



McDonald  
Vague

business recovery partners

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

**Liquidators' First Report**

McDonald Vague Limited  
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**TO: The directors, shareholders, and known creditors of the company**

**1 INTRODUCTION AND APPOINTMENT**

ESKA Company Limited ("the company") was placed into liquidation by the High Court at Auckland pursuant to Section 241(2)(c) of the Companies Act 1993 ("the Act") on 11 October 2019 at 11:07 a.m. on the application of Olga Belouos Limited. Maria Gomes was initially appointed in error, but on 16 October 2019, the Court amended the order, appointing Boris van Delden and Peri Micaela Finnigan, CAANZ Accredited Insolvency Practitioners, of Auckland, joint and several liquidators of the company.

**2 RESTRICTIONS**

In preparing this report and its appendices, we have relied upon information provided to us. We have not independently verified or audited that information. Whilst all care and attention has been taken in compiling this report, we do not accept any liability whatsoever to any party as a result of the circulation, publication, reproduction, or use of this report.

We reserve the right (but are under no obligation) to review and, if we consider necessary, amend this report to take into account any information existing at the date of this report that becomes known to us after this report is published.

**3 INDEPENDENCE**

A declaration of independence is attached at Appendix 2. As far as we are aware there are no conflicts real, perceived, or risks of independence.

**4 ATTACHMENTS**

The following documents are attached to this report:

- Appendix 1: Statement of Affairs setting out the company's estimated financial position
- Appendix 2: Declaration of independence / relationships / indemnities and upfront payments
- Appendix 3: Schedule of company creditors' names and addresses
- Appendix 4: Notice of Liquidators' decision to dispense with meeting of creditors
- Appendix 5: Notice to creditors to prove debts or claims
- Appendix 6: Creditors claim form

## 5 COMPANY STRUCTURE AND BACKGROUND

Date of incorporation:	11 December 2015
Company number:	5862389
Nature of business:	Consulting, Production and marketing of Educational materials
Trading address:	101/B Apollo Drive, Rosedale
Previous name:	ESKA Limited
Share capital:	100 Shares
Shareholder and Shareholder:	Svetlana Strizheva
Related companies:	ESKA (NZ) Limited (formerly Swift Printing Limited) Auckland Entrepreneurs Group Limited (trading as AEG) OYLA Limited

We have interviewed the director, who advised that the company produced and marketed OYLA Magazine, based on the STEM educational focus (Science, Technology, Engineering and Mathematics). The company also offered business and tax advice.

The director stated the company ceased doing most of its business in September 2018 when it was drawn into mediation proceedings involving an employment dispute. The director advised that the matter was taken to the Employment Relations Authority, where the company was held to be liable. When it failed to pay the adjudged debt, it was subsequently placed in liquidation by the High Court. The director advised that she felt the Employment Relations Authority had erred, and that the company should not have been placed in liquidation, however the director said she did not have sufficient funds to cover the company's legal fees to resist the company's liquidation.

The director also felt that the company's product still had potential to be profitable and of national educational benefit to New Zealand. She stated that a lack of market research, high printing costs, a relatively small market, and slow germination time meant the company needed more investment, and ideally government education endorsement to be successful. The OYLA magazine has been marketed in other countries, but we have yet to see the bank records of AUD, USD and Paypal accounts used by the company which the director has failed to provide.

The director advised that she and her husband used up their family savings to start the business and to fund it through trading. The company accounts reflect their investments as part equity and part shareholder loan.

The director advised that when the company became embroiled in the employment dispute, she decided to cease trading and for the purposes of repayment of her shareholder loan, transferred the company's assets to her personal name. She also advised that for the same purpose she transferred the company's shares in related companies to her and her husband's name.

We have taken control of the company's Xero accounting subscription, obtained copies of the company's bank and tax records, and signed copies of the company's financial statements to September 2018. The director has provided partial accounting records, which appear to show the company incorrectly claimed input GST resulting in GST refunds which may not have otherwise been due, which needs further investigation. We are awaiting the balance of accounting records and source documents from the director so that GST returns can be recalculated and resubmitted where necessary.

We have notified the director that the taking of the company's assets constituted an undue preference the value of which would have to be repaid to the company and distributed correctly according to the 7<sup>th</sup> Schedule of the Companies Act. In addition, we have notified the director that we believe the company's assets were not just taken in repayment of shareholder loans, but also to avoid payment of the company's other liabilities, in which case she may have breached her director duties.

## **6 STATEMENT OF AFFAIRS**

A Statement of Affairs showing the company's estimated financial position as at the date of our appointment is provided at Appendix 1.

## **7 ASSETS AND PROPOSALS FOR CONDUCTING THE LIQUIDATION**

We will recover and realise all available assets.

The director advised that accounts receivable reflected in the company's accounting system, which appears to be owed to the company by various educational institutions, is uncollectable since the magazines were sent out unsolicited.

We will complete a thorough review of the company's books, records and affairs to:

- ensure that all assets have been properly accounted for,
- determine if there are any other avenues of recovery for creditors,
- determine if the company's officers have properly carried out their duties and take appropriate steps where necessary.

If there are funds available for distribution to creditors, we will verify creditors' claims and make a distribution. We will then complete the liquidation and request that the Registrar of Companies remove the company from the register.

## **8 LIABILITIES AND CREDITOR CLAIMS**

A schedule of known creditors and their addresses is provided at Appendix 3, as required by Section 255(2)(c) of the Act.

A notice to creditors to prove debts or claims is provided at Appendix 5. Also provided is a creditor's claim form at Appendix 5 for completion and return to this office by Friday, 6 December 2019.

Creditors that have not made a claim by the date on the notice may be excluded from any distribution made. If you believe that you are a secured creditor, please contact us and the appropriate form will be sent to you.

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### **8.1 Secured Creditors**

As at the date of liquidation there are no secured parties that have registered security interests against the company on the Personal Property Securities Register.

#### *Personal Property Securities Act / Reservation of Title*

If any creditor believes that they hold a Purchase Money Security Interest entitling them to any goods or proceeds from realisation of goods, they should contact us immediately.

If any creditor believes that they have a Reservation of Title over goods and they have not perfected their interest, they should also contact us immediately.

### **8.2 Preferential Creditors**

The applicant creditor has submitted a claim of \$34,254.88 made up of various costs and awards leading to the application to place the company in liquidation. Our initial assessment of the makeup of the claim indicates that \$8,592.13 of the claim will be preferential, being in respect of wages and holiday pay awarded to the applicant creditor and the costs award by the High Court in respect of the application to place the company in liquidation.

On the 11<sup>th</sup> October 2019 the High Court appointed Maria Gomes of the Official Assignee's Office as liquidator, before changing the appointment on 16<sup>th</sup> November. The Official Assignee's Office has lodged a preferential claim for \$1,232.80 in fees incurred during the first week of appointment.

We do not believe the Inland Revenue Department has any preferential claims against the company, although we intend to investigate the accuracy of the company's GST returns over the previous two years.

### **8.3 Unsecured Creditors**

We believe the non-preferential portion of the applicant creditors claim will be \$25,662.75, however we will not be making a final assessment of the claim until there are funds to distribute to creditors.

## **CREDITORS' MEETING / LIQUIDATION COMMITTEE**

A notice of the Liquidators' decision to dispense with the meeting of creditors is provided at Appendix 4.

Any creditor or shareholder may at any time in the course of the liquidation request that the liquidators call a meeting pursuant to Section 314 of the Companies Act 1993, for the purpose of appointing a liquidation committee. Any request for a meeting must be submitted to the liquidators in writing.

## 10 FURTHER INFORMATION

If you are aware of any information that would assist the Liquidators, please set the details out in writing, attach any supporting evidence, and send it to us. Please note that it can be difficult for liquidators to act in reliance on information that is not provided in writing.

If any creditor wishes to receive the six monthly reports by email as and when they are published, please ensure that an email address is provided on your creditors' claim form.

This report and all subsequent reports will be available on the Liquidators' website at [www.mvp.co.nz](http://www.mvp.co.nz)

## 11 ESTIMATED DATE OF COMPLETION

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

## 12 CONTACT DETAILS

Enquiries should be directed to Dalwyn Whisken on DDI (09) 969 5336 or by email to [dwhisken@mvp.co.nz](mailto:dwhisken@mvp.co.nz).

The Liquidators can be contacted at:

McDonald Vague Limited

Level 10, 52 Swanson Street, Auckland 1010

P O Box 6092, Wellesley Street, Auckland 1141

  
PERI M FINNIGAN  
LIQUIDATOR

DATED this 20 day of December 2019

## ESKA Company Limited (In Liquidation)

### Statement of Affairs

Statement of Affairs for the above named company as at 11 October 2019 (being the date of liquidation) showing assets at estimated realisable values and liabilities expected to rank.

