

BRI Ferrier

STATUTORY REPORT TO CREDITORS

**EQBE PTY LTD (IN LIQUIDATION)
(FORMERLY A.C.N. 154 788 413 PTY LTD &
CATALYST BUILDING PTY LTD)**

ACN: 154 788 413

ABN: 99 154 788 413

27 June 2023

**PETER KREJCI
LIQUIDATOR**

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INTRODUCTION

I refer to my initial report to creditors dated 26 April 2023 in which my appointment as Liquidator of the Company was advised along with your rights as a creditor in the liquidation.

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

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

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

COMPANY DETAILS

Name	EQBE Pty Ltd (In Liquidation)
Incorporated	14 December 2011
ACN	154 788 413
Registered Office	Moser Bland & Co. Suite 504 Level 5 31 Market Street Sydney NSW 2000
Trading Address	3 Milton Avenue Woollahra NSW 2025

LIQUIDATOR

Name	Peter Krejci
Date Appointed	27 March 2023

ADMINISTRATION CONTACT

Name	Sushma Mandira
Email	smandira@brifnsw.com.au
Phone	02 8263 2322

TABLE OF CONTENTS

1	Basis of Report	7
2	Disclaimer	7
3	Declaration of Independence, Relevant Relationships and Indemnities	7
4	Corporate Information	8
5	Legal Proceedings	9
6	Company Background and Events Leading to My Appointment	9
7	Reasons for Failure	9
8	Historical Financial Information	9
9	Assets	11
10	Liabilities	11
11	Investigations	12
12	Findings and Recovery Actions	13
13	Voidable Transactions	16
14	Receipts and Payments	17
15	Estimated Return to Creditors	17
16	Remuneration of Liquidator	18
17	Matters Outstanding	19
18	Conclusion	19

TABLE OF ANNEXURES

- A** Form 535 Formal Proof of Debt or Claim (General Form)
- B** Summary of Receipts & Payments
- C** Comparative Balance Sheets
- D** Comparative Profit and Loss statements
- E** Remuneration Approval Report
- F** Proposal Without Meeting Forms
- G** ASIC Information Sheet – Proposals without a Meeting
- H** ASIC Information Sheet – Insolvency Information for Directors, Employees, Creditors and Shareholders
- I** ARITA Information Sheet – Offences, Recoverable Transactions and Insolvent Trading

GLOSSARY OF COMMON ACRONYMS & ABBREVIATIONS

ABN	Australian Business Number
ACN	Australian Company Number
Act	Corporations Act 2001 (Cth)
ARITA	Australian Restructuring Insolvency and Turnaround Association
ASIC	Australian Securities and Investments Commission
ATO	Australian Taxation Office
BSO	Blue Sky Operations Pty Ltd
CVL	Creditors Voluntary Liquidation
Company	EQBE Pty Ltd (In Liquidation) (formerly A.C.N. 154 788 413 & Catalyst Building Pty Ltd)
Director	Andrew Travers
DIRRI	Declaration of Independence, Relevant Relationships & Indemnities
Department	Department of Employment and Workplace Relations
FEG	Fair Entitlements Guarantee
Finlay	Finlay Screening & Crushing Systems Pty Ltd
Firm	BRI Ferrier NSW
Initial Report	Initial Report to Creditors dated 26 April 2023
IPR	Insolvency Practice Rules (Corporations) 2016
IPS	Insolvency Practice Schedule (Corporations)
Petitioning Creditor	QBE Insurance (Australia) Ltd
POD	Proof of Debt
PPSR	Personal Properties Securities Register
RBP	Relation Back Period
ROCAP	Report on Company Activities and Property
SOA	Summary of Affairs

EXECUTIVE SUMMARY

As you are aware, I was appointed Liquidator of the Company pursuant to an Order of the Supreme Court of Australia. The Petitioning Creditor in this matter is QBE Insurance (Australia) Ltd who in its statement of claim advised of a debt of \$88,860.42.

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

The Company was incorporated on 14 December 2011 with a principal place of business at 3 Milton Avenue Woollahra NSW 2025.

As advised in my initial report to creditors, the Company had hired an impact crusher from Finlay in 2018 and caused damage to the impact crusher resulting in Finlay making a claim for loss under its insurance policy with QBE. Having settled the claim with Finlay, QBE exercised its right of subrogation by commencing recovery action against the Company and judgment was obtained against the Company on 30 September 2020 for the sum of \$88,860.

To date, my investigations into assets of the Company identify cash at bank funds totalling \$100.19. I note that there are debtors totalling \$382,352 listed in the Company's Xero accounting software together with an outstanding loan to the Director of \$259,979. The Director has advised that the debtors are unrecoverable.

I have not identified any other major assets of the Company. In terms of liabilities, my investigations to date have revealed unsecured creditor debts at circa \$475K, related party creditors make up circa \$329K and priority creditors being outstanding superannuation entitlements to employees for circa \$44K with the remained unrelated unsecured claims. Please refer to Section 11 of this report where I provide further commentary regarding the liabilities of the Company.

I have conducted preliminary investigations of the Company's affairs prior to my appointment, and I believe that there may be a potential insolvent trading claim against the Director for \$475K. Please refer to Section 13 of this report where I have detailed my findings in this regard. I have identified further voidable transactions that may be pursued against the Director detailed in section 14 of this report. In the near term, I intend to report my findings to ASIC pursuant to Section 533(1) of the Act. The Section 533(1) report is confidential and is not available to creditors.

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

Should any creditor have any relevant information which may assist my investigations or potential asset recoveries, or wish to fund my further investigations, they should contact my office by no later than 10 July 2023. Otherwise, absent any substantive new information, the Liquidation may continue for the next six (6) to twelve (12) months

1 BASIS OF REPORT

This report has been prepared primarily from information received from the Company's Director and advisors.

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

- ▲ ASIC;
- ▲ The books and records of the Company;
- ▲ Discussions with the Director and advisors;
- ▲ The ROCAP form completed by the Director;
- ▲ Extracts from public information databases;
- ▲ Correspondence with creditors; and
- ▲ Documents obtained from the ATO in relation to the Company.

2 DISCLAIMER

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

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

Neither I, nor any member or employee of BRI Ferrier accepts responsibility in any way whatsoever to any person in respect of any errors in this report arising from incorrect information provided to me, or necessary estimates and assessments made for the purposes of the report.

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

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

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

3 DECLARATION OF INDEPENDENCE, RELEVANT RELATIONSHIPS AND INDEMNITIES

I confirm that my DIRRI as previously circularised has not been amended.

