

LAWSONS COMMERCIAL FLOORING PTY LTD

(In Liquidation)
ACN 151 557 612

Report to Creditors

Section 70-40
Insolvency Practice Rules (Corporations) 2016

6 October 2017

Contents	Page
1 Introduction	3
2 Receipts and payments	3
3 Assets	3
4 Secured creditors	5
5 Priority creditors	5
6 Unsecured creditors	6
7 Dividend	6
8 Reasons for the company's failure	7
9 Inquiries undertaken to date	7
10 Further inquiries that may need to be undertaken	7
11 Possible recovery actions	8
12 What happens next?	8
13 More information	8

Enclosures

- (i) Proof of Debt or Claim form

1. Introduction

- 1.1 I refer to my appointment as Liquidator of the company on 7 July 2017 and to my Circular to Creditors dated 18 July 2017.
- 1.2 The purpose of this report is to provide creditors with an update on the progress of the liquidation in accordance with Section 70-40 of the Insolvency Practice Rules (Corporations) 2016, and to advise creditors of the likelihood of a dividend being paid in the liquidation.

2. Receipts and payments

- 2.1 The following is a summary of receipts and payments in the liquidation to date:

	\$
Receipts	
Contribution	20,000
Sale of Forklift	3,099
Sale of Holden Rodeo	1,463
Sale of office equipment	4,000
Retentions paid	12,480
GST (net)	831
	41,873
Payments	
Agent's fees	1,302
Agent's disbursements	250
Bank charges	14
Liquidator's fees	10,000
Insurance	1,238
	12,804
Cash at bank as at 6 October 2017	29,069

3. Assets

- 3.1 The company's director gave an estimate in his Report as to Affairs ("RATA") of potential realisations. Set out below is a comparison of this estimate with the Liquidator's estimate and actual realisations to date.

	Ref	RATA estimate \$	Liquidator's estimate \$	Liquidator's realisations to date \$
Pre-appointment debts	3.2	37,222	41,281	12,480
Motor vehicles	3.3	51,677	1,463	1,463
Plant and equipment	3.4	10,000	7,099	7,099
		98,899	49,843	21,042

3.2 Pre-appointment debts

- 3.2.1 The director's RATA listed eight debtors of the company.
- 3.2.2 Three of these debtors (totalling \$37,222) are in respect of invoiced work that has not yet been paid for.
- 3.2.3 One debt of \$27,377 is owed by Turquoise Developments Pty Ltd (in Liquidation) ("Turquoise").

3. Assets (cont.)

- 3.2.4 Turquoise was placed into administration on 25 May 2017 and subsequently into liquidation on 29 June 2017. Mr Ian Francis of FTI Consulting was appointed Liquidator of Turquoise. I will submit a Proof of Debt with the Liquidator in due course.
- 3.2.5 Two of the debtors, purportedly owing a total of \$9,845, have advised that these debts were paid prior to my appointment. I have confirmed this with the company's bank statements.
- 3.2.6 The remaining five debtors are in respect of retentions not yet due to the company. These amounts were listed on the director's RATA as unknown.
- 3.2.7 To date, I have received payment from one debtor in respect of retention monies owed in the sum of \$12,480.
- 3.2.8 Based on information obtained to date, I estimate that there will be further retention monies of \$28,801 payable to the company in due course.

3.3 *Motor vehicles*

- 3.3.1 The company had five motor vehicles on finance, being a 2017 Jeep Grand Cherokee, 2016 Toyota Hilux, 2016 Mercedes Benz, 2010 Isuzu Truck and a 2016 Range Rover Sport.
- 3.3.2 I determined that none of these vehicles had any equity and therefore disclaimed my interest in them.
- 3.3.3 It is my understanding that City Flooring Pty Ltd ("City Flooring") or its director, Ms Demi Lawson, was to assume the five finance agreements in order to obtain the vehicles. I am currently unaware as to whether this has occurred.
- 3.3.4 The only unencumbered vehicle owned by the company was a 2007 Holden Rodeo which was collected by my agent and realised \$1,463 (excluding GST, less agent's fees and disbursements) at auction.
- 3.3.5 I note that the reason for the large discrepancy between the director's estimated realisable value and the actual realised value of the company's motor vehicles is due to a combination of the outstanding finance on the vehicles being higher than expected, and the value of the vehicles being lower than expected.

3. Assets (cont.)

3.4 *Plant and equipment*

- 3.4.1 The company's plant and equipment consisted of office furniture and equipment, warehouse fittings and a forklift.
- 3.4.2 My agent valued the company's plant and equipment (excluding the forklift) at an auction value of \$4,090 (plus GST). On the basis of this valuation, I sold the plant and equipment to City Flooring for \$4,000 (plus GST).
- 3.4.3 The company's forklift was collected by my agent and realised \$3,099 (plus GST, less agent's fees and disbursements) at auction.

4. Secured creditors

- 4.1 The director's RATA listed ANZ as a secured creditor in relation to a corporate guarantee provided by the company. The guarantee is in respect of loan facilities provided to the partnership of Steven and Kylie Lawson. ANZ has a circulating and non-circulating security interest over the company's assets.
- 4.2 ANZ has advised that the outstanding balance due is \$3,086,503. It is my understanding that ANZ has yet to realise its main security for the loan facilities, being a commercial property owned by the partnership of Steven and Kylie Lawson.

5. Priority creditors

- 5.1 The director's RATA listed the Australian Taxation Office ("ATO") as the company's only priority creditor in respect of unpaid superannuation. The director estimated that the amount outstanding to the ATO was \$242,937.
- 5.2 The ATO has advised that the outstanding superannuation guarantee charge (including interest charges) is \$237,710.
- 5.3 While I am not aware of any other outstanding employee entitlements, if you were an employee of the company at the date that I was appointed, or you have previously been employed by the company, you may be a creditor of the company for any or all of the following debts: outstanding wages, annual leave, long service leave, pay in lieu of notice, redundancy and/or superannuation.
- 5.4 If you are owed accrued entitlements, you may be eligible for assistance under the Federal Government's Fair Entitlements Guarantee Act 2012 ("FEG"). For further information regarding FEG, please call the FEG hotline: 1300 135 040 or go to the website: www.employment.gov.au/fair-entitlements-guarantee-feg. **Former employees have only 12 months to lodge a FEG claim and FEG has no discretion to extend this time.**

5. Priority creditors (cont.)

- 5.5 Please find enclosed a Proof of Debt or Claim form to enable priority creditors to lodge their claim against the company. Note that any FEG claim must be lodged separately with FEG.

6. Unsecured creditors

- 6.1 According to the director's RATA, the company had 64 unsecured creditors, whose claims totalled \$1,254,010.
- 6.2 On the basis of current information, I estimate that the total amount owed to unsecured creditors is \$1,866,537.
- 6.3 The following unsecured creditors appear to be related parties of the company:
- BMS Flooring Pty Ltd
 - Jhett's Commercial Flooring Pty Ltd
 - Lucas Family Trust
- 6.4 I note that there may be additional related party unsecured creditors which I have yet to identify.
- 6.5 Please find enclosed a Proof of Debt or Claim form to enable unsecured creditors to lodge their claim against the company.

7. Dividend

- 7.1 The likelihood of a dividend being paid to creditors will be affected by a number of factors including:
- (i) The size and complexity of the administration.
 - (ii) The amount of assets realisable and the costs of realising those assets.
 - (iii) The statutory priority of certain claims and costs.
 - (iv) The value of various classes of claims including secured, priority and unsecured creditor claims.
 - (v) The volume of enquiries by creditors and other stakeholders.
 - (vi) The outcome of investigations.
- 7.2 Due to the quantum of asset realisations to date, and the expected future realisations (see Section 3), I consider it unlikely that a dividend will be paid to any class of creditor of the company.
- 7.3 However, the likelihood of a dividend is largely dependent on the outcome of my investigations into any possible recovery actions (see Section 11). My investigation is still ongoing.
- 7.4 If a dividend is payable, creditors will be contacted prior to the dividend being paid and will be asked to lodge a Proof of Debt. This will formalise creditors' claims against the company.

8. Reasons for the company's failure

- 8.1 I note that the company's business ceased to trade on 7 July 2017.
- 8.2 From my preliminary inquiries to date (see Section 9, below), I consider that the reasons for the company's failure are likely to be as follows:
- (i) Inability to meet taxation liabilities;
 - (ii) Insufficient cash flow and budget due to inadequate revenue to meet expenses.
 - (iii) Poor strategic management of the business and cashflow.

9. Inquiries undertaken to date

- 9.1 The following inquiries have been made to date:
- (i) Undertaking searches including a company search, PPSR search, vehicle search, director search and property search.
 - (ii) Contacting the Sheriff's Office to determine whether any recovery action has been undertaken on behalf of creditors.
 - (iii) Contacting the Child Support Agency and Workcover WA to determine the company's outstanding liabilities.
 - (iv) Contacting the Office of State Revenue and the ATO to determine the company's outstanding tax-related liabilities.
 - (v) Requesting that the ATO provide me with access to the company's taxation records via the Business Portal.
 - (vi) Attending the company's former premises.
 - (vii) Collecting and preparing a listing of the company's books and records.
 - (viii) Reviewing the company's financial statements and draft accounts to determine whether there are any unaccounted for assets and/or liabilities.
 - (ix) Reviewing the director's Report as to Affairs.
 - (x) General inquiries of the company's director regarding assets and liabilities.
 - (xi) Sending an initial notice to creditors, encouraging creditors to submit their claim against the company.
 - (xii) Convening and holding an initial creditors' meeting.
 - (xiii) Inquiries regarding the company's accounts receivables and retentions owed to the company.
 - (xiv) Sundry investigation enquiries from and with creditors.

10. Further inquiries that may need to be undertaken

- 10.1 I note the following further inquiries may need to be undertaken:
- (i) Extensive review of the company's books and records.
 - (ii) Conducting an investigation into the company's affairs and the conduct of its officers including, but not limited to, related party transactions.
 - (iii) Determining whether there are any possible recovery actions (see Section 11, below).
 - (iv) Lodging a report with ASIC detailing my investigation findings.

10. Further inquiries that may need to be undertaken (cont.)

- (v) General inquiries of the company's director regarding assets and liabilities, and company expenditure.

10.2 If creditors are aware of a particular matter that may warrant further investigation, please provide me with details of the matter in writing.

11. Possible recovery actions

11.1 I am yet to uncover any possible recovery actions but note that the most common recovery actions available to a liquidator are as follows:

- (i) Insolvent trading.
- (ii) Unfair preferences.
- (iii) Uncommercial transactions.
- (iv) Unfair loans.
- (v) Unreasonable director-related transactions.

12. What happens next?

12.1 I will proceed with the liquidation, including:

- (i) Realising the remaining assets.
- (ii) Recovering any further available property.
- (iii) Completing my investigations into the company's affairs.
- (iv) Completing my reporting to the corporate insolvency regulator, the Australian Securities and Investments Commission.

12.2 I may write to creditors again with further information on the progress of the liquidation.

13. More information

13.1 Creditors can access information which may be of assistance on the following websites:

- (i) Sheridans at www.sheridansac.com.au/downloads/
- (ii) ARITA at www.arita.com.au/creditors
- (iii) ASIC at www.asic.gov.au (search for "insolvency information sheets")

If you wish to discuss the above matters, please contact David Blanchett or Melissa Ledger of this office.

Yours faithfully



JENNIFER E. LOW
Liquidator of
Lawsons Commercial Flooring Pty Ltd

LAWSONS COMMERCIAL FLOORING PTY LTD
ACN 151 557 612
(In Liquidation) ("the company")

FORMAL PROOF OF DEBT OR CLAIM

This is to state that the company was on 7 July 2017 and still is, justly and truly indebted to

_____ for:

\$ _____ and _____ cents

Date	Consideration (how the debt arose)	Amount \$	Remarks (include details of voucher substantiating payment)

To my knowledge or belief the creditor has not, nor has any person by the creditor's order, had or received any satisfaction or security for the sum or any part of it except for the following: *(insert particulars of all securities held. If the securities are on the property of the company, assess the value of those securities. If any bills or other negotiable securities are held, show them in a schedule in the following form).*

Date	Drawer	Acceptor	Amount \$	Due date

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, remains unpaid and unsatisfied. ①

I am the creditor's agent authorised in writing to make this statement in writing. I know that the debt was incurred for the consideration stated and that the debt, to the best of my knowledge and belief, remains unpaid and unsatisfied. ①

① *Delete both if this proof is made by the creditor personally. Otherwise, strike out or leave, as appropriate.*

Please ensure this proof is signed for completion, before lodgement.

Date: _____

Signature: _____

Name: _____

Occupation: _____

Creditor's address: _____

☐ I nominate to receive electronic notification of notices or documents in accordance with Section 600G of the Corporations Act 2001 at the following email address:
