repay the Westpac facility and creditors obligations. The trade payables, superannuation and tax liabilities continue to accrue and peaked on 30 June 2018 amounting to \$900k. A related party debt from Mr Richard Enthoven was repaid in the order of \$58k which we consider would be a voidable transaction and recoverable by a liquidator as discussed in section 10.1 Voidable Transactions.

Summary:

Trade payables and tax liabilities balances progressively increase from year to year showing the Company's inability to meet its current liabilities. Please find below a table for a visual representation of the accumulation of debt. It should be noted that debt owed to trade creditors and the ATO sharply increases around August 2017 which coincides with our approximation of the date of insolvency.



The aged payable (trading creditors) balances as of the date of my appointment are as follows:

Aged Payables	Current	30 Days	60 days	90 days	Older	Total
Total Payables	\$124,740	\$37,869	\$31,703	\$25,485	\$65,326	\$285,123
	43.75%	13.28%	11.12%	8.94%	22.91%	

The worsening financial position of the Company is further evidenced by the negative current ratio which shows that the Company does not have enough current assets to meet its current liabilities. Most financially stable companies have current ratio above one. A current ratio below one may indicate financial troubles and is one of the indicators of insolvency.

The negative debt to equity ratio indicates that the Company does not have enough leverage to meet its obligations. It also means the Company has taken more debt than can be justified by its net asset position.

The Company also incurred major Leasehold Improvement expenses which is a capital asset that will not materialise for the benefit of creditors if the Company goes into liquidation.

6.3. Company Director's Explanation for the Company's difficulties

According to the Director of the Company, in the first-year of operations, trading was strong. During the month of June 2017, it was noticed that lunch trade had decreased substantially due to increased competition in the area.

The Director attempted to improve operations by changing accountants in order to receive more guidance and help with restructuring and cost cutting. The Company was able to cut costs straight away in marketing and promotion. Labour was outsourced to a hire company in order to cut staff more effectively during slow periods.

In addition, the Director was able to secure rental rebates and reduce rent. The Company had an Australian Taxation Office payment plan.

The Director concluded that the city is experiencing a downturn. After consultation with his accountant in November 2018, it became apparent that the Company will not be able to make the September BAS and therefore it was likely to become insolvent.

At that time the Director decided to place the Company into voluntary administration.

6.4. Administrators' opinion on the reasons for the Company's difficulties

In our opinion the reasons for the Company's failure are as follows:

- Initial undercapitalisation of the business as evidenced by negative \$264k net asset position on 30 June 2016 being 1.5 months after the business commenced trading.
- Significant losses during FY18 principally due to the reduction in sales revenue (\$500k or 14%) due to the following impacts
 - increased competition from opening of the Barangaroo area;
 - commencement of the light rail construction reducing foot traffic; and
 - the redevelopment of various office blocks in the area.
- Insufficient working capital available to adjust the cost base adequately for the impact of the changing trading conditions as detailed above.

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7. REPORT ON COMPANY ACTIVITIES & PROPERTY (“ROCAP”)

The Act requires directors and secretary to complete and provide to the Administrators a ROCAP, detailing the financial position of the Company at the date of our appointment. The ROCAP discloses estimated realisable value (ERV) of known assets and liabilities.

Report On Company Activities & Property	Book Value \$	Director's ROCAP \$	Administrators' Estimate \$	Notes
Assets				
Cash	(7,922)	4,870	4,870	1
Trade Debtors	5,198	-	-	2
Inventory	10,000	8,072	8,072	3
Loan Receivable	117,068	-	-	4
Plant & Equipment & Leasehold Improvements	164,837	15,000	11,320	5
Total Assets	289,180	27,942	24,262	
Liabilities				
Priority Creditors - employees				
Wages	-	2,000	2,000	6
Annual Leave	17,487	18,987	18,987	6
Superannuation	113,775	113,000	135,000	7
Total Priority Creditors	131,262	131,987	153,987	
Estimated Surplus/(Deficiency) for Priority Creditors	157,918	(104,045)	(129,725)	
Unsecured Creditors				
Trade Creditors	302,138	246,434	285,123	8
ATO	392,316	389,139	389,139	9
Related Party Loans	206,113	206,113	206,113	
Related Creditor (Director) Unsecured Claim for Unpaid Wages & Annual Leave	-	120,087	4,000	6
Total Unsecured Creditors	900,567	961,772	884,375	
Estimated Deficiency for Unsecured Creditors	(742,649)	961,772	884,375	

Notes:

- At the date of my appointment, \$4,870 was transferred to the Administrators' account for the Company from the Company's Westpac bank account.
- The trade debtor amounts are from prior periods and are unrecoverable.
- The inventory was catalogued at the date of my appointment with an ERV determined from a valuation completed by an independent third-party licensed auctioneer.
- The loan receivable may be offset by a claim from the Director for unpaid wages and annual leave (\$123k).
- Plant & Equipment and Leasehold Improvements were valued by an independent third-party licensed auctioneer to be worth as estimated above.
- The Director has submitted a formal proof of debt totalling \$123,587 consisting of unpaid wages of (\$115k) and annual leave entitlements of (\$8.6k). The formal proof of debt submitted by the Director appears to be accurate.

The Corporations Act 2001 imposes a cap on the amounts related creditors can claim as priority claim to 2k for wages and superannuation and 1.5k for annual leave. The rest of the Director's claim must be classified under unsecured creditors' claims.

7. The Book value of superannuation payable does not include administration fees and nominal interest which will be added by the Australian Taxation Office in their assessment forecasted to be \$137k.
8. After discussion with the Director, it would seem some of the creditors have been paid and/or hold bonds and as a result total creditor claims are estimated to be less than book value. Based on prior experience, some creditors will submit claims larger than what the book value is or what the Director estimates.
9. The Australian Taxation Office have provided a formal proof of debt in the amount indicated above.

In our opinion, the ROCAP provided by the Director does not inaccurately reflects the financial position of the Company.

8. DEED OF COMPANY ARRANGEMENT (“DoCA”)

8.1. Introduction

On 18 December 2018, we received a draft DoCA proposal from Mike Rest Pty Ltd. The Director of Mike Rest Pty Ltd is Michael McEneaney and the sole shareholder is McEneaney & Best Pty Ltd. A copy of the DoCA can be requested from our office by contacting Dilyana Panova on (02) 8020 5858 or via email on dpanova@hogansprowles.com.au.

The deed proponent plans to restructure the business in a way that targets a larger customer base than the prior focus on high-end clientele. There is also a plan to renovate the premises in order to attract more clients. In addition, we have been advised that the menu will change in order to be up to par with new health trends. The restaurant will also be opened for breakfast.

The DoCA is expected to return 100 cents in the dollar to priority creditors. The proposed DoCA does not impact continuing employees. All employment arrangements and employee entitlements will be preserved in full. In the event an employee creditor has an unpaid claim against the Company, their rights are preserved in the Deed Fund as a priority creditor.

The payment to unsecured creditors will be dependent on their class and will result in a better return than under liquidation.

A return to unsecured creditors is unlikely in a liquidation scenario.

A comparison of the returns from DoCA and Liquidation scenarios are provided at section 9 of this report.

8.2. Key terms

Term	Description
Deed Proponent	MikeRest Pty Ltd ACN: 606 914 863.
Deed Administrator	The Administrators will become the Deed Administrators

- Asset Sale Agreement** The document titled “Asset Sale Agreement” will be executed the same date as the Deed of Company Arrangement, anticipated to be signed around 18 January 2019. The Deed Proponent will purchase all assets at that time excluding any leased assets in exchange for which the Deed Proponent will pay a purchase price of \$175,000 by way of 24 equal monthly instalments of \$7,291.67 (**Purchase Price**) and also pay superannuation liabilities of the Company totalling \$137,000 at completion (**Superannuation Amount**).
- Composition of Deed Fund** The Deed Fund shall comprise of the following amounts:
- a) Proponent contribution (\$50K), less any amount received in the Administration in respect of the landlord’s bond.
 - b) The Purchase Price pursuant to the Asset Sale Agreement). Should these payments not be met the Deed Administrator will have the sole discretion of terminating the deed of company arrangement (there by placing the Company into Liquidation), calling a meeting of creditors or providing more time for compliance.
 - c) Payment of the Superannuation Amount in accordance with the Asset Sale Agreement .
 - d) Purchaser assumption of outstanding employee entitlements (\$17.5K) if crystallised in a liquidation scenario the employee costs are expected to increase to \$31K.
 - e) The Deed Proponent will compensate the Deed Administrator to ensure trading losses during the Administration period does not exceed \$10k.
- Distribution of Deed Fund** The Deed Administrator shall distribute the Deed Fund in the following order of priority:
- a) First, payment of the Administrators’ Disbursements;
 - b) Second, payment of the Administrators’ Remuneration;
 - c) Third, payment of the Deed Administrators’ Disbursements;
 - d) Fourth, payment of the Deed Administrators’ Remuneration;
 - e) Fifth, payment of Admitted Priority Creditors;

- f) Sixth, payment of Admitted Priority Claims up to a maximum of 50c/\$ as per the attached schedule;
- g) Seventh, payment of Admitted Subordinate Claims, being all other creditors and not excluded creditors;
- h) Excluded creditors will be claims from the Director and Mr Richard Enthoven whose claims will survive.

Termination and Variation of Deed This Deed will be effectuated once the Purchase Price as defined in the Asset Sale Agreement has been paid to the Company in full, and the Deed Administrators have distributed those funds.

Landlord The lease will be assigned to the Deed Proponent upon execution of the DoCA

Control of the Company The control of the Company will return to the Company's Director upon execution of the DoCA.

9. ESTIMATED RETURN TO CREDITORS IN A DOCA AND LIQUIDATION

In a liquidation scenario, we estimate that the assets of the Company will be insufficient for the purposes of enabling a dividend to unsecured creditors.

The proposed DoCA will enable priority creditors (employees) to be paid all their outstanding entitlements and superannuation 100 c/\$. In addition, the employees will be able to continue their employment under the same terms with the new company.

Priority creditor claims consist of annual leave (approx. \$17k) and superannuation of (approx. \$137k).

It is expected that approximately \$128k will be available for distribution to unsecured creditors. The distribution will be dependent on the final quantum of claims and the table below approximates the return to creditors.

DOCA	Claim Value	Return
Unsecured Creditors Class A	\$233,589	50c/\$
Unsecured Creditors Class B	\$400,857	3c/\$
Unsecured Creditors Class C	\$206,113	0c/\$

Class A consists of creditors who are considered essential for the continued operations of the business. A list of class A unsecured creditors is provided in Annexure D.

Class B consists of creditors deemed as non-critical totally \$401k.

Class C consists of related party creditor who has agreed to subordinate their claims.

Estimated Position Statement		Book Vale	CVL ERV	DOCA ERV
		\$	\$	\$
Assets subject to specific security interest				
Jones Lang LaSalle Bank Guarantee	1	83,283	-	-
Silver Chef Bond	1	12,945	-	-
Circulating assets				
Cash		(7,922)	4,870	4,870
Trade Debtors		5,198	-	-
Inventory		10,000	8,072	-
Plant & Equipment & Leasehold Improvements		164,837	11,320	-
Trading Profits/Losses	2		50,000	8,399
Deed contribution & Sale Purchase*	3		-	362,000
Additional contribution			-	-
Voidable Transactions - ATO	4		130,000	-
Voidable Transactions - Ausvance	4		37,600	-
Voidable Transaction - Richard E	4		49,000	-
Director Loan			-	-
Insolvent Trading	5		-	-
Total assets available		268,341	290,862	375,269
Less: Costs (excl. GST)				
VA fees	6		75,000	75,000
VA Disbursement			10,000	10,000
Liquidators Fees & Disbursements			100,000	-
DOCA Fees & Disbursements			-	25,000
Total Costs			185,000	110,000
Total Surplus/(Deficiency) for Priority Creditors			105,862	265,269
Less: Employee Entitlements				
Superannuation	7		137,000	137,000
Annual leave			17,487	-
PILN			13,423	-
Total Employee Entitlements			167,910	137,000
Total Surplus/Deficiency for Unsecured Creditors			(62,048)	128,269
Class A Unsecured Creditors	8		233,589	233,589
Class B Unsecured Creditors			401,983	401,983
Class C Unsecured Creditors			206,113	-
Total Unsecured Creditors			841,685	635,572
Class A				0.50
Class B				0.03
Class C				-

Notes:

- The creditors have partial security which in liquidation scenario would be realised for the benefit of the partly secured parties with no funds available to other creditors.
- In a liquidation scenario the restaurant will close immediately after the 2nd creditors meeting (28 December 2018) and we have forecasted a profit of \$50k. In a DoCA scenario we have assumed the Company will trade under administration until 19 January 2019 to provide time for conditions precedent of DoCA to be met including assignment of lease, negotiations over leased assets and establishing a new labour hire agreement.

3. DOCA Contribution:

Type of Contribution	Amount (\$)
Proponent Contribution (less residual amount of landlord's bond if any) (see Note 1)	50,000
Purchaser payment of 24 monthly instalments as part of the Asset Sale Agreement	175,000
Purchaser payment of outstanding employee superannuation liability	137,000
Total:	362,000

4. Please refer to the following section 10.1 for more information on voidable transactions and recovery.
5. For more information on possible insolvent trading claim, please refer to section 10.2 below.
6. Our actual remuneration for the period from 29 November 2018 to 16 December 2018 is \$83,916 inclusive of GST. However, we have agreed to cap our remuneration for the VA period at \$82,500 inclusive of GST. For more information on how remuneration has been calculated please refer to Annexure G of this report.
7. Superannuation is calculated based on book value plus estimated nominal interest and administration charges.
8. For a list of Class A unsecured creditors please refer to Annexure D.

10. RECOVERIES, OFFENCES, VOIDABLE TRANSACTIONS & INSOLVENT TRADING

We have reviewed the Company's financial statements, general ledgers, bank statements and books and records to identify possible recoveries and offences.

For general information about what offences may be identified by the Administrators, please refer to the attached ARITA information sheet entitled "*Creditor Information Sheet: Offences, Recoverable transactions and Insolvent Trading*" marked as **Appendix F**.

10.1. Voidable Transactions

Corporations Regulation 5.3A.02 requires Administrators to specify whether there are any transactions that appear to be voidable transactions in respect of money, property or other benefits which may be recoverable by a liquidator under Part 5.7B of the Act.

This issue is relevant to creditors if they are being asked to choose between a Deed of Company Arrangement (DoCA) or liquidation, as voidable transactions are only recoverable if a company is being wound up, i.e. in liquidation.

Our preliminary view is that the Company became insolvent around August 2017 when the ATO outstanding balances, trade creditor balances and employee superannuation outstanding balance significantly increased.

To the extent that information has been available, the Administrators have conducted the following preliminary investigations in relation to voidable transactions:

- Review the books and records to determine whether there have been any unfair loans to or from the Company;
- Review books and records for the period approximately 6 months prior to the appointment of the Administrators to determine whether any creditors have been preferred over the general body of creditors as a result of any transaction; and
- Reviewed documentation provided to us by third parties.

A summary of the various transactions is set out below:

a) Unfair Preferences (Section 588FA)

We have investigated the Company's records for the relation back day period, being six (6) months prior to the date of our appointment. Our preliminary review is that certain unfair preferences may be available.

Numerous payments were made to the ATO of approximately \$176k during the relation back day period. The above estimate does not include realisation costs and likely settlement proposals from the ATO.

Possible recovery may be available in respect of a third-party loan repayment to Ausvance LLC in the amount of \$37.6k. For more on this transaction, please refer to point d) below.

Several other transactions with suppliers were identified as a potential preference. Many of those suppliers had entered payment plans with the Company close to the relation back date making the quantum of any preference claim factoring realisation costs uncommercial for the liquidator to pursue. The costs of pursuing such claims will outweigh the potential realisation benefit for creditors.

In addition, there are a range of defences that may be available to the parties involved in the above transactions that would need to be considered and investigated prior to commencing recovery action. It is my opinion creditors may have defences against any preference claims by a Liquidator.

The main defences to a voidable transaction claim are:

- Good faith defence - It would be necessary to establish that the Company was insolvent, and the recipient had reasonable grounds for suspecting that the Company was insolvent at the time or would become insolvent.
- Running account balance defence – If in the course of the relationship, the level of the company's net indebtedness is increased and reduced from time to time, then all the transactions are taken to be a single transaction for the purposes of establishing whether there was an unfair preference. Simply stated in the context of a 'continuing business relationship' the amount of the unfair preference will be determined by considering all transactions (payments and further supplies) between the company and the creditor. The Courts have allowed Liquidators to choose the starting date of the period as the date which best suits them, so long as it falls within the relation back period. The end date is the commencement of the administration. Therefore, the amount of the preference will usually be the difference between the highest amount owed during the period and the amount owing at the time of the appointment.
- The defendant creditor is a secured creditor - generally speaking, a Liquidator cannot pursue a secured creditor and can only pursue unfair preferences in respect of unsecured debts.

b) Uncommercial Transactions (Section 588FB)

Section 588FB of the Corporations Act provides for transactions that were not beneficial or were detrimental to the Company as being void. The transaction must have occurred when the Companies was insolvent or would become insolvent.

From our investigations to date, we have not identified any transactions that would be subject to this Section of the Act.

c) Unfair Loans (Section 588FD)

Section 588FD of the Act provides for loans to be voided in circumstances where interest or charges are considered extortionate.

From our investigations to date, we have not identified any transactions that would be subject to this Section of the Act.

d) Unreasonable Director-Related Transactions (Section 588FDA)

Section 588FDA of the Corporations Act provides for transactions where it may be expected that a reasonable person in the Company's circumstances would not have entered into the transaction having regard to the benefits, detriments and respective benefits to other parties.

Based on our investigations to date, we have identified a potential recovery of \$117K associated with the Director's loan account that may be available for a liquidator to pursue. It is likely a liquidator will not be able to realise the amount as the Director has submitted a counterclaim with a formal proof of debt for wages and annual leave in the amount of \$123k. In addition, based on the Director's personal asset position and property searches, it is likely the claim would be uncommercial to pursue.

A Liquidator may have a possible recovery claim for the third-party loan repayment to Ausvance LLC of \$37.6k by pursuing a claim against the Director personally. The reason being the Director had given a personal guarantee and thus may have repaid the loan before other creditors for that reason. Again, in addition, based on the Director's personal asset position and property searches, it is likely the claim would be uncommercial to pursue.

e) Related Party Transactions (Section 588FE(4))

Section 588FE(4) of the Act provides for payments to related parties may be voided where the Company was insolvent at the time of the transaction.

From our investigations to date, we have identified one payment in the amount of \$49K that was repaid to a related creditor during the relation back period. A future liquidator will have to make determine whether it is commercial to pursue this claim.

f) Circulating security interest created within 6 months before relation back date (Section 588 FJ)

Our searches reveal there were no circulating security interest created within 6 months before our appointment.

10.2. Insolvent Trading (Section 588G)

Section 588G of the Act provides that a company's director(s) has a duty to protect the company from incurring debt when there are reasonable grounds for suspecting that the company will be

unable to pay its debts as and when they fall due. Section 588M of the Act provides that a Liquidator is able to recover 'damages' from the director(s) of an insolvent company, in an amount equal to the loss or damage suffered by the company as a result of a breach of duty.

Section 95A(1) of the Corporations Act 2001 provides a definition of a solvent entity as follows:

"A person is Solvent if, and only if, the person is able to pay all of its debts, as and when they become due and payable"

An insolvent entity is defined under Section 95A(2) of the Corporations Act 2001 as:

"A person which is not Solvent is Insolvent"

Based on the above definition of insolvency, it is our opinion the Company may have traded whilst insolvent. Albeit, the Director has defences against an insolvent trading claim.

There are several defences available to a director pursuant to section 588FGB of the Act include:

- if it is provided that, at the payment time, the person had reasonable grounds to expect, and did expect, that the company was solvent at that time and would remain solvent if it made the payment;
- had reasonable grounds to believe, and did believe:
 - that a competent and reliable person (*the other person*) was responsible for providing to the first-mentioned person adequate information about whether the company was solvent; and
 - that the other person was fulfilling that responsibility.
- expected, on the basis of information provided to the first-mentioned person by the other person, that the company was solvent at that time and would remain solvent even if it made the payment.
- because of illness or for some other good reason, the person did not take part in the management of the company at the payment time.
- the person took all reasonable steps to prevent the company from making the payment; or there were no such steps the person could have taken.

When making our assessment of the Company's insolvency we would also consider the common law principles, some of which include:

- Whether or not a company is insolvent for the purposes of the Corporations Act, ss95A, 459B, 588FC or 588G(1)(b) is a question of fact to be ascertained from the consideration of the company's financial position taken as a whole.
- In considering the company's financial position, the court must have regard to the commercial realities. Commercial realities will be relevant in considering what resources are available to the company to meet its liabilities as they fall due, whether the resources other than cash are realisable by sale or borrowing upon security, and when such realisation are achievable.

- The conclusion of insolvency ought to be clear from a consideration of the debtor's financial position in its entirety and generally speaking ought not to be drawn simply from evidence of temporary lack of liquidity. It is the debtor's inability, utilising such cash resources as he has or can command through the use of his/her assets, to meet his/her debts as they fall due which indicates insolvency.

After examining the financial information and the Company's background, the Director may have the following defences to an insolvent trading claim:

- Negotiation of a repayment plan with the ATO which deferred the payment obligation.
- Establishing payment plans with many suppliers in order to postpone payment until a later time.
- The availability of funding from related parties in the amount of \$300K since the Company's inception with funding being sought as at the date of our appointment.

Given the above it is not unreasonable for the Director to believe the Company may be able to pay its outstanding liabilities by raising capital externally.

Further investigations by a liquidator will be required to determine the quantum of any claim and whether it will be commercial for the liquidator to pursue. In addition, an insolvent trading claim can only materialise if the Director has personal assets. Based on my preliminary investigations into the personal asset position of the Director, I do not believe it will be commercial for a Liquidator to pursue an insolvent trading claim.

For general information about insolvent trading, please refer to the Creditor Information Sheet – S439A reports contained within the Code of Professional Conduct on the ARITA website at www.arita.com.au.

10.3. Directors' Personal Financial Position

If the Company is wound up at the Second Meeting of Creditor further investigations may be conducted into the prospects of a successful actions against the Director and the cost benefits of pursuing such actions.

Property searches performed indicate the Director does not have any real estate holdings.

Personal name extract from the ASIC database indicates the following:

Shareholdings	Number and Class	Fully Paid
Food Union Wynyard Pty Ltd	10 Ordinary Shares	Yes
Company Name	Role	Appointment Date
KBM License Pty Ltd	Director & Secretary	20 July 2015
KBM Restaurant Pty Ltd	Director & Secretary	09 January 2017
Kitchen by Mike Pty Ltd	Director & Secretary	08 March 2016
Mikelic Pty Ltd	Director & Secretary	06 July 2015
Mikerest Pty Ltd	Director & Secretary	06 July 2015
Sophia Lane Pty Ltd	Director & Secretary	05 August 2016

We have been provided a statement of financial position from the Director which details minimal assets.

10.4. Breach of Directors' Duties

Section 180 to 184 of the Act sets out duties and powers of directors and officers of a company to enable directors to act in the interest of a company. The duties include:

- Section 180 – Care and Diligence (Civil obligations)
- Section 181 – Good Faith (Civil obligations)
- Section 182 – Use of Position (Civil obligations)
- Section 183 – Use of Information (Civil obligations)
- Section 184 – Good faith, use of position and use of information (Criminal offences)

From our investigations to date, we have not identified any conduct that would be subject to these Sections of the Act.

11. ADMINISTRATORS' OPINION

Section 439A requires Administrators to provide their opinion on which of the three (3) alternative courses of action available to creditors, is in their interests.

It is the Administrators' opinion in relation to the Company that:

- It **would not be** in the creditors' best interest to resolve **to end the administration** at the second meeting of creditors as the Company is insolvent and is unlikely to return to solvency.
- It **would be** in the creditors' best interest to resolve that the Company execute a Deed of Company Arrangement ("DoCA") for the following reasons:
 - The proposed DoCA provides a greater return to the unsecured creditors of the Company than a Liquidation.
 - The proposed DoCA provides a more certain return to priority and unsecured creditors of the Company than a Liquidation.
 - The proposed DoCA will cost less to administer than a Liquidation.
 - The proposed DoCA enables the business to continue and employees to be retained.
- It **would not be** in the creditors' best interests for the Company to be wound up for the following reasons:
 - It would provide a smaller return to priority creditors of the Company compared with the proposed DoCA.

- The prospect of a return to priority creditors of the Company is uncertain and reliant on voidable transaction recoveries, which are uncertain.
- No return is expected to unsecured creditors in Liquidation.
- The costs of a Liquidation will be greater than the proposed DoCA.
- A Liquidation is likely to result in the termination of the employees and the crystallisation of entitlements.

See **Appendix A** as our formal statement of opinion.

12. SECOND MEETING OF CREDITORS

The Second Meeting of Creditors is to be held at the offices of **HoganSprowles at Level 9, 60 Pitt Street, Sydney NSW on Friday, 28 December 2018 at 11:00am.**

The purpose of the Second Meeting of Creditors is to discuss the Company's affairs and to determine the Company's future. Creditors' options are as follows:

- That the Administration should end.
- The Company executes a Deed of Company Arrangement.
- That the Company be wound up.

Creditors may adjourn the meeting for up to forty-five (45) business days.

Creditors will also be asked whether they wish to replace the incumbent Administrators with a new liquidator or deed administrator (as applicable).

In respect of the meeting please find enclosed the following at **Appendix B**:

- Form 529 – Notice of Meeting and Agenda
- Form 532 – Appointment of Proxy
- Form 535 – Proof of Debt Form

In order to receive this report and any future reports and/or notices via email or facsimile, rather than by regular post, please provide your contact details on the enclosed Proof of Debt form.

Telephone facilities will be available.

13. CONDUCT OF THE ADMINISTRATION

We have attended to the following matters:

- Continued to trade the business;
- Issued notices of appointment;

- Met with the Company's Director to understand the background and financial position of the Company;
- Attended to statutory duties including notifying ASIC, the ATO and other relevant authorities of their appointment and advertising their appointment;
- Organising access to electronic data and files for investigation;
- Convened the first meeting of creditors held on Tuesday, 11 December 2018 at 11:00 am;
- Attended and chaired the first meeting of creditors (and lodged minutes of those meetings);
- Undertook personal property securities register and property searches;
- Written to security interest parties for details of their securities and supporting documentation;
- Conducted a preliminary review of the books and records made available, to ascertain the Company's financial position, the key issues affecting the Company and transactions potentially recoverable by a liquidator;
- Liaised with stakeholders, including the accountant and creditors of the Company;
- Liaised with insurance brokers regarding the adequate cover of insurance over the assets;
- Answered unsecured creditors' enquiries in relation to the Administration;
- Conducting preliminary investigations in relation to the business, affairs and financial circumstances of the Company; and
- Prepared a detailed report to creditors pursuant to Section 439A of the Act.

14. REMUNERATION

14.1. Voluntary Administration

At the meeting of creditors to be held on Friday, 28 December 2018, pursuant to Section 449E of the Act, the Administrators will seek creditor approval for the fee's set out in the remuneration report, which is attached as **Appendix G**.

At the meeting, creditors will be asked to consider the following resolutions:

"That the remuneration of the Administrators, their partners and staff, for the period of the administration from 29 November 2018 to 16 December 2018 is fixed at a sum equal to the cost of time spent by the Administrators and the Administrators' partners and staff, calculated at the hourly rates as detailed in the report to creditors dated 18 December 2018 of fees equalling \$60,000 plus GST, and that the Administrators can draw the remuneration immediately or as required."

“That the future remuneration of the Administrators, their partners and staff, calculated at the hourly rates as detailed in the report to creditors dated 18 December 2018, for the period 17 December 2018 to 28 December 2018, is fixed and approved to a maximum cap of \$5,000 plus GST, and can be drawn as soon as practicable after the conclusion of the second meeting. Should a lesser amount be incurred, only the lesser amount will be drawn. Should a greater amount be incurred, further approval from creditors may be sought.”

“That the future remuneration of the Administrators, their partners and staff, calculated at the hourly rates as detailed in the report to creditors dated 18 December 2018, for the period, from 29 December 2018 to the conclusion of the administration, is fixed and approved to a maximum cap of \$10,000 plus GST, and can be drawn as soon as practicable after the conclusion of the second meeting. Should a lesser amount be incurred, only the lesser amount will be drawn. Should a greater amount be incurred, further approval from creditors may be sought.”

“That the internal disbursements of the Administrators for the period 29 November 2018 to the conclusion of the Administration at the rates outlined in the Remuneration Approval Report dated 18 December 2018 be capped at the amount of \$10,000 plus GST and can be drawn by the Administrators as required.”

A copy of the information sheet ‘Approving Fees: a guide for creditors’ can be found on the ASIC website at www.asic.gov.au.

14.2. Deed of Company Arrangement

If the Company enters into a Deed of Company Arrangement, approval of the Deed Administrator’s future fees will be sought in accordance with the remuneration report attached as **Appendix G**. A summary of the tasks to be completed by the Deed Administrators and their staff in the conduct of the deed for the period upon signing of the deed to the completion is also outlined in the **Remuneration Report**.

At the meeting, creditors will be asked to consider the following resolutions:

“That the remuneration of the Deed Administrators, their partners and staff, calculated at the hourly rates as detailed in the report to creditors dated 18 December 2018, for the period from commencement of the Deed of Company Arrangement to completion of the Deed of Company Arrangement, is fixed and approved to a maximum cap of \$20,000 plus GST, to be drawn only when incurred on a monthly basis or as required. Should a lesser amount be incurred, only the lesser amount will be drawn. Should a greater amount be incurred, further approval from creditors may be sought.”

“That the internal disbursements of the Deed Administrators for the period from the commencement of the Deed of Company Arrangement to the conclusion of the Deed of Company Arrangement at the rates outlined in the Remuneration Approval Report dated 18 December be capped at the amount of \$5,000 plus GST and can be drawn by the Deed Administrators as required.”

14.3. Liquidation

If the Company is placed into liquidation, approval of the Liquidator’s future fees will be sought in accordance with the remuneration report attached as **Appendix G**. A summary of the tasks to

be completed by the Liquidators and their staff in the conduct of the liquidation for the period 6 December 2018 to the completion of the liquidation is also outlined in the **Remuneration Report**.

At the meeting, creditors will be asked to consider the following resolutions:

“That the remuneration of the Liquidators, their partners and staff, calculated at the hourly rates as detailed in the report to creditors dated 18 December 2018, for the period from commencement of the liquidation to completion of the liquidation, is fixed and approved to a maximum cap of \$100,000 plus GST, to be drawn only when incurred on a monthly basis or as required. Should a lesser amount be incurred, only the lesser amount will be drawn. Should a greater amount be incurred, further approval from creditors may be sought.”

“That the internal disbursements of the Liquidators for the period from the commencement of the liquidation to the conclusion of the liquidation at the rates outlined in the Remuneration Approval Report dated 18 December 2018 be capped at the amount of \$5,000 plus GST and can be drawn by the Liquidators as required.”

DATED this **18th day of December 2018**



Michael Hogan
Joint & Several Administrator

Appendix A

**Restaurant Physic Pty Ltd
(Administrators Appointed)
A.C.N. 606 468 231**

**STATEMENT OF ADMINISTRATORS'S OPINION
PURSUANT TO SECTION 439A(4)(b) OF THE CORPORATIONS ACT**

This statement sets out our opinions in relation to the alternatives which the creditors of the Company will consider at the Second Meeting of Creditors to be held at **the offices of HoganSprowles at Level 9, 60 Pitt Street, Sydney NSW on Friday, 28 December 2018 at 11:00 am.**

- It **would not be** in the creditors' best interest to resolve **to end the administration** at the second meeting of creditors as the Company is insolvent and is unlikely to return to solvency.
- It **would be** in the creditors' best interest to resolve that the Company execute a Deed of Company Arrangement ("DoCA") for the following reasons:
 - The proposed DoCA provides a greater return to the unsecured creditors of the Company than a Liquidation.
 - The proposed DoCA provides a more certain return to the unsecured creditors of the Company than a Liquidation.
 - The proposed DoCA will cost less than a Liquidation.
 - The proposed DoCA enables the business to continue and allow employees to be retained.
- It **would not be** in the creditors' best interests for the Company to be wound up for the following reasons:
 - It would provide a smaller return to the unsecured creditors of the Company than would the proposed DoCA.
 - The prospect of a return to the unsecured creditors of the Company is uncertain.
 - The costs of a Liquidation will be greater than the proposed DoCA.
 - A Liquidation is likely to result in the termination of the employment of the employees, which will crystallise their entitlements.
 - Any return to the unsecured creditors of the Company in a Liquidation will be dependent upon the recovery of voidable transactions which we consider to be unlikely.

Dated this **18th day of December 2018**


Michael Hogan
Joint & Several Administrator

Appendix B

FORM 529

CORPORATIONS ACT 2001
Section 439A
Insolvency Practice Rules (Corporations)
75-10, 75-15 & 75-20

NOTICE OF SECOND MEETING OF CREDITORS

**Restaurant Physic Pty Ltd
(Administrators Appointed)
A.C.N. 601 468 231
("the Company")**

NOTICE IS GIVEN that concurrent meeting of the creditors of the Company will be held at **the offices of HoganSprowles at Level 9, 60 Pitt Street, Sydney NSW on Friday, 28 December 2018 at 11:00 am.**

AGENDA

1. To review the Administrators' report concerning the companies' business, property, affairs and financial circumstances.
2. For creditors to consider the options available and to resolve either:
 - a) that the administration should end; or
 - b) that the company execute a Deed of Company Arrangement; or
 - c) that the company be wound up.
3. For creditors to:
 - a) approve the Voluntary Administrators' remuneration; and
 - b) determine the remuneration of the Deed Administrator/Liquidator, if one is appointed.
4. For creditors to consider the appointment of an alternative Deed Administrator or Liquidator.
5. If the Company is wound up, to consider the appointment of a Committee of Inspection.
6. If the Company is wound up, to consider the early destruction of the books and records at the conclusion of the liquidation.
7. To consider any other business that may be brought before the meeting.

Telephone conference facilities will be available at the meeting. Please note that under Insolvency Practice Rules (Corporations) (IPR) 75-35:

- a) A person, or the proxy or attorney of a person, who wishes to participate in the meeting by telephone must give to the convener, not later than the second last working day before the day on which the meeting is to be held, written statement setting out:

- (i) the name of the person and of the proxy or attorney (if any); and
 - (ii) an address to which notices to the person, proxy or attorney may be sent; and
 - (iii) a method by which the person, proxy or attorney may be contacted for the purposes of the meeting.
- b) A person, or the proxy or attorney of a person, who participates in the meeting by telephone must pay any costs incurred by the person, proxy or attorney in participating and is not entitled to be reimbursed for those costs from the assets of the Company.

Proxies to be used at the meeting should be given to me as Joint and Several Administrator and to the person named as convening the meeting. A creditor can only be represented by proxy or by an attorney pursuant to IPR 75-150 & 75-155 and if a body corporate by a representative appointed pursuant to Section 250D.

Creditors will not be entitled to vote at this meeting unless they have previously lodged particulars of their claim against the Company in accordance with IPR 75-85 and that claim has been admitted for voting purposes wholly or in part by the Joint and Several Administrators.

Dated this **18th day of December 2018**



Michael Hogan
Joint & Several Administrator
HoganSprowles Pty Ltd
Level 9, 60 Pitt Street
Sydney NSW 2000.

FORM 535
 CORPORATIONS ACT 2001

ACN 601 468 231

Sub regulation 5.6.49(2)

FORMAL PROOF OF DEBT OR CLAIM (GENERAL FORM)

To the Joint and Several Administrators Restaurant Physic Pty Ltd (Administrators Appointed)

1.

This is to state that the company was, on 29 November 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.

APPOINTMENT OF PROXY
 CREDITORS MEETING

**Restaurant Physic Pty Ltd
 (Administrators Appointed)
 A.C.N. 601 468 231**

*I/*We ⁽¹⁾	
Of (address)	
being a creditor of the Company, appoint ⁽²⁾ or in his or her absence	
to vote for me/us on my/our behalf at the meeting of creditors to be held on 28 December 2018 or at any adjournment of that meeting.	

Please mark any boxes with an X

Proxy Type: General Special

	For	Against	Abstain
Resolution 1 A resolution that the Administration end.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Resolution 2 A resolution that the company be required to execute a Deed of Company Arrangement.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Resolution 3 A resolution that the Company be wound up.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Resolution 4 That in the event that the Company is wound up and an alternate Liquidator is proposed, that the existing Liquidators be replaced and (Alternative Appointee) be appointed in their stead.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Resolution 5 That the remuneration of the Administrators, their partners and staff, for the period of the administration from 29 November 2018 to 16 December 2018 is fixed at a sum equal to the cost of time spent by the Administrators and the Administrators' partners and staff, calculated at the hourly rates as detailed in the report to creditors of 18 December 2018 of fees equalling \$60,000 plus GST, and that the Administrators can draw the remuneration immediately or as required.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

<p>Resolution 6 That the future remuneration of the Administrators, their partners and staff, calculated at the hourly rates as detailed in the report to creditors dated 18 December 2018, for the period 17 December 2018 to 28 December 2018, is fixed and approved to a maximum cap of \$5,000 plus GST, and can be drawn as soon as practicable after the conclusion of the second meeting. Should a lesser amount be incurred, only the lesser amount will be drawn. Should a greater amount be incurred, further approval from creditors may be sought.</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p>Resolution 7 That the future remuneration of the Administrators, their partners and staff, calculated at the hourly rates as detailed in the report to creditors dated 18 December 2018, for the period, from 29 December 2018 to the conclusion of the administration, is fixed and approved to a maximum cap of \$10,000 plus GST, and can be drawn as soon as practicable after the conclusion of the second meeting. Should a lesser amount be incurred, only the lesser amount will be drawn. Should a greater amount be incurred, further approval from creditors may be sought.</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p>Resolution 8 That the remuneration of the Deed Administrators, their partners and staff, calculated at the hourly rates as detailed in the report to creditors dated 18 December 2018, for the period from commencement of the Deed of Company Arrangement to completion of the Deed of Company Arrangement, is fixed and approved to a maximum cap of \$20,000 plus GST, to be drawn only when incurred on a monthly basis or as required. Should a lesser amount be incurred, only the lesser amount will be drawn. Should a greater amount be incurred, further approval from creditors may be sought.</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p>Resolution 9 That the remuneration of the Liquidators, their partners and staff, calculated at the hourly rates as detailed in the report to creditors dated 18 December 2018, for the period from commencement of the liquidation to completion of the liquidation, is fixed and approved to a maximum cap of \$100,000 plus GST, to be drawn only when incurred on a monthly basis or as required. Should a lesser amount be incurred, only the lesser amount will be drawn. Should a greater amount be incurred, further approval from creditors may be sought.</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p>Resolution 10 That the internal disbursements of the Administrators for the period 29 November 2018 to the conclusion of the Administration at the rates outlined in the Remuneration Approval Report dated 18 December 2018 be capped at the amount of \$10,000 plus GST and can be drawn by the Administrators as required.</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

<p>Resolution 11 That the internal disbursements of the Deed Administrators for the period from the commencement of the Deed of Company Arrangement to the conclusion of the Deed of Company Arrangement at the rates outlined in the Remuneration Approval Report dated 18 December 2018 be capped at the amount of \$5,000 plus GST and can be drawn by the Deed Administrators as required.</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p>Resolution 12 That the internal disbursements of the Liquidators for the period from the commencement of the liquidation to the conclusion of the liquidation at the rates outlined in the Remuneration Approval Report dated 18 December 2018 be capped at the amount of \$5,000 plus GST and can be drawn by the Liquidators as required.</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p>Resolution 13 A Resolution that a committee of inspection be appointed.</p> <p>I am prepared / not* prepared to sit on the Committee of Inspection</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p>Resolution 14 That subject to obtaining the approval of the Australian Securities and Investments Commission under Section 542(4) of the Corporations Act 2001, the books and records of the Company and of the liquidation be disposed of by the Liquidators six months after the dissolution of the Company or earlier at the discretion of the Australian Securities and Investments Commission.</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p>Resolution 15 Adjourn the second meeting of creditors for up to 45 business days.</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

DATED this _____ day of _____ 2018.

 Signature

CERTIFICATE OF WITNESS

This certificate is to be completed only if the person giving the proxy is blind or incapable of writing. The signature of the creditor, contributory, debenture holder or member must not be witnessed by the person nominated as proxy.

I, of

certify that the above instrument appointing a proxy was completed by me in the presence of and at the request of the person appointing the proxy and read to him or her before he or she signed or marked the instrument.

Dated:

Signature of Witness:

Description:

Place of Residence:

* Strike out if inapplicable

- (1) If a firm, strike out "I" and set out the full name of the firm.
- (2) Insert the name, address and description of the person appointed.

