

Report to Creditors

under Insolvency Practice Rule 70-40

Nexus Holidays Pty Ltd (In Liquidation) Trading As "Vista Holidays"

ACN 124 885 356

19 July 2021

**Peter Krejci & Jonathon Keenan
Joint & Several Liquidators**

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BRI Ferrier

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1 EXECUTIVE SUMMARY

As you are aware, Peter Krejci and I were appointed Joint and Several Liquidators of Nexus Holidays Pty Ltd (In Liquidation) (“the Company”) by a special resolution passed at a duly convened meeting held on 20 April 2021 pursuant to Section 491 of the Corporations Act 2001 (“the Act”).

This report has been prepared in accordance the Rule 70-40 of the Insolvency Practice Rules (Corporations) 2016 (“IPR”). We provide hereunder a summary of the conduct of the Liquidation over the past three (3) months.

The Company was registered on 13 April 2007 and operated as a wholesaler of travel packages for destinations in China, Northeast Asia, Southeast Asia, the India Subcontinent, Europe and North America. Customer bookings could be made with the Company directly, however a large portion of bookings were made indirectly via third party travel agents, mainly Webjet and Flight Centre. In delivering the packages to clients, the Company had arrangements with third party providers, including accommodation, flights and tour operators.

In 2018, the Company became a part of a group of entities, where we understand one of the Directors, Mr Matthew Wang, is a shareholder or majority shareholder in all entities within the group. The other entities operated in China, Canada, Russia, the United States and United Kingdom. The Company appears to have provided significant funding to these entities in FY18 and FY19.

The Directors advised that the COVID-19 pandemic decimated the Company’s business, where there was a severe downturn in the international travel industry from international and domestic border restrictions. This severe industry downturn has continued, along with the pandemic. We have observed that it was only due to the various financial supports offered by the Australian government, that the Liquidation was delayed until 2021.

The Company employed nineteen (19) employees at the time of our appointment and the majority were subject to working from home arrangements with reduced hours, to assist customers in postponing travel packages, arranging credits with suppliers and issuing refunds in some cases. The majority of the staffing costs over the past year appear to have been met through the Australian government JobKeeper program, which ended in March 2021. However, once this government funding ended, the Company could not continue trading and we were appointed as Liquidators on 20 April 2021.

By the time of our appointment, the Company had minimal assets on hand, represented by cash at bank totalling \$71K, foreign currencies held in physical cash of \$11K, the surplus of a rental bond of \$1.8K and a number of Woolworths gift cards with a face value of \$1K. These assets have been largely realised. We note that a minor amount of plant and equipment has also been recovered.

The Company’s management accounts also recorded trade debtor balances of \$646K, related party loan balances totalling \$643K and prepayments totalling \$806K. These are the largest assets on the balance sheet, which we have observed may be understated. Unfortunately, due to the state of the travel industry, there have been minimal recoveries to date, and our investigations indicate that these assets may be significantly impaired. There is further detailed discussion of the assets and potential recoveries from related parties later in this report.

The known liabilities of the Company are in the order of \$3.8M, represented by Priority (Employee) Creditors totalling \$527K, prepaid Customer Bookings of \$2.5M, Trade Creditors of \$705K and related party loans of \$357K.

Our investigations of the financial affairs indicates that the Company has recorded a net asset deficiency since 2017, however managed to continue trading until early 2020 when the Covid-19 pandemic occurred. The combination of being unable to trade and effectively needing to refund the customers who had prepaid for packages, meant the Company was insolvent on a cashflow basis, only surviving over the past 12 months through government financial support. We note that the government also varied law over the past 12 months, giving Directors protection from insolvent trading exposure in certain circumstances, such that we have not identified a viable insolvent trading claim that can be pursued.

The Company did not maintain trust accounts to hold customer prepayments, which was a historical requirement in the industry prior to law reform. The customers' funds appear to have been used in the business, including advancing loans to related entities and paying dividends to shareholders, and are no longer available. Unfortunately, there is no industry compensation scheme available for customers to recover their funds, other than a "chargeback" via credit card providers.

However, our investigations have identified various claims that may be available in respect of the Directors' breach of duties in advancing loans to various related parties, totalling circa \$2.4M, for limited or no benefit to the Company, and certainly to the detriment of its creditors. Further, we have identified a potential breach of director's duties in relation to dividends declared to shareholders, when the Company had a deficiency of net assets. Any recovery in relation to these transactions is subject to the financial position of the Directors/Shareholders who are located offshore. We have requested that the Directors provide a statement of the personal financial positions, however neither have responded to date. If any creditor or interested party wish to fund us to pursue the claims, or alternatively to acquire these claims for themselves, they should contact our office promptly.

In the near term, we intend to report our findings with ASIC pursuant to Section 533(1) of the Act based on our investigations to date. The report is confidential and is not available to creditors.

Based on information to date, any return to creditors is contingent on successfully recovering the voidable transactions. The costs of the Liquidation currently exceed the recoveries to date. Accordingly, unless significant recoveries are made from the voidable transactions, there will not be any dividend available to any class of creditor in this Liquidation.

Should any creditor or interested party have any relevant information that they wish to provide us, they are requested to contact our office before 15 September 2021. Otherwise, absent any substantive new information, we anticipate that this Liquidation may continue for the next twelve (12) months.

1.1 PREVIOUS REPORTS TO CREDITORS

This report should be read in conjunction with our Initial Report to Creditors dated 30 April 2021 ("the First Report"). Information in the First Report will not be repeated unless required.

1.2 PREVIOUS MEETINGS OF CREDITORS

No meetings of creditors have been held to date. We note that creditors approved our remuneration up to \$109K (plus GST) by proposal, in lieu of a meeting. We note that our costs far exceed this amount, and if there are recoveries, we will seek further approval of our remuneration.

1.3 DECLARATION OF INDEPENDENCE, RELEVANT RELATIONSHIPS AND INDEMNITIES

We refer to the Declaration of Independence, Relevant Relationships and Indemnities enclosed in the First Report and note that there have been no changes to same.

1.4 DISCLAIMER

This Report and the statements made herein are based upon available books and records, information provided by the Company’s Directors, Advisors and from our own enquiries. Whilst we have no reason to doubt the accuracy of the information provided or contained herein, we reserve the right to alter our opinions or conclusions should the underlying data prove to be inaccurate or materially change after the date of this Report.

In considering the options available to Creditors and in formulating our opinions, we have necessarily made forecasts and estimates of asset realisations and recoveries and the ultimate quantum of Creditors’ claims against the Company where appropriate. These forecasts and estimates may change in due course as Creditors’ claims are made and adjudicated upon. Whilst the forecasts and estimates are the Liquidators’ best assessment in the circumstances, Creditors should note that the Company’s ultimate deficiency, and therefore the outcome for Creditors could differ from the information provided in this Report.

Neither the Liquidators nor any member or employee of BRI Ferrier accepts responsibility in any way whatsoever to any person in respect of any errors in this Report arising from incorrect information provided to us, or necessary forecasts, estimates and assessments made for the purposes of these Reports.

2 STATUTORY INFORMATION

The following is a summary of the Company’s statutory and business details obtained from the ASIC database, the Personal Property Securities Register (“PPSR”) database, and the Company’s records:

2.1 COMPANY DETAILS

Company Name	Nexus Holiday Pty Ltd
Registered Address	Suite 203, 451 Pitt Street Sydney NSW – 2000
Principal Place of Business	Suite 203, 451 Pitt Street Sydney NSW – 2000
Incorporation Date	13 April 2007
A.C.N	124 885 356
A.B.N	34 124 885 356

2.2 COMPANY OFFICE HOLDERS

Name	Position	App Date	Cease Date
Matthew Wang	Director	28/07/2007	Current
Honglei (Serena) Chu	Director	22/09/2017	Current
Kenneth Ung	Director	22/04/2010	31/10/2016
Rong Fu	Director	31/10/2016	1/10/2017
Tuyen Hung Tran	Director	22/04/2010	31/10/2016
Hua Bing Liu	Director & Secretary	13/04/2007	3/09/2009

We note that the ASIC records indicate that the Company has not had a secretary appointed since 3 September 2009.

2.3 ALL MANAGERS

Kenneth Ung, CEO from 1 July 2017 to appointment.

2.4 ALL SHAREHOLDERS

Name	Share Class	No. of Shares	Fully Paid Up	Status
Matthew Wang	ORD	50,000	Yes	Current

We note that the shareholdings changed in 2020, to the effect that Matthew Wang replaced Shanghai Yilian International Travel Service Limited (“Shanghai Yilian”) as the sole shareholder of the Company.

2.5 REGISTERED SECURITY INTERESTS

A search of the Personal Property Securities Register indicates that there is no security interest or other registration kind registered on the PPSR against the Company.

2.6 RELATED PARTIES AND ASSOCIATES

A directorship search has been undertaken for the Company’s Directors. Our searches indicate that the Directors do not hold any other Officer roles in corporate entities registered in Australia. However, we are advised that Matthew Wang is the controlling party behind other “Nexus” entities offshore, including:

- Shanghai Yilian,
- Nexus Holidays Group (we understand that this is the same corporate entity as the above)
- Nexus Holidays Toronto,
- Nexus Holidays Vancouver
- People’s Dialogue / Nexus Holidays Russia,
- Nexus Holidays New York and
- Nexus Holidays UK.

3 COMPANY BACKGROUND AND EVENTS LEADING TO OUR APPOINTMENT

The following information was obtained from the Company's books and records, enquiries of officers, staff and documentation provided to the Liquidator:

- The Company was registered on 13 April 2007 and operated as a wholesaler of travel packages for destinations in China, Northeast Asia, Southeast Asia, the India Subcontinent, Europe and North America.
- Customer bookings could be made with the Company directly, however a large portion of bookings were made indirectly via third party travel agents, mainly Webjet and Flight Centre. These intermediaries were paid significant commissions for the packages booked. The Company delivered the travel packages via third party providers, including accommodation, flights and tour operators.
- In 2018, the Company became a part of a group of entities, where we understand one of the Directors, Mr Matthew Wang, is a shareholder or majority shareholder in all entities within the group. The other entities operated in China, Canada, Russia, the United States and United Kingdom. The Company appears to have provided significant funding to these entities in FY18 and FY19.
- The Directors advised that the COVID-19 pandemic decimated the Company's business, where there was a severe downturn in the international travel industry due to border restrictions. Historically, the Company was a reasonable sized operator in the Australian market, with turnover in the order of \$30M to \$40M per annum from FY2017-FY2019. That revenue collapsed to \$20M in FY2020 and \$200K during FY2021 as a result of the pandemic.
- The Company did not maintain trust accounts to hold customer prepayments, which was a historical requirement in the industry prior to law reform. The customers' funds appear to have been used in the business, including advancing loans to related entities and paying dividends to shareholders, and are no longer available. Unfortunately, there is no industry compensation scheme available for customers to recovery their funds, other than a "chargeback" via credit card providers.
- The Company was previously a member of the Australian Federation of Travel Agents, however this accreditation was cancelled in April 2020. We understand that the Company was unable to satisfy the financial reporting requirements required for the accreditation.
- The Company had reduced its staffing numbers in early 2020. By the time of our appointment, there were only nineteen (19) employees remaining, and the majority were subject to working from home arrangements with reduced hours, to assist customers in postponing travel packages, arranging credits with suppliers and issuing refunds in some cases. The staffing costs were largely paid with funding from the government's JobKeeper program, which ended in March 2021.
- The Company previously had leased office premises in the Sydney CBD, however, vacated same late 2020 as part of its overall effort to minimise operating expenses. The majority of the rental bonds were applied to the make good costs from vacating the premises and the remaining minor balance was recovered during the Liquidation.
- The Company did little trading from March 2020 to date. The Company made use of the financial support from the Australian government deferring the Liquidation for around 12 months.

However, once this support ceased in March 2021, the business operations formally came to an end.

- Accordingly, we were appointed Liquidators of the Company shortly thereafter on 20 April 2021.

4 REASONS FOR FAILURE

As discussed above, the Director has advised the reason for failure was the COVID-19 pandemic, which resulted in a severe downturn in the international travel industry due to international and domestic border restrictions.

We agree with the above, however we also note that the Company advanced funds totalling circa \$2.4M to related parties in the three (3) financial years prior to the COVID-19 pandemic. Further, the Company declared dividends to shareholders in the order of \$2M in the same period. These loans and dividends largely represent the loss suffered by creditors.

5 SALE OF BUSINESS ASSETS

We identified that the Company held various intellectual property (“IP”) assets, including trading names, proprietary booking systems, domain names and customer database, which may hold value for a new operator. We therefore took steps to advertise a sale of these assets by way of a public sale campaign. Details of the sale campaign process was as follows:

- An advertisement was placed in the Travel Weekly newsletter on 3 May 2021 seeking expressions of interest.
- A signed confidentiality agreement and refundable deposit was sought as part of the due diligence process.
- We corresponded with a number of potential purchasers, including other established travel operators in the industry.
- We engaged with former staff to assist with various queries from the potential purchasers.
- A deadline was set to make written offers by COB, 26 June 2021.

There was a reasonable level of interest from the potential purchasers during the sale campaign. However, based on the limited offers received and considering the costs to be incurred in completing the sale, we have determined that it is uncommercial to proceed where it would not result in any benefit or return to creditors.

6 HISTORICAL FINANCIAL INFORMATION

We have reviewed the Company’s financial statements for the financial periods FY2017-FY2019, and the Company’s management accounts for FY2020 and the part year ended 20 April 2021.

We understand the management accounts for FY2020 were not finalised, and the FY2021 accounts are not complete and were not maintained after 28 February 2021. Accordingly, the accounts for these

periods do not appear to provide a true and complete reflection of the Company's financial performance and position. We would expect that the management accounts to report trading losses, given the severe impact of the COVID-19 pandemic on the travel industry.

Regardless, there are no alternate financials to be considered and therefore, we have attempted to conduct our investigations based on the available management accounts.

6.1 COMPARATIVE BALANCE SHEETS

Attached as **Annexure "1"** is a comparative analysis of the Balance Sheets for the abovementioned periods.

We make the following commentary on the comparative Balance Sheets:

- The Company's Cash and Cash equivalents peaked around 30 June 2019, before drastically reducing by 30 June 2020, as a result of the impact of the COVID-19 pandemic on international and domestic travel. The decrease appears to relate to the payment of some refunds, and the almost total reduction in future bookings.
- The Company's major asset in each period was Prepayments to third parties. It appears that a majority of Customer Prepayments were promptly paid on to third parties for the delivery of the services.
- The Company did not maintain trust accounts to hold customer prepayments, which was a historical requirement in the industry. The Company recorded the customer prepayments as a liability in its management accounts, however from FY2017 to date, the Company has reported a deficiency in its net current assets to current liabilities (indicative of working capital requirements).
- During or prior to FY2017, the Company advanced funding to Shanghai Yillian, which the Directors have advised is the "Headquarter" entity. It has also advanced significant funds to Nexus China and Nexus UK in the second half of 2019, shortly prior the onset of the COVID-19 pandemic. The balances have remained largely stagnant, suggesting an inability to recover these debts.
- Further, the Directors have advised that, as at the date of our appointment, the Company is owed funds totalling approximately \$350K from related entities based in Canada. This debt is not recorded as a related party debt in the financial statements, however is included in Prepayments.
- We understand that overall, related parties owe the Company in the order of \$2.4M, which is not recorded properly in the accounts as assets. This is discussed later in this report.
- Employee entitlement liabilities are not reported in the historical financials. The effect being that the net asset deficiency is understated historically.
- The rental bond relates to the Company's leased premises on Pitt Street, Sydney. A majority of the bond was utilised to make good the premises when it was vacated. The surplus of \$1.8K has been recovered by our office.
- The Company disposed of most of its motor vehicle fleet (mainly buses and trailers during FY2018 and FY2019.
 - We note that dividends were declared in the three years from FY2017 to FY2019, despite the Company having insufficient net assets in FY2018 and FY2019. We have requested the Directors provide further detail regarding these dividends, however they have not responded to date.

6.2 COMPARATIVE PROFIT AND LOSS STATEMENTS

Attached as **Annexure “1”** is a comparative analysis of the Profit and Loss Statements for the abovementioned periods.

We make the following commentary on the comparative Profit and Loss Statements:

- As noted above, the management accounts for FY2020 and FY2021 are not complete. Accordingly, it is uncertain whether the reported profits accurately represent the Company’s performance at that time, considering there was minimal revenue generated during the COVID-19 pandemic.
- The Company had significant turnover levels historically, around \$30M to \$40M per annum between FY2017 to FY2019. That revenue halved in FY2020 and was effectively nil in FY2021, as a result of the collapse of the travel industry due to the pandemic.
- The Accounting Fees of \$316,014 in FY2017 appear to be unusually high. These fees may be related to the significant dividend of \$1.8M declared in the same year, and we understand that significant account reconciliations were required. We also understand that at around the same time, the Company became part of a corporate group of entities, which may have required further financial reporting.
- There were minimal bad debt expenses recorded, however we are advised that a large proportion of the trade debtors are impaired, and have been so for some time.
- Over the previous five (5) years, “Wuxi Shared Expenses” of over \$1M have been included in the Company’s Profit and Loss accounts. We understand that Wuxi is the Shanghai Yillian, “Headquarter” entity. We have requested the Directors to provide further detail regarding these expenses, however they have not responded to date.
- We have received information which indicates approximately \$651K has been recorded as expenses during FY2018 to FY2020, that were actually loans to related parties. The effect is that the expenses are overstated by the same amount, provided that they are recoverable. This is discussed later in this report.
- There is a dramatic reduction of total expenses in FY2020 and FY2021, consistent with its strategy of minimising operating costs during the COVID-19 pandemic.

7 REPORT ON COMPANY ACTIVITIES AND PROPERTY

We received a completed Report on Company Activities and Property (“ROCAP”) for the Company from the Directors on 10 May 2021. Below is a summary of the ROCAP, incorporating our comparative views as to the realisable value:

Nexus Holidays Pty Ltd (In Liquidation)
A.C.N. 124 885 356
Summary of Director's Report on Company Activities and Property

	Report Reference	Book Value as at 20/4/2021 (\$)	Director's ERV (per ROCAP) (\$)	Liquidator's ERV as at 6/11/2020 (\$)
Assets				
Cash and Cash Equivalents				
Cash at Bank	7.1.1	150,840	-	14,071
Term Deposit	7.1.1	56,735	56,735	57,399
Other	7.1.2	15,292	12,065	11,955
Credit Cards	7.1.2	6,829	3,729	-
Debtors				
Trade Debtors	7.1.3	646,796	81,027	Unknown
Other Receivables	7.1.3	4,000	-	-
Nexus China	7.1.4	201,113	-	Unknown
Nexus UK	7.1.4	186,379	-	Unknown
Nexus Shanghai	7.1.4	256,202	-	Unknown
Nexus Toronto	7.1.4	-	75,000	Unknown
Nexus Russia	7.1.4	-	-	Unknown
Nexus Vancouver	7.1.4	-	-	Unknown
Nexus New York	7.1.4	-	-	Unknown
Employee	7.1.4	-	100,000	Unknown
Rental Bond	7.1.5	1,882	1,882	1,882
Booking Refunds	7.1.6	-	8,947	Unknown
Plant & Equipment	7.1.7	36,627	-	3,400
Prepayments	7.1.8	806,393	-	Unknown
Total Assets		2,369,087	339,384	88,707
Liabilities				
Secured Creditors	7.2.1	-	-	-
Priority Creditors	7.2.2	(1)	503,811	527,746
Unsecured Creditors:				
Trade Creditors	7.2.3	400,647	337,004	705,785
Australian Taxation Office	7.2.4	193,744	3,341	3,341
Customer Bookings	7.2.5	2,442,460	2,133,599	2,520,635
Related Party Creditors:				
Nexus China	7.2.6	-	36,551	Unknown
Nexus Shanghai	7.2.6	-	32,062	Unknown
Nexus Toronto	7.2.6	-	288,611	Unknown
Employee Loan	7.2.7	95,168	150	95,318
Total Liabilities		3,132,019	3,335,129	3,852,826
Estimated Net Asset / (Deficiency)		(762,932)	(2,995,744)	(3,764,119)

7.1 ASSETS

7.1.1 Cash and Cash Equivalents

On appointment, we contacted major financial institutions notifying them of the Liquidation and requesting information regarding any other bank accounts held in the name of the Company. We understand that the Company maintained three (3) accounts with Westpac Banking Corporation (“Westpac”) and a term deposit account with National Australia Bank (“NAB”). We have recovered the funds totalling \$71K in full from Westpac and NAB.

We note that the Company’s management accounts were not maintained after 28 February 2021, resulting in a discrepancy between the book value of the bank account balances relative to the actual balances recovered from Westpac and NAB.

No further bank accounts have been identified based on responses received to date.

7.1.2 Other/Credit Cards

Other assets relate to foreign currencies held in physical cash and a number of Woolworths gift cards. We recovered the foreign currency cash and converted the funds to Australian dollar, recovering \$11,205. We have been progressing the recovery of the gift cards (face value of \$1,250) and anticipate a net recovery of 60% to 70% of the face value.

We understand that all credit cards were cancelled by the Company prior to our appointment. However, no amounts are recoverable.

The Company also appeared to have a credit balance with Telstra after its services were cancelled. We have queried the potential recovery of this credit balance, however it appears that it is not recoverable due to termination of contracts.

7.1.3 Trade Debtors

As noted above, the Company’s management accounts were not maintained after 28 February 2021 and accordingly the Trade Debtor amount of \$646K is inaccurate. The Company’s internal accountants provided us with an aged receivables schedule, prepared shortly prior to our appointment, which indicates a total outstanding balance of \$218K. All of the outstanding trade debtors operate in the travel industry, where we understand that customers made payments for bookings in advance.

We note the following in relation to this balance:

- Due to the travel restrictions imposed in response to the COVID-19 pandemic, a vast majority of the debtors may be impaired.
- \$77K of the outstanding balance has been owed to the Company for over 15 months prior to our appointment. A further \$47K is outstanding for more than 9 months.
- One of the Company’s major debtors, Extragreen Holidays Group, totalling \$65K was placed into Liquidation shortly prior to our appointment. The most recent report in relation to the liquidation of the group states that there may be a minor return to the Company.

- ▶ We understand from discussions with the Company's internal accountants that some of the debtor claims may relate to customer trips that have been re-arranged or cancelled due to COVID-19 restrictions. Accordingly, these debtors may dispute that the debt is payable.
- ▶ Other Receivables of \$4K relates to a receivable which appears to have been repaid in full in February 2021.

Our investigations are ongoing. However, the recoverability of the debtors is currently doubtful, and given the current market conditions they may be impaired.

7.1.4 Related Party Debtors

The Company advanced significant funds to a number of related entities based in China, Russia, United Kingdom and United States of America during FY2018 and FY2019. In addition to the \$644K included as related party loans in the accounts, we note that a significant portion of the loans are incorrectly reported in the management accounts as Prepayments (\$727K) or allocated to Costs of Sales (\$651K). The Directors have provided a separate schedule outlining the outstanding amounts, which is consistent with the values disclosed in the ROCAP. We have issued demands to these related entities, however to date, have not received any response.

We understand that one of the Directors, Matthew Wang, is a shareholder/majority shareholder of the related entities. On this basis, we requested further information from the Directors on the recoverability of the loans to related entities. The Directors have advised that the Chinese, Russian, UK and US entities have no assets available and the debts are unrecoverable. We have requested supporting documentation from the Directors to evidence the financial position of the related entities, however this has not been provided to date.

The Directors have also advised that, as at the date of our appointment, the Company is owed funds totalling approximately \$350K from related entities based in Canada. We note that these debts appear to be recoverable, however, the Directors have not provided any response regarding these debts to date. We have also issued a demand to the Canadian entities, who have not responded to date.

The Directors reported in their ROCAP that a former employee of the Company owed the Company \$100K. However, that party has disputed the claim, advising a different version of events. They have advised that the funds were advanced by them personally to an offshore related entity of the Company, per a request of the Company (presumably by the Directors), and then subsequently the Company repaid that loan. The Company's financial records do not support this position, rather we have evidence of the \$100K being advanced. We have requested further information in relation to the debt from the Directors, however they have not responded to date.

Our investigations into the related party debtors are ongoing, however it appears plain that the customers prepayments were used to fund these loans to the related parties, as there was limited share capital or inwards loans from shareholders (or third parties). In these circumstances, we believe there are claims available against the Directors for unreasonable director-related transactions or breach of director's duties for having advanced the funds. Recoverability is a concern and is being further explored. This is further discussed in Section 9.5 of this Report.

7.1.5 Rental Bond

The rental bond relates to the Company's leased premises on Pitt Street, Sydney. A majority of the bond was utilised to make good the premises when it was vacated in late 2020. The remaining balance of \$1.8K has been recovered by our office.

7.1.6 Booking Refunds

Prior to our appointment, the Company had requested refunds in relation to a number of airline bookings. We understand that these refunds generally take the airline approximately 6 months to process. At our appointment, three (3) of these bookings were still outstanding. Two (2) of these refunds were recently completed in late June 2021, resulting in a refund of \$3.3K, and it appears the final refund has yet to be processed by the airline. We are making enquiries as to these refunds.

7.1.7 Plant & Equipment

The Company had some minor plant and equipment ("P&E") located in a rented storage facility. This P&E primarily consisted of sundry office equipment which was utilised in the Company's former office premises. There was a small amount of value in these assets and therefore we engaged Hilco to prepare an independent valuation of the P&E and removal for later sale by auction.

Included with these assets were three (3) Konica Minolta printers/photocopiers which were subject to a finance agreement with a third-party financier. This financier asserted a financial interest in these specific assets, however, we determined that it had not registered a valid security interest and there was otherwise no claim. Therefore, the assets vested with us as Liquidators and were included in the sale process.

A public auction was conducted by Hilco recently and most of the P&E was sold for approximately \$3.5K, resulting in net proceeds of \$1.2K after costs and GST. We are yet to receive the proceeds of this sale. There remains a sundry quantity of P&E which will be auctioned in the coming weeks.

7.1.8 Prepayments

The management accounts disclose significant Prepayments of \$806K as at our appointment. As noted above, we understand that \$727K of these Prepayments relates to advances to related parties. We have requested further information in relation to these prepayments from the Directors, however they have not provided a response to date.

Our investigations are ongoing. However, as a significant portion relates to related party loans, a recovery is doubtful unless pursued against the Directors. This is further discussed in Section 9.5 of this Report.

7.2 LIABILITIES

7.2.1 Secured Creditors

We have not identified any Secured Creditors to date.

7.2.2 Priority Creditors

As detailed in our previous report to creditors, at the time of our appointment the Company had nineteen employees which were all terminated effective 20 April 2021.

We have verified all employee entitlements for the Attorney-General’s Department (“the Department”) in administering the Fair Entitlements Guarantee (“FEG”) scheme. We understand that the Department is currently in the process of reviewing claims submitted by employees and have recently engaged an adjudication process with our office. Once this adjudication process is finalised, the Department will be in a position to make payments to eligible employees in respect of their entitlements.

Our assessment indicates that outstanding entitlements are around \$526K, subject to adjudication under the FEG scheme. Below is a summary:

Employee Entitlements	ERV Amount (\$)
Wages	26,400.49
Superannuation	9,267.84
Annual Leave	134,032.58
Long Service Leave	93,993.54
PILN	71,155.87
Redundancy	192,895.93
Total Priority Creditor Claims	527,746.25

We note that the employee entitlement liabilities were not reported in the historical financial reports, effectively understating the net asset deficiency.

Should you wish to obtain further information or make a claim for outstanding employee entitlements, the Department may be contacted on 1300 135 040. Alternatively, you may visit their website at: <https://www.ag.gov.au/industrial-relations/fair-entitlements-guarantee-feg>

7.2.3 Trade Creditors

The Company appears to have historically used customer prepayments as the funding source to satisfy its operating costs, including paying trade creditors. Accordingly, the Trade Creditor pool is relatively minor.

The largest creditor is a claim from a trade supplier of \$233K in respect of early termination of a contract for a centralised reservation system software licence. The remaining trade creditors appear to be various travel agencies and debts incurred in the ordinary course of business.

Should creditors, who have not already done so, wish to lodge their claim with this office, please complete the Formal Proof of Debt form, attached as **Annexure “2”**, and return same together with documentary evidence to support your claim.

7.2.4 Australian Taxation Office

The Directors have disclosed in the ROCAP that the ATO are owed approximately \$3K, representing outstanding PAYG Withholding. The management accounts are incomplete, as noted above, however there are reported liabilities for PAYG Withholding of \$30K and GST of \$163K. The ATO have advised that whilst they do not have a claim in the Liquidation at present, they may have if various outstanding returns are lodged in due course. This work will be undertaken if there are sufficient funds recovered to pay a dividend to unsecured creditors.

7.2.5 Customer Bookings

As previously discussed, the Company did not maintain trust accounts, and given there was minimal share capital or third party finance, the customers' funds were used for the business operations on what appears to be an unrestricted basis. Those costs were used to pay for the travel packages delivered, pay marketing and commission structure, fund staffing costs, fund loans to related entities, pay dividends to shareholders, etc.

The largest liability reported by the Company were the prepayments by customers. Customer bookings were usually received by the Company well in advance of the date of the holiday/trip. Based on our review of the records, it appears that approximately 80% of all customers arranged their bookings with the Company through third party travel agents, who charged the Company a commission. A large portion of bookings through third party travel agents appear to have been through Flight Centre and Webjet. We understand that Webjet have agreed to refund the commission that was earned on all customer bookings made through them. Any queries in relation to these refunds should be made to Webjet directly.

In this regard, we have received Proofs of Debts totalling circa \$1.2M from customers. As noted previously, the management accounts are not complete. Based on the Proof of Debt forms received to date from creditors, Customers Bookings, as recorded in the management accounts, may be understated by 30% to 40%.

As advised in the First Report, customers are encouraged to contact their banks to explore if a refund is available via "chargeback" for payments made on credit card. We understand that banks may have a timeframe for chargeback requests depending on the date of payment and customers who have not already done so, should contact their bank promptly.

In addition, customers who have purchased travel insurance should also check with their insurer or seek their own independent advice on whether an insurance claim can be lodged as the Company is now in Liquidation. Similarly, insurance policies may stipulate timeframes for lodging claims and customers should contact their insurer promptly. Some insurers may require written advice from our office (as Liquidators) confirming that a dividend will not be paid in the Liquidation in order to pay compensation. However, we are not in a position to provide such written confirmation until we have resolved potential recovery actions in the Liquidation, further discussed in Section 9.5 of this Report.

Should customers, who have not already done so, wish to lodge their claim with this office, please complete the Formal Proof of Debt form, attached as **Annexure "2"**, and return same together with documentary evidence to support your claim.

7.2.6 Related Party Loans

The Directors have disclosed in the ROCAP that the Company owes a total of \$357K to related entities. We note that the Company's management accounts do not reflect these debts, and therefore to the extent that these debts are accurate, the corresponding assets are missing and/or trading losses are understated.

The Directors have not provided any supporting documentation in relation to these debts, and the related entities have not lodged any claims in the Liquidation in relation to these debts. If there is merit to these debts, there may be a set off applied against the respective debtor claims against those entities.

We also understand that a former Director advanced funds to the Company and is owed approximately \$95K. To date, the former Director has not lodged a claim in relation to this debt, however we understand that the funds were advanced to the Company for working capital purposes.

8 DEFICIENCY STATEMENT

Attached as **Annexure "3"** is a copy of the Deficiency Statement.

We estimate that the net deficiency to creditors to be in the order of \$3.8M, before the costs of the Liquidation. The deficiency to creditors is represented by the following:

Summary of Deficiency	Amount (\$)
Accumulated Losses	812,932
Loss on Realisation of Assets	2,280,380
Unreported Liabilities	720,807
Estimated Net Deficiency	3,814,119

The majority of the deficiency relates to the potential impairment of the Company's assets, in particular prepayments of \$806K, trade debtors of \$646K and loans of \$644K (the majority of which are owed by related parties). We also note that \$528K of unreported liabilities relate to leave and redundancy liabilities which arose on the termination of the employees. We also note that if the historical \$2M of dividends to shareholders were recovered, this would substantially negate the loss for creditors.

9 INVESTIGATIONS

9.1 BOOKS AND RECORDS (S286)

Section 286 of the Act provides that:

"A company, registered scheme or disclosing entity must keep written financial records that:

- (a) correctly record and explain its transactions and financial position and performance; and
- (b) would enable true and fair financial statements to be prepared and audited."

The failure to maintain books and records in accordance with Section 286 of the Act may allow a Liquidator to presume the company was insolvent throughout the period the books were not maintained (Section 588E of the Act).

Our preliminary view is that the Company has kept sufficient books and records to meet the requirements of Section 286 of the Act.

9.2 RISK OF LITIGATION ACTIONS GENERALLY

Part 5.7B of the Act gives Liquidators the right to commence certain legal proceedings to recover money, property or other benefits for the benefit of the Unsecured Creditors of a company.

Creditors should note that recovery actions:

- have the potential to increase the pool of funds available to Creditors;
- are usually expensive, lengthy and have unpredictable outcomes;
- should not be commenced unless defendants have the financial resources to satisfy any judgement; and
- must be funded out of the Company's existing assets or, where such assets do not exist, by Creditors or by external litigation funders (who are likely to require a significant share of the proceeds of any judgement as a condition of funding the litigation).

9.3 PROVING INSOLVENCY

Recovery actions under Part 5.7B of the Act, including unfair preferences, uncommercial transactions and insolvent trading, require the Liquidators to demonstrate that the Company was insolvent at the time of the transaction. Proving insolvency may be a complex, lengthy and costly exercise.

9.4 INSOLVENCY ANALYSIS & INSOLVENT TRADING

Our assessment has been based on the information available to us from the Company's records, from information provided by the Director and on the basis of separate investigations of the Company's affairs. Based on our investigations, the Company has reported a net asset deficiency and was insolvent on a balance sheet basis from at least June 2017.

However, a more accurate assessment of a Company's insolvency is the cash flow test. Due to the nature of the Company's business, in particular the receipt of customer funds well in advance of the delivery of the booking, the Company does not appear to have been insolvent on a cash flow basis until around March 2020, when travel restrictions related to the COVID-19 pandemic began to take effect and customers began to request refunds en masse.

Accordingly, it is our preliminary view that the Company was insolvent on a cash flow basis from at least March 2020. We note that this date may be earlier, given the historical losses and loans to related parties which may be impaired.

We provide below the basis of our view:

9.4.1 Insolvency Analysis

9.4.1.1 Working Capital Analysis

A working capital analysis is generally based on a review of the Company's financial records and management accounts to determine whether there were sufficient current assets to meet current liabilities, including any adjustments to the reported current assets and current liabilities.

The working capital analysis has been based on a review of the Company's records to 20 April 2021, which shows that the Company had insufficient working capital from June 2017 onwards. A summary is shown below.

	As at 30/06/2017	As at 30/06/2018	As at 30/06/2019	As at 30/06/2020	As at 20/04/2021
Working Capital Analysis	(\$)	(\$)	(\$)	(\$)	(\$)
Current Assets	7,086,581	7,403,977	9,283,669	2,668,658	2,357,555
Current Liabilities	7,184,913	8,542,924	11,027,171	3,617,666	3,160,250
Net Working Capital	(98,332)	(1,138,947)	(1,743,502)	(949,009)	(802,695)
Current Asset Ratio	0.99	0.87	0.84	0.74	0.75

- ▲ We note the following:
 - Prima facie, the Company's management accounts reported a working capital deficiency at all reporting periods, although this deficiency is relatively minor as at 30 June 2017. However, the FY2017 deficiency results directly after the Company declaring \$1.8M in dividends to shareholders, stripping those assets from the balance sheet.
 - A significant portion of the current assets are prepayments to travel/tour service providers, ranging from 36% to 66% of total current assets during the period reviewed.
 - The onset of the COVID-19 pandemic, and related international and domestic and travel restrictions, significantly impacted the Company's financial position from March 2020.
 - From April 2020 to March 2021, the Company received substantial grants, totalling \$670,500, from the Australian Government, including JobKeeper. This largely accounts for the improved net working capital position at 20 April 2021.
 - The current liabilities are understated, as employment entitlements are not reported in the financials. We do not have the historical figures to include and age those liabilities historically. However, note that the total employee claims are estimated at \$528K as at our appointment.
- ▲ Our investigations indicate a number of adjustments are required to the working capital analysis to reflect an accurate position historically, particularly in relation to related parties. Accordingly, a revised working capital analysis is set out below:

	As at 30/06/2017	As at 30/06/2018	As at 30/06/2019	As at 30/06/2020	As at 20/04/2021
Adjusted Working Capital Analysis	(\$)	(\$)	(\$)	(\$)	(\$)
Current Assets	7,086,581	7,403,977	9,283,669	2,668,658	2,357,555
<i>Less: Related Party Loans</i>					
Shanghai Yilian China	(256,202)	(256,202)	(256,202)	(256,202)	(256,202)
Nexus China	-	-	-	(197,262)	(201,113)
Nexus UK	-	-	-	(186,379)	(186,379)
Director Loan	-	-	-	-	-
<i>Less: Related Party Loans included in Prepayments</i>					
Shanghai Yilian China	-	-	(200,036)	(200,036)	(200,036)
Nexus UK	-	-	(108,739)	(108,739)	(108,739)
Nexus US	-	-	(418,900)	(418,900)	(418,900)
<i>Add: Related Party Loans reported as expenses</i>					
Shanghai Yilian China	-	-	83,420	193,420	193,420
Nexus China	-	-	100,018	100,018	100,018
Nexus UK	-	146,718	146,718	146,718	146,718
Nexus US	-	-	-	-	-
Nexus Russia	-	211,567	211,567	211,567	211,567
<i>Less: Impairment of Related Party Loans reported as expenses</i>					
Shanghai Yilian China	-	-	(83,420)	(193,420)	(193,420)
Nexus China	-	-	(100,018)	(100,018)	(100,018)
Nexus UK	-	(146,718)	(146,718)	(146,718)	(146,718)
Nexus US	-	-	-	-	-
Nexus Russia	-	(211,567)	(211,567)	(211,567)	(211,567)
Adjusted Current Assets	6,830,379	7,147,775	8,299,792	1,301,140	986,186
Current Liabilities	7,184,913	8,542,924	11,027,171	3,617,666	3,160,250
<i>Less: Related Party Loans</i>	(42,189)	(143,036)	(95,168)	(95,168)	(95,168)
Adjusted Current Liabilities	7,142,724	8,399,888	10,932,003	3,522,499	3,065,082
Net Working Capital	(312,345)	(1,252,113)	(2,632,211)	(2,221,359)	(2,078,896)
Current Asset Ratio	0.96	0.85	0.76	0.37	0.32

- ▲ We note the following in respect of the revised analysis:
 - The Current Assets include amounts owed from related entities totalling \$640K. Based on our investigations to date, and discussions with the Directors, it appears that all related entities, apart from the Canadian entities, were loss making and had no net assets. Accordingly, these loans appear to have been impaired at all times and should be removed from the analysis.
 - Further, a related party transactions schedule provided by the Directors indicates that \$727K included in Prepayments was advanced to related parties. The Directors have advised that these amounts remain owing to the Company.
 - The related party transactions schedule also shows \$651K was reported as expenses in the P&L rather than loans in the Balance Sheet. The Directors have advised that these amounts remain owing to the Company and as such, have been added to

Current Assets. However, as mentioned above, it appears the related parties do not have capacity to repay these loans and as such, these amounts reported as expenses are also impaired and removed from the analysis.

- As noted above in Section 7, the related party loans do not include the debtor amounts of \$350K owed by the Canadian entities, however these amounts may be included in Prepayments. We have requested details from the Directors regarding this debt, however this information has not been provided. Based on the above revised working capital analysis, the inclusion of this debt in the accounts would not materially alter the Company's position after 30 June 2017.
- The Current Liabilities include amounts owed to related entities. It is reasonable to expect forbearance on these liabilities, and accordingly, they should be removed from the analysis. This includes the employee loan, which is owed to a former Director.
- As mentioned above, employee entitlements have not been reported in current liabilities historically. We do not have the historical figures to include and age those liabilities historically. However, note that the total employee claims are estimated at \$528K as at our appointment. If included, the deficiency would be larger.
- After the above adjustments, the working capital deficiency as at 30 June 2017 is more severe, and the current asset ratio deteriorates sharply after that date.

9.4.1.2 Cash Flow Review & Indicators

- ▲ Despite our conclusion that the Company was balance sheet insolvent from June 2017, we have not seen evidence that the Company was encountering significant cashflow problems earlier than March 2020.
- ▲ The Company's records indicate that the Company was able to meet its liabilities as and when they fell due. Further, to date we have not received any evidence from creditors which suggests that the Company was not able to deliver on booked trips prior to the COVID-19 pandemic.
- ▲ The Company's primary funding source was customer prepayments, which were used in the business, as opposed to being held on trust for the delivery of travel packages. Customers prepaid many months prior to travel, providing a substantial working capital buffer for the business to use. We understand that this is common practice in the travel industry.
- ▲ However, with the Covid-19 pandemic shutting down the industry, this demonstrated the Company's lack of share capital or third-party finance in the business to fund its operations, when customer called for refunds.
- ▲ Customer Prepayments constitute the majority of current liabilities, ranging from 73% to 87% of current liabilities during the period reviewed. In the ordinary course of business, only a minimal portion of this would be expected to be refunded to customers. Excluding Customer Prepayments, current liabilities did not exceed \$2M at any key date during the period reviewed. Further, a review of the Company's aged payables indicates that, prior to the COVID-19 pandemic, liabilities were usually settled within 30 days, which indicates that the Company was effectively managing its creditors at that time.
- ▲ Based on a review of the Company's monthly management accounts, Customer Prepayments reduced significantly from \$5.5M at 28 February 2020 to \$3.6M at 31 March 2020. This

indicates that customers began requesting refunds around this time. This is consistent with the deteriorating situation regarding the COVID-19 pandemic both in Australia and abroad during March 2020.

- Accordingly, our preliminary view is that whilst the Company did not have sufficient funds to satisfy all liabilities in full since 2017, the Company only became insolvent on a cashflow basis during March 2020 when it was unable to pay its debts due (or being called) for payment.

9.4.2 Indicators of Insolvency

In addition, we have observed the following which are indicators of insolvency:

- During 2020 employees wages were reduced in-line with JobKeeper support from the Australian Government.
- Gross margin deteriorates from 17% to 7% from FY2017 to FY2019.
- After international and domestic travel was suspended in early 2020, the Company received a significant volume of requests for refunds, which it did not have sufficient funds to fulfil.
- Further, the Company's revenue streams effectively ceased, as there were negligible new bookings being made.
- The Company was loss making in FY2018 and FY2019. The management accounts show a profit in FY2020 and for the part year ended 20 April 2021, however, as noted above, the accounts are not completed and reconciled, and a profit does not seem plausible given the financial impact of the pandemic.
- A significant portion of the Company's debtors appear to relate to bookings that were unable to be taken or were cancelled due to the COVID-19 pandemic. Accordingly, these amounts may not be recoverable, and historical bad debt adjustments may have more accurately reflected the Company's true financial position.

9.4.3 Insolvent Date and Claim

Based on the available information, it would appear that the Company was insolvent on a balance sheet basis from 30 June 2017, and insolvent on a cashflow basis from around March 2020 and remained insolvent thereafter. It should be noted that in response to the COVID-19 global pandemic, the Australian Federal Government introduced legislation under Section 588GAAA of the Act, which granted temporary relief for directors from their duty to prevent insolvent trading for a period of six (6) months from 25 March 2020. Accordingly, it appears there may not be an insolvent trading claim that could be pursued.

However, we consider that there may be a breach of director's duties in the loans advanced to related parties, totalling circa \$2.4M, which would otherwise have been available funds for the benefit of creditors. The loans were advanced to related parties where one of the Directors is also a shareholder of these related parties. It is arguable that a reasonable person would not have advanced loans to these related parties as there does not appear to be any commercial benefit to the Company. Further, the Director would have imputed knowledge of the financial position of the related parties, which were apparently incurring losses, held no assets and therefore would not have the financial capacity to repay these loans.

Any recovery in relation to these transactions is subject to the financial position of the Directors. We have requested a statutory declaration from both Directors confirming their respective financial positions, however neither Director has responded to date.

9.5 VOIDABLE TRANSACTIONS

Voidable transactions include transactions such as unfair preferences, uncommercial transactions, unfair loans, unreasonable director related transactions and circulating security interests created within six (6) months before the relation-back day, which is the date of the filing of the winding up application.

These transactions usually relate to the period six (6) months prior to the date of our appointment however in certain circumstances this period can be extended to four (4) years in relation to transactions with related entities.

9.5.1 Unfair Preferences

An unfair preference results when the Company and a Creditor are parties to a transaction(s) and the Creditor receives more than it would receive if the transaction(s) are set aside, and the Creditor proved for the debt in the winding up. If it is ultimately determined that certain payments are potentially recoverable as unfair preferences, it would be necessary to establish:

- that the Company was insolvent at the time the payments were made; and
- that the recipient had reasonable grounds to suspect that the Company was insolvent at that time or would become insolvent as a result of the payment.

The clawback provisions available to the Liquidator relate only to payments to unrelated parties made within six (6) months from the date of our appointment, if the Company is insolvent at that time, as the Relation Back Period (“RBP”).

Whilst we have identified various payments, including refunds to certain (but not all) customers, there is a lack of evidence that would defeat a good faith argument and create commercially viable claims to pursue. In all, at this time, we have not identified any unfair preference payments to pursue.

9.5.2 Uncommercial Transactions (S588FB)

A transaction is considered uncommercial if it is made at a time when the Company is insolvent and it may be expected that a reasonable person in the Company’s circumstances would not have entered into the transaction having regard to:

- The benefits or detriment to the Company of entering into the transaction; and
- The prospective benefits to other parties to the transaction.

As our investigations indicate that the Company only became insolvent in March 2020, we have not identified any uncommercial transactions.

9.5.3 Unfair Loans (S588FD)

A loan is unfair if it is made to a Company at extortionate interest rates or the charges in relation to the loan are extortionate. In considering whether interest and charges are extortionate, regard must be had to the following:

- Risk the lender is exposed to;
- Value of the security;
- Term;
- Repayment schedule; and
- Amount of loan.

We have not identified any unfair loans.

9.5.4 Discharge of Related Party Debts (S588FH)

A transaction is considered to have discharged a related party's debt if funds from the Company are used to pay that Creditor which has had the effect of discharging, to the extent of a particular amount, a liability (whether under a guarantee or otherwise) of a related entity the Company.

We have not identified any such payments.

9.5.5 Transactions for the Purpose of Defeating Creditors (S588FE)

Transactions involving the removal or concealment of assets of the Company for the purpose of preventing the Liquidators from realising their value are voidable transactions and are recoverable by Liquidators. These actions may constitute fraud by the director or any other person.

We have not identified any such transactions.

9.5.6 Unreasonable Director Related Transactions (S588FDA)

A transaction is an unreasonable Director-related transaction of the Company if:

- The transaction is a payment, a conveyance, transfer or disposition of property, the issue of securities, or incurring of an obligation to make a payment, disposition or issue by the Company.
- The transaction is to a Director or close associate of the Director or for their benefit.
- A reasonable person in the Company's circumstances would not have entered into the transaction having regard to the benefit or detriment to the Company or other parties involved in the transaction.

Our investigation of the Company's financial statements indicates that the below dividends were paid:

Year	Amount (\$)
FY2017	1,800,000
FY2018	185,000
FY2019	19,404

The Company's financials record that it had sufficient retained earnings and net assets to declare the dividend of \$1.8M in FY2017, leaving a net asset surplus of \$65K. However, the following year, the Company reported substantial trading losses and when the dividends of \$185K and \$19K were paid the Company had a negative net asset position. Pursuant to s254T of the Corporations Act 2001, there are

various limbs which need to be met in order to declare a dividend, which in our view were not satisfied. Accordingly, this transaction may constitute an unreasonable director related transactions and/or a breach of duties as to reasonable care and diligence. We will consider pursuing recovery, subject to the respective financial positions of the Directors.

As noted above in Section 9.4.3, the Company advanced further loans to related parties, totalling circa \$2.4M, which would otherwise have been available funds for the benefit of creditors. It also appears that some of these loans were incorrectly recorded in the Company's books as expenses. The funds were advanced to related parties where one of the Directors is also a shareholder and/or majority shareholder of these related parties. In addition to potential breaches of director duties in terms of use of position requirements, these transactions may also be regarded as unreasonable director related transactions and we will consider pursuing recovery.

Any recovery in relation to these transactions is subject to the financial position of the Directors. We have requested a statutory declaration from both Directors confirming their respective financial positions, however neither Director has responded to date. We do not have a view on recovery prospects at this time.

9.5.7 Circulating Security Interests Created Within Six Months before the Relation-Back Day (\$588FJ)

A circulating security interest in property of the company created within six months before the relation-back day may be void against a Liquidator. However, circulating security interests that are created within this period for consideration paid at or after the date of creation remains valid.

We have not identified any such security interests that may be void as against a liquidator.

9.6 REPORTING TO ASIC

We are required to complete an investigation into the Company's affairs and, if offences are identified, or if the Company is unable to pay its Creditors more than fifty (50) cents in the dollar, lodge a report with ASIC pursuant to Section 533 of the Act.

In the near term, we intend to submit a confidential report to the ASIC pursuant to Section 533(1) of the Act, detailing our investigations into the affairs of the Company and the conduct of the Directors. The report is confidential and is not available to creditors.

10 ESTIMATED RETURN TO CREDITORS

Based on information to date, without any recovery of the assets or voidable transactions noted above in Section 9.5 there will not be any dividends available for any class of creditors in this Liquidation.

However, if the aforementioned recoveries are successful, then priority (employee) creditors could receive a dividend of up to 100 cents in the dollar, and unsecured creditors up to 40 cents in the dollar. In arriving at these optimistic estimates, we have assumed prompt recovery from the Directors without litigation and modest costs being incurred.

If any parties have an interest in funding the Liquidation to pursue these recoveries, or alternatively, wish to acquire the various choses in action to pursue themselves, they should contact Mr Chris Garvey from our office by 15 September 2021.

11 LIQUIDATOR'S RECEIPTS AND PAYMENTS

Attached as **Annexure "4"** is a summary of the receipts and payments during the Liquidation period from 20 April 2021 to date.

The Liquidators are required to lodge a statement of account annually during the Liquidation. To date, we have not lodged same but will proceed to do so in accordance with the statutory timeframe.

12 LIQUIDATOR'S REMUNERATION

By way of proposals in lieu of a meeting, creditors approved our remuneration in respect of the Liquidation for \$109K (plus GST). Unless, we are provided with further substantial information that would impact the liquidation, we estimate the total cost of the administration will be approximately \$350K-\$400K. This exceeds our estimate of costs as disclosed in our Initial Remuneration Notice dated 30 April 2021, as a result of identifying potential voidable transactions that require further investigations. Further, as noted in Section 7.1.4, we have identified significant related party loans which were not clearly identified in the accounts and required further investigation.

At this stage, we do not intend to seek approval from creditors for further remuneration. If further significant work is required in respect of the voidable transactions, resulting in recoveries, then we will report to creditors and seek additional remuneration approval.

For Creditors' information, ASIC information sheets that relate to specific circumstances once an insolvency practitioner is appointed to a Company and approval of remuneration can be found at the following websites:

- <https://asic.gov.au/regulatory-resources/insolvency/insolvency-information-for-directors-employees-creditors-and-shareholders/>
- https://www.arita.com.au/ARITA/Insolvency_help/Insolvency-explained.aspx

13 TASKS REQUIRED IN THE LIQUIDATION

As detailed above, we anticipate that the following matters will be dealt with during the Liquidation moving forward:

- Pursue recovery of related party debts, or confirm that the related parties financial positions are insufficient to repay the related party loans;
- Continue to collect the trade debtors, or close out those that are unviable to pursue;
- Further investigations regarding the recoverability of the prepayments;

- Further investigations regarding the dividends paid by the Company from FY2017 to FY2019 and consider pursuing recovery;
- If related party debts are unrecoverable, consider unreasonable director-related transactions and/or breach of director duties claims against the Directors for the related party debts;
- Lodge EX01 Report with ASIC and await response;
- Conduct further investigations, if necessary, subject to further information from creditors and funding;
- Correspondence with creditors;
- Statutory lodgements; and
- Finalisation.

Should any creditor or interested party have any relevant information that they wish to provide us, they are requested to contact our office before 15 September 2021. In the event that the voidable transaction recoveries are not successful, then we anticipate the Liquidation could be finalised within the next twelve (12) months. In those circumstances, this will likely be the final communication to creditors in this Liquidation.

14 CREDITORS' RIGHTS

Pursuant to Clauses 70-40, 70-45, 75-15, 85-5, 90-24 and 90-35 of the Insolvency Practice Schedule (Corporations) and Rule 70-30 of the Insolvency Practice Rules (Corporations) 2016, we are required to give certain information to creditors as to their rights in the administration.

Accordingly, we attach as **Annexure "5"** further information regarding 'Creditor Rights in Liquidations'.

15 FURTHER INFORMATION

We attach as **Annexure "6"** an ASIC information sheet entitled "Insolvency information for directors, practitioners, employees, creditors and investors". This publication provides basic information about the different types of external administrations, including Liquidation, and reference to further sources of information available on the ASIC website at www.asic.gov.au.

ARITA has issued a creditor information sheet "Offences, Recoverable Transactions and Insolvent Trading" providing further information about voidable transactions. This information sheet is attached as **Annexure "7"**.

Please note that we 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 the Company. Creditors are encouraged to visit <https://insolvenynotices.asic.gov.au> throughout the liquidation to view any notices which may be published by the Liquidator in respect of the Company. These notices include:

- notices relating to appointments

- ▶ notices of meetings of creditors
- ▶ notices calling for proofs of debt and intention to declare dividends

QUERIES

The BRI Ferrier staff member responsible for this matter is as follows:

- ▶ BRI Contact: Ms Jenny Kwok or Mr Chris Garvey
- ▶ Phone: (02) 8263 2300
- ▶ Email: nexus@brifnsw.com.au
- ▶ Mailing: GPO Box 7079, Sydney NSW 2001
- ▶ Facsimile: (02) 8263 2399

Yours faithfully,

NEXUS HOLIDAYS PTY LTD (IN LIQUIDATION)



JONATHON KEENAN

Liquidator

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

**Nexus Holidays Pty Ltd
(In Liquidation)
ACN 124 885 356**

**Annexure "1"
Comparative Financial Statements**

Nexus Holidays Pty Ltd (In Liquidation)
A.C.N. 124 885 356
Balance Sheet
For the Financial Years Ended 30 June 2017 to Part Year Ended 20 April 2021

	As at 30/06/2017 (\$)	As at 30/06/2018 (\$)	As at 30/06/2019 (\$)	As at 30/06/2020 (\$)	As at 20/04/2021 (\$)
ASSETS					
Current Assets					
Cash and Cash Equivalents	1,791,265	1,257,378	3,299,280	342,870	222,867
Trade & Other Receivables					
Trade Debtors	1,415,973	784,433	555,890	526,065	646,796
Other receivables	8,893	72,340	80,000	32,000	4,000
Current Tax Assets	32,468	112,906	145,175	-	-
Prepayments	3,395,011	4,901,314	4,947,122	1,127,880	840,198
Related Party Loans					
Shanghai Yilian China	367,202	256,202	256,202	256,202	256,202
Nexus China	39,156	-	-	197,262	201,113
Nexus UK	-	-	-	186,379	186,379
Director Loan	36,613	19,404	-	-	-
Total Current Assets	7,086,581	7,403,977	9,283,669	2,668,658	2,357,555
Non-Current Assets					
Rental Bond	31,618	34,444	41,144	41,144	1,882
Plant & Equipment					
Motor Vehicles	205,632	309,544	64,316	787	787
Office Furniture and Equipment	48,003	44,591	35,840	35,840	35,840
Intangible Assets	800	800	800	800	800
Total Non Current Assets	286,053	389,379	142,100	78,571	39,309
TOTAL ASSETS	7,372,634	7,793,356	9,425,769	2,747,229	2,396,864
LIABILITIES					
Current Liabilities					
Priority Creditors	9,320	-	-	-	-
Unsecured Creditors					
Client Prepayments	6,242,714	6,978,230	8,939,672	2,630,204	2,467,915
Trade Creditors	675,444	1,265,731	1,679,787	413,355	402,969
Australian Taxation Office	121,369	110,766	220,089	181,412	194,198
Other Accruals	72,617	20,062	67,020	297,528	-
Car Loan	21,260	25,099	25,435	-	-
Related Party Loans					
Employee Loan	42,189	95,168	95,168	95,168	95,168
Nexus China	-	47,013	-	-	-
Nexus US	-	855	-	-	-
Total Current Liabilities	7,184,913	8,542,924	11,027,171	3,617,666	3,160,250
Non-Current Liabilities					
Car Loan	122,173	98,919	73,484	-	-
Total Other Liabilities	122,173	98,919	73,484	-	-
TOTAL LIABILITIES	7,307,086	8,641,843	11,100,655	3,617,666	3,160,250
NET ASSETS	65,548	(848,487)	(1,674,886)	(870,438)	(763,386)
EQUITY					
Issued Capital	50,000	50,000	50,000	50,000	50,000
Dividend Paid	(1,800,000)	(185,000)	(19,404)	-	-
Retained Earnings	1,534,191	65,548	(848,487)	(1,674,886)	(870,438)
Current Year Earnings	281,357	(729,035)	(806,995)	804,449	107,051
Total Equity	65,548	(848,487)	(1,674,886)	(870,438)	(763,386)

Nexus Holidays Pty Ltd (In Liquidation)
A.C.N. 124 885 356
Comparative Profit and Loss Statements
For the Financial Years Ended 30 June 2017 to Part Year Ended 20 April 2021

