

23 September 2024

Explanatory Memorandum

Bizpay Group Limited (Receivers and Managers Appointed) (Subject to Deed of Company Arrangement) ACN 633 797 627 ("Bizpay" or the "Company")

Dear Shareholder

We are writing to you in your capacity as a shareholder of Bizpay.

Bizpay is currently subject to a Deed of Company Arrangement (**DOCA**). Mr Jonathon Keenan and Mr Peter Krejci have been appointed as administrators of the DOCA. Bizpay went into voluntary administration on 23 November 2023, and subsequently entered into the DOCA on 21 March 2024. It has also been in receivership since 29 November 2023. Further details regarding these events are provided below.

We are providing this Explanatory Memorandum to you because an application has been made to the Supreme Court of New South Wales for orders under Section 444GA of the Corporations Act (the **Act**) for all shares on issue by the Company to be transferred to the Deed Proponent (described below), without consideration being paid to you or other transferor shareholders.

The proposed transferee is the deed proponent of the DOCA, being BP New Start Holding Pty Ltd ACN 675 974 348 (**BP New Start** or the **Deed Proponent**).

This Memorandum explains why the Orders are being sought, and the consequences to you if the Orders are made. You should read this Memorandum and the accompanying annexures in its entirety.

The Court hearing at which the Orders will be sought is due to be heard **at 2pm on 11 November 2024** at the following location (the **Hearing**):

Court 8C (Level 8)

184 Phillip St, Sydney NSW 2000

As a member of Bizpay, you are entitled to oppose to the application for leave for the Orders to be made by putting any contrary arguments. Any Shareholder wishing to be heard in relation to the Orders may attend the Hearing, in person or through their legal representative. That location may be subject to change. See section 7 below for further details in relation to the Hearing and steps you need to take if you wish to attend the Hearing.

1. Access to previous circulars

We have previously issued circulars to shareholders in relation to the Company, its administration, its receivership and the DOCA. These were sent by email to those shareholders whose email details were provided to the Company and recorded in its register of members.

If you have not received some or all of those circulars, you may have not provided an email address to the Company, or the Company's record or your email address may no longer be current. In any event, a link to each circular is provided for your ease of reference.

All prior shareholder circulars can be accessed via the following online link:

<https://briferrier.com.au/about-us/current-matters/bizpay-group-limited>

A list of the circulars previously provided to shareholders by email is set out below:

Date of Circular	Subject
24 November 2023	Notice to shareholders that Mr Jonathon Keenan and Mr Peter Krejci were appointed as joint and several voluntary administrators (Administrators) of Bizpay.
28 November 2023	Notice to shareholders that the Administrators had circulated their first report to creditors.
30 November 2023	Notice to shareholders that on 29 November 2023, BP Fiduciary Pty Ltd appointed Mr David Mutton and Mr Simon Cathro as Receivers and Managers over all of the Company's assets/business, and providing notice of the first creditors meeting to occur on 27 November 2023.
22 February 2024	Update to shareholders that the second meeting of creditors, held on 22 December 2023, was adjourned to allow the Company time to explore an option to restructure via a Deed of Company Arrangement; that a DOCA proposal had been received proposing the transfer of all shares for nil consideration on the basis that the Company had negative equity value, and was recommended to creditors, and that a second report and second supplementary report to creditors had been circulated recommending the DOCA proposal.
2 April 2024	Update on DOCA and proposed share transfer.

A copy of the full DOCA deed terms, can also be downloaded by shareholders, should they wish, via the online link set out on page 1 above.

2. Background to proposal to compulsorily transfer Shares

A summary of key events which led to Bizpay becoming subject to the DOCA and to the proposed Orders being sought are as follows:

Date	Event
30 May 2019	Bizpay was incorporated as a 'Buy Now Pay Later' invoice finance service provider.
1 January 2021	Bizpay became a public (unlisted) company.
30 May 2022	Bizpay entered into a General Security Deed with its financier, BP Fiduciary Pty Ltd (BP Fiduciary)

Date	Event
23 November 2023	Bizpay went into voluntary administration and appointed Mr Jonathon Keenan and Mr Peter Krejci of BRI Ferrier as administrators.
29 November 2023	BP Fiduciary appointed Mr Simon Cathro and Mr David Mutton of Cathro & Partners as receivers and managers of all Bizpay's secured property (Receivers).
5 December 2023	First meeting of creditors was held. The possibility of a restructure involving a Deed of Company Arrangement was raised.
22 December 2023	Second meeting of creditors was held, and adjourned to allow time for the anticipated DOCA to be considered.
20 February 2024	The Administrators received DOCA proposal, under which the Deed Proponent would pay \$550,000 (the DOCA Funds) to the Deed Administrators to be held on trust for the uses set out in the DOCA. No part of the DOCA funds is available for distribution to Shareholders.
29 February 2024	The resumed second creditors' meeting was held. Creditors voted to approve Bizpay entering into a DOCA.
21 March 2024	Bizpay entered into the DOCA with BP New Start as the Deed Proponent and Mr Jonathon Keenan and Mr Peter Krejci as Deed Administrators.
17 May 2024	The Receivers confirmed that priority employee claims had been paid, satisfying one of several conditions precedent to the DOCA becoming effectuated.
20 July 2024	The Deed Proponent agreed to extend the date by which the DOCA conditions must be satisfied from 21 September 2024 to 21 December 2024.
21 August 2024	Originating process is made to the Supreme Court of NSW for Orders for the transfer of all Shares to the Deed Proponent, for nil consideration.
22 August 2024	Application is filed with the Australian Securities Investments Commission (ASIC) to seek relief from s606 of the Corporations Act.

3. **Conditions to the DOCA becoming effective**

The effectuation of the Deed is subject to the satisfaction or waiver of a number of conditions. Those conditions, and the current status of those conditions as at the date of this Circular, are as follows.

Condition	Details	Status
1.	An order is made under s 444GA of the Act for an order from the Court to allow the compulsory transfer of all Shares in the Company not already held by the Deed Proponent to the Deed Proponent or	The application for these Orders was lodged with the Supreme Court on 21 August 2024. See Sections 4 and 5 below for further details.

Condition	Details	Status
	its nominee, on terms satisfactory to the Deed Proponents and Deed Administrators (acting reasonably).	The hearing to seek these Orders will be held on 11 November 2024. If the Orders sought are made, this condition will be satisfied.
2.	ASIC grants such exemptions or declarations pursuant to the Act in order to permit the Transfers to occur without the approval of Shareholders, in a form satisfactory to the Deed Proponent.	<p>An application for relief from ASIC was lodged on 22 August 2024. See further Section 6 below.</p> <p>On 20 September 2024, ASIC indicated an in-principle decision to approve the application for relief, subject to the Court granting the Orders.</p> <p>It is a condition to ASIC relief that the Orders are made and that the instrument granting relief is published in the ASIC Gazette.</p>
3.	Regulatory approvals necessary to implement and complete the share transfer been provided on an unconditional basis or with conditions satisfactory to the Deed Proponents acting reasonably, and remain in full force and effect and not have been withdrawn, suspended or revoked.	The only regulatory approval identified as being required is the ASIC relief described in paragraph 2 above of this table.
4.	<p>The steps set out below have been agreed to by BP Fiduciary or effected by the Receivers, whether through the entry into Retirement and Release Agreement or such other means acceptable to the parties acting reasonably – namely that BP Fiduciary agree to procure the Receivers to:</p> <ul style="list-style-type: none"> (a) sell Bizpay's loan book; (b) apply sale proceeds from the sale of loan book toward secured debt owed to BP Fiduciary; (c) if BP Fiduciary is the successful bidder for the loan book, set-off the sale proceeds against the secured debt, <p>subject in each case the Receivers complying with s 561 of the Corporations Act:</p> <ul style="list-style-type: none"> (d) apply the sale proceeds in the following priority order: 	<p>On 21 March 2024, a Deed of Retirement and Release was entered into between Bizpay and BP Fiduciary, in which these steps and matters were agreed to by BP Fiduciary. As a result, this condition is satisfied.</p> <p>The Receivers have confirmed in writing that priority creditors have been paid in full.</p> <p>We anticipate that the Receivers will make any residual payment of any proceeds in the agreed manner, and retire, once the Orders are made and before completion of the transfer of Shares occurs.</p> <p>The relevant acknowledgments were provided in the Deed of Retirement and Release.</p>

Condition	Details	Status
	<ul style="list-style-type: none"> to discharge and pay out Bizpay's priority creditors; pay out reasonable costs and remuneration of the receivers; account for any balance to BP Fiduciary, <p>(e) retire on or before the completion date of the share transfers.</p> <p>BP Fiduciary provides certain acknowledgments.</p>	
5.	No regulatory intervention occurs that restraints, prohibits, or otherwise materially adversely impedes or impacts upon implementation of the DOCA.	No such intervention has occurred. If the Orders are made and ASIC relief is confirmed as set out in paragraphs 1 and 2 above, absent any other regulatory intervention this requirement will be satisfied.

If the conditions to the DOCA are not satisfied by the 21 December 2024, then unless the condition can be and is waived by the Deed Proponent, the Company will be placed into liquidation. In such a case shareholders will not receive any distribution in the winding up, based on the material shortfall in assets available to meet all liabilities of the Company, as further explained in the Independent Expert's Report referred to in Section 5 below.

4. Application for s444GA Order

As is required for the conditions set out in the DOCA to be satisfied, the Deed Administrators have applied for an order under s 444GA of the Act (**Orders**) for leave to transfer all of the fully paid ordinary and preference shares in the capital of Bizpay (the **Shares**) to the Deed Proponent, BP New Start.

A copy of the originating process of the application for leave and affidavit in support is annexed in **Annexure A**. Due to its large size, exhibit JK-1 to the affidavit in support can be accessed via this link: <https://briferrier.com.au/about-us/current-matters/bizpay-group-limited>.

A copy of the orders made by the Court on 2 September 2024 in these proceedings is annexed in **Annexure B**.

The Court may grant leave if it is satisfied that the transfer would not unfairly prejudice the interests of Bizpay Shareholders. Factors the Court may take into account include:

- whether or not there is any residual value in the Company – as to which, see the Independent Expert's Report of Mr Richard Stone summarised in Section 5 below;
- whether Shareholders are likely to receive any distribution in the event of liquidation. Based on the matters set out in the Independent Expert's Report referred to in Section 5 below, we consider

there is no realistic prospect of Shareholders receiving a distribution in a winding up of the Company; and

- (c) whether liquidation is the only alternative to the proposed transfer under the DOCA. As was explained in prior circulars issued to shareholders summarised in Section 1 above, alternatives to the DOCA were sought by the Deed Administrators. We consider that in this case, the DOCA is the only alternative to liquidation.

Please note this is not an exhaustive list of factors the Court may consider.

5. Shares have no residual equity value

The residual equity value of the Shares has been assessed by an independent expert valuer, Mr Richard Stone, a partner of RSM Australia Partners. He was engaged to evaluate and opine on the value of Bizpay's shares on issue if Bizpay were wound up.

Mr Stone's Independent Expert Report (IER) is annexed to this report in **Annexure C**. This report provides his opinion as to there being nil residual value of the Shares in a winding up, and a negative equity value in the Company overall. We note that the IER is partially redacted to remove identifying details of the Company's former employees

Further details on these findings and the reasons for them are provided in the IER.

We recommend that you read the IER in its entirety.

6. Application for ASIC relief

Since the Shares the subject of those Orders will exceed 20% of the voting shares on issue by the Company, the acquisition of the right to acquire the Shares may only occur where ASIC grants relief from the restrictions on acquisitions of more than 20% relevant interests in voting shares contained in section 606 of the Act.

ASIC has published "Regulatory Guide 6 Takeovers: Exceptions to the general prohibition" that it will generally grant relief where the following requirements are satisfied. Those requirements, and how they are satisfied in this case, are as follows:

ASIC requirement for relief	How requirement is satisfied
Explanatory materials have been provided to shareholders at least 14 days before the section 444GA hearing including an IER prepared consistent with the guidance contained in Regulatory Guide 111	In accordance with the Court's direction on 2 September 2024, a notification to Shareholders of the Application was despatched on 23 September 2024. This provides Shareholders more than 14 days before the Hearing to consider their position in relation to the Hearing and the proposed Orders.
The IER is prepared by an expert other than the administrator or a member from the same firm as the administrator	The report has been prepared by Mr Richard Stone of RSM. He is neither the Deed administrator nor a member of the same firm as the administrator.
The IER concludes that there is no residual equity value in the company for shareholders	The IER has expressed this conclusion. For further details see Section 5 above and the IER.

ASIC requirement for relief	How requirement is satisfied
The Court grants leave under section 444GA for the transfer of shares to occur	Subject to the Orders being made, this requirement will be satisfied.

On 20 September 2024, ASIC indicated an in-principle decision to approve the application for relief, subject to the Court granting the Orders.

7. Members' right to object

As a member of Bizpay, you are entitled to oppose to the application for leave for the Orders to be made by putting any contrary arguments. You may do so:

- (a) to the Court by appearing at the hearing at 2pm on 11 November 2024 at the Supreme Court of New South Wales (further details as to location of the hearing will be available via the Court's website at courtlist.justice.nsw.gov.au/courtlists/nswsc_lists.nsf/Web+Version+Courtlist); or
- (b) to us directly, by emailing Mr Vijay Rajmohan at vrajmohan@brifnsw.com.au prior to the hearing date described above. Any such oppositions will be put forward to the Court before or at the Hearing.

If a shareholder wishes to appear at the Hearing, as per the Court's orders, the shareholder or their legal representatives will need to file and serve a Notice of Appearance by latest **4pm on 25 October 2024** on:

- (c) the Deed Administrators by emailing to Mr Vijay Rajmohan at vrajmohan@brifnsw.com.au; and
- (d) ASIC (Note that service of legal documents to ASIC can be referenced to this link at <https://asic.gov.au/about-asic/dealing-with-asic/serving-legal-documents-on-asic/>. This information is for reference only and is subject to ASIC's updates and guidance).

For further details, please refer to the *Supreme Court (Corporations) Rules 1999* (NSW) at <https://legislation.nsw.gov.au/view/html/inforce/current/s1-1999-0703#sch.1>.

In considering your position and arguments put to the Court, we recommend that you read and consider the IER and the originating application in its entirety.

8. Consequences of DOCA being effectuated or terminated

Bizpay's DOCA, if effectuated, will result in the DOCA Funds being made available for the uses set out in the Deed. Those funds are held on trust and upon effectuation of the Deed, after payment of certain expenses from the DOCA Funds, the residual balance of the DOCA Funds will be available to be distributed to creditors of the Company.

No part of the DOCA Funds is available for distribution to shareholders.

If the Orders are not made or other conditions of the DOCA cannot be satisfied or waived by the End Date, then the DOCA may be terminated. In such a case, the DOCA Funds (less certain expenses) will be refunded to the Deed Proponent and the Company will be placed into liquidation.

In such a case, for the reasons provided in Sections 4 and 5 of this Explanatory Memorandum, it is expected that Shareholders will not obtain any distribution in the winding up.

9. Australian Taxation Implications of the compulsory transfer of your Shares

9.1 Introduction

Based on advice that we have received, the following is a general summary of the Australian income tax, goods and services tax (**GST**), and stamp duty implications for Shareholders that would arise if your Shares were transferred in accordance with the Orders.

