



McDonald  
Vague

business recovery partners

# EXCELLENT HOSPITALITY LIMITED (IN LIQUIDATION)

## Liquidators' First Report

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

McDonald Vague Limited

Level 10, 33 Federal Street,  
Auckland Central

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### 1 INTRODUCTION AND APPOINTMENT

Excellent Hospitality Limited (in Liquidation) ("the company") was placed into liquidation by a special resolution of the shareholders of the company pursuant to Section 241(2)(a) of the Companies Act 1993 ("the Act") on 02 August 2020 at 1:47 p.m. Peri Micaela Finnigan and Iain McLennan, CAANZ Accredited Insolvency Practitioners, of Auckland, were appointed as 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:	21 September 2017	
Company number:	6459112	
Date ceased trading:	31 August 2019	
Nature of business:	Restaurant & Bar	
Trading address:	1 Amaretto Avenue, Flat Bush, Auckland	
Trading name:	Jac's Trading Co.	
Share capital:	100 Ordinary Shares	
Shareholders:	Ajay Pal Singh	50 shares
	Arvind Sharma	50 shares
Directors:	Ajay Pal Singh and Arvind Sharma	

The company ceased trading in August 2019 prior to liquidation. Since this time the directors have been personally honouring company debts.

The landlord terminated lease by way of a Deed of Surrender which included the surrender of certain assets (tables/chairs) to the landlord and a significant payment for the company/directors to be released from obligations under the lease.

Insufficient time was granted to provide for marketing of the sale of the business. The assets that were capable of being removed were relocated and sold but gained minimal value due to the age / quality of the items. Many assets including fitout were not recovered or were too costly to move.

The director has provided the following reasons for the failure of the company:

*We bought the business in October-November 2017. At the time of signing the lease we were not made aware that major outlets such as Farmers, Whitcoulls and more stores were leaving the plaza in March 2018. On understanding of this, we sought to list the business for sale with LinkedIn but with no success. The loss of this occupancy in the mall led to a major loss of foot traffic and almost no people for lunch hours at the business. We listed the business again later in the year but again with no success.*

*We also faced problems with the premises which were raised with the landlord. The air con and heater did not work. Despite repeated requests they were not fixed until July 2018. The premises were found to be too cold in the evenings which led to loss of clientele and reputation. The floor was damaged at the main entrance of the premises. It took months for the landlord to do any maintenance.*

*Although we held a current Certificate of occupancy for functions and concerts we faced issues with licensing as a result of the mall, which ultimately led to the requirement to cancel prebooked functions. This was a major hit on the revenue that could have been generated.*

*We were unlucky. We invested in a business that did not operate at the level it was marketed at. We were not made aware of the pending vacancy of shops in the mall at time of entering the lease.*

*We took personal loans to keep the business running and staff employed hoping with our efforts we could turn it around. The loss of shops in the mall was a major issue. We took a loan from Prospa and Heartland bank to pay business expenses. We were promised that Chipmunks, a day care centre and a lot of new outlets were coming to the mall but no specific dates were provided. Based on these promises we continued.*

*The premises however took on a competitor, Beer Spot right next door and a food truck both in direct competition. We faced obstacle after obstacle and worked significant hours. We took on significant personal debt to honour our creditors. We lost our investment and this impacted us personally and financially. The landlord provided rent relief to many businesses in the plaza but we were not granted any relief. The landlord promoted many sites including our shop for lease.*

*We sincerely tried our level best with good intentions and wanted the place to survive and perform.*

*All the reasons that I have stated are true and have contributed to the failure of the business and I am not sure in what capacity will we be able to sort a future for ourselves.*

## **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 realise all available assets however do not expect there are any physical assets. We are advised that all physical assets were realised by way of trademe sale / auction or abandoned/scrapped due to holding no or minimal value in August 2019. AB Auctions were approached but provided feedback cost of realisation for most assets would outweigh the recovery.

We have been advised that the computers, ACR pay system and eftpos were returned to secured parties with some small recovery of \$400 to \$500.

All the furniture including tables, chairs and light fittings, heaters were left at the property as required under the Deed of Surrender of lease. The chiller could not be moved as it was in the kitchen. The hood was left as the expected recovery was less than the quoted costs to move and repair of in excess of \$4K.

The Ice maker, washer/dryer and coffee machine were sold for \$1,200.

Some appliances of the kitchen were sold such as the oven and dough maker for \$3,500 approx and the rest of the kitchen items were scrapped as we did not have any money or space to store the items.

The van and a car were sold for \$7,200.

All proceeds were used in paying the bills and costs incurred vacating the premises and in realising the assets.

The liquidators 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 6 for completion and return to this office by Friday, 4<sup>th</sup> day of September 2020. 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.

### 8.1 Secured Creditors

As at the date of liquidation 9 secured parties had registered security interests against the company on the Personal Property Securities Register.

