

**Bretkel Pty Ltd (In Liquidation)  
Trading as Forestville Auto Body Repairs  
A.C.N. 639 072 307  
("the Company")**

## **Statutory Report to creditors**

25 August 2022

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## ABBREVIATIONS

Accountant/Secured creditor	Ms Maryellen Saul
Act	Corporations Act 2001
ALLPAP	All Present And After- Acquired Property – No Exceptions
ARITA	Australian Restructuring Insolvency and Turnaround Association
ASIC	Australian Securities & Investments Commission
ANZ	Australia and New Zealand Bank Limited
ATO	Australian Taxation Office
Company	Bretkel Pty Ltd trading as Forestville Auto Body Repairs (In Liquidation)
Director	Brett Charles Shailes and Kellie Ann Lovelock
DIRRI	Declaration of Independence, Relevant Relationships & Indemnities
ERV	Estimated Realisable Value
FY	Financial Year ended
IPR	Insolvency Practice Rules
K	'000'
Liquidator	Brendan Copeland
Mil	Million
Petitioning Creditor	Bizcap Au Pty Ltd
PPSA	Personal Property Securities Act 2009
PPSR	Personal Property and Securities Register
RoCAP	Report on Company Activities and Property
Petitioning Creditor's Solicitor	Hilton Bradley Lawyers
TBA	To Be Advised
TBC	To be Concluded
YTD	Year To Date

## 1 Executive Summary

### 1.1 Liquidator's appointment

I was appointed Liquidator of the Company on 25 May 2022, pursuant to an order made by the Supreme Court of Victoria. The petitioning creditor is Bizcap AU Pty Ltd (In Liquidation) ("**Petitioning Creditor**").

This report should be read in conjunction with my initial report to creditors dated 23 June 2022. If a creditor requires a copy of the previous report, please contact Christine Xiao of this office at [cxiao@hogansprowles.com.au](mailto:cxiao@hogansprowles.com.au).

### 1.2 Purpose of this report

The purpose of this report is to:

- provide you with an update on the progress of the liquidation;
- advise you of the likelihood of a dividend being paid in the liquidation; and
- seeking approval for Liquidator's remuneration and disbursements.

If creditor have not already done so, you are requested to complete and submit to this office a Proof of Debt form (attached as **Annexure A**).

Creditors have the right to request a meeting that complies with the guidelines set out in the ARITA information sheet "Creditors Rights in Liquidation" (attached as **Annexure B**). I do not propose to hold a meeting of creditors at this time.

I expect to have completed this liquidation within twelve (12) months.

### 1.3 Estimated return to creditors

There are insufficient assets available in the Liquidation. A dividend to unsecured creditors is reliant on the recoveries from voidable transactions and insolvent trading claim.

If a dividend is going to be paid, creditors will be contacted before it happens and if they have not already done so, creditors will be asked to lodge a proof of debt. This formalises creditors' claims in the liquidation and is used to determine all claims against the Company.

### 1.4 Summary of investigations

I am currently conducting investigating into the Company's affairs and the possible offences committed by Mr Brett Shales and Ms Kellie Lovelock ("**the Directors**"). A summary of the offences and recovery action is indicated below:

Offences / recovery action	Corporations Act	Parties	Claim (\$)
Insolvent Trading	S588G	Brett Shailes and Kellie Lovelock	1,003,756
Voidable transactions	S.588FD, S.588FDA and S.588FB	Brett Shailes and Kellie Lovelock	TBC

My investigations are ongoing, I will need to assess the commercial viability and the cost benefit of pursuing these actions. Further details in section 4 of this report.

Any offences will be reported to the Australian Security and Investments Commission (“ASIC”) in a confidential report issued pursuant to section 533 of the Corporations Act 2001 (“the Act”).

### 1.5 Declaration of Independence, Relevant Relationships and Indemnities

My initial report to creditors included a Declaration of Independence, Relevant Relationships and Indemnities (“DIRRI”) signed by me as Liquidator of the Company. There have been no changes to the position of the DIRRI.

## 2 Update on the Liquidation

### 2.1 Background

I provide a summary again of the information available from ASIC search conducted for the Company:

Company Details		
Registration Date	12 February 2020	
Current Registered Office	GO4 25-29 Berry Street, North Sydney NSW 2060	
Current Principal Place of Business	3 Currie Road, Forestville NSW 2087	
Director	Appointed	Ceased
Kellie Ann Lovelock	12 February 2020	-
Brett Charles Shailes	12 February 2020	-
Share Structure	Amount Paid	Amount Unpaid
20 Ordinary Shares	\$20.00	\$0.00
Current Shareholders	Shares Held/Type	Fully Paid
Kellie Ann Lovelock	10 Ordinary Shares	Yes
Brett Charles Shailes	10 Ordinary Shares	Yes

I provided a summary of the Directorships and shareholdings under the Director’s names in my previous report to creditors.

## 2.2 Progress of the Liquidation

Please refer to my initial report to creditors dated 23 June 2022 in relation to tasks previously undertaken since my appointment. Below is a summary of the tasks undertaken since my previous report to creditors:

- Made various requests to the Director to provide information in respect of the vehicles parked at the Company's trading premises located at 3 Currie Road, Forestville NSW 2087 ("**the Premises**").
- Made various attempts to reach Directors in respect of the affairs of the business however to date the Directors have not responded.
- Arranged for collection of customer vehicles from the Company's trading premises.
- Correspondence with the Secured Creditor ("Ms Maryellen Saul") and the representative of the Landlord regarding the collection of Company's assets from the Premises.
- Correspondence issued to Lightning Payroll for access to the Company's records.
- Correspondence issued to Ms Maryellen Saul ("**the Accountant**") in relation to the Company's records.
- Corresponded with Attorney General's department regarding the Fair Entitlements Guarantee (FEG) Scheme and lodged documentation.
- Investigation into the vehicles registered in the Company.
- Reviewed Company's books and records received.
- Conducted investigations into the Company's affairs.

Further investigations are currently being conducted in respect of the affairs of the Company. Details of the RoCAP submitted by the Director and books and records received are disclosed in the section 2.4 below.

## 2.3 Books & Records

To date, I have received the following books and records from the Accountant:

- Balance Sheet and Profit and Loss FY20, 21 and YTD22;
- Activity Statements;
- Documentation in respect of a 2019 Volkswagen Ute;
- Employee list with contact information;
- Employee entitlement documentation;
- Documentation in respect of the Ms Saul's security interest;
- Copy of Bank Statements;
- Access to Lightning Payroll system; and
- MYOB Management Accounts for FY20 to YTD22
- Access to Company's Ibodyshop account;

In addition, I have also received including but not limited to the following;

- Lease agreement;
- ATO documentation;
- Company's CBA bank statements for the period April 2020 to 25 May 2022; and
- Documentation received from the petitioning creditor's lawyers.

In my opinion the following records including but not limited to, should have also been maintained:

- Contracts/Agreements;
- Copy of licence;
- Employee contracts;
- Back-up file or access of Lightning Payroll account;
- Detailed Employee records;
- Invoices;
- Correspondence with stakeholders;
- Asset listing;
- Customer schedule with works completed or pending;
- Business Activity Statements for the trading period; and
- Correspondence from creditors.

To date, I have not received sufficient Company books and records. Also, the Company has maintained Management Accounts in different accounting software which disclose discrepancies in the records maintained. As I have not been provided with sufficient Company's books and records, I am of the view that the Company's books and records have not been kept in a manner that complies with Section 286 of the Act.

This opinion may change pending the receipt of any further information in relation to the Company. 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. The result of my investigations will be reported in my confidential report to ASIC.