#### ASSETS AVAILABLE FOR PREFERENTIAL CREDITORS

	<i>Book Value</i>	<i>Estimated to Realise</i>
Accounts receivable	-	-
Stock	-	-
<b>Total</b>	-	-

#### *Less preferential creditors*

Applicant Creditor Preferential Claim (Wages, Holiday Pay and High Court Award for Costs)		8,592
Insolvency and Trustee Service		1,233
<b>Total</b>		<b>9,825</b>

#### *Estimated deficiency as regards preferential creditors*

**(\$9,825)**

#### ASSETS AVAILABLE FOR GENERAL SECURITY AGREEMENT HOLDER/S

	<i>Book Value</i>	<i>Estimated to Realise</i>
nil	-	-
<b>Total</b>	-	-

#### AVAILABLE FOR UNSECURED CREDITORS

-

#### LESS UNSECURED CREDITORS

Applicant Creditor - non preferential portion of claim		25,663
<b><i>Estimated surplus/(deficiency) as regards unsecured creditors</i></b>		<b>(\$25,663)</b>

#### **Notes:**

- The above estimates are subject to the costs of the liquidation.

#### **Disclaimer of Liability:**

The information contained in the Statement of Affairs has been supplied by the company. We have not verified the information supplied. The Statement of Affairs has been prepared for the purpose of the liquidation and we do not accept any including liability in negligence, to any party. responsibility on any grounds whatsoever,

**ESKA Company Limited (In Liquidation)**  
**Declaration of Independence / Relationships / Indemnities and**  
**Upfront Payments**

**A DECLARATION OF INDEPENDENCE**

- (i) The appointed and McDonald Vague Limited have undertaken a proper assessment of the risks of independence prior to accepting appointment in accordance with the law code of conduct and applicable professional standards and have concluded that they have no prior business or professional relationship with the insolvent that is a real or potential risk and that they are independent.

**B DECLARATION OF RELATIONSHIPS**

- (ii) The appointed and McDonald Vague Limited have no prior business or professional or personal relationship with known associates of the insolvent or the major secured creditors.
- (iii) The appointed disclose there are no other relevant relationships to declare.
- (iv) The appointed and McDonald Vague Limited have not provided any prior professional services to the insolvent or known associates of the insolvent in the prior two years.

**C DECLARATION OF INDEMNITIES AND UPFRONT PAYMENTS**

- (v) There is no indemnity nor upfront payment.

  
PERI M FINNIGAN - LIQUIDATOR

DATED this 20 day of December 2019

## ESKA Company Limited (In Liquidation) Schedule of Creditors' Names and Addresses

Pursuant to Section 255(2)(c) of the Companies Act 1993

Creditor Names	Address 1	Address 2	Address 3
Insolvency and Trustee Service	L1, 162 Victoria Street	AUCKLAND 1010	
Olga Belouos	C/o Corporate Plain Sailing	PO Box 3046 HB Mail Centre	Napier 4142



## Notice of Liquidators' Decision to Dispense with Meeting of Creditors

After having regard to the assets and liabilities of ESKA Company Limited (In Liquidation) and the likely result of the liquidation, the liquidators propose to dispense with a meeting of creditors pursuant to Section 245 of the Companies Act 1993.

The liquidators do not, however, wish to preclude creditors from expressing their views. Please contact Dalwyn Whisken of this office on DDI (09) 969 5336 if you have any specific enquiries.

If you wish to request that a creditor's meeting be called, notice in writing is required within 10 working days of receiving this notice. Your notice you must also state the reason you require a meeting so that an agenda can be prepared and circulated to creditors and creditors can be given the opportunity to vote on any proposed resolutions by voting letter.

  
PERI M FINNIGAN  
LIQUIDATOR

DATED this 20 day of December 2019

## Appendix 5

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IN THE MATTER of                    The Companies Act 1993

and

IN THE MATTER of                    ESKA Company Limited (In Liquidation)  
*formerly known ESKA Limited until 4 July 2019*

### Notice to Creditors to Prove Debts or Claims

Notice is given that the liquidator of ESKA Company Limited (In Liquidation) ("the company"), fix Friday, 6 December 2019, as the day on or before which the company's creditors are to make their claims and establish any priority their claims may have under Section 312 of the Companies Act 1993. Creditors not having made a claim by this date may be excluded from any distribution made.

  
PERI M FINNIGAN  
LIQUIDATOR

DATED this *20* day of December 2019

#### ADDRESS OF LIQUIDATOR

McDonald Vague Limited  
Level 10, 52 Swanson Street  
AUCKLAND 1010

PO Box 6092  
Wellesley Street  
AUCKLAND 1141

Telephone: (09) 303 0506  
Facsimile: (09) 303 0508  
Website: [www.mvp.co.nz](http://www.mvp.co.nz)

**DATE OF LIQUIDATION: 11<sup>th</sup> October 2019**



McDonald  
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McDONALD VAGUE LIMITED

PO Box 6092, Wellesley St, Auckland 1141, New Zealand.  
Telephone 0-9-303 0506, Facsimile 0-9-303 0508

# Unsecured Creditor's Claim

(Also for use by Preferential Creditors)

SECTION 304(1) COMPANIES ACT 1993

(For help see [www.mvp.co.nz](http://www.mvp.co.nz) or email  
[claims@mvp.co.nz](mailto:claims@mvp.co.nz))


NAME AND POSTAL ADDRESS OF CREDITOR IN FULL

\* Any personal information collected is for the purpose of administering the liquidation in accordance with the Companies Act 1993.