DB Breweries Limited	GSA Goods - Other
Coca-Cola Amatil (Nz) Limited	Goods-Other
Hancocks Wine, Spirit and Beer Merchants Limited	Goods-Other
North Shore Cash N Carry (2015) Limited	Goods-Other
ANZ Bank New Zealand Limited	GSA
Stonegrill (New Zealand) Limited	Goods-Other
Bidfood Ltd	Goods-Other
Preston Group Limited	Goods-Other
Quench Collective Limited	Goods-Other

We are advised there are no moneys to any of the specific security holders. The ANZ is a large creditor for initial lending to purchase the business and overdraft. The directors are in discussion with ANZ in respect to the personal guarantee held and the debt of approximately \$252,000.

#### *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***

We are advised that there is \$NIL owing to former employees for wages, holiday pay and redundancy pay.

The Inland Revenue Department are owed outstanding GST, PAYE, other payroll deductions and interest & penalties of \$304,672.16. This includes a preferential claim of \$128,084.30.

### **8.3 *Unsecured Creditors***

From our review of the company's accounting records and other information we estimate that the amount due to unsecured creditors is approximately \$2,635.00 plus IRD unsecured debt (interest/penalties) as detailed in 8.2 above of \$176,687.86. plus the shortfall to the secured creditors.

## **9 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**

The Liquidators believe the liquidation may be concluded within six months.

## 12 CONTACT DETAILS

Enquiries should be directed to Peri Finnigan on DDI +64 (9) 303 9519 or by email to [pfinnigan@mvp.co.nz](mailto:pfinnigan@mvp.co.nz)

The Liquidators can be contacted at:

McDonald Vague Limited  
Level 10, 33 Federal Street  
Auckland 1010

P O Box 6092  
Victoria Street West  
Auckland 1142



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Peri M Finnigan  
LIQUIDATOR

Dated this 5<sup>th</sup> day of August 2020

## Excellent Hospitality Limited (In Liquidation) Statement of Affairs

Statement of Affairs for the above named company as at 2 August 2020 (being the date of liquidation) showing assets at estimated realisable values and liabilities expected to rank.

ASSETS SPECIFICALLY PLEDGED	Estimated to Realise	Due to Secured Creditor	Deficiency Ranking as Unsecured	Surplus
DB BREWERIES LIMITED	-		-	-
COCA-COLA AMATIL (NZ) LIMITED	-		-	-
HANCOCKS WINE, SPIRIT AND BEER MERCHAN	-	-	-	-
NORTH SHORE CASH N CARRY (2015) LIMITED	-	-	-	-
STONEGRILL (NEW ZEALAND) LIMITED	-	-	-	-
BIDFOOD LTD	-		-	-
PRESTON GROUP LIMITED	-		-	-
QUENCH COLLECTIVE LIMITED	-		-	-
<b>Estimated surplus / (deficiency) as regards specifically pledged assets</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>

Note: The directors advise no moneys are owing to these security holders.

ASSETS AVAILABLE FOR PREFERENTIAL CREDITORS	Book Value	Estimated to Realise
Bank account balances	-	-
Inventory	-	-
Total	-	-
<b>Less preferential creditors</b>		
Inland Revenue Department		128,084
Total		<b>128,084</b>
<b>Estimated deficiency as regards preferential creditors</b>		<b>(\$128,084)</b>

ASSETS AVAILABLE FOR GENERAL SECURITY AGREEMENT HOLDER/S	Book Value	Estimated to Realise
Estimated surplus from assets specifically pledged		-
Tangible Assets - chattels		-
Total	-	-

LESS GENERAL SECURITY AGREEMENT HOLDER		
ANZ BANK NEW ZEALAND LIMITED		252,000
Total		<b>252,000</b>

**Estimated deficiency as regards General Security Agreement holders** **(\$252,000)**

Less deficiency as regards preferential creditors	128,084
<b>Deficiency ranking as unsecured</b>	<b>(380,084)</b>

**AVAILABLE FOR UNSECURED CREDITORS** -

LESS UNSECURED CREDITORS	
Estimated deficiency as regards Secured Creditors	-
Estimated deficiency as regards preferential and General Security Holders	380,084
Trade creditors	2,635
Related Party Advances / Current Accounts (estimate)	150,000
Interest/Penalties - Inland Revenue	176,588
<b>Estimated surplus/(deficiency) as regards unsecured creditors</b>	<b>(\$709,307)</b>

**Notes:**

- There is no unpaid capital liable to be called up.
- The above estimates are subject to the costs of the liquidation.
- Assets held may be subject to Purchase Money Security Interest ("PMSI") or Reservation of Title claims. There are however no assets nor stock held at date of liquidation. The company ceased in August 2019.
- The General Security Agreement holder's claim will continue to accrue interest until fully paid. The debt is subject to a PG. The Director has taken steps to restructure this debt and honour the obligation owing.
- The Specific Security holders have largely advised that they are discharging securities and no funds are owing. The directors have personally paid these debts.
- The directors have advised they had no opportunity to sell the business as a going concern as the landlord had other intentions for the premises and gave them short notice to vacate. Some of the furniture was left on the premises and enquiries will be made. All About Auctions provided advice that the age of the assets was such that there would be little to gain.

**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 responsibility on any grounds whatsoever, including liability in negligence, to any party.

## EXCELLENT HOSPITALITY LIMITED (IN LIQUIDATION)

### Declaration of Independence / Relationships / Indemnities and Upfront Payments

#### A DECLARATION OF INDEPENDENCE

- (i) The appointed and McDonald Vague Limited, in accordance with the code of conduct and applicable professional standards have undertaken a proper assessment of the risks of independence and have concluded that there are no prior business or professional relationships that are a real or a potential risk to independence.

#### B DECLARATION OF RELATIONSHIPS

- (ii) The appointed and McDonald Vague Limited have no prior business or professional or personal relationships with known associates of the insolvent or with the major secured creditors of the insolvent that are a real or potential risk to independence.
- (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) An indemnity has been provided by the directors to cover upfront costs of \$2,800 plus GST plus disbursements. A partial payment has been received with balance spread over 2 months. The funds paid to date are held in a Trust account and will be drawn on as work is produced and expenses incurred. There is no condition on the conduct or outcome of the liquidation attached to the provision of these funds.



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Peri M Finnigan  
LIQUIDATOR

Dated this 5<sup>th</sup> day of August 2020



## EXCELLENT HOSPITALITY LIMITED (IN LIQUIDATION)

### Schedule of Creditors' Names and Addresses

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

<b>Creditor Name</b>	<b>Address 1</b>	<b>Address 2</b>	<b>Address 3</b>	<b>Postcode</b>
DB Breweries Limited	DX MAIL: EX10906	Otahuhu	Auckland	1640
Coca-Cola Amatil (NZ) Limited	PRIVATE BAG 14916		Auckland	
Hancocks Wine, Spirit and Beer Merchants Limited	PO BOX 47191	Ponsonby	Auckland	1144
North Shore Cash N Carry (2015) Limited	P O BOX 65099	Mairangi Bay	Auckland	
ANZ Bank New Zealand Limited	PO BOX 2218		Auckland	
Stonegrill (New Zealand) Limited	PO BOX 3264	Richmond	Nelson	7050
Bidfood Ltd	PO BOX 74552	Market Road	Auckland	1543
Preston Group Limited	P O BOX 2247	Tauranga		3144
Quench Collective Limited	P O Box 11334	Ellerslie	Auckland	1542
Accident Compensation Corporation	P O Box 3248		Wellington	6140
Believe It or Not Limited	10 Panorama Road	Mount Wellington	Auckland	1060
Contact Energy Limited	P O Box 38 097	Wellington Mail Centre	Lower Hutt	5045

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

After having regard to the assets and liabilities of Excellent Hospitality 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 Peri Finnigan of this office on DDI +64 (9) 303 9519 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.



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Peri M Finnigan  
LIQUIDATOR

Dated this 5<sup>th</sup> day of August 2020

## Appendix 5

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IN THE MATTER of                    The Companies Act 1993

and

IN THE MATTER of                    Excellent Hospitality Limited (in Liquidation)

### Notice to Creditors to Prove Debts or Claims

Notice is given that the liquidator of Excellent Hospitality Limited (in Liquidation) (“the company”), fix 04 September 2020, 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.



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Peri M Finnigan  
LIQUIDATOR

Dated this 5<sup>th</sup> day of August 2020

#### ADDRESS OF LIQUIDATOR

McDonald Vague Limited  
Level 10  
33 Federal Street  
Auckland 1010

P O Box 6092  
Victoria Street West  
Auckland 1142

Telephone: +64 (9) 303 0506  
Facsimile: +64 (9) 303 0508  
Website: <http://www.mvp.co.nz>

**DATE OF LIQUIDATION: 02 August 2020**



McDonald Vague

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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 or email
claims@mvp.co.nz)

Table with 5 columns and 2 rows for stamping.

NAME AND POSTAL ADDRESS OF CREDITOR IN FULL

Telephone Numbers: ( )
( )

E-Mail

My Reference is:
(if applicable)

\* 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.)

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. I am an unsecured creditor 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: / /

CLAIM REJECTED FOR PAYMENT:

\$

\$

or CLAIM ADMITTED FOR PAYMENT:

\$

\$

Signed Liquidator:

Date: / /

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.



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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 \$23,960 or such greater amount as is prescribed at the commencement of the liquidation.

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: \$ \_\_\_\_\_