## 2.4 Report on Company Activities and Property ("RoCAP")

The Act requires the Director to provide to me with a completed RoCAP, detailing the financial position of the Company at the date of my appointment.

Below is a summary of the information provided in the Directors' RoCAP and the estimated realisable value ("**ERV**") as per my investigations:

	Notes	RoCAP (\$)	Liquidator's ERV (\$)
<b>Assets</b>			
Cash at Bank	1	Nil	3,200
Bond	2	Nil	Nil
Debtors	3	Unknown	Nil
Plant and Equipment	4	75,000	TBC
Motor Vehicle	5	Nil	14,767
<b>Total Assets</b>		<b>75,000</b>	<b>17,967</b>
<b>Liabilities</b>			
Secured Creditors	6	233,565	TBC
Priority Creditors - Employees	7	105,059	193,607
Unsecured Creditors	8	358,376	894,200
<b>Total Liabilities</b>		<b>697,000</b>	<b>1,087,807</b>
<b>Estimated Surplus/Deficiency</b>		<b>(622,000)</b>	<b>(1,069,840)</b>

## **2.4.1 Assets**

### **1. Cash at bank**

There are no further updates in relation to the cash at bank since my previous report to creditors.

### **2. Bond**

There is no realisable value available from Bond. Please refer to my previous report for further comments in respect of the bond.

### **3. Debtors**

The Company Management records disclosed amount owed by Aussie Hail Pty Ltd in the amount of \$2,117.50. On 9 June 2022, correspondence was issued to Aussie Hail Pty Ltd to collect the outstanding amount. On the same day, Aussie Hail responded and advised that the amount has been paid in full.

A review of the Company's bank statements disclose that the payments were made by Aussie Hail Pty Ltd during March and April 2020 however were not reflected in the Company's Xero Management Account.

### **4. Plant and Equipment**

Since my previous report to creditors, the security interest holder Ms Saul collected the Company's assets from the Premises in respect of her security interest.

On 7 July 2022 and 21 July 2022, correspondence was issued to Ms Saul to account to me regarding the amounts realised from the Company assets as this amount will reduce her claim against the Company.

On 22 August 2022, Ms Saul responded and advised that she has not been able to realise the assets under her security. Ms Saul has advised that she had a sale on foot but did not eventuate and currently the items are stored with her.

Once the assets have been realised, I will inform creditors in my next report.

### **5. Motor Vehicle (2019 Volkswagen Ute)**

On 22 August 2022, Mr Saul advised that she has not received funds in respect of the motor vehicle. The Directors are currently in possession of the vehicle and are trying to refinance the motor vehicle with Volkswagen Finance. As advised in my previous report I have estimated that there is around \$14k in equity in the vehicle. Once the vehicle has been realised, Ms Saul's claim against the Company will be reduced by that amount.



## 2.4.2 Creditors

## 6. Security Interest Holders

I remind creditors following were the security interests registered under the name of the Company:

Secured Party	Registration	Notes	Collateral Class	Registration Date	Notes
Volkswagen Financial Services Australia Pty Ltd	202003160012750	1	Motor vehicle	16 Mar 2020	Disclaimed on 7 June 2022
Maryellen Saul	202005080038717	2	All pap	8 May 2020	TBC
Elgas Limited	202006100059121	3	Other goods	10 Jun 2020	\$2,357.33
Alto Auto Parts Pty Limited	202006260011310	4	Other goods	26 Jun 2020	Discharged on 26 May 2022
Western Region Automotive Pty Ltd	202012280009680	5	Other goods	28 Dec 2020	Discharged on 18 August 2022.
Bizcap Au Pty Ltd	202106030037022; 202109130065079; 202109130065080	6	All PAP All PAP Account - Intangible property	3 June 2021 13 September 2021 13 September 2021	\$31,585.76

There are no further updates in relation to 3,4 and 6.

1. As advised in my previous report to creditors, the vehicle was sold prior to my appointment as the Liquidator and accordingly, I disclaimed the vehicle on 7 June 2022. Notwithstanding, I issued a correspondence to Ms Saul advising that the equity in the vehicle of \$14k will reduce Ms Saul's debt against the Company.

Please refer to my comments in Section 2.4.1.5 for further details.

2. Ms Saul provided documentation in respect of the loan provided to the Company of totalling \$75,000 for the purchase of business in April 2020. She also provided a Deed Guarantee for a Principal amount of \$98,000 with a fixed interest on 2.95% per month. RoCAP submitted by the Director disclose the total amount outstanding as \$195,835. GSA provided by Ms Saul allows for interest to be charged against the principal.

5. On 18 August 2022, Western Region Automotive provided a discharge statement.

## 7. Employees

The Company's records disclosed fourteen (14) employees including the Directors during its trading period. The RoCAP submitted by the Director and the MYOB records provided by the Accountant disclose the following entitlements owed to the employees as at the date of my appointment. However, my investigations revealed that there is a discrepancy between the Accountant's records and the Company MYOB Essential Management Account which may not be updated. Further investigation will be conducted in relation to the accounts and the outstanding employees' entitlements.

Type of Claim	RoCAP	Estimated Amount (\$)
Wages	3,208	82,600
Superannuation	91,735	93,823
Annual Leave	10,116	14,824
Long Service Leave	Nil	2,360
<b>Total</b>	<b>105,059</b>	<b>193,607</b>

The abovementioned amount is subject to change pending further review of the Company books and records and the Proof of Debts received from the former employees.

## 8. Unsecured Creditors

The Director's completed RoCAP and records received to date revealed the following creditors:

Unsecured Creditors	RoCAP	Estimated Amount (\$)
ATO	Nil	561,183
Unsecured Trade Creditors	258,479	237,617
Related Party loan	99,897	99,897
<b>Total</b>	<b>358,376</b>	<b>898,697</b>

I advise the above creditors list and amount may increase pending on proof of debts received from creditors and further investigations.

My investigations in respect of the assets and liabilities position are continuing. Creditors will be notified should there be any material updates. Further details in relation to the RoCAP received and analysis of records will be provided in my next report to creditors.

## 3 Financial Records

I have received the below financial statements for the Company for the FY20 and FY21 prepared by the Accountant and the YTD22 financial accounts from the Company's Management Accounts.

*This section has been left blank intentionally*

## Profit and Loss

Profit and Loss	FY20 (\$)	FY21 (\$)	YTD FY 22 (\$)
<b>Operating Income</b>			
Sales	184,207	1,292,543	528,413
<i>Less: Cost of good sold</i>			
Materials/Parts	96,487	527,678	286,774
<b>Gross Profit</b>	<b>87,720</b>	<b>764,864</b>	<b>241,639</b>
<b>Gross Margin</b>	<b>48%</b>	<b>59%</b>	<b>46%</b>
<b>Other Income</b>			
JobKeeper	37,500	217,500	-
Job Saver	-	-	71,837
Covid 19 Business Grant	-	-	10,500
22 Small Business Grant	-	-	4,382
	<b>37,500</b>	<b>217,500</b>	<b>86,719</b>
<b>Total Income</b>	<b>125,220</b>	<b>982,364</b>	<b>328,358</b>
<b>Operating Expense</b>			
Accounting & bookkeeping fees	- -	- -	56,795 8%
Advertising & marketing	- -	44,318 3%	- -
Bank fees	- -	- -	18,222 3%
Insurance expenses	- -	- -	42,401 6%
Motor vehicle expenses	10,856 4%	13,826 1%	12,456 2%
Premises rent	27,438 10%	85,278 7%	93,687 14%
Premises utilities	- -	53,743 4%	23,389 3%
Office B rent	4,365 2%	36,325 3%	22,941 3%
Wages & salaries expense	184,770 65%	828,292 65%	329,556 48%
Superannuation	17,553 6%	76,716 6%	33,182 5%
SGC not Deductible	- -	- -	8,980 1%
Others	38,343 14%	143,643 11%	50,019 7%
	<b>283,325</b>	<b>1,282,140</b>	<b>691,629</b>
<b>EBITDA</b>	<b>(158,105)</b>	<b>(299,776)</b>	<b>(363,271)</b>
Less: Interest Expense	4,999	50,890	92,642
Less: Asset write off - Volkswagen	43,583	7,795	-
Less: Asset write off - Plant & Equipment	75,000	7,386	-
<b>Net Profit/(Loss)</b>	<b>(281,687)</b>	<b>(365,846)</b>	<b>(455,913)</b>

My comments are as follows:

- The Company generated net losses since FY20.
- The Company's majority costs relate to salaries and rent which comprises between 61% to 75% of the Company's total expenses

- The office B rental expenses recorded appears to be the rent for the Directors' residential work from home address.
- The Company received Jobkeeper totalling \$255,000 and other business grants and Job Saver in the amount of \$86,719 during FY20 and YTD FY22.
- The interest expenses were in relation to the business loans from Bizcap and Maryellen Saul.

