

3 May 2019

## INITIAL REPORT TO CREDITORS, AS ADDRESSED

Dear Sir / Madam,

**44 CUMMINS STREET PTY LTD (IN LIQUIDATION)**  
**ACN 605 229 463 ("THE COMPANY")**

### 1. EXECUTIVE SUMMARY

Ms Robyn Karam was appointed Liquidator of the Company on 20 February 2019 pursuant to an order of Federal Court of Australia ("the Court"), on the winding up application of the Australian Taxation Office ("ATO" or "the Petitioning Creditor").

Ms Karam recently resigned from BRI Ferrier and also resigned as Liquidator the Company effective 2 April 2019. The following day, 3 April 2019, I, Mr Peter Krejci, was appointed as replacement Liquidator of the Company, by order of the Federal Court of Australia, pursuant to Section 473A(1) of the *Corporations Act 2001 (Cth)* and rule 7.2(1)(a) of the *Federal Court (Corporations) Rules 2000*. A copy of the court order is enclosed.

I have been provided with the Company's records and the liquidation files, which I am currently reviewing. I have sought to maintain consistency in the conduct and staffing of the files, to the extent possible.

You have received this report pursuant to *Insolvency Practice Rules (Corporations) 2016 Rule 70-30*, where the records identify you as a creditor of the Company. If any creditors have information they believe is relevant to this matter, please contact my office immediately.

Included in this report is basic information about my appointment and your rights as a creditor. A further update will be provided to creditors via my Statutory Report in the next two (2) months, if not already issued.

### 2. YOUR RIGHTS AS A CREDITOR

Information regarding your rights as a creditor is provided in the information sheet enclosed. This includes your right to:

- ▲ Make reasonable requests for a meeting;

Silvia | Krejci | Cummins

BRI Ferrier (NSW) Pty Ltd Chartered Accountants ABN 97 128 947 848  
Trading as BRI Ferrier ABN 59 212 882 443  
Level 30, Australia Square, 264 George Street NSW 2000 GPO Box 7079, Sydney NSW 2001  
T 02 8263 2300 F 02 8263 2399 E info@brifnsw.com.au W www.briferrier.com.au

**BRI Ferrier... throughout Australia, New Zealand, Hong Kong and the United Kingdom.**

BRI Ferrier is an association of independent accounting firms. Each of the member firms is a separate and independent entity operating under the name 'BRI Ferrier' or related names.

Liability limited by a  
scheme approved  
under Professional  
Standards Legislation

- Make reasonable requests for information;
- Give directions to me;
- Appoint a reviewing liquidator; and
- To replace me as liquidator.

### 3. INFORMATION FOR CREDITORS

I have included the following initial notices and documents in connection with my appointment for your information.

Annexure	Document	Description	Further Action Required by you
1	Court Order	Order of the Federal Court of Australia on 3 April 2019, removing Ms Karam as Liquidator and appointing me as replacement Liquidator.	No
2	Creditors Electronic Communication Method Approval form	As a creditor, you have a right to receive all communications from the Liquidator via electronic medium. It is recommended that creditors opt into this notification method.  Complete the form and email to Clair Daher of this office to <a href="mailto:cdaher@brifnsw.com.au">cdaher@brifnsw.com.au</a> .	Yes
3	Declaration of Independence, Relevant Relationships and Indemnities ("DIRRI")	The DIRRI assists you to understand any relevant relationships that I have, and any indemnities or upfront payments that have been provided to me. None of the relationships mentioned in this document affect my independence.	No
4	Information Sheet – Creditor Rights in Liquidation	As a creditor, you have certain rights, although you no longer have the right to seek payment by the Company of your outstanding debt.  This information sheet provides a detailed list of your rights.	No
5	Proof of Debt ("POD") form	You must also provide information about what the Company owes you and evidence to support your claim. Please complete and return POD form via email to Clair Daher of this office to <a href="mailto:cdaher@brifnsw.com.au">cdaher@brifnsw.com.au</a> with your supporting documents.  If you have already lodged a POD, you are not required to lodge again.	Yes (if not already provided) Include supporting documentation

Annexure	Document	Description	Further Action Required by you
6	Initial Remuneration Notice	<p>Enclosed is a document which provides an estimate of the costs to perform the Liquidation moving forward, the method of calculating remuneration and my firm's current hourly rates.</p> <p>I note that I will continue to calculate remuneration consistent with the previous notices, that is on a time cost basis. To the extent that remuneration approvals have previously been obtained, they will continue to have affect, given that the former Liquidator was a member of this practice.</p>	No

#### 4. WHAT HAPPENS NEXT?

I will proceed with the Liquidation, including:

- Reviewing the files and progress of the Liquidation.
- Consider any recovery actions or asset realisations that may be available.
- If necessary, conduct further investigations into the Company's affairs, however I understand that this has been largely completed.
- Reporting to the corporate regulator, ASIC, if necessary.
- Reporting to creditors as necessary.
- Pay a dividend to creditors, if sufficient funds are available.
- Attending to the orderly winding up of the Company, and, in due course, the finalisation of the Liquidation.

#### 5. QUERIES

If creditors have any information which may assist me in my investigations, please contact my office as a matter of urgency.

Please note that Liquidators are not required to publish notices in the print media. ASIC maintains an online notices page for external administrators to publish notices in respect of companies. Creditors are encouraged to visit <https://insolvencynotices.asic.gov.au/> throughout the liquidation to view any notices which may be published in respect of the Company.

ARITA provides information to assist creditors with understanding liquidations and insolvency. This information is available from ARITA's website at <https://www.arita.com.au/creditors>.

ASIC also provides information sheets on a range of insolvency topics. These information sheets can be accessed on ASIC's website at <https://asic.gov.au/> (search for "insolvency information sheets").

Please contact Ms Clair Daher of my office on (02) 8263 2300 if you have any queries in relation to this report or the Liquidation generally.

Yours faithfully

**44 CUMMINS STREET PTY LTD (IN LIQUIDATION)**

A handwritten signature in black ink, appearing to read 'PETER KREJCI', written over a horizontal line.

**PETER KREJCI**  
Liquidator

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The logo for BRI Ferrier features the company name in white, bold, sans-serif font on a dark grey rectangular background. A green triangle is positioned at the bottom right corner of the grey rectangle.

**BRI Ferrier**

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**44 Cummins Street Pty Ltd  
(In Liquidation)  
("The Company")  
ACN 605 229 463**

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**Annexure "1"  
Court Order**

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Federal Court of Australia  
District Registry: New South Wales  
Division: General

No: NSD390/2019

**IN THE MATTER OF LEWENCE CONSTRUCTION PTY LTD (IN LIQ) & others**  
names in the schedule

**PETER PAUL KREJCI**  
Plaintiff

**ORDER**

**REGISTRAR:** REGISTRAR MORGAN


**DATE OF ORDER:** 03 April 2019

**WHERE MADE:** Sydney

**THE COURT ORDERS THAT:**

1. Pursuant to section 473A(1) of the *Corporations Act 2001* (Cth) and rule 7.2(1)(a) of the *Federal Court (Corporations) Rules 2000* (Cth), the vacancy in the office of the liquidator arising on the resignation of Robyn Karam as liquidator of each of 44 Cummins St Pty Ltd, Greg Porter & Associates Pty Ltd, Hunter Administration Pty Ltd, Lesslie Holdings Pty Ltd, Lewence Construction Pty Ltd, Play Social Pty Ltd, Pure Silver Pty Ltd and Sweet Pumpkin Soup Pty Ltd (all in liq) (together, **Companies**) be filled by appointing Peter Paul Krejci as liquidator of the Companies.
2. The plaintiff's costs of and incidental to the proceeding be borne equally by the estates of the Companies.

**Date that entry is stamped: 4 April 2019**

  
Registrar



Subsection 35A (5) of the *Federal Court of Australia Act 1976* (the *Act*) provides that a party to proceedings in which a Registrar has exercised any of the powers of the Court under subsection 35A (1) of the Act may, within the time prescribed by the Rules of Court, or within any further time allowed in accordance with the Rules of Court, apply to the Court to review that exercise of power.

Rule 3.11 provides that a party may apply to the Court under subsection 35A (5) of the Act for review of the exercise of a power of the Court by a Registrar and that any application must be made within 21 days after the day on which the power was exercised. A party seeking a review can apply to the Court to dispense with any requirement of the Rules (Rule1.34).



## **Schedule**

1. 44 CUMMINS ST PTY LTD (IN LIQ) ACN 605 229 463
2. GREG PORTER & ASSOCIATES PTY LTD (IN LIQ) ACN 091 162 257
3. HUNTER ADMINISTRATION PTY LTD (IN LIQ) ACN 600 983 328
4. LESSLIE HOLDINGS PTY LTD (IN LIQ) ACN 156 397 385
5. LEWENCE CONSTRUCTION PTY LTD (IN LIQ) ACN 155 305 507
6. PLAY SOCIAL PTY LTD (IN LIQ) ACN 612 105 012
7. PURE SILVER PTY LTD (IN LIQ) ACN 135 027 191
8. SWEET PUMPKIN SOUP PTY LTD (IN LIQ) ACN 164 713 517



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The logo for BRI Ferrier, featuring the text "BRI Ferrier" in white on a dark grey background, with a green triangle on the right side.

**BRI Ferrier**

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**44 Cummins Street Pty Ltd  
(In Liquidation)  
("The Company")  
ACN 605 229 463**

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**Annexure "2"  
Creditors Electronic Communication  
Method Approval form**

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**44 CUMMINS STREET PTY LTD (IN LIQUIDATION) ("COMPANY")  
ABN 26 605 229 463**

**Corporations Act 2001 Section 600G  
Insolvency Practice Rules (Corporations) – 75-10**

**CREDITOR'S APPROVAL TO THE USE OF EMAIL BY THE EXTERNAL ADMINISTRATOR WHEN GIVING  
OR SENDING CERTAIN NOTICES UNDER SECTION 600G  
OF THE CORPORATIONS ACT 2001**

Should you wish to receive notices and documents relating to the administration of 44 Cummins Street Pty Ltd by email, please complete this form and return it to Clair Daher at the address set out below.

I/We authorise the External Administrator on behalf of the Company and his or her employees and agents to send and give notices and documents where such notices and documents may be sent by email to me using the email address provided below.

<b>Signature:</b>	
<b>Creditor name:</b>	
<b>Creditor address:</b>	
<b>Contact name:</b>	
<b>Position:</b>	
<b>Email Address:</b>	
<b>Contact number:</b>	

Return to:                      BRI Ferrier (NSW) Pty Ltd

By Post:                        GPO Box 7079 Sydney NSW 2001  
By Facsimile:                (02) 8263 2399

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**BRI Ferrier**

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**44 Cummins Street Pty Ltd  
(In Liquidation)  
("The Company")  
ACN 605 229 463**

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**Annexure "3"  
Declaration of Independence,  
Relevant Relationships and  
Indemnities ("DIRRI")**

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# Declaration of Independence, Relevant Relationships and Indemnities

44 CUMMINS STREET PTY LTD (IN LIQUIDATION)  
("THE COMPANY")  
ABN 26 605 229 463

3 May 2019

Peter Krejci, CA  
Replacement Liquidator

BRI Ferrier (NSW) Pty Ltd ABN 97 128 947 848  
Level 30, 'Australia Square' 264 George Street, Sydney NSW 2000  
GPO Box 7079, Sydney NSW 2001  
Phone (02) 8263 2300  
Facsimile (02) 8263 2399  
Email: [info@brifnsw.com.au](mailto:info@brifnsw.com.au)  
Website: [www.briferrier.com.au](http://www.briferrier.com.au)



This document requires the Practitioner appointed to an insolvent entity to make declarations as to:

- A. their independence generally;
- B. relationships, including:
  - i the circumstances of the appointment;
  - ii any relationships with the Insolvent and others within the previous 24 months;
  - iii any prior professional services for the Insolvent within the previous 24 months;
  - iv. that there are no other relationships to declare; and
- C. any indemnities given, or up-front payments made, to the Practitioner.

This declaration is made in respect of the Liquidator, his partners and staff of BRI Ferrier and its affiliated offices.

On 20 February 2019, Ms Robyn Karam, formerly a Principal of BRI Ferrier (NSW) Pty Ltd, was appointed Liquidator of 44 Cummins Street Pty Ltd (“the Company”) pursuant to an Order of Federal Court of Australia (“the Court”), on the winding up application of the Australian Taxation Office (“ATO” or “the Petitioning Creditor”).

Ms Karam recently resigned from BRI Ferrier and also resigned as Liquidator the Company effective 2 April 2019. The following day, 3 April 2019, I, Mr Peter Krejci, was appointed as replacement Liquidator of the Company, pursuant to an order of the Federal Court of Australia, pursuant to Section 473A(1) of the Corporations Act 2001 (Cth) and rule 7.2(1)(a) of the Federal Court (Corporations) Rules 2000.

This declaration is made by me in respect of my appointment as replacement Liquidator, where the background of Ms Karam’s former appointment is also included, given her former role as a Principal of my firm.

## **A. INDEPENDENCE**

I, Peter Krejci of BRI Ferrier (NSW) Pty Limited, have undertaken a proper assessment of the risks to my independence prior to accepting the appointment as Liquidator of the Company in accordance with the law and applicable professional standards. This assessment identified no real or potential risks to my independence. I am not aware of any reasons that would prevent me from accepting this appointment.

## **B. REFERRAL SOURCE**

On or around 3 March 2019, following notice of Ms Karam’s resignation from BRI Ferrier, she requested that I consent to act as replacement Liquidator of the Company. The referral source of my appointment, was the former Liquidator, Ms Karam.

Given that the matter was being handled within my firm, I have an awareness of the conduct of the Liquidation and there was a practical logic and efficiencies, in staffing, resources, knowledge and records, in me being appointed as the replacement Liquidator.

As such, on 14 March 2019 an application was filed with the Federal Court of Australia, seeking my appointment as replacement Liquidator.

On 3 April 2019, I, Mr Peter Krejci, was appointed as replacement Liquidator of the Company, by order of the Federal Court of Australia, pursuant to Section 473A(1) of the *Corporations Act 2001 (Cth)* and rule 7.2(1)(a) of the *Federal Court (Corporations) Rules 2000*.

