



McDonald  
Vague

business recovery partners

# Coastal Cuisine NZ Limited (In Receivership & In Liquidation)

## Receivers' Eighth Report

McDonald Vague Limited

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### 1 INTRODUCTION AND APPOINTMENT

On the 27 August 2012, Peri Micaela Finnigan and Roy Horrocks, Insolvency Practitioners of Auckland, were appointed jointly and severally as receivers and managers of Coastal Cuisine NZ Limited by Tegel Foods Limited pursuant to all present and after acquired goods of Coastal Cuisine NZ Limited under the powers contained in the supply agreement, and the terms of the supply agreement dated the 30<sup>th</sup> day of April 2009 (which terms were reconfirmed in a supply agreement dated 8 June 2012) and which property consists of all goods supplied from time to time by the Secured Creditor to the company and includes all proceeds of such goods.

On 4 September 2012, Peri Micaela Finnigan and Roy Horrocks, Insolvency Practitioners of Auckland, were also appointed jointly and severally as receivers and managers of all the assets, property and undertakings of the company under the powers contained within a mortgage agreement dated 20 December 2011 in favour of S.H. Lock (NZ) Limited.

Pursuant to section 24 of the Receiverships Act 1993 ("the Act"), the receivers report herewith on the progress of the receivership. This eighth report should be read in conjunction with the receivers' previous reports.

On 7 December 2012, Gregory Sheriff and Timothy Downs of Grant Thornton were appointed liquidators of Coastal Cuisine NZ Limited by special resolution of the shareholders.

### 2 RESTRICTIONS

This report has been prepared in accordance with Section 24 of the Act. Whilst all care and attention has been taken in compiling this report, we do not accept any liability whatsoever to any party as a result of the circulation, publication, reproduction or use of this report.

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

#### *Events Leading Up To Our Appointment*

The appointment arose as a result of the company being placed in receivership on 9 August 2012 by the second ranking General Security Agreement holder, Weekend Holdings Limited. The receivers appointed by Weekend Holdings Limited retired on 6 September 2012.

### **Trading On / Closure of Business**

The previous receivers ceased trading the business on 31 August 2012 and continued with a skeleton staff of 5 employees until 4 September 2012 reducing stocks held. On 4 September 2012 these staff were terminated. The general manager and operations manager gave their formal resignations to the new receivers.

The previous receivers have been paid their entitlement.

## **3 CONDUCT OF THE RECEIVERSHIP DURING THE PRECEDING SIX MONTHS**

### ***Asset Realisations***

The business assets were sold on 13 September 2012. The net proceeds have been paid to S.H. (NZ) Lock Limited in reduction of their debt.

#### ***3.1 Fixed Asset Recoveries***

All known fixed assets have been realised.

#### ***3.2 Debtor Recoveries***

The Receivers recovered from debtor collections (since the date of the Weekend Holdings Receivership being 9 August 2012) \$445,043. This includes post receivership sales of inventory.

Coastal Cuisine NZ Limited is a significant creditor of PDNZ Limited (In Liquidation) ("PDNZ") but is not a secured creditor and will rank on a pro rata basis with other unsecured creditors. The liquidators of PDNZ have indicated there may be a distribution to unsecured creditors. The last liquidators report however records that the liquidators hold in trust a sum of \$16,303 after costs of the liquidation. The report says there are no preferential creditors but unsecured claims totalling \$737,278. The report does not provide what balance is expected to be collected in debtors. It is therefore likely any return will be minimal.

## **4 OTHER POTENTIAL RECOVERIES TO INVESTIGATE**

### ***4.1 Demands on Director***

The Receivers made inquiry with the director regarding moneys he withdrew from Coastal to fund the fit out in a related company. Company records clearly show Coastal funds were taken to pay creditors of the related company. The director, Mr Ray Arnesen, claims Weekend Holdings Limited's advances to Coastal funded the payments. The bank account records however do not support this. This is a matter the company's liquidators may investigate.

#### 4.2 *Bulk Meats Direct Limited*

Coastal funds were withdrawn by the director and paid to a Refrigeration company for the installation of a large walk in freezer and some free standing freezers in a related company. The refrigeration company held a specific security over these assets. This is a matter for the liquidators to review.

#### 4.3 *Weekend Holdings Limited*

An investigation is required to be made into whether Weekend Holdings Limited as third ranking secured creditor, received any preferential payments ahead of the earlier ranking secured creditors. The records for the company record payments to Weekend Holdings Limited of \$50,000 in the six months preceding the receivership. In the twelve months preceding receivership, Weekend Holdings Limited withdrew funds of \$214,833. This again is a matter for the liquidators to review.

### 5 LEGAL ADVICE ON ENTITLEMENT TO PROCEEDS

The Receivers sought legal advice on the correct allocation of proceeds from debtor and asset recoveries. Following consideration of this advice the Receivers paid \$379,439 to S.H. Lock and \$70,000 to Tegel.

### 6 CREDITORS' CLAIMS

#### 6.1 *Secured Creditors*

At the date of this report the amounts due to our appointer were as follows:

			\$
Amount owing at the commencement of receivership being			
9 August 2013			
S.H. Lock (NZ) Limited – First Ranking GSA	refer note 1	262,258	
Weekend Holdings Limited – Second Ranking GSA	(approx)	4,000,000	
Tegel Foods Limited – Specific Security (in debtor proceeds)		224,917	
Balance outstanding (before interest and costs)			<u>\$5,374,350</u>

**Note 1:** S.H. Lock (NZ) Limited ("S.H. Lock") (following the trading on by the former receivers) is further owed a post receivership balance of \$96,972. S.H. Lock on commencement by the current receivers, were therefore owed \$359,230.

#### 6.2 *S.H. Lock*

S.H. Lock at the date of the current receivers' appointment was owed \$359,230. They incurred a further \$20,208 in costs. They have received \$284,439 from debtors which comprises Tegel and non Tegel related recoveries from debtors who have paid to their account direct and \$95,000 from asset recoveries since the appointment of the Weekend Holdings Limited Receivers.

If no account is made to adjust for the Tegel funds of \$18,309 received by S.H. Lock, the S.H. Lock are technically fully repaid. The debtor funds however are required to be allocated in accordance with the terms of a Deed of Subordination with Tegel. No adjustment has been sought as there is still an expectation of recovery from PDNZ and from the write off of unpaid debtors. This would remedy the overpayment to S.H. Lock and the underpayment to Tegel by allocating the first \$18,309 to Tegel. The Receivers will reconcile debtors and attend to a GST claim on bad debtors within the next GST period.

### 6.3 *Tegel Foods*

Tegel Foods Limited was owed \$224,917 at date of appointment and are owed further costs arising from the Receivership. To date, Tegel have received payment for post receivership purchases (the prior Receivers' trading on purchases) and received \$70,000 on 11 March 2013. As at the date of this report, Tegel's total debt including costs is \$214,798. This shortfall is subject to further change based on additional costs and potential future collections that Tegel may have entitlement to. There have been no further debtor recoveries since our last report. The agent has discontinued pursuit.

There is a substantial shortfall to Tegel. At this stage there appears to be no strong likelihood of a recovery from the major debtor, PDNZ. Any PDNZ recovery is subject to priority given to Receivers' fees and S.H. Lock entitlement to non Tegel related recoveries. There is an adjustment due from S.H. Lock of \$18,309.

### 6.4 *Preferential Creditors*

At the commencement of the receivership, the following amounts were owed to preferential creditors.

	\$
Employees Claims –Holiday Pay and Redundancy	37,062
Inland Revenue – PAYE	83,236
Total	<u>\$120,298</u>

Any recovery by employees will depend on the success of recoveries under heading 5 and recoveries made from the liquidation of PDNZ. The likelihood is now that no recovery will be made.

### 6.5 *Unsecured Creditors*

The receivers do not anticipate that there will be funds available for distribution to unsecured creditors from the realisation of assets. S.H. Lock, Tegel and Weekend Holdings Limited, as secured creditors, and the preferential creditors, rank ahead of these creditors.

It is not currently known whether the directors have sufficient means to meet any successful claim against them for breaches of directors' duties. This is a matter the Liquidators will need to consider.

## **7 MATTERS DELAYING THE COMPLETION OF THE RECEIVERSHIP**

We **attach** our report on receipts and payments. The funds recovered are not sufficient at date of writing this report to clear S.H. Lock in full. S.H. Lock hold funds that relate to Tegel supply.

S.H. Lock holds \$284,439. Tegel is entitled to no less than \$18,309 of these funds based on an analysis prepared by the receivers. The Receivers hope to remedy the over/under payment from future recoveries.

The total recoveries to date are insufficient to clear the secured creditors (Tegel and S.H. Lock) and receivership costs. The total owing to the two secured creditors at commencement was \$583,000.

## **8 ESTIMATED DATE OF COMPLETION**

The Receivers believe the receivership may be concluded within six months. The matter outstanding is now a final GST return and write off of bad debtors.

## **9 CONTACT DETAILS**

Enquiries should be directed to the Keaton Pronk on (09) 969 1518 or by email to [kpronk@mvp.co.nz](mailto:kpronk@mvp.co.nz).

The Receivers can be contacted at:

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PERI M FINNIGAN  
RECEIVER

DATED this 31 day of August 2016

# Realisations and Distributions

## Coastal Cuisine NZ Limited (In Receivership & In Liquidation) 27 August 2012 to 26 August 2016

Realisations	As Per Statement Of Affairs	Cash Received Prior Receiver	Cash Received Receiver
	\$	\$	\$
Plant and Machinery (Including Trucks)	73,200	}	90,871
Goodwill	10,000		
Stock	2,000		
High Ceiling Freezer	10,000		
Debtors	585,914		455,043
Bank Account Closure	-		4,864
GST Credits received from write off of bad debts (refer note 1)	-		99,724
Interest Received / Sundry	-		803
Lease Income	-		1,731
Vehicle – 2001 BMW X5	10,870		10,870
Sundry Receipts	-		74
<b>Realisations</b>			<b>\$663,980</b>
<b>Total Realisations for Prior Receiver</b>			
Advance from Lock Finance		98,100	
Bank Account Closure		6,200	
Debtors Recovered		20,497	
Loan Repayments		8,000	
Rent Received		7,500	
<b>Realisations</b>			<b>\$140,297</b>
<b>Total Realisations</b>	<b>\$691,984</b>		<b>\$804,277</b>

### Payments

Costs Charges & Expenses of Receiver (Lock & Tegel)	
Receivers Fees	116,561
Disbursements	4,342
Auction Fees	919
Bank Fees, RWT, Sundry Expenses	1,121
Debt Collection Costs	18,920
Electricity	1,925

Insurance Premiums	330
Legal Fees	13,763
Rent	4,091
Waste Disposal	235
<b>Total Receivers Fees</b>	<b>\$162,207</b>
<b>Costs Charges &amp; Expenses of Prior Receiver</b>	
Receivers Fees	34,783
Trading On Costs incurred by former Receiver (paid by McDonald Vague)	28,250
Trading On Costs	129,473
<b>Total Prior Receivers Fees</b>	<b>\$192,506</b>
<b>Total Costs of Receivership and Trading On</b>	<b>\$354,713</b>
<b>Distributions</b>	
Secured Creditor – S.H. Lock (NZ) limited	379,439
Secured Creditor – Tegel Foods Limited	70,000
<b>Total Distributions to Secured Creditors</b>	<b>\$449,439</b>
<b>Total Payments</b>	<b>\$804,152</b>
<b>BALANCE HELD (refer note 2)</b>	<b>\$125</b>

**Note 1:** GST credits received were offset against GST payable for the August/September 2012 period. This resulted in a refund of \$99,724.

**Note 2:** S.H. Lock holds \$284,439. The liquidators hold \$135 in an ASB account. The receivers have not recovered further debtors to enable S.H. Lock to apply the full amount held to their balance owing. Tegel still remain entitled to certain proceeds held by S.H. Lock. This should be remedied when a GST refund is applied for and received allowing a further distribution.