

**Killarnee Civil & Concrete Contractors Pty Ltd  
(In Liquidation)  
ACN 085 230 486 (the Company)  
ATF The Thompson Family Trust and in its own right**

**Annual Report  
Pursuant to Section 508 of the Corporation Act 2001**

**2 March 2018**

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## Annexure

A	Summary of Receipts and Payments for the period 25 February 2017 to 24 February 2018
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## 1 Introduction

The purpose of this report is to provide an update to creditors on the Liquidators' acts and dealings since our previous reports.

This report should be read in conjunction with the Liquidators' previous reports/circulars to creditors dated 16 May 2016, 19 July 2016, 9 September 2016, 8 March 2017, 19 July 2017 and 4 August 2017 which are also available on the Ferrier Hodgson website at [www.ferrierhodgson.com](http://www.ferrierhodgson.com).

## 2 Liquidators' Further Court Application

As advised in our previous circular to creditors dated 4 August 2017, the Liquidator's application to the Federal Court of Australia (**FCA**) is to seek the following directions and declarations:

- a) directions as to whether the secured creditor, Westpac Banking Corporation has a priority in the preference claim recovered to the extent of the amounts paid to the employees by the Administrators/Liquidators; and
- b) an order that any sale of the assets of the Thompson Family Trust (**Trust**) which have already taken place be deemed to be a sale within the power of the Liquidators and the Company as the trustee of the Trust; and
- c) an order that the Company through its Liquidators be permitted to realise all assets of the Trust; and
- d) a declaration that the Trust assets (including sale proceeds of any Trust assets) are assets in the winding up of the Company to be applied in accordance with the priority afforded by sections 555, 556, 560 and 561 of the Corporations Act (**the Act**); and
- e) a direction that the Trust assets be dealt with by the Liquidators as assets in the winding up of the Company and accounted for accordingly; and
- f) as an alternative to the items d) and e) above, a direction be given that it is proper for the Liquidators to distribute the Trust Assets to unsecured creditors of the Trust *pari passu* after providing for the costs of administration.

The Full Court of the FCA heard the questions on the trust issues on 10 and 11 August 2017. As at the time of writing, we have yet to receive the Court's decision in this regard.

## 3 Recovery of Unfair Preference Payments

On or around 1 September 2017, we successfully recovered the sum of \$824,753.61 from the Office of State Revenue (**OSR**) which it received from the Company during the relation back period 1 March 2014 to 31 August 2014 which constituted an unfair preference under Section 588 of the Act.

In addition, we are currently pursuing an unfair preference claim in the sum of \$2.3M.

## 4 Receipts and Payments

A summary of the receipts and payments for the period 25 February 2017 to 24 February 2018 is set out at **Annexure A**.

## 5 Outstanding Matters to Finalise the Liquidation

At the time of writing, the main outstanding tasks in the liquidation include:

- pursuing (and resolving of) further unfair preference claim
- lodging a supplementary report under section 533(2) of the Act with ASIC
- subject to the outcome of our application for Court direction, dividend distribution to priority and ordinary unsecured creditors.

Any enquiries in relation to this matter should be directed to either Nirav Shah or Yvonne Liew of this office.

Yours faithfully

**Killarnee Civil and Concrete Contractors Pty Ltd**



**Martin Jones**

Joint and Several Liquidator

Encl.

**Glossary of terms**

<b>Abbreviation</b>	<b>Description</b>
ABN	Australian Business Number
ACN	Australian Company Number
Act	The Corporations Act 2001
ARITA	Australian Restructuring Insolvency & Turnaround Association
ASIC	Australian Securities and Investments Commission
ATO	Australian Taxation Office
Bank or Westpac	Westpac Banking Corporation ACN 007 467 141
ERV	Estimated Realisable Value
M	Million dollars
OSR	Office of State Revenue
pari passu	All creditors treated equally and paid a dividend at the same rate

**Annexure A**

Summary of Receipts and Payments for the period 25 February 2017 to 24 February 2018

Receipts and payments for the period 25 February 2017 to 24 February 2018	Amount (\$)
<b>Receipts</b>	
<b>Balance c/f from 25 February 2017</b>	<b>4,111,853</b>
Legal fees refund	11,000
GST refund	25,815
Interest income	96,523
Recovery of OSR preference payment	824,754
<b>Total receipts</b>	<b>5,069,945</b>
Less payments:	
Consulting fees	(506)
Registrar's fees	(2,040)
External printing	(2,474)
Liquidators' disbursements	(9,826)
Legal fees	(244,261)
<b>Total payments</b>	<b>(259,107)</b>
<b>Net receipts and payments</b>	<b>4,810,838</b>