	Year ended 30/06/2017	Year ended 30/06/2018	Year ended 30/06/2019	Year ended 30/06/2020	Period ended 20 April 2021
	(\$)	(\$)	(\$)	(\$)	(\$)
Income	30,879,268	38,978,004	39,781,152	21,287,692	180,170
Less: Cost of Sales	(25,709,554)	(35,220,142)	(36,985,299)	(18,524,450)	27,507
Gross Profit	5,169,714	3,757,862	2,795,853	2,763,242	207,677
Other Income	100,691	513,060	377,118	411,087	525,935
Expenses					
Accounting Fees	316,014	50,448	42,775	46,350	-
Advertising	932,950	981,127	444,858	87,927	70
Auditors Remuneration	-	1,200	-	-	-
Bank Merchant Fees	27,172	45,587	67,772	26,307	343
Bank Charges	6,753	13,755	(1,151)	1,467	752
Bad Debts Written Off	-	99,193	29,368	(11,913)	-
Business Conference	20,507	-	64	6,531	-
Consultancy Fees	-	1,020	-	-	-
Debt Collection	4,877	11,589	1,353	12,054	-
Delivery Costs	4,687	95	8,405	1,136	-
Depreciation Expense	75,581	77,234	65,918	1,001	-
Directors' Fees	175	-	-	-	-
Electricity	12,506	15,231	14,122	11,931	1,758
Employee Amenities	22,372	27,264	21,815	13,057	(88)
Entertainment Expenses	15,416	3,850	263	1,448	-
Fringe Benefit Tax	19,594	2,634	-	1,974	-
Fines & Penalties	6,431	24,298	3,619	5,525	-
General Expenses	37,704	22,333	36,383	36,164	(2,252)
Insurance	42,479	47,916	52,046	861	269
IT Support Expenses	21,270	48,899	55,809	20,568	18,084
Interest Paid	13,539	10,446	11,314	-	-
Legal Costs	1,230	-	-	-	-
Motor Vehicle Expenses	128,900	77,209	85,241	9,960	-
Payroll Tax	100,270	102,548	53,310	42,167	(7,905)
Postage	2,027	1,763	-	-	1
Printing & Stationery	99,748	56,799	42,153	30,572	-
Product Familiarisation	85,667	37,281	1,120	-	-
Registration Fees	667	2,449	280	267	-
Rent	153,709	141,949	162,830	141,671	72,058
Repairs & Maintenance	768	705	751	1,704	150
Recruitment	-	-	-	285	-
Staff Training	7,754	3,694	3,119	3,877	-
Service Fee	43,548	19,874	26,736	(3,263)	21,893
Subscriptions	545	195	-	-	-
Superannuation Contribution	212,120	213,731	180,809	138,903	24,201
Telephone & Internet	86,137	71,761	70,921	55,682	26,376
Travelling Expenses	28,980	31,468	56,772	3,859	84
Wages	2,278,438	2,407,313	2,005,214	1,563,996	470,768
Wuxi Shared Expenses	109,557	347,061	435,977	117,813	-
China Office expenses	-	38	-	-	-
Total Expenses	4,920,092	4,999,957	3,979,966	2,369,880	626,561
Profit / (Loss) Before Income Tax	350,313	(729,035)	(806,995)	804,449	107,051
Income Tax Expense	(68,956)	-	-	-	-
Profit / (Loss) After Income Tax	281,357	(729,035)	(806,995)	804,449	107,051

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**Nexus Holidays Pty Ltd
(In Liquidation)
ACN 124 885 356**

**Annexure "2"
Formal Proof of Debt with Request
to Receive Electronic
Communications**

FORMAL PROOF OF DEBT OR CLAIM (GENERAL FORM)

To the Joint and Several Liquidators of Nexus Holidays Pty Ltd (In Liquidation) ACN 124 885 356

1. This is to state that the company was, on 20 April 2021 ⁽¹⁾ and still is, justly and truly indebted to⁽²⁾ (full

name):
('Creditor')

.....
of (full address)
for \$.....dollars and.....cents.

Particulars of the debt are (please attach documents to support your claim e.g. purchase orders, invoices, interest schedules):

Date	Consideration ⁽³⁾ state how the debt arose	Amount \$ (Incl. GST)	Remarks ⁽⁴⁾ 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 ⁽⁵⁾
- I am a related creditor of the Company ⁽⁵⁾
relationship:

3A. ^{(6)*} 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. ^{(6)*} 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.

<input type="checkbox"/>	<p>I authorise the External Administrators' (whether as Voluntary Administrators/Deed Administrators/Liquidators) on behalf of the Company and his or her employees and agents to send and give electronic notification of documents in accordance with Section 600G of the Corporations Act 2001 to the following email address:</p> <p>Contact Name:</p> <p>Email Address:</p>
--------------------------	--

DATED this.....day of.....2021...

NAME IN BLOCK LETTERS

Occupation.....

Address.....

Signature of Signatory

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	\$
Reason for Admitting / Rejection			
PREP BY/AUTHORISED		TOTAL PROOF	\$
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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**Nexus Holidays Pty Ltd
(In Liquidation)
ACN 124 885 356**

**Annexure "3"
Deficiency Statement**

Nexus Holidays Pty Ltd (In Liquidation)

A.C.N. 124 885 356

Summary of Director's Report on Company Activities and Property

	Book Value as at 20/4/2021 (\$)	Directors' ERV (per ROCAP) (\$)	Liquidators' ERV (\$)	Deficiency (\$)
Assets				
Cash and Cash Equivalents				
Cash at Bank	150,840	-	14,071	
Term Deposit	56,735	56,735	57,399	
Other	15,292	12,065	11,955	
Credit Cards	6,829	3,729	-	
Debtors				
Trade Debtors	646,796	81,027	Unknown	
Other Receivables	4,000	-	-	
Nexus China	201,113	-	Unknown	
Nexus UK	186,379	-	Unknown	
Nexus Shanghai	256,202	-	Unknown	
Nexus Toronto	-	75,000	Unknown	
Nexus Russia	-	-	Unknown	
Nexus Vancouver	-	-	Unknown	
Nexus New York	-	-	Unknown	
Employee	-	100,000	Unknown	
Rental Bond	1,882	1,882	1,882	
Booking Refunds	-	8,947	Unknown	
Plant & Equipment	36,627	-	3,400	
Prepayments	806,393	-	Unknown	
Total Assets	2,369,087	339,384	88,707	
Liabilities				
Priority Creditors	(1)	503,811	527,746	
Unsecured Creditors:				
Trade Creditors	400,647	337,004	705,785	
Australian Taxation Office	193,744	3,341	3,341	
Customer Bookings	2,442,460	2,133,599	2,520,635	
Related Party Creditors:				
Nexus China	-	36,551	Unknown	
Nexus Shanghai	-	32,062	Unknown	
Nexus Toronto	-	288,611	Unknown	
Employee Loan	95,168	150	95,318	
Total Liabilities	3,132,019	3,335,129	3,852,826	
Estimated Net Asset / (Deficiency)	(762,932)	(2,995,744)	(3,764,119)	3,764,119

Nexus Holidays Pty Ltd (In Liquidation)
A.C.N. 124 885 356
Deficiency Statement

	Amount (\$)	Amount (\$)
Deficiency of Assets to Liabilities		3,764,119
Add: Loss of Share Capital	50,000	
Estimated Total Deficiency of Assets to meet Liabilities		3,814,119

These losses are represented by:

a) Accumulated Losses

Retained Losses as at 30 June 2020	919,983	
Current Year Profit to 31 March 2021	(107,051)	
		812,932

b) Estimated Loss on Realisation of Assets disclosed in RATA

	Book Value as at 20/4/2021 (\$)	Liquidators' ERV (\$)	Loss on Realisation (\$)	
Asset				
Cash and Cash Equivalents				
Cash at Bank	150,840	14,071	136,769	
Term Deposit	56,735	57,399	(664)	
Other	15,292	11,955	3,337	
Credit Cards	6,829	-	6,829	
Debtors	-	-	-	
Trade Debtors	646,796	Unknown	646,796	
Other Receivables	4,000	-	4,000	
Nexus China	201,113	Unknown	201,113	
Nexus UK	186,379	Unknown	186,379	
Nexus Shanghai	256,202	Unknown	256,202	
Nexus Toronto	-	Unknown	-	
Nexus Russia	-	Unknown	-	
Nexus Vancouver	-	Unknown	-	
Nexus New York	-	Unknown	-	
Employee	-	Unknown	-	
Rental Bond	1,882	1,882	-	
Booking Refunds	-	Unknown	-	
Plant & Equipment	36,627	3,400	33,227	
Prepayments	806,393	Unknown	806,393	
Total	2,369,087	88,707	2,280,380	2,280,380

c) Increase in Creditor Claims not disclosed in Balance Sheet

	Book Value as at 20/4/2021 (\$)	Liquidators' ERV (\$)	Unreported Liabilities (\$)	
Liabilities				
Priority Creditors	(1)	527,746	527,747	
Unsecured Creditors:				
Trade Creditors	400,647	705,785	305,138	
Australian Taxation Office	193,744	3,341	(190,403)	
Customer Bookings	2,442,460	2,520,635	78,175	
Related Party Creditors:				
Nexus China	-	Unknown	-	
Nexus Shanghai	-	Unknown	-	
Nexus Toronto	-	Unknown	-	
Employee Loan	95,168	95,318	150	
Total	3,132,019	3,852,826	720,807	720,807

Deficiency as Above

3,814,119

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**Nexus Holidays Pty Ltd
(In Liquidation)
ACN 124 885 356**

**Annexure "4"
Summary Receipts & Payments**

Summarised Receipts & Payments

Nexus Holidays Pty Ltd

(In Liquidation)

Transactions From 20 April 2021 To 19 July 2021

Account	Net	GST	Gross
Sundry Debtors (B)	140.00	0.00	140.00
Cash on Hand	11,205.00	0.00	11,205.00
Cash at Bank	71,470.40	0.00	71,470.40
Rental Bond Recovery	1,881.69	0.00	1,881.69
Indemnity Funding	6,000.00	0.00	6,000.00
FEG Verification Services Fee	7,410.00	741.00	8,151.00
Total Receipts (inc GST)	\$98,107.09	\$741.00	\$98,848.09
Bank Charges	18.83	0.00	18.83
Professional Fees	1,000.00	100.00	1,100.00
Bank Charges	2.50	0.00	2.50
Website Maintenance	2,551.90	255.19	2,807.09
Total Payments (inc GST)	\$3,573.23	\$355.19	\$3,928.42
Balance in Hand - By Bank Account			
212 Cheque Account			94,919.67
			\$94,919.67

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**Nexus Holidays Pty Ltd
(In Liquidation)
ACN 124 885 356**

**Annexure "5"
ARITA Information Sheet – Creditor
Rights in Liquidations**

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.

Specific queries about the liquidation should be directed to the liquidator's office.

