



McDonald
Vague

business recovery partners

McDonald Vague Limited

Level 10, 33 Federal Street,
Auckland Central

PO Box 6092, Victoria Street West,
Auckland 1142, New Zealand

p: 09 303 0506

f: 09 303 0508

e: insol@mvp.co.nz

www.mvp.co.nz

**ESKA Company Limited
(In Liquidation)
*formerly ESKA Limited until 4 July 2019***

**Liquidators' Second Report to Creditors and Shareholders
For the period from 11 October 2019 to 10 April 2020**

1 INTRODUCTION AND APPOINTMENT

Boris van Delden and Peri Micaela Finnigan, CAANZ Accredited Insolvency Practitioners, of Auckland, were appointed jointly and severally as liquidators of ESKA Company Limited ("the company") on 11 October 2019 by the High Court at Auckland.

Pursuant to Section 255(2)(d) of the Companies Act 1993 ("the Act"), the liquidators herewith report on the progress of the liquidation. This second report should be read in conjunction with the liquidators' previous report. This report is being sent to all shareholders and all creditors who have filed a claim in the liquidation.

No realisations or distributions were made during the period covered by this report and a Statement of Realisations and Distributions is therefore not included.

2 RESTRICTIONS

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.

3 CONDUCT OF THE LIQUIDATION DURING THE PRECEDING SIX MONTHS

Since our last report, we have continued our investigations into the trading affairs of the business prior to liquidation. We previously reported that the director stated she had transferred the company's assets to herself and her husband, in repayment of shareholder loans. Our analysis of the company's accounting records revealed the director's transfer of assets and account balances resulted in a significantly overdrawn current account. We have issued demand against the director for repayment of the overdrawn shareholder current account, capped at the value of registered claims and liquidation costs.

We have also notified the director that we believe she breached various director's duties and provisions of the Act by preferring the repayment of shareholder loans and acting in self interest. We have accordingly reserved the right to increase the amount claimed and to take further recovery action against the director if she fails to satisfy the demand made against her or to provide evidence to support why a lesser sum is owing.

4 INVESTIGATIONS

Investigation of the company's affairs is ongoing. We have gathered records and information from various sources. The director has provided some records in response to formal notice in terms of Section 261 of the Act however the records provided are incomplete.

Evidence gathered indicates the director breached several duties. We also consider the distribution of assets to the shareholders could not have been properly authorised and is therefore recoverable. This evidence may be used as a basis for further recovery action if claims against the company are not satisfied. Where applicable we will also pass on information to relevant authorities.

5 CREDITORS' CLAIMS

5.1 Secured Creditors

No secured claims have been received.

5.2 Preferential Creditors

Preferential claims totalling \$9,824.93 have been received. No distributions have been made to preferential creditors.

5.3 Unsecured Creditors

Unsecured creditor claims totalling \$25,663 have been registered in the liquidation. In the interests of minimising liquidators' fees, the liquidators will not attend to the formality of accepting or rejecting creditors' claims until we are in a position to make a distribution to creditors.

6 LIQUIDATORS' FEES

Liquidators' fees in a Court ordered liquidation are to be approved by the Court and if required a retrospective application for fee approval will be made by the liquidators.

Section 284 (1) of the Act provides that an application (with the leave of the Court) may be made by a creditor, shareholder or director of a company in liquidation to review or fix the remuneration of the liquidators. In circumstances where no application has been made to review or fix the liquidators' remuneration the Court will be less inclined to rigorously examine the fees submitted by the liquidators for subsequent approval.

Liquidators' unbilled costs for the period covered by this report were \$15,328.81, based on 89 hours of work undertaken as follows:

Work Category	Hours	\$
Disbursements	0.6	592
Appointment and commencement functions	22.5	3,492
Creditors' claims, enquiries and reports	2.4	3,492
Financial Accounting	14.2	425
Investigations and Legal	30.3	2,303
Management	12.0	5,396
Statutory Requirements	2.2	2,015
Taxation	4.6	690
Total	89	\$15,329

7 FUNDS / LIKELY OUTCOME

It is too early to determine if there will be a distribution to creditors.

8 MATTERS DELAYING THE COMPLETION OF THE LIQUIDATION

The following matters are outstanding:

- Recoveries from the director/shareholder

9 ESTIMATED DATE OF COMPLETION

It is impracticable at this stage to estimate a date for completion of the liquidation.

10 CONTACT DETAILS

Enquiries should be directed to Dalwyn Whisken, DDI (09) 969 5336, or email dwhisken@mvp.co.nz.

The Liquidators can be contacted at:

McDonald Vague Limited
Level 10, 33 Federal Street
Auckland 1010

P O Box 6092
Victoria Street West
Auckland 1142



PERI M FINNIGAN
LIQUIDATOR

DATED this 6th day of May 2020