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business recovery partners

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# KSJ Construction Limited (In Liquidation)

## Liquidators' Second Report (for the period from 7 August 2017 to 6 February 2018)

### 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 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.

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 company had \$141 in petty cash as at the date of liquidation.

All known cash to hand has now been recovered.

### **3.2 Accounts Receivable and 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, which are not yet due. The liquidators anticipate that each retention held will be released to the liquidators, once the relevant defects liability period has passed.

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

### **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 \$13,033.

### **3.4 Other 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 \$3,209 from the sale of these assets. The cost of sale was \$553.

### **3.5 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 asset was realised by the secured creditor together with its other security. The cost of sale of the asset was \$1,258. The net proceeds of sale applied in reduction of the company's liability to the secured creditor in relation to the personal asset was \$17,803. Attempts are being made to recover the costs of sale and the loan.

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.

### **3.6 Interest**

The liquidators have earned interest of \$202 on funds held.

## **4 INVESTIGATIONS**

The liquidators' investigations into the books, records, and affairs of the company remain ongoing.

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 has given a number of personal guarantees. The liquidators understand that the director is currently being pursued for payment of company debts for which personal guarantees were given. The liquidators understand that the director has no known assets of value and will likely be made bankrupt within the next six months. Accordingly, there will be no benefit to creditors for the

liquidators to investigate the director's actions further at this time. If the director is not made bankrupt in the near future, the liquidators can revisit the position.

## 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 have been realised and the net proceeds of sale of \$284,403 have been distributed to the secured creditors. UDC Finance has been paid in full. Subject to queries raised with Nissan Financial Services New Zealand and Heartland Bank being resolved, the shortfall owing on the vehicles totals \$93,340 and the creditors who held securities over the vehicles are unsecured creditors for this amount.

#### 5.1.2 PMSI Creditors

Fletcher Distribution Limited, AML Limited, APL Kiwiiform 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 the 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 IRD has also submitted an unsecured claim of \$182,693. The liquidators have made distributions totalling \$6,633 (57 cents in the \$) in respect of unpaid employee deductions.

### 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 \$959,193.

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
- Completing investigations into books, records, and affairs of the company
- Investigations into the conduct of the director, in the event that he is not made bankrupt

## 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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IAIN McLENNAN  
LIQUIDATOR

DATED this 6 day of March February 2018

# Realisations and Distributions

KSJ Construction Limited (In Liquidation)  
7 August 2017 to 6 February 2018

06/02/2018

## 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	202
Sale of Motor Vehicle	317,352
Sale of Assets	3,209
<b>Total Realisations</b>	<b>462,024</b>

## Payments

### Liquidators Fees

Liquidators Fees	48,465
Disbursements	1,039
<b>Total Liquidators Fees</b>	<b>49,504</b>

### Other Costs of Liquidation and Trading On

Insurance	4,122
Cost of Sale – Company Assets	13,033
Cost of Sale – Shareholder's Current Account	1,258
Resident Withholding Tax on Interest	57
<b>Total Costs of Liquidation and Trading On</b>	<b>18,470</b>

## Distributions

Secured Creditors	291,641
Employees – Preferential Wages and Holiday Pay	75,285
IRD – Preferential Employee Deductions	6,633
<b>Total Distributions to Creditors</b>	<b>373,559</b>

<b>Total Payments</b>	<b>441,533</b>
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<b>BALANCE HELD</b>	<b>20,491</b>
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