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.

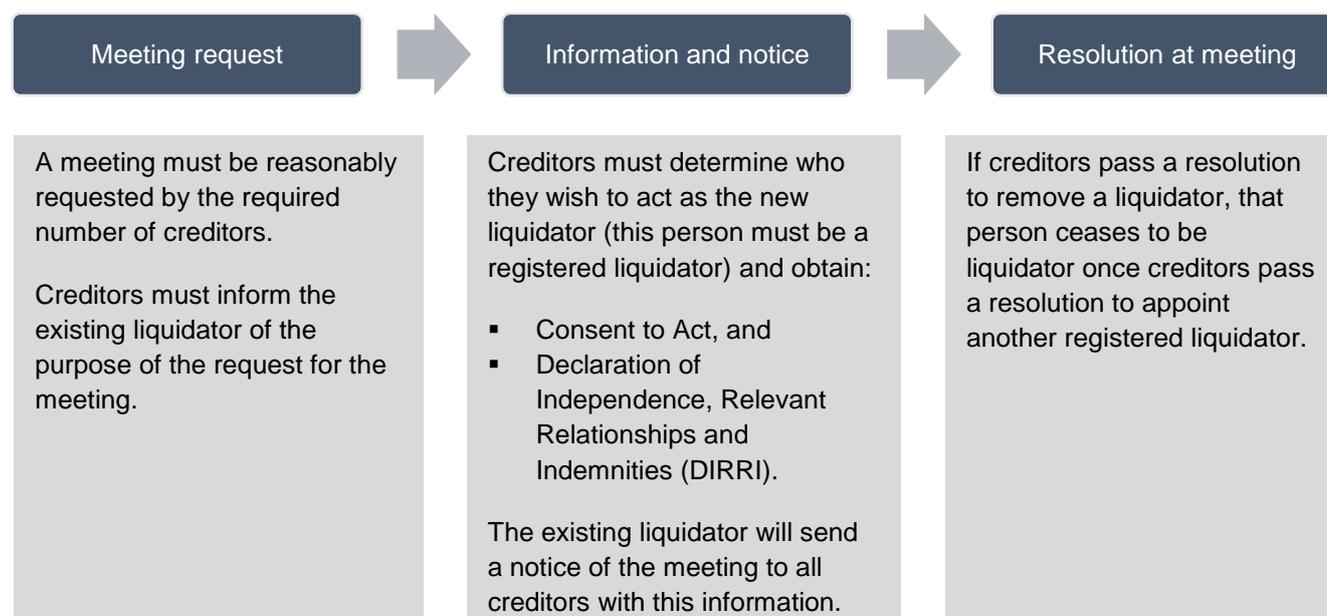
The cost of the reviewing liquidator is paid from the assets of the liquidation, in priority to creditor claims.

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.
Specific queries about the liquidation should be directed to the liquidator's office.**

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**Nexus Holidays Pty Ltd
(In Liquidation)
ACN 124 885 356**

**Annexure "6"
ASIC Information Sheet**



ASIC

Australian Securities & Investments Commission

Insolvency information for directors, employees, creditors and shareholders

This information sheet (INFO 39) lists ASIC's information sheets for directors, employees, creditors and shareholders affected by a company's insolvency.

We have produced these with endorsement from the Australian Restructuring Insolvency & Turnaround Association (ARITA).

The information sheets give a basic understanding of the three most common company insolvency procedures – liquidation, voluntary administration and receivership – as well as the independence requirements for external administrators and approving external administrator remuneration. There is also a glossary of commonly used insolvency terms.

List of information sheets

- [INFO 41](#) Insolvency: A glossary of terms
- [INFO 42](#) Insolvency: A guide for directors
- [INFO 43](#) Insolvency: A guide for shareholders
- [INFO 45](#) Liquidation: A guide for creditors
- [INFO 46](#) Liquidation: A guide for employees
- [INFO 54](#) Receivership: A guide for creditors
- [INFO 55](#) Receivership: A guide for employees
- [INFO 74](#) Voluntary administration: A guide for creditors
- [INFO 75](#) Voluntary administration: A guide for employees
- [INFO 84](#) Independence of external administrators: A guide for creditors
- [INFO 85](#) Approving fees: A guide for creditors

Where can I get more information?

Further information is available from the [ARITA website](#). The ARITA website also contains the [ARITA Code of Professional Practice for Insolvency Practitioners](#).

This is **Information Sheet 39 (INFO 39)** updated on 1 September 2017. Information sheets provide concise guidance on a specific process or compliance issue or an overview of detailed guidance.

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**Nexus Holidays Pty Ltd
(In Liquidation)
ACN 124 885 356**

**Annexure "7"
ARITA Information Sheet –
Offences, Recoverable Transactions
and Insolvent Trading**

Creditor Information Sheet

Offences, Recoverable Transactions and Insolvent Trading



Offences

A summary of offences under the Corporations Act that may be identified by liquidators or administrators:

180	Failure by company officers to exercise a reasonable degree of care and diligence in the exercise of their powers and the discharge of their duties.
181	Failure to act in good faith.
182	Making improper use of their position as an officer or employee, to gain, directly or indirectly, an advantage.
183	Making improper use of information acquired by virtue of the officer's position.
184	Reckless or intentional dishonesty in failing to exercise duties in good faith for a proper purpose. Use of position or information dishonestly to gain advantage or cause detriment. This can be a criminal offence.
198G	Performing or exercising a function or power as an officer while a company is under administration.
206A	Contravening a court order against taking part in the management of a corporation.
206A, B	Taking part in the management of corporation while being an insolvent, for example, while bankrupt.
206A, B	Acting as a director or promoter or taking part in the management of a company within five years after conviction or imprisonment for various offences.
209(3)	Dishonest failure to observe requirements on making loans to directors or related companies.
254T	Paying dividends except out of profits.
286	Failure to keep proper accounting records.
312	Obstruction of an auditor.
314-7	Failure to comply with requirements for the preparation of financial statements.
437D(5)	Unauthorised dealing with company's property during administration.
438B(4) / 475(9) / 497(4) / 530A – 530B	Failure by directors to assist, deliver records and provide information.
438C(5) / 477(3) / 530B	Failure to assist, deliver up books and records and provide information.
588G	Incurring liabilities while insolvent
588GAB	Officer's duty to prevent creditor-defeating disposition
588GAC	A person must not procure a company to make a creditor-defeating disposition
590	Failure to disclose property, concealed or removed property, concealed a debt due to the company, altered books of the company, fraudulently obtained credit on behalf of the company, material omission from Report as to Affairs or false representation to creditors.
596AB	Entering into an agreement or transaction to avoid employee entitlements.

Recoverable Transactions

Preferences

A preference is a transaction, such as a payment by the company to a creditor, in which the creditor receiving the payment is preferred over the general body of creditors. The relevant period for the payment commences six months before the commencement of the liquidation. The company must have been insolvent at the time of the transaction, or become insolvent because of the transaction.

Where a creditor receives a preference, the payment is voidable as against a liquidator and is liable to be paid back to the liquidator subject to the creditor being able to successfully maintain any of the defences available to the creditor under the Corporations Act.

Creditor-defeating disposition

Creditor-defeating dispositions are the transfer of company assets for less than market value (or the best price reasonably obtainable) that prevents, hinders or significantly delay creditors' access to the company's assets in liquidation. Creditor-defeating dispositions are voidable by a liquidator.

Uncommercial Transaction

An uncommercial transaction is one that it may be expected that a reasonable person in the company's circumstances would not have entered into, having regard to the benefit or detriment to the company; the respective benefits to other parties; and any other relevant matter.

To be voidable, an uncommercial transaction must have occurred during the two years before the liquidation. However, if a related entity is a party to the transaction, the period is four years and if the intention of the transaction is to defeat creditors, the period is ten years. The company must have been insolvent at the time of the transaction, or become insolvent because of the transaction.

Unfair Loan

A loan is unfair if and only if the interest was extortionate when the loan was made or has since become extortionate. There is no time limit on unfair loans – they only must be entered into before the winding up began.

Arrangements to avoid employee entitlements

If an employee suffers loss because a person (including a director) enters into an arrangement or transaction to avoid the payment of employee entitlements, the liquidator or the employee may seek to recover compensation from that person or from members of a corporate group (Contribution Order).

Unreasonable payments to directors

Liquidators have the power to reclaim '*unreasonable payments*' made to directors by companies prior to liquidation. The provision relates to payments made to or on behalf of a director or close associate of a director. The transaction must have been unreasonable, and have been entered into during the 4 years leading up to a company's liquidation, regardless of its solvency at the time the transaction occurred.

Voidable charges

Certain charges over company property are voidable by a liquidator:

- circulating security interest within six months of the liquidation, unless it secures a subsequent advance
- unregistered security interests
- security interests in favour of related parties who attempt to enforce the security within six months of its creation.

Insolvent trading

In the following circumstances, directors may be personally liable for insolvent trading by the company:

- a person is a director at the time a company incurs a debt;
- the company is insolvent at the time of incurring the debt or becomes insolvent because of incurring the debt;
- at the time the debt was incurred, there were reasonable grounds to suspect that the company was insolvent;
- the director was aware such grounds for suspicion existed; and
- a reasonable person in a like position would have been so aware.

The law provides that the liquidator, and in certain circumstances the creditor who suffered the loss, may recover from the director, an amount equal to the loss or damage suffered. Similar provisions exist to pursue holding companies for debts incurred by their subsidiaries.

A defence is available under the law where the director can establish:

- there were reasonable grounds to expect that the company was solvent and they did so expect;
- they did not take part in management for illness or some other good reason; or
- they took all reasonable steps to prevent the company incurring the debt.

The proceeds of any recovery for insolvent trading by a liquidator are available for distribution to the unsecured creditors before the secured creditors.

Important note: This information sheet contains a summary of basic information on the topic. It is not a substitute for legal advice. Some provisions of the law referred to may have important exceptions or qualifications. This document may not contain all of the information about the law or the exceptions and qualifications that are relevant to your circumstances.