

**Tree Ferns (New Zealand) Limited (In Liquidation)**  
**Liquidators' Fourth Report**  
**For the period from 9 November 2013 to 8 May 2014**

**1 INTRODUCTION AND APPOINTMENT**

Boris van Delden and Peri Micaela Finnigan, Insolvency Practitioners of Auckland, were appointed jointly and severally as liquidators of Tree Ferns (New Zealand) Limited ("the company") on 9 November 2012.

Pursuant to Section 255(2)(d) of the Companies Act 1993 ("the Act"), the liquidators herewith report on the progress of the liquidation. This fourth report should be read in conjunction with the liquidators' previous reports. This report is being sent to all shareholders and all creditors who have filed a claim in the liquidation.

A Statement of Realisations and Distributions is not attached as there have been no realisations to date..

**2 RESTRICTIONS**

This report has been prepared in accordance with section 255(2)(d) of the Act. 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, revise this report in respect of any information existing at the date of this report which becomes known to us after that date.

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

***Asset Realisations***

**2.1 Debtors**

***Statement of Affairs \$Unknown***

At the date of liquidation the company had two debtors with a book value of \$24,790. Demand letters were sent to both debtors. Each debt was disputed and having regard to the disputes raised, both debts have been written off.

**2.2 Stock**

***Statement of Affairs \$Unknown***

The company was holding a quantity of pre-packaged and unfinished stock at the commencement of the liquidation.

The stock was offered to the existing clients of the business, but as they are based overseas, the quantity of stock available did not justify the shipping costs. No local market for the stock could be identified and the inability to negotiate a favourable rent agreement meant the best course of action was to disclaim the stock.

### **2.3 Fixed Assets**

**Statement of Affairs \$5,000**

The fixed assets of the company were secured by way of a General Security Agreement. After viewing the assets and having regard to their location, it was established that the cost of transport and realisation expenses would likely exceed any recovery and the assets were subsequently disclaimed in favour of the General Security Agreement holder.

### **2.4 Motor Vehicles**

**Statement of Affairs Nil**

As anticipated, there was no equity available for creditors in the vehicle. Therefore, it was returned to the secured party who eventually sold the vehicle at a loss. They have since filed a claim in the liquidation.

## **4 INVESTIGATIONS**

As reported previously, the director disputed the amount that the Liquidator's were claiming in respect of his overdrawn shareholder current account. At the director's request and at his expense the Liquidators requested the company's accountants to prepare financial statements for the company for the year ending 31 March 2011.

This was completed and recorded a slight reduction in the level of the overdrawn balance in the current account. The Liquidators made a further demand on the director for payment of the revised amount. Negotiations are currently under way to try and settle that matter.

## **5 CREDITORS' CLAIMS**

### **5.1 Secured Creditors**

A General Security Agreement holder has advised that they have a claim in the liquidation for \$53,230. Interest continues to accrue on this amount.

### **5.2 Preferential Creditors**

No preferential claims for wages, salary, holiday pay, or redundancy have been received.

The liquidators received a claim in respect of the applicant creditors' Court awarded costs in the amount of \$4,030.

The Inland Revenue Department has advised that it has a preferential claim for \$46,515 in respect of PAYE and GST. To date no payment has been made in respect of this claim.

**5.3 Unsecured Creditors**

As at the date of preparing this report eleven unsecured creditors' claims have been received which total \$83,837. In the interests of minimising liquidators' fees, the liquidators will not attend to the formality of accepting or rejecting creditors' claims until such time as they are in a position to pay a distribution.

**6 LIQUIDATORS' FEES**

Liquidators' unpaid fees to the date of this report are \$22,564 including GST (\$19,621 excluding GST). The fees are based on 106.9 hours of work undertaken as follows:

<b>Work Category</b>	<b>Hours</b>	<b>\$</b>
Appointment functions	22.4	2,800
Asset realisations	12.4	1,811
Creditors' claims, enquiries and reports	18.3	2,256
Taxation	2.3	310
Investigations	27.9	4,780
Management Functions	23.6	4,080
Disbursements		3,584
<b>Total</b>	<b>106.9</b>	<b>\$19,621</b>

Liquidators' fees in a Court ordered liquidation are to be approved by the Court and if required a retrospective application for fee approval will be made by the liquidators.

Section 284 (1) of the Act provides that an application (with the leave of the Court) may be made by a creditor, shareholder or director of a company in liquidation to review or fix the remuneration of the liquidators. In circumstances where no application has been made to review or fix the liquidators' remuneration the Court will be less inclined to rigorously examine the fees submitted by the liquidators for subsequent approval.

**7 FUNDS / LIKELY OUTCOME**

There will be a short fall on the amount due to the General Security Agreement holder. Therefore, at this stage the liquidator does not anticipate paying a distribution to unsecured creditors

**8 MATTERS DELAYING THE COMPLETION OF THE LIQUIDATION**

The following matter is outstanding:

- Collection/Resolution of Shareholders overdrawn current account.



## 9 ESTIMATED DATE OF COMPLETION

Based on the information contained in this report the liquidators presently propose to complete all outstanding matters with a view to retiring as liquidators within the next twelve months.

## 10 CONTACT DETAILS

Enquiries should be directed to Colin Sanderson on DDI (07) 838 0908 or by email to [CSanderson@mvp.co.nz](mailto:CSanderson@mvp.co.nz).

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BORIS VAN DELDEN  
LIQUIDATOR

DATED this 30<sup>th</sup> day of May 2014