4 CORPORATE INFORMATION

The following information has been extracted from ASIC records as at the date of my appointment:

Date of Incorporation	14 December 2011
Type of Company	Australian Proprietary Company
Class	Limited by Shares
Registered Office	Moser Bland & Co. Suite 504 Level 5 31 Market Street Sydney NSW 2000
Principal Place of Business	3 Milton Avenue Woollahra NSW 2025

OFFICER	START DATE	CEASE DATE	POSITION(S)
Andrew Travers	01/03/2019		Director
Stephanie Foley	10/06/2014	01/03/2019	Director/Secretary
Henrik Mortenson	14/12/2011	10/06/2014	Director/Secretary
Terry Borella	10/04/2013	10/06/2014	Director
Marea Ellen Howe	14/12/2011	14/12/2011	Director/Secretary
Maurice James Howe	14/12/2011	14/12/2011	Director

SHAREHOLDERS	SHARE TYPE	NO. OF SHARES	SHAREHOLDING (%)	BENEFICIALLY OWNED
Blue Sky Operations Pty Ltd	Ordinary	10	100	Yes
Blue Sky Operations Pty Ltd	DVR	10	100	Yes

5 LEGAL PROCEEDINGS

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

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

I am not aware that the Company is involved in any other legal proceedings.

6 COMPANY BACKGROUND AND EVENTS LEADING TO MY APPOINTMENT

The following information was obtained from the Company's books and records, enquiries with the current Director, advisors and Company records provided to the Liquidator.

- ▶ The Company was incorporated on 14 December 2011 with a principal place of business of 3 Milton Avenue Woollahra NSW 2025.
- ▶ An ASIC search of the Company reveals its current Director to be Mr Andrew Travers, who was appointed 1 March 2019, with the Company's previous directors comprising of Stephanie Foley (His wife), Henrick Mortenson (His Friend), Terry Borella (The Accountant), Marea Ellen Howe and Maurice James Howe (Directors whom Mr. Travers did not know personally).
- ▶ On 14 December 2011, the Company commenced trading with the purchase of an Excavator for Hire. It operated a Machinery for Hire and Consulting Business and traded notifiably well until the year 2019, Mr. Travers attributes the downturn in business was due to the decrease in demand for services during the pandemic.
- ▶ The Director has advised that the Company ceased operations in 2020 and proceeded to deal with all the plant and machinery, debtors, and creditors in an orderly wind down.

7 REASONS FOR FAILURE

In the Director's ROCAP, he attributed the Company's ultimate reason for failure to be the aftereffects of the Covid 19 pandemic.

In support of this statement, I also believe that the trading losses mainly attributed to Mr. Travers' poor strategic management of business and influx of loans to and from related party creditors with little to no arm's length transactions.

8 HISTORICAL FINANCIAL INFORMATION

I have reviewed the Company's audited financial reports for the year ending 30 June 2017 and the Company's management accounts from 30 June 2018 to 30 June 2021.

8.1 BALANCE SHEETS

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

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

- ▶ The Balance Sheets are a representation of the management accounts I have access to. Both the Director and I agree that these do not reflect the true position of the business but due to insufficient books and records I currently have in my possession, I have been updated to restate the accounts in any meaningful way that would assist in understanding the financial dealings of the Company post June 2019.
- ▶ The Company's current assets predominantly comprise of trade debtors and a loan to the Director styles "Directors Loan – Andrew Travers". This loan came into existence prior to Mr. Travers appointment as Director. Non-current assets are made up of inter-company loans, motor vehicles, plant and equipment on hire and a Mortgage advance. The Director shas advised that all assets and most liabilities have be settled in the winding down of the business.
- ▶ The Company's current liabilities predominantly comprised of trade creditors and statutory ATO liabilities (GST, Provision of Income Tax, SGC, PAYG).
- ▶ The Company maintained a positive Working Capital and liquidity ratio above 1 for the analysis period (since the year 2017) if you take into account the Directors loan and debtors that the Director has advised are uncollectible and appear to be materially the same since June 2019. However, the majority of the income relied on inter-related party loans rather than income generated from Equipment Hire and Consultancy.

8.2 PROFIT AND LOSS STATEMENTS

Attached as "Annexure D" is a comparative analysis of the Profit and Loss Statements for the above-mentioned period.

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

- ▶ I have received management accounts for the financial years ending 30 June 2017 to 30 June 2023. The Company recorded a significant loss in the financial year 2019, which Mr. Travers attributed to the COVID-19 pandemic.
- ▶ The major expenses of the business have been motor vehicle expenses and insurance. These expenses seem fairly typical.
- ▶ The Company's Profit and Loss Statements do not provide accurate details on wages paid throughout the periods. I intend to ask the Director in respect to the classification of same.

9 CURRENT FINANCIAL POSITION

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

	Report Reference	ROCAP (\$)	Liquidators ERV (\$)
Assets			
Cash and Cash Equivalents	10.1	90	100
Related Party Loans	10.2	329,503	Nil
Total assets		329,593	100
Liabilities			
Secured Creditors	11.1	Nil	Nil
Priority Creditors	11.2	44,599	44,599
Unsecured Creditors	11.3	Nil	430,556
Total Liabilities		44,599	475,556
Estimated Net Asset / (Deficiency)		284,994	475,456

10 ASSETS

10.1 CASH AT BANK / CASH ON HAND

On appointment, I made enquiries with all major banks in Australia seeking details of any accounts maintained by the Company. These enquiries revealed that the Company maintained one overdraft account with ANZ that was closed in the year 2022 and two bank accounts with Westpac with a credit balance of \$100.19 held as at the date of appointment. I have arranged for these funds to be swept into my liquidation account and the account to be closed.

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

10.2 RELATED PARTY LOANS

The management accounts suggest that the Company is owed \$2.73M by the former Director and \$259K from the Current Director. I have not sighted any documentation that these accounts have been repaid. I note that the same accounts detail that the Company obtain a mortgage for \$3.3m, the Company owns no property, no security is registered against the Company and no creditor has come forward regarding the mortgage.

11 LIABILITIES

11.1 SECURED CREDITORS

A search of the PPSR indicates the following security interests registered over the Company's assets:

All Present and After Acquired Property Interests	Catalyst Building Pty Ltd (7) The Trust Company (PTAL) Ltd (1)
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I have written to The Trust Company (PTAL) Ltd who has advised that they have no outstanding claim. I have requested a discharge statement from PTAL to confirm same, which has not been forthcoming.

I have not been provided any documentation from the Director as to why the Company has registered seven (7) security interests against itself. The Director has indicated in his ROCAP that the shareholder should hold the security interest, which is not supported by the search.

