



Toa Health & Fitness Pty Limited as Trustee of The Whare
Allen Family Trust - (In Receivership) ("the Entity")

Company number: 5636629 and ACN 602 020 931

Receivers' First Report on the State of Affairs

Pursuant to Section 23 of the Receiverships Act 1993

15 May 2019



1. Introduction

Kenneth Peter Brown and Paul Thomas Manning, both Chartered Accountants and Accredited Insolvency Practitioners, were appointed joint and several receivers and managers (“Receivers”) of Toa Health & Fitness Pty Limited as Trustee of The Whare Allen Family Trust - (In Receivership) (“the Entity”) on 2 April 2019 under the terms of a General Security Agreement (“GSA”) dated 5 May giving the holder, Airflo Holdings Limited, security interests or charges created by the GSA, with all the powers conferred by the GSA and at law.

2. Restrictions

This report has been prepared by us in accordance with and for the purposes of Section 23 of the Receiverships Act 1993. It is prepared for the sole purpose of reporting on the state of affairs with respect to the property in receivership and the conduct of the Receivership.

All information contained in this report is provided in accordance with Sections 26 and 27 of the Receiverships Act 1993. In compiling this report we have relied upon and not independently verified or audited information or explanations provided to us.

We reserve the right (but will be under no obligation) to review this report and if we consider it necessary to revise the report in the light of any information existing at the date of this report which becomes known to us after that date.

Certain information can be withheld by the Receivers if inclusion would materially prejudice the exercise of the Receivers’ functions.

3. Events leading to our appointment

The Entity operates a gymnasium in Rotorua. In the events leading up to the appointment, the Receivers were approached by the landlord of the building, who also holds a GSA, (“the Appointer”) to discuss the non-payment of loan amounts and rent payments. He had received legal advice recommending the appointment of Receivers. This possibility had been conveyed to the Entity and they had been given until 31 March 2019 to provide a suitable plan for repayment. Since nothing was forthcoming the Appointer elected to proceed with the appointment.

The Receivers subsequently established that while Toa Health & Fitness Pty Limited was registered on the New Zealand Companies Office, it had been de-registered from the Australian Securities and Investment Commission register on 18 February 2019. It was subsequently de-registered from the New Zealand register on 17 April 2019. Because of these removals it was not possible for the Receivers to file notices of appointment on those registers.

4. Steps taken since our appointment

The Receivers have undertaken the following since their appointment:

- Determined that continuing to trade the Entity, whilst a sale of the business as a going concern was sought, provided the best chance of maximising recoveries for secured creditors;
- Arranged for an inventory and valuation of the Company’s fixed assets;
- Commenced a tender/sale process for the sale of the Company’s assets;
- Assessed the Personal Property Securities Register (“PPSR”) claims from suppliers;

- Reported to the appointing creditor;
- Taken legal advice on a range of issues including the deregistration of the company from the Registers;
- Dealt with finance and leasing matters;
- Fulfilled the statutory obligations set out in the Receiverships Act 1993, except for the filing of notices as mentioned at Serial 3 above.
- Liaised with DebitSuccess who are the organisation which collects and administers the regular payments from gym customers.

5. Particulars of assets

The Receivers have had difficulty obtaining information from the Director who handled administration, due to being based in Australia. Nevertheless some information has been received along with access to the Xero accounting system. However those sources did not disclose a book value for the gym equipment, only a figure of \$2,907 for the office equipment. The Receivers obtained a valuation of the gym equipment and this showed a value of \$106,610.

A statement of affairs is attached as *Appendix 1*.

6. Property disposed of and any proposals for the disposal of property

No property has been disposed of to date. A leased motor vehicle, under an operating lease agreement, has been returned to the secured creditor.

We have advertised the business for sale as a going concern and received fifteen interested enquiries. Of those three were only interested in the equipment, not the business and three others elected not to proceed further. The Receivers are dealing with the remaining nine and hope to conclude a sale in the near future.

7. Particulars of debts and liabilities currently outstanding and requiring to be satisfied from the property in receivership

The following provides a summary of the book value of the Company's debts and liabilities as at the date of appointment:

Secured creditors

Smartpay Rental Services Limited have a registered charge over the Eftpos system. They have yet to confirm the extent of the debt outstanding.

Leaseplan New Zealand Limited held an operating lease agreement over a motor vehicle which has since been returned to them. They advise the only debt outstanding was \$647.35

Monies due to the Appointer as at the date of appointment totals \$79,398.63. Since then two monthly rentals remain outstanding bringing the total to \$93,773.63. Amounts due relate to repair work, operating expenses, rent and a loan facility secured by way of a GSA and director guarantees.

Monies due to Johnson Health Tech Australia as at the date of appointment total \$84,505.71. They had a registered charge on the Australian register. No charge was found on the New Zealand register and as such it would appear their priority over the charged assets, being gym equipment has been lost.

Full particulars of securities registered against the Company's assets are attached at *Appendix 2*.

Preferential creditors

Employees

A Director operated the gym but was not being paid a salary. A part time employee was used but she left at the time of the Receivers appointment. We are unaware of any employee claims.

Inland Revenue

No claim has yet been received from the Inland Revenue Department. However the Xero accounts disclose a GST refund due of \$3,405 due and a PAYE debt due of \$48,858 being a net debt of \$45,453, but the Receivers have been unable to confirm these amounts to date.

Unsecured creditors

Various loans remain outstanding, due to the directors and related parties, which total \$329,276. The Receivers currently have no information relating to these loans, but they are all unsecured and so the Receivers will not be addressing these.

The process of realising the Entity's assets is not yet complete and therefore it is too early to determine whether there are likely to be any funds available for unsecured creditors, but at this stage it appears very unlikely there will be any funds available for passing back to the Directors or a Liquidator, if one is appointed.

8. Default by the grantor in making information available

The Directors have co-operated with the Receivers, as best they can, but we were unable to obtain full information from them required to complete this report. Accordingly we have had to rely on our own observations and investigations.

9. Contact Information

If you require any further information, please direct enquiries to:

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525 Cameron Road
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Dated this 15 May 2019



Kenneth Peter Brown
Receiver and Manager



Paul Thomas Manning
Receiver and Manager

Directors and staff acting as Receivers and Managers do so as agents of the company without personal liability.

APPENDICES

Appendix 1 - Statement of Affairs as at the date of appointment 2 April 2019

	Notes	Book Figures
Assets		\$
Bank		5,147
Loan	1.	254,520
Accounts receivable		1,058
Inland Revenue Department - GST refund	2.	3,405
Gym equipment		106,610
Office equipment		<u>2,907</u>
		373,647
Less Secured Creditors:		
SmartPay Rental Services Limited		Unknown
Leaseplan New Zealand Limited		647
Airflo Holdings Limited		79,399
Johnson Health Tech. Australia Pty Limited		<u>84,506</u>
		164,552
Less Preferential Creditors		
Inland Revenue Department - Paye	2.	<u>48,858</u>
Surplus before unsecured creditors		160,237
Unsecured creditors		
Loans	3.	<u>329,276</u>
Surplus (subject to costs of Receivership)		<u><u>\$169,039</u></u>

Notes

1. The Receivers have no detail regarding this loan and suspect it may be uncollectible
2. No confirmation of these amounts from the Inland Revenue has been received
3. The Receivers have no detail regarding these loans

Disclaimer

This statement should be read in conjunction with the restrictions on page one of the above Receivers report and BDO Tauranga Limited have not audited the report and they, their directors or employees accept no liability to any other party in relying on the information presented. The purpose of the report is to give creditors of the company an indication of the financial position of the company as at the date of the appointment of the Receivers.

Appendix 2 - Securities registered on the PPSR

28/05/2015	Smartpay Rental Services Limited - All Present and After Acquired Personal Property, Goods - Other
06/04/2018	LeasePlan New Zealand Limited - Goods - Motor Vehicles
26/06/2018	Airflow Holdings Limited - All Present and After Acquired Personal Property
Registered on	Australian Securities and Investments Commission (no registration found on New Zealand Register)
22/12/2016	Johnston Health Tech. Australia Pty Limited - Other Goods