Below, is the background and declarations leading up to my appointment, and also Ms Karam’s former appointment to the Company.

- On 15 January 2019, Ms Karam was requested by an Officer of the Australian Government Solicitor on behalf of her client, Australian Taxation Office, to provide a consent to act as the Liquidator of the Company, if so appointed by the Court.

Ms Karam and I regularly receive requests from the Australian Government Solicitor to provide consents to act as Liquidator, on behalf of their client, the Australian Taxation Office.

The referral source does not impact on our independence as:

- the Company does not have any prior relationships or common dealings with any third party previously referred to us by the referrer; and
- the referral is not contingent upon the achievement of any outcome whatsoever.

## C. DECLARATION OF RELATIONSHIPS

### I. CIRCUMSTANCES OF APPOINTMENT

The below communication has taken place prior to Ms Karam’s appointment:

Names	Nature of Engagement	Reasons why not an Impediment to Independence or Conflict
<p>Ms Robyn Karam BRI Ferrier (NSW)</p> <p>An Officer of Australian Government Solicitor</p>	<p>On 15 January 2019 an Email was sent from an officer of the Australian Government Solicitor to Ms Karam, to confirm whether she was prepared to consent to act as Liquidator in respect of the possible appointment.</p> <p>This was followed with a subsequent reply on the next business day, 16 January 2019, attaching a signed Consent to Act in the matter.</p>	<p>The Email was necessary to enable a conflict and independence check to be undertaken.</p> <p>This process is a necessary precursor to every insolvency appointment and does not give rise to a conflict of interest or duty.</p>

As discussed above, on or around 3 March 2019, following notice of Ms Karam’s resignation from BRI Ferrier, she requested that I consent to act as replacement Liquidator of the Company. I subsequently filed an application with the Federal Court of Australia, and on 3 April 2019, I, Mr Peter Krejci, was appointed as replacement Liquidator of the Company.

There are no other prior professional relationships or engagements that should be disclosed.

Neither Ms Karam nor I, have not provided any information or advice to the Company or to its director or advisors prior to our respective appointments. In addition, we have not received any form of payment or consideration in relation to the provision of any information or advice as outlined above, prior to our respective appointments.

## II. RELEVANT RELATIONSHIPS (EXCLUDING PROFESSIONAL SERVICES TO THE INSOLVENT)

Neither I, nor my firm, have, or have had within the preceding 24 months, any relationships with the company, an associate of the company, a former insolvency practitioner appointed to the company or any person or entity that has a charge on the whole or substantially whole of the company's property, except as follows:

Name	Nature of relationship	Reasons why no conflict of interest or duty
<p>The Australian Taxation Office ("ATO")/ Federal Commissioner of Taxation</p>	<p>Principals and Directors of BRI Ferrier around Australia, were, until its expiration at the end of 2014, members of a panel of Official Liquidators established by the ATO and accepted appointments by Australian Courts initiated by the Federal Commissioner.</p> <p>These Official Liquidators have undertaken to the ATO to accept appointment as Liquidators appointed by a Court under the Corporations Act where the ATO is the applicant creditor, whether the company has assets or not.</p> <p>BRI Ferrier is likely to seek inclusion in any comparable panel should one be established in future.</p>	<p>The ATO is a sophisticated statutory creditor and is administratively bound to act as a Model Litigant.</p> <p>In our experience the ATO does not seek to exert improper pressure on insolvency practitioners in connection with the discharge of their duties to creditors generally.</p> <p>Membership of the panel was not conditional upon and preference or benefit being conferred upon the ATO.</p>

## III. PRIOR PROFESSIONAL SERVICES TO THE INSOLVENT

Other than those services provided pursuant to Ms Karam's appointment as the former Liquidator of the Company, neither I, nor my Firm, have provided any professional services to the Company in the previous 24 months.

#### IV. NO OTHER RELEVANT RELATIONSHIPS TO DISCLOSE

Other than those services provided pursuant to Ms Karam's appointment as the former Liquidator of the Company, there are no other known relevant relationships, including personal, business and professional relationships, from the previous 24 months with the Company, an associate of the Company, or any person or entity that has a charge on the whole or substantially the whole of the Company's property that should be disclosed.

#### C. INDEMNITIES AND UP-FRONT PAYMENTS

I have not been indemnified in relation to this Liquidation, other than any indemnities that I may be entitled to under statute. I have not received any up-front payments from any party in relation to this appointment.

Dated: 3 May 2019



.....  
PETER KREJCI - LIQUIDATOR

#### Notes:

1. If circumstances change, or new information is identified, I am required under the *Corporations Act 2001* and the ARITA Code of Professional Practice to update this Declaration and provide a copy to creditors with my next communication as well as table a copy of any replacement declaration at the next meeting of creditors.
2. Any relationships, indemnities or up-front payments disclosed in the DIRRI must not be such that the Practitioner is no longer independent. The purpose of components B and C of the DIRRI is to disclose relationships that, while they do not result in the Practitioner having a conflict of interest or duty, ensure that creditors are aware of those relationships and understand why the Practitioner nevertheless remains independent.



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The logo for BRI Ferrier, featuring the text "BRI Ferrier" in white on a dark grey background with a green triangle on the right side.

**BRI Ferrier**

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**44 Cummins Street Pty Ltd  
(In Liquidation)  
("The Company")  
ACN 605 229 463**

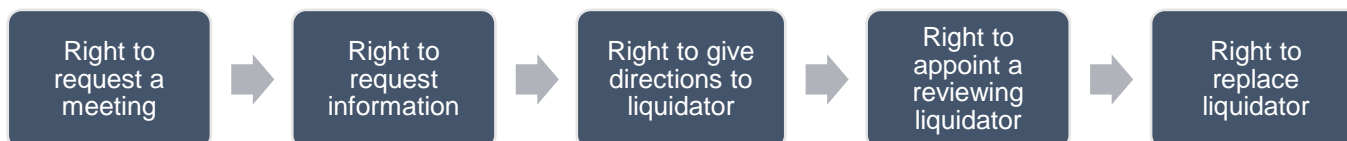
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**Annexure "4"  
Information Sheet – Creditor Rights  
in Liquidation**

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# Creditor Rights in Liquidations

As a creditor, you have rights to request meetings and information or take certain actions:



## Right to request a meeting

In liquidations, no meetings of creditors are held automatically. However, creditors with claims of a certain value can request in writing that the liquidator hold a meeting of creditors.

A meeting may be requested in the first 20 business days in a creditors' voluntary liquidation by  $\geq 5\%$  of the value of the debts held by known creditors who are not a related entity of the company.

Otherwise, meetings can be requested at any other time or in a court liquidation by:

- $> 10\%$  but  $< 25\%$  of the known value of creditors on the condition that those creditors provide security for the cost of holding the meeting
- $\geq 25\%$  of the known value of creditors
- creditors by resolution, or
- a Committee of Inspection (this is a smaller group of creditors elected by, and to represent, all the creditors).

If a request complies with these requirements and is 'reasonable', the liquidator must hold a meeting of creditors as soon as reasonably practicable.

## Right to request information

Liquidators will communicate important information with creditors as required in a liquidation. In addition to the initial notice, you should receive, at a minimum, a report within the first three months on the likelihood of a dividend being paid.

Additionally, creditors have the right to request information at any time. A liquidator must provide a creditor with the requested information if their request is 'reasonable', the information is relevant to the liquidation, and the provision of the information would not cause the liquidator to breach their duties.

A liquidator must provide this information to a creditor within 5 business days of receiving the request, unless a longer period is agreed. If, due to the nature of the information requested, the liquidator requires more time to comply with the request, they can extend the period by notifying the creditor in writing.

## Requests must be reasonable.

### They are not reasonable if:

Both meetings and information:

- (a) complying with the request would prejudice the interests of one or more creditors or a third party
- (b) there is not sufficient available property to comply with the request
- (c) the request is vexatious

Meeting requests only:

- (d) a meeting of creditors dealing with the same matters has been held, or will be held within 15 business days

Information requests only:

- (e) the information requested would be privileged from production in legal proceedings
- (f) disclosure would found an action for breach of confidence
- (g) the information has already been provided
- (h) the information is required to be provided under law within 20 business days of the request

If a request is not reasonable due to (b), (d), (g) or (h) above, the liquidator must comply with the request if the creditor meets the cost of complying with the request.

Otherwise, a liquidator must inform a creditor if their meeting or information request is not reasonable and the reason why.

## Right to give directions to liquidator

Creditors, by resolution, may give a liquidator directions in relation to a liquidation. A liquidator must have regard to these directions, but is not required to comply with the directions.

If a liquidator chooses not to comply with a direction given by a resolution of the creditors, they must document their reasons.

An individual creditor cannot provide a direction to a liquidator.

## Right to appoint a reviewing liquidator

Creditors, by resolution, may appoint a reviewing liquidator to review a liquidator's remuneration or a cost or expense incurred in a liquidation. The review is limited to:

- remuneration approved within the six months prior to the appointment of the reviewing liquidator, and
- expenses incurred in the 12 months prior to the appointment of the reviewing liquidator.

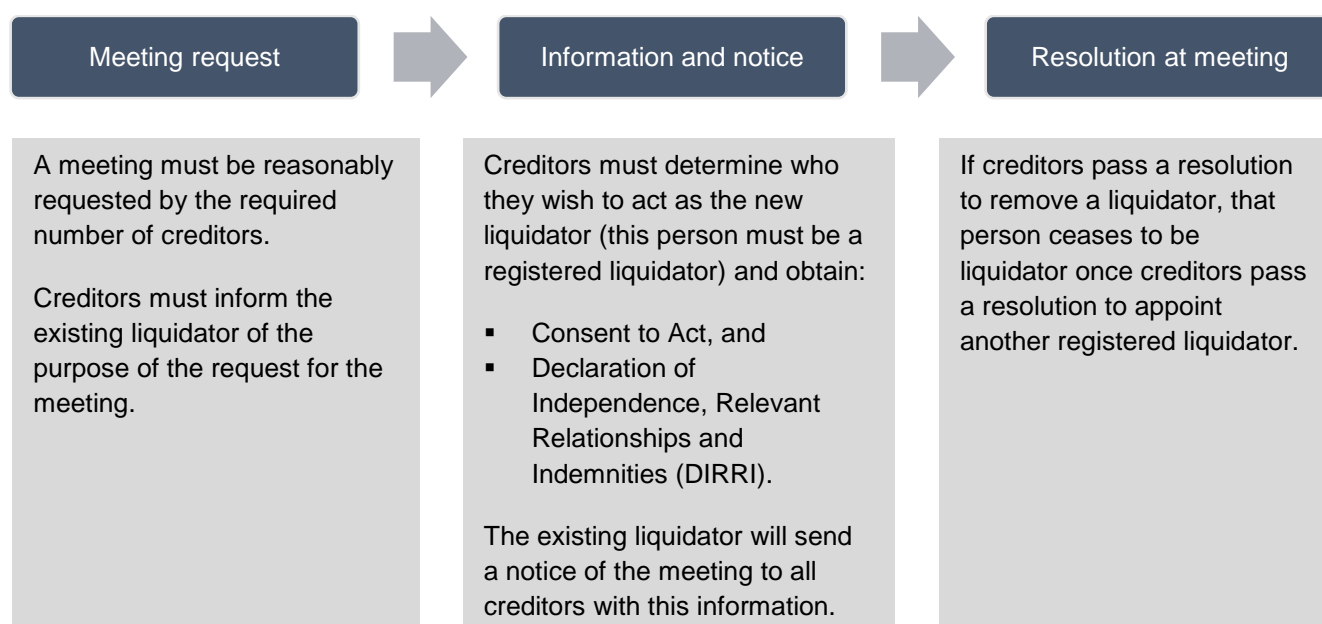
The cost of the reviewing liquidator is paid from the assets of the liquidation, in priority to creditor claims.

An individual creditor can appoint a reviewing liquidator with the liquidator's consent, however the cost of this reviewing liquidator must be met personally by the creditor making the appointment.

## Right to replace liquidator

Creditors, by resolution, have the right to remove a liquidator and appoint another registered liquidator.

For this to happen, there are certain requirements that must be complied with:



**For more information, go to [www.arita.com.au/creditors](http://www.arita.com.au/creditors)**

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The logo for BRI Ferrier, featuring the text "BRI Ferrier" in white on a dark grey background with a green triangle on the right side.

**BRI Ferrier**

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**44 Cummins Street Pty Ltd  
(In Liquidation)  
("The Company")  
ACN 605 229 463**

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**Annexure "5"  
Proof of Debt ("POD") form**

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**FORMAL PROOF OF DEBT OR CLAIM (GENERAL FORM)**  
44 CUMMINS STREET PTY LTD (IN LIQUIDATION)  
ACN 605 229 463

To the Liquidator of 44 CUMMINS STREET PTY LTD (IN LIQUIDATION):

1. This is to state that the Company was, on 20 February 2019 <sup>(1)</sup> and still is, justly and truly indebted to<sup>(2)</sup> (full name):

.....  
(‘Creditor’)

.....  
of (full address)

for \$ .....dollars and .....cents.

Particulars of the debt are:

Date	Consideration <sup>(3)</sup> state how the debt arose	Amount \$	GST included \$	Remarks <sup>(4)</sup> include details of voucher substantiating payment

2. To my knowledge or belief the creditor has not, nor has any person by the creditor's order, had or received any manner of satisfaction or security for the sum or any part of it except for the following: .....

Insert particulars of all securities held. Where the securities are on the property of the company, assess the value of those securities. If any bills or other negotiable securities are held, specify them in a schedule in the following form:

Date	Drawer	Acceptor	Amount \$ c	Due Date

I am **not** a related creditor of the Company <sup>(5)</sup>

I am a related creditor of the Company <sup>(5)</sup>  
relationship: \_\_\_\_\_

3A.<sup>(6)\*</sup> I am employed by the creditor and authorised in writing by the creditor to make this statement. I know that the debt was incurred for the consideration stated and that the debt, to the best of my knowledge and belief, still remains unpaid and unsatisfied.

3B.<sup>(6)\*</sup> I am the creditor's agent authorised to make this statement in writing. I know that the debt was incurred and for the consideration stated and that the debt, to the best of my knowledge and belief, still remains unpaid and unsatisfied.

DATED this                      day of                      2019.

Signature of Signatory .....

NAME IN BLOCK LETTERS .....

Occupation .....

Address.....

**See Directions overleaf for the completion of this form**

**OFFICE USE ONLY**

POD No:		ADMIT (Voting / Dividend) - Ordinary	\$
Date Received:	/ /	ADMIT (Voting / Dividend) – Preferential	\$
Entered into CORE IPS:		Reject (Voting / Dividend)	\$
Amount per CRA/RATA	\$	Object or H/Over for Consideration	\$
<b>Reason for Admitting / Rejection</b>			
PREP BY/AUTHORISED		<b>TOTAL PROOF</b>	\$
DATE AUTHORISED	/ /		

### Proof of Debt Form Directions

- \* Strike out whichever is inapplicable.
- (1) Insert date of Court Order in winding up by the Court, or date of resolution to wind up, if a voluntary winding up.
- (2) Insert full name and address (including ABN) of the creditor and, if applicable, the creditor's partners. If prepared by an employee or agent of the creditor, also insert a description of the occupation of the creditor.
- (3) Under "Consideration" state how the debt arose, for example "goods sold and delivered to the company between the dates of .....", "moneys advanced in respect of the Bill of Exchange".
- (4) Under "Remarks" include details of vouchers substantiating payment.
- (5) Related Party / Entity: Director, relative of Director, related company, beneficiary of a related trust.
- (6) If the Creditor is a natural person and this proof is made by the Creditor personally. In other cases, if, for example, you are the director of a corporate Creditor or the solicitor or accountant of the Creditor, you sign this form as the Creditor's authorised agent (delete item 3A). If you are an authorised employee of the Creditor (credit manager etc), delete item 3B.

### Annexures

- A. If space provided for a particular purpose in a form is insufficient to contain all the required information in relation to a particular item, the information must be set out in an annexure.
- B. An annexure to a form must:
  - (a) have an identifying mark;
  - (b) and be endorsed with the words:
    - i) "This is the annexure of *(insert number of pages)* pages marked *(insert an identifying mark)* referred to in the *(insert description of form)* signed by me/us and dated *(insert date of signing)*; and
  - (c) be signed by each person signing the form to which the document is annexed.
- C. The pages in an annexure must be numbered consecutively.
- D. If a form has a document annexed the following particulars of the annexure must be written on the form:
  - (a) the identifying mark; and
  - (b) the number of pages.
- E. A reference to an annexure includes a document that is with a form.

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**BRI Ferrier**

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**44 Cummins Street Pty Ltd  
(In Liquidation)  
("The Company")  
ACN 605 229 463**

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**Annexure "6"  
Initial Remuneration Notice**

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## INITIAL REMUNERATION NOTICE

Insolvency Practice Schedule (Corporations) 70-50  
Insolvency Practice Rules (Corporations) 70-35

### **44 Cummins Street Pty Limited (In Liquidation)** **ACN 605 229 463 ("the Company")**

The purpose of the Initial Remuneration Notice is to provide you with information about how my remuneration for undertaking this role as replacement Liquidator will be set.

#### **A REMUNERATION METHOD**

There are four methods for calculation of remuneration that can be used to calculate the remuneration of an Insolvency Practitioner. They are:

- ▶ Time based / hourly rates or "Time Cost"

This is the most common method. It provides for remuneration to be charged at an hourly rate for each person working on the matter. The hourly rate charged will reflect the level of experience each person has.

- ▶ Fixed Fee

The total remuneration for the administration is quoted at commencement of the appointment and is the total charge for the administration. Sometimes a practitioner will finalise an administration for a fixed fee.

- ▶ Percentage

The remuneration for the appointment is based on a percentage of a particular variable, such as the gross proceeds of asset realisations.

- ▶ Contingency

The total remuneration for the matter is structured to be contingent on a particular outcome being achieved.

#### **B METHOD CHOSEN**

BRI Ferrier normally charges to use a Time Cost basis, because:

- ▶ It is often difficult to estimate accurately the likely cost of undertaking an appointment, as appointments differ in unforeseeable ways as to their factual or legal complexity;
- ▶ The Time Cost method reflects the opportunity cost to BRI Ferrier of the use of staff on a particular engagement
- ▶ The Time Cost method reflects the extent of work undertaken, reflecting in turn the nature of the appointment



- ▶ The Time Cost method can be applied equally to all aspects of an appointment, while percentage or contingent remuneration normally only reflect parts of an appointment, such as the recovery of assets. Our duties include activities, such as reporting to creditors and ASIC, that do not directly yield asset recovery, while contributing to the overall return to creditors.

Given the nature of my appointment, being a replacement Liquidator, I propose that my remuneration be calculated consistent with the former Liquidator, that being calculated on the time based / hourly rates method. In my opinion, this is the fairest method for the following reasons:

- ▶ I will only be paid for work done, subject to sufficient realisations of the Company assets.
- ▶ It ensures creditors are only charged for work that is performed. Our time is recorded and charged in six minute increments and staff are allocated to duties according to their relevant experience and qualifications.
- ▶ I am required to perform a number of tasks which do not relate to the realisation of assets, including responding to creditor enquiries, reporting to the ASIC, distributing funds in accordance with the provisions of the Corporations Act 2001.

I am unable to advise with certainty the total amount of fees necessary to complete all tasks required in this administration. BRI Ferrier reviews its hourly rates every twelve months. The hourly rates quoted above remain current until 30 June 2019. At this time BRI Ferrier may increase the hourly rates charged for work performed past that date. If hourly rates are increased, I will seek approval from creditors.

## **C EXPLANATION OF HOURLY RATES**

The rates applicable are set out in the table on the following page together with a general guide to the qualifications and experience of staff engaged in administration and the role they undertake in the administration. The hourly rates charged encompass the total cost of providing professional services and are not comparable to an hourly wage rate.

## HOURLY RATES

Title	Description	Rate (excl GST)
Appointee	A Liquidator and/or Registered Trustee. A senior accountant with over 10 years' experience who brings specialist skills & experience to the appointment. Leads the team carrying out the appointment.	\$680
Principal	A Registered Liquidator. A senior accountant with over 10 years' experience. Leads the team carrying out and controls all aspects of an appointment.	\$650
Director	An accountant with more than 10 years' experience. May be a Liquidator. Fully qualified and able to control all aspects of an appointment. May have specialist industry knowledge or skills. Assists with all facets of appointment.	\$570
Senior Manager	An accountant with more than 7 years' experience. Qualified and answerable to the Team Leader. Self-sufficient in completing and planning all aspects of large appointments.	\$525
Manager	An accountant with more than 6 years' experience. Typically qualified with well-developed technical and commercial skills. Controls and plans all aspects of medium to larger appointments, reporting to Team Leader.	\$505
Supervisor	An accountant with more than 4 years' experience. Typically qualified with sound knowledge of insolvency principles and developing commercial skill. Assists to plan and control specific tasks on medium to larger appointments. Often undertaking post qualification study specialising in Insolvency and Reconstruction.	\$420
Senior 1	An accountant with more than 2 years' experience. Typically a graduate undertaking study leading to professional qualification as a Chartered Accountant or CPA. Able to complete work on appointments with limited supervision.	\$360
Senior 2	An accountant with more than 2 years' experience. Typically a graduate who has commenced study leading to professional qualifications. Able to complete many tasks on medium to large appointments under supervision.	\$290
Intermediate 1	An accountant with less than 2 years' experience. Typically a graduate and commenced study for qualifications. Able to complete multiple tasks on smaller to medium appointments under supervision.	\$260
Intermediate 2	An accountant with less than 1 years' experience. A trainee undertaking degree with an accountancy major. Assists in the appointment under supervision.	\$235
Senior Administration	Appropriately skilled & undertakes support activities including but not limited to treasury, word processing and other administrative, clerical and secretarial tasks.	\$220
Junior Administration	Appropriately skilled & undertakes support activities including but not limited to treasury, word processing and other administrative, clerical and secretarial tasks.	\$150

## D ESTIMATE OF COST

I estimate that my professional costs for this replacement Liquidator role may cost in the order of \$100,000 (plus GST) to complete moving forward.

This estimate is based on my understanding of the progress on the matter to date and that there is limited unexpected work is required. Should the circumstances prove to be materially different, then the costs may increase or decrease from my estimate above.

## E DISBURSEMENTS

Disbursements are divided into three types:

- ▶ Externally provided professional services - these are recovered at cost. An example of an externally provided service disbursement is legal fees.
- ▶ Externally provided non-professional costs such as travel, accommodation and search fees. These are recovered at cost.
- ▶ Internal disbursements such as photocopying, printing and postage. These disbursements, if charged to the Administration, would generally be charged at cost; though some expenses such as telephone calls, photocopying and printing may be charged at a rate which recoups both variable and fixed costs. The recovery of these costs must be on a reasonable commercial basis.

I am not required to seek creditor approval for disbursements paid to third parties, but must account to creditors. However, I must be satisfied that these disbursements are appropriate, justified and reasonable.

I am required to obtain creditor's consent for the payment of internal disbursements. Creditors will be asked to approve my internal disbursements prior to these disbursements being paid from the administration.

Details of the basis of recovering disbursements in this administration are provided below.

Disbursement Type	Rate (excl GST)
Externally provided professional services	At cost
Externally provided non-professional costs	At cost
Internal disbursements	
Faxes and Photocopying	\$0.25 per page
Postage	At cost
Staff vehicle use	In accordance with ATO mileage allowances

Dated this 3<sup>rd</sup> day of May 2019.



PETER KREJCI  
Liquidator