

Statutory Report by Liquidator

WHIRLWIND PRINT (NSW) PTY LTD (IN LIQUIDATION)

ACN 612 618 809 (the Company)

27 August 2019

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Introduction

We refer to the Liquidators' initial correspondence to creditors dated 11 June 2019 in which we advised you of the appointment of Messrs Andrew Hewitt and Ahmed Bise as liquidators to the Company 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; and
- Advise you of the likelihood of a dividend being paid in the Liquidation.

The Joint and Several Liquidators have relied on information provided from numerous sources to prepare the report, including but not limited to:

- Discussions with the Director of the Company;
- Discussions with former employees of the Company;
- Information available from public sources, such as, the 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; and
- Discussions and correspondence received from external parties.

Whilst we have no reason to doubt the accuracy of any information, we have not performed an audit and reserve the right to alter our conclusions should the underlying data prove to be inaccurate or change materially from the date of this report or should additional information become available.

Update on the progress of the Liquidation

Assets and liabilities

Pursuant to Section 475(1) of the Corporations Act 2001 (the Act), a director of a company in liquidation is required to complete and provide to the appointed liquidator a statement about the company's 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 our appointment of the assets and liabilities of the Company, disclosing book values and the Director's opinion on the estimated realisable value (ERV) of assets.

On 30 May 2019 a written request was issued to the Director to complete a ROCAP for the Company. The Director provided a copy of the ROCAP on 4 June 2019 and this was subsequently lodged with the Australian Securities and Investments Commission (ASIC) on 11 June 2019.

A summary of the ROCAP received from the Director together with the Liquidators' Estimated Realisable Value (ERV) of the assets and liabilities is provided in the table below.

	Notes	ROCAP Book Value (\$)	ROCAP ERV (\$)	Liquidator's ERV (\$)
Assets				
Cash at bank	1	209	209	-
Debtors	2	135,875	135,875	Unascertained
Property, plant and equipment	3	-	-	-
Total assets		136,084	136,084	Unascertained
Liabilities				
Employee entitlements	4	85,299	85,299	-
Secured creditors	5	125,154	125,154	Unascertained
Trade creditors	6	1,361,654	1,361,654	Unascertained
Non-current liabilities	7	-	-	2,200,601
Total liabilities		1,572,107	1,572,107	Unascertained
Total surplus / (deficiency)		(1,436,023)	(1,436,023)	Unascertained

Notes

1. Cash at bank

The Director disclosed a balance of \$209 for the Company's cash at bank. Our enquiries to date have identified that the Company operated an account with the Australia and New Zealand Banking Group Limited (ANZ) which at the date of our appointment had a debit balance. We have corresponded with all known banks and financial institutions. No other accounts have been identified.

2. Debtors

The Director recorded a trade debtors' balance of \$135,875. Prior to our appointment the Company operated a factoring facility with Scottish Pacific Business Finance Pty Limited (Scottish Pacific). As a consequence the Company's debtors are subject to a security interest created by the Company in favour of Scottish Pacific. Following the Liquidators' appointment Scottish Pacific took control of the debtor collection process. The Liquidators will resume control of the collection of the debtors if Scottish Pacific's debt is paid in full and additional outstanding debtors remain. At the date of our appointment Scottish Pacific was owed c.\$125k and to date, collections of c.\$10k have been received. We have requested an update from Scottish Pacific in relation to the collection process.

3. Property, plant and equipment

The Director did not disclose any plant and equipment in the ROCAP. The majority of the Company's plant and equipment was sold to CMYKHUB VIC Pty Ltd (CMYK Hub) prior to the Liquidators' appointment. Minimal items of plant and equipment were excluded from that transaction and left at the Company's former trading premises. We engaged Dominions Group to attend the premises to value remaining plant and equipment. Following its inspection Dominions Group advised that there was no commercial value in the remaining equipment as any costs to realise the items would likely exceed the auction realisable value. We have not identified any other items of plant and equipment. Accordingly, the remaining equipment was disclaimed by the Liquidators.

4. Employees' entitlements

According to the Director's ROCAP, there was an amount of \$85,299 owing to former employees of the Company in respect to annual leave, long service leave, payment in lieu of notice and redundancy. In verifying outstanding employees' entitlements we identified that all employees were transferred to Whirlwind Print Pty Ltd (In Liquidation) on 1 February 2019 as the Company began winding down its operations. Accordingly, there were no outstanding employees' entitlements as at the date of our appointment.

5. Secured creditors

The Director disclosed one (1) secured creditor in his ROCAP being Scottish Pacific. Following our appointment, all security interest holders were notified of the Company's Liquidation and were requested to provide details of any outstanding debt. To date, we have received and dealt with a number of claims from parties with securities registered on the PPSR. We note that the majority of the claims are against specific assets including motor vehicles and raw material stock. I note that no stock remained at appointment at the Company's trading premises.

Our enquiries also identified that the ANZ holds a valid specific security agreement in relation to asset finance provided to the Company on 17 October 2017. On 6 August 2019, the ANZ advised that the total amount owing was c.\$454k. We note that ANZ's secured claim is reduced by any value in its security and any shortfall ranks as an unsecured claim in the Liquidation. Given there being no value in the Company's remaining plant and equipment and that it is unlikely that any surplus will be realised from the Company's debtors, it is anticipated that the ANZ's claim will rank as an unsecured claim in the Liquidation.

As mentioned earlier, Scottish Pacific has security over the Company's debtors for an amount of c.\$125k. We will continue to liaise with Scottish Pacific in respect of debtor collections.

6. Trade creditors

The Director stated in his ROCAP that the Company's unsecured creditors are owed \$1,361,654. Following our appointment, we invited creditors to lodge claims in the Liquidation. To date a number of creditors have lodged claims totalling \$513,519 as compared with the ROCAP total for these creditors of \$206,735. We are yet to formally adjudicate these claims. However, it appears that the quantum of unsecured creditors' claims in the ROCAP may be understated.

The variance between the amount identified in the Director's ROCAP and the unsecured claims received is due primarily to month end invoices that had not been recorded in the Company's accounting software as at 28 May 2019.

We note that not all unsecured creditors identified have provided a formal proof of debt to our office, and accordingly, we are unable to comment further on what the actual total of unsecured creditors' claims is likely to be. Should sufficient monies become available to enable a distribution to ordinary unsecured creditors we will call for Formal Proofs of Debt at that time. As at the date of this report any return to creditors is considered unlikely.

7. Non-current liabilities

The Director did not disclose any non-current liabilities in his ROCAP however a review of the Company's management accounts identified a loan from Whirlwind Print Pty Ltd (In Liquidation) totalling c.\$2.046m. Our understanding is the loan relates to funds provided to the Company to assist in purchasing stock and raw materials. We are unaware of the any arrangement regarding

repayment of the loan. Our review also identified a "Lindsay Yates Director Loan" totaling \$154k. We are yet to determine what the loan relates to. Our investigation in this regard is ongoing.

We are not aware of any other non-current liabilities.

Receipts and Payments to date

No receipts or payments have transacted in the Liquidation to date.

Investigations and recovery actions

Investigations undertaken

We have commenced our investigation into the affairs of the Company and any potential recovery actions that may be available.

To date, we have undertaken the following:

- 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 Roads and Maritime Services (NSW) conduct a search of their databases for any vehicles registered in the name of the Company;
- Conducted a search of the PPSR;
- Required that any property of the Company seized by the Sheriff be returned to the Liquidators;
- Written to WorkCover to identify any outstanding insurance liability and/or refunds for WorkCover premiums as at the date of our appointment;
- Collected books and records of the Company; and
- Written to all parties registered on the PPSR.

Our findings to date are detailed below. Given the limited time that has passed in the Liquidation, and that further investigations will be undertaken, the findings are preliminary and subject to change.

What happened to the business of the Company

The Company was incorporated on 25 May 2016 in Victoria. It appears that there was no activity within the Company until it purchased the business of Lindsay Yates & Partners Pty Ltd (LYP) on 9 October 2017. The New South Wales based business provided offset and digital printing from leased premises in Artarmon, NSW.

We understand from our discussions with the Director that the business model of the Company was significantly different to what he was accustomed to particularly with how each contract was managed. The Director advised that each sales representative had their own portfolio for recurring and ongoing work. Key staff subsequently left the Company to move to a competitor not long after the business purchase was finalised. In particular, a long-term sales director moved to CMYK Hub in early 2019 which impacted upon the Company's already poor trading performance.

Due to continuing financial difficulties the Director resolved to wind down the Company's operations and sell any assets of commercial value to CMKY Hub prior to our appointment. Shortly after this, the Director resolved to place the Company into Liquidation on 28 May 2019.

Insolvent trading

Section 588G of the Act imposes a statutory duty on a director of a company to prevent the company from trading whilst insolvent. Further, pursuant to section 588M of the Act, a director who fails to prevent a company from incurring a debt when the director is aware, or should have suspected, that the company was insolvent or would become insolvent as a result of incurring that debt, is liable for an amount equal to the loss or damaged suffered.

We have commenced our investigation into whether there is any such potential action that may exist against the Director for trading the Company whilst insolvent. This investigation remains ongoing.

Whilst it is apparent that the Company may have been insolvent not long after the business of LYP was purchased, we have not been able to determine the date of insolvency due to time constraints and our inability to access the Company's management accounts. We are in the process of obtaining access to these accounts which are stored on Xero's online platform.

Further investigations will be required in order to confirm the basis of any insolvent trading claim and whether it is commercial to pursue any potential insolvent trading claim, including an assessment as to whether the Director would be able to meet any claim brought against him.

Whether any future action is taken against the Company's Director will be subject to whether the Liquidators are funded. To that end if you have any interest in providing funding for any future action please contact Ms Stephanie Elder of this office. In the absence of funding we will proceed to finalise the Liquidation.

Voidable transactions

Our preliminary investigations to date have not identified any recoverable unfair preference claims, uncommercial transactions, unfair loans or unreasonable director-related transactions that are commercial to pursue.

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

Further inquiries to be undertaken

We plan to undertake the following further investigations:

- Finalise a potential insolvent trading claim against the Director of the Company;
- Finalise our investigations into the affairs of the Company and the sale of its assets; and
- Finalise our report to ASIC pursuant to Section 533 of Act.

Proposal without Meeting

No meetings have been held during the Liquidation of the Company however on 11 June 2019 proposals without meetings were issued to creditors to vote on the following resolutions:

- Liquidators' actual remuneration for the period 28 May 2018 to 7 June 2019 totalling \$14,362.50 exclusive of GST;
- Liquidators' estimated remuneration for the 7 June 2019 to completion totalling \$22,500 exclusive of GST;

- Liquidators' estimated internal disbursements for the period 28 May 2019 to completion totalling \$2,000 exclusive of GST; and
- Authorise the Liquidators to destroy the books and records of the Company six (6) months after the date of its deregistration.

We note that the above resolutions were passed on 3 July 2019 and reports were lodged with the ASIC regarding the outcome of same.

As at the date of this report no further meetings are expected for this Liquidation.

Likelihood of a dividend

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

- The size and complexity of the administration and whether any claims are identified and successfully pursued by the Liquidators resulting in surplus monies for distribution to creditors.
- The amount of any assets realisable and the cost of realising those assets.
- The statutory priority of certain claims and costs.
- The value of various classes of claims including secured, priority and unsecured creditors' claims.
- The volume of enquiries by creditors and other stakeholders.

At the current time, there is not expected to be sufficient funds to pay a dividend to any class of creditor. However, if this changes and we 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

We have estimated that our total remuneration for the Liquidation will be \$40,000 (excluding GST and disbursements) however we will not be seeking further creditor fee approval at this time given the lack of assets available to satisfy our costs.

We may write to creditors to approve our remuneration for the additional work that we do in completing the Liquidation. If we do, we will provide creditors with detailed information so that they can understand what tasks have been undertaken.

What happens next in the Liquidation?

We will proceed with the Liquidation, including:

- Finalise our investigations into the affairs of the Company and conclude what further action, if any, is warranted;
- Complete our reporting to the corporate insolvency regulator, ASIC; and
- Finalise the matter.

We may write to you again with further information on the progress of the Liquidation.

We expect to have completed this Liquidation within the next six (6) months.

Compliance with best practice

We 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 this report in its entirety; and
- Contact my office should you have any queries in relation to the Liquidation.

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 Stephanie Elder of my office on +61 3 8663 6051 or via email on stephanie.elder@au.gt.com.

Dated this 27th day of August 2019



Ahmed Bise

Liquidator



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