Appendix C

Restaurant Physic Pty Ltd
(Administrators Appointed)
A.C.N 601 468 231

Receipts and Payments for the period 29 November 2018 to 16 December 2018

Receipts

Sales	234,300
Cash at bank	6,181
Loan from Administrator	2,000
Total Receipts	242,481

Payments

Trading expenses	48,087
Wages	40,757
Staff tips	27,406
Bank fees	944
Total Payments	117,194
Net Receipts/(Payments)	125,287

Appendix D

List of Class A Unsecured Creditors	\$
Addley Clark Fine Wines	6,486.17
Andrew Guard Wine Imports	1,636.72
Anonymous Wine	2,531.16
Australian Wax Company	628.54
Bacchant Wines	8,205.82
Bibendum Wine Co.	1,666.39
Black Market Sake	256.70
Buhl Electrical	135.30
Captains Of Trade	909.03
Chemserve Pty Ltd	968.00
CILT Enterprises	316.00
Cobaw Ridge	1,596.40
Command51 Pty Ltd	4,894.18
Complete AV Solutions	560.45
Country Valley	2,225.40
Deja Vu Wine Company Pty Ltd	167.65
Deutsch Miller	10,183.50
Dilworth and Allain Wines	1,056.00
Dolce Vita Fine Foods	391.21
Emmbers Firewood Supplies	15,925.00
Ergo Wines	2,814.87
Essential Wholesale	6,056.32
Eustralis Food & Wine NSW	1,181.94
Feace Pty Ltd T/As Avani	750.92
Finn Cold Press	535.50
Fino Foods NSW Pty Ltd	1,963.54
Five Senses Coffee	1,280.00
Fresh Foods	69.60
Giorgio De Maria Wines	5,043.94
GJ Food	714.00
GP2 Project Pty Ltd	1,210.00
Halle Aux Vins	1,783.72
Heart & Soil Wine Imports	624.80
ICare Insurance	1,359.85
IMBIBO	10,461.32
Joto Fresh Fish	22,379.33
Journey Wines	3,675.21
Joval Wine Group	1,178.10
Jun Pacific Corporation	107.00
Kemenys Food & Liquor	930.33
Konica Minolta Business Solutions Australia	1,156.45
Lowe Wine	13,241.37
Madhouse Bakehouse	555.50
Malcolm Greenwood	2,158.20
Marques Interior Services	2,151.54
Momento Mori	382.80
Natural Winery	626.76
Nomad Distribution	2,059.60
Octos Bussiness Solitions	247.50
Only Concierge	518.10
Ovvio Pty Ltd	418.22
P. S. Soda Unit Trust	274.56
Pepe Saya	7,595.37
Platinum Commercial Kitchens	440.00
QED Artisan Wine Merchant	10,723.32
Real Wines	560.99
Rose Imports Au Pty Ltd	1,652.69
Rose Kentish Wines	395.97
Rusden Wines Pty Ltd	723.49
Samuel Smith & Son Pty Ltd	10,556.85
Soap & Bubble Wash House Pty Ltd	1,436.38
SPS Fire And Safety	143.00
Subzero Commercial Refrigeration	354.09
Supagas	592.61
Sydney Beer Co	415.43
Sydney Direct Fresh Produce	17,503.49
Sydney Packaging	2,444.74
The Chameleon	1,171.90
The Grifter Brewing	1,023.00
The Urban Bee Hive	320.00
Thick As Thieves	613.80
Torbek Barossa Valley	475.08
Two Providores	694.90
Union	3,234.00
Venture Chemicals Pty Ltd	2,856.51
Vic's Meat	14,755.75
Vinous Solutions	927.32
Vintage And Vine	945.88
Wendy Varley Interiors	1,150.00
Winterhalter (Australia) Pty Ltd	976.32
World wine Estates	255.42
Total	\$ 233,588.81

Appendix E



ASIC
Australian Securities & Investments Commission

Insolvency information for directors, employees, creditors and shareholders

ASIC has 11 insolvency information sheets to assist you if you're affected by a company's insolvency and have little or no knowledge of what's involved.

These plain language information sheets give directors, employees, creditors and shareholders a basic understanding of the three most common company insolvency procedures—liquidation, voluntary administration and receivership. There is an information sheet on the independence of external administrators and one that explains the process for approving the fees of external administrators. A glossary of commonly used insolvency terms is also provided.

The Insolvency Practitioners Association (IPA), the leading professional organisation in Australia for insolvency practitioners, endorses these publications and encourages its members to make their availability known to affected people.

List of information sheets

- INFO 41 *Insolvency: a glossary of terms*
- INFO 74 *Voluntary administration: a guide for creditors*
- INFO 75 *Voluntary administration: a guide for employees*
- INFO 45 *Liquidation: a guide for creditors*
- INFO 46 *Liquidation: a guide for employees*
- INFO 54 *Receivership: a guide for creditors*
- INFO 55 *Receivership: a guide for employees*
- INFO 43 *Insolvency: a guide for shareholders*
- INFO 42 *Insolvency: a guide for directors*
- INFO 84 *Independence of external administrators: a guide for creditors*
- INFO 85 *Approving fees: a guide for creditors*

Getting copies of the information sheets

To get copies of the information sheets, visit ASIC's website at www.asic.gov.au/insolvencyinfosheets. The information sheets are also available from the IPA website at www.ipaa.com.au. The IPA website also contains the IPA's Code of Professional Practice for Insolvency Professionals, which applies to IPA members.

Important note: The information sheets contain a summary of basic information on the topic. It is not a substitute for legal advice. Some provisions of the law referred to may have important exceptions or qualifications. These documents may not contain all of the information about the law or the exceptions and qualifications that are relevant to your circumstances. You will need a qualified professional adviser to take into account your particular circumstances and to tell you how the law applies to you.

Appendix F

Creditor Information Sheet

Offences, Recoverable Transactions and Insolvent Trading



Offences

A summary of offences under the Corporations Act that may be identified by the administrator:

180	Failure by company officers to exercise a reasonable degree of care and diligence in the exercise of their powers and the discharge of their duties.
181	Failure to act in good faith.
182	Making improper use of their position as an officer or employee, to gain, directly or indirectly, an advantage.
183	Making improper use of information acquired by virtue of the officer's position.
184	Reckless or intentional dishonesty in failing to exercise duties in good faith for a proper purpose. Use of position or information dishonestly to gain advantage or cause detriment. This can be a criminal offence.
198G	Performing or exercising a function or power as an officer while a company is under administration.
206A	Contravening a court order against taking part in the management of a corporation.
206A, B	Taking part in the management of corporation while being an insolvent, for example, while bankrupt.
206A, B	Acting as a director or promoter or taking part in the management of a company within five years after conviction or imprisonment for various offences.
209(3)	Dishonest failure to observe requirements on making loans to directors or related companies.
254T	Paying dividends except out of profits.
286	Failure to keep proper accounting records.
312	Obstruction of an auditor.
314-7	Failure to comply with requirements for the preparation of financial statements.
437D(5)	Unauthorised dealing with company's property during administration.
438B(4)	Failure by directors to assist administrator, deliver records and provide information.
438C(5)	Failure to deliver up books and records to the administrator.
590	Failure to disclose property, concealed or removed property, concealed a debt due to the company, altered books of the company, fraudulently obtained credit on behalf of the company, material omission from Report as to Affairs or false representation to creditors.

Recoverable Transactions

Preferences

A preference is a transaction, such as a payment by the company to a creditor, in which the creditor receiving the payment is preferred over the general body of creditors. The relevant period for the payment commences six months before the commencement of the liquidation. The company must have been insolvent at the time of the transaction, or become insolvent because of the transaction.

Where a creditor receives a preference, the payment is voidable as against a liquidator and is liable to be paid back to the liquidator subject to the creditor being able to successfully maintain any of the defences available to the creditor under the Corporations Act.

Uncommercial Transaction

An uncommercial transaction is one that it may be expected that a reasonable person in the company's circumstances would not have entered into, having regard to:

- the benefit or detriment to the company;
- the respective benefits to other parties; and,
- any other relevant matter.



To be voidable, an uncommercial transaction must have occurred during the two years before the liquidation. However, if a related entity is a party to the transaction, the period is four years and if the intention of the transaction is to defeat creditors, the period is ten years.

The company must have been insolvent at the time of the transaction, or become insolvent because of the transaction.

Unfair Loan

A loan is unfair if and only if the interest was extortionate when the loan was made or has since become extortionate. There is no time limit on unfair loans – they only must be entered into before the winding up began.

Arrangements to avoid employee entitlements

If an employee suffers loss because a person (including a director) enters into an arrangement or transaction to avoid the payment of employee entitlements, the liquidator or the employee may seek to recover compensation from that person. It will only be necessary to satisfy the court that there was a breach on the balance of probabilities. There is no time limit on when the transaction occurred.

Unreasonable payments to directors

Liquidators have the power to reclaim '*unreasonable payments*' made to directors by companies prior to liquidation. The provision relates to payments made to or on behalf of a director or close associate of a director. The transaction must have been unreasonable, and have been entered into during the 4 years leading up to a company's liquidation, regardless of its solvency at the time the transaction occurred.

Voidable charges

Certain charges over company property are voidable by a liquidator:

- circulating security interest created within six months of the liquidation, unless it secures a subsequent advance;
- unregistered security interests;
- security interests in favour of related parties who attempt to enforce the security within six months of its creation.

Insolvent trading

In the following circumstances, directors may be personally liable for insolvent trading by the company:

- a person is a director at the time a company incurs a debt;
- the company is insolvent at the time of incurring the debt or becomes insolvent because of incurring the debt;
- at the time the debt was incurred, there were reasonable grounds to suspect that the company was insolvent;
- the director was aware such grounds for suspicion existed; and
- a reasonable person in a like position would have been so aware.

The law provides that the liquidator, and in certain circumstances the creditor who suffered the loss, may recover from the director, an amount equal to the loss or damage suffered. Similar provisions exist to pursue holding companies for debts incurred by their subsidiaries.

A defence is available under the law where the director can establish:

- there were reasonable grounds to expect that the company was solvent and they did so expect;
- they did not take part in management for illness or some other good reason; or
- they took all reasonable steps to prevent the company incurring the debt.

The proceeds of any recovery for insolvent trading by a liquidator are available for distribution to the unsecured creditors before the secured creditors.

Important note: This information sheet contains a summary of basic information on the topic. It is not a substitute for legal advice. Some provisions of the law referred to may have important exceptions or qualifications. This document may not contain all of the information about the law or the exceptions and qualifications that are relevant to your circumstances.

Remuneration Report

**Restaurant Physic Pty Ltd
(Administrators Appointed)
A.C.N. 601 468 231
("the Company")**

This remuneration report provides you with the information you need to be able to make an informed decision regarding the approval of our remuneration for undertaking the Administration.

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Part 1: Declaration

Christian Sprowles and Michael Hogan of HoganSprowles have undertaken a proper assessment of this remuneration claim for our appointment as Joint and Several Administrators of Restaurant Physic Pty Ltd (Administrators Appointed) in accordance with the law and applicable professional standards. We are satisfied that the remuneration claimed is in respect of necessary work, properly performed, or to be properly performed, in the conduct of the administration.

Part 2: Executive Summary

To date, no remuneration has been approved and paid in the administration. This remuneration report details approval sought for the following fees:

	Amount ex GST (\$)
Current remuneration approval sought:	
<i>Voluntary Administration - Actual</i>	
Resolution 5: 29 November 2018 to 16 December 2018	60,000.00
<i>Voluntary Administration - Estimated</i>	
Resolution 6: 17 December 2018 to 28 December 2018	5,000.00
Resolution 7: 29 December 2018 to the conclusion of the administration	10,000.00
<i>Total - Voluntary Administration</i>	75,000.00
<i>Deed of Company Arrangement</i>	
Resolution 8: from commencement to completion	20,000.00
<i>Total - Deed of Company Arrangement</i>	20,000.00
<i>Liquidation</i>	
Resolution 9: from commencement to completion	100,000.00
<i>Total - Liquidation</i>	100,000.00

Please refer to this report section for full details of the calculation and composition of the remuneration approval sought.

Our fees are \$5,000 above the initial forecasted estimate of fees in the initial advice to creditors dated 3 December 2018. This is a result of further costs incurred during the trading period which was initially forecasted to be completed by early January 2019 not the current anticipated date of 19 January 2019.

Part 3: Description of work completed / to be completed

Resolution 5 - Current Joint and Several Administrators' remuneration for the period 29 November 2018 to 16 December 2018

Task Area	General Description	Includes
Assets Number of hours: 5.50 Cost: \$2,556.70	Plant and Equipment	Liaising with valuers, auctioneers and other interested parties Reviewing asset listings
	Assets subject to specific charges	All tasks associated with realising a charged asset Liaise with PPSR parties regarding security
	Debtors	Correspondence with debtors Reviewing and assessing debtors' ledgers Liaising with debt collectors and solicitors
	Other Assets	Tasks associated with realising other assets
	Leasing	Liaising with owners/lessors
Creditors Number of hours: 62.30 Cost: \$19,800.10	Creditor Enquiries	Receive and follow up creditor enquiries via telephone Maintaining creditor enquiry register Review and prepare correspondence to creditors and their representatives via facsimile, email and post Calls with creditors
	Secured creditor reporting	Responding to secured creditor's queries
	Creditor reports	Preparing 439A, investigation, meeting and general reports to creditors Internal disbursements approval Preparation of Initial notifications to creditors
	Dealing with proofs of debt	Receipting and filing POD when not related to a dividend Corresponding with OSR and ATO regarding POD when not related to a dividend
	Meeting of Creditors	Preparation meeting notices, proxies and advertisements Forward notice of meeting to all known creditors Preparation of meeting file, including agenda, certificate of postage, attendance register, list of creditors, reports to creditors, advertisement of meeting and draft minutes of meeting. Preparation & lodgement of minutes of meetings with ASIC Respond to stakeholder queries and questions immediately following meeting
Tasks associated with DOCA	Review draft DOCA agreement Preparation of meeting to discuss deed proposal Tasks associated with DOCA Liaise with third parties regarding DOCA	

Task Area	General Description	Includes
Employees Number of hours: 9.70 Cost: \$3,611.30	Employees enquiry	Receive and follow up employee enquiries via telephone Maintain employee enquiry register Review and prepare correspondence to creditors and their representatives via facsimile, email and post Preparation of letters to employees advising of their entitlements and options available Receive and prepare correspondence in response to employee's objections to leave entitlements
	Calculation of entitlements	Calculating employee entitlements Reviewing employee files and company's books and records Reconciling superannuation accounts Reviewing awards Liaising with solicitors regarding entitlements
Trade On Number of hours: 88.00 Cost: \$36,254.00	Trade On Management	Liaising with suppliers Liaising with management and staff Attendance on site Authorising purchase orders Maintaining purchase order registry Preparing and authorising receipts vouchers Preparing and authorising payment vouchers
	Processing receipts and payments	Entering receipts and payments into accounting system
	Budgeting and Financial reporting	Reviewing company budgets and financial statements Preparing budgets Preparing weekly financial reports Finalising trading profit and loss Meetings to discuss trading position
Investigation Number of hours: 18.40 Cost: \$6,864.00	Conducting investigation	Collection of company books and records Correspondence with ASIC to receive assistance in obtaining reconstruction of financial statements company's books & records and Report as to Affairs Reviewing company's books and records Review and preparation of company nature and history Conducting and summarising statutory searches Preparation of comparative financial statements Preparation of deficiency statement Review of specific transactions and liaising with directors regarding certain transactions Liaising with directors regarding certain transactions Preparation of investigation file Lodgement of investigation with the ASIC
	ASIC reporting	Preparing statutory investigation reports Preparing affidavits seeking non lodgements assistance Liaising with ASIC

Task Area	General Description	Includes
Administration Number of hours: 35.60 Cost: \$7,201.00	Correspondence	With various stakeholders
	Document maintenance/file review/checklist	First month, then 6 monthly administration review Filing of documents File reviews Updating checklists
	Insurance	Correspondence with Willis regarding initial and ongoing insurance requirements
	Bank account administration	Preparing correspondence opening and closing accounts Requesting bank statements Bank account reconciliations Correspondence with bank regarding specific transfers
	ASIC Form 524 and other forms	Preparing and lodging ASIC forms including 505, 524, 911 etc Correspondence with ASIC regarding statutory forms
	ATO and other statutory reporting	Notification of appointment Correspondence with ATO regarding specific matters
	Planning / Review	Discussions regarding status of administration

Resolution 6 - Future Joint and Several Administrators' remuneration for the period 17 December 2018 to 28 December 2018

Task Area	General Description	Includes
Assets Number of hours: 1.00 Estimated Cost: \$215.00	Assets subject to specific charges	All tasks associated with realising a charged asset
	Debtors	Correspondence with debtors Reviewing and assessing debtors ledgers Liaising with debt collectors and solicitors
	Other Assets	Tasks associated with realising other assets
Creditors Number of hours: 6.00 Estimated Cost: \$2,476.00	Creditor Enquiries	Receive and follow up creditor enquiries via telephone Maintaining creditor enquiry register Review and prepare correspondence to creditors and their representatives via facsimile, email and post
	Creditor reports	Preparing 439A report
	Dealing with proofs of debt	Receipting and filing POD when not related to a dividend Corresponding with OSR and ATO regarding POD when not related to a dividend
	Meeting of Creditors	Preparation meeting notices, proxies and advertisements Forward notice of meeting to all known creditors Preparation of meeting file, including agenda, certificate of postage, attendance register, list of creditors, reports to creditors, advertisement of meeting and draft minutes of meeting. Preparation & lodgement of minutes of meetings with ASIC

	Tasks associated with DOCA	Review draft DOCA agreement Preparation of meeting to discuss deed proposal Tasks associated with DOCA Liaise with third parties regarding DOCA
Employees Number of hours: 1.50 Cost: \$589.00	Employees enquiry	Receive and follow up employee enquiries via telephone Maintain employee enquiry register Review and prepare correspondence to creditors and their representatives via facsimile, email and post Preparation of letters to employees advising of their entitlements and options available Receive and prepare correspondence in response to employee's objections to leave entitlements
Trade On Number of hours: 3.0 Cost: \$1,177.00	Trade On Management	Liaising with suppliers Liaising with management and staff Attendance on site Authorising purchase orders Maintaining purchase order registry Preparing and authorising receipts vouchers Preparing and authorising payment vouchers
	Processing receipts and payments	Entering receipts and payments into accounting system
	Budgeting and Financial reporting	Reviewing company budgets and financial statements Preparing budgets Preparing weekly financial reports Finalising trading profit and loss Meetings to discuss trading position
Administration Number of hours: 4.0 Cost: \$582.00	Document maintenance/file review/checklist	First month, then 6 monthly administration review Filing of documents File reviews Updating checklists
	Bank account administration	Preparing correspondence opening and closing accounts Requesting bank statements Bank account reconciliations Correspondence with bank regarding specific transfers
	Planning / Review	Discussions regarding status of administration

Resolution 7 – Future Joint and Several Administrators’ remuneration for the period from 29 December 2018 to the conclusion of the administration

Task Area	General Description	Includes
Assets Number of hours: 4.00 Estimated Cost: \$1,722.00	Assets subject to specific charges	All tasks associated with realising a charged asset
	Debtors	Correspondence with debtors Reviewing and assessing debtors ledgers Liaising with debt collectors and solicitors
	Other Assets	Tasks associated with realising other assets
Creditors Number of hours: 8.00 Estimated Cost: \$3,041.00	Creditor Enquiries	Receive and follow up creditor enquiries via telephone Maintaining creditor enquiry register Review and prepare correspondence to creditors and their representatives via facsimile, email and post
	Dealing with proofs of debt	Receipting and filing POD when not related to a dividend Corresponding with OSR and ATO regarding POD when not related to a dividend
	Meeting of Creditors	Preparation and lodgement minutes of meetings with ASIC Respond to stakeholder queries and questions immediately following meeting
	Tasks associated with DOCA	Review draft DOCA agreement Preparation of meeting to discuss deed proposal Tasks associated with DOCA Liaise with third parties regarding DOCA
Employees Number of hours: 3.00 Cost: \$1,235.00	Employees enquiry	Receive and follow up employee enquiries via telephone Maintain employee enquiry register Review and prepare correspondence to creditors and their representatives via facsimile, email and post Preparation of letters to employees advising of their entitlements and options available Receive and prepare correspondence in response to employee’s objections to leave entitlements
Trade On Number of hours: 5.0 Cost: \$2,041.00	Trade On Management	Liaising with suppliers Liaising with management and staff Attendance on site Authorising purchase orders Maintaining purchase order registry Preparing and authorising receipts vouchers Preparing and authorising payment vouchers
	Processing receipts and payments	Entering receipts and payments into accounting system
	Budgeting and Financial reporting	Reviewing company budgets and financial statements Preparing budgets Preparing weekly financial reports Finalising trading profit and loss Meetings to discuss trading position

Task Area	General Description	Includes
Administration Number of hours: 9.50 Estimated Cost: \$2,066.00	Correspondence	With various stakeholders
	Document maintenance/file review/checklist	First month, then 6 monthly administration review Filing of documents File reviews Updating checklists
	Insurance	Correspondence with Willis regarding initial and ongoing insurance requirements Correspondence with previous brokers
	Bank account administration	Preparing correspondence opening and closing accounts Requesting bank statements Bank account reconciliations Correspondence with bank regarding specific transfers
	ASIC forms	Preparing and lodging ASIC forms including 505, 911 etc Correspondence with ASIC regarding statutory forms
	ATO & other statutory reporting	Notification of appointment Preparing BAS Completing payment summaries
	Planning / Review	Discussions regarding status of administration

Resolution 8 – Deed Administrators’ remuneration for the period from commencement of the Deed of Company Arrangement to completion of the Deed of Company Arrangement

Task Area	General Description	Includes
Assets Number of hours: 8.00 Estimated Cost: \$3,344.00	Plant and Equipment	Reviewing asset listing Transfer of ownership of assets
	Assets subject to specific charges	All tasks associated with realising a charged asset
	Other Assets	Tasks associated with realising other assets
Creditors Number of hours: 18.00 Estimated Cost: \$6,610.00	Creditor Enquiries	Receive and follow up creditor enquiries via telephone Maintaining creditor enquiry register Review and prepare correspondence to creditors and their representatives via facsimile, email and post Correspondence with committee of inspection members
	Creditor reports	Preparing investigation, meeting and general reports to creditors
	Tasks associated with DOCA	Review draft DOCA agreement Preparation of meeting to discuss deed proposal Tasks associated with DOCA Liaise with third parties regarding DOCA

