



SECOND REPORT TO CREDITORS

ORANGE GAMING PTY LTD

ACN 663 388 298

ABN 99 663 388 298

(ADMINISTRATOR APPOINTED)

FORMERLY KNOWN AS THE OXFORD ROSE OPERATIONS PTY LTD

25 February 2025

PETER KREJCI
Administrator

Phone: 02 8263 2333

Email: aroche@brifnsw.com.au

Website: www.briferrier.com.au

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

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GLOSSARY

ABN	Australian Business Number
ACN	Australian Company Number
Act	Corporations Act 2001 (Cth)
Administrator	Peter Krejci
Appointer	HG Investment Capital Holdings Pty Ltd ACN 664 100 743 ATF HG Investment Capital Fund, the All PAP secured creditor
ARITA	Australian Restructuring Insolvency and Turnaround Association
ASIC	Australian Securities and Investments Commission
ATO	Australian Taxation Office
APMF	Australia Pacific Mortgage Fund Ltd
Committee	Committee of Inspection
Company	Orange Gaming Pty Ltd (Administrator Appointed) ACN 663 388 298
Director	Jon Angelo George Adgemis
DIRRI	Declaration of Independence, Relevant Relationships & Indemnities
DOCA	Deed of Company Arrangement
HG Investment	HG Investment Capital Holdings Pty Ltd ACN 664 100 743 ATF HG Investment Capital Fund, the All PAP secured creditor
FEG	Fair Entitlements Guarantee
Firm	BRI Ferrier NSW
Former Directors	Benjamin Thomas Madsen Samuel Charles Richard Biscoe
Australia Pacific Mortgage Fund Solicitor	Hamilton Locke
IPR	Insolvency Practice Rules (Corporations)
IPS	Insolvency Practice Schedule (Corporations)
POD	Proof of Debt
PPSR	Personal Property Securities Register
ROCAP	Report on Company Activities and Property
VA	Voluntary Administration

INTRODUCTION

I refer to my First Report to Creditors issued 22 January 2025 detailing the Voluntary Administration process and my appointment as Voluntary Administrator of the Company pursuant to Section 436C of the Corporations Act on 20 January 2025.

The objective of Part 5.3A of the Act is to provide for the business, property and affairs of insolvent (or likely to become insolvent) company to be administered in a way that maximises the chances of the Company, or as much as possible of its business, continuing in existence, or, if this is not possible, results in a better return for the Company's creditors than would result from an immediate winding up of the Company.

Section 438A of the Act requires that, as soon as practicable, the Administrator must investigate the business, property, affairs and financial circumstances of the Company and form an opinion about each of the following matters:

- Whether it would be in the Creditors' interests for the Company to execute a DOCA;
- Whether it would be in the Creditors' interests for the Administration to end; and
- Whether it would be in the Creditors' interests for the Company to be wound up.

Should a DOCA be proposed prior to the second meeting of Creditors I may adjourn the meeting for up to 45 business days to allow a report to be issued advising Creditors of my position on the DOCA.

This report should be read in conjunction with the First Report. If you have any questions relating to the administration 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 Orange Gaming Pty Ltd
ACN 669 266 228

ADMINISTRATOR

Name Peter Krejci
Date Appointed 20 January 2025

ADMINISTRATION CONTACT

Name Ashleigh Roche
Email aroche@brifnsw.com.au
Phone 02 8263 2333

KEY QUESTIONS	ANSWERS
When is the Second Meeting of Creditors?	The Second Meeting of Creditors will be held on Tuesday, 04 March 2025 at 11.00AM AEDT . Held in person, with virtual facilities also available.
What assets are available?	As at the date of this report, I have not been able to locate any company assets.
What are the total liabilities?	Up to \$12m in secured creditor claims.
What was the date of insolvency?	Preliminary investigations indicate the Company was insolvent since 26 October 2022
Are there any claims against the Director in a Liquidation?	Yes, I have identified claims against the Director, however, it is a preliminary view at this stage. Further investigations are required to assist in determining the quantum of these claims.
Is a DOCA proposed?	No, a DOCA has not been proposed
Will the creditors get paid?	<p>The Company does not appear to have sufficient assets to meet outstanding creditor claims.</p> <p>In the absence of a DOCA proposal a return to creditors will be contingent on recovery actions pursuable in a Liquidation scenario.</p>
What is the Administrators' recommendation?	I recommend that creditors should vote in favour of Liquidation.

EXECUTIVE SUMMARY

As you are aware, I was appointed Administrator of the Company on 20 January 2025, pursuant to Section 436C of the Act by HG Investment Capital Holdings Pty Limited (“HGICH”) under its General Security Agreement registered against the Company.

Pursuant to Section 439C of the Act, I have convened the Second Meeting of Creditors to be held on **Tuesday, 04 March 2025 at 11:00AM AEDT**. Please find attached as **Annexure 1** the Notice of the Second Meeting of Creditors for your information. The meeting will be held in my office with virtual meeting technology also made available should creditors wish to attend the meeting virtually. Further details on the meeting are disclosed in Section 18 of this report.

In the following report, I have detailed my observations of the Company’s affairs, my preliminary investigations and the potential outcomes for creditors from this Administration process.

To summarise, the Company was incorporated on 26 October 2022 and I understand it provided lending and investing services to the hospitality industry, particularly dealing with gaming and hotel licenses. I also understand the Company previously held the Hotel Liquor Licence with respect to the The Rose Hotel Paddington. I was appointed Voluntary Administrator of the Company by its ALLPAP secured creditor, HGICH, due to the Company defaulting on loans advanced by HGICH. These loans were provided through a Loan Agreement executed on 8 September 2023 for \$4 million (First Advance); a Deed of Variation executed on 20 October 2023 for \$3.25 million (Second Advance); and as no repayments were made by the Company for the First and Second Advances, a Deed of Final Forbearance executed on 18 June 2024, for a settlement sum of \$10 million which was not paid.

My investigations to date have been hindered due to non-compliance by the Company’s Director, Mr Jon Adgemis and its former directors Mr Benjamin Madsen and Mr Samuel Biscoe. To date, neither party has:

- attended my office for a scheduled meeting; or
- submitted a ROCAP; or
- delivered up the Company’s books and records to my office pursuant to section 475(4) of the Act.

As at the date of this report, I have not identified any assets currently owned by the Company due to the lack of financial records. A comprehensive search undertaken by Australian banks has failed to identify a bank account in the Company’s name. Without access to the Company’s Books and records and without access to bank statements my investigations into the Company’s affairs have been significantly impeded.

As I have been unable to conduct a full investigation into the Company’s affairs due to obtaining no books and records, I have relied on Section 588E of the Act that allows a Liquidator to presume the Company was insolvent for the period in which books and records were not maintained.

As there has been no DOCA proposal put forth, Liquidation is the only option to creditors as the Company is unable to be returned to the Director’s control as it will be insolvent.

1. BASIS OF REPORT

This report has been prepared primarily from information received from the ALL PAP secured creditor HG Investment Capital Holdings Pty Ltd and from my own enquiries.

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

- ▲ ASIC;
- ▲ ATO Portal
- ▲ Extracts from public information databases.
- ▲ Correspondence with the secured creditor HGICH

2. DISCLAIMER

This Report and the statements made herein are based upon, information provided by the secured creditor 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.

In considering the options available to Creditors and in formulating our recommendations, I have necessarily made forecasts and estimates of asset realisations, and the ultimate quantum of Creditors' claims against the Company where appropriate. These forecasts and estimates may change as asset realisations progress and as Creditors' claims are made and adjudicated upon. Whilst the forecasts and estimates are the Administrator's best assessment in the circumstances, Creditors should note that the Company's ultimate deficiency, and therefore the outcome for Creditors could differ from the information provided in this Report.

Neither the Administrator 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 forecasts, estimates and assessments made for the purposes of these Reports.

Should any Creditor have material information in relation to the Company's affairs which they consider may impact on my investigation or Reports, please forward the details to my office as soon as possible.

3. DECLARATION OF INDEPENDENCE, RELEVANT RELATIONSHIPS AND INDEMNITIES

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

4. CORPORATE INFORMATION

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

4.1.1.1 Company Details

Company Name	Orange Gaming Pty Ltd
ABN	99 663 388 298
ACN	663 388 298
Incorporation Date	26 October 2022
Registered Address	Level 17 8-12 Chifley Square Sydney NSW 2000
Principal Place of Business	Level 17 8-12 Chifley Square Sydney NSW 2000

4.1.1.2 Company Officeholders

Name	Position(s)	Start Date	Cease Date
Jon Angelo GeorgeAdgemis	Director / Secretary	17/04/2024	Current

4.1.1.3 Share Structure and Shareholders

Name	Class	No. of Shares	Amount Paid	Fully Paid
Public Hospitality Operating Co Pty Ltd	Ordinary	10	\$10.00	Yes

4.1.1.4 Current Registered Security Interests

A search of the PPSR indicates the following registered security interests:

Registration Number	Secured Party	Start Date	Collateral
202309050057380	HG Investment Capital Holdings Pty Ltd ("HGICH")	05/09/2023	All present and after-acquired property
202308150105620	Marlau Nominees Pty.Ltd.Tambavale (QLD) Pty Ltd	18/08/2023	Other Goods
202401230049991	WHOLE BUNCH WINES PTY LIMITED	23/01/2024	Chattel Paper

Please refer to Section 9.1.2.1 of this report for further comments on the above.

4.2 LEGAL PROCEEDINGS AGAINST THE COMPANY

Pursuant to Section 440D of the Act, upon my appointment as Administrator, all proceedings against the Company are automatically stayed.

Creditors cannot commence or continue proceedings against the Company without my written consent or without leave of the Court. I am not aware that there are any proceedings against the Company on foot.

5. COMPANY BACKGROUND AND EVENTS LEADING UP TO ADMINISTRATION

The following information was obtained from enquiries made with third parties and my own enquiries:

- ▶ The Company was incorporated on 26 October 2022 and I understand provided lending and investing services to the hospitality industry, particularly dealing with gaming and hotel licences.
- ▶ The Company previously held the Hotel Liquor Licence for the Rose Hotel Paddington however the licence appears to have been transferred to Australia Pacific Mortgage Fund Limited at some point, which also is the current owner of the Rose Hotel Paddington.
- ▶ Mr Jon Adgemis was the sole director of the Company at the time of my appointment.
- ▶ The Company appears to have been part of a group of companies operated by Mr Jon Adgemis known as the Public Hospitality Group which operate a number of hospitality venues.
- ▶ The Company obtain a loan advanced by HGICH through a Loan Agreement executed on 8 September 2023 for \$4million and through a Deed of Variance executed on 20 October 2023 for a further \$3.5m. As at the date of this Report, with interest accruing a default rates, I understand the debt owing to HGIC is c. \$12m.
- ▶ HGICH has a registered ALLPAP security interest against the Company and perfected within the meaning of the *Personal Property Securities Act 2009* by way of PPS registration granted by the Company for the loans by HGIGC.
- ▶ In light of the Company failing to repay loans advanced pursuant to Loan agreements with HGIGH HGICH enforced its security against the Company by appointing me as Administrator of the Company pursuant to 436C of the Act.

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

- ▶ Inability to meet creditor demands; and
- ▶ Poor financial control, including lack of records. As at the date of this report I have not been provided with financial records of the Company and the Company has no bank account.

7. CONDUCT OF THE ADMINISTRATION

I have attended to the following major tasks during this appointment:

- ▶ Written to the relevant authorities requesting information required to undertake investigations;

- Carried out ASIC and other searches available to me in relation to the Company's Director;
- Ascertained the history of the Company and the nature of its business and circumstances leading to its failure from third parties.
- Liaised with the current and former directors.
- Reviewed existing insurance policies and arranged new covers as necessary for the business;
- Communicated with creditors and former Directors in relation to the Administration;
- Conducted investigations of the affairs of the Company, in particular potential voidable transactions and other potential avenues of recoveries that may be available to a Liquidator;
- Prepared this second report to creditors; and
- Attended to various administrative matters.

8. HISTORICAL FINANCIAL INFORMATION

As at the date of this report, I have not received any financial information and/or source documentation in relation to the Company. From my discussions with the Director there does not appear to be a bank account opened for the Company nor any financial accounts held

9. CURRENT FINANCIAL POSITION

Contained in this section is my analysis of the current financial position of the Company, based on my enquiries to date with third parties.

9.1.1 Assets

Upon my appointment I undertook a search with the NSW Independent Liquor and Gaming Authority which shows that Australia Pacific Mortgage Fund Limited ("APMFL") is now the holder of the Hotel Liquor License pertaining to the Company. I have communicated with APMFL and have been advised by their solicitors, Hamilton Locke that they are preparing a response to the queries I have raised.

9.1.1.1 Cash and cash equivalents

Upon my appointment I made enquiries with all major banks in Australia seeking details of any accounts maintained by the Company. As a result of these enquiries, I have not identified any bank accounts held in the Company's name.

Based on my enquiries to date, I am not aware of any other bank accounts held in the Company's name, this was confirmed by the Director and one of the Former Directors.

9.1.1.2 Motor Vehicles

A search of the Roads and Maritime Services database has not identified any vehicles registered in the Company's name in NSW. I have no information available that would suggest the Company has vehicles registered in any other state.

9.1.1.3 Real Property

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

9.1.2 Liabilities

9.1.2.1 Secured Creditors

A search of the Personal Property Securities Register ("PPSR") indicates that there are three security interests registered on the PPSR against the Company.

Registration Number	Secured Party	Start Date	Collateral Class
202309050057380	HG Investment Capital Holdings Pty Ltd ("HGICH")	05/09/2023	All present and after-acquired property - No exceptions
202308150105620	Marlau Nominees Pty.Ltd.Tambavale (QLD) Pty Ltd	18/08/2023	Other Goods
202401230049991	WHOLE BUNCH WINES PTY LIMITED	23/01/2024	Chattel Paper

Upon appointment, I wrote to the secured parties to provide information regarding their security interests registered against the Company with one response received to date from Marlau Nominees advising their PPSR registered security was released on 30 January 2025 along with a copy of the Discharged Registration. I am continuing to follow up with Whole Bunch Wines Limited on their registered security interest against the Company.

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 Ashleigh Roche of this office as soon as possible.

Fair Entitlements Guarantee

The Director and former Director have advised that the Company never traded or employed. To the extent there are any amounts owed to former employees, in a Liquidation scenario, employees may be eligible to apply to the Federal Government, which has established a safety net scheme known as FEG, for payment of their outstanding entitlements (there than superannuation). FEG is administered by the Department of Employment and Workplace Relations for eligible employees who have been terminated as a result of their employer's insolvency and are owed entitlements. The FEG scheme is not available in a DOCA scenario.

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 related party Creditors.

Please note that FEG will only assess claims if KOBA Insurance is placed into Liquidation.

Should you wish to obtain further information, FEG may be contacted reached on 1300 135 040. Alternatively, you may visit their website at: <https://www.dewr.gov.au/fair-entitlements-guarantee>.

9.1.2.2 Unsecured Creditors

My investigations to date have not identified any unsecured creditors currently. I am aware that the Company was not registered for GST with the ATO and has outstanding lodgements for income tax for FY23 and FY24. As I have no records I am unable to determine if the company should have been registered for GST and if the lodgement of the outstanding returns would cause the ATO to become a creditor.

10. PRELIMINARY INVESTIGATIONS

10.1 OVERVIEW

During the course of the Administration, I have conducted investigations into the affairs of the Company to ascertain whether there are any transactions that appear to be voidable, or other causes of action available whereby money, property or other benefits may be recoverable by a liquidator pursuant to Part 5.7B of the Act, in the event that creditors resolve to wind up the Company. Creditors should be aware that an Administrator does not have the power to recover voidable transactions or take action for insolvent trading.

10.2 INVESTIGATION CONSTRAINTS

The Act sets out a strict timeline for the reporting of an administrator's investigations of a company's affairs prior to the second meeting of creditors.

As such, my investigations into the Company's affairs are preliminary at this stage. The interim findings discussed below are based on the available information obtained through third parties and under time constraints. A Liquidator would conduct more detailed investigations, provided that necessary funding is available.

10.3 BOOKS AND RECORDS

Section 286 of the Act provides that:

"A company, registered scheme or disclosing entity must keep written financial records that:

- (a) correctly record and explain its transactions and financial position and performance; and
- (b) 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 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, 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 receipt journal, bank deposit books, cash payments journal, cheque butts and petty cash books.

Upon my appointment, I requested the Company's Director to deliver all books and records in his possession to enable me to investigate the affairs of the Company. As at the date of this report, no books and records have been provided.

Considering the above, my preliminary review is that the presumption of insolvency would apply to the Company though I would not rely on this for an insolvent trading claim against the Director.

10.4 RISK OF LITIGATION ACTION GENERALLY

Part 5.7B of the Act gives liquidators (but not administrators) 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 a 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).

10.5 INSOLVENCY & INSOLVENT TRADING (SECTION 588G)

The Act prohibits Insolvent Trading and provides that a director can be required to compensate Creditors for losses they suffer because of Insolvent Trading by making a payment to a Liquidator of a company. As my investigations have been hindered due to the lack of books and records, I am not in a position to consider the prospects of such a claim and as it is one that is only available if creditors decide that the Company should be placed into Liquidation, may be relevant to the decisions creditors take at the forthcoming Second Meeting of Creditors.

10.5.1 What Is Insolvent Trading?

Insolvent Trading is the incurring of a debt or liability at a time when a company is insolvent and when the Director(s) had or should have had reasonable grounds to suspect, or a person in their position would have suspected, that the company was insolvent.

If such a debt or liability is incurred, a Court may require the Director(s) to pay as compensation to a liquidator of a company an amount equal to the loss suffered by creditors. In determining that loss, it is necessary to have regard to any amount that may be recovered from a company's assets or from the recovery of other claims such as Unfair Preferences.

Recovery from Insolvent Trading is only available in a Liquidation. A claim may be brought by a liquidator, or, if, the liquidator declines to pursue a claim, by one or more creditors.

A Liquidator pursuing a claim must:

- demonstrate insolvency
- show that the director(s) suspected, or should have suspected, insolvency
- show that a debt or liability was incurred
- show the debt or liability has not been paid, so that the creditor has suffered loss.

A Director accused of Insolvent Trading can answer a claim by showing that:

- the director had reasonable grounds to believe the debt would be paid; and/or
- the director relied on information from another reliable person to believe the debt would be paid; and/or
- the director did everything he or she could to avoid the incurring of the debt; and/or
- the director was not participating in the management of the company for some good reason, such as illness; and/or
- the director was acting honestly and reasonably and, notwithstanding that a debt or liability was incurred that will be unpaid, he or she should be excused from liability; and/or
- the director may assert a defence that they have relief from insolvent trading by way of using the Safe Harbour regime contained in the Corporations Act; and/or
- the government provided legislative relief from insolvent trading from March to December 2020 in response to the COVID-19 pandemic.

Litigation in respect of Insolvent Trading is carried out in the ordinary civil courts. This means that the costs to pursue a claim are borne by the Liquidator, who uses a company's assets and may enter into a form of borrowing called "litigation funding" to do so or may ask creditors to make a voluntary contribution to pursue a claim.

If a claim is successful, some of the costs, but usually not all of them, may also be ordered to be paid by the Director(s). If the Liquidator fails in some or all of the claim, they may be ordered to pay some, or all of the costs incurred by the Director(s) in defending the claim. Therefore, in practice Liquidators can only pursue claims where they have funds available to meet both their own and the Defendants' costs, or they have the benefit of "insurance" against costs provided either by creditors or a commercial litigation funder.

If the company has no assets and neither a litigation funder, creditors nor ASIC are willing to fund the litigation, the claim may not be pursued. Litigation in respect of Insolvent Trading can be expensive, slow and risky. The Liquidator, funder and creditors are exposed to the risk that if the Director(s) are found liable, they may be unable to meet the judgment against them.

Where a company is a subsidiary of another company, a claim can also be brought against the holding company.

10.5.2 Insolvency

One important element of liability for Insolvent Trading is if, and when, the company became insolvent.

Section 95A of the *Corporations Act* defines solvency as follows:

“95A(1) [when person is solvent] A person is solvent if, and only if, the person is able to pay all the person’s debts, as and when they become due and payable.

95A(2) [insolvent person not solvent] A person who is not solvent is insolvent”.

Under Australian law, the test of insolvency is a “cashflow” test: it is focused on whether, in commercial reality, a company can meet its liabilities as and when they fall due for payment. The forensic assessment of insolvency, and preparation of a case on insolvency, involves a thorough, and costly, examination of the company’s business, its market, its relationships with its customers, lenders, suppliers, owners and with regulators. Where a company has had expectations of support from related parties, that support is a factor that must be considered in the context of insolvency.

In elaborating on the cashflow test of insolvency, the Courts have provided extensive commentary on the subject to determining insolvency. One of the leading authorities is the judgment of the Victorian Supreme Court in *ASIC -v- Plymin*, in which Justice Mandie, relying on expert evidence, identified the following 14 indicators of insolvency:

- Continuing Losses;
- Liquidity ratios below 1;
- Overdue Commonwealth and State taxes;
- Poor relationship with present Bank, including inability to borrow further funds;
- No access to alternative finance;
- Inability to raise further equity capital;
- Suppliers placing company on COD, or otherwise demanding special payments before resuming supply;
- Creditors unpaid outside trading terms;
- Issuing of post-dated cheques;
- Dishonoured cheques;
- Special arrangements with selected creditors;
- Solicitors' letters, summons(es), judgements or warrants issued against the company;

- ▶ Payments to creditors of rounded sums which are not reconcilable to specific invoices;
- ▶ Inability to produce timely and accurate financial information to display the company's trading performance and financial position and make reliable forecasts.

Comprehensive forensic insolvency assessment requires the review of each of these indicators, as well as the company's business, to answer the question "was it able to pay its debts as and when they fell due".

As part of reporting about Insolvent Trading I are required to form a preliminary view about when the company became insolvent. My opinion is necessarily formed summarily: a forensic analysis of insolvency would be more thorough, more expensive and slower than the voluntary administration process ordinarily permits. I have set out our views below.

10.5.3 Director's Knowledge

As well as insolvency, a Liquidator must demonstrate when the director suspected, or ought to have suspected, that a company was insolvent. If a claim is brought, this will normally involve the comprehensive review of company records to show when directors first learnt of circumstances that could indicate insolvency. That review is typically thorough and expensive. Again, for the purpose of reporting to creditors I am required to make a summary assessment of when suspicions were or should have been formed. I have set out my views in this respect below as well.

10.5.4 Loss

Only losses *incurred* at or after the time of insolvency can form the basis of a claim, although all unpaid unsecured creditors are entitled to share in any recovery after costs. A debt or liability is "incurred" when the last event that could have avoided the liability arising occurs. For example, taking delivery will normally be the time at which a debt for the supply of goods is incurred.

Liabilities that have fallen due, but which were not freshly incurred during the period of insolvency cannot form the basis for a claim. Such liabilities commonly include ongoing contracts of employment, long term leases and hire-purchase arrangements, guarantees, loans and long-term supply and construction contracts.

As I have no books and records to review, I am unable to determine at this time, if prior to entering into the finance agreement the Company had capacity to meet the liability.

10.5.5 Litigation and Funding

As noted above, if a company does not have significant assets, a liquidator contemplating bringing a claim for Insolvent Trading will only be able to pursue a claim if either creditors or a commercial litigation funder is willing to fund the liquidator's legal and accounting costs and meet any costs that liquidator may be liable to pay if the claim is unsuccessful.

Funding of this sort can be arranged as follows:

- A creditor or creditors may contribute funds for additional investigations and litigation. Such creditors need to indemnify a liquidator against any adverse cost orders should the litigation prove unsuccessful. However, should the litigation be ultimately successful, creditors who have funded the litigation may apply to the court to have their claim met in priority to other creditors not participating in the funding arrangement; and/or
- The Liquidator may request funding from an independent, specialist litigation funding firm. Generally, the litigation funder is compensated for its risk by receiving a share of up to 30 - 40% from any recoveries arising out of the litigation. Litigation funding is expensive and therefore only feasible where the possible recoveries are significant.

I advise that I have had preliminary discussions with representatives of HGIC to fund a public examination of a number of parties including:

- Mr Jon Adgemis
- Mr Benjamin Madsen
- Mr Samuel Charles Richard Biscoe

I consider a Public Examination is warranted in order to understand:

- How funds loaned by HGIC were spent.
- How the Company's Hotel Liquor Licence with respect to the Rose Hotel Paddington was transferred to APMFL and what consideration was paid by APMFL.
- The personal financial position of the current and former directors in order to understand their capacity to satisfy a breach or director duty/insolvent trading claim brought against them.

10.6 INDICATORS OF INSOLVENCY

I have observed the following which are indicative of insolvency:

- Overdue Commonwealth and State taxes.
- Material deficiency in cash position to meet its current liabilities.
- Inability to produce timely and accurate financial information to display the Company's trading performance and financial position.

10.7 POTENTIAL AMOUNT OF CLAIM

Determining the value of an insolvent trading or breach of duty 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.

However, in the case of the Company, it appears at this stage the only creditor claim against the Company is by HGIC for c.\$12m. Consequently, I believe this constitutes an insolvent trading claim that could be pursued at present in a Liquidation scenario. This assessment may change however upon receipt of additional documentation regarding the company's history and further cooperation from the Director.

10.8 DEFENCES AVAILABLE

In respect of pursuing insolvent trading claims, we note that a defence is available under the Act where a director can establish:

- There were reasonable grounds to expect that the company was solvent, and they actually did so expect;
- They did not take part in management for illness or some other good reason;
- They took all reasonable steps to prevent the company incurring the debt; or
- If a director availed themselves of the protections under the Safe Harbour regime.

I have received no advice from the Director that he sought to access the Safe Harbour regime. I note that this would have required the engagement of professionals and the development of a “restructuring plan”. I have not seen any evidence in this regard.

Overall, I have not seen any particularly strong evidence of defences that may be available to the Director. These are preliminary observations, and this will be explored further, should the Company be placed into Liquidation.

10.9 VOIDABLE TRANSACTIONS

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

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

ARITA has issued a creditor information sheet “Offences, Recoverable Transactions and Insolvent Trading” providing further information about voidable transactions. This information sheet is attached as **Annexure 8**.

The transactions identified, if determined to be voidable, may be recoverable under the following provisions:

10.10 VOIDABLE TRANSACTION PROVISIONS

10.10.1.1 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.
- The transaction was entered into during the four (4) years leading to our appointment.

Upon my appointment I undertook a search with the NSW Independent Liquor and Gaming Authority which shows that Australia Pacific Mortgage Fund Limited ("APMFL") is now the holder of the Hotel Liquor License pertaining to the Company. I have reached out to APMFL and have been advised by their solicitors, Hamilton Locke that they are preparing a response to the queries I have raised.

10.10.1.2 Unfair Preferences

An unfair preference results when a 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 were insolvent at that time, known as the RBP.

As I have not obtained any records of the company, I am unable to confirm if there has been Unfair Preference to Creditors. I have not identified any such transactions to unrelated unsecured creditors

10.10.1.3 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.

My preliminary investigations have not identified any unfair loans for the Company that could be pursued in a Liquidation scenario.

10.10.1.4 Uncommercial Transactions

A transaction is considered uncommercial if it is made at a time when a 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.

The clawback provisions available to a Liquidator relate only to payments to unrelated parties made within two (2) years from the date of the appointment. The RBP can be extended to four (4) years for transactions with related parties.

I believe the transactions identified in Section 10.10.1.1 also constitute uncommercial transactions that could warrant further investigation in a liquidation scenario.

10.10.1.5 Discharge of Related Party Debts (S588FH)

A transaction is considered to have discharged a related party's debt if funds from a company are used to pay that Creditor which has had the effect of discharging, to the extent of a particular amount, a liability (whether under a guarantee or otherwise) of a related entity of the company.

I have not identified any claim for discharge of related party debts for the Company that could be pursued in a Liquidation scenario.

10.10.1.6 Circulating Security Interests Created Within Six Months before the Relation-Back Day (S588FJ)

A circulating security interest in property of a company created within six (6) months before the relation-back day may be void against a Liquidator. However, circulating security interests that are created within this period for consideration paid at or after the date of creation remains valid.

I have not identified any voidable security interests in respect of the Company.

10.11 BREACH OF DUTY CLAIMS

In summary, I consider there are various potential contraventions of the Act that can be pursued against the Director or other parties in a Liquidation scenario:

Section	Potential Offence Identified	Summary of Offence
180	Failure to exercise reasonable care and diligence	Incurring debts when insolvent/ transferring The Rose Hotel Paddington Liquor Licence while subject to HGIGC's registered ALLPAP security Interest.
181	Failure to act in good faith	Incurring debts when insolvent / transferring The Rose Hotel Paddington Liquor Licence while subject to HGIGC's registered ALLPAP security Interest
182	Use of Position	Incurring debts when insolvent.
286	Failure to maintain adequate financial records	No records maintained by the Company since its Incorporation.
438B	Directors to help administrator	Failure to assist the administrator
588G	Director's duty to prevent insolvent trading	Insolvent Trading.

10.11.1.1 Report to ASIC

An Administrator is required to complete a preliminary investigation into the Company's affairs and, if offences are identified, they must lodge a report with ASIC pursuant to Section 438D of the Act.

Should the Company be wound up, a Liquidator is required to complete an investigation into the Company's affairs and, if offences are identified, or if the Company is unable to pay its Creditors more than 50 cents in the dollar, they must lodge a report with ASIC pursuant to Section 533 of the Act.

11. RECOMMENDATION OF ADMINISTRATORS

Pursuant to Rule 75-225(3) of the IPR, the Administrator is required to make a statement setting out the Administrator's opinion about each of the following matters and provide my reasons for those opinions:

- Whether it would be in the Creditors' interests for the Company to execute a DOCA;
- Whether it would be in the Creditors' interests for the administration to end;
- Whether it would be in the Creditors' interests for the Company to be wound up.

I set out below my opinion as to each of these options:

11.1 DEED OF COMPANY ARRANGEMENT

Creditors may resolve that the Company should execute a Deed of Company Arrangement (DOCA). As previously advised, no DOCA proposal has been put forward by the Director.

Based on the above factor, I do not recommend that the creditors resolve in favour of a DOCA.

11.2 ADMINISTRATIONS TO END

Creditors may resolve that the Administration of the Company should end, and that control of the Company should be handed back to its director.

The Company is insolvent and not expected to return to solvency without a DOCA being implemented.

I do not recommend that creditors resolve the Administration end on the basis that the Company is insolvent.

11.3 LIQUIDATION

Should creditors decide to wind up the Company, the Administration would convert to a CVL, and I would become the Liquidator, unless creditors resolve to appoint an alternative Liquidator(s).

One of the roles of the Liquidator would be to complete investigations into the reasons for the Company's failure and to identify any causes of action or voidable transaction recoveries against any entity or individual. The Liquidator is also required to report his findings to ASIC in the event that offences are identified.

It is my recommendation that creditors resolve in favour of Liquidation.

12. RECEIPTS AND PAYMENTS

As at the date of this report, there have been no receipts or payments in the Administration.

13. REMUNERATION OF ADMINISTRATOR / DEED ADMINISTRATOR / LIQUIDATOR

In compliance with the ARITA Code of Professional Practice and the requirements of the Act, I am required to provide detailed information in respect of my remuneration. I attach my Remuneration Approval Report as **Annexure 6** which details the major tasks that have been and will be conducted in this administration. My remuneration is calculated on the time spent by staff at hourly rates used by BRI Ferrier, as detailed in my Remuneration Matrix. This document is contained within the Remuneration Report. In addition, a schedule of hourly rates are attached as **Annexure 6**.

To date, my remuneration has been calculated on this "Time-Cost" basis, and I propose that it continue to be calculated on this basis. The Time-Cost method for calculating remuneration reflects the cost to my firm of the work undertaken, rather than a measure of the assets realised. In my view, the Time-Cost method is the preferable basis for calculating remuneration in an engagement such as this.

For Creditors' information, ASIC information sheets (**Annexure ("7")**) that relate to specific circumstances once an insolvency practitioner is appointed to a Company and approval of remuneration can be found at the following websites:

- ▲ <http://www.asic.gov.au/insolvencyinfosheets>
- ▲ <http://www.arita.com.au/insolvency-you/insolvency-explained/insolvency-fact-sheet>

13.1 DEED OF COMPANY ARRANGEMENT PERIOD

If a DOCA proposal is received, and if creditors approve the DOCA Proposal, the Proponent has fifteen (15) business days to execute the DOCA. If executed, I, Peter Krejci, will be appointed Deed Administrator. In those circumstances, at the forthcoming meeting, I will also seek approval for my estimated remuneration to conduct the DOCA. The attached remuneration reports detail an estimate of the costs likely to be incurred in the DOCA. It is an estimate only and may change depending on matters which occur during the course of the DOCA.

Please refer to the Remuneration Approval Report, attached as **Annexure 5** for further details.

13.2 LIQUIDATION PERIOD

If the Company is placed into liquidation at the forthcoming Second Meeting of Creditors, I will be appointed Liquidator, unless creditors resolve to appoint an alternate liquidator. I note that I have not received an alternate consent to act as Liquidator.

If creditors resolve to wind up the entity and I am to be appointed, I will also seek approval for my estimated remuneration in conducting the Liquidation. The attached remuneration report details an estimate of the initial costs likely to be incurred in a liquidation scenario. It is an interim estimate only and actual costs may be quite different, depending on the work required and/or if litigation is pursued, which may be significant. Therefore, the estimate may change depending on matters which occur during the course of the liquidation.

Please refer to the Remuneration Approval Report, attached as **Annexure 5** for further details.

14. SECOND MEETING OF CREDITORS

The Second Meeting of Creditors will be held on **Tuesday, 04 March 2025 at 11:00AM AEDT**. The formal Notice of Meeting is attached as **Annexure 1** for your reference. Virtual meeting facilities will be available.

The purpose of the Second Meetings of Creditors is to enable Creditors to consider the Administrator's Report pursuant to Rule 75-225 of the IPR and to determine the future of the Company.

To participate as a Creditor, you should:

- ▲ Provide us with a Proof of Debt detailing your claim to be a Creditor. Proofs of Debt are enclosed as **Annexure 2**. If you have previously provided a proof of debt and wish to supplement it, you may do so. **Otherwise, Creditors whose proofs were accepted for voting at the First Meeting are not required to be re-lodged for the Second Meetings of Creditors.**

- ▲ Creditors may attend and vote in person, by proxy or by attorney. The appointment of a proxy, copies of which is attached as **Annexure 3**, must be in accordance with Form 532. Persons attending on behalf of a corporate entity are required to have a proxy signed on behalf of that entity. **Proxies from the First Meeting cannot be used at the Second Meeting, and it is necessary for Creditors attending to submit new proxies for the Second Meetings of Creditors.**
- ▲ A specific proxy can be lodged showing approval or rejection of each proposal. Creditors, in lodging specific proxies, need to be mindful that their intended voting patterns can become academic or “contradictory” where the outcome of an earlier vote (in the order of proceedings) is determined in a way which could influence or change their intended voting. Proxy forms or facsimiles thereof must be lodged at my office by 4:00 PM one (1) business day prior to the meeting.

15. QUERIES

The BRI Ferrier staff member responsible for this matter is as follows:

- ▲ BRI Contact: Ashleigh Roche
- ▲ Phone: (02) 8263 2322
- ▲ Email: aroche@brifnsw.com.au

Yours faithfully,

ORANGE GAMING PTY LTD (ADMINISTRATOR APPOINTED)



PETER KREJCI
Administrator



**ORANGE GAMING PTY LTD
(ADMINISTRATOR APPOINTED)**

**ACN 663 388 298
ABN 99 663 388 298**

**Annexure "1"
Notice of Meeting of Creditors**

CORPORATIONS ACT 2001
Section 436E

Section 439A
Insolvency Practice Rules (Corporations)
75-10, 75-15, 75-20, 75-35

NOTICE OF SECOND MEETING OF CREDITORS OF COMPANY UNDER ADMINISTRATION

**ORANGE GAMING PTY LTD
(ADMINISTRATOR APPOINTED)**

**ACN 663 388 298
ABN 99 663 388 298**

("THE COMPANY")

NOTICE is given that a Meeting of Creditors will be held on **Tuesday, 04 March 2025 at 11:00 AM AEDT**. This meeting will be held at the offices of BRI Ferrier Level 26, 25 Bligh Street, Sydney NSW 2000.

Virtual meeting technology will also be made available should creditors wish to attend the meeting virtually. To attend virtually, creditors will need to register their details at the following link:

<https://us06web.zoom.us/meeting/register/WQCIBevtTduaZRG3gmKhhQ>

A G E N D A

1. To receive the Report of the Administrators and receive questions from creditors.
2. To determine the current remuneration of the Administrators.
3. To determine the future remuneration of the Administrators.
4. To consider the internal disbursements of the Administrators
5. For Creditors to resolve:
 - a. That the Company execute a Deed of Company Arrangement; or
 - b. That the administration should end; or
 - c. That the Company be wound up.
6. If Creditors resolve to enter into a Deed of Company Arrangement;
 - a. To consider approving the remuneration of the Deed Administrator(s); and
 - b. To consider approving the internal disbursements of the Deed Administrator(s).
7. If Creditors resolve to wind up the Company:
 - a. To consider approving the remuneration of the Liquidator(s);
 - b. To consider approving the internal disbursements of the Liquidator(s); and
 - c. To consider the early destruction of the Company books and records.
8. To consider any other business that may be lawfully brought forward.

Notes:

Attendance at this meeting is not compulsory. Creditors may attend and vote in person, by proxy or by attorney*. The appointment of a proxy must be in the approved form.

Proxy forms must be given to the Administrators or the person named as convening the meeting. An attorney of the creditor must show the instrument by which he or she is appointed to the Chairperson of the meeting, prior to the commencement of the meeting.

Special Instructions for Meeting

Attendees who wish to attend the meeting virtually are required to register to attend the meeting at the above link.

You will also need to provide a Formal Proof of Debt Form (including documentation to support your claim) and proxy form, if you are a corporate creditor or wish to be represented by another person.

Upon receipt of a valid Formal Proof of Debt Form and Proxy, a link to access the virtual meeting will be emailed to you. This link will be unique for each attendee and unable to be shared with other parties.

In accordance with IPR 75-85, creditors will not be entitled to vote at this meeting unless they have previously lodged particulars of their claim against the Company with the Administrators and their claim has been admitted for voting purposes wholly or in part by the Administrators.

Telephone dial-in details will also be available for the virtual meeting. Those wishing to attend via telephone will also be required to complete the above registration process.

In accordance with IPR 5-5, a vote taken on a "show of hands" includes a vote taken using any electronic mechanism that indicates the intentions of a person in respect of a vote. This may include an attendee clicking a "raise a hand", or similar button, on a virtual meeting computer program, as well as verbally indicating their vote if dialling in to the meeting.

This definition is necessary to ensure that a show of hands may be used at a virtual meeting as an alternative to a poll.

DATED this 25th February 2025.



PETER KREJCI
ADMINISTRATOR

BRI FERRIER
Level 26
25 Bligh Street
Sydney NSW 2000

Telephone: (02) 8044 0531

***Voting at a Meeting the effect of Insolvency Practice Rules (Corporations) 75-85:**

Entitlement to vote at meetings of creditors

- (1) A person other than a creditor (or the creditor's proxy or attorney) is not entitled to vote at a meeting of creditors.
- (2) Subject to subsections (3), (4) and (5), each creditor is entitled to vote and has one vote.
- (3) A person is not entitled to vote as a creditor at a meeting of creditors unless:
 - (a) his or her debt or claim has been admitted wholly or in part by the external administrator; or
 - (b) he or she has lodged, with the person presiding at the meeting, or with the person named in the notice convening the meeting as the person who may receive particulars of the debt or claim:
 - (i) those particulars; or
 - (ii) if required—a formal proof of the debt or claim.
- (4) A creditor must not vote in respect of:
 - (a) an unliquidated debt; or
 - (b) a contingent debt; or
 - (c) an unliquidated or a contingent claim; or
 - (d) a debt the value of which is not established;unless a just estimate of its value has been made.
- (5) A creditor must not vote in respect of a debt or a claim on or secured by a bill of exchange, a promissory note or any other negotiable instrument or security held by the creditor unless he or she is willing to do the following:
 - (a) treat the liability to him or her on the instrument or security of a person covered by subsection (6) as a security in his or her hands;
 - (b) estimate its value;
 - (c) for the purposes of voting (but not for the purposes of dividend), to deduct it from his or her debt or claim.
- (6) A person is covered by this subsection if:
 - (a) the person's liability is a debt or a claim on, or secured by, a bill of exchange, a promissory note or any other negotiable instrument or security held by the creditor; and
 - (b) the person is either liable to the company directly, or may be liable to the company on the default of another person with respect to the liability; and
 - (c) the person is not an insolvent under administration or a person against whom a winding up order is in force



**ORANGE GAMING PTY LTD
(ADMINISTRATOR APPOINTED)**

**ACN 663 388 298
ABN 99 663 388 298**

**Annexure "2"
Formal Proof of Debt or Claim Form**

FORMAL PROOF OF DEBT OR CLAIM (GENERAL FORM)

To the Administrator of:

Orange Gaming Pty Ltd (Administrator Appointed) ACN 663 388 298 / ABN 99 663 388 298

1. This is to state that the company was, on 20 January 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.



**ORANGE GAMING PTY LTD
(ADMINISTRATOR APPOINTED)**

**ACN 663 388 298
ABN 99 663 388 298**

**Annexure "3"
Appointment of Proxy Form**

APPOINTMENT OF PROXY
SECOND MEETING OF CREDITORS

ORANGE GAMING PTY LTD
(ADMINISTRATOR APPOINTED)
ACN 663 388 298
ABN 99 663 388 298

("THE COMPANY")

*I/*We (1)
of
a creditor of the Company
appoint (2)
or in his or her absence
as *my/our *general/special proxy to vote at the meetings of creditors to be held on 31 January 2025 at
11.00AM AEDT, or at any adjournment of that meeting.

Please mark any boxes with an ☒

Proxy Type: ☐ General ☐ Special

DATED this day of February 2025

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:



**ORANGE GAMING PTY LTD
(ADMINISTRATOR APPOINTED)**

**ACN 663 388 298
ABN 99 663 388 298**

**Annexure "4"
Declaration of Independence, Relevant
Relationships and Indemnities ("DIRRI")**

Declaration of Independence, Relevant Relationships and Indemnities

Orange Gaming Pty Limited
(Administrator Appointed)
ACN 663 388 298
ABN 99 663 388 298

22 January 2025

PETER KREJCI
Administrator

Novabrif Pty Ltd ABN 61 643 013 610
Level 26, 25 Bligh Street, Sydney NSW 2000
GPO Box 7079, Sydney NSW 2001
Phone (02) 8263 2333
Email: info@brifnsw.com.au
Website: www.briferrier.com.au



The purpose of this document is to assist creditors with understanding any relevant relationships that I, the Voluntary Administrator, have with parties who are closely connected to Orange Gaming Pty Limited (Administrator Appointed) ("Company") and any indemnities or upfront payments that have been provided to me. None of the relationships disclosed in this document are such that my independence is affected.

This information is provided so you have trust and confidence in my independence and, if not, you can ask for further explanation or information and can act to remove and replace me if you wish.

This declaration is made in respect of myself, my partners and BRI Ferrier.

I am a Professional Member of ARITA – Australian Restructuring Insolvency and Turnaround Association. I acknowledge that I am bound by the ARITA Code of Professional Practice.

A. INDEPENDENCE

I, Peter Krejci, of BRI Ferrier have assessed my independence prior to consenting to be appointed as replacement Administrator of the Company in accordance with the law and applicable professional standards and I am not aware of any reasons that would prevent me from accepting this appointment.

There are no other known relevant relationships, including personal, business and professional relationships, that should be disclosed beyond those I have disclosed in this document.

B. CIRCUMSTANCES OF REFERRAL

I. HOW I WAS REFERRED THIS APPOINTMENT

This appointment was referred to me by Tom Wallace of Gibraltar Capital ("Referrer"). The Referrer contacted me on 23 December 2024 to discuss a potential appointment as Administrator to the Company and seeking my Consent to Act as Voluntary Administrator.

The Referrer provided appointment details via email on 23 December 2024 and indicated an intention by HG Investment Capital Holdings Pty Ltd ("HGICH") (First ranking secured creditor over the Company) to appoint me as Voluntary Administrator on 24 December 2024.

On 24 December 2024, the Referrer sent email correspondence confirming they had conducted ASIC searches on my behalf and provided additional information regarding the appointment to enable my office to complete conflict checks.

Between 24 December 2024 and 13 January 2025, I was copied in on a number of emails between the Referrer and Gadens Legal Services ("Gadens") in regard to legal advice confirming HGICH's capacity to appoint an Administrator pursuant to the it's ALLPAP security registered against the Company.

On 13 January 2025, I received legal advice from Gadens confirming that HGICH had the power to appoint an Administrator to the Company and to proceed with an appointment.

On 14 January 2025, I advised the Referrer that I would arrange for my Consent to Act to be sent to Gadens. I subsequently sent the necessary documents to Gadens later that day.

On 20 January 2025, HGICH appointed me as Administrator of the Company pursuant to Section 436C of the Corporations Act.

I believe that this referral does not result in a conflict of interest or duty because:

- Whilst I have received referrals from the Referrer from time to time, these have been on an ad hoc basis.
- The giving of a consent to act does not result in any duty owed to that party that would conflict with my interests or duties under the Corporations Act.
- I have not received or paid any benefit to the Referrer with respect of these referrals.
- As a statutory body, the Referrer is bound to act within the rules and regulations set out by the Corporations Act.

There is no expectation, agreement or understanding between me and the referrer regarding the conduct of the Liquidation and I am free to act independently and in accordance with the law and applicable professional standards.

II. DID I MEET WITH THE COMPANY, THE DIRECTORS OR THEIR ADVISER BEFORE I WAS APPOINTED?

☐ Yes ☒ No

Neither I, nor my Firm, have met with the director, or their advisor prior to my appointment.

C. DECLARATION OF RELATIONSHIPS

Within the previous two years, I, or my firm, have had a relationship with:

Name	Nature of relationship
The Company	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
The Director	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Any associates of the Company?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
A former insolvency practitioner appointed to the Company?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
A secured creditor entitled to enforce a security over the whole or substantially the whole of the Company's property?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

Do I have any other relationships that I consider are relevant to creditors assessing my independence?

☒ Yes ☐ No

Australian Taxation Office

- The ATO is a sophisticated statutory creditor and is administratively bound to act as a Model Litigant. 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.
- Principals and Directors of BRI Ferrier around Australia, were, until its expiration at the end of 2014, members of a panel of Official Administrators established by the ATO and accepted appointments by Australian Courts initiated by the Federal Commissioner. These Official Administrators had undertaken to the ATO to accept appointments as Administrator appointed by a Court under the Corporations Act where the ATO is the applicant creditor, whether the company has assets or not. BRI Ferrier is likely to seek inclusion in any comparable panel should one be established in future. Membership of the panel was not conditional upon any preference or benefit being conferred upon the ATO.

Gibraltar Capital

- I am referred matters from Gibraltar Capital on an ad hoc basis. These referrals represent an immaterial proportion of matters that I, my partners, and BRI Ferrier are referred on a yearly basis. I, my partners, and BRI have no other relationship or association with Gibraltar Capital that would impede me acting independently regarding all decisions required to be made during this administration.

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 I accept such engagements only on the basis that my independence will be maintained and the relationships are maintained on professional commercial terms.

III. 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 valid and enforceable security interest on the whole or substantially whole of the Company's property that should be disclosed.

D. INDEMNITIES AND UP-FRONT PAYMENTS

I have not been indemnified in relation to this liquidation and have not received any up-front payments. This does not include any indemnities I may be entitled to under the law.

Dated: 22 January 2025



.....
Peter Krejci
Voluntary
Administrator

NOTE:

1. *The assessment of independence has been made based on an evaluation of the significance of any threats to independence and in accordance with the requirements of the relevant legislation and professional Standards.*
2. *If circumstances change, or new information is identified, I am required under the Corporations Act 2001 and ARITA's 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. For creditors' voluntary liquidations and voluntary administrations, this document and any updated versions of this document are required to be lodged with ASIC.*



**ORANGE GAMING PTY LTD
(ADMINISTRATOR APPOINTED)**

**ACN 663 388 298
ABN 99 663 388 298**

**Annexure "5"
Remuneration Approval Report**

Remuneration Approval Report

**Orange Gaming Pty Ltd
(Administrator Appointed)
ACN 663 388 298**

25 February 2025

Peter Krejci
Administrator

Novabrif Pty Ltd ABN 61 643 013 610
Level 26, 25 Bligh Street, Sydney NSW 2000
GPO Box 7079, Sydney NSW 2001
Phone (02) 8263 2333
Facsimile (02) 8263 2399
Email: info@brifnsw.com.au
Website: www.briferrier.com.au



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1. EXECUTIVE SUMMARY

I am asking creditors to approve the following remuneration and disbursements:

	Remuneration \$(excl GST)	Disbursements \$ (excl GST)
Voluntary Administration	40,000.00	1,000.00
If Company is liquidated	40,000.00	1,000.00

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

I estimate the total cost of this Voluntary Administration will be approximately \$40K.

2. DECLARATION

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

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

3. REMUNERATION APPROVAL SOUGHT

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

For	Period	Amount (\$, excl. GST)	Rates to apply	When it will be drawn
Work I have already done	20 January 2025 to 25 February 2025	37,669.00	Provided in my Second Report to Creditors dated 25 February 2025	It will be drawn when approved by Creditors and funds are available
Future work	26 February 2025 to Conclusion of the VA	2,331.00	Provided in my Second Report to Creditors dated 25 February 2025	It will be drawn when approved by Creditors and funds are available and incurred
VA Total		40,000.00		
Future work - Liquidation	Second Meeting of Creditors to Finalisation of the Liquidation	40,000.00	Provided in my Second Report to Creditors dated 25 February 2025	It will be drawn when approved by Creditors and funds are available and incurred
Liquidation Total		40,000.00		

I note that remuneration incurred for the period from 20 January 2025 to 25 February 2025 totalled \$37,669.00

Details of the work done for the period from 20 January 2025 to 25 February 2025 and future work expected for the period 26 February 2025 to the Conclusion of the VA are included at **Schedule A**.

Details of future work that I intend to do in a Liquidation are included at **Schedule B**.

A breakdown of time spent by staff members on each major task for work completed from 20 January 2025 to 25 February 2025 is included in **Schedule C**.

Actual resolutions to be put to the meeting are included at **Schedule D** for your information. These resolutions also appear in the proxy form for the meeting provided to you.

I will only seek approval of the resolution for the liquidation if creditors vote to place the Company into Liquidation.

4. DISBURSEMENTS SOUGHT

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

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

For more information about disbursements, please refer to the Advice to Creditors About Remuneration provided as Annexure 6 to this report.

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

For	Period	Amount (\$, excl. GST)
Disbursements during the VA period	20 January 2025 to conclusion of the VA	1,000.00
If Company is liquidated - Future disbursements	Commencement to conclusion of the Liquidation	1,000.00

I will only seek approval of the resolution for the DOCA/liquidation disbursements and based the outcome of the voting for at the forthcoming meeting

Details of disbursements incurred, and future disbursements are included at **Schedule E**. Actual resolutions to be put to the meeting are included at **Schedule D** for your information. These resolutions also appear in the proxy form for the meeting provided to you.

5. LIKELY IMPACT ON DIVIDENDS

The Corporations Act sets the order for payment of claims against the Company, and it provides for the remuneration of the Administrator to be paid in priority to other claims. This ensures that when there are sufficient funds, the Administrator receives payment for the work done to recover assets, investigate

the Company's affairs, report to creditors and ASIC and distribute any available funds. Even if creditors approve my remuneration, this does not guarantee that I will be paid, as I am only paid if sufficient assets are recovered.

At this stage, there have been minimal recoveries, and I have been unable to discharge my costs in full. Any return to unsecured creditors is therefore contingent on a range of variables, particularly the decision creditors make on the future of the Company, future realisations, the estimated remuneration I have set out in this report and creditor claims.

6. QUERIES & INFORMATION SHEET

If you have any queries in relation to the information in this report, please contact my office. You can also access information which may assist you on the following websites:

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

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

7. ATTACHMENTS

Schedule A – Details of work from 20 January 2025 to the second meeting of creditors

Schedule B – Details of work from the second meeting of creditors to the conclusion of the external administration

Schedule C – A breakdown of time spent by staff members on each major task for work completed from 20 January 2025 to 25 February 2025

Schedule D – Resolutions

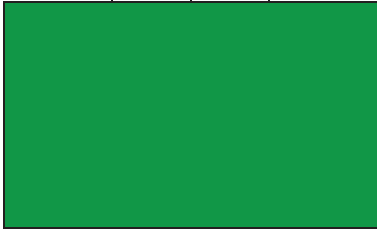
Schedule E – Disbursements

SCHEDULE A – DETAILS OF WORK FROM 20 JANUARY 2025 TO CONCLUSION OF THE VA

Company		Period From	To	Conclusion of the VA
Practitioner	Orange Gaming Pty Ltd (Administrator Appointed)			
	Peter Krejci Administrator Appointed			
Administration Type		Firm	BRI Ferrier	
Tasks				
		Work completed (excl. GST)	Future work (excl. GST)	
Period		20 January 2025 to 25 February 2025	26 February 2025 to the Conclusion of the VA	
Amount (excl. GST)		\$37,669.00	\$2,331.00	
Task Area Assets	General Description			
		0.5 Hours \$195.00	\$116.55	
	Other Assets	Corresponding with the banks on the day of the appointment	Corresponding with the Directors regarding the consideration paid for the liquor licence held by the Company	
	Assets subject to specific charges	Review PPSR charge documents Consider validity of registered security interests Liaise with PPSR creditors	Tasks associated with realising other assets	
Creditors		16.7 Hours \$9,457.00	\$582.75	
	Creditor Enquiries	Receive and respond to creditor enquiries Receive and follow up creditor enquiries by telephone Review and prepare correspondence to creditors and	Receive and respond to creditor enquiries Receive and follow up creditor enquiries by telephone Review and prepare correspondence to creditors and their	

	their representatives by email Responding to information requested by creditors	representatives by email Responding to information requested by creditors
Creditor Reports	Preparing Initial Report to Creditors Preparation of necessary annexures for Initial Report to Creditors Preparing Second Report to Creditors Preparation of necessary annexures for Second Report to Creditors	N/A
Dealing with proofs of debt	Receipting and filing POD when not related to a dividend Maintaining register of Proofs of Debts received Reviewing supporting documentation from creditors	Receipting, processing, and filing Proofs of Debts when not related to a dividend Review documents and information provided by the Directors in relation the Directors' claims Maintaining register of Proofs of Debts received Reviewing supporting documentation from creditors
Meeting of Creditors	N/A	Preparation of meeting notices, proxies and advertisements Forward notice of meeting to all known creditors Preparation of meeting file, including agenda, certificate of postage, attendance register, list of creditors, reports to creditors, advertisement of meeting and draft minutes of meeting. Preparation and lodgement of minutes of meetings with ASIC Responding to stakeholder queries and questions immediately following meeting
Secured creditor reporting	Notifying PPSR registered creditors of status/developments in the appointment Issuing Report to Creditors and letter requesting for security documentation Telephone conversation with creditors regarding the outstanding debts they may be owed	N/A

		Collation of Discharge Notices	
	Proposal for Deed of Company Arrangement	Liaising with external parties regarding their DOCA proposal (if proposed)	N/A
Investigation		27.7 Hours \$17,925.00	\$932.40
	Conducting Investigation	Conducting and summarising statutory searches Review of documentation provided by secured creditor in relation to the Company's historical financial position and financial performance Preparation of investigation file Consider recovery actions available to pursue against Directors or related parties in a Liquidation scenario Review claims from creditors to calculate potential insolvent trading claimed amount in a Liquidation scenario Consider breaches of director duties and voidable transactions to pursue identified given the limited books and records Consider commerciality of pursuing the potential recovery actions available in a Liquidation scenario	N/A
	ASIC Reporting	N/A	Preparing statutory investigation reports Liaising with ASIC
		20.7 Hours \$10,092.00	\$699.30
Administration		Preparing and lodging ASIC forms including 505, 531, 507 etc Preparing and lodging ASIC PNW Advert	Preparing and lodging ASIC forms including 5011, 530 etc
	ASIC Forms and lodgements		
	Bank account administration	Preparing correspondence opening bank account Bank account reconciliations	Bank account reconciliations

	Document maintenance/file review/checklist	Preparing and updating job checklists Filing of documents	Updating job checklists Filing of documents
	ATO and other statutory reporting	Notification of appointment	N/A
	Planning / Review	Discussions regarding status of administration	Discussions regarding status of administration
	Finalisation	N/A	Notifying ATO of finalisation Completing checklists Finalising WIP

SCHEDULE B – DETAILS OF WORK FROM THE SECOND MEETING OF CREDITORS TO THE CONCLUSION OF THE EXTERNAL ADMINISTRATION

Company	Orange Gaming Pty Ltd (Administrator Appointed)	Period From	From the commencement of the liquidation	To	Conclusion
Practitioner	Peter Krejci	Firm	BRI Ferrier		
Administration Type	Administrator Appointed				
			Tasks		
			If wound up		
Period			From commencement of the Liquidation to the Conclusion of the Liquidation		
Amount (excl. GST)			\$40,000.00		
Task Area	General Description				
Assets			\$2,000.00		
	Other Assets		Tasks associated with realising other assets		
Creditors			\$8,000.00		
	Creditor Enquiries		Receive and respond to creditor enquiries Review and prepare initial correspondence to creditors and their representatives Considering reasonableness of creditor request Obtaining legal advice on requests Compiling information requested by creditors		
	Creditor Reports		Prepare Circular to Creditors regarding Liquidation Prepare Statutory Report to Creditors Preparation of necessary annexures for Statutory Report to Creditors		
	Dealing with proofs of debt		Receipting, processing, and filing Proofs of Debts when not related to a dividend Maintaining register of Proofs of Debts received Reviewing supporting documentation from creditors		

	Meeting of Creditors	Convening creditors meeting as necessary Preparation of Minutes of Meeting (if required)
Investigation		\$16,000.00
	Conducting Investigation	Obtaining and reviewing further Company's books and records Review of specific transactions and liaising with Director regarding certain transactions Conducting further investigations into potential voidable transactions Conducting further investigations into solvency analysis Preparation of updated investigation file Lodgement of investigation with ASIC
	ASIC Reporting	Preparing statutory investigation reports Liaising with ASIC
Employees		\$2,000.00
	Employees enquiries	Correspondence with employees Receive and follow up employee enquiries via telephone Maintain employee enquiry register
	FEG	Correspondence with FEG Preparing initial questionnaire Preparing FEG quotation for services Request further supporting documentation from employees to substantiate their claims Preparing verification spreadsheet of employee entitlements Completing FEG questionnaires Correspondence with FEG regarding discrepancies, if any
	Calculation of entitlements	Calculating employee entitlements Reviewing employee files and Company's books and records Reconciling superannuation accounts
		\$6,000.00
Dividend		
	Dividend Procedures	Advisement of intention to declare dividend Correspondence to creditors advising of intention to declare dividend Calculation of dividend

		<p>Adjudicate PODs and supporting documentation</p> <p>Request further and better particulars as necessary</p> <p>Reporting to Creditors regarding dividend quantum and timing</p> <p>Completing outstanding tax lodgements and seeking tax clearance</p> <p>Preparing dividend file</p>
Administration		\$6,000.00
	ASIC Forms and lodgements	Preparing and lodging ASIC forms Correspondence with ASIC regarding statutory forms
	Bank account administration	Preparing receipt and payment vouchers Bank account reconciliations
	Books and Records/Storage	Dealing with records in storage Sending job files to archive storage
	Correspondence	Correspondence with various parties
	Document maintenance/file review/checklist	Filing of documents File reviews Updating checklists
	ATO and other statutory reporting	Notification of appointment Preparing BAS
	Planning / Review	Discussions regarding status of administration
	Finalisation	<p>Notifying ATO of finalisation</p> <p>Cancelling ABN/GST/PAYG registration</p> <p>Completing checklists</p> <p>Finalising WIP</p>

SCHEDULE C – TIME SPENT BY STAFF ON MAJOR TASKS – 20 JANUARY 2025 TO 24 FEBRUARY 2025

Orange Gaming Pty Ltd (Administrator Appointed)

ACN: 663 388 298

For the period 20 January 2025 to 25 February 2025

Staff Classification	Name	Hourly Rate (\$, ex GST)	Administration Hrs	Assets Hrs	Creditors Hrs	Investigation Hrs	Total Hrs	Total \$
Appointee	Peter Krejci	750.00	4.8	3,600.00	6.7	5,025.00	21.1	15,825.00
Principal	David Cocker	750.00	0.6	450.00	1.4	1,050.00	0.2	150.00
Senior Manager	Pauline Yeow	620.00		0.1	75.00			
Supervisor	Asleigh Roche	510.00	6.2	3,162.00	0.3	186.00		
Senior 2	Sushma Mandira	400.00	1.5	600.00	1.6	816.00		
Senior Administrator	Andrea Moulikova	300.00	3.1	930.00	3.7	1,480.00	0.3	120.00
Intermediate 2	Hugh Matthews	300.00	0.1	30.00	0.7	210.00		
Senior Administrator	Sarita Gurung	300.00	1.2	360.00				
Senior Administrator	Sonia Stelmach	300.00	0.2	60.00				
Intermediate 2	Tiarnan Teague	300.00	0.7	210.00	0.4	120.00	4.7	1,410.00
Intermediate 2	Zachary George	300.00	2.3	690.00	2.3	690.00	1.4	420.00
Total			20.7	10,092.00	0.5	195.00	16.7	9,457.00
							27.7	17,925.00
							65.6	37,669.00

SCHEDULE D – RESOLUTIONS

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

Resolution: Administrator’s Remuneration for the period 20 January 2025 to 25 February 2025

“That the remuneration of the Voluntary Administrator, their partners and staff for the period 20 January 2025 to 25 February 2025, be calculated on a time basis in accordance with the rates of charge annexed to the Voluntary Administrator’s Second Report to Creditors dated 25 February 2025, be fixed and approved at \$37,669.00 (plus GST), and that the Voluntary Administrator be authorised to draw that amount.”

Resolution: Administrator’s Remuneration for the period 26 February 2025 to Conclusion

“That the remuneration of the Administrator, their partners and staff for the period 26 February 2025 to conclusion of the VA be calculated on a time basis in accordance with the rates of charge annexed to the Voluntary Administrator’s Second Report to Creditors dated 25 February 2025 and approved to an interim cap of \$2,331.00 (plus GST), and that the Voluntary Administrator be authorised to draw that amount as and when incurred.”

If the Company is wound up:

Resolution: Liquidator’s Remuneration from Commencement to Conclusion

“That the remuneration of the Liquidator, their partners and staff from the commencement of the Liquidation to the conclusion of the Liquidation, be calculated on a time basis in accordance with the rates of charge annexed to the Voluntary Administrator’s Second Report to Creditors dated 25 February 2025, and approved to an interim cap of \$40,000.00 (plus GST), and that the Liquidator be authorised to draw that amount as and when incurred.”

SCHEDULE E – DISBURSEMENTS

Disbursements are divided into three types:

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

I advise that to date I have not paid any disbursements incurred during this Administration by our Firm.

I am not obliged to seek creditor approval for disbursements paid to third parties, but must account to creditors, this includes providing details of the basis of charging for these types of disbursements to creditors as part of the Remuneration Approval Report. I am required to seek creditor approval for internal disbursements where there could be a profit or advantage. Accordingly, I will be seeking approval from creditors for the following resolution:

Resolution: Administrator's Internal Disbursements for the period 20 January 2025 to Conclusion

"That the Voluntary Administrator be allowed internal disbursements from 20 January 2025 to the conclusion of the Voluntary Administration at the rates of charge in the Voluntary Administrator's Remuneration Approval Report dated 25 February 2025, up to an amount of \$1,000.00 (plus GST) and that the Voluntary Administrator be authorised to draw that amount as accrued."

Resolution: Deed Administrator's Internal Disbursements from Execution to Conclusion

"That the Deed Administrator be allowed internal disbursements from the date of the execution of the Deed of Company Arrangement to the conclusion of the Deed of Company Arrangement at the rates of charge annexed to the Voluntary Administrator's Remuneration Approval Report dated 25 February 2025, up to an amount of \$1,000.00 (plus GST) and that the Deed Administrator be authorised to draw that amount as accrued."

Resolution: Liquidator's Internal Disbursements for the period Commencement to Conclusion

"That the Liquidator be allowed internal disbursements from the commencement of the Liquidation to the conclusion of the Liquidation at the rates of charge annexed to the Voluntary Administrator's Remuneration Approval Report dated 25 February 2025, up to an amount of \$1,000.00 (plus GST) and that the Liquidator be authorised to draw that amount as accrued."

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

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



**ORANGE GAMING PTY LTD
(ADMINISTRATOR APPOINTED)**

**ACN 663 388 298
ABN 99 663 388 298**

**Annexure "6"
Advice to Creditors About Renumeration**

ADVICE TO CREDITORS ABOUT REMUNERATION

Insolvency Practice Schedule (Corporations) 70-50
Insolvency Practice Rules (Corporations) 70-35

**ORANGE GAMING PTY LTD
(ADMINISTRATOR APPOINTED)**

**ACN 663 388 298
AB99 663 388 298**

("THE COMPANY")

A REMUNERATION METHOD

There are four methods for calculation of remuneration that can be used to calculate the remuneration of an Insolvency Practitioner. They are:

▲ Time based / hourly rates or "Time Cost"

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 appointment and is the total charge for the administration. Sometimes a practitioner will finalise an administration for a fixed fee.

▲ Percentage

The remuneration for the appointment is based on a percentage of a particular variable, such as the gross proceeds of asset realisations.

▲ Contingency

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

B METHOD CHOSEN

Given the nature of this administration, we propose that our remuneration be calculated on the time based / hourly rates method. In our opinion, this is the fairest method for the following reasons:

- ▲ We will only be paid for work done, subject to sufficient realisations of the Company assets.
- ▲ It ensures creditors are only charged for work that is performed. Our time are recorded and charged in six-minute increments and staff are allocated to duties according to their relevant experience and qualifications.

- We are required to perform a number of tasks which do not relate to the realisation of assets, including responding to creditor enquiries, reporting to the ASIC, distributing funds in accordance with the provisions of the Corporations Act 2001.

BRI Ferrier reviews its hourly rates every twelve months. The hourly rates quoted below remain current. BRI Ferrier may increase the hourly rates charged for work performed and if hourly rates are increased, we will seek approval from creditors.

C EXPLANATION OF HOURLY RATES

The rates applicable are set out in the table below together with a general guide to the qualifications and experience of staff engaged in administration and the role they undertake in the administration. The hourly rates charged encompass the total cost of providing professional services and are not comparable to an hourly wage rate.

Title	Description	Hourly Rates (ex GST) NSW
Appointee / Principal	Senior member of the firm. May be a Registered Liquidator and/or Registered Trustee. A senior accountant with over 10 years' experience who brings specialist skills and experience to the appointment. Leads staff carrying out appointments.	\$750
Director	An accountant with more than 10 years' experience. May be a Liquidator. Fully qualified and able to control all aspects of an appointment. May have specialist industry knowledge or skills. Assists with all facets of appointment.	\$670
Senior Manager	An accountant with more than 7 years' experience. Qualified and answerable to the Team Leader. Self-sufficient in completing and planning all aspects of large appointments.	\$520
Manager	An accountant with at least 6 years' experience. Typically qualified with well-developed technical and commercial skills. Controls and plans all aspects of medium to larger appointments, reporting to the Team Leader.	\$580
Supervisor	An accountant with more than 4 years' experience. Typically qualified with sound knowledge of insolvency principles and developing commercial skill. Assists to plan and control specific tasks on medium to larger appointments. Often undertaking post qualification study specialising in Insolvency and Reconstruction.	\$510
Senior 1	An accountant with more than 2 years' experience. Typically a graduate undertaking study leading to professional qualification as a Chartered Accountant or CPA. Able to complete work on appointments with limited supervision.	\$450
Senior 2	An accountant with less than 2 years' experience. Typically a graduate who has commenced study leading to professional qualifications. Able to complete many tasks on medium to large appointments under supervision.	\$400
Intermediate 1	An accountant with less than 2 years' experience. Typically a graduate and commencing study for qualifications. Able to complete multiple tasks on smaller to medium appointments under supervision.	\$350
Intermediate 2	An accountant with less than 1 year's experience. A trainee undertaking degree with an accountancy major. Assists in the appointment under supervision.	\$300
Senior Administration	Appropriately skilled and undertakes support activities including but not limited to treasury, word processing and other administrative, clerical and secretarial tasks.	\$300
Junior Administration	Appropriately skilled and undertakes support activities including but not limited to treasury, word processing and other administrative, clerical and secretarial tasks.	\$200

D DISBURSEMENTS

Disbursements are divided into three types:

- Externally provided professional services - these are recovered at cost. An example of an externally provided service disbursement is legal fees.
- Externally provided non-professional costs such as travel, accommodation and search fees. These are recovered at cost.
- Internal disbursements such as photocopying, printing and postage. These disbursements, if charged to the Administration, would generally 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 are not required to seek creditor approval for disbursements paid to third parties but must account to creditors. However, we must be satisfied that these disbursements are appropriate, justified and reasonable.

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

Details of the basis of recovering disbursements in this administration are provided below.

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



**ORANGE GAMING PTY LTD
(ADMINISTRATOR APPOINTED)**

**ACN 663 388 298
ABN 99 663 388 298**

Annexure "7"
ASIC Information Sheet - Insolvency
Information for Directors, Employees, Creditors
and Shareholders



ASIC

Australian Securities & Investments Commission

Insolvency information for directors, employees, creditors and shareholders

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

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

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

List of information sheets

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

Where can I get more information?

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

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



**ORANGE GAMING PTY LTD
(ADMINISTRATOR APPOINTED)**

**ACN 663 388 298
ABN 99 663 388 298**

Annexure "8"
**ARITA Information Sheet – Offences,
Recoverable Transactions and Insolvent Trading**

Voluntary Administration

Creditor Information Sheet

Offences, Recoverable Transactions and Insolvent Trading



Offences

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

180	Failure by company officers to exercise a reasonable degree of care and diligence in the exercise of their powers and the discharge of their duties.
181	Failure to act in good faith.
182	Making improper use of their position as an officer or employee, to gain, directly or indirectly, an advantage.
183	Making improper use of information acquired by virtue of the officer's position.
184	Reckless or intentional dishonesty in failing to exercise duties in good faith for a proper purpose. Use of position or information dishonestly to gain advantage or cause detriment. This can be a criminal offence.
198G	Performing or exercising a function or power as an officer while a company is under administration.
206A	Contravening a court order against taking part in the management of a corporation.
206A, B	Taking part in the management of corporation while being an insolvent, for example, while bankrupt.
206A, B	Acting as a director or promoter or taking part in the management of a company within five years after conviction or imprisonment for various offences.
209(3)	Dishonest failure to observe requirements on making loans to directors or related companies.
254T	Paying dividends except out of profits.
286	Failure to keep proper accounting records.
312	Obstruction of an auditor.
314-7	Failure to comply with requirements for the preparation of financial statements.
437D(5)	Unauthorised dealing with company's property during administration.
438B(4)	Failure by directors to assist administrator, deliver records and provide information.
438C(5)	Failure to deliver up books and records to the administrator.
588G	Incurring liabilities while insolvent
588GAB	Officer's duty to prevent creditor-defeating disposition
588GAC	A person must not procure a company to make a creditor-defeating disposition
590	Failure to disclose property, concealed or removed property, concealed a debt due to the company, altered books of the company, fraudulently obtained credit on behalf of the company, material omission from Report as to Affairs or false representation to creditors.
596AB	Entering into an agreement or transaction to avoid employee entitlements.

Recoverable Transactions

Preferences

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

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

Creditor-defeating disposition

Creditor-defeating dispositions are the transfer of company assets for less than market value (or the best price reasonably obtainable) that prevents, hinders or significantly delay creditors' access to the company's assets in liquidation. Creditor-defeating dispositions are voidable by a liquidator.

Uncommercial Transaction

An uncommercial transaction is one that it may be expected that a reasonable person in the company's circumstances would not have entered into, having regard to the benefit or detriment to the company; the respective benefits to other parties; and any other relevant matter.

To be voidable, an uncommercial transaction must have occurred during the two years before the liquidation. However, if a related entity is a party to the transaction, the period is four years and if the intention of the transaction is to defeat creditors, the period is ten years. The company must have been insolvent at the time of the transaction, or become insolvent because of the transaction.

Unfair Loan

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

Arrangements to avoid employee entitlements

If an employee suffers loss because a person (including a director) enters into an arrangement or transaction to avoid the payment of employee entitlements, the liquidator or the employee may seek to recover compensation from that person or from members of a corporate group (Contribution Order).

Unreasonable payments to directors

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

Voidable charges

Certain charges over company property are voidable by a liquidator:

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

Insolvent trading

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

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

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

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

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

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

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

Queries about the voluntary administration should be directed to the administrator's office.



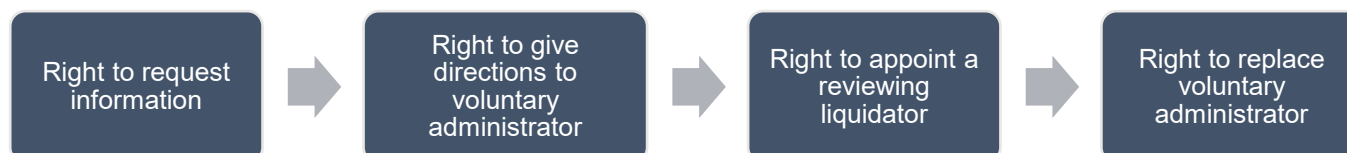
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**Annexure "9"
ARTIA Information Sheet – Creditor Rights in a
Voluntary Administration**

Creditor Rights in Voluntary Administrations

As a creditor, you have rights to request meetings and information or take certain actions:



Right to request information

Information is communicated to creditors in a voluntary administration through reports and meetings.

In a voluntary administration, two meetings of creditors are automatically held. You should expect to receive reports and notice of these meetings:

- The first meeting is held within 8 business days of the voluntary administrator's appointment. A notice of meeting and other information for this meeting will be issued to all known creditors.
- The second, or decision, meeting is usually held within 6 weeks of the appointment, unless an extension is granted. At this meeting, creditors will get to make a decision about the company's future. Prior to this meeting the voluntary administrator will provide creditors with a notice of the meeting and a detailed report to assist in making your decision.

Important information will be communicated to creditors prior to and during these meetings. Creditors are unable to request additional meetings in a voluntary administration.

Creditors have the right to request information at any time. A voluntary administrator must provide a creditor with the requested information if their request is 'reasonable', the information is relevant to the voluntary administration, and the provision of the information would not cause the voluntary administrator to breach their duties.

A voluntary administrator must provide this information to a creditor within 5 business days of receiving the request, unless a longer period is agreed. If, due to the nature of the information requested, the voluntary administrator requires more time to comply with the request, they can extend the period by notifying the creditor in writing.

Requests must be reasonable.

They are not reasonable if:

- (a) complying with the request would prejudice the interests of one or more creditors or a third party
- (b) the information requested would be privileged from production in legal proceedings
- (c) disclosure would found an action for breach of confidence
- (d) there is not sufficient available property to comply with the request
- (e) the information has already been provided
- (f) the information is required to be provided under law within 20 business days of the request
- (g) the request is vexatious

If a request is not reasonable due to (d), (e) or (f) above, the voluntary administrator must comply if the creditor meets the cost of complying with the request.

Otherwise, a voluntary administrator must inform a creditor if their information request is not reasonable and the reason why.

Right to give directions to voluntary administrator

Creditors, by resolution, may give a voluntary administrator directions in relation to a voluntary administration. A voluntary administrator must have regard to these directions, but they are not required to comply with the directions.

If a voluntary administrator chooses not to comply with a direction given by a resolution of the creditors, they must document their reasons for not complying.

An individual creditor cannot provide a direction to a voluntary administrator.

Right to appoint a reviewing liquidator

Creditors, by resolution, may appoint a reviewing liquidator to review a voluntary administrator's remuneration or a cost or expense incurred in a voluntary administration. The review is limited to:

- remuneration approved within the six months prior to the appointment of the reviewing liquidator, and
- expenses incurred in the 12 months prior to the appointment of the reviewing liquidator.

The cost of the reviewing liquidator is paid from the assets of the voluntary administration, in priority to creditor claims.

An individual creditor can appoint a reviewing liquidator with the voluntary administrator's consent, however the cost of this reviewing liquidator must be met personally by the creditor making the appointment.

Right to replace voluntary administrator

At the first meeting, creditors have the right to remove a voluntary administrator and appoint another registered liquidator to act as voluntary administrator.

A creditor must ensure that they have a consent from another registered liquidator prior to the first meeting if they wish to seek the removal and replacement of a voluntary administrator.

Creditors also have the opportunity to replace a voluntary administrator at the second meeting of creditors:

- If creditors vote to accept a proposed deed of company arrangement, they can appoint a different registered liquidator as the deed administrator.
- If creditors vote to place the company into liquidation, they can appoint a different registered liquidator as the liquidator.

It is however usual for the voluntary administrator to act as deed administrator or liquidator. It would be expected that additional costs would be incurred by an alternate deed administrator or liquidator to gain the level of knowledge of the voluntary administrator.

Like with the first meeting, a creditor must ensure that they have a consent from another registered liquidator prior to the second meeting if they wish to seek to appoint an alternative registered liquidator as deed administrator or liquidator.

**For more information, go to www.arita.com.au/creditors.
Specific queries about the voluntary administration should be directed to the voluntary administrator's office.**



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**Annexure "10"
ASIC Information Sheet – Approving
Remuneration of an External Administrator**

Approving fees: A guide for creditors

This is **Information Sheet 85 (INFO 85)**. It provides creditors with information about the external administrator's fees in a liquidation of a company, voluntary administration or deed of company arrangement. This information sheet outlines the rights that creditors have in approving the external administrator's fees.

The fees of a receiver are fixed by the secured creditor that appoints the receiver and is not discussed in this information sheet.

An external administrator is entitled to receive:

- reasonable fees, or remuneration, for the necessary work they properly perform, after these fees have been approved by creditors, a committee of inspection or a court
- reimbursement for out-of-pocket costs incurred in performing their role.

External administrators are only entitled to fees that are reasonable for the necessary work that they and their staff properly perform in the external administration. What is reasonable will depend on the type of external administration and the issues that need to be resolved. Some are straightforward, while others are more complex.

External administrators must undertake some tasks that may not directly benefit creditors. These include 'statutory' tasks such as reporting to ASIC about potential breaches of the law and lodging forms and notices with ASIC. The external administrator is entitled to be paid for undertaking statutory tasks.

Out-of-pocket costs that are commonly reimbursed include:

- legal fees
- valuers', real estate agents' and auctioneers' fees
- stationery, photocopying, telephone and postage costs
- retrieval costs for recovering company computer records
- storage costs for company books and records.

Creditors have a direct interest in the level of fees and costs because the external administrator will generally be paid from the company's available assets before any payments are made to creditors. If there are not enough assets, the external administrator may have arranged for a third party to pay any shortfall. As a creditor, you should receive details of such an arrangement. If there are not enough assets to pay the fees and costs, and there is no third-party payment arrangement, an external administrator is sometimes not paid (or only partially paid) for the work they do.

An external administrator's fees must be approved by:

- resolution of creditors
- a committee of inspection (if there is a committee of inspection and if no resolution has been passed by creditors), or
- the court if neither the creditors or a committee of inspection have passed a resolution.

An external administrator in a member's voluntary winding up must have fees approved by a resolution of the company, or the court.

The external administrator must provide enough information to allow creditors to help you assess whether the fees are reasonable.

If fees are not approved by creditors in one of the above ways, the liquidator is entitled to receive reasonable fees up to a maximum default amount (indexed annually).

Creditors' approval of fees at a creditors' meeting

Creditors can approve fees by passing a resolution at a creditors' meeting. To vote on any resolution at a creditors' meeting, creditors state aloud their agreement or disagreement (called a 'vote on the voices') or a 'poll' is taken.

Unless creditors call for a poll, the resolution passes if a simple majority of creditors present and voting, in person or by proxy, indicates they agree to the resolution.

If a poll is taken, a majority in number and value of creditors present and voting must agree. A poll requires the votes of each creditor to be counted and recorded.

A separate creditors' resolution is required for approving fees for an administrator in a voluntary administration and an administrator of a deed of company arrangement, even if the administrator is the same person in both administrations.

A proxy is where a creditor appoints someone else to represent them at a creditors' meeting and vote on their behalf. A proxy can be a general or special proxy. A general proxy allows the person holding the proxy to vote as they wish on a resolution, while a special proxy directs the proxy holder to vote in a certain way.

A creditor will sometimes appoint the external administrator as a proxy to vote on the creditor's behalf. An external administrator, their partners or staff must not use a general proxy to vote on approving their fees – they must hold a special proxy to do this. All special proxies must vote as directed, even those against approval of fees.

Creditors' approval without a creditors' meeting

Instead of convening a creditors' meeting, the external administrator can put proposals to creditors by giving notice in writing.

This notice must be given to each creditor entitled to receive notice of a meeting, and:

- include a statement of reasons for the proposal and the likely impact the proposal will have on creditors
- invite the creditor to either:
 - vote 'yes' or 'no' for the proposal
 - object to the proposal without a meeting
- specify a reasonable time for the external administrator to receive creditors' replies.

To vote on the proposal, you must lodge details of your debt or claim with the external administrator and complete the provided voting documents.

Creditors can vote 'yes' or 'no' on the proposal and/or object to the proposal without a creditors' meeting. You should return your response to the external administrator within the time specified in the notice which must be at least 15 business days after the notice is given to creditors.

A resolution is passed if the majority of creditors in number and value who responded to the notice voted 'yes' and if 25% or less in value of the creditors who responded objected to the proposal without a creditors' meeting.

The external administrator should provide you with enough information to make an informed decision. Contact the external administrator if you require further information to help you decide.

The external administrator must lodge with ASIC the outcome of the proposal. You can get a copy of the outcome of the proposal by searching ASIC Connect for a fee.

Committee of inspection approval

Where creditors have not passed a resolution approving fees, a committee of inspection can approve an external administrator's fees. In doing so, the members of the committee represent the interests of all creditors or employees, not just their own individual interests.

A committee of inspection makes its decision by a majority in number of its members present at a meeting, but it can only act if a majority of its members attend.

To find out more about committees of inspection and how they are formed, see Information Sheet 45 Liquidation: A guide for creditors (INFO 45) and Information Sheet 74 Voluntary administration: A guide for creditors (INFO 74).

Fees may be calculated on a:

- time basis, based on time spent by the external administrator and their staff
- quoted fixed fee, based on an upfront estimate
- percentage of asset realisations.

Charging on a time basis is the most common method. If an external administrator seeks approval for charging wholly or partly on a time basis, and the work is yet to be carried out, the approval sought must include a maximum limit ('cap') on the amount of remuneration the external administrator is entitled to receive. For example, future fees calculated according to time spent may be approved based on the expected number of hours worked at the rates charged (as set out in the provided rate scale) up to a cap of \$X.

If the work involved exceeds this figure, the external administrator will have to ask creditors/committee to approve further fees, after accounting for the fees already incurred.

An external administrator is also entitled to ask for approval to pay their estimated future fees (for work yet to be done). Usually this is requested to allow the external administrator to continue doing work up to a certain point in time (e.g. to achieve a particular outcome) or to the completion of the external administration.

The external administrator and their staff will record the time taken for the various tasks involved, and a record will be kept of the nature of the work performed.

It is up to the external administrator to justify why the method chosen for calculating fees is appropriate. As a creditor or committee member you have a right to question the external administrator about the calculation method used and how the calculation was made. You can also ask whether the hourly rates are negotiable.

Hourly rates

External administrators have a scale of hourly rates, with different rates for each category of staff working on the external administration, including the external administrator.

If the external administrator intends to charge on a time basis, you should receive a copy of these hourly rates soon after their appointment and before you are asked to approve fees. It is important to note the hourly rates do not represent an hourly wage for the external administrator and their staff.

The external administrator is running a business – an insolvency practice – and the hourly rates will be based on the cost of running the business, including overheads such as rent for business premises, utilities, wages and superannuation for staff who are not charged out at an hourly rate (such as personal assistants), information technology support, office equipment and supplies, insurances, taxes, and a profit.

External administrators are professionals required to have qualifications and experience, be independent and maintain up-to-date skills. Many of the costs of running an insolvency practice are fixed costs that must be paid, even if there are insufficient assets available to pay the external administrator for their services. External administrators compete for work and their rates should reflect this.

If the external administrator proposes to seek fee approval, the external administrator must send creditors a notice setting out the following information:

- the method by which they seek to be paid (e.g. time basis, quoted fixed price)
- the rate of fees
- an estimate of the expected total fees
- how out-of-pocket costs will be calculated
- a brief explanation of the different methods to calculate fees
- an explanation why they chose a particular fee method
- if a time-cost basis was chosen, the hourly rates of the external administrator and other staff who will work on the external administration.

This initial remuneration notice must be sent to creditors:

- in a voluntary administration, at the same time as the notice of the first meeting of creditors is sent
- in a court liquidation, within 20 business days after the liquidator's appointment
- in a creditors' voluntary liquidation, within 10 business days after the day of the meeting at which the resolution to wind up the company is passed.

When seeking approval of fees, the external administrator must send creditors/committee members a report setting out:

- a summary description of the major tasks performed, or likely to be performed
- the costs associated with each of these tasks and how the costs were calculated
- when the funds will be drawn to pay the fees
- an estimated total amount, or a range of total fees
- an explanation of the likely impact the fees will have on any payment to creditors
- other information that will assist creditors to assess the reasonableness of the fees claimed.

Creditors/committee members may be asked to approve fees for work already performed or an estimate of work yet to be carried out. For more information about the tasks involved, see [INFO 45](#) and [INFO 74](#).

If you are asked to approve an amount of fees, you must decide if the amount is reasonable given the work carried out in the external administration and the results of that work.

The external administrator must provide you with certain information to help you decide if you should approve their fees. To decide if the fees claimed are reasonable and for necessary work properly performed, you might find the following additional information the external administrator provides useful:

- an explanation of why the work performed was necessary
- the size and complexity (or otherwise) of the external administration
- the value and nature of the assets or property dealt with
- the level of risk or responsibility involved with the external administration
- whether there are any extraordinary issues that the external administrator had to deal with
- the amount of fees (if any) that have previously been approved
- if the fees are calculated, in whole or in part, on a time basis:
 - the period over which the work was or is likely to be performed
 - the time spent by each level of staff on each of the major tasks performed or likely to be performed
 - if the fees are for work that is yet to be carried out, whether the fees are capped.

If you need more information about fees than is provided in the external administrator's report, let the external administrator know before the meeting at which fees will be voted on.

What can you do if you think the fees are not reasonable?

If you think the fees claimed are not reasonable, you should raise your concerns with the external administrator. You decide whether to vote in favour of, or against, a resolution to approve fees.

Generally, if creditors or a committee of inspection approve fees and you wish to challenge this decision, you may apply to the court for review of the fees. You may wish to seek your own legal advice if you are considering applying for a court review of the fees.

As well as a court review of the external administrator's fees, creditors (by resolution of creditors) or one or more creditors (with the external administrator's consent) can appoint a registered liquidator to carry out a review of fees and/or costs incurred by the external administrator of the company.

A creditor can also apply for ASIC to appoint a reviewing liquidator: see Form 5605 Application for ASIC to appoint a reviewing liquidator.

Where creditors resolve to appoint a reviewing liquidator, the review is limited to:

- remuneration approved within the six months before the reviewing liquidator is appointed
- costs or expenses incurred during the 12 months before the reviewing liquidator is appointed (unless the external administrator agrees to a longer period).

The reviewing liquidator must be a registered liquidator. A creditor who wishes to appoint a reviewing liquidator must approach a registered liquidator to get written consent that they would be prepared to act as reviewing liquidator. The person must also make a written declaration about any relationships they or their firm may have that might affect their independence to act as reviewing liquidator.

The external administrator and their staff must cooperate with the reviewing liquidator.

If creditors pass a resolution to appoint the reviewing liquidator, the reviewing liquidator's costs form part of the expenses of the external administration of the company. If one or more of the creditors appoint the reviewing liquidator with the consent of the external administrator, the reviewing liquidator's costs are borne by the creditor(s) appointing the reviewing liquidator.

An external administrator should be very careful incurring costs that must be paid from the external administration – as careful as if they were dealing with their own money. Their report on fees must also include information on the out-of-pocket costs of the external administration.

Out of pocket expenses (or disbursements) can be categorised into:

- external services or costs such as legal fees, valuation fees, travel, accommodation and search fees
- internal services or costs such as photocopying, printing and postage.

External costs are usually charged at cost and do not require prior approval of creditors.

Internal costs may be charged at a rate higher than actual cost in order to recover overheads and similar costs. In instances where costs are charged at a rate higher than cost, the external administrator will need to obtain creditor approval before being reimbursed.

When seeking approval of out-of-pocket expenses, the external administrator must send creditors/committee members a report setting out:

- a summary of the out-of-pocket expenses
- how they were calculated
- the total amount the external administrator is seeking reimbursement for
- why the expenses were necessary.

You may be asked to approve reimbursement of out-of-pocket expenses for expenses already incurred or an estimate of expenses to be incurred.

If the expenses are yet to be incurred, a maximum limit (cap) should be placed on the amount the external administrator may incur and get reimbursed for.

Contact the external administrator to raise questions or complaints. If this fails to resolve your concerns, including any concerns about their conduct, you can lodge a report of misconduct with ASIC. ASIC does not

usually become involved in matters of an external administrator's commercial judgement.

More information

- › [Information Sheet 39 *Insolvency information for directors, employees, creditors and shareholders* \(INFO 39\)](#)
- › [Australian Restructuring Insolvency & Turnaround Association \(ARITA\) website](#)
- › [ARITA Code of Professional Practice for Insolvency Practitioners](#)

Important notice

Please note that this information sheet is a summary giving you basic information about a particular topic. It does not cover the whole of the relevant law regarding that topic, and it is not a substitute for professional advice. We encourage you to seek your own professional advice to find out how the applicable laws apply to you, as it is your responsibility to determine your obligations.

You should also note that because this information sheet avoids legal language wherever possible, it might include some generalisations about the application of the law. Some provisions of the law referred to have exceptions or important qualifications. In most cases, your particular circumstances must be taken into account when determining how the law applies to you.

Information sheets provide concise guidance on a specific process or compliance issue or an overview of detailed guidance.

This information sheet was reissued in June 2023.

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