



## K. S. Johnson Construction N. Z. Limited (In Liquidation)

### Liquidators' Eighteenth Report (for the period from 4 July 2021 to 3 January 2022)

McDonald Vague Limited  
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#### 1 INTRODUCTION AND APPOINTMENT

Peri Micaela Finnigan and Tony Leonard Maginness, Insolvency Practitioners of Auckland, were appointed joint and several liquidators of K. S. Johnson Construction N. Z. Limited ("the company") on 4 July 2013. On 18 December 2015, Tony Leonard Maginness resigned his position as liquidator, appointing Boris van Delden as his successor.

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

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

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

#### 2 RESTRICTIONS

Whilst all care and attention has been taken in compiling this report, we do not accept any liability whatsoever to any party arising from the circulation, publication, reproduction, or use of this report.

We reserve the right (but are under no obligation) to review and, if we consider necessary, revise this report in respect of any information existing as at the date of this report but that becomes known to us after that date.

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

##### *Asset Realisations*

##### **3.1 Debtor – Mainzeal**

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

The liquidators of Mainzeal have admitted a claim by the company of \$960,955, including GST and retentions. To date, no distribution has been made by Mainzeal's liquidators in respect of the company's admitted claim.

The Court of Appeal issued its judgment on 31 March 2021. The Court of Appeal found that Mainzeal's directors breached their duties and referred the matter back to the High Court to determine the compensation payable to Manizeal.

On 6 September 2021, the Supreme Court granted the directors leave to appeal and the liquidators leave to cross-appeal the decision of the Court of Appeal. The appeal is set down to be heard by the Supreme Court from 7 March 2022 to 11 March 2022.

Mainzeal's liquidators have made an application to adjudicate Richard Yan bankrupt, based on the High Court judgment given against the directors on 26 February 2019. The bankruptcy application was halted pending the determination of the appeal to the Court of Appeal.

Mainzeal's liquidators' most recent report for the period ended 28 August 2021 confirms that claims totalling \$111 million have been admitted and advises that the liquidators:

*[E]xpect that there will be some funds available for distribution to unsecured creditors. The quantum of any ultimate distribution to unsecured creditors will depend on the outcome of the appeals and cross-appeals.*

We anticipate that there will be at least a partial debtor write off in respect of the Mainzeal debt owed to the company. The write off may result in a GST recovery for the company, depending on how the company treated the GST component of the transactions.

#### 4 INVESTIGATIONS

The liquidators have concluded their investigations and considered whether taking any actions was appropriate. There were no matters that came to the knowledge of the liquidators that, if pursued, could eventuate in a benefit to the company's creditors.

#### 5 CREDITORS' CLAIMS

CLAIMS RECEIVED	NUMBER	VALUE
GSA Holders	1	\$294,801
Specific Securities	1	\$315,773
Employee Preferential Claims	0	
IRD Preferential	1	\$87,257
Unsecured Claim	9	\$127,930
		<u>\$825,762</u>

No dividends have been paid to any class of creditor as at the date of this report. In the interests of minimising liquidators' fees, the liquidators will not attend to the formality of accepting or rejecting creditors' claims unless and until we are in a position to pay a distribution.

## **6 FUNDS / LIKELY OUTCOME**

The only remaining recovery available to the liquidators relates to a potential distribution arising from the company's admitted claim in Mainzeal's liquidation and/or any GST recovery arising from any write off of any Mainzeal debt (depending on how the company treated the GST on these invoices).

The liquidators are currently waiting for the appeal and cross appeal between Mainzeal's liquidators and Mainzeal's directors to be finally determined, for any recoveries flowing from those proceedings to be made, and for any distribution to Mainzeal's creditors to be made by Mainzeal's liquidators.

Once Mainzeal's liquidators have made their final distribution to Mainzeal's unsecured creditors (if any), we will resolve the company's GST position in respect of the Mainzeal debt and will recover any GST payable to the company in respect of any GST write off.

Any distribution to creditors is dependent on the amount the company receives as a distribution in the Mainzeal liquidation and/or the company being entitled to a GST refund on the invoices issued to Mainzeal, in the event that the Mainzeal debt is written off in full or in part by the company (which is dependent on how the company treated the GST on the relevant invoices).

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

The following matters are outstanding:

- Resolution of the dispute between Mainzeal's liquidators and Mainzeal's directors
- Recovery of any distribution from the Mainzeal liquidation
- Completing any debt write-off and GST return relating to the Mainzeal debt
- Admitting and/or rejecting creditors' claims
- Payment of any distribution to creditors on their admitted claims
- Completion of the liquidation

## **8 ESTIMATED DATE OF COMPLETION**

The liquidators will not be in a position to retire until after the proceedings in the Mainzeal liquidation have been concluded and its liquidators have made their final distribution (if any) to Mainzeal's unsecured creditors. Mainzeal's liquidators' most recent report says that it is not yet practical for them to estimate the date of completion of that liquidation.

## **9 CONTACT DETAILS**

Enquiries should be directed to Marisa Brugeyroux on DDI (09) 306 3340 or by email to [mbrugeyroux@mvp.co.nz](mailto:mbrugeyroux@mvp.co.nz).

The liquidators can be contacted at McDonald Vague Limited:

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PERI M FINNIGAN  
LIQUIDATOR

DATED this 28<sup>th</sup> day of January 2022

# Realisations and Distributions

## K. S. Johnson Construction N. Z. Limited (In Liquidation) 4 July 2013 to 3 January 2022

### Realisations

#### Assets Realised

Bank Account Closure	310
Cash on Hand	183
Trade Debtors	3,600
Tools of Trade	478
IRD Remittance of Penalties	1,006
ACC Levy Refund	991
<b>Total Realisations</b>	<b>\$6,567</b>

### Payments

#### Liquidators Fees

Liquidators Fees	6,363
Disbursements	93
<b>Total Liquidators Fees</b>	<b>\$6,456</b>

#### Other Costs of Liquidation

Auction Fees	112
<b>Total Other Costs</b>	<b>\$112</b>

<b>Total Payments</b>	<b>\$6,567</b>
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<b>BALANCE HELD</b>	<b>\$NIL</b>
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**Note:** the above figures are GST exclusive

**Note:** due to rounding, figures may not add up to totals stated