Task Area	General Description	Includes
Dividend Number of hours: 16.00 Estimated Cost: \$6058.00	Processing proofs of debt	Preparation of correspondence to potential creditors inviting Lodgement of POD Receipt of PODs Maintain POD register Adjudicating POD Request further information from claimants regarding POD Preparation of correspondence to claimant advising outcome of adjudication
	Dividend procedures	Preparation of correspondence to creditors advising of intention to declare dividend Advertisement of intention to declare dividend Obtain clearance from ATO to allow distribution of company's assets Preparation of dividend calculation Preparation of correspondence to creditors announcing declaration of dividend Advertise announcement of dividend Preparation of distribution Preparation of dividend file Preparation of payment vouchers to pay dividend Preparation of correspondence to creditors enclosing payment of dividend
Administration Number of hours: 17.0 Estimated Cost: \$4,049.00	Correspondence	With various stakeholders
	Document maintenance/file review/checklist	First month, then 6 monthly administration review Filing of documents File reviews Updating checklists
	Bank account administration	Preparing correspondence opening and closing accounts Requesting bank statements Bank account reconciliations Correspondence with bank regarding specific transfers
	ASIC Form 524 and other forms	Preparing and lodging ASIC forms including 505, 524, 911 etc Correspondence with ASIC regarding statutory forms
	ATO & other statutory reporting	Notification of appointment Preparing BAS Completing payment summaries
	Finalisation	Completing checklists Finalising WIP
	Planning / Review	Discussions regarding status of administration
	Books and records / storage	Sending job files to storage

Resolution 9 –Liquidators’ remuneration for the period from commencement of the liquidation to completion of the liquidation

Task Area	General Description	Includes
Assets Number of hours: 47.00 Estimated Cost: \$16,638.00	Sale of Business as a Going Concern	Preparing an information memorandum Liaising with purchasers Internal meetings to discuss/review offers received
	Plant and Equipment	Liaising with valuers, auctioneers and interested parties Reviewing asset listings
	Assets subject to specific charges	All tasks associated with realising a charged asset
	Debtors	Correspondence with debtors Reviewing and assessing debtors ledgers Liaising with debt collectors and solicitors
	Other Assets	Tasks associated with realising other assets
Creditors Number of hours: 68.00 Estimated Cost: \$24,588.00	Creditor Enquiries	Receive and follow up creditor enquiries via telephone Maintaining creditor enquiry register Review and prepare correspondence to creditors and their representatives via facsimile, email and post Correspondence with committee of inspection members
	Secured creditor reporting	Preparing reports to secured creditor Responding to secured creditor’s queries
	Creditor reports	Preparing 439A, investigation, meeting and general reports to creditors Internal disbursements approval Preparation of Initial notifications to creditors
	Dealing with proofs of debt	Receipting and filing POD when not related to a dividend Corresponding with OSR and ATO regarding POD when not related to a dividend
	Meeting of Creditors	Preparation meeting notices, proxies and advertisements Forward notice of meeting to all known creditors Preparation of meeting file, including agenda, certificate of postage, attendance register, list of creditors, reports to creditors, advertisement of meeting and draft minutes of meeting. Preparation and lodgement minutes of meetings with ASIC Respond to stakeholder queries and questions immediately following meeting
Dividend Number of hours: 36.00 Estimated Cost: \$13,150.00	Processing proofs of debt	Preparation of correspondence to potential creditors inviting Lodgement of POD Receipt of PODs Maintain POD register Adjudicating POD Request further information from claimants regarding POD

Task Area	General Description	Includes
		Preparation of correspondence to claimant advising outcome of adjudication
	Dividend procedures	Preparation of correspondence to creditors advising of intention to declare dividend Advertisement of intention to declare dividend Obtain clearance from ATO to allow distribution of company's assets Preparation of dividend calculation Preparation of correspondence to creditors announcing declaration of dividend Advertise announcement of dividend Preparation of distribution Preparation of dividend file Preparation of payment vouchers to pay dividend Preparation of correspondence to creditors enclosing payment of dividend
Employees Number of hours: 33.00 Estimated Cost: \$12,077.00	Employees enquiry	Receive and follow up employee enquiries via telephone Maintain employee enquiry register Review and prepare correspondence to creditors and their representatives via facsimile, email and post Preparation of letters to employees advising of their entitlements and options available Receive and prepare correspondence in response to employee's objections to leave entitlements
	FEG	Correspondence with FEG Preparing notification spreadsheet Preparing FEG quotations Preparing FEG distributions
	Calculation of entitlements	Calculating employee entitlements Reviewing employee files and company's books and records Reconciling superannuation accounts Reviewing awards Liaising with solicitors regarding entitlements
	Employee dividend	Correspondence with employees regarding dividend Correspondence with ATO regarding SGC proof of debt Calculating dividend rate Preparing dividend file Advertising dividend notice Preparing distribution Receipting POD Adjudicating POD Ensuring PAYG is remitted to ATO
	Workers compensation claims	Review insurance policies Receipt of claim Liaising with claimant Liaising with insurers and solicitors regarding claims Identification of potential issues requiring attention of insurance specialists Correspondence with Willis regarding initial and ongoing workers compensation insurance requirements Correspondence with previous brokers

Task Area	General Description	Includes
	Other employee issues	Correspondence with Child Support Correspondence with Centrelink
Investigation Number of hours: 52.00 Estimated Cost: \$19,580.00	Conducting investigation	Collection of company books and records Correspondence with ASIC to receive assistance in obtaining reconstruction of financial statements company's books & records and Report as to Affairs Reviewing company's books and records Review and preparation of company nature and history Conducting and summarising statutory searches Preparation of comparative financial statements Preparation of deficiency statement Review of specific transactions and liaising with directors regarding certain transactions Liaising with directors regarding certain transactions Preparation of investigation file Lodgement of investigation with the ASIC Preparation and lodgement of supplementary report if required
	Examinations	Preparing brief to solicitor Liaising with solicitor(s) regarding examinations Attendance at examination Reviewing examination transcripts Liaising with solicitor(s) regarding outcome of examinations and further actions available
	Litigation / Recoveries	Internal meetings to discuss status of litigation Preparing brief to solicitors Liaising with solicitors regarding recovery actions Attending to negotiations Attending to settlement matters
	ASIC reporting	Preparing statutory investigation reports Preparing affidavits seeking non lodgements assistance Liaising with ASIC
Administration Number of hours: 50.00 Estimated Cost: \$14,024.00	Correspondence	With various stakeholders
	Document maintenance/file review/checklist	First month, then 6 monthly administration review Filing of documents File reviews Updating checklists
	Insurance	Correspondence with Willis regarding initial and ongoing insurance requirements Correspondence with previous brokers
	Bank account administration	Preparing correspondence opening and closing accounts Requesting bank statements Bank account reconciliations Correspondence with bank regarding specific transfers
	ASIC Form 524 and other forms	Preparing and lodging ASIC forms including 505, 524, 911 etc Correspondence with ASIC regarding statutory forms
	ATO & other statutory reporting	Notification of appointment Preparing BAS

Task Area	General Description	Includes
		Completing payment summaries
	Finalisation	Notifying ATO of finalisation Cancelling ABN / GST / PAYG registration Completing checklists Finalising WIP
	Planning / Review	Discussions regarding status of administration
	Books and records / storage	Dealing with records in storage Sending job files to storage

Part 4: Calculation of Remuneration

Resolution 5 – Current Joint and Several Administrators’ remuneration for the period 29 November 2018 to 16 December 2018

ACTUAL HOURS INCURRED FOR THE PERIOD 29 NOVEMBER 2018 TO 16 DECEMBER 2018
CALCULATION OF REMUNERATION

Employee	Position	\$ /hour	Total actual hours	Total (\$)	Task Area											
					Assets hrs	\$	Creditors hrs	\$	Employees hrs	\$	Trade On hrs	\$	Investigation hrs	\$	Administration hrs	\$
Michael Hogan	Partner	545.0	21.0	11,445	1.7	927	7.9	4,306	0.0	0	7	3,815	4.4	2,398	0.0	0
Anny Ngo	Senior Manager	429.0	73.0	31,317	3.8	1,630	4.5	1,931	4.7	2,016	60	25,740	0.0	0	0.0	0
Dilyana Panova	Senior Analyst 1	319.0	95.0	30,305	0.0	0	38.9	12,409	5.0	1,595	21	6,699	14.0	4,466	16.1	5,136
Tom Farquhar	Undergraduate	165.0	0.3	50	0.0	0	0.0	0	0.0	0	0	0	0.0	0	0.3	50
Natalie Lu	Administrator	105.0	30.2	3,171	0.0	0	11.0	1,155	0.0	0	0	0	0.0	0	19.2	2,016
Total			219.5	76,288	5.5	2,557	62.3	19,800	9.7	3,611	88	36,254	18.4	6,864	35.6	7,201
But Say				60,000												
GST				6,000												
Total (Incl GST)				66,000												
Average hourly rate				348												

Resolution 6 – Future Joint and Several Administrators’ remuneration for the period 17 December 2018 to 28 December 2018

ESTIMATED HOURS TO BE INCURRED FOR THE PERIOD 17 DECEMBER 2018 TO 28 DECEMBER 2018
CALCULATION OF REMUNERATION

Employee	Position	\$ /hour	Total actual hours	Total (\$)	Task Area											
					Assets hrs	\$	Creditors hrs	\$	Employees hrs	\$	Trade On hrs	\$	Administration hrs	\$		
Michael Hogan	Partner	545.0	1.5	818	0.0	0	1.5	818	0.0	0	0.0	0	0.0	0	0.0	0
Christian Sproles	Partner	545.0	0.5	273	0.0	0	0.5	273	0.0	0	0.0	0	0.0	0	0.0	0
Anny Ngo	Senior Manager	429.0	4.5	1,931	0.5	215	1.0	429	1.0	429	2.0	858	0.0	0	0.0	0
Dilyana Panova	Senior Analyst 1	319.0	5.5	1,755	0.0	0	3.0	957	0.5	160	1.0	319	1.0	319	1.0	319
Jonas Wu	Graduate	182.0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0
Natalie Lu	Administrator	105.0	2.5	263	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	2.5	263
Total			15	5,000	0.5	215	6.0	2,476	1.5	589	3.0	1,177	3.5	582		
GST				500												
Total (Incl GST)				5,500												
Average hourly rate				345												

Resolution 7 – Future Joint and Several Administrators’ remuneration for the period from 29 December 2018 to the conclusion of the administration

ESTIMATED HOURS TO BE INCURRED FOR THE PERIOD 29 DECEMBER 2018 TO THE CONCLUSION OF THE ADMINISTRATION
CALCULATION OF REMUNERATION

