



McDonald
Vague

business recovery partners

Wenztro Co-operation Limited (In Liquidation)

Formerly Trojan Foods (NZ) Limited

Liquidators' Fourteenth Report

(for the period from 9 April 2018 to 8 October 2018)

McDonald Vague Limited

Level 10, 52 Swanson Street,
Auckland Central

PO Box 6092, Wellesley Street,
Auckland 1141, New Zealand

p: 09 303 0506

f: 09 303 0508

e: insol@mvp.co.nz

www.mvp.co.nz

1 INTRODUCTION AND APPOINTMENT

On 9 October 2012 Rob Merlo was appointed as liquidator of Wenztro Co-operation Limited (In Receivership & In Liquidation). On 8 February 2013 Rob Merlo was appointed as receiver of the company. On the same day Paul Sargison and Simon Dalton of Gerry Rea Partners, replaced Rob Merlo as joint and several liquidators of the company. On 21 August 2013, Henry David Levin and Vivien Judith Madsen-Ries, of Deloitte, replaced Paul Sargison and Simon Dalton as joint and several liquidators of the company. On 31 July 2013 Rob Merlo resigned his position as receiver of the company.

On the resignation of Henry David Levin and Vivien Judith Madsen-Ries, of Deloitte, Auckland, on 4 February 2016, Peri Micaela Finnigan and Boris van Delden, CAANZ Accredited Insolvency Practitioners of Auckland, were appointed as joint and several replacement liquidators of Wenztro Co-operation Limited ("the company").

Pursuant to Section 255(2)(d) of the Companies Act 1993 ("the Act"), the liquidators herewith report on the progress of the liquidation. This fourteenth report should be read in conjunction with the twelve previous liquidators' 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 **attached** for the period that McDonald Vague liquidators' have been appointed.

2 RESTRICTIONS

Whilst all care and attention has been taken in compiling this report, we do not accept any liability whatsoever to any party because 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

The company was a start-up involved in exporting infant milk formula. It's first order could not be delivered according to the customer requirements however the company acquired the benefit of 100% of the order value. The customer fully paid for the product before it was delivered. The company spent some of the funds on illiquid items.

Its first order was defective due to critical mislabelling. The company was financially unprepared for a product recall event and had no capital. The company agreed to replace the defective product but never supplied. The purchaser had incurred significant costs in China. The customer was awarded summary judgment in its claims against the company in late 2012.

The company by its liquidators subsequently pursued the company directors for breaches of duties in the High Court, Auckland. The Court in a May 2018 decision ordered the 3 directors jointly and severally liable for a 100% contribution to the company for its creditor losses.

One director has appealed that decision. The liquidators consider the appeal points so far raised by that director to have no chance of success.

One director is negotiating with the liquidators, and one was bankrupted on 31 October 2018.

4. INVESTIGATIONS

Following extensive investigations into the company affairs and directors' acts and omissions, the liquidators presented detailed evidence to the High Court.

The liquidators' investigations into the directors' ability to pay the judgment sum continue.

5 CREDITORS' CLAIMS

The total admitted unsecured creditor claims amount to \$765,692. The liquidators have received the following claims:

Related Creditor	\$82,049
Employee	\$59,000
Unsecured	\$624,643

The validity of the security claimed by the related creditor was challenged in the litigation. The liquidators sought the Court to void the security and priority of the claim.

By formal notice of rejection, the liquidators reduced the related creditor's claim from \$90,734 to \$82,049. No objection to the notice of rejection was received. The Court agreed to void the priority.

Contingent claims reported in earlier reports relating to damages and losses incurred by two creditors were withdrawn by each creditor during the trial following the High Court Judge's comments and legal advice. The director, prior to trial, lodged an additional claim for \$398,835. The liquidators questioned the additional claim and sought evidence and supporting documents. These were not provided, and the claim was subsequently withdrawn.

6 LIQUIDATORS' FEES

According to the former liquidator reports and calculations provided by the funding creditor, liquidators' fees paid to prior liquidators totalled \$112,513 and creditor funding pre-our appointment was \$92,251.

Liquidators' paid fees (including disbursements) for the current liquidators' appointment are \$318,302 including GST (\$275,056 excluding GST). This includes fees associated with a section 266 claim of \$11,348 and the costs seeking records and information from the former liquidators of \$14,951. The fees billed to report date are based on 1,200 hours of work undertaken as follows:

Work Category	Hours	Billed - Paid		Unpaid	
		\$	Hours	\$	
Appointment functions/Management	136	24,413	25	3,242	
Asset realisations	15	4,297	4	939	
Creditors' claims, enquiries and reports	28	5,977	14	2,406	
Taxation	15	2,095	7	743	
Investigations/Legal work	1,006	238,274	194	49,955	
Total Billed	1,200	\$275,056	244	\$57,285	

Fees continues to accrue as a result of collection actions and on the Appeal lodged.

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.

7 FUNDS / LIKELY OUTCOME

It is too early to determine whether or not there will be a distribution to unsecured creditors. This is dependent upon recovery of the judgment sum, repayment of costs incurred and therefore the outcome of the Appeal and/or bankruptcy proceedings and settlements.

8 MATTERS DELAYING THE COMPLETION OF THE LIQUIDATION

The following matters are outstanding:

- Payment of judgment sum
- Appeal – Court of Appeal
- Distributions (if any)
- Completion

9 ESTIMATED DATE OF COMPLETION

It is too soon to report on a likely conclusion date for this liquidation.

10 CONTACT DETAILS

Enquiries should be directed to Iain McLennan on DDI (09) 303 9512 or by email to imclennan@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 31th day of October 2018

Realisations and Distributions

Wenztro Co-Operation Limited (In Liquidation) 4 February 2016 to 8 October 2018

Realisations	Cash Received \$
Advance from Creditor	830,345
McDonald Vague Advance	15,000
Interest	163
GST Refund relating to the period prior to McDonald Vague's Appointment	47
Total Realisations	\$845,555
Payments	
Liquidators Fees	
Liquidators Fees	270,832
Disbursements	4,224
Total Liquidators Fees	\$275,056
Other Costs of Liquidation	
Consultancy Fees	2,050
Legal Fees – Main Case	432,590
Legal Fees – Section 266 High Court	10,000
Legal Fees – Section 266 Appeal	20,833
Legal Fees – Mr G Williams (Awarded)	11,240
Filing Fees	15,398
Costs Award	9,202
Prior Liquidators Fees - Deloitte	44,520
Residents Withholding Tax	7
Costs Award (s261/s266)	19,170
Total Costs of Liquidation	\$565,010
 Total Payments	 \$840,006
 BALANCE HELD	 \$5,489

Note: the above figures are GST exclusive