

19 January 2022

Gary Alan Phillips
Estate Number VIC 1088 of 2021/8 (the “Debtor”)

Circular to Creditors

I refer to my previous correspondence regarding the Debtor and my appointment as Controlling Trustee on 20 December 2021.

1. Meeting of creditors

A meeting of creditors to consider acceptance of a Personal Insolvency Agreement (“PIA”) will be held on:

Date: 4 February 2022
Time: 11:00 (AWST)
Address: Held virtually via telephone conference

Meeting notice and forms are attached at **Annexure C and D**.

2. PIA outline and recommendation

I recommend that creditors accept the PIA as my analysis indicates it will better serve creditors’ interests.

The PIA, if accepted, will enable creditors to receive a dividend of 0.07 cents in a dollar.

A copy of the proposed PIA is contained in **Annexure B**.

My analysis of the PIA as compared to a bankruptcy and my recommendations is contained in Section 7 of my attached report prepared pursuant to section 189A of the Bankruptcy Act 1966 (Act).

The meeting of creditors will decide whether the PIA should be accepted. It must be accepted by special resolution to pass, meaning the majority in number and greater than 75% in value of creditors voting must accept the PIA.

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Alternatively, creditors can resolve to release the Debtor's property from control or require the Debtor to present a Debtor's petition in bankruptcy.

The resolutions that may be considered at the meeting are outlined in my s189B statement at **Annexure E**.

3. Participating in the meeting

To participate in the meeting and vote on the resolutions, you need to:

- Submit a **statement of claim** and information to substantiate your claim.
- Appoint a person – a “**proxy**” or person authorised under a power of attorney – to vote on your behalf at the meeting. This may be necessary if you are unable to attend the meeting, or if the creditor is a company.

You can appoint the chairperson of the meeting as your proxy and direct the chairperson how you wish your vote to be cast. If you choose to do this, the chairperson must cast your vote as directed.

If accepted, the terms of the PIA become binding on all creditors, regardless of whether the creditor has voted or not.

4. Proof of debt

The recommendation and estimated outcome from the PIA is based on known information about the debts of the Debtor. A full listing of known creditors is enclosed in section 4 of my section 189A report. This list also identifies each creditor that is a known related entity of the Debtor (if any).

To ensure that debts are represented correctly, I would appreciate if you complete and lodge the proof of debt in **Annexure C** as soon as possible.

If the proposal is accepted, a dividend is expected to be paid to creditors within 2-3 months after acceptance. Lodging the proof of debt will also ensure you participate in the dividend if you have a valid claim.

5. Remuneration approval

I will also be seeking approval of my remuneration for the period 20 December 2021 to 9 January 2022 and to administer the PIA if accepted.

Annexure A includes a detailed Remuneration Approval Report, with details of tasks performed, which I am required under law to provide.

Resolutions to approve my remuneration, will be put to creditors at the meeting.

6. Statement of affairs and receipts and payments

The Debtor's affairs are summarised and commented in Section 4 of my 189A report.

A copy of the Debtor's statement of affairs is also enclosed in **Annexure F**.

7. What to do next

You should now:

- ☐ Read the supporting annexures including my report.
- ☐ Determine if you are going to participate in the vote or not, and provide the required forms / information from **Annexure C and D**:
 - ☐ Option 1 Attend the meeting – complete your statement of claim, and if required, proxy form.
 - ☐ Option 2 Vote at the meeting by proxy (may be chairperson) – complete your statement of claim and proxy form.
 - ☐ Option 3 Do not participate – but you will be bound by the decision of the meeting.

All completed forms will need to be received at my office by no later than **Thursday, 3 February 2022**. Please email to lo.taderera@fticonsulting.com.

- ☐ Complete and lodge a proof of debt (**Annexure C**) to ensure that your debt is represented if the PIA is accepted, and a dividend is paid.

8. Queries / further information

Information can be found at the websites of:

- AFSA, the personal insolvency regulator, at www.afsa.gov.au.
- The Australian Restructuring Insolvency and Turnaround Association (ARITA), a professional body, at www.arita.com.au/creditors.

Otherwise, please contact Lo Taderera of my office on 08 9321 8533 or lo.taderera@fticonsulting.com should you have any queries or require further information.



Ian Francis

Controlling Trustee

Attachments

Annexure	Description
-	189A report and declaration
A	Remuneration Approval Report
B	Debtor's Proposed PIA
C	Statement of Claim, Proof of Debt and Proxy Forms
D	Meeting notices
E	189B statement on resolutions
F	Copy of Debtor's statement of affairs
G	Declaration of relationships from proposed trustee
H	Creditors' information sheets



Report to Creditors

Gary Alan Phillips
Estate VIC 1088 of 2021/8
("the Debtor")

Pursuant to Section 189A of the Bankruptcy Act 1966

About this Report: A Guide for Creditors

Controlling Trustee:

Ian Charles Francis

Date of Appointment

20 December 2021

Likelihood of Dividend:

Yes

Contact for General Queries:

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Purpose of this report

- I refer to my appointment as Controlling Trustee of the Debtor on 20 December 2021 and to my previous report to creditors dated 22 December 2021.
- Pursuant to section 189A and 189B of the Act, a Controlling Trustee is required to prepare and forward a report to creditors which must provide a summary of the Debtor's affairs and provide creditors with an opinion as to whether it would be in their best interests to accept the Debtor's proposal under Part X of the Act.
- A meeting of creditors will be held at **11:00am (AWST) on Friday, 4 February 2022** to determine whether:
 - the Debtor's property should no longer be subject to control; or
 - require the Debtor to execute a PIA; or
 - require the Debtor to present her Debtor's Petition.
- I also intend to seek approval for my remuneration. Please find my Remuneration Approval Report **attached at Annexure A**.
- To participate in the meeting, please complete and return the following by no later than **4:00pm (AWST) on Thursday, 3 January 2022**:
 - Statement of claim;
 - Appointment of Proxy Form; and
 - Proof of Debt Form
- The documents can be scanned and emailed to Lo Taderera or returned via post to my firm's address, attention Lo Taderera. If you choose to return these documents via post, please ensure that you allow enough time for me to receive them by the due date.

Information included and key messages

- This report contains the information we are required by law to include, plus other information considered materially relevant to creditors.
- The Table of Contents on the following page lists the sections of this report. A glossary and certain other information, including details about my claim for remuneration, is included in the Annexures.

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1. Key Messages for Creditors

1. Key Messages for Creditors

Item	Findings and Recommendations	Section Reference						
Appointment	- The Debtor signed an authority pursuant to section 188 of the Act on 17 December 2021. - I consented to exercise the powers conferred on me by this authority on 20 December 2021.	N/a						
Recoveries and Voidable Transactions	Based on my preliminary investigation into the Debtors affairs, I have not identified any assets or recoveries that may be available for the benefit of creditors in a bankruptcy scenario.	Section 6						
Forecast return to unsecured creditors	The estimated return to creditors based on current information available is summarised below: <table> <tr> <th>Estimate</th><th>Bankruptcy</th><th>PIA</th></tr> <tr> <td>Estimated return to Creditors</td><td>Nil</td><td>\$0.07</td></tr> </table>	Estimate	Bankruptcy	PIA	Estimated return to Creditors	Nil	\$0.07	Section 7
Estimate	Bankruptcy	PIA						
Estimated return to Creditors	Nil	\$0.07						
Timing of Dividend	An indicative range of the estimated timing of a dividend to creditors determined by the Controlling Trustee is set out below: <table> <tr> <th>Estimate</th><th>Bankruptcy</th><th>PIA</th></tr> <tr> <td>Estimated timing of dividend to creditors</td><td>N/A</td><td>3 months</td></tr> </table>	Estimate	Bankruptcy	PIA	Estimated timing of dividend to creditors	N/A	3 months	Section 7
Estimate	Bankruptcy	PIA						
Estimated timing of dividend to creditors	N/A	3 months						
Controlling Trustee's Remuneration	- I am seeking approval of my remuneration capped to the amount of \$30,000 (including GST). - As advised in my initial report to creditors, my total time costs are likely to exceed this amount, in which case, I will not recover all of my fees.	Section 8						
Recommendation	- I recommend that creditors' interests in the Debtor's estate will be better served by requiring the Debtor to execute a PIA under Part X of the Act. In the PIA scenario, creditors will receive a small return in a timely manner. - In my view, there is no benefit for the Debtor to be made bankrupt as: - my investigations have determined that there are no assets available to realise for the benefit of creditors; - a personal friend of the Debtor has agreed to contribute the sum of \$70,000 (originally \$60,000 but since amended to include an additional \$10,000) under a PIA scenario, of which \$40,000 would not be available under a bankruptcy scenario. At the time of writing this report, \$30,000 has been received in FTI Consulting's Trust Account and a further \$40,000 is expected prior to the meeting of creditors (and in any event, per the terms of the PIA proposal, no later than six weeks after commencement of the PIA). In the event creditors voted to accept the proposed PIA and the further \$40,000 is not received, the PIA will terminate and the Debtor will be declared bankrupt; - the Debtor's personal circumstances means he is not expected to have any recourse to additional funds, is expected to earn limited income and no income contribution liability is likely to be paid during the course of a bankruptcy scenario; and - there are no transactions that I have identified that may be considered void as against a Bankruptcy Trustee.	Section 9						



2. Background

2. Background

2.1 Personal Details of Debtor

Description

Findings

Date of Birth	2 September 1975						
Occupation	- The Debtor was the sole Director of ACN 166 130 301 Pty Ltd (in Liquidation) (formerly trading as Head Hunters Asia Pacific Pty Ltd (In Liquidation)) based in Melbourne. Head Hunters offered recruitment placement services across a variety of industries. - The Debtor registered a number of other corporate entities, the majority of which were proposed to be utilised in relation to his recruitment placement services. The majority of these entities were deregistered prior to my appointment and I understand most were dormant at all times. Please refer to section 2.3 of this Report for further details on the Debtor's directorships and shareholdings. - Searches disclose that the Debtor is currently a director of two companies registered in the United Kingdom and the sole trader of a business name registered in Australia. The Debtor has advised that these are dormant. I have requested third party confirmations of the status of the UK corporate entities and whether any assets may be available to the Debtor's creditors but am yet to receive same at the time of this report. If any information is received, which materially changes the facts outlined in this report and particularly, means a distribution to creditors would likely be payable under the Debtor's bankruptcy scenario, I will provide further details to creditors prior to the meeting of creditors. - At present, the Debtor is not currently employed and is receiving Government assistance through Services Australia in the amount of \$29,369 per annum.						
Income	- As above, the Debtor has advised that his income is \$29,369 comprised of: <table border="1"> <thead> <tr> <th>Description</th><th>Amount \$</th></tr> </thead> <tbody> <tr> <td>Government benefits/pension/allowance</td><td>29,369</td></tr> <tr> <td>Total Income</td><td>29,369</td></tr> </tbody> </table> - The Debtor has advised that there will be no change in his employment status of income for the next 12 months.	Description	Amount \$	Government benefits/pension/allowance	29,369	Total Income	29,369
Description	Amount \$						
Government benefits/pension/allowance	29,369						
Total Income	29,369						
Residential Address	The Debtor is currently renting a residential property at Unit 4201, 260 Spencer Street, Melbourne, Victoria, in which he resides with his wife and one child.						

2. Background

2.1 Personal Details of Debtor

Description

Findings

Dependants

- The Debtor has advised that he has the following dependants:

Dependant	Relationship	Age
1	Spouse	29
2	Child	20
3	Child	18
4	Child	15

- The Debtor has advised that the abovementioned dependants have no financial income.
- Additionally, the Debtor pays a child maintenance contribution in the amount of \$1,300 per annum.

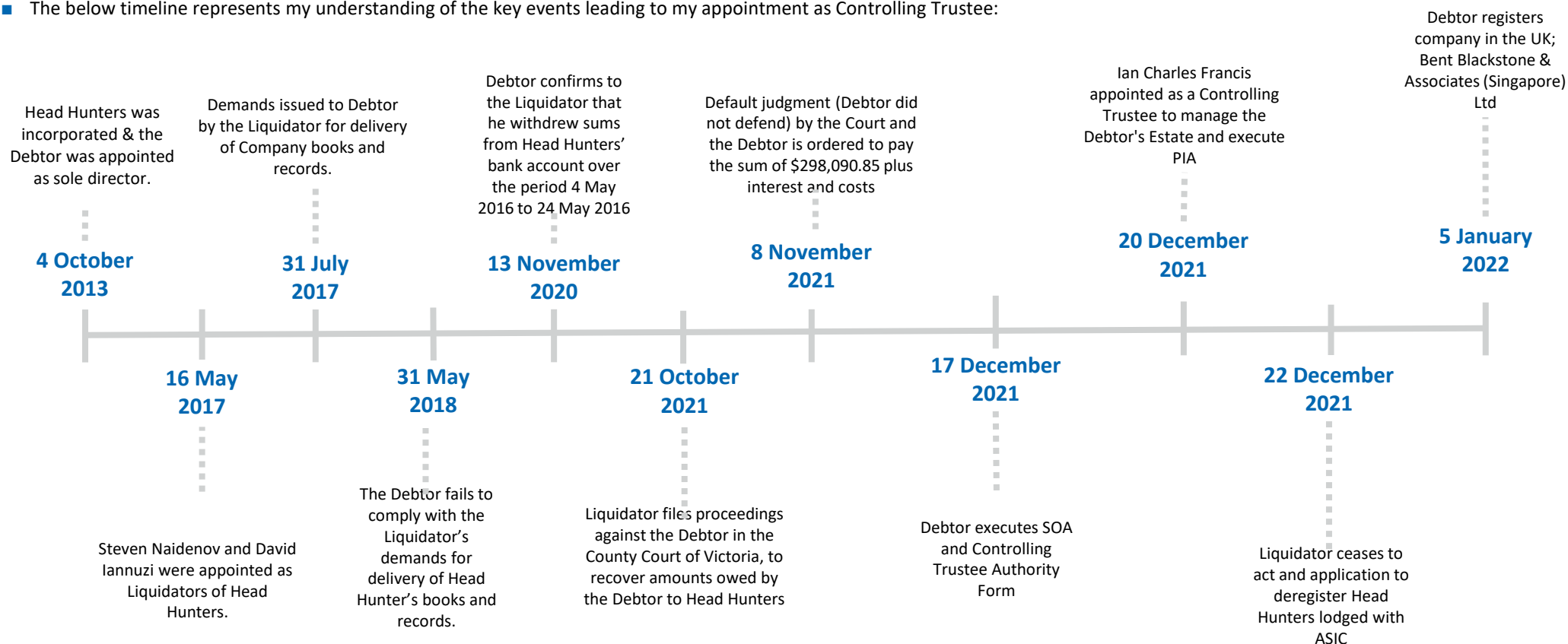
Reasons for Financial Difficulty

- The Debtor has advised that he faced financial difficulties from at least 12 December 2019 due to:
 - the failure of Head Hunters, of which he was the sole Director since its incorporation;
 - legal action taken against him by the Liquidator of Head Hunters for recovery of amounts owed by the Debtor to Head Hunters. The Debtor did not defend the legal action; and
 - potential insolvent trading claims alleged by the Liquidator of Head Hunters pursuant to section 588G of the Corporations Act.

2. Background

2.2 Timeline of Key Events

- The below timeline represents my understanding of the key events leading to my appointment as Controlling Trustee:



2.3 Related Parties

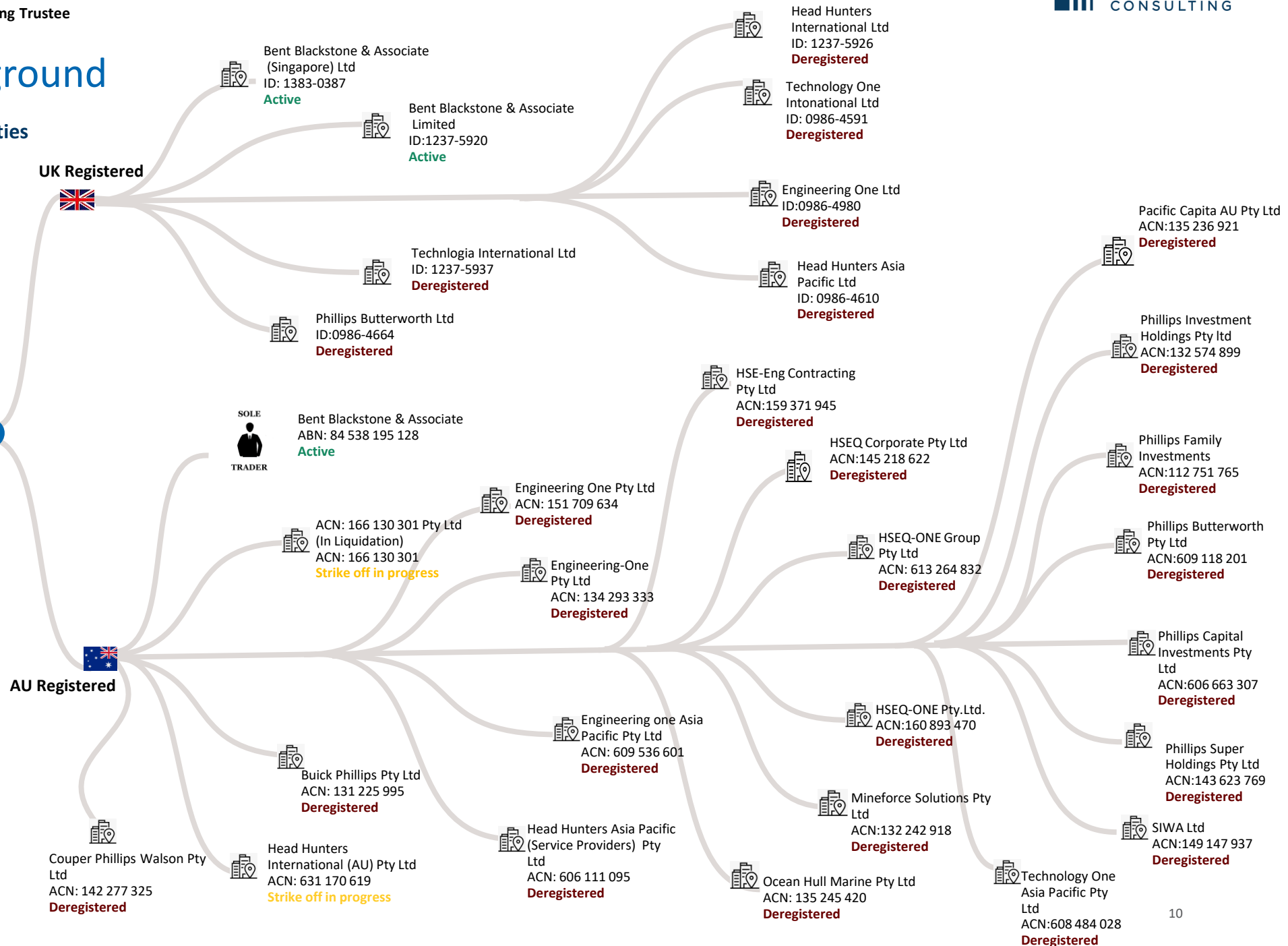
- Searches disclose the companies set out on the following page as being currently and previously operated by the Debtor. Shareholdings in the Debtor's name are also shown.

2. Background

2.3 Related Parties

Gary Alan Phillips

ROLES
DIRECTOR
SECRETARY
SOLE TRADER
SHAREHOLDER



2. Background

2.3 Debtor's Directorships & Others

- As seen in the previous chart, the Debtor has been a Director and Secretary of a number of companies since February 2015. It is my understanding that majority of these companies were dormant and subsequently deregistered.
- Head Hunters, of which the Debtor was sole director, was incorporated on 4 October 2013. The Company operated in the recruitment industry, providing recruitment services to various sectors, across Australia.
- On 16 May 2017, Liquidators were appointed to Head Hunters.
- During the course of the liquidation, the Liquidator identified:
 - Head Hunter's management accounts disclosed a loan account owed by the Debtor of \$1,566,497. The Liquidator's subsequent investigations determined that the net position of the loan as being \$298,090. On 8 November 2021, default judgement was obtained against the Debtor in the amount of \$298,090 plus interest and costs. The Debtor failed to repay same.
 - Numerous cash withdrawals from Head Hunter's bank account during the period 4 May 2016 to 24 May 2016 totalling \$344,218.
 - Head Hunter's may have traded whilst insolvent resulting in a claim against the Debtor in the amount of \$1,192,602.
- Demands for payment were issued to the Debtor and he failed to comply with same.
- On 23 May 2018, ASIC advised the Liquidator that the Debtor had been identified as a candidate for possible director banning and asked the Liquidator to prepare a supplementary report pursuant to section 533(2) of the Corporations Act. The Liquidators were funded by ASIC's Assetless Administration Fund to prepare the report.
- On 30 July 2019, ASIC advised that after consideration of the Liquidator's supplementary report, it did not intend to take any further action. Accordingly, the Liquidator proceeded to finalise the liquidation of Head Hunters. Based on ASIC records, the Liquidator ceased to act on 22 December 2021 and has applied to deregister Head Hunters.
- Searches disclose that the Debtor is a director of the following UK registered companies:

Company Name	Registration Location	Date of Registration
Bent Blackstone & Associates (Singapore) Limited	United Kingdom	05-Jan-22
Bent Blackstone & Associates Limited	United Kingdom	23-Dec-19

- The Debtor has advised that the company, Bent Blackstone & Associates Limited is in the process of deregistration and Bent Blackstone & Associates (Singapore) Limited is currently dormant.
- The Debtor is also a sole trader of the business, Bent Blackstone & Associates registered in Australia on 16 July 2020. The Debtor has advised that he thought that the business name had been deregistered and there is no trading activity.
- As referred at Section 1, I am not aware of any information which disputes the Debtor's comments. In any event, I have requested third party confirmations of the status of the UK corporate entities and whether any assets may be available to the Debtor's creditors but am yet to receive same at the time of this report. If any information is received, which materially changes the facts outlined in this report and particularly, means a distribution to creditors would likely be payable under the Debtor's bankruptcy scenario, I will provide further details to creditors prior to the meeting of creditors.



3. Work Performed to Date

3. Work Performed to Date

- A Controlling Trustee has a duty to investigate a Debtor's affairs in order to identify any potential assets or recovery actions.
- To date, I have received a SOA and books and records from the Debtor. The Act provides wide statutory powers to enable a Controlling Trustee to conduct investigations and obtain information to assist with enquiries. In preparing this report, I have conducted the following:

Stage 1

- Obtaining information from the Debtor or third parties to assist with investigating his affairs.
- Major tasks include, but are not limited to:
 - interviewing the Debtor to discuss his financial affairs and obtaining his SOA, income questionnaire and supporting documentation.
 - seeking information from the Debtor's accountant.
 - writing to all financial institutions in Australia to determine whether the Debtor holds any bank accounts.
 - conducting searches to determine whether the Debtor has a registered interest in motor vehicles, properties, shares and superannuation.
 - conducting searches to identify whether any parties have registered a security interest on the PPSR.
 - conducting Redbook searches of identified assets of the Debtor.
 - liaising with the Liquidator of Head Hunters;
 - assessing whether the Debtor is liable for income contributions including obtaining information regarding details of his income and any benefits she may receive from third parties (i.e. motor vehicles, living expenses, accommodation etc).
 - obtaining bank statements and other documents to identify any potential antecedent transactions.
 - issuing a freedom of information request from Austrac to identify any transactions over \$10,000.
 - issuing a freedom of information request with the Australian Taxation Office.

Stage 2

- Reviewing the information provided by the Debtor and / or third parties (per stage one).
- Liaising with the Debtor regarding the PIA and seeking legal advice in relation to the agreement.
- Considering the PIA versus the Bankruptcy scenario and weighing the benefits of the two administrations.
- Preparing this report to Creditor and providing an opinion of the outcome that is in the best interest of the Creditors.

Stage 3

- Stage three is dependent on the outcome of Creditor's decision to execute the PIA.
- If creditors agree to execute the PIA, I will attend to distribution of a first and final dividend and statutory requirements.
- I have not undertaken an audit and have relied on accuracy of information provided, however, if any creditor is aware of any undisclosed assets or any information that may affect the outcome of the estate please contact this office immediately.



4. Summary of the Debtor's SOA

4. Summary of the Debtor's SOA

4.1 Summary of the Debtor's SOA

- The SOA is a mandatory form that a Debtor must complete with details of assets, creditors, recent transfers of property, business affairs, income details and contact information. AFSA accepted the Debtor's SOA on 20 December 2021.
- Based on the available information, I have set out my understanding of the Debtor's financial position as follows:

Table 2: Summary of Debtor's SOA

	Notes	Debtor's SOA \$	Trustee's ERV \$
Assets			
Cash	1	969	Nil
Superannuation	2	56,191	Nil
Motor Vehicles	3	8,500	Nil
Real Estate	4	Nil	Nil
Shares	5	Nil	Nil
Total Assets		65,660	Nil
Creditors			
Secured Creditors	6	Nil	Nil
Priority Creditors	7	25,000	22,713
Unsecured Creditors	8	1,726,099	168,149
Total Creditors		1,751,099	190,862

The below notes should be read in conjunction with the adjacent table.

Notes

1. Cash at bank (Debtor's SOA: \$969; Trustee's ERV: \$Nil)

- At the time of my appointment, I wrote to various financial institutions in Australia requesting details of any bank accounts in the name of the Debtor.
- I am aware of the following bank accounts:

Bank	Name of Account	Description	Balance (\$)
Current			
NAB	Gary Alan Phillips	Savings	319.69
Bankwest	Phillips Capital Trust	Business Zero Transaction	0.63
Bankwest	Engineering One Asia Pacific Pty Ltd	Business Transaction	6.02
Bankwest	G A Phillips & D H Jung	Easy Transaction	25.57
Bankwest	G A Phillips & D H Jung	Savings Account	0.08
HSBC	Gary Alan Phillips	Savings Account	4.92
HSBC	Gary Alan Phillips	Savings Account	162.71
HSBC	Gary Alan Phillips	Savings Account	1.29
HSBC	Gary Alan Phillips	Savings Account	0.12
Total			521.03

- Given the limited funds, I have approved the Debtor retaining same for living expenses.
- An Austrac search has been requested, investigating whether the Debtor may have transferred amounts greater than \$10,000 outside of Australia. At the time of writing this report, I have not yet received a response from the department. If a response is received, which materially changes the facts outlined in this report and particularly, means a distribution to creditors would likely be payable under the Debtor's bankruptcy scenario, I will provide further details to creditors prior to the meeting of creditors.
- The Debtor also maintained unsecured loans and credit cards and these facilities are referred to in note 8 below.

2. Superannuation (Debtor's SOA: \$56,191; Trustee's ERV: \$Nil)

- The Debtor disclosed a balance of \$56,191 of superannuation fund with Raiz Super fund in his SOA. Pursuant to section 128B of the Act, superannuation fund assets cannot be realised for the benefit of creditors unless it can be shown that property was transferred to the superannuation fund in an out-of-character transaction with the intent to defeat creditors.

4. Summary of the Debtor's SOA

3. Motor vehicles (Debtor's SOA: \$8,500; Trustee's ERV: \$Nil)

- A Western Australia Department of Transport search has not identified any vehicles currently or previously registered in the Debtor's name.
- A Victorian Roads ("Vic Roads) search has disclosed that the Debtor is the former or current registered owner of the following vehicles:

Description	Registered Owner	Redbook Valuation	Book Value
2006 Mercedes - Benz C-Class Wagon Auto MY06	Former owner	4,000	Nil
2010 Mercedes - Benz C-Class Sedan Auto MY10	Current Owner	7,500	8,500

- Vic Roads records confirm that the registration for the 2006 Mercedes Wagon expired on 15 October 2020. The Debtor has advised that this vehicle has been sold.
- The Debtor has disclosed in his SOA that he owns the 2010 Mercedes Sedan which he currently uses as means of transport. Vic Roads has confirmed same. In a Bankruptcy scenario, a bankrupt is entitled to retain a vehicle to the value of \$8,150.00. The vehicle would not be available for the benefit of creditors as its realisable value is below the threshold.

4. Real Property (Debtor's SOA: \$Nil; Trustee's ERV: \$Nil)

- The Debtor has advised that he does not own real property. Landgate searches were conducted in New South Wales, Victoria and Western Australia and have confirmed same.

5. Shares (Debtor's SOA: \$Nil; Trustee's ERV: \$Nil)

- The Debtor has advised that he does not own shares. Following my appointment, I wrote to the major share registries requesting information in relation to any ASX shareholdings. I have not located any shares in the Debtor's name.
- Company searches disclose that he is former shareholder of a number of privately registered companies that are have been deregistered. Refer section 2.3 of this Report.

6. Secured Creditor claims (Debtor's SOA: \$Nil; Trustee's ERV \$Nil)

- A PPSR search of the two vehicles (note 3) has not disclosed any security interests registered against the vehicles.
- I am not aware of any secured debts against the Debtor.

7. Priority Creditor claims (Debtor's SOA: \$25,000; Trustee's ERV 22,713)

- I understand there is potentially \$22,713 payable in relation to superannuation guarantee charges for the period 1 October 2013 to 16 June 2017, as below:

Description	Account (CAC)	Account name	Running Balance (RBA)
SG Director Penalty for the period 1 Oct 2013 to 31 Mar 2014	002	Engineering One Pty Ltd	8,189.43
SG penalties RBA for the period 1 Jul 2015 to 30 Jun 2016	003	HSEQ-One Pty Ltd	14,523.78

Total **22,713.21**

- The validity of this balance is yet to be reviewed and adjudicated. If the claim is valid, it will rank in priority to other creditors pursuant to section 109 (1) of the Act and will need to be paid in full, prior to any distribution being available to unsecured creditors. Refer to Section 7 of this report for estimated outcomes to creditors under both the proposed PIA and bankruptcy scenarios, however, note that in the bankruptcy scenario, there is not expected to be sufficient funds to enable a priority return.

4. Summary of the Debtor's SOA

8. Unsecured Creditor Claims (Debtor's SOA: \$1,751,099; Trustee's ERV: \$168,149)

- I am aware of the following unsecured creditors:

Creditor Name	Notes	Debtor's SOA	Trustee's ERV (\$)	Related Party
Australian Taxation Office	1	59,855	62,143	No
Credit Corp		2,883	2,883	No
Credit Corp		6,719	6,719	No
Impact Financial Services		726	726	No
Impact Financial Services		8,132	8,132	No
Latitude Finance		9,562	9,562	No
Panthera Finance		175	175	No
Pioneer Credit		2,719	2,719	No
Pioneer Credit		2,054	2,054	No
Pioneer Credit		2,925	2,925	No
Pioneer Credit		2,905	2,905	No
Pioneer Credit		2,951	2,951	No
Pioneer Credit		6,512	6,512	No
Optus		-	4,547	No
Foxtel		-	132	No
Steven Naidenov as Liquidator of ACN 166 130 301	2	1,566,497	-	No
Masada Private Hospital		-	1,580	No
Ultimate Credit Management		1,715	1,715	No
Zurich Capital & Finance		12,069	12,069	No
Dong Hoon Jung		23,600	23,600	No
Yu (Becky) Fan Peng		3,500	3,500	No
Minh Dang		10,600	10,600	No
TOTAL		1,726,099	168,149	

The following notes should be read in conjunction with the adjacent table.

Notes:

1. ATO (Debtor's SOA: \$59,855; Trustee's ERV: \$62,143)

Following my appointment, I wrote to the ATO requesting information in relation to the Debtor's affairs and particulars of its claim. At this stage, I have received an initial response but will correspond further with the ATO particularly regarding the validity and quantum of priority claimed amounts.

2. Claim by Steven Naidenov as Liquidator of Head Hunters (Debtor's SOA: \$1,566,497 Trustee's ERV: \$nil)

Please refer to section 2.3 of this Report. I note that, as ASIC has commenced strike off action for Head Hunters, it is likely that the liquidator will not be able to claim in the Debtor's Estate. I note that the Liquidator may make an application to ASIC for reinstatement of Head Hunters and in such case, if his claims were admitted, the return to creditors in this circumstance will likely be diminished.

- At this stage, I have not adjudicated on creditor claims and if the PIA is executed, any dividend payable will be subject to provable and admitted claims (including the ranking of their priority) (if any).



5. Summary of Debtor's Proposal

5. Summary of Debtor's Proposal

- The Debtor's proposal requests that creditors resolve by special resolution that the Debtor enters into a PIA.
- The principle terms of the Debtor's draft PIA proposal are summarised as follows:

Item	Term
Property of Debtor	■ The amount of \$30,000 is currently held in trust pending acceptance of the draft PIA at the meeting of creditors, at which time such funds are to be paid to the Controlling Trustee ("the Fund"). A further \$40,000 (originally anticipated to be \$30,000, however, following discussions with the Debtor, he has agreed to source a further \$10,000 from friends) is payable to the Fund no later than six weeks from commencement of the PIA. The Fund will be made available to pay creditor claims (prorated entitlement) less any realisation charges payable to AFSA and the Controlling Trustee's fees and disbursements. Further details including whether the full balance of funds has been made to the Fund will be provided at the Meeting of Creditors. ■ For clarity, the total funds expected to be available for distribution to creditors would be \$40,000 less AFSA realisation charges (assuming the PIA is executed, noting that from the total \$70,000 received, \$30,000 is proposed to be applied towards the Controlling Trustee's remuneration, subject to creditor approval – see comments below). ■ No other property of the Debtor is to be vested in the Controlling Trustee.
Income of the Debtor	■ The Debtor shall not make any contribution or payment to the Trustee from any income earned by the Debtor.
How property is to be dealt with	■ The Fund shall be dealt with in the following manner: ■ first, to pay the fees and costs of the Controlling Trustee up to \$30,000 (including GST); and ■ second, to be distributed amongst creditors of the Debtor who prove for their debt with the Controlling Trustee, in accordance with the priorities provided for in s. 109 of the Act.
Provable debts extinguished	■ Upon payment to the Controlling Trustee of all monies, the Debtor will be completely and finally release from all provable debts.
Termination	■ The PIA shall be terminated if: ■ The Debtor presents a Debtor's Petition; or ■ All of the monies are not paid to the Controlling Trustee within 28 days of the last date for such payment and the Controlling Trustee elects to terminate the PIA by notice given to the Debtor.
Application of Antecedent Transactions Provisions	■ Sections 120 to 125 of the Act do not apply to the Debtor.
Remuneration	■ Quantum of the Controlling Trustee's remuneration shall not exceed the sum of \$30,000 (including GST).



6. Summary of Effect of Bankruptcy

6. Summary of Effect of Bankruptcy

6.1 In the Event of a Debtor's Petition Generally

- Should creditors resolve that the Debtor should present a Debtor's Petition, then all of the Debtor's divisible property, as defined by the Act, would vest in his Bankruptcy Trustee. In such event, the estimated return is disclosed in Section 7 of this Report.
- A Bankruptcy Trustee has powers to investigate a Debtor's conduct, affairs and books and records in order to determine if there are any assets that may be recoverable should the Debtor be made bankrupt. Such investigations look at any unusual events, offences or transactions which may give rise to potential claims or asset recoveries.
- A Trustee may also elect to have the Bankrupt publicly examined on oath as to his conduct, dealings, property and affairs. Such examinations may well be used to seek evidence in relation to a potential recovery or litigation. Persons other than the Bankrupt may also be examined if they are indebted to or have property of the Bankrupt or otherwise be capable of giving information about the Bankrupt's affairs.
- Subject to particular property exemptions, protective provisions and to the rights of special creditors, the property (or its value), which the Bankruptcy Trustees may have available for distribution or may recover is:
 - property owned by the Bankrupt at the date of bankruptcy, which is available by reason of section 116 of the Act;
 - property owned by the Bankrupt at the commencement of the bankruptcy, but disposed of before the date of Bankruptcy, which is available (section 116) under the doctrine of relation back; similarly, property acquired by the Bankrupt after commencement but disposed of before the date of bankruptcy;
 - property devolving on the Bankrupt after the date of bankruptcy but before discharge (section 116), i.e. after-acquired property (not to be confused with after-acquired income (section 139L); and
 - transactions detailed in the table in section 6.3 of this Report.
- Bankruptcy is a statutory period of 3 years.

6.2 Income Contributions under the Act

- Pursuant to section 139P of the Act, Bankrupts are required to contribute a portion of their income to the Estate if their net income (after tax) exceeds the base income threshold of \$60,515.00.
- The Debtor has disclosed in his SOA that he is currently unemployed and receives income from government pensions/benefits in the amount of \$29,369 per annum.
- Based on the information included in the Debtor's SOA, his income is below the threshold and no contributions will be payable during the period of the bankruptcy. However, a yearly income assessment is performed to confirm the financial position of the Debtor and if there are any significant changes to the status of his income.
- Given the Debtor's personal circumstances, I am not aware of any likely or potential increases to his net income which could result in him exceeding the statutory period should be made bankrupt.

6. Summary of Effect of Bankruptcy

6.3 Preliminary Investigations

- My preliminary investigations into the Debtor's affairs are summarised as follows:

Section of the Act	Description	My View	Comments
120 – Undervalued Transactions	■ The transfer of property by a person who later becomes Bankrupt to another person is void against the Trustee if the transfer took place in period beginning 5 years before commencement of bankruptcy and the transferee gave no consideration for no transfer or gave consideration of less value than market value.	No claims	■ My investigations to date have not identified any transfers of assets. No further investigation will be undertaken
121 – Transfers to Defeat Creditors	■ Transfer of property by a person who later becomes bankrupt to another person is void against the Trustee if the property would have probably become part of the Debtor's estate or would have been available to creditors if it hadn't been transferred and the transferor's main purpose in making the transfer was: — to prevent property becoming divisible among creditors; or — to hinder/delay process of making property available for division among creditors.	No claims	■ My investigations to date have not identified any transfers to defeat creditors. No further investigation will be undertaken
121A – Transactions where consideration given to a third party	■ Transfer of property by a person who later becomes a Debtor to another person and the transferee gives some or all of the consideration for the transfer to a person (a third party) other than the transferor (sections 120 and 121 of the Act).	No claims	■ My investigations to date have not identified any transactions where consideration was given to a third party. No further investigation will be undertaken
122 – Unfair Preference	■ Transactions between the Debtor and a creditor which results in that creditor receiving a greater amount than it would have in this administration.	No claims	■ I have reviewed the payments made by the Debtor during the period leading up to my appointment and note that there are no payments that warrant further investigations.



7. Comparison of the Options Available to Creditors

7. Comparison of the options available to Creditors

7.1 Estimated Dividend to Creditors

- The table below compares the options available to creditors of the Debtor:

Comparison of options	Notes	Bankruptcy		PIA
		Low \$	High \$	\$
Assets				
Contribution to administer bankruptcy		30,000	30,000	n/a
Debtor' contributions as per PIA	1	N/a	N/a	70,000
Motor vehicles	2	N/a	N/a	N/a
Income Contributions	3	N/a	N/a	N/a
Voidable Transactions	4	N/a	N/a	N/a
Total Assets		30,000	30,000	70,000
Less Realisation Charge (7%)	5	(2,100)	(2,100)	(4,900)
Less Priority Payments				
Controlling Trustees' Fees & Disb.	6	Nil	Nil	30,000
Bankruptcy Trustees' Fees & Disb.	7	27,900	27,900	Nil
Superannuation Guarantee Charge (SGC)	8	Nil	Nil	22,713
Total Priority Payments		27,900	27,900	52,713
Amount Available to Unsecured Creditors		Nil	Nil	12,387
Estimated Return to Unsecured Creditors				
Total Unsecured creditors		1,751,099	168,149	168,149
Estimated Return to Creditors (¢ in \$)	9	Nil	Nil	0.07
Timing of Dividend		N/A	N/A	3 Months

The following notes should be read in conjunction with the adjacent table:

- The Debtor's initial draft proposal issued to creditors on 21 December provides \$60,000 to creditors. As referenced in my DIRRI a sum of \$30,000 was transferred by the Debtor's partner and these funds are currently held in FTI Consulting's trust account. The Debtor has advised an additional \$10,000 contribution will be provided bringing the total available funds in his Estate to \$70,000. My investigations into the Debtor's affairs have not identified any assets or recoveries that warrant further investigation. As such, there are no further funds expected to be received from the Debtor in either the PIA or bankruptcy scenario.

- The motor vehicle(s) are excluded from the Debtor's Proposal as their values are below the required threshold pursuant to paragraph 116(2)(ca) of the Act.

In a Bankruptcy Scenario, a bankrupt is able to retain a motor vehicle up to the value of \$8,150.00. The 2010 Mercedes Sedan is primarily used by the Debtor as a means of transport and is valued at \$7,500 (Redbook value) and \$8,500 (Book value).

- Pursuant to section 139P of the Act, Bankrupts are required to contribute a portion of their income to the Estate if their net income (after tax) exceeds the base income threshold of \$60,515.00. Based on the information included in the Debtor's SOA, his income is below the threshold and no contributions will be payable during the bankruptcy. However, a yearly income assessment is performed to confirm the financial position of the Debtor and if there are any significant changes to the status of his income. Given the Debtor's personal circumstances, I am not aware of any likely material increase to his income during the period of the bankruptcy.

- Refer to section 6 of this Report for further details.

- 7% of all realisations must be paid to AFSA in both a Bankruptcy and PIA scenario.

- Pursuant to s109(1) of the Act, the Trustee's remuneration and disbursements are paid in priority to employees and unsecured claims. A capped amount of \$30,000 (inc GST) was agreed with the Debtor as payment for the Controlling Trustee's services in relation to the PIA (refer to Annexure A). The full amount of my fees will exceed this amount and therefore, I will not recover full payment of my fees.

- Bankruptcy Trustee's fees will be limited to funds available on hand. In a bankruptcy scenario my fees will exceed the amount of funds available and therefore, I will not recover full payment of my fees. Note that the bankruptcy will run over a three year period.

- Refer to section 4 (note 7) of this Report for further details. I note that, in a bankruptcy scenario there would be insufficient funds to enable a priority return, which would need to be paid in full, prior to any return to unsecured creditors.

- As the Liquidator has resigned and ASIC has commenced the strike off action for Head Hunters, it is likely that the Liquidator will not be able to claim in the Debtor's Estate nor vote on the proposed PIA. The estimated return under both scenarios is calculated on this basis. The Liquidator may make an application to ASIC for reinstatement of Head Hunters and his role as liquidator, however, in which case, if his claim is admitted, he will be entitled to vote on the PIA, the total unsecured creditor claims will increase and the estimated return to creditors will diminish.



8. Trustee's Remuneration

8. Trustee's Remuneration

- FTI Consulting charge professional fees based on time spent by the Trustee and his staff at rates reflecting their level of experience.

8.1 Duties and responsibilities

- I summarise the duties and responsibilities currently being performed by the Trustee and his staff:

Name of FTI Personnel Responsible	Assets	Investigations	Reporting to Creditors	Legal	Statutory, Reporting & Compliance
Ian Francis	✓	✓	✓	✓	✓
Nathan Stubing	✓	✓	✓	✓	✓
Jacque Sinclair	✓	✓	✓	✓	✓
Lo Taderera	✓	✓	✓		✓

8.2 Remuneration claim

- The remuneration claim is for the following amounts:

Period	Amount Excluding GST \$
20 December 2021 to 9 January 2022	\$6,421.00
10 January 2022 to finalisation of the administration	\$20,851.73
Total (excluding GST)	\$27,272.73

- I attach a Remuneration Approval Report at **Annexure A** with a summary of my fees and disbursements.
- I will be seeking to have my remuneration approved by resolution of creditors in the forthcoming meeting of Creditors to be virtually held at **11:00am (AWST) on Friday, 4 February 2022.**

8.3 Resolutions

- The resolutions sought are as follows:

Controlling Trustee's Fees for the period 20 December 2021 to 9 January 2022

"That the incurred remuneration of the Controlling Trustee of Gary Alan Phillips for the period 20 December 2021 to 9 January 2022 of the Controllership (inclusive) be determined in the capped amount of \$6,421.00 (excluding GST) and that the Controlling Trustee be authorised to draw the funds."

Controlling Trustee's Fees for the period 10 January 2022 to Finalisation of PIA

"That the future remuneration of the Controlling Trustee of Gary Alan Phillips for the period 10 January 2022 to the finalisation of the Controllership (inclusive) be determined in the capped amount of \$20,851.73 (excluding GST) and that the Controlling Trustee be authorised to draw the funds."

- As advised in my initial report to creditors, I am seeking approval of my remuneration capped to \$30,000 (including GST), however, I note that my total time costs may exceed this amount and in which case, I will not recover all of my fees.



9. Controlling Trustee's Comment and Opinion Regarding the Debtor's Proposal and Meeting

9. Controlling Trustee's Opinion Regarding the Debtor's Proposal and Meeting

9.1 Controlling Trustee's Recommendation

- The Debtor's proposal submitted by the Debtor, pursuant to section 188A, is that his affairs be dealt with under Part X of the Act and he be required to execute a PIA.
- In accordance with paragraph 189A (A) (b) of the Act, I am required to provide creditors with my opinion as to which administration serves the creditors' interest.
- I enclose a Statement of Possible Resolutions with options available to creditors at **Annexure E**.
- In my view and based on my independent investigations, discussions with the Debtor and review of records received to date, there is no benefit for the Debtor to be made bankrupt as:
 - my investigations have determined that there are no assets to realise for the benefit of creditors.
 - the Debtor is expected to earn limited income and no income contribution liability is likely to be paid during the course of a bankruptcy scenario; and
 - there are no transactions that may be considered void as against a Bankruptcy Trustee.
- I consider that creditors' interests would be better served giving due consideration to accepting the execution of PIA under Part X of the Act, as opposed to requiring the Debtor to present a Debtor's Petition.
- I will be acting as the trustee of the PIA if accepted. I, Ian Francis, declare that the Debtor is not my related entity or a related entity of my related entities (ref to **Annexure G**).

9.2 Details of Meeting of Creditors

- A meeting of creditors will be held for creditor to determine whether:
 - the Debtor's property be no longer subject to control; or
 - that the Debtor be required to execute a PIA; or
 - that the Debtor be required to present her own Debtor's Petition within seven (7) days.

- Details of the meeting of creditors to consider the Debtor's PIA are:

Date:	Friday, 4 February 2022
Time:	11:00am (AWST)
Venue:	Held virtually via teleconference

9.3 Participating in the Meeting of Creditors

- To participate in the meeting of creditors, please complete and return the following by no later than **4:00pm (AWST), on Thursday, 3 February 2022**:
 - Statement of Claim which provides information about what the Debtor owes you, along with supporting documents for your claim (only if you have not previously provided it);
 - Proxy Form (a registered member of a company can appoint another person or the Chairperson (the proxy) to attend a company meeting and vote on the member's behalf; and
 - Proof of Debt or Claim Form
- The documents can be scanned and emailed to Lo Taderera or returned via post to my firm's address, attention Lo Taderera. If you choose to return these documents via post, please ensure that you allow enough time for me to receive them by the due date. Further details of the meeting, including login details will be provided once I receive same.
- Relevant forms and details required to be completed to attend the meeting are contained in **Annexure C** of this report.



10. Qualification Accompanying and Forming Part of this Report

10. Qualification Accompanying and Forming Part of this Report

- I advise that the Act requires this report to be prepared and filed within twenty-five (25) days of my consent to exercise the powers conferred by the authority given pursuant to Section 188 of the Act. Creditors should therefore note as follows:
 - The information disclosed in the Debtor's SOA has been supplied by the Debtor and I have verified as far as practical in the time available to satisfy the correctness thereof;
 - My investigations into the financial affairs of the Debtor are limited to the areas mentioned in this report;
 - Creditors should make their own enquiries in relation to the affairs of the Debtor, however, any material omission or misstatement by the Debtor that is brought to my attention will be investigated as much as possible prior to the meeting of creditors;
 - As indicated above, I have attempted to verify the correctness of the information disclosed on the Debtor's SOA, however, I am not able to express with certainty an opinion as to whether the SOA represents a complete view of the financial position of the Debtor; and
 - Neither I, nor the firm FTI Consulting (Australia) Pty Ltd or any member or employee of the firm undertakes responsibility in any way whatsoever to any person in respect of the SOA or this report, including any errors or omissions therein, however caused.



11. Next Steps

11. Next Steps

- Going forward, the next steps are:
 - Hold the meeting of creditors to enable creditors to consider the Debtor's proposal and vote on same;
 - Liaise with creditors regarding the dividend process (if PIA is executed), including adjudication of proof of debts;
 - Calculate dividend to be paid and undertake same (if PIA is executed);
 - Reporting to creditors; and
 - Attend to statutory lodgements and finalisation procedures.
- If creditors do not approve the PIA, then the Debtor will be required to lodge a Debtor's Petition within seven days.

Should you have any further queries regarding the above, please contact Lo Taderera of this office on (08) 9321 8533.

Dated this 19th day of January 2022



Ian Francis
Controlling Trustee



Annexure A

Remuneration report approval

19 January 2022



Remuneration Approval Report

Gary Alan Phillips (“the Debtor”)
Estate VIC 1088 of 2021/8

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Schedule B – Time spent by staff on each major task (work already done)

Schedule C – Resolutions

Schedule D – FTI Consulting schedule of rates effective 1 July 2021

Summary

This remuneration approval report provides you with the information that the Bankruptcy Act 1966 ("Act") and the Code of Professional Practice published by the Australian Restructuring Insolvency and Turnaround Association (ARITA) requires creditors to receive to make an informed decision regarding the approval of my remuneration for undertaking the Estate of Gary Alan Phillips (the Debtor).

I am asking creditors to approve the following remuneration:

Period	Remuneration (excl GST) \$
20 December 2021 to 9 January 2022	6,421.00
10 January 2022 to finalisation of the administration	20,851.73
Total Remuneration Sought	27,272.73

As previously advised, I have agreed to cap my fees with respect to my appointment as Controlling Trustee and administering the PIA at a maximum of \$30,000 (including GST). This is consistent with the previous estimates in my Initial Remuneration Notice dated 22 December 2021. My total time costs may exceed this amount and in which case, I will not recover all of my fees.

Declaration

I, Ian Francis of FTI Consulting, have undertaken a proper assessment of the claims for remuneration for the appointment as Controlling Trustee of the Debtor in accordance with the law and applicable professional standards. I am satisfied that the remuneration claimed is in respect of necessary work, properly performed, or to be properly performed, in the conduct of this appointment and further, that the disbursements that have been incurred in the conduct of the external administration are necessary and proper.

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

For	Period	Amount \$ (excl GST)	Applicable rates	Timing of payment
Work already completed	20 December 2021 to 9 January 2022	6,421.00	Provided in the IRN dated 22 December 2021	Immediately
Future work	10 January 2022 to completion of the PIA	20,851.73	As per the attached hourly rates	When funds are available and as incurred
Total		27,272.73		

Details of the work already done and future work are **enclosed at Schedule A**.

Schedule B includes a breakdown of time spent by staff members on each major task for work I have already done.

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

Disbursements

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, there are no Receipts and Payments recorded.

I am required to obtain creditors' 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 Initial Remuneration Notice sent to you on 22 December 2021.

I am not currently seeking approval for disbursements.

Likely impact on dividends

The Act sets the order for payment of claims against the Debtor, and it provides for remuneration of the Controlling Trustee to be paid in priority to other claims. This ensures that when there are sufficient funds, the administration receives payment for the work done to recover assets, investigate the Debtor's affairs, report to creditors and AFSA and distribute funds according to the proposed PIA.

Based on:

- realisations to date (funds provided by the Debtor to execute PIA)
- estimated remuneration to complete the administration of PIA
- the estimated total of creditor claims based on the Debtor's records and claims lodged

I estimate that a dividend of \$0.07 (7 cents in the dollar) will be paid in the administration from the Debtor's PIA proposal of \$70,000.00. At this stage, I have not adjudicated on creditor claims and if the PIA is executed, any dividend payable will be subject to provable and admitted claims (including the ranking of their priority) (if any).

Funding received for remuneration and disbursements

As disclosed in my DIRRI dated 22 December 2021, a friend of the Debtor transferred a total of \$30,000 to FTI Consulting's Trust account. A friend of the Debtor is still yet to transfer an additional \$40,000 to FTI Consulting's Trust account. The funds will be used in part to pay my fees subject to the approval of creditors.

I have not received any other up-front payments or indemnities for this appointment. This does not include any indemnities I may be entitled to under the law.

Summary of receipts and payments

There are no receipts and payments incurred to date in this administration. However, as set out above, the amount of \$30,000.00 for the purposes of the PIA was deposited into FTI Consulting's Trust account.

Queries

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

You can also access information which may assist you on the following websites:

- ARITA at www.arita.com.au/creditors
- AFSA at www.AFSA.gov.au (search for INFO 85).
- AFSA at www.afsa.gov.au (search for "remuneration information sheet").]

If you have any queries in relation to the information in this report, please contact Lo Taderera of this office on (08) 9321 8533 or by email at lo.taderera@fticonsulting.com.



Ian Francis

Controlling Trustee

Attachments:

Schedule A – Details of work

Schedule B – Time spent by staff on each major task (work already done)

Schedule C – Resolutions

Schedule D – FTI Consulting schedule of rates effective 1 July 2021

Schedule A – Details of work

Task area/General description	Tasks	
	Work already completed	Future work to be undertaken
Assets	0.30 hrs \$108.00	\$Nil
Motor Vehicles	■ Undertaking vehicles searches with Victoria Roads and the WA Department of Transport and making enquiries in relation to the vehicles. ■ Conducting Redbook Valuation of the two vehicles identified to be registered in the name of the Debtor.	
Creditors	10.60 hours \$3,060.00	\$7,351.73
Creditor Correspondence and Enquiries	■ Receiving and responding to creditor enquiries. ■ Considering reasonableness of creditor requests. ■ Compiling information requested by creditors. ■ Providing ad-hoc updates to creditors as and when required.	■ Correspondence with creditors. ■ Providing ad-hoc updates to creditors as and when required.
Creditor reporting and circulars	■ Preparing an Initial report to creditors and DIRRI. ■ Preparing the initial notification to creditors advising of my appointment and requesting for information.	■ Preparing a Report to Creditors pursuant to section 189A of the Act. ■ Preparing this Remuneration report.
Meeting of Creditors		■ 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. ■ Convene and hold Meeting of Creditors to consider the Debtor's proposal.

Investigation	2.60 hours \$1,360.00	\$Nil
Collection of books and records, statement of affairs etc. of Debtor	■ Reviewing records provided by the Debtor. ■ Obtain Statement of Affairs from Debtor review and pursue further inquiries, searches. ■ Preparation of and issuing of demand notices under the Act to various entities. ■ Analysing records and documents received.	
Searches	■ Carrying out searches to assist with my investigations into the Debtor's affairs. ■ Assess bank accounts and notify banks etc., including as to payment of Debtor's benefits and access to funds for living expenses etc.	
Transactions	■ Review of transactions which may be voidable under the Act, in particular in relation to related party transactions and any other assets registered under the Debtor's name.	
Dividend	\$Nil	\$10,000.00
Processing proofs of debt (POD) (If PIA is executed)		■ Preparation of correspondence to creditors inviting lodgement of POD ■ Receipting and maintaining POD register ■ Adjudicating POD ■ Request further information from claimants regarding POD ■ Preparation of correspondence to claimant advising outcome of adjudication
Dividend procedures (If PIA is executed)		■ Preparation of correspondence to creditors announcing declaration of dividend ■ Advertising announcement of dividend ■ Preparation of distribution and maintenance of dividend file ■ Preparation of payment vouchers to pay dividend

		■ Preparation of correspondence to creditors enclosing payment of dividend
Administration	5.40 hours \$1,893.00	\$3,500.00
Appointment	■ Receiving appointment documents from AFSA. ■ Notifying third parties of appointment including the ATO, OSR and utility providers.	
AFSA reporting	■ Preparing of and lodgement of SOA and other relevant forms as required.	■ Notifying and lodging meeting notices. ■ Reconciliation and calculation of Realisations and Interest Charge. ■ Lodgement of Realisation and Interest Charge Return.
File review / checklist / document	■ Document filing and maintenance	■ Document filing and maintenance
Finalisation		■ Finalising procedures

Schedule B – Time spent by staff on each major task (work already done)

Employee	Position	\$ /hour (excl GST)	Total actual hours	Total \$ (excl GST)	Assets		Creditors		Investigation		Administration	
					Hrs	\$	Hrs	\$	Hrs	\$	Hrs	\$
Ian Francis	Senior Managing Director	720.00	1.00	720.00	0.00	0.00	0.00	0.00	1.00	720.00	0.00	0.00
Nathan Stubing	Managing Director	660.00	0.50	330.00	0.00	0.00	0.00	0.00	0.00	0.00	0.50	330.00
Jacqueline Sinclair	Senior Director	580.00	1.00	580.00	0.00	0.00	0.00	0.00	0.80	464.00	0.20	116.00
Loice Taderera	Consultant I	360.00	8.40	3,024.00	0.30	108.00	5.20	1,872.00	0.00	0.00	2.90	1,044.00
Parin Desai	Junior Associate	220.00	6.80	1,496.00	0.00	0.00	5.40	1,188.00	0.80	176.00	0.60	132.00
Claire Rees	Administration II	220.00	1.10	242.00	0.00	0.00	0.00	0.00	0.00	0.00	1.10	242.00
Zin Khin	Treasury	290.00	0.10	29.00	0.00	0.00	0.00	0.00	0.00	0.00	0.10	29.00
Total (ex GST)				6,421.00		108.00		3,060.00		1,360.00		1,893.00
GST				642.10		10.80		306.00		136.00		189.30
Total (Incl GST)				7,063.10		118.80		3,366.00		1,496.00		2,082.30
Total hours				18.90		0.30		10.60		2.60		5.40
Avg hourly rate (ex GST)				339.74		360.00		288.68		523.08		350.56

Schedule C – Resolutions

Resolution 1 – Controlling Trustee’s Fees for the period 20 December 2021 to 9 January 2022

Retrospective remuneration

"That the remuneration of the Controlling Trustee of Gary Alan Phillips for the period 20 December 2021 to 9 January 2022 of the administration be approved in the amount at \$6,421 (excluding GST) and that the Controlling Trustee be authorised to draw the funds."

Resolution 2- Controlling Trustee’s Fees for the period 10 January 2022 to finalisation of the administration

Prospective Remuneration

"That the future remuneration of the Controlling Trustee of Gary Alan Phillips for the period 10 January 2022 to the finalisation of Personal Insolvency Agreement be approved in the amount capped at \$20,851.73 (excluding GST) and that the Controlling Trustee be authorised to draw the funds as incurred."

Schedule D – FTI Consulting schedule of rates effective 1 July 2021

Typical classification	Standard Rates \$/hour	General guide to classifications
Senior Managing Director/Appointee	720	Registered Liquidator and/or Trustee, with specialist skills and extensive experience in all forms of insolvency administrations. Alternatively, has proven leadership experience in business or industry, bringing specialist expertise and knowledge to the administration.
Managing Director	660	Specialist skills brought to the administration. Extensive experience in managing large, complex engagements at a very senior level over many years. Can deputise for the appointee. May also be a Registered Liquidator and/or Trustee. Alternatively, has extensive leadership/senior management experience in business or industry.
Senior Director	580	Extensive experience in managing large, complex engagements at a very senior level over many years. Can deputise for the appointee, where required. May also be a Registered Liquidator and/or Trustee or have experience sufficient to support an application to become registered. Alternatively, has significant senior management experience in business or industry, with specialist skills and/or qualifications.
Director	530	Significant experience across all types of administrations. Strong technical and commercial skills. Has primary conduct of small to large administrations, controlling a team of professionals. Answerable to the appointee, but otherwise responsible for all aspects of the administration. Alternatively, has significant senior management experience in business or industry, with specialist skills and/or qualifications.
Senior Consultant 2	480	Typically an Australian Restructuring Insolvency & Turnaround Association professional member. Well developed technical and commercial skills. Has experience in complex matters and has conduct of small to medium administrations, supervising a small team of professionals. Assists planning and control of medium to larger administrations.
Senior Consultant 1	435	Assists with the planning and control of small to medium-sized administrations. May have the conduct of simpler administrations. Can supervise staff. Has experience performing more difficult tasks on larger administrations.
Consultant 2	390	Typically Institute of Chartered Accountants in Australia qualified chartered accountant (or similar). Required to control the tasks on small administrations and is responsible for assisting with tasks on medium to large-sized administrations.
Consultant 1	360	Qualified accountant with several years' experience. Required to assist with day-to-day tasks under the supervision of senior staff.
Associate 2	335	Typically a qualified accountant. Required to assist with day-to-day tasks under the supervision of senior staff.
Associate 1	300	Typically a university graduate. Required to assist with day-to-day tasks under the supervision of senior staff.
Treasury	290	Typically, qualified accountant and/or bookkeeper working in a treasury function. Undertakes treasury activities and is skilled in all aspects of bookkeeping, funds handling, banking, payroll, tax compliance, accounts receivable and accounts payable.
Junior Associate	220	Undergraduate in the latter stage of their university degree.

Typical classification	Standard Rates \$/hour	General guide to classifications
Administration 2	220	Ill developed administrative skills with significant experience supporting professional staff, including superior knowledge of software packages, personal assistance work and/or office management. May also have appropriate bookkeeping, accounting support services or similar skills.
Administration 1	185	Has appropriate skills and experience to support professional staff in an administrative capacity. May also have appropriate bookkeeping, accounting support services or similar skills.
Junior Accountant	180	Undergraduate in the early stage of their university degree.

The FTI Consulting Standard Rates above apply to the Corporate Finance & Restructuring practice and are subject to periodical review.



Annexure B

Debtor's Proposed PIA

**DRAFT PROPOSAL FOR A
PERSONAL INSOLVENCY AGREEMENT**

Pursuant to Section 188A
Bankruptcy Act 1966

Ian Charles Francis
Registered Trustee
FTI Consulting
Level 47
152-158 St Georges Tce
PERTH WA 6000

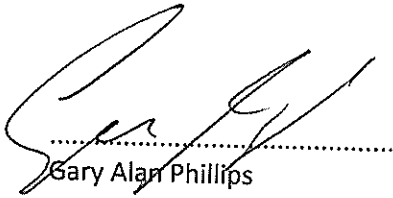
Pursuant to Section 188A of the *Bankruptcy Act 1966* ("the Act"), I, Gary Alan Phillips, Unit 4201, 260 Spencer Street, Melbourne VIC 3000, have authorised you to call a meeting of my creditors and to take over control of my property for the purpose of putting forward a proposal for a Personal Insolvency Agreement ("PIA").

I propose to seek by Special Resolution of my creditors called under the provisions of division 2 of Part X of the *Bankruptcy Act*, a PIA for the benefit of my creditors which shall provide the following:-

1. The sum of \$60,000 is to be made available to pay my creditors. No other property is to be vested in the Controlling Trustee.
2. The property described in one is to be dealt with in the following manner:-
 - a. First to pay the fees and costs of the Controlling Trustee up to the sum of \$30,000 (including GST);
 - b. Second to distribute amongst creditors of the Debtor who prove for their debt with the Controlling Trustee in accordance with the priorities provided for in section 109 of the Act.
3. I will not contribute any income for creditors.
4. This PIA is to be in full and final satisfaction of all my provable debts.
5. This PIA is conditional upon the monies described in clause 1 being paid to the Controlling Trustee within six (6) weeks of the commencement of the PIA.
6. The PIA will terminate should any of the following events occur:-
 - I declare myself bankrupt;
 - I am 14 days late in making any of the contributions mentioned above;
7. The proceeds from realising the property and or income, mentioned above, is to be distributed in the order described by sections 108 to 114 inclusive of the *Bankruptcy Act 1966*.
8. Antecedent transactions, as described in Part VI, Division 3 of the *Bankruptcy Act 1966* do not apply to my PIA.
9. The Trustee of the PIA is to be Ian Charles Francis and every other person appointed to the office of Trustee by this Deed or appointed to act as such Trustee for the time being.

10. I will execute all such instruments and generally do all such acts and things in relation to my property and income as is required by the PIA.

Dated this 7 day of December 2021



.....
Gary Alan Phillips



Annexure C

Statement of Claim, Proof of Debt & Proxy Form



APPOINTMENT OF PROXY

Bankruptcy Act 1966: Sections 75-25 and 75-150, Insolvency Practice Rules (Bankruptcy) 2016

Instructions and important information

If you wish to appoint a proxy to vote at the meeting, you must complete this form and provide it to the trustee at (or preferably before) the meeting of creditors.

Who can you appoint as a proxy?

You cannot appoint the regulated debtor as your proxy. You can appoint the trustee to be your proxy without having to name the trustee.

If you are appointing any other person, the name of that person needs to be specified on the form. It is insufficient to state that the proxy is an officer to be nominated by any particular individual or organisation.

It is possible to nominate more than one person to be your proxy (e.g. if you are unsure whether a particular person will be available to attend the meeting). If the first named person on the proxy form attends the meeting only that person can vote. Any other person that you may have nominated cannot vote at the meeting.

Inspection of proxies

Every person attending the meeting can inspect this form.

Adjourned meetings

Unless the proxy is revoked by you it will be valid for any adjourned meetings and the proxy can vote in the manner directed in this form at the adjourned meetings. It will not be valid for a separate meeting unless indicated in the question 'Is this proxy entitled to vote at all meetings in this administration?'.

Receipt of financial incentives

You are required to disclose any financial incentive you may have received or will receive to appoint the proxy or to direct how the proxy votes. You are also required to name the person who paid or is to pay the financial incentive. A financial incentive is a payment made to you directly or indirectly and includes any agreement for forgoing a debt or part of a debt that you owe to another person.

Details of regulated debtor(s)

Name of regulated debtor 1

Administration number

Name of regulated debtor 2

Administration number

Date of meeting of creditors
(DD/MM/YYYY)

Proxy details

Name of proxy

Address

Contact number

Email address

Proxy voting entitlement

Is this proxy entitled to vote at all meetings in this administration? ☐ No ☐ Yes

Is this proxy entitled to vote on all matters arising at the meeting/s? ☐ No ☐ Yes

Note: If you select 'yes', the proxy is entitled to vote on all matters that arise at the meeting/s, whether or not those matters are listed on the agenda for the meeting/s. If you select 'no', the proxy is only entitled to vote on those matters that you specify below. If no, list all matters on which the proxy can vote (insert agenda items).

Are you directing how the proxy is to vote on any matters? ☐ No ☐ Yes

Note: You can direct how the proxy is to vote on your behalf. If you select 'yes', you must list below the matters in respect of which you want to direct the proxy, and indicate how the proxy is to vote on those matters.

Agenda item #	Brief description of matter (from agenda)	Vote (check box below)		
		For	Against	Abstain
		☐	☐	☐
		☐	☐	☐
		☐	☐	☐
		☐	☐	☐
		☐	☐	☐
		☐	☐	☐

Details of financial incentive

Did you receive or will you receive any financial incentive:

a) in return for the appointment of this proxy? ☐ No ☐ Yes

b) to direct the proxy to vote in a particular manner? ☐ No ☐ Yes

If yes, amount of financial incentive

Other details about the incentive

Name of person or entity providing the financial incentive

ABN (if applicable)

Creditor details

Name of creditor

ABN (if applicable)

Contact number

Email address

Signature of creditor/
authorised person

Date
(DD/MM/YYYY)

Print name if an authorised person

Warning: This form is a voting document. A creditor must not knowingly or recklessly give a voting document to the trustee or controlling trustee that is false or misleading in a material particular. Penalty: imprisonment for six months s263C.



PROOF OF DEBT

Bankruptcy Act 1966 Section 84(2), 85(2)

Privacy

The information you are required to provide on this form is collected under, and for the purposes of, the *Bankruptcy Act 1966* or related legislation. The Australian Financial Security Authority has a privacy policy at www.afsa.gov.au/privacy that provides information regarding the collection, storage, use and disclosure of personal information, including how you may: (i) access your personal information; (ii) seek to have that information corrected; and (iii) complain if you feel your privacy has been breached, along with information on how your complaint will be dealt with.

Completing a Proof of Debt (POD)

1. When to lodge a Proof of Debt

A trustee of a Personal Insolvency Agreement (PIA) or bankruptcy will request you to lodge a POD where there are funds in the estate to distribute. A dividend will only be paid to those creditors whose POD has been admitted by the trustee. Correct completion of PODs will prevent delays in distribution of funds to the creditors. Return the completed POD to the trustee within the prescribed time as a dividend may be paid without further notice to you.

Note: The trustee may require you to verify the matters contained in your POD by way of a Statutory Declaration.

If such a request is made and you fail to provide the Statutory Declaration, then the trustee may disregard your POD.

2. Which debts are provable?

Not all debts are provable, for example

- debts incurred after the date of bankruptcy
- interest that has accrued after the date of bankruptcy
- debts owed by the bankrupt/ debtor's company if they are not supported by a personal guarantee.

Please do not include these in your claim. Your claim may be rejected for these amounts and result in delaying the payment of the dividend.

Further information on provable debts is available by calling AFSA on 1300 364 785, visiting www.afsa.gov.au or the trustee.

3. Instructions on completion of the POD

It is your responsibility to prove to the trustee that you are owed the debt.

- Answer all questions on the form
- Calculate interest to the date of bankruptcy; or the date the PIA was executed by the Debtor (s) s 187(2)
- Total the amounts and check that your calculations are correct
- Sign and date the POD
- Attach documentary evidence of your claim. Evidence may include copies of:
 - invoices
 - statements
 - delivery dockets
 - relevant contracts
 - personal guarantees given by bankrupt/ debtors
 - loan contracts
 - judgments.

4. Separate, joint, and joint and several creditors

If two or more persons have become bankrupt or entered into a PIA together, creditors may have a claim against (a) only one of them

(b) all of them jointly only, or

(c) all of them jointly as well as in their individual capacities.

It is important that you indicate which situation applies to you (see Bankrupt/Debtor/s liability on page 2) so that the trustee is able to admit your claim in the correct estate. This information is generally available from your loan or credit contract document.

Information for specific creditors

5. Secured creditors

Secured creditors must complete Do you hold any Security on page 3. A secured creditor can prove for all or part of their secured debt. Where a secured creditor surrenders their security to the trustee, a claim may be made for the whole of the debt. Where a secured creditor sells their security, a claim may be made for the shortfall or conversely the surplus must be given to the trustee.

Where a claim is made for the shortfall from the sale of an asset, an accounting for the sale must be attached to the POD. Where the property has not been sold, but a shortfall is anticipated in an eventual sale, the secured creditor can claim for the estimated shortfall amount.

6. Judgment creditors

The trustee may look behind a judgment to obtain further evidence of a debt. If you have obtained a judgment please provide details on page 3. Costs awarded in a judgment obtained prior to bankruptcy may be included.

7. Business/trade creditors

Disclose your ABN on page 3 if you are a business creditor. The trustee may be required to withhold tax on any dividend where the business creditor does not disclose its ABN. If the goods or services you supplied was for the bankrupt/debtor's business then you are also required to show the GST amount (if any) that is included in your debt on page 4.

8. Other

An executor of a deceased creditor's estate may prove in the bankruptcy in place of the deceased creditor.

Debtor Details

Bankrupt/Debtor name/s (if there is more than two)

Title	Given name/s	Surname

Title	Given name/s	Surname

Trading name

Administration number

Date of administration (DD/MM/YYYY)

Bankrupt/Debtor/s liability ☐ Separate ☐ Joint ☐ Joint & several

Trustee Details

Title	Given name/s	Surname

Business address

Postcode

Contact number

Mobile number

Email address

Second Trustee Details:

Title	Given name/s	Surname
Business address		Postcode
Contact number	Mobile number	
Email address		

Creditor Details

Creditor name		
Postal address		Postcode
Creditor reference	Creditor ABN	
Contact information		
Title	Given name/s	Surname
Contact number	Fax number	
Email address		
Do you hold any security? ☐ No ☐ Yes		Estimated value of security
Description of security property		
Have you obtained a judgment? ☐ No ☐ Yes		Judgment amount & costs
Was this a default judgment? ☐ No ☐ Yes		Judgment number & court

Details of Debt/s

Date debt/s incurred	Details of debt/description (see note 2)	GST (see note 7)	Amount (\$)
Less: Payments received in reduction of debts			
Less: Estimated value of security			
Amount claimed			

Creditor Declaration

I declare that the bankrupt/debtor/s owe/s the amount claimed by the creditor named above.

Title	Given name/s	Surname
Signature		Date (DD/MM/YYYY)

Note: Lodging a false proof of debt is an offence which is punishable by imprisonment for 5 years: s263(1)(d).

Admin Use Only		Trustee Use Only	
Creditor ID		Amount admitted in estate ☐ 1 ☐ 2 ☐ 3	Preferential (\$)
Liability ID		Amount rejected (\$)	Ordinary (\$)
POD No.		Reason rejected	Deferred (\$)
SoA Amt.			Total Admitted (\$)
Reg'd. in estate			
Date of Reg'n.			

Signature of trustee	Date (DD/MM/YYYY)



STATEMENT OF CLAIM

Bankruptcy Act 1966: Section 75-80, Insolvency Practice Rules (Bankruptcy) 2016

Instructions and important information

To enable the trustee to make an assessment of your ability to vote and the value of your vote you need to complete this form. The trustee may require evidence to substantiate your claim before allowing you to vote. This statement of claim needs to be given to the trustee at (or preferably before) the meeting of creditors.

If the debt has been assigned to you (e.g. you purchased the debt), you need to disclose the amount you paid for this assignment. The amount you paid for the assignment determines the value of your vote. If you do not disclose the amount you paid for the assignment, you are not entitled to vote. Should a dividend be paid, the full value of the debt that was assigned to you will be used to calculate the dividend. To participate in a dividend, a proof of debt form must be lodged with the trustee.

Details of regulated debtor(s)

Name of regulated debtor 1

Administration number

Name of regulated debtor 2

Administration number

Date of meeting of creditors
(DD/MM/YYYY)

Relationship to debtor

Are you or any of your related entities related to the debtor? *If you are unsure if you or any of your entities are classed as related, refer to the AFSA website for general information.*

☐

No

☐

Yes

If yes, please provide details of relationship.

Claim details

Amount claimed

Particulars of transactions/circumstances giving rise to your claim	Amount \$
Total amount claimed after deducting value of security (if any)	\$

Do you hold any security over any of the debtor's property? ☐ No ☐ Yes

If yes, describe the secured property

Estimated value of secured property

\$

Provide details of any security held

Details of assignment of debt

Was this debt assigned (sold) to you? ☐ No ☐ Yes

If yes, what value of consideration did you give for the assignment (e.g. what amount did you pay for the debt?)

Creditor details

Name of creditor

ABN (if applicable)

Contact number

Email address

Signature of creditor/
authorised person

Date
(DD/MM/YYYY)

Print name if authorised person

Warning: This form is a voting document. A creditor must not knowingly or recklessly give a voting document to the trustee or controlling trustee that is false or misleading in a material particular. Penalty: imprisonment for six months s263C



Annexure D

Meeting Notices



NOTICE OF MEETING OF CREDITORS

Bankruptcy Act 1966

Details of regulated debtor(s)

Name of regulated debtor 1

Administration number

Name of regulated debtor 2

Administration number

Meeting details

Notice is given of a meeting of creditors of the above named regulated debtor(s), to be held at:
(location)

(on date)

(at time)

The purpose of the meeting is to: (check appropriate box)

- ☐ consider a proposed composition or scheme of arrangement (section 73)
- ☐ consider a proposed personal insolvency agreement (Part X)
- ☐ consider the variation or termination of a composition, scheme of arrangement or personal insolvency agreement (sections 74A, 221A, 222B)
- ☐ other – provide details (eg consider approval of trustee remuneration; consider replacement of trustee)

Entitlement to vote:

1. Only a creditor (or the creditor's proxy or attorney) is entitled to vote at the meeting. A form for appointing a proxy is attached to this notice. If you wish to be represented at the meeting by an attorney, you must arrange for the power of attorney to be produced to the trustee(s) at or before the meeting.
2. To be entitled to vote, you must give to the trustee(s), at or before the meeting, a statement regarding your claim. A statement of claim form is attached to this notice.
3. Each creditor is entitled to vote and has one vote. The value of your claim will be taken into account if a poll is taken at the meeting. If your claim is based on a debt that has been assigned to you, the value of your claim for voting purposes is the amount you paid to purchase the debt.
4. If you are a secured creditor, you are not entitled to vote unless the debt, or the total amount of the debts, owed to you exceeds the amount estimated by you in the statement of claim to be the value of the security.

Electronic facilities

There are facilities for participating in this meeting by electronic means ☐ No ☐ Yes

If yes, arrangements for using the facilities are

Requirements for participation by electronic means

If you wish, or a proxy or attorney appointed by you wishes, to participate in the meeting using the facilities referred to above, you or your proxy or attorney must give to the trustee(s), not later than the second last business day before the day on which the meeting is to be held, a written statement setting out:

- your name and the name of your proxy or attorney (if any)
- an address to which notices to you, or to your proxy or attorney, may be sent, and
- a method by which you, or your proxy or attorney, may be contacted for the purposes of the meeting.

Attachments

Attached to this notice is: *(check appropriate box(es))*

- ☐ A form for appointing a proxy
- ☐ A statement of claim form
- ☐ A copy of the regulated debtor's statement of affairs
- ☐ A copy of the report of the trustee(s) and declaration made under section 189A of the Bankruptcy Act
- ☐ A copy of the statement prepared by the trustee(s) under section 189B of the Bankruptcy Act
- ☐ A copy of the regulated debtor's proposed composition or scheme of arrangement and the report of the trustee(s) regarding the proposed composition or scheme of arrangement
- ☐ A declaration by the trustee(s) nominated to be the new trustee(s) regarding relationships with the regulated debtor, as required by section 75-265 of the Insolvency Practice Rules

Other (please list)

Trustee details

Name(s) of trustee(s)

Business address

Postcode

Phone number

Fax number

Email address

Agenda

Trustee to insert applicable agenda items from section 75-55 of the Insolvency Practice Rules. Additional detail may be included.

The agenda for the meeting is:



Annexure E

189B Statement on Resolutions

**Section 189B - Controlling Trustee's Statement
on Special Resolutions**

**Gary Alan Phillips
Estate Number VIC 1088 of 2021/8
("The Debtor")**

At the meeting of creditors to be held in respect of the Debtor, the following special resolutions under section 204 of the Bankruptcy Act 1966 ("the Act") in relation to the outcome for the Debtor, are to be considered and voted on by creditors:

1. "That the Debtor's property is released from the control of the Trustee, approved by a special resolution of creditors."
2. "That the Debtor execute a Personal Insolvency Agreement substantially in accordance with the terms set out in the draft Personal Insolvency Agreement dated 17 December 2021 enclosed with this statement (other than at clause 1, "\$60,000" to be delated and replaced with "\$70,000" as agreed with the Debtor) approved by a special resolution of creditors."
3. "That the Debtor must present their own debtor's petition within seven (7) days of the passing of this special resolution."

This statement is made on 19 January 2022.



Ian Francis

Controlling Trustee



Annexure F

Debtor's Statement of Affairs

Any information provided from this point on is available to the public

PART B – PERSONAL DETAILS - PUBLIC

19 About You

Gender	☒ Male ☐ Female	Date of birth	02/09/1975	
Title	☒ Mr ☐ Mrs ☐ Ms ☐ Miss ☐ Other			
Family name	Phillips	Given names	Gary Alan	

List all other names you have used in the last 10 years

Residential address

Postcode

Do you own or are you buying this property? ☒ No ☐ Yes please give details at Q28If no to the question above, are you renting this property? ☐ No ☒ Yes

Postal address

Postcode

Previous two residential addresses. Address 1

Postcode

Did you own or were you buying this property? ☒ No ☐ Yes Date sold

Address 2

Postcode

Did you own or were you buying this property? ☒ No ☐ Yes Date sold

20 Occupation

What is your usual trade or profession?

21 Business

In the past 5 years have you operated a business as a sole trader, via a partnership, via a company or a trust?

☐ No ☒ Yes

Provide details in Part E

PART C – YOUR ASSETS - PUBLIC

22 Cash

How much cash do you have? (include cash at bank at Q23)

\$ 969

23 Banks / Building Societies / Credit Unions/ Other Financial Institutions

List all accounts held (include joint and overdrawn accounts) with any of the above types of institutions within the last 12 months. (Note: presently overdrawn accounts should also be included as creditors at Q40)

Full name of bank/other financial institution	Branch name	Account number and account type	Current balance (\$)	Joint account
NAB	Pt Cook	083 748 986658369	969	☒ No ☐ Yes
				☐ No ☐ Yes
				☐ No ☐ Yes
				☐ No ☐ Yes

24 Tax Refund

Do you expect to receive a tax refund?

☒ No☐ Yes

please give details

Year ended	Amount expected (\$)
30 June	
30 June	

25 Tools of Trade

Do you have tools of trade?

☒ No☐ Yes

please give details

What is their estimated resale value? (\$)

26 Superannuation and Life Insurance Policies

List all superannuation funds and life insurance policies

Name of fund	Is this a regulated fund?	Balance of fund (\$)	Type of fund
Raiz Super Fund	☐ No ☒ Yes	56,191	☐ Super ☐ Life
	☒ No ☐ Yes		☐ Super ☐ Life
	☒ No ☐ Yes		☐ Super ☐ Life

Have you received a superannuation payout from any fund in the last 5 years?

☒ No☐ Yes

please give details

Date received

Amount received (\$)

Have you made a lump sum payment to any superannuation fund in the last 5 years?

☒ No☐ Yes

please give details

Date paid

Amount paid (\$)

Do you expect to receive payment from any superannuation fund in the next 3 years?

☒ No☐ Yes

27 Vehicles

Do you own, or have an interest in any vehicles?

(this includes cars, motor bikes, trailers, caravans, campervans, boats)

☐ No☒ Yes

please give details

Type of vehicle (eg car, boat)	Make	Model	Year	Registration number	Estimated resale value (\$)	Amount owed (if any) (\$)
Car	Mercedes	C-Class	2010	1TL5VP	8,500	0

Please copy this page if you own more than one property.

28 Real Estate

Do you own, or are you buying, any land or buildings in Australia or overseas?

(This includes any interest in vacant land, house, unit, commercial property)

☒ No - Go to Q 29☐ Yes - please give details

Is there a building on the land?

☐ No☐ Yes

please give details

Type eg house/unit

Age of building in
yearsNumber of
bedroomsNumber of
bathrooms

What is the property address?

Date the property was acquired or purchased

Amount paid to acquire or purchase the property (\$)

What is the estimated resale value of the property?
(\$)
How much do you owe to creditors who hold security over
this property? (\$)

Are there any other owners?

☐ No☐ Yes

please give details

	Owner 1	Owner 2
Name		
Address		

Is the property vacant?

☐ No☐ Yes

Do you live at the property?

☐ No☐ Yes

Does your partner live at the property?

☐ No☐ Yes

Is the property rented to tenants?

☐ No☐ Yes

please give details

Gross rent per week (\$)

Name of person collecting rent

Address

Is the property listed for sale? ☐ No ☐ Yes please give details

Agent's name

Address

Is the property insured? ☐ No ☐ Yes Expiry date

29 Shares

Do you own, or are you entitled to any shares, options, rights, convertible notes or other securities? ☒ No ☐ Yes please give details

Name and address of company	Number of shares	Shareholder number	Date acquired	Market value (\$)	See note below

Note: Do any of the above shares have any restrictions on their sale? (Eg certain types of employee shares cannot be sold for a specified period). If there are any sale restrictions, please write 'R' in the last column above.

30 Investments

Do you have any managed investments, insurance bonds, debentures or other investments? ☒ No ☐ Yes please give details

Investment type	Date acquired	Market value (\$)

31 Money Owed to You

Do you have any debts owed to you? (include loans to friends and relatives and to family trusts or private companies; do not include child support arrears) ☒ No ☐ Yes please give details

Name and address of person or organisation who owes you money	Date debt was created	Amount owed (\$)	Amount likely to be received (\$)

32 Deceased Estate

Do you have an interest in a deceased estate? Provide a copy of the will or letters from the executor

☒ No ☐ Yes please give details

Name of deceased	Date of death	Executor name and address	Estimated value of benefit (\$)

33 Sale, Transfer or Gift of Assets in the last 5 years

Have you sold, transferred or given away any assets worth more than \$1000 in the last 5 years? Provide a copy of the receipt or settlement statement

☒ No ☐ Yes please give details

What did you sell, transfer or give away?	To whom was it sold, transferred or gifted?	Date transferred	What was it worth?	How much was it sold for? (\$)	How much did you receive net? (\$)

34 Assets you own which are in somebody else's possession

Do you own any assets which are not currently in your possession?

☒ No ☐ Yes please give details

Description of asset	Who has the asset? Name and address	What is it worth? (\$)

35 Assets you contributed towards or helped purchase

Have you contributed or otherwise assisted in the purchase or improvement of any asset valued over \$1000 which is held by someone else?

☒ No ☐ Yes please give details

Description of asset	Name and address of person who has the asset	What is it worth? (\$)

36 Assets/Money Paid to Creditors

As a result of pressure for payment from creditors have you, in the last 12 months, paid a total amount of more than \$1000 over and above your normal repayments or surrendered any assets to a creditor?

☒ No ☐ Yes please give details

Date paid/surrendered	Type of asset (eg cash/house)	Value of asset (\$)	Name of creditor

37 Other Items of Value

Other than your general household furniture, do you own any other assets or items of value? (eg jewellery, camera, artworks, antiques, copyrights)

☒ No ☐ Yes please give details

Description of asset	Location of asset	Estimated resale value (\$)	Jointly owned
			☐ No ☐ Yes
			☐ No ☐ Yes
			☐ No ☐ Yes
			☐ No ☐ Yes
			☐ No ☐ Yes
			☐ No ☐ Yes
			☐ No ☐ Yes
			☐ No ☐ Yes

Please attach a list if you have more assets

PART D – YOUR LIABILITIES - PUBLIC

38 Secured Creditors

List your secured creditors. (Creditors who are not secured should be listed at Q40)

A secured creditor is a creditor who can repossess and sell your asset/s if you fall behind with your payments. For example, a mortgage over your house, a hire purchase/lease agreement over your vehicle, a chattel mortgage or a bill of sale over your business assets.

	Secured creditor no. 1	Secured creditor no. 2	Secured creditor no. 3
Creditor's name			
Creditor's postal address			
Account/loan number			
Total amount owing to this creditor (\$)			
Type of security (eg mortgage)			
Date the security was given			
Description of secured asset			
Location of asset			
Estimated resale value of the asset (\$)			
Is it a joint loan?	☐ No ☐ Yes	☐ No ☐ Yes	☐ No ☐ Yes
Are repayments up to date?	☐ No ☐ Yes	☐ No ☐ Yes	☐ No ☐ Yes
Has the creditor repossessed the asset?	☐ No ☐ Yes	☐ No ☐ Yes	☐ No ☐ Yes
Related creditor	☐ No ☐ Yes	☐ No ☐ Yes	☐ No ☐ Yes

Related creditors - If you are unsure whether a creditor is related, please refer to the information sheet accompanying this form before answering this question. Related creditors must be disclosed by selecting Yes or No.

39 Equity Loan

Have you used any equity or made any additional loan withdrawals against any of the above secured property in the last 12 months?

☒ No ☐ Yes please give details

Date	Amount withdrawn (\$)

Please copy this page if you have more than 10 unsecured creditors.

40 Unsecured Creditors

An unsecured creditor is a creditor who does not hold security over any particular asset you own. They can include credit cards, unpaid bills, loans from friends and relatives, personal guarantees and contingent debts. List all debts that have not already been listed as secured at Q38.

Related creditors If you are unsure whether a creditor is related, please refer to the instructions for completing these forms in the front of this booklet before answering this question. Related creditors must be disclosed by ticking the yes or no box.

Joint debts: if the debt is owed jointly with another person you must disclose this by indicating Yes or No

Tax debts: if you owe a debt to the Australian Taxation Office, when listing this debt below please do not enter your tax file number (TFN) in the account number column.

Creditor name and address	Nature of debt	Account number	Mth/Yr incurred	Total amount owing (\$)	Related party?	Joint debt?
Utility Bills (electricity, gas)	Ultimate Credit Management	161932		1,715	☒ No ☐ Yes	☐ No ☐ Yes
Credit Card	Pioneer Credit	18053599		2,719	☒ No ☐ Yes	☐ No ☐ Yes
Credit Card	Pioneer Credit	18053598		2,054	☒ No ☐ Yes	☐ No ☐ Yes
Credit Card	Pioneer Credit	18054034		2,925	☒ No ☐ Yes	☒ No ☐ Yes
Credit Card	Pioneer Credit	18053600		2,951	☒ No ☐ Yes	☐ No ☐ Yes
Credit Card	Pioneer Credit	18054033		2,905	☒ No ☐ Yes	☐ No ☐ Yes
Credit Card	Latitude Finance	5444343303 001777		9,562	☒ No ☐ Yes	☐ No ☐ Yes
Credit Card	Credit Corp	3378493		2,883	☒ No ☐ Yes	☐ No ☐ Yes
Credit Card	Pioneer Credit	18010100		6,512	☒ No ☐ Yes	☐ No ☐ Yes
Credit Card	Credit Corp	3406222		6,719	☒ No ☐ Yes	☐ No ☐ Yes
Total				40,945		

Note: certain creditors can continue recovery action during bankruptcy and you may not be released from debts such as child support, maintenance and debts incurred by fraud.

Please copy this page if you have more than 10 unsecured creditors.

40 Unsecured Creditors

An unsecured creditor is a creditor who does not hold security over any particular asset you own. They can include credit cards, unpaid bills, loans from friends and relatives, personal guarantees and contingent debts. List all debts that have not already been listed as secured at Q38.

Related creditors If you are unsure whether a creditor is related, please refer to the instructions for completing these forms in the front of this booklet before answering this question. Related creditors must be disclosed by ticking the yes or no box.

Joint debts: if the debt is owed jointly with another person you must disclose this by indicating Yes or No

Tax debts: if you owe a debt to the Australian Taxation Office, when listing this debt below please do not enter your tax file number (TFN) in the account number column.

Creditor name and address	Nature of debt	Account number	Mth/Yr incurred	Total amount owing (\$)	Related party?	Joint debt?
Utility Bills (electricity, gas)	Panthera Finance	96799799		175	☒ No ☐ Yes	☐ No ☐ Yes
Personal guarantee of company debts	Liquidator of ACN 166 130 301			1,566,497	☒ No ☐ Yes	☐ No ☐ Yes
Tax	Australian Taxation Office			84,855	☒ No ☐ Yes	☐ No ☐ Yes
Trade / Business	Impact Financial Services	2110122315 2		726	☒ No ☐ Yes	☒ No ☐ Yes
Trade / Business creditors		2109121492 0		8,132	☒ No ☐ Yes	☐ No ☐ Yes
Personal guarantee of company debts	Zurich Capital & Finance	JHN/HEAD1 8		12,069	☒ No ☐ Yes	☐ No ☐ Yes
Money owed to family/friends	Dong Hoon Jung			23,600	☒ No ☐ Yes	☐ No ☐ Yes
Money owed to family/friends	Yu (Becky) Fan Peng			3,500	☒ No ☐ Yes	☐ No ☐ Yes
Money owed to family/friends	Minh Dang			10,600	☒ No ☐ Yes	☐ No ☐ Yes
					☐ No ☐ Yes	☐ No ☐ Yes
Total				1,710,154		

Note: certain creditors can continue recovery action during bankruptcy and you may not be released from debts such as child support, maintenance and debts incurred by fraud.

PART E – BUSINESS DETAILS - PUBLIC

41 Sole Trader/Partnership

Have you been in business as a sole trader or in partnership at any time in the last 5 years?

☒

No Go to Q43

☐

Yes

please give details

If you have operated more than one business please copy this section, complete and attach.

Business name

Business address

41A Is the business registered with the Australian Taxation Office for GST payments?

☐

No

☐

Yes

41B Is the GST registration on a cash or accrual basis?

☐

Cash

☐

Accrual

41C Do you have an Australian Business Number?

☐

No

☐

Yes

Number

What is the nature of this business?

Partner's name and address (if any)?

Second partner's name and address (if any)?

41D Is there a written partnership agreement?

☐

No

☐

Yes

attach copy

41E When did the business start operating?

Date

41F Has the business ceased operating?

☐

No

☐

Yes

Date ceased

41G Have you sold any business assets or have you sold the business as a going concern in the past 2 years?

☐

No

☐

Yes

please give details

Business name/asset description	Date sold	Name of purchaser	Amt received (\$)

41H Are there any other business assets not sold?

☐

No

☐

Yes

please give details

Type of asset	Resale value (\$)	Location of assets
Stock		
Plant and equipment		
Fixtures and fittings		
Licences		
Bank accounts		
Book debts		
Other (please describe) below		

41I Did your business cease operating more than 6 months ago?

☐

No - you must answer Q42 before moving on to Q43

☐

Yes - go to Q43

42 Sole Trader/Partnership – Operating or Ceased in past 6 months

42A Is any stock on consignment or subject to retention of title? ☒ No ☐ Yes

42B Is there a bill of sale or other security over business assets? ☐ No ☐ Yes attach copy of the bill of sale

42C Do you have a lease agreement over your business premises? ☐ No ☐ Yes please give details

Landlord name

Landlord address

Period of lease

 to

42D Have you sold or tried to sell the business? ☐ No ☐ Yes please give details

Agent name

Agent address

Asking price (\$)

42E Who has your business records?

Name

Telephone number

Address

42F Who prepares the financial statements and tax returns?

Name

Telephone number

Address

Attach copies of the last available financial statements

43 Companies

- 43A Have you been a director or had a management role in a company at any time in the last 5 years? ☐ No - Go to Q 44 ☒ Yes - please give details

If you have operated more than one company please copy this section, complete and attach.

Company name

Head Hunters Asia Pacific Pty Ltd

ABN

96 166 130 301

Registered address

25 Heron Way
POINT COOK VIC 3030

Trading name

Head Hunters Asia Pacific Pty Ltd (In Liquidation)

Nature of company activity

The company ceased trading and is no longer trading

Is this a trustee company? If yes, what is the name of the trust?

Officeholder positions held by you in the last 2 years

☐ Director Date resigned

☐ Secretary Date resigned

- 43B Has a liquidator, receiver or administrator been appointed to manage the company? ☐ No ☒ Yes please give details

Name

Steven Naidenov

Address

Level 4, 320 Pitt St
SYDNEY NSW 2000

- 43C Is a dividend or distribution expected? ☐ No ☐ Yes please give details

- 43D Does the company owe you any wages, loans or any other money? ☒ No ☐ Yes please give details

Description	Amount owed (\$)

- 43E Do you own, or have you at any time during the last 5 years owned any shares in this company? ☐ No ☒ Yes please give details

No. of shares	Date sold	Transferee name and address	Sale proceeds (\$)
		Attached separately	

Gary Alan Phillips Companies.

Head Hunters Asia Pacific Pty Ltd ACN 166 139 301	In Liquidation	
Engineering One Pty Ltd ACN 151 709 634	Never operated	De-registered 5/12/2018
Engineering One Asia Pacific Pty Ltd ACN 609 536 601	Never operated	De-registered 26/11/2017
HSE-Eng Contracting Pty Ltd ACN 156 371 945	Never operated	De-registered 26/11/2017
HSEQ-One Group Pty Ltd ACN 613 264 832	Never operated	De-registered 25/11/2019
HSEQ-One Pty Ltd ACN 160 893 470	Never operated	De-registered 16/03/2018
Phillips Butterworths Pty Ltd ACN 132 574 899	Never operated	De-registered 22/03/2019
Phillips Capital Investments Pty Ltd ACN 606 663 307	Never operated	De-registered 18/11/2018
Technology One Asia Pacific Pty Ltd ACN 608 484 028	Never operated	De-registered 24/02/2019
Head Hunters International (Australia) Pty Ltd ACN 631 170 619	Never operated	De-registered 22/11/2021

43F Have you transferred any assets to the company in the last 5 years?

☒ No ☐ Yes

please give details

Description of asset	Date of transfer	Value of asset (\$)	Money you received (\$)

43G Who prepares the financial statements and tax returns?

Name

Telephone number

Nil

Address

Attach a copy of the last available financial statements

44 Trusts

44A Have you been a unit holder in or beneficiary of a trust in the last 5 years; OR

44B Have you transferred any assets to a trust in the last 5 years?

☒ No ☐ Yes

please give details

If you have been involved in more than one trust please copy this section, complete and attach.

Trust name

Principal activity

Type of trust

☐ Unit ☐ Discretionary ☐ Other

Trustee name

Trustee address

44C Are there any assets owned by the trust?

☐ No ☐ Yes

please give details

Asset description	Resale value (\$)

44D Does the trust owe you any wages, loans or other money?

☐ No ☐ Yes

please give details

Description	Amount owed (\$)

44E Have you received any income or capital distribution from this trust in the last 2 years? ☐ No ☐ Yes please give details

How often do you receive a distribution	Date of last payment	Amount of last payment (\$)

44F Have you transferred any assets to the trust in the last 5 years? ☐ No ☐ Yes please give details

Description of asset	Date of transfer	Value of asset (\$)	Money you received (\$)

44G Name and address of the person holding the trust deed, books of account and financial statements.

Name

Telephone number

Address

Email address

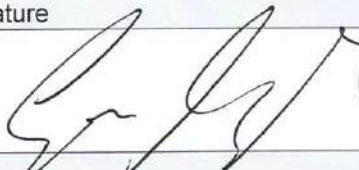
Attach a copy of the last available financial statements

DECLARATION

Note: S267(2) of the Bankruptcy Act provides that a person must not make a declaration that the person knows to be false. Penalty: Imprisonment for 12 months.

I declare that the particulars set out in this statement are correct.

Signature



Date (DD/MM/YYYY)

17/12/2021

If you received assistance completing this form, the person providing the assistance should sign the statement below.

I declare that before this form was completed, I carefully read to/interpreted for the person named above the prescribed information and the questions on this form or [where the person is physically incapacitated] satisfied myself that the person had read and understood the information and questions. The responses provided in this form are those of the person named above.

Reason the debtor required your assistance

Full name and address of the person assisting

Signature of the person assisting

Date (DD/MM/YYYY)

CHECKLIST FOR STATEMENT OF AFFAIRS

- Have you answered every question in Parts A, B, C, D and E. Part E must be completed if you have been involved in a business/ company/ trust in the last 5 years.
- Have you attached all documentation you have been asked to provide.

Document checklist

	Question	Document required
5	Child support	Child Support Agreement/Assessment Notice
6	Family law financial proceedings	Family law or spousal maintenance order or application
7	Legal actions	Summons, writ or other documents
8	Proceeds of crime	Court order or application
9	Income	Payslip/Tax Assessment Notice/Centrelink Statement of Benefit *
32	Deceased estate	Copy of the will
33	Sale, transfer or gift of assets	Property settlement statement
41D	Sole trader/partnership	Partnership Agreement
42B	Security over business assets	Bill of sale or other security document/agreement
42F	Sole trader/partnership	Last available financial statements
43G	Companies	Last available financial statements
44G	Trusts	Last available financial statements

* Documents in support of income: please ensure that any document you attach in support of your income does not display your tax file number (TFN). Where you are attaching your Tax Assessment Notice or any other document that contains your TFN, please ensure that TFN data is erased or 'blacked out' so that the TFN is not visible.



Annexure G

Declaration of Relationships (Form 12 & Form 13)



Trustee Consent to Act Declaration

Bankruptcy Act 1966 Section 156A

Privacy

The information you are required to provide on this form is collected under, and for the purposes of, the *Bankruptcy Act 1966* or related legislation. The Australian Financial Security Authority (AFSA) has a privacy policy at www.afsa.gov.au/privacy that provides information regarding the collection, storage, use and disclosure of personal information, including how you may: (i) access your personal information; (ii) seek to have that information corrected, and (iii) complain if you feel your privacy has been breached along with information on how your complaint will be dealt with.

Consent

I/We:	Given name(s)	Family name
Registered trustee 1 (primary trustee)	Ian Charles	Francis
Registered trustee 2 (secondary trustee)		

being a registered trustee(s), consent to act as: ☒ sole trustee ☐ joint trustees ☐ joint and several trustees of the:

- ☐ bankrupt estate(s) of the debtor(s) named below and in the accompanying Bankruptcy Form.
- ☐ bankrupt estate(s) of the debtor(s) named below and in the creditor's petition if they become bankrupt pursuant to a court sequestration order. (Provide court creditor petition reference number below.)
- ☐ existing bankrupt estate(s) of the debtor(s) named below pursuant to a resolution by creditors, court order or S181A as replacement trustee. (Provide AFSA administration reference number below.)
- ☐ composition/scheme of arrangement pursuant to a resolution of creditors of the debtor(s) named below. (Provide AFSA administration reference number below.)
- ☒ personal insolvency agreement executed by the debtor(s) named below pursuant to a resolution of creditors or court orders. (Provide AFSA administration reference number below.)
- ☐ estate(s) of the deceased debtor(s) named below pursuant to a Part XI administration order, creditor resolution or other court order.

Debtors

	Given name(s)	Family name	If this debtor was referred to you by a third party (excluding S181A transfers), provide the name of the referring party
Debtor 1	Gary Alan	Phillips	
Debtor 2			

Reference number (if applicable) VIC 1088 of 2021/8

Declaration of relationship

I declare that I, or my related entities:

- ☒ are not related to the above-named debtor(s).
- ☐ are related to the above-named debtor(s) as disclosed in the attached statement.

	Name	Signature	Date
Registered trustee 1	Ian Charles Francis		19/01/22
Registered trustee 2			

Note to trustee(s)

- A joint trustee appointment will require both trustees to jointly execute all documents in relation to the insolvency administration. Joint and several appointments should be sought if either trustee wants to be able to execute documents in relation to the insolvency administration.
- The information that you provide is collected under, and for the purposes of, the *Bankruptcy Act 1966* and the Bankruptcy Regulations, and will be recorded on the National Personal Insolvency Index as a perpetual public record.



CONTROLLING TRUSTEE AUTHORITY

Bankruptcy Act 1966 Section 188, Section 189A(2), Regulations Sections 59,60

Privacy

The information you are required to provide on this form is collected under, and for the purposes of, the *Bankruptcy Act 1966* or related legislation. The Australian Financial Security Authority has a privacy policy at www.afsa.gov.au/privacy that provides information regarding the collection, storage, use and disclosure of personal information, including how you may: (i) access your personal information; (ii) seek to have that information corrected; and (iii) complain if you feel your privacy has been breached, along with information on how your complaint will be dealt with.

How this form works

By completing this Authority you are appointing a controlling trustee. Only a registered trustee or an eligible solicitor can be appointed as a controlling trustee. The Official Trustee can be appointed if you have obtained a prior consent from the Official Receiver.

This is the first step towards setting up a personal insolvency agreement. There are consequences to appointing a controlling trustee and entering into a personal insolvency agreement. Your details will be recorded on the National Personal Insolvency Index forever and on a record held by a commercial credit reference organisation for up to 5 years or longer in some circumstances.

If you appoint a controlling trustee and your creditors do not agree to a personal insolvency agreement you can neither appoint another controlling trustee for 6 months without permission from a Court, nor can you make a proposal to enter into a debt agreement under the *Bankruptcy Act* for 10 years.

PART A - TO BE COMPLETED BY THE DEBTOR/S

Contact Details

Title	Given name/s	Surname
Mr	Gary Alan	Phillips

Other names used by you in the past 10 years

Title	Given name/s	Surname
Title	Given name/s	Surname

Address

Unit 4201, 260 Spencer Street, MELBOURNE VIC

Postcode

3000

Current occupation

Date of birth
(DD/MM/YYYY)

02/09/1975

You must read the following information and sign the declaration.

Putting forward a personal insolvency agreement proposal

The controlling trustee you appoint will:

- take control of your property
- put your proposal for a personal insolvency agreement to your creditors
- make enquiries into your affairs
- make a recommendation to creditors as to whether it is in their interest to accept your proposal
- charge a fee for undertaking this work.

If the controlling trustee has any connection with you, they must also disclose this to creditors. You must also disclose any relationship between you and any of your creditors.

The controlling trustee will hold a meeting of your creditors within 25 working days of their appointment (30 working days if appointed in December). Notice of the meeting is given to each of your creditors and published on AFSA's website (www.afsa.gov.au). You must attend the meeting unless excused by the trustee. The creditors may ask you questions before deciding how to vote.

If you do not attend the meeting, a creditor can use that fact to apply to a Court to make you bankrupt. At the meeting, your creditors will consider your proposal and decide by special resolution (a 'yes' vote from a majority of creditors present and voting who represent at least 75% of the dollar value of the debts) whether to accept or reject it.

A creditor can use the fact that the controlling trustee has called a meeting of your creditors to apply to a Court to make you bankrupt but they cannot apply to the Court before the creditors vote on your proposal.

What happens if your proposal is accepted? What happens if your proposal is rejected?

The creditors will vote to appoint a trustee who will administer your personal insolvency agreement. The trustee may be different to the controlling trustee. The trustee of your personal insolvency agreement must be a registered trustee or the Official Trustee (AFSA).

The trustee of your personal insolvency agreement will charge a fee to administer the agreement.

You and your trustee must sign the agreement within 21 days of the special resolution being passed. If you do not sign the personal insolvency agreement, a creditor can use that fact to apply to a Court to make you bankrupt.

You must assist the trustee and do everything you have promised to do according to the terms of the personal insolvency agreement.

If the proposal is rejected, creditors may vote in favour of you becoming bankrupt. If you do not comply with the creditors' vote, a creditor can use that fact to apply to a Court to make you bankrupt.

Terminating or setting aside a personal insolvency agreement (PIA)

A Court can set aside an agreement if it finds that the agreement is unreasonable, does not comply with the Bankruptcy Act or Regulations, or was based on false or misleading information.

Your personal insolvency agreement can be terminated:

- by creditors if you fail to comply with its terms, or
- if something happens that is specified in the personal insolvency agreement as being a reason for terminating it, or
- by a Court in certain circumstances (for example if there is a likely injustice or delay to creditors).

If your personal insolvency agreement is terminated or set aside, a creditor can use that fact to apply to a Court to make you bankrupt.

You can get more information about your alternatives, sources of financial guidance and set limits/indexed amounts by contacting AFSA on 1300 364 785 or at www.afsa.gov.au.

Acknowledgement

I acknowledge having read the above information about personal insolvency agreements and the consequences of signing this authority and entering a PIA if my proposal is accepted by my creditors.

I authorise,

Name of Registered Trustee/Solicitor/Official Trustee

Title

Given name/s

Surname

Mr

Ian Charles

Francis

Title

Given name/s

Surname

to call a meeting of my creditors to consider my proposal for a PIA and to take control of my property in accordance with Part X of the Bankruptcy Act.

Signature of debtor

Date (DD/MM/YYYY)

17/12/2021

PART B - TO BE COMPLETED BY THE CONTROLLING TRUSTEE/S

Trustee Contact Details

The primary contact for AFSA should complete their details first.

Title

Given name/s

Surname

Mr

Ian Charles

Francis

Title

Given name/s

Surname

Firm name

FTI Consulting (Australia) Pty Ltd

Address

Level 47, 152-158 St Georges Terrace
PERTH WA

Postcode

6000

Email address

lo.taderera@fticonsulting.com

Contact number

(08) 9321 8533

Fax number

(08) 9321 8544

Tick Applicable Items Below

☒ I/We consent to exercise the powers conferred by the above authority.

Declaration of relationship (tick applicable item below)

☒ I/We declare that my/our related entities are not related entities of the debtor.

I/We declare that my/our related entities are related entities of the debtor (attach details of relationship).

Fee Payment

Cheque

☐ Charge my account

Credit card – AFSA will contact you within three business days to obtain your credit card details over the phone.
Please provide contact details below.

Contact to call for credit card details – Name

Contact number

Signature of the controlling trustee

Date (DD/MM/YYYY)

Signature of the controlling trustee

Date (DD/MM/YYYY)



Annexure H

Creditors Information Sheets



Australian Government

Australian Financial Security Authority



ARITA

AUSTRALIAN RESTRUCTURING
INSOLVENCY & TURNAROUND
ASSOCIATION

CREDITOR INFORMATION SHEET: REMUNERATION

December 2020

**FOR MORE
INFORMATION**
visit afsa.gov.au

What is this information sheet about?

This information sheet provides general information to help you understand the process of approving a trustee's remuneration and your rights in this process. It covers the approval of a trustee's remuneration in a bankruptcy or personal insolvency agreement (which, for the purposes of this information sheet, may be referred to as an 'administration' or 'estate'). At the end of this sheet, as annexure A, there is a timeline detailing the order and ways you can become involved in setting a trustee's remuneration.

If you are a creditor in a bankruptcy or personal insolvency agreement, you may be asked to approve the trustee's remuneration. Creditors have the power to determine a trustee's remuneration, including specifying the amount of remuneration, and the method for working out the amount.

Creditors have a direct interest in the amount of a trustee's remuneration and costs, as these will generally be paid from the estate before any payments are made to creditors.

Trustee remuneration and some internal disbursements (i.e. other costs) must be approved in accordance with the Bankruptcy Act 1966 (the Act) before they can be paid.

What is a trustee?

If a person becomes bankrupt or enters a personal insolvency agreement, an independent registered trustee may be appointed to oversee the estate.

The duties of a trustee are specified in legislation and trustees must adhere to certain standards while administering the estate. All trustees are required by law to undertake certain tasks, some of which may not benefit creditors directly (for example, investigating whether any offences have been committed).

What are a trustee's remuneration and costs?

Trustees are entitled to be paid for the necessary work they properly perform in the administration, including to be:

- paid reasonable remuneration for the work they perform, once this remuneration has been approved
- paid for internal disbursements they incur performing their role such as photocopying, and telephone charges (these costs need approval where a related entity to the trustee may obtain a profit or advantage)
- reimbursed for out-of-pocket costs incurred in performing their role including legal costs and valuation expenses (these costs do not need approval).

If there is not enough money received in the administration to pay the trustee's remuneration and costs, and there is no third party payment arrangement for their payment, the trustee remains unpaid.

How is remuneration calculated?

A trustee may propose calculating their remuneration using one of the following methods:

- an hourly rate, on the basis of time spent working on the administration
- a quoted fixed amount, based on an estimate of the costs or
- a set percentage of asset realisations, i.e. money recovered (this percentage is set under the Act and the Insolvency Practice Rules (Bankruptcy) 2016).

Charging on the basis of time spent is by far the most common method used. Trustees have a set of hourly rates that they will seek to charge to cover staff costs at various levels, and overheads.

Ultimately, creditors, acting collectively and in accordance with the requisite meeting procedures, have the power to determine a trustee's remuneration. Please refer to annexure A to learn about the process for doing this.

What role do creditors play?

Creditors play an important role in the remuneration system. Creditors have the power to approve a trustee's remuneration; that is, give the trustee permission to be paid. This can take place in one of two ways:

- At a meeting of creditors: the meeting of creditors provides an opportunity for creditors to ask questions about the trustee's remuneration and to approve remuneration by a vote.
- Alternatively, the trustee may seek approval of remuneration via a proposal without a meeting. This is essentially a postal vote, and is the most common way remuneration is approved. For further information, please refer to the ARITA fact sheet: **proposals without a meeting**.

Whichever method is used:

- the trustee must provide the same report to creditors about their remuneration, and
- the proposed resolution must be passed by a majority of the participating creditors in both value and number of debts.

Creditors may be asked to approve remuneration for work already performed and/or a fee estimate for work not yet carried out. If the work is yet to be carried out, the trustee must set a maximum limit (cap) on the future remuneration approval. If the remuneration for the work exceeds this, the trustee will have to ask the creditors to approve further remuneration, after accounting for the amount already incurred. This only applies if the remuneration method is an hourly rate.

What information will creditors receive?

There are different types of remuneration reports that you may receive from the trustee during the course of an administration. For information about these reports, please refer to **Inspector-General Practice Direction 18**.

The table details the reports and when you might receive them.

Document	Information it contains	When you will receive it
Initial remuneration notice (IRN)	Details the trustee's chosen remuneration calculation method and provides an estimate of the amount.	Within 20 business days after the trustee receives the debtor's statement of affairs (SOA). If the SOA is not received within 60 days, the IRN must be sent within 7 days of the end of the 60-day period.
Remuneration approval report (RAR)	The amount of remuneration that the trustee is seeking to have approved. A summary description of the major tasks performed, or likely to be performed in the administration. Sets out the right to request a remuneration claim notice. The request must be made within 20 business days of receiving the RAR.	It is sent at the same time as the notice to creditors of the meeting at which approval of remuneration will be sought; or the notice to creditors of the proposal without a meeting by which approval of remuneration will be sought.
Remuneration claim notice (RCN)	Details the work performed and the total amount of remuneration claimed. Includes a statement about a creditor's rights to have the remuneration reviewed.	It is sent before finalising the administration to those who elect to receive an RCN.

How do creditors decide if remuneration is reasonable?

If you are asked to approve a trustee's remuneration, your task is to decide if the amount is reasonable given the work carried out in the administration and the results of that work.

You may find the following information from the trustee useful in deciding if the remuneration is reasonable:

- the method used to calculate it
- the major tasks that have been performed, or are likely to be performed
- the remuneration/estimated remuneration (if applicable) for each of the major tasks
- the size and complexity (or otherwise) of the estate
- the amount of remuneration (if any) previously approved
- if the remuneration is calculated, in whole or in part, on a time basis
- the period over which the work was, or is likely to be, performed
- if it is for work that has already been carried out, the time spent by staff on each of the major tasks
- if it is for work that is yet to be carried out, whether the remuneration is capped.

What if creditors think the remuneration is unreasonable?

If you think the remuneration being claimed is unreasonable, you should raise your concerns with the trustee first. It is your decision whether to vote for or against a resolution to approve remuneration. You may also choose not to vote on the resolution (abstain).

You also have the power to put a different resolution to a meeting of creditors. For example, you could put forward a resolution to change the method used to calculate remuneration, the amount of remuneration, or the time(s) when the trustee may withdraw funds. Any amending resolution must occur before the vote to approve the remuneration. If the amended proposal is passed, the resolution is binding on the trustee. However, an amendment may result in the trustee seeking to be removed as trustee by a resolution of creditors, or the trustee resigning from the appointment with the Court's approval. If the trustee ceases to be trustee without another trustee having consented, the estate will be administered by the Official Trustee.

If the trustee is seeking approval of remuneration without a meeting, and more than 25% of the creditors (in value) who respond object to the proposal being resolved without a meeting, the proposal will not pass. In these circumstances, if the trustee wants the proposal passed, a meeting will need to be convened. Any creditor entitled to participate in the meeting has the right to put a resolution to the meeting before the vote is taken.

What if remuneration is not approved by creditors?

If a trustee does not receive creditor approval, the trustee can apply to the Inspector-General in Bankruptcy ("Inspector-General") to determine their remuneration. The Inspector-General will generally approve the trustee's application unless the trustee has not followed the procedure in the Act and Rules including estimating remuneration, adequately describing the work performed or to be performed and notifying creditors. However, as outlined above, if creditors determine a different amount of remuneration to the one proposed by the trustee, the trustee cannot apply to the Inspector-General to have this changed.

When there are limited funds available in the estate, or the trustee's remuneration is below a statutory threshold, a trustee is entitled to draw a one-off amount up to that threshold (plus GST) without creditor approval.

Information about thresholds can be found on the Indexed amounts page on the [AFSA website](#).

Do creditors have review rights?

A creditor may apply to the Inspector-General for a review of remuneration and certain disbursements claimed by a trustee. The remuneration review process is explained in [Inspector-General Practice Statement 16](#).

A creditor has 20 business days after receiving an RCN from the trustee (if you elected to receive one), or otherwise within 20 business days after the end of the administration, to give written notice to AFSA that you require a claim for remuneration to be reviewed. There is a form for this purpose on the [AFSA website](#). AFSA has a discretion to accept out of time applications.

Reimbursement of out-of-pocket costs

A trustee should be very careful incurring costs that must be paid from the estate; as careful as if they were incurring the expenses on their own behalf.

Where these out-of-pocket costs are internal disbursements paid to the trustee's firm (for example, photocopying and phone calls), the trustee will request creditor approval of these amounts. The trustee may also ask for approval of internal disbursements in advance. If they do, creditors will set the rates for those disbursements and a cap on the maximum amount that can be drawn.

Enquiries and complaints about remuneration

You should first raise any enquiries or complaints with the trustee or their firm. If this does not resolve your concerns, including any concerns about their conduct, you can lodge a complaint with AFSA at afsa.gov.au or with ARITA at arita.com.au. ARITA is only able to deal with complaints about their members.

More information

The ARITA Code of Professional Practice is applicable to all its members and is available at arita.com.au. ARITA also provides general information to assist creditors at arita.com.au/creditors.

The AFSA website has information on trustees' obligations in relation to remuneration, including **Inspector- General Practice Statements** 15 and 16 and **Inspector-General Practice Directions** 6 and 18. This information is relevant to all AFSA stakeholders or anyone affected by personal insolvency.

References

Information in this document reflects collectively the requirements of the Bankruptcy Act 1966 (including the Insolvency Practice Schedule (Bankruptcy), Insolvency Practice Rules (Bankruptcy) 2016, Bankruptcy Regulations 2021, Inspector-General Practice Statements, Inspector-General Practice Directions and the ARITA Code of Professional Practice.

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 relevant to your circumstances.

1. Person becomes bankrupt

You will receive an IRN - usually one month from bankruptcy. This will include:

- the calculation method
- Estimate of Amount

Read this document carefully - it can be the best time to influence the trustee's remuneration.

If you have concerns, firstly raise them with the trustee.

2. If you are dissatisfied with the IRN

Options include:

- Propose and pass a resolution fixing the trustee's remuneration at a meeting of creditors **OR**
- Arrange for a different trustee to be appointed to the estate

3. Pass a resolution

To do this, you firstly must request the trustee to convene a meeting of creditors. To convene a meeting your debt must be

- greater than 25% of all debts, **OR**
- between 10% and 25% and agree to cover the cost of the meeting (this can be your debt, or the total of a group of creditors making the request)

4. If a meeting is held:

You may propose a resolution fixing the trustee's remuneration with respect to:

- the calculation method, and
- the amount of remuneration

The proposed resolution must be passed by a majority of the participating creditors. If passed, the trustee is bound by this resolution and cannot seek IG approval.*

5. Change trustee

Obtain the consent of the alternative trustee.

The same meeting rules apply to changing trustee as they do to passing a remuneration resolution.

Fix the trustee's remuneration as described above.

If passed, the trustee is bound by the resolution and cannot seek IG approval.

6. If you do none of the above, the trustee will remain trustee

The trustee will send an RAR. Review the report carefully and decide how you will vote.

If you want to continue to participate, contact the trustee to find out if the resolution passed.

If the resolution did not pass, it's an opportunity to return to step two above. It is also an opportunity for the trustee to apply to the IG for approval.

7. Final comments

If the trustee applies to the IG for approval, the IG will usually give it.

Importantly, the trustee **cannot** apply to the IG if creditors **have approved** the remuneration.

Once approved, the remuneration can be drawn subject to available funds and chargeable hours.

Creditors may request an IG review.

*Note: this course of action may result in the trustee causing themselves to be removed as trustee of the estate. If no other trustee is appointed, the Official Trustee will become the trustee.

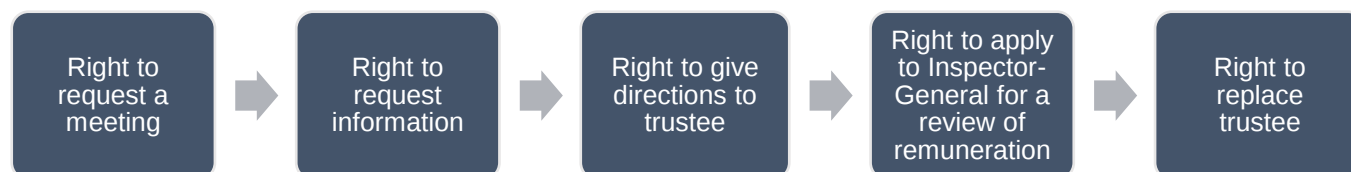


Annexure I Glossary

Term	Definition
ABN	Australian Business Number
ACN	Australian Company Number
Act	Bankruptcy Act 1966
AFSA	Australian Financial Security Authority
ASIC	Australian Securities & Investments Commission
ASX	Australian Securities Exchange
ATO	Australian Taxation Office
AU	Australia
Corporations Act	Corporations Act 2001
Head Hunters	A.C.N. 166 130 301 Pty Ltd, formerly registered as Head Hunters Asia Pacific Pty Ltd (In Liquidation)
Court	County Court of Victoria
DOT	WA Department of Transport
FY	Financial Year
IPS	Insolvency Practice Schedule
ITR	Income tax return
Liquidator	Steve Naidenov as Liquidator of ACN 166 130 301 Pty Ltd (In Liquidation)
PIA	Personal Insolvency Agreement
PPSR	Personal Property Securities Register
SOA	Statement of Affairs
the Debtor	Gary Alan Phillips
VIC Roads	Victoria Roads and Transport
UK	United Kingdom

Creditor Rights in a Regulated Debtor Estate

As a creditor, you have rights in a regulated debtor estate, including bankrupt estates, to request meetings and information or take certain actions:



Right to request a meeting

Meetings of creditors are not automatically held. Creditors with claims of a certain dollar value have a right to make a written request for the trustee to hold a meeting of creditors.

Meetings can be requested at any time by:

- > 10% but < 25% of the known value of creditors. Those creditors must provide security for the cost of holding the meeting
- ≥ 25% of the known value of creditors
- creditors by resolution, or
- a Committee of Inspection (this is a smaller group of creditors elected by, and to represent, all the creditors).

If a request for a meeting meets these requirements and is 'reasonable', the trustee must hold a meeting of creditors as soon as reasonably practicable.

Right to request information

Trustees will communicate important information with creditors as required in a regulated debtor estate. In addition to the initial notice, you should receive, at a minimum, a report within the first three months on the likelihood of a dividend being paid.

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

A trustee 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 trustee 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:

Both meetings and information:

- (a) complying with the request would prejudice the interests of one or more creditors or a third party
- (b) there is not sufficient available property to comply with the request
- (c) the request is vexatious

Meeting requests only:

- (d) a meeting of creditors dealing with the same matters was held, or will be held within 15 business days of the request

Information requests only:

- (e) the information requested would be privileged from production in legal proceedings
- (f) disclosure would found an action for breach of confidence
- (g) the information has already been provided
- (h) the information is required to be provided under law within 20 business days of the request

If a request is not reasonable due to (b), (d), (g) or (h) above, the trustee may still comply if the creditor meets the cost of complying with the request.

Otherwise, a trustee must inform a creditor if their meeting or information request is not reasonable and the reason why.

Right to give directions to trustee

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

If a trustee 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 trustee.

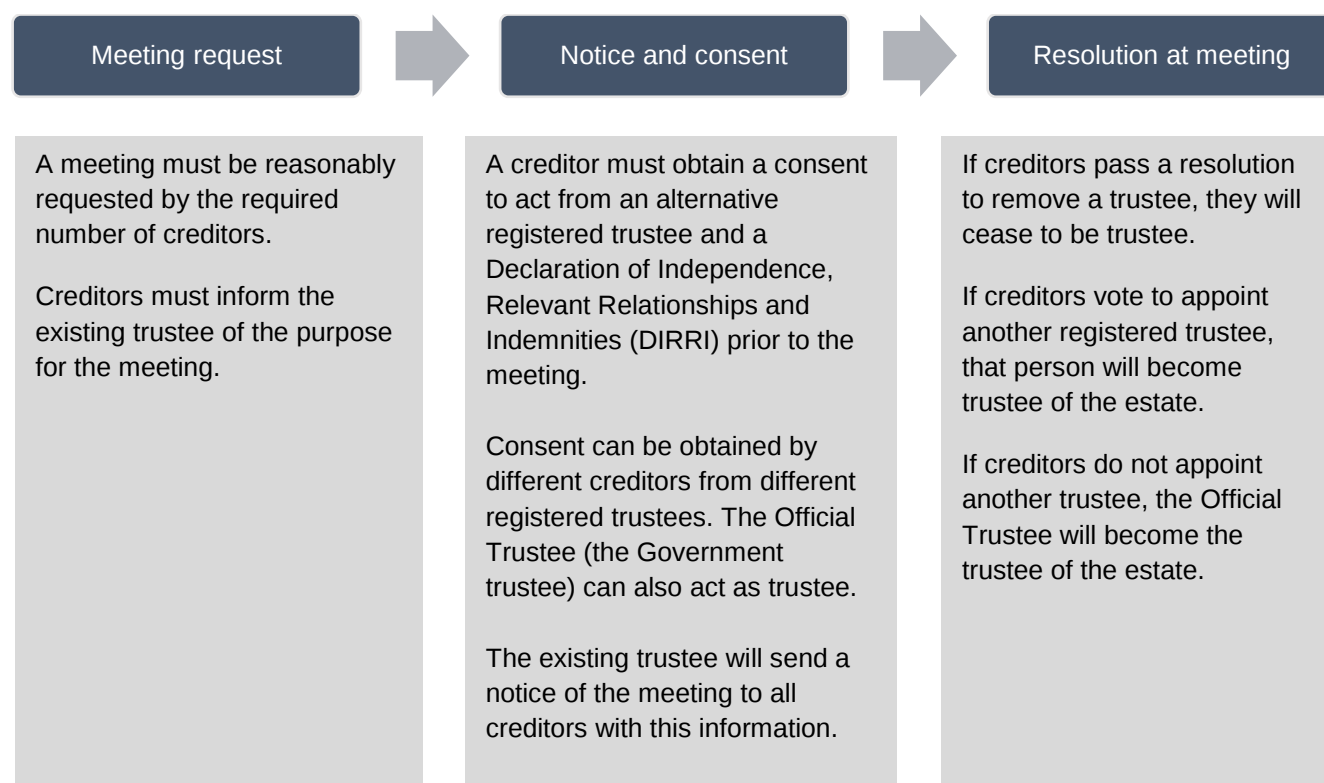
Right to apply to Inspector-General for a review of remuneration

Creditors may apply to the Inspector-General to conduct a review of a trustee's remuneration. The Inspector-General may refuse to conduct a review on various grounds.

Right to replace trustee

Creditors, by resolution, have the right to remove a trustee and appoint another registered trustee.

For this to happen, there are certain requirements that must be complied with:



For more information, go to www.arita.com.au/creditors