

JOHN D. WHOLAGAN PTY LTD

(In Liquidation)
ACN 066 668 586

Report to Creditors

Section 70-40
Insolvency Practice Rules (Corporations) 2016

24 April 2020

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Annexures

- A Notice of Meeting of Creditors
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Enclosures

- (i) Appointment of Proxy form
- (ii) Proof of Debt or Claim form

1. Introduction

- 1.1 I refer to my appointment as Liquidator of the company on 16 March 2020 and to my Initial information for creditors dated 24 March 2020.
- 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, to advise creditors of the likelihood of a dividend being paid in the liquidation, and to call a meeting of creditors of the company to seek further approval of the Liquidator's remuneration.

2. Receipts and payments

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

	\$
Receipts	
Contribution	15,000.00
Payments	
Bank charges	5.20
Cash at bank as at 24 April 2020	14,994.80

3. Assets

- 3.1 The company's director estimated in his Report on Company Activity and Property ("ROCAP") that the company had no potential asset realisations.
- 3.2 I advise that I have not identified any potential assets of the company to date.

4. Unsecured creditors

- 4.1 According to the director's ROCAP, the company had three unsecured creditors, whose claims totalled \$112,347.
- 4.2 On the basis of current information, I estimate that the total amount owed to unsecured creditors is \$183,568.
- 4.3 The director has a subrogated claim in the liquidation in the sum of \$73,536 in relation to the company's legal fees and overdrawn bank account which have both been paid by the director.
- 4.4 Please find enclosed a Proof of Debt or Claim form to enable any unsecured creditors who have not already done so to lodge their claim against the company.

5. Dividend

- 5.1 The likelihood that a dividend will be 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.
- 5.2 Given that there are no known realisable assets owned by the company, a dividend will only become payable if significant voidable transactions are uncovered and realised (see Section 9). I advise that at this stage in the liquidation, it is unlikely that a dividend will be paid to creditors.
- 5.3 If a dividend is payable, creditors will be contacted prior to payment of the dividend and will be asked to lodge a Proof of Debt. This will formalise creditors' claims against the company.

6. Reasons for the company's failure

- 6.1 I note that company's business ceased to trade on or around 1 July 2016.
- 6.2 From my preliminary inquiries to date (see Section 7 below), I consider that the reason for the company's failure is the company's inability to meet or continue to defend a damages claim made by a former client of the company.

7. Inquiries undertaken to date

- 7.1 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 Australian Taxation Office ("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) Collecting and preparing a listing of the company's books and records.
 - (vii) Reviewing the company's financial statements and draft accounts to determine whether there are any unaccounted for assets and/or liabilities.

7. Inquiries undertaken to date (cont.)

- (viii) Reviewing the director's Report on Company Activities and Property.
- (ix) General inquiries of the company's director regarding assets and liabilities.
- (x) Sending an initial notice to creditors, encouraging creditors to submit their claim against the company.

8. Further inquiries that may need to be undertaken

8.1 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 officer.
- (iii) Determining whether there are any possible recovery actions (see Section 9 below).
- (iv) Lodging a report with ASIC detailing my investigation findings.

8.2 If creditors are aware of a particular matter that requires investigation, please contact this office immediately.

9. Possible recovery actions

9.1 I have not yet determined 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.

10. What happens next?

10.1 I will proceed with the liquidation, including:

- (i) Realising any identified 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, ASIC.

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

11. Liquidator's remuneration and disbursements

- 11.1 Please refer to Annexure B, Remuneration Approval Report, for details of the Liquidator's remuneration and disbursements.
- 11.2 In my Initial information for creditors dated 24 March 2020 creditors were asked to vote on my proposed remuneration and internal disbursements via circular resolution on or before 17 April 2020.
- 11.3 As creditors failed to approve my remuneration and internal disbursements via circular resolution, I am required to call a meeting of creditors to seek approval of my remuneration and internal disbursements.
- 11.4 As at 31 March 2020 I have incurred fees in the liquidation of \$6,881.60 and internal disbursements of \$615.00.
- 11.5 Additional costs and disbursements will continue to be incurred in the conduct of the liquidation.
- 11.6 At the upcoming meeting of creditors to be held on Tuesday, 12 May 2020, I will be seeking approval of my current unpaid and future remuneration and internal disbursements.

12. Meeting of creditors

- 12.1 I advise that a meeting of creditors of the company will be held via telephone conference on Tuesday, 12 May 2020 at 11.00am. I enclose the following documents for creditors' attention:
 - 1. Notice of Meeting of Creditors;
 - 2. Proof of Debt or Claim form; and
 - 3. Appointment of Proxy form.
- 12.2 Please note that unless you have lodged or lodge a formal Proof of Debt or Claim form with me at this office, then, pursuant to Section 75-85 of the Insolvency Practice Rules (Corporations) 2016, you will not be entitled to vote at the meeting. The enclosed Proof of Debt form should be completed and returned to this office by no later than 4.00pm on Monday, 11 May 2020.
- 12.3 Note that if you are representing a company and the company's constitution states that legal documents must be executed under Common Seal, you should ensure that the Proxy Form is sealed, otherwise you will not be entitled to vote at the meeting.
- 12.4 Please note that due to the threat of COVID-19 and consistent with government policy on gatherings, a physical meeting of creditors will not be held.
- 12.5 **Creditors are therefore encouraged to submit votes by proxy when possible** or contact Melissa Ledger of this office to arrange for attendance via telephone.

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 Melissa Ledger of this office.

Yours faithfully

A handwritten signature in black ink, appearing to read 'J. E. Low'.

JENNIFER E. LOW
Liquidator of
John D. Wholagan Pty Ltd

ANNEXURE A

**JOHN D. WHOLAGAN PTY LTD
ACN 066 668 586
(In Liquidation) ("the company")**

Section 75-10(a)
Schedule 2
Insolvency Practice Schedule (Corporations)

NOTICE OF MEETING OF CREDITORS

Notice is given that a meeting of creditors of the company will be held via telephone conference on Tuesday, 12 May 2020 at 11.00am.

AGENDA

1. To receive a report from the Liquidator on the conduct of the liquidation.
2. To receive a statement of the receipts and payments for the period of the liquidation.
3. The creditors to consider, and if thought fit pass, resolutions to approve the unpaid remuneration and disbursements of the Liquidator.
4. Any other business that may be properly conducted.

Dated this 24th day of April 2020



JENNIFER E. LOW
Liquidator of
John D. Wholagan Pty Ltd

JOHN D. WHOLAGAN PTY LTD
ACN 066 668 586
(In Liquidation) (“the company”)

REMUNERATION APPROVAL REPORT

This Remuneration Approval Report provides you with the information you need to be able to make an informed decision regarding the approval of my remuneration for undertaking the liquidation of the company. This report has the following information included:

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Part 1: Declaration

I, Jennifer E. Low, of Sheridans, have undertaken a proper assessment of this remuneration claim for my appointment as Liquidator of the company in accordance with the law and applicable professional standards. I am satisfied that the remuneration claimed is in respect of necessary work to be properly performed in the conduct of the liquidation.

Part 2: Executive summary

To date, no remuneration has been approved or paid in this administration. This Remuneration Approval Report details approval sought for the following:

Period	Report reference	Amount (excl. GST) \$
Resolution 1: 16 March 2020 to 31 March 2020	Part 3	6,881.60
Resolution 2: 1 April 2020 to the conclusion of the liquidation*	Part 3	23,118.40
Resolution 3: All disbursements incurred in the liquidation	Part 4	N/A
* Approval for future remuneration sought is based on an estimate of the work necessary to the completion of the administration. Should additional work be necessary beyond what is contemplated, further approval may be sought from creditors.		

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

Part 3: Remuneration

I note that the current remuneration approval sought does not differ from the estimate of costs provided in my Initial information to creditors dated 24 March 2020, which estimated a cost to completion of the liquidation of \$30,000.00 (excl. GST).

3.1 Remuneration claim resolutions

I will be seeking approval of the following resolution to approve my unpaid remuneration for the period 16 March 2020 to 31 March 2020:

That the Liquidator's unpaid remuneration calculated on the basis of time spent by the Liquidator and her staff, at the standard scale rates set by Sheridans for work of this nature, be approved for the period 16 March 2020 to 31 March 2020 in the sum of \$6,881.60 plus GST.

I will be seeking approval of the following resolution to approve my remuneration for the period 1 April 2020 to the conclusion of the liquidation:

That the Liquidator's future remuneration calculated on the basis of time spent by the Liquidator and her staff, at the standard scale rates set by Sheridans for work of this nature, be approved for the period 1 April 2020 to the conclusion of the liquidation to a limit of \$23,118.40 plus GST, and that the Liquidator be authorised to draw her fees on a monthly basis, or as required, beyond which further approval will be required in accordance with the Corporations Act 2001. The standard scale rates will be increased in accordance with the CPI at 1 August each year, rounded up to the nearest \$.

3.2 Details of remuneration

Resolution 1 - from 16 March 2020 to 31 March 2020

Task area	General description	Specific description
Creditors 5.4 hours \$1,190.00	Creditor enquiries	Receiving and following up creditor enquiries via telephone. Maintaining creditor enquiry register. Reviewing and preparing correspondence to creditors and their representatives via facsimile, email and post.
	PPSR	Search of the PPSR register. Notify PMSI creditors identified from PPSR register. Request PPSR registration be removed.
	Creditor reports	Prepare initial report to creditors.
	Dealing with Proofs of Debt	Receipting and filing Proofs of Debt when not related to a dividend.
	Proposals to creditors	Preparing Notices of Proposal. Correspondence with creditors regarding Notices of Proposal. Reviewing votes and determining outcome of proposal. Preparation and lodgement of proposal outcome with ASIC.
Investigation 9.4 hours \$1,933.20	Conducting investigation	Collection of company books and records. Reviewing company's books and records. Review and preparation of company nature and history. Conducting and summarising statutory searches. Correspondence with pre-appointment accountant and solicitor regarding work completed for the company and books and records held. Correspondence with bank regarding bank account.

Part 3: Remuneration (cont.)

Task area	General description	Specific description
Administration 17.5 hours \$3,758.40	Correspondence	General correspondence.
	Document maintenance/file review/checklist	Filing of documents. Updating checklists.
	Insurance	Identification of potential issues requiring attention of insurance specialists. Correspondence with insurer regarding initial and ongoing insurance requirements. Correspondence with previous brokers.
	Bank account administration	Preparing correspondence opening and closing accounts. Requesting bank statements. Bank account reconciliations.
	ASIC Form 505, 5604 and other forms	Preparing and lodging ASIC forms including 505, 5022, 911, 5604 etc.
	ATO and other statutory reporting	Notification of appointment.
	Planning / Review	Discussions regarding status of administration.

Resolution 2 - from 1 April 2020 to the conclusion of the liquidation

Task area	General description	Specific description
Assets \$1,000.00	Other assets	Tasks associated with realising other assets if any are uncovered.
Creditors \$8,000.00	Creditor enquiries, requests & directions	Receive and respond to creditor enquiries . Maintaining creditor request log. Review and prepare initial correspondence to creditors and their representatives. Considering reasonableness of creditor requests. Obtaining legal advice on requests. Documenting reasons for complying or not complying with requests or directions. Compiling information requested by creditors.
	Creditor reports	Preparing Statutory Report by Liquidator, investigation, meeting and general reports to creditors .
	Dealing with Proofs of Debt	Receipting and filing POD when not related to a dividend.
	Meeting of Creditors	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.
	Proposals to creditors	Preparing proposal notices and voting forms. Forward notice of proposal to all known creditors. Reviewing votes and determining outcome of proposal. Preparation and lodgement of proposal outcome with ASIC.
Investigation \$8,000.00	Conducting investigation	Review and preparation of company nature and history. Preparation of comparative financial statements. Preparation of deficiency statement. Review of specific transactions and liaising with directors regarding certain transactions. Liaising with directors regarding certain transactions. Preparation of investigation file. Lodgement of investigation with ASIC. Preparation and lodgement of supplementary report if required.

Task area	General description	Includes
Investigation (cont.)	Litigation / Recoveries	Internal meetings to discuss status of litigation. Preparing brief to solicitors. Liaising with solicitors regarding recovery actions. Attending to negotiations. Attending to settlement matters.
	ASIC reporting	Preparing statutory investigation reports. Preparing affidavits seeking non-lodgement assistance. Liaising with ASIC.
Administration \$6,118.40	Correspondence	General correspondence.
	Document maintenance/file review/checklist	First month, then six-monthly administration reviews. Filing of documents. File reviews. Updating checklists.
	Bank account administration	Preparing correspondence opening and closing accounts. Requesting bank statements. Bank account reconciliations. Correspondence with bank regarding specific transfers
	ASIC Form 5602 and other forms	Preparing and lodging ASIC forms including 5602, 5022, 5011 911 etc. Correspondence with ASIC regarding statutory forms.
	ATO and other statutory reporting	Preparing BAS.
	Finalisation	Notifying ATO of finalisation. Cancelling ABN / GST / PAYG registration. Completing checklists. Finalising WIP.
	Planning / Review	Discussions regarding status of administration.
	Books and records / storage	Dealing with records in storage. Sending job files to storage.

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Part 3: Remuneration (cont.)*Calculation of remuneration in respect of resolution 1:*

Employee	Position	\$ /hour (excl. GST)	Total Hrs	Total \$	Task area					
					Creditors		Investigation		Administration	
					Hrs	\$	Hrs	\$	Hrs	\$
J. E. Low	Trustee	538	0.9	484.20	-	-	0.4	215.20	0.5	269.00
D. Blanchett	Senior Manager	381	0.4	152.40	-	-	-	-	0.4	152.40
M. Ledger	Supervisor	265	14.3	3,789.50	3.4	901.00	3.3	874.50	7.6	2,014.00
S. Carrington	Intermediate 2	175	0.2	35.00	-	-	0.2	35.00	-	-
J. Bai	Graduate	147	16.0	2,352.00	1.5	220.50	5.5	808.5	9.0	1,323.00
T. Cruise	Secretary	137	0.5	68.50	0.5	68.50	-	-	-	-
Total			32.3	6,881.60	5.4	1,190.00	9.4	1,933.20	17.5	3,758.40
GST				688.16						
Total (incl. GST)				7,569.76						
Average hourly rate				213.05		220.37		205.66		214.76

Part 3: Remuneration (cont.)

3.3 *Total remuneration reconciliation*

At this point in time I estimate that the total remuneration for this liquidation will be \$30,000, being the current approval amount being sought. This is consistent with the estimate provided in the Initial Remuneration Notice dated 24 March 2020.

In preparing this Remuneration Approval Report, I have made my best estimate of what I believe the liquidation will cost to complete. However, should the liquidation not proceed as expected, I will advise creditors and I may seek approval of further remuneration and provide details on why the remuneration has changed.

3.4 *Likely impact on dividends*

A Liquidator is entitled to receive remuneration for necessary work that has been properly performed in relation to the liquidation.

A Liquidator must distribute any property realised in accordance with the prescribed order and priorities set out by Section 556 of the Corporations Act 2001. Given that a Liquidator's remuneration is generally afforded priority ahead of any distribution to creditors, any such payment of remuneration approved by creditors will reduce the funds available for distribution to creditors.

The quantum (if any) of the dividend to creditors is ultimately impacted by the Liquidator's remuneration, the asset realisations achieved by the Liquidator and the value of creditor claims admitted to participate in the dividend.

3.5 *Remuneration recovered from external sources*

I received a contribution of 15,000 towards the estimated costs of the liquidation. This has been disclosed in my Declaration of Independence, Relevant Relationships and Indemnities.

Part 4: Disbursements

See my Initial Remuneration Notice dated 24 March 2020 for details of the types of disbursements.

I have undertaken a proper assessment of disbursements claimed for the company, in accordance with the law and applicable professional standards. I will be seeking approval of the following resolution to approve my internal disbursements for the period 16 March 2020 to the conclusion of the liquidation:

That the Liquidator's internal disbursements, charged at the standard rates set by Sheridans, plus any applicable GST, for work of this nature, be approved for the period 16 March 2020 to the conclusion of the liquidation, and that the Liquidator be authorised to draw her disbursements on a monthly basis, or as required. The standard rates will be calculated on a cost basis, or a reasonable estimate of cost, and may therefore be amended from time to time.

Part 5: Summary of receipts and payments

Please refer to Section 3.0 of my Report to Creditors dated 24 April 2020.

Part 6: Queries

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

General information is also available on the ARITA website at arita.com.au/creditors. ASIC also provides information sheets on a range of insolvency topics. These information sheets can be accessed on ASIC's website at asic.gov.au (search for "insolvency information sheets").

JOHN D. WHOLAGAN PTY LTD
ACN 066 668 586
(In Liquidation)

APPOINTMENT OF PROXY

*I/*we ❶ _____ of ❷ _____
a creditor of John D. Wholagan Pty Ltd appoint ❸ _____
or in his or her absence _____ as *my/*our
*general/*special proxy to vote at the meeting of creditors to be held on Tuesday, 12 May
2020, or at any adjournment of that meeting and to vote ❹:

VOTING

	YES	NO
To vote generally on all matters arising at the meeting:	<input type="checkbox"/>	<input type="checkbox"/>

AND / OR ALTERNATIVELY

To vote specifically in the following manner:

- | | FOR | AGAINST | ABSTAIN |
|---|--------------------------|--------------------------|--------------------------|
| 1. That the Liquidator's unpaid remuneration calculated on the basis of time spent by the Liquidator and her staff, at the standard scale rates set by Sheridans for work of this nature, be approved for the period 16 March 2020 to 31 March 2020 in the sum of \$6,881.60 plus GST. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 2. That the Liquidator's future remuneration calculated on the basis of time spent by the Liquidator and her staff, at the standard scale rates set by Sheridans for work of this nature, be approved for the period 1 April 2020 to the conclusion of the liquidation to a limit of \$23,118.40 plus GST, and that the Liquidator be authorised to draw her fees on a monthly basis, or as required, beyond which further approval will be required in accordance with the Corporations Act 2001. The standard scale rates will be increased in accordance with the CPI at 1 August each year, rounded up to the nearest \$. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 3. That the Liquidator's internal disbursements, charged at the standard rates set by Sheridans, plus any applicable GST, for work of this nature, be approved for the period 16 March 2020 to the conclusion of the liquidation, and that the Liquidator be authorised to draw her disbursements on a monthly basis, or as required. The standard rates will be calculated on a cost basis, or a reasonable estimate of cost, and may therefore be amended from time to time. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

SIGNATURE

Signature _____

*Signature ❺ of individual or person
authorised ❻ by corporate resolution
to represent the corporation.*

Dated this ____ day of _____ 2020

CERTIFICATE OF WITNESS

This certificate is to be completed only where 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 this _____ day of _____ 2020

Signature of witness _____

Description _____

Place of residence _____

NOTES

- * Delete as applicable.
- 1. If a corporation, strike out "I" and set out the full name of the corporation.
- 2. Address of creditor.
- 3. Name, address and description of the person appointed.
- 4. If a special proxy add the words "to vote for" or "to vote against" and specify the particular resolution.
- 5. The signature of the creditor or member is not to be attested by the person nominated as proxy.
- 6. A corporation may only be represented by proxy or by an attorney appointed pursuant to Section 75-150 and Section 75-155 of the Insolvency Practice Rules (Corporations) 2016 respectively or by a representative appointed under Section 250D of the Corporations Act 2001. Copy of authority/power of attorney to be annexed.

JOHN D. WHOLAGAN PTY LTD
ACN 066 668 586
(In Liquidation) ("the company")

PROOF OF DEBT OR CLAIM

This is to state that the company was on 16 March 2020 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:
