



STATUTORY REPORT TO CREDITORS

SWINTON TRANSPORT SERVICES PTY LTD

(IN LIQUIDATION)

ACN 622 373 228

ABN 54 622 373 228

26 June 2025

PETER KREJCI
LIQUIDATOR

Phone: 02 8263 2320

Email: jcoorey@brifnsw.com.au

Website: www.briferrier.com.au

Address: Suite 4, Level 26, 25 Bligh Street
Sydney NSW 2000

INTRODUCTION

I refer to my initial report to creditors dated 28 April 2025 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.

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

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

COMPANY DETAILS

Name	Swinton Transport Services Pty Ltd (In Liquidation)
Incorporated	20 October 2017
ACN	622 373 228
Registered Office	Think Accounting & Business Services Suite 2 74 Park Avenue Kotara NSW 2289
Trading Address	Think Accounting & Business Services Suite 2 74 Park Avenue Kotara NSW 2289

LIQUIDATOR

Name	Peter Krejci
Date Appointed	26 March 2025

ADMINISTRATION CONTACT

Name	Joshua Coorey
Email	jcoorey@brifnsw.com.au
Phone	02 8263 2320

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GLOSSARY OF COMMON ACRONYMS & ABBREVIATIONS

ABN	Australian Business Number
Accountant	Think Accounting Services
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
CBA	Commonwealth Bank of Australia
CL	Court Liquidation
Company	Swinton Transport Services Pty Ltd (In Liquidation)
DEWR	Department of Employment and Workplace Relations
DCoT	Deputy Commission of Taxation
Director	Stephen Swinton
DIRRI	Declaration of Independence, Relevant Relationships & Indemnities
Ditton Bulk Haulage	M M DITTON Pty Ltd ACN 156 234 187
Department	Department of Employment and Workplace Relations
FEG	Fair Entitlements Guarantee
Firm	BRI Ferrier
iCare	Workers Compensation Nominal Insurer
Initial Report	Initial Report to Creditors dated 28 March 2025
IPR	Insolvency Practice Rules (Corporations) 2016
IPS	Insolvency Practice Schedule (Corporations) 2016
NSW	New South Wales
Petitioning Creditor	Flexicommercial Pty Limited ACN 644 644 860
PMSI	Purchase Money Security Interest: A special type of security interest in personal property that gives the holder a higher priority than other security interests in the same property, even if those interests were registered earlier.
POD	Proof of Debt
PPSR	Personal Properties Securities Register
RBA	Running Balance Account
RBP	Relation Back Period
ROCAP	Report on Company Activities and Property
Shareholder	Stephen Swinton
SGC	Superannuation Guarantee Charge

EXECUTIVE SUMMARY

As you are aware, I was appointed Liquidator of the Company pursuant to an Order of the Supreme Court of NSW. The Petitioning Creditor in this matter is Flexicommercial Pty Ltd which has advised of a secured debt of \$273,384 relating to outstanding loans provided to the Company for its acquisition of several motor vehicles utilised in the business.

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

As advised in my Initial Report to Creditors, the Company was incorporated on 20 October 2017 and operated a road freight transport and logistics business servicing the east coast of NSW. Mr Stephen Swinton is the sole Director, Secretary and Shareholder of the Company.

My investigations to date have been hindered due to non-compliance by the Director. To date, the Director has not:

- ▲ Submitted a ROCAP; or
- ▲ Provided the books and records to my office pursuant to Section 475(4) of the Act.

A failure to submit a ROCAP and books and records within the required time frame is a breach to the Act and I have sought the assistance of AISC to obtain compliance from the Director.

Notwithstanding the above, upon my appointment members of my staff were successful in contacting the Director. During these telephone calls, the Director has advised the Company ceased trading prior to my appointment due to the Petitioning Creditor's repossession of the secured assets.

As at the date of this report, I have recovered pre-appointment cash at bank funds in the amount of \$6,213. As at the date of my appointment, the Company was still in possession of a 2011 Western Star 2900 FX Prime Mover which was subject to a PMSI registered security interest in favour of the Petitioning Creditor. The Petitioning Creditor confirmed their total outstanding debt to be \$273,784. My review of the signed agreements supplied by the Petitioning Creditor confirms the Director to have provided a personal guarantee over these finance agreements, which the Petitioning Creditor has advised it intends to pursue. My investigations indicated that a sale of the 2011 Western Star would not provide for any surplus equity to be available. Accordingly, I issued a notice to the Petitioning Creditor disclaiming my interest in the asset.

In terms of liabilities, my investigations have identified three (3) unsecured creditors of the Company being:

- ▲ iCare owed an amount of \$4,970 relating to outstanding premiums;
- ▲ Ditton Bulk Haulage owed an amount of \$4,413 relating to transport services provided; and
- ▲ ATO for an amount of \$3,724 relating to running balance account deficits. I note the DCoT has advised of significant outstanding lodgements, which if completed, will likely increase the Company's taxation liabilities.

My investigations to date lead me to conclude that the director may have breached his duties owed to the Company under s180-s183 of the Act. Additionally, I have determined that the Company may have been insolvent since 1 July 2023 and accordingly there may be a potential insolvent trading claim valued at c. \$13,107 to be pursued against the Director. My findings however are preliminary and these claims will require further investigation and funding to pursue. The same applies to the identified unreasonable director-related transactions being the outstanding director loan account that could be pursued for the benefit of creditors. Please refer to Section 11 and 12 of this Report where I have detailed my findings in this regard. The recovery prospects are unknown at this stage however, a NSW Land Title Search indicates that the Director is not a registered proprietor of any real property.

I have prepared and lodged with ASIC a report pursuant to Section 533(1) of the Act. This report to ASIC is a legislative requirement in liquidations where potential offences and breaches of the Act by Directors and Officers of the Company have been identified and/or the estimated return to unsecured creditors is less than fifty (50) cents in the dollar. Subject to ASIC's response, I do not intend to prepare any further reports to ASIC and Creditors.

At this stage, there have been limited recoveries in the Liquidation to discharge any Liquidator costs. Whilst I have identified potential recoveries, subject to further information being obtained to strengthen these claims I do not anticipate pursuing same. Please see the Findings and Recovery Actions section of this report for further details on the Directors asset position. Accordingly, I do not anticipate there to be any dividends available for any class of creditors in this Liquidation.

Should a 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 **4 July 2025**. Otherwise, absent any substantive new information, the Liquidation may continue for the next two (2) to three (3) months.

1. BASIS OF REPORT

This report has been prepared primarily from information received from the Director both through a telephone discussion and the financial reports produced from Company Xero file provided by the Accountant.

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

- ▲ ASIC;
- ▲ Bank statements provided by NAB;
- ▲ Litigation documents provided by Flexicommercial; and
- ▲ Extracts from public information databases.

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

4.1 COMPANY DETAILS

Company Name	Swinton Transport Services Pty Ltd (In Liquidation)
Registered Address	Think Accounting & Business Services, Suite 2, Park Avenue, Kotara NSW 2289
Principal Place of Business	184 Bathurst Street Abermain NSW 2326
Incorporation Date	20 October 2021
ABN	58 649 504 18
ACN	649 504 218

4.2 COMPANY OFFICE HOLDERS

Name	Position	App Date	Cease Date
Stephen Swinton	Director	20/10/2017	Current
	Secretary	20/10/2017	Current

4.3 SHAREHOLDINGS

Name	Share Class	No. of Shares	Fully Paid Up	Status
Stephen Swinton	ORD	100	Yes	Current

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 of any current proceedings involving the Company.

6. COMPANY BACKGROUND AND EVENTS LEADING TO MY APPOINTMENT

The following information was obtained from enquiries with third parties and information obtained from same by me.

- ▲ The Company was registered on 20 October 2017. The Director has advised that the Company operated a road freight transport and logistics business servicing the east coast of NSW.

- ▲ Mr. Stephen Swinton is the sole director, and shareholder of the Company having been appointed director since the Company's incorporation.
- ▲ My investigations reveal that the Company's Principal Place of Business to be 184 Bathurst Street, Abermain NSW 2326. The Director has advised this address to be his former residential address. A statutory search of this address confirms the Director is not an owner of this property.
- ▲ The Company's registered address is at the offices of Think Accounting and Business Services whom I have identified as the Company's accountant. I have written to Think requesting the books and records in their possession. Think Accountants have since provided my office with access to the Company's Xero management accounts.
- ▲ The Director has verbally advised that the Company ceased trading prior to my appointment due to the repossession of trucks financed by the Petitioning Creditor. The Director asserted that the debt due to the Petitioning Creditor was largely attributable to the shortfall in sales following repossession.
- ▲ On 13 February 2025, the Petitioning Creditor filed a winding up application against the Company for the outstanding debt. Subsequently, on 26 March 2025 I was appointed Liquidator of the Company.

7. REASONS FOR FAILURE

As at the date of writing, the Director is yet to attend to my correspondence or requests, as such I am yet to receive his formal reason for the Company's failure. Notwithstanding, I understand through the aforementioned telephone meetings that he attributes the failure to the repossession of trucks and shortfalls achieved through sales.

Based on my investigations to date, I have identified the following reasons for the Company's failure:

- ▲ Poor financial control, including lack of records. As at the date of this report, the only books and records that have been made available to me is access to the Company's Xero accounting software. Based on my investigations to date, my review indicates that the MYOB file is largely unreliable, incomplete and lacks supporting source documentation aside from limited bank feed data.

8. HISTORICAL FINANCIAL INFORMATION

I have reviewed the Company's management accounts for the period ending 30 June 2020 to 30 June 2024, and as at 28 March 2025 being the date of my appointment. I note the below reports were extracted from the Company Xero file maintained by the Company's accountants.

8.1 BALANCE SHEETS (EDIT)

Attached as **Annexure C** is a comparative analysis of the Balance Sheets for the abovementioned periods. I make the following comments on the Company's Financial Position for FY20 to FY24 and as at the date of appointment:

- ▲ The balance sheets for the period reveal the major asset of the Company to be its general asset pool consisting of its fleet of trucks utilised in the business. As at the date of my appointment the carrying value of the fleet was \$326,748 and consisted of the following:
 - 2013 Western Star 4900FXT Prime Mover VIN 5KKJAEDR2EPFM0425
 - 2006 Maxitrans ST3 Trailer VIN 6F8T250006B070715
 - 2011 Western Star 2900 FX Prime Mover VIN 5KKJAEDR0BPBA6480
- ▲ I note each truck within the fleet was purchased on finance provided by the Petitioning Creditor with the balances of these secured loans reflected in the Company's non-current liabilities. The Company appears to have entered into these finance agreements on or around 25 August 2022. Based on my investigations, despite posting nominal profits it appears the Company was unable to service these loans which resulted in the 2013 Western Star and 2006 Maxitrans being repossessed and sold by the Petitioning Creditor prior to my appointment with no surplus equity available. The shortfall on these sales remained due by the Company and were secured to the Petitioning Creditors registered security interest against the 2011 Western Star. I note the management accounts appear to have not been updated to reflect the aforementioned sales, thus providing an inflated asset position as at the date of my appointment.
- ▲ The Company's current liabilities predominantly comprise of statutory debts of \$13,880 due to the DCoT in respect of GST liabilities. I note the DCoT has submitted a POD in the amount of \$3,724 and has advised of significant outstanding lodgements, which if completed, will likely increase the Company's taxation liabilities to be in line with the management accounts.
- ▲ The management accounts indicate \$18,859 in outstanding superannuation. I have written to each employee of the Company seeking confirmation of any potential entitlements or superannuation outstanding to them. As at the date of writing, I am yet to receive a response from any employee.
- ▲ The Company's non-current liabilities predominantly comprise of the secured loans provided by the Petitioning Creditor for the acquisition of trucks utilised in the business. The management accounts indicated the current value of this debt to be \$380,335. As previously mentioned, prior to my appointment two (2) trucks were repossessed and sold by the Petitioning Creditor with no surplus equity available. It appears the management accounts were not updated to reflect these sales.
- ▲ The balance sheets indicate an outstanding Director Loan Account with a balance of \$214,790 as at the date of my appointment. I have written to the Director seeking repayment of this loan account. Notwithstanding, I understand that post ceasing to trade, the Director injected personal funds on a weekly basis to meet the ongoing direct debits of the Petitioning Creditor. These payments remain unreconciled in the management accounts however I would anticipate that they would have been recorded as repayments of this loan account.

8.2 PROFIT AND LOSS STATEMENTS (EDIT)

Attached as **Annexure D** is a comparative analysis of the Profit and Loss Statements for the abovementioned periods. I make the following comments on the Company's Profit and Loss for FY20 to FY24 and as at the date of appointment:

- From review of the Company's profit and loss statements, it appears that the Company was able to trade at a small profit from FY21 to FY24. I note despite maintaining payments to Flexicommercial, the interest expense for these loans were not recorded in FY24 and as at the date of my appointment, based on which I believe the more recent periods provide for an inflated financial position.

9. CURRENT FINANCIAL POSITION

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

Swinton Transport Services Pty Ltd (In Liquidation)				
ACN 622 373 228				
Summary of Director's Report on Company Activities and Property				
	Report Reference	Book Value as at 26/03/2025 (\$)	Director's ERV (per ROCAP) (\$)	Administrators' ERV (\$)
Assets				
Cash and Cash Equivalents	9.1.1	16,027	-	6,213
Motor Vehicles	9.1.2	328,748	-	Nil
Total Assets		344,775	-	6,213
Liabilities				
Petitioning Creditor's Costs	9.2.1	-	-	8,020
Secured Creditors	9.2.2	380,335	-	273,384
Priority Creditors	9.2.3	18,859	-	Unknown
Unsecured Creditors:				
Ditton Bulk Haulage	9.2.4	-	-	4,413
iCare	9.2.4	-	-	4,970
ATO	9.2.4	13,880	-	3,724
Total Liabilities		413,074	-	294,511
Estimated Net Asset / (Deficiency)		(68,300)	-	(288,297)

9.1 ASSETS

9.1.1 Cash and Cash Equivalents

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 had two accounts with the NAB which held a credit balance \$6,213 collectively as at the date of my appointment.

I requested the NAB to transfer the balances to a bank account of the Company that I control and confirm the transfer has been completed of \$6,213.

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

9.1.2 Motor Vehicles

A search of the Roads and Maritime Services database identified eleven (11) trucks and trailers to have cancelled registrations to the Company. As mentioned previously in this report, the management accounts indicated that three (3) trucks remained in the Company's possession with a book value of \$328,748. Through discussions with the Director and the Petitioning Creditor, I understood the 2011 Western Star 2900 FX Prime Mover VIN 5KKJAEDR0BPBA6480 to have been the only truck remaining in his possession post my appointment.

A search of the PPSR revealed the Petitioning Creditor held a PMSI security interest registered against the Company and against the VIN of the 2011 Western Star. Upon my appointment, I wrote to the Petitioning Creditor regarding their security interest who confirmed the security related to finance agreements entered into by the Company since 25 August 2022 for the purchase of several trucks, including the 2011 Western Star.

The Petitioning Creditor confirmed the total amount outstanding to be \$273,384. My investigations suggested potential resale value of the 2011 Western Star to be in the vicinity of \$100,000-120,000. As there appeared to be no likelihood of surplus funds to be available following a sale of the 2011 Western Star, I disclaimed my interest in same and consented to the Petitioning Creditor's repossession of the vehicle.

9.2 LIABILITIES

9.2.1 Petitioning Creditor Costs

The Petitioning Creditor's costs in respect to this matter were determined by the Court at a fixed amount of \$8,019.85. Pursuant to Section 556(1)(b) of the Act, these costs are afforded a statutory priority over all other unsecured claims and costs incurred in the Liquidation, once expenses incurred in "preserving, realising or getting in" property of the Company are discharged.

9.2.2 Secured Creditors

A search of the Personal Property Securities Register ("PPSR") indicates the following registrations over Company assets:

Registration	Secured Party	Start Date	Collateral Class
201806190050963	Penske Power Systems Pty Ltd	19/06/2018	Commercial
202312290020410	Flexicommercial Pty Ltd	29/12/2023	Commercial

Penske Power Systems Pty Ltd

Upon my appointment, I wrote to Penske regarding their security interest registered against the Company. As at the date of writing and despite repeated follow ups, I am yet to receive a response from Penske.

Flexicommercial Pty Ltd

As previously mentioned in this report, Flexicommercial holds a security interest relating to a 2011 Western Star 2900 FX Prime Mover purchased on finance by the Company. Flexicommercial have advised of a total outstanding amount of \$273,384. I have since issued a notice to Flexicommercial disclaiming my interest in the vehicle and consenting to their repossession of same.

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 Mr. Joshua Coorey of this office as soon as possible.

9.2.3 Priority Creditors

The Company's management accounts indicated that at my appointment there were four (4) current employees of the Company, including the Director. Notwithstanding the Director's advice that the Company had ceased to trade and all employees were terminated, I issued termination notices to each employee. The management accounts indicated that there may be superannuation outstanding to these employees in the amount of \$18,859.

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

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

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

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

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

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

FEG will not cover:

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

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

9.2.4 Unsecured Creditors

As previously noted, my investigations to date have identified three (3) unsecured creditors. I provide details into their claim as follows:

- ▲ Ditton Bulk Haulage have advised of a debt owed to them in the amount of \$4,412.70 relating to transport services provided.
- ▲ iCare have advised of a debt owed to them in the amount of \$4,970.21 relating to unpaid insurance premiums.
- ▲ The DCoT have advised of a debt owed to them in the amount of \$3,724.00 relating to running balance account deficits. I note the DCoT has advised of significant outstanding lodgements, which if completed, will likely increase the Company's taxation liabilities.

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.

10. 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 J** 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.

10.1 INVESTIGATIONS UNDERTAKEN

During the course of these investigations, I have:

- ▲ Taken possession of limited books and records of the Company and reviewed same;
- ▲ Written to relevant authorities requesting information required for investigations;
- ▲ Carried out ASIC and other searches available to me in relation to the Company;
- ▲ Ascertained by inquiring with the Director about the history of the Company and the nature of the business;
- ▲ 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).

10.2 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).

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. 602

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

- ▲ Xero Management Accounts;

Whilst the Company's accountant provided access to the Xero management accounts, it was not supported with sufficient source documentation such as receipts, invoices, bank statements, bills and contracts to verify its contents. Accordingly, I have determined the management accounts to be incomplete and unreliable. As a result, I am of the view that the Company has not satisfied the requirements set out in Section 286 of the Act and rely on the presumption of insolvency pursuant to Section 588E of the Act.

10.3 RISK OF LITIGATION ACTIONS GENERALLY

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

Creditors should note that recovery actions:

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

10.4 PROVING INSOLVENCY

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

11. FINDINGS AND RECOVERY ACTIONS

11.1 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.

As at the date of this report I have not been provided with proper reconciled financial information of the Company to accurately determine any potential insolvent trading claim and/or conduct a comprehensive investigation into the insolvency of the Company. However, as per section 588E(4) of the Act, failure to maintain books and records allows for a presumption of insolvency of the Company during the period of failure to maintain books and records. Since I do not hold any source documentation on file, I have the option to rely on the presumption that the Company was insolvent since the date of commencement of trade however note there to also be other indicators of insolvency that carry more leverage in my determination of the Company's insolvency.

At present, the insolvent trading claim against the Director appears to be at least \$13,107 representing the outstanding debts owed to unsecured creditors as at the date of appointment of the Company. The value of the insolvent trading claim may increase upon lodgement of outstanding tax/BAS returns with the ATO.

Detailed below are further reasons for my assessment.

11.2 INDICATORS OF INSOLVENCY

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

- ▲ The Company was subject to creditor demands from the Petitioning Creditor for outstanding loans.
- ▲ The Company has significant outstanding taxation reporting obligations. Further, the DCoT has lodged a POD in the amount of 3,724 for outstanding taxation liabilities.
- ▲ As previously stated, I believe the Company is in breach of Section 286 of the Act and therefore entitled to rely on the presumption that the Company has been trading whilst insolvent.

11.3 ASSESSMENT OF INSOLVENCY

In light of the above, I am of the view that the Company may have been trading whilst insolvent from 1 July 2023.

11.4 WORKING CAPITAL ANALYSIS

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

As per the Company Financials, there appears to have been sufficient working capital from the year ending 30 June 2020, 30 June 2023 and 30 June 2024. A summary is shown below:

Swinton Transport Services Pty Ltd Working Capital Analysis	Year Ended 30-Jun-20 (\$)	Year Ended 30-Jun-21 (\$)	Year Ended 30-Jun-22 (\$)	Year Ended 30-Jun-23 (\$)	Year Ended 30-Jun-24 (\$)	Period Ended 26-Mar-25 (\$)
Current Assets	24,913	32,830	28,416	56,736	22,480	5,749
Current Liabilities	16,364	55,330	48,923	24,028	21,150	56,041
Net Working Capital	8,548	(22,500)	(20,506)	32,708	1,330	(50,291)
Current Asset Ratio	1.52	0.59	0.58	2.36	1.06	0.10

11.5 POTENTIAL QUANTUM OF CLAIM

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

My preliminary investigations indicate that an insolvent trading claim may be valued at circa \$13,107, based on proofs of debts received to date, as detailed below.

Insolvent Trading Calculation	Total Amount (\$)
DCoT	3,724
Ditton Bulk Haulage	4,413
iCare	4,970
Total	13,107

11.6 RECOVERY OF CLAIM

When assessing any potential litigation for insolvent trading, a Liquidator must assess the director's financial position and his ability to meet any insolvent trading claim should it be successfully proven. I am not empowered at law to demand from the director a statement as to his personal financial position. A NSW Land Title Search on the Director's name indicates that he does not appear to be the registered proprietor of any real property. As previously mentioned in this report, the Director has provided personal guarantees over the contracts held with the Petitioning Creditor whom I understand intends on pursuing same. Given the above, I am of the opinion that the aforementioned claim would be uncommercial to pursue due to the unlikelihood of recovery being obtained and the amount of the claim.

12. 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 the winding up application was filed against the Company, i.e., 1 November 2024.

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 to defraud.

12.1 UNFAIR PREFERENCES (588FA)

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. I additionally 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.

Based on the limited financial information available to me, I have not identified any payments that may be considered preferential in nature.

12.2 UNCOMMERCIAL TRANSACTIONS (588FB)

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.

I have identified the Director's loan account reported under Section 8.1 to also constitute an uncommercial transaction. I confirm I have issued a demand letter to the Director seeking repayment of this loan account.

12.3 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.

Based on the limited financial information currently available to me, I have not identified unfair loans.

12.4 UNREASONABLE DIRECTOR RELATED TRANSACTIONS (S588FDA)

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

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

I have identified the Director's loan account reported under Section 8.1 to also constitute unreasonable director-related transactions. I confirm I have issued a demand letter to the Director seeking repayment of this loan account.

12.5 CREDITOR-DEFEATING DISPOSITIONS (S588FDB)

A disposition of company's property is a creditor-defeating disposition if the consideration payable to the company for the disposition was less than the market value of the property and if the disposition has the effect of preventing the property from becoming available for the benefit of the company's creditors in the winding-up of the company.

Based on the limited financial information currently available to me, I have not identified any transactions that may be considered a creditor-defeating disposition.

13. SUMMARY OF POTENTIAL OFFENCES

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

Breach	Commentary
s180—Failure to exercise due care and diligence (civil)	<ul style="list-style-type: none"> ▲ Trading whilst insolvent ▲ Failure to pay iCare premiums. ▲ Failure to pay statutory debts. ▲ Failure to make statutory lodgements with the DCoT

Breach	Commentary
	<ul style="list-style-type: none"> Failure to address demands for payments issued by the Petitioning Creditor. Electing to draw funds for personal expenditure whilst outstanding debts were owed to creditors of the Company
s181(1)—Absence of good faith or proper purpose (civil)	<ul style="list-style-type: none"> Electing to draw funds for personal expenditure whilst outstanding debts were owed to creditors of the Company.
s182 - Use of Position	<ul style="list-style-type: none"> Failure to address demands for payments issued by the Petitioning Creditor. Electing to draw funds for personal expenditure whilst outstanding debts were owed to creditors of the Company.
s286 (civil)/ —Failure to maintain adequate financial records	<ul style="list-style-type: none"> As I have not been provided with reconciled and up to date Company's books and records, my preliminary view is that the Company has failed to maintain sufficient books and records to meet the requirements of Section 286 of the Act.
S588G(2) - Trading whilst insolvent (civil)	<ul style="list-style-type: none"> As the Director has failed to maintained reconciled Company books and records, as per section 588E(4) of the Act, failure to maintain sufficient/source books and records allows for a presumption that the Company was insolvent from the date of its incorporation. The insolvency of the Company is further supported by the inability of the Company to adequately service the secured loans provided by the Petitioning Creditor.

14. RECEIPTS AND PAYMENTS

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

15. 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 professional costs in full. Any return to creditors is therefore contingent on pursuing and recovering the abovementioned potential claims against the Director, which may require obtaining further evidence and conducting further investigations. Absent any funding, I may consider pursuing a commercial settlement of all potential claims identified against the Director and unless there are significant recoveries from these claims, there will not be any dividends available for any class of creditors in this Liquidation.

16. REMUNERATION OF LIQUIDATOR

On 28 April 2025, I asked creditors to approve my retrospective and prospective remuneration of \$40,000 (excl. GST) which comprised of work completed for the period 26 March 2025 to 25 April 2025 for \$9,077.00 (excl. GST) and future work for the period 26 April 2025 to conclusion of the Liquidation for \$30,923.00 (excl. GST). I confirm creditors have approved my retrospective and prospective remuneration.

At this stage, I do not intend to seek further remuneration approval from creditors. Should this position change, creditors will be notified accordingly.

17. MATTERS OUTSTANDING

The outstanding matters in the administration are:

- ▲ Finalising director loan account recovery;
- ▲ Correspondence with Creditors;
- ▲ Confirming the total amounts owed to the 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 2-3 months.

18. 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 I** 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,

SWINTON TRANSPORT SERVICES PTY LTD (IN LIQUIDATION)



PETER KREJCI
LIQUIDATOR



Swinton Transport Services Pty Ltd

(In Liquidation)

ACN 622 373 228

ABN 54 622 373 228

Annexure "A"

Form 535 Formal Proof of Debt or Claim

(General Form)

FORMAL PROOF OF DEBT OR CLAIM (GENERAL FORM)

To the Liquidator of Swinton Transport Serives Pty Ltd (In Liquidation) ACN 622 373 228

1. This is to state that the company was, on 26 March 2025, ⁽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.....2025

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.

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

BRI Ferrier

Swinton Transport Services Pty Ltd

(In Liquidation)

ACN 622 373 228

ABN 54 622 373 228

Annexure "B"

Summary Receipts &

Payments

Summarised Receipts & Payments

Swinton Transport Services Pty Ltd

(In Liquidation)

Transactions From 26 March 2025 To 26 June 2025

A/C	Account	Net	GST	Gross
74	Cash at Bank	6,248.19	0.00	6,248.19
83	Bank Interest	13.66	0.00	13.66
Total Receipts (inc GST)		\$6,261.85	\$0.00	\$6,261.85
132	Bank Charges	35.00	0.00	35.00
Total Payments (inc GST)		\$35.00	\$0.00	\$35.00
Balance in Hand - By Bank Account				
212	Cheque Account			6,226.85
				\$6,226.85

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

BRI Ferrier

Swinton Transport Services Pty Ltd

(In Liquidation)

ACN 622 373 228

ABN 54 622 373 228

Annexure "C"

Comparative Balance Sheets

Swinton Transport Services Pty Ltd (In Liquidation)

ACN 622 373 228

Comparative Balance Sheets

For the Financial Years Ended 30 Jun 2020 to 30 Jun 2024 and Part-Year Ended 26 March 2025

	Year Ended 30-Jun-20 (\$)	Year Ended 30-Jun-21 (\$)	Year Ended 30-Jun-22 (\$)	Year Ended 30-Jun-23 (\$)	Period Ended 30-Jun-24 (\$)	Period Ended 26-Mar-25 (\$)
Assets						
Bank						
Cash Connector	-	-	-	-	-	16,027
Trading Account	10,138	1,515	10,968	6,484	4,076	-
Total Bank	10,138	1,515	10,968	6,484	4,076	16,027
Current Assets						
Accounts Receivable	22,090	31,302	24,799	36,133	7,118	1,684
BAS Refund	2,189	1,096	3,517	20,503	13,301	13,301
Cash on Hand	100	100	100	100	100	100
Formation Costs	533	333	-	-	-	-
Undeposited Funds	-	-	-	-	1,961	(9,336)
Total Current Assets	24,913	32,830	28,416	56,736	22,480	5,749
Non-current Assets						
General Asset Pool	77,286	52,433	-	326,262	328,748	328,748
Borrowing Cost	4,741	3,580	2,419	1,258	-	-
Total Non-current Assets	82,026	56,012	2,419	327,519	328,748	328,748
Total Assets	117,077	90,357	41,803	390,740	355,304	350,524
Current Liabilities						
ATO	1,476	2,362	1,266	4,849	-	4,468
BAS Payable	-	-	-	-	10,950	12,558
Cash Connector	-	10,826	-	-	-	-
GST	2,008	2,846	6,361	3,285	(8,722)	(3,145)
Loans	7,833	31,339	31,339	-	-	-
Rounding	-	-	-	-	63	63
Superannuation Payable	5,047	7,957	9,957	15,894	18,859	18,859
Trading Account	-	-	-	-	-	23,388
Wages Payable - Payroll	-	-	-	-	-	(150)
Total Current Liabilities	16,364	55,330	48,923	24,028	21,150	56,041
Non-current Liabilities						
2011 Western Star 4900 Prime Mover (\$2392.65)	-	-	-	-	129,203	129,203
4900 Prime Mover (\$3699.13)	-	-	-	207,151	177,408	158,853
Business Loan	10,876	15,072	15,134	(15,124)	26,120	9,811
Finance - new Maxi Trailer	-	-	58,030	46,024	36,019	17,541
Haulmark Tri Axle Trailer (\$1828.03) (\$2059.98)	-	-	-	305,506	261,114	261,114
Less: Unexpired Interest Haulmark Tri Axle Trailer	-	-	-	(72,186)	(72,186)	(72,186)
Loans Stephen Swinton 2021-2025	-	(73,017)	(96,470)	(64,394)	(137,126)	(214,790)
Loan Viva	-	(6,028)	-	-	-	-
Truck Loans	261,552	205,986	92,826	59,071	40,671	36,305
Unexpired Interest on Trucks	(73,515)	(50,114)	(32,796)	(74,003)	(114,190)	(114,190)
Total Non-current Liabilities	198,913	91,899	36,724	392,045	347,033	211,661
Total Liabilities	215,278	147,229	85,647	416,073	368,183	267,702
Net Assets	(98,201)	(56,872)	(43,844)	(25,333)	(12,879)	82,822
100 Ordinary Shares issued at \$1 each	100	100	100	100	100	100
Current Year Earnings	(97,525)	41,329	13,028	18,511	12,454	95,702
Retained Earnings	(776)	(98,301)	(56,972)	(43,944)	(25,433)	(12,979)
Total Equity	(98,201)	(56,872)	(43,844)	(25,333)	(12,879)	82,822



Swinton Transport Services Pty Ltd
(In Liquidation)
ACN 622 373 228
ABN 54 622 373 228

Annexure "D"
Comparative Profit and Loss
Statements

Swinton Transport Services Pty Ltd (In Liquidation)
ACN 622 373 228
Comparative Profit and Loss Statements
For the Financial Years Ended 30 June 2020 to 26 March 2025

	Year Ended 30-Jun-20 (\$)	Year Ended 30-Jun-21 (\$)	Year Ended 30-Jun-22 (\$)	Year Ended 30-Jun-23 (\$)	Year Ended 30-Jun-24 (\$)	Year Ended 26-Mar-25 (\$)
Trading Income						
Interest Income	-	1	-	2,500	-	-
Late Payment Fee	100	-	-	-	-	-
Sales	373,099	375,918	312,952	494,092	536,589	157,128
Sales - Fuel Levy Charged	-	-	3,877	12,967	4,382	-
Total Trading Income	373,199	375,918	316,828	509,558	540,971	157,128
Cost of Sales						
Cost of Goods Sold	7,938	-	-	-	-	-
Total Cost of Sales	7,938	-	-	-	-	-
Gross Profit	365,261	375,918	316,828	509,558	540,971	157,128
Other Income						
ATO Stimulus	10,000	10,000	-	-	-	-
Fuel Tax Credits	15,773	20,236	9,984	10,151	18,953	2,940
Other Income - NSW Government Grant	-	-	13,500	-	-	-
Total Other Income	25,773	30,236	23,484	10,151	18,953	2,940
Operating Expenses						
Advertising	-	1,089	88	698	354	-
Bank Fees	269	5,280	76	856	540	45
Borrowing Expenses	1,264	1,361	1,494	1,161	1,258	-
Cleaning	-	336	-	-	156	-
Consulting & Accounting	6,300	4,250	3,531	3,852	4,260	1,170
Depreciation	135,524	27,169	15,923	59,081	99,460	1,082
Donation	-	-	-	100	-	-
Equipment Rental	6,961	115	52	146	4,201	343
Filing Fee	559	355	276	290	310	-
Fines	-	-	1,009	916	60	-
Freight & Courier	5,517	6,442	-	-	-	-
General Expenses	2,219	3,948	582	2,296	565	472
Insurance	2,499	3,220	400	2,993	1,326	-
Interest Expense	12,639	27,655	26,495	20,046	6	3
Legal expenses	707	-	-	-	267	212
Light, Power, Heating	-	293	-	-	-	-
Motor Vehicle Expenses	4,806	1,354	3,622	8,944	8,865	1,132
Office Expenses	2,196	581	1,129	95	908	669
Protective Clothing	519	249	66	486	-	-
Repairs and Maintenance	1,848	2,581	5,906	6,194	1,156	200
Subcontractor	30,342	5,891	-	-	56,528	2,700
Subscriptions	1,596	957	1,445	1,420	3,730	3,616
Superannuation	3,337	2,910	2,000	5,937	2,965	-
Telephone & Internet	1,252	1,001	2,301	1,432	970	267
Tools	392	73	934	1,108	134	-
Travel - National	819	3,723	3,434	6,076	5,690	1,783
Travel Expense - Toll	4,394	5,460	5,844	4,635	6,613	1,058
Truck Expenses - Fuel	126,979	106,683	162,106	209,326	238,897	27,404
Truck Expenses - General	3,876	2,140	1,569	2,699	2,670	-
Truck Expenses - Rego & Insurance	41,714	34,284	27,160	35,928	40,187	13,350
Truck Expenses - Repairs & Maintenance	20,900	60,406	39,381	67,638	38,436	8,861
Truck lease	34,004	24,385	460	-	-	-
Wages and Salaries	35,125	30,630	20,000	56,847	26,956	-
Total Operating Expenses	488,559	364,825	327,284	501,198	547,470	64,367
Net Profit	(97,525)	41,329	13,028	18,511	12,454	95,702



**Swinton Transport Services Pty Ltd
(In Liquidation)**

ACN 622 373 228

ABN 54 622 373 228

Annexure "E"

ARITA 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.



**Swinton Transport Services Pty Ltd
(In Liquidation)**

**ACN 622 373 228
ABN 54 622 373 228**

**Annexure "F"
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.