



McDonald  
Vague

business recovery partners

**KSJ Construction Limited  
(In Liquidation)**

**Liquidators' Fifth Report  
(for the period from 7 February 2019  
to 6 August 2019)**

**McDonald Vague Limited**

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## **1 INTRODUCTION AND APPOINTMENT**

Iain McLennan and Boris van Delden, Insolvency Practitioners, of Auckland, were appointed joint and several liquidators of KSJ Construction Limited ("the company") on 7 August 2017.

Pursuant to Section 255(2)(d) of the Companies Act 1993 ("the Act"), the liquidators are reporting on the progress of the liquidation. This fifth report should be read in conjunction with the liquidators' previous reports.

This report is being sent to all shareholders and all creditors who have filed a claim in the liquidation.

A Statement of Realisations and Distributions is **attached**.

## **2 RESTRICTIONS**

Whilst all care and attention has been taken in compiling this report, we do not accept any liability whatsoever to any party arising from 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 but that becomes known to us after that date.

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

### ***Asset Realisations***

#### **3.1 Cash to Hand**

**(Statement of Affairs: \$87)**

The company had \$21 in its bank account as at the date of liquidation. The liquidators have closed this account and recovered the closing balance.

The liquidators have recovered \$141 in petty cash.

All known cash to hand has now been recovered.

### **3.2 Accounts Receivable, Retentions**

**(Statement of Affairs: \$266,000)**

The liquidators have recovered \$121,043 for construction work completed prior to the company's liquidation.

There are retentions held in respect of work completed by the company prior to its liquidation. The liquidators are seeking the release of these retentions, following the end of the relevant defects liability periods.

### **3.3 Motor Vehicles**

**(Statement of Affairs: \$unknown)**

All of the company's vehicles have been sold, either by the liquidators or the vehicle's secured creditor. The company's motor vehicles realised \$317,352. The cost of sale on the vehicles, including commission, was \$8,696.

### **3.4 Other Company Assets**

**(Statement of Affairs: \$unknown)**

The company's office furniture and tools have been sold, along with other miscellaneous small assets. The liquidators have realised \$3,655 from the sale of these assets. The cost of sale was \$553.

### **3.5 Other Recoveries**

The liquidators have recovered loans made to company employees totalling \$995.

The liquidators received a refund of \$489 from the Commissioner of Inland Revenue for pre-liquidation overpayment of KiwiSaver employer contributions.

### **3.6 Interest**

The liquidators have earned interest of \$527 on funds held.

### **3.7 Shareholder's Current Account**

The shareholder had a personal asset that was registered in the company's name and secured to Heartland Bank, who also held security over one of the company's vehicles. The personal asset was sold for \$14,766 and the cost of sale was \$1,258. Heartland Bank applied the surplus of \$4,295 realised from the sale of the company vehicle against the shortfall owing in respect of the lending on the personal asset. In response to the liquidators' querying Heartland Bank's right to apply the surplus from the sale of the company vehicle against the lending on the personal asset, Heartland Bank has produced a declaration as to purpose signed by the shareholder in which he confirmed that that lending was not for personal, domestic, or household use.

The shareholder's current account was not overdrawn as at the date of liquidation. The shareholder remains a creditor, after taking into account the loss on realisation of the personal asset.

## **4 INVESTIGATIONS**

The liquidators' investigations into the books, records, and affairs of the company have been completed.

The liquidators have reviewed the shareholder's current account and are satisfied that the shareholder was a creditor of the company as at the date of liquidation.

The company's director was made bankrupt on 11 October 2018. The liquidators understand that the director has no known assets of value and consider that there will be no benefit to creditors in the liquidators investigating the director's actions further, as those investigations are unlikely to lead to a recovery for the benefit of the company's creditors.

## **5 CREDITORS' CLAIMS**

### **5.1 Secured Creditors**

#### **5.1.1 Vehicles**

European Financial Services Limited, Heartland Bank Limited, Mercedes-Benz Financial Services New Zealand Limited, Nissan Financial Services New Zealand, and UDC Finance Limited held security over various motor vehicles owned by the company. The total amount secured against the vehicles was \$374,729.

All of the company's vehicles were sold. The net proceeds of sale from realising the vehicles of \$285,856 has been distributed to the secured creditors. UDC Finance has been paid in full. There are shortfalls owing to Nissan Financial Services New Zealand and Heartland Bank totalling \$88,873, which are unsecured claims in the liquidation.

#### **5.1.2 PMSI Creditors**

Fletcher Distribution Limited, AML Limited, APL Kiwiform Pty Limited, Tamaki Building Supplies Limited, and Woodmart Limited have filed secured claims in the liquidation in respect of good supplied to the company. These secured creditors' claims total \$316,093.

Woodmart Limited held security over goods supplied to the company together with its proceeds. A partial distribution of \$7,238 has been made to Woodmart Limited, arising from Woodmart Limited's ability to trace its supply into proceeds. Further information has been requested in relation to the balance of the Woodmart Limited product on site as at the date of liquidation.

No other tracing has been identified.

### **5.2 Preferential Creditors**

#### **5.2.1 Employees**

Preferential claims from 23 employees totalling \$131,814 have been received relating to unpaid wages or salary and holiday pay. The liquidators have made distributions totalling \$75,285 (57 cents in the \$) to these preferential employees.

### **5.2.2** *Commissioner of Inland Revenue*

The Commissioner of Inland Revenue has filed a preferential claim for \$335,603 in respect of unpaid GST, PAYE, and other employee deductions. The Commissioner has also submitted an unsecured claim of \$182,693.

The liquidators have made distributions to the Commissioner totalling \$6,633 (57 cents in the \$) in respect of preferential employee deductions.

The Commissioner has transferred tax refunds totalling \$310 in reduction of preferential amounts payable to the Commissioner.

### **5.3** *Unsecured Creditors*

As at the date of preparing this report, 24 unsecured creditors' claims have been received, which total \$367,067.

The total amount owing to unsecured creditors, including the unsecured claim by the Commissioner of Inland Revenue and the shortfall owing to secured creditors is estimated to be in excess of \$900,000.

In the interests of minimising liquidators' fees, the liquidators will not attend to the formality of accepting or rejecting creditors' claims until such time as we are in a position to pay a distribution to that group of creditors.

## **6 FUNDS / LIKELY OUTCOME**

The liquidators anticipate there will be a shortfall on the amount due to preferential creditors.

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

The following matters are outstanding:

- Collecting retentions at the end of the defects liability periods
- Preparing final GST return
- Finalising liquidation and retiring as liquidators

## **8 ESTIMATED DATE OF COMPLETION**

It is too early to estimate the date of completion of this liquidation.

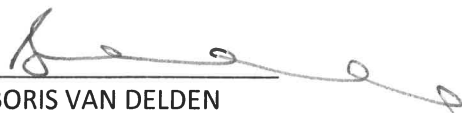
## **9 CONTACT DETAILS**

Enquiries should be directed to Marisa Brugeyroux on DDI (09) 3063340 or by email to [mbrugeyroux@mvp.co.nz](mailto:mbrugeyroux@mvp.co.nz).

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BORIS VAN DELDEN  
LIQUIDATOR

DATED this 17 day of September 2019

# Realisations and Distributions

## KSJ Construction Limited (In Liquidation) 7 August 2017 to 6 August 2019

### Realisations

Bank Account Closure	21
Cash on Hand	141
Staff Loan repayment	995
Pre-Liquidation Debtors	121,043
Shareholder's Current Account	19,061
Interest	527
Sale of Motor Vehicle	317,352
Sale of Other Assets	3,655
Refund from IRD	489
<b>Total Realisations</b>	<b>\$463,284</b>

### Payments

#### Liquidators Fees

Liquidators Fees	60,637
Disbursements	1,341
<b>Total Liquidators Fees</b>	<b>\$61,978</b>

#### Other Costs of Liquidation and Trading On

Insurance	4,122
Cost of Sale – Company Assets	9,249
Cost of Sale – Shareholder's Current Account	1,258
Interest	41
Resident Withholding Tax on Interest	147
<b>Total Costs of Liquidation and Trading On</b>	<b>\$14,817</b>

#### Distributions

Secured Creditors	293,094
Employees – Preferential Wages and Holiday Pay	75,285
IRD – Preferential Employee Deductions	6,633
IRD – Preferential GST, PAYE, etc	310
<b>Total Distributions to Creditors</b>	<b>\$375,322</b>

<b>Total Payments</b>	<b>\$452,117</b>
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<b>BALANCE HELD</b>	<b>\$11,167</b>
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