Employee	Position	\$/hour	Total actual hours	Total (\$)	Task Area									
					Assets hrs	\$	Creditors hrs	\$	Employees hrs	\$	Trade On hrs	\$	Administration hrs	\$
Michael Hogan	Partner	545.0	3.5	1,908	1.0	545	1.0	545	0.5	273	1.0	545	0.0	0
Christian Sprowles	Partner	545.0	1.5	818	0.0	0	1.5	818	0.0	0	0.0	0	0.0	0
Anny Ngo	Senior Manager	429.0	9.0	3,861	2.0	858	2.0	858	1.5	644	2.0	858	1.5	644
Dilyana Panova	Senior Analyst 1	319.0	8.0	2,552	1.0	319	2.0	638	1.0	319	2.0	638	2.0	638
Jonas Wu	Graduate	182.0	3.0	546	0.0	0	1.0	182	0.0	0	0.0	0	2.0	364
Natalie Lu	Administrator	105.0	4.0	420	0.0	0	0.0	0	0.0	0	0.0	0	4.0	420
Total			29	10,000	4.0	1,722	7.5	3,041	3.0	1,235	5.0	2,041	9.5	2,066
GST				1,000										
Total (Incl GST)				11,000										
Average hourly rate				345										

Resolution 8 – Deed Administrators’ remuneration for the period from commencement of the Deed of Company Arrangement to completion of the Deed of Company Arrangement

ESTIMATED HOURS TO BE INCURRED FROM THE COMMENCE TO THE CONCLUSION OF THE DEED OF COMPANY ARRANGEMENT
CALCULATION OF REMUNERATION

Employee	Position	\$/hour	Total actual hours	Total (\$)	Task Area									
					Assets hrs	\$	Creditors hrs	\$	Dividend hrs	\$	Administration hrs	\$		
Michael Hogan	Partner	545.0	9.0	4,905	2.0	1,090	3.0	1,635	2.0	1,090	2.0	1,090	2.0	1,090
Christian Sprowles	Partner	545.0	3.0	1,635	0.0	0	2.0	1,090	1.0	545	0.0	0	0.0	0
Anny Ngo	Senior Manager	429.0	14.0	6,006	3.0	1,287	4.0	1,716	5.0	2,145	2.0	858	2.0	858
Dilyana Panova	Senior Analyst 1	319.0	16.0	5,104	3.0	957	5.0	1,595	6.0	1,914	2.0	638	2.0	638
Jonas Wu	Graduate	182.0	8.0	1,456	0.0	0	2.0	364	2.0	364	4.0	728	4.0	728
Natalie Lu	Administrator	105.0	9.0	945	0.0	0	2.0	210	0.0	0	7.0	735	7.0	735
Total			59	20,000	8.0	3,334	18.0	6,610	16.0	6,058	17.0	4,049	17.0	4,049
GST				2,000										
Total (Incl GST)				22,000										
Average hourly rate				339										

Resolution 9 – Liquidators’ remuneration for the period from commencement of the liquidation to completion of the liquidation

ESTIMATED HOURS TO BE INCURRED FROM THE COMMENCE TO THE CONCLUSION OF THE LIQUIDATION
CALCULATION OF REMUNERATION

Employee	Position	\$/hour	Total actual hours	Total (\$)	Task Area											
					Assets hrs	\$	Creditors hrs	\$	Dividend hrs	\$	Employees hrs	\$	Investigation hrs	\$	Administration hrs	\$
Michael Hogan	Partner	545.0	38.0	20,710	8.0	4,360	10.0	5,450	3.0	1,635	4.0	2,180	8.0	4,360	5.0	2,725
Christian Sprowles	Partner	545.0	16.0	8,720	3.0	1,635	4.0	2,180	2.0	1,090	0.0	0	5.0	2,725	2.0	1,090
Anny Ngo	Senior Manager	429.0	65.0	27,885	10.0	4,290	16.0	6,864	9.0	3,861	12.0	5,148	10.0	4,290	8.0	3,432
Luke Mann	Supervisor	363.0	28.0	10,164	2.0	726	8.0	2,904	7.0	2,541	2.0	726	6.0	2,178	3.0	1,089
Dilyana Panova	Senior Analyst 1	319.0	70.0	22,330	12.0	3,828	16.0	5,104	10.0	3,190	10.0	3,190	14.0	4,466	8.0	2,552
Jonas Wu	Graduate	182.0	39.0	7,098	7.0	1,274	8.0	1,456	4.0	728	4.0	728	8.0	1,456	8.0	1,456
Natalie Lu	Administrator	105.0	30.0	3,150	5.0	525	6.0	630	1.0	105	1.0	105	1.0	105	16.0	1,680
Total			286	100,000	47.0	16,638	68.0	24,588	36.0	13,150	33.0	12,077	52.0	19,580	50.0	14,024
GST				10,000												
Total (Incl GST)				110,000												
Average hourly rate				350												

Part 5: Statement of Remuneration Claim

At the meeting of creditors convened for 28 December 2018, creditors will be asked to consider the following resolutions:

Resolution 5 – Current Joint and Several Administrators’ remuneration for the period 29 November 2018 to 16 December 2018

“That the remuneration of the Administrators, their partners and staff, for the period of the administration from 29 November 2018 to 16 December 2018 is fixed at a sum equal to the cost of time spent by the Administrators and the Administrators’ partners and staff, calculated at the hourly rates as detailed in the report to creditors dated 18 December 2018 of fees equalling \$60,000 plus GST, and that the Administrators can draw the remuneration immediately or as required.”

Resolution 6 – Future Joint and Several Administrators’ remuneration for the period 17 December 2018 to 28 December 2018

“That the future remuneration of the Administrators, their partners and staff, calculated at the hourly rates as detailed in the report to creditors dated 18 December 2018, for the period 17 December 2018 to 28 December 2018, is fixed and approved to a maximum cap of \$5,000 plus GST, and can be drawn as soon as practicable after the conclusion of the second meeting. Should a lesser amount be incurred, only the lesser amount will be drawn. Should a greater amount be incurred, further approval from creditors may be sought.”

Resolution 7 – Future Joint and Several Administrators’ remuneration for the period from 29 December 2018 to the conclusion of the administration

“That the future remuneration of the Administrators, their partners and staff, calculated at the hourly rates as detailed in the report to creditors dated 18 December 2018, for the period, from 29 December 2018 to the signing of the deed or conclusion of the administration, is fixed and approved to a maximum cap of \$10,000 plus GST, and can be drawn as soon as practicable after the conclusion of the second meeting. Should a lesser amount be incurred, only the lesser amount will be drawn. Should a greater amount be incurred, further approval from creditors may be sought.”

Resolution 8 – Deed Administrators’ remuneration for the period from commencement of the Deed of Company Arrangement to completion of the Deed of Company Arrangement

“That the remuneration of the Deed Administrators, their partners and staff, calculated at the hourly rates as detailed in the report to creditors of 18 December 2018, for the period from commencement of the Deed of Company Arrangement to completion of the Deed of Company Arrangement, is fixed and approved to a maximum cap of \$20,000 plus GST, to be drawn only when incurred on a monthly basis or as required. Should a lesser amount be incurred, only the lesser amount will be drawn. Should a greater amount be incurred, further approval from creditors may be sought.”

Resolution 9 –Liquidators’ remuneration for the period from commencement of the liquidation to completion of the liquidation

“That the remuneration of the Liquidators, their partners and staff, calculated at the hourly rates as detailed in the report to creditors dated 18 December 2018, for the period from commencement of the liquidation to completion of the liquidation, is fixed and approved to a maximum cap of \$100,000 plus GST, to be drawn only when incurred on a monthly basis or as required. Should a lesser amount be incurred, only the lesser amount will be drawn. Should a greater amount be incurred, further approval from creditors may be sought.”

Creditors have not previously approved any remuneration of the Administrators.

Part 6: Remuneration Recoverable from External Sources

The Administrators have not received, and are not entitled to receive, any funding from external sources in respect of remuneration.

Part 7: Likely impact on dividends

It is both reasonable and appropriate for a professional service provider to be remunerated for their services. Administrators, Deed Administrators and Liquidators are entitled to be remunerated for necessary work that is reasonably performed. That work is also the source of any funds that may be recovered for the benefit of creditors and other stakeholders.

The impact of the approval of the administrator’s remuneration is that the remuneration will be paid to the Administrators / Deed Administrators / Liquidators if sufficient funds are generated to enable it to be paid. The remuneration will be paid from those funds that are generated prior to the payment of most other stakeholders. It is noted that no funds would be available for any stakeholder without the work necessarily undertaken by the Administrators / Deed Administrators / Liquidators.

Part 8: 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.

We have undertaken a proper assessment of disbursements claimed in the administration, in accordance with the law and applicable professional standards. We are satisfied that the disbursements claimed are necessary and proper. To date no disbursements have been paid in the administration.

Disbursements provided by our firm will be charged to the administration on the following basis:

Disbursements	Rate ex 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	\$0.68 per km
Travel - other	At cost

Rates applicable for financial year ending 30 June 2019.

We will be seeking approval of the following resolutions to approve our internal disbursements.

Resolution 10 - Joint and Several Administrators' disbursements

"That the internal disbursements of the Administrators for the period 29 November 2018 to the conclusion of the Administration at the rates outlined in the Remuneration Approval Report dated 18 December 2018 be capped at the amount of \$10,000 plus GST and can be drawn by the Administrators as required."

Resolution 11 - Deed Administrators' disbursements

"That the internal disbursements of the Deed Administrators for the period from the commencement of the Deed of Company Arrangement to the conclusion of the Deed of Company Arrangement at the rates outlined in the Remuneration Approval Report dated 18 December 2018 be capped at the amount of \$5,000 plus GST and can be drawn by the Deed Administrators as required."

Resolution 12 - Liquidators' disbursements

"That the internal disbursements of the Liquidators for the period from the commencement of the liquidation to the conclusion of the liquidation at the rates outlined in the Remuneration Approval Report dated 18 December 2018 be capped at the amount of \$5,000 plus GST and can be drawn by the Liquidators as required."

Part 9: Report on Progress of the Administration

Please see the Administrators' Report to Creditors dated 18 December 2018.

Part 10: Summary of Receipts and Payments

Please see the Administrators' Report to Creditors dated 18 December 2018.

Part 11: Queries

If you have any queries in relation to the information in this report, please contact Dilyana Panova on (02) 8020 5858 or via email at dpanova@hogansprowles.com.au. You can also access information which may assist you on the following websites:

- ARITA at www.arita.com.au/creditors; and
- ASIC at www.asic.gov.au (search for “insolvency information sheets”).

Part 12: Information Sheet

The ASIC information sheet, Approving fees: A guide for creditors can be found at http://download.asic.gov.au/media/1310767/Approving_fees_guide_for_creditors.pdf

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Schedule of rates as @ 1 July 2018

Private & Confidential

Title	Description	Hourly rate (Excl. GST) (\$)
Partner	Registered Administrator, Chartered Accountant, degree qualified with more than fifteen years of extensive experience in insolvency, restructuring and business advisory matters. experience. 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 assists 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