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

11.2 PRIORITY CREDITORS

As at the date of this report, I have been informed that the Company owes \$44,594.00 in outstanding superannuation to Ms. Stephanie Travers. It appears that the DCoT is unaware of this debt as it has not included any superannuation debt in its POD lodged in the Liquidation.

I am currently obtaining access to the payroll information in Xero to determine if there are any outstanding employee entitlements recorded. Should I locate same, I will write to all employees advising them of their rights to lodge a claim with FEG as detailed below.

To the extent there are any amounts owed to former employees of the Company, there is a statutory priority of payment in respect of outstanding entitlements such as wages, superannuation, annual leave, long service leave, payment in lieu of notice and redundancy.

In the event that there are insufficient funds to pay a dividend to priority (employee) creditors in a winding up, employees (excluding the Directors and related parties) cannot lodge a claim under the Fair Entitlements Guarantee scheme with the Department of Employment and Workplace Relations in respect of superannuation entitlements that they are owed as they do not meet the eligibility requirements of the FEG scheme.

11.3 UNSECURED CREDITORS

My investigations to date have identified six (6) unsecured creditors owed approximately \$430K this is made up of three (3) related party claims of \$329K the DCoT of \$2,850 which is made up of failure to lodge penalties and two (2) unrelated creditors totalling \$99K.

As there are numerous outstanding lodgements due to DCoT, the current amount that the DCoT has claimed for may increase.

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

12 INVESTIGATIONS

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

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

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

12.1 INVESTIGATIONS UNDERTAKEN

During the course of these investigations, I have:

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

12.2. BOOKS AND RECORDS

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

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

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

On my appointment, I requested the Company's Director, Former Director, Accountant and Solicitor to deliver the books and records of the Company, to enable me to investigate the affairs of the Company. To date, the only books and records I have received are the audited financial statements provided by the Company's accountant and financials generated from the Xero accounting software the Company used to operate. As I have not been provided any supporting documentation in the form of contracts, hire purchase agreements invoices and the like, I am of the view that the Company is in breach with Section 286 of the Act.

13 FINDINGS AND RECOVERY ACTIONS

13.1 INSOLVENT TRADING

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

- ▲ A person is a director at the time a company incurs a debt;
- ▲ The company is insolvent at the time of incurring the debt or becomes insolvent because of incurring the debt;
- ▲ At the time the debt was incurred, there were reasonable grounds to suspect that the company was insolvent;

- ▲ The director was aware such grounds for suspicion existed; and
- ▲ A reasonable person in a like position would have been so aware.

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

A defence is available under the Act where a director can establish:

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

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

Based on my investigations conducted to date, it is my preliminary view that the Company may have been insolvent from June 2019. The reasons for my assessment are as follows.

13.1.A Working Capital Analysis

- ▲ The working capital analysis has been based on a review of the Company's management accounts.
- ▲ Prima facie, there appears to have been sufficient working capital for the years ending 30 June 2017, 2018, 2019, 2020 and 2021. A summary is shown below.

Working Capital Analysis

	Year Ended 31-Dec-21	Year Ended 31-Dec-20	Year Ended 31-Dec-19	Year Ended 31-Dec-18	Year Ended 31-Dec-17
Working Capital Analysis	(\$)	(\$)	(\$)	(\$)	(\$)
Current Assets	642,333	613,369	535,266	376,647	308,219
Current Liabilities	138,212	208,697	188,721	104,434	175,493
Net Working Capital	504,121	404,672	346,545	272,213	132,726
Current Asset Ratio	4.65	2.94	2.84	3.61	1.76

I have adjusted the current assets in accordance with the Directors information in his ROCAP that the Company has no debtors at appointment. My review of the management accounts for 2021, 2020 details the debtor position to be the same as at appointment, as such, I have adjusted that current assets accordingly. I have also adjusted the Directors loan for the 2021, 2020 and 2019 years. A summary of the adjusted working capital ratios is below.

Working Capital Analysis

Working Capital Analysis	Year Ended 31-Dec-21 (\$)	Year Ended 31-Dec-20 (\$)	Year Ended 31-Dec-19 (\$)	Year Ended 31-Dec-18 (\$)	Year Ended 31-Dec-17 (\$)
Current Assets	1	1	409,034	376,647	308,219
Current Liabilities	<u>138,212</u>	<u>208,697</u>	<u>196,545</u>	<u>104,434</u>	<u>175,493</u>
Net Working Capital	<u>(138,211)</u>	<u>(208,695)</u>	<u>212,489</u>	<u>272,213</u>	<u>132,726</u>
Current Asset Ratio	0.00	0.00	2.08	3.61	1.76

13.1.B Indicators of Insolvency

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

- ▲ The Company had adjusted liquidity ratios below 1 for the years ending 31 December 2020 and 2021.

13.1.C Assessment of Insolvency

In light of the above, I am of the view that the Company may have been insolvent from as early as June 2019 when the Company posted a loss of \$86K and adjusted net asset position of (\$250K).

13.1.D Potential Quantum of Claim

Determining the value of an insolvent trading claim will generally involve a forensic review of the debts incurred after the date on which it can be maintained that the Company was insolvent and remains outstanding. For the purposes of this Report, I have prepared a preliminary assessment of the claim, assuming the Company was insolvent since approximately June 2019.

My investigations indicate that an insolvent trading claim may be valued at circa \$482K, as detailed below.

Insolvent Trading Calculation	Total Amount (\$)
Australian Taxation Office	44,598.70
Related Creditors	329,803.00
Unsecured Creditors	<u>108,351.30</u>
Total	<u>482,753.00</u>

13.1.E Recovery of Claim

In respect of considering whether an insolvent trading claim could be pursued, a Liquidator would need to have regard to the financial positions of the potential defendant, being the current Director, Mr Andrew Travers, and the Former Director, Mrs Stephanie Foley. A NSW Land Title search indicated that the Director does not appear to be the registered proprietor of any properties in NSW. A similar search indicated that Mrs Foley to be the registered proprietor of one (1) property located in rural New South Wales. Notwithstanding, I have requested the Director to complete a statutory declaration on his personal financial position to determine if he would have the financial capacity to meet an insolvent trading claim. Creditors should not that it is a request on the Director and not something I can enforce the completion of.

I note that an insolvent trading claim will require extensive investigations and funding to pursue the claim via litigation. As an alternative, a Liquidator can consider selling the causes of action on a commercial basis, to obtain a return in a quicker timeframe, usually at a substantial discount given the removal of risk. If creditors are interested in funding or purchasing this potential claim, please contact this office by 14 July 2023. Absent any funding, I may pursue a commercial settlement.

