

**D&G Hoists & Cranes (Aus) Pty Ltd (In Liquidation)  
Formerly trading as “D&G Verticon Hoists & Cranes”**

**ACN 136 357 054 (“the Company / DGV”)**

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

**13 December 2017**

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A	Summary of Receipts and Payments for the period 1 December 2016 to 4 December 2017
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## 1 Introduction

The purpose of this report is to provide information and update creditors on the Liquidator's acts and dealings since my previous reports.

This report should be read in conjunction with the:

- Administrator Report to Creditors dated 6 September 2012;
- Liquidators' Annual Reports dated 2 December 2013, 7 October 2014, 11 December 2015 and 12 December 2016

which are available on the Ferrier Hodgson website at [www.ferrierhodgson.com.au](http://www.ferrierhodgson.com.au).

I provide an update to the progress of the liquidation since my last report under the relevant headings.

## 2 Recovery of Unfair Preference Payments from Creditors

My investigations into the affairs of DGV have identified a number of possible transactions that may be voidable as unfair preferences under section 588FA of the Corporations Act 2001.

To date, I have recovered unfair preference payments totalling \$2,750,295 from various creditors as detailed below:

Creditor name	Amount Recovered (\$)
Australian Taxation Office	2,500,000
Other trade creditors	250,295
<b>Total</b>	<b>\$2,750,295</b>

I do not anticipate that there will be any further recovery of unfair preferences available to the Company.

## 3 Priority employee dividend

On 21 April 2017, I declared a first and final preferential dividend to priority creditors of DGV at the rate of 100 cents in the dollar in respect of outstanding employee entitlements. The breakdown of the distribution is as follows:

Entitlements	Admitted claim (\$)	Dividend rate (\$)	Dividend amount (\$)
<b><u>Section 556 (e) claims</u></b>			
Wages	130,577	100c/\$	130,577
ATO – Superannuation Guarantee Charge	78,569	100c/\$	78,569
Salary Sacrifice Superannuation	27,836	100c/\$	27,836
<b><u>Section 556 (g) claims</u></b>			
Fares & Travel Allowance	7,100	100c/\$	7,100
Annual Leave	363,606	100c/\$	363,606
Leave Loading	46,385	100c/\$	46,385
RDO's	60,786	100c/\$	60,786
Long Service Leave	68,125	100c/\$	68,125
<b><u>Section 556 (h) claims</u></b>			
Payment In Lieu of Notice (PILN)	530,602	100c/\$	530,602
Superannuation on PILN @ 9.5%	39,023	100c/\$	36,497
Redundancy	256,243	100c/\$	256,243
<b>Subtotal</b>	<b>\$1,608,852</b>		<b>\$1,606,326</b>

Entitlements	Admitted claim (\$)	Dividend rate (\$)	Dividend amount (\$)
<b>Other priority claims</b>			
Child Support	459	100c/\$	459
Incolink Redundancy Scheme	9,889	100c/\$	9,889
ColInvest Long Service Leave	15,158	100c/\$	15,158
<b>Total</b>	<b>\$1,634,357</b>		<b>\$1,631,832</b>

I note that of the total distribution, an amount of \$21,853 remained unclaimed with cheques either not cashed, or returned to me. These monies have now been sent to ASIC unclaimed monies. If any employee creditor believes that they were the intended recipient of one of these distributions, please do not hesitate to contact my office.

#### 4 Statement of Position

I have conducted an analysis of the Company's asset and liability position in order to provide creditors with an indication of the Company financial position as at 4 December 2017. The following notes should be read in conjunction with the table below.

Statement of Position as at 4 December 2017	Notes	Liquidators' ERV (\$) (excl GST)	Liquidators' Low ERV (\$) (excl GST)
<b>Assets not subject to charges</b>			
Cash at bank as at 4 December 2017	i	346,007	346,007
Debtors (available after discharge of SPBF/JP Nelson debts)		Unascertained	Nil
<b>Total assets not subject to charges</b>		<b>346,007</b>	<b>346,007</b>
<b>Total available to meet cost of liquidation</b>		<b>346,007</b>	<b>346,007</b>
<b>Less: Cost of liquidation</b>			
Outstanding Liquidator's fees as at 4 December 2017		-2,881	-2,881
Outstanding Liquidator's disbursements as at 4 December 2017		-	-
Estimated future Liquidator's fees		-130,212	-180,212
Estimated future Liquidator's disbursements		-25,000	-50,000
Contingencies for other expenses		-20,000	-30,000
<b>Total cost of liquidation</b>		<b>-178,093</b>	<b>-263,093</b>
<b>Surplus / (Deficit) after cost of liquidation</b>		<b>167,914</b>	<b>82,914</b>
<b>Estimated amount available to unsecured creditors</b>		<b>167,914</b>	<b>82,914</b>
Estimated amounts owing to Westpac	ii	-3,912,904	-3,912,904
Estimated amount owing to SPBF / JP Nelson	ii	-296,042	-296,042
Estimated amounts owing to DLL / Manitowoc	ii	-8,090,429	-8,090,429
Unsecured trade creditors	iii	-5,460,676	-6,000,000
Australian Taxation Office		-3,970,531	-3,970,531
Offices of State Revenue (Payroll Tax)		-557,610	-557,610
Contingent Claims - estimated shortfall to HP financiers		-7,363,417	-7,363,417
<b>Total unsecured creditors' claims</b>		<b>-29,651,609</b>	<b>-30,190,933</b>
<b>Estimated surplus / (deficiency)</b>		<b>-29,483,695</b>	<b>-30,108,019</b>
<b>Estimated dividend rate (cents in \$)</b>		<b>0.566</b>	<b>0.275</b>

##### i. Debtors

As outlined in my previous report, JP Nelson Pte Ltd ("JP Nