

# Liquidator's Statutory Report to Creditors

PURSUANT TO SECTION 70-40 OF THE  
INSOLVENCY PRACTICE RULES (CORPORATIONS) 2016

**KEM Group Pty Ltd**  
(IN LIQUIDATION)  
ACN 613 362 182

3 November 2017

**Peter Krejci**  
Liquidator

BRI Ferrier (NSW) Pty Ltd ABN 97 128 947 848  
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](mailto:info@brifnsw.com.au)  
Website: [www.briferrier.com.au](http://www.briferrier.com.au)



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## ANNEXURES TO REPORT

1. A Formal Notice of Meeting
2. Declaration of Independence, Relevant Relationships and Indemnities
3. Remuneration Report
4. Formal Proof of Debt Form
5. Proxy Form

## DISCLAIMER

The investigation into the affairs of the Company has been conducted, and this Report and the statements made herein have been prepared, based on available books and records, information provided by the Company's directors and officers, 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 opinion or conclusions should the underlying data prove to be inaccurate or materially change after the date of this Report.

In undertaking my investigations in relation to the affairs of the Company, and the preparation of this Report to Creditors, I have necessarily made forecasts of asset realisations and am required to estimate the ultimate quantum of creditor claims against the Company.

Neither I, as Liquidator, nor any member or employee of this firm undertakes responsibility in any way whatsoever to any person in respect of any errors in this Report arising from incorrect information provided to this office, or necessary estimates and assessments made for the purposes of this Report.

Any creditor that has material information in relation to the Company's affairs, which they consider may affect my investigation, should forward details to this office as soon as possible.



## 1 EXECUTIVE SUMMARY

I was appointed Liquidator of KEM Group Pty Ltd (In Liquidation) ("the Company") on 4 August 2017.

I have conducted my preliminary investigations into the Company's affairs. I have identified one potential recovery in relation to a director loan account in the amount of \$464,757.34. I note that I am not currently in possession of all of the books and records required to pursue this amount.

I have convened a meeting of the Company's creditors to be held at the offices of BRI Ferrier (NSW) Chartered Accountants, Level 30, 264 George Street, Sydney, NSW, 2000, on Monday, 20 November 2017 at 10:30AM.

A Formal Notice of Meeting is attached as **Annexure 1**.

## 2 INTRODUCTION

### 2.1 APPOINTMENT

Richard Albarran and Brent Kijurina of Hall Chadwick ("the Former Liquidators") were appointed Joint and Several Liquidators of the Company on 17 July 2017. I replaced the Former Liquidators as Liquidator of the Company pursuant to a resolution at the Meeting of Creditors held on 4 August 2017.

### 2.2 STATEMENT OF INDEPENDENCE

I am a Member of the Institute of Chartered Accountants of Australia and New Zealand (CAANZ), Registered Liquidator and Member of the Australian Restructuring Insolvency & Turnaround Association (ARITA).

Prior to my appointment as Liquidator of the Company, neither I nor my partners and staff have had any dealings with the Company or its director either socially or professionally.

I note, I previously completed a Declaration of Independence, Relevant Relationships and Indemnities ("DIRRI") dated 1 August 2017 which was presented at the Meeting of Creditors dated 4 August 2017. Since this date, I have been appointed as Liquidator of ABT Enterprises Pty Ltd (In Liquidation), an associated entity. As such, I have updated my DIRRI.

Attached as **Annexure 2** is my updated DIRRI.

I declare that I am independent for the purposes of accepting the appointment as Liquidator in accordance with the ethical pronouncements of my profession and the Act.

### 2.3 RECEIPTS AND PAYMENTS

As at the date of writing, there has been no receipts or payments in the liquidation.



## 2.4 DIVIDEND PROSPECTS

Based on investigations to date, it is unlikely that there will be a dividend to any class of creditors of the Company.

## 2.5 COMPANY BACKGROUND

The Company was incorporated in New South Wales on 30 June 2016. Mr Yahya Alameddine ("the Director") was the sole director of the Company from incorporation to the winding up of the Company.

Despite various attempts, I have been unable to contact the Director. As such, I am unsure of the exact nature of the business of the Company. In the Former Liquidators Report to Creditors, it was stated that "the Company was involved in providing labour hire services". Analysis of bank statements of the Company reflect a company in this industry.

The Director has not provided books and records of the Company. Accordingly, I am unable to ascertain the exact reasons for failure of the Company. However, a significant debt to the Australian Taxation Office ("ATO") indicates that tax liabilities contributed to the Company's failure.

I have further identified the following factors contributed to the Company's failure:

- ▲ Poor financial control including lack of records
- ▲ Poor strategic management of business
- ▲ Inadequate cash flow or high cash use

A summary of the Company's details as identified from my investigations and recorded in the ASIC database on the date of my appointment is provided below:

<b>Company:</b>	KEM Group Pty Ltd
<b>Australian Company Number:</b>	613 362 182
<b>Date of Incorporation:</b>	30 June 2016
<b>Registered Office:</b>	Macquarie Accountants Unit D11 101 Rookwood Road YAGOONA NSW 2199
<b>Principal Place of Business:</b>	Unit 2 142 Greenacre Road GREENACRE NSW 2190
<b>Prior Company Names:</b>	N/A
<b>Registered Security Interest Holders:</b>	None Identified
<b>Current Land Title Interests:</b>	None Identified
<b>Ultimate Holding Company:</b>	None Identified

### 2.5.1 Company Office Holders

Name	Role	Appointment Date	Cessation Date
Yahya Alameddine	Current Director	30 June 2016	Current
	Current Secretary	30 June 2016	Current

### 2.5.2 Company Share Holders

Name	Share Class	Number Held	(Fully paid?)	(Current/Ceased?)
Yahya Alameddine	ORD	1	Yes	Current

### 2.5.3 Directorship Searches

A search of the databases maintained by ASIC show that the Director holds or has held the following roles or shareholdings:

Company	Role	Appointment Date	Cessation Date
ABT Enterprises Pty Ltd	Current Director, Secretary and Shareholder	20 January 2016	In Liquidation – 17 July 2017
GYA Group Pty Ltd	Former Director, Secretary and Shareholder	28 November 2014	In Liquidation – 26 April 2016
World CO Pty Limited	Former Director, Secretary and Shareholder	24 August 2012	8 January 2015
Build Australia Pty Limited	Former Director, Secretary and Shareholder	16 September 2011	9 December 2012
Nader & Ishak Holdings Pty. Ltd.	Former Director, Secretary and Shareholder	24 September 2010	28 March 2014
A T C Joinery Pty Ltd*	Former Director and Secretary	7 May 2010	6 October 2011
34 Benelong Crescent Pty Limited	Former Director	5 March 2010	2 October 2011
TNM Contractors Pty Ltd	Former Director, Secretary and Shareholder	27 September 2007	4 December 2007

## 3 TRADING OUTCOMES

As earlier stated, I am unsure of the exact nature of the operations of the Company. However, I believe the operations involved labour hiring services, as per the Former Liquidators Report to Creditors dated 27 July 2017.

Bank statements and financial accounts indicate that the Company was trading up until it's winding up on 17 July 2017.

## 4 REPORT AS TO AFFAIRS

Directors are required to provide a liquidator with a Report as to the Affairs ("RATA") of the Company, completed in the prescribed form.

The RATA lists the Company's assets and liabilities as at the date of liquidation. The Statement does not take into account the Joint and Several Liquidators' fees and disbursements, which rank as a priority under Section 556 of the Corporations Act (2001).

The Director lodged a RATA with the Former Liquidators. I am also in the possession of financial statements for the period up to 14 July 2017. Set out below is a summary of the financial position of the Company:

KEM Group Pty Ltd (In Liquidation) ACN 613 362 182 Report as To Affairs			
	Book Value as per Financial Accounts 14 July 2017 (\$)	RATA Estimated Realisable Value (\$)	Liquidator's Estimated Realisable Value (\$)
<b>Assets and Liabilities per Report as to Affairs ("RATA")</b>			
Cash and Cash Equivalents	274	300	-
Director Loan Account	464,757	-	-
<b>Total</b>	<b>465,031</b>	<b>300</b>	<b>-</b>
<b>Less: Liabilities</b>			
Priority Creditors	284,590	-	284,590
Unsecured Creditors			
Australian Taxation Office	147,031	10,700	33,142
Yahya Alameddine (the Director)	-	10,000	10,000
Macquarie Accountants	-	2,500	2,500
	<b>431,621</b>	<b>23,200</b>	<b>330,232</b>
<b>Estimated Net Asset/ (Deficiency)</b>	<b>33,410</b>	<b>(22,900)</b>	<b>(330,232)</b>

### 4.1 ASSETS

#### 4.1.1 Cash and Cash Equivalents

Upon our appointment, I wrote to all major banks and financial institutions requesting information in relation to the Company. I identified one account held with National Australia Bank ("NAB"). Upon the Former Liquidators appointment on 17 July 2017, the account held \$263.94. The Former Liquidators' claimed this entire amount as remuneration.

I have not identified evidence of any other bank accounts or term deposits held by the Company as at the date of my appointment. I do not anticipate any further cash recoveries.



#### **4.1.2 Director Loan Account**

Analysis of the Company's financial Statements revealed that the Director is indebted to the Company. As at 14 July 2017, the 'Loans - Directors' account had a balance of \$464,757.34 owing to the Company. Although I have been unable to contact the Director, my preliminary view is that he owes the Company the full amount of this debt. However I note, the full recovery of this debt appears unlikely at this stage. My investigations are ongoing in this regard.

I have not identified any other debtors and no further recoveries are anticipated.

#### **4.1.3 Plant & Equipment and Other assets**

The Director did not disclose and plant, property or equipment in the RATA.

I have conducted searches with the Land Titles Office in the NSW and the Roads & Maritime Services Department. These searches have not identified any assets of the Company.

### **4.2 LIABILITIES**

#### **4.2.1 Secured Creditors**

A review of the Company's comprehensive Personal Properties Securities Register ("PPSR") records, maintained by the AFSA, revealed that the Company did not hold any PPSR registrations as at the date of my appointment.

#### **4.2.2 Statutory Claims**

The Australian Taxation Office ("ATO") has lodged a formal Proof of Debt ("POD") totalling \$33,141.92. This amount was fully comprised of a running balance account deficit debt.

The Company failed to lodge its activity statements with the ATO beyond the November 2016 period.

#### **4.2.3 Priority Unsecured Creditors**

The Company's accountants have provided me with payment summaries for all employees of the Company for the 2017 financial year. The Company employed 34 employees. A circular has been sent to employees of the Company requesting that they submit a claim in the liquidation should they be owed money.

The financial statements for the period up to 14 July 2017 indicate that payroll liabilities amount to \$284,590.00. I have not received any information in relation to this amount. As the amount is shown to be a payroll liability, I have cautiously categorised it as an employee priority claim until such time as I receive more reliable information. My investigations are ongoing in this regard.

#### **4.2.4 Ordinary Unsecured Creditors**

To date, I have received one POD from an ordinary unsecured creditor to the amount of \$2,500.00. This POD was provided to me by the Former Liquidators.

#### 4.2.5 Related Party Creditors

To date, I have received one POD from the Director to the amount of \$10,000.

#### 4.2.6 Estimated Deficiency

The total estimated deficiency of \$330,232 does not take into account the liquidator's fees and disbursements, which rank as a priority under Section 556 of the Act.

## 5 SUMMARY OF INVESTIGATIONS

### 5.1 BOOKS AND RECORDS

Pursuant to section 286 of the Corporations Act 2001 ("the Act"), a Company has an obligation to maintain adequate books and records that correctly explain transactions and enable financial statements to be prepared.

Books and records required to sufficiently prepare financial statements that would correctly record and explain its transactions and financial position and performance and that would enable true and fair financial statements to be prepared and audited, at minimum, include the following:

- ▲ Financial statements including P & L's, balance sheets, depreciation schedule, tax returns
- ▲ General Ledger
- ▲ General Journal
- ▲ Asset register
- ▲ Computer Back up Discs
- ▲ Cash records including bank statements cash receipts journal, bank deposit books, cash payments journal, cheque butts and petty cash books

I have received the following Books & Records from the Former Liquidators of the Company:

- ▲ A Report to Creditors dated 27 July 2017.
- ▲ Total Receipts and Payments for the former Liquidation.
- ▲ Creditors Listing of the Company.
- ▲ Proof of Debts for all known creditors of the Company as at 4 August 2017.
- ▲ Bank Statements for the Company's NAB bank account from the period 4 July 2016 to 13 April 2017.
- ▲ Draft Financial Statements for the periods ended 30 June 2017 and 14 July 2017.
- ▲ A Report as to Affairs completed by the Director, dated 17 July 2017.

I have received the following Books & Records from the Accountants:

- ▲ Bank Statements for the Company's NAB bank account from the period 4 July 2016 to 13 April 2017.

- Draft Financial Statements for the periods ended 30 June 2017 and 14 July 2017.
- Payment summaries for all employees of the Company for the 2017 Financial Year
- Reports from the Accountants files used for the preparation of the previously provided financial statements, including profit & loss reports, balance sheet reports and payroll summary reports.

As previously stated, I have failed to make contact with the Director, and as such have not been provided the Books & Records of the Company in his possession.

The Company's accountants advised that the financial accounts were prepared purely on a bank statement basis. This suggests that adequate books and records may not have been kept.

With the above in mind, I have taken the view that pursuant to Section 286 of the Act the Director has failed to comply with his obligations to keep financial records.

## 5.2 OTHER INVESTIGATIONS

I have conducted investigations to ascertain whether there are any transactions that appear to be voidable in respect of which money, property or other benefits may be recoverable pursuant to Part 5.7B of the Act.

## 5.3 UNFAIR PREFERENCES (SECTION 588FA)

A liquidator can seek to recover repayment from creditors whose debts have been paid at a time when the company was insolvent where that creditor has received more than they would have if transaction was set aside and the creditor proved in a liquidation.

The creditor may defend such a claim by proving that it received payment in good faith, for valuable consideration, and without suspecting or having grounds to suspect that the company was insolvent.

Only payments made within six months prior to the relation back day (that is, after 8 December 2016) are normally recoverable, however payments to related parties made within the past 4 years (that is, after 8 December 2013- but noting the Company's incorporation on 25 May 2015) may be recoverable.

I have conducted a review of the bank statements of the Company and while this is not conclusive, I have not identified any transactions that are preferential in nature. However, my opinion may change upon receipt of further books and records. I have identified some transactions which require additional investigations. I have written to NAB requesting traces on these specific transactions. I am yet to receive a response, however the results of these traces may uncover unfair preferences.

## 5.4 UNFAIR LOANS (SECTION 588FD)

A loan to the company may be deemed unfair if the interest on a loan, or the charges on a loan, were initially extortionate, or, subsequently became extortionate because of a variation to the loan. In considering whether interest and charges are extortionate, regard must be had to conditions available in the market generally and:

- the risk to which the lender was exposed,
- the value of any security undertaken in respect of the loan,



- ▲ the term of the loan,
- ▲ the repayment schedule, and
- ▲ the reasonableness of any subsequent variations to the loan.

I have not identified any evidence of any unfair loans in my investigations.

## 5.5 UNCOMMERCIAL TRANSACTIONS

A transaction of the Company is uncommercial where it may be expected that a reasonable person in the circumstances would not have entered into the transaction after having regard to the benefits flowing to the company, or the detriment suffered by the company, and the respective benefits flowing to other parties to the transaction from entering into the transaction.

To void an uncommercial transaction, a liquidator must prove the following elements:

- ▲ a transaction was entered into;
- ▲ there was no benefit to, or there was a detriment to, the company by entering into the transaction;
- ▲ it occurred at a time when the company was insolvent; and
- ▲ the party suspected or should have suspected that the company was insolvent at the time of the transaction.

I have not identified any uncommercial transactions in my investigations.

## 5.6 UNREASONABLE DIRECTOR-RELATED TRANSACTIONS (SECTION 588FDA)

A transaction is considered to be an unreasonable director-related transaction if a payment is made by a Company to a director or an associate of a director, where a reasonable person would not have entered into the transaction having regard to the benefits to the Company entering into the transaction and/or the detriment to the Company arising from the transaction.

I have not yet identified any unreasonable director-related transactions in my investigations. However, this may change when a response is received from NAB in regards to the aforementioned transaction trace request.

## 5.7 INSOLVENT TRADING (SECTION 588J)

A liquidator or creditor may pursue a claim against a director for the loss suffered by creditors resulting from the director allowing the company to incur a debt which is not later repaid, at a time when the Company was insolvent.

A director can defend an insolvent trading claim by showing that they had reasonable grounds to expect the debt would be paid, or that they relied on others who informed them that debts would be paid.

In deciding whether to commence an insolvent trading action against a director, a Liquidator needs to:

- ▲ gather evidence that supports the claim;
- ▲ have sufficient funds available to commence and prosecute an action to its conclusion; and

- ▲ be confident that in circumstances where judgment is obtained, the director has the wherewithal to satisfy such judgment.

In the case of *ASIC v Plymin* (46 ACSR 126 at 214-5) the Court identified the following widely cited indicators that may lead to a conclusion that a Company's insolvency may not be far off:

- a) a history of continuing losses
- b) liquidity ratios falling below one (1)
- c) overdue taxes
- d) a poor relationship with its present bank, including inability to borrow further funds
- e) inability to raise further funds from existing or new shareholders
- f) no access to alternative finance and an inability to raise further equity capital
- g) suppliers placing the Company on COD, or demanding special payments before resuming supply
- h) creditors remaining unpaid outside trading terms
- i) post-dated cheques being issued
- j) cheques being dishonoured
- k) special arrangements with selected creditors
- l) solicitors' letters, summonses, judgments or warrants being issued against the Company
- m) payments to creditors of rounded sums not reconcilable to specific invoices
- n) an inability to produce timely and accurate financial information to demonstrate its trading performance and financial position, and to make reliable forecasts.

I have taken into consideration each of the above factors and identified the following;

- ▲ The Company had liquidity ratios less than 0.01 (well below 1) for the period 30 June 2017 to 14 July 2017.
- ▲ The Company had a debt to the ATO to the amount of \$33,141.92.

I am of the view that the Company may have been insolvent as at 30 June 2017 and likely earlier.

Based on my investigations undertaken to date, I do not believe the Director has the capabilities to satisfy an insolvent trading claim. A search conducted with the Land Titles Office of the NSW did not identify any land or property registered in the Director's name.

Further, in regards to pursuing an insolvent trading claim, I am mindful of the following points:

- ▲ there are a limited number of creditors;
- ▲ the costs of commencing an action and prosecuting such a claim to its conclusion are disproportionate with the quantum of reported debts;
- ▲ there is currently insufficient available funds in the liquidation to commence an insolvent trading action in circumstances where I am convinced that such an action could succeed and that the quantum of debt was justifiable.

I note, creditors have the ability to become actively involved in the recovery of company assets which may well result in a better financial return at the end of the liquidation. At this stage however, I am reluctant to recommend creditor based funding in relation to an insolvent trading claim due to the previously mentioned uncertainties. Should creditors be inclined to fund further investigations into insolvent trading, please contact Mr Andrew Coles of my office.



## 5.8 ASIC'S POWER OF DISQUALIFICATION

Pursuant to Section 206F of the Act ASIC may disqualify a person from managing corporations for up to 5 years if amongst other things, within 7 years immediately before ASIC gives a notice:

- i. the person has been an officer of 2 or more corporations; and
- ii. while the person was an officer, or within 12 months after the person ceased to be an officer of those corporations, each of the corporations was wound up and a liquidator lodged a report under subsection 533(1) about the corporation's inability to pay its debts.

Although the Director meets the criteria for director banning, I am yet to report this to ASIC. I am currently awaiting ASIC's response to my aforementioned queries mentioned in *Section 5.1* of this report, in relation to potential funding and prosecution of the Director for noncompliance. Reporting the Director to ASIC for director banning will be dependent on the outcome of these queries.

## 6 ASIC REPORTS

In circumstances where a company is unlikely to pay a dividend of more than 50 cents in the dollar to its ordinary unsecured creditors, a liquidator is obliged to report the matter to the ASIC pursuant to Section 533 of the Act.

I have lodged a report with ASIC with respect to this appointment. In accordance with Section 1274(2) of the Act, the contents of this report remain confidential as between ASIC and the Liquidator.

## 7 REMUNERATION

Please refer to the Remuneration Report attached as **Annexure 3** for further commentary. This report contains information regarding my time costs incurred to date, as well as my estimated time costs to the completion of the liquidation which underpins the request for approvals at the forthcoming meeting.

The Remuneration Report also contains the BRI Ferrier charge out rates for creditor information.

## 8 MEETING OF CREDITORS

A meeting of creditors has been scheduled to be held on Monday, 20 November 2017 at 10:30AM in the offices of BRI Ferrier, Level 30, 264 George Street, Sydney NSW 2000.

As aforementioned, a Formal Notice of Meeting is attached at **Annexure 1**.

**I note that if creditors have already forwarded a POD to this office there is no need to resubmit this form. These creditors will not be excluded from the distribution.**

If they have not already done so to submit a POD in accordance with Form 535, attached as **Annexure 4**.

Creditors may attend and vote in person or by proxy or attorney. The appointment of a proxy must be made in accordance with Form 532, attached as **Annexure 5**. A specific proxy can be lodged showing approval or rejection of each proposal. Where a facsimile copy of a proxy is sent, the original must be



lodged with my office within seventy two hours after the receipt of the facsimile. An attorney of a creditor must show the instrument by which he or she is appointed to the Chairperson prior to the commencement of the meeting.

To ensure that the meeting is undertaken in a timely manner, please ensure documents are lodged with my office no later than 5:00PM one business day prior to the meeting and request for telephone conferencing facilities must be lodged no later than 5:00PM one business day prior to the meeting.

## 9 FINALISATION OF LIQUIDATION

I am required to attend to the following matters, prior to finalising the Liquidation and requesting that the ASIC deregister the Company:

- ▲ Deal with outcome of ASIC's findings;
- ▲ Deal with and respond to various employee queries;
- ▲ Recovery of debtor;
- ▲ Finalise investigations;
- ▲ Lodge final statement of account with ASIC.

On completing the above-mentioned tasks it is my intention to advise the ASIC that the affairs of the Company have been fully wound up and to request that the Company be deregistered.

I expect that this Liquidation will be finalised within 6 months.

## 10 CONCLUSION

Should you have any further queries in relation to this report or the liquidation generally, please do not hesitate to contact Mr Andrew Coles as follows:

	<b>Post:</b>	GPO Box 7079 Sydney NSW 2001
	<b>Email:</b>	<a href="mailto:acoles@brifnsw.com.au">acoles@brifnsw.com.au</a>
	<b>Telephone:</b>	(02) 8263 2300
	<b>Facsimile:</b>	(02) 8263 2399

Yours faithfully,  
**KEM GROUP PTY LTD (IN LIQUIDATION)**

  
**PETER KREJCI**  
Liquidator

# ***Annexure 1***

FORM 529  
CORPORATIONS ACT 2001

Subregulation 5.6.12(2)

**KEM GROUP PTY LTD**  
**(In Liquidation) ("the Company")**  
**ACN 613 362 182**

NOTICE IS GIVEN that a meeting of creditors of the Company will be held at the offices of BRI Ferrier (NSW) Chartered Accountants, Level 30, 264 George Street Sydney NSW 2000 on Monday, 20 November 2017 at 10:30AM.

## AGENDA

1. To consider the Liquidator's Report to Creditors dated 3 November 2017.
2. To consider and, if thought fit, to approve the Liquidator's remuneration for the period 4 August 2017 to 31 October 2017.
3. To consider and, if thought fit, to approve the Liquidator's remuneration for the period 31 October 2017 to the conclusion of the Liquidation.
4. To consider and, if thought fit, to approve the Liquidator's disbursements for the period 4 August 2017 to the conclusion of the Liquidation.
5. Any other business that may be lawfully brought forward.

Creditors may attend and vote in person, by proxy or by attorney. The appointment of a proxy should be made in accordance with the attached Form 532 (Annexure 5). A specific proxy can be lodged showing approval or rejection of each resolution. Proxy forms or facsimiles thereof must be lodged with my office by 5:00PM on Friday, 17 November 2017. Where a facsimile copy of a proxy is sent, the original must be lodged with my office within 72 hours after receipt of the facsimile. A corporate creditor can only be represented by proxy or by an attorney pursuant to Corporations Regulations 5.6.28 and 5.6.31A, or, if a body corporate by a representative appointed, pursuant to Section 250D.

In accordance with Regulation 5.6.23(1) of the Corporations Regulations, creditors will not be entitled to vote at this meeting unless they have previously lodged particulars of their claim (Form 535 attached as Annexure 4) against the Company with the Liquidators by 5:00PM on Friday, 17 November 2017.

Creditors who wish to attend the meeting by telephone should notify Mr Andrew Coles of this office of their intention to do so by no later than 5:00PM on Friday, 17 November 2017 so that he can make the necessary arrangements.

DATED this *3rd* day of November 2017.

  
**PETER KREJCI**

Liquidator

C/- BRI FERRIER (NSW) PTY LTD  
Level 30  
Australia Square  
264 George Street  
Sydney NSW 2000  
Telephone: (02) 8263 2300

*Annexure 2*

Declaration of Independence, Relevant  
Relationships and Indemnities  
("DIRRI")

**KEM GROUP PTY LTD  
(IN LIQUIDATION)**

**A.C.N. 613 362 182**

("the Company")

2 November 2017

Peter Krejci  
Liquidator

BRI Ferrier (NSW) Pty Ltd ABN 97 128 947 848  
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](mailto:info@brifnsw.com.au)  
Website: [www.briferrier.com.au](http://www.briferrier.com.au)





This document requires the Practitioner appointed to an entity to make declarations as to:

- A. independence generally;
- B. relationships, including
  - i the circumstances of the appointment;
  - ii any relationships with the entity and others within the previous 24 months;
  - iii any prior professional services for the entity within the previous 24 months;
  - iv. that there are no other relationships to declare; and
- C. any indemnities given, or up-front payments made, to the Practitioner.

This declaration is made in respect of myself, my partners, and BRI Ferrier (NSW) Pty Ltd.

## **A. INTRODUCTION**

This Declaration of Independence, Relevant Relationships and Indemnities ("DIRRI") is an updated declaration in regards to my appointment as liquidator of KEM Group Pty Ltd (In Liquidation) ("the Company"). My previous DIRRI was dated 1 August 2017, and can now be disregarded.

In summary, the requirement for me to update my DIRRI arose because on the date of my appointment as Liquidator of the Company, I was also appointed Liquidator of ABT Enterprises Pty Ltd (In Liquidation), a related entity.

## **B. INDEPENDENCE**

I, Peter Krejci, of BRI Ferrier (NSW) Pty Ltd have undertaken a proper assessment of the risks to my independence prior to consenting to accept the appointment as Liquidator of the Company in accordance with the law and applicable professional standards. This assessment identified no real or potential risks to my independence. I am not aware of any reasons that would prevent me from accepting this appointment.

## **C. DECLARATION OF RELATIONSHIPS**

### **I. CIRCUMSTANCES OF APPOINTMENT**

I was asked to consent to potentially being a replacement Liquidator by Reeves D'Souza of the Australia Taxation Office ("ATO"). BRI Ferrier or its partners are not in a referral relationship with the ATO. There is no conflict in this regard.

- On 28 July 2017, Geoffrey Granger of this office received a telephone call from Reeves D'Souza of the ATO for my consent to act as replacement Liquidator of the Company.

- On 28 July 2017, Geoffrey Granger of this office received an email from Reeves D'Souza of the ATO for my consent to act as replacement Liquidator of the Company.
- On 4 August 2017, I was appointed liquidator of the Company pursuant to a resolution at the Meeting of Creditors on the same day.

I received no remuneration for the above correspondence.

This correspondence do not affect my independence for the following reasons:

- The Courts and the Australian Restructuring Insolvency and turnaround Association's ("ARITA") Code of Professional Practice ("COPP") specifically recognise the need for practitioners to provide information about insolvency practices and the options available to debtors, and do not consider that the provision of such information results in a conflict or is an impediment to accepting the appointment.
- I have had no direct communication with the Company and its directors.

I have provided no other information or advice to the Company, its Directors or advisors prior to my appointment beyond that which I have outlined in this DIRRI.

## II. RELEVANT RELATIONSHIPS (EXCLUDING PROFESSIONAL SERVICES TO THE INSOLVENT)

I, or a member of my firm, have, or have had within the preceding 24 months, a relationship with:

Name	Nature of relationship	Reasons why no conflict of interest or duty
The Australian Taxation Office ("ATO")/ Federal Commissioner of Taxation	<p>Principals and Directors of BRI Ferrier around Australia, were, until its expiration at the end of 2014, members of a panel of Official Liquidators established by the ATO and accepted appointments by Australian Courts initiated by the Federal Commissioner.</p> <p>These Official Liquidators have undertaken to the ATO to accept appointments as Liquidator appointed by a Court under the Corporations Act where the ATO is the applicant creditor, whether the company has assets or not.</p> <p>BRI Ferrier is likely to seek inclusion in any comparable panel should one be established in future.</p>	<p>My relationship with the ATO is conducted at arms-length and will not impede my independence and will not influence or affect my ability to comply with my statutory and fiduciary duties as Liquidator.</p> <p>The ATO is a sophisticated statutory creditor and is administratively bound to act as a Model Litigant.</p> <p>In my experience the ATO does not seek to exert improper pressure on insolvency practitioners in connection with the discharge of their duties to creditors generally.</p> <p>Membership of the panel was not conditional upon and preference or benefit being conferred upon the ATO.</p>

ABT Enterprises Pty Ltd (In Liquidation) ("ABT Enterprises")	ABT Enterprises is related to the Company by ownership and it appears these companies have transacted together. These dealings may have been to the advantage of one company at the expense of the other.	It is accepted that "group appointments" sometimes give rise to conflicts. My approach is to identify those conflicts, and where real, seek appointment of another practitioner. However, group appointments reduce the cost of liquidations of multiple companies for the overall benefit of creditors. We are not aware of any particular transaction giving rise to any material burden or benefit.
--	---	--

In addition to the above, I also note that Principals of BRI Ferrier routinely accept nominations and appointments as insolvency practitioners by the major trading banks, in addition to creditors such as the ATO (as discussed above). The nature of these relationships varies over time depending on the nature of the engagements. Such relationships do not impede my independence or give rise to a conflict of duties because we accept such engagements only on the basis that my independence will be maintained and the relationships are maintained on professional commercial terms.

There are no other prior professional or personal relationships that should be disclosed.

### III. PRIOR PROFESSIONAL SERVICES TO THE INSOLVENT

Neither I, nor my Firm, have provided any professional services to the Company in the previous 24 months.

### IV. NO OTHER RELEVANT RELATIONSHIPS TO DISCLOSE

There are no other known relevant relationships, including personal, business and professional relationships, from the previous 24 months with the Company, an associate of the Company, a former insolvency practitioner appointed to the Company or any person or entity that has a charge on the whole or substantially whole of the Company's property that should be disclosed.



## D. INDEMNITIES AND UP-FRONT PAYMENTS

I have not received any up-front payments in respect of my remuneration or disbursements.

Dated: 2<sup>nd</sup> November 2017

.....  
PETER KREJCI

LIQUIDATOR

Note:

1. If circumstances change, or new information is identified, I am required under the Corporations Act 2001 and the ARITA Code of Professional Practice to update this Declaration and provide a copy to creditors with my next communication as well as table a copy of any replacement declaration at the next meeting of the insolvent's creditors.
2. Any relationships, indemnities or up-front payments disclosed in the DIRRI must not be such that the Practitioner is no longer independent. The purpose of components B and C of the DIRRI is to disclose relationships that, while they do not result in the Practitioner having a conflict of interest or duty, ensure that creditors are aware of those relationships and understand why the Practitioner nevertheless remains independent.

*Annexure 3*

# Remuneration Request Approval Report

**KEM GROUP PTY LTD**  
**(IN LIQUIDATION)**

ACN 613 362 182

3 November 2017

Peter Krejci  
Liquidator



BRI Ferrier (NSW) Pty Ltd ABN 97 128 947 848  
Level 30, Australia Square,  
264 George Street, Sydney NSW 2000  
GPO Box 7079, Sydney NSW 2001  
Phone (02) 8263 2300  
Facsimile (02) 8263 2399  
Website: [www.briferrier.com.au](http://www.briferrier.com.au)  
Email: [info@briferriernsw.com.au](mailto:info@briferriernsw.com.au)

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## 1 DECLARATION

I, Peter Krejci, of BRI Ferrier (NSW) Pty Ltd Chartered Accountants, have undertaken a proper assessment of this remuneration claim for my appointment Liquidator of KEM Group Pty Ltd (In Liquidation) ("the Company") in accordance with the law and applicable professional standards. I am satisfied that the remuneration claimed is in respect of necessary work, properly performed, or to be properly performed, in the conduct of the liquidation.

## 2 EXECUTIVE SUMMARY

To date, no remuneration has been approved or paid in this liquidation. This remuneration report details approval sought for the following fees:

Remuneration approval sought:	Report Reference	Amount (\$ excl. GST)
<b>Resolution 1:</b>  <i>"That the remuneration of the Liquidator, his partners and staff for the period 4 August 2017 to 31 October 2017, calculated on a time basis in accordance with the rates of charge annexed to the Report to Creditors dated 3 November 2017, be fixed and approved in the amount of \$19,931.00 plus GST, and that the Liquidator be authorised to draw that amount forthwith."</i>	Sections 3 and 4	\$19,931.00
<b>Resolution 2:</b>  <i>"That the future remuneration of the Liquidator, his partners and staff for the period 1 November 2017 to the conclusion of the liquidation, calculated on a time basis in accordance with the rates of charge annexed to the Report to Creditors dated 3 November 2017, be approved to an interim cap of \$20,000.00 plus GST, and that the Liquidator be authorised to draw that amount as and when incurred."</i>	Sections 3 and 4	\$20,000.00
<b>Resolution 3:</b>  <i>"That the internal disbursements claimed by the Joint and Several Liquidators for the period 4 August 2017 to the conclusion of the liquidation, in accordance with the rates of charge annexed to the Report to Creditors dated 3 November 2017, be approved to an amount of \$1,000.00 plus GST and that the Liquidators be authorised to draw that amount as required."</i>	Section 6	\$1,000.00
<b>Total</b>		<b>\$40,931.00</b>

Please refer to report section references detailed above for full details of the calculation and composition of the remuneration approval sought.

### 3 DESCRIPTION OF WORK COMPLETED

Company	KEM Group Pty Ltd (In Liquidation) ("the Company")	Period From	4 August 2017	To	The Conclusion of the Liquidation
Practitioner	Peter Krejci	Firm	BRI Ferrier (NSW) Pty Ltd		
Administration Type	Creditor's Voluntary Liquidation				

#### 3.1 REMUNERATION FOR THE PERIOD 4 AUGUST 2017 TO 31 OCTOBER 2017

We provide the details of work undertaken and remuneration incurred for the period 28 July 2017 to 20 October 2017 as follows:

Task Area	General Description	Work completed
<b>Creditors</b>  <b>6.30 hours</b>  <b>\$2,327.00</b>	Creditor Enquiries	Receive and follow up creditor enquiries by telephone and email. Review and prepare correspondence to creditors and their representatives by email or post. Attend to enquiries from the ATO
	Creditor Reports	Preparing Statutory Report to Creditors and related annexures.
	Meeting of Creditors	Preparation and attendance at Meeting of Creditors.
<b>Employees</b>  <b>4.10 hours</b>  <b>\$1,148.00</b>	Employee Enquiries	Receive and follow up employee enquiries by telephone and email. Review and prepare correspondence to employees and their representatives by email or post.
<b>Investigation</b>  <b>42.50 hours</b>  <b>\$12,020.00</b>	Conducting investigations	Collection of Company books and records from the Company's accountant. Collection of Company books and records from the Former Liquidators. Analysis of Company's bank account. Reviewing Company's books and records. Conducting and summarising statutory searches. Peruse information provided by the ATO. Preparation of investigation file. Ordering bank transaction traces.
	ASIC Reporting	Preparation and lodgement of ASIC Form 533. Preparation of Prosecution statement sent to ASIC.

Task Area	General Description	Work completed
<b>Administration</b>  <b>16.50 hours</b>  <b>\$4,436.00</b>	Correspondence	General correspondence. Correspondence with Company's accountant and former liquidators to collect Company's books and records and Report as to Affairs.
	Document maintenance/file review/checklist	Filing of documents. File reviews.
	Bank account administration	Preparing correspondence opening liquidation account and close pre-appointment account. Requesting bank statements.
	ASIC forms and other forms	Preparing and lodging ASIC forms including 564 and 505.
	ATO and other statutory reporting	Notification of appointment. Preparing Business Activity Statements.
	Insurance	Correspondence with insurance broker regarding appropriate insurance cover for the Company's assets.
	Planning / Review	Discussions regarding status of liquidation.
<b>Total</b> <b>69.40 Hours</b> <b>\$19,931.00</b>		



### 3.2 ESTIMATED FUTURE REMUNERATION FOR THE PERIOD 1 NOVEMBER 2017 TO THE CONCLUSION OF THE LIQUIDATION

Task Area	General Description	Work completed
<b>Assets</b> <b>5.00 hours</b> <b>\$1,895.00</b>	Other Assets	Further Investigations into Company's financials regarding director loan account. Further Investigations into Company's financials regarding Trade Debtor account. Correspondence with legal representatives regarding collection of director loan account/Trade Debtor (if required).
<b>Creditors</b> <b>16.50 hours</b> <b>\$5,140.00</b>	Creditor Enquiries	Receive and follow up creditor enquiries by telephone. Review and prepare correspondence to creditors and their representatives by facsimile, email or post.
	Creditor reports	Preparing Statutory Report to Creditors and related annexures. Mail out of creditor's report to all known creditors.
	Dealing with proofs of debt	Process proof of debt claims received when not related to a dividend.
	Meeting of Creditors	Preparation of meeting notices and advertisements. Preparation of meeting file, including agenda, certificate of postage, attendance register, list of creditors, reports to creditors, advertisement of meeting. Draft minutes of meeting. Lodgement of minutes of meetings with ASIC. Respond to stakeholder queries and questions immediately following meeting.
<b>Employees</b> <b>11.30 hours</b> <b>\$3,625.00</b>	Employee Enquiries	Receive and follow up employee enquiries by telephone. Review and prepare correspondence to employees and their representatives by facsimile, email or post.
<b>Investigation</b> <b>19.00 hours</b> <b>\$5,840.00</b>	Legal Proceedings/Recoveries	Prepare information for legal team to be used in proceedings against Director (if required).
	Conducting investigations	Review Company's books and records not previously received. Updating investigation file with any new information gathered.
	ASIC Reporting	Further reporting to ASIC with update of investigations (if required).

Task Area	General Description	Work completed
<b>Administration</b>  <b>13.50 hours</b>  <b>\$3,500.00</b>	Correspondence	General correspondence.
	Document maintenance/file review/checklist	Filing of documents. File reviews. Updating checklists.
	Bank account administration	Preparing correspondence closing bank account. Processing Receipts and Payments. Bank account reconciliations.
	ASIC Form 524 and other forms	Preparing and lodging ASIC forms including 505, 524 and 5601.
	ATO and other statutory reporting	Notification of ceasing to act Preparing Business Activity Statements
	Finalisation	Tasks associated with finalisation of the liquidation.
<b>Total</b> <b>65.30 hours</b> <b>\$20,000.00</b>		

#### 4 CALCULATION OF REMUNERATION

The remuneration requests are summarised by employee by area of activity on the following pages.

**KEM Group Pty Ltd (In Liquidation)**  
**Summary of Liquidators Remuneration**  
**For the period 4 August 2017 to 31 October 2017**

Title	Name	Rate	Administration		Creditors		Employees		Investigation		Total	
			Hour	\$	Hour	\$	Hour	\$	Hour	\$	Hour	\$
Director	Geoffrey Granger	540.00	0.30	162.00	1.30	702.00	-	-	0.90	486.00	2.50	1,350.00
			<b>0.30</b>	<b>162.00</b>	<b>1.30</b>	<b>702.00</b>	-	-	<b>0.90</b>	<b>486.00</b>	<b>2.50</b>	<b>1,350.00</b>
Supervisor	Jack Sampson	400.00	2.40	960.00	2.50	1,000.00	0.70	280.00	6.90	2,760.00	12.50	5,000.00
			<b>2.40</b>	<b>960.00</b>	<b>2.50</b>	<b>1,000.00</b>	<b>0.70</b>	<b>280.00</b>	<b>6.90</b>	<b>2,760.00</b>	<b>12.50</b>	<b>5,000.00</b>
Senior Accountant 1	James Sekhas	340.00	1.20	408.00	-	-	0.20	68.00	1.10	374.00	2.50	850.00
			<b>1.20</b>	<b>408.00</b>	-	-	<b>0.20</b>	<b>68.00</b>	<b>1.10</b>	<b>374.00</b>	<b>2.50</b>	<b>850.00</b>
Intermediate Accountant 1	Andrew Coles	250.00	4.10	1,025.00	2.50	625.00	3.20	800.00	33.60	8,400.00	43.40	10,850.00
			<b>4.10</b>	<b>1,025.00</b>	<b>2.50</b>	<b>625.00</b>	<b>3.20</b>	<b>800.00</b>	<b>33.60</b>	<b>8,400.00</b>	<b>43.40</b>	<b>10,850.00</b>
Intermediate Accountant 2	Xiaoyan Lin Zen Taureka	225.00	5.90	1,327.50	-	-	-	-	-	-	5.90	1,327.50
			0.50	112.50	-	-	-	-	-	-	0.50	112.50
			<b>6.40</b>	<b>1,440.00</b>	-	-	-	-	-	-	<b>6.40</b>	<b>1,440.00</b>
Senior Administration	Sonia Stelmach	210.00	2.10	441.00	-	-	-	-	-	-	2.10	441.00
			<b>2.10</b>	<b>441.00</b>	-	-	-	-	-	-	<b>2.10</b>	<b>441.00</b>
Grand Total			<b>16.50</b>	<b>4,436.00</b>	<b>6.30</b>	<b>2,327.00</b>	<b>4.10</b>	<b>1,148.00</b>	<b>42.50</b>	<b>12,020.00</b>	<b>69.40</b>	<b>19,931.00</b>
GST				443.60		232.70		114.80		1,202.00		1,993.10
Total (including GST)				<b>4,879.60</b>		<b>2,559.70</b>		<b>1,262.80</b>		<b>13,222.00</b>		<b>21,924.10</b>
Average hourly rate (GST Exclusive)				268.85		369.37		280.00		282.82		287.19

**Note:**

It should be noted that, whilst all care is taken to correctly allocate the time spent, there will be occasions on which the allocation is somewhat arbitrary. A judgment is made by the staff member as to the most appropriate allocation of that time.



KEM Group Pty Ltd (In Liquidation)  
Estimated Liquidators' Remuneration  
For the period 1 November 2017 to the Conclusion of the Liquidation

Title	Name	Rate	Administration		Assets		Creditors		Employees		Investigation		Total	
			Hour	\$	Hour	\$	Hour	\$	Hour	\$	Hour	\$	Hour	\$
Appointee	Peter Krejci	650.00	0.50	325.00	0.50	325.00	0.50	325.00	0.50	325.00	0.50	325.00	2.50	1,625.00
			0.50	325.00	0.50	325.00	0.50	325.00	0.50	325.00	0.50	325.00	2.50	1,625.00
Director	Geoffrey Granger	540.00	0.50	270.00	0.50	270.00	0.50	270.00	0.50	270.00	0.50	270.00	2.50	1,350.00
			0.50	270.00	0.50	270.00	0.50	270.00	0.50	270.00	0.50	270.00	2.50	1,350.00
Supervisor	Jack Sampson	400.00	0.50	200.00	2.00	800.00	3.00	1,200.00	2.00	800.00	3.50	1,400.00	11.00	4,400.00
			0.50	200.00	2.00	800.00	3.00	1,200.00	2.00	800.00	3.50	1,400.00	11.00	4,400.00
Senior Accountant 1	James Sekhas	340.00	-	-	-	-	3.00	1,020.00	2.00	680.00	3.00	1,020.00	8.00	2,720.00
			-	-	-	-	3.00	1,020.00	2.00	680.00	3.00	1,020.00	8.00	2,720.00
Intermediate Accountant 1	Andrew Coles	250.00	2.00	500.00	2.00	500.00	7.50	1,875.00	5.30	1,325.00	9.50	2,375.00	26.30	6,575.00
			2.00	500.00	2.00	500.00	7.50	1,875.00	5.30	1,325.00	9.50	2,375.00	26.30	6,575.00
Intermediate Accountant 2	Xiaoyan Lin Zen Taureka	225.00	4.00	900.00	-	-	-	-	-	-	-	-	4.00	900.00
			3.00	675.00	-	-	2.00	450.00	1.00	225.00	2.00	450.00	8.00	1,800.00
			7.00	1,575.00	-	-	2.00	450.00	1.00	225.00	2.00	450.00	12.00	2,700.00
Senior Administrator	Sonia Stelmach	210.00	3.00	630.00	-	-	-	-	-	-	-	-	3.00	630.00
			3.00	630.00	-	-	-	-	-	-	-	-	3.00	630.00
Grand Total			13.50	3,500.00	5.00	1,895.00	16.50	5,140.00	11.30	3,625.00	19.00	5,840.00	65.30	20,000.00
GST				350.00		189.50		514.00		362.50		584.00		2,000.00
Total (including GST)				3,850.00		2,084.50		5,654.00		3,987.50		6,424.00		22,000.00
Average hourly rate (GST Exclusive)				259.26		379.00		311.52		320.80		307.37		306.28

Note:

It should be noted that, whilst all care is taken to correctly allocate the time spent, there will be occasions on which the allocation is somewhat arbitrary.  
A judgment is made by the staff member as to the most appropriate allocation of that time.

## 5 REMUNERATION METHOD

There are four methods for calculation of remuneration used by BRI Ferrier:

### ▲ *Time based / Hourly rates*

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

### ▲ *Fixed Fee*

The total remuneration for the administration is quoted at commencement of the assignment and is limited to this amount.

### ▲ *Percentage*

The total remuneration for the matter is based on a percentage of a particular variable.

### ▲ *Contingency*

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

### 5.1 METHOD CHOSEN

After consideration of the work to be performed on an assignment, BRI Ferrier normally proposes to use a Time based / Hourly rates method.

BRI Ferrier reviews its hourly rates every twelve months. The hourly rates quoted below remain current until 30 June 2018. At this time BRI Ferrier may increase the hourly rates charged for work performed past that date.

### 5.2 EXPLANATION OF HOURLY RATES

The rates applicable are set out in the table on the following page together with a general guide to the qualifications and experience of staff engaged in administration and the role they undertake in the administration.

### 5.3 HOURLY RATES FOR THE PERIOD 1 JULY 2017 TO 30 JUNE 2018

Title	Description	Hourly Rate (ex GST)
Appointee	Official Liquidator and or Trustee, with in excess of 10 years experience. Brings specialist skills and experience to the assignment.	\$650
Principal	Liquidator, with in excess of 10 years experience. Capable of controlling all aspects of an assignment.	\$620
Director	More than 10 years experience. Qualified and capable of controlling all aspects of an assignment. May have specialist industry knowledge and assists with all facets of assignment.	\$540
Senior Manager	More than 7 years experience. Qualified and answerable to the appointee and is self-sufficient in completing and planning all aspects of large assignments.	\$500
Manager	Minimum 6 years experience. Typically qualified with well-developed technical and commercial skills. Controls and plans all aspects of medium to larger assignments.	\$480
Supervisor	More than 4 years experience. Typically qualified with sound knowledge of insolvency legislation. Assists to plan and control specific tasks on medium to larger assignments.	\$400
Senior 1	More than 2 years experience. Typically graduate and undertaking qualifications. Able to complete multiple tasks on assignments with limited supervision.	\$340
Senior 2	Less than 2 years experience. Typically graduate and commencing qualifications. Capable of completing multiple tasks on medium to large assignments with supervision.	\$275
Intermediate 1	Less than 2 years experience. Typically graduate and commencing qualifications. Capable of completing multiple tasks on smaller to medium assignments with supervision.	\$250
Intermediate 2	Less than 1 year experience. Trainee undertaking degree with an accountancy major. Assists in completing various basic tasks under supervision.	\$225
Senior Administration	Appropriately skilled and undertakes support activities including but not limited to treasury, word processing and other administrative and secretarial tasks.	\$210
Junior Administration	Appropriately skilled and undertakes support activities including but not limited to treasury, word processing and other administrative and secretarial tasks.	\$150

## 6 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, postage and search fees. These are recovered at cost.
- Internal disbursements such as photocopying, printing and postage. These disbursements, if charged to the Liquidation, would generally be charged at cost; though some expenses such as



telephone calls, photocopying and printing may be charged at a rate which recoups both variable and fixed costs. The recovery of these costs must be on a reasonable commercial basis.

We have undertaken a proper assessment of disbursements claimed for the Company, in accordance with the law and applicable professional standards. I am satisfied that the disbursements claimed are necessary and proper.

We have undertaken a proper assessment of disbursements claimed for the Company, in accordance with the law and applicable professional standards. We are satisfied that the disbursements claimed are necessary and proper.

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

Details of the basis of recovering internal disbursements in this external administration are provided below:

Internal Disbursements	Rate (excl. GST) (\$)
Faxes and Photocopying	\$0.25 per page
Staff vehicle use	In accordance with ATO mileage allowances

## 7 STATEMENT OF REMUNERATION AND DISBURSEMENTS CLAIM

By Resolution, we will be seeking approval from creditors for the following resolutions:

### Resolution 1 – Liquidator's Remuneration for the period 4 August 2017 to 31 October 2017

*"That the remuneration of the Liquidator, his partners and staff for the period 4 August 2017 to 31 October 2017, calculated on a time basis in accordance with the rates of charge annexed to the Report to Creditors dated 3 November 2017, be fixed and approved in the amount of \$19,931.00 plus GST, and that the Liquidator be authorised to draw that amount forthwith."*

### Resolution 2 – Estimated Future Liquidator's Remuneration for the period 1 November 2017 to the Conclusion of the Liquidation

*"That the future remuneration of the Liquidator, his partners and staff for the period 1 November 2017 to the conclusion of the liquidation, calculated on a time basis in accordance with the rates of charge annexed to the Report to Creditors dated 3 November 2017, be approved to an interim cap of \$20,000.00 plus GST, and that the Liquidator be authorised to draw that amount as and when incurred."*

### Resolution 3 – Liquidator's Disbursements for the period 4 August 2017 to the Conclusion of the Liquidation

*"That the internal disbursements claimed by the Liquidator for the period 4 August 2017 to the conclusion of the liquidation, in accordance with the rates of charge annexed to the Report to Creditors dated 3 November 2017, be approved to an amount of \$1,000.00 plus GST and that the Liquidators be authorised to draw that amount as required."*

## **8 SUMMARY OF RECEIPTS AND PAYMENTS**

As at the date of writing this report, there has been no receipts or payments in this liquidation.

## **9 QUERIES**

The above information is provided to assist creditors with considering the appropriateness of the remuneration claims that are being made.

Creditors should contact the Joint and Several Liquidators' office to seek further information concerning the remuneration claim if they so need.

## **10 INFORMATION SHEET**

The ARITA has produced a document entitled "Creditor Information Sheet: Approving remuneration in external administrations" that can be downloaded from the ARITA website [www.arita.com.au](http://www.arita.com.au) or alternatively a copy can be obtained from this office.

## Annexure 4

FORM 535  
CORPORATIONS ACT 2001  
Subregulation 5.6.49(2)

### FORMAL PROOF OF DEBT OR CLAIM (GENERAL FORM)

ACN 613 362 182

To the Liquidator of KEM Group Pty Ltd (In Liquidation):

1. This is to state that the company was, on 17 July 2017 <sup>(1)</sup> and still is, justly and truly indebted to <sup>(2)</sup>  
.....for  
.....dollars and ..... cents.

Particulars of the debt are:

Date	Consideration <sup>(3)</sup>	Amount \$	GST included \$	Remarks <sup>(4)</sup>

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:<sup>(5)</sup>
- 3.<sup>(6)\*</sup> I am employed by the creditor and authorised in writing by the creditor to make this statement. I know that the debt was incurred for the consideration stated and that the debt, to the best of my knowledge and belief, still remains unpaid and unsatisfied.
- 3.<sup>(6)\*</sup> I am the creditor's agent authorised in writing 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.

DATED this                      day of                      2017

Signature of Signatory.....

NAME IN BLOCK LETTERS .....

Occupation .....

Address and Phone No. ....

Email .....



(by ticking this box you acknowledge & consent to receiving all future correspondence by electronic means)

See Directions overleaf for the completion of this form

#### OFFICE USE ONLY

POD No:		ADMIT - Ordinary	\$
Date Received:	/ /	ADMIT - Preferential	\$
Entered into IPS/Computer:		Reject	\$
Amount per RATA	\$	H/Over for Consideration	\$
PREP BY/AUTHORISED		TOTAL PROOF	\$
DATE AUTHORISED / /			



## Annexure 4

### 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) 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	Date Due
	\$	¢		

- 
- (6) If proof is made by the creditor personally, strike the two (2) paragraphs numbered 3.
- 

### Annexures

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

## Annexure 5

FORM 532  
Regulation 5.6.29  
CORPORATIONS ACT 2001

### APPOINTMENT OF PROXY CREDITORS MEETING

KEM GROUP PTY LTD  
(IN LIQUIDATION)  
ACN 610 301 589

\*I/\*We <sup>(1)</sup>.....  
of .....  
a creditor of ABT Enterprises Pty Ltd (In Liquidation) appoint <sup>(2)</sup> .....  
.....  
or in his or her absence .....  
as \*my/our \*general/special proxy to vote at the meeting of creditors to be held on Monday,  
20 November 2017 at 10:30AM (AEST), or at any adjournment of that meeting.<sup>(3)</sup>

RESOLUTION		FOR	AGAINST	ABSTAIN
1.	<i>"That the remuneration of the Liquidator, his partners and staff for the period 4 August 2017 to 31 October 2017, calculated on a time basis in accordance with the rates of charge annexed to the Report to Creditors dated 3 November 2017, be fixed and approved in the amount of \$19,931.00 plus GST, and that the Liquidator be authorised to draw that amount forthwith."</i>			
2.	<i>"That the future remuneration of the Liquidator, his partners and staff for the period 1 November 2017 to the conclusion of the liquidation, calculated on a time basis in accordance with the rates of charge annexed to the Report to Creditors dated 3 November 2017, be approved to an interim cap of \$20,000.00 plus GST, and that the Liquidator be authorised to draw that amount as and when incurred."</i>			

## Annexure 5

RESOLUTION		FOR	AGAINST	ABSTAIN
3.	<i>"That the internal disbursements claimed by the Liquidator for the period 4 August 2017 to the conclusion of the liquidation, in accordance with the rates of charge annexed to the Report to Creditors dated 3 November 2017, be approved to an amount of \$1,000.00 plus GST and that the Liquidators be authorised to draw that amount as required."</i>			

DATED this                      day of                      2017.

\_\_\_\_\_  
Signature

### CERTIFICATE OF WITNESS

*This certificate is to be completed only if the person giving the proxy is blind or incapable of writing. The signature of the creditor, contributory, debenture holder or member must not be witnessed by the person nominated as proxy.*

I, ..... of .....  
certify that the above instrument appointing a proxy was completed by me in the presence of and at the request of the person appointing the proxy and read to him or her before he or she signed or marked the instrument.

Dated:

Signature of Witness:

Description:

Place of Residence:

\*      Strike out if inapplicable

- (1) If a firm, strike out "I" and set out the full name of the firm.
- (2) Insert the name, address and description of the person appointed.
- (3) If a special proxy add the words "to vote for" or the words "to vote against" and specify the particular resolution.  
Where the proxy does not appoint a person the proxy will be deemed to be in favour of the Chairman.