The information will be used and retained by the liquidators and McDonald Vague and will be released to other parties only with your authorisation or in compliance with the Privacy Act 1993.

Under Section 304(1) of the Companies Act 1993 any claim by an unsecured creditor against a company in liquidation must be in this prescribed form and must –  
(a) Contain full particulars of the claim; and  
(b) Identify any documents that evidence or substantiate the claim.

You may have access to and request correction of any personal information.

(\*Not applicable, if creditor is not an individual within the meaning of the Privacy Act 1993.)

Telephone Numbers: ( )

( )

E-Mail

My Reference is:  
(if applicable)

NAME OF COMPANY IN LIQUIDATION:

(IN LIQUIDATION)

(If claim is made on behalf of creditor, specify relationship to creditor and authority)

claim that the company was at the date it was put into liquidation indebted to the abovenamed creditor for the sum of (Amount in words):

STATUS OF CLAIM:

1. I am an unsecured creditor for  
(Also applicable to secured creditors who hereby surrender their security)

\$

2. I am a preferential creditor for  
(Refer details on reverse)

\$

3. My total claim is for  
(State currency if other than \$NZ)

Other  
Currency

NZ \$

4. I have claimed retention/reservation of title rights pursuant to rights held by me

Note: If you are a secured creditor contact this office and a Secured Creditors Claim Form will be sent to you. Tick if Applicable   
(Refer details on reverse)

Full particulars of the claim are set out, and any supporting documents that substantiate the claim, are identified on the reverse of this form.

(The liquidator may require the production of a document under Section 304(2) of the Companies Act 1993. You are **not required to attach any supporting documents** at this stage, but you may attach them now, if you think it would expedite the processing of the claim.)

SIGNED:

Date: / /

**WARNING** —

It is an offence under Section 304(6) of the Companies Act 1993 to –

Make or authorise the making of, a claim that is false or misleading in a material particular knowing it to be false or misleading; or

Omit, or authorise the omission from a claim of any matter knowing that the omission makes the claim false or misleading in a material particular.

Received  
(Date Stamp)

RESERVED FOR OFFICE USE:

Claim admitted/rejected  
for voting purposes:  
(Delete one)

Signed:

Date: / /

Preferential Claim for:

Ordinary Claim for:

CLAIM REJECTED  
FOR PAYMENT:

\$

\$

or  
CLAIM ADMITTED  
FOR PAYMENT:

Preferential Claim for:

Ordinary Claim for:

\$

\$

Signed  
Liquidator:

Date: / /



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**Note:** If the decision to admit or reject a claim is amended, regulation 8 of the Companies Act 1993 Liquidation Regulations 1994 requires that it be recorded in writing.



McDONALD VAGUE LIMITED

PO Box 6092, Wellesley St, Auckland 1141, New Zealand.  
Telephone 0-9-303 0506, Facsimile 0-9-303 0508

If the creditor owes money to the company, please give full details.

Date	Details of Claim and Identification of Documents that Evidence or Substantiate the Claim	Amount \$

**CLAIMS AGAINST INVENTORY (Romalpa Claims)(Consignment Goods) (Retention of Title) etc.**

Please provide details of the basis of the retention of title claim filed by you and/or details of entry on the Personal Property Securities Register.

**PREFERENTIAL CLAIMANTS ONLY**

**Guideline**

The Seventh Schedule of the Companies Act 1993 sets out those claims which are regarded as preferential and shows their extent and order of priority. For example, wages and salary of any employee in respect of services rendered to the company during the four months preceding the commencement of liquidation are preferential AND the total sum to which priority is to be given in the case of any one employee for wages, holiday pay, deductions, redundancy and child support must not exceed such greater amount as is prescribed at the commencement of the liquidation.

823,960.

1. Why do you believe you are a preferential creditor?  
(eg. employee, GST, etc) \_\_\_\_\_

2. Details of your claim: \_\_\_\_\_

If applicable please record here your GST Registration number: \_\_\_\_\_

and total GST included in your tax invoice: \$ \_\_\_\_\_