## Balance Sheet

Balance Sheet	FY20 (\$)	FY21 (\$)	YTD FY 22 (\$)
<b>Current Assets</b>			
Bank accounts	11,286	6,641	1,028
Trade Debtors	38,936	-	-
Payroll Clearing Account	-	(9,257)	(2,725)
	<u>50,222</u>	<u>(2,616)</u>	<u>(1,697)</u>
<b>Non-Current Assets</b>			
Bond on 3 Currie Road	30,765	30,765	30,765
<b>Total Assets</b>	<b>80,987</b>	<b>28,149</b>	<b>29,068</b>
<b>Current Liabilities</b>			
GST	52,344	291,880	423,502
PAYG Withholding Payable	1	29,533	635
Superannuation	17,553	58,720	91,976
Super Guarantee Charge	-	-	11,811
Staff entitlements	17,187	11,768	648
Trade Creditors	97,480	-	235,361
	<u>184,564</u>	<u>391,901</u>	<u>763,933</u>
<b>Non Current Liabilities</b>			
Secured Loan - M Saul	93,209	93,209	198,585
Loan - VW Finance	44,116	38,185	35,448
Loan - Bizcap Au Pty Ltd	-	50,351	31,586
Loan - Elantis	-	-	3,045
Related party loan	-	102,016	99,898
	<u>137,324</u>	<u>283,760</u>	<u>368,561</u>
<b>Total Liabilities</b>	<b>321,889</b>	<b>675,662</b>	<b>1,132,494</b>
<b>Net Assets</b>	<b>(240,902)</b>	<b>(647,513)</b>	<b>(1,103,426)</b>

My comments are as follows:

- The Company generated net deficiency from FY20.

- The Company records outstanding superannuation totalling \$91,976 in FY YTD 22. My investigations disclose that the Company has not been paying super from at least October 2020.
- The Company GST liabilities and payables increased significantly from FY20 to FY21 and YTD FY22. To date, I have received proof of debt from the ATO totalling \$561,181.79, of which \$109,556.23 was in relation to superannuation guarantee charges for the period from 1 April 2020 to 31 March 2022.
- The Company's main assets comprises of bank accounts and bond on the Premises which have a realisation value as nil. Please refer to my comments in section 2.4.1 for further details.
- The Company's major liabilities comprises of tax liabilities and loans from various parties.
- Related party loan in the YTD22 relates to the loan provided by the Director totalling \$99,898. No information has been provided by the Directors to support this amount.

## 4 Investigations

### 4.1 Company books and records

Liquidators 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.

I refer to Section 2.3 of this report, to date, I have not been provided with sufficient Company's books and records. As such, I am of the view that the Company's books and records have not been kept in a manner that complies with Section 286 of the Act.

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

Please refer to my comments in section 2.3 of this report.

Any offences identified will be reported to the Australian Security and Investments Commission ("ASIC") in a confidential report issued pursuant to section 533 of the Corporations Act 2001 ("the Act").

### 4.2 Reasons for Failure

The Directors' completed RoCAP explained the below factors for the business failure:

- Poor economic condition;
- Lack of supply parts;
- The impact of Covid-19 pandemic on the business; and
- Loss of 76% of revenue as NRMA opened up their own repair centre.

In my opinion, the Company's failure appears to be due to the following:

- Trading losses;
- Insufficient working capital;

- Inadequate cash flow to attend the liabilities of the Company; and
- Mismanagement of business.

The above opinion is subject to change pending the receipt of further information and documentation from the Director.

#### 4.3 Recoveries, offences and voidable transactions

The Liquidator is required to complete and lodge a report with ASIC pursuant to Section 533 of the Act where it appears that a past or present officer of the Company may have been guilty of an offence in relation to the Company and in other circumstances. I intend to lodge a report pursuant to this section of the Act.

Pursuant to Part 5.8B of the Act, a liquidator is permitted to recover transactions that appear to be voidable transactions in respect of money, property, or other benefits. To the extent that information has been available, I have reviewed the Company books and records for the period approximately six months prior to my appointment and determined whether any creditors have been preferred over the general body of creditors as a result of any transaction.

The relation back date period is 2 September 2021 (six months prior to 2 March 2022, the day the winding up petition was filed).

##### a) Unfair preferences (Section 588FA)

Unfair preferences are transactions between the Company and a creditor resulting in the creditor receiving more than the creditor would receive if the transaction were set aside and the creditor was to prove for this amount in the winding-up. Voidable transactions must have taken place in the period beginning six months prior to the relation back day and ending on the date of liquidation.

My investigations disclose that following payments have been made during the relation back period:

Parties	Amount(\$)
Col Crawford	26,902
R W Willoughby	13,089
Transfer to xx5840 bank	37,340
Elantis	5,185
West ends parts	2,400
SMA motors	800
HMG trading as Heartland Parts	5,300
Thomson Ford	3,567
<b>Total</b>	<b>94,582</b>

I note that that Col Crawford has a judgement debt against the Company in the amount of \$47,623.99.

Further investigations are being conducted in respect of the above. Creditors will be advised of any material updates.

**b) Uncommercial Transactions (Section 588FB)**

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

My investigation into the uncommercial transactions is currently ongoing. Creditors will be advised if there are any material updates.

**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.

My investigation into unfair loans is currently ongoing. Creditors will be advised if there are any material updates.

**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.

My investigation into unreasonable director-related transactions is currently ongoing. Creditors will be advised if there are any material updates.

**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. My investigations are currently ongoing in regard to these transactions.

My investigation into related party transactions is currently ongoing. Creditors will be advised if there are any material updates.

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

Section 588FJ of the Act provides that a circulating security interest created within six months before relation back date maybe rendered void.

There were no circulating security interests that were created within six (6) months before the relation back date. Please refer to section 2.4.2 for further details.

#### 4.4 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"

There are defences available to directors pursuant to section 588FGB of the Act which 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.

Based on the current information available, I am of the opinion that the Company was trading whilst insolvent from at least May 2020 onwards. The quantum of the insolvent trading claim against the Directors is \$1,003,756 being the debt outstanding since the date the Company is deemed insolvent. This amount is subject to change, pending the receipt of further claims or information in relation to the Company.

My opinion is based on the following:



**a) Profit and Loss**

- The Company generated net loss of (\$281K) in FY20;
- The Company generated net loss of (\$365K) in FY21; and
- The Company generated net loss of (\$456K) in YTD22.

**b) Balance Sheet**

- The Company generated net deficiency of (\$240K) in FY20;
- The Company generated net deficiency of (\$647K) in FY21; and
- The Company generated net deficiency of (\$1,103K) in YTD22.

**c) Current Ratios**

- Current ratio is below 1 in FY20, 21 and YTD22;

**d) Working capital**

- Net working capital for the FY20 is (\$134K)
- Net working capital for the FY21 is (\$394K)
- Net working capital for the YTD is (\$765K)

**e) Outstanding lodgements**

The Australian Taxation Office (“**ATO**”) advised that the balance outstanding to the ATO totalling \$561,182.79 in respect of the Running Balance Account deficit (“**RBA**”) and Superannuation Guarantee Charge as at the date of my appointment in the amount of \$451,626.56 and \$109,556.23 respectively.

A review of the RBA disclose that the Company had difficulty paying the tax liabilities from May 2020, the running balance never reached zero since the business was purchased in 2020. Below is the table indicating the balance in the ATO’s RBA position from May 2020 to the date of my appointment.

ATO	21 May 20	Dec-20	Jun-21	Dec-21	YTD FY22
	(\$)	(\$)	(\$)	(\$)	
Running Account Balance	5,464	191,679	309,605	394,923	449,777

ATO	22 Sep 21	Dec-21	Jun-21	YTD FY22
	(\$)	(\$)	(\$)	
Superannuation Guarantee	19,479	83,502	104,901	109,189

The ATO has lodged a Proof of Debt in the amount of \$561,182.79.

#### **f) Creditor demands**

Based on the Company's books and records, the Company was being issued with notices in respect of outstanding amounts and invoices from September 2020. The notices include the following:

- Statement received from Col Crawford Lifestyle Cars disclose non-payment of invoices since 11 September 2020 with a total balance due as \$46,387.14 as at the date of my appointment;
- Amount owed to SMA Motors Pty Ltd in the amount of \$3,571.99 for the parts supplied in November 2020;
- Default in funding agreement with Elantis Credit Finance since 23 August 2021;
- Documentation received from Cenujuse Networking Solutions disclose a total amount owed to them as \$2,883.40 which remains unpaid since 25 August 2021;
- Documentation received from JJ's Waste & Recycling disclose there are invoices outstanding since August 2021;
- Notices issued by ATO in respect of the Superannuation Guarantee Charge amounts. The statement received from ATO disclose that the Company has not attended to super liability since October 2021;
- Landlord's invoices unpaid from 28 January 2022 with a total balance due as at date of my appointment; and
- Invoices due to Cleanaway from 28 February 2022 onwards (over 81 days past due date).

#### **g) Legal Action against the Company**

The Company received following orders:

- On 12 April 2021, the Company received judgement order from the Local Courts NSW in respect of the outstanding amount owed to Col Crawford in the amount of \$47,623.29 (inclusive of costs).
- On 9 November 2021, the Company received judgement order from Local Court of NSW for the amount owed to S.M.A Motors Pty Ltd trading as Porsche Centre Willoughby totalling \$5,489.32.

#### **Director's personal financial position**

The Directors have provided their personal assets and liabilities position and have not disclosed any property owned them.

As advised in my previous report, a search conducted on the NSW Land Registry disclosed that there is no property owned by the Directors.

Notwithstanding, I have issued insolvent trading demand correspondence to Directors on 12 August 2022 demanding the Directors to pay the amount of \$1,003,756 in respect of the insolvent trading claim . I am currently awaiting a response from the Directors.

Should a creditor intend to fund for any of the recovery actions, please contact Mahima Sharma of this office on 02 8020 5870 or via email at [msharma@hogansprowles.com.au](mailto:msharma@hogansprowles.com.au).

#### **4.5 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 Director's act in the interest of the Company. The duties include:

- Section 180 – Care and Diligence
- Section 181 – Good Faith
- Section 182 – Use of Position
- Section 183 – Use of Information
- Section 184 - Good faith, use of position and use of information

##### **Section 180 – Care and Diligence**

Pursuant to Section 180 of the Act a director or other officer of a corporation must exercise their powers and discharge their duties with the degree of care and diligence that a reasonable person would exercise if they:

- (a) were a director or officer of a corporation in the corporation's circumstances; and
- (b) occupied the office held by, and had the same responsibilities within the corporation as, the director or officer.

##### **Section 181 – Good Faith**

Pursuant to Section 181 of the Act, a director or other officer of a corporation must exercise their powers and discharge their duties:

- (a) in good faith in the best interest of the corporation; and
- (b) for a proper purpose

##### **Section 182 – Use of Position**

Pursuant to Section 182 of the Act, a director or other officer or employee of a corporation must not improperly use their position to:

- (a) Gain advantage for themselves or someone else; or
- (b) Cause detriment to the corporation.

In considering whether a director has met their duties in exercising care and diligence, various circumstances may be considered including the type of company, the size and nature of its business, the composition of its board and the distribution of the work between the board.

My investigations are ongoing into whether the Director have contravened any of the above sections in relation to his duty as director.

Further to the points outlined in this report, my investigations into the nature and history of Company are ongoing to identify any personal advantages and detriments to the Company.

I will be preparing my report to ASIC pursuant to Section 533 of the Act with regards to any breaches.

If creditors have any information which may assist my investigations, please email Christine Xiao of my office at [cxiao@hogansprowles.com.au](mailto:cxiao@hogansprowles.com.au) or by phone on 02 8020 5858.

## 5 Likelihood of a dividend

Insufficient assets have been realised to enable a distribution to any class of creditor.

A dividend to unsecured creditors is reliant on the recoveries from voidable transactions and insolvent trading claim.

If a dividend is going to be paid, creditors will be contacted before it happens and if they have not already done so, creditors will be asked to lodge a proof of debt. This formalises creditors' claims in the liquidation and is used to determine all claims against the Company.

## 6 Receipts and Payments

Following are the receipts and payments in the liquidation to date:

Receipts and Payments	
For the period of 25 May 2022 to 24 August 2022	
<b>Receipts</b>	<b>\$ incl GST</b>
Cash at bank	\$3,200.00
<b>Total Receipts</b>	<b>\$3,200.00</b>
<b>Payments</b>	
lbodyshop software	\$99.00
<b>Total Payments</b>	<b>\$99.00</b>
<b>Net Receipts</b>	<b>\$3,101.00</b>

## 7 Costs of the Liquidation

Following my previous report to creditors of 23 June 2022, remuneration of \$45,000 (excl GST) and internal disbursements of \$2,000 (excl GST) were approved by creditors on 8 July 2022.

I am seeking further approval for our remuneration by creditors as set out in the enclosed remuneration report, which is attached as **Annexure E**. This approval is being sought without a meeting of creditors, by way of the following circular resolutions:

- Approve the retrospective remuneration of the Liquidators for \$38,642.70 exclusive of GST (**Annexure C**);
- Approve the future remuneration of the Liquidators for \$20,000.00 exclusive of GST (**Annexure D**);

The total remuneration for this appointment is estimated to be \$103,642.70 (excluding GST). This differs to the estimate of costs provided in the Initial Advice to Creditors dated 23 June 2022, which estimated a cost to completion of the administration of \$45,000.00 excluding GST, for the following reasons:

- Significant time has been spent dealing with the collection of vehicles by customers;
- Significant time has been spent liaising with the secured creditor and the Landlord's agent in respect of the asset collection and issues regarding same;
- Various correspondence with Directors in respect of the information/documentation to be submitted; and
- Investigation into the insolvent trading and correspondence to Directors regarding same.

## 8 What happens next?

I will proceed with the liquidation, including, but not limited to:

- Finalise my investigations into the affairs of the Company;
- Reporting to the corporate insolvency regulator ASIC;
- Voidable transaction recovery (if any);
- Any other matters relevant to the liquidation; and
- Finalisation.

I expect to have completed this liquidation within twelve (12) months subject to pursuit of any recoveries.

If I receive a request for a meeting that complies with the guidelines set out in the ARITA information sheet "Creditors Rights in Liquidation" as attached at **Annexure B**, I will hold a meeting of creditors.

## 9 Where can you get more information?

You can access information which may assist you on the following websites:

- ARITA at [www.arita.com.au/creditors](http://www.arita.com.au/creditors)
- ASIC at [www.asic.gov.au](http://www.asic.gov.au) (search for "insolvency information sheets").

If you have any queries, you can contact my office and speak with Christine Xiao on 02 8020 5858 or by email on [cxiao@hogansproles.com.au](mailto:cxiao@hogansproles.com.au).

Yours faithfully,

**Bretkel Pty Ltd (In Liquidation)**



**Brendan Copeland**

Liquidator

INFORMAL PROOF OF DEBT FORM

Regulation 5.6.47

**Bretkel Pty Ltd (In Liquidation)  
Trading as Forestville Auto Body Repairs  
A.C.N. 639 072 307 ("the Company")**

Name of creditor: .....

Address of creditor: .....

.....

ABN: .....

Telephone number: .....

Amount of debt claimed: \$..... (including GST \$ .....) )

Consideration for debt (i.e, the nature of goods or services supplied and the period during which they were supplied):

.....  
.....  
.....

Is the debt secured? YES/NO

If secured, give details of security including dates, etc:

.....  
.....  
.....

Other information:

.....  
.....

.....  
Signature of Creditor  
(or person authorised by creditor)

.....  
Dated

**Notes:**

Under the Insolvency Practice Rules (Corporations) (IPR) 75-85, a creditor is not entitled to vote at a meeting unless:

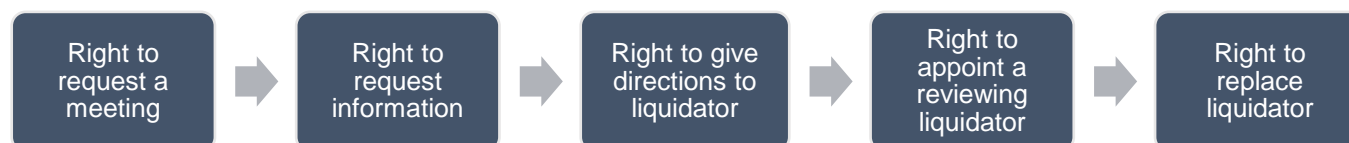
- a. his or her claim has been admitted, wholly or in part, by the Liquidator; or
- b. he or she has lodged with the Liquidator particulars of the debt or claim, or if required, a formal proof of debt.

At meetings held under Section 436E and 439A, a secured creditor may vote for the whole of his or her debt without regard to the value of the security (IPR 75-87 ).

Proxies must be made available to the Liquidator.

## Creditor Rights in Liquidations

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



### Right to request a meeting

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

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

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

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

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

### Right to request information

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

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

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

### Requests must be reasonable.

#### They are not reasonable if:

Both meetings and information:

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

Meeting requests only:

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

Information requests only:

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

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

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

Specific queries about the liquidation should be directed to the liquidator's office.

## Right to give directions to liquidator

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

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

An individual creditor cannot provide a direction to a liquidator.

## Right to appoint a reviewing liquidator

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

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

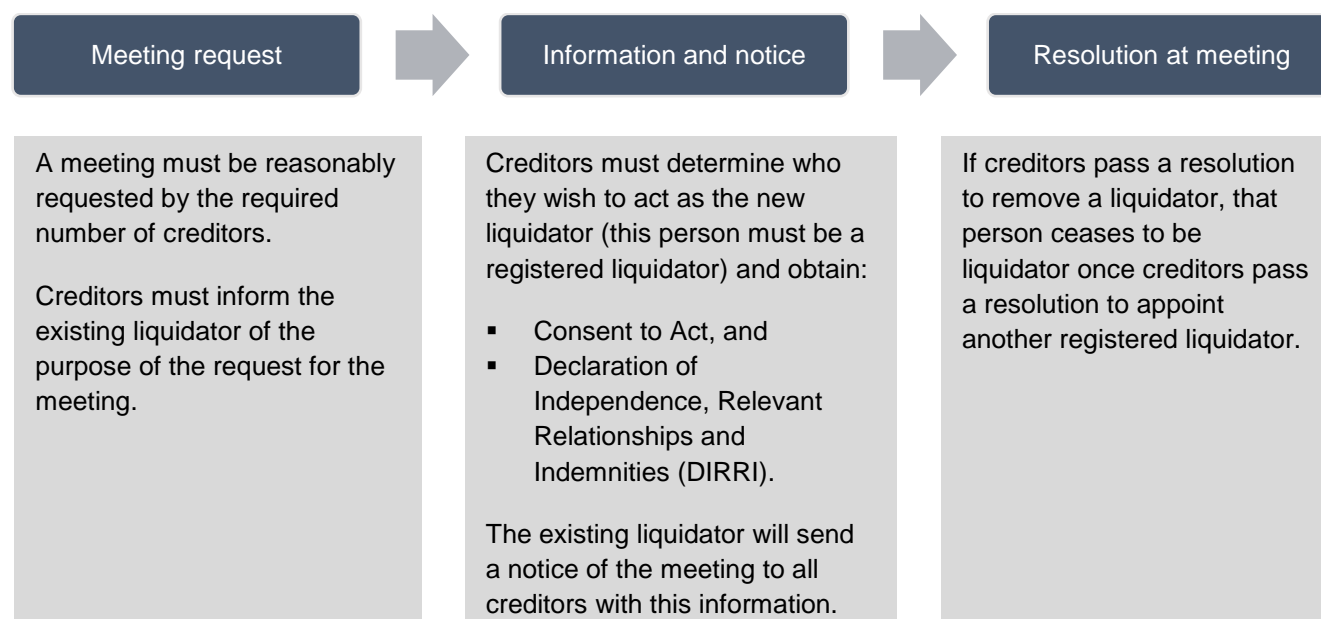
The cost of the reviewing liquidator is paid from the assets of the liquidation, in priority to creditor claims.

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

## Right to replace liquidator

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

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



**For more information, go to [www.arita.com.au/creditors](http://www.arita.com.au/creditors).  
Specific queries about the liquidation should be directed to the liquidator's office.**



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**NOTICE OF PROPOSAL TO CREDITORS**

**Dated: 25 August 2022**

**Voting Poll Closes: 16 September 2022**

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**Bretkel Pty Ltd (In Liquidation)  
Formerly trading as Forestville Auto Body Repairs  
A.C.N. 639 072 307 ("the Company")**

**Proposal No. 1 for creditor approval**

“That the additional remuneration of the Liquidator from 25 May 2022 to 24 August 2022 is determined at a sum equal to the cost of time spent by the Liquidator, his partners and staff, calculated at the hourly rates as detailed in the Liquidator’s Remuneration Report dated 25 August 2022, up to a capped amount of \$38,642.70 exclusive of GST, and that the Liquidator can draw the remuneration on a monthly basis or as required”.

**Vote on the Proposal No. 1**

Please select the appropriate Yes, No or Object box referred to below with a  to indicate your preferred position.

- Yes            I approve the proposal
- No              I do not approve the proposal
- Object          I object to the proposal being resolved without a meeting of creditors

For your vote to count, your claim against the Company must have been admitted for the purposes of voting by the Liquidator. Please select the option that applies to you:

- I have previously submitted a proof of debt form and supporting documents
- I have **enclosed** a proof of debt form and supporting documents with this proposal form
- I am **not** a related creditor of the Company
- I am a related creditor of the Company\*

relationship: \_\_\_\_\_

\*eg Director, relative of Director, related company, beneficiary of a related trust.

**Reasons for the proposal and the likely impact it will have on creditors if it is passed**

- A Liquidator is entitled to be fairly remunerated for undertaking statutory and other duties, including reporting obligations in acting as a liquidator.
- I am unable to pay my remuneration without the approval of the Committee of Inspection (if one has been appointed), Creditors, or the Court.
- Approval by Creditors is efficient and timely, and is less costly than an application to the Court.
- Approval of my remuneration will allow me to progress further investigations in a timely manner to ensure the prospect of any dividends can be maximised.
- Approval by Creditors, by circulating resolution from the Notice of Proposal to Creditors, is less costly than convening a meeting of creditors to obtain remuneration approval.
- This may negatively impact on creditors, as a formal meeting of creditors may be convened later than it may otherwise be convened, or not convened at all. That said, creditors are welcome to contact the Liquidators staff, by email or telephone, for an update on the liquidation.

---

**Name of creditor / authorised person:** \_\_\_\_\_

**Address:** \_\_\_\_\_

**Signature:** \_\_\_\_\_ **Date:** \_\_\_\_\_

---

For your vote to count, you **must complete** this document and return it together with any **supporting documents** by no later than close of business on **Friday, 16 September 2022**, by email to Mahima Sharma at [msharma@hogansprowles.com.au](mailto:msharma@hogansprowles.com.au). Should you have any queries in relation to this matter, please contact Mahima Sharma on (02) 8020 5870.

HoganSproles  
Level 9,  
60 Pitt Street  
SYDNEY NSW 2000

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**NOTICE OF PROPOSAL TO CREDITORS**

**Dated: 25 August 2022**

**Voting Poll Closes: 16 September 2022**

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**Bretkel Pty Ltd (In Liquidation)  
Formerly trading as Forestville Auto Body Repairs  
A.C.N. 639 072 307 (“the Company”)**

**Proposal No. 2 for creditor approval**

“That the future remuneration of the Liquidator from 25 August 2022 to completion is determined at a sum equal to the cost of time spent by the Liquidator, his partners and staff, calculated at the hourly rates as detailed in the Liquidator’s Remuneration Report dated 25 August 2022 that may be increased at a rate of 10% at 1 July each year (rounded to the nearest \$10), up to a capped amount of \$20,000.00 exclusive of GST, and that the Liquidator can draw the remuneration on a monthly basis or as required”.

**Vote on the Proposal No. 2**

Please select the appropriate Yes, No or Object box referred to below with a  to indicate your preferred position.

- Yes            I approve the proposal
- No              I do not approve the proposal
- Object          I object to the proposal being resolved without a meeting of creditors

For your vote to count, your claim against the Company must have been admitted for the purposes of voting by the Liquidator. Please select the option that applies to you:

- I have previously submitted a proof of debt form and supporting documents
- I have **enclosed** a proof of debt form and supporting documents with this proposal form
- I am **not** a related creditor of the Company
- I am a related creditor of the Company\*

relationship: \_\_\_\_\_

\*eg Director, relative of Director, related company, beneficiary of a related trust.

**Reasons for the proposal and the likely impact it will have on creditors if it is passed**

- A Liquidator is entitled to be fairly remunerated for undertaking statutory and other duties, including reporting obligations in acting as a liquidator.
- I am unable to pay my remuneration without the approval of the Committee of Inspection (if one has been appointed), Creditors, or the Court.
- Approval by Creditors is efficient and timely, and is less costly than an application to the Court.
- Approval of my remuneration will allow me to progress further investigations in a timely manner to ensure the prospect of any dividends can be maximised.
- Approval by Creditors, by circulating resolution from the Notice of Proposal to Creditors, is less costly than convening a meeting of creditors to obtain remuneration approval.
- This may negatively impact on creditors, as a formal meeting of creditors may be convened later than it may otherwise be convened, or not convened at all. That said, creditors are welcome to contact the Liquidators staff, by email or telephone, for an update on the liquidation.

---

**Name of creditor / authorised person:** \_\_\_\_\_

**Address:** \_\_\_\_\_

**Signature:** \_\_\_\_\_ **Date:** \_\_\_\_\_

---

For your vote to count, you **must complete** this document and return it together with any **supporting documents** by no later than close of business on **Friday, 16 September 2022**, by email to Mahima Sharma at [msharma@hogansprowles.com.au](mailto:msharma@hogansprowles.com.au). Should you have any queries in relation to this matter, please contact Mahima Sharma on (02) 8020 5870.

HoganSproles  
Level 9,  
60 Pitt Street  
SYDNEY NSW 2000

## Remuneration Report

**Bretkel Pty Ltd (In Liquidation )  
Trading as Forestville Auto Body Repairs  
A.C.N. 639 072 307  
("the Company")**

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

### Table of Contents

Part 1:	Declaration
Part 2:	Executive Summary
Part 3:	Description of work completed / to be completed
Part 4:	Calculation of Remuneration
Part 5:	Statement of Remuneration Claim
Part 6:	Likely impact on dividends
Part 7:	Disbursements
Part 8:	Report on Progress of the Liquidation
Part 9:	Summary of Receipts and Payments
Part 10:	Queries
Part 11:	Information Sheet

To minimise the costs in the administration and this liquidation, I have elected to seek the approval of creditors for my remuneration and internal disbursements without a meeting. Information about the proposals without a meeting process is included at part 8 of this report.

You can cast your vote by using the included voting form. This form needs to be returned to my office by post, scanned and emailed or faxed. I need to receive your forms **by Friday, 16 September 2022** for your vote to count. If you choose to use post, please allow enough time for your letter to be delivered.

If you have any questions, or need any assistance with understanding the materials I have sent to you, please contact Christine Xiao of my office on (02) 8020 5858 or via email at [cxiao@hogansproles.com.au](mailto:cxiao@hogansproles.com.au).

## Part 1: Declaration

I, Brendan Copeland of HoganSprowles have undertaken a proper assessment of this remuneration claim for my appointment as Liquidator of Hontoys Autos Pty Ltd in accordance with the law and applicable professional standards. I am satisfied that the remuneration claimed is in respect of necessary work, properly performed, or to be properly performed, in the conduct of the liquidation.

## Part 2: Executive Summary

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

	Amount ex GST (\$)
<b>Remuneration approval sought:</b>	
<b><i>Liquidation – Actual Remuneration (Previously approved)</i></b>	
25 May 2022 to conclusion of the liquidation	45,000.00
<b>Total approved</b>	<b>45,000.00</b>
<b><i>Liquidation – Current Remuneration</i></b>	
Resolution 1: 15 June 2021 to 24 August 2022	38,642.70
<b><i>Liquidation – Future Remuneration Estimated</i></b>	
Resolution 2: 25 August 2022 to conclusion of the liquidation	20,000.00
<b>Total - Liquidation</b>	<b>\$103,642.70</b>

My fees are higher than the anticipated fees of \$45,000 for the following reasons:

- Significant time has been spent dealing with the collection of vehicles by customers;
- Significant time has been spent liaising with the secured creditor and the Landlord's agent in respect of the asset collection and issues regarding same;
- Various correspondence with Directors in respect of the information/documentation to be submitted; and
- Investigation into the insolvent trading and correspondence to Directors regarding same.

Further time is expected to be incurred in finalising the recovery of the insolvent trading claim amount other tasks associated with the liquidation and finalisation.

