

MAINZEAL GROUP LIQUIDATION

Liquidators' Six Monthly Report to Creditors and Shareholders

Pursuant to Section 255 of the Companies Act 1993

Reporting Period: 28 February 2019 - 28 August 2019

1. Introduction

Brian Mayo-Smith and Andrew James Bethell, of BDO Auckland and Stephen John Tubbs, of BDO Christchurch, all Chartered Accountants (“the Liquidators”), were appointed joint and several liquidators of the below Companies on 28 February 2013 by special resolution of the shareholders in accordance with Section 241(2)(a) of the Companies Act 1993 (“the Act”) with approval of the High Court.

- Mainzeal Property and Construction Limited (“MPCL”)
 - Mainzeal Living Limited (“MLL”)
 - 200 Vic Limited
 - Mainzeal Group Limited
 - Building Futures Group Holdings Limited
 - Building Futures Group Limited
 - Mainzeal Residential Limited
 - Mainzeal Construction Limited
 - Mainzeal Limited
 - Mainzeal Construction SI Limited
 - MPC NZ Limited
 - RGRE Limited
- (together “the Companies”)

Stephen Tubbs retired as liquidator on 8 December 2016 prior to his retirement from BDO Christchurch. Andrew Bethell and Brian Mayo-Smith remain in office.

The Liquidators were earlier appointed liquidators of King Facade Limited (“KFL”) on 12 February 2013 also by special resolution of the shareholders in accordance with Section 241(2)(a) of the Act.

In accordance with Section 255 of the Act we are obliged to report to all creditors and shareholders on the conduct of the liquidation during the preceding six-month period. On 25 June 2013, Keane J granted an order, among others, that the liquidations of the Companies and KFL be conducted as if those Companies and KFL were one company. Accordingly, we report on all the Companies and KFL together using 28 February 2013 as the liquidation commencement date.

This report should be read in conjunction with our previous reports for the Companies and KFL pursuant to Section 255(2)(c) of the Act.

2. Restrictions

This report is not intended for general circulation, nor is it to be reproduced or used for any purpose other than that outlined above without our written permission in each specific instance.

We do not assume any responsibility or liability for any losses occasioned to any party as a result of the circulation, publication, reproduction or use of this report contrary to the provisions of this paragraph.

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.

3. Conduct of the liquidation within the reporting period

Investigations into the affairs of the Companies and KFL

As previously advised, MPCL's directors Richard Yan, Dame Jennifer Shipley and Messrs Gomm and Tilby (collectively, the **Directors**) were held jointly liable for reckless trading and were ordered to pay \$36m - with Mr Yan being liable for \$18m alone and Dame Jennifer Shipley and Messrs Tilby and Gomm liable for \$6m each jointly with Mr Yan. Sir Paul Collins was found not liable.

In May the High Court heard arguments around quantum and costs and confirmed the \$36.0m judgment. The plaintiffs were awarded costs and disbursements of \$2,349,458.99 against the directors. Sir Paul Collins was awarded costs of \$342,653.98 against the plaintiffs.

As previously advised, Mr Yan and the other defendant directors filed notices of appeal and the liquidators have cross-appealed. A Court of Appeal fixture has been allocated for August 2020.

The insurers for Dame Jennifer Shipley and Messrs Tilby and Gomm have confirmed that \$18m has been paid into a trust account to secure the liability of those directors under the judgment pending the outcome of the appeals process. The insurers also paid the costs award.

Mr Yan has failed to pay the remaining \$18m or secure that part of the judgment. Accordingly, the Liquidators have requested the Court to issue a bankruptcy notice against Mr Yan and obtained leave to serve the notice on Mr Yan out of New Zealand.

Mr Yan has applied to set aside the bankruptcy notice on the basis that the New Zealand High Court does not have jurisdiction over him because he now lives in China, has few remaining links to New Zealand and the Chinese courts will not recognise or enforce a New Zealand bankruptcy order pending the appeal.

The Liquidators do not agree with Mr Yan's position and intend continuing to pursue payment of the High Court judgment by Mr Yan or, as necessary, the Official Assignee in bankruptcy.

The High Court also entered judgment in the sum of \$2,164,474.09 plus interest against Isola Vineyards Limited (In Liquidation) and the Mainzeal liquidators have filed a claim in the liquidation of Isola and are pressing for admission and settlement of the claim.

Contract receivables and retentions

In the last reporting period, the Liquidators engaged in a mediation process with one of the last remaining outstanding debtors which resulted in a settlement. No further debtor recoveries are expected.

Receipts and payments

Attached as **Appendix 1** is a Statement of Receipts and Payments for the reporting period.

Creditor claims

Preferential creditors

Preferential creditors have been paid in full.

Unsecured Creditors

Of the approximately 1,400 claims totaling \$158.3m received from creditors of the Companies and KFL, a total of 1,390 claims have been admitted either in full or in part totaling \$111m.

Liquidation Committee

A liquidation committee (“Committee”) was appointed by creditors at the creditors’ meeting on 3 April 2013. When required there have been meetings with the Committee to discuss the conduct and strategy of the liquidation. The Liquidators will continue to meet with the Committee when appropriate.

4. Further proposals for completing the liquidation

The Liquidators propose at this stage to take the following further actions:

- Collect any GST recoveries;
- Oppose appeals being pursued by certain Defendants;
- Complete the cross-appeal process;
- Pursue recovery of the amounts awarded under the High Court judgment due by Mr Yan; and
- Distribute available funds (if any) to unsecured creditors.

The Liquidators will take further action as appropriate should additional information regarding the Companies’ and KFL’s affairs come to the Liquidators’ attention. Further actions will be subject to the availability of funding and an assessment of the benefits of pursuing recoveries.

Likely distribution to unsecured creditors

We expect that there will be some funds available for distribution to unsecured creditors. The quantum of any ultimate distribution to unsecured creditors will depend on the Liquidators being able to recover the amounts awarded against the Directors and Isola including the outcome of the appeals or cross-appeals.

Estimated Date of Completion

It is not practical to estimate the date of the completion of the liquidation at this stage. Our subsequent reports to creditors and shareholders will, when appropriate, advise of an estimated completion date.

5. Contact Information

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

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Dated this 25th day of September 2019

A handwritten signature in black ink, appearing to read 'Andrew Bethell'.

Andrew Bethell

Liquidator

APPENDICES

Appendix 1 - Receipts and Payments

Receipts and Payments	
28 February 2019 to 28 August 2019	
\$'000	
Opening Balance	4,142
Receipts	
Debtor Settlement	2,000
Net Interest	40
Other Income	1
Total Receipts	2,041
Payments	
Legal Fees	337
Liquidators' Remuneration	91
Contractors & Consultants	231
Records Storage	19
Administrative Expenses	4
IT Hosting	5
Total Payments	686
Net Receipts/ (Payments)	1,355
GST Receivable/ (Payable)	18
Funds on Hand	5,479