



**EDDIE  
SENATORE**

**EDDIE SENATORE**  
Advisory

PO Box 3481  
MANUKA ACT 2603

+61 2 6100 3435  
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5 May 2021

**To the creditor as addressed**

**Dispatch by email only**

**Re: Canberra Cavalry (ACT) Pty Ltd (Administrator Appointed)  
ACN 625 850 099  
(the “Company”)**

### **Meeting of Creditors to Decide Future of the Company and Report Providing Opinion**

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As previously advised, I was appointed Administrator of the Company on 30 March 2021 pursuant to Section 436A of the Corporations Act 2001.

#### **Meeting details**

A meeting of creditors to decide the future of the Company will be held as follows:

**Date:** 13 May 2021  
**Time:** 10:00 AM AEST  
**Address:** Virtual Meeting. Please see details in the Notice of Meeting Attached in this Report

At the meeting, creditors will be entitled to vote on whether:

- a. it would be in the creditors' interests for the Company to be wound up; or
- b. it would be in the creditors' interests for the administration to end.

I recommend that creditors should resolve to wind up the Company.

I have formed this opinion based on my analysis of the Company's business, property, affairs and financial circumstances. I have set out my analysis and a statement including my opinion and reasons for this opinion in a detailed report.

The detailed report, notice convening the meeting of creditors and other documents relevant to the opinion and meeting procedures are attached as Appendices to this letter.

#### **Proof of Debt and Proxy**

To participate in the decision meeting, you may need to:

- Submit a proof of debt for the purpose of voting form and information to substantiate your claim. Any Proof of Debt Form submitted for the purposes of the first meeting of creditors and accepted by the Chairperson of that meeting for voting purposes will be valid for this meeting.



- Appoint a person – a “proxy” or person authorised under a power of attorney – to vote on your behalf at the meeting. This may be necessary if you are unable to attend the meeting, or if the creditor is a company.

You can appoint the chairperson of the meeting as your proxy and direct the chairperson how you wish your vote to be cast. If you choose to do this, the chairperson must cast your vote as directed.

To facilitate the conduct of the meeting, completed proof of debt (voting) form and, if applicable, proxy forms must be returned to my office by post, fax or email by **Tuesday, 11 May 2021**.

### **Remuneration Approval**

I am seeking approval of remuneration of \$41,216.00.

Attached at **Appendix “C”** is a detailed report on the cost of the administration and the tasks I have undertaken. This report is called a Remuneration Approval Report. I am unable to pay my remuneration without the approval of creditors or the court.

### **What to do next**

You should now:

- read the attached/provided report(s), opinion statements and supporting information
- decide whether you are going to attend the meeting, and
- complete and return your proof of debt (voting) form, and if required, proxy form by 11 May 2021.

You can access information which may assist you on the following websites:

- ARITA at [www.arita.com.au/creditors](http://www.arita.com.au/creditors)
- ASIC at [www.asic.gov.au](http://www.asic.gov.au) (search for “insolvency information sheets”).

Should you have any questions in relation to this matter, please contact my office.

Yours faithfully

**Ezio Senatore  
Administrator**

**Appointment date:** 30 March 2021  
**Contact name:** Ezio (Eddie) Senatore  
**Contact number:** (02) 6100 3435  
**Email:** [hello@eddiesenatore.com](mailto:hello@eddiesenatore.com)

## **Attachments**

- Appendix A Meeting notice and other meeting information (including proof and proxy forms)
- Appendix B Administrators' report to creditors and statement of opinion
- Appendix C Remuneration approval report
- Appendix D Eligibility for the fair entitlements guarantee assistance fact sheet
- Appendix E Creditor information sheet approving remuneration in external administrations
- Appendix F Creditor information sheet offences, recoverable transactions and Insolvent trading information sheet
- Appendix G Creditor information sheet creditor rights in voluntary administration
- Appendix H Creditor information sheet creditor rights in liquidation

# Appendix “A”

## **NOTICE OF MEETING OF CREDITORS OF COMPANY**

### **Canberra Cavalry (ACT) Pty Ltd (Administrator Appointed) ACN 625 850 099 (the "Company")**

Notice is given that a meeting of the creditors of the Company will be held as follows:

**Date:** Thursday, 13 May 2021  
**Time:** 10:00 AM AEST  
**Address:** Virtual Meeting. Please see below for details.

#### **Agenda**

The purpose of the meeting is:

1. To receive a Report about the company's business, property, affairs and financial circumstances.
2. To receive a statement to creditors by one of the directors, explaining the circumstances leading up to the Administration.
3. Questions from creditors.
4. For creditors to resolve:
  - a. that the company execute a Deed of Company Arrangement; or
  - b. that the administration should end; or
  - c. that the company be wound up.
5. To fix the remuneration of the Administrator.
6. If the company is to execute a Deed of Company Arrangement, to fix the remuneration of the Deed Administrator.
7. If the company is wound up, to consider appointing a Committee of Inspection.
8. If no Committee is appointed, to fix the remuneration of the Liquidator.
9. If no Committee is appointed, to consider the destruction of the books and records at the conclusion of the winding up.
10. Any other business that may be lawfully brought forward.

#### **Attending and voting at the meeting**

Creditors are invited to attend the meeting, however they are not entitled to participate and vote at a meeting unless:

- **Proof of debt for voting purposes (copy attached):** They have lodged with the Administrator particulars of the debt or claim and the claim has been admitted, wholly or in part, for voting purposes by the Administrator. If a proof of debt for voting purposes has already been lodged, they do not need to do so again. Refer to Note 1 for further guidance on entitlement to vote.
- **Proxies (copy attached) or attendance:** They are either present in person or by electronic facilities or validly represented by proxy, attorney or an authorised person under s250D of the Corporations Act 2001 (the "Act"). If a corporate creditor or represented, a proxy form, power of attorney or evidence of appointment of a

company representative pursuant to Section 250D of the Act must be validly completed and provided to the Administrator at or before the meeting.

**A proxy is only valid for a particular meeting and will need to be resubmitted even if previously provided.**

To enable sufficient time to review, proofs of debt and proxies (or document authorising the representation) should be submitted to Ezio (Eddie) Senatore on [hello@eddiezenatore.com](mailto:hello@eddiezenatore.com) or PO Box 3481, Manuka ACT 3481 by no later than 5:00 PM, **Tuesday, 11 May 2021**. If you choose to return these documents by post, please allow sufficient time for the documents to be received prior to the due date.

### Virtual Meeting

The meeting of creditors will be held via Zoom. The meeting can be accessed through the following link:

<https://us02web.zoom.us/j/4480000100>

Meeting ID: 448 000 0100

One tap mobile

+61280156011,,4480000100# Australia  
+61370182005,,4480000100# Australia

Dial by your location

+61 2 8015 6011 Australia	+1 669 900 9128 US (San Jose)
+61 3 7018 2005 Australia	+1 253 215 8782 US (Tacoma)
+61 7 3185 3730 Australia	+1 301 715 8592 US (Washington DC)
+61 8 6119 3900 Australia	+1 312 626 6799 US (Chicago)
+61 8 7150 1149 Australia	+1 346 248 7799 US (Houston)
+1 646 558 8656 US (New York)	

Find your local number: <https://us02web.zoom.us/j/4480000100>

Any queries should be directed to [hello@eddiezenatore.com](mailto:hello@eddiezenatore.com) or (02) 6100 3435.

Dated this 5<sup>th</sup> day of May 2021



.....  
**Ezio Senatore**  
**Administrator**

Eddie Senatore Advisory  
PO Box 3481  
MANUKA ACT 2603

### **Note 1: Entitlement to vote and completing proofs**

#### **IPR (Corp) 75-85 Entitlement to vote at meetings of creditors**

- (1) A person other than a creditor (or the creditor's proxy or attorney) is not entitled to vote at a meeting of creditors.
- (2) Subject to subsections (3), (4) and (5), each creditor is entitled to vote and has one vote.
- (3) A person is not entitled to vote as a creditor at a meeting of creditors unless:
  - (a) his or her debt or claim has been admitted wholly or in part by the external administrator; or
  - (b) he or she has lodged, with the person presiding at the meeting, or with the person named in the notice convening the meeting as the person who may receive particulars of the debt or claim:
    - (i) those particulars; or
    - (ii) if required—a formal proof of the debt or claim.
- (4) A creditor must not vote in respect of:
  - (a) an unliquidated debt; or
  - (b) a contingent debt; or
  - (c) an unliquidated or a contingent claim; or
  - (d) a debt the value of which is not established; unless a just estimate of its value has been made.
- (5) A creditor must not vote in respect of a debt or a claim on or secured by a bill of exchange, a promissory note or any other negotiable instrument or security held by the creditor unless he or she is willing to do the following:
  - (a) treat the liability to him or her on the instrument or security of a person covered by subsection (6) as a security in his or her hands;
  - (b) estimate its value;
  - (c) for the purposes of voting (but not for the purposes of dividend), to deduct it from his or her debt or claim.
- (6) A person is covered by this subsection if:
  - (a) the person's liability is a debt or a claim on, or secured by, a bill of exchange, a promissory note or any other negotiable instrument or security held by the creditor; and
  - (b) the person is either liable to the company directly, or may be liable to the company on the default of another person with respect to the liability; and
  - (c) the person is not an insolvent under administration or a person against whom a winding up order is in force.

#### **IPR (Corp) 75-110 Voting on resolutions**

- (7) For the purposes of determining whether a resolution is passed at a meeting of creditors of a company, the value of a creditor of the company who:
  - (a) is a related creditor (within the meaning of subsection 75-41(4) of the Insolvency Practice Schedule (Corporations)), for the purposes of the vote, in relation to the company; and
  - (b) has been assigned a debt; and
  - (c) is present at the meeting personally, by telephone, by proxy or attorney; and
  - (d) is voting on the resolution;is to be worked out by taking the value of the assigned debt to be equal to the value of the consideration that the related creditor gave for the assignment of the debt.

**FORMAL PROOF OF DEBT OR CLAIM**

To the Administrator of Canberra Cavalry (ACT) Pty Ltd (Administrator Appointed) ACN 625 850 099 (the "Company")

1. This is to state that the Company was on 30 March 2021, and still is, justly and truly indebted to:

\_\_\_\_\_

\_\_\_\_\_

(full name, ABN and address of the creditor and, if applicable, the creditor's partners. If prepared by an employee or agent of the creditor, also insert a description of the occupation of the creditor) for \_\_\_\_\_ dollars and \_\_\_\_\_ cents

Particulars of the debt are:

Date	Consideration <i>(state how the debt arose)</i>	Amount \$	Remarks <i>(include details of voucher substantiating payment)</i>

2. To my knowledge or belief the creditor has not, nor has any person by the creditor's order, had or received any satisfaction or security for the sum or any part of it except for the following:

\_\_\_\_\_

(insert particulars of all securities held. If the securities are on the property of the company, assess the value of those securities. If any bills or other negotiable securities are held, show them in a schedule in the following form).

Date	Drawer	Acceptor	Amount \$	Due Date

3. Signed by (select option):

- I am the creditor personally.
- I am employed by the creditor and authorised in writing by the creditor to make this statement. I know that the debt was incurred for the consideration stated and that the debt, to the best of my knowledge and belief, remains unpaid and unsatisfied.
- I am the creditor's agent authorised in writing to make this statement in writing. I know the debt was incurred for the consideration stated and that the debt, to the best of my knowledge and belief, remains unpaid and unsatisfied.

Signature: \_\_\_\_\_ Dated: \_\_\_\_\_

Name: \_\_\_\_\_ Occupation: \_\_\_\_\_

Address: \_\_\_\_\_

<b>RECEIVE REPORTS BY EMAIL</b>	Yes	No
Do you wish to receive all future reports and correspondence from our office via email?	<input type="checkbox"/>	<input type="checkbox"/>
Email:.....		

**If being used for the purpose of voting at a meeting:**

- a) Is the debt you are claiming assigned to you?  No  Yes
- b) If yes, attach written evidence of the debt, the assignment and consideration given.  Attached
- c) If yes, what value of consideration did you give for the assignment (eg, what amount did you pay for the debt?) \$ \_\_\_\_\_
- d) If yes, are you a related party creditor of the Company? (if you are unsure contact the Administrator)  No  Yes



**APPOINTMENT OF PROXY**

**Canberra Cavalry (ACT) Pty Ltd (Administrator Appointed) ACN 625 850 099  
(the “Company”)**

\*I/\*We \_\_\_\_\_ (name of signatory) of \_\_\_\_\_ (creditor name)  
a creditor of the Company appoint \_\_\_\_\_ (name of proxy) of  
\_\_\_\_\_ (address of proxy) or  
in his or her absence \_\_\_\_\_ (details of alternate proxy)  
as \*my/\*our \*general/\*special proxy to vote at the meeting of creditors to be held on Thursday,  
13 May 2021, or at any adjournment of that meeting.

*If a special proxy, specify how you wish your proxy to vote for each of the resolutions.*

**Resolutions**

	For	Against	Abstain
1. That the administration end and control of the company be handed back to the directors.			
2. That the company be wound up.			
3. That the Company be placed into Liquidation and that Ezio Senatore of Eddie Senatore Advisory be appointed as Liquidator.			
4. That the actual remuneration of the Administrator, his staff and sub-contractors from 30 March 2021 to 3 May 2021 are all proper costs, charges and expenses of and incidental to the Administration, and that same be fixed on a time basis at rates calculated in accordance with Eddie Senatore Advisory’s Schedule of Hourly Rates, in the amount of \$38,216.00 plus GST as stipulated in the Administrator’s Remuneration Report dated 5 May 2021 and that the Administrator be authorised to draw remuneration as required.			
5. That the forecast future remuneration of the Administrator, his staff and sub-contractors from 4 May 2021 to 12 May 2021 are all proper costs, charges and expenses of and incidental to the Administration, and that same be capped on a time basis at rates calculated in accordance with Eddie Senatore Advisory’s Schedule of Hourly Rates, up to a limit of \$3,000.00 plus GST as stipulated in the Administrator’s Remuneration Report dated 5 May 2021, but subject to upward revision by resolution of creditors, and that the Administrator be authorised to draw remuneration as required.			

<b>If Liquidator is appointed</b>			
6. That NO committee of inspection be appointed in the liquidation of the Company.			
7. That the remuneration of the Liquidator, his staff and sub-contractors, as set out in the Remuneration Approval Report dated 5 May 2021, for the period from the conclusion of the meeting of creditors held on 13 May 2021 to the completion of the Liquidation be capped to a maximum amount of \$20,000.00 plus any applicable GST, but subject to upward revision by resolution of creditors, and that the Liquidator be authorised to draw remuneration as required.			
8. That subject to obtaining the approval of the Australian Securities and Investments Commission under section 70-35(3) of the Insolvency Practice Schedule, the books and records of the Company and of the Liquidator be disposed of by the Liquidator three (3) months after the dissolution of the Company or earlier at the discretion of the Australian Securities and Investments Commission.			

\*I/\*We authorise \*my/\*our proxy to vote as a general proxy on resolutions other than those specified above.

Signature: \_\_\_\_\_

Dated: \_\_\_\_\_

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**CERTIFICATE OF WITNESS**

This certificate is to be completed only if the person giving the proxy is blind or incapable of writing. The signature of the creditor, contributory, debenture holder or member must not be witnessed by the person nominated as proxy.

I, \_\_\_\_\_ of \_\_\_\_\_ certify that the above instrument appointing a proxy was completed by me in the presence of and at the request of the person appointing the proxy and read to him or her before he or she signed or marked the instrument.

Dated:  
Signature of Witness:  
Description:  
Place of Residence:

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\* Strike out if inapplicable

- (1) If a firm, strike out "I" and set out the full name of the firm.
- (2) Insert the name, address and description of the person appointed.
- (3) If a special proxy add the words "to vote for" or the words "to vote against" and specify the particular resolution.

**Proxy forms must be completed and returned by no later than 5:00 PM Tuesday, 11 May 2021 to be eligible to vote at the meeting.**

RETURN TO: Canberra Cavalry (ACT) Pty Ltd (Administrator Appointed)  
Care of: Eddie Senatore Advisory  
Address: PO Box 3481, MANUKA ACT 2603  
Phone: (02) 6100 3435  
Email: hello@eddiesenatore.com

# Appendix “B”



**EDDIE  
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**Canberra Cavalry (ACT) Pty Ltd (Administrator  
Appointed) ACN 625 850 099  
(the “Company”)**

Report by the Administrator

Pursuant to 439A of the Corporations Act 2001  
Rule 75-225(3) Insolvency Practice Rules (Corporations) 2016

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5 May 2021



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- A. Declaration of Independence, Relevant Relationships and Indemnities
- B. “Draft” Summary of Estimated Returns



## Statement by the Administrator

In reviewing this report, creditors should note the following:

- The statements and opinions contained in this report are based on good faith and on the belief that such statements and opinions are not false and misleading.
- This report has been prepared based on the Administrator's preliminary investigations. Any further material information identified after the issuing of this report may result in a further report or alternatively such additional information will be brought to the creditors' attention at the forthcoming meeting.
- In considering the options available to creditors and formulating an opinion and recommendation, the Administrator has relied upon forecasts in relation to asset realisations and total claims by creditors based on the best assessment of these amounts as at the date of this report. These forecasts and estimates may change in the future once the asset realisations progress (if any) and any further/revised creditor claims are received. Consequently, the outcome for creditors might differ from the information provided in this report.
- The statements and opinions contained in this report are based on the information including but not limited to statements/information provided by the Directors, statements/information provided by various third parties and financial statements of the Company. The Administrator reserves the right to alter any conclusions reached in this report based on information which may be provided after the issuing of this report or information that may be found as being incorrect after the issuing of this report.
- Creditors should seek their own independent legal advice as to their rights and the options available to them at the forthcoming meeting of creditors.





## 1 Executive summary

### 1.1 Appointment

I, Ezio Senatore of Eddie Senatore Advisory, registered liquidator of Unit 2, 16 Bougainville Street, Griffith ACT 2603, was appointed as the administrator (“**Administrator**”) of the Company on 30 March 2021 pursuant to the provisions of the *Corporations Act 2001* (the “**Act**”).

I hereby submit the following report and opinions as required by Rule 75-225(3) of *Insolvency Practice Rules (Corporations) 2016* and the provisions of the Act.

### 1.2 Purpose of report

The purpose of this report is to table the findings of my investigations into the Company’s business, property, affairs and financial circumstances, as well as my opinion on the options available to the creditors of the Company.

### 1.3 Administrator’s recommendation

Creditors will be asked to resolve one of the following courses of action at the next meeting of creditors:

- The administration of the Company should end; or
- The Company be wound up.

On 14 April 2021 Baseball Australia terminated the Company’s licence to participate in the national baseball competition due to a clause allowing it to do so as a result of the Company being placed into external administration. Since the business of the Company can no longer trade there has been no formal proposal put forward by the Directors for a Deed of Company Arrangement (“DOCA”).

I therefore recommend creditors resolve the Company be placed into liquidation and its affairs be wound up.

I draw the attention of creditors to sections 13 and 15 of this report outlining the details of my recommendation and the reasons for my opinion.

## 2 Basis of Administrator’s report

This report has been prepared based on information maintained by the Company.

Although I have conducted the relevant investigations in relation to the Company and its officers, there may be matters of which I may be unaware as the financial records of the Company have not been audited.

In completing this report, I have utilised information obtained from the following sources:



- Australian Securities and Investments Commission;
- Personal Property and Securities Register;
- Company's books and records including internally prepared financial statements;
- Discussions with the Directors of the Company;
- Discussions/information received from the unsecured creditors/shareholders; and
- Other public databases including Access Canberra and Land Titles Register.

### **3 Administrator's prior involvement**

In my circular to creditors dated 1 April 2021, I provided a formal Declaration of my Independence, Relevant Relationships and Indemnities ("**DIRRI**").

I advise there has been no change to the information contained in my DIRRI and the information is accurate as at the date of this report.

For completeness, I attach a copy of my DIRRI (**Schedule "A"**), as previously forwarded to all known creditors of the Company.

### **4 Outstanding winding up application**

As at the date of my appointment as Administrator there were no winding up applications.

### **5 Trading**

The Directors advise the Company ceased trading prior to my appointment due to the Australian Baseball League season ending in February 2021.

### **6 Sale of business/assets**

No sale of business has been identified.

### **7 Statutory information**

#### **7.1 Incorporation date**

The Company was incorporated in the Australian Capital Territory on 30 April 2018.

#### **7.2 Registered office**

According to the Australian Securities & Investments Commission ("**ASIC**") database, the Company's registered office is 3 Narupai Street, Narrabundah ACT 2604.

#### **7.3 Nature and principal location of business**

The Company held a participation agreement to operate a baseball team in the Australian National Baseball League.



The Company's principal place of business is 3 Narupai Street, Narrabundah ACT 2604.

## 7.4 Officers and shareholders

ASIC public database discloses the following Company officers:

### Company Officers

Name	Position	Date Appointed	Date Ceased
Donald Stuart McMichael	Director/Secretary	30 April 2018	Current
Daniel Joseph Amodio	Director	30 April 2018	Current

The shareholders included:

Name	No of Shares	Type	Fully Paid (Y/N)
Eighty Four Sports Pty Ltd	72,000	ORD	Y
Horseshoe Sports Pty Ltd	72,000	ORD	Y
David Chalmers Butters Lynette Joan Butters	6	ORD	Y

I have been advised by a shareholder's representative that there are eight (8) additional shareholders whose shares have not been registered with ASIC. These shareholders are:

Name	Percentage of Shares in the Company	Amount Paid \$
Sunny Singh	5%	30,000.00
Stuart Hood	5%	30,000.00
Graham Wilson	2%	12,000.00
Paul Nicholl	2%	12,000.00
Chris Coleman	2%	12,000.00
Dino Hladenki	1%	6,000
Dan Holdsworth	1%	6,000
Rick Jackson	1%	6,000
<b>Total Unregistered Shares</b>	<b>19%</b>	<b>\$114,000.00</b>

These shareholders will be considered creditors of the Company.

## 7.5 Personal Property Securities Register ("PPSR") registrations

The Personal Property Securities Register ("PPSR") discloses no registrations in the name of the Company.



## 7.6 Changes within 12 months to shareholders, officers and security interests

There were no changes to the Company's shareholders, officers or security interests in the 12 months preceding my appointment.

## 8 Background

### 8.1 History of the Company and appointment of the Administrator

The business of the Company was a professional baseball team.

A detailed discussion of the circumstances leading to my appointment can be found in my DIRRI, attached as **Schedule "A"** in this report.

### 8.2 Reasons for the failure of the Company

The Directors of the Company attribute the failure of the business to the negative impact on the baseball season and consequential revenue of the bushfires in 2019/2020 and COVID in 2020/2021.

My preliminary investigations into the affairs of the Company indicate that the Company's insolvency may be attributed to:

#### (i) **Poor management of accounts receivable**

As at the date of my appointment, the Company's balance sheet notes receivables in the amount of \$160,425.22, \$35,027.89 of which were owed to the Company for more than 11 months.

Further inquiries and discussions with the Directors of the Company indicates the Company's receivables as at the date of my appointment was \$59,592.33.

#### (ii) **Inadequate cash flow**

The bushfires and COVID19 disrupted the baseball season in both the 2019/2020 and 2020/2021 seasons. This had a negative impact on cash flow.

The amount of \$93,946.31 is owed to the Australian Taxation Office ("ATO") relating to Running Balance Account deficit debt which accumulated from the inception of the Company.

#### (iii) **Trading losses**

My review of the affairs of the Company provides evidence and confirms that the Company had trading losses.

The Company traded at a loss from FY19.

### 8.3 First meeting of creditors

The first meeting of creditors of the Company was held on 13 April 2021.



At the first meeting of creditors, my appointment as the Administrator of the Company was ratified by creditors and a committee of inspection was not formed.

Creditors were advised a Report on Company Activities and Property ("ROCAP") had been prepared by Mr Donald Stuart McMichael and Mr Daniel Joseph Amodio (the "Directors") outlining the Company's business, property, activities and financial circumstances including assets and liabilities.

#### **8.4 Books and records**

Section 286 of the Act provides that a Company must keep written financial records that:

- (a) *correctly record and explain its transactions and financial position and performance; and*
- (b) *would enable true and fair financial statements to be prepared and audited.*

To date, I have been provided and reviewed *inter alia* the following books and records of the Company:

- Internally prepared XERO management accounts for the period FY 2019, FY 2020 and as at the date of my appointment;
- Australian Baseball League Licence Agreement and Termination Letter;
- ATO Running Balance Account ('RBA') and Freedom of Information ('FOI') documents; and
- Publicly available searches.

Given the size and nature of the business operated by the Company, it appears that the Company's books and records are adequate to comply with section 286 of the Act.

Should the Company be placed into liquidation at the forthcoming meeting of creditors, a part of the liquidator's investigations into the Company's affairs will be to further examine whether the Company complied with Section 286 of the Act.

#### **9 Financial statements**

Summarised below are the Company's internally prepared financial statements from the financial year ended 30 June 2019 to the date of my appointment. These statements have not been audited and have been prepared on a cash basis. Accordingly, I make no representation nor do I provide any warranty as to the accuracy of the financial information summarised below.



## 9.1 Comparative balance sheets

Comparative Balance Sheets			
	As at 31 March 2021	Internally Prepared FYE 2020	Internally Prepared FYE 2019
		\$	\$
<b>Assets</b>			
<b>Current Assets</b>			
Bank			
Operating Account	3,178	10,399	17,820
Petty Cash Account	-1	73,348	6,000
<b>Total Bank</b>	<b>3,177</b>	<b>83,747</b>	<b>23,820</b>
Accounts Receivable	160,425	-	-
Cash Float	279	-	-
Director's Loan - Dan	-	-	28,822
Director's Loan - Donn	-	-	39,789
Cryptocurrency	-	-	-
Future Season Membership & Ticket Sales	-8,615	-31,185	-30,546
<b>Total Current Assets</b>	<b>155,266</b>	<b>52,562</b>	<b>61,885</b>
<b>Non-Current Assets</b>			
Fixed Assets			
Plant & Equipment	103,540	102,691	89,177
<b>Total Fixed Assets</b>	<b>103,540</b>	<b>102,691</b>	<b>89,177</b>
Start-up Costs	6,000	6,000	6,000
<b>Total Non-Current Assets</b>	<b>109,540</b>	<b>108,691</b>	<b>95,177</b>
<b>Total Assets</b>	<b>264,806</b>	<b>161,253</b>	<b>157,062</b>
<b>Liabilities</b>			
<b>Current Liabilities</b>			
Accounts Payable	109,302	-	-
GST	51,537	38,634	15,552
Loan - CBR Brave	120,901	119,501	-
PAYG Withholdings Payable	101,537	95,593	14,550
Superannuation Payable	33,145	33,145	9,811
Wages Payable - Payroll	5,721	117	117
Closing Stock	-10,479	-10,479	-10,479
<b>Total Current Liabilities</b>	<b>411,664</b>	<b>276,511</b>	<b>29,551</b>
<b>Non-Current Liabilities</b>			
ABL License Fee	-178,071	-178,071	-86,025
<b>Total Non-Current Liabilities</b>	<b>-178,071</b>	<b>-178,071</b>	<b>-86,025</b>
<b>Total Liabilities</b>	<b>233,593</b>	<b>98,440</b>	<b>-56,474</b>
<b>Net Assets/(Deficiency)</b>	<b>31,213</b>	<b>62,813</b>	<b>213,536</b>

Source: Company's internally prepared XERO financial statements.



The Company's working capital position is summarised as follows:

Year	Amount
30 June 2019	\$32,335
30 June 2020	(\$223,950)
30 March 2021	(\$256,400)

The Company's held a working capital deficiency since FY20.

## 9.2 Comparative profit & loss statements and preliminary analysis

Detail	As at 30 March 2021	Internally Prepared FYE 2020	Internally Prepared FYE 2019
Trading Income	946,598	1,010,079	981,949
Less: Costs of Sales	247,547	343,025	275,766
<b>Gross Profit</b>	<b>699,051</b>	<b>667,054</b>	<b>706,183</b>
Less: Expenses	827,716	868,966	758,292
<b>Operating Profit</b>	<b>-128,665</b>	<b>-201,912</b>	<b>-52,109</b>
Add: Other Income	51,800	12,000	-
Less: Other Expenses	-	-	-
<b>Net Profit / (Loss)</b>	<b>-76,865</b>	<b>-189,912</b>	<b>-52,109</b>
<b>Gross Profit Ratio</b>	<b>0.74</b>	<b>0.66</b>	<b>0.72</b>
<b>Net Profit Ratio</b>	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>

Source: Company's internally prepared XERO financial statements.

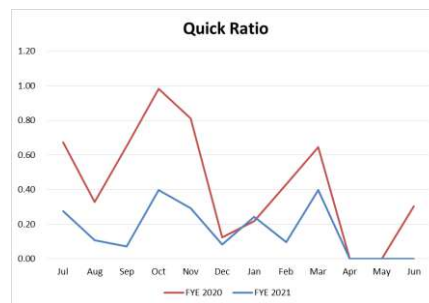
The gross profit ratio is a profitability ratio which shows the relationship between gross profit and total net sales revenue. It is a popular tool to evaluate the operational performance of a business. As seen from the table, the Company's gross profit ratio was above 50%.

The Company's generated no net profit from FY19.



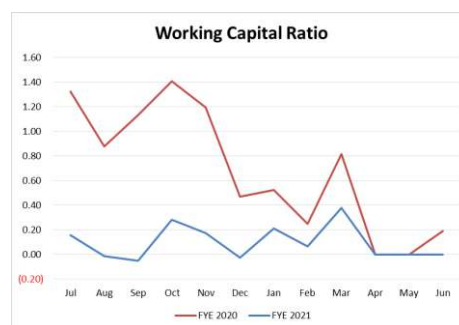
### 9.3 Quick Ratio and Working Capital Ratio Analysis

A summary of the Company's key financial indicators are set out below:



The liquidity ratio measures the ability of a company to pay its current liabilities when they become due with its current assets. A company with a liquidity ratio of 1 indicates a company could pay its current liabilities without selling any long-term assets.

As seen the Company's liquidity ratios were consistently below 1 during the 2020 financial year, indicating an inability to pay creditors.



The working capital is another measure of liquidity. As shown the Company's working capital was below 1 from December 2020.

## 10 Deficiency statement

Section 438B of the Act requires directors to provide administrators with a statement about a company's business, property, affairs and financial circumstances. The Directors of the Company have provided me with this statement. The statement sets out the Company's assets and liabilities on a book value and estimated realisable values ("ERV") basis.

This position is summarised below:





	Book Value (\$)	Director's ERV (\$)	Administrators' ERV	
			High (\$)	Low (\$)
<b>Assets</b>				
Cash at Bank	3,177	3,200	7,300	3,548
Accounts Receivable	160,425	61,650	59,592	-
Cash Float	279	-	-	-
Cryptocurrency	-	30,000	31,965	-
Future Season Membership & Ticket Sales	(8,615)	-	-	-
Merchandise	-	Withheld	Withheld	Withheld
Plant and Equipment	103,540	96,224	Withheld	Withheld
Start-up Costs	6,000	-	-	-
<b>Total assets</b>	<b>264,806</b>	<b>191,074</b>	<b>98,857</b>	<b>3,548</b>
Less: Priority creditors	4,500	1,776	18,994	18,994
Less: Unsecured creditors	104,802	301,899	396,355	396,355
<b>Estimated surplus / deficiency</b>	<b>(\$155,504)</b>	<b>(\$112,601)</b>	<b>(\$316,492)</b>	<b>(\$411,801)</b>

**Notes:**

- This summary does not consider costs of the external administrator.
- This summary should not be used to determine likely return to creditors as further claims may be received from creditors of the Company who have not yet lodged a claim.

Outlined below are my comments in relation to assets and liabilities of the Company.

**10.1 Assets****10.1.1 Cash at bank**

Correspondence was sent to all banks requesting details of any bank account in the name of the Company.

My review of the Company's balance sheet as at the date of my appointment indicates cash at bank in the amount of \$3,177.00.

Inquiries indicate the Company held two (2) bank accounts with the Bendigo & Adelaide Bank ("Bendigo Bank") with a balance totalling \$7,301.44. I have requested these funds be transferred to the Company's administration bank account. To date, an amount of \$3,548.00 has been transferred. Bendigo Bank advised that the remaining balance in the Company's accounts is being held to cover any exit fees, monthly Merchant Terminal fees as well as any loss of merchant terminal fees.

No other bank accounts in the name of the Company have been identified to date.



### **10.1.2 Accounts Receivable**

My review of the Company's balance sheet as at the date of my appointment indicated the Company had \$160,425.22 in accounts receivable. As previously advised, receivables were incorrectly stated and with the amount of \$59,592.33 being the likely balance.

Nevertheless, demand letters have been sent to the debtors in order to recover the amounts owed to the Company.

I advise two (2) debtors are also creditors of the Company and are claiming valid offsets pursuant to section 533C(1) of the Act. In addition, an amount of \$16,500.00 is currently being disputed by another debtor.

To date no amounts have been collected from the Company's accounts receivable.

### **10.1.3 Cryptocurrency**

My inquiries indicate the Company held cryptocurrency valued in the amount of \$31,965.44. I am in the process of realising the Company's cryptocurrency.

### **10.1.4 Future Season Membership & Ticket Sales**

The Company's balance sheet discloses future season membership and ticket sales with a negative value of \$8,615.00. No further action will be taken in relation to this item.

### **10.1.5 Plant and Equipment**

The Company's balance sheet indicates the Company had plant and equipment valued at \$103,540.00. A desktop valuation was undertaken by a registered valuer on 14 April 2021.

The value of these items has been withheld at this time on the grounds of commercial confidentiality in the event the Company is placed into liquidation and plant and equipment is sold at public auction.

### **10.1.6 Merchandise**

The Company held merchandise for sale. Again, on the basis of commercial confidentiality in the event the Company is placed into liquidation the value of the asset has been withheld.

### **10.1.7 Start-up Costs**

The Company's balance sheet discloses start-up costs of \$6,000.00. This asset has no realisable value.

## **10.2 Liabilities**

### **10.2.1 Priority creditors (employees)**

As at the date of my appointment, the Directors advised an amount of \$1,776.40 was owed to the employees of the Company.



My investigations to date have identified that a total amount of \$29,889.02 is owed to employees of the Company as at the date of my appointment, details of which are below;

Entitlement	Amount (\$)
Employee Annual Leave	14,777.98
PILN	7,708.32
Players' Claims	7,402.72
<b>Total</b>	<b>\$29,889.02</b>

Under Section 556 of the Act, employee entitlements are afforded a priority over unsecured creditor claims in any distribution of the assets of the Company in a liquidation scenario.

The majority of this liability relates to the Directors. In the event of liquidation, directors and certain relatives of directors are classified as "excluded employees" under the Act and their claims are limited to \$2,000 for wages and superannuation and \$1,500 for leave entitlements. Excluded employees do not receive priority for any retrenchment payments. Detailed below is the amounts owed for employee entitlements with the removal of the "excluded employee" claims above the threshold amounts.

Entitlement	Amount (\$)
Employee Annual Leave	9,508.84
PILN	2,083.32
Players' Claims	7,402.72
<b>Total</b>	<b>\$18,994.88</b>

The amounts owed to excluded employees above the thresholds will be deemed unsecured creditor claims and are detailed in section 10.2.4 of this report.

If the Company is placed into liquidation and there are insufficient assets to satisfy priority creditors in full, the Fair Entitlements Guarantee ("FEG") scheme will be available to employees to make a claim for the entitlements, excluding superannuation.

Further discussion in relation to the estimated return to priority creditors is detailed in section 13.1 of this report.

## 10.2.2 Secured creditor

As previously discussed, no security interests were identified in the name of the Company.

## 10.2.3 Ordinary unsecured creditors

### Taxation Liabilities

A formal proof of debt was received from the ATO indicating the Company's outstanding taxation liability in the amount of \$93,946.31 which relates to Running Balance Account deficit debt in respect of BAS owing as at the date of my appointment.



### Other Ordinary Unsecured Creditors of the Company

The Directors advised in their ROCAP that an amount of \$101,899.28 was owed to unsecured creditors of the Company.

My inquiries to date indicate a total of 24 unsecured creditors totalling \$291,514.62 are owed by the Company, details of which are as follows:

<b>Creditor</b>	<b>Amount (\$)</b>
ACT Sport and Recreation	34,138.20
SportsLink Travel CBR	30,807.43
Sunny Singh (Shareholder)	30,000.00
Stuart Hood (Shareholder)	30,000.00
MIT Services	24,692.00
Grease Monkey	18,176.17
Australian Baseball League/ Baseball Australia	15,500.00
Graham Wilson (Shareholder)	12,000.00
Paul Nicholl (Shareholder)	12,000.00
Chris Coleman (Shareholder)	12,000.00
Janrule Total	11,880.00
Barlens Total	10,408.78
Dorevitch	7,040.00
Dino Hladenki (Shareholder)	6,000.00
Dan Holdsworth (Shareholder)	6,000.00
Rick Jackson (Shareholder)	6,000.00
Abode Total	5,550.27
Bentspoke Total	5,139.41
Design Risk Group	4,383.25
Baseball Canberra /ACT Baseball Association	4,751.52
ROJO Customs	2,500.00
Melbourne Aces	1,584.00
Regional Wine and Beverage Merchants Pty Ltd	493.81
Matrix Physiotherapy	469.78
<b>Total</b>	<b>291,514.62</b>

As previously advised, eight (8) shareholders of the Company whose shareholdings were not registered with ASIC as shareholders of the Company were deemed creditors of the Company.



There is an additional amount owed to the **CBR – Brave**, a company which operates the Canberra Ice Hockey team in the amount of approximately \$121,000. This represents funds held by the Company in relation to the **CBR - Brave**. These funds have been absorbed by the Company.

#### 10.2.4 Related party creditors

The following amounts are owed to the Directors of the Company for employee entitlements owed above the allowable threshold amounts pursuant to section 556 of the Act, as previously discussed in section 10.2.1 of this Report:

Detail	Amount (\$)
Donn McMichael PILN	3,750.00
Donn McMichael Annual Leave in excess of limit	3,499.95
Daniel Amodio PILN	1,875.00
Daniel Amodio Annual Leave in excess of limit	1,769.19
<b>Total</b>	<b>\$10,894.14</b>

The above amounts rank equally with other unsecured creditor claims.

#### 11 Deed of Company Arrangement (“DOCA”) proposal

There is no DOCA proposal for creditors to consider.

#### 12 Offences, voidable transactions and insolvent trading

##### 12.1 Nature and scope of investigations

The Act requires administrators to carry out preliminary investigations into a company’s business, property, affairs and financial circumstances.

In the course of my investigations, I have endeavoured to ascertain whether there were any transactions that appear to be voidable in respect of which money, property or other benefits might be recoverable by a liquidator under Part 5.7B of the Act.

A liquidator has the power to void certain transactions which are either not beneficial to, or detrimental to a company. Administrator(s) must identify any such transactions that appear to be voidable by a liquidator.

I reiterate my investigations to date are preliminary and whilst to my knowledge no information has been withheld from me and I have had access to the Directors, further investigations will be undertaken by a liquidator if one is appointed at the forthcoming meeting of creditors.

My investigations to date have focused on transactions entered into by the Company that a liquidator might seek to void or otherwise challenge if the Company is wound up. Investigations



allow administrators to advise creditors what funds might become available to a liquidator such that creditors can properly assess the best future course for the Company.

A liquidator may recover funds from certain voidable transactions or through other avenues; for example, through action seeking compensation for insolvent trading or breach of director(s) duties.

Funds recovered would be available to the general body of unsecured creditors including secured creditors but only to the extent of any shortfall incurred after realising their security.

My knowledge of the Company's affairs comes principally from the following sources:

- Discussions with the Directors.
- The Directors' statement about the Company's business, property, affairs and financial circumstances.
- Company's XERO which includes the Company's financials.
- Searches obtained from relevant statutory authorities including ASIC and PPSR.
- Records maintained by the ATO.
- Publicly available information (Roads and Maritime, Land Titles Register).

### **12.1.1 Offences committed by officers**

Part 2D.1 of the Act provides guidance in relation to various director(s) duties and relevant offences for failing to adhere to same. A liquidator, if one is appointed, will have the task of examining whether circumstances existed that would require the liquidator to report the offences of the Company's officers to the appropriate authorities.

On my examination of the Company's affairs to date, I have not identified any offences committed by the officers of the Company pursuant to Part 2D.1 of the Act.

### **12.1.2 Unfair preferences**

My investigations into the affairs of the Company have included the review of payments from the Company's pre-appointment bank account(s) in the six months leading up to my appointment as Administrator which could be considered preferential in nature and recoverable by a liquidator if one was appointed.

My preliminary investigations into the Company's financial records did not identify any transaction to creditors/suppliers which could be considered to be preferential in nature pursuant to the provisions of the Act.

### **12.1.3 Uncommercial transactions**

A liquidator will be required to investigate transactions that appear to be uncommercial, having regard to the detriment to the Company as a consequence of the transaction. My preliminary investigations into the Company's books and records have not revealed any uncommercial transactions.



#### 12.1.4 Unfair loans

A liquidator will be required to investigate loans to the Company which may be considered unfair due to extortionate interest rates or charges.

The financial statements of the Company available to me indicate that the Company had no potential unfair loan accounts.

#### 12.1.5 Related party voidable transactions

A liquidator will be required to investigate related party transactions within four years of the date of administration and determine whether there were any related party transactions which could be considered as voidable pursuant to the provisions of the Act.

My preliminary investigations have not identified the existence of any related party voidable transactions.

#### 12.1.6 Voidable security interests

My preliminary investigations into the affairs of the Company have not revealed any voidable security interests.

#### 12.1.7 Insolvent trading

Section 588M of the Act provides that directors who fails to prevent a company from incurring a debt when the directors are 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 damage suffered by the company.

A liquidator will have the task of examining whether such circumstances existed and therefore whether he/she should take recovery action against the director(s).

Summarised below are some insolvency indicators accepted by the Courts in considering whether the Company traded whilst insolvent. My comments in relation to these insolvency indicators as they apply to the Company are also provided.

##### **Cash flow test of insolvency**

- The financial statements of the Company indicate the Company had trading losses since FY19.
- The Company's net profit ratios were below 1% from FY19.

##### **Balance sheet test of insolvency**

The Company's working capital ratios were well below 1 from FY20 indicating financial stresses from this time.





### **Aged payables analysis**

Summarised below is the aged payables of the Company from August 2020 up to the date of my appointment.

	Ageing Percentage			
	Current	30 days	60 days	90+ days
<b>August 2020</b>	-	-	-	100%
<b>October 2020</b>	-	-	-	100%
<b>December 2020</b>	-	-	83%	17%
<b>January 2021</b>	-	-	100%	-
<b>February 2021</b>	24%	76%	-	-
<b>March 2021</b>	100%	-	-	-

*Source: Company's internally prepared financial statements.*

It is evident from the aged payables that the Company had started to experience cash flow issues from August 2020, as this is was when creditors started to accumulate.

### **Preliminary conclusion as to insolvency**

Based on the financial insolvency indicators outlined above and in Section 9 of this report, it is my opinion that the Company had been trading whilst insolvent from at least 30 June 2019.

However, from a commercial insolvency perspective, it is unclear until further investigations are completed, as to when or if the Company could source from the Directors or others parties funds to inject into the Company to alleviate the insolvent position of the Company.

A liquidator, will conduct further investigations in relation to insolvent trading.

### **Insolvent trading claim and associated costs**

Any quantum of claim made against the Directors for trading the Company whilst insolvent by a liquidator, should one be made, will be equal to the amount of new debt that the Company incurred from the date the liquidator believes that Company became insolvent.

Given the short time frame since I have been appointed, I have not completed a comprehensive review of the creditors' claims and the time the debts to them were incurred to determine the amount of the trading whilst insolvent claim. However, my initial estimate is that the amount of the claim may be between \$30,000 and \$60,000.

In my experience, the costs likely to be incurred in pursuing an insolvent trading claim of this quantum are estimated to be about \$50,000.

### **Directors' financial capacity to satisfy compensation order**

In my opinion, a successful insolvent trading claim against the Directors leading to a net recovery which would benefit creditors may be likely as the Directors own properties which may potentially have surplus equities after satisfying the mortgagor.





I am not aware of any other readily realisable assets in the name of the Directors of the Company and there is no information to my knowledge that has been withheld by the Directors. I have only considered publicly available information in assessing the financial capacity of the Directors of the Company.

### **Defences**

Creditors should also be aware that the Act provides a number of possible defences to Directors to a claim for insolvent trading. These defences are:

- At the time a debt was incurred, a director had reasonable grounds to expect and did expect the company was solvent and would remain solvent if it incurred that debt and any other debts that it had incurred at that time.
- At the time the debt was incurred, a director had reasonable grounds to believe and did believe that a competent and reliable person was responsible for providing information about the company's solvency and that person was fulfilling that responsibility.
- A director through illness or some other good reason were not taking part in the management of a company at the time the debt was incurred.
- The directors took all reasonable steps to prevent a company from incurring the debt.
- The directors took a 'safe harbour' course of action that resulted in a better return to creditors than immediately entering into external administration.

In addition, pursuant to the Coronavirus Economic Response Package Omnibus Act 2020, directors are provided a temporary relief from the duty to prevent insolvent trading for debts incurred during a period commencing on 25 March 2020 up to 25 September 2020.

As previously advised, further detailed investigations will be required to be completed by a liquidator, should one be appointed.

## **12.2 Other matters arising from investigations**

### **12.2.1 Falsification of books**

Pursuant to Section 1307 of the Act, it is an offence for a person to engage in conduct that results in the concealment, destruction, mutilation or falsification of any securities of or belonging to the company or any books affecting or relating to affairs of the company.

If a breach is proven, Part 9.4 of the Act provides for criminal penalties only. Therefore, any breaches of Section 1307 will not result in recovery of funds by a liquidator.

My investigations to date have not revealed any evidence of falsification of books.

### **12.2.2 False or misleading information**

Pursuant to Section 1308 of the Act, a company must not advertise or publish a misleading statement regarding the amount of its capital.



It is an offence for a person to make or authorise a statement that, to the person's knowledge is materially false or misleading.

My preliminary investigations have not revealed any evidence of false or misleading information.

### 12.2.3 False information

Pursuant to Section 1309 of the Act, it is an offence for a company or employee to make available any information to a director, auditor, member, debenture holder, or trustee for debenture holders or the company that is to the knowledge of the company officer or employee:

- False or misleading; or
- Has omitted from it material information rendering it misleading in a material respect.

My preliminary investigations do not reveal any evidence of any false information.

## 13 Estimated return to creditors

Based on the information available to me, enclosed as **Schedule "B"** to this report is a 'summary' which contemplates the estimated return to creditors in a liquidation scenario.

**I advise that the enclosed summary is an estimate only and should not be considered by any class of creditor as a fixed rate or fixed return dividend.**

Summarised below is the dividend scenario for each class of creditor.

### 13.1 Estimated return to priority creditors

As discussed, my investigations have identified that an amount of \$18,994.88 is owed to employees of the Company as at the date of my appointment.

I note that in the event of a liquidation, the priority creditors of the Company will have first entitlement (after the costs of the external administrator) to any proceeds received from the Company's assets pursuant to Section 556 of the Act.

If the Company is placed into liquidation and there are insufficient assets to satisfy priority creditors in full, the Fair Entitlements Guarantee ("FEG") scheme will be available to employees to make a claim for the entitlements, excluding superannuation.

More information in relation to the FEG scheme is attached in **Appendix "D"** of this report.

### 13.2 Estimated return to secured creditors

As previously advised, my investigations have not identified any secured creditors in this administration.



### 13.3 Estimated return to unsecured creditors

I have identified unsecured creditors and related party creditors owing by the Company in the total amount of \$396,355.07.

Based on the summary enclosed as **Appendix “B”** I estimate that the unsecured creditors of the Company will receive a dividend only in the event of successful recoveries being the realisation of the Company’s assets. However, there is not likely to be any return to unsecured creditors of the Company.

### 13.4 Timing of dividend

In the event funds are recovered from the assets and voidable transactions of the Company, a dividend to any class of creditor of the Company would not be determined and paid for at least nine (9) to 12 months after the appointment of liquidator.

## 14 Remuneration of Administrators and Liquidators

This report will be issued along with a remuneration report for the administrator and liquidator which should be read in conjunction with this report.

## 15 Interests of creditors/recommendations

At the forthcoming meeting of creditors, creditors will be asked to resolve on one of the following two courses of action, as provided for under Rule 75-225(3)(b) of the *Insolvency Practice Rules (Corporations) 2016*:

- a. That the Company execute a Deed of Company Arrangement; or
- b. That the Administration should end and control of the Company should be returned to the Directors of the Company; or
- c. That the Company be wound up.

In this report I am required to form an opinion and recommend as to which course of action that would be in the best interests of the creditors.

I am also required to give a reason for my opinion and information known to me to enable creditors to make an informed decision.

My comments on each of the options are as follows:

#### a. Company executing a Deed of Company Arrangement

There is no DOCA proposal.

**This option therefore cannot be considered either by the Administrator or creditors.**



**b. Termination of the Administration and return of Company's control to the Directors**

In my opinion the administration should not be terminated and the Company should not be returned to the control of the Directors.

The Company is insolvent, the business of the Company had ceased trading.

**This option is therefore, in my opinion, not in the best interest of creditors.**

**c. Company be wound up**

The Company is insolvent and the business has ceased trading.

In view of the position of the Company as at the date of this report, the option of winding up the Company is the only course that I am able to recommend to creditors.

The appointment of a liquidator will ensure an orderly winding up of the Company's affairs and proper investigations to be carried out and the pursuit of recoveries available to the liquidator under Part 5.7B of the Act.

**Accordingly, for the purposes of this report and for the reasons previously stated, I recommend that the Company be wound up.**

Should any creditor require further information, please contact me directly.

Dated this 5<sup>th</sup> day May 2021

**Ezio Senatore  
Administrator**



## **Schedule “A” – Declaration of Independence, Relevant Relationships and Indemnities**

CORPORATIONS ACT 2001

Section 436DA

### **Declaration of Independence, Relevant Relationships and Indemnities**

**Canberra Cavalry (ACT) Pty Ltd ACN 625 850 099 (Administrator Appointed)  
(the “Company”)**

The purpose of this document is to assist creditors with understanding any relevant relationships that I, the voluntary administrator, have with parties who are closely connected to the Company and any indemnities or upfront payments that have been provided to me. None of the relationships disclosed in this document are such that my independence is affected.

This information is provided so you have trust and confidence in my independence and, if not, you can ask for further explanation or information and can act to remove and replace me if you wish.

This declaration is made in respect of myself, my partners, staff and contractors of Eddie Senatore Advisory.

I am a Professional Member of the Australian Restructuring Insolvency and Turnaround Association (ARITA). I acknowledge I am bound by the ARITA Code of Professional Practice.

#### **A. Independence**

I have assessed my independence and I am not aware of any reasons that would prevent me from accepting this appointment.

There are no other known relevant relationships, including personal, business and professional relationships that should be disclosed beyond those I have disclosed in this document.

#### **B. Circumstances of appointment**

##### **How I was referred this appointment**

This appointment was referred to me by Benchmarc Financial Group. This referral does not result in a conflict of interest or duty nor affect my independence because I receive referrals from Benchmarc Financial Group. This is because:

- I only received referrals from time to time.
- Prior to this engagement, I have only received one (1) referral from Benchmarc Financial Group in the last twelve months.



- In taking this appointment I have not given, nor have I received, any commission, inducement or other benefit.
- There is no expectation, agreement or understanding between me and Benchmarc Financial Group regarding the conduct of this voluntary administration that would restrict the proper exercise of my judgment or duties.
- I am free to act independently and in accordance with the law and applicable professional standards.

**Did I meet with the company, the directors or their advisers before I was appointed?**

Yes  No

Prior to my appointment I had the following meetings with the Company's directors and advisers:

**Initial Contact**

On 19 August 2020 I had a meeting with the Company's accountant and one of its directors, Mr Donn McMichael. On 29 August 2020 I had a further meeting with the Company's accountant and both directors Messrs Donn McMichael and Dan Amodio.

**Subsequent Contact**

A further meeting was held with the Company's accountant and both directors Messrs Donn McMichael and Dan Amodio on 19 November 2020 to discuss options available to a company generally and duties of directors to prevent a company from trading insolvently. A further meeting was held on 23 December 2020 to discuss to clarify the insolvency process.

**Leading to the Appointment**

A meeting to discuss the appointment of an external administrator was held on 14 January 2021. These discussions included the nature and type of appointment including the appointment of a Small Business Restructuring Practitioner.

A further meeting was held between the accountant and Mr Donn MicMichael on 24 February 2021 followed by a meeting with both directors and the accountant on 25 February 2021. The meeting discussed the current financial position of the Company and to conclude to appoint an external administrator.

A decision was made at a final meeting held on 23 March 2021 to appoint an external administrator.

In between these meetings emails were exchanged to arrange, confirm and facilitate these meetings. These meetings were for the purposes of:

- Explaining insolvency and the options available to a company in restructuring its financial affairs in an insolvency and COVID-19 context.
- Explaining the roles and responsibilities of directors in an insolvency context.



- The options available to a company including voluntary administration, liquidation and small business restructuring including relief provided by the Commonwealth Government in response to COVID-19.
- To develop an understanding of the Company's business and its activities.

I received no remuneration for these meetings and discussions.

In my opinion, these pre-appointment interactions do not affect my independence for the following reasons:

- I did not provide any pre-appointment financial advice to any person and nor did I attempt to provide any assurances to anyone during the emails and phone conversations in respect of my proposed appointment as to any outcome as a result of that proposed appointment.
- The provision of background information regarding the Company and of its officers is necessary along with general information concerning matters which include discussion concerning the current estimated financial position of the Company does not give rise to any issue of conflict as such information is necessary to consider whether or not an appointment should be accepted.
- Discussions were at all times factual in nature, focused on both the historical and forecasted financial position and performance of the Company, the consequences of any possible insolvency and courses of action that may be available to the Company in that event.
- The Courts and ARITA specifically recognise the need for insolvency practitioners to provide advice on the insolvency process and of the options available to directors of a company and do not consider that such limited advice results in a conflict or is an impediment to accepting an appointment.
- The provision of such information to an insolvency practitioner does not breach the ARITA Code of Professional Practice and is permitted by the ASIC (refer ASIC Regulatory Guide 217); and
- The nature of such limited advice provided to directors of a company is such that it is not subject to review or challenge during the course of this external administration.

I have provided no other information or advice to the Company, its directors or advisers prior to my appointment beyond that outlined in this DIRRI.

### C. Declaration of Relationships

Within the previous two years, I, or my firm, have had a relationship with:	
The Company?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
The directors?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No



Any associates of the Company?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
A former insolvency practitioner appointed to the Company?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
A secured creditor entitled to enforce a security over the whole or substantially the whole of the Company's property?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

Do I have any other relationships that I consider are relevant to creditors assessing my independence?

Yes  No

#### D. Indemnities and up-front payments

I have not received any up-front payments or indemnities for this appointment. This does not include any indemnities I may be entitled to under the law.

Dated this 1<sup>st</sup> day of April 2021

**Ezio Senatore**  
**Administrator**

Notes:

1. The assessment of independence has been made based on an evaluation of the significance of any threats to independence and in accordance with the requirements of the relevant legislation and professional Standards.
2. If circumstances change, or new information is identified, I am required under the Corporations Act 2001 and ARITA's Code of Professional Practice to update this Declaration and provide a copy to creditors with my next communication as well as table a copy of any replacement declaration at the next meeting of the insolvent's creditors. For creditors' voluntary liquidations and voluntary administrations, this document and any updated versions of this document are required to be lodged with ASIC.





## Schedule "B" – "Draft" Summary of Estimated Returns

Canberra Cavalry (ACT) Pty Ltd (Administrator Appointed) ACN 625 850 099  
 "DRAFT" Summary of Estimated Return to Creditors

	Liquidation Scenarios		DOCA	NOTES
	Optimistic	Pessimistic		
Assets	\$	\$	\$	
Cash at Bank	7,300	3,548	-	No DOCA proposed.
Accounts Receivables	59,592	-	-	
Plant and Equipment	Commercially Sensitive	Commercially Sensitive	-	
Cryptocurrency	31,965	-	-	
Merchandise	Commercially Sensitive	Commercially Sensitive	-	
Preference recoveries	-	-	N/A	
Insolvent trading claim	60,000	30,000	N/A	
	<b>158,858</b>	<b>33,548</b>		
<i>less</i> Legal fees - Preference recoveries	N/A	N/A	N/A	
<i>less</i> Legal fees - Insolvent trading claim	50,000	-	N/A	
	50,000	-		
<i>less</i> Estimated Costs of External Administration				
Remuneration of Administrator (est.)	41,216	41,216	-	
Disbursements of the Administrator (est.)	1,000	500	-	
Remuneration of Deed Administrator (est.)	N/A	N/A	-	
Disbursements of the Deed Administrator (est.)	N/A	N/A	-	
Remuneration of Liquidator (est.)	20,000	20,000	N/A	
Disbursements of Liquidator (est.)	2,000	1,000	N/A	
	64,216	62,716	-	
<b>Available to Priority Claims of Employees</b>	<b>44,642</b>	<b>-29,168</b>	-	
<i>less</i> Claims of Priority Creditors	18,995	18,995	-	
	<b>18,995</b>	<b>18,995</b>		
<b>Estimated Dividend to Priority Creditors</b>	<b>100.00%</b>	<b>0.00%</b>	-	
<b>Available to Secured Creditors</b>	-	-		
<i>Less</i> Secured Creditor Claims	N/A	N/A	-	
<b>Estimated Dividend to Secured Creditors</b>	<b>N/A</b>	<b>N/A</b>	-	
<b>Available to Ordinary Unsecured Creditors</b>	<b>25,647</b>	-	-	
<i>less</i> Claims of Ordinary Unsecured Creditors				
Australian Taxation Office	93,946	93,946	-	
Trade creditors	302,409	302,409	-	
Shortfall on leases/finance agreements	N/A	N/A	-	
<i>less</i> Increased Cr Claims from Preference Recoveries	N/A	N/A	N/A	
	396,355	396,355	-	
<b>Estimated Dividend to Ord. Unsecured Creditors*</b>	<b>6.47%</b>	<b>0.00%</b>	-	

\* Subject to increase depending on return received from sale of Plant & Equipment and Merchandise.

# Appendix “C”



## **Remuneration Approval Report**

### **Canberra Cavalry (ACT) Pty Ltd (Administrator Appointed) ACN 625 850 099 (the “Company”)**

This remuneration approval report provides you with the information you need to be able to make an informed decision regarding the approval of my remuneration for undertaking the administration of the Company.

This report has the following information included:

1	Summary .....	1
2	Declaration.....	1
3	Remuneration Sought .....	2
4	Disbursements Sought.....	2
5	Likely Impact on Dividends.....	3
6	Funding received for remuneration and disbursements.....	3
7	Summary of receipts and payments .....	3
8	Queries .....	4
	Schedule A – Details of Work.....	5
	Schedule B – Time spent by staff on each major task.....	8
	Schedule C – Remuneration claim resolutions.....	10
	Schedule D – Summary of Receipts and Payments .....	11



## 1 Summary

I am asking creditors to approve the following remuneration and disbursements:

	Remuneration
Voluntary Administration (VA)	\$41,216.00
If the Company is liquidated	\$20,000.00

Details of remuneration and disbursements can be found in sections 3 and 4 of this report.

Creditors will be asked to pass resolutions at the meeting on 13 May 2021.

I estimate that the total cost of the Voluntary Administration will be \$41,216.00. This has increased from the estimate in the initial remuneration notice because of the following reasons:

- Unforeseen additional time spent by members of staff and subcontractors in dealing with “assets” including the determination of ownership of the plant and equipment in the Company’s premises, engaging an auctioneer relating to valuation of the Company’s assets, determination of recovery procedures in relation to the Company’s cryptocurrency, liaising with the directors of the Company in relation to outstanding debtors to determine collectability, preparing correspondence in order to realise debtors and liaising with the bank in order to realise the funds in the Company’s pre-appointment bank account.
- Unforeseen additional time spent by members of staff and subcontractors in dealing with “creditors” including receiving and following up creditor enquiries, preparing correspondence and report to creditors, assessing priority creditor claims, receipting & filing PODs not related to dividends and assessing creditor claims.
- Unforeseen additional time spent by members of staff and subcontractors in dealing with “investigations” including liaising with the bank relating to pre-appointment bank statements of the Company, evaluation of Company’s bank registers and financials relating to voidable transactions.

## 2 Declaration

I have undertaken a proper assessment of this remuneration claim for my appointment as the Administrator of the Company, in accordance with the law and applicable professional standards. I am satisfied that the remuneration being claimed is in respect of necessary work, properly performed, or to be properly performed, in the conduct of the external administrations.



### 3 Remuneration Sought

To date, no remuneration has been approved or paid in the external administration. This Remuneration Report details approval sought for the following fees:

	Period	Actual/ Forecast	Reference	Amount \$ (ex GST)
<b><i>Voluntary Administration</i></b>				
Resolution No.1 for the period 30 March 2021 to 3 May 2021	From 30 March 2021 to 3 May 2021	Actual	Schedule B	\$38,216.00
Resolution No. 2 for the period 4 May 2021 to 12 May 2021	From 4 May 2021 to 12 May 2021	Forecast	Schedule B	\$3,000.00
<b>Total Voluntary Administration</b>				<b>\$41,216.00</b>
<b><i>If the Company is Liquidated</i></b>				
From 13 May 2021 to the conclusion of the liquidation	From 13 May 2021 to the conclusion of the liquidation	Forecast	Schedule B	\$20,000.00
*Approval for the future remuneration sought is based on an estimate of the work necessary to the completion of the external administration. Should additional work be necessary beyond what is contemplated, further approval may be sought from creditors.				

Details of the work already done and future work that I intend to do are included at Schedule A. Schedule B includes a breakdown of time spent by staff members on each major task for work I have already done.

Actual resolutions to be put to the meeting are included at Schedule C for your information. These resolutions also appear in the proxy form for the meeting provided to you.

I will only seek approval of the resolution for the liquidation if creditors vote to place the Company into liquidation.

### 4 Disbursements Sought

Disbursements are divided into three types:

- ***Externally provided professional services*** - these are recovered at cost. An example of an externally provided professional service disbursement is legal fees.
- ***Externally provided non-professional costs*** such as travel, accommodation and search fees - these are recovered at cost.



- **Internal disbursements** such as photocopying, printing and postage. These disbursements, if charged to the Administration, would generally be charged at cost; though some expenses such as telephone calls, photocopying and printing may be charged at a rate which recoups both variable and fixed costs. The recovery of these costs must be on a reasonable commercial basis.

I am not required to seek creditor approval for disbursements paid to third parties, but must account to creditors. However, I must be satisfied that these disbursements are appropriate, justified and reasonable.

#### **Basis of disbursement claim**

Disbursements will be claimed at cost.

I declare that the disbursements incurred in the administration to date are all proper and necessary to the administration and have been for works properly performed and for costs properly incurred.

## **5 Likely Impact on Dividends**

The Corporations Act sets the order for payment of claims against a company and it provides for remuneration of the external administrator to be paid in priority to other claims.

This ensures that when there are sufficient funds, the external administrator receives payment for the work done to recover assets, investigate the company's affairs, report to creditors and ASIC and distribute any available funds.

The approval of the above remuneration and disbursements claim will reduce any dividend that may be potentially paid to any class of creditor. At this stage there is no likely to be any dividend paid to any class of creditor. In addition, the costs of the external administration will also not be recovered.

Creditors ought to be aware that in the event that the above remuneration is not approved, that approval can be sought through the Courts. This avenue if required will result in further costs being incurred.

## **6 Funding received for remuneration and disbursements**

I have received no funding from external sources to date.

## **7 Summary of receipts and payments**

A summary of the receipts and payments for this Administration as at 5 May 2021 is at Schedule D to this report.



## 8 Queries

If you have any queries in relation to the information in this report, please contact my office.

You can also access information which may assist you on the following websites:

- ARITA at [www.arita.com.au/creditors](http://www.arita.com.au/creditors)
- ASIC at [www.asic.gov.au](http://www.asic.gov.au) (search for INFO 85).

Further supporting documentation for my remuneration claim can be provided to creditors on request.

### **Attachments:**

Schedule A – Details of work

Schedule B – Time spent by staff on each major task

Schedule C – Resolutions

Schedule D – Summary of receipts and payments



## Schedule A – Details of Work

The below table provides a description of the work undertaken in each major task area for the period 30 March 2021 to 3 May 2021 and a description of the work to be undertaken in each major task area for the period 4 May 2021 to the conclusion of the administration.

		Tasks		
		Work already done (excl GST)	Future work (excl GST)	If wound up Liquidation work
Period		From 30 March 2021 to 3 May 2021	From 4 May 2021 to 12 May 2021	From 13 May 2021 to the conclusion of the Liquidation
<b>Amount (ex GST)</b>		<b>\$38,216.00</b>	<b>\$3,000.00</b>	<b>\$20,000</b>
<b>Task Area</b>	<b>General Description</b>			
<b>Assets</b>		<b>31.35 hours</b> <b>\$6,270.00</b>	<b>\$200.00</b>	<b>\$1,000.00</b>
	Plant and equipment	Liaising with valuers, auctioneers and interested parties Reviewing asset listings	Liaising with valuers, auctioneers and interested parties	Finalising sale of assets
	Debtors	Correspondence with debtors Reviewing and assessing debtors' ledgers	Reviewing and assessing debtors' ledgers	Correspondence with debtors Reviewing and assessing debtors' ledgers
	Stock	Assessing value of stock	Conducting sale of stock	Concluding sale of stock
	Other assets	Tasks associated with realising other assets – crypto currency		Tasks associated with realising other assets – crypto currency
<b>Creditors</b>		<b>83.60 hours</b> <b>\$16,720.00</b>	<b>\$1,200.00</b>	<b>\$5,000.00</b>
	Creditor enquiries, requests and directions	Receive and respond to creditor enquiries	Receive and respond to creditor enquiries	Receive and respond to creditor enquiries
	Reports to creditors	Preparing Voluntary Administrator's report, investigation, meeting and general reports to creditors		Preparing Initial and Statutory report, investigation
	Dealing with Proofs of debt	Receipting and filing POD when not related to a dividend		Receipting and filing POD when not related to a dividend
	Meeting of creditors	Preparation of meeting notices, proxies and advertisements Forward notice of meeting to all known creditors Preparation of meeting file, including agenda, certificate of postage, attendance register, list of creditors, reports to creditors, advertisement of meeting and draft minutes of meeting. Preparation and lodgement of minutes of meetings with ASIC Responding to stakeholder	Preparation of meeting file, including agenda, and conducting meeting Preparation and lodgement of minutes of meetings with ASIC Responding to stakeholder queries and questions immediately following meeting	

Canberra Cavalry (ACT) Pty Ltd (Administrator Appointed)





		Tasks		
		Work already done (excl GST)	Future work (excl GST)	If wound up Liquidation work
		queries and questions immediately following meeting		
	Shareholder enquiries	Dealing with shareholders queries in their capacity as creditors		Dealing with shareholders queries in their capacity as creditors
<b>Investigation</b>		<b>16.80 hours</b> <b>\$7,560.00</b>	<b>\$1,400.00</b>	<b>\$10,000.00</b>
	Conducting investigation	Collection of Company books and records Correspondence with ASIC to receive assistance in obtaining reconstruction of financial statements, Company's books and records and Report on Company Affairs and Property Reviewing Company's books and records Review and preparation of Company nature and history Conducting and summarising statutory searches Preparation of comparative financial statements Preparation of deficiency statement Review of specific transactions and liaising with directors regarding certain transactions Liaising with directors regarding certain transactions		Prepare statutory report Preparation of investigation file Lodgement of investigation with the ASIC Preparation and lodgement of supplementary report if required
	ASIC reporting	Preparing statutory investigation reports		Preparing statutory investigation reports
<b>Administration</b>		<b>38.33 hours</b> <b>\$7,666.00</b>	<b>\$200.00</b>	<b>\$4,000.00</b>
	Correspondence			
	Document maintenance, file review, checklist	File set up and maintenance		First month, then six monthly administration reviews Filing of documents File reviews Updating checklists
	Insurance	Identification of potential issues requiring attention of insurance specialists Correspondence with insurer regarding initial and ongoing insurance requirements		

Canberra Cavalry (ACT) Pty Ltd (Administrator Appointed)



		Tasks		
		Work already done (excl GST)	Future work (excl GST)	If wound up Liquidation work
		Reviewing insurance policies Correspondence with previous brokers		
	Bank account administration	Preparing correspondence opening and closing accounts Requesting bank statements Bank account reconciliations Correspondence with bank regarding specific transfers		Requesting bank statements Bank account reconciliations Correspondence with bank regarding specific transfers
	ASIC forms and lodgements	Preparing and lodging ASIC forms including 505 and 911 etc Correspondence with ASIC regarding statutory forms	Correspondence with ASIC regarding statutory forms	Preparing and lodging ASIC forms including 505, 5602/5603, 911 etc Correspondence with ASIC regarding statutory forms
	ATO and other statutory reporting	Notification of appointment Preparing BAS		Notification of appointment Preparing BAS
	Finalisation			Notifying ATO of finalisation Cancelling ABN / GST / PAYG registration Completing checklists Finalising WIP
	Planning / Review	Discussions regarding status of administration	Discussions regarding status of administration	Discussions regarding status of administration
	Books and records / storage	Dealing with records in storage	Dealing with records in storage	Dealing with records in storage Sending job files to storage



## Schedule B - Time spent by staff on each major task

### Resolution 1 from 30 March 2021 to 3 May 2021

The below table sets out time charged to each major task area by staff members and sub-contractors working on the administration for the period from 30 March 2021 to 3 May 2021 which is the basis of the Resolution 1 claim. More detailed descriptions of the tasks performed within each task area, matching the amounts below, are contained in Schedule A.

#### Remuneration Resolution 1 Actual Fee Summary for the period 30 March 2021 to 3 May 2021

Employee	Position	\$/Hour (Exc GST)	Total Actual Hours	TOTAL \$	T A S K A R E A						
					Assets \$	Creditors \$	Employees \$	Trade-On \$	Investigations \$	Dividend \$	Administration \$
Ezio Senatore	Appointee	200.00	5.00	1,000.00	550.00	400.00	-	-	-	-	50.00
Aegrene Manangan	Manager	450.00	16.80	7,560.00	-	-	-	-	7,560.00	-	-
Aegrene Manangan	Intermediate	200.00	125.80	25,160.00	5,720.00	16,320.00	-	-	-	-	3,120.00
Gina Neou	Secretary/Admin	200.00	18.00	3,600.00	-	-	-	-	-	-	3,600.00
Clare Johnson	Secretary/Admin	200.00	4.48	896.00	-	-	-	-	-	-	896.00
<b>TOTAL</b>			<b>170.08</b>	<b>38,216.00</b>	<b>6,270.00</b>	<b>16,720.00</b>	<b>-</b>	<b>-</b>	<b>7,560.00</b>	<b>-</b>	<b>7,666.00</b>
<b>add GST</b>				<b>3,821.60</b>							
<b>TOTAL INC GST</b>				<b>42,037.60</b>							

NUMBER OF HOURS (ACTUAL) 31.35 83.60 - - 16.80 - 38.33  
 AVERAGE HOURLY RATE (ACTUAL - \$) \$ 200.00 \$ 200.00 \$ - \$ - \$ 450.00 \$ - \$ 200.00

TOTAL AVERAGE HOURLY RATE (ACTUAL - \$) \$ 224.69

### Resolution 2 from 4 May 2021 to 12 May 2021.

The below table sets out time charged to each major task area by staff members and sub-contractors working on the administration from 4 May 2021 to 12 May 2021 which is the basis of the Resolution 2 claim. More detailed descriptions of the tasks likely to be performed within each task area, matching the amounts below, are contained in Schedule A.

#### Remuneration Resolution 2 Forecast Fee Summary from 4 May 2021 to 12 May 2021

Task Area	Estimated Hours	Estimated Cost (\$)
Assets	1.00	200.00
Creditors	6.00	1,200.00
Investigations	3.11	1,400.00
Administration	1.00	200.00
<b>TOTAL</b>	<b>11.11</b>	<b>3,000.00</b>
Average rate (\$)		270.00



### Resolution 3 from 13 May 2021 to the conclusion of liquidation.

The below table sets out the expected costs for the major tasks likely to be performed by the liquidator, staff and sub-contractors for the period from 13 May 2021 to the conclusion of the liquidation which is the basis of the Resolution 3 claim. More detailed descriptions of the tasks likely to be performed within each task area, matching the amounts below, are contained in Schedule A.

#### Remuneration Resolution 3

#### Forecast Fee Summary from 13 May 2021 to the completion of the Liquidation

Task Area	Estimated Hours	Estimated Cost (\$)
Assets	5.00	1,000.00
Creditors	25.00	5,000.00
Investigations	22.22	10,000.00
Administration	20.00	4,000.00
<b>TOTAL</b>	<b>72.22</b>	<b>20,000.00</b>
Average rate (\$)		276.92



## Schedule C - Remuneration claim resolutions

I will be seeking approval of the following resolutions to approve my remuneration. Details to support these resolutions are included in the attached Schedules A and B.

	Resolution Period	Resolution
1	VA – From 30 March 2021 to 3 May 2021	<i>“That the actual remuneration of the Administrator, his staff and sub-contractors from 30 March 2021 to 3 May 2021 are all proper costs, charges and expenses of and incidental to the Administration, and that same be fixed on a time basis at rates calculated in accordance with Eddie Senatore Advisory’s Schedule of Hourly Rates, in the amount of \$38,216.00 plus GST as stipulated in the Administrator’s Remuneration Report dated 5 May 2021 and that the Administrator be authorised to draw remuneration as required.”</i>
2	VA – From 4 May 2021 to 12 May 2021	<i>“That the forecast future remuneration of the Administrator, his staff and sub-contractors from 4 May 2021 to 12 May 2021 are all proper costs, charges and expenses of and incidental to the Administration, and that same be capped on a time basis at rates calculated in accordance with Eddie Senatore Advisory’s Schedule of Hourly Rates, up to a limit of \$3,000.00 plus GST as stipulated in the Administrator’s Remuneration Report dated 5 May 2021, but subject to upward revision by resolution of creditors, and that the Administrator be authorised to draw remuneration as required.</i>
3	If Liquidation – from 13 May 2021 to the conclusion of the liquidation	<i>“That the remuneration of the Liquidator, his staff and sub-contractors, as set out in the Remuneration Approval Report dated 5 May 2021, for the period from the conclusion of the meeting of creditors held on 13 May 2021 to the completion of the Liquidation be capped to a maximum amount of \$20,000.00 plus any applicable GST, but subject to upward revision by resolution of creditors, and that the Liquidator be authorised to draw remuneration as required.”</i>



## Schedule D – Summary of Receipts and Payments

Canberra Cavalry (ACT) Pty Ltd  
(Administrator Appointed)  
ACN 625 850 099

### Summary of Administrator's Receipts and Payments To 5 May 2021

Receipts	Total (AUD) \$
Cash at Bank	3,548.00
<b>Total Receipts</b>	<b>3,548.00</b>

Payments	Total (AUD) \$
Bank Charges	15.00
Search Fees	522.00
Search Fees GST FRE	182.72
GST Receivable	52.20
<b>Total Payments</b>	<b>771.92</b>

<b>Cash at Bank as at 5 May 2021</b>	<b>\$2,776.08</b>
--------------------------------------	-------------------

**Ezio Senatore**  
Administrator

# Appendix “D”



## Eligibility for FEG assistance

This fact sheet provides information about the eligibility requirements for the Fair Entitlements Guarantee (FEG). The Fair Entitlements Guarantee (FEG) is a scheme of last resort that provides financial assistance for unpaid entitlements in insolvency. FEG assistance is only available where there is no other source of funds to pay employment entitlements to eligible employees retrenched due to liquidation of bankruptcy of the employer.

For information about what assistance is available please refer to the [What assistance can FEG provide?](#) fact sheet available on the [FEG website](http://www.ag.gov.au/FEG) (www.ag.gov.au/FEG).

### The FEG Act

Decisions about eligibility for FEG assistance are made in accordance with the *Fair Entitlements Guarantee Act 2012* (FEG Act). FEG may apply to a person if their employer enters liquidation or bankruptcy and the person has certain unpaid employment entitlements owing to them. For information about what assistance is available please refer to the [What assistance can FEG provide?](#) fact sheet available on the [FEG website](http://www.ag.gov.au/FEG) (www.ag.gov.au/FEG).

### Am I eligible?

Subject to certain exclusions, you will be eligible for FEG assistance under the FEG Act if:

- your employment has ended
- your former employer entered liquidation or bankruptcy (known as an 'insolvency event') on or after 5 December 2012
- the end of your employment:
  - was due to the insolvency of your employer, or
  - occurred less than 6 months before the appointment of an insolvency practitioner for the employer, or
  - occurred on or after the appointment of an insolvency practitioner for the employer
- you are owed employment entitlements
- you have taken reasonable steps to prove those debts in the winding up or bankruptcy of the employer
- if you were owed employment entitlements before the insolvency event occurred, you took reasonable steps to have them paid
- at the time your employment ended, you were an Australian citizen or, under the

*Migration Act 1958*, the holder of a permanent visa (ie your current visa allows you to live in Australia indefinitely) or special category visa (ie your current visa allows you to stay and work in Australia as long as you remain a New Zealand citizen)

- you have made an effective claim (see s. 14).

**You must meet all of the above requirements to be eligible for FEG assistance.**

### Exclusions from eligibility

FEG is a scheme for employees only. Other classes of workers, for example contractors and sub-contractors, are not eligible for assistance. Contract outworkers in the textile clothing and footwear industry may be covered under a special scheme for employees in that industry.

Some classes of employees are also ineligible for FEG assistance. You will be ineligible for assistance under the FEG Act if:

- you were a director of the company or you were the relative (as defined by the *Corporations Act 2001*) of an employee director at any time in the 12 months before the insolvency event
- you converted from contractor status to employee status with the same employer within 6 months of the insolvency event
- your former employer was within the scope of the Special Employee Entitlement Scheme for Ansett Group Employees (s. 13).



## Making an effective claim

You must make an effective claim to be eligible for FEG assistance. It is important that you submit your claim as soon as possible because FEG has strict time limits.

To make an effective claim, you must:

- lodge a FEG claim form
- include all mandatory information and documentation requested on the form
- lodge your claim no more than 12 months after the end of your employment or the date of the insolvency event (whichever is later) and
- lodge your claim before the discharge of your former employer's bankruptcy (if your employer was a bankrupt).

**If your claim is not made within this timeframe, or does not include all required information and documentation, it will not be effective and you will not be eligible for FEG assistance.**

For more information about lodging a FEG claim form, please refer to the [How do I apply for FEG assistance](#) fact sheet available on the [FEG website](#) ([www.ag.gov.au/FEG](http://www.ag.gov.au/FEG)).

## How can you help?

While information provided by the insolvency practitioner is generally relied upon, it is important that you provide as much information as possible to decide if you are eligible for FEG assistance and, if so, to work out the amount of assistance you are eligible for.

The information contained in this fact sheet is of a general nature and explains, in summary form, the intended operation of the *Fair Entitlements Guarantee Act 2012* - it is not legal advice. Where necessary, you should seek your own independent legal advice relevant to your particular circumstances. The Commonwealth does not make any representation or warranty about the accuracy, reliability, currency or completeness of the information contained in this fact sheet and is not liable for any loss resulting from any action taken or reliance made by you on the information contained in this fact sheet.

For more information about the type of information you should provide please refer to the [How do I apply for FEG assistance](#) fact sheet available on the [FEG website](#) ([www.ag.gov.au/FEG](http://www.ag.gov.au/FEG)).

## Want more information?

You can contact the FEG Hotline if you would like more information about eligibility for FEG assistance. To contact the FEG Hotline:

- 1300 135 040  
Mon - Fri, 9 am - 5 pm (AEST/ADST)
- email [FEG@jobs.gov.au](mailto:FEG@jobs.gov.au).

If you speak a language other than English, call the Translating and Interpreting Service (TIS) on 13 14 50 for free help anytime. If you speak an Indigenous language, call the Aboriginal Interpreter Service on 1800 334 944.

Further information is also available on the [FEG website](#) ([www.ag.gov.au/feg](http://www.ag.gov.au/feg)).

# Appendix “E”



## Approving fees: A guide for creditors

This information sheet (INFO 85) provides creditors with information about the external administrator's fees in a liquidation of a company, voluntary administration or deed of company arrangement. It outlines the rights that creditors have in approving the external administrator's fees.

The fees of a receiver are fixed by the secured creditor that appoints the receiver and is not discussed in this information sheet.

It covers:

- entitlement to fees and costs
- who may approve fees
- calculation of fees
- initial remuneration notice
- report on proposed fees
- deciding if fees are reasonable
- reimbursement of out-of-pocket costs
- questions and complaints

### Entitlement to fees and costs

An external administrator is entitled to receive:

- reasonable fees, or remuneration, for the necessary work they properly perform, after these fees have been approved by creditors, a committee of inspection or a court
- reimbursement for out-of-pocket costs incurred in performing their role.

External administrators are only entitled to fees that are reasonable for the necessary work that they and their staff properly perform in the external administration. What is reasonable will depend on the type of external administration and the issues that need to be resolved. Some are straightforward, while others are more complex.

External administrators must undertake some tasks that may not directly benefit creditors. These include 'statutory' tasks such as reporting to ASIC about potential breaches of the law and lodging forms and notices with ASIC. The external administrator is entitled to be paid for undertaking statutory tasks.

Out-of-pocket costs that are commonly reimbursed include:

- legal fees
- valuers', real estate agents' and auctioneers' fees
- stationery, photocopying, telephone and postage costs
- retrieval costs for recovering company computer records
- storage costs for company books and records.

Creditors have a direct interest in the level of fees and costs because the external administrator will generally be paid from the company's available assets before any payments are made to creditors. If there are not enough assets, the

external administrator may have arranged for a third party to pay any shortfall. As a creditor, you should receive details of such an arrangement. If there are not enough assets to pay the fees and costs, and there is no third-party payment arrangement, an external administrator is sometimes not paid (or only partially paid) for the work they do.

## Who may approve fees

An external administrator's fees must be approved by:

- resolution of creditors
- a committee of inspection (if there is a committee of inspection and if no resolution has been passed by creditors), or
- the court if neither the creditors or a committee of inspection have passed a resolution.

An external administrator in a member's voluntary winding up must have fees approved by a resolution of the company, or the court.

The external administrator must provide enough information to allow creditors to help you assess whether the fees are reasonable.

If fees are not approved by creditors in one of the above ways, the liquidator is entitled to receive reasonable fees up to a maximum default amount (indexed annually).

### Creditors' approval of fees at a creditors' meeting

Creditors can approve fees by passing a resolution at a creditors' meeting. To vote on any resolution at a creditors' meeting, creditors state aloud their agreement or disagreement (called a 'vote on the voices') or a 'poll' is taken.

Unless creditors call for a poll, the resolution passes if a simple majority of creditors present and voting, in person or by proxy, indicates they agree to the resolution.

If a poll is taken, a majority in number and value of creditors present and voting must agree. A poll requires the votes of each creditor to be counted and recorded.

A separate creditors' resolution is required for approving fees for an administrator in a voluntary administration and an administrator of a deed of company arrangement, even if the administrator is the same person in both administrations.

A proxy is where a creditor appoints someone else to represent them at a creditors' meeting and vote on their behalf. A proxy can be a general or special proxy. A general proxy allows the person holding the proxy to vote as they wish on a resolution, while a special proxy directs the proxy holder to vote in a certain way.

A creditor will sometimes appoint the external administrator as a proxy to vote on the creditor's behalf. An external administrator, their partners or staff must not use a general proxy to vote on approving their fees – they must hold a special proxy to do this. All special proxies must vote as directed, even those against approval of fees.

### Creditors' approval without a creditors' meeting

Instead of convening a creditors' meeting, the external administrator can put proposals to creditors by giving notice in writing.

This notice must be given to each creditor entitled to receive notice of a meeting, and:

- include a statement of reasons for the proposal and the likely impact the proposal will have on creditors
- invite the creditor to either:
  - vote 'yes' or 'no' for the proposal
  - object to the proposal without a meeting
- specify a reasonable time for the external administrator to receive creditors' replies.

To vote on the proposal, you must lodge details of your debt or claim with the external administrator and complete the provided voting documents.

Creditors can vote 'yes' or 'no' on the proposal and/or object to the proposal without a creditors' meeting. You should return your response to the external administrator within the time specified in the notice which must be at least 15 business days after the notice is given to creditors.

A resolution is passed if the majority of creditors in number and value who responded to the notice voted 'yes' and if 25% or less in value of the creditors who responded objected to the proposal without a creditors' meeting.

The external administrator should provide you with enough information to make an informed decision. Contact the external administrator if you require further information to help you decide.

The external administrator must lodge with ASIC the outcome of the proposal. You can get a copy of the outcome of the proposal by searching [ASIC Connect](#) for a fee.

## Committee of inspection approval

Where creditors have not passed a resolution approving fees, a [committee of inspection](#) can approve an external administrator's fees. In doing so, the members of the committee represent the interests of all creditors or employees, not just their own individual interests.

A committee of inspection makes its decision by a majority in number of its members present at a meeting, but it can only act if a majority of its members attend.

To find out more about committees of inspection and how they are formed, see [Information Sheet 45 Liquidation: A guide for creditors \(INFO 45\)](#) and [Information Sheet 74 Voluntary administration: A guide for creditors \(INFO 74\)](#).

## Calculation of fees

Fees may be calculated on a:

- time basis, based on time spent by the external administrator and their staff
- quoted fixed fee, based on an upfront estimate
- percentage of asset realisations.

Charging on a time basis is the most common method. If an external administrator seeks approval for charging wholly or partly on a time basis, and the work is yet to be carried out, the approval sought must include a maximum limit ('cap') on the amount of remuneration the external administrator is entitled to receive. For example, future fees calculated according to time spent may be approved based on the expected number of hours worked at the rates charged (as set out in the provided rate scale) up to a cap of \$X.

If the work involved exceeds this figure, the external administrator will have to ask creditors/committee to approve further fees, after accounting for the fees already incurred.

An external administrator is also entitled to ask for approval to pay their estimated future fees (for work yet to be done). Usually this is requested to allow the external administrator to continue doing work up to a certain point in time (e.g. to achieve a particular outcome) or to the completion of the external administration.

The external administrator and their staff will record the time taken for the various tasks involved, and a record will be kept of the nature of the work performed.

It is up to the external administrator to justify why the method chosen for calculating fees is appropriate. As a creditor or committee member you have a right to question the external administrator about the calculation method used and how the calculation was made. You can also ask whether the hourly rates are negotiable.

## Hourly rates

External administrators have a scale of hourly rates, with different rates for each category of staff working on the external administration, including the external administrator.

If the external administrator intends to charge on a time basis, you should receive a copy of these hourly rates soon after their appointment and before you are asked to approve fees. It is important to note the hourly rates do not represent an

hourly wage for the external administrator and their staff.

The external administrator is running a business – an insolvency practice – and the hourly rates will be based on the cost of running the business, including overheads such as rent for business premises, utilities, wages and superannuation for staff who are not charged out at an hourly rate (such as personal assistants), information technology support, office equipment and supplies, insurances, taxes, and a profit.

External administrators are professionals required to have qualifications and experience, be independent and maintain up-to-date skills. Many of the costs of running an insolvency practice are fixed costs that must be paid, even if there are insufficient assets available to pay the external administrator for their services. External administrators compete for work and their rates should reflect this.

## Initial remuneration notice

If the external administrator proposes to seek fee approval, the external administrator must send creditors a notice setting out the following information:

- the method by which they seek to be paid (e.g. time basis, quoted fixed price)
- the rate of fees
- an estimate of the expected total fees
- how out-of-pocket costs will be calculated
- a brief explanation of the different methods to calculate fees
- an explanation why they chose a particular fee method
- if a time-cost basis was chosen, the hourly rates of the external administrator and other staff who will work on the external administration.

This initial remuneration notice must be sent to creditors:

- in a voluntary administration, at the same time as the notice of the first meeting of creditors is sent
- in a court liquidation, within 20 business days after the liquidator's appointment
- in a creditors' voluntary liquidation, within 10 business days after the day of the meeting at which the resolution to wind up the company is passed.

## Report on proposed fees

When seeking approval of fees, the external administrator must send creditors/committee members a report setting out:

- a summary description of the major tasks performed, or likely to be performed
- the costs associated with each of these tasks and how the costs were calculated
- when the funds will be drawn to pay the fees
- an estimated total amount, or a range of total fees
- an explanation of the likely impact the fees will have on any payment to creditors
- other information that will assist creditors to assess the reasonableness of the fees claimed.

Creditors/committee members may be asked to approve fees for work already performed or an estimate of work yet to be carried out. For more information about the tasks involved, see [INFO 45](#) and [INFO 74](#).

## Deciding if fees are reasonable

If you are asked to approve an amount of fees, you must decide if the amount is reasonable given the work carried out in the external administration and the results of that work.

The external administrator must provide you with certain information to help you decide if you should approve their fees. To decide if the fees claimed are reasonable and for necessary work properly performed, you might find the following additional information the external administrator provides useful:

- an explanation of why the work performed was necessary

- the size and complexity (or otherwise) of the external administration
- the value and nature of the assets or property dealt with
- the level of risk or responsibility involved with the external administration
- whether there are any extraordinary issues that the external administrator had to deal with
- the amount of fees (if any) that have previously been approved
- if the fees are calculated, in whole or in part, on a time basis:
  - the period over which the work was or is likely to be performed
  - the time spent by each level of staff on each of the major tasks performed or likely to be performed
  - if the fees are for work that is yet to be carried out, whether the fees are capped.

If you need more information about fees than is provided in the external administrator's report, let the external administrator know before the meeting at which fees will be voted on.

## What can you do if you think the fees are not reasonable?

If you think the fees claimed are not reasonable, you should raise your concerns with the external administrator. You decide whether to vote in favour of, or against, a resolution to approve fees.

Generally, if creditors or a committee of inspection approve fees and you wish to challenge this decision, you may apply to the court for review of the fees. You may wish to seek your own legal advice if you are considering applying for a court review of the fees.

As well as a court review of the external administrator's fees, creditors (by resolution of creditors) or one or more creditors (with the external administrator's consent) can appoint a registered liquidator to carry out a review of fees and/or costs incurred by the external administrator of the company.

A creditor can also apply for ASIC to appoint a reviewing liquidator: see Form 5605 Application for ASIC to appoint a reviewing liquidator.

Where creditors resolve to appoint a reviewing liquidator, the review is limited to:

- remuneration approved within the six months before the reviewing liquidator is appointed
- costs or expenses incurred during the 12 months before the reviewing liquidator is appointed (unless the external administrator agrees to a longer period).

The reviewing liquidator must be a registered liquidator. A creditor who wishes to appoint a reviewing liquidator must approach a registered liquidator to get written consent that they would be prepared to act as reviewing liquidator. The person must also make a written declaration about any relationships they or their firm may have that might affect their independence to act as reviewing liquidator.

The external administrator and their staff must cooperate with the reviewing liquidator.

If creditors pass a resolution to appoint the reviewing liquidator, the reviewing liquidator's costs form part of the expenses of the external administration of the company. If one or more of the creditors appoint the reviewing liquidator with the consent of the external administrator, the reviewing liquidator's costs are borne by the creditor(s) appointing the reviewing liquidator.

## Reimbursement of out-of-pocket costs

An external administrator should be very careful incurring costs that must be paid from the external administration – as careful as if they were dealing with their own money. Their report on fees must also include information on the out-of-pocket costs of the external administration.

Out of pocket expenses (or disbursements) can be categorised into:

- external services or costs such as legal fees, valuation fees, travel, accommodation and search fees
- internal services or costs such as photocopying, printing and postage.

External costs are usually charged at cost and do not require prior approval of creditors.

Internal costs may be charged at a rate higher than actual cost in order to recover overheads and similar costs. In instances where costs are charged at a rate higher than cost, the external administrator will need to obtain creditor approval before being reimbursed.

When seeking approval of out-of-pocket expenses, the external administrator must send creditors/committee members a report setting out:

- a summary of the out-of-pocket expenses
- how they were calculated
- the total amount the external administrator is seeking reimbursement for
- why the expenses were necessary.

You may be asked to approve reimbursement of out-of-pocket expenses for expenses already incurred or an estimate of expenses to be incurred.

If the expenses are yet to be incurred, a maximum limit (cap) should be placed on the amount the external administrator may incur and get reimbursed for.

## Questions and complaints

Contact the external administrator to raise questions or complaints. If this fails to resolve your concerns, including any concerns about their conduct, you can [lodge a report of misconduct with ASIC](#). Reports of misconduct against companies and their officers can also be made to ASIC.

Lodging your report of misconduct online ensures we can quickly respond to your concerns.

ASIC does not usually become involved in matters of an external administrator's commercial judgement.

## More information

- › [Information Sheet 39 \*Insolvency information for directors, employees, creditors and shareholders\* \(INFO 39\)](#)
- › [Australian Restructuring Insolvency & Turnaround Association \(ARITA\) website](#)
- › [ARITA Code of Professional Practice for Insolvency Practitioners](#)

## Important notice

Please note that this information sheet is a summary giving you basic information about a topic. It does not cover the whole of the relevant law regarding that topic, and it is not a substitute for professional advice.

You should also note that because this information sheet avoids legal language wherever possible, it might include some generalisations about the application of the law. Some provisions of the law referred to have exceptions or important qualifications. In most cases your particular circumstances must be taken into account when determining how the law applies to you.

This is **Information Sheet 85 (INFO 85)**, reissued in August 2020.

Last updated: 11/08/2020 11:37



# Appendix “F”

# Voluntary Administration Creditor Information Sheet

## Offences, Recoverable Transactions and Insolvent Trading



### Offences

**A summary of offences under the Corporations Act that may be identified by the administrator:**

180	Failure by company officers to exercise a reasonable degree of care and diligence in the exercise of their powers and the discharge of their duties.
181	Failure to act in good faith.
182	Making improper use of their position as an officer or employee, to gain, directly or indirectly, an advantage.
183	Making improper use of information acquired by virtue of the officer's position.
184	Reckless or intentional dishonesty in failing to exercise duties in good faith for a proper purpose. Use of position or information dishonestly to gain advantage or cause detriment. This can be a criminal offence.
198G	Performing or exercising a function or power as an officer while a company is under administration.
206A	Contravening a court order against taking part in the management of a corporation.
206A, B	Taking part in the management of corporation while being an insolvent, for example, while bankrupt.
206A, B	Acting as a director or promoter or taking part in the management of a company within five years after conviction or imprisonment for various offences.
209(3)	Dishonest failure to observe requirements on making loans to directors or related companies.
254T	Paying dividends except out of profits.
286	Failure to keep proper accounting records.
312	Obstruction of an auditor.
314-7	Failure to comply with requirements for the preparation of financial statements.
437D(5)	Unauthorised dealing with company's property during administration.
438B(4)	Failure by directors to assist administrator, deliver records and provide information.
438C(5)	Failure to deliver up books and records to the administrator.
588G	Incurring liabilities while insolvent
588GAB	Officer's duty to prevent creditor-defeating disposition
588GAC	A person must not procure a company to make a creditor-defeating disposition
590	Failure to disclose property, concealed or removed property, concealed a debt due to the company, altered books of the company, fraudulently obtained credit on behalf of the company, material omission from Report as to Affairs or false representation to creditors.
596AB	Entering into an agreement or transaction to avoid employee entitlements.

### Recoverable Transactions

#### **Preferences**

A preference is a transaction, such as a payment by the company to a creditor, in which the creditor receiving the payment is preferred over the general body of creditors. The relevant period for the payment commences six months before the commencement of the liquidation. The company must have been insolvent at the time of the transaction, or become insolvent because of the transaction.

Where a creditor receives a preference, the payment is voidable as against a liquidator and is liable to be paid back to the liquidator subject to the creditor being able to successfully maintain any of the defences available to the creditor under the Corporations Act.

#### **Creditor-defeating disposition**

Creditor-defeating dispositions are the transfer of company assets for less than market value (or the best price reasonably obtainable) that prevents, hinders or significantly delay creditors' access to the company's assets in liquidation. Creditor-defeating dispositions are voidable by a liquidator.

### **Uncommercial Transaction**

An uncommercial transaction is one that it may be expected that a reasonable person in the company's circumstances would not have entered into, having regard to the benefit or detriment to the company; the respective benefits to other parties; and any other relevant matter.

To be voidable, an uncommercial transaction must have occurred during the two years before the liquidation. However, if a related entity is a party to the transaction, the period is four years and if the intention of the transaction is to defeat creditors, the period is ten years. The company must have been insolvent at the time of the transaction, or become insolvent because of the transaction.

### **Unfair Loan**

A loan is unfair if and only if the interest was extortionate when the loan was made or has since become extortionate. There is no time limit on unfair loans – they only must be entered into before the winding up began.

### **Arrangements to avoid employee entitlements**

If an employee suffers loss because a person (including a director) enters into an arrangement or transaction to avoid the payment of employee entitlements, the liquidator or the employee may seek to recover compensation from that person or from members of a corporate group (Contribution Order).

### **Unreasonable payments to directors**

Liquidators have the power to reclaim '*unreasonable payments*' made to directors by companies prior to liquidation. The provision relates to payments made to or on behalf of a director or close associate of a director. The transaction must have been unreasonable, and have been entered into during the 4 years leading up to a company's liquidation, regardless of its solvency at the time the transaction occurred.

### **Voidable charges**

Certain charges over company property are voidable by a liquidator:

- circulating security interest created within six months of the liquidation, unless it secures a subsequent advance;
- unregistered security interests;
- security interests in favour of related parties who attempt to enforce the security within six months of its creation.

## **Insolvent trading**

In the following circumstances, directors may be personally liable for insolvent trading by the company:

- a person is a director at the time a company incurs a debt;
- the company is insolvent at the time of incurring the debt or becomes insolvent because of incurring the debt;
- at the time the debt was incurred, there were reasonable grounds to suspect that the company was insolvent;
- the director was aware such grounds for suspicion existed; and
- a reasonable person in a like position would have been so aware.

The law provides that the liquidator, and in certain circumstances the creditor who suffered the loss, may recover from the director, an amount equal to the loss or damage suffered. Similar provisions exist to pursue holding companies for debts incurred by their subsidiaries.

A defence is available under the law where the director can establish:

- there were reasonable grounds to expect that the company was solvent and they did so expect;
- they did not take part in management for illness or some other good reason; or
- they took all reasonable steps to prevent the company incurring the debt.

The proceeds of any recovery for insolvent trading by a liquidator are available for distribution to the unsecured creditors before the secured creditors.

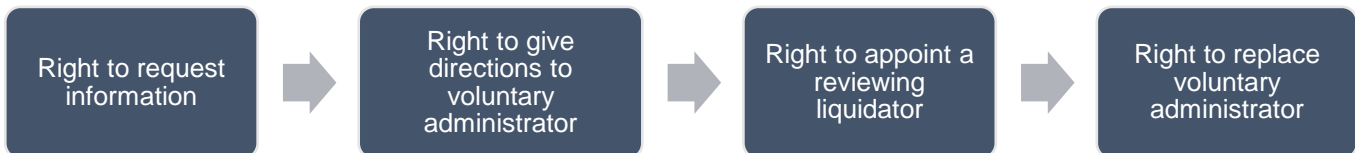
**Important note:** This information sheet contains a summary of basic information on the topic. It is not a substitute for legal advice. Some provisions of the law referred to may have important exceptions or qualifications. This document may not contain all of the information about the law or the exceptions and qualifications that are relevant to your circumstances.

**Queries about the voluntary administration should be directed to the administrator's office.**

# Appendix “G”

# Creditor Rights in Voluntary Administrations

As a creditor, you have rights to request meetings and information or take certain actions:



## Right to request information

Information is communicated to creditors in a voluntary administration through reports and meetings.

In a voluntary administration, two meetings of creditors are automatically held. You should expect to receive reports and notice of these meetings:

- The first meeting is held within 8 business days of the voluntary administrator's appointment. A notice of meeting and other information for this meeting will be issued to all known creditors.
- The second, or decision, meeting is usually held within 6 weeks of the appointment, unless an extension is granted. At this meeting, creditors will get to make a decision about the company's future. Prior to this meeting the voluntary administrator will provide creditors with a notice of the meeting and a detailed report to assist in making your decision.

Important information will be communicated to creditors prior to and during these meetings. Creditors are unable to request additional meetings in a voluntary administration.

Creditors have the right to request information at any time. A voluntary administrator must provide a creditor with the requested information if their request is 'reasonable', the information is relevant to the voluntary administration, and the provision of the information would not cause the voluntary administrator to breach their duties.

A voluntary administrator must provide this information to a creditor within 5 business days of receiving the request, unless a longer period is agreed. If, due to the nature of the information requested, the voluntary administrator requires more time to comply with the request, they can extend the period by notifying the creditor in writing.

## Requests must be reasonable.

### They are not reasonable if:

- (a) complying with the request would prejudice the interests of one or more creditors or a third party
- (b) the information requested would be privileged from production in legal proceedings
- (c) disclosure would found an action for breach of confidence
- (d) there is not sufficient available property to comply with the request
- (e) the information has already been provided
- (f) the information is required to be provided under law within 20 business days of the request
- (g) the request is vexatious

If a request is not reasonable due to (d), (e) or (f) above, the voluntary administrator must comply if the creditor meets the cost of complying with the request.

Otherwise, a voluntary administrator must inform a creditor if their information request is not reasonable and the reason why.

## Right to give directions to voluntary administrator

Creditors, by resolution, may give a voluntary administrator directions in relation to a voluntary administration. A voluntary administrator must have regard to these directions, but they are not required to comply with the directions.

If a voluntary administrator chooses not to comply with a direction given by a resolution of the creditors, they must document their reasons for not complying.

An individual creditor cannot provide a direction to a voluntary administrator.

## Right to appoint a reviewing liquidator

Creditors, by resolution, may appoint a reviewing liquidator to review a voluntary administrator's remuneration or a cost or expense incurred in a voluntary administration. The review is limited to:

- remuneration approved within the six months prior to the appointment of the reviewing liquidator, and
- expenses incurred in the 12 months prior to the appointment of the reviewing liquidator.

The cost of the reviewing liquidator is paid from the assets of the voluntary administration, in priority to creditor claims.

An individual creditor can appoint a reviewing liquidator with the voluntary administrator's consent, however the cost of this reviewing liquidator must be met personally by the creditor making the appointment.

## Right to replace voluntary administrator

At the first meeting, creditors have the right to remove a voluntary administrator and appoint another registered liquidator to act as voluntary administrator.

A creditor must ensure that they have a consent from another registered liquidator prior to the first meeting if they wish to seek the removal and replacement of a voluntary administrator.

Creditors also have the opportunity to replace a voluntary administrator at the second meeting of creditors:

- If creditors vote to accept a proposed deed of company arrangement, they can appoint a different registered liquidator as the deed administrator.
- If creditors vote to place the company into liquidation, they can appoint a different registered liquidator as the liquidator.

It is however usual for the voluntary administrator to act as deed administrator or liquidator. It would be expected that additional costs would be incurred by an alternate deed administrator or liquidator to gain the level of knowledge of the voluntary administrator.

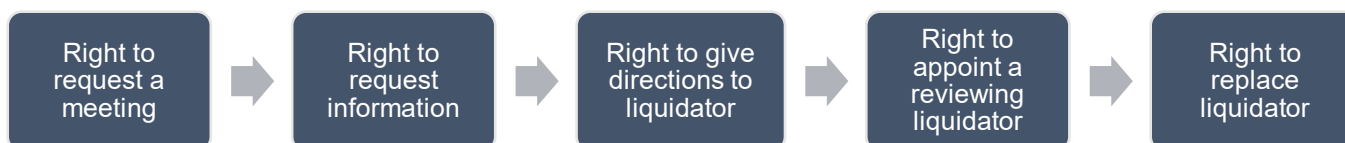
Like with the first meeting, a creditor must ensure that they have a consent from another registered liquidator prior to the second meeting if they wish to seek to appoint an alternative registered liquidator as deed administrator or liquidator.

**For more information, go to [www.arita.com.au/creditors](http://www.arita.com.au/creditors).  
Specific queries about the voluntary administration should be directed to the voluntary administrator's office.**

# Appendix “H”

# Creditor Rights in Liquidations

As a creditor, you have rights to request meetings and information or take certain actions:



If a simplified liquidation process is adopted, these rights are effectively limited to the right to request information.

## Right to request a meeting

In liquidations, no meetings of creditors are held automatically. However, creditors with claims of a certain value can request in writing that the liquidator hold a meeting of creditors. The right to request meetings, including in the circumstances described below, is not available if a simplified liquidation process is adopted.

A meeting may be requested in the first 20 business days in a creditors' voluntary liquidation by  $\geq 5\%$  of the value of the debts held by known creditors who are not a related entity of the company.

Otherwise, meetings can be requested at any other time or in a court liquidation by:

- $> 10\%$  but  $< 25\%$  of the known value of creditors on the condition that those creditors provide security for the cost of holding the meeting
- $\geq 25\%$  of the known value of creditors
- creditors by resolution, or
- a Committee of Inspection (this is a smaller group of creditors elected by, and to represent, all the creditors).

If a request complies with these requirements and is 'reasonable', the liquidator must hold a meeting of creditors as soon as reasonably practicable.

## Right to request information

Liquidators will communicate important information with creditors as required in a liquidation. In addition to the initial notice, you should receive, at a minimum, a report within the first three months on the likelihood of a dividend being paid.

Additionally, creditors have the right to request information at any time. A liquidator must provide a creditor with the requested information if their request is 'reasonable', the information is relevant to the liquidation, and the provision of the information would not cause the liquidator to breach their duties.

A liquidator must provide this information to a creditor within 5 business days of receiving the request, unless a longer period is agreed. If, due to the nature of the information requested, the liquidator requires more time to comply with the request, they can extend the period by notifying the creditor in writing.

## Requests must be reasonable.

### They are not reasonable if:

Both meetings and information:

- (a) complying with the request would prejudice the interests of one or more creditors or a third party
- (b) there is not sufficient available property to comply with the request
- (c) the request is vexatious

Meeting requests only:

- (d) a meeting of creditors dealing with the same matters has been held, or will be held within 15 business days

Information requests only:

- (e) the information requested would be privileged from production in legal proceedings
- (f) disclosure would found an action for breach of confidence
- (g) the information has already been provided
- (h) the information is required to be provided under law within 20 business days of the request

If a request is not reasonable due to (b), (d), (g) or (h) above, the liquidator must comply with the request if the creditor meets the cost of complying with the request.

Otherwise, a liquidator must inform a creditor if their meeting or information request is not reasonable and the reason why.



## Right to give directions to liquidator

Creditors, by resolution, may give a liquidator directions in relation to a liquidation. A liquidator must have regard to these directions, but is not required to comply with the directions.

If a liquidator chooses not to comply with a direction given by a resolution of the creditors, they must document their reasons. An individual creditor cannot provide a direction to a liquidator.

If a simplified liquidation process is adopted, you may not be able to give directions, because meetings cannot be held to pass a resolution.

## Right to appoint a reviewing liquidator

Creditors, by resolution, may appoint a reviewing liquidator to review a liquidator's remuneration or a cost or expense incurred in a liquidation. This right is not available if a simplified liquidation process is adopted. The review is limited to:

- remuneration approved within the six months prior to the appointment of the reviewing liquidator, and
- expenses incurred in the 12 months prior to the appointment of the reviewing liquidator.

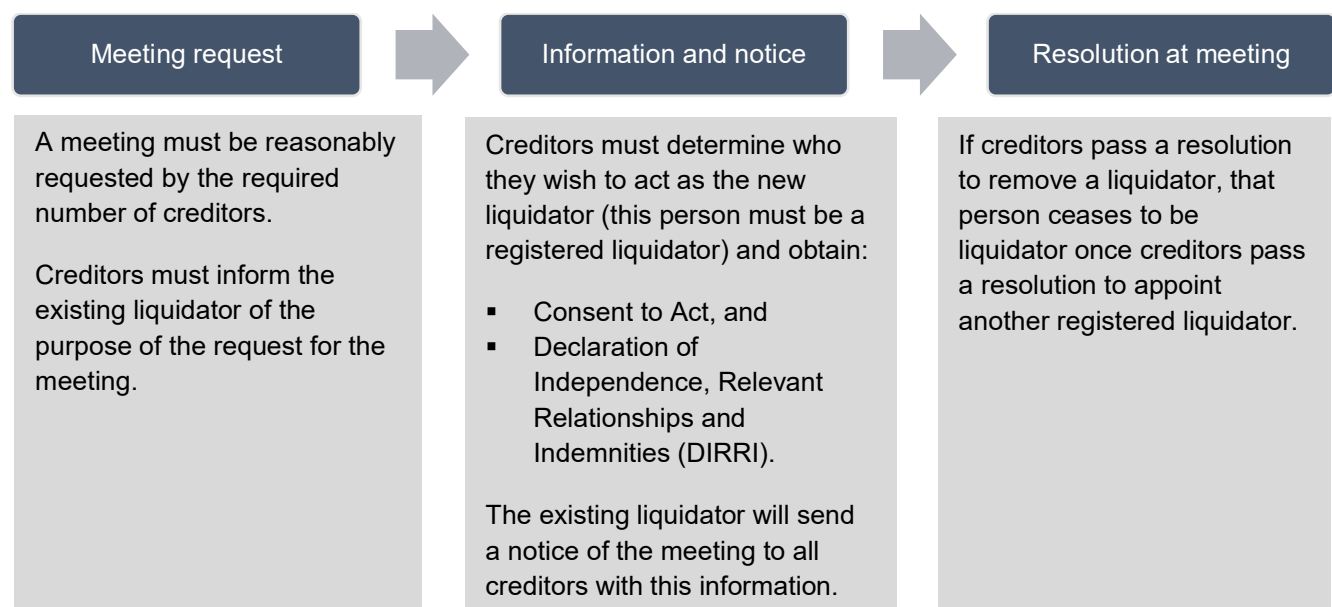
The cost of the reviewing liquidator is paid from the assets of the liquidation, in priority to creditor claims.

An individual creditor can appoint a reviewing liquidator with the liquidator's consent, however the cost of this reviewing liquidator must be met personally by the creditor making the appointment.

## Right to replace liquidator

Creditors, by resolution, have the right to remove a liquidator and appoint another registered liquidator. This right is not available if a simplified liquidation process is adopted, because meetings cannot be held.

To replace a liquidator, there are certain requirements that must be complied with:



**For more information, go to [www.arita.com.au/creditors](http://www.arita.com.au/creditors).  
Specific queries about the liquidation should be directed to the liquidator's office.**