**Part 3: Description of work completed / to be completed**

**Resolution 1 – Liquidator’s remuneration for the period 25 May 2022 to 24 August 2022**

Task Area	General Description	Includes
<b>Creditors</b> 38.90 hours \$14,538.50	Creditor Enquiries	Receive and follow up creditor enquiries via telephone and emails Updating creditor lists
	Secured creditors reporting	Correspondence with various security interest holders in respect of their security Calculation of equity in the assets Issuing disclaimer to creditors where necessary Corresponding with secured creditors in respect of arranging collection of respective assets Various correspondence with Landlord’s real estate agent in respect of collection of assets and vacation of Premises. Correspondence with Ms Saul with respect of her security interest and collection of assets.
	Creditors reports	Prepared initial report to creditors Prepared statutory report to creditors Issuing creditors report to creditors via post and email
	Dealing with proof of debts	Receiving and filing proof of debts from creditors Updating creditors lists and proof of debt
	Creditors enquires	Receive and follow up creditors via telephone and emails Preparing correspondence to creditors Updating creditors list
<b>Employees</b> 12.95 hours \$4,205.50	Employee Enquiry	Receive and follow up employee enquiries via telephone Reviewing and preparing correspondence to employees Liaising with accountant and the Director in respect of employee entitlements
	Calculation of Entitlements	Reviewing employees’ files Correspondence with employees regarding their enquiries. Accessing MYOB accounts for employees Reviewing superannuation accounts Reviewing records Dealing with super issues
<b>Investigation</b> 48.38 hours \$16,347.60	Conducting investigation	Review and preparation of company nature and history Conducting and summarising statutory searches

Task Area	General Description	Includes
		Preparation of deficiency statement Preparation of investigation file Reviewing books and records of the Company Reviewing the Director's completed RoCAP Correspondence with Xero and MYOB Collecting reports from the Accountant Reviewing MYOB records Reviewing employees' files Reviewing ongoing jobs, the Company was undertaking and correspondence with Director regarding same Conducting Insolvency analysis and prepare correspondence for insolvent trading claim Reviewing Company's financials Reviewing bank statements Investigations into voidable transactions and other recoveries Correspondence with Ibodyshop and access to account Correspondence with Lightning payroll Liaise with Telstra re Company accounts
	Voidable Transactions claim	Reviewing investigations and preparing correspondence to director regarding insolvent trading claim Internal discussion regarding recoveries of the Company
	ASIC Reporting	Preparation of ASIC 533 investigations Reviewing books and records and preparing ASIC 533 form Reviewing investigations
<b>Administration</b> <b>11.25 hours</b> <b>\$3,551.10</b>	Document maintenance/file review/checklist	Filing of documents File reviews Updating checklists Prepared correspondence to the director General correspondence
	Bank account administration	Correspondence with banks regarding specific transfers Processing payments Processing receipts Requesting bank statements Bank account reconciliation Organising payment to petitioning creditor
	ASIC forms and other forms	Correspondence with ASIC regarding statutory forms
	ATO and other statutory reporting	Correspondence with ATO regarding superannuation obligation task Reviewing running balance Preparing BAS



Task Area	General Description	Includes
	Planning/Review	Discussions regarding status of administration

**Resolution 2 - Future Liquidation' remuneration for the period 25 August 2022 to the conclusion of the Liquidation**

Task Area	General Description	Includes
<b>Asset</b> <b>5.00 hours</b> <b>\$1,915.00</b>	Assets subject to specific Charges	Correspondence with secured creditors regarding security Enquiries with secured creditors
	Other Asset	Tasks associated with realising assets (if any) Liaise with valuers
<b>Employees</b> <b>6.00 hours</b> <b>\$1,620.00</b>	Employees enquires	Received and follow up employee enquiries via telephone and email Review and prepare correspondence to creditors and their representatives via email and post Prepare letters to employees advising of their entitlements and options available Assist staff with FEG claims
	Employees Entitlements	Reviewing Company's records and employees files Liaise with employees regarding their entitlements
	Creditor Enquiries, Requests & Directions	Receive and respond to creditor enquiries Maintaining creditor request log Review and prepare correspondence to creditors and their representatives
<b>Creditors</b> <b>17.00 hours</b> <b>\$5,635.00</b>	Creditor Enquiries	Receive and follow up creditor enquiries via telephone and emails Updating creditor lists
	Dealing with proofs of debt	Receipting and filing POD's when not related to a dividend Corresponding with ATO regarding POD when not related to a dividend
	Reports to creditors	Preparing additional reports to creditors (if any)

Task Area	General Description	Includes
	Meeting of creditors	Preparing proposal notices and voting forms Forward notice of proposal to all known creditors Reviewing votes and determining outcome of proposal Preparation and lodgement of proposal outcome with ASIC
Investigation 25.20 hour \$8,195.00	Conducting investigation	Complete further investigations (as required)
	Recoveries	Attend to any negotiations (if any) Correspond with Lawyers in respect of the settlement of the claim against the Director Correspond with HB Lawyers as necessary with respect to the claim against the Director Negotiating settlement with Director for insolvent trading claim Correspondence with the lawyers regarding Deed of Settlement and finalising the claim
	ASIC	Preparation of ASIC 533 supplementary report (if required) Further investigations in relation to the report Reviewing books and records and preparing Attending to the lodgement of necessary ASIC lodgements
Dividend	Dividend procedures (if any)	Processing proofs of debts Dividends distribution Reviewing documents Liaising with creditors
Administration 10.00 hours \$2,635.00	Correspondence	With various stakeholders Correspondence with the Directors
	Bank account administration	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, 578, 5602 etc Correspondence with ASIC regarding statutory forms
	ATO and other statutory reporting	Preparing BAS' Correspondence with ATO regarding lodgements and registration
	Finalisation	Notifying ATO of finalisation Cancelling ABN / GST / PAYG registration Completing checklists Finalising WIP

Task Area	General Description	Includes
	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 1 – Liquidator’s remuneration for the period 25 May 2022 to 24 August 2022

**Bretkel Pty Ltd (In Liquidation)**  
**Trading as Forestville Auto Body Repairs**  
**A.C.N. 639 072 307 (“the Company”)**  
**ACTUAL HOURS INCURRED FROM 25 MAY 2022 TO 24 AUGUST 2022**  
**CALCULATION OF REMUNERATION**

Employee	Position	\$/hour	Total actual hours	Total (\$)	Task Area							
					Creditors hrs	\$	Employees hrs	\$	Investigation hrs	\$	Administration hrs	\$
Brendan Copeland	Partner	595.00	5.5	3,273	1.4	833	0.0	0	4.1	2,440	0.0	0
Anny Ngo	Senior Manager	500.00	0.2	100	0.0	0	0.0	0	0.2	100	0.0	0
Mahima Sharma	Supervisor	420.00	58.2	24,436	27.1	11,382	6.3	2,625	19.5	8,182	5.4	2,248
Christine Xiao	Analyst	240.00	24.0	5,760	3.5	840	5.6	1,344	13.5	3,240	1.4	336
Christine Xiao	Graduate	215.00	23.5	5,053	6.9	1,484	1.1	237	11.1	2,387	4.4	946
Thomas Farquhar	Graduate	215.00	0.1	22	0.0	0	0.0	0	0.0	0	0.1	22
Total			111.5	38,643	38.9	14,539	13.0	4,206	48.4	16,348	11.3	3,551
GST				3,864								
Total (Incl GST)				42,507								

**Resolution 2 – Liquidator’s remuneration for the period 25 August 2022 to completion**

**Bretkel Pty Ltd (In Liquidation)**  
**Trading as Forestville Auto Body Repairs**  
**A.C.N. 639 072 307 (“the Company”)**  
**ACTUAL HOURS INCURRED FROM 25 AUGUST 2022 TO THE CONCLUSION**  
**CALCULATION OF REMUNERATION**

