

Statutory Report to Creditors (IPR 70-40)

25 May 2020

A C H CONTRACTORS PTY LTD (in Liquidation) ACN 618 344 595 (the Company)

I refer to my appointment as Liquidator of the Company on 25 February 2020.

You have been sent this circular because you are listed as a creditor of the Company.

This is a follow-up report and is made pursuant to section 70-40 of the *Insolvency Practice Rules (Corporations) 2016*.

1 Estimated assets and liabilities of the Company

At the commencement of the liquidation I requested that the Company's director complete a Report on Company Activities and Property (**ROCAP**) and a Form 509 – Presentation of Summary of Affairs of a Company (**Form 509**). The Corporations Act 2001 (**the Act**) requires that a ROCAP be completed by a company's director when the company goes into liquidation. The Company's director, Mr Dean Thomsen, provided me with the ROCAP on 10 March 2020.

I set out below a summary of the Company's assets and liabilities based on information contained in the ROCAP. It includes my current assessment of those assets and liabilities.

	Ref	Director's ERV \$	Liquidator's ERV \$
Assets			
Cash at Bank	1.1	22,032	22,032
Sundry Debtors	1.2	113,785	20,010
Plant & Machinery	1.3	634,390	commercially sensitive
Director Loan Account	1.4	68,206	unknown
Total Assets		838,413	unknown
Liabilities			
Employee Entitlements	1.5	267,166	83,952
Unsecured Creditors	1.6	732,800	776,918
Secured Creditors	1.7	426,756	nil
Total Liabilities		1,426,722	860,870
Estimated surplus / (deficiency)		(588,309)	unknown but negative

1.1 Cash

On appointment, there was \$22,032 cash at bank.

1.2 Sundry Debtors

On appointment, outstanding debtors totalled \$138,486. To date \$20,010 has been collected. I expect future recoveries to be minimal due to rejected variations and disputes regarding workmanship raised by the debtors.

1.3 Plant & Machinery

Immediately following my appointment, I arranged for a valuation of the plant and equipment to be carried out by Ross's Auctioneers and Valuers (**Ross's**). The majority of the plant and equipment was recently sold via online auction. A Hitachi 35T excavator remains unsold as it did not attract any offers around the reserve price. It will be offered for sale again in the near future.

I determined another piece of machinery, a 12H Caterpillar Grader (**Grader**), to be property of the Company. The Grader was owned by a related party partnership and leased to the Company. The partnership had not registered a security interest on the Personal Property Securities Register (**PPSR**) in respect of the Grader; nor did it have possession of the Grader at the time of liquidation. The effect of non-registration of the partnership's interest on the PPSR is that its interest in the Grader vested in the Company.

I have taken possession of the Grader and am in the process of applying to the Supreme Court of Western Australia for orders confirming my determination regarding the Company's ownership of the Grader. Having received such orders, the Grader will be sold.

1.4 Director Loan Account

I am investigating the recoverability of the loan and the director's capacity to repay it. I note the director has become increasingly uncooperative and the realisation of this asset is uncertain.

1.5 Employee Entitlements

The director's ROCAP indicates employees are owed unpaid wages, annual leave and superannuation. My assessment of employee entitlements of \$83,952 includes unpaid wages, annual leave and superannuation guarantee with penalties and interest. The director's and his immediate family's entitlements included in this figure have been capped at up to \$3,500 each in accordance with the Act.

1.6 Unsecured Creditors

Unsecured creditors consist of trade payables, statutory debts and \$50,768 owing to related party creditors.

1.7 Secured Creditors

The Company had a 35T excavator and a 50T wheel loader that were subject to finance at the time of my appointment. Values provided by Ross's indicated no equity in either of them. I therefore disclaimed the finance agreements and returned the assets to their finance providers. I am yet to receive an accounting for the sale of those assets from the finance providers, however, any shortfall from their realisations will be classified as unsecured claims.

2 Investigations undertaken to date

2.1 Unfair preferences

My investigations into potential unfair preference payments are ongoing.

2.2 Insolvent trading

My investigations to date have revealed that a potential insolvent trading claim exists against the director. I will be conducting further analysis and determine if the claim is valid and has commercial merit.

2.3 Uncommercial transactions

My investigations have not revealed any potential uncommercial transactions.

3 Further inquiries relating to the winding up that may need to be undertaken

I do not anticipate any further inquiries being conducted other than those identified in Section 2 of this report.

4 What happened to the business of the Company?

The Company operated a civil construction and haulage business near Albany, Western Australia. The business continued to trade up until the date of my appointment. It ceased trading after that date.

It appears that the causes of failure of the Company include:

- poor economic conditions;
- poor cash flow management; and
- poor business strategy and management generally.

5 Likelihood of creditors receiving a dividend

I am currently uncertain whether a dividend to any class of creditor will be paid. A positive outcome will depend on my recoveries from actions against the director described in sections 1.4 and 2.2.

6 Where can you get more information?

The Australian Restructuring Insolvency and Turnaround Association (ARITA) provides information to assist creditors with understanding liquidations and insolvency. This information, including details of your rights as a creditor, is available from ARITA's website at www.arita.com.au.

ASIC provides information sheets on a range of insolvency topics. These information sheets can be accessed on ASIC's website at www.asic.gov.au.

Should you have any further questions, please contact Eve Switka of this office on 08 6145 0700 or eswitka@aviorconsulting.com.au.

Yours faithfully
For the Company



Dermott McVeigh
Liquidator