



## STATUTORY REPORT TO CREDITORS

SYDNEY EXOTIC AQUARIUMS CASULA PTY LTD (IN LIQUIDATION)

ATF PANELLA DISCRETIONARY TRUST ABN 29 704 567 650

ATF SYDNEY EXOTIC AQUARIUMS TRUST ABN 90 228 589 486

ACN 649 148 014

ABN 15 649 148 014

28 June 2024

PETER KREJCI  
LIQUIDATOR

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## INTRODUCTION

I refer to my Initial Report to Creditors dated 10 April 2024 in which my appointment as Liquidator of the Company was advised along with your rights as a creditor in the liquidation.

The purpose of this report is to provide creditors with information regarding the following:

- ▲ The estimated amount of assets and liabilities of the Company;
- ▲ An update on the progress of the Liquidation and further actions that may need to be undertaken;
- ▲ What happened to the business;
- ▲ The likelihood of creditors receiving a dividend before the affairs of the Company are fully wound up; and
- ▲ Possible recovery actions.

This report should be read in conjunction with the initial report. If you have any questions relating to the liquidation in general, or specific questions relating to your position, please do not hesitate to contact this office.

Creditors can find copies of all previous reports on this matter on our website.

- ▲ BRI Ferrer <https://briferrier.com.au/>

### COMPANY DETAILS

<b>Name</b>	Sydney Exotic Aquariums Casula Pty Ltd (In Liquidation)
<b>Incorporated</b>	31 March 2021
<b>ACN</b>	649 148 014
<b>Registered Office</b>	Level 2 74 McEvoy Street Alexandria NSW 2015
<b>Trading Address</b>	Shop 3 562 Hume Highway Casula NSW 2170

### LIQUIDATOR

<b>Name</b>	Peter Krejci
<b>Date Appointed</b>	28 March 2023

### ADMINISTRATION CONTACT

<b>Name</b>	Sushma Mandira
<b>Email</b>	smandira@brifnsw.com.au
<b>Phone</b>	02 8263 2322

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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
ASIC	Australian Securities and Investments Commission
CVL	Creditors Voluntary Liquidation
Company	Sydney Exotic Aquariums Casula Pty Ltd (In Liquidation)
DEWR	Department of Employment and Workplace Relations
DCoT	Deputy Commission of Taxation
Director	Teddy John Panella
DIRRI	Declaration of Independence, Relevant Relationships & Indemnities
Department	Department of Employment and Workplace Relations
FEG	Fair Entitlements Guarantee
Firm	BRI Ferrier NSW
Former Director	Gregory Maly
Former Liquidator	Mr Daniel Frisken of O'Brien Palmer
Initial Report	Initial Report to Creditors dated 10 April 2024
IPR	Insolvency Practice Rules (Corporations) 2016
IPS	Insolvency Practice Schedule (Corporations) 2016
Mr. Panella	Teddy John Panella
Mr. Maly	Gregory Maly
PE	Public Examination
POD	Proof of Debt
PPSR	Personal Properties Securities Register
Richmond Lifts	Richmond Lifts Pty Ltd (In Liquidation)
RBP	Relation Back Period
ROCAP	Report on Company Activities and Property
SEA	Sydney Exotic Aquariums Pty Ltd (Deregistered) ACN 625 943 213
SEAA	Sydney Exotic Aquariums Arncliffe Pty Ltd ACN 655 810 030
SEA Trust	The Trustee for the Sydney Exotic Aquariums Trust ABN 90 228 589 486
SEAA Trust	The Trustee for The Sydney Exotic Aquariums Arncliffe Trust ABN 85 665 897 006
SOA	Summary of Affairs
United Lifts	United Lifts Technologies Pty Ltd (In Liquidation)

## EXECUTIVE SUMMARY

At a meeting of creditors held on 28 March 2024, creditors resolved to appoint me as Liquidator of the Company pursuant to section 90-35 of the Insolvency Practice Schedule (Corporations) 2016. My appointment replaced the Former Liquidator, Mr Daniel Frisken of O'Brien Palmer ("the Former Liquidator").

This report has been prepared in accordance with Rule 70-40 of the Insolvency Practice Rules to provide creditors with an update on the developments of this Liquidation. I provide hereunder a summary of my preliminary investigations into affairs of the Company to date, the potential return for creditors and the conduct of the Liquidation over the past three (3) months.

The Company was incorporated on 31 March 2021 with its principal place of business being Shop 3 562 Hume Highway Casula NSW 2170. As advised in my initial report to creditors, the Company, in its capacity as Trustee of the Trust, operated as a retail provider for aquariums and aquarium accessories from leased premises located in Casula NSW.

To summarise, assets of the Company as at my appointment comprised of cash at bank funds at St George Bank, the intellectual property of the Company and related party debtors identified in the Company's bank statements. I have not identified any other major assets of the Company. Please refer to Section 10 of this report where I provide further commentary regarding Company assets.

In terms of liabilities, my investigations have identified fourteen (14) creditors of the Company being four (4) priority (employee) creditors owed circa \$44K, four (4) secured creditors owed circa \$202K and nine (9) unsecured creditors owed circa \$931K. Please refer to Section 11 of this report where I provide further commentary regarding the liabilities of the Company.

Based on the available information, it appears that the Company entered into an illegal 'phoenix' arrangement by transferring its business and assets to a related entity after having suffered significant losses in the financial years leading up to the cessation of trade and the Former Liquidator's appointment on 27 November 2023. I intend to gather the required evidence, likely via a public examination, to pursue recovery action against parties directly involved in the phoenix transaction and/or those parties that facilitated same should it be commercial to do so. Further, based on the available books and records, I have determined that the Company may have been insolvent since incorporation and there may be a potential insolvent trading claim valued at c.\$731K which could be pursued against the Director. I note that the illegal phoenix transaction and insolvent trading claim have overlapping elements, such that if the illegal phoenix transaction is successfully recovered, the insolvent trading claim would be reduced.

My investigations have additionally identified uncommercial transactions, unfair preference payments and unreasonable director-related transactions which may be pursued for the benefit of creditors. Please refer to Section 13 of this report where I have detailed my findings in this regard. My investigations are preliminary however and such claims will require further investigations, evidence and funding to pursue.

In the near term, I intend to report my findings to ASIC pursuant to Section 533(1) of the Act. This report to ASIC is a legislative requirement in liquidations where potential offences and breaches of

the Act by Directors and Officers of the Company have been identified and/or the estimated return to unsecured creditors is less than fifty (50) cents in the dollar.

**My current estimates indicate that any return to Creditors is largely contingent on pursuing the above claim, where if litigation is required to pursue, I will likely require funding from creditors. Accordingly, unless significant recoveries are made from the above claim, there will not be any dividends to any class of creditors in this liquidation.**

**Should any creditor have any relevant information which may assist my investigations or potential asset recoveries, or wish to fund my further investigations, they should contact my office by no later than 12 July 2024. I do intend to seek litigation funding from external parties which if obtained will extend the Liquidation beyond twelve (12) months.**

## 1 BASIS OF REPORT

This report has been prepared primarily from information received from the Company's Former Liquidator.

In order to complete this report and in conducting my investigations, I have also utilised information from:

- ▲ ASIC;
- ▲ The ROCAP completed by the Director;
- ▲ The limited books and records of the Company;
- ▲ Extracts from public information databases; and
- ▲ Correspondence with creditors.

## 2 DISCLAIMER

An investigation of the Company's affairs has been conducted and this report and the statements made herein have been prepared based upon available books and records, information provided by the Company's Director and from my own enquiries.

Whilst I have no reason to doubt the accuracy of the information provided or contained herein, I reserve the right to alter my opinions or conclusions should the underlying data prove to be inaccurate or materially change after the date of this report.

Neither I, 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 me, or necessary estimates and assessments made for the purposes of the report.

This report is not for general circulation, publication, reproduction, or any use other than to assist creditors in evaluating their position as creditors of the Company and must not be disclosed without the prior approval of the Liquidator.

Creditors should consider seeking their own independent legal advice as to their rights and options available to them.

Should any creditor have material information in relation to the Company's affairs which they consider may impact on my investigations or report, please forward details in writing as soon as possible.

### 3 DECLARATION OF INDEPENDENCE, RELEVANT RELATIONSHIPS AND INDEMNITIES

Attached to my Previous Circular dated 22 April 2024 was a copy of the Declaration of Independence, Relevant Relationships and Indemnities ("DIRRI") dated the same day. I advise that there have been no changes to the DIRRI.

### 4 CORPORATE INFORMATION

The following is a summary of the Company's statutory and business details obtained from the ASIC database and the Personal Property Securities Register ("PPSR") database:

#### 4.1 COMPANY DETAILS

<b>Company Name</b>	Sydney Exotic Aquariums Casula Pty Ltd
<b>Registered Address</b>	Level 2 74 McEvoy Street Alexandria NSW 2015
<b>Principal Place of Business</b>	Shop 3 562 Hume Highway Casula NSW 2170
<b>Incorporation Date</b>	31 March 2021
<b>ACN</b>	649 148 014
<b>ABN</b>	15 649 148 014

#### 4.2 COMPANY OFFICE HOLDERS

Name	Position	Appointment Date	Cease Date
Teddy John Panella	Director and Secretary	01/02/2023	Current
Gregory Maly	Director and Secretary	01/02/2022	22/11/2023
Teddy John Panella	Director and Secretary	31/03/2021	01/02/2022

#### 4.3 SHAREHOLDERS

Company	Share Class	No. of Shares	Fully Paid Up	Status
Teddy John Panella	ORD	100	Yes	Current

#### 4.4 RELATED PARTIES AND ASSOCIATES

A directorship search was undertaken in respect to the Company's Directors and my investigations indicate that the Directors held the following roles in other entities:

##### TEDDY JOHN PANELLA

Please refer to Annexure B to this report.



## GREGORY MALY

Company	Status	ACN	Position	Start Date	Cease Date
Sydney Exotic Aquariums Casula Pty Ltd	In Liquidation	649 148 014	Former Director	01/02/2022	22/11/2023
Sydney Exotic Aquariums Casula Pty Ltd	In Liquidation	649 148 014	Former Secretary	01/02/2022	01/02/2023

## 5 LEGAL PROCEEDINGS

Pursuant to Section 500(2) of the Act, my appointment as Liquidator automatically stays any current legal proceedings against the Company.

Creditors cannot commence or continue proceedings against the Company without my written consent or without leave of the Court.

I note the Company was subject to an ongoing legal dispute with Muniratham Naidu and Sarjiniammal Naidu (**"the Plaintiffs"**) who, under subrogated instructions from NRMA Insurance, were pursuing the Company for the recovery of damages arising from breach of contract and negligence in the service of an aquarium pump in October 2021. These proceedings were stayed by operation of Section 500(2) of the Act.

I am not aware of any other legal proceedings involving the Company.

## 6 COMPANY BACKGROUND AND EVENTS LEADING TO MY APPOINTMENT

The following information was obtained from the limited Company's books and records received to date and information obtained from third parties.

- In May 2018, Sydney Exotic Aquariums Pty Ltd ("SEA"), a related entity by way of common Directors & Shareholders of the Company, was incorporated and operated as a retailer of aquariums and aquarium accessories from leased premises located in Casula NSW. On or about February 2019, SEA was appointed Trustee of the Panella Trust and Sydney Exotic Aquariums Trust ("SEAT").
- In September 2020, SEA was deregistered and Panella Trust continued trading the business and the Trustee of the Trust at that time is unknown. In March 2021, the Company was incorporated and appears to have assumed the various roles of SEA trading from the same Principal Place of Business and being appointed Trustee of the Panella Trust and SEAT.
- The Company and SEA shared the same external accountant, Accolade Advisory, as evidenced by accounting/consulting fee invoices charged to Panella Trust since 2019.
- In December 2021, Sydney Exotic Aquariums Arncliffe Pty Ltd ("SEAA") was incorporated and appointed Trustee of Sydney Exotic Aquariums Arncliffe Trust ("SEAAAT"). SEAA traded under the business name 'Sydney Exotic Aquariums' and operated as a retailer of aquariums and aquarium accessories from leased premises located in Arncliffe NSW.

- Upon review of the Company's bank statements, it appears the Company received \$75K from SEAA representing sales revenue for the period 27 September 2022 to 27 November 2023 whilst also having made rental payments on behalf of SEAA of c. \$29K. The Company's bank statements also disclosed unidentified ATM withdrawals at Arncliffe during the same period of c. \$43K.
- Mr Teddy Panella was the sole director, secretary and shareholder of the Company as at the date of the appointment of the Former Liquidator and continues to be the sole director, secretary and shareholder of SEAA. ASIC Searches confirm Mr Panella was appointed Director and secretary on the date of Company's incorporation however he ceased as a Director of the Company in Feb 2022 with Mr Gregory Maly served as the Director and secretary for a period of one (1) year. Mr Panella was then re-appointed in Feb 2023 as Director and Secretary and remained in those roles until the Company was placed into Liquidation.
- On 27 November 2023, the Director's ROCAP completed and submitted to my office indicates the Company ceased trading on account of poor retail economic conditions.
- Subsequently, on 28 November 2023, Mr. Daniel Frisken of O'Brien Palmer ("Former Liquidator") was appointed Liquidator pursuant to a resolution passed by the Company's sole member at a duly convened members meeting held pursuant to Section 491 of the Act.
- During Mr. Frisken's appointment, it was noted that the business of the Company appeared to still be trading as per its online website which would indicate the Company had been replaced as trustee of SEAT and Panella Trust by SEAA prior to or as a response to the former Liquidator's.
- On 1 March 2024, ERA Legal advised my office that they acted for Darren Vardy, the Liquidator of NPC Advisory (TC) Pty Limited (In Liquidation), who was seeking to replace Mr. Frisken and asked me if I would consent to act as a Replacement Liquidator of the Company.
- I provided my consent to act as liquidator, on the request of Mr. Vardy, on 5 March 2024, and at a meeting of creditors held on 28 March 2024, I was appointed Replacement Liquidator of the Company by operation of section 90-35 of the Insolvency Practice Schedule (Corporations) 2016.

As at the date of writing this report, I have received limited company books and records and note my investigations are limited based on same.

## 7 REASONS FOR FAILURE

The Directors have submitted a ROCAP advising that the business failure was due to the following:

- Inability to meet creditor demands; and
- Poor Retail Economic Conditions.

My investigations into the Company's affairs suggest the reason for the Company's failure to be the following:

- Poor financial control, including maintenance of books and records of the Company. Delays in taxation lodgements since incorporation indicate that the Company had not maintained up-to-date books and records such that the Company's financial position was not known.
- Poor strategic management of the business. I note the Company appears to have made Payments to related entities by way of common Director and further, did not meet its statutory obligations. This appears to support that the Director may not have managed the operations of the business in a good faith and for a proper purpose.
- Insufficient cash flow or high cash use. An analysis of the Company's month to month cash position as reported in its bank statements indicates that the Company had an material deficiency in its cash position to meet its known current liabilities, from as early as 30 September 2022.
- Trading losses. the company Bank Statements indicate a material decline in the revenue in FY2023 which was around the time the Director reported the Company experienced trading losses in his ROCAP.

## 8 HISTORICAL FINANCIAL INFORMATION

I have reviewed the Company's financial reports for the years ending 30 June 2021 and 30 June 2022. Based on the source documents available to me, it appears that these financial records have not been reconciled and are likely inaccurate and incomplete. Notwithstanding, I have sought to analyse same as they are the only available financials for the Company.

### 8.1 BALANCE SHEETS

Attached as "**Annexure B**" is a comparative analysis of the Balance Sheets for the above-mentioned period.

I make the following commentary with respect to the attached comparative Balance Sheets:

- Across the relevant periods, the Company's assets predominantly comprised of GST refunds. This may not be accurate as the DCoT is the major creditor of the Company. I am yet to receive ATO portal access for the Company and will continue my investigations once received.
- The Company's assets also disclose a related entity loan from SEAT. From my review of the Company's bank statements, I have not identified any receipt of funds from SEAT. Rather it appears a \$200K was paid to United Lifts and \$69K was paid to SEAA.
- The Company's non-current liabilities predominantly comprise of loans from related parties and supports my view that the business was poorly managed by the Directors as they the Company required loan funds to meet the deficiency in working capital.
- Current Liabilities are additionally made up of PAYG and Employee Entitlements due and payable as at FY22 and the DCoT Proof of Debt confirms payment of same remains outstanding which contradicts the Director's ROCAP that states employees are solely owed wages.

## 8.2 PROFIT AND LOSS STATEMENTS

Attached as “**Annexure C**” is a comparative analysis of the Profit and Loss Statements for the above-mentioned period.

I make the following commentary with respect to the attached comparative Profit and Loss Statements:

- ▶ The Company Profit & Loss Statements report a 32% increase in expenses against trading revenue in FY22 as compared to FY21, primarily in rent, motor vehicle expenses and accounting fees which deteriorated the working capital position during the year. As mentioned previously in this Report, rent paid represents payment of rent for both the leased premises in Casula NSW and Arncliffe NSW which is operated by SEAA.
- ▶ The Statements report a 22% decrease in net wages and no superannuation payments during the FY22 which seems to indicate the Company either laid off or transferred its employees during the year to a related entity. I have not received any books or records to confirm who the former employees were and if they were paid their entitlements and superannuation in full.

## 9 CURRENT FINANCIAL POSITION

Below is my analysis of the current financial position of the Company, based on available financial records, the Director's ROCAP and my enquiries to date.

Sydney Exotic Aquariums Casula Pty Ltd (In Liquidation) ACN 649 148 014 Summary of Director's Report on Company Activities and Property				
	Report Reference	Director's ERV (per ROCAP) (\$)	Proof of Debt (as at 28.03.2024) (\$)	Liquidator's ERV (\$)
<b>Assets</b>				
Cash and Cash Equivalents	10.1	Nil	Nil	494
Motor Vehicle	10.2	Nil	Nil	Nil
Real Property	10.3	Nil	Nil	Nil
Debtors	10.4	Nil	Nil	98,000
Other Assets	10.5	Nil	Nil	1,000
<b>Total Assets</b>		<b>Nil</b>	<b>Nil</b>	<b>99,494</b>
<b>Liabilities</b>				
Priority Creditors	11.1	94,707	Nil	44,537
Secured Creditors	11.2	446,880	Nil	202,430
Unsecured Creditors:	11.3	709,278	731,201	931,101
<b>Total Liabilities</b>		<b>1,250,865</b>	<b>731,201</b>	<b>1,178,068</b>
<b>Estimated Net Asset / (Deficiency)</b>		<b>(1,250,865)</b>	<b>(731,201)</b>	<b>(1,078,574)</b>

## 10 ASSETS

### 10.1 CASH AND CASH EQUIVALENTS

I made enquiries with all major banks in Australia seeking details of any accounts maintained by the Company. These enquiries revealed that the Company maintained two accounts with St George with a credit balance totalling \$494 as at the date of my appointment. I have requested the transfer of the credit balances to my account however was advised by St George that the funds would be remitted upon receipt of the Trust Deed for SEAT. I have written to the Director, Former Director and the Company's former lawyers requesting a copy however to date I have not been provided with same.

Based on my enquiries to date, I am not aware of any other bank accounts held by the Company.

### 10.2 MOTOR VEHICLES

A search of the Roads and Maritime Services database indicates that the Company purchased a 2017 Porsche Macan in Feb 2022 and a 2017 Isuzu N Series in June 2021. I note that the 2017 Porsche Macan was subject to finance with Volkswagen and the Former Liquidator had indicated that there was no equity available in this vehicle (i.e. the financier was owed more than the value of the vehicle). In relation to the 2017 Isuzu, the registration of the vehicle was recorded to be transferred on 13 Dec 2022 however my review of the bank statements did not identify any corresponding credits that would evidence a payment for the asset. I have considered this to be an uncommercial transaction by the Director until I receive sufficient information confirming otherwise.

### 10.3 REAL PROPERTY

A search of the NSW Land Titles Office database reveals that the Company is not the owner of any real property in NSW.

### 10.4 DEBTORS

As previously stated, the Company provided made payments to several related parties, being United Lifts of \$200K and \$69K to SEAA which can be considered as loans and therefore potential asset recoveries. I have also recorded rental payments made on behalf of SEAA of \$29K to be a recoverable loan from SEAA. I intend to write to Mr. Panella requesting repayment of loans made to SEAA as he is recorded in ASIC searches as the current Director and Shareholder of the entity.

I note that United Lifts is currently in Liquidation, thus, a recovery from United Lifts will be dependent on a recovery being made in United Lifts of an amount that would allow a dividend to be paid to unsecured creditors. I have therefore excluded the recovery as an estimated realisable asset from the table above.

## 10.5 OTHER ASSETS

Upon review of the Company's Bank Statements, I have not noted a consideration paid by SEAA for the intellectual property of the business, being the company website and business name of the Company. I have recorded this to have an estimated recoverable value of \$1K.

## 11 LIABILITIES

### 11.1 SECURED CREDITORS

Registration Number	Secured Party	Start Date	Collateral Class
202203020052803	Volkswagen Financial Services Australia Pty Limited	02/03/2022	Motor Vehicle
202203110010416	Nissan Financial Services Australia Pty Ltd	11/03/2022	Motor Vehicle
202308230012066 202311240042259	The Trustee for The Accolade Advisory Trust	28/08/2023 24/11/2023	All present and after-acquired property - No exceptions
202012090060359 202311240042677	The Trustee for The Reliance Discretionary Trust	9/12/2020 24/11/2023	All present and after-acquired property - No exceptions
202308230012481	The Trustee for The Marginata Securities Trust	23/08/2023	All present and after-acquired property - No exceptions

Upon appointment, I wrote to the secured parties seeking information regarding their purported security interests registered against the Company. I advise I am still awaiting a response from Accolade Advisory Trust, Reliance Discretionary Trust and Marginata Securities Trust.

The Former Liquidator noted that each All-PAP security interest was registered less than a month prior to his appointment and he suspected that neither registration has been appropriately perfected which I agree with. The Director advised in his ROCAP that Accolade Trust was owed \$310K, Reliance Trust owed \$53K and Marginata Trust \$25K. I received a Proof of Debt from Accolade Trust confirming \$310K was in relation to outstanding accounting/consulting fees payable by the Panella Trust. I have accordingly recorded this debt as an unsecured claim in Paragraph 11.3 below.

I have detailed below the information provided by Volkswagen and Nissan to the Former Liquidator:

- Volkswagen: Volkswagen advised its security relates to the finance of a 2017 Porsche Macan which was disclaimed by the Former Liquidator on 27 February 2024. I believe this to be reasonable decision as Volkswagen advised the Former Liquidator that they were owed \$98,848 in finance payments for the 2015 Porsche which was higher than the market value of the vehicle estimated to be circa \$60K.
- Nissan: Nissan advised its security relates to the finance of a 2017 Nissan X-Trail which was disclaimed by the Former Liquidator on 7 December 2023. I believe this to be reasonable

decision as Nissan advised the Former Liquidator that they were owed \$25,582 in finance payments for the 2017 Nissan X-Trail which was higher than the market value of the vehicle estimated to be circa \$20K.

Should any creditor have leased property to the Company, have a retention of title claim or hold a Personal Property Security in relation to the Company, please contact Sushma Mandira of this office as soon as possible.

## 11.2 PRIORITY CREDITORS

The Director, in his ROCAP, advised that the Company owed outstanding wages to four (4) employees, two being the Director and Former Director, however, did not provide me with any employee details. As I have not been provided sufficient documentation, I am unable to substantiate the outstanding debts owed to employees.

Pursuant to section 556 of the Act, Directors (where the person was a company director (or spouse or relative of a company director) within the 12-month period prior to the day when the winding up commenced) and their immediate relatives are 'excluded employees' and are only entitled to priority amounts for dividend purposes of \$2,000 in respect of wages and \$1,500 in respect of leave and redundancy. Given that I hold insufficient information to confirm if Ricky Panella and Alex Panella are immediate relatives of the Director, I have calculated the outstanding claims to employees to stand at \$44,537.

To the extent there are any amounts owed to former employees, the Federal Government has established a safety net scheme known as FEG, for payment of outstanding employee entitlements. FEG is administered by the Department of Employment and Workplace Relations ("the Department") for eligible employees who have been terminated as a result of their employer's insolvency and are owed entitlements.

In order for an employee to be eligible to claim outstanding entitlements under FEG:

- ▲ The employee must be an Australian citizen or permanent resident (contact FEG for further details); and
- ▲ The end of their employment must be due to the insolvency of the employer; or have occurred less than six (6) months before the appointment of an insolvency practitioner; or occurred on or after the appointment of an insolvency practitioner.

Employees may submit claims in respect of the following entitlements, provided they are entitled to claim under their respective industrial instrument, contract of employment or by any other means:

- ▲ Up to thirteen (13) weeks unpaid wages for the period ending at the earlier of the date on which employment ended or the appointment of an insolvency practitioner;
- ▲ Unpaid annual leave and long service leave;
- ▲ Up to a maximum of five (5) weeks unpaid payment in lieu of notice;
- ▲ Up to a maximum of four (4) weeks redundancy entitlement for each completed year of service.

In calculating employee entitlements payable under the scheme, the maximum annual wage applies.

FEG will not cover:

- ▲ Outstanding superannuation entitlements;
- ▲ Entitlements such as rostered days off unless the relevant legislation, award, statutory agreement or written contract of employment provides they are payable upon termination of employment; and
- ▲ Employee entitlements of the Directors and relatives of the Director as defined by the Corporations Act 2001.

To obtain further information, the Department may be contacted on 1300 135 040 or alternatively, please visit their website at: <https://www.dewr.gov.au/fair-entitlements-guarantee>.

### 11.3 UNSECURED CREDITORS

My investigations to date have identified four (4) unsecured creditors being the following:

- ▲ Accolade Advisory lodged a POD in the amount of \$310,000 relating to outstanding accounting fees/consulting fees owed by Panella Trust since October 2019.
- ▲ The DCoT lodged a POD in the amount of \$120,929 relating to income tax and running balance account deficits. As there are numerous outstanding lodgements due to the DCoT, the current amount that the DCoT has claimed may increase upon lodgement of same.
- ▲ NPC Advisory (TC) Pty Limited (In Liquidation) has lodged a POD in the amount of \$275,000 relating to funds loaned to the Company in August 2023.
- ▲ Muniratham Naidu and Sarjiniammal Naidu have lodged a POD in the amount of \$25,272 relating to damages arising from breach of contract and negligence in service of aquarium pump in October 2021.

The table below lists those unsecured creditors recorded in the Director's ROCAP but which have not formally submitted a Proof of Debt:

Creditor Name	Amount (\$)	Nature of Debt
Blue NRG Pty Ltd	45,000	Unsecured Loan as per Financials
David Freitas	1,000	Unsecured Loan as per Financials
Alex John Panella	5,960	Unsecured Loan as per Financials
Ricky Panella	2,769	Unsecured Loan as per Financials
McEvoy Legal	105,000	Unpaid Invoices

I have also allocated the balance of wages owed to the Director and Former Director, Mr. Panella and Mr. Maly, excluding the amounts owed to them as priority creditors, as an unsecured claim in the Liquidation.



I encourage any creditors who have not already done so, to lodge their creditor claims with this office. In this regard, please complete the Formal Proof of Debt form, attached as “**Annexure A**”, and return the same together with documentary evidence to support your claim.

## 12 INVESTIGATIONS

As a Liquidator, I am required to review certain transactions to determine whether or not claims for statutory recoveries may be made for the benefit of creditors. Attached as “**Annexure H**” is the ARITA creditor information sheet on Offences, Recoverable Transactions and Insolvent Trading.

Whilst a potential claim may be identified having regard to the Company’s records, any net recovery ultimately depends upon:

- ▲ The costs involved in pursuing a claim; and
- ▲ The capacity of the defendant to meet such a claim.

### 12.1 INVESTIGATIONS UNDERTAKEN

During the course of these investigations, I have:

- ▲ Taken possession of limited books and records of the Company;
- ▲ Written to the relevant authorities requesting information required for investigations;
- ▲ Carried out ASIC and other searches available to me in relation to the Company’s Directors;
- ▲ Ascertained by inquiring with the Director about the history of the Company and the nature of its business and circumstances leading to its failure;
- ▲ Performed a review of the available bank statements to identify potential preferences, uncommercial transactions, and unfair loans (sections 588FA, 588FB, 588FD and 588FE of the Act).

### 12.2. BOOKS AND RECORDS

Section 286 of the Act requires a company to keep written financial records that:

- ▲ correctly record and explain its transactions, financial position and performance; and
- ▲ would enable true and fair financial statements to be prepared and audited.

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

On my appointment, I requested the Company’s Director, Former Director and Accountant to deliver up the books and records of the Company to enable me to investigate its affairs. To date, the following Company’s books and records have been provided:

- ▲ Bank Statements for accounts held under SEAT;

- Deed of Appointment of Trustee - The Panella Discretionary Trust;
- Costs Disclosure and Agreement with McEvoy Legal pertaining to historical court proceedings in which the Company acted as defendant; and
- The Panella Discretionary Trust - Financial Statements 2021 and 2022.

In the ROCAP completed and submitted by the Director, I was informed that the Company's financial records were in his possession, however these have not been delivered to either I, or the Former Liquidator as required under the Act.

As I have not received any source Company books and records that meet the requirements of Section 286 of the Act, I have relied on the presumption that the Company was insolvent since the date of its incorporation pursuant to Section 588E of the Act.

## 12.2 RISK OF LITIGATION ACTIONS GENERALLY

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

Creditors should note that recovery actions:

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

## 12.3 PROVING INSOLVENCY

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

# 13 FINDINGS AND RECOVERY ACTIONS

## 13.1 INSOLVENT TRADING

Pursuant to Section 588G of the Act, a director may be personally liable for insolvent trading by a company where:

- 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 Act 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 Act where a director can establish:

- ▲ There were reasonable grounds to expect that the company was solvent, and they actually 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.

My assessment has been based on the information available to me from the Company's records and on the basis of separate investigations of the Company's affairs.

As previously mentioned, Section 588E of the Act provides for a Liquidator to presume a Company has been insolvent since its incorporation date, where the Company has not maintained proper books and records as required by Section 286 of the Act. As such, I presume the Company's date of insolvency to be 31 March 2021. The reasons for my assessment are as follows.

### 13.1.A Working Capital Analysis

The working capital analysis has been based on a review of the Company's financial reports.

As per the Company Financials, there appears to have been insufficient working capital from the year ending 30 June 2021. A summary is shown below.

Working Capital Analysis	Year Ended 30-Jun-21 (\$)	Year Ended 30-Jun-22 (\$)
Current Assets	18,227	26,486
Current Liabilities	65,727	285,727
<b>Net Working Capital</b>	<b>(47,500)</b>	<b>(259,241)</b>
<b>Current Asset Ratio</b>	<b>0.28</b>	<b>0.09</b>

From the Working Capital Analysis above, it is clear that the Company had insufficient working capital since incorporation and was therefore insolvent on a cash flow basis from at least that point in time and did not return to solvency at any point thereafter.

### 13.1.B Indicators of Insolvency

In addition, I have observed the following indicators of insolvency:

- ▶ The Company appears to have traded at a loss from the date of its incorporation.
- ▶ The Company failed to hold a current asset ratio (liquidity) above 1.00 from the years reported in the financial statements, which suggests the Company held insufficient working capital to meet its current liabilities as and when it fell due since incorporation.
- ▶ The Company's tax debt obligations appear to have been outstanding since FY2021.

### 13.1.C Assessment of Insolvency

In light of the above, I am of the view that the Company may have been insolvent from the date of its incorporation.

### 13.1.D Potential Quantum of Claim

Determining the value of an insolvent trading claim will generally involve a forensic review of the debts incurred after the date on which it can be maintained that the Company was insolvent and remains outstanding. For the purposes of this Report, I have prepared a preliminary assessment of the claim, assuming the Company was insolvent since incorporation.

My investigations indicate that an insolvent trading claim may be valued at circa \$731K, based on proofs of debts received to date, as detailed below.

Insolvent Trading Calculation	Total Amount (\$)
Accolade Advisory	310,000
DCoT	120,929
NPC Advisory (TC) Pty Limited (In Liquidation)	275,000
Muniratham Naidu and Sarjiniammal Naidu	25,272
<b>Total</b>	<b>731,201</b>

### 13.1.E Recovery of Claim

When assessing any potential litigation for insolvent trading, a Liquidator must assess the director's financial position and his ability to meet any insolvent trading claim should it be successfully proven. I am not empowered at law to demand from the director a statement as to his personal financial position.

NSW Land Title searches indicate that Mr Panella owns a property in New South Wales which is subject to a registered mortgage in favour of Reliance Financial Services Pty Ltd. A search of the ASIC database additionally determines that the Director holds a significant volume of shareholdings in private entities. The shareholdings related to the Company, namely United Lifts and Richmond Lifts are in liquidation and accordingly have no value. The value of the remaining shareholdings is unknown, given

that I do not have any information on the financial position of these companies. The Director is not currently an undischarged bankrupt according to a search on the National Property Insolvency Index and therefore he may have capacity to satisfy a claim against him either in part or in full.

I note that an insolvent trading claim will require extensive investigations and funding to pursue the claim via litigation. 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. If creditors are interested in funding or purchasing this potential claim, please contact this office by **12 July 2024**. Absent any funding, I may pursue a commercial settlement.

## 14 PHOENIX ACTIVITY

The concept of phoenix activity broadly centres on the idea of a second company, often newly incorporated, arising from the ashes of its failed predecessor where the second company's directors and business are essentially the same. It is important to note that phoenix activity can be legal as well as illegal. Legal phoenix activity covers situations where the previous director starts another company and take over the business and assets of the former company after paying fair market value for the assets. Illegal phoenix activity involves a transfer of a company's business and assets to a related entity for no consideration or at undervalue to the detriment of unsecured creditors, including employees and tax authorities.

Given that the Director appears to have transferred the business and assets of the Company to a new company (SEAA) without paying fair market value, leaving behind unpaid tax debts, employee wages outstanding, finance payments owing and unsecured debts with the old company, I consider a phoenix transaction has been effected. Furthermore, given it appears a similar transaction has been effected with regard to related entities, United Lifts and Richmond Lifts, over which I have also been appointed Liquidator. I consider that public examinations are warranted to investigate the transactions identified and identify any claims that are available. I have reported these suspected transactions to the DCoT and thus far no recovery actions have commenced.

## 15 VOIDABLE TRANSACTIONS

Voidable transactions include transactions such as unfair preferences, uncommercial transactions, unfair loans, unreasonable director-related transactions and circulating security interests created within six months before the relation-back day, which is the date of the appointment of the Liquidator.

These transactions usually relate to the period six (6) months prior to the date of my appointment; however, in certain circumstances, this period can be extended to four (4) years in relation to transactions with related entities and up to ten (10) years if the transactions were entered into with related parties with the intention of fraud.

As the Director and bookkeeper failed to provide sufficient Company's books and records, I was unable to conduct any comprehensive investigations into potential voidable transactions. However, a review of the St George bank statements has identified there to be potential voidable recovery claims against the Directors. My investigations into these transactions are detailed below.

## 15.1 UNFAIR PREFERENCES

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

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

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

I note that pursuant to S588FE(2D)(4) of the Act clawback provisions available to the Liquidator extend to four (4) years from the RBP for transactions to related-party creditors.

I have reviewed the bank account statements for the Company's St George bank accounts from October 2022 to appointment and consider that the transfer of \$200K to United Lifts and \$69K to SEAA, when the Company was insolvent, to be unfair preferences.

## 15.2 UNCOMMERCIAL TRANSACTIONS

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

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

My review of the Company's bank statements identified numerous electronic transfers and cash withdrawals totaling \$142K which may constitute uncommercial transactions, on the basis that they do not appear to relate to ordinary business operations of the Company. Additionally, as I have insufficient information to confirm the Company received consideration for the transfer of Isuzu valued at \$40K, I believe this to also be an uncommercial transaction.

## 15.3 UNREASONABLE DIRECTOR RELATED TRANSACTIONS (S588FDA)

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

- ▲ The transaction is a payment, a conveyance, transfer or disposition of property, the issue of securities, or incurring of an obligation to make a payment, disposition or issue by the Company.
- ▲ The transaction is to a director or close associate of the Director or for their benefit.

- ▲ A reasonable person in the Company's circumstances would not have entered into the transaction having regard to the benefit or detriment to the Company or other parties involved in the transaction.

I believe the uncommercial transactions identified in Section 14.2 above to also be unreasonable Director-Related Transactions.

## 15.4 UNFAIR LOANS (S588FD)

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

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

I have not identified any such transactions to date.

## 16 SUMMARY OF POTENTIAL OFFENCES

In summary, I consider there are various potential contraventions of the Act as follows:

Breach	Commentary
s180—Failure to exercise due care and diligence (civil)	Payments made to related parties over statutory payments.  Transfer of motor vehicle and intellectual property without any consideration.  Non lodgement with the DCoT of BAS and income tax returns since incorporation.
s181(1)—Absence of good faith or proper purpose (civil)	Same as above
s182 - Use of Position	Directors used their position to gain an advantage for the related parties - United Lifts and SEAA.  The Director used the Company's bank account for personal expense withdrawals.  The Director transferred the intellectual property to a related entity without any consideration.
s184—Reckless or intentional breach of duty (criminal)	The Director transferred the assets of the Company to SEAA without any consideration and left its outstanding tax liabilities and debts.
s286 (civil)/ —Failure to maintain adequate financial records	As I have not been provided with sufficient Company books and records, my preliminary view is that the Company has failed to

Breach	Commentary
	maintain sufficient books and records to meet the requirements of Section 286 of the Act.
S588G(2) - Trading whilst insolvent (civil)	As the Director has failed to provide the Company's books and records, as per section 588E(4) of the Act, failure to maintain books and records allows for a presumption that the Company was insolvent from the date of its incorporation.
S530A/B – Officers to help Liquidator/Director obligation to provide books and records	530B Notices issued to Director has not been actioned to date though the ROCAP stated that he holds the B&R of the Company.

## 17 RECEIPTS AND PAYMENTS

There have been no receipts or payments in the administration to date.

## 18 ESTIMATED RETURN TO CREDITORS

The likelihood of a dividend being paid to creditors will be affected by a number of factors including:

- ▲ the size and complexity of the administration.
- ▲ the amount of voidable transactions recovered and the costs of these recoveries;
- ▲ the statutory priority of certain claims and costs;
- ▲ the value of various classes of claims including secured, priority and unsecured creditor claims; and
- ▲ the volume of enquiries by creditors and other stakeholders.

At this stage, there have been minimal recoveries in the Liquidation, and I have been unable to discharge my costs in full. Any return to creditors is therefore contingent on pursuing and recovering the outstanding debtors, the insolvent trading claim against the Director and Former Director the unreasonable director related transactions claim against the Director and Former Director and determining whether unfair preferences and uncommercial transactions have occurred. All of these will require the gathering of further evidence and conducting further investigations. As such, subject to significant recoveries from these claims, there will not be any dividends available for any class of creditors in this Liquidation.

If any parties are interested in funding the Liquidation to pursue these recoveries, or alternatively, wish to acquire these actions to pursue themselves, please contact this office immediately.

## 19 REMUNERATION OF LIQUIDATOR

On 10 April 2024, I asked creditors to approve my remuneration of \$45,253.00 (excl. GST) which comprised of work completed for the period 28 March 2024 to 7 April 2024 for \$6,253.00 (excl. GST) and future work for the period 8 April 2024 to the conclusion of the Liquidation for \$39,000.00 (excl. GST). Both resolutions have been approved by the creditors.



I am now asking creditors to approve my remuneration of \$54,747.00 (excl. GST).

Details of work completed for the period 28 March 2024 to 27 June 2024 are summarised as follows:

- ▲ Conducted a detailed review of the Former Liquidator's files;
- ▲ Requests to the Directors to complete a ROCAP and provide documents relating to the Company;
- ▲ Reviewing Company bank statements in detail due to a lack of books and records;
- ▲ Investigations into potentially voidable transactions;
- ▲ Conducting investigations into the directorships of Directors;
- ▲ Investigations in relation to the insolvent trading claims and Directors' asset position and liaising with lawyers regarding the potential merit of recovering the assets;

Creditors are referred to the following items set out at the Remuneration Approval Report attached as **Annexure D**:

- ▲ The spreadsheet which sets out the calculation of remuneration by appointee, employee and position for the work undertaken by myself and my staff for the period 28 March 2024 to 27 June 2024;
- ▲ A summary sets out a general description of additional necessary work carried out for the period 28 June 2024 to conclusion of the Liquidation.

It is my intention to seek approval from creditors with respect to my remuneration incurred for the sum of \$54,747.00 for the period 28 March 2024 to the conclusion of the Liquidation. Attached as **Annexure E** is a copy of the Proposals without Meeting forms. These forms need to be returned to my office by **close of business, 19 July 2024**.

## 20 MATTERS OUTSTANDING

The outstanding matters in the administration are:

- ▲ Lodgement of my confidential report pursuant to Section 533(1) of the Act and await response from ASIC;
- ▲ Pursue debtor recoveries;
- ▲ Obtain funding to conduct public examinations;
- ▲ Consider proceedings in respect of phoenix transaction;
- ▲ Consider pursuing potential insolvent trading claim or voidable transactions;
- ▲ Correspondence with creditors and employees;
- ▲ Statutory lodgements and general administrative matter; and
- ▲ Finalise.

Subject to the timing of the finalisation of the above matters and any unforeseen circumstances, I currently estimate that the administration will be finalised within 6-12 months if recovery actions are not funded.

## 21 CONCLUSION

It would be appreciated if you would consider the matters detailed in this report and please write to this office setting out full particulars if you are:

- ▲ Aware of any errors in the information contained within this report including the non-disclosure of any divisible assets; and
- ▲ Have any information that you consider is relevant for creditors' decision making or relevant information that may help assist the liquidator's investigations into the affairs of the Company.

Creditors should, however, maintain their records in relation to the affairs of the Company and advise this office of any change of address.

Additional general information regarding liquidations which may be of assistance, is available from the following websites:

- ▲ ARITA at [www.arita.com.au/creditors](http://www.arita.com.au/creditors) ; and
- ▲ ASIC at [www.asic.gov.au](http://www.asic.gov.au) (search for "insolvency information sheets"), also attached as **Annexure G** to this report.

Should you require assistance in completing the relevant forms or have any queries, please contact the Administration Contact shown at page 1 of this report.

Any further reports will be issued as considered appropriate.

Yours faithfully,

**SYDNEY EXOTIC AQUARIUMS CASULA PTY LTD (IN LIQUIDATION)**



**PETER KREJCI**  
LIQUIDATOR



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**Sydney Exotic Aquariums Casula Pty Ltd  
(In Liquidation)**

**ATF Panella Discretionary Trust  
ATF Sydney Exotic Aquariums Trust  
ACN 649 148 014  
ABN 15 649 148 014**

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**Annexure "A"  
Proof of Debt with Creditors Electronic  
Communication Method Approval Form**

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FORMAL PROOF OF DEBT OR CLAIM (GENERAL FORM)

To the Liquidator of Sydney Exotic Aquariums Casula Pty Ltd (In Liquidation) ACN 649 148 014 / ABN 15 649 148 014

1. This is to state that the company was, on 28 November 2023, <sup>(1)</sup> and still is, justly and truly indebted to<sup>(2)</sup> (full name):

.....  
(‘Creditor’)

.....  
of (full address)

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

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

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

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

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

Date	Drawer	Acceptor	Amount \$ c	Due Date

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

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

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

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

The External Administrators' (whether as Voluntary Administrators/Deed Administrators/Liquidators) will send and give electronic notification of documents in accordance with Section 600G and 105A of Corporations Act 2001. Please provide your email address below:

Contact Name: .....

Email Address: .....

DATED this ..... day of ..... 2024

NAME IN BLOCK LETTERS .....

Occupation .....

Address .....

Signature of Signatory .....

OFFICE USE ONLY

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

### Proof of Debt Form Directions

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

### Annexures

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



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**Sydney Exotic Aquariums Casula Pty Ltd  
(In Liquidation)**

**ATF Panella Discretionary Trust  
ATF Sydney Exotic Aquariums Trust**

**ACN 649 148 014  
ABN 15 649 148 014**

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**Annexure "B"  
Teddy John Panella Directorship Searches**

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No.	Company	Status	ACN	Position	Start Date	Cease Date
1	Accused Pty Ltd	Registered	673 089 257	Director/Secretary	21-Nov-23	Current
2	Ace Logistics Aust Pty Ltd	In Liquidation	609 534 563	Director/Secretary	14-Nov-22	Current
3	Acorn Consultancy Aust Pty Ltd	Registered	669 266 326	Director/Secretary	29-Jun-23	Current
4	All About Civil Services Pty Ltd	Registered	663 285 201	Director/Secretary	18-Aug-23	Current
5	All About Environmental Services Pty Ltd	Registered	667 512 441	Director/Secretary	18-Aug-23	Current
6	Australian Lending And Finance Pty Ltd	Registered	608 620 622	Director/Secretary	06-Sep-23	Current
7	B Shed Logistics Pty Ltd	Registered	627 261 170	Director/Secretary	10-Aug-23	Current
8	Baked Beans And Spaghetti Pty Ltd	Registered	653 148 157	Director/Secretary	16-Oct-23	Current
9	Black Candy NSW Pty Ltd	Registered	669 007 925	Director/Secretary	22-Jun-23	Current
10	Black Vermilion Pty Ltd	Registered	673 486 069	Director/Secretary	07-Dec-23	Current
11	Blakers Road Pty Ltd	Registered	670 000 996	Director/Secretary	01-Aug-23	Current
12	Bowerbird Holdings NSW Pty Ltd	Registered	656 776 831	Director/Secretary	20-May-23	Current
13	Californian Marquee Pty Ltd	Registered	671 354 573	Director/Secretary	12-Sep-23	Current
14	Canex Pty Ltd	Strike-Off Action In Progress	647 388 501	Director/Secretary	15-Mar-23	Current
15	Chase Lift Services Pty Ltd	Registered	669 263 683	Director/Secretary	29-Jun-23	Current
16	Cranetec Enterprises Pty Ltd	Registered	106 299 727	Director/Secretary	01-Jul-23	Current
17	Dark Grey Parrot Pty Ltd	Registered	667 934 223	Director/Secretary	12-May-23	Current
18	Dekko Kitchens Pty Ltd	Registered	628 382 856	Director/Secretary	11-May-23	Current
19	Diligence Aust Pty Ltd	Registered	670 182 993	Director/Secretary	02-Aug-23	Current
20	DRB Group Act Pty Ltd	Registered	649 061 272	Director/Secretary	30-Mar-23	Current
21	Eden Growth Pty Ltd	Registered	669 758 945	Director/Secretary	17-Jul-23	Current
22	Electrical Contractors Pty Ltd	Registered	665 438 808	Director/Secretary	02-Feb-23	Current
23	Financial Advisory Australia Pty Ltd	Registered	669 266 228	Director/Secretary	29-Jun-23	Current
24	Fireball Hotrod Pty Ltd	Registered	165 783 559	Director/Secretary	20-Feb-23	Current
25	Fraser Holdings NSW Pty Ltd	Registered	640 331 791	Director/Secretary	14-Nov-22	Current
26	Gourmet Foods International Pty Ltd	Registered	094 317 021	Director/Secretary	01-Aug-23	Current
27	Grand Prix White Pty Ltd	Registered	671 643 057	Director/Secretary	22-Sep-23	Current
28	Harford Beef Company Pty Ltd	Registered	153 486 625	Director/Secretary	20-Nov-23	Current
29	Iguana Bar & Restaurant Pty Ltd	Registered	129 898 942	Director/Secretary	15-Jul-23	Current
30	Kantaga Finance Pty Ltd	Registered	647 170 107	Director/Secretary	15-Feb-23	Current
31	Lift Services Aust Pty Ltd	Registered	668 013 581	Director/Secretary	16-May-23	Current
32	Lightbody Services Pty Ltd	Registered	669 472 486	Director/Secretary	05-Aug-23	Current
33	LTTJ Pty Ltd	Registered	668 426 284	Director/Secretary	01-Jun-23	Current
34	Mount Hunter Building Pty Ltd	Registered	656 638 747	Director/Secretary	27-Dec-22	Current
35	New Millennium Enterprises Pty Ltd	Registered	160 525 404	Director/Secretary	01-Jul-23	Current
36	Pacific Global SA Pty Ltd	Registered	624 101 168	Director/Secretary	02-Feb-23	Current
37	Panella Packaging Pty Ltd	Registered	672 663 008	Director/Secretary	03-Nov-23	Current
38	Panella Transport Pty Ltd	Registered	666 488 464	Director/Secretary	15-Mar-23	Current
39	Pepper Superbee Pty Ltd	Registered	666 378 132	Director/Secretary	10-Mar-23	Current
40	Platinum Logistics Aust Pty Ltd	Registered	659 500 393	Director/Secretary	09-Jan-23	Current
41	Red Cobra Pty Ltd	Registered	666 378 230	Director/Secretary	10-Mar-23	Current
42	Richmond Lifts Pty Ltd	In Liquidation	608 024 719	Director/Secretary	14-Nov-22	Current
43	Sackville Holdings Aust Pty Ltd	Registered	669 649 147	Director/Secretary	12-Jul-23	Current
44	Sea Liverpool Pty Ltd	Registered	673 060 770	Director/Secretary	20-Nov-23	Current
45	Southern Reddy Services Pty Ltd	Registered	659 307 936	Director/Secretary	18-Aug-23	Current
46	Sydney Exotic Aquariums Arncliffe Pty Ltd	Registered	655 810 030	Director/Secretary	03-Dec-21	Current
47	Sydney Exotic Aquariums Casula Pty Ltd	Registered	649 148 014	Director/Secretary	01-Feb-23	Current
48	Tanager Finance Pty Ltd	Registered	647 172 978	Director/Secretary	01-Dec-22	Current
49	Top Class Construction NSW Pty Ltd	Registered	621 721 757	Director/Secretary	11-Jul-21	Current
50	Truck 2008 Pty Ltd	Registered	646 390 267	Director/Secretary	01-Jul-23	Current

No.	Company	Status	ACN	Position	Start Date	Cease Date
51	United Lifts ET Pty Ltd	Registered	653 311 516	Director/Secretary	01-Sep-21	Current
52	United Lifts Technologies Pty Ltd	Registered	659 501 532	Director/Secretary	01-Jun-22	Current
53	United Technology Group Pty Ltd	Registered	669 267 378	Director/Secretary	29-Jun-23	Current
54	Viribus Co Pty Ltd	Registered	089 239 476	Director/Secretary	01-Oct-23	Current
55	White Ace Pty Ltd	Registered	669 005 118	Director/Secretary	22-Jun-23	Current
56	White Phantom Pty Ltd	Registered	669 464 886	Director/Secretary	05-Jul-23	Current
57	White Stallion NSW Pty Ltd	Registered	634 439 473	Director/Secretary	16-Feb-23	Current
58	White Tiger Aust Pty Ltd	Registered	671 354 779	Director/Secretary	12-Sep-23	Current
59	Williams Freight Services Pty Ltd	Registered	669 263 030	Director/Secretary	29-Jun-23	Current
60	Armstrong Scalisi Holdings Pty Ltd	Registered	114 980 586	Director/Secretary	20-Mar-20	Current
61	Ash Corporate and Secretarial Pty Ltd	Registered	134 127 325	Director/Secretary	20-Mar-20	Current
62	Black Rambo Pty Ltd	Registered	617 379 272	Director/Secretary	20-Mar-20	Current
63	Reliance Financial Services Aust Pty Ltd	Registered	639 008 941	Director/Secretary	20-Mar-20	Current
64	United Lift Capital Pty Ltd	In Liquidation	667 906 372	Director/Secretary	11-May-23	Current
65	Wentworth Williams Auditors Pty Ltd	Registered	099 391 189	Director/Secretary	09-Oct-21	Current
66	Delta Financial Services (NSW) Pty Ltd	Registered	659 471 413	Director/Secretary	09-Jan-23	Current
67	Mina 4418 Family Pty Ltd	Registered	659 817 188	Director/Secretary	29-Aug-22	Current