Employee	Position	\$/hour	Total actual hours	Total (\$)	Task Area									
					Assets hrs	\$	Creditors hrs	\$	Employee hrs	\$	Investigation hrs	\$	Administration hrs	\$
Brendan Copeland	Partner	595.00	3.0	2,380	1.00	595	1.0	595	0.0	0	1.0	595	1.0	595
Mahima Sharma	Supervisor	420.00	20.0	9,660	2.00	840	8.0	3,360	1.0	420	10.0	4,200	2.0	840
Christine Xiao	Analyst	240.00	23.2	7,240	2.00	480	6.0	1,440	5.0	1,200	14.2	3,400	3.0	720
Dominique Bui	Administration	120.00	6.0	720	0.00	0	2.0	240	0.0	0	0.0	0	4.0	480
<b>Total</b>			<b>52.2</b>	<b>20,000</b>	<b>5.00</b>	<b>1,915</b>	<b>17.0</b>	<b>5,635</b>	<b>6.0</b>	<b>1,620</b>	<b>25.2</b>	<b>8,195</b>	<b>10.0</b>	<b>2,635</b>
GST				2,000										
Total (Incl GST)				22,000										
Average hourly rate				383										

**Part 5: Statement of Remuneration Claim**

I will be seeking approval on the following resolutions to approve my remuneration.

**Resolution 1 –Liquidators’ remuneration for the period 25 May 2022 to 24 August 2022**

“That the current remuneration of the Liquidator from 25 May 2022 to 24 August 2022 is determined at a sum equal to the cost of time spent by the Liquidator, and the Liquidator’s partners and staff, calculated at the hourly rates as detailed in the remuneration report dated 25 August 2022 such sum to be capped at the amount of \$38,642.70 exclusive of GST and that the Liquidator may draw the remuneration on a monthly basis or as required.”

**Resolution 2 –Liquidators’ remuneration for the period 25 August 2022 to completion date**

“That the future remuneration of the Liquidator from 25 August 2022 to the conclusion of the liquidation is determined at a sum equal to the cost of time spent by the Liquidator, and the Liquidator’s partners and staff, calculated at the hourly rates as detailed in the remuneration report dated 25 August 2022 such sum to be capped at the amount of \$20,000.00 exclusive of GST and that the Liquidator may draw the remuneration on a monthly basis or as required. Creditors have not previously approved any remuneration of the Liquidators.”

**Part 6: Likely impact on dividends**

The dividend to any creditor will ultimately be impacted by the realisations achieved by the liquidator and the value of creditor claims admitted to participate in the dividend and the fees for the work performed to achieve realisations has prior.

At this stage there are insufficient funds to cover my time costs incurred to date. Accordingly, there is no likelihood of a dividend to any class of creditors. Should circumstances change, creditors will be notified.

**Part 7: Report on Progress of the Liquidation**

Please see the Report to Creditors dated 25 August 2022

**Part 8: Summary of Receipts and Payments**

Please refer to section 6 of the Report to Creditors dated 25 August 2022.

**Part 9: Queries**

If you have any queries in relation to the information in this report, please contact Mahima Sharma (02) 8020 5870 or via email at [msharma@hogansprowles.com.au](mailto:msharma@hogansprowles.com.au). You can also access information which may assist you on the following websites:

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

## Part 11: 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](http://download.asic.gov.au/media/1310767/Approving_fees_guide_for_creditors.pdf)

Dated this **25<sup>th</sup> day of August 2022**



**Brendan Copeland**  
Liquidator

# hogan sprowles

Schedule of rates as @ 1 July 2022  
Private & Confidential

Title	Description	Hourly rate (Excl. GST) (\$)
Partner	Registered liquidator, Chartered Accountant, degree qualified with more than fifteen years of extensive experience in insolvency, restructuring and business advisory matters. experience. Leads engagements with full accountability for strategy and execution.	595
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.	550
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.	500
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.	450
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.	420
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.	370
Senior Analyst 2	Experienced graduate controlling certain tasks on small engagements. Assists senior staff in completing tasks on small to large engagements.	360
Analyst 1	Experienced graduate. Required to assists senior staff in completing tasks on small to large engagements.	310
Analyst 2	Generally a university graduate with appropriate qualifications. Assists with day to day tasks under the supervision of senior staff.	240
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.	215
Undergraduate	Undertaking relevant degree. Assists with tasks within workstreams and appointments under supervision.	190
Senior Bookkeeper	Experienced bookkeeper with more than 18 months experience. Assist senior staff with accounting functions of engagement.	190
Bookkeeper	Assist senior staff with accounting functions of engagement.	170
PA	Appropriate skills and experience to support professional staff in an administrative capacity.	150
Administration	Appropriate skills and experience to support professional staff in an administrative capacity.	120



## Information sheet: Proposals without meetings

You may be a creditor in a liquidation, voluntary administration or deed of company arrangement (collectively referred to as an external administration).

You have been asked by the liquidator, voluntary administrator or deed administrator (collectively referred to as an external administrator) to consider passing a proposal without a meeting.

This information sheet is to assist you with understanding what a proposal without a meeting is and what your rights as a creditor are.

### What is a proposal without a meeting?

Meetings of creditors were previously the only way that external administrators could obtain the views of the body of creditors. However, meetings can be very expensive to hold.

A proposal without a meeting is a cost effective way for the external administrator to obtain the consent of creditors to a particular course of action.

### What types of proposals can be put to creditors?

The external administrator is able to put a range of proposals to creditors by giving notice in writing to the creditors. There is a restriction under the law that each notice can only contain a single proposal. However, the external administrator can send more than one notice at any single time.

### What information must the notice contain?

The notice must:

- include a statement of the reasons for the proposal and the likely impact it will have on creditors if it is passed
- invite the creditor to either:
  - vote yes or no to the proposal, or
  - object to the proposal being resolved without a meeting, and
- specify a period of at least 15 business days for replies to be received by the external administrator.

If you wish to vote or object, you will also need to lodge a Proof of Debt (POD) to substantiate your claim in the external administration. The external administrator will provide you with a POD to complete. You should ensure that you also provide documentation to support your claim.

If you have already lodged a POD in this external administration, you do not need to lodge another one.

The external administrator must also provide you with enough information for you to be able to make an informed decision on how to cast your vote on the proposal. With some types of proposals, the law or ARITA's Code of Professional Practice sets requirements for the information that you must be provided.

For example, if the external administrator is asking you to approve remuneration, you will be provided with a Remuneration Approval Report, which will provide you with detailed information about how the external administrator's remuneration for undertaking the external administration has been calculated.

### What are your options if you are asked to vote on a proposal without a meeting?

You can choose to vote yes, no or object to the proposal being resolved without a meeting.

### How is a resolution passed?

A resolution will be passed if more than 50% in number and 50% in value (of those creditors who did vote) voted in favour of the proposal, but only so long as not more than 25% in value objected to the proposal being resolved without a meeting.

### What happens if the proposal doesn't pass?

If the proposal doesn't pass and an objection is not received, the external administrator can choose to amend the proposal and ask creditors to consider it again or the external administrator can choose to hold a meeting of creditors to consider the proposal.

The external administrator may also be able to go to Court to seek approval.

### What happens if I object to the proposal being resolved without a meeting?

If more than 25% in value of creditors responding to the proposal object to the proposal being resolved without a meeting, the proposal will not pass even if the required majority vote yes. The external administrator will also be unable to put the proposal to creditors again without a meeting.

You should be aware that if you choose to object, there will be additional costs associated with convening a meeting of creditors or the external administrator seeking the approval of the Court. This cost will normally be paid from the available assets in the external administration.

This is an important power and you should ensure that it is used appropriately.

### Where can I get more information?

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

This information is available from ARITA's website at [artia.com.au/creditors](http://artia.com.au/creditors).

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