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**Malyjo Investments Pty Ltd (In Liquidation)
ACN 113 983 387 (the Company)**

Liquidator's Statutory Report to Creditors

24 October 2018

Matthew James Byrnes

Liquidator

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Introduction

I refer to my initial correspondence to creditors dated 26 July 2018 in which I advised you of my appointment as liquidator on 24 July 2018 and your rights as a creditor in the liquidation.

The purpose of this report is to:

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

I have relied on information provided from numerous sources to prepare this report, including:

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

Update on the progress of the liquidation

Actions undertaken to date

To date, we have undertaken the following actions to assist with our investigations and to identify assets that may be recoverable:

- Written to all major banking institutions requesting that they conduct a search for any bank accounts held in the name of the Company;
- Conducted a search of the ASIC database;
- Requested that VicRoads conduct a search of their database for any vehicles registered in the name of the Company;
- Conducted a search of the Personal Properties Securities Register (PPSR);
- Required that any property of the Company 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 our appointment;
- Written to all parties on the PPSR register;
- Liaised with former staff members of the Company in relation to their outstanding entitlements.
- Obtained suitable insurance for the identified plant and equipment.
- Engaged valuers for the inspection and valuation of plant and equipment.

Assets and liabilities

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

On 25 July 2018, a written request was issued to the Directors to complete the RATA for the Company. A summary of the RATA received from the Directors together with the Liquidator's ERV of the assets and liabilities is provided in the table below:

\$	Notes	Book Value (per RATA)	Directors' ERV	Liquidators' ERV
Assets				
Interest in Land		Nil	Nil	Nil
Sundry Debtors	1	295	295	Nil
Cash on Hand	2	3,242	3,242	3,108
Cash at Bank	2	1,093	1,093	1,026
Stock		5,000	5,000	Nil
Work in Progress		-	-	-
Plant and Equipment	3	180,000	85,805	Unknown
Other Assets		-	-	-
Total Assets		189,630	95,435	4,134
Liabilities				
Preferred Creditors	4	268,762	268,763	268,763
Secured Creditors	5	322,205	322,205	322,205
Unsecured Creditors	6	483,168	483,168	483,168
Total Liabilities		1,074,135	1,074,135	1,074,135
Total Deficiency		(884,504)	(978,700)	(1,070,001)

Notes

1. Sundry Debtors

According to the Directors RATA, the Company is owed \$295 from the Country Fire Authority and there were no other debtors. It is uncommercial to seek recovery of this nominal amount.

2. Cash on Hand & Cash at Bank

Following my appointment as Liquidator of the Company, I wrote to all major banking institutions in Australia, requesting that they conduct a search of their records for any bank accounts held in the name of the Company.

I have received a response from Bendigo Bank confirming that the Company operated accounts with their bank, with credit amounts totalling \$1,026 as at the date of my appointment.

The Directors have disclosed in their RATA that there was cash on hand totalling \$3,242 on the date of appointment. I have since recovered \$3,108 in cash, which related to cash sales received immediately prior to the appointment.

3. Plant and Equipment

According to the Directors RATA, the Company held various items of plant and equipment with a book value of \$180,000 with this equipment located between the Heritage Springs and Lakeside stores.

The Lakeside equipment is currently held by the Franchisor, Retail Food Group, in accordance with the Franchise Agreement that granted them a 4-month exclusivity period while they seek to secure a replacement franchisor. If a replacement is identified, the equipment will be purchased from the Company but failing this, the equipment will be returned to the Company. The Heritage Springs equipment was removed from the store prior to appointment and is currently located at the Directors residence awaiting realisation by the Liquidator.

I will shortly have a valuation for the Company's equipment and once a valuation is obtained, I will conduct a public auction, if it is commercial to do so.



4. Preferred Creditors

Per the RATA, the preferred creditors are owed c.\$269k. We note that the preferred creditor claims includes a superannuation guarantee charge amount of c.\$205k owed to the Australian Taxation Office (ATO). In addition, we have been liaising with the Department of Jobs and Small Business in relation to other outstanding employee entitlements.

5. Secured Creditors

The Company's main secured creditor is the ANZ Bank, which is owed c.\$322k. The bank holds an All Present and After-Acquired Property Personal Property and Securities Register (PPSR) registration over the Company's assets. The Company borrowed these funds as part of the transaction that saw the Company enter into the franchise agreements.

6. Unsecured Creditors

A summary of all unsecured creditors was provided in my initial report to creditors. The Company's main unsecured creditors are summarised as follows:

- Director loan amounts c.\$229k;
- ATO c.\$184k (excluded the superannuation guarantee charge amount); and
- AGL Energy c.\$6k.

The claimed amounts were initially advised to us in the Directors RATA with some creditors yet to substantiate these claims. On this basis, actual claimed amounts may vary if supporting material is submitted.

Receipts and Payments to date

Please find below a table summarising the Liquidator's receipts and payments for the period 24 July 2018 to 14 September 2018:

	Amount (\$)
Receipts	
Cash at Bank (Pre-Appointment)	3,107.60
Insurance Refund	99.44
Total Receipts	3,207.04
Payments	
Insurance	1,303.32
Total Payments	1,303.32
Net Receipts / (Payments)	1,903.72

Investigations and possible recovery actions

Investigations undertaken

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

My findings of these investigations are detailed below. Given the limited time that has passed in the liquidation, 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 Company

The Company was incorporated on 27 April 2005 and operated two bakeries from leased premises located at Lakeside and Heritage Springs, Pakenham. The bakeries were operated under franchise agreements with Retail Food Group and operated under the Brumbies Bake House brand.



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The Directors have stated that the reasons for the Company's financial difficulties and the ultimate need to have the Company wound up were as follows:

- The Company started facing difficulties after coming into direct competition with the local supermarkets. The Director advised that the supermarkets started giving away free day old bread to customers instead of disposing of this as rubbish or as feed for livestock.
- The shops had struggled for some time with a downturn in patronage reducing the margins and the viability of the stores. After considering this position, the Directors closed one of the stores that was more directly exposed to the competition with the supermarkets based on location.
- Despite shutting one of the stores, the Company was unable to generate sufficient funds to cover costs and service the legacy liabilities. In early July 2018, the ATO issued a Director Penalty Notice after which the directors took steps to place the Company into liquidation.

My investigations into the affairs of the Company, confirm that the Company's difficulties were brought about by reasons consistent with those identified by the Directors. In addition, I also note the following

- The Company appeared unable to effectively control its overhead expenditure and despite reporting modest gross profit margins over historical periods, it sustained continued losses due to high levels of expenditure.
- The Company also appeared to have poor working capital, which contributed to significant arrears in relation to its creditors and specifically superannuation obligations.

Insolvent trading

I have reviewed both the cash flow and balance sheet tests of insolvency and have determined that the Company likely became insolvent in the Financial Year ending 30 June 2016 based on the following factors:

- The Company reported net losses and a net asset deficiency for at least the last three (3) financial years based on the Xero files;
- The Company has had Quick and Current ratios of less than one (1) for at least the last three (3) financial years suggesting the Company has insufficient short-term assets to cover its short-term liabilities; and
- The Company has been unable to meet its statutory superannuation obligations since 2015.

Based on the above, I am of the view that the Company has traded whilst insolvent. Based upon the limited funds available, I do not believe it is commercial to pursue the Directors for insolvent trading. Please contact me should any creditor wish to further to discuss this matter, in particular options to fund additional investigations and pursuit of any potential claim.

Voidable transactions

My investigations have uncovered potential preference claims in relation to a number of creditors. I am continuing my investigations into these transactions and if any of these are identified to be of a preferential nature, I will pursue recovery of these amounts.



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Report to ASIC

Pursuant to Section 533 of the Corporations Act 2001 (the Act), a liquidator is required to report to ASIC in circumstances where they believe the Company's directors have contravened the Act or where a dividend of less than fifty (50) cents in the dollar may be paid to the Company's unsecured creditors.

The Liquidator's report is being prepared and will be lodged with ASIC upon its completion. Creditors should note that this report is confidential and is not a publicly available document.

Further inquiries to be undertaken

I plan to undertake the following further investigations:

- Finalise our investigations into the affairs of the Company;
- Pursue any recoverable voidable transactions identified;
- Conduct and auction for the Company's plant and equipment; and
- Finalise our report to ASIC pursuant to the Act.

Following completion of the above matters, I will take steps to finalise this appointment.

Proposal without Meeting

To minimise the costs of the liquidation, I elected to seek approval from creditors for the following proposals without holding a meeting:

- The remuneration of the Liquidator and any of the Liquidator's partners or employees in performance of services performed from 24 July 2018 to completion of the liquidation to be fixed at \$12,000.00 (excluding GST) plus any out of pocket expenses incurred. Approval is given for such amounts approved to be drawn on a monthly basis.
- That the Liquidator may pay any and all internal disbursements reasonably and properly incurred by them calculated at Grant Thornton Australia Ltd's rates effective from 1 July 2018 capped at \$500.00.
- That the Liquidator be authorised to destroy the books and records of the Company six months after the date of its 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.

I provided creditors with three (3) "proposal without a meeting" forms in the Liquidators' initial correspondence to creditors with a return date of 25 August 2018. I received two (2) responses prior to the return date, with all voting in favour of the three (3) proposals.

Likelihood of a dividend

At the current time, there is not expected to be sufficient funds to pay a dividend to priority or unsecured creditors. However, if this changes and 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 liquidation

As previously advised in my initial information to creditors, I have estimated that my total remuneration for the liquidation is \$12,000.00.



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What happens next in the liquidation?

I will proceed with the liquidation, including:

- Realise the remaining assets.
- Recover any further available property.
- Complete my investigations into the Company's affairs.
- Complete my reporting to the corporate insolvency regulator, ASIC.

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 liquidation.

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

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.

Where can you get more information?

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

- ARITA at www.arita.com.au/creditors
- 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 Keagan Driscoll of my office on +61 3 8663 6230 or via email on keagan.driscoll@au.gt.com.

Dated: Wednesday, 24 October 2018

A handwritten signature in blue ink, appearing to read 'M. Byrnes'.

Matthew James Byrnes
Liquidator