

Statutory Report by Liquidator

**Callant Properties Pty Ltd (ACN 151 808 098)
(In Liquidation) & Pastor Projects Pty Ltd
(ACN 151 892 796) (In Liquidation) (the Companies) trading
as Pascall Projects (ABN 39 813 183 969) (the Partnership)**

19 February 2019

Andrew Stewart Reed Hewitt
Liquidator
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Introduction

I refer to my initial correspondence to creditors dated 23 November 2018 in which I advised you of my appointment as liquidator and your rights as a creditor in the liquidations.

The purpose of this report is to:

- Provide you with an update on the progress of the liquidations.
- Advise you of the likelihood of a dividend being paid in the liquidations.

The Liquidator has relied on information provided from numerous sources to prepare the report, including:

- Discussions with the Directors of the Companies.
- Information available from public sources, such as, Australian Securities and Investments Commission (ASIC) and the Personal Property Securities Register (PPSR).
- A review of the Companies' books and records provided to date.

Update on the progress of the liquidations

Assets and liabilities

The Directors of the Companies were required to complete and provide to the Liquidator a statement about the Companies' business, property, affairs and financial circumstances, also known as the Report on Company Affairs and Property (**ROCAP**). The ROCAP is a snapshot in time as at the date of my appointment of the assets and liabilities of the Companies, disclosing book values and the Directors' opinion on the estimated realisable value (**ERV**) for assets.

On 26 November 2018 a written request was issued to the Directors of the Companies to complete the ROCAP. Following an extension of time granted by the Liquidator to allow the Directors to complete the ROCAP, a ROCAP for each Company was provided by the Directors on 11 December 2018.

Attached at **Appendix A** and below is an analysis of the assets and liabilities of the Companies as provided by the directors in their ROCAP, and a comparison to the Liquidator's Estimated Realisable Value (ERV).

Assets and Liabilities as at 19 November 2018 as per ROCAP

	Notes	ROCAP Amounts (\$)	Liquidator's ERV (as of NOW)
Assets			
Cash at bank	1	125,342	1,374
Bank Guarantee	2	314,000	TBA
Trade Debtors	3	1,361,606	-
Work in Progress	4	216,326	-
Motor Vehicles	5	167,437	11,939
Clearing Accounts	6	42,744	-
PPE	7	79,682	5,974
Other Assets		3,756	-
Total Assets		2,310,892	19,287
Liabilities			
Secured Creditors	8	137,678	137,678
Priority Creditors	9	488,229	400,575
Unsecured Creditors	10	3,919,311	5,113,627
Total Liabilities		4,545,219	5,651,880
Net Assets		(2,234,326)	(5,632,593)

1. An amount of \$1.4k has been recovered from a Company bank account held with NAB. The funds in the ANZ account are unable to be realised given the offset from the existing ANZ debt of c. \$110k.
2. Bank guarantees recorded in the Companies' books and records have been called or are expected to be called, we will make a decision about the ability of these parties to call on these funds once the projects are completed and final positions established. I am currently unable to estimate what may be recovered in relation to them.
3. A majority of the Companies' trade debtors are contingent and pending legal action. I am currently aware of four debtors and are considering any recovery options. The Liquidator's ERV has been withheld as it is commercially sensitive.
4. I do not currently expect to recover any works completed and not invoiced.
5. An amount of c. \$167k was disclosed in the Companies' books and records which related to five motor vehicles, three of which were subject to lease agreements provided by Nissan Finance.

On 26 November 2018, the Liquidator disclaimed the lease agreements with Nissan Finance due to there being negative equity in the vehicles subject to finance. The Liquidator also realised two remaining unencumbered motor vehicles owned by the Companies, being 2012 and 2013 Mitsubishi Tritons, for a total of c. \$13k including GST.

6. Excavation monies and tax refunds received into the ANZ cheque account were processed through clearing accounts and at this stage we do not consider it realisable, but we are continuing to investigate.
7. On December 12 2018, all goods that remained on site at Factory 16 were sold at auction for c. \$6k.
8. 16 Personal Property Security (PPS) registrations were identified via a search of the ASIC Company Register, four of which have been discharged upon my appointment.

The remaining secured creditors are:

- The Australian Steel Company – \$23K claimed
 - 20 Glyndon Ave Pty Ltd – \$1.098m claimed
 - Australia and New Zealand Banking Group – \$112K claimed
 - Capital Finance Australia Ltd – claim TBA
 - Nissan Financial Services – claim TBA
9. According to the Directors' ROCAP, there is an amount of c. \$488k owing to employees of the Companies.

The Liquidator's assessment of the books and records of the Companies indicate that c. \$401k is owed to the Companies' employees in relation to outstanding priority employee entitlements, including superannuation, payment in lieu of notice and redundancy. The Liquidator has provided information to the Department of Jobs and Small Business (the Department), which administers the Fair Entitlements Guarantee (FEG) scheme, in order for employee entitlements to be assessed and paid. I note that final claim amount is to be advised by the Department.

Entitlement	Amount
Annual Leave plus Leave Loading	\$ 87,101.35
PILN	\$ 52,527.19
Redundancy	\$ 99,997.52
Superannuation	\$ 160,948.74
Total	\$ 400,574.80

The FEG is a government safety net scheme for unpaid employees' entitlements where employees are terminated as a result of insolvency and there are insufficient assets to meet the outstanding entitlements. The Liquidator understands that employees' FEG scheme claims are currently being assessed by the Department.

The Companies' bookkeeper has also distributed PAYG summaries to those employees who provided services to the Companies for the period 1 July 2018 to 19 November 2018.

10. These values have not been verified by the Liquidator and are subject to change.

Related party creditors are limited to the Directors' employee entitlement claims. Directors are classified as "excluded employees" pursuant to Section 556(2) of the Corporations Act (the Act). Accordingly, the amount of the employee entitlement claim that is afforded a priority is capped.

Receipts and Payments to date

Details of all receipts and payments in the liquidations to 16 February 2019 can be found below and in **Appendix B**.

Receipts and Payments to date - 19/11/2018 to 16/02/2019

	Total (\$) (incl. GST)
Receipts	
Opening balance of pre-appointment bank account	1,374
Funds received in error	3,366
Insurance refund	188
Interest income	88
Plant and equipment	20,655
Upfront fees received	40,000
Total Receipts	65,671
Payments	
Auctioneer's Charges	(6,108)
Bank Charges	(2)
Insurance	(1,368)
Professional Fees	(2,805)
Software Subscriptions	(180)
Stamp Duty	(81)
Total Payments	(10,544)
Net Receipts (Payments)	55,127
Cash at bank as at 16 February 2019	55,127
Variance	-

Investigations and recovery actions

Investigations undertaken

I have commenced my initial investigations into the affairs of the Companies prior to my appointment and any potential recovery actions that may be available to the Liquidator to pursue.

To date, I have undertaken the following investigations:

- Written to all major banking institutions requesting that they conduct a search for any bank accounts held in the name of the Companies;
- Conducted a search of the ASIC database;
- Requested that VicRoads conduct a search of their databases for any vehicles registered in the name of the Companies;

- Conducted a search of the Personal Properties Securities Register (**PPSR**);
- Required that any property of the Companies seized by the Sheriff be returned to the Liquidator;
- Written to WorkCover to identify any outstanding insurance liability and/or refunds for WorkCover premiums as at the date of my appointment;
- Collected books and records of the Companies;
- Written to all parties registered on the PPSR;
- Written to all employees of the Companies known to have outstanding employee entitlements, and completed the verification tasks required of the FEG scheme;
- Investigated the possibility of an insolvent trading claim and identified potential voidable transactions, further discussed in this Report, including but not limited to cash flow and balance sheet tests of insolvency.

My findings of these investigations are detailed below. Given the limited time that has passed in the liquidations, and that further investigations will be undertaken, the below findings are preliminary and may be subject to change.

What happened to the business of the Companies/Partnership

Callant Properties Pty Ltd was incorporated on 29 June 2011, with Pastor Projects Pty Ltd incorporated on 4 July 2011. Callant Properties Pty Ltd and Pastor Projects Pty Ltd operated only as a partnership, Pascall Projects and traded from Factory 16 263-271 Wells Road Chelsea Heights VIC 3196. The Partnership constructed bespoke homes, apartments and townhouses around metropolitan Victoria.

On 24 September 2018, I held an initial meeting with the directors of the Companies, Mr Phillip Callant and Mr Wayne Pastor, together with Ms Nicole Ward, Special Counsel at K&L Gates. Numerous meetings and discussions took place in order to obtain sufficient information about the Companies and the circumstances leading to their financial position at that time; and to clarify and explain to Mr Callant and Mr Pastor the various options available to the Companies and the nature of the consequences of an insolvency appointment.

On 19 November 2018, the Directors resolved that each of the Companies be wound up by way of a creditors' voluntary liquidation. It was further resolved that a meeting of each of the Companies' sole members would be convened to consider the winding up of the Companies. At this meeting on 19 November 2018, it was resolved that the Companies be placed into Liquidation.

Upon my appointment, I reviewed the current operations of the Companies, available funding and the likelihood of obtaining more, the position of the current projects and the benefits and risks associated with trading the Companies' business and determined that it would not be in creditors' best interests to trade the Companies. Therefore on 19 November 2018, the employment of the employees was terminated with immediate effect and I began to collect and realise the Companies' assets.

The Directors have stated the following reasons for the Companies' financial difficulties and the ultimate need to have the Companies wound up:

- Cash flow issues and the mismanagement of funds
- A growing amount of legal action and VCAT hearings
- An increasing value of debtors as a result of clients not paying for works completed

My investigations into the affairs of the Companies confirm that the Companies' difficulties were brought about by reasons identified by the Directors. In addition, I also note that the Partnership's diligence in documenting and agreeing to variations could have been improved as many of the disputes relate to variation claims.

Insolvent trading

I have reviewed both the cash flow and balance sheet tests of insolvency and have determined that the Companies likely became insolvent around FY18 based on the following factors:

- Net asset deficiency for all periods assessed and ongoing trading losses;
- 58% of creditors aged greater than 90 days for the FY18 period, deteriorating to 70% in the FY19YTD period;
- Persistent delays and issues in receiving payment from its debtors, impacting the Companies' ability to pay its debts as and when they fell due;
- Increasing payments to creditors of round sums un-reconcilable to invoices in the FY8 period; and
- A substantial ATO liability comprising of Running Balance Account (RBA) deficit debts.

I am still assessing whether it is commercial to pursue an insolvent trading claim.

Voidable transactions

My preliminary investigations have identified potential unfair preference claims that may be commercial to pursue. I am continuing to investigate these transactions and will initiate recovery action should it be commercially viable to do so.

I am still investigating whether there were any unreasonable director related transactions and will initiate recovery action should it be commercially viable to do so.

Further inquiries to be undertaken

I plan to undertake the following further investigations:

- Review the Companies electronic information
- Further investigate correspondence received by the Companies
- Discuss with various creditors their knowledge of events leading up to the Companies' liquidation.

Meetings held

The first meeting of the Companies' creditors was held on 30 January 2018 at the Grant Thornton offices of 727 Collins St, Melbourne VIC 3008. Due to the trading partnership of the Companies, the Liquidator determined that the first meeting of these Companies were to be held concurrently. At the meetings, the Liquidator discussed the circumstances leading to the appointment, the Declaration of Independence, Relevant Relationships and Indemnities (DIRRI), and responded to creditor queries regarding the Liquidator's acts and dealings in the winding up.

At the meetings the following resolutions were passed by the creditors of the Companies:

- 'The remuneration of the Liquidator and any of the Liquidator's partners or employees in performance of services performed from 19 November 2018 to completion of the Liquidation of Pastor Projects Pty Ltd is determined at a sum equal to the cost of time spent by the Liquidator and their partners and staff, calculated at the hourly rates as detailed in my Initial Remuneration Notice provided to creditors, that may be increased at a rate of 7.5% at 1 July each year, up to a capped amount of \$30,000.00 (excluding GST) plus any out of pocket expenses incurred. Approval is given for the Liquidator to draw remuneration approved from available funds as time is incurred on a monthly basis or as funds become available.'
- 'The remuneration of the Liquidator and any of the Liquidator's partners or employees in performance of services performed from 19 November 2018 to completion of the Liquidation of Callant Properties Pty Ltd is determined at a sum equal to the cost of time spent by the Liquidator and their partners and staff, calculated at the hourly rates as detailed in my Initial Remuneration Notice provided to creditors, that may be increased at a rate of 7.5% at 1 July each year, up to a capped amount of \$30,000.00 (excluding GST) plus any out of pocket expenses incurred. Approval

is given for the Liquidator to draw remuneration approved from available funds as time is incurred on a monthly basis or as funds become available.'

- 'The internal disbursements claimed by my firm for the period 19 November 2018 to the finalisation of the liquidation of Pastor Projects Pty Ltd calculated at the rates detailed in the Remuneration Approval Report, are approved up to a capped amount of \$1,000.00 exclusive of GST, and that the Liquidator can draw the disbursements from available funds as incurred or as funds become available.'
- 'The internal disbursements claimed by my firm for the period 19 November 2018 to the finalisation of the liquidation of Callant Properties Pty Ltd calculated at the rates detailed in the Remuneration Approval Report, are approved up to a capped amount of \$1,000.00 exclusive of GST, and that the Liquidator can draw the disbursements from available funds as incurred or as funds become available.'
- 'That the Liquidator be authorised to destroy the books and records of Pastor Projects Pty Ltd (the Company) six months after the date of their deregistration subject to the consent of the Regional Commissioner of the Australia Securities & Investments Commission in accordance with Section 70-35 of the Insolvency Practice Schedule (Corporations) 2016.'
- 'That the Liquidator be authorised to destroy the books and records of Callant Properties Pty Ltd (the Company) six months after the date of their deregistration subject to the consent of the Regional Commissioner of the Australia Securities & Investments Commission in accordance with Section 70-35 of the Insolvency Practice Schedule (Corporations) 2016.'
- 'That a Committee of Inspection is not appointed for Pastor Projects Pty Ltd.'
- 'That a Committee of Inspection is not appointed for Callant Properties Pty Ltd.'
- 'That creditors authorise the Liquidator under Section 477(2A) of the Corporations Act 2001 to compromise a debt owed to Pastor Projects Pty Ltd (In Liquidation) of any amount excluding any claims against related parties'
- 'That creditors authorise the Liquidator under Section 477(2A) of the Corporations Act 2001 to compromise a debt owed to Callant Properties Pty Ltd (In Liquidation) of any amount excluding any claims against related parties'

Other matters

- Contingent debtors are currently being investigated with the assistance of the Companies' legal representation;
- The liquidations are expected to be finalized within the next 2 years given the complexity of the contingent claims;
- Employees with outstanding entitlements excluding superannuation are expected to be paid out in full by the Fair Entitlements Guarantee Scheme;
- Complete my reporting to the corporate insolvency regulator, ASIC; and
- Any other matter relevant to the completion of the liquidations.

Likelihood of a dividend

The likelihood of a dividend being paid to creditors will be affected by a number of factors including:

- The size and complexity of the liquidations.
- The amount of assets realisable and the costs of realising those assets.
- The statutory priority of certain claims and costs.
- The value of various classes of claims including secured, priority and unsecured creditor claims.
- The volume of enquiries by creditors and other stakeholders.

I am unable to provide a dividend estimate of any certainty at this stage of the liquidations. The likelihood of a dividend largely depends on my success in the litigated claims. If I do declare a dividend, any creditor whose claim has not yet been admitted will be contacted and asked to submit a proof of debt.

Cost of the liquidations

As previously advised in my initial information to creditors, I initially estimated that my total remuneration for the liquidations will be \$30,000 (excl. GST) per Company. Given the level of creditor activity and interest, as well as my investigations to date, my costs have exceeded this amount. Should I make sufficient asset realisations or creditors provide me with funding, I will write to creditors seeking approval of my additional remuneration

What happens next in the liquidations?

I will proceed with the liquidations, including:

- Recover any further available property;
- Complete my investigations into the Companies' affairs;
- Initiate recovery action if it is commercially viable to do so;
- Complete my reporting to the corporate insolvency regulator, the Australian Securities and Investments Commission (ASIC); and
- Finalise this matter.

If I receive a request for a meeting that complies with the guidelines set out in the initial information provided to you, I will hold a meeting of creditors.

I may write to you again with further information on the progress of the liquidations.

I expect to have completed these liquidations within 1-2 years.

Compliance with best practice

I confirm that this report complies with the requirements in the Insolvency Practice Rules (**IPR**), specifically IPR 70-40, as well as the statements of best practice issued by the Australian Restructuring Insolvency and Turnaround Association (**ARITA**) with regard to content of the Statutory Report by Liquidator.

What to do next

You should now:

- Read the attached report;
- Complete and return your proof of debt with supporting documentation, if you have not done so already.

Where can you get more information?

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

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

Should you have any queries with respect to the above, you may also contact Sabrina Pusello of my office on 03 8663 6163 or via email on sabrina.pusello@au.gt.com. There is also information about these liquidations on <https://www.grantthornton.com.au/creditors-information/creditors-information>

Dated: 19 February 2019

A handwritten signature in blue ink, appearing to read 'Andrew', with a long horizontal flourish extending to the right.

Andrew Stewart Reed Hewitt

Liquidator

List of attachments

Appendix A - Assets and Liabilities comparison to ROCAP

Appendix B - Liquidator's receipts and payments

Appendix A

Assets and Liabilities comparison to ROCAP

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Appendix B

Liquidator's receipts and payments

Receipts and Payments to date - 19/11/2018 to 16/02/2019

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