



SUPPLEMENTARY SECOND REPORT TO CREDITORS

EARLWOOD SMASH REPAIRS PTY. LIMITED

ACN 056 358 233

(ADMINISTRATORS APPOINTED)

("THE COMPANY")

20 February 2024

ANDREW CUMMINS

PETER KREJCI

Joint and Several Administrators

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INTRODUCTION

We refer to previous correspondence regarding the Company, in particular, our Second Report to Creditors dated 13 December 2023 ("Previous Report") and provide creditors with an update on the matter.

The objective of Part 5.3A of the Act is to provide for the business, property and affairs of an insolvent (or likely to become insolvent) company to be administered in a way that maximises the chances of the company, or as much as possible of its business, continuing in existence, or, if this is not possible, results in a better return for the company's creditors than would result from an immediate winding up of the company.

Section 438A of the Act requires that, as soon as practicable, the Administrators must investigate the business, property, affairs and financial circumstances of the Companies and form an opinion about each of the following matters:

- ▲ Whether it would be in the Creditors' interests for the Companies to execute a DOCA;
- ▲ Whether it would be in the Creditors' interests for the Administrations to end; and
- ▲ Whether it would be in the Creditors' interests for the Companies to be wound up.

This is a supplementary report which should be read in conjunction with our Previous Report. If you have any questions relating to this administration, please do not hesitate to contact this office.

Creditors can find copies of all previous reports regarding this appointment on our website <https://www.briferrier.com.au/>

COMPANY DETAILS

Name	Earlwood Smash Repairs Pty. Limited
Incorporated	4 June 1992
ACN/ABN	056 358 233/64 056 358 233
Registered Office	Commercial Associates Level 11, 117 Clarence Street Sydney NSW 2000
Trading Address	419-431 Canterbury Road Campsie NSW 2194

ADMINISTRATORS

Name	Andrew Cummins and Peter Krejci
Date Appointed	22 November 2023

ADMINISTRATION CONTACT

Name	Mankirth Mandair
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EXECUTIVE SUMMARY

On 22 November 2023, we, Andrew Cummins and Peter Krejci were appointed Joint and Several Administrators of the Company pursuant to Section 436A of the Corporations Act.

This report should be read in conjunction with our Previous Report. We will not restate matters contained in the Previous Report, unless there are updates required.

Pursuant to Section 439A of the Act, we convened the Second Meeting of Creditors on Thursday, 21 December 2023 at 11:00AM AEDT. The meeting was adjourned for up to forty-five (45) business days to allow further time for a Deed of Company Arrangement ("DOCA") to be explored.

The resumption of the Second Meeting of Creditors has been convened for Wednesday, 28 February 2024 at 3:00PM (AEDT). Attached as **Annexure "1"** is the Notice of the Resumption of the Second Meetings of Creditors. The meeting will be held, both in person and virtually for the convenience of creditors.

We provide below a summary of the matter.

We have had discussions with the director's advisor to explore whether a DOCA will be proposed for creditors' consideration. On 16 February 2024, we received a DOCA proposal from the Director and subsequently on 19 February 2024 were provided with an updated version. The DOCA proposal is included herein together with our analysis.

We have encountered some difficulties in securing the books and records of the Company. The books and records received to date were not sufficient to conduct a proper investigation into the affairs of the Company. Access to a Xero file, (provided for a very short period of time) indicated that the management accounts were intermingled with BAR and possibly other related entities. This was confirmed by the Company's external accountant and subsequently our access was removed. We have been advised to also delete copies of the FY23 Balance Sheet, Profit and Loss Statement and General Ledger Summary received as this was generated from the same Xero records.

The absence of adequate books and records meant that it has not been possible to conduct meaningful analysis or identify and quantify any voidable transactions. Further investigation is warranted on issues such as the commerciality of the sale of business, payment of service charges, clarity as to the legal entity operating the business, and the potential existence of shadow directors.

The Director wishes to put forward a proposal which will be in creditors' interests. We believe that the uncertainty of successful recoveries in the liquidation scenario due to the lack of books and records provided thus far means that creditors are currently unable to determine whether it is in their interest for the DOCA proposal to be accepted. The DOCA proposal provides that the Director will arrange for the company's external accountant to address the issue of outstanding lodgements and finalise the Company's financial statements. Additionally, the DOCA requires that the Deed Administrators conduct further investigations and report the results of same to creditors. Finally, a

further meeting will be held within 60 days of the execution of the DOCA to allow creditors to resolve to either terminate the DOCA or accept some amendment to it.

The DOCA also seeks to bind the Director to pay any outstanding Director Penalties to the Deputy Commissioner of Taxation within 12 months of the execution of the DOCA.

These provisions attempt to provide certainty in quantifying the liquidators' actions and addressing the issues around the investigations noted in this and Previous Reports. This will provide the Deed Administrator with meaningful information to conduct further investigations and provide a revised recommendation (if justified).

We therefore believe there is a sound basis for Creditors to resolve to accept the DOCA proposal. Accordingly, we recommend that creditors resolve that the Company execute the proposed the DOCA.

Should creditors choose to vote in favour of the DOCA proposal, the Deed Administrators will convene a meeting within 60 days of the DOCA execution to allow creditors to consider the Deed Administrators' further report and determine if the DOCA should be terminated.

Summary of Return to Creditors	DOCA		Liquidation	
	High Cents/\$	Low Cents/\$	High Cents/\$	Low Cents/\$
Secured Creditors	N/A	N/A	N/A	N/A
Priority Creditors	100.00	100.00	100.00	-
Unsecured Creditors	2.80	2.26	11.67	-

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GLOSSARY OF COMMON ACRONYMS & ABBREVIATIONS

ABN	Australian Business Number
ACN	Australian Company Number
Act	Corporations Act 2001 (Cth)
ARITA	Australian Restructuring Insolvency and Turnaround Association
ANZ	Australia and New Zealand Banking Group Limited
ASIC	Australian Securities and Investments Commission
ATO	Australian Taxation Office
BAR	Bespoke Accident Replacement Pty Ltd
COI	Committee of Inspection
CVL	Creditors Voluntary Liquidation
Company	Earlwood Smash Repairs Pty. Limited
DIRRI	Declaration of Independence, Relevant Relationships & Indemnities
DOCA	Deed of Company Arrangement
DPN	Director Penalty Notice
Department	Department of Employment and Workplace Relations
Director	Antonia Bell
FEG	Fair Entitlements Guarantee
First Report	First Report to Creditors issued on 24 November 2023
Former Director	Derek Bell
Firm	BRI Ferrier
GST	Goods and Services Tax
IPR	Insolvency Practice Rules (Corporations) 2016
IPS	Insolvency Practice Schedule (Corporations) 2016
NSW	New South Wales
PAYG	Pay As You Go Withholding
POD	Proof of Debt
PPSR	Personal Properties Securities Register
ROCAP	Report on Company Activities and Property
Previous Report	Second Report to Creditors issued on 13 December 2023
SGC	Superannuation Guarantee Charge
VA	Voluntary Administration

1 PURPOSE OF THE REPORT

The objective of Part 5.3A of the Corporations Act (“the Act”) is to provide for the business, property and affairs of an insolvent (or likely to become insolvent) company to be administered in a way that maximises the chances of the company, or as much as possible of its business, continuing in existence, or, if this is not possible, results in a better return for the company’s creditors than would result from an immediate winding up of the company.

Section 438A of the Act requires that, as soon as practicable, the Administrators must investigate the Company’s business, property, affairs and financial circumstances and form an opinion about each of the following matters:

- Whether it would be in the Creditors’ interests for the Company to execute a DOCA;
- Whether it would be in the Creditors’ interests for the Administration to end; and
- Whether it would be in the Creditors’ interests for the Company to be wound up.

This supplementary report is a summarised update to creditors, where a DOCA has now been proposed by the Director.

2 DISCLAIMER

This Report and the statements made herein are based upon available books and records, information provided by the Company’s Director, 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 recommendations, we have necessarily made forecasts and estimates of asset realisations and the ultimate quantum of Creditors’ claims against the Company where appropriate. These forecasts and estimates may change as asset realisations progress and as Creditors’ claims are made and adjudicated upon. Whilst the forecasts and estimates are the Administrators’ 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 Administrators 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.

Should any Creditor have material information in relation to the Company’s affairs which they consider may impact on our investigation or Reports, please forward the details to our office as soon as possible.

3 DECLARATION OF INDEPENDENCE, RELEVANT RELATIONSHIPS AND INDEMNITIES

A Declaration of Independence, Relevant Relationships and Indemnities pursuant to Section 436DA of the Act was enclosed in the First Report. There is no update required to the DIRRI.

4 PREVIOUS REPORTS AND CREDITORS MEETINGS

4.1 PREVIOUS REPORTS TO CREDITORS

This report should be read in conjunction with our previous reports issued in this matter:

- ▲ First Report to Creditors dated 24 November 2023.
- ▲ Second Report to Creditors dated 13 December 2023.

4.2 PREVIOUS MEETINGS OF CREDITORS

We note that the first meeting of creditors was held on 4 December 2023. Minutes of that meeting have been lodged with ASIC.

The Second Meeting of Creditors commenced on 21 December 2023 was adjourned. We have prepared the minutes of the Second Meeting to date and these minutes will be finalised and lodged following the conclusion of the Second Meeting.

5 PRELIMINARY INVESTIGATIONS

5.1 BOOKS AND RECORDS

As previously discussed, we have encountered some difficulties in securing the books and records of the Company. On the day prior to our issuance of our Previous Report, we received a limited quantum of records from the Company's accountant. The documents were not sufficient to provide an accurate record of the Company's transactions and were inadequate to explain its financial position and performance. Further, they were insufficient to undertake the necessary investigations expected of a voluntary administrator. The records also had several discrepancies. We had been advised that the Company financial statements were prepared based on bank statements. A subsequent review of the bank statements showed limited trading being undertaken, however the records provided showed that the Company was recording significant sales and expenses.

A further review indicated that the Company was continuing to accrue tax liabilities in the form of sales, PAYG liabilities and superannuation guarantee at least to 30 June 2023. A bundle of TFN Declarations provided for employees of the business also indicated that the Company was employing (notwithstanding that the employees were not paid by the Company).

Overall, it appeared that a separate entity was collecting proceeds from sales, and purchasing goods, as well as paying employees (their net wages and other entitlements) however the GST liabilities (and GST credits) as well as the PAYG withheld was reported to the ATO as liabilities of the Company.

In the days leading the issuance of this Report, we were provided with further records including:

- ▲ General ledgers for FY19, FY20, FY21 and FY22;
- ▲ Profit and Loss statement for the period 1 July 2022 to 30 June 2023 (generated from Xero);
- ▲ Balance Sheet as at 30 June 2023 (generated from Xero);
- ▲ General Ledger summary for transactions between 1 July 2022 to 30 June 2023 (generated from Xero);
- ▲ Aged Payables and Aged Receivables Summary as at 30 September 2023 (generated from Xero); and
- ▲ A payroll summary showing the Company's employee liabilities and earnings for 1 September 2022 to 30 September 2023 (generated from Xero).

For a short period of time, we were also provided with limited read only access to a Xero management accounting system. A high-level review of the system indicated that the Company utilised the system for tracking receipts and payments as well as the calculation of employee entitlements.

Our preliminary observations were that the Company's Xero management accounts have been intermingled with those of BAR and possibly other related entities. It appears that historically the Company's accountants would review the records and arrange for the 'separation' of the accounts for end of year reporting.

Late on 19 February 2024, we received an email from the Company's accountant confirming that the Xero Management accounts received had been intermingled with books and records of BAR and also the Directors' personal records. He further stated we were not entitled to access the records of BAR or the Directors, and he was instructed not to provide access until this issue was rectified. We have been asked to delete our copies of the FY23 Balance Sheet, Profit and Loss and General Ledger summary received as this was generated from the same Xero system.

The failure to provide adequate records has made it very difficult to undertake a thorough investigation and provide our recommendation to creditors. Coupled with the Director's wishes to put forward a DOCA proposal to deal with creditors' claims, a DOCA has been formulated with the intention to address these issues. Creditors are referred to Section 7 below regarding the DOCA put forward by the Director, our observations and how we seek to deal with the inadequacy of the Company's accounting records.

6 VOIDABLE TRANSACTIONS

As mentioned above, following the second meeting of creditors we received additional records of the Company from the Company's accountant. The records show that the Company's accounts are

intermingled with those of the purchaser, BAR. We have sought to understand how the management accounts are subsequently adjusted to prepare financial statements however, it has not been possible to do so. As such, we are unable to undertake any meaningful analysis of the FY23 records, thereby limiting our ability to determine if the sale of business was at fair value.

It is not unusual for groups of entities to maintain one set of management accounts and for an accountant to then 'separate' the accounts for the preparation of financial statements for each entity within the group. However, the grouping of accounts is complicated by the sale of the business from one entity to another.

As Administrators, we are required to comment on the recovery actions available in a liquidation scenario and provide a recommendation to creditors.

At this stage, the records provided are insufficient to enable a proper analysis to be completed. More importantly, the limited records provided (and therefore assumed to be unavailable) are current insufficient to enable true and fair financial statements to be prepared.

In particular, we believe that further investigations are warranted in respect of management fees paid to BAR, clarity as to the legal entity operating the business, the existence of shadow directors, if any and the sale of business generally.

As such, based on the current level of records in our possession, a liquidator may be in a position to presume that the Company is insolvent for the periods where it is found inadequate records were maintained. Section 588E of the Act provides that if it is proved that the Company failed to keep financial records in relation to a period as required by Section 286 of the Act, then the Company is presumed to have been insolvent throughout the period.

As stated, the Company is unable to produce financial statements for FY23. We are also aware of material errors made in the FY22 accounts. Furthermore, the Company has failed to lodge tax returns since FY18 (with exception to FY20).

The Company also has a poor compliance history in relation to lodgement of statutory returns generally, whereby the Directors have been issued with Director's Penalty Notices (with automatic personal liability dating back as early as April 2016).

However, we still believe that the Director is keen to put forward a proposal which will be in creditors interests. A DOCA is likely to provide more certainty as to the timing and quantum of a return to creditors.

On this basis, the Director has put forward a proposal for a Deed of Company Arrangement to allow the Company's external accountant to bring outstanding lodgements up to date and permit the liquidator additional time to review the as yet not provided records. Please refer to Section 7 below for details of the DOCA proposal.

Given the intermingling of accounts, we also require further information pertaining to the legal entity operating the accounts, and therefore if there is the existence of shadow directors.

6.1 UNREASONABLE DIRECTOR RELATED TRANSACTIONS (S588FDA)

Section 588FDA(1) of the Act provides that a transaction is an unreasonable director-related transaction if it is a payment made by the company to a director or another person on behalf of, or for the benefit of, a director that would not have been entered into by a reasonable person in the company's position.

We refer creditors to the comments made in our Previous Report in relation to the sale of business. We remain concerned that the sale and the consideration in respect thereof is based on incomplete financial information. At this stage we have not been provided with adequate information in order satisfy our lines of enquiry and it is hoped that the preparation of financial statements for FY23 will enable a better assessment of the sale of business.

The records we received for FY23 (which were subsequently advised to be incorrect), indicated a net profit (which is inconsistent with the losses for FY21 and FY 22).

We are also seeking clarity on the legal entity operating the business in the month's leading up to the sale. As mentioned previously, the Company's records have been intermingled with BAR creating difficulties in determining who was operating the business.

6.2 UNCOMMERCIAL TRANSACTIONS (S588FB)

We previously provided our primary concerns on the sale of business and reasons why we believe the sale constituted an uncommercial transaction and/or an unreasonable director related transaction. Subsequent to issuing the Previous Report we requested for further information and books and records to properly investigate the sale of business.

Notwithstanding the reasons for the previous adjournment of the meeting, the records pertaining to FY23 are yet to be finalised. At this stage, on the basis that we have not received accurate records, we are unable to quantify this aspect of the claim, if any.

We believe that the FY23 accounts will allow for an assessment as to whether the business was sold at fair value.

Separately, we had identified in the FY21 and FY22 accounts 'service charges' totalling \$1.81M. Enquiries made with the Company's external accountant indicate that the funds were paid to BAR for services rendered by BAR. After issuing the Second Report, we requested specific details in relation to these payments. We are not aware of the existence of any contract/agreement with BAR regarding the provision of services. It is also unclear what services are provided by BAR and how the amount paid was calculated. Given these uncertainties we believe this payment may constitute an uncommercial transaction.

Again, the provision of further information may provide clarity as to whether these transactions are actions available in a liquidation scenario.

6.3 INSOLVENT TRADING CLAIM

In our Previous Report, we estimated an insolvent trading claim may be available in a liquidation. This was calculated to be at least \$3.4M, on the basis that the Company may be presumed to be insolvent due to a lack of books and records which explain the Company's financial position and performance. As we are still without access to adequate records, our position on the insolvent trading claim remains unchanged.

6.4 RECOVERY OF CLAIM

A property search undertaken in New South Wales ("NSW") indicates the Director is a registered title owner of a property located in Henley, NSW. This property is held as joint tenant with the former director and subject to a mortgage registered by Macquarie Bank. We are unaware of the equity available, if any, which would enable the Director to satisfy any claim bought against her by the liquidators.

We have requested the Director to provide a statement of her personal assets and liabilities. We have been advised that, at this stage, she is unable to provide an accurate amount of her financial position. This is on the basis that her personal financial position is intertwined with the financial position of the Company, as she has advanced significant funds in the form of loans.

She has sought time for the financial statements of the Company to be brought up to date which would enable her to provide an accurate statement of her assets and liabilities. This matter is addressed in the DOCA proposal.

In the event an insolvent trading claim is pursued, we anticipate that significant costs would be incurred, for which a Liquidator would require funding. Given the unpredictable nature of litigation, and in particular the defences that may be brought, it is difficult to accurately estimate the costs that may be incurred. We have made a provision in our estimated statement of position outlining a possible cost for litigation funding, if any claim is pursued.

Please note that the insolvent trading claims are to some extent speculative and are subject to the risks of litigation, defences discussed above, and the pursuit of enforcement of any successful judgement.

As an alternative, a liquidator can consider selling the causes of action on a commercial basis, to obtain a return in a quicker timeframe, usually at a substantial discount given the removal of risk. This is open to any creditor.

7 DEED OF COMPANY ARRANGEMENT PROPOSAL

We have received a DOCA proposal from the Director dated 19 February 2024, a copy of which is attached as **Annexure “4”** for creditors’ information and consideration.

7.1 SUMMARY OF DOCA PROPOSAL

We summarise the key terms of the proposal below:

Purpose	<p>The proposed DOCA for the Company is intended to:</p> <ul style="list-style-type: none"> Provide additional time to finalise the Company’s and the Proponent’s financial position to allow the Administrators to conduct further investigations and update their recommendation, if required. Enable a dividend to unsecured creditors and a better return to creditors, than if the Company was wound up. Provide a commitment and timeframe for Director Penalties to be paid by the Proponent to the Deputy Commissioner of Taxation.
Key terms of the DOCA including Deed Fund	<p>The Deed Fund will consist of:</p> <ul style="list-style-type: none"> Any funds held by the Administrators at the date of execution of the DOCA; The balance of funds due under the Sale of Business Agreement dated 22 November 2023; An amount of \$200,000 to be paid by the Director, Antonia Bell (Proponent); The funds yet to be received will be deposited into the Administrators’ trust account prior to the resumed Second Meeting. The funds will be held on trust pending a further proposal being accepted by creditors no later than 30 April 2024 *; The Proponent will pay any outstanding Director Penalties to the Deputy Commissioner of Taxation within 12 months; The Director is required to ensure that within 30 days of the DOCA execution the Company’s external accountant finalises any outstanding financial statements and lodge all outstanding statutory returns. The Deed Administrators are required to convene a further meeting within 60 days of the DOCA execution to allow creditors to consider the Deed Administrators’ further report and determine if the DOCA should be terminated/amended or the Company wound up.

Deed Contribution Due Date and Extension	<p>The Proponent intends to source the funds for the Deed from her personal assets.</p> <p>The Proponent may seek from the Deed Administrators an extension of the Deed Contribution Due Date by notifying the Deed Administrators in writing.</p>
Participating Creditors and Non-Participating Creditors	<p>The following creditors will not participate in any dividend:</p> <ul style="list-style-type: none"> ▲ The Director and any former directors; and ▲ Any related entity as defined by the Act.
Control of Company during DOCA	<p>The Company is not continuing to trade during the DOCA.</p> <p>The Directors powers will remain suspended during the DOCA pursuant to Section 198G of the Act.</p>

** We anticipate the deadline of 30 April 2024 for the holding of the subsequent creditors meeting, will need to be amended to reflect the 30 day and 60 day provisions for the preparation of accounts and allow sufficient time for the Deed of Administrator to complete subsequent investigations and reporting to creditors.*

7.2 OBSERVATIONS OF THE DOCA PROPOSAL

The DOCA proposes to provide greater certainty regarding the timing and return to unsecured creditors.

The lack of records provides uncertainty in a liquidation scenario, where the administrators have been uncertain as to the recovery of possible liquidator's actions. We also have limited understanding of the Directors personal financial position. The Director's personal financial position is also intertwined with the Company's financial position (as the Director has made significant financial contributions to the Company which are not currently up to date.)

It also addresses the outstanding lodgements of the Company, by providing time for the external accountant to finalise accounts. The finalisation of outstanding accounts will provide key creditors additional certainty around the level of debt and therefore maximise their return.

The finalisation of accounts will also permit further review by a Deed Administrator and allow the Deed Administrator to make a more informed recommendation to creditors.

We do not believe that the provision of 30 days for the accounts of the Company to be brought up to date will significantly prejudice creditors. We anticipate that with up-to-date accounts, creditors will be able to make a more informed decision regarding the future of the Company. The DOCA also seeks to bind the Director personally to make payments in respect of locked-down DPN amounts.

The provision of a further 30 days will allow the Deed Administrators to adequately assess and review the Company's finalised accounts and provide a final recommendation, which will allow creditors to reconsider if the DOCA should be terminated and the Company wound up.

7.2.1 Benefits of the DOCA Proposal

- The DOCA proposal provides certainty as to the timing and likely return to unsecured creditors. It is anticipated that after 60 days, the Deed Administrators will be in a position to commence the dividend process (with all outstanding returns having been prepared and lodged within 30 days).
- The Deed contribution (\$200k) and the balance of the sale of business proceeds (\$50K) will be deposited into our trust account prior to the reconvened Second Meeting of creditors, providing certainty regarding the receipt of Deed Contribution funds.
- The DOCA contains a condition where the Company financial statements and tax lodgements will be brought up to date within 30 days from the execution of the DOCA. Again, the lodgement of outstanding returns creates certainty as to the level debt owed to key creditors, thereby providing certainty around the dividend payable.
- The administrators have not agreed to meet the costs associated with bringing the accounts up to date, therefore the costs will be borne by the Director and/or related parties.
- The lodgement of outstanding returns will also allow the Deed Administrator to conduct further investigations and provide a revised recommendation (if justified). This will also permit creditors further time to consider, if the DOCA should continue (after the issuance of the Deed Administrators' Report) or that the Company should be wound up.
- The Proponent is further bound by the DOCA to pay all outstanding Director Penalties within 12 months. This minimises the costs of recovery for the Company's largest creditor, the Deputy Commissioner of Taxation.
- The Director and related parties will not participate in the DOCA, which will result in the reduction of the creditor pool.
- There is projected to be sufficient funds available to satisfy the costs and priority claims in full, with a partial return to unsecured creditors. The return currently projected in a liquidation is contingent on successfully recovering an insolvent trading claim and/or uncommercial transaction claims.
- The uncertainty regarding the value of liquidator's actions and the capacity of the Director to meet any claim is likely to be clarified over the 60 day period. Firstly, with updated accounts the Deed Administrator will be able to make a more informed recommendation to creditors. The Director has provided an undertaking that as part of finalising the Company's accounts she will be able to provide a statement of personal assets and liabilities.

- The sale of business in its current form automatically terminates if the Company enters liquidation. On this basis, a liquidator will not be able to collect the remaining sale proceeds (\$50K) and employees are likely to be terminated. Whilst theoretically a liquidator would be in possession of the business (and its assets), we are advised that the business will be difficult to sell on an open market. In the least, the Company's trading premises will not be available for the business to continue to trade, as the property is owned by a further related party.
- The DOCA also avoids the risk of litigation, where any liquidator's actions are likely to be defended. In a liquidation scenario, a liquidator is also unlikely to hold sufficient funds to commence litigation, and would require litigation funding, which comes with its own risks.
- The Director has undertaken that the Company will not be trading during the DOCA period and that the Company will be placed into liquidation shortly following the full effectuation of the Deed.

7.2.2 Risks/Concerns of the DOCA proposal

- The funds proposed to be placed in the administrators trust account have not yet been received. However, these funds are due prior to the resumed second meeting of creditors (convened for 28 February 2024). At the meeting we will advise if the requisite funds have been received.
- The Company has had sufficient time to provide books and records during the voluntary administration period. It is unclear if the additional time will result in the financial accounts being brought up to date and outstanding statutory returns prepared and lodged. The DOCA proposal which requires the Deed Administrator to issue a further report and meeting during the deed administration period will increase the cost of the administration, overall. If the external accountant is unable to bring the records up to date, the Company may still fall into Liquidation.

8 RECOMMENDATION OF ADMINISTRATORS

Pursuant to Rule 75-225(3) of the IPR, the Administrators are required to make a statement setting out the Administrators' opinion about each of the following matters and provide their reasons for those opinions:

- Whether it would be in the Creditors' interests for the Company to execute a DOCA;
- Whether it would be in the Creditors' interests for the administration to end;
- Whether it would be in the Creditors' interests for the Company to be wound up.

We set out below our opinions as to each of these options:

8.1 DEED OF COMPANY ARRANGEMENT

Creditors may resolve that the Company execute a DOCA.

We refer to Section 7 for details of the DOCA proposal and our analysis of same.

Under the proposed DOCA, the Proponent provides funds upfront. Whilst the Company will not continue to trade, it allows for a sale of business to be completed ultimately allowing the purchaser of the business to continue operations and employ staff.

The DOCA also provides for a potentially higher return when compared to a Liquidation scenario. The DOCA currently provides certainty regarding the timing and quantum of a return to unsecured creditors, where any recovery in a liquidation scenario is likely to require significant costs. It is also uncertain if recovery actions may be successful.

The DOCA provides that the Deed Administrators will, if possible, conduct further investigations and report the results of same to creditors. Additionally, the Deed Administrators are required to call a further meeting of creditors allowing them the opportunity to resolve to terminate the DOCA or accept potential amendments thereto.

Accordingly, based on the matters discussed in this report, we recommend that creditors resolve that the Company execute the proposed DOCA.

8.2 ADMINISTRATION TO END

Creditors may resolve that the Administration of the Company should end and that control of the Company should be handed back to its Director.

The Company is clearly insolvent and if the administration was to end, the Company would be placed in a similar position to that prior to our appointment as Administrators.

We do not recommend that the Administration end on the basis that the Company is clearly insolvent.

8.3 LIQUIDATION

Should Creditors decide to wind up the Company, the Administration would revert to a Creditors Voluntary Liquidation and the Administrators would become the Liquidators, unless creditors resolved to appoint an alternative Liquidator.

One of the roles of the Liquidators would be to complete investigations into the reasons for the Company's failure and to identify any causes of action or voidable transaction recoveries against any entity or individual. The Liquidators are also required to report their findings to ASIC where offences are identified.

At this stage, there is limited certainty regarding the actions available to a liquidator or the Director's ability to meet any claim made against her. We are hopeful that the DOCA provides the necessary time in order for the Company to finalise and bring their accounts up to date and allow the Deed Administrator to complete their investigations and amend their recommendation (if required).

Recoveries in a liquidation are likely contingent on legal proceedings being pursued which is expensive and will require funding. That funding is not currently available in the Administration, and therefore "litigation funding" would be needed from creditors or the market. Litigation in a liquidation scenario is

speculative and the outcome being that there may not be any recovery to creditors in the fullness of time, which may be similar position should the DOCA fail.

We do not recommend that creditors resolve to wind up the Company.

9 ESTIMATED RETURN TO CREDITORS

Set out in **Annexure “5”** is an analysis of the estimated returns that may be available to creditors in a DOCA and Liquidation scenario. Please note these figures are estimates only and may vary significantly to the actual results.

In summary, the estimated returns are as follows:

Summary of Return to Creditors	DOCA		Liquidation	
	High Cents/\$	Low Cents/\$	High Cents/\$	Low Cents/\$
Secured Creditors	N/A	N/A	N/A	N/A
Priority Creditors	100.00	100.00	100.00	-
Unsecured Creditors	2.80	2.26	11.67	-

In the interim, we encourage any creditors who have not already done so, to lodge a Formal Proof of Debt (“POD”) together with relevant supporting documentation. A copy of the POD is attached as **Annexure “2”** in this regard.

10 ADMINISTRATORS’ RECEIPTS AND PAYMENTS

Attached as **Annexure “6”** is the Administrators’ Receipts and Payment from 22 November 2023 to the date of this Report.

11 EXTERNAL ADMINISTRATORS’ REMUNERATION

In compliance with the Australian Restructuring, Insolvency and Turnaround Association’s (“ARITA”) Code of Professional Practice and the requirements of the Act, we are required to provide detailed information in respect of our remuneration. We attach our Remuneration Approval Report as **Annexure “7”** which details the major tasks that have been and will be conducted in this administration. Our remuneration is calculated on the time spent by staff at hourly rates used by BRI Ferrier, as detailed in our Remuneration Matrix. This document is contained within the Remuneration Report. In addition, a schedule of hourly rates is attached as **Annexure “8”**.

To date, our remuneration has been calculated on this “Time-Cost” basis, and we propose that it continue to be calculated on this basis. The Time-Cost method for calculating remuneration reflects the cost to our firm of the work undertaken, rather than a measure of the assets realised. In our view, the Time-Cost method is the preferable basis for calculating remuneration in an engagement such as this.

For Creditors' information, ASIC information sheets (**Annexure "10"**) 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:

- <http://www.asic.gov.au/insolvencyinfosheets>
- https://www.arita.com.au/ARITA/ARITA/Insolvency_help/Insolvency-explained.aspx

11.1 VOLUNTARY ADMINISTRATION PERIOD

At the adjourned second meeting, the Creditors approved the Administrators' remuneration to 21 December 2023. At the resumption of the Second Meeting of Creditors, creditors will be asked to approve the Administrators' remuneration for the period 22 December 2023 onwards.

Please refer to the Remuneration Approval Report, attached as **Annexure "7"** for further details.

11.2 DEED OF COMPANY ARRANGEMENT PERIOD

If creditors approve the DOCA Proposal, the Proponent has 15 business days to execute the DOCA.

If executed, we, Peter Krejci and I, will be appointed Deed Administrators. In that circumstance, at the forthcoming meeting we will also seek approval for our estimated remuneration to conduct the DOCA.

The attached Remuneration Approval Report details an estimate of the costs likely to be incurred in the DOCA. It is an estimate only and may change depending on matters which occur during the course of the DOCA.

Please refer to the Remuneration Approval Report, attached as **Annexure "7"** for further details.

11.3 LIQUIDATION PERIOD

If the Company is placed into liquidation at the resumed Second Meeting of Creditors, we will be appointed Liquidators, unless creditors resolve to appoint an alternate Liquidator/s. We note that we have not received an alternate consent to act as Liquidator/s.

If creditors resolve to wind up an entity and we are to be appointed, we will also seek approval for our estimated remuneration in conducting the Liquidation. The attached Remuneration Approval Report details an estimate of the costs likely to be incurred in a liquidation scenario. It is an interim estimate only and actual costs may be quite different, depending on the work required and/or if litigation actually is pursued. Therefore, the estimate may change depending on matters which occur during the course of the liquidation.

Please refer to the Remuneration Approval Report, attached as **Annexure "7"** for further details.

12 RESUMPTION OF SECOND MEETING OF CREDITORS

As discussed previously, the Second Meeting of Creditors for the Company held on 21 December 2023 was adjourned up to forty-five (45) business days, to no later than 28 February 2024. We note that at the Second Meeting, the only resolutions that were dealt with at the meeting related to the remuneration of the Administrators, and as such, the remaining agenda items will be dealt with at the resumed Second Meeting.

The resumption of the Second Meeting of Creditors for the Company will be held on Wednesday 28 February 2024 at 3:00 PM (AEDT). The formal Notice of Meeting is attached as **Annexure "1"** for your reference.

To participate as a Creditor, you should:

Provide us with a Proof of Debt detailing your claim to be a Creditor. Proofs of Debt are enclosed as **Annexure "2"**. If you have previously provided a proof of debt and wish to supplement it, you may do so. **Otherwise, Creditors whose proofs were admitted to vote at the adjourned Second Meeting of Creditors are not required to re-lodge for the resumption of the Second Meeting of Creditors.**

Creditors may attend and vote in person, by proxy or by attorney. The appointment of a proxy, which is attached as **Annexure "3"**, must be in accordance with Form 532. **Creditors who submitted general proxies which were admitted to vote at the adjourned Second Meeting of Creditors are not required to be re-lodged for the resumption of the Second Meeting of Creditors, unless they wish to submit special proxies or nominate another proxy party.** We note that persons attending on behalf of a corporate entity are required to have a proxy signed on behalf of that entity.

A specific proxy can be lodged showing approval, rejection or abstention of each resolution. Creditors, in lodging specific proxies, need to be mindful that their intended voting patterns can become academic or "contradictory" where the outcome of an earlier vote (in the order of proceedings) is determined in a way which could influence or change their intended voting. Proxy forms thereof must be lodged at our office by 4:00 PM one (1) business day prior to the meeting.

13 QUERIES

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

BRI Contact: Mankirth Mandair

Phone: (02) 8263 2333

Email: mmandair@brifnsw.com.au

Mailing: GPO Box 7079, Sydney NSW 2001

Yours faithfully,

EARLWOOD SMASH REPAIRS PTY. LIMITED (ADMINISTRATORS APPOINTED)



ANDREW CUMMINS

Joint and Several Administrator

The logo for BRI Ferrier, featuring the text "BRI Ferrier" in white on a dark grey rectangular background. A green triangle is positioned at the bottom right corner of the grey rectangle.

**EARLWOOD SMASH REPAIRS
PTY. LIMITED
(ADMINISTRATORS
APPOINTED)
ACN 056 358 233**

**Annexure "1"
Notice of the Resumption of the
Second Meeting of Creditors**

CORPORATIONS ACT 2001
Section 439A

Insolvency Practice Rules (Corporations)
75-10, 75-15, 75-20 & 75-35

NOTICE OF RESUMPTION OF SECOND MEETING OF CREDITORS

**EARLWOOD SMASH REPAIRS PTY. LIMITED (ADMINISTRATORS APPOINTED)
ACN 056 358 233 ("THE COMPANY")**

NOTICE is given that the resumption of the Second Meeting of the Creditors of the Company will be held at the offices of BRI Ferrier, Level 26, 25 Bligh Street, Sydney NSW 2000 on **Wednesday, 28 February 2024 at 3:00 PM AEDT**.

Virtual meeting technology will also be made available should creditors wish to attend the meeting virtually. To attend virtually, creditors will need to register their details at the following link:

<https://us06web.zoom.us/meeting/register/tZEtduGvqjopE92y1r4oS4CK6QdHfzIMnbPa>

A G E N D A

1. To receive the Report of the Administrators and receive questions from creditors.
2. To fix the remuneration of the Administrators.
3. To fix and determine the future remuneration of the Administrators.
4. For Creditors to resolve:
 - a. That the Company execute a Deed of Company Arrangement; or
 - b. That the administration should end; or
 - c. That the Company be wound up.
5. If Creditors resolve to enter into a Deed of Company Arrangement:
 - a. To consider approving the remuneration of the Deed Administrators;
 - b. To consider approving the internal disbursements of the Deed Administrators;
6. If Creditors resolve to wind up the Company:
 - a. To consider approving the remuneration of the Liquidators;
 - b. To consider approving the internal disbursements of the Liquidators; and
7. To consider the appointment of a Committee of Inspection.
8. To consider any other business that may be lawfully brought forward.

Proxies to be used at the meeting should be lodged at the office of the Administrators by 4:00 PM AEDT on the business day prior to the meeting. A creditor can only be represented by proxy or by an attorney

pursuant to Insolvency Practice Rules (Corporations) (IPR) 75-150 & 75-155 or, if a body corporate, by a representative appointed pursuant to Section 250D of the Corporations Act 2001.

Special Instructions for Meeting

Attendees who wish to attend the meeting virtually are required to register to attend the meeting at the above link.

You will also need to provide a Formal Proof of Debt Form (including documentation to support your claim) and proxy form, if you are a corporate creditor or wish to be represented by another person.

In accordance with IPR 75-85, creditors will not be entitled to vote at this meeting unless they have previously lodged particulars of their claim against the Company with the Administrators and their claim has been admitted for voting purposes wholly or in part by the Administrators.

Upon receipt of a valid Formal Proof of Debt Form and Proxy, a link to access the virtual meeting will be emailed to you. This link will be unique for each attendee and unable to be shared with other parties. Telephone dial-in details will also be available for the virtual meeting. Those wishing to attend via telephone will also be required to complete the above registration process.

In accordance with IPR 5-5, a vote taken on a “show of hands” includes a vote taken using any electronic mechanism that indicates the intentions of a person in respect of a vote. This may include an attendee clicking a “raise a hand”, or similar button, on a virtual meeting computer program, as well as verbally indicating their vote if dialling in to the meeting.

This definition is necessary to ensure that a show of hands may be used at a virtual meeting as an alternative to a poll.

DATED this 20th day of February 2024



ANDREW CUMMINS
JOINT AND SEVERAL ADMINISTRATOR

BRI FERRIER
Level 26
25 Bligh Street
Sydney NSW 2000



**EARLWOOD SMASH REPAIRS
PTY. LIMITED
(ADMINISTRATORS
APPOINTED)
ACN 056 358 233**

**Annexure "2"
Formal Proof of Debt Form**

FORMAL PROOF OF DEBT OR CLAIM (GENERAL FORM)

To the Joint and Several Administrators of Earlwood Smash Repairs Pty. Limited (Administrators Appointed) ACN 056 358 233

1. This is to state that the company was, on 22 November 2023 ⁽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"/>	The External Administrators' (whether as Voluntary Administrators/Deed Administrators/Liquidators) will send and give electronic notification of documents. Please provide your email address below:	
	Contact Name:	
	Email Address:	

DATED this.....day of.....2023.

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:

"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.



**EARLWOOD SMASH REPAIRS
PTY. LIMITED
(ADMINISTRATORS
APPOINTED)
ACN 056 358 233**

**Annexure "3"
Appointment of Proxy Form**

APPOINTMENT OF PROXY

EARLWOOD SMASH REPAIRS PTY. LIMITED
(ADMINISTRATORS APPOINTED)
ACN 056 358 233
("THE COMPANY")

*I/*We⁽¹⁾.....of.....
a creditor of **Earlwood Smash Repairs Pty. Limited (Administrators Appointed)**, appoint⁽²⁾
..... or in his or her absence
as *my/our general/special proxy to vote at the Resumed Second Meeting of Creditors of the Company to be held
on Wednesday 28 February 2024 at 3:00 PM AEDT, or at any adjournment of that meeting.

Please mark any boxes with an

☒

Proxy Type:

☐

General

☐

Special

	For	Against	Abstain
<u>Resolution 1:</u> <i>"That the remuneration of the Joint and Several Administrators, their partners and staff for the period 22 December 2023 to 18 February 2024, be calculated on a time basis in accordance with the rates of charge annexed to the Voluntary Administrators' Supplementary Second Report to Creditors dated 20 February 2024, be fixed and approved at \$13,638.00 (plus GST), and that the Joint and Several Administrators be authorised to draw that amount."</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<u>Resolution 2:</u> <i>"That the remuneration of the Joint and Several Administrators, their partners and staff for the period 19 February 2024 to the end of the administration, be calculated on a time basis in accordance with the rates of charge annexed to the Voluntary Administrators' Supplementary Second Report to Creditors dated 20 February 2024, and approved to an interim cap of \$20,000.00 (plus GST), and that the Joint and Several Administrators be authorised to draw that amount as and when incurred."</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<u>Resolution 3⁽³⁾:</u> <i>"That the Company execute a Deed of Company Arrangement."</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<u>Resolution 4⁽³⁾:</u> <i>"That the Voluntary Administration should end."</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

	For	Against	Abstain
<u>Resolution 5⁽³⁾:</u> <i>"That the Company be wound up."</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<u>If creditors resolve that the Company execute a Deed of Company Arrangement</u>			
<u>Resolution 6:</u> <i>"That the remuneration of the Joint and Several Deed Administrators, their partners and staff from the execution of the DOCA to the finalisation of DOCA, be calculated on a time basis in accordance with the rates of charge annexed to the Voluntary Administrators' Supplementary Second Report to Creditors dated 20 February 2024, and approved to an interim cap of \$50,000.00 (plus GST), and that the Joint and Several Deed Administrators be authorised to draw that amount as and when incurred."</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<u>Resolution 7:</u> <i>"That the Deed Administrator be allowed internal disbursements for the period of the DOCA at the rates of charge annexed to the Voluntary Administrators' Supplementary Second Report to Creditors dated 20 February 2024, up to an amount of \$2,000.00 (plus GST) and that the Deed Administrators be authorised to draw that amount as accrued."</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<u>If creditors resolve to place the Company into Liquidation</u>			
<u>Resolution 8:</u> <i>"That the remuneration of the Joint and Several Liquidators, their partners and staff for the period 28 February 2024 to the conclusion of the Liquidation, be calculated on a time basis in accordance with the rates of charge annexed to the Voluntary Administrators' Supplementary Report to Creditors dated 20 February 2024, and approved to an interim cap of \$100,000.00 (plus GST), and that the Joint and Several Liquidators be authorised to draw that amount as and when incurred."</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<u>Resolution 9:</u> <i>"That the Liquidators be allowed internal disbursements for the period 28 February 2024 to the conclusion of the Liquidation at the rates of charge annexed to the Voluntary Administrators' Supplementary Second Report to Creditors dated 20 February 2024, up to an amount of \$2,000.00 (plus GST) and that the Liquidators be authorised to draw that amount as accrued."</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

INSTRUCTIONS FOR COMPLETING:

- * Strike out if inapplicable.
- (1) Insert name and address. If a firm, strike out "I" and set out the full name of the firm.
- (2) Insert the name, address and description of the person appointed.
- (3) You may only vote in "favour" for one of these 3 resolutions relating to the future of the Company. You must vote "against" the other 2 resolutions.
-

DATED thisday of 2024

Signature

Proxies should be returned to the offices of BRI Ferrier by 4.00 PM AEDT one (1) business day prior to the meeting by: Email: mmandair@brifnsw.com.au, or Post: GPO Box 7079 SYDNEY NSW 2001

CERTIFICATE OF WITNESS – (This certificate is to be completed only if the person giving the proxy is blind or incapable of writing)

I,of.....certify that the above instrument appointing a proxy was completed by me in the presence of and at the request of the person appointing the proxy and read to him before he attached his signature or mark to the instrument.

DATED thisday of 2024

Signature of Witness:

Description:

Place of Residence:



**EARLWOOD SMASH REPAIRS
PTY. LIMITED
(ADMINISTRATORS
APPOINTED)
ACN 056 358 233**

**Annexure "4"
DOCA Proposal**

Proposal for Deed of Company Arrangement

Earlwood Smash Repairs Pty Limited (Administrators Appointed)
ACN 056 358 233

Terms of the Proposal

The terms of the proposal must be read in conjunction with certain defined terms as set out in the Dictionary at the end of the proposal. This proposal is non-binding and indicative only.

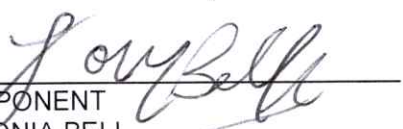
1.	Company	<p>The following entity is the subject of the DOCA:</p> <ul style="list-style-type: none">• Earlwood Smash Repairs Pty Limited (Administrators Appointed) (ACN 056 358 233) "the Company"
2.	Proponent	Antonia Bell
3.	Purpose	<p>The purpose of this proposal is to articulate the material terms of the DOCA that the Proponent proposes in respect of the Company and which the Proponent requires the Administrators to present to the meeting of the Creditors of the Company that are scheduled to be held pursuant to section 439A of Act.</p> <p>The proposed DOCA for the Company is intended to:</p> <ul style="list-style-type: none">(a) Provide further time for additional information relating to both the Company and the Proponent's financial position to be provided to the Administrators so that they can conduct further investigations and be in a better position to make a recommendation to Creditors;(b) enable a dividend to ordinary unsecured creditors;(c) achieve a better outcome for the Creditors of the Company, compared to the expected outcome if the Company was to be wound up;(d) provide a commitment and a time frame for Director Penalties to be paid by the Proponent to the Deputy Commissioner of Taxation. <p>The above intentions being consistent with the objectives of Section 435A of the Corporations Act.</p>
4.	Administrators	Peter Krejci Andrew John Cummings

5.	Administrator's Appointment Date	22 November 2023
6.	Key terms of the Deed of Company Arrangement	<p>In accordance with this proposal, the DOCA will contain the following key terms:</p> <ul style="list-style-type: none"> • The Deed Administrator will establish a Deed Fund (Deed Fund). • The Deed Fund will consist of: <ul style="list-style-type: none"> ○ Any funds held by the Administrator at the date of execution of the DOCA; ○ The balance of funds due under the Sale of Business Agreement dated 22 November 2023; ○ An amount of \$200,000 (Deed Contribution) paid by the Proponent (Deed Contribution Due Date); ○ It is anticipated that the Company Deed Fund will cover the costs and disbursements of the Administrators (and Deed Administrators) in full and provide a return to the Admitted Creditors and Participating Creditors of the Company. • The balance of funds due under the Sale of Business and the Deed Contribution will be deposited into the Administrator's trust account prior to the adjourned Second Meeting of Creditors and held in trust pending a final determination by Creditors on the basis that such determination to be made by Creditors no later than 30 April 2024. • The Proponent will pay any outstanding Director Penalties to the Deputy Commissioner of Taxation within 12 months. • The Company to be deregistered within 30 days of the Proponent receiving written confirmation from the Administrators that the entirety of the Company Deed Fund being distributed to the Admitted Creditors. • The Deed Administrators will continue to investigate the Company's affairs to finalise those matters which have not been fully explored due to the belated receipt of relevant documents, information and records. The Deed Administrators are required to further report to

		<p>creditors the results of the investigation and, if necessary, provide an amended opinion pursuant to part 75-225 of the Insolvency Practice Rules as to whether it is desirable for the Deed of Company Arrangement to continue. The Deed Administrator's must call a meeting of creditors within 60 days of the execution of the Deed of Company Arrangement to allow creditors the opportunity to consider the Deed Administrator's further report and whether to terminate the Deed of Company Arrangement."</p> <ul style="list-style-type: none"> • The director is required to ensure that the Company's external accountant finalises (within 30 days of the execution of the Deed Of Company Arrangement) any outstanding financial statements for the Company (including up to 22 November 2023) and arrange for the lodgement of all outstanding returns including Company Tax Returns for FY 18,19, 21,22, 23 as well as Business Activity Statement (Quarter ended 30 September 2023) and Instalment Activity Statements (July 2023 to November 2023)."
7.	Proposed Deed Administrators	Andrew John Cummins and Peter Krejci
8.	Commencement Date	The date of execution of the DOCA contemplated by this proposal.
9.	Deed Contribution Due Date and Extension	<p>The Proponent intends to source the funds for the Deed the personal assets of the Proponent and/or from borrowings.</p> <p>The Proponent may seek from the Deed Administrators an extension of the Deed Contribution Due Date by notifying the Deed Administrators in writing:</p> <ul style="list-style-type: none"> • The reasons for the extension; • Provision of documents supporting their reasons for the extension; and • Proposing another date for the Deed Contribution to be paid (Extended Deed Contribution Due Date). <p>The Deed Administrators, may, in their absolute discretion agree to the Extended Deed Contribution Due Date, provided that the contributions are no more than 5 months in arrears and in their opinion the extension is in the best interest of creditors.</p> <p>There are no limitations on the number of extensions that may or agreed to be the Deed Administrators</p> <p>The Deed Administrator may determine a default if the Deed Contributions are 5 months in arrears</p> <p>The Proponent is at liberty to discharge the Deed Contributions at any time before the due date of the final payment</p>

10.	Distribution of the Deed Fund	Payments from the Company Deed Fund are to be made in accordance with the priorities set out in section 556 of the Act (and the DOCA will comply with section 444DA of the Act)
11.	Participating Creditors and Non-Participating Creditors	<p>All Admitted Creditors will receive a dividend from the Company Deed Fund with the exception of Non-Participating Creditors. Non-Participating Creditors are:</p> <ul style="list-style-type: none"> • The Director and any former directors; • Any related entity as defined by the Corporations Act.
12.	Moratorium	During the period of the DOCA, section 440D of the Act will apply to bind all Creditors of the Company in relation to claims arising on the Relevant Date.
13.	Extinguishment of debts	<p>Upon the entirety of the Company Deed Fund being distributed to the Admitted Creditors:</p> <ul style="list-style-type: none"> • All claims of Admitted Creditors against the Company are released, discharged and extinguished; and • Any claims by creditors whose debts are unproven or rejected are extinguished.
14.	Termination of DOCA	<p>The DOCA will continue in operation until it is terminated:</p> <ul style="list-style-type: none"> • by an order of the Court under section 445D of the Act; or • by a resolution of the Creditors at a meeting convened under Division 75 of Schedule 2 to the Act; • Upon non-payment of the deed contributions which have not been rectified for a period of 5 months; or • upon the entirety of the Company Deed Fund being distributed to the Admitted Creditors.
15.	Prescribed Provisions	Except to the extent that they are inconsistent with the terms of the DOCA, the provisions of Schedule 8A of the Regulations will apply to the DOCA.
16.	Deed Administrators' remuneration	The Deed Administrators will be remunerated out of the Company Deed Fund for their services at their usual hourly rates in accordance with Division 60 of Schedule 2 to the Act.
17.	Variation of DOCA	The DOCA may only be varied by a resolution passed at a meeting of the Creditors of the Company convened in accordance with Division 75 of Schedule 2 to the Act, but only if the variation is not materially different from a proposed variation set out in a notice of meeting.
18.	Acknowledgement	The parties acknowledge that the terms set out in this proposal are subject to the obligations the Administrators (and the Deed Administrators) have to Creditors under law and statute.
19.	Governing law	This proposal is governed by the laws of the Corporations Act and the laws of New South Wales.
20.	Control of Company during DOCA	<p>The Company is not continuing to trade during the DOCA.</p> <p>The Directors powers will remain suspended during the DOCA pursuant to Section 198G of the Corporations Act.</p>

21.	Moratorium and bar to proceedings	<p>During the period of the Deed:</p> <ul style="list-style-type: none"> • Creditors must not apply to wind up the Company or make any claims or commence proceedings against the Company or any assets of the Company • Directors, former directors, shareholders, former shareholders or related parties (as defined by s9 of the Act) must not take any steps to wind up the Company or commence proceedings against the Company.
22.	Dictionary	<p>In this proposal:</p> <p>Act means the <i>Corporations Act 2001</i> (Cth).</p> <p>Admitted Claim means a claim against the Company that is admitted to prove by the Deed Administrators.</p> <p>Admitted Creditor means a Creditor with an Admitted Claim.</p> <p>Appointment Date has the same meaning as defined in clause 5 of this proposal.</p> <p>ASIC means the Australian Securities & Investments Commission. Creditor means a person who, or entity that, has a claim against the Company.</p> <p>DOCA means a Deed of Company Arrangement for a Company.</p> <p>Non-Participating Creditors mean the Director and any related entity as defined by the Corporations Act.</p> <p>Participating Creditors mean creditors entitled to receive a dividend from the Deed Fund.</p> <p>Regulations means <i>Corporations Regulations 2001</i> (Cth).</p>


 PROPONENT
 ANTONIA BELL



**EARLWOOD SMASH REPAIRS
PTY. LIMITED
(ADMINISTRATORS
APPOINTED)
ACN 056 358 233**

**Annexure "5"
Revised Estimated Statement of
Position**

Earlwood Smash Repairs Pty. Limited (Administrators Appointed)
ACN 056 358 233
Estimated Outcome Statement

	Note	Book Value as at 30/6/2022	ROCAP (\$)	DOCA		Liquidation	
				High (\$)	Low (\$)	High (\$)	Low (\$)
Assets							
Cash and Cash Equivalents		20,383	-	48,760	48,760	48,760	48,760
Trade Receivables		124,120	-	-	-	-	-
Prepayments		110	-	-	-	-	-
Equity in joint ventures		9,778	-	-	-	-	-
Property, plant and equipment		230,313	-	-	-	-	-
Future Proceeds from Sale of Business				50,000	50,000	-	-
Total Realisations		384,704	-	98,760	98,760	48,760	48,760
DOCA Contribution							
DOCA Funds		-	-	200,000	200,000	N/A	N/A
Total DOCA Contribution		-	-	200,000	200,000	-	-
Recovery in Liquidation							
Uncommercial Transaction Claim		-	-	N/A	N/A	-	-
Insolvent Trading Claims		-	-	N/A	N/A	3,414,004	-
Total Recovery	1	-	-	-	-	3,414,004	-
Less: Administration Costs							
Administrators' Remuneration (Accrued)		-	-	74,507	74,507	74,507	74,507
Administrators' Additional Remuneration (Future)		-	-	33,638	33,638	33,638	33,638
Administrators' Disbursements		-	-	1,000	1,000	1,000	1,000
Deed Administrators' Remuneration (Est.)		-	-	50,000	60,000	-	-
Deed Administrators' Disbursements (Est.)		-	-	1,000	2,000	-	-
Liquidators Remuneration (Est.)		-	-	-	-	100,000	200,000
Liquidator's Disbursements (Est.)		-	-	-	-	1,000	2,000
Legal Costs		-	-	5,000	8,000	200,000	-
Litigation Funding	2	-	-	-	-	1,365,602	-
Total Administration Costs		-	-	165,145	179,145	1,775,747	311,145
Estimated Surplus Available for Secured Creditor		384,704	-	133,615	119,615	1,687,017	-
Secured Creditor Claims (Estimated)		-	-	-	-	-	-
Total Secured Creditor Claims		-	-	-	-	-	-
Estimated Surplus Available to Priority Creditors		384,704	-	133,615	119,615	1,687,017	-
Priority Creditor Claims (Estimated)		-	-	-	-	-	-
Wages and Superannuation	3	137,104	-	61,047	61,047	202,184	202,184
Annual Leave & Long Service Leave		-	-	-	-	241,415	241,415
PILN and Redundancy		-	-	-	-	-	-
Total Priority Creditor Claims		137,104	-	61,047	61,047	443,599	443,599
Estimated Surplus Available to Unsecured Credit		247,600	-	72,568	58,568	1,243,418	-
Unsecured Creditors							
Statutory Creditors	4	2,691,266	3,370,226	2,594,457	2,594,457	3,211,820	3,211,820
Directors Loan Account		6,455,336	6,455,336	Not Participating	Not Participating	6,455,336	6,455,336
Other Creditors	5	786,068				984,055	984,055
Total Unsecured Creditors		9,932,670	9,825,562	2,594,457	2,594,457	10,651,211	10,651,211
Net Surplus / Deficiency for Creditors		(9,685,070)	(9,825,562)	(2,521,889)	(2,535,889)	(9,407,793)	(10,651,211)

Summary of Return to Creditors	DOCA		Liquidation	
	High Cents/\$	Low Cents/\$	High Cents/\$	Low Cents/\$
Secured Creditors	N/A	N/A	N/A	N/A
Priority Creditors	100.00	100.00	100.00	-
Unsecured Creditors	2.80	2.26	11.67	-

Note:

- Uncommercial Transactions Claim of \$1.8M overlaps with the Insolvent Trading Claim, which is \$3.4M. Therefore, we have only included the Insolvent Trading Claim in the Estimated Outcome Statement.
- Litigation Funding Costs are calculated as a percentage of the Insolvent Trading Claim only.
- The outstanding Superannuation Guarantee Charge excludes the personal liability amount received by the Director pursuant to the DPN. This amount will be paid from the Director's personal funds pursuant to the condition of the DOCA proposal.
- The ATO's unsecured creditor claim excludes the Director's personal liability amount owed under the DPN. This amount is assumed to be paid from the Director's personal funds pursuant to the condition of the DOCA proposal.
- The sale of the business will be set aside if the Company placed in to liquidation. This may result in creditors including employees claiming for their outstanding debts/entitlements in the Company.



**EARLWOOD SMASH REPAIRS
PTY. LIMITED
(ADMINISTRATORS
APPOINTED)
ACN 056 358 233**

**Annexure "6"
Administrator's Receipts and
Payments**

Summarised Receipts & Payments

Earlwood Smash Repairs Pty. Limited

(Administrators Appointed)

Transactions From 22 November 2023 To 20 February 2024

A/C	Account	Net	GST	Gross
74	Cash at Bank	48,759.61	0.00	48,759.61
Total Receipts (inc GST)		\$48,759.61	\$0.00	\$48,759.61
Total Payments (inc GST)		\$0.00	\$0.00	\$0.00
Balance in Hand - By Bank Account				
212	Cheque Account			48,759.61
				\$48,759.61



**EARLWOOD SMASH REPAIRS
PTY. LIMITED
(ADMINISTRATORS
APPOINTED)
ACN 056 358 233**

**Annexure "7"
Remuneration Approval Report**

Remuneration Approval Report

**EARLWOOD SMASH REPAIRS PTY.
LIMITED
ACN 056 358 233**

20 February 2024

Andrew Cummins and Peter Krejci
Joint and Several Liquidators

Novabrif Pty Ltd ABN 61 643 013 610
Level 26, 25 Bligh Street, Sydney NSW 2000
GPO Box 7079, Sydney NSW 2001
Phone (02) 8263 2333
Email: info@brifnsw.com.au
Website: www.briferrier.com.au



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1. EXECUTIVE SUMMARY

We are asking creditors to approve the following remuneration and disbursements:

	Remuneration (\$, excl GST)	Disbursements (\$, excl GST)
Voluntary Administration	33,638.00	0.00
If a DOCA is accepted	50,000.00	2,000.00
If Company is liquidated	100,000.00	2,000.00

Details of remuneration can be found in section 3 and 4 of this report.

Creditors have previously approved our remuneration as follows:

	Remuneration (\$, excl GST)	Disbursements (\$, excl GST)
Voluntary Administration	74,507.00	1,000.00

We estimate the total cost of this Voluntary Administration will be approximately \$108,145.00 (excl GST). This has increased from our previous estimate in the Initial Remuneration Notice for the following reasons:

- Due to the adjournment of the Second Meeting, the Voluntary Administration has continued for a period of 3 months, which is longer than initially anticipated; and
- We have had to liaise extensively with the Company's accountant to obtain records and also obtain clarity regarding certain transactions. This is still ongoing.

2. DECLARATION

We, Andrew Cummins and Peter Krejci of BRI Ferrier, have undertaken an assessment of this remuneration claim in accordance with the law and applicable professional standards. We are satisfied that the remuneration and disbursement claimed is necessary and proper.

We have reviewed the work in progress report for the Administration to ensure that remuneration is only being claimed for necessary and proper work performed and no adjustment was necessary.

3. REMUNERATION APPROVAL SOUGHT

The remuneration we are asking creditors to approve is as follows:

For	Period	Amount (\$, excl. GST)	Rates to apply	When it will be drawn
Work we have already done - VA	22 December 2023 to 18 February 2024	13,638.00	Provided in our Supplementary Second Report to Creditors dated 20 February 2024	It will be drawn when it is approved and when funds become available
Future work – VA	19 February 2024 to end of the administration period	20,000.00	Provided in our Supplementary Second Report to Creditors dated 20 February 2024	It will be drawn when it is approved and when funds become available
VA total		33,638.00		
Future Work DOCA	Execution of DOCA to finalisation of DOCA	50,000.00	Provided in our Supplementary Second Report to Creditors dated 20 February 2024	It will be drawn when it is approved and when funds become available
DOCA total		50,000.00		
Future work – Liquidation	28 February 2024 to finalisation of liquidation	100,000.00	Provided in our Supplementary Second Report to Creditors dated 20 February 2024	It will be drawn when funds are available and incurred
Liquidation Total		100,000.00		

Details of the work done for the period 22 December 2023 to 18 February 2024 and future work expected for the period 19 February 2024 to the end of the administration period are included at **Schedule A**.

Details of future work that we intend to do (either in a DOCA or Liquidation) are included at **Schedule B**.

A breakdown of time spent by staff members on each major task for work completed from 12 December 2023 to 21 December 2023 is included in **Schedule C**.

A breakdown of time spent by staff members on each major task for work completed from 22 December 2023 to 18 February 2024 is included in **Schedule D**.

Actual resolutions to be put to the meeting are included at **Schedule E** for your information. These resolutions also appear in the proxy form for the meeting provided to you.

We will only seek approval of the resolution for the liquidation if creditors vote to place the Company into liquidation.

4. DISBURSEMENTS SOUGHT

We are not required to seek creditor approval for costs paid to third parties or where we are recovering a cost incurred on behalf of the administration, but we must provide details to creditors. To date, we have not paid any such costs in the administration.

We are required to obtain creditor's consent for the payment of a disbursement where we, or a related entity of ourselves, may directly or indirectly obtain a profit.

For more information about disbursements, please refer to the Advice to Creditors regarding Remuneration annexed as **Annexure 8**.

The disbursements we would like creditors to approve is as follows:

For	Period	Amount (\$, excl. GST)
If a DOCA is executed	Execution of the DOCA to conclusion	2,000.00
If Company is liquidated - Future disbursements	28 February 2024 to conclusion	2,000.00

Details of disbursements incurred and future disbursements are included at **Schedule E**. Actual resolutions to be put to the meeting are included at **Schedule D** for your information. These resolutions also appear in the proxy form for the meeting provided to you.

5. LIKELY IMPACT ON DIVIDENDS

The Corporations Act sets the order for payment of claims against the Company and it provides for the remuneration of the Administrators to be paid in priority to other claims. This ensures that when there are sufficient funds, the Administrators receives payment for the work done to recover assets, investigate the Company's affairs, report to creditors and ASIC and distribute any available funds. Even if creditors approve our remuneration, this does not guarantee that we will be paid, as we are only paid if sufficient assets are recovered.

An estimated outcome statement is attached as **Annexure 5** of this Report to Creditors dated 20 February 2024. Any dividend payable to creditors will depend on a range of variables, particularly the decision creditors make on the future of the Company, future realisations, our estimated remuneration as we have set out in this report and creditor claims.

6. SUMMARY OF RECEIPTS AND PAYMENTS

A summary of the receipts and payments as at 20 February 2024 is attached.

7. QUERIES & INFORMATION SHEET

If you have any queries in relation to the information in this report, please contact our office. You can also access information which may assist you on the following websites:

ARITA at www.arita.com.au/creditors

ASIC at <http://www.asic.gov.au> (search for INFO 85)

Further supporting documentation for our remuneration claim can be provided to creditors on request.

8. ATTACHMENTS

Schedule A – Details of work from 12 December 2023 to end of the administration period.

Schedule B – Details of work for the period 28 February 2024 onwards.

Schedule C – Time spent by staff members on each major task for work completed from 12 December 2023 to 21 December 2023.

Schedule D – Time spent by staff members on each major task for work completed from 22 December 2023 to 18 February 2024.

Schedule E – Resolutions.

Schedule F – Disbursements.

SCHEDULE A – DETAILS OF WORK FROM 12 DECEMBER 2023 TO END OF ADMINISTRATION

		Tasks	
		Work completed (excl. GST)	Future Work (excl. GST)
Period		22 December 2023 to 18 February 2024	19 February 2024 to end of administration
Amount (excl GST) & Hours		\$13,363.80 27.0 hours	\$20,000.00
Task Area	General Description		
Assets		0.6 Hours \$354.00	\$3,000.00
	Other Asset	Discussions in relation to the transfer of accounts under sale of business agreement Complete account transfer forms	Liaising with purchaser regarding transfer of accounts
	Sale of Business		Arrange collection of second tranche of sale of business proceeds
Creditors		10.5 Hours \$5,566.00	\$10,000.00
	Creditor Enquiries	Receive and respond to creditor enquiries Receive and follow up creditor enquiries by telephone Correspondence with director, directors advisors and accountants regarding reporting to creditors	Receive and respond to creditor enquiries Receive and follow up creditor enquiries by telephone Correspondence with director and the related parties

	Creditor Reports	<p>Complete preparation of Second Report to Creditors</p> <p>Prepare Estimated Statement of Position for Second Report</p> <p>Preparation of Supplementary Second Report to Creditors to reconvene the Second Meeting</p> <p>Internal discussions regarding Report preparation, DOCA and estimated return scenarios</p>	Complete and issue Supplementary Second Report to Creditors to reconvene the Second Meeting
	Dealing with proofs of debt		Receipting, processing and filing PODs
	Second Meeting of Creditors	Preparation of minutes of Second Meeting of Creditors	<p>Preparation of meeting notices, proxies and advertisements to reconvene Second Meeting of Creditors</p> <p>Sending Notice of Meeting to all known creditors</p> <p>Preparation of resumed meeting file, including agenda, attendance register, list of creditors, report to creditors, advertisement of meeting and draft minutes of meeting</p> <p>Preparation and finalisation of minutes of Second Meeting</p>
	Proposal for Deed of Company Arrangement	<p>Liaising with Director/Director's Advisor regarding DOCA proposal</p> <p>Internal discussions regarding proposal and possible improvements to proposal</p>	<p>Finalising DOCA proposal from Director and Director's advisor</p> <p>Liaising with solicitors regarding the preparation of Deed of Company Arrangement</p> <p>Arranging execution of Deed</p>

Investigation		13.7 Hours \$7,142.00	\$5,000.00
	Conducting Investigation	Reviewing limited Company's books and records Liaising with Company's accountant regarding accessing to records Liaising with Company's advisors and accountant and making specific queries in relation to accounts Preparation of comparative financial statements Review of specific transactions and liaising with Company's accountant regarding certain transactions Consider recovery actions available in Liquidation scenario	Reviewing limited Company's books and records Review of specific transactions and liaising with Company's accountant regarding certain transactions Liaising with Company accountant regarding access to records Consider recovery actions available in Liquidation scenario and preparation of estimated statement of position
Administration		2.2 Hours \$576.00	\$2,000.00
	ASIC Forms and lodgements	Preparation of ASIC forms	Preparing and lodging ASIC PNW advertisement Preparing and lodging ASIC Forms including 530, 505, 5047
	Bank account administration	Preparation of Monthly Bank Reconciliation	Preparation of Bank Reconciliation
	Correspondence	Correspondence with various parties	Correspondence with various parties
	Document maintenance/file review/checklist	Preparing and updating job checklists	Preparing and updating job checklists Filing of documents

	ATO and other statutory reporting	Prepare BAS Liaising with ATO re request for documents	Notification of appointment Preparing BAS
	Planning / Review	Internal discussions regarding status of administration	Discussions regarding status of DOCA proposal
	Finalisation	Completing checklists Processing WIP	Notifying ATO of finalisation Cancelling ABN / GST / PAYG registration Completing checklists Finalising WIP

SCHEDULE B – DETAILS OF WORK FROM 28 FEBRUARY 2024 ONWARDS

		If Creditors resolve to accept the DOCA	If Creditors resolve to place into Liquidation
Period		From execution of DOCA to finalisation of DOCA	28 February 2024 to conclusion
Amount (excl. GST)		\$50,000.00	\$100,000.00
Task Area	General Description		
Assets		\$5,000.00	\$17,000.00
	Plant and Equipment	N/A	Discussions with Director and management regarding realising PPE Liaising with a valuer and auctioneer to realise PPE Tasks associated with realising PPE
	Sale of Business	Collect balance of sale of business proceeds Liaising with Purchaser regarding transferring ownership of assets	Liaise with Purchaser regarding completion of sale of business (if possible) Preparing for sale of business including preparation of information memorandum liaising with prospective purchasers Internal discussions regarding interested parties, offers and preparation of sales agreement
	Other Assets		Tasks associated with realising other assets
Creditors		\$12,500.00	\$20,000.00

	Creditor Enquiries	<p>Receive and respond to creditor enquiries</p> <p>Receive and follow up creditor enquiries by telephone</p> <p>Review and prepare correspondence to creditors and their representatives by email</p> <p>Compiling information requested by creditors</p>	<p>Receive and respond to creditor enquiries</p> <p>Receive and follow up creditor enquiries by telephone</p> <p>Review and prepare initial correspondence to creditors and their representatives</p> <p>Considering reasonableness of creditor's request</p> <p>Obtaining legal advice on requests</p> <p>Compiling information requested by creditors</p>
	Creditor Reports	<p>Preparation of Report to Creditors to update creditors and provide updated recommendation (if required).</p>	<p>Prepare Circular to Creditors regarding Liquidation</p> <p>Prepare Statutory Report to Creditors</p> <p>Preparation of necessary annexures for Statutory Report to Creditors</p>
	Dealing with proofs of debt	<p>Receipting, processing, and filing Proofs of Debts</p> <p>Maintaining register of Proofs of Debts received</p> <p>Reviewing supporting documentation from creditors</p>	<p>Receipting, processing, and filing Proofs of Debts when not related to a dividend</p> <p>Maintaining register of Proofs of Debts received</p> <p>Reviewing supporting documentation from creditors</p>
	Deed of Company Arrangement	<p>Liaising with Director and lawyers regarding DOCA</p> <p>Ongoing monitoring and enquiries with proponents as to DOCA progress</p> <p>Periodically updating returns to creditors</p>	N/A
	Meeting of Creditors	<p>Preparation of meeting notices, proxies and advertisements</p> <p>Forward notice of meeting to all known creditors</p> <p>Preparation of meeting file, including agenda, certificate of postage, attendance register, list of</p>	<p>Convening creditors meeting as necessary</p> <p>Preparation of Minutes of Meeting</p>

		creditors, reports to creditors, advertisement of meeting and draft minutes of meeting. Preparation and lodgement of minutes of meetings with ASIC	
		\$12,500.00	\$53q,000.00
	Conducting Investigation	<p>Conduct further investigations once accounts are brought up to date</p> <p>Obtaining and reviewing further Company's books and records</p> <p>Review of specific transactions and liaising with Director regarding certain transactions</p> <p>Conducting further investigations into potential voidable transactions</p> <p>Conducting further investigations into solvency analysis</p> <p>Prepare investigation file and prepare commentary for Report to Creditors</p> <p>Consider amending recommendation to creditors</p>	<p>Obtaining and reviewing further Company's books and records</p> <p>Review of specific transactions and liaising with Director regarding certain transactions</p> <p>Conducting further investigations into potential voidable transactions</p> <p>Conducting further investigations into solvency analysis</p> <p>Preparation of updated investigation file</p> <p>Lodgement of investigation with ASIC</p> <p>Preparation and lodgement of supplementary report if required</p>
	Litigation/ Recoveries	N/A	<p>Conducting investigations into potential claims against Director and related parties</p> <p>Consider conducting public examinations</p> <p>Seeking funding to conduct further investigations and public examinations</p> <p>Preparing brief to solicitors</p> <p>Attend public examinations</p> <p>Consider outcome from public examinations</p> <p>Liaising with solicitors regarding recovery actions</p>

			Commencing recovery action against Director and/or related parties Negotiating commercial settlement, if necessary
	ASIC Reporting	N/A	Prepare statutory investigation reports Liaising with ASIC Prepare application for funding to conduct further investigations Prepare supplementary report to ASIC, if required
Dividend		\$10,000.00	N/A
	Dividend Procedures	Advertise intention to declare dividend Correspondence to creditors advising of intention to declare dividend Reporting to Creditors regarding dividend quantum and timing Preparation of dividend calculation Preparation of distribution Preparation of dividend file Preparation of payment vouchers to pay dividend Preparation of correspondence to creditors enclosing payment of dividend Calculation of dividend Adjudicate PODs and supporting documentation Request further and better particulars as necessary	N/A
	Declaring Dividend	Correspondence with creditors	N/A

Administration		\$10,000.00	\$10,000.00
	ASIC Forms and lodgements	Preparing and lodging ASIC forms Correspondence with ASIC regarding statutory forms`	Preparing and lodging ASIC forms Correspondence with ASIC regarding statutory forms
	Bank account administration	Preparing correspondence opening DOCA contribution bank account Preparing receipts and payment vouchers Bank account reconciliations	Preparing receipt and payment vouchers Bank account reconciliations
	Correspondence	Correspondence with various parties	Correspondence with various parties
	Document maintenance/file review/checklist	Updating job checklists Filing of documents	Filing of documents File reviews Updating checklists
	ATO and other statutory reporting	Notification of appointment Preparing BAS	Notification of appointment Preparing BAS
	Planning / Review	Discussions regarding status of administration	Discussions regarding status of administration
	Finalisation	Notifying ATO of finalisation Completing checklists Finalising WIP	Notifying ATO of finalisation Cancelling ABN/GST/PAYG registration Completing checklists Finalising WIP

SCHEDULE C – TIME SPENT BY STAFF ON MAJOR TASKS – 12 DECEMBER 2023 TO 21 DECEMBER 2023

Earlwood Smash Repairs Pty. Limited (Administrators Appointed)

ACN 056 358 233

For the period 12 December 2023 to 21 December 2023

Staff Classification	Name	Hourly Rate \$ (ex GST)	Administration Hrs \$	Assets Hrs \$	Creditors Hrs \$	Employees Hrs \$	Investigation Hrs \$	Total Hrs \$
Appointee	Peter Krejci	730	- -	- -	0.7 511.00	- -	- -	0.7 511.00
Appointee	Andrew Cummins	730	- -	- -	- -	- -	1.2 876.00	1.2 876.00
Senior Manager	Pauline Yeow	590	- -	- -	15.2 8,968.00	0.5 295.00	0.5 295.00	16.2 9,558.00
Manager	Savio Monis	550	0.3 165.00	0.4 220.00	11.0 6,050.00	- -	0.9 495.00	12.6 6,930.00
Intermediate 2	Hugh Matthews	280	- -	- -	2.2 616.00	- -	- -	2.2 616.00
Intermediate 2	Mankirth Mandair	280	0.4 112.00	- -	- -	- -	- -	0.4 112.00
Senior Administration	Sonia Stelmach	240	0.3 72.00	- -	- -	- -	- -	0.3 72.00
Total			1.0 349.00	0.4 220.00	29.1 16,145.00	0.5 295.00	2.6 1,666.00	33.6 18,675.00
Average Rate			349.00	550.00	554.81	590.00	640.77	
								GST 1,867.50
								Total WIP (incl GST) 20,542.50

Creditors previously approved by remuneration for the period 12 December 2023 to 21 December 2023 to an amount of \$10,000.00 (plus GST).

Our actual costs for this period exceeded the approved amount and a total of \$18,675.00 (plus GST) was incurred.

We have not sought to have the additional amount of \$8,675.00 (plus GST) approved by creditors, and this amount will be written off.

SCHEDULE D – TIME SPENT BY STAFF ON MAJOR TASKS – 22 DECEMBER 2023 TO 18 FEBRUARY 2024

Earlwood Smash Repairs Pty. Limited (Administrators Appointed)

ACN 056 358 233

For the period 22 December 2023 to 18 February 2024

Staff Classification	Name	Hourly Rate \$ (ex GST)	Administration		Assets		Creditors		Investigation		Total	
			Hrs	\$	Hrs	\$	Hrs	\$	Hrs	\$	Hrs	\$
Appointee	Andrew Cummins	730	-	-	-	-	0.2	146.00	0.7	511.00	0.9	657.00
Senior Manager	Pauline Yeow	590	-	-	0.6	354.00	0.8	472.00	3.9	2,301.00	5.3	3,127.00
Senior Manager	Katherine La	590	-	-	-	-	0.5	295.00	-	-	0.5	295.00
Manager	Savio Monis	550	-	-	-	-	7.9	4,345.00	6.6	3,630.00	14.5	7,975.00
Intermediate 2	Hugh Matthews	280	0.2	56.00	-	-	-	-	-	-	0.2	56.00
Intermediate 2	Mankirth Mandair	280	1.0	280.00	-	-	1.1	308.00	2.5	700.00	4.6	1,288.00
Senior Administration	Sonia Stelmach	240	0.9	216.00	-	-	-	-	-	-	0.9	216.00
Senior Administration	Sarita Gurung	240	0.1	24.00	-	-	-	-	-	-	0.1	24.00
Total			2.2	576.00	0.6	354.00	10.5	5,566.00	13.7	7,142.00	27.0	13,638.00
Average Rate				<u>261.82</u>		<u>590.00</u>		<u>530.10</u>		<u>521.31</u>		
											GST	1,363.80
											Total (incl GST)	15,001.80

SCHEDULE E – RESOLUTIONS

We will be seeking approval of the following resolutions to approve our remuneration and disbursements. Details to support these resolutions are included in **sections 3 and 4** and in the attached Schedules.

Resolution 1: Administrators' Remuneration for the period 22 December 2023 to 18 February 2024

"That the remuneration of the Joint and Several Administrators, their partners and staff for the period 22 December 2023 to 18 February 2024, be calculated on a time basis in accordance with the rates of charge annexed to the Voluntary Administrators' Supplementary Second Report to Creditors dated 20 February 2024, be fixed and approved at \$13,638.00 (plus GST), and that the Joint and Several Administrators be authorised to draw that amount."

Resolution 2: Administrators' Remuneration for the period 19 February 2024 to end of Administration

"That the remuneration of the Joint and Several Administrators, their partners and staff for the period 19 February 2024 to the end of the administration, be calculated on a time basis in accordance with the rates of charge annexed to the Voluntary Administrators' Supplementary Second Report to Creditors dated 20 February 2024, and approved to an interim cap of \$20,000.00 (plus GST), and that the Joint and Several Administrators be authorised to draw that amount as and when incurred."

If creditors resolve for the Company to execute a Deed of Company Arrangement:

Resolution 6: Deed Administrators' Remuneration for the period of the DOCA

"That the remuneration of the Joint and Several Deed Administrators, their partners and staff from the execution of the DOCA to the finalisation of DOCA, be calculated on a time basis in accordance with the rates of charge annexed to the Voluntary Administrators' Supplementary Second Report to Creditors dated 20 February 2024, and approved to an interim cap of \$50,000.00 (plus GST), and that the Joint and Several Deed Administrators be authorised to draw that amount as and when incurred."

Resolution 7: Deed Administrators' Internal Disbursements for the period of the DOCA

"That the Deed Administrator be allowed internal disbursements for the period of the DOCA at the rates of charge annexed to the Voluntary Administrators' Supplementary Second Report to Creditors dated 20 February 2024, up to an amount of \$2,000.00 (plus GST) and that the Deed Administrators be authorised to draw that amount as accrued."

If the Company is wound up:

Resolution 8: Liquidators' Remuneration for the period 28 February 2024 to Conclusion

"That the remuneration of the Joint and Several Liquidators, their partners and staff for the period 28 February 2024 to the conclusion of the Liquidation, be calculated on a time basis in accordance with the rates of charge annexed to the Voluntary Administrators' Supplementary Report to Creditors dated 20 February 2024, and approved to an interim cap of \$20,000.00 (plus GST), and that the Joint and Several Liquidators be authorised to draw that amount as and when incurred."

February 2024, and approved to an interim cap of \$100,000.00 (plus GST), and that the Joint and Several Liquidators be authorised to draw that amount as and when incurred.”

Resolution 9: Liquidators’ Internal Disbursements for the period 28 February 2024 to Conclusion

“That the Liquidators be allowed internal disbursements for the period 28 February 2024 to the conclusion of the Liquidation at the rates of charge annexed to the Voluntary Administrators’ Supplementary Second Report to Creditors dated 20 February 2024, up to an amount of \$2,000.00 (plus GST) and that the Liquidators be authorised to draw that amount as accrued.”

SCHEDULE F – DISBURSEMENTS

Disbursements are divided into three types:

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

We advise that to date we have not paid any disbursements incurred during this Administration by our Firm.

We are not obliged to seek creditor approval for disbursements paid to third parties, but must account to creditors, this includes providing details of the basis of charging for these types of disbursements to creditors as part of the Remuneration Approval Report. We are required to seek creditor approval for internal disbursements where there could be a profit or advantage. These resolutions are detailed in Schedule E.



**EARLWOOD SMASH REPAIRS
PTY. LIMITED
(ADMINISTRATORS
APPOINTED)
ACN 056 358 233**

**Annexure "8"
Advice to Creditors About
Remuneration**

ADVICE TO CREDITORS ABOUT REMUNERATION

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

EARLWOOD SMASH REPAIRS PTY. LIMITED (ADMINISTRATORS APPOINTED) ACN 056 358 233 ("THE COMPANY")

A REMUNERATION METHOD

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

▲ Time based / hourly rates or "Time Cost"

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

▲ Fixed Fee

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

▲ Percentage

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

▲ Contingency

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

B METHOD CHOSEN

Given the nature of this administration, we propose that our remuneration be calculated on the time based / hourly rates method. In our opinion, this is the fairest method for the following reasons:

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

BRI Ferrier reviews its hourly rates every twelve months. The hourly rates quoted below remain current. BRI Ferrier may increase the hourly rates charged for work performed and if hourly rates are increased, we will seek creditors' approval.

C EXPLANATION OF HOURLY RATES

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

Title	Description	Hourly Rates (ex GST)
Principal/Appointee	A Liquidator and/or Registered Trustee. A senior accountant with over 10 years' experience who brings specialist skills and experience to the appointment. Leads the team carrying out the appointment.	\$730
Director	An accountant with more than 10 years' experience. May be a Registered Liquidator. Fully qualified and able to control all aspects of an appointment. May have specialist industry knowledge or skills. Assists with all facets of appointment.	\$640
Senior Manager	An accountant with more than 7 years' experience. Qualified and answerable to the Team Leader. Self-sufficient in completing and planning all aspects of large appointments.	\$590
Manager	An accountant with at least 6 years' experience. Qualified with well-developed technical and commercial skills. Controls and plans all aspects of medium to larger appointments, reporting to the Team Leader.	\$550
Supervisor	An accountant with more than 3 years' experience. Typically qualified with sound knowledge of insolvency principles and developing commercial skill. Assists to plan and control specific tasks on medium to larger appointments. Often undertaking post qualification study specialising in Insolvency and Reconstruction.	\$480
Senior 1	An accountant with more than 2 years' experience. Typically, a graduate undertaking study leading to professional qualification as a Chartered Accountant or CPA. Able to complete work on appointments with limited supervision.	\$420
Senior 2	An accountant with less than 2 years' experience. Typically a graduate who has commenced study leading to professional qualifications. Able to complete many tasks on medium to large appointments under supervision.	\$380
Intermediate 1	An accountant with less than 2 years' experience. Typically a graduate and commencing study for qualifications. Able to complete multiple tasks on smaller to medium appointments under supervision.	\$330
Intermediate 2	An accountant with less than 1 years' experience. A trainee undertaking degree with an accountancy major. Assists in the appointment under supervision.	\$280
Senior Administration	Appropriately skilled and undertakes support activities including but not limited to treasury, word processing and other administrative, clerical and secretarial tasks.	\$240
Junior Administration	Appropriately skilled and undertakes support activities including but not limited to treasury, word processing and other administrative, clerical and secretarial tasks.	\$180

D DISBURSEMENTS

Disbursements are divided into three types:

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

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

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

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

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



**EARLWOOD SMASH REPAIRS
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**Annexure "9"
ASIC Information Sheet – Insolvency
Information for Directors,
Employees, Creditors and
Shareholders**

Insolvency information for directors, employees, creditors and shareholders

This is **Information Sheet 39 (INFO 39)**. It 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](#).

Information sheets provide concise guidance on a specific process or compliance issue or an overview of detailed guidance.

This information sheet was updated on 1 September 2017.

Last updated: 24/03/2023 08:46



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**Annexure "10"
ARITA Information Sheet – Offences,
Recoverable Transactions and
Insolvent Trading**

Voluntary Administration

Creditor Information Sheet

Offences, Recoverable Transactions and Insolvent Trading



Offences

A summary of offences under the Corporations Act that may be identified by the administrator:

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)	Failure by directors to assist administrator, deliver records and provide information.
438C(5)	Failure to deliver up books and records to the administrator.
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 created 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.

Queries about the voluntary administration should be directed to the administrator's office.