18 December 2024

McKeown Marrs Pty Ltd (in Liquidation) ACN 142 590 958 (“the Company”)

REPORT TO CREDITORS

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1. Introduction

I refer to the appointment of Ben Campbell and I, Joanne Dunn, as joint and several Liquidators of the Company on 17 April 2024.

The purpose of this report is to provide you with an update on the progress of the Liquidation, in particular the Liquidators' investigations which we have kept confidential until now.

In my Initial Information for Creditors dated 16 May 2024, I had estimated my total remuneration for the external administration to be $60,000. As discussed in Section 2 below, I am continuing my investigations into the Company and my remuneration for the Liquidation is dependent on the outcome of those investigations.

As such, I will not be seeking approval of my remuneration and disbursements at this time.

This report should be read in conjunction with our Initial Information for Creditors and Statutory Report to Creditors, both of which are available for download from the FTI Consulting Creditors Portal, the link to which can be found below.

FTI Consulting Creditors Portal

https://www.fticonsulting.com/creditors/mckeown-marrs-pty-ltd-in-liquidation

Contact details for general enquiries regarding this Liquidation are:

Liquidators' details

Names	Benjamin Campbell and Joanne Dunn
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2. Progress of the Liquidation

On 4 December 2024 the Liquidators sought and were successful in obtaining the following ex-parte orders from the Federal Court of Australia ("the Orders"):

- Interim Freezing Orders against Southern Pastoral Group Pty Ltd ("SPG"), Keewaydin Pty Ltd ("Keewaydin"), Simon Patrick McKeown ("Simon") and William Robert Craig ("Bill")
- Approval of a litigation funding agreement entered into with Clover Risk Funding ("Clover")
- Orders for production of documents by relevant parties and summonses for public examination ("the Summonses") of each of:
  - Simon
  - Bill
  - Anthony Thomas Maher (the Company's lawyer); and
  - Allan Robert Holmes (the Company's accountant).

On 11 December 2024 the Court made, by consent from all parties, new freezing orders on terms substantially the same as the First Interim Freezing Orders ("Second Interim Freezing Orders"), save that the Second Interim Freezing Orders**:**

- have effect until 28 February 2025; and
- provide additional exceptions for SPG to assist it in carrying out its day-to-day business.

The Interim Freezing Orders preserve the assets of the Defendants while the Liquidators continue their investigations into the Company's affairs. The Interim Freezing Orders operate to prevent SPG from disposing of or diminishing the value of real property in the name of SPG up to the unencumbered value of $7,578,441.66 ("Freezing Order Amount"); this value is determined as the total of transactions identified in section 2.1 below, excluding transactions totaling $1,945,992.62 identified below as "Director-Related Transactions".

They also prevent Simon and Keewaydin from disposing of the shares they hold in SPG.

There are exceptions to the Interim Freezing Orders which allow the parties to pay business expenses, living expenses and legal fees.

The Interim Freezing Orders will cease to have effect if $7,578,441.66 is paid into Court, or paid into a lawyer's bank account (as agreed), or security is provided.

In the following sections we detail our investigations and steps taken to achieve the above.

2.1 Background to Orders obtained

Shortly after appointment we obtained copies of the Company's ANZ bank statements and around the same time obtained access to the Company's Xero accounting software. We also obtained records from Interactive Brokers ("IB"), who provide online trading solutions for traders, investors and advisers which the Company used to manage and invest their clients' funds.

The information sources mentioned above brought to light many questionable transactions which we investigated further. Given the quantum of those initial transactions and the lack of funds held by the Company as at our appointment, we formed the view that we would benefit from funding for the potential recoveries to be pursued further. These transactions can broadly be grouped as:

1. Transfers to the former directors totaling $1,945,992.62 (“Director-Related Transactions”)
2. Payment of $50,000.00 to RC & A Williams Pty Ltd as trustee for the Williams Family Trust to purchase shares in Jenharwill Baling Pty Ltd (“RC & A Williams Transaction”)
3. Payments totaling $504,900.00 paid to AAR Capital (“AAR Capital Transactions”)
4. Invoices paid totaling $63,219.60 in relation to Bective invoices (“Bective Invoices”)
5. Withdrawals from IB totaling $2,565,084.00 (“IB Period ANZ Withdrawals”)
6. Transfer of $3,300,238.16 being net proceeds from sale of real property to a related entity (“Wellington Parade Sale Proceeds”)
7. Withdrawals of $1,095,000.00 from the Company’s bank account after the application to set aside the winding up order was heard in August 2023 (“Post-Hearing Withdrawals”)

The Freezing Order Amount is the aggregate of items 2 to 7 above.

2.1.1 Director-Related Transactions

The ANZ bank statements record weekly or fortnightly payments to the following people and entities, which are classified as Adviser/Consultant Fees:

- Simon or the McKeown Family Trust in the sum of $1,267,432.82 across 162 transactions for the period 20 March 2020 to 18 September 2023
- Bill or Keewaydin in the sum of $68,559.80 across 130 transactions for the period 8 May 2020 to 18 September 2023

Further investigations are required to determine the nature of these payments, and it is theoretically possible the payments (or some of them) have a legitimate commercial explanation, thus their quantum was excluded from the freezing orders sought.

However, the Liquidators are still able to investigate, and if appropriate purse recoveries in relation to, these payments. The Liquidators are also able to apply to increase the quantum of the Freezing Order Amount if further relevant information becomes available.

2.1.2 RC & A Williams Transaction

On or around 21 June 2021, SPG was issued an invoice by RC & A Williams Pty Ltd as trustee for the Williams Family Trust in the amount of $50,000. The RC & A Williams invoice was described as “Non-refundable deposit – sale of 75 shares in Jenharwill Baling Pty Ltd". Bank statements show the Company paid the RC & A Williams invoice in two equal tranches of $25,000 on 2 July 2021 and 19 July 2021.

We have investigated the public records of Jeharwill Baling Pty Ltd and cannot locate any information that the Company has received shares in that company, nor do the Company’s financial records and bank statements show that $50,000 has been returned by RC & A Williams.

Furthermore, we have also located invoices issued by law firm Marsh and Maher Richmond Bennison ("MMRB") which indicate they charged the Company for services relating to the acquisition of shares in Jenharwill Baling.

2.1.3 AAR Capital Transactions

According to the Company's Xero records, the Company paid a total of $343,800 to AAR Capital on a weekly or fortnightly basis. However, the Company's bank statements evidence payments totaling $504,900.00 to AAR Capital over the period 20 March 2020 to 12 September 2023. Of the transactions recorded in Xero, many have supporting documents uploaded to attach an invoice or other documents relating to the payment, evidencing an invoice from Holmes Investment Trust to SPG.

2.1.4 Bective Invoices

Per the Xero records, it appears the Company paid two invoices totaling $63,219.60 in relation to valuation services and preparatory works for a potential purchase of property in Bective, New South Wales. The Liquidators do not presently know why the Company paid these invoices as neither were in the name of the Company and the Company does not own (and at no stage owned) any land in Bective.

2.1.5 IB Period ANZ Withdrawals

The Xero records show the receipts of $2,906,756.47 from IB during the period 23 September 2021 to 11 February 2022, of which $2,565,084.00 was then paid to the trust account MMRB. MMRB has since been amalgamated with a law firm called Blue Rock Law who also acted for the Company in the Wellington Parade sale and in the winding up proceedings.

We set out below the Xero records of withdrawals from IB and subsequent payments to MMRB.

Date	Description	Credit ($)	Debit ($)
23 September 2021	Interactive Broker - Loan from IB to MM for the purchase of Bective. The payments to Bective were made through Marsh and Maher in 5 parts between 23-27 Sep 21 (totaling 465K)	398,000.00	-
23 September 2021	Marsh & Maher - deposit for Bective	-	50,000.00
23 September 2021	Marsh & Maher - deposit for Bective	-	50,000.00
24 September 2021	Marsh & Maher - deposit for Bective	-	50,000.00
27 September 2021	Marsh & Maher - deposit for Bective	-	265,000.00
27 September 2021	Marsh & Maher - deposit for Bective	-	50,000.00
3 December 2021	Interactive Broker - Loan from IB to MM. Funds transferred to MMRB trust fund for the purchase of SPG farms.	970,000.00	-
6 December 2021	Marsh & Maher - Funds transferred to MMRB to be held in trust account for farm deposits	-	750,028.00
8 December 2021	Interactive Broker - Loan from IB to MM. Funds transferred to MMRB trust fund for the purchase of SPG farms.	938,756.47	-
9 December 2021	Marsh & Maher - Funds transferred to MMRB to be held in trust account for farm deposits (Bective)	-	750,028.00

Date	Description	Credit ($)	Debit ($)
10 February 2022	Interactive Broker - Loan from IB to MM. Funds transferred to MMRB trust fund for the purchase of SPG farms.	600,000.00	-
11 February 2022	Marsh & Maher - Fund transferred to MMRB to be held in trust account for farm deposits	-	600,028.00
Total		**2,906,756.47**	**2,565,084.00**

Our current assessment of the “IB Loan” transactions is that they are unlikely to be “loans” by IB to the Company but are rather entries in Xero to record withdrawals from the Company’s accounts held with IB. We have formed this view because:

- We have not found or been provided with any documents evidencing the existence of a loan by Interactive Brokers to the Company.
- The information provided by IB records the transactions as withdrawals from the IB accounts.
- IB did not mention the existence of a loan or loans despite our request for that information.
- The Company did not record any asset or liability loan account in the name of IB in its “Chart of Accounts” in the Xero records.

2.1.6 Wellington Parade Sale Proceeds

The Company purchased a property located at 129 Wellington Parade, East Melbourne (“Wellington Parade Property”) in November 2020. The property was sold in July 2023 for c$6.5m, with the net proceeds ultimately transferred to SPG as set out below.

Date	Transaction narration	Withdrawal	Deposit
3 July 2023	Settlement funds 129 Wellington Pde		3,300,238.16
7 July 2023	Payment ref PICAUX0201595	3,300,028.00	

These funds have been traced to SPG and the amount of the transfer has been included in the Freezing Order Amount.

2.1.7 Post-Hearing Withdrawals

On 24 March 2023, the Company filed proceedings seeking to set aside a statutory demand issued by one of the Company's creditors.

On 10 August 2023, the Company's application to set aside that statutory demand was heard. Following this date, between 11 August 2023 and 29 September 2023 the aggregate sum of $1,095,000 was withdrawn from the Company’s bank account. On the basis of the Liquidators' investigations to date, these amounts appear to have been paid to SPG.

2.1.8 Change in Company shareholding

Also included in our submissions to obtain freezing orders was mention of a change in the Company's shareholdings on 18 March 2022. While the change in shareholding was not assigned a monetary value and thus not included in the Freezing Order Amount, we consider the transaction an area of questioning for future public examinations.

A historical company search conducted on SPG reveals the Company was the prior 100% shareholder. SPG's shareholding has since changed as represented below:

Earliest date of change	Party	Shareholding increase/decrease	Comments
	McKeown Marrs Pty Ltd	-100	
	Keewaydin Pty Ltd	+25	Current director: Bill
18 March 2022	McKeown Family Investments Pty Ltd	+75	Current director: Simon
	McKeown Family Investments Pty Ltd	-75	Current director: Simon
8 May 2023	Simon McKeown	+75	

We have yet to determine if any real consideration was paid by Keewaydin or McKeown Family Investments Pty Ltd for this transaction.

Within days after the share transfer, SPG purchased seven properties in Victoria.

2.1.9 Timeline of Events

We set out below a timeline of relevant events which summarises the points raised above:

Date	Event
9 March 2021	McKeown Marrs became registered proprietor of a property located at 129 Wellington Parade, East Melbourne
1 July 2021	RC & A Williams Transaction occurs
23 September 2021 to 11 February 2022	$2,906,756.47 withdrawn from IB and $2,565,084 paid to the trust account of MMRB
18 March 2022	McKeown Marrs ceases as sole shareholder of Southern Pastoral Group and related entities McKeown Family Investments and Keewaydin commence as shareholders
28 March 2022	SPG became registered proprietor of nine rural properties in Victoria
1 March 2023	Petitioning creditor, IAL, served statutory demand claiming USD $2,752,358.04 owed
24 March 2023	McKeown Marrs made application to set aside statutory demand
5 April 2023	David McKeown commenced as a director
21 April 2023	An ASIC search indicates that Simon McKeown and William Craig ceased as directors
3 July 2023	Sale of Wellington Parade property completed, net sale proceeds of $3,300,238.16 received into McKeown Marrs bank account

Date	Event
7 July 2023	$3,300,028 paid to Southern Pastoral Group
10 August 2023	Application to set aside statutory demand heard.
10 August 2023 to 29 September 2023	$1.43m withdrawn from Interactive Brokers and $1.095m appears to have been paid to Southern Pastoral Group
Around September 2023	McKeown Marrs ceased trading
12 October 2023	Greenard Willing's AFSL ceased
2 November 2023	SPG completes purchase of two further rural properties in Victoria
7 March 2024	Judgement handed down whereby application to set aside statutory demand dismissed
17 April 2024	Order of the Victorian Supreme Court to liquidate the Company

At the time of our appointment as Liquidators, the Company had no assets.

2.2 Funding Agreement

On 26 November 2024 we entered into the final version of a funding agreement with Clover Risk Funding ("Clover") which was approved by the Court on 4 December 2024. In essence, the agreement provides for payment of the Liquidators' and their lawyers fees incurred, up to a capped amount, in taking steps to recover funds for the benefit of creditors.

The agreement is set out in two stages, the first stage is to obtain freezing orders and the approval of the Court to enter into the funding agreement.

The second stage includes undertaking public examinations and obtaining post examination advice from Counsel.

Under the funding agreement, Clover is entitled to recover their costs from recoveries subject to the agreement, as well as a percentage of recoveries.

Should the Liquidators be successful in making recoveries funds would be distributed to creditors as dictated by either the Act or the Court, or both.

2.3 Summonses and Public Examinations

Further to the Interim Freezing Order, the Liquidators also sought approval, and received an order, publicly examine Simon, Bill, the Company's accountant and the Company's lawyer under sections 596A and 596B of the Act.

The Orders also compel certain parties to provide evidence relevant to the Liquidators' investigations these parties, including banks, investment institutions, the Company's former lawyers and advisors, as well as related entities.

We are in the process of serving the directions on those parties to produce records, which they must do on or before 7 February 2025. The public examinations will occur after this date.

We will notify creditors of the dates of the public examinations once known.

3. Further information

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

ASIC provides information sheets on a range of insolvency topics. These information sheets can be accessed on ASIC's website at https://asic.gov.au/ by searching for "insolvency information sheets".

Should you have any queries, please contact Alexa Sutherland of this office on (07) 3225 4951 or by email at Alexa.Sutherland@fticonsulting.com

Yours faithfully

Joanne Dunn

Liquidator