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**Sydney Exotic Aquariums Casula Pty Ltd  
(In Liquidation)**

**ATF Panella Discretionary Trust  
ATF Sydney Exotic Aquariums Trust**

**ACN 649 148 014  
ABN 15 649 148 014**

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**Annexure "C"  
Comparative Balance Sheets**

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Sydney Exotic Aquariums Casula Pty Ltd (In Liquidation) ATF The Panella Discretionary Trust ACN 649 148 014 Balance Sheet For the Financial Years Ended 30 June 2021 to 30 June 2022		
	Year Ended 30-Jun-21 (\$)	Year Ended 30-Jun-22 (\$)
<b>ASSETS</b>		
<b>Current Assets</b>		
Cash at bank - St George 8993	3,596	437
Cash on hand	10	10
GST Payable control account	(57,223)	(91,211)
Input Tax Credit control account	51,443	76,850
Input Tax Credit adjustment control account	-	20,000
GST Clearing	20,400	20,400
<b>Total Current Assets</b>	<b>18,227</b>	<b>26,486</b>
<b>Non-Current Assets</b>		
Loan from The Sydney Exotic Aquariums Trust	-	173,111
Plant and equipment - at cost	720	720
Less: Accumulated depreciation	(720)	(720)
Motor Vehicles - at cost	74,036	200,061
Less: Accumulated depreciation	(8,767)	(15,098)
	65,269	358,073
<b>TOTAL ASSETS</b>	<b>83,496</b>	<b>384,559</b>
<b>LIABILITIES</b>		
<b>Current Liabilities</b>		
<b>Payables</b>		
Unsecured Creditors	-	220,000
	-	220,000
<b>Current Tax Liabilities</b>		
Amount withheld from salary & wages	45,188	45,188
	45,188	45,188
<b>Provisions</b>		
Employee Entitlements	20,539	20,539
	20,539	20,539
<b>Total Current Liabilities</b>	<b>65,727</b>	<b>285,727</b>
<b>Non-Current Liabilities</b>		
<b>Unsecured Financial Liabilities</b>		
Loans from other persons	58,703	2,769
Loans from David Freiters	1,000	1,000
Loan from Alex John Panella	2,000	5,960
Loan from Fishtian	-	3,000
	61,703	12,729
<b>Secured Financial Liabilities</b>		
HP - Ford Ranger DCR26E	24,395	13,831
HP - Porsche Macan 95B EGJ33F	-	127,029
HP - Nissan Trail ESM89B	-	38,431
HP - Mercedes Benz X Class X250d ECP13M	36,239	29,333
HP Int - Ford Ranger DCR26E	(1,592)	(1,592)
HP Int - Porsche Macan 95B EGJ33F	-	(25,727)
HP Int - Nissan Trail ESM89B	-	(11,513)
HP Int - Mercedes Benz X Class X250d ECP13M	(8,683)	(8,683)
Loan from Reliance Financial Services	34,000	53,000
Loan from The Marginata Securities Trust	-	25,000
	84,359	239,109
<b>Total Non-Current Liabilities</b>	<b>146,063</b>	<b>251,839</b>
<b>Total Liabilities</b>	<b>211,789</b>	<b>537,565</b>
<b>Net Assets</b>	<b>(128,293)</b>	<b>(153,006)</b>
<b>EQUITY</b>		
Contributor by Settlor	10	10
Retained profits / (accumulated losses)	(128,303)	(153,016)
<b>TOTAL EQUITY</b>	<b>(128,293)</b>	<b>(153,006)</b>



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**Sydney Exotic Aquariums Casula Pty Ltd  
(In Liquidation)**

**ATF Panella Discretionary Trust  
ATF Sydney Exotic Aquariums Trust  
ACN 649 148 014  
ABN 15 649 148 014**

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**Annexure "D"  
Comparative Profit and Loss statements**

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**Sydney Exotic Aquariums Casula Pty Ltd (In Liquidation)**  
**ATF The Panella Discretionary Trust**  
**ACN 649 148 014**  
**Comparative Profit and Loss Statements**  
**For the Financial Years Ended 30 June 2021 to 30 June 2022**

	Year Ended 30-Jun-21 (\$)	Year Ended 30-Jun-22 (\$)
<b>Income</b>		
Sales	327,986	358,762
<b>Total Trading Income</b>	<b>327,986</b>	<b>358,762</b>
<b>Cost of Sales</b>		
Purchases	188,362	81,869
<b>Total Cost of Sales</b>	<b>188,362</b>	<b>81,869</b>
<b>Gross Profit</b>	<b>139,623</b>	<b>276,893</b>
<b>Other Income</b>		
Rebates and Refunds	3,934	-
Subsidies Received	-	20,000
<b>Total Income</b>	<b>143,557</b>	<b>296,893</b>
<b>Expenses</b>		
Accountancy	-	200,055
Advertising and Promotion	719	115
Bank fees & charges	1,589	1,655
Cleaning and Rubbish Removal	490	479
Computer Expense	-	125
Electricity	5,972	-
Fines	1,863	229
Insurance	3,593	4,928
Interest - Australia	0.06	0.05
M/V Car - Depreciation	8,441	6,331
M/V Car - Fuel & oil	7,680	8,396
M/V Car - Rego/insurance	7,102	4,319
M/V Car - Repairs	435	363
M/V Car - Other	6,791	14,379
Printing & Stationary	1,984	998
Protective Clothing	46	-
Rent on Land & Buildings	39,197	53,336
Repairs & Maintenance	1,335	6,037
Subscriptions	-	18
Superannuation	10,990	-
Telephone	1,345	1,843
Travel, accommodation & conference	2,953	-
Net Wages	88,277	18,000
Tax Withheld	27,404	-
<b>Total Expenses</b>	<b>218,206</b>	<b>321,606</b>
<b>Profit / (Loss) After Income Tax</b>	<b>(74,649)</b>	<b>(24,713)</b>



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**Sydney Exotic Aquariums Casula Pty Ltd  
(In Liquidation)**

**ATF Panella Discretionary Trust  
ATF Sydney Exotic Aquariums Trust**

**ACN 649 148 014  
ABN 15 649 148 014**

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**Annexure "E"  
Remuneration Approval Report**

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# Remuneration Approval Report

**Sydney Exotic Aquariums Casula Pty Ltd  
(In Liquidation)**

**ACN 649 148 014  
ABN 15 649 148 014  
("The Company")**

28 June 2024

**Peter Krejci  
Liquidator**

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](mailto:info@brifnsw.com.au)  
Website: [www.briferrier.com.au](http://www.briferrier.com.au)



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## 1. EXECUTIVE SUMMARY

On 10 April 2024, I asked creditors to approve my remuneration of \$45,253.00 (excl. GST) which comprised of work completed for the period 28 March 2024 to 7 April 2024 for \$6,253.00 (excl. GST) and future work for the period 8 April 2024 to conclusion of the Liquidation for \$39,000.00 (excl. GST). Both resolutions have been approved by the creditors.

I am now asking creditors to approve my further remuneration of \$54,747.00 (excl. GST).

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

I am asking creditors to approve my remuneration via a proposal without a meeting.

I estimate the total cost of this Liquidation will be approximately \$100,000.00 (excl. GST). This has increased from my previous estimate of \$42,253.00 for the following reasons:

- Further Investigations into the affairs of the Company and determining its insolvency;
- Reviewing the Company bank statements in detail;
- Investigations into potentially voidable transactions;
- Conducting investigations into the directorships of Directors;
- Requests to the Directors to complete a ROCAP and provide documents relating to the Company;
- Investigations in relation to the insolvent trading claims and Directors' asset position and liaising with lawyers regarding the potential merit of recovering the assets;
- Lodgement of my confidential report pursuant to Section 533(1) of the Act and await response from ASIC;
- Reporting suspected transactions to the DCoT;
- Commence pursuing debtor recoveries;
- Obtain funding to conduct public examinations;
- Consider proceedings in respect of phoenix transaction;
- Consider pursuing potential insolvent trading claim or voidable transactions;
- Correspondence with creditors and employees;
- Statutory lodgements and general administrative matter; and
- Finalise.

I anticipate that this is my final remuneration approval request. If further information is provided by creditors and additional work is required, then I will seek further remuneration approval from creditors as necessary in due course.



## 2. DECLARATION

I have undertaken an assessment of this remuneration claim in accordance with the law and applicable professional standards. I am satisfied that the remuneration and disbursements claimed are necessary and proper.

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

## 3. REMUNERATION SOUGHT

The remuneration I am asking creditors to approve is as follows:

For	Period	Amount \$ (excl. GST)	Rates	When it will be drawn
Future Work	27 June 2024 to conclusion	\$54,747.00	Provided in my Initial Remuneration Notice dated 10 April 2024	It will be drawn when approved by Creditors, funds are available and it is incurred.
TOTAL		<b>\$54,747.00 (excl. GST)</b>		

Details of the work already completed for the period 28 March 2024 to 26 June 2024 and future work that I intend to complete are included at Schedule A.

Schedule B includes a breakdown of time spent by staff members on each major task for completed work.

Actual resolutions to be put to creditors by way of a proposal are included at Schedule C and D for your information. These resolutions also appear in the proposal without a meeting form provided to you.

## 4. PREVIOUS REMUNERATION APPROVALS

The following remuneration approvals have previously been approved by creditors:

Means of Approval	For	Period	Amount Approved (excl. GST) (\$)	Amount Paid (excl. GST) (\$)
Proposal Without Meeting	Work completed	28 March 2024 to 7 April 2024	\$6,253.00	\$0.00
	Future Work	8 April 2024 to Conclusion	\$39,000.00	\$0.00
TOTAL			<b>\$45,253.00</b>	<b>\$0.00</b>

I am now seeking approval for a further \$54,747.00 (excl. GST) in the Liquidation which will bring the total remuneration claimed in the Liquidation to \$100,000.00 (excl. GST).

A detailed explanation is at **Schedule E** of this report.

## 5. LIKELY IMPACT ON DIVIDENDS

The Corporations Act sets the order of payment of claims against the Company, and it provides for remuneration of the Liquidator to be paid in priority to other claims. This ensures that when there are sufficient funds, the Liquidator 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 my remuneration, this does not guarantee that I will be paid, as I am only paid if sufficient assets are recovered.

Any dividend to creditors will also be impacted by the amount of assets that I am able to recover, and the amount of creditor claims that are admitted to participate in any dividend, including any claims by priority creditors such as employees.

I am unable to provide a dividend estimate of any certainty at this stage of the Liquidation. If I do declare a dividend, any creditor whose claim has not yet been admitted will be contacted and asked to submit a proof of debt.

## 6. SUMMARY OF RECEIPTS AND PAYMENTS

No receipts and payments were incurred to date in the Liquidation.

## 7. QUERIES & INFORMATION SHEET

If you have any queries in relation to the information in this report, please contact my office.

You can also access information which may assist you on the following websites:

- ▲ ARITA at [www.arita.com.au/creditors](http://www.arita.com.au/creditors)
- ▲ ASIC at <http://www.asic.gov.au> (search for INFO 85).

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

## 8. ATTACHMENTS

Schedule A – Details of work

Schedule B – Time spent by staff on each major task

Schedule C – Resolutions

Schedule D – Disbursements

## SCHEDULE A – DETAILS OF WORK

Company	Sydney Exotic Aquariums Casula Pty Ltd (In Liquidation)	Period From	28 March 2024	To	Conclusion
	Practitioner	Peter Krejci	Firm	BRI Ferrier	
	Administration Type	Creditors Voluntary Liquidation			

		Tasks	
		Work already completed (excl. GST)	Future work (excl. GST)
<b>Period</b>		<b>28 March 2024 to 26 June 2024</b>	<b>27 June 2024 to Conclusion</b>
<b>Amount (excl. GST)</b>		<b>\$30,555.00</b>	<b>\$54,747.00</b>
<b>Task Area</b>	<b>General Description</b>		
<b>Assets</b>		<b>1.5 hours \$885.00</b>	<b>\$2,737.35</b>
	Debtors	Liaising with solicitors	Correspondence with debtors Reviewing and assessing debtors' ledgers Liaising with solicitors
	Bank Accounts	Correspondence with banks Requesting further information regarding the bank statements and account details	
	Plant and Equipment	Liaising with valuers	Liaising with auctioneers and interested parties
	Assets subject to specific charges		Tasks associated with realising a charged asset
	Leased Assets	Reviewing leasing documents Liaising with owners / lessors	Liaising with owners/lessors Tasks associated with disclaiming leases
	Other Assets	Preparing and issuing to Synergy Wholesale for information as website host	Tasks associated with realising other assets (if any are identified)
<b>Creditors</b>		<b>14.1 hours \$6,018.00</b>	<b>\$8,212.05</b>
	Creditor Reports	Preparing Initial Report to Creditors Preparation of necessary annexures for Initial Report to Creditors Prepare Statutory Report to Creditors	Finish preparing Statutory Report to Creditors Finish preparing necessary Annexures for Statutory Report to Creditors

Task Area	General Description		
	Dealing with proofs of debt	Receipting and filing POD when not related to a dividend	Receipting and filing POD when not related to a dividend
	Proposal to Creditors	Preparing proposal notices and voting forms Reviewing votes and determining outcome of proposal Preparation and lodgement of proposal outcome with ASIC	Preparing proposal notices and voting forms Reviewing votes and determining outcome of proposal Preparation and lodgement of proposal outcome with ASIC
	Creditor Enquiries	Receive and respond to creditor enquiries Receive and follow up creditor enquiries by telephone Review and prepare correspondence to creditors and their representatives by facsimile, email and post Compiling information requested by creditors	Receive and respond to creditor enquiries Receive and follow up creditor enquiries by telephone Review and prepare correspondence to creditors and their representatives by facsimile, email and post Compiling information requested by creditors
	Secured Creditor Reporting	Extracted current PPSR reports Preparation of Day One Letters to secured creditors Maintaining register for secured creditor responses Responding to secured creditor's queries Follow up secured creditors for updates	Preparing reports to secured creditor Responding to secured creditor's queries Follow up secured creditors for updates
Investigation		<b>31.7 hours</b> <b>\$18,136.00</b>	<b>\$30,110.85</b>
	Conducting Investigation	Conducting initial investigations in relation to the Company's business and affairs Conducting and summarising statutory searches Investigating the director's and related party's properties	Correspondence with ASIC to receive assistance in obtaining company books and records Lodgement of investigation with the ASIC Preparation and lodgement of supplementary report if required

Task Area	General Description		
		Review of the Company's books and records to conduct investigations Review of the Former Liquidator files Review and preparation of narrative of business nature and history Preparation of comparative financial statements Preparation of deficiency statement Conducting investigations to identify potential voidable transactions (if any) and consider potential recovery actions to be taken Conducting investigations with respect to solvency position of the Company and considering whether any potential insolvent trading claim exists Preparation of investigation file Preparation of investigation with the ASIC	
	Litigation/Recoveries	Internal meetings to discuss status of litigation Preparing brief to solicitors Liaising with solicitors regarding potential claims against the director and the related party	Internal meetings to discuss status of litigation Attending to negotiations Attending to settlement matters
	Examinations	Preparing brief to solicitor Liaising with solicitor(s) regarding examinations	Liaising with solicitor(s) regarding examinations Attendance at examination Reviewing examination transcripts Liaising with solicitor(s) regarding outcome of examinations and further actions available
	ASIC reporting	Liaising with ASIC	Preparing statutory investigation reports Liaising with ASIC

Task Area	General Description		
Employees		<b>0.8 hours \$224.00</b>	<b>\$2,737.35</b>
	Other employee issues	Searching former liquidation files for employee details	Prepare and issue termination letter to Director as the sole employee
	Employee Enquiries	N/A	Receive and follow up employee enquiries via telephone Maintain employee enquiry register Review and prepare correspondence to creditors and their representatives via facsimile, email and post Preparation of letters to employees advising of their entitlements and options available Receive and prepare correspondence in response to employee's objections to leave entitlements
Administration		<b>15.1 hours \$5,292.00</b>	<b>\$10,949.40</b>
	ASIC Forms and lodgements	Preparing and lodging ASIC forms including 505, 531 and 507 Preparing and lodging ASIC advert regarding notice of appointment	Preparing and lodging ASIC forms including 5602 and 5603 Correspondence with ASIC regarding statutory forms
	Books and records/storage	Preparing correspondence to the Company's former Liquidator requesting delivery of the Company's books and records	Dealing with records in Dropbox link provided by Former Liquidator
	Correspondence	Preparing and issuing day one correspondences Preparing and issuing letter to Director regarding his obligations	General correspondence with stakeholders
	Document maintenance/file review/checklist	Filing of documents File review Updating checklists	First month, then six monthly administration reviews Filing of documents File reviews Updating checklists
	Bank account administration	Preparing correspondence opening accounts	Preparing correspondence closing accounts Bank account reconciliations Prepare receipts and payment vouchers

Task Area	General Description		
	Insurance	Initial correspondence with insurer regarding insurance requirements	Identification of potential issues requiring attention of insurance specialists Correspondence with insurer regarding initial and ongoing insurance requirements Reviewing insurance policies Correspondence with previous brokers
	ATO and other statutory reporting	Notification of appointment	Notification of appointment Preparing BAS
	Planning / Review	Discussion regarding status of the administration	Discussion regarding status of the administration
	Finalisation	N/A	Notifying ATO of finalisation Cancelling ABN/GST/PAYG registration Completing checklists Finalising WIP

## SCHEDULE B – TIME SPENT BY STAFF ON MAJOR TASKS (COMPLETED WORK)

Sydney Exotic Aquariums Casula Pty Ltd (In Liquidation)

ACN: 649 148 014

For the period 28 March 2024 to 26 June 2024

Staff Classification	Name	Hourly Rate (\$, ex GST)	Administration		Assets		Creditors		Employees		Investigation		Total	
			Hrs	\$	Hrs	\$	Hrs	\$	Hrs	\$	Hrs	\$	Hrs	\$
Principal	Peter Krejci	730.00	1.9	1,387.00			0.8	584.00			5.2	3,796.00	7.9	5,767.00
Principal	David Cocker	730.00	0.7	511.00	0.9	657.00	3.0	2,190.00			13.5	9,855.00	18.1	13,213.00
Senior Manager	Pauline Yeow	590.00	0.1	59.00									0.1	59.00
Senior 2	Joshua Coorey	380.00	0.8	304.00	0.6	228.00					5.2	1,976.00	6.6	2,508.00
Intermediate 1	Sushma Mandira	330.00	1.5	495.00			7.2	2,376.00			6.5	2,145.00	15.2	5,016.00
Intermediate 2	Hugh Matthews	280.00	0.2	56.00									0.2	56.00
Intermediate 2	Zachary George	280.00	2.6	728.00			3.1	868.00	0.8	224.00	1.3	364.00	7.8	2,184.00
Senior Administrator	Andrea Moulikova	240.00	5.7	1,368.00									5.7	1,368.00
Senior Administrator	Sarita Gurung	240.00	1.0	240.00									1.0	240.00
Senior Administrator	Sonia Stelmach	240.00	0.6	144.00									0.6	144.00
<b>Total</b>	<b>Grand Total</b>		<b>15.1</b>	<b>5,292.0</b>	<b>1.5</b>	<b>885.0</b>	<b>14.1</b>	<b>6,018.0</b>	<b>0.8</b>	<b>224.0</b>	<b>31.7</b>	<b>18,136.0</b>	<b>63.2</b>	<b>30,555.0</b>
													<b>GST</b>	<b>3,055.50</b>
													<b>Total (incl GST)</b>	<b>33,610.50</b>
<b>Average rate per hour</b>				<b>350.46</b>		<b>590.00</b>		<b>426.81</b>		<b>280.00</b>		<b>572.11</b>		<b>483.47</b>



## SCHEDULE C – RESOLUTIONS

I will be seeking approval of the following resolution to approve my remuneration. Details to support these resolutions are included in section 3 and 4 and in the attached Schedules.

**Resolution 1: Liquidator's Remuneration for the period 27 June 2024 to Conclusion**

*"That the remuneration of the Liquidator, his partners and staff for the period 27 June 2024 to the conclusion of the Liquidation, be calculated on a time basis in accordance with the rates of charge annexed to the Liquidator's Report to Creditors dated 28 June 2024 and approved to an interim cap of \$54,747.00 (excl. GST) and that the Liquidator be authorised to draw that amount as and when incurred."*

## SCHEDULE 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 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.

I am 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.

I advise that to date, I have not paid any disbursements incurred during this Liquidation by my Firm.

Future disbursements provided by my Firm will be charged to the administration on the following basis:

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

## SCHEDULE E – EXPLANATION OF PREVIOUSLY APPROVED REMUNERATION

As detailed in Section 4 of this report, on 10 April 2024, creditors approved my retrospective and prospective remuneration totalling \$45,253.00 (excl. GST).

My remuneration will exceed this cap, and, in this report, I am now seeking approval of a further capped amount of \$100,000.00 in respect of remuneration incurred/to be incurred.

To assist creditors with understanding how the total remuneration has incurred, the table below shows remuneration to date, including the current claim, divided by task categories.

Task	Fees already approved as at 10 April 2024 for work already completed (excl. GST) \$	Fees already approved for future work (excl. GST) \$	Approval sought for future work (excl. GST) \$	Total per task (excl. GST) \$
Assets	885.00	5,184.00	2,737.35	8,806.35
Trade On	-	-	-	-
Creditors	6,018.00	1,928.00	8,212.05	16,158.05
Investigation	18,136.00	603.00	30,110.85	48,849.85
Employees	224.00	1,726.00	2,737.35	4,687.35
Administration	5,292.00	5,257.00	10,949.40	21,498.40
<b>TOTAL</b>	<b>30,555.00</b>	<b>14,698.00</b>	<b>54,747.00</b>	<b>100,000.00</b>
Total remuneration previously approved				45,253.00
Difference (see table below for further explanation)				54,747.00
<b>Payment Reconciliation:</b>				
TOTAL (incl. amount claimed now)				100,000.00
Amount paid to date				-
<b>Amount outstanding (incl. amount claimed now)</b>				<b>100,000.00</b>

In the table below I compare, on a task basis, the difference between my previous remuneration report and this report, together with explanations for the difference.

Task	Fees already approved as at 10 April 2024 for work already completed (excl. GST) \$	Total task (from previous table) (excl. GST) \$	Difference \$	Reason for differences
<b>Assets</b>	6,069.00	8,806.35	2,737.35	Additional time is expected to be incurred in relation to the following: - Correspondence with debtors - Liaising with owners/lessors

				- Tasks associated with disclaiming leases
<b>Creditors</b>	7,946.00	16,158.05	8,212.05	Additional time is expected to be incurred in relation to the following: - Correspondence with creditors regarding Company's affairs - Preparing and finalising Statutory report to Creditors and its annexures - Receive and respond to creditor enquiries - Reviewing votes and determining outcome of proposal - Preparation and lodgement of proposal outcome with ASIC
<b>Investigation</b>	18,739.00	48,849.85	30,110.85	Additional time is expected to be incurred in relation to the following: - Conducting further investigations in relation to the Company's business and affairs when books and records are received - Liaising with solicitor(s) regarding examinations and recovery actions available - Conduct Public Examinations against the related parties involved in Company affairs - Conduct further investigation in relation to the insolvent trading claims and investigation of the Director's asset position - Preparing statutory investigation reports to ASIC
<b>Employees</b>	1,950.00	4,687.35	2,737.35	Additional time is expected to be incurred in relation to management of Employee Enquiries
<b>Administration</b>	10,549.00	21,498.40	10,949.40	Additional time is expected to be incurred in relation to the followings: - Preparing and lodging ASIC forms - Correspondence with Tax Office - Filing of documents - Monthly Bank Reconciliations - Discussion regarding status of liquidation, procedural requirements, priority milestones and future direction  Increase in Administration costs correlates highly with the length of time for which the Liquidation runs. Therefore, some more additional time is expected to be incurred leading up to the finalisation of the Liquidation
<b>TOTAL</b>	45,253.00	100,000.00	54,747.00	



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**Sydney Exotic Aquariums Casula Pty Ltd  
(In Liquidation)**

**ATF Panella Discretionary Trust  
ATF Sydney Exotic Aquariums Trust**

**ACN 649 148 014  
ABN 15 649 148 014**

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**Annexure "F"  
Proposals Without Meeting Forms**

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## NOTICE OF PROPOSAL TO CREDITORS

Dated: 28 June 2024

Voting Poll Closes: 19 July 2024

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**SYDNEY EXOTIC AQUARIUMS CASULA PTY LTD (IN LIQUIDATION)**  
**ACN 649 148 014**  
**ABN 15 649 148 014**  
**("the Company")**

### Proposal No. 1 for creditor approval

*"That the remuneration of the Liquidator, his partners and staff for the period 27 June 2024 to the conclusion of the Liquidation, be calculated on a time basis in accordance with the rates of charge annexed to the Liquidator's Report to Creditors dated 28 June 2024 and approved to an interim cap of \$54,747.00 (excl. GST) and that the Liquidator be authorised to draw that amount as and when incurred."*

### Reasons for the proposal and the likely impact it will have on creditors if it is passed

- A Liquidator is entitled to be fairly remunerated for undertaking statutory and other duties, including reporting obligations in acting as liquidator.
- I am unable to pay my remuneration without the approval of the Committee of Inspection (if one has been appointed), Creditors, or the Court.
- Approval by Creditors is efficient and timely and is less costly than an application to the Court.
- Approval of my remuneration will allow me to progress further investigations in a timely manner to ensure the prospect of any dividends can be maximised.

### Vote on the Proposal No. 1

Please select the appropriate Yes, No or Object box referred to below with a ☒ to indicate your preferred position.

- Yes ☐ I approve the proposal
- No ☐ I do not approve the proposal
- Object ☐ I object to the proposal being resolved without a meeting of creditors

For your vote to count, your claim against the Company must have been admitted for the purposes of voting by the Liquidator. Please select the option that applies:

- ☐ I have previously submitted a proof of debt form and supporting documents
- ☐ I have **enclosed** a proof of debt form and supporting documents with this proposal form

**Creditor details**

*Name of creditor*

*Address*

*ABN (if applicable)*

*Contact number*

*Email address*

☐

I am **not** a related creditor of the Company

☐

I am a related creditor of the Company\*

relationship: \_\_\_\_\_

\*eg Director, relative of Director, related company, beneficiary of a related trust.

**Name of creditor  
/authorised person:**

\_\_\_\_\_

**Signature:**

\_\_\_\_\_

**Date:**

\_\_\_\_\_

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For your vote to count, you **must complete** this document and return it together with any **supporting documents** by no later than close of business on **19 July 2024**, by email to Sushma Mandira at [smandira@brifnsw.com.au](mailto:smandira@brifnsw.com.au). Should you have any queries in relation to this matter, please contact Sushma Mandira on (02) 8263 2322.

BRI FERRIER  
Level 26  
25 Bligh Street  
Sydney NSW 2000



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**Sydney Exotic Aquariums Casula Pty Ltd  
(In Liquidation)**

**ATF Panella Discretionary Trust  
ATF Sydney Exotic Aquariums Trust  
ACN 649 148 014  
ABN 15 649 148 014**

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**Annexure "G"  
ARITA Information Sheet –  
Proposals without a Meeting**

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## Information sheet: Proposals without meetings

You may be a creditor in a liquidation, voluntary administration or deed of company arrangement (collectively referred to as an external administration).

You have been asked by the liquidator, voluntary administrator or deed administrator (collectively referred to as an external administrator) to consider passing a proposal without a meeting.

This information sheet is to assist you with understanding what a proposal without a meeting is and what your rights as a creditor are.

### What is a proposal without a meeting?

Meetings of creditors were previously the only way that external administrators could obtain the views of the body of creditors. However, meetings can be very expensive to hold.

A proposal without a meeting is a cost effective way for the external administrator to obtain the consent of creditors to a particular course of action.

### What types of proposals can be put to creditors?

The external administrator is able to put a range of proposals to creditors by giving notice in writing to the creditors. There is a restriction under the law that each notice can only contain a single proposal. However, the external administrator can send more than one notice at any single time.

### What information must the notice contain?

The notice must:

- include a statement of the reasons for the proposal and the likely impact it will have on creditors if it is passed
- invite the creditor to either:
  - vote yes or no to the proposal, or
  - object to the proposal being resolved without a meeting, and
- specify a period of at least 15 business days for replies to be received by the external administrator.

If you wish to vote or object, you will also need to lodge a Proof of Debt (POD) to substantiate your claim in the external administration. The external administrator will provide you with a POD to complete. You should ensure that you also provide documentation to support your claim.

If you have already lodged a POD in this external administration, you do not need to lodge another one.

The external administrator must also provide you with enough information for you to be able to make an informed decision on how to cast your vote on the proposal. With some types of proposals, the law or ARITA's Code of Professional Practice sets requirements for the information that you must be provided.

For example, if the external administrator is asking you to approve remuneration, you will be provided with a Remuneration Approval Report, which will provide you with detailed information about how the external administrator's remuneration for undertaking the external administration has been calculated.

### What are your options if you are asked to vote on a proposal without a meeting?

You can choose to vote yes, no or object to the proposal being resolved without a meeting.

### How is a resolution passed?

A resolution will be passed if more than 50% in number and 50% in value (of those creditors who did vote) voted in favour of the proposal, but only so long as not more than 25% in value objected to the proposal being resolved without a meeting.

### What happens if the proposal doesn't pass?

If the proposal doesn't pass and an objection is not received, the external administrator can choose to amend the proposal and ask creditors to consider it again or the external administrator can choose to hold a meeting of creditors to consider the proposal.

The external administrator may also be able to go to Court to seek approval.

### What happens if I object to the proposal being resolved without a meeting?

If more than 25% in value of creditors responding to the proposal object to the proposal being resolved without a meeting, the proposal will not pass even if the required majority vote yes. The external administrator will also be unable to put the proposal to creditors again without a meeting.

You should be aware that if you choose to object, there will be additional costs associated with convening a meeting of creditors or the external administrator seeking the approval of the Court. This cost will normally be paid from the available assets in the external administration.

This is an important power and you should ensure that it is used appropriately.

### Where can I get more information?

The Australian Restructuring Insolvency and Turnaround Association (ARITA) provides information to assist creditors with understanding external administrations and insolvency.

This information is available from ARITA's website at [artia.com.au/creditors](http://artia.com.au/creditors).

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

**For more information, go to [www.arita.com.au/creditors](http://www.arita.com.au/creditors).  
Specific queries should be directed to the external administrator's office.**



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**Sydney Exotic Aquariums Casula Pty Ltd  
(In Liquidation)**

**ATF Panella Discretionary Trust  
ATF Sydney Exotic Aquariums Trust  
ACN 649 148 014  
ABN 15 649 148 014**

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**Annexure "H"  
ASIC Information Sheet –  
Insolvency Information for Directors,  
Employees, Creditors and Shareholders**

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**ASIC**

Australian Securities & Investments Commission

## Insolvency information for directors, employees, creditors and shareholders

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

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

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

### List of information sheets

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

### Where can I get more information?

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

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



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**Sydney Exotic Aquariums Casula Pty Ltd  
(In Liquidation)**

**ATF Panella Discretionary Trust  
ATF Sydney Exotic Aquariums Trust  
ACN 649 148 014  
ABN 15 649 148 014**

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

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# 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.**