This summary is general in nature only. It should be read in conjunction with the rest of this Explanatory Memorandum, and is not intended to be an authoritative or complete analysis of the tax consequences arising from the Orders or the transfer of Shares pursuant to the Orders. It is not intended to provide, and should not be relied on for, tax or legal advice. Shareholders are advised to seek professional tax advice in relation to their particular circumstances.

This summary is based on the provisions of the *Income Tax Assessment Act 1936* (Cth) (**ITAA 1936**) and the *Income Tax Assessment Act 1997* (Cth) (**ITAA 1997**), the *A New Tax System (Goods and Services Tax) Act 1999* (Cth) and the Australian stamp duties legislation, as at the date of this Explanatory Memorandum. The laws are complex and subject to change periodically, as is their interpretation by the courts and the tax authorities.

The information provided below is not applicable to all Shareholders. This tax summary applies to Australian tax resident and non-resident shareholders who hold their shares on capital account for income tax purposes. This summary will not apply to Shareholders who:

- hold their Shares on 'revenue account' (such as share trading entities or entities who acquired their Shares for the purposes of resale at a profit) or as 'trading stock';
- may be subject to special tax rules, such as partnerships, tax exempt organisations, insurance companies, dealers in securities or shareholders who change their tax residency while holding their Shares or who are subject to the taxation of financial arrangements rules in Division 230 of the ITAA 1997 in relation to gains and losses on their Shares;
- have a functional currency for Australian tax purposes other than an Australian functional currency; or
- are non-residents of Australia who hold their Shares in carrying on a business at or through a permanent establishment in Australia.

9.2 No application for Class Ruling

A class ruling is not being sought from the Australian Taxation Office (ATO) on behalf of Shareholders in relation to the Orders or the Transactions and it is therefore possible that the ATO will disagree with the summary set out below.

9.3 Australian resident shareholders – CGT consequences

(a) CGT event on disposal of Shares

The disposal of Shares will constitute a CGT event for Australian resident Shareholders. The CGT event will occur on the date the Orders are made (the **CGT Date**).

Because the Shares will be transferred for nil consideration, Shareholders will incur a capital loss on the disposal of their Shares, equal to the reduced tax cost base of their Shares.

That capital loss, and any other capital loss incurred during the current income tax year and any other capital losses carried forward from prior years, may be used to offset any capital gain made by a Shareholder in the income year in which the CGT Date occurs.

Any net capital loss may be carried forward to offset a capital gain made in a future income year, subject to the satisfaction of certain loss recoupment tests which apply if the Shareholder is a company.

No capital gain will arise to Shareholders from the disposal of the Shares alone.

If the Shareholder has made capital gains from the disposals of other assets in the income year in which the CGT Date occurs and such gains exceeds the capital losses referred to above, then the capital gains reduced by such losses (known as the net capital gain), should be included in the assessable income of the Shareholder.

(b) Cost base in the Shares

Generally, the tax cost base of any Shares will be equal to the consideration paid by the Shareholder to acquire the Shares. Other incidental costs incurred by a Shareholder for their acquisition or ownership of Shares that are otherwise non-deductible to the Shareholder may also be included in the cost base of shares they own.

The reduced tax cost base of the Shares of a Shareholder will be determined in a similar manner to the tax cost base, although some differences in the calculations of reduced tax cost base may exist depending on the relevant Shareholder's circumstances.

Shares acquired in different transactions may have different tax cost bases and therefore the amount of the capital loss incurred in respect of different shareholding parcels will vary.

9.4 Foreign residents – Australian tax considerations

(a) Australian CGT consequences

Shareholders who are non-residents of Australia for income tax purposes are not generally subject to Australian CGT on the disposal of their Shares. Australian CGT only applies to foreign resident Shareholders if:

- the Shareholder, together with their associates, owns more than 10% of the shares in for any continuous 12-month period in the 24-month period before the CGT Date; and
- the Shares are an indirect Australian real property interest (not applicable in relation to Shares in Bizpay).

Based on the financial statements of (reproduced at Section 5.8 of this Scheme Booklet), the Shares should not be indirect Australian real property interests and no Australian CGT should be payable by foreign residents who dispose of.

However, a non-resident individual Shareholder who has previously been an Australian tax resident and chosen to disregard a capital gain or loss (i.e. CGT event I1) in respect of their Shares on ceasing to be an Australian tax resident, or a Shareholder who used their Shares at any time in carrying on a business through a permanent establishment in Australia, may be subject to Australian CGT consequences on disposal of their Shares.

9.5 Stamp duty

The disposal of the Shares should give not rise to stamp duty liabilities for existing ordinary Shareholders. Any other shareholder holding preference shares should obtain their own advice on

9.6 No Goods and Services Tax

No GST should be payable by Shareholders on the transfer of Shares pursuant to the Orders.

Where a Shareholder is not registered for GST, the transactions should be outside the scope of GST.

Where a Shareholder is registered or required to be registered for GST, the sale of the Shares should be an input taxed financial supply and not subject to GST.

For those Shareholders that are registered for GST, they should obtain independent advice in relation to whether there is an ability to claim any input tax credits for any GST incurred on the costs (such as legal or professional fees) associated with the disposal of Shares.

10. Disclaimer

The above general summaries should not be taken as legal or tax advice. We recommend you obtain your own legal and tax advice in relation to this proposed transfer. Accordingly, neither BRI Ferrier (the firm) nor any member or employee of the firm undertakes any responsibility in any way whatsoever to any person or company for any errors or omissions in this explanatory memorandum, however caused.

Should you have any queries, please contact Mr Vijay Rajmohan of this office on 02 8263 2333 or by email to vrajmohan@brifnsw.com.au.

Yours faithfully

BIZPAY GROUP LIMITED (RECEIVERS AND MANAGERS APPOINTED) (SUBJECT TO DEED OF COMPANY ARRANGEMENT)



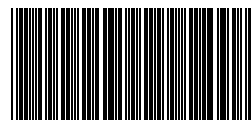
JONATHON KEENAN

Deed Administrator

Annexure A to Explanatory Memorandum dated 23 September 2024



Filed: 21 August 2024 5:32 PM



D000208GSH

Form 2

ORIGINATING PROCESS – COVERSHEET AND ACKNOWLEDGEMENT

IN THE MATTER OF BIZPAY GROUP LIMITED

COURT DETAILS

Court	Supreme Court of NSW
Division	Equity
List	Corporations List
Registry	Supreme Court Sydney
Case number	2024/00309404

TITLE OF PROCEEDINGS

First Plaintiff	Jonathon Keenan
Second Plaintiff	Peter Krejci
Number of plaintiffs	3

FILING DETAILS

Filed for	Jonathon Keenan, Plaintiff 1 Peter Krejci, Plaintiff 2 BIZPAY GROUP LIMITED, Plaintiff 3
Legal representative	Mark Christopher Wilson
Legal representative reference	
Telephone	02 9234 0010
Your reference	2024011

HEARING DETAILS

This application will be heard at Supreme Court Sydney on 2 September 2024 at 10:00 AM

ATTACHMENT DETAILS

In accordance with Part 3 of the UCPR, this coversheet confirms that both the Originating process (Corporations Law) Other, along with any other documents listed below, were filed by the Court.

Corporations Law Originating Process (Form 2) (2024-08-21 Originating Process.pdf)

Affidavit in Support of Originating Process (2024-08-21 Affidavit of Jonathon Sherwood Keenan.pdf)

[attach.]

IN THE SUPREME COURT OF NEW SOUTH WALES
DIVISION: EQUITY
REGISTRY: SYDNEY

No. of 2024

IN THE MATTER OF BIZPAY GROUP LIMITED (RECEIVERS AND MANAGERS APPOINTED)
(SUBJECT TO DEED OF COMPANY ARRANGEMENT)

ACN: 633 797 627

**Jonathon Sherwood Keenan and Peter Paul Krejci as joint and several deed administrators of
Bizpay Group Limited ACN 633 797 627 (Receivers and Managers Appointed) (Subject To Deed of
Company Arrangement)**

First Plaintiffs

**Bizpay Group Limited ACN 633 797 627 (Receivers and Managers Appointed) (Subject To Deed of
Company Arrangement)**

Second Plaintiff

Originating process

A. DETAILS OF APPLICATION

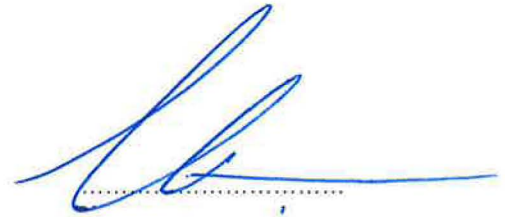
This application is made under section 444GA of the *Corporations Act 2001* (Cth) (the **Act**).

The First Plaintiffs, in their capacities as joint and several deed administrators of Bizpay Group Limited ACN 633 797 627 (Receivers and Managers Appointed) (subject To Deed Of Company Arrangement) (**Bizpay**) seek orders that they have leave to transfer all of the existing shares of the Second Plaintiff, Bizpay, pursuant to section 444GA of the Act from each holder to BP New Start Holding Pty Ltd ACN 675 974 348 (**BP New Start**).

On the facts stated in the supporting affidavits, the First Plaintiffs claims:

1. An order that pursuant to section 444GA of the Act, the First Plaintiffs in their capacity as joint and several deed administrators of Bizpay be granted leave, jointly or severally, subject to satisfaction or waiver of the conditions precedent to completion set out in clause 4 of the deed of company arrangement entered into between the First Plaintiffs (**DOCA**), Bizpay and BP New Start dated 21 March 2024, to transfer all of the issued shares in Bizpay from each shareholder recorded on the register of members of Bizpay to BP New Start for nil consideration.
2. An order that the First Plaintiffs may, jointly or severally, in their capacities as deed administrators under the DOCA, execute one or more transfer forms (including without limitation a master transfer form) or any other documents ancillary or incidental to effect the transfer of the shares in Bizpay to BP New Start referred to in paragraph 1 above.
3. Such further or other orders as this Honourable Court thinks fit.
4. The costs of this application be costs in the administration of the DOCA.

Date: 21 August 2024



*Signature of plaintiff or
plaintiff's legal practitioner*

Name of Legal practitioner: Mark Wilson

PCN: 25502

Firm name: W Advisers Pty Limited

This application will be heard by at at*am/*pm on

B. NOTICE TO DEFENDANT(S) (IF ANY)

TO:

If you or your legal practitioner do not appear before the Court at the time shown above, the application may be dealt with, and an order made, in your absence. As soon after that time as the business of the Court will allow, any of the following may happen:

- (a) the application may be heard, and final relief given;
- (b) directions may be given for the future conduct of the proceeding;
- (c) any interlocutory application may be heard.

Before appearing before the Court, you must file a notice of appearance, in the prescribed form, in the Registry and serve a copy of it on the plaintiff.

Note.

Unless the Court otherwise orders, a defendant that is a corporation must be represented at a hearing by a legal practitioner. It may be represented at a hearing by a director of the corporation only if the Court grants leave.

C. APPLICATION FOR WINDING UP ON GROUND OF INSOLVENCY

Not applicable

D. FILING

Date of filing: 21 August 2024

This originating process is filed by Mark Wilson, Solicitor for the First Plaintiffs.

E. SERVICE

The First Plaintiffs' address for service is

C/- W Advisers

Level 5, 151 Macquarie Street

Sydney NSW 2000

It is intended to serve a copy of this originating process on ASIC and made available to shareholders of Bizpay.

Form 1 Affidavit

(rule 2.1)

IN THE SUPREME COURT OF NEW SOUTH WALES

No. of 2024

DIVISION: EQUITY

REGISTRY: SYDNEY

IN THE MATTER OF BIZPAY GROUP LIMITED (RECEIVERS AND MANAGERS APPOINTED)
(SUBJECT TO DEED OF COMPANY ARRANGEMENT)

ACN: 633 797 627

**JONATHON SHERWOOD KEENAN AND PETER PAUL KREJCI AS JOINT AND SEVERAL DEED
ADMINISTRATORS OF BIZPAY GROUP LIMITED ACN 633 797 627 (RECEIVERS AND
MANAGERS APPOINTED) (SUBJECT TO DEED OF COMPANY ARRANGEMENT)**

First Plaintiffs

**BIZPAY GROUP LIMITED ACN 633 797 627 (RECEIVERS AND MANAGERS APPOINTED)
(SUBJECT TO DEED OF COMPANY ARRANGEMENT)**

Second Plaintiff

Affidavit of: Jonathon Sherwood Keenan

Address: BRI Ferrier, Level 26/25 Bligh St, Sydney NSW 2000

Occupation: Registered Liquidator


Date: 21 August 2024

Contents

1. I, Jonathon Sherwood Keenan, of Novabrif Pty Ltd ACN 643 013 610 (trading as BRI Ferrier) (**BRI Ferrier**) at Level 26, 25 Bligh Street, Sydney NSW 2000, Registered Liquidator, say on oath that:

Overview

2. I am a registered liquidator and principal of BRI Ferrier. I have over 20 years' commercial, professional and restructuring experience with expertise in financial services, retail, professional services, insurance, manufacturing, clubs and charities.
3. I received a Bachelor of Commerce majoring in Accounting from Macquarie University and I am also a current member of:
 - a) Chartered Accountants Australia and New Zealand; and



- b) the Australian Restructuring Insolvency and Turnaround Association.
4. Each of the matters to which I depose in this affidavit is true to the best of my knowledge, information and belief. Where statements are not made from my own knowledge, they are made to the best of my information and belief after due inquiry.
 5. Together with Mr Peter Paul Krejci (each a **Deed Administrator** and together the **Deed Administrators**), we are (jointly and severally) Deed Administrators of the Second Plaintiff, Bizpay Group Limited ACN 633 797 627 (Receivers And Managers Appointed) (Subject To Deed Of Company Arrangement) (**Bizpay** or the **Company**).
 6. Exhibit to me at the time of swearing this affidavit and marked "JK-1" (**Exhibit JK-1**) is a bundle of documents to which I refer in this affidavit by page number.
 7. Exhibited at **pages 1 and 2 of JK-1** is a copy of my and Mr Krejci's curriculum vitae.
 8. The Deed Administrators are the First Plaintiffs in these proceedings. I am authorised by Mr Krejci to make this affidavit on behalf of the Deed Administrators. Where I depose below the view or views of the Deed Administrators, they are the view(s) which each of Mr Krejci and I hold at the date of swearing this affidavit. References in this affidavit to "our", "we" and the "Deed Administrators" are references to Mr Krejci and to me.
 9. I make this affidavit in support of the relief sought by the First Plaintiffs and the Second Plaintiff, namely, an order pursuant to section 444GA(1)(b) of the *Corporations Act 2001* (Cth) (**Corporations Act**) that leave be granted for the Deed Administrators to transfer all of the existing shares in the capital of the Second Plaintiff to BP New Start Holding Pty Ltd ACN 675 974 348 (**the Deed Proponent**) (**Section 444GA Application**).
 10. This application is made having regard to terms of the Deed of Company Arrangement dated 21 March 2024 entered into by the Deed Administrators, Bizpay and the Deed Proponent (**Bizpay DOCA**), in particular the requirements under clauses 4.1(a) and 5.1(f) that all shares in Bizpay be transferred to the Deed Proponent.
 11. Obtaining orders from the Court under section 444GA(1)(b) of the Corporations Act for leave to transfer the shares in Bizpay to the Deed Proponent is therefore a condition precedent to the effectuation of the Bizpay DOCA.