14 VOIDABLE TRANSACTIONS

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

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

14.1 UNFAIR PREFERENCES

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

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

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

I have reviewed the bank account statements for the Company's Westpac and ANZ bank accounts from 27 September 2022 to appointment. I have not identified any significant round payments to unrelated unsecured creditors.

Payments to unrelated unsecured creditors during the RBP period appear to have been made in the ordinary course of the business and there was no evidence to suggest that there was a lack of good faith on the part of the creditors. This is typically evidenced by demands/threats, changed supply terms, payment arrangements and/or legal proceedings.

I note that pursuant to S588FE(2D)(4) of the Act clawback provisions available to the Liquidator extend to four (4) years from the RBP for transactions to related-party creditors. In this respect, I have identified payments made to the Director totalling \$88K during the RBP. These payments may be classified as an unfair preference as I have determined that the Company was insolvent at the time the payments were made and payments were made in preference to other creditors. My investigations in relation to such transactions are ongoing.

As detailed in the insolvent trading section of this report, I am unaware of the capacity of the Director to meet any claim brought by me as Liquidator of the Company.

14.2 UNCOMMERCIAL TRANSACTIONS

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

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

As detailed above the preference payments identified totalling \$88K would be uncommercial as the Company derived no benefit from the payments to the Director and caused detriment to the Company as it could not clear the overdraft with the ANZ.

14.3 UNREASONABLE DIRECTOR RELATED TRANSACTIONS (S588FDA)

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

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

See comments in 14.2 uncommercial transactions.

14.4 UNFAIR LOANS (S588FD)

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

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

I have not identified any such transactions to date.

15 RECEIPTS AND PAYMENTS

The receipts and payments up to date of this report are attached as "**Annexure B**".

16 ESTIMATED RETURN TO CREDITORS

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

- ▲ the size and complexity of the administration.

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

At this stage, there have been minimal recoveries in the Liquidation, and I have been unable to discharge my costs in full. Any return to creditors is therefore contingent on pursuing and recovering the claims identified in this report against the Director. All of the claims will require the gathering of further evidence and conducting further investigations. As such, subject to significant recoveries from these claims, there will not be any dividends available for any class of creditors in this Liquidation.

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

17 REMUNERATION OF LIQUIDATOR

I am asking creditors to approve my remuneration of \$76,375.00 (excl. GST) and internal disbursements of \$1,000.00 (excl. GST).

Details of work completed for the period 27 March 2023 to 21 June 2023 are summarised as follows:

- ▲ Requests for the Director to complete a ROCAP and provide documents relating to the Company;
- ▲ Liaising with related parties and former directors of the Company to provide books and records in relation to the Company;
- ▲ Considerable investigations and advice sought in relation to the Company's affairs;

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

- ▲ The hourly rates which also includes a guide showing the qualifications and experience of staff engaged in the liquidation and the role they take in the liquidation.
- ▲ The spreadsheet which sets out the calculation of remuneration by appointee, employee and position for the work undertaken by myself and my staff for the period 27 March 2023 to 21 June 2023.
- ▲ A summary sets out a general description of additional necessary work carried out for the period 22 June 2023 to conclusion of the Liquidation.

It is my intention to seek approval from creditors with respect to my remuneration incurred for the sum of \$76,375.00 for the period 27 March 2023 to the conclusion of the Liquidation. Attached as **Annexure F** is a copy of the Proposals without Meeting forms. These forms need to be returned to my office by **close of business, 17 July 2023**.

18 MATTERS OUTSTANDING

The outstanding matters in the administration are:

- ▲ Lodgement of my confidential report pursuant to Section 533(1) of the Act and await response from ASIC;
- ▲ Pursue Director for unfair preference claims, unreasonable director-related transactions, and uncommercial transactions, should funding be available;
- ▲ Correspondence with creditors;
- ▲ Statutory lodgements and general administrative matter; and
- ▲ Finalise.

Subject to the timing of the finalisation of the above matters and any unforeseen circumstances, I currently estimate that the administration will be finalised within 6 - 12 months.

19 CONCLUSION

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

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

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

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

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

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

Any further reports will be issued as considered appropriate.

Yours faithfully,

EQBE PTY LTD (IN LIQUIDATION)



PETER KREJCI
LIQUIDATOR

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BRI Ferrier

**EQBE Pty Ltd
(In Liquidation)
Formerly A.C.N. 154 788 413 Pty Ltd
& Catalyst Building Pty Ltd
ACN 154 788 413
ABN 99 154 788 413**

**Annexure "A"
Formal Proof of Debt**

FORMAL PROOF OF DEBT OR CLAIM (GENERAL FORM)

To the Liquidator of EQBE Pty Ltd (In Liquidation) ACN 154 788 413

1. This is to state that the company was, on 27 March 2023, ⁽¹⁾ and still is, justly and truly indebted to⁽²⁾ (full name):

.....
(‘Creditor’)

.....
of (full address)

for \$ dollars and cents.

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

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

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

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

Date	Drawer	Acceptor	Amount \$ c	Due Date

I am **not** a related creditor of the Company ⁽⁵⁾

I am a related creditor of the Company ⁽⁵⁾
relationship:

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

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

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

Contact Name:

Email Address:

DATED this day of 2023

NAME IN BLOCK LETTERS

Occupation

Address

Signature of Signatory

OFFICE USE ONLY

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

Proof of Debt Form Directions

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

Annexures

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

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BRI Ferrier

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(In Liquidation)
Formerly A.C.N. 154 788 413 Pty Ltd
& Catalyst Building Pty Ltd
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**Annexure "B"
Summary of Receipts and Payments**

Summarised Receipts & Payments

EQBE Pty Ltd
(In Liquidation)
Transactions From 27 March 2023 To 27 June 2023

A/C	Account	Net	GST	Gross
74	Cash at Bank	100.19	0.00	100.19
Total Receipts (inc GST)		\$100.19	\$0.00	\$100.19
Total Payments (inc GST)		\$0.00	\$0.00	\$0.00
Balance in Hand - By Bank Account				
212	Cheque Account			100.19
				\$100.19

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**Annexure "C"
Comparative Balance Sheets**

EQBE Pty Ltd
ABN 99 154 788 413
Balance Sheet For the Financial Years Ended 30 June 2017 to 30 June 2021

	Year Ended 30-Jun-21 (\$)	Year Ended 30-Jun-20 (\$)	Year Ended 30-Jun-19 (\$)	Year Ended 30-Jun-18 (\$)	Year Ended 30-Jun-17 (\$)
ASSETS					
Current Assets					
Cash at Bank					
Cash Reserve	1.22	1.22	-	845.94	157.65
Westpac Flexi	-	-	26,681.90	3,755.86	46,096.75
Accounts Receivable	382,352.10	382,352.10	382,352.10	372,045.10	261,964.53
Loan to Andrew Travers	259,979.64	231,015.22	126,231.90	-	-
Total Current Assets	642,332.96	613,368.54	535,265.90	376,646.90	308,218.93
Fixed Assets					
Motor vehicle	54,477.62	54,384.82	54,384.82	54,384.82	22,673.00
Plant Equipment for hire	387,856.45	387,856.45	387,856.45	387,856.45	547,311.00
Total Fixed Assets	442,334.07	442,241.27	442,241.27	442,241.27	569,984.00
Non-Current Assets					
Prepaid Borrowing Costs - Mortgage	49,276.04	49,276.04	49,276.04	-	-
Total Non-Current Assets	49,276.04	49,276.04	49,276.04	-	-
TOTAL ASSETS	1,133,944.29	1,104,887.07	1,026,783.21	818,888.17	878,202.93
LIABILITIES					
Current Liabilities					
Accounts Payable	10,328.80	10,328.80	10,328.80	10,328.80	28,645.32
ANZ Cheque Debit Card	23,068.81	4,428.59	9,494.59	9,489.09	8,724.46
Cash Reserve	-	-	5,998.79	-	-
GST	(11,497.79)	(18,536.48)	(51,974.63)	(61,456.50)	17,656.00
Drawings	(25,305.96)	(19,418.92)	(15,647.70)	(14,363.01)	-
Funds Introduced	20.00	20.00	20.00	20.00	20.00
Loan From ATF Super	216,200.00	216,200.00	133,500.00	-	-
Loan From Stephanie Travers	43,000.00	40,000.00	40,000.00	-	-
PAYG Withholdings Payable	33,436.06	33,436.06	32,704.06	45,032.00	6,864.00
Shareholder Loan - Blue Sky Operations	70,303.00	71,258.00	71,258.00	71,258.00	81,758.00
Superannuation Payable	44,598.70	44,598.70	44,362.15	44,125.60	31,825.00
Wages Payable - Payroll	(277,519.45)	(186,207.45)	(91,323.00)	-	-
Westpac Flexi	3,756.22	4,765.30	-	-	-
Suspense	7,823.94	7,823.94	7,823.94	-	-
Total Current Liabilities	138,212.33	208,696.54	188,721.06	104,433.98	175,492.78
Non-Current Liabilities					
Hire Purchase - Audi Q5	19,433.91	36,990.38	53,189.90	70,739.38	-
Hire Purchase - BOQ Audi	(15.00)	(1,364.96)	-	-	35,339.22
Hire Purchase - BOQ Finlay J-1175	4,720.02	4,720.02	55,870.02	83,326.47	124,492.24
Hire Purchase - BOQ Liebherr excavator	(1,100.00)	(1,100.00)	(1,100.00)	-	24,552.45
Hire Purchase - Metro Finance	(22,159.09)	(22,159.09)	(22,159.09)	48,861.64	82,902.00
Hire Purchase - MQ	32,308.27	32,308.27	58,998.83	99,034.67	129,955.00
Hire Purchase 2018 Nissan	(21,248.00)	(13,640.40)	(5,341.20)	-	-
Loan Engineered Civil Supplies Pty Ltd	(46,244.94)	(46,244.94)	(138,202.62)	(193,089.00)	(200,767.00)
Loan related parties - Blue Sky Operations Pty Ltd	29,671.99	29,671.99	29,671.99	57,354.99	180,651.00
Loan to Stephanie Travers	(2,731,140.75)	(2,731,140.75)	(2,751,140.75)	(2,088,635.75)	-
Mortgage to Catalyst Building Pty Ltd	3,300,000.00	3,300,000.00	3,300,000.00	2,300,000.00	-
Total Non-Current Liabilities	564,226.41	588,040.52	579,787.08	377,592.40	377,124.91
TOTAL LIABILITIES	702,438.74	796,737.06	768,508.14	482,026.38	552,617.69
NET ASSETS	431,505.55	308,150.01	258,275.07	336,861.79	325,585.24
EQUITY					
Asset revaluation reserve	250,000.00	250,000.00	250,000.00	250,000.00	250,000.00
Current Year Earnings	123,355.54	57,697.66	(86,410.66)	11,276.55	-
Retained Earnings	58,148.79	451.13	86,861.79	75,585.24	75,585.24
TOTAL EQUITY	431,504.33	308,148.79	250,451.13	336,861.79	325,585.24



**EQBE Pty Ltd
(In Liquidation)
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& Catalyst Building Pty Ltd
ACN 154 788 413
ABN 99 154 788 413**

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

EQBE Pty Ltd
ABN 99 154 788 413
Profit and Loss Statements
For the Financial Years Ended 30 June 2017 to 30 June 2021

	Year Ended 30-Jun-21 (\$)	Year Ended 30-Jun-20 (\$)	Year Ended 30-Jun-19 (\$)	Year Ended 30-Jun-18 (\$)	Year Ended 30-Jun-17 (\$)
Income					
Hire of Equipment	104,748.62	1,168,735.64	962,657.78	600,206.48	-
Construction Income	46,139.47	32,000.00	-	-	736,562.00
Interest Income	0.15	3.14	18,757.68	273.72	-
<i>Less: Cost of Sales</i>	<i>(3,446.46)</i>	<i>(667,600.21)</i>	<i>(571,946.77)</i>	<i>(226,940.94)</i>	<i>(326,322.00)</i>
Gross Profit	147,441.78	533,138.57	409,468.69	373,539.26	410,240.00
Other Income					
Jobkeeper	55,800.00	24,602.66	-	-	-
Interest received	-	-	-	-	81.00
Other Revenue	-	-	-	-	530.00
Total Other Income	55,800.00	24,602.66	-	-	611.00
Total Operating Income	203,241.78	557,741.23	409,468.69	373,539.26	410,851.00
Expenses					
Accountancy and Consulting fees	5,762.72	9,844.77	2,227.27	4,335.45	7,045.00
ASIC	-	-	1,202.00	904.00	-
Bank Charges	398.83	546.50	578.50	529.00	1,208.00
Advertising	-	154.49	452.03	594.80	-
ATO	-	-	-	-	4,953.00
Cleaning	2,277.50	2,500.00	4,570.00	180.00	-
Computer Expenses	1,693.18	925.52	504.68	-	1,587.00
Construction Consulting Expenses	1,082.64	-	-	-	2,520.00
Depreciation	-	-	-	-	218,986.00
Entertainment	1,657.85	1,827.08	-	275.00	-
Employees' Amenities	-	-	-	-	3,303.00
Fines & Amenities	-	-	-	-	10,903.00
General Expenses	4,043.21	3,734.40	-	3,707.73	1,364.00
HAKK/ECS Cost	-	87,012.23	156,247.55	-	-
Insurance	23,952.55	26,442.08	28,751.04	28,281.81	28,049.00
Interest Expense	1,067.77	296,499.34	196,747.09	1,385.38	1,257.00
Interest Expense - Hire Purchase	-	-	-	19,807.32	25,622.00
Legal Expense	10,074.70	19,497.27	50,962.86	84,486.92	2,845.00
Light, Power, Heating	2,109.28	4,793.15	3,008.82	4,279.30	-
Loan Establishment Fee	-	(1,227.24)	500.00	2,000.00	-
Motor Vehicle Expense	15,211.38	14,043.71	11,923.90	20,000.10	18,358.00
Office Expenses	1,952.28	-	895.22	938.81	-
Postage	-	-	-	-	113.00
Printing & Stationary	445.51	749.07	447.17	114.68	428.00
Rent	-	8,694.00	13,455.00	10,245.35	-
Repairs and Maintenance	660.43	12,771.28	13,414.95	22,923.91	16,363.00
Sales Consulting Expenses	(1,732.28)	-	-	-	-
Subscriptions	2,047.25	1,494.49	1,416.73	1,328.45	1,138.00
Superannuation	600.00	236.55	236.55	12,300.60	12,350.00
Telephone & Internet	3,588.94	6,207.52	5,764.96	5,098.11	5,909.00
Tolls, Parking & Other	-	-	-	-	1,966.00
Travel - Interational	-	-	495.72	1,309.56	-
Travel - National	2,992.50	807.36	1,347.31	7,756.43	-
Travel Expense	-	-	-	-	1,604.00
Wages and Salaries	-	2,490.00	730.00	129,480.00	130,000.00
Total Expenses	79,886.24	500,043.57	495,879.35	362,262.71	497,871.00
Profit / (Loss) Before Income Tax	123,355.54	57,697.66	(86,410.66)	11,276.55	(87,020.00)
Income Tax Expense	-	-	-	-	-
Profit / (Loss) After Income Tax	123,355.54	57,697.66	(86,410.66)	11,276.55	(87,020.00)
Dividends Paid	-	-	-	-	-
Net Profit / (Loss) at the end of the year	123,355.54	57,697.66	(86,410.66)	11,276.55	(87,020.00)
Retained Profits (Accum Losses) - Opening Balance	-	123,355.54	181,053.20	181,053.20	181,053.20
Retained Profits (Accum Losses) - Closing Balance	123,355.54	181,053.20	94,642.54	192,329.75	94,033.20

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BRI Ferrier

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**Annexure "E"
Remuneration Approval Report**

Remuneration Approval Report

EQBE Pty Ltd
(In Liquidation)
(Formerly A.C.N. 154 788 413 Pty Ltd
& Catalyst Building Pty Ltd)

ACN 154 788 413

27 June 2023

Peter Krejci
Liquidator

Novabrif Pty Ltd ABN 61 643 013 610
Level 30, Australia Square, 264 George Street, Sydney NSW 2000
GPO Box 7079, Sydney NSW 2001
Phone (02) 8263 2300
Facsimile (02) 8263 2399
Email: info@brifnsw.com.au
Website: www.briferrier.com.au

BRI Ferrier

TABLE OF CONTENTS

1. EXECUTIVE SUMMARY 3

2. DECLARATION 3

3. REMUNERATION SOUGHT 3

4. DISBURSEMENT SOUGHT 4

5. LIKELY IMPACT ON DIVIDENDS 4

6. SUMMARY OF RECEIPTS AND PAYMENTS 5

7. QUERIES & INFORMATION SHEET 5

8. ATTACHMENTS 5

SCHEDULE A – DETAILS OF WORK 6

SCHEDULE B – TIME SPENT BY STAFF ON MAJOR TASKS (COMPLETED WORK) 10

SCHEDULE C – RESOLUTIONS 11

SCHEDULE D – DISBURSEMENTS 12

1. EXECUTIVE SUMMARY

I am asking creditors to approve my remuneration of \$76,375.00 (excl. GST) and internal disbursements of \$1,000.00 (excl. GST).

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

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

I estimate the total cost of this Liquidation will be approximately \$77,375.00 (excl. GST).

2. DECLARATION

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

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

3. REMUNERATION SOUGHT

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

For	Period	Amount \$ (excl. GST)	Rates	When it will be drawn
Completed Work	27 March 2023 to 21 June 2023	\$26,375.00	Provided in our Initial Remuneration Notice dated 26 April 2023	When funds are available
Future Work	22 June 2023 to conclusion	\$50,000.00	Provided in our Initial Remuneration Notice dated 26 April 2023	It will be drawn when incurred, when funds are available
TOTAL		\$76,375.00 (excl. GST)		

Details of the work already completed for the period 27 March 2023 to 21 June 2023 and future work that I intend to complete are included at Schedule A.

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

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

4. DISBURSEMENT SOUGHT

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

I am required to obtain creditor's consent for the payment of a disbursement where I, or a related entity of myself, may directly or indirectly obtain a profit.

For more information about disbursements, please refer to the Initial Remuneration Notice dated 26 April 2023.

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

For	Period	Amount \$ (excl. GST)
Disbursements to a capped amount	27 March 2023 to conclusion	\$1,000.00
	TOTAL	\$1,000.00

Details of the disbursements incurred, and future disbursements are included at Schedule D. Actual resolutions to be put to the meeting are also included at Schedule D. These resolutions also appear in the proposal without a meeting form provided to you.

5. LIKELY IMPACT ON DIVIDENDS

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

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

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

6. SUMMARY OF RECEIPTS AND PAYMENTS

A summary of receipts and payments up to the date of this report is attached.

7. QUERIES & INFORMATION SHEET

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

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

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

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

8. ATTACHMENTS

Schedule A – Details of work

Schedule B – Time spent by staff on each major task

Schedule C – Resolutions

Schedule D – Disbursements

SCHEDULE A – DETAILS OF WORK

Company	EQBE Pty Ltd (In Liquidation)	Period From	27 March 2023	To	Conclusion
Practitioner	Peter Krejci	Firm	BRI Ferrier		
Administration Type	Court Liquidation				

		Tasks	
		Work already completed (excl. GST)	Future work (excl. GST)
Period		27 March 2023 to 21 June 2023	22 June 2023 to Conclusion
Amount (excl. GST)		\$26,375.00	\$50,000.00
Task Area	General Description		
Assets		0.2 hours \$136.00	\$11,000
	Bank Accounts	Initial Correspondence with banks Request transfer of cash cash at bank to liquidator's bank account	Correspondence with preappointment banker
	Other Assets	Review of RMS search results and consider recovery of motor vehicles	Tasks associated with realising other assets (if any are identified)
Creditors		11.00 hours \$3,935.00	\$13,000
	Creditor Reports	Preparing Initial Report to Creditors	Preparing Initial Report to Creditors Preparation of necessary annexures for Initial Report to Creditors Prepare Statutory Report to Creditors Preparation of necessary annexures
	Dealing with proofs of debt	N/A	Receipting and filing POD when not related to a dividend
	Proposal to Creditors	Preparing proposal notices and voting forms for Initial Report to Creditors Liaising with ATO regarding proposals forms issued	Preparing proposal notices and voting forms for Statutory Report to Creditors Reviewing votes and determining outcome of

Task Area	General Description		
		Preparation and lodgement of proposal outcome with ASIC	proposal Preparation and lodgement of proposal outcome with ASIC
	Creditor Enquiries	N/A	Receive and respond to creditor enquiries Receive and follow up creditor enquiries by telephone Review and prepare correspondence to creditors and their representatives by facsimile, email and post Compiling information requested by creditors
Employees		0.4 hours \$108.00	0.0 hours \$0.00
		Issue termination notice to employee Responding to employee queries	N/A
Investigation		52.60 hours \$18,171.50	\$16,000
	Conducting Investigation	Conducting initial investigations in relation to the Company's business and affairs Conducting and summarising statutory searches Investigating the director's and related party's properties Preparing and issuing letter to Director regarding their obligations Liaising with Xero to obtain access to company accounting records Liaising with director's solicitors regarding ROCAP, directors questionnaire and books and records	Review of the Company's books and records to conduct investigations Review and preparation of narrative of business nature and history Conducting and Preparation of comparative financial statements Preparation of deficiency statement Conducting investigations to identify potential voidable transactions (if any) and consider potential recovery actions to be taken Conducting investigations with respect to solvency position of the Company and considering whether any potential insolvent trading claim Liaising with Director regarding certain transactions Preparation of investigation file

Task Area	General Description		
			Issue Section 530B notices for Company records
	Litigation/Recoveries	Correspondence with solicitors regarding potential claims against the director and the related party	N/A
	ASIC reporting	<p>Liaising with ASIC to obtain assistance with ROCAP compliance from director</p> <p>Liaising with ASIC to assist with books and records recovery</p>	<p>Preparing statutory investigation reports</p> <p>Liaising with ASIC</p> <p>Lodgement of investigation with the ASIC</p> <p>Preparation and lodgement of supplementary report if required</p>
Administration		11.80 hours \$4,024.50	\$10,000
	ASIC Forms and lodgements	<p>Preparing and lodging ASIC forms including 505 and 205</p> <p>Preparing and lodging ASIC advertisement regarding notice of appointment</p>	<p>Preparing and lodging ASIC forms including 5602 and 5603</p> <p>Correspondence with ASIC regarding statutory forms</p>
	Books and records/storage	<p>Preparing correspondence to the Company's external accountant requesting delivery of the Company's books and records</p> <p>Liaising with the Company's solicitors with respect to delivery of the Company's books and records</p>	Dealing with books and records
	Correspondence	<p>Preparing and issuing day one correspondence</p> <p>Correspondence with insurance broker regarding initial and ongoing insurance requirements</p> <p>Preparing correspondence to court re ROCAP lodgement</p> <p>Preparing correspondence to solicitors of the plaintiff notifying appointment of the Liquidator</p>	General correspondence with stakeholders

Task Area	General Description		
	Document maintenance/file review/checklist	Filing of documents File review Updating checklists	Filing of documents File review Updating checklists
	Bank account administration	Preparing correspondence opening accounts Prepare receipts and payment vouchers	Preparing correspondence closing accounts Bank account reconciliations Prepare receipts and payment vouchers
	Insurance	Initial correspondence with insurer regarding insurance requirements	Correspondence with Insurance broker regarding ongoing insurance requirements (if required)
	ATO and other statutory reporting	Notification of appointment	Preparing BAS Requesting taxation documents
	Planning / Review	Discussion regarding status of administration	Discussion regarding status of administration
	Finalisation	N/A	Notifying ATO of finalisation Cancelling ABN/GST/PAYG registration Completing checklists Finalising WIP

SCHEDULE C – RESOLUTIONS

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

Resolution 1: Liquidator’s Remuneration for the period 27 March 2023 to 21 June 2023

“That the remuneration of the Liquidator, his partners and staff for the period 27 March 2023 to 21 June 2023, be calculated on a time basis in accordance with the rates of charge annexed to the Liquidator’s Report to Creditors dated , be fixed and approved at \$26,375.00 (excl. GST), and that the Liquidator be authorised to draw that amount as required.”

Resolution 2: Liquidator’s Remuneration for the period 22 June 2023 to Conclusion

“That the remuneration of the Liquidator, his partners and staff for the period 22 June 2023 to the conclusion of the Liquidation, be calculated on a time basis in accordance with the rates of charge annexed to the Liquidator’s Report to Creditors dated 27 June 2023 and approved to an interim cap of \$50,000.00 (excl. GST) and that the Liquidator be authorised to draw that amount as and when incurred.”

Resolution 3: Liquidator’s Internal Disbursements for the period 27 March 2023 to Conclusion

“That the Liquidator be allowed internal disbursements for the period 27 March 2023 to the conclusion of the Liquidation at the rates of charge annexed to the Liquidator’s Report to Creditors dated 27 June 2023, up to an amount of \$1,000.00 (excl. GST) and that the Liquidator be authorised to draw that amount as accrued.”

Resolution 4: Early Destruction of Books and Records

“That subject to the consent of the Australian Securities & Investments Commission, the Liquidator be approved to destroy the books and records of the Company at any time after the dissolution of the Company.”

SCHEDULE D – DISBURSEMENTS

Disbursements are divided into three types:

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

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

I am not obliged to seek creditor approval for disbursements paid to third parties, but must account to creditors, this includes providing details of the basis of charging for these types of disbursements to creditors as part of the Remuneration Approval Report.

I am required to seek creditor approval for internal disbursements where there could be a profit or advantage. Accordingly, I will be seeking approval from creditors for **Resolution 3**, of which details are provided in **Schedule C** of this Remuneration Approval Report.

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

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

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& Catalyst Building Pty Ltd
ACN 154 788 413
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**Annexure "F"
Proposal Without Meeting Forms**

NOTICE OF PROPOSAL TO CREDITORS

Dated: 27 June 2023

Voting Poll Closes: 17 July 2023

EQBE PTY LTD (IN LIQUIDATION)
ACN 154 788 413
ABN 99 154 788 413
("the Company")

Proposal No. 1 for creditor approval

"That the remuneration of the Liquidator, his partners and staff for the period 27 March 2023 to 21 June 2023, be calculated on a time basis in accordance with the rates of charge annexed to the Liquidator's Report to Creditors dated 27 June 2023, be fixed and approved at \$26,375.00 (plus GST), and that the Liquidator be authorised to draw that amount."

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

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

Vote on the Proposal No. 1

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

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

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

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

Creditor details

Name of creditor

Address

ABN (if applicable)

Contact number

Email address

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

I am a related creditor of the Company*

relationship: _____

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

**Name of creditor
/authorised person:** _____

Signature: _____

Date: _____

For your vote to count, you **must complete** this document and return it together with any **supporting documents** by no later than close of business on **17 July 2023**, by email to Sushma Mandira at smandira@brifnsw.com.au. Should you have any queries in relation to this matter, please contact Sushma Mandira on (02) 8263 2322.

BRI FERRIER
Level 30
Australia Square
264 George Street
Sydney NSW 2000

NOTICE OF PROPOSAL TO CREDITORS

Dated: 27 June 2023

Voting Poll Closes: 17 July 2023

EQBE PTY LTD (IN LIQUIDATION)
ACN 154 788 413
ABN 99 154 788 413
("the Company")

Proposal No. 2 for creditor approval

"That the remuneration of the Liquidator, his partners and staff for the period 22 June 2023 to conclusion of the Liquidation, be calculated on a time basis in accordance with the rates of charge annexed to the Liquidator's Report to Creditors dated 27 June 2023, be fixed and approved at \$50,000.00 (plus GST), and that the Liquidator be authorised to draw that amount."

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

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

Vote on the Proposal No. 2

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

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

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

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

Creditor details

Name of creditor

Address

ABN (if applicable)

Contact number

Email address

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

I am a related creditor of the Company*

relationship: _____

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

**Name of creditor
/authorised person:** _____

Signature: _____ **Date:** _____

For your vote to count, you **must complete** this document and return it together with any **supporting documents** by no later than close of business on **17 July 2023**, by email to Sushma Mandira at smandira@brifnsw.com.au. Should you have any queries in relation to this matter, please contact Sushma Mandira on (02) 8263 2322.

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NOTICE OF PROPOSAL TO CREDITORS

Dated: 27 June 2023

Voting Poll Closes: 17 July 2023

EQBE PTY LTD (IN LIQUIDATION)
ACN 154 788 413
ABN 99 154 788 413
("the Company")

Proposal No. 4 for creditor approval

"That subject to the consent of the Australian Securities & Investment Commission, the Liquidator be approved to destroy the books and records of the Company at any time after the dissolution of the Company."

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

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

Vote on the Proposal No. 4

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

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

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

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

Creditor details

Name of creditor

Address

ABN (if applicable)

Contact number

Email address

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

I am a related creditor of the Company*

relationship: _____

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

**Name of creditor
/authorised person:** _____

Signature: _____

Date: _____

For your vote to count, you **must complete** this document and return it together with any **supporting documents** by no later than close of business on **17 July 2023**, by email to Sushma Mandira at smandira@brifnsw.com.au. Should you have any queries in relation to this matter, please contact Sushma Mandira on (02) 8263 2322.

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NOTICE OF PROPOSAL TO CREDITORS

Dated: 27 June 2023

Voting Poll Closes: 17 July 2023

EQBE PTY LTD (IN LIQUIDATION)
ACN 154 788 413
ABN 99 154 788 413
("the Company")

Proposal No. 3 for creditor approval

"That the Liquidator be allowed internal disbursements for the period 27 March 2023 to the conclusion of the Liquidation at the rates of chare annexed to the Liquidator's Report to Creditors dated 27 June 2023, up to an amount of \$1,000.00 (excl. GST) and that the Liquidator be authorised to draw that amount as accrued."

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

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

Vote on the Proposal No. 3

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

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

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

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

Creditor details

Name of creditor

Address

ABN (if applicable)

Contact number

Email address

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

I am a related creditor of the Company*

relationship: _____

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

**Name of creditor
/authorised person:** _____

Signature: _____

Date: _____

For your vote to count, you **must complete** this document and return it together with any **supporting documents** by no later than close of business on **17 July 2023**, by email to Sushma Mandira at smandira@brifnsw.com.au. Should you have any queries in relation to this matter, please contact Sushma Mandira on (02) 8263 2322.

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**Annexure "G"
ARITA Information Sheet
Proposal Without a Meeting**

Information sheet: Proposals without meetings

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

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

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

What is a proposal without a meeting?

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

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

What types of proposals can be put to creditors?

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

What information must the notice contain?

The notice must:

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

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

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

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

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

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

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

How is a resolution passed?

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

What happens if the proposal doesn't pass?

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

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

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

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

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

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

Where can I get more information?

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

This information is available from ARITA's website at artia.com.au/creditors.

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

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



ASIC

Australian Securities & Investments Commission

Insolvency information for directors, employees, creditors and shareholders

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

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

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

List of information sheets

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

Where can I get more information?

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

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

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

Creditor Information Sheet

Offences, Recoverable Transactions and Insolvent Trading



Offences

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

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

Recoverable Transactions

Preferences

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

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

Uncommercial Transaction

An uncommercial transaction is one that it may be expected that a reasonable person in the company's circumstances would not have entered into, having regard to:

- the benefit or detriment to the company;
- the respective benefits to other parties; and,
- any other relevant matter.

To be voidable, an uncommercial transaction must have occurred during the two years before the liquidation. However, if a related entity is a party to the transaction, the period is four years and if the intention of the transaction is to defeat creditors, the period is ten years.

The company must have been insolvent at the time of the transaction, or become insolvent because of the transaction.

Unfair Loan

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

Arrangements to avoid employee entitlements

If an employee suffers loss because a person (including a director) enters into an arrangement or transaction to avoid the payment of employee entitlements, the liquidator or the employee may seek to recover compensation from that person. It will only be necessary to satisfy the court that there was a breach on the balance of probabilities. There is no time limit on when the transaction occurred.

Unreasonable payments to directors

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

Voidable charges

Certain charges over company property are voidable by a liquidator:

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

Insolvent trading

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

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

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

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

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

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

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