



**McCorkell & Associates Pty. Limited (In Liquidation)
A.C.N. 057 284 509 (“the Company”)**

Report to Creditors

27 February 2024

1. Executive Summary

1.1. Liquidator appointment

I was appointed as Liquidator of the Company on 15 February 2023 in accordance with a resolution passed pursuant to section 496(6) of *the Corporations Act 2001* (Cth), replacing Mr Liam Bailey of O'Brien Palmer (**the "Former Liquidator" or "Mr Bailey"**), who was appointed as creditor's voluntary liquidator on 15 Decemebr 2022.

This report should be read in conjunction with my initial report to creditors dated 22 February 2023 and the Former Liquidator's reports dated 23 December 2022 and 31 January 2023.

1.2. Purpose of this report

The purpose of this report is to:

- provide you with an update on the progress of the liquidation;
- seek creditors approval for liquidator's fees; and
- advise you of the likelihood of a dividend being paid in the liquidation.

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

Should you have any queries in relation to this matter, please contact Angelo Cadiz on (02) 8020 5856 or via email at acadiz@hogansprowles.com.au.

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

1.3. Summary of investigations

Public examinations were completed from 21 November 2023 to 23 November 2023 (inclusive). The examinations focused on the following:

Investigation / Recovery	Corporations Act
Creditor Defeating Disposition	Section 588FDB
Unreasonable Director-Related Transaction	Section 588FE
Breaches of statutory and fiduciary duties	Section 180 to 180
Relevant Agreement to Avoid Employee Entitlements	Section 596AC

1.4. Timeline of key events

Based on the information obtained throughout my investigations and the public examinations, I have constructed the following timeline of key events of the Company.

Date	Event
27 August 1992	The Company was registered on 27 August 1992.
27 August 1992 - Present	Mr Scott McCorkell (" Mr McCorkell " or " the Director ") was the director and secretary of the Company from 27 August 1992 to the date of the Liquidator's appointment. Mr McCorkell and his wife Georgina McCorkell (" Mrs McCorkell ") each hold 50% shares in the Company.
27 August 1992 - 20 June 2012	Mrs McCorkell was appointed as director and secretary of the Company from 27 August 1992 to 20 June 2012.
Around July 2019	Mr McCorkell indicated he was prepared to sell the Company to a Japanese advertising company, Dentsu, for a price of \$16 million. According, to the evidence given by Mr McCorkell during the course of his public examination, discussions with Dentsu ended shortly after changes in the management of Dentsu. Mr McCorkell also gave evidence that at the time Dentsu was only prepared to pay approximately \$12 million to \$14 million for the Company.
October 2022	Mr McCorkell had concerns as to the solvency of the Company and its ability to pay its debts as and when they fell due.
18 October 2022 - 20 October 2022	During 18 October 2022 to 20 October 2022, Mr McCorkell made three payments to the Company totaling \$500,000 (the "Loan").
21 November 2022	The Company's employed managing director, Karen Powell provides written notice of her resignation and provides three months' notice period as per her employment contract.
23 November 2022	Mr McCorkell has a meeting with the Company's external accountant, Andrew Fraser (" Mr Fraser ") and Mr Bailey at the Company's registered office to discuss the circumstances of the Company and the options available to the Company, including the sale of the business to a new entity to be established by Mr McCorkell. At the meeting, Mr Bailey suggests that the loans provided by Mr McCorkell be secured and registered on the PPSR. Further information relating to the matters discussed during the course of that meeting on 23 November 2022 is set out below.

23 November 2022	Immediately after the meeting, a security interest in favour of Mr McCorkell is registered on the Personal Property Securities Register (“PPSR”) in respect of the Company’s property (PPSR Registration No. 202211230061400) (the “PPSR Registration”).
24 November 2022	Mr McCorkell had a meeting with Mr Andrew Whittingham (“Mr Whittingham”) and Mr Fraser to discuss his engagement “for the purpose of executing a business transaction.” That transaction would include the preparation of a business valuation in relation to the business of the Company and advising on the steps required to effect the sale of the Company’s business.
24 November 2022	A new company, McCorkell Group Pty Limited was established and registered with ASIC (the “New Company”) with Mr McCorkell being the New Company’s director and secretary, and Mr McCorkell and Mrs McCorkell being equal shareholders.
28 November 2022	Mr Fraser provides Mr McCorkell with a draft loan agreement which has been prepared for the apparent purpose of documenting and securing the Loan.
29 November 2022	Mr McCorkell signs a loan agreement which was backdated to 28 October 2022 (the “Loan Agreement”). Based on documents obtained during the course of the public examinations and the evidence given during those examinations, despite the Loan Agreement being dated “28 October 2022”, that document was created and executed between around 28 November 2022 and 29 November 2022 and backdated to 28 October 2022.
December 2022	Mr Kyle Macmillan (“Mr Macmillan”) of Macmillan Lawyers and Advisors is engaged by Mr Whittingham to prepare the SPD. Mr Macmillan is provided with the Loan Agreement.
5 December 2022	Mr Macmillan emailed Mr Wittingham and raised concerns regarding the validity of the security interest created by the Loan Agreement. The email was forwarded to Mr McCorkell on 6 December 2023.
6 December 2022	Mr Fraser sent a copy of the executed Loan Agreement to Mr Bailey’s personal email address. Mr Bailey provides his comments in relation to the Loan Agreement and potential clauses to secure any further funding advanced by Mr McCorkell to Mr Fraser by way of text messages. The communications contained in that email and those text messages were not disclosed by Mr Bailey in his DIRRI.
6 December 2022	On 6 December 2022, the Director advanced an additional \$60,000 to the Company and it is classified in the Company’s accounts as an additional provision of financial accommodation. Accordingly, the total amount purportedly advanced by Mr McCorkell to the Company between around October 2022 and December 2022 was \$560,000.

9 December 2022	A Valuation Report was issued by Aaron Robinson of Groves & Partners ("Mr Robinson") which valued the business of the Company's at \$1,006,491.
14 December 2022	Mr Macmillan provides Mr McCorkell and Mr Whittingham with a final execution version of the Sale and Purchase Deed ("SPD") and Deed of Assignment at 10.59pm.
15 December 2022	Mr McCorkell signed and executed the SPD which was backdated to 14 December 2022. The sale involved the transfer of the Company's assets to the New Company for purported cash consideration of \$20,000, the New Company purporting to assume the employee entitlements of certain transferring employees owing by the Company and the New Company assuming responsibility for the repayment of the Loan.
15 December 2022	On the same day, the Company executed a Deed of Assignment of Loan and Consent of Lender between Mr McCorkell, the Company and the New Company. This assignment transferred the obligation for repayment of the Loan (of \$560,000) to the New Company. The security interest the subject of the PPSR Registration was also transferred to the New Company.
15 December 2022	The Former Liquidator was appointed on 15 December 2022, commencing the creditors' voluntary liquidation of the Company.
28 December 2022, 4 January and 5 January 2023	The Department of Employment and Workplace Relations (the "Department") and a creditor respectively requested Mr Bailey to provide documents of the Company, which was declined by Mr Bailey with reference to section 486 of <i>the Corporations Act 2001</i> .
29 December 2022	The Company received cash consideration of \$29,129.61 for the sale of business, with the adjustment of \$9,129.61 to the SPD relating to an employee entitlement that was removed from the SPD.
9 January 2023	Adesh Goel from Dilanchain Lawyers & Consultants, who represented a creditor of the Company contacted me on 9 January 2023, requested me to provide a Consent to Act to replace the Former Liquidator. On this same day, I provided my consent to act as liquidator of the Company.
31 January 2023	The Former Liquidator issued the statutory report to creditors. The statutory report was not required to be issued 15 March 2023.
15 February 2023	A meeting pursuant to Section 496 of the Corporations Act 2001 was convened by the Former Liquidator on 15 February 2023. At that meeting, it was resolved by the creditors that I be appointed as replacement liquidator of the Company.

2. Public examinations

Public examinations on the following parties were completed from 21 November 2023 to 23 November 2023 (inclusive).

21 November 2023

- Georgina McCorkell – Shareholder of the Company and wife of Mr McCorkell
- Aaron Robinson – Director of Groves & Partners
- Kyle Macmillan – Solicitor
- Scott McCorkell – Director and shareholder of the Company

22 November 2023

- Scott McCorkell – Director and shareholder of the Company
- Liam Bailey – Former liquidator of the Company

23 November 2023

- Andrew Fraser – External Account of the Company
- Andrew Whittingham - Director of Groves & Partners

I provide below a summary of the evidence obtained from certain documents produced pursuant to orders for production issued by the Court and the evidence given by the examinees during the course of their respective examinations. My investigations in respect of these matters are ongoing, and as such, some or all of the matters summarised below may be updated as and when additional information becomes available.

Background of appointment

Mr McCorkell advised that he first became concerned about the Company's insolvency in October 2022, as a result of cash flow issues at the time which required him to inject funds into the business and sought advice from Mr Fraser, who introduced Mr McCorkell to Mr Bailey.

Mr Fraser advised that Mr McCorkell was concerned about the Company's financial position following the resignation of Ms Powell based on the reported employee entitlements the Company was required to pay to her.

On 23 November 2023, the Director, Mr Bailey and Mr Fraser had a meeting at the offices of the Company (**the 23 November 2022 Meeting**). During the course of the 23 November 2023 Meeting, the Former Liquidator discussed the financial status of the Company and set out the following three (3) options available to the Director with respect to the Company:

- (a) Continue to trade the business of the Company. This would require the Director to continue to advance funds to meet the Company's liabilities and expenses (including with respect to employee wages and entitlements). We note the Director did not consider alternative funding arrangements, such as borrowing funds from a third-party financier or seeking to raise working capital from third party investors.

- (b) Place the Company into voluntary administration and appoint the Former Liquidator as the voluntary administrator of the Company.
- (c) Undertake a “pre-pack sale” of the Company’s business (**the Phoenix Option**).

The **Phoenix Option** (as explained by the Former Liquidator) involved the following steps:

- (a) obtain a valuation of the business of the Company;
- (b) incorporate a new entity for the purpose of transferring the business of the Company to that new entity;
- (c) preparing appropriate documentation to give effect to the transfer of the Company’s business to the new entity; and
- (d) immediately or shortly after the transfer of the Company’s business to the new entity, place the Company into liquidation and appoint a liquidator as the liquidator of the Company.

We note Mr Bailey conceded during the course of his public examination that a “pre-pack sale” is colloquially referred to as a “Phoenix” in the insolvency industry.

The resulting effect of the Phoenix Option being implemented would be that any “unwanted liabilities” (including with respect to unpaid and accrued employee entitlements and tax liabilities) would remain with the Company in liquidation, but that all of the available assets of the Company would be transferred to a new company owned and controlled by the Director.

The Former Liquidator indicated (during the course of the 23 November 2022 Meeting) that the assignment of any secured debts from the Company to the new entity could be used as a setoff to the purchase price of the business of the Company.

PPSR Registration

Immediately after the 23 November 2023 Meeting, a security interest in relation to the Loan in favour of Mr McCorkell was registered on the PPSR purportedly in respect of the assets of the Company.

Each of the attendees of the 23 November 2022 Meeting (including the Former Liquidator) were aware that there was no written loan agreement relating to the advance of funds by the Director to the Company in existence, as at the 23 November 2022 Meeting.

The examinees made the following comments in relation to the PPSR registration:

- a) it appears that the Former Liquidator indicated that if the Director had a valid security interest arising from his advance of funds to the Company, the Director should register that interest on the PPSR, with a view to perfecting that security interest (within the meaning of the *Personal Property Securities Act 2009* (Cth));

- b) according to Mr Fraser, the Former Liquidator “came up with the idea” to register the PPSR Registration and encouraged the Director and Mr Fraser to register that interest as quickly as possible; and
- c) according to Mr Fraser, the Former Liquidator told the Director and Mr Fraser to “create a loan agreement to support [the] secured interest” the subject of the PPSR Registration.

Based on the evidence given by Mr McCorkell and Mr Fraser, it appears that neither the Director nor Mr Fraser (who were the only other attendees at the 23 November 2022 Meeting other than the Former Liquidator) had any previous knowledge of the external administration provisions of the Corporations Act, the PPSR and the effect and utility of registering a security interest on the PPSR, insofar as a secured debt could be used a means to offset the purchase price payable under the SPD.

Loan Agreement

On 28 November 2022, Mr Fraser provided Mr McCorkell with a draft loan agreement which has been prepared for the purpose of securing the Loan.

On 29 November 2022, Mr McCorkell sent an email to Mr Fraser writing “*Please find attached the loan agreement we signed back on the 28th October 2022 that I forgot to send to you for SPG number: 103383836*” and attached the signed Loan Agreement.

Notwithstanding that the date of “28 October 2022” is recorded as the date on which the Loan Agreement was executed, that document seems to have been created and executed between around 28 November 2022 and 29 November 2022 and backdated by either Mr Fraser or the Director to 28 October 2022.

The Director has given evidence to the effect that the backdating of the Loan Agreement was to “pretend” that the Loan Agreement had been executed on 28 October 2022 when in fact it had been executed on 29 November 2022. Based on that (and other) concessions together with the documentary evidence in support of same the Loan Agreement appears to be a fraud.

In addition, given the funds purportedly advanced under the Loan Agreement were advanced prior to the date of the Loan Agreement (leaving aside the backdating of that document) it would seem that no consideration has been provided by the Director in respect of the Company purportedly granting a security interest under the Loan Agreement at a time after those advances had already been made to the Company.

On 5 December 2022, Mr Macmillan emailed Mr Whittingham and raised concerns regarding the timing of the Loan Agreement. He advised in the email that as the amounts the subject of the alleged Loan were transferred to the Company on 20 October 2022 and was later secured by the Loan Agreement dated 28 October 2022, it might give rise to an unfair preference claim in case of liquidation. He also suggested in the email that the security interest of the Loan may deem void by the liquidator as it was created 6 months prior to the liquidation.

On 6 December 2022, Mr Fraser sent Mr Bailey a copy of the executed Loan Agreement to the Mr Bailey’s personal email address and the Mr Bailey provided comments (by way of text messages) to Mr Fraser in relation to the Loan Agreement and potential clauses required to secure any further

funding advanced by the Director to the Funding. In relation to this correspondence, during the course of his public examination, Mr Bailey conceded that:

- (a) the existence, nature and contents of that correspondence ought to have been included in his declaration of independence, relevant relationships and indemnities (DIRRI);
- (b) he was giving advice to the Director about how he might further protect his position, in relation to a company over which he might be appointed as liquidator; and
- (c) Mr Fraser was seeking his approval in relation to the terms of the Loan Agreement on the possibility that the Former Liquidator would be appointed as liquidator of the Company.

Mr Fraser has conceded that he sent the Loan Agreement to the Former Liquidator prior to his appointment as liquidator of the Company to make sure that *“he was happy with the transaction as it had been prepared.”*

Valuation and Sale of the Business

At the 23 November 2023 Meeting, the Former Liquidator introduced the Director and Mr Fraser to Mr Whittingham of Groves & Partners for the purposes of conducting a business valuation with respect to the business of the Company. That introduction took place over the phone. Thereafter, on 24 November 2023, Mr Whittingham had a meeting with the Director and Mr Fraser to discuss his engagement *“for the purposes of executing a business transaction.”* We note that Mr Whittingham has conceded that his understanding of the proposed transaction was to effect a phoenix.

On 24 November 2022, the New Company was incorporated. In this regard, the Director:

- (a) is the sole director and sole secretary of the New Company. The Director and his wife (Ms McCorkell) each beneficially own 50% of the issued share capital in the New Company; and
- (b) has given evidence in the course of his public examination that the incorporation of the New Company was to facilitate the Phoenix Option.

Based on email correspondence between the Director, Mr Whittingham and Mr Fraser ending 9 December 2022 (at 5:39pm), it appears that the cash component of the purchase price payable pursuant to the SPD, being the sum of \$20,000, was pre-determined prior to the Valuation Report being issued on 9 December 2022.

On 9 December 2022, Groves & Partners issued a valuation in relation to the business of the Company (**“the Valuation Report”**) which valued the Company’s business at \$1,006,491 (**“the Valuation Amount”**).

The SPD dated 14 December 2023 gave effect to the Phoenix Option. In this regard:

- (a) the SPD was prepared by Mr Macmillan. Mr Whittingham introduced Mr Macmillan to the Director for the purpose of preparing the transaction documents to give effect to the Phoenix Option;
- (b) Mr Whittingham assisted in the preparation of the Business Sale Deed, including by way of making amendments and providing comments in relation to that deed; and

- (c) the consideration purportedly paid to acquire the business of the Company was as follows (“the Purchase Price”):

Part 3: The Business Purchase Price and Sum of Component Parts	
Item	Amount
Assets	
Unencumbered Plant & Equipment (see Annexure A)	\$19,665.00
Intellectual Property and Business Name (branding, website, email accounts, books and records, client relationships etc)	Nil
Licences, Contracts, Agreements and work in progression current as at the Commencement Date	\$1,177,808.80
Debtors (see Annexure B)	\$1,039,956.36
Liabilities	
Transferring Employee Entitlements (see Annexure E)	(\$1,657,430.16)
Loan Agreement and additional \$60,000 loaned	(\$560,000.00)
Total	\$20,000.00

- (d) In relation to the Purchase Price:
- (i) In circumstances where the Loan Agreement had been backdated, it is questionable whether the amount attributable to the Loan Agreement should have formed part of the Purchase Price (at least insofar as it was stated as being by way of assumption of a debt secured over the assets of the Company);
 - (ii) the Director and Ms McCorkell have both conceded during the course of their respective public examinations that each year they used their annual leave accrued in relation to their employment by the Company but did not record this in the books and records of the Company; and
 - (iii) the Director and Ms McCorkell have both conceded in the course of their respective public examinations that the amounts attributable to the employment entitlements of the Director and Ms McCorkell (as “Transferring Employees” under the SPD) totalling the sum of \$1,012,204 should not have formed part of the Purchase Price for the business of the Company.

2.1 Causes of action

Following the examinations, the following causes of action have been identified against the Director and each of the “Advisors” (being Mr Bailey (the Former Liquidator) and Messrs Whittingham, Fraser and Macmillan):

- (a) Breaches of statutory and fiduciary duties owed by the Director to the Company as the sole director and sole secretary of the Company pursuant to sections 180 to 183 of the Corporations Act and at common law. Such a cause of action would also include a potential claim against the Advisors as persons involved in the contravention of the Corporations Act by

them being aiding, abetting, counselling or procuring the Director's breaches within the meaning of section 79 of the Corporations Act or knowingly involved in the Director's breaches of this fiduciary duties to the Company owed at general law.

- (b) Unreasonable Director-Related Transaction – in relation to the transfer of the Company's business to the New Company immediately prior to the Company being placed into liquidation. Such a transaction is potentially void as against the liquidator of the Company pursuant to section 588FE(6A) of the Corporations Act.
- (c) Creditor-Defeating Disposition – in relation to the transfer of the Company's business to the New Company immediately prior to the Company being placed into liquidation which has the effect of preventing, hindering or significantly delaying that property from being available to the Company's creditors (which includes the Commonwealth Government under the Fair Entitlements Guarantee scheme and the Australian Taxation Office) within the meaning of section 588FDB(1) of the Corporations Act. Included in this potential cause of action is a claim against the Advisors in relation to their involvement in that transfer.
- (d) Relevant Agreement to Avoid Employee Entitlements – contravention of section 596AC of the Corporations Act pursuant to which, a person knows (or a reasonable person in the position of the person would know) that a relevant agreement or transaction is likely to avoid, prevent or significantly reduce the amount of the entitlements of employees of the Company that can be recovered.

Our investigations in relation to the causes of action and next steps are continuing.

3. Update on Liquidation

3.1 Company Background

The Company operated a business which provided integrated advertising and marketing services from a premises located at North Sydney, NSW.

3.2 Commencement of proceedings and Asset preservation orders

Following my initial investigations in relation to the sale of business, I commenced proceedings in the Federal Court of Australia seeking:

- (a) Approval to enter into a funding deed and an indemnity agreement with the Commonwealth pursuant to section 477(2B) of the Act.
- (b) Orders for the issue of examination summons and orders for production to the Director, his wife and the Advisors.
- (c) Interim asset preservation orders pursuant to section 1323(3) of the Act:
 - (i) Restraining the Director from selling, transferring, charging mortgaging or otherwise dealing with, disposing or and/or diminishing in value his interest in the property known as 57 Bay Street, Mosman NSW 2088 (the "Property"); and/or

- (ii) Causing, permitting and/or otherwise allowing his interest in the Property to be sold, transferred, charged, mortgaged or otherwise dealt with, disposed of and/or diminished in value.
- (iii) Restraining the New Company from selling, transferring, charging mortgaging or otherwise dealing with, disposing or and/or diminishing in value its business, assets and undertakings (**the “McCorkell Assets”**); and or
- (iv) Causing, permitting and/or otherwise allowing the McCorkell Assets to be sold, transferred, charged, mortgaged or otherwise dealt with, disposed of and/or diminished in value.

3.3 Funding Agreement

I have entered into a funding agreement from the Commonwealth of Australia, represented by the Department of Employment and Workplace Relations (“**the Department**”) to carry out ongoing investigations and examinations in respect to the matters addressed (but not limited to) in this report. The Funding provided me with funds to undertake work necessary to advance my investigations for the benefit of creditors.

Further details in relation to the quantum of the funding amount and terms are confidential.

3.4 ASIC Search

An ASIC Search conducted for the Company discloses the following:

Company Details		
Registration Date	27 August 1992	
Registered Office	Level 3, 146 Arthur Street, North Sydney NSW 2060	
Principal Place of Business	Level 3, 146 Arthur Street, North Sydney NSW 2060	
Director		
Scott Keith McCorkell	27 August 1992	-
Former Director		
Georgina McCorkell	27 August 1992	20 June 2012
Graeme Richard Donald	27 August 1992	27 August 1992
Ross Alexander Dagleish	27 August 1992	27 August 1992
Secretary	Appointed	Ceased
Scott Keith McCorkell	27 August 1992	-
Share Structure	Amount Paid	Amount Unpaid
100 Ordinary Shares	\$100.00	\$0.00
Current Shareholders	Shares Held/Type	Fully Paid
Scott Keith McCorkell	1/Ord	Yes
Georgina McCorkell	1/Ord	Yes

3.5 Personal Property Securities Register

A search of the PPSR disclosed one (1) security interest registered against the property of the Company, the particulars of which are summarised below:

Secured Party	Collateral	PMSI	PPSR Number
Esanda Finance Corporation Limited	Commercial – All-Present and After-Acquired Property	No	201112150442220

I have received confirmation from Esanda Finance Corporation Limited that the security interest has expired and that there are no outstanding debts.

3.6 Directorship search

A personal historical search has been conducted of ASIC's record for the Director, Scott Keith McCorkell. Below is a summary of the directorships and shareholdings of the Director held over the last six (6) years:

Scott Keith McCorkell

Company Name	Position	Start Date	End Date
McCorkell Group Pty Limited	Director & Secretary	24/11/2022	-
Harrison Jack Pty Limited	Director & Secretary	15/06/2012	-
The Standard Agency Pty Ltd	Director & Secretary	15/09/2017	-
Shareholdings	Shares	Beneficially Held	Beneficially Paid
Harrison Jack Pty Limited	120 Ordinary Shares	Yes	Yes

4. Estimated Position Statement

Given the confidentiality clauses contained in the Funding Agreement and noting that my investigations with respect to potential causes of action are ongoing, I am unable to provide an estimated position statement at this time.

5. Report on Company Activities and Property ("ROCAP")

The Act requires the director and secretary to comply and provide to the liquidator a ROCAP, detailing the financial position of the company at the date when the Company was placed into Liquidation, being 15 December 2022.

The Director returned the ROCAP on Tuesday, 7 March 2023. A summary of the ROCAP and the liquidators' estimate is below:

	Notes	Director's RoCAP (\$)	Liquidator's estimate (\$)
Assets			
Bank accounts	1	39,292	44,083
Trade debtors	2	1,039,956	nil
Term Deposit (bond)	3	174,656	TBA
Fittings & fixtures	4	19,665	nil
		1,273,569	44,083
Liabilities			
Priority Unsecured Creditors			
Employees entitlements	5	823,534	4,215,825
Unsecured Creditors			
ATO	6	644,026	562,399
Trade creditors	7	1,205,863	1,337,867
		1,849,889	1,900,266
Total surplus/deficiency		(1,399,854)	(6,072,008)

Notes

1 Bank accounts

Upon my appointment, I was advised by Westpac that the Company held a pre-appointment bank account with funds in the sum of \$44,082.77. These funds have been transferred to the liquidation account under my control.

2 Trade Debtors

The Director's questionnaire, recorded \$1,039,956 in trade debtors as at 15 December 2022, which was assigned to the New Company as part of the sale. The transfer of the trade debtors will form part of the investigations in relation to the sale of the business to the New Company.

3 Term Deposit

The Company's balance sheet disclosed a rental bond totalling \$174,665.71 with respect to the Company's leased premises which was disclaimed by the former liquidator on 23 January 2023.

The former liquidator advised that the New Company had been occupying the Company's leased premises after the sale of the business on 14 December 2022. However, the New Company also appears to have vacated the premises following my appointment. I subsequently issued correspondence to the landlord requesting payment of \$160,451, being the balance of the rental bond after deducting the outstanding rent as at 15 December 2022.

The landlord has disputed the demand advising that that the premises was vacated by the New Company and has claimed losses in relation to the lease in the sum of \$331,035. Our investigations in relation to this potential claim are continuing.

4 Fittings & Furniture

The Director disclosed Company's furniture and fixtures in the amount of \$19,665. This asset formed part of the business sale to the New Company which is the subject of the potential claims discussed in section 2.1 of this report.

5 Employees Entitlements

The estimated outstanding unrelated employee entitlements is \$1,162,648 as follows:

Entitlement Category	Rocap (\$)	Total entitlement (\$)	FEG Advances (\$)
Annual leave	188,052	193,022	100,315
Long Service Leave	74,542	93,940	52,557
Notice PILN	146,596	163,316	76,398
Redundancy	82,884	339,567	188,660
Wages	47,362	90,275	4,229
Super	284,098	279,636	0
Total (\$)	823,534	1,162,648	422,161

To date, the Department have made advances to employees of the Company who were not transferred to the New Company prior to the liquidation in respect of their outstanding entitlements in the sum of \$422,161.

The Department administer the FEG scheme and has a right of subrogation in respect of employee claims once it has paid these amounts. FEG advances are capped by reference to the FEG maximum weekly wage, however employees will retain their priority claims for any unpaid claims above the FEG cap.

I have received an amended assessment from the ATO in relation to debts claimed to be owed to the ATO totalling the sum of \$3,332,812.43 in respect of superannuation guarantee charge applicable to the Company for the periods ending 30 September 2018 to 30 September 2022 (inclusive). The Director has disputed these charges and we have requested further information from the ATO in relation to the amended assessment. Our investigations in relation to the claimed superannuation debts are continuing.

The above position may change, pending further investigations being conducted and any additional documentation received.

6 Unsecured creditors

A summary of the known unsecured creditors to date is provided below:

Creditor	Amount (\$)
ATO (Running Balance Account deficit debts)	562,399
Trade creditors (53)	1,356,058
Total	1,918,457

I note that the above summary does not include the sum of \$3,332,812.43 in respect of superannuation guarantee charge claimed to be applicable to the Company by the ATO for the periods ending 30 September 2018 to 30 September 2022 (inclusive)

6. Investigations

6.1 Books and records

I note that a number of documents which may form part of the books and records of the Company were transferred to the New Company as part of the SPD.

The Director has been assisting us in providing some documentation on my request. Based on my review of the books and records I have received to date, I am of the view that the Company's books and records kept in a manner that complies with Section 286 of the Act.

Failure to maintain books and records may also 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.

To date, I have received the following books and records of the Company:

- Books and records in relation to the Company held by O'Brien Palmer;
- A copy of the SPD between the Company and the New Company;
- The Company's financial statements for the year ended 30 June 2019 and 30 June 2021; tax returns for the year ended 30 June 2020 and 30 June 2021;
- Bank statements from Westpac for the period 1 January 2019 to 15 February 2023;
- Copies of Company's insurance policies provided by Marsh Advantage Insurance;
- Documentations regarding employees matters including copies of employment contract;
- Completed RoCAP;
- Access to the Company's MYOB file; and
- Copy of the Valuation Report and relevant documentation relating to same.

6.2 Reasons for Failure

The Director indicated in the completed questionnaire that the business's failure was attributed to the following factors:

- Covid-pandemic and economic downturn leading to decreasing sales performance; and
- Unable to sustain high employment expenses as a result;

6.3 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 to the liquidator that a past or present officer of the Company may have been guilty of an offence in relation to the Company and in other limited circumstances. I intend to lodge a report pursuant to this section of the Act.

Pursuant to Part 5.7B of the Act, the 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 conducted the following preliminary investigations in relation to recoveries, offences and voidable transactions:

- Review books and records for the period approximately six months prior to the appointment of the liquidator to determine whether any creditors have been preferred over the general body of creditors as a result of any transaction; and
- Investigations into the Director's misconducts and breaches of director's duties, including public examinations.

The relation back date period is 15 June 2022 to 15 December 2022.

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 transactions 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 (6) months prior to the relation back day and ending on the date of liquidation.

My investigations in relation to transactions that would be subject to this section of the Act are continuing.

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 Company was insolvent or would become insolvent.

For an uncommercial transaction to be voidable, the transaction would have taken place during the two (2) years ending on the relation-back day or if a related entity was the other party to the transaction, during the four (4) years ending on the relation-back day.

I consider that the transfer of the Company's business to the New Company immediately prior to the Company being placed into liquidation is potentially a transaction 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.

Based on the Company books and records available to me, I 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.

I consider that the transfer of the Company's business to the New Company immediately prior to the Company being placed into liquidation is potentially a transaction that would be subject to this section of the Act.

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.

I consider that the transfer of the Company's business to the New Company immediately prior to the Company being placed into liquidation is potentially a transaction that would be subject to this section of the Act.

6.4 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"

6.4.2 Insolvent Trading Defences

The defences available to directors 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.

The Former Liquidator's investigations concluded that the Company was insolvent from at least 30 June 2019. I have not yet formed a view on the insolvency date for the Company and our investigations are continuing.

Director's personal financial position

The Director has not provided a statement of his personal assets and liabilities.

According to the NSW Land Title search conducted, Mr McCorkell currently jointly holds a 50% interest in 1 (one) real property in Mosman, NSW 2088, which are currently subject to freezing orders until 29 March 2024.

6.4 Breach of Directors' Duties

Section 180 to 183 of the Act sets out duties and powers of directors and officers of a company to enable Directors 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 – Criminal Offences

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.

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 distribution of work between the board.

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.

I consider that the Director potentially breached his fiduciary and statutory duties as a director of the Company by causing, permitting or otherwise allowing the Company's business to be transferred to the New Company immediately prior to the Company being placed into liquidation.

I will be preparing a confidential report for identified breaches to ASIC pursuant to section 533 of the Act.

7. What happens next?

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

- Continue my investigation into potential recoveries identified;
- Reporting to the corporate insolvency regulator, ASIC
- Continue my investigations into the affairs of the Company;
- Any other matters relevant to the liquidation.

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 F**, I will hold a meeting of creditors. If you have not already submitted your claim, please complete the Proof of Debt form attached as **Annexure A**.

I expect to have completed this liquidation within six months to twelve months.

8. Likelihood of a Dividend

The likelihood of a dividend is dependent on additional investigation and recoveries made in the liquidation. Further updates will be provided in subsequent report to creditors.

9. Costs of the Liquidation

To the date of this report, I have incurred \$251,405.29 in remuneration and \$1,610.94 in disbursements. In this regard, I am seeking approval from the creditor's approval for my proposed remuneration, without a meeting of creditors, via the following circular resolutions in this report:

- Approve the remuneration of the Liquidator of \$252,229.29 exclusive of GST (**Annexure B**);
- Approve the disbursements of the Liquidator of \$1,610.94 exclusive of GST (**Annexure C**);

10. Receipts and payments

A summary of receipts and payments in the Liquidation is provided below.

Summarised receipts and payments for the period 15 February 2023 to 26 February 2024		\$ (incl GST)
Receipts		
Preappointment cash at bank		44,083
Funding		177,517
Total Receipts		221,600
Payments		
Legal fees and disbursements		184,984
Total Payments		184,984
Balance in Hand		36,616

11. Where can you get more information?

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

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

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

If you have any queries or have any information to support the liquidation you can contact my office and speak with Angelo Cadiz on 02 9497 5079 or via email on acadiz@hogansprowles.com.au.

Dated: 27 February 2024

McCorkell & Associates Pty. Limited (In Liquidation)



Michael Hogan
Liquidator

Attachments

- | | |
|------------|--|
| Annexure A | Informal Proof of Debt form |
| Annexure B | Proposal 1: Liquidator's current remuneration |
| Annexure C | Proposal 2: Liquidator's current disbursement |
| Annexure D | Remuneration Report |
| Annexure E | ARITA Information Sheet - Proposals without meeting |
| Annexure F | ARITA Information Sheet – Creditors rights in liquidations |

INFORMAL PROOF OF DEBT FORM

McCorkell & Associates Pty. Limited (In Liquidation)
A.C.N. 057 284 509 ("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.

NOTICE OF PROPOSAL TO CREDITORS

Dated: 27 February 2024

Voting Poll Closes: 20 March 2024

**McCorkell & Associates Pty. Limited (In Liquidation)
A.C.N 057 284 509 ("the Company")**

Proposal No. 1 for creditor approval

"That the current remuneration of the Liquidators from 15 February 2023 to 26 February 2024 is determined at a sum equal to the cost of time spent by the Liquidator, their partners and staff, calculated at the hourly rates as detailed in the Liquidator's Remuneration Report dated February 2024 such sum to be capped at the amount of \$252,229.29 exclusive of GST, and that the Liquidators may 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 Joint and Several Liquidators. 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.
- We are unable to pay our 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 our remuneration will allow us 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 20 March 2024, by email to Jacqueline Lau at jlau@hogansprowles.com.au. Should you have any queries in relation to this matter, please contact Jacqueline Lau on (02) 9707 0918.

HoganSproles
Level 9,
60 Pitt Street
SYDNEY NSW 2000

NOTICE OF PROPOSAL TO CREDITORS
Dated: 27 February 2024**Voting Poll Closes: 20 March 2024**

**McCorkell & Associates Pty. Limited (In Liquidation)
A.C.N 057 284 509 (“the Company”)**
Disbursements

Disbursements are divided into three types:

- **Externally provided professional services** (eg legal fees) – these are recovered at cost.
- **Externally provided non-professional costs** (eg travel, accommodation and search fees) – these are also recovered at cost.
- **Internal disbursements** (eg photocopying, telephone, fax, printing and postage costs) – these are generally recovered at cost, however, expenses such as telephone calls, photocopying and printing may be charged at a rate which recoups both variable and fixed costs on a reasonable commercial basis.

I am not required to seek creditor approval for disbursements paid to third parties, however, I am required to account to creditors for such expenses and I must be satisfied that those disbursements are appropriate, justified and reasonable. In respect of Internal disbursements, to the extent that these may be recovered at more than their cost, they may be considered as deriving a profit or advantage and must therefore be approved by creditors, a committee of inspection (if one is appointed), or by the Court prior to them being drawn.

Declaration

I, Michael Hogan have undertaken a proper assessment of disbursements claimed in the matter of the Company, in accordance with the law and applicable professional standards and we are satisfied that the disbursements claimed are necessary and proper.

It is proposed that future disbursements to be provided by my firm will be charged to the Company on the following basis:

Disbursements	Rate (Excl GST)
Externally provided professional services	At cost
Externally provided non-professional services	At cost
Internal disbursements	
Advertising	At cost
Search fees	At cost
Courier	At cost
Printing, Faxes & Photocopies	\$0.20 per page
Postage	At cost
Stationary and other incidental disbursements	At cost
Travel - Staff by own vehicle	\$0.72 per km
Travel - other	At cost

Proposal No. 2 for creditor approval

“That the future disbursements of the Liquidator from 15 February 2023 to 26 February 2024 is determined at a sum equal to the cost spent by the Liquidator, their partners and staff, calculated at the rates as detailed in the remuneration report dated 27 February 2024 such sum to be capped at the amount of \$1,610.94 exclusive of GST, and that the Liquidator may draw the disbursements 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. We are unable to pay our disbursements 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 our disbursements will allow us to progress further investigations in a timely manner to ensure the prospect of any dividends can be maximised.
- 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 Liquidator’s staff, by email or telephone, for an update on the liquidation.

Creditor details

Name of creditor

Address

ABN (if applicable)

Contact number

Email address

**Name of creditor /
authorised person:** _____

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 20 March 2024, by email to Jacqueline Lau at jlau@hogansprowles.com.au. Should you have any queries in relation to this matter, please contact Jacqueline Lau on (02) 9707 0918.

HoganSprowles
Level 9,
60 Pitt Street
SYDNEY NSW 2000

Liquidators Remuneration Approval Report

McCorkell & Associates Pty. Limited (In Liquidation) A.C.N 057 284 509 (“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 of the Company.

This report has the following information included:

Contents

Part 1: Declaration.....	2
Part 2: Executive Summary	2
Part 3. Remuneration	3
Part 4: Disbursements	4
Part 5: Summary of Receipts and Payments	5
Part 6: Queries.....	5
Part 7: Approval of remuneration and internal disbursements.....	5
Schedule A – Resolution 1 - Table of major tasks for remuneration	5

What do you need to do next?

You should read this report and the other documentation that I have sent you.

To minimise the costs in 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. We need to receive your forms **by 20 March 2024** 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 Angelo Cadiz of my office on (02) 9497 5079 or via email at acadiz@hogansprowles.com.au or Jacqueline Lau of my office on (02) 9707 0918 or via email at jlau@Hogansprowles.com.au.

Part 1: Declaration

I, Michael Hogan of HoganSprowles, have undertaken a proper assessment of this remuneration claim for my appointment as liquidator of the Company 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.

I have reviewed the work in progress report for the liquidation to ensure that remuneration is only being claimed for necessary and proper work performed.

Part 2: Executive Summary

The total remuneration incurred to date for this appointment is \$252,299.29 exclusive of GST. I am unable to estimate the quantum of my future fees as the amount will be subject to the outcome of my investigations and recoveries. Accordingly, I will seek further approval of my future remuneration at a later date.

Remuneration currently claimed is summarised below:

Period	Report Reference	Amount (ex GST)
Current Remuneration claim:		
Liquidation		
Resolution [1]: Period: 15 February 2023 to 26 February 2024	Part 3	\$252,299.29
Total – Remuneration claimed		\$252,299.29
* Approval for the future remuneration sought is based on an estimate of the work necessary to the completion of the liquidation. Should additional work be necessary beyond what is contemplated, further approval may be sought from creditors.		

Disbursements that require creditor approval currently claimed are summarised below:

Period	Report Reference	Amount (ex GST)
Current disbursements claim:		
Liquidation		
Resolution [2]: Period: 15 February 2023 to 26 February 2024	Part 4	\$1,610.94
Total – disbursements claimed		\$1,610.94
* Approval for the future internal disbursements sought is based on an estimate of the internal disbursements necessary to the completion of the liquidation. Should additional disbursements be necessary beyond what is contemplated, further approval may be sought from creditors.		

Please refer to report section references detailed in the above table for full details of the remuneration and disbursements approval sought.

Part 3. Remuneration

3.1 Remuneration claim resolutions

I will be seeking approval of the following resolution to approve my remuneration. Details to support this resolution is included in section 3.2 and in the attached Schedule.

Resolution [1]: from 15 February 2023 to 26 February 2024

“That the current remuneration of the Liquidators from 15 February 2023 to 26 February 2024 is determined at a sum equal to the cost of time spent by the Liquidator, their partners and staff, calculated at the hourly rates as detailed in the Liquidator’s Remuneration Report dated February 2024 such sum to be capped at the amount of \$252,299.29 exclusive of GST, and that the Liquidators may draw the remuneration on a monthly basis or as required”.

3.2 Details of Remuneration

At this stage, I will not be seeking approval for future remuneration in this report.

3.3 Total remuneration reconciliation

At this point in time, I am unable to estimate the quantum of my future fees. This is subject to the following variables which may have a significant effect on this estimate and that I am as yet unable to determine:

- The time required to obtain the Company books and records from the director and third parties;
- Investigations required into the business affairs of the Company and identify any assets or recoveries available to the liquidator;
- Significant time spent on litigations and examination with various parties;
- Liaise with Commonwealth of Australia in relation to funding for the liquidation;
- Time spent on issues in relation to employees entitlements; and
- Any matters identified that are required to be reported to statutory authorities, such as ASIC.

Should the costs of the liquidation exceed my remuneration approval, I will then ask creditors to approve my remuneration retrospectively. Creditors will have an opportunity to ask any questions they may have in respect of the cost of the liquidation and will be provided with a report on time spent and tasks undertaken, along with a general report on the progress of the liquidation.

3.4 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.

Part 4: Disbursements

Disbursements are divided into three types:

- **External professional services** - these are recovered at cost. An example of an externally provided professional service disbursement is legal fees.
- **External non-professional costs** - these are recovered at cost. Examples of externally provided non-professional costs are travel, accommodation and search fees.
- **Internal non-professional costs** - such as photocopying, printing and postage. These disbursements, if charged to the Liquidation, 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. Details of the basis of recovery of each of these costs is discussed below.

I am not required to seek creditor approval for costs paid to third parties or for disbursements where I am recovering a cost incurred on behalf of the liquidation, but I must account to creditors. I must be satisfied that these disbursements are appropriate, justified and reasonable. Details of these disbursements are included in the attached Receipts and Payments.

I am required to obtain creditor's consent for the payment of a disbursement where I, or a related entity of myself, may directly or indirectly obtain a profit. In these circumstances, creditors will be asked to approve my disbursements prior to these disbursements being paid from the liquidation.

Details of these disbursements are provided below.

I have undertaken a proper assessment of disbursements claimed for the Company, in accordance with the law and applicable professional standards. I am satisfied that the disbursements claimed are necessary and proper.

There have been no disbursements paid to date in the liquidation.

4.1 Future basis of internal disbursements

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

Disbursements	Rate (Excl GST)
External professional services	At cost
External non-professional services	At cost
Firm non-professional costs	
Phone calls	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	\$0.72 per km
Travel - other	At cost

Rates applicable for financial year ending 30 June 2024.

Part 5: Summary of Receipts and Payments

There have been no receipts and payments in the liquidation to date.

Part 6: Queries

If you have any queries in relation to the information in this report, please contact Angelo Cadiz on (02) 9497 5079 or via email at acadiz@hogansproawles.com.au.

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

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

Supporting documentation for my remuneration claim may be viewed if requested, provided sufficient notice is given.

Part 7: Approval of remuneration and internal disbursements

I have enclosed the following for your completion by **20 March 2024**:

- Annexure C - Voting slip for the liquidator’s future remuneration;
- Annexure D - Voting slip for the liquidator’s disbursements;
- Annexure B - Proof of debt form

Schedule A – Resolution 1 - Table of major tasks for remuneration

The below table provides a description of the work which has been or will be undertaken in each major task area during the course of the liquidation.

Task Area	General Description	Includes
Assets 5.20 hours \$2,340.00	Plant & Equipment	Identifying assets.
	Other Assets	Tasks associated with realising other assets.
	Creditor Enquiries, Requests & Directions	Receive and respond to creditor enquiries. Maintaining creditor request log. Review and prepare correspondence to creditors and their representatives. Collecting information on creditors. Correspondence with creditors.

Task Area	General Description	Includes
Creditors 73.20 hours \$27,062.70	Creditor reports	Preparation of initial report to creditors. Preparation statutory report to creditors. Prepared estimated position and return to creditors. Reviewing and making changes to report.
	Dealing with proofs of debt	Receipting and filing POD's when not related to a dividend . Corresponding with OSR and ATO regarding POD when not related to a dividend.
	Proposals to Creditors	Preparing proposal notices and voting forms. Forward notice of proposal to all known creditors.
Employees 68.50 hours \$24,056.10	Employee 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. Reviewing correspondence in relation to employees visas and retention. Liaise with employees regarding lodging their claim. Call with employee to discuss their position.
	FEG	Correspondence with FEG. Preparing notification spreadsheet. Preparing FEG quotations and distributions. Liaise with lawyer regarding employee issues. Reviewing calculation and reports from FEG. Liaise with FEG regarding issues of employees entitlements.
	Calculation of entitlements	Calculating employee entitlements. Reviewing employee files and company's books and records. Reconciling superannuation accounts. Review employees position.
Investigation 337.30 hours \$141,032.99	Conducting investigations	Collection of company's books and records. Reviewing company's books and records. Review and preparation of company nature and history. Reviewing bank statements and PPSR. Conducting investigations into rental bond. Liaising with the landlord. Reviewing FEG funding application forms.

Task Area	General Description	Includes
		<p>Liaising with lawyers regarding investigations and security validation. Reviewing business sale agreement. Meeting with the Director and third parties to discuss the business affairs. Meeting with lawyers to discuss various issues. Review chronology. Preparing funding agreement. Meeting with FEG. Preparing correspondence to third parties requesting books and records. Reviewing investigation and documentation provided by various parties. Extracting financial reports from accounting system. Conducting and summarising statutory searches. Liaising with insurance brokers regarding Company's insurance. Liaising with lawyers regarding employee entitlements. Preparing file notes and investigation files. Preparation of comparative financial statements. Reviewing director loan ledger. Preparation of deficiency statement. Review of specific transactions and liaising with directors regarding certain transactions. Liaising with directors regarding certain transactions. Consider and review related party loans and transactions. Preparation and lodgement of supplementary report if required.</p>
	Examinations	<p>Compiling documents for lawyers. Preparing funding application and liaise with lawyers. Preparation of affidavits for court appearances in relation to public examinations and freezing orders. Reviewing documents produced in response to Orders for Production Attendance to examinations</p>
	Litigation/Recoveries	<p>Call with lawyers regarding funding application and potential recovers. Preparing investigations file note regarding the valuations.</p>

Task Area	General Description	Includes
		<p>Reviewing supporting documents in relation to the valuation of business.</p> <p>Internal meeting to discuss various issues.</p> <p>Reviewing submission from the counsel.</p> <p>Preparing and reviewing affidavits.</p> <p>Attending court for hearing regarding injunction order.</p> <p>Reviewing orders and reasons from the Court.</p> <p>Reviewing response from the director's solicitors and discuss.</p>
	ASIC Reporting	<p>Preparing statutory investigation reports.</p> <p>Preparing affidavits seeking non-lodgement assistance.</p> <p>Liaising with ASIC.</p>
Administration 118.30 hours \$57,737.50	Document maintenance/file review/checklist	<p>First month, then six monthly administration reviews.</p> <p>Filing of documents.</p> <p>File reviews.</p> <p>Updating checklist.</p>
	Insurance	<p>Identification of potential issues requiring attention of insurance specialists.</p> <p>Correspondence with insurer regarding initial and ongoing insurance requirements.</p> <p>Reviewing insurance policies.</p> <p>Correspondence with previous brokers.</p>
	Bank account administration	<p>Preparing correspondence opening and closing accounts.</p> <p>Requesting bank statements.</p> <p>Bank account reconciliations.</p> <p>Correspondence with bank regarding specific transfers.</p>
	ASIC Forms and lodgements	<p>Preparing and lodging ASIC forms.</p> <p>Correspondence with ASIC regarding statutory forms.</p> <p>Preparing form 525 regarding disclaimer.</p>
	ATO and other statutory reporting	<p>Notification of appointment.</p> <p>Correspondence with ATO regarding lodgements and registration.</p> <p>Notifying ATO of finalisation.</p>
	Planning / Review	<p>Discussions regarding status of administration.</p>
	Books and records / storage	<p>Dealing with records in storage.</p> <p>Recall records for investigations and collation of documents.</p>

Calculation of Remuneration

Resolution 1 – Current liquidators’ remuneration for the period 15 February 2023 to 26 February 2024

McCorkell & Associates Pty Ltd (In Liquidation)

HOURS INCURRED FROM 15 FEBRUARY 2023 TO 26 FEBRUARY 2024 CALCULATION OF REMUNERATION

Employee	Position	\$/hour	Total actual hours	Total (\$)	Task Area									
					Assets hrs	\$	Creditors hrs	\$	Employees hrs	\$	Investigation hrs	\$	Administration hrs	\$
Michael Hogan	Partner	595.0	73.7	43,852	0.0	0	1.6	952	7.4	4,403	18.6	11,067	46.1	27,430
Michael Hogan	Partner	640.0	63.4	40,576	0.0	0	2.2	1,408	0.7	448	31.7	20,288	28.8	18,432
Anny Ngo	Director	550.0	2.3	1,265	0.0	0	0.0	0	1.3	715	0.7	385	0.3	165
Anny Ngo	Director	592.0	0.2	118	0.0	0	0.0	0	0.0	0	0.0	0	0.2	118
Angelo Cadiz	Senior Manage	538.0	104.4	56,167	0.0	0	21.0	11,298	4.5	2,421	74.9	40,296	4.0	2,152
Angelo Cadiz	Manager 2	450.0	112.9	50,805	5.2	2,340	7.9	3,555	17.0	7,650	78.7	35,415	4.1	1,845
Angelo Cadiz	Manager 2	484.0	1.0	484	0.0	0	0.0	0	0.0	0	1.0	484	0.0	0
Christine Xiao	Analyst 1	334.0	7.7	2,572	0.0	0	2.0	668	0.3	100	4.5	1,503	0.9	301
Christine Xiao	Analyst 2	240.0	90.9	21,809	0.0	0	20.8	4,992	32.3	7,752	28.3	6,785	9.5	2,280
Christine Xiao	Analyst 2	258.0	1.6	413	0.0	0	0.0	0	1.6	413	0.0	0	0.0	0
Jacqueline Lau	Analyst 2	258.0	106.7	27,536	0.0	0	11.9	3,070	0.0	0	88.4	22,815	6.4	1,651
Dominique Bui	Graduate	215.0	9.6	2,064	0.0	0	0.7	151	0.5	108	0.0	0	8.4	1,806
Dominique Bui	Graduate	233.0	0.9	210	0.0	0	0.0	0	0.2	47	0.0	0	0.7	163
Jackson Young	Under Graduat	190.0	16.2	3,078	0.0	0	5.1	969	0.0	0	10.5	1,995	0.6	114
Jackson Young	Under Graduat	204.0	2.8	571	0.0	0	0.0	0	0.0	0	0.0	0	2.8	571
Rosie Gattas	Administration	129.0	5.5	710	0.0	0	0.0	0	0.0	0	0.0	0	5.5	710
Total			599.8	252,229	5.2	2,340	73.2	27,063	65.8	24,056	337	141,033	118.3	57,738
GST				25,223										
Total (Incl GST)				277,452										
Average hourly rate				421										

hogan sprowles

Schedule of rates as @ 1 July 2023

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 experience. Leads engagements with full accountability for strategy and execution.	640
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.	592
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.	538
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.	484
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.	452
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.	398
Senior Analyst 2	Experienced graduate controlling certain tasks on small engagements. Assists senior staff in completing tasks on small to large engagements.	387
Analyst 1	Experienced graduate. Required to assists senior staff in completing tasks on small to large engagements.	334
Analyst 2	Generally a university graduate with appropriate qualifications. Assists with day to day tasks under the supervision of senior staff.	258
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.	233
Undergraduate	Undertaking relevant degree. Assists with tasks within workstreams and appointments under supervision.	204
Senior Bookkeeper	Experienced bookkeeper with more than 18 months experience. Assist senior staff with accounting functions of engagement.	204
Bookkeeper	Assist senior staff with accounting functions of engagement.	183
PA	Appropriate skills and experience to support professional staff in an administrative capacity.	162
Administration	Appropriate skills and experience to support professional staff in an administrative capacity.	129

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?

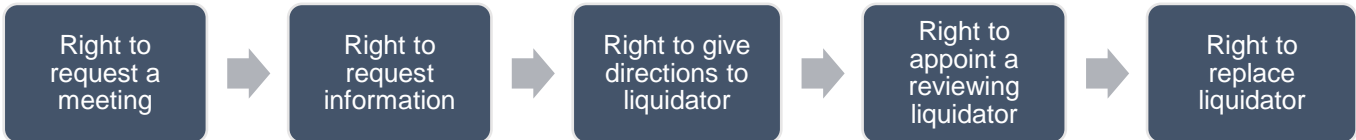
The Australian Restructuring Insolvency and Turnaround Association (ARITA) provides information to assist creditors with understanding external administrations and insolvency.

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

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 (search for "insolvency information sheets").

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.

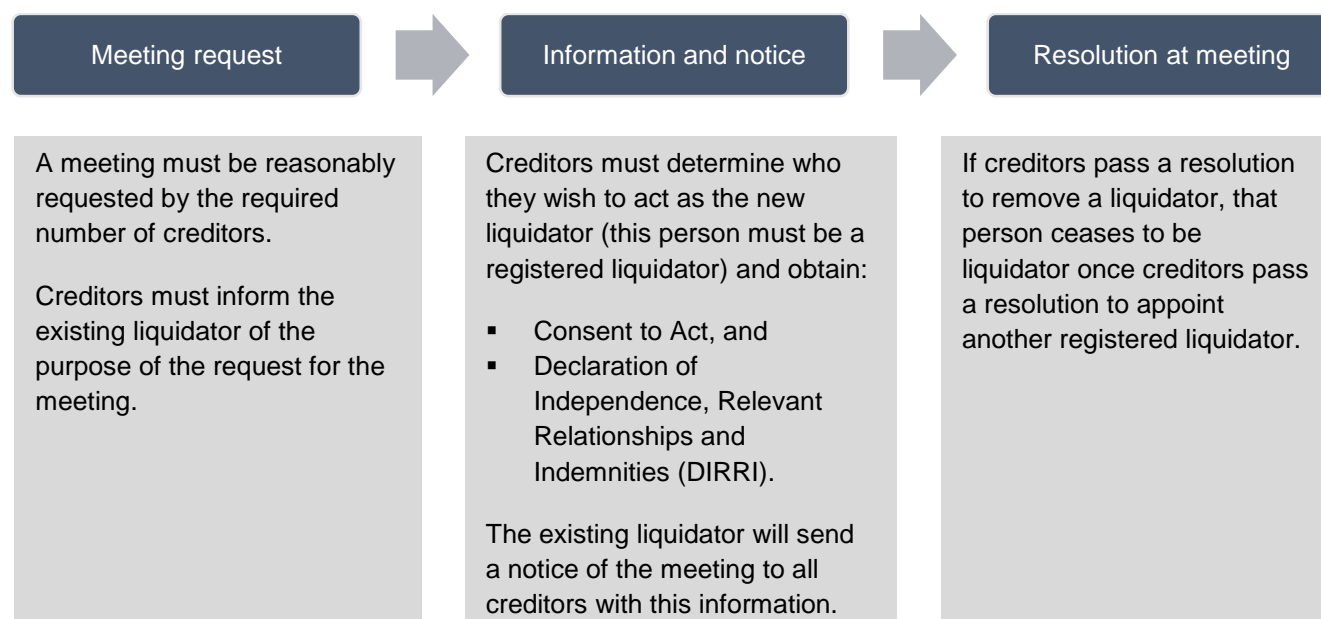
The cost of the reviewing liquidator is paid from the assets of the liquidation, in priority to creditor claims.

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