Background to DOCA – Administration of Company

12. On 23 November 2023, Mr Krejci and I were appointed joint and voluntary administrators of Bizpay pursuant to section 436A of the Corporations Act by a written resolution of Directors of Bizpay, being Mr Robert Westgarth, Mr Abe Tomas, and Mr Steve Bannigan. A copy of that board resolution is exhibited at **pages 3 to 5 of Exhibit JK-1**.
13. Shortly after our appointment as Administrators, we commenced a campaign to seek to sell the business and assets of Bizpay. Our actions taken to do so included, without limitation:
 - a) arranging for sale of business advertisements being published in the *Australian Financial Review* and LinkedIn on 27 November 2023, which invited interested parties to register their interest by 4 December 2023 and to submit binding offers by 11 December 2023. Copies of those advertisements are exhibited at **pages 6 to 8 of Exhibit JK-1**;
 - b) preparing confidentiality agreements for interested parties to participate in a due diligence process, and executing those agreements on behalf of the Company in relation to 5 interested parties. Those agreements are not exhibited due to their terms being confidential between the parties to them;



- c) arranging a data room and assembling documentation relevant to the Bizpay business and assets; and
 - d) assessing expressions of interest received in response to the advertisements. Around twenty (20) interested parties expressed potential interests in the Company. Five (5) of those parties paid a refundable deposit and executed confidentiality agreements.
14. On 30 November 2023, the Administrators were advised that BP Fiduciary Pty Ltd ACN 649 000 591 (**BP**), the principal secured creditor of the Company, had appointed Mr Simon Cathro and Mr David Mutton as receivers and managers (**Receivers and Managers**) over all of Bizpay's assets and business on 29 November 2023. I had not received prior notice of that appointment. The Receivers and Managers assumed control of the assets of Bizpay from that time.
15. On:
- a) 30 November 2023, the Administrators were advised by the Receivers and Managers to immediately cease any further work on the sale of business process (a copy of that communication is at **pages 9 to 23 of Exhibit JK-1**);
 - b) 30 November 2023, the Administrators were advised by a letter sent from Mr Cathro that BP would not contribute any further funds towards the Administration process (a copy of which is at **pages 24 and 25 of Exhibit JK-1**);
 - c) following the appointment of the Receivers and Managers, their taking control of the Company's business and its assets and immediately following the Administrators' receipt of the notices referred to in paragraphs 15(a) and (b) above, the Administrators' sale process ceased; and
 - d) 1 December 2023, a copy of the register of interested parties was passed to the Receivers and Managers per their request (a copy of that correspondence is at **pages 26 to 29 of Exhibit JK-1**. In the exhibit bundle, the interested parties' register has been partially redacted in large part to preserve confidentiality of the identity and contact details of such interested parties).
16. At around that time, the Administrators were advised by the Receivers and Managers would pursue their own sale of business process. So far as the Administrators are aware, that sale process did not result in any sale of assets of the Company by the Receivers and Managers, save as noted in paragraphs 36, 38 and 39 below.
17. On 5 December 2023, I conducted a first meeting of creditors of Bizpay (**First Creditors' Meeting**). The meeting was convened electronically through the use of virtual meeting technology. A copy of the Minutes of the First Creditors' Meeting is at **pages 30 to 43 of Exhibit JK-1**. I tabled the Administrators' report to creditors dated 27 November 2023, a copy of that report is at **pages 44 to 86 of Exhibit JK-1**.
18. On 14 December 2023, the Administrators issued the second report to creditors titled "Second report to creditors" (**Second Report to Creditors**), a copy of which is at **pages 87 to 188 of Exhibit JK-1**.
19. In the Second Report to Creditors, the Administrators expressed the following recommendations:
- a) since there was no DOCA proposal for creditors to consider at the time of the report, creditors should not resolve in favour of a DOCA;
 - b) creditors should not resolve in favour of the Administration ending as Bizpay was insolvent; and
 - c) because of the above reasons, creditors should resolve in favour of Bizpay being wound up.
20. On 21 December 2023, I had a phone call discussion with Mr Anthony Murphy, a person associated with the Deed Proponent, regarding a potential DOCA proposal.

³

21. On 22 December 2023 at 8:40 AM, prior to the second creditors' meeting, I received an email from Mr Murphy requesting that the second creditors' meeting of the Company be adjourned by 45 days to enable time for a DOCA proposal to be formulated. A copy of that email correspondence is at **pages 189 and 190 of Exhibit JK-1**.
22. On 22 December 2023 at 11 AM, the second creditors' meeting of the Company was commenced to be held but was adjourned to allow time for a DOCA to be explored (**Adjourned Second Creditors' Meeting**). A copy of the Minutes of the Adjourned Second Creditors' Meeting is at **pages 191 to 203 of Exhibit JK-1**.
23. On 20 February 2024, the Administrators received a written DOCA proposal from Anthony Murphy, Denver Heng Li and Matthew Hill (**DOCA Proposal**).
24. On 21 February 2024, the Administrators issued the Supplementary Second Report to Creditors, which:
- a) summarised (on pages 11 and 12) the key terms of the DOCA proposal as they are understood by the Deed Administrators;
 - b) recorded (on page 12) the Deed Administrators' view that the proposed Bizpay DOCA appeared viable and may provide for an improved return to creditors as compared to the projected outcome in a liquidation scenario; and
 - c) recommended (on page 15) that creditors vote in favour of the proposed Bizpay DOCA.
- A copy of that report, annexing the DOCA Proposal is at **pages 220 to 288 of Exhibit JK-1**.
25. On 29 February 2024, the Adjourned Second Creditors' Meeting resumed. In the meeting, I tabled the Supplementary Second Report and discussed our key observations on the DOCA Proposal, potential returns to creditors in DOCA versus in liquidation. I noted that the DOCA Proposal appears to be a viable arrangement should creditors resolve to support it.
26. The creditors voted in favour of Bizpay executing the Bizpay DOCA. A copy of the Minutes of the Resumed Second Creditors' Meeting is at **pages 204 to 219 of Exhibit JK-1**.
27. The Bizpay DOCA was executed on 21 March 2024. A copy of which is at **pages 289 to 320 of Exhibit JK-1**.

Loan facility with BP

28. Based on my review of the books and records of Bizpay and my inquiries with prior Directors of Bizpay, I understand that:
- a) On 21 April 2021, Bizpay and BP entered into a facility agreement (**Facility Agreement 1**). Under Facility Agreement 1, Bizpay had access to a debt facility of \$25,000,000 and a further option of \$15,000,000 at BP's discretion. It was a condition precedent of Facility Agreement 1 that a General Security Deed was executed. Copies of Facility Agreement 1 and the General Security Deed are at **pages 321 to 474 of Exhibit JK-1**.
 - b) On 20 May 2022, more than a year after the Facility Agreement was entered into, the ALL-PAAP security interest was registered on Bizpay in favour of the BP.
 - c) On 7 March 2022, BP and Bizpay entered into a warrant instrument for the warranty of the repayment of the debt facility under the Facility Agreement 1 (**4m warrant**). Under the 4m warrant, the Company granted the Lender 4,000,000 tranche A and tranche B shares as defined in the 4m warrant instrument.



- d) On 8 March 2022, Bizpay entered into a Share Subscription Deed with the Lender, by which the Company agreed to issue 809,838 shares in the capital of the Company to the Lender.
- e) On 30 May 2022, Bizpay and BP entered into a refinance arrangement (**Facility Agreement 2**) for an aggregate amount of \$5,000,000 to convert the Company's debt to preferred equity. A copy of the Facility Agreement 2 is at **pages 475 to 562 of Exhibit JK-1**.
- f) Under Facility Agreement 2, Bizpay entered into a Deed of Amendment dated 30 May 2022 of the 4m warrant instrument to effect the subscription of 4,000,000 shares on 7 March 2022. A copy of a Deed of Amendment to the 4m warrant instrument is at **pages 563 to 614 of Exhibit JK-1**.
- g) Under Facility Agreement 2, on 30 May 2022, Bizpay agreed to issue additional shares to the Lender. A copy of the letter recording this transaction is at **pages 615 to 620 of Exhibit JK-1**.
- h) Per Facility Agreement 2, on 30 May 2022, the Company and the Lender executed a second General Security Deed (**Second General Security Deed**), a copy of which is at **pages 621 to 652 of Exhibit JK-1**. It appears that security interest was registered on the PPSR of the Company pursuant to the Second General Security Deed.
29. As at 9 November 2023, Bizpay: was subject to the following security interests registered on the Personal Property Securities Register (**PPSR**):
- an all present and after-acquire property (**ALL-PAAP**) in favour of BP; and
 - an Investment Instrument registration on the PPSR in favour of BP.
- A copy of a search from the PPSR showing the registrations of the security interests obtained on 9 November 2023 is at **pages 653 to 688 of Exhibit JK-1**;
30. As at 23 November 2023, being my appointment as Administrator, my enquiries indicate that Bizpay:
- was party to a real property sub-lease in Australia and occupied the office that is the subject of that sub-lease; and
 - employed eleven staff members (which included one Director) and engaged 4 Contractors.

Bizpay DOCA

31. The Bizpay DOCA was executed on 21 March 2024.

32. Conditions precedent to the Bizpay DOCA being effectuated include:

<u>Condition</u>	<u>Details</u>	<u>Clause reference in the Bizpay DOCA</u>
1.	An order is made under s 444GA of the Act for an order from the Court to allow the compulsory transfer of all Shares in the Company not already held by the Deed Proponent to the Deed Proponent or its nominee (Share Transfers), on terms satisfactory to the Deed Proponents and Deed Administrators (acting reasonably).	4(a)

<u>Condition</u>	<u>Details</u>	<u>Clause reference in the Bizpay DOCA</u>
2.	ASIC grants such exemptions or declarations pursuant to the Act in order to permit the Transfers to occur without the approval of Shareholders, in a form satisfactory to the Deed Proponent.	4(b)
3.	Regulatory approvals necessary to implement and complete the share transfer been provided on an unconditional basis or with conditions satisfactory to the Deed Proponents acting reasonably, and remain in full force and effect and not have been withdrawn, suspended or revoked.	4(c)
4.	<p>The steps set out below have been agreed to by BP Fiduciary or effected by the Receivers and Managers, whether through the entry into Retirement and Release Agreement or such other means acceptable to the parties acting reasonably – namely that BP Fiduciary agree to procure the Receivers and Managers to:</p> <ul style="list-style-type: none"> a) sell Bizpay's loan book; b) apply sale proceeds from the sale of loan book toward secured debt owed to BP Fiduciary; c) if BP Fiduciary is the successful bidder for the loan book, set-off the sale proceeds against the secured debt, <p>subject in each case to the Receivers and Managers complying with s 561 of the Corporations Act, and:</p> <ul style="list-style-type: none"> a) the Receivers and Managers apply the sale proceeds in the following priority order: <ul style="list-style-type: none"> i) to discharge and pay out Bizpay's priority creditors; ii) pay out reasonable costs and remuneration of the Receivers and Managers; iii) account for any balance to BP Fiduciary, b) the Receivers and Managers retire on or before the completion date of the share transfers, and BP provides certain acknowledgments. 	4(d) and Schedule 1




<u>Condition</u>	<u>Details</u>	<u>Clause reference in the Bizpay DOCA</u>
5.	No regulatory intervention occurs that restraints, prohibits, or otherwise materially adversely impedes or impacts upon implementation of the DOCA.	4(e)

33. Since the Bizpay DOCA was entered into, my office and my legal representatives have periodically engaged in correspondence with the Receivers and Managers and their lawyers, respectively, seeking updates on their progress of the sale of assets, payments of priority creditors and their anticipated date of retirement.
34. On 9 May 2024, I sent an email to the Receivers and Managers seeking an update on the recovery and/or sale of Bizpay's Accounts Receivables & Loan Book for market value or a reasonably obtainable price; the progress in adjudicating and paying out the Priority Creditor Claims from the circulating asset realisations; and Receiver & Manager's anticipated retirement. A copy of that email is at **pages 689 to 690 of Exhibit JK-1**.
35. On 17 May 2024, a representative of the Receivers and Managers' firm to confirm that no sale of Bizpay's Accounts Receivables & Loan Book had been achieved. A copy of that response is at **pages 691 to 694 of Exhibit JK-1**.
36. My lawyers subsequently contacted the lawyers acting for the Receivers and Managers on multiple occasions to seek further updates on these conditions, most recently via a phone call on 4 June 2024 and emails on 4 June, 21 June and 26 June 2024.
37. On 28 June 2024, Mr Greg Wrobel - lawyer of the Receivers and Managers responded that the Receivers and Managers had received an offer from BP to purchase Bizpay's Accounts Receivables & Loan Book.
38. On 2 August 2024, my lawyers emailed Mr Wrobel for the Receivers and Managers inquiring whether a sale agreement had been entered into and when completion would occur.
39. On 6 August 2024, Mr Wrobel confirmed no sale agreement had been entered into.
40. On 19 August 2024, Mr Wrobel further indicated that BP was finalising their due diligence on the acquisition.
41. A copy of that email chain of correspondence is at **pages 695 to 702 of Exhibit JK-1**.

Expert Report

42. On 13 May 2024, my lawyers instructed Mr Richard Stone, a partner at RSM Australia Partners (**Expert**) to determine the value of Bizpay's shares on issue if Bizpay were wound up and prepare an expert report in accordance with ASIC regulatory guides 6 and 111 (**Expert Report**). A copy of the instructions letter dated 14 May 2024 and the annexures and schedule referred therein are at **pages 703 to 1042 of Exhibit JK-1**.
43. On 15 August 2024, I received a finalised Expert Report. A copy of that report is at **pages 1043 to 1075 of Exhibit JK-1**.
44. I note that the annexures to the instructions letter to Expert and the Expert Report are partially redacted to remove identifying details of Bizpay's shareholders and former employees.




45. I have instructed my lawyer, Mr Mark Wilson, to file an affidavit before the first hearing date to these proceedings, exhibiting the unredacted version of Bizpay's register of members, in respect of which I intend to seek confidentiality orders to preserve the confidentiality of personal information relating to Bizpay's shareholders.

Notification to shareholders

46. The following notifications regarding the administration and receivership of the Company, and of the Bizpay DOCA were sent to shareholders whose email addresses are recorded in the Company's register of members (which I estimated to be approximately 90% of more than 600 members of the Company):

Date of Circular	Subject
24 November 2023	Notice to shareholders that Jonathon Keenan and Peter Krejci were appointed as joint and several voluntary administrators (Administrators) of Bizpay.
28 November 2023	Notice to shareholders that the Administrators had circulated their first report to creditors.
30 November 2023	Notice to shareholders that on 29 November 2023, BP Fiduciary Pty Ltd appointed David Mutton and Simon Cathro as Receivers and Managers over all of the Company's assets/business, and providing notice of the first creditors meeting to occur on 27 November 2023.
22 February 2024	Update to shareholders that the second meeting of creditors, held on 22 December 2023, was adjourned to allow the Company time to explore an option to restructure via a Deed of Company Arrangement; that a DOCA proposal had been received proposing the transfer of all shares for nil consideration on the basis that the Company had negative equity value, and was recommended to creditors, and that a second report and second supplementary report to creditors had been circulated recommending the DOCA proposal.
2 April 2024	Update on DOCA and proposed share transfer.

Copies of those notices are produced at **pages 1076 to 1083 of Exhibit JK-1 (Notification of Bizpay)**.

Share Structure

47. As at 22 March 2024, Bizpay has 1,110,589,282 ordinary shares and 400,000,000 preference shares on issue pursuant to the records maintained by the Australian Securities and Investment Commission (**ASIC**). A copy of a search of current extract of the records maintained by ASIC in respect of Bizpay, obtained on 22 March 2024 is at **pages 1084 to 1097 of Exhibit JK-1**.
48. On 16 May 2024, I was alerted by my solicitors to a discrepancy in the number of ordinary shares on issue for Bizpay, where:
- Bizpay's ASIC public documentation recorded at that time 1,110,859,282 ordinary shares on issue; and
 - whereas its register of members records 948,859,282 ordinary shares on issue,
- (the **Share Discrepancy**).



49. On 27 May 2024, my office made enquiries to Mr Abraham Tomas and Mr Robert Westgarth, Bizpay's former directors, regarding the Share Discrepancy. On the same day, Mr Tomas confirmed that the Share Discrepancy was due to a recording error with ASIC. Mr Tomas advised that in January 2023, he had written to ASIC to request that they correct the error in the number of shares, however ASIC had not responded.
50. On 5 August 2024, my office submitted a request to ASIC to correct the error and resolve the Share Discrepancy on ASIC public documentation, and on 14 August 2024, following ASIC's instructions, my office lodged five correction requests to ASIC to rectify the Share Discrepancy. A copy of those forms is at **pages 1098 to 1107 of Exhibit JK-1**.
51. Unfortunately, ASIC processed the correction forms incorrectly and so on 15 August 2024, I arranged for my office to lodge a further online request to ASIC to rectify the error with the forms. A copy of that request is reproduced at **pages 1108 to 1110 of Exhibit JK-1**. This has not been actioned by ASIC as yet. As of 20 August 2024, Bizpay's ASIC public documentation recorded 863,566,437 on issue. A copy of a current and historical extract of the ASIC records obtained on 20 August 2024 is at **pages 1111 to 1125 of Exhibit JK-1**.

ASIC relief application

52. I have instructed my lawyers and staff to lodge an application to ASIC for relief from the prohibition of acquisitions of relevant interests in voting shares under s 606 of the Corporations Act, and to file an affidavit prior to the first hearing date to these proceedings exhibiting that ASIC relief application.

Sworn at: Sydney on 21 August 2024.


Signature of deponent

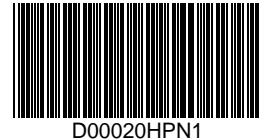
Before me:


Signature and designation of person before whom
deponent swears affidavit

Name: Mark Wilson
Capacity: Solicitor admitted in New South Wales (Practising Number 25502)
Address: W Advisers, Level 5, 151 Macquarie Street
Sydney NSW 2000

Annexure B to Explanatory Memorandum dated 23 September 2024

Form 43
UCPR 36.11



Issued: 3 September 2024 3:18 PM

JUDGMENT/ORDER

COURT DETAILS

Court	Supreme Court of NSW
Division	Equity
List	Corporations List
Registry	Supreme Court Sydney
Case number	2024/00309404

TITLE OF PROCEEDINGS

First Plaintiff	Jonathon Keenan
Second Plaintiff	Peter Krejci
Number of Plaintiffs	3

First

DATE OF JUDGMENT/ORDER

Date made or given	2 September 2024
Date entered	3 September 2024

TERMS OF JUDGMENT/ORDER

This matter is listed for Directions (Corporation List) on 28 October 2024 9:15 AM before the Supreme Court - Civil at Supreme Court Sydney.

Estimated duration: 5 Minutes

VERDICT, ORDER OR DIRECTION:

Black J makes orders (as amended) in accordance with the Short Minutes of Order initialled by him and placed in the file.

THE COURT ORDERS THAT:

1 The Plaintiffs' application for relief pursuant to section 444GA of the Corporations Act 2001 (Cth), be tentatively listed before Black J at 2:00PM on 11 November 2024, for an estimate of 2 hours, with a court book containing all appearances, the originating process, all affidavits, exhibits, objections to evidence and submissions to be delivered to the Associate to Black J by 4:00PM on 7 November 2024.

2 Direct that the Plaintiffs serve a copy of these orders, the Originating Process, the affidavit of Jonathon Sherwood Keenan sworn on 21 August 2024, (Keenan Affidavit), and the independent expert report of Richard Stone dated 15 August 2024 (Independent Expert Report) on ASIC by no later than 5:00PM on 5 September 2025.

3 A direction that, by no later than 5:00PM on 27 September 2024, the Plaintiffs give notice to each Member of Bizpay Group Limited ACN 633 797 627 (receivers and managers appointed) (subject to deed of company arrangement) (Bizpay Limited) by sending to them copies of:

- the Originating Process;
- the Keenan Affidavit;
- the Independent Expert Report;

- d. the Explanatory Statement in a form that is approved by ASIC; and
- e. these orders,

(together, Documents), by way of the following methods:

- f. where the Deed Administrators have an email address for that Member (including from the books and records maintained by Bizpay Limited), by sending them an email stating the log-in details and link to the website maintained by the Deed Administrators at <https://briferrier.com.au/about-us/current-matters/bizpay-group-limited> (BRI Website) from which the Documents can be accessed; and
- g. where the Deed Administrators do not have an email address for that Member, by sending a letter to that Member by post at the postal address recorded in the books and records of Bizpay Limited or otherwise known to the Deed Administrators, stating the log-in details and link to the BRI Website from which the Documents can be accessed.

4 Order that any interested person wishing to appear at the hearing of this application is to file and serve on the Plaintiffs and ASIC, a Notice of Appearance in the prescribed form and indicating the grounds of opposition by no later than 4:00PM on 25 October 2024.

5 Order that the matter be listed for further directions in the Corporations Motions List on 28 October 2024, for the purpose of making any further directions as to the timetable and confirming the hearing date.

SEAL AND SIGNATURE



Signature	Rebel Kenna
Capacity	Principal Registrar
Date	3 September 2024

If this document was issued by means of the Electronic Case Management System (ECM), pursuant to Part 3 of the Uniform Civil Procedure Rules (UCPR), this document is taken to have been signed if the person's name is printed where his or her signature would otherwise appear.

PERSON PROVIDING DOCUMENT FOR SEALING UNDER UCPR 36.12

Name	Jonathon Keenan, Plaintiff 1 Peter Krejci, Plaintiff 2 BIZPAY GROUP LIMITED, Plaintiff 3
------	--

Legal representative	Mark Christopher Wilson
Legal representative reference	
Telephone	02 9234 0010

FURTHER DETAILS ABOUT Plaintiff(s)

First Plaintiff	
Name	Jonathon Keenan
Address	Level 26 25 Bligh Street

SYDNEY NSW 2000

Telephone
Fax
E-mail
Client reference

Second Plaintiff

Name Peter Krejci
Address Level 26
25 Bligh Street
SYDNEY NSW 2000

Telephone
Fax
E-mail
Client reference

Third Plaintiff

Name BIZPAY GROUP LIMITED
ACN 633797627
Address Suite 1 Level 7
25 Bligh Street
SYDNEY NSW 2000

Telephone
Fax
E-mail
Client reference

Legal representative

Name Mark Christopher Wilson
Practicing certificate number 25502
Address Level 5
151 Macquarie Street
SYDNEY NSW 2000

DX address
Telephone 02 9234 0010
Fax
Email mark.wilson@wadvisers.com
Electronic service address mark.wilson@wadvisers.com

FURTHER DETAILS ABOUT (s)



INDEPENDENT EXPERT REPORT OF RICHARD STONE

15 August 2024

BizPay Group Ltd
(Subject to Deed of Company Arrangement)
(Receivers and Managers Appointed)

RSM Australia Pty Ltd
Level 13, 60 Castlereagh Street Sydney NSW 2000
GPO 5138 Sydney NSW 2000

T+ 2 8226 4500 F+ 2 8226 4501

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Annexure A – Curriculum Vitae

Annexure B – Listing of information relied on

Annexure C – Detailed comparative profit and loss statements

Annexure D – Detailed comparative balance sheets

THE POWER OF BEING UNDERSTOOD

AUDIT | TAX | CONSULTING

RSM Australia Pty Ltd is a member of the RSM network and trades as RSM. RSM is the trading name used by the members of the RSM network. Each member of the RSM network is an independent accounting and consulting firm which practices in its own right. The RSM network is not itself a separate legal entity in any jurisdiction.

RSM Australia Pty Ltd ACN 009 321 377 atf Birdanco Practice Trust ABN 65 319 382 479 trading as RSM

Liability limited by a scheme approved under Professional Standards Legislation

1. GLOSSARY

Abbreviation	Term
\$	Australian dollars
Act	Corporations Act 2001
Administrators and Deed Administrators	Jonathon Keenan and Peter Krejci of BRI Ferrier
ALLPAP	All Present and After-Acquired Property
ARITA	Australian Restructuring and Turnaround Association
ASIC	Australian Securities and Investments Commission
ATO	Australian Taxation Office
BAS	Business Activity Statement
BP Fiduciary	BP Fiduciary Pty Ltd (ACN 649 000 591)
BRI	BRI Ferrier/ the Administrators and Deed Administrators
CAANZ	Chartered Accountants Australia and New Zealand
DOCA	Deed of Company Arrangement
EOS	Estimated outcome statement
Expert Witness Code	Expert Witness Code of conduct set out in Schedule 7 of the <i>Uniform Civil Procedure Rules 2005 (NSW)</i> .
GSA	General Security Agreement
IER	Independent Expert Report
k	Thousand
m	Million
Management Accounts	Internal Management Accounts of the Company for the period ending 23 November 2023
YE20	Year Ending 31 December 2020
YE21	Year Ending 31 December 2021
YE22	Year Ending 31 December 2022
PPSR	Personal Property Securities Register
Proponents	Denver Heng Li, Matthew Hill and Anthony Murphy
Receivers	Receivers and Managers (Simon Cathro and David Mutton of Cathro & Partners)
Regulatory Guide 111	Regulatory Guide 111 Content of Expert Reports published by ASIC in October 2020
Report	This independent expert report
ROCAP	Report of Company Activities and Property
RSM	RSM Australia Partners
Second Report to Creditors	The report of the Administrators pursuant to section 75-225 of the Insolvency Practice Rules (Corporations) 2016 dated 14 December 2023
Supplementary Report to Creditors	The report of the Administrators dated 21 February 2024
the Company	BizPay Group Ltd (Subject to Deed of Company Arrangement) (Receivers and Managers Appointed)
W Advisers	W Advisers Pty Limited

2. OVERVIEW

2.1 Background

I have been engaged by W Advisers on behalf of the Company, a prospective plaintiff in an application for leave under section 444GA the Act. W Advisers have advised of the following background to this engagement:

- a) Since its incorporation in 2019, the Company has issued 1,110,859,282 ordinary shares and 400,000,000 preference shares, which is reflected in the ASIC register.
- b) On 30 May 2022, the Company entered into a GSA with BP Fiduciary and registered an ALLPAP security interest against the Company which is recorded on the PPSR.
- c) On 23 November 2023, the Company went into voluntary administration and Administrators were appointed. Following this appointment, BP Fiduciary decided to appoint the Receivers as receivers and managers of all the Company's secured property in accordance with the provisions of the GSA, this appointment occurred on 29 November 2023.
- d) The Administrators issued reports to creditors on 27 November 2023, 14 December 2023 and 21 February 2024. On 29 February 2024, the Company's creditors approved the proposed terms of a DOCA, providing for, among others, a transfer of the equity under section 444GA of the Act.
- e) On 21 March 2024, the Company entered into a DOCA on the approved terms.

On 17 May 2024, the Receivers' office provided an update to the Administrators which advised that \$400k had been realised from debtors and loan book asset. From the realisations of these assets, all priority employee claims totalling \$229k had been paid in accordance with section 433 of the Act.

The Receivers advised that the remaining debtors and loan book had an estimated realisable value of \$500k and that no sale of the asset had been achieved, despite a comprehensive sale process conducted in accordance with the Receivers' statutory obligations pursuant to section 420A of the Act. This sale process followed a similar process commenced by the Administrators.

Based on advice provided by the Receivers, the current shortfall to BP Fiduciary is \$7.1m (plus interest and expenses). As such, there are no prospects of the secured creditor being paid in full and there will be no surplus available to the Company.

The Company therefore has no assets available to be realised in the event a liquidator is appointed.

2.2 Terms of the DOCA

Denver Heng Li, Matthew Hill and Anthony Murphy submitted a DOCA proposal on 20 February 2024.

The main points of the DOCA are summarised below:

- a) Deed Proponents are Denver Heng Li, Matthew Hill and Anthony Murphy.
- b) Deed Administrators are Jonathon Keenan and Peter Krejci of BRI.
- c) A Deed Fund will be set up consisting of:
 - i. \$550k contributed by the Proponents to the Deed Fund when the DOCA is executed, of which \$30k has already been paid to the Receivers.
 - ii. Any funds held by the Administrators when the DOCA is executed.
 - iii. Any funds paid by the Receivers on their retirement to the Deed Fund, if not distributed before their retirement.
- d) The Receivers to finish a sale of the Company's accounts receivables and loan book, payout priority employee creditors and pay the balance to BP Fiduciary. BP Fiduciary agrees to then release the Company from all secured claims, with the intention that BP Fiduciary prove as an ordinary unsecured creditor for any shortfall remaining owed.
- e) BRI will apply to the Court for the shares of the Company to be transferred to the Proponents or their nominee(s). Section 444GA of the Act allows such transfers to happen either with consent of the relevant shareholder(s) or by a Court order following an application by a Deed Administrator. The Deed Administrator's costs incurred in trying to meet or in meeting such requirements, and in transferring the shares, and in seeking necessary waivers from ASIC in relation to takeover rules (if applicable), are to be paid from the Deed Fund.
- f) The Deed Fund will be distributed as follows:
 - i. Firstly, the payment of the costs of the Administrators and Deed Administrators in relation to executing and implementing the DOCA and pursuing the transfer of the shares of the Company (including costs of making the Court application referred to above), including expenses, remuneration and disbursements, capped to \$160k (plus GST);
 - ii. Secondly, the Administrators' and Deed Administrators' remaining unpaid costs, including expenses, costs, remuneration and disbursements;
 - iii. Thirdly, any remaining priority creditor claims (former employees), to the extent that they have not already discharged by the Receivers; and
 - iv. The balance of funds to be distributed to Participating Unsecured Creditors on a pro rata basis.
- g) Upon execution of the DOCA, the control and management of the Company stays with the Deed Administrators, subject to the overriding powers of the Receivers.
- h) Subject to the conditions of the DOCA being met, Deeds Funds to be distributed by the Deed Administrator and claims to be adjudicated, as if the Company was in Liquidation.
- i) The DOCA will end when its terms are satisfied, or if it is terminated according to conditions not being met or otherwise in accordance with law.

2.3 Section 444GA and section 606 of the Act

Section 444GA of the Act provides as follows:

1. *"The administrator of a deed of company arrangement may transfer shares in the company if the administrator has obtained:*

- a. *the written consent of the owner of the shares; or*
 - b. *the leave of the Court.*
2. *A person is not entitled to oppose an application for leave under subsection (1) unless the person is:*
 - a. *a member of the company; or*
 - b. *a creditor of the company; or*
 - c. *any other interested person; or*
 - d. *ASIC.*
3. *The Court may only give leave under subsection (1) if it is satisfied that the transfer would not unfairly prejudice the interests of members of the company.”*

The transfer of the shares in the Company also requires ASIC to grant relief from the takeover provisions contained in section 606 of the Act. ASIC has set out in “Regulatory Guide 6 Takeovers: Exceptions to the general prohibition” that it will generally grant relief where:

1. explanatory materials have been provided to shareholders at least 14 days before the section 444GA hearing including an IER prepared consistent with the guidance contained in Regulatory Guide 111
2. the IER is prepared by an expert other than the administrator or a member from the same firm as the administrator
3. the IER concludes that there is no residual equity value in the company for shareholders
4. the court grants leave under section 444GA.

2.4 Scope of this Report

I have been instructed by W Advisers, on behalf of the Administrators, to prepare an independent expert report for a prospective application by the Administrators pursuant to section 444GA of the Act to:

- Determine the value of the Equity on the basis that the Company were wound up; and
- Prepare an expert report in accordance with ASIC regulatory guide 6 and 111

2.5 Assumptions

W Advisers have advised that in preparing this Report, I am to make the following assumptions:

- that Bizpay were in liquidation; and
- that the Equity valuation is determined as at the date of liquidation.

2.6 Requirements of Regulatory Guide 111

In accordance with ASIC Regulatory Guide 111, I am required to provide an independent opinion “*of the value, if any, of shareholders’ residual equity.*”¹

The residual value to shareholders is to be derived by “*assessing the value of the company’s assets and/ or business operations, less borrowings, other liabilities and creditor claims.*”²

¹ ASIC Regulatory Guide 111 at RG 111.70

² ASIC Regulatory Guide 111 at RG 111.71

In accordance with ASIC's guidance, experts should generally value *"shareholders' residual equity in a company under administration on a 'winding up' or 'liquidation' basis where that is the likely or necessary consequence of the transfer of shares not being approved."*³

2.7 Limitations, restrictions and reliance

This Report has been prepared, and may be relied on, solely for the purpose contemplated in **section 2.4** of this Report. This Report, or any part of it, may only be published or distributed:

- as an annexure to the explanatory statement to be provided to the Company's shareholders and others (including ASIC as part of the evidence in support of the application under section 444GA of the Act)
- for use in the proceedings before the Court relating to the application under section 444GA of the Act
- in accordance with any law or by order of a Court of competent jurisdiction

My express written consent, and the express written consent of RSM, must be obtained prior to relying upon, publishing, or distributing this Report, or part of it, for any purpose other than that detailed above. Neither I nor RSM accept responsibility to anyone if this Report is used for any other purpose.

My opinion is based on economic, market and other external conditions prevailing at the date of this Report. Such conditions can change over relatively short periods of time and these changes can be material.

The information used in this Report has been evaluated through analysis, enquiry and review for the purposes of forming an opinion as to the value of the assets and liabilities of the Company. While I do not warrant that my enquiries have identified all of the matters that an audit, or due diligence and/or tax investigation might disclose, I consider that the information is reasonable for the scope of my work set out in **section 2.4** and that there are reasonable grounds for determining the residual value of the equity in the Company as set out in **section 6**.

The statements and opinions given in this Report are given in good faith and in the belief that such statements and opinions are not false or misleading.

This Report should be read in the context of the full qualifications, limitations and consents set out in this Report.

2.8 Curriculum vitae

I am a Partner of RSM Australia Partners, a registered liquidator and have over 25 years' experience across all aspects of corporate turnaround and restructuring. I am a Chartered Accountant and member of ARITA.

Relevantly, my training, study and experience includes:

- a) Bachelor Degree in Economics from Macquarie University, majoring in Accounting and Business Law;
- b) Completion of the Chartered Accountants Australia and New Zealand professional education program;
- c) Graduate Diploma in Insolvency from Australian Restructuring Insolvency & Turnaround Association
- d) I am currently and have been a Registered Liquidator and have undertaken the following:

³ ASIC Regulatory Guide 111 at RG 111.73

- Providing advice on and acting in relation to Voluntary Administrations, Deeds of Company Arrangement, Liquidations and Receiverships which required understanding and involved assessing, the financial performance of the distressed or insolvent companies, managing operations and ongoing trading, and developing strategies to maximise the return to creditors;
- Undertaking investigating accountant reports on a variety of organisations which involve understanding trading performance, corporate governance and management issues; and
- I have appeared as an expert witness in legal proceedings including the Supreme Court of NSW and Federal Court of Australia.

My curriculum vitae is attached at **Annexure A**.

2.9 Assistance by colleagues

I have selected colleagues to assist me to arrive at my opinions in this matter. My colleagues carried out the work that I decided they should perform. I have reviewed their work and original documents to the extent considered necessary to form my opinions. The opinions expressed in this Report are my own.

2.10 Information

In the preparation of this Report, I have utilised information in respect of the Company from a variety of sources, including Company's books and records made available by the Administrators, information prepared by the Administrators as well as public sources. Documents utilised to support my opinions in this Report are noted in text or by way of footnote. Enclosed at **Annexure B** is a listing of books and records provided by the Administrators and their legal representative relied upon for the preparation of this report.

I have not conducted an audit of any information supplied to me. My colleagues and I have reviewed and made sufficient enquiries of the information made available to us and based on that review, believe that the information is reasonable for the scope of my work set out in **section 2.4** and that there are reasonable grounds for the values set out in the Report.

A glossary of terms is set out at the beginning of this Report.

2.11 Statement regarding expert witness code

This Report has been prepared in accordance with the following:

- Part 31, Division 2, Subdivision 3 of the Uniform Civil Procedure Rules 2005 (NSW);
- the Expert Witness Code of conduct set out in Schedule 7 of the Uniform Civil Procedure Rules; and
- ASIC Regulatory Guides 6 and 111.

Further, I state that:

- I have read, understood, complied with and agree to be bound by the Uniform Civil Procedure Rules and the ASIC Regulatory Guides
- To the best of my knowledge, each of the opinions which I express in this report is wholly or substantially based upon my specialised knowledge arising from my training, study or experience

- c) I have made all the inquiries which I believe are desirable and appropriate. No matters of significance that I regard as relevant to my opinion have, to my knowledge, been withheld from the Court.

As an expert witness, I have the following general duties to the Court:

- a) I have a paramount duty to the Court which overrides any duty to any party to the proceedings including my client
- b) I have an overriding duty to assist the Court on matters relevant to my area of expertise
- c) I have a duty not to be an advocate to any party to the proceedings including my client, even when giving testimony that is necessarily evaluative rather than inferential, and
- d) I have a duty to make it clear to the Court when a particular question or issue falls outside my area of expertise.

2.12 Independence of expert and compliance with professional standards

I have read ASIC Regulatory Guide 112 on independence for experts and am of the opinion that:

- there is no actual, or perceived, conflict of interest
- there is no actual, or perceived, threat to independence
- there is no other reason for which the engagement could not be accepted.

I have complied with the requirements of APES 225 – Valuation Services, the professional code of practice of CPA Australia and the Institute of Chartered Accountants Australia and New Zealand.

2.13 Cost of this Report

RSM will be remunerated on an hourly rates basis for the time spent preparing this Report. The fees payable to RSM are not contingent on the conclusions of this Report, the outcome of the DOCA, or obtaining approval from ASIC or the Court.

3. SUMMARY OF FINDINGS

3.1 Residual equity value

My findings in relation to the value of the Company's assets, claims against those assets and the resulting **negative equity position** of \$8.38m. Refer to **section 6.1** of this report for further details.

The primary asset of the Company is the debtors and loan book. The Receivers have been in control since their appointment on 29 November 2023 and provided an update to the Administrators on 19 February 2024 advising that they had realised \$862k from the following sources:

- collection of cash at bank;
- cash held by the Administrators;
- cash held on trust by the Company's solicitors;
- debtor and loan book realisations;
- purchaser deposits; and
- from the sale of plant and equipment.

The balance of funds held by the Receivers at this time was \$476k held as cash at bank. The advice from the Receivers office at this time was that they estimated net realisations of between \$445k and \$3.3m, after costs but before priority claims.

On 17 May 2024 the Receivers office provided a further update advising that priority unsecured creditor claims of \$229k had been paid and that the total realisations from debtors and the loan book were \$400k to 16 May 2024 and that a further \$500k was estimated to be the recoverable balance, subject to ongoing recovery action. The Receivers also advised that no sale of the book had been achieved and referenced their obligations under section 420A of the Act being complied with.

My opinion of these updates is that a sale will not be possible and that recoveries of individual debtors and loans will require legal and other enforcement costs to be incurred which may render the debts uncommercial to pursue. There certainly is no business with any value that is able to be realised.

The only assets of the Company that remain are the funds held as cash at bank by the Receivers, which will be applied toward the debt outstanding to BP Fiduciary which as at 17 May 2024 is \$7.1m (plus interest and expenses).

My detailed analysis of the Company's assets and liabilities is included in **sections 6** and **7** of this Report.

3.2 Opinion on the value of the shares in the Company

Based on my assessment that there is a material shortfall of assets available to even meet the claims of BP Fiduciary, let alone the other creditors, it is my opinion that the shares in the Company have **nil value** as at the date of this Report.

4. COMPANY OVERVIEW

4.1 Company overview

The Company started as a 'Buy Now Pay Later' invoice finance service provider for businesses on 30 May 2019 and became an unlisted public company on 1 January 2021, raising \$44m in new share capital. I understand that the board at that time had an intention to list the Company and therefore, there was a business focus on increasing the number of loans to enhance the apparent business value. This led to more risky loans being written, and eventually significant impairments. In December 2021, the auditor, Ernst and Young, expressed solvency concerns which were reported to ASIC and the 2021 audit was not finished. The planned listing for the Company did not happen and the shareholders lost trust in the board which was headed by former director and CEO of the Company, David Price. A new board was appointed in March 2022.

The new board cut costs and undertook a review of the loan book, separating loans into "new book" and "old book", based on whether they were made by old or new management. The check of the loans by the new board and management, led to substantial provisions of over \$20m, mostly for the old book. In 2022, the Company changed its lending policies to lower the chance of bad loans, but this also meant fewer loans made. We note that the new loans mostly used the Company's cashflows, not a different debt warehouse facility. The new board got an extension of the BP secured debt facility and the Company raised \$4m new share capital in December 2022.

It appears that the new book did not generate enough returns to cover the running expenses of the business, even with the improvements that were made. The Company attempted to get more funding from June to September 2023 and arrange more concessions from BP Fiduciary. However, this failed and the Directors soon decided to appoint BRI as Administrators.

4.2 Voluntary Administration

The Administrators took over the operations of the business and kept the business running on a small scale, with no new loans and only collecting payments. The Administrators worked with management and BP Fiduciary to find ways to sell or restructure the business. However, BP Fiduciary decided to appoint the Receivers who assumed control of the business and all the assets of the Company.

The Receivers advised said they would run the business on a small scale and keep two key employees to help collect the loans. The Receivers also started another sale process and asked for offers by 15 December 2023. Based on the recent advice from the Receivers it is very unlikely that any sale of the business or loan book will be possible. The Receivers have advised that the shortfall to BP Fiduciary is likely to be \$6.6m once the remaining debtors and loans are realised.

4.3 Statutory information

4.3.1 Directorship

The following information regarding the appointed directors was obtained from the records maintained by ASIC:

Name	Date appointed
Abraham Tomas	15 March 2022
Robert Westgarth	22 December 2022
Steven Bannigan	14 July 2022

4.3.2 Shareholdings

The following information regarding the shareholdings was obtained from the records maintained by ASIC:

Type	No. of shares	Paid up to (\$)
Ordinary	1,110,859,282	55,252,351.10
Preference	400,000,000	4,000,000.00

I have reviewed the share register and it records 654 shareholders holding 948,859,282 ordinary shares and BP Fiduciary holding all the preference shares.

I note there is a discrepancy of the above ASIC records and the Company's share register in respect to the number of ordinary shares issued by the Company. I am advised by W Advisers the above discrepancy has been identified as arising from a typographical error in a prior ASIC notification and that BRI is liaising with ASIC to rectify this error.

I have therefore assumed that the above discrepancy will be rectified by the time the share transfers occur.

Given that there is a shortfall of the Company's assets to meet its liabilities, this discrepancy has no impact on my opinion of the value of the shares and I consider the shares have an equitable value of nil.

4.4 Financial performance and position

4.4.1 Comparative profit and loss

The annual comparative profit and loss statements for the Company for YE20 to YE22 and for the period ending 23 November 2023 are summarised in the table below. Enclosed at **Annexure C** are detailed comparative profit and loss statements. These profit and loss comparative statements were provided by the Administrators and are sourced from the management accounts for the period from 2019 to 23 November 2023 and from the audited financial statements for the year ended 31 December 2022. We note that the management accounts were not audited.

For the period period ending	23-Nov-23	31-Dec-22	31-Dec-21	31-Dec-20
	\$	\$	\$	\$
Trading Income				
Commission Income	-	-	-	25,633
Fee Income: BNPL	191,401	721,861	1,502	75,159
Fee Income: SIF	-	10,259	8,310	8,000
Fee Income: New	54,844	-	-	-
Interest Income	36,328	277	2,745,120	405,385
Late Fee: BNPL	-	112,606	-	-
Late Fee: SIF	-	45,558	-	-
Late Fees Income	132,828	1,314,509	2,219,236	-
Other Revenue	-	(93)	20,095	-
Refinancing Fee Income	-	-	1,000,829	-
	415,401	2,204,977	5,995,091	514,177
Cost of Sales				
Other cost of sales	-	-	-	-
	-	-	-	-
Gross Profit	415,401	2,204,977	5,995,091	514,177
Operating Expenses				
Consulting and Contractors	1,063,935	2,204,110	4,030,644	1,739,771
Employee expenses	1,703,289	7,251,946	5,651,401	549,988
Sales and marketing	34,504	382,241	467,061	334,922
Finance, legal and insurance	350,331	1,505,860	1,181,347	159,778
Property and office	33,374	144,689	226,347	58,445
Credit check and collection	105,365	496,215	134,782	1,956
Travel and entertainment	319,183	114,652	71,662	8,368
Subscription and software	241,690	847,680	408,778	18,898
Bad and doubtful debts	66,131	4,622,512	13,214,142	3,320,821
Total Operating Expenses	3,917,802	17,569,906	25,386,163	6,192,948
EBITDA	(3,502,401)	(15,364,929)	(19,391,071)	(5,678,771)
Other Income	36,731	176,635	164,375	-
Depreciation	928,730	1,600,246	1,042,774	78,631
Amortisation	-	461,760	2,629,766	-
EBIT	(4,394,399)	(17,250,299)	(22,899,236)	(5,757,401)
Interest	791,241	2,659,146	2,635,619	251
Tax	(1,854,226)	-	-	-
Net Profit/ (Loss)	(3,331,414)	(19,909,446)	(25,534,855)	(5,757,652)

4.4.2 Comments on the Company's financial performance

Revenue increased materially from \$514k for YE20 to \$5.99m for YE21 then reduced to \$2.2m for YE22:

- In YE21 interest income of \$2.7m was the largest component of total income of \$5.99m. In this period, the Company also derived income from late fees (\$2.2m) and refinancing fees (\$1m).
- Total income was \$2.2m in YE22. Of this amount, late fees (\$1.3m) was the largest component. Interest income significantly reduced to \$277 from YE21.

Whilst revenue materially increased between YE20 to YE21 and reduced in YE22, the Company remained unprofitable due to impairments in loans. Other costs increased considerably in YE22, which included the following:

- Employee and related expenses of \$7.3m
- Finance legal and insurance expenses of \$1.5m
- Doubtful debts and write-offs of \$15m

Cumulated losses after tax for YE20 to YE22 and for the period ending 23 November 2023 totalled \$54m, of which \$45m (i.e. 83% of total losses) related to YE21 and YE22.

The Company operated with exceptionally high operating costs compared to revenues and never traded profitably. Instead, the business losses were underwritten by shareholder funds (totalling circa \$55m), which were raised in multiple tranches predominantly during YE21.

4.4.3 Comparative balance sheet

The annual comparative balance sheets for the Company from December 2020 to December 2022 as well as for November 2023 are summarised in the table below. Enclosed at **Annexure D** are detailed comparative balance sheets. These comparative balance sheets were provided by the Administrators and sourced from the Company's management accounts for the period from 2019 to 23 November 2023 and from the audited financial statements for the year ended 31 December 2022. We note that the management accounts were not audited.

As at	23-Nov-23 \$	31-Dec-22 \$	31-Dec-21 \$	31-Dec-20 \$
Assets				
Current Assets				
Cash & cash equivalents	322,782	2,536,746	18,308,850	2,569,481
Trade and other receivables	2,692,245	4,615,793	19,737,622	5,593,337
Prepayments	73,134	7,820	360,443	-
Other current assets	479,680	189,906	134,786	55,098
Total Current Assets	3,567,842	7,350,265	38,541,702	8,217,916
Non Current Assets				
Plant and equipment	168,865	154,611	402,188	14,691
Software	875,588	1,526,167	2,843,849	330,081
Other non-current assets	96,620	96,620	1,082,314	53,396
Total Non Current Assets	1,141,073	1,777,398	4,328,351	398,168
Total Assets	4,708,915	9,127,663	42,870,053	8,616,084
Liabilities				
Current Liabilities				
Trade and other payables	1,260,461	501,947	847,306	101,935
ATO liabilities	21,904	254,838	696,392	152,020
Employee liabilities and provisions	104,862	147,109	681,148	24,805
Lease liability	83,018	87,281	156,808	-
Loans	2,650,000	4,000,000	27,000,000	2,990,000
Other current liabilities	2,967	2,759	(15,362)	8,153,144
Total Current Liabilities	4,123,211	4,993,934	29,366,292	11,421,903
Non Current Liabilities				
Loans	1,347,660	3,615,335	-	-
Lease liability	-	(0.45)	87,283	-
Convertible notes	-	1,585,048	-	3,155,000
Total Non Current Liabilities	1,347,660	5,200,383	87,283	3,155,000
Total Liabilities	5,470,872	10,194,317	29,453,575	14,576,903
Net Assets/ (Liabilities)	(761,957)	(1,066,654)	13,416,478	(5,960,819)
Equity				
Capital Raising Cost	(929,279)	(928,381)	(821,663)	(36,850)
Current Year Earnings	(3,053,310)	(19,909,446)	(25,534,855)	(5,757,652)
Retained Earnings	(51,375,270)	(31,465,825)	(5,930,969)	(173,317)
Share Capital - Ordinary Shares	49,725,486	47,928,357	44,420,568	7,000
Share Capital - Preference Shares	3,999,980	1,402,407	-	-
Share-Based Payment Reserve	1,906,234	1,906,234	1,283,398	-
Total Equity	273,841	(1,066,654)	13,416,478	(5,960,819)

4.4.4 Comments on the Company's financial position

The Company's net liability position was \$5.9m at December 2020 and improved to a net asset position of \$13m at December 2021 due to an increase in equity of \$37m. The net asset position deteriorated from \$13m at December 2021 to a net liability of \$761k at 23 November 2023.

The asset position of the Company materially increased from \$8.6m in PE20 to \$43m in PE21 with significant increases in cash and cash equivalents (by \$15.7m), old loan book (by \$7.9m), loan receivables (by \$8m), fixed assets (by \$2.68m) and investment in a subsidiary (by \$946k).

The Company received debt funding (\$27m) from BP Fiduciary in PE21 to meet operational lending requirements. The Company subsequently negotiated a reduction its facility in early 2022, whereby \$15m was repaid from cash reserves in May 2022.

BP Fiduciary was repaid \$3m in PE22, converted \$4m to preferential equity and extended repayment terms on \$5m (with interest) to March 2024. Shortly prior to the Administrators' appointment, BP Fiduciary were paid another \$1.35m and the balance owed was about \$4m (including \$350k of accrued interest).

As at 23 November 2023, assets of \$4.7m were primarily comprised of:

- Cash and cash equivalents of \$322k
- Trade and other receivables of \$2.7m
- Prepayments of \$73k comprising of borrowing costs.
- Other current assets of \$480k
- Plant and equipment (net) of \$168k mainly comprising of computer equipment, office equipment and office furniture
- Software (net) of \$875k in respect to website and software development
- Other non-current assets of \$96k

As at 23 November 2023, liabilities of \$5.5m were primarily comprised of:

- Trade and other payables of \$1.2m
- ATO liabilities of \$22k
- Employee liabilities and provisions of \$104k
- Lease liabilities of \$83k
- Loans of \$2.7m comprised of loans owed to BP Fiduciary
- Other current liabilities of \$3k
- Non-current liability loans of \$1.3m in relation to the Alteris Facility B

5. DOCA PROPOSAL

5.1 Summary of the DOCA

The DOCA was approved by creditors at a meeting held on 29 February 2024 and was executed on 21 March 2024. A summary of the key terms are as follows:

- a) The Deed Proponents are Denver Heng Li, Matthew Hill and Anthony Murphy.
- b) The Deed Administrators are Jonathon Keenan and Peter Krejci.
- c) A Deed Fund will be established consisting of:
 - i. \$550,000 contributed by the Proponents to the Deed Fund upon execution of the DOCA.
 - ii. Any funds held by the Administrators on execution of the DOCA.
 - iii. Any funds paid by the Receivers on their retirement to the Deed Fund, if not distributed prior to their retirement.
- d) The Receivers are to complete a sale of the Company's accounts receivables and loan book.
- e) The Receivers shall distribute funds held by the Receivers first in payment of priority creditors and secondly in payment of the Receivers costs.
- f) The Receivers to pay any balance to BP Fiduciary, pursuant to their security held.
- g) The Receivers to retire on or before the date of completion of the share transfer.
- h) If the Receivers retire without having paid out the priority creditors, BP Fiduciary shall direct the Receivers to pay those funds to the Deed Administrators to distribute to any unpaid priority creditors under the DOCA.
- i) BP Fiduciary agrees to then release the Company from all secured claims, with the intention that BP prove as an ordinary unsecured creditor for any shortfall remaining owed.
- j) A moratorium on enforcement of all claims during the DOCA (that is, unless or until it is terminated or effectuated).
- k) The Deed Administrators will ask the Court to transfer the Company's shares to the Deed Proponents or their nominee. The Deed Administrator's costs for meeting or fulfilling such conditions, and for transferring the shares, and for getting ASIC to waive takeover rules (if needed), will come from the Deed Fund.
- l) If the DOCA is unable to be effectuated, then the contribution of \$550k must be refunded to the Proponents, less relevant costs incurred up until the termination of the DOCA (capped to \$160k plus GST).
- m) Upon execution of the DOCA, the control and management of the Company remains with the Deed Administrators, subject to the overriding powers of the Receivers. Immediately prior to the DOCA being executed, the Administrators will pass a resolution approving the removal of the current Directors of the Company, and approving the appointment of three (3) new directors nominated by the Proponents, including Matthew Hill, with such appointments to take effect from completion of the transfer of shares in the Company referred to above.
- n) All Creditor claims will be extinguished as against the Company upon effectuation of the DOCA.
- o) Subject to the conditions of the DOCA being satisfied, Deeds Funds to be distributed by the Deed Administrator and claims to be adjudicated, as if the Company was in Liquidation.
- p) Relevant provisions of Schedule 8A of the Corporations Act to be adopted.
- q) The DOCA will terminate upon satisfaction of its terms, or if it is terminated pursuant to conditions not being satisfied or otherwise in accordance with law.

5.2 Waterfall of payments under the DOCA

The terms of the DOCA provide that the funds available will be applied in the following order:

- a) Firstly, the payment of the costs of the Administrators and the Deed Administrators in relation to executing and implementing the DOCA and pursuing the transfer of the shares of the Company (including costs of making the Court application), including expenses, remuneration and disbursements, up to a cap of \$160k (plus GST);
- b) Secondly, the Administrators' and Deed Administrators' remaining unpaid costs, including expenses, costs, remuneration and disbursements;
- c) Thirdly, any remaining priority creditor claims (former employees), to the extent that they have not already discharged by the Receivers; and
- d) The balance of funds to be distributed to participating unsecured creditors on a pari passu basis.

The estimated returns from the DOCA⁴ are set out below:

Creditor pool	Low		High	
	(\$'000)	(cents/\$)	(\$'000)	(cents/\$)
Ordinary unsecured creditors*	3,826	2.49	902	18.48

*Assumes that all employee entitlements have been paid by the Receivers.

5.3 Share transfer

The Company has sold many shares in different funding rounds. The Company records show that there are approximately 1.1 billion ordinary shares on issue. The DOCA proposal requires all of the Company's shares to be transferred to the Proponents or their nominee(s), on the basis that there is no payment to the shareholders who transfer their shares.

5.4 Likely outcome in the event that the DOCA does not complete

In the event that the DOCA does not complete, either because of a default, or the Deed Administrators are unable to complete, it is likely that, absent an alternate proposal, creditors would vote to place the Company into liquidation and the appointed liquidators would commence a process to realise the Company's assets, if any. The liquidators would also have the ability to commence proceedings in respect of voidable transactions and insolvent trading claims.

However, it is noted that the Administrators report details the results of their investigations noting that they have found a small claim of \$143k for insolvent trading/ breach of duties, which is stated to be uncommercial to pursue given the size of the claim and the likely costs involved in bringing the claim.

The Administrators state that they do not expect that there will be a payment for unsecured creditors in a liquidation scenario.

In my opinion, I do not believe that there is a commercially viable claim available to the liquidator in respect of insolvent trading or for breaches of director duties. As such, I do not believe that there is any prospect of a return to creditors in a liquidation scenario.

⁴ Supplementary Report to Creditors at pages 11 and 16

6. VALUATION OF RESIDUAL EQUITY

My task is to evaluate the remaining equity value in the Company on a winding up basis in accordance with Regulatory Guide 111. Where there is a residual business that could be sold, I have to take into account the value of that business and not just the assets and other things that make up that business interest.

Furthermore, liquidators can dispute transactions that happened before an administration started that worsened the financial situation of the Company and the outcome for creditors. Such claims, if they succeed, can void transactions and result in returns to the Company in liquidation. Any returns from claims that a liquidator might make are also part of the evaluation of the remaining equity value in the Company according to Regulatory Guide 111.

Regulatory Guide 111 requires that I “consider valuation evidence provided by the sales process conducted by the administrator (if any)”.

In forming my opinion, I have had consideration to the results of the Receivers sale process. Where the sale process provides guidance on the realisable value of assets of the Company, I have included commentary in my analysis.

6.1 Value of residual equity

In a liquidation scenario, I have assessed that there would be a deficiency of assets available to meet the claims against the Company of about \$8.38m and nil residual equity, as outlined in the table below.

I have assessed the financial information provided by the Company’s directors in the ROCAP, which records the position of the Company as at 23 November 2023, as the basis of my assessment and have cross checked this against the Company’s management accounts as at 23 November 2023. I have also incorporated information provided by the Administrators and Receivers.

The Administrators’ ERV in the table below is obtained from the EOS in the Supplementary Report. I have made an adjustment in respect of DOCA costs in a liquidation scenario and assumed the \$160k capped amount.

Residual equity assessment	Section ref	Administrators' ERV - Low ⁵ (\$'000)	Administrators' ERV - High ⁶ (\$'000)	Expert's Opinion (\$'000)
Assets				
Cash at bank	7.2	708	708	Nil
Debtors and loans	7.3	225	3,067	Nil
Plant, property and equipment	7.6	7	10	Nil
Claims available to a liquidator	7.10	Nil	143	Nil
Total asset value		940	3,928	Nil
Claims against the assets				
Administrators' costs prior to Receivers' appointment	8.2	95	85	Nil
Administration and liquidation fees and expenses	8.3	267	391	391
Administrators' fees and costs for DOCA period ⁷	8.4	160	160	160
Receivers' remuneration and costs	8.5	400	400	400
Priority employee claims	8.6	434	434	Nil
Secured creditor claims	8.7	3,639	784	7,100
Unsecured creditor claims	8.8	324	256	324
Total claims against the assets of the Company		5,319	2,510	8,375
Surplus/(shortfall) of assets available to meet claims		(4,379)	1,418	(8,375)
Net equity value		Nil	Nil	Nil

⁵ Supplementary Report to Creditors at Annexure 5 – Estimated Outcome Statement

⁶ Supplementary Report to Creditors at Annexure 5 – Estimated Outcome Statement

⁷ Supplementary Report to Creditors – page 12

7. VALUE OF THE COMPANY'S ASSETS

7.1 Summary of assets in the event of liquidation

I have assessed the value of the Company's assets in liquidation to be nil as set out in the table below and detailed further in this section.

Company assets	Section reference	Book value as at 23 November 2023 (\$'000)	Directors' ERV (per ROCAP) (\$'000)	Administrators' ERV as at 23 November 2023 (\$'000)	Expert's opinion of ERV (\$'000)
Cash at bank	7.2	768	726	708	-
Debtors and loan book	7.3	2,692	1,031	1,031	-
Rental bonds	7.4	34	34	-	-
Prepayments	7.5	73	-	-	-
Plant, property and equipment	7.6	86	Unknown	10	-
Software and website intellectual property	7.7	876	Unknown	-	-
Right of use - lease	7.8	83	Unknown	-	-
Trademark	7.9	97	Unknown	-	-
Claims available to a liquidator	7.10	-	-	143	-
Total asset value		4,709	1,791	1,882	Nil

Book values are based on the management accounts as at 23 November 2023. The ROCAP values are based on the information submitted by the Company's directors to the Administrators. The Administrators ERV is based on the Second Report to Creditors. My opinion of the ERV of the Company's assets assumes a liquidation scenario.

7.2 Cash at bank

The Receivers assumed control of the Company's cash at bank at the time of their appointment which was maintained by Westpac Bank and had a balance of approximately \$364k. The Administrators also held \$300k of the Company's funds in their trust account, which they subsequently transferred to their administration account.

Following the appointment of the Receivers, the Administrators transferred \$175k from the administration account. The Administrators retained \$125k in the administration account to cover their lien for costs before the Receivers took over. W Advisers, the Company's lawyers, had \$77k of the Company's funds in their trust account which was to be applied towards legal costs and the balance transferred to the Receivers.

The Form 5603 End of administration return lodged by the Administrators with ASIC on 19 April 2024 which details all the receipts and payments during the administration shows that a further payment of \$41,892.12 was made to the Receivers and the following accounting for the disbursement of the funds held.

Payment	\$
Advertising	3,166
Insurance	1,809
Professional fees	4,118
Professional fees (no GST)	1,549
Stamp duty	151
IT services	1,765
Receivers	41,892
Professional fees	1,540
Administrators remuneration	68,793
Administrators expenses	216
Total	125,000

As a result of these payments during the administration, there is no surplus cash at bank available in a liquidation scenario.

The cash at bank held by the Receivers will be applied towards their costs and the balance remitted to BP Fiduciary. In my opinion there are no prospects of a surplus and therefore there will be no cash at bank available to the Company in a liquidation scenario.

7.3 Debtors and loan book

The Directors have informed the Administrators that the Company's loan book and debtors were significantly impaired due to poor lending practices. They advised that they had reviewed each loan and increased the provisions by more than \$21m. The loans were divided into two groups: "old book" and "new book". The old book consisted of loans issued by the former management led by David Price, the ex-CEO. The new book consisted of loans issued by the current board and management.

The Directors also advised the Administrators that the previous management had a low focus on proper credit assessment, risk fundamentals and documentation. They advised that the Covid-19 pandemic affected the loans and caused some customers to defer their payments. They also noted that the previous management had pursued lending with less desirable customers, possibly to increase the value of the business before listing it on the stock exchange, which ultimately did not happen. The review and impairments were undertaken by the new board in 2022. The Administrators received some information from David Price about the historical credit assessment and loan provisioning processes.

The Receivers have control over all the debtors and loans and have reported that they do not expect to be able to achieve a sale of the business or the loan book in one line, the current shortfall to BP Fiduciary is \$7.1m (plus interest and expenses) and that future recoveries of \$500k may be possible, subject to ongoing recovery actions.

In my opinion, any further recoveries by the Receivers regarding the Company's debtors and loan book will be applied towards their costs and any surplus paid to BP Fiduciary in its capacity as the secured creditor. The Company is therefore unlikely to receive any surplus funds from these recoveries for the benefit of unsecured creditors.

7.4 Rental bonds

The Company had a term deposit of \$34k with Westpac, which was held as security for a bank guarantee for the sub-leased premises. The Administrators' report that the Receivers have abandoned the sub-leased premises and therefore it is likely that the landlord will claim this bank guarantee against the balance of the sub - lease obligations, including future rent, make good and reletting costs.

In my opinion, there will not be any recovery of rental bonds for the benefit of the Company's unsecured creditors given that the landlord will claim on the bank guarantee and the bank will apply the term deposit against the guarantee.

7.5 Prepayments

The Directors report that the prepayments are in respect of \$51k of legal fees for the BP Fiduciary debt facilities, which were capitalised and cannot be recovered. There is also \$22k of prepaid IT services, which are also irrecoverable due to the cancellation of the contracts by the Receivers.

In my opinion, there will not be any recovery of prepayments for the benefit of the Company's unsecured creditors for reasons discussed above.

7.6 Plant, property and equipment

The Company's records show that the plant and equipment mainly consisted of furniture, office and IT equipment with a book value of \$86k. The Administrators inspected the assets in the sub-leased premises and asked staff to return IT equipment. The Administrators expect that there is little commercial value in these assets. The Directors did not give a value to the plant and equipment in their ROCAP. The Receivers advised in their update of 19 February 2024 that they had sold the plant and equipment owned by the Company.

In my opinion, there will not be any recovery of plant and equipment for the benefit of the Company's unsecured creditors for reasons discussed above.

7.7 Software and website intellectual property

According to the Company's records, it invested about \$4.1m in developing its loan management software and website, which have a book value of \$875k after depreciation and impairment. The actual value of these assets depends on how much a potential buyer is willing to pay for the underlying loan business.

The Administrators had started a process to sell the business, but it stopped when the Receivers took over. The Receivers subsequently commenced their own sale process which failed to result in a sale of the business. The Directors did not assign a value to the software and website in their ROCAP.

In my opinion, there is unlikely to be a sale of the business or the loan book and therefore in a liquidation scenario there will not be any recovery from the software and website intellectual property assets for the benefit of the Company's unsecured creditors.

7.8 Right of use assets - lease

The Directors advised that the Company had an asset worth \$82k for renting its sub-leased office space for a year. This asset was not used up yet when the Receivers took over and left the premises. The Administrators do not expect to get any recovery from this asset.

In my opinion, there will not be any recovery of right of use of leased office space for the benefit of the Company's unsecured creditors for reasons discussed above.

7.9 Trademark

According to the Administrators, this asset represents the expenses capitalised for registering the Trademarks of the Company. Absent the business being a going concern, this intellectual property has no value.

In my opinion, there will be no recovery of trademark intellectual property for the benefit of the Company's unsecured creditors for reasons discussed above.

7.10 Claims available to a liquidator - Insolvent trading claim

The Administrators have based their assessment on the information they have from the Company's records, from the information given by the Directors and their advisors, and Creditors and on their separate investigations of the Company's affairs.

If the Company goes into Liquidation and litigation is considered, the appointed liquidators would need to do a more detailed and careful assessment. The liquidators would also need to get legal advice and collect more evidence, including possibly holding public examinations of the relevant parties.

The Administrators' preliminary view, based on their investigations so far, is that the Company became insolvent on a cashflow basis on or around 23 November 2023 when it went into Administration.

For some background, the Administrators note that their investigations show that the Company was likely insolvent from December 2020 until around December 2022, when a restructure resolved critical debt obligations. The 2022 restructure involved raising \$4m of new share capital, which repaid \$3m of secured debts and converted \$4m of the remaining secured debts to equity. The Company subsequently remained solvent on a cashflow basis after that, being able to pay trading debts as and when they fell due.

The Administrators note however that the Company was likely insolvent on a balance sheet basis earlier (by around September 2023), when the debts owed to BP Fiduciary are counted as near-term obligations as it was known by then that further share capital could not be raised. This may lead to potential breach of duty claims, which the Administrators identified as potential claims.

To estimate the worth of a claim for trading while insolvent or violating the duty of directors, a forensic analysis of the debts that the Company accumulated after the date when it can be argued that the Company was insolvent is usually required.

The unsecured creditor debts that the Company incurred after September 2023 are approximately \$143k. The Administrators do not believe that there is a feasible claim to pursue an insolvent trading claim, but there may be a claim for breach of director duties.

In my opinion, if a liquidator was to pursue a claim for breach of director duties or insolvent trading, a liquidator would need to consider feasibility and prospects of success for the benefit of unsecured creditors. Given the quantum of such a claim, in my experience as a Registered Liquidator, I believe the costs would outweigh any benefits to pursue such a claim.

8. CLAIMS BY CREDITORS

8.1 Summary of claims in the event of liquidation

In circumstances where the Company is placed into liquidation, the value of claims against its assets is estimated at \$8.26m, as set out in the table below and detailed further in this section. I have used the Company's balance sheet, the ROCAP submitted by the directors, information provided by the Receivers, information provided by the Administrators in the Second and Supplementary Reports to Creditors to estimate the claims against the Company.

	Section reference	Book value as at 23 November 2023 (\$'000)	Directors' ERV (per ROCAP) (\$'000)	Administrators' ERV ⁸ (\$'000)	Expert's opinion of liquidation ERV (\$'000)
Company liabilities					
Administrators' remuneration prior to Receivers' appointment	8.2	-	-	-	-
Administration and liquidation costs and expenses	8.3	-	-	-	391
Administrators' fees for DOCA period	8.4	-	-	-	160
Receivers' remuneration and costs	8.5	-	-	-	400
Priority creditors	8.6	105	149	434	-
Secured creditors	8.7	3,997	3,650	3,639	500
Unsecured creditors	8.8	333	185	324	6,810
Total claims against the assets of the Company		4,435	3,985	4,397	8,261

8.2 Costs and expenses of the administration prior to appointment of the Receivers

As detailed in the EOS disclosed in the Supplementary Report to Creditors, the Administrators have incurred fees totalling \$63k for the period up to the appointment of the Receivers. They are claiming a lien over any asset recoveries subject to BP Fiduciary's security interest. In my opinion, I consider that the Administrators have a claim for their fees in respect of their time incurred in preserving and securing assets subject to BP Fiduciary's security in accordance with s556 of the Act.

8.3 Costs and expenses of the administration and liquidation

As detailed in the Supplementary Report to Creditors, the Administrators have estimated that the total cost of the Administration and liquidation to be between \$267k to \$391k. This estimate includes the following costs and expenses:

Company liabilities	Administrators' Low (\$'000)	Administrators' High (\$'000)	Expert's Opinion (\$'000)
Administration fees and expenses	184	184	184
Liquidators' fees and expenses	83	207	207
Total	267	391	391

⁸ Supplementary Report to Creditors at Annexure 5 – Estimated Outcome Statement

Having regard to the operations of the Company including the old and new loan books, the short period of continued trading and complexity of the business, the above administration costs appear reasonable in the circumstances. Having regard to the time costs involved in realising the Company's assets in liquidation, completing the required statutory investigations and managing substantial creditor claims the estimated liquidation costs appear low and could result in a higher claim against the Company's assets.

8.4 DOCA fees

In the event that the DOCA does not complete, and the Company is placed into liquidation, the Administrators' will have a claim for their remuneration and expenses incurred during the DOCA period, which are capped at \$160k⁹.

8.5 Receivers' remuneration and costs

The Administrators have estimated the Receivers' remuneration and other costs at \$200k and other asset realisation costs at \$200k.

In my opinion, any receiver fees and costs incurred by the Receivers is likely to be paid from asset recoveries subject to BP Fiduciary's security interest.

8.6 Priority Creditors

The Company's management provided the Administrators with a schedule of priority creditor claims outstanding as at the time the Administrators were appointed. The Administrators also received a substantial claim from David Price, the Company's former Director and Chief Executive Officer, for different alleged employee entitlement claims.

The Receivers have advised that they have paid a priority dividend to the following employees in accordance with Section 433 of the Act:

Employee	Annual Leave (\$)	Salary & Wages (\$)	PILN (\$)	Superannuation (\$)	Total (\$)
Total	78,558	51,064	69,891	29,968	229,481

I understand from the Receivers that there are no further priority employee claims outstanding. However, I note that David Price may have a residual unsecured claim as he had previously claimed [REDACTED] in respect of his employment which included an accusation of unfair dismissal.

⁹ Clause 2.3(d) of the DOCA

The Directors may also have a residual unsecured claim in excess of the statutory limit on their priority amount of their entitlements.

In my opinion, all priority employee entitlements have been paid by the Receivers. In the absence of being provided with any claims from David Price, I therefore consider there to be no further amounts owing to priority unsecured creditors.

8.7 Secured creditors

As previously stated, the Company has one secured creditor, BP Fiduciary, who holds a security interest registered on the PPSR. The historical financial records show that BP Fiduciary lent significant funds to the Company in 2021, with a facility of around \$27m. In June 2022, approximately \$15m of that loan was paid back to BP Fiduciary, with another \$4m converted to preferential equity in December 2022 as part of the restructure.

The Receivers have advised that the current debt outstanding to BP Fiduciary is \$7.1m (plus interest and expenses), subject to future asset realisations, which the Receivers estimate to be \$500k.

If the Receivers recover \$500k and apply this against BP Fiduciary's current debt of \$7.1m, the balance owing of \$6.6m will be an unsecured creditor claim of the Company in a liquidation scenario.

8.8 Unsecured Creditors

The Administrators reported that unsecured creditor claims may total about \$3.96m, subject to further investigation and assessment. Below is a breakdown of these claims and my opinion regarding potential unsecured liabilities:

	Book value as at 23 November 2023 (\$)	Directors' ERV (per ROCAP) (\$)	Administrators' ERV ¹⁰ (\$)	Expert's opinion of liquidation ERV (\$)
Secured creditor (shortfall)	-	-	3,639,011	6,600,000
Statutory creditors			22,016	22,016
Contractors	332,551	184,524	40,912	40,912
Other trade creditors			261,564	147,433
Total unsecured creditor claims	332,551	184,524	3,963,503	6,810,361

The ROCAP completed by the directors indicated that the Company owed about \$22k in withholding taxes to the ATO arising from the September 2023 business activity statement.

The Administrators reported that the contractor claims were based on contractual rights that were triggered by the termination of the contracts, such as unpaid notice periods.

The Administrators also reported that the other unsecured creditors consisted of various small debts, mainly related to information technology charges for the Company's loan trading platform.

In my opinion, unsecured creditor debts total \$6.8m assuming the BP Fiduciary shortfall (assuming \$500k is recovered by the Receivers) is included.

¹⁰ Supplementary Report to Creditors at Annexure 5 – Estimated Outcome Statement

9. STATEMENT BY EXPERT

I confirm:

- a) the factual matters stated in this report are, as far as I know, true; and
- b) I have made all enquiries considered appropriate; and
- c) the opinions stated in the report are genuinely held by me; and
- d) the report contains reference to all matters that I consider significant; and
- e) I understand my duty to the Court and I have complied with that duty.

Dated this 15th day of August 2024

A handwritten signature in black ink, appearing to read 'R Stone', with a large circular flourish underneath.

RICHARD STONE
Liquidator

Annexure A – Curriculum Vitae



Richard Stone

Partner, Restructuring & Recovery

Biography

As a partner of the Restructuring & Recovery division in Sydney, Richard Stone possesses over 20 years of experience both locally and internationally in the fields of corporate recovery, insolvency and advisory.

Richard has a vast history of exposure to difficult situations and is experienced in autonomously managing complex investigations. Richard retains knowledge in a variety of industries with a particular focus on SMEs within property and building, professional services, agri-business and hospitality. He works closely with clients, on both the creditor and debtor side, to engage with all stakeholders in order to preserve jobs and maintain enterprises as going concerns.

Prior to joining RSM, Richard worked for other mid-tier accounting firms and spent four years working in London at Smith & Williamson whilst partaking in a forensic accounting secondment at Clifford Chance.

Richard Stone is a Partner of RSM Australia Partners and a Director of RSM Australia Pty Ltd.

Solutions

Richard is committed to achieving the best outcomes for his clients, including a focus on maximising recovery for secured creditors. He provides services in the areas of:

- receiverships acting for secured creditors
- corporate restructuring and monitoring
- safe harbour advisory
- exit strategy planning
- formal insolvency procedures
- independent business reviews
- pre-lending reviews
- representations at creditors meetings

Significant Projects

- 7Steel Distribution Pty Ltd - Receivership - trade on of a national steel distribution business with in excess of \$20m in assets, 120 employees and creditors of \$40m.
- Snowburn Pty Ltd - Receivership - trade on administration involving four businesses in tourism/hospitality in the NSW snowfields, secured the sale of the businesses as going concerns.
- Cardinal Group – Voluntary Administration demolition and waste recycling business, secured assets of circa \$12m, 250 employees and creditors of \$48m.
- Recruitment National – liquidation involving labour hire company with over 250 employees, \$2m in assets recovered and statutory debts in excess of \$5m.

Associations

- Member, Chartered Accountants Australia and New Zealand
- Australian Restructuring Insolvency & Turnaround Association (ARITA)
- Turnaround Management Association (TMA)

Registrations

- Official Liquidator
- Registered Liquidator

Qualifications

- Bachelor of Economics (Accounting and Business Law) - Macquarie University

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Annexure B – Listing of information relied on

No.	Tab	Title	Description
1		Bizpay - Estimated Outcome & Deficiency Statements 21022024	Various financial reports
	i	Estimated Outcome	Administrators ERV for DOCA and Liquidation
	ii	Deficiency Statement	Deficiency statement per ROCAP and Admins ERV
	iii	Balance Sheet	Balance sheet as at 23.11.23
	iv	New Book Recoveries	Debtors listing
	v	Old Books	Old debtors
	vi	Superannuation Accruals	Super Accrual from 01.10.23 to 31.12.23
	vii	Creditor Listing	creditor listing and ROCAP owing amount
	viii	AL Table	Directors ERV per ROCAP and Admin ERV
	ix	Def St for Report	Summary of deficiency
	x	Unsecured Creditor	Creditor entitlements
	xi	Statutory	Past and present directors/secretaries
	xii	Priority Creditor	Employee entitlements
	xiii	All staff	Staff listing and claims
	xiv	David Price Claim	Adjudication of claims from David Price
2		Bizpay - Comparative P&L	P&L FY20 to 23.11.23
3		Bizpay - Comparative BS	BS FY20 to 23.11.23
4		Bizpay Group Ltd (Subject to Deed of Company Arrangement) (Receivers and Managers Appointed)("Bizpay" or "the Company")	Information related to the application to the Court pursuant to section 444GA of the Corporations Act 2001 (Act). 1. Priority creditor dividend 2. Accounts receivable & loan book 3. R&M retirement
5		BizPay - Circular to Creditors re DOCA Execution 02042024	Circular to Creditors re DOCA
6		020424 Bizpay Circular to Shareholders	Circular to Shareholders
7		BizPay - Sup 439a Report	Supplementary report 439a
8		Bizpay - Second Report to Creditors	Second Report to Creditors
9		19122023 BizPay - Letter to Shareholders	Letter to Shareholders
10		231130 BizPay Circular re R&M Appointment	Circular re R&M Appointment
11		231128 Circular to Shareholders	Circular to Shareholders
12		BizPay First Report to Creditors	First Report to Creditors
13		22022024 - BizPay - Letter to Shareholder	Letter to Shareholder
14		Summary List of Old Book Receivables (KL Comments after Meeting with Director	A listing showing Old book recoveries for the alteris facility 31.12.23
15		Bizpay - Table A5 - BRI Report (KL Comments from Meeting with Director)	Debtor listing
16		Bizpay - ROCAP Part B (BRI Use)	Part B ROCAP
17		Bizpay - ROCAP Part A DocuSign	Part A ROCAP
18		UPDATE: DOCA Proposal	Email from Paul Redpath re DOCA update
19		2024-05-13 Instructions Letter to Expert	W Advisers Pty Ltd instructions as advisors
20		Annexure A - BizPay - Preference Shares 10 November 2023	Register list report as at 13.11.23
21		Annexure A - BizPay - Preference Shares 23 November 2023	Register list report as at 23.11.23
22		Annexure A 2024-03-06 Bizpay Group Limited - ASIC Search	ASIC Search
23		Annexure B 2024-03-13 Bizpay Group Limited - PPSR Search (ACN)	PPSR Grantor Search

No.	Tab	Title	Description
24		Annexure C 2022-05-30 General Security Deed	General security deed
25		Annexure D - Bizpay Second Report to Creditors	Second Report to Creditors
26		Annexure D - Bizpay First Report to Creditors	First Report to Creditors
27		Annexure D - Bizpay Supplementary Second Report to Creditors	Supplementary second report to creditors
28		Annexure E - 2022-12-31 Bizpay Group Limited - Annual Report	FY22 Financial report
29		Annexure F - 2023-10-31 Bizpay August 2023 - October 2023 P&L and BS	P&L and BS at and for the month ended 31.10.23
30		Schedule 1	NSW Legislation uniform civil procedure rules 2005
31		F5011 Second Creditors' meeting (lodged)	meeting minutes lodgement with ASIC
32		Form 5047 - Lodged	DOCA lodgement with ASIC
33		5603 UP TO 21.03.2024 (LODGED)	End of administration return lodgement with ASIC

Annexure C – Detailed comparative profit and loss statements

For the period period ending	23-Nov-23	31-Dec-22	31-Dec-21	31-Dec-20
	\$	\$	\$	\$
Trading Income				
Commission Income	-	-	-	25,633
Fee Income: BNPL	191,401	721,861	1,502	75,159
Fee Income: SIF	-	10,259	8,310	8,000
Fee Income: New	54,844	-	-	-
Interest Income	36,328	277	2,745,120	405,385
Late Fee: BNPL	-	112,606	-	-
Late Fee: SIF	-	45,558	-	-
Late Fees Income	132,828	1,314,509	2,219,236	-
Other Revenue	-	(93)	20,095	-
Refinancing Fee Income	-	-	1,000,829	-
	415,401	2,204,977	5,995,091	514,177
Cost of Sales				
Other cost of sales	-	-	-	-
	-	-	-	-
Gross Profit	415,401	2,204,977	5,995,091	514,177
Operating Expenses				
Consulting and Contractors	1,063,935	2,204,110	4,030,644	1,739,771
Accounting Fees	132,325	55,399	70,969	18,900
Audit Fees	77,155	80,200	117,040	105,600
Consulting and Professional Fees	335,394	726,483	1,340,969	666,162
Contractors	519,061	1,342,028	2,501,666	949,108
Employee expenses	1,703,289	7,251,946	5,651,401	549,988
Annual Leave expense	(18,755)	(203,698)	301,256	-
Employee Benefit	14,660	37,427	68,892	-
Employee Benefits-FBT	1,947	6,410	55,898	-
LAFHA	-	-	2,383	-
Motor Vehicle Expenses	30	280	-	-
Payroll Tax	21,706	61,950	204,520	-
Placement Fee	99,517	163,705	670,734	34,318
Share-Based Payment Expense	-	622,836	1,353,398	-
Staff Training	7,811	10,357	165	-
Superannuation	146,400	557,071	478,387	44,638
Wages and Salaries	1,429,972	5,995,608	2,515,767	471,033
Sales and marketing	34,504	382,241	467,061	334,922
Advertising	21,745	317,129	399,981	334,822
Early Repayment Discount	-	-	2,081	-
Referral Fees	12,759	65,112	64,998	100
Finanace, legal and insurance	350,331	1,505,860	1,181,347	159,778
ASIC Fees and Company Secretarial	1,874	4,696	2,658	1,081
Bank Fees	22,449	3,488	8,603	1,483
Bank Revaluations	249	370	110	-
Borrowing Costs Expense	31,743	529,935	154,489	-
Realised Currency Gains	13,674	10,532	15,625	5,497
Unrealised Currency Gains	(6,382)	7,530	(8,718)	7,468
Insurance	48,874	128,937	48,179	2,565
Legal expenses	237,851	820,372	960,401	141,684
Property and office	33,374	144,689	226,347	58,445
Cleaning	2,717	5,133	2,629	-
Donations	-	-	17,563	-
Freight & Courier	1,496	3,010	2,269	-
General Expenses	6,744	820	10,859	-
IT Hardware (Non Capex)	510	936	2,224	-
Light, Power, Heating	2,646	1,412	-	-
Loss on Sale of Fixed Assets	(768)	58,516	-	-
Office Expenses	9,076	11,061	49,230	3,575
Printing & Stationery	502	1,592	18,948	300
Rent	(15,515)	1,438	60,721	41,692
Repairs and Maintenance	3,341	2,949	3,229	-
Telephone & Internet	22,625	57,821	58,677	12,878
Credit check and collection	105,365	496,215	134,782	1,956
Collection Fees	77,451	243,273	61,089	-
Credit Check	27,295	217,105	444	-
Credit Check and Registration Costs	619	35,837	73,250	1,956
Travel and entertainment	319,183	114,652	71,662	8,368
Entertainment	280,933	16,074	38,684	3,543
Travel - International	3	55	-	-
Travel - National	38,247	98,523	32,978	4,825
Subscription and software	241,690	847,680	408,778	18,898
Software (Non Capex)	993	705	12,045	-
Subscriptions	240,698	846,975	396,733	18,898
Bad and doubtful debts	66,131	4,622,512	13,214,142	3,320,821
Bad debts expense	19,494	-	34,964	-
Finance Expenses : Doubtful debts and write offs	-	(15,637,645)	-	-
Finance Expenses : Provision for Doubtful Debts	46,637	20,260,157	13,179,179	3,320,821
Total Operating Expenses	3,917,802	17,569,906	25,386,163	6,192,948
EBITDA	(3,502,401)	(15,364,929)	(19,391,071)	(5,678,771)
Other Income	36,731	176,635	164,375	-
Government: Cash boost income	-	162,409	30,872	-
Other Income	898	14,226	-	-
R&D Tax Incentive Income	-	-	133,503	-
Bad Debts Recovered	35,833	-	-	-
Depreciation	928,730	1,600,246	1,042,774	78,631
Depreciation	800,202	1,432,163	930,719	78,631
Depreciation: Right of Use Asset	128,528	168,082.68	112,055	-
Amortisation	-	461,760	2,629,766	-
Impairment of Software	-	201,444	-	-
Impairment of subsidiary	-	260,316	2,629,766	-
EBIT	(4,394,399)	(17,250,299)	(22,899,236)	(5,757,401)
Interest	791,241	2,659,146	2,635,619	251
Interest Expense	728,962	2,467,414	2,611,900	251
Interest on Convertible Notes	52,080	170,798	-	-
Lease Interest	10,198	20,934	23,719	-
Tax	(1,854,226)	-	-	-
Income Tax - R&D Incentive	(1,086,587)	-	-	-
Income Tax Expense	(767,639)	-	-	-
Net Profit/ (Loss)	(3,331,414)	(19,909,446)	(25,534,855)	(5,757,652)

Annexure D – Detailed comparative balance sheets

As at	23-Nov-23 \$	31-Dec-22 \$	31-Dec-21 \$	31-Dec-20 \$
Assets				
Current Assets				
Cash & cash equivalents	322,782	2,536,746	18,308,850	2,569,481
Airwallex AUD	-	4,810	-	-
ANZ CORP BNPL	-	-	15	-
ANZ CORP OPEX	-	-	688	-
ANZ CORP SIF	-	-	15	-
ANZ CORP ZEPTO	-	-	11,273	-
AWX_BIZPAY GROUP LIMITED_AUD	3,214	-	-	-
Hirepay Pty Ltd	190,495	2,271,217	1,649,134	1,858,813
Savings Account	129,073	256,645	16,642,815	710,668
TransferWise NZD	-	4,074	4,911	-
Trade and other receivables	2,692,245	4,615,793	19,737,622	5,593,337
Accounts Receivable	5,149,958	5,269,084	28,158,576	7,051,056
Provision for Doubtful Accounts - Old Book	(4,862,355)	(4,862,355)	(16,500,000)	(3,320,821)
Cash: Turnkey	136,851	104,786	1,845,510	-
Loan Receivable: BNPL	1,793,699	3,861,327	6,174,231	-
Provision for Doubtful Debts - BNPL	(66,131)	-	-	-
Loan Receivable: NEW	297,272	-	-	1,863,102
Loan Receivable: SIF	242,951	242,951	59,305	-
Prepayments	73,134	7,820	360,443	-
Prepaid Borrowing Costs	51,038	-	53,793	-
Prepaid Expenses	22,097	7,820	306,650	-
Other current assets	479,680	189,906	134,786	55,098
Intercompany Recharges - BizPay US	-	-	26,400	-
Late Fees Accrual	-	-	-	-
Other Deposits	19,036	-	-	50,000
Rent Deposit	34,241	82,916	106,386	3,000
Sundry Debtors	-	-	2,000	2,098
Trust Account - General Commercial	426,404	106,990	-	-
Total Current Assets	3,567,842	7,350,265	38,541,702	8,217,916
Non Current Assets				
Plant and equipment	168,865	154,611	402,188	14,691
Computer Equipment	140,410	110,616	163,859	15,798
Less Accumulated Depreciation on Computer Equipment	(84,511)	(48,051)	(30,290)	(1,107)
Furniture & Fittings	36,796	36,796	36,796	-
Less Accumulated Depreciation on Furniture & Fittings	(9,054)	(5,990)	(2,310)	-
Office Equipment	10,254	10,254	12,202	-
Less Accumulated Depreciation on Office Equipment	(7,888)	(5,041)	(2,179)	-
Right of Use Asset at Cost/Lease	155,358	336,165	336,165	-
Accumulated Depreciation : Right of Use Asset: Lease	(72,501)	(280,138)	(112,055)	-
Software	875,588	1,526,167	2,843,849	330,081
Software Development	3,088,674	2,873,899	2,824,675	-
Less Accumulated Depreciation on Software Development	(2,139,712)	(1,576,664)	(829,863)	-
Less: Impairment of Software Development	(201,444)	(201,444)	-	-
Website	1,096,491	1,204,014	997,686	411,546
Less Accumulated Depreciation on Website	(968,421)	(773,638)	(148,650)	(81,465)
Other non-current assets	96,620	96,620	1,082,314	53,396
AU Trademark	96,620	96,620	82,314	-
Investment in Subsidiary	-	-	1,000,000	53,396
Total Non Current Assets	1,141,073	1,777,398	4,328,351	398,168
Total Assets	4,708,915	9,127,663	42,870,053	8,616,084
Liabilities				
Current Liabilities				
Trade and other payables	1,260,461	501,947	847,306	101,935
Accounts Payable	1,114,362	318,809	287,492	68,170
Audit Fees Payable	70,200	100,000	76,208	105,600
Contract Liabilities: Deferred Income	24	17,488	126,090	(71,835)
Contract Liabilities: Deferred Income (NEW)	-	-	-	-
General Accruals	75,875	52,499	357,516	-
Interest Payable	-	13,151	-	-
ATO liabilities	21,904	254,838	696,392	152,020
ATO Integrated Client Account	-	366,864	-	62,481
GST	(14,381)	(147,941)	(41,261)	3,335
PAYG Withholdings Payable	36,284	35,915	737,653	86,204
Employee liabilities and provisions	104,862	147,109	681,148	24,805
Payroll Tax Payable	-	12,140	159,655	-
Provision for Annual Leave	78,804	97,559	301,256	-
Superannuation Payable	26,057	37,410	220,237	27,689
Wages Payable - Payroll	-	-	-	(2,884)
Lease liability	83,018	87,281	156,808	-
Loans	2,650,000	4,000,000	27,000,000	2,990,000
Loan - Alteris Facility A	2,650,000	4,000,000	27,000,000	-
Loan - Nova Legal	-	-	-	2,990,000
Other current liabilities	2,967	2,759	(15,362)	8,153,144
Capital Raise Unallocated	-	-	-	2,869,144
Capital Raising Unallocated - Pelton	-	-	-	5,284,000
Rounding	-	-	1	(0)
Suspense	257	49	41,554	-
Suspense Account Expenses	-	-	(98,298)	-
Loan Payments to be Allocated	2,710	2,710	41,382	-
Total Current Liabilities	4,123,211	4,993,934	29,366,292	11,421,903
Non Current Liabilities				
Loans	1,347,660	3,615,335	-	-
Loan Alteris Facility B	1,347,660	3,615,335	-	-
Lease liability	-	(0.45)	87,283	-
Convertible notes	-	1,585,048	-	3,155,000
Convertible Note - Accrued Interest	-	170,798	-	-
Convertible Notes	-	1,414,250	-	3,155,000
Total Non Current Liabilities	1,347,660	5,200,383	87,283	3,155,000
Total Liabilities	5,470,872	10,194,317	29,453,575	14,576,903
Net Assets/ (Liabilities)	(761,957)	(1,066,654)	13,416,478	(5,960,819)
Equity				
Capital Raising Cost	(929,279)	(928,381)	(821,663)	(36,850)
Current Year Earnings	(3,053,310)	(19,909,446)	(25,534,855)	(5,757,652)
Retained Earnings	(51,375,270)	(31,465,825)	(5,930,969)	(173,317)
Share Capital - Ordinary Shares	49,725,486	47,928,357	44,420,568	7,000
Share Capital - Preference Shares	3,999,980	1,402,407	-	-
Share-Based Payment Reserve	1,906,234	1,906,234	1,283,398	-
Total Equity	273,841	(1,066,654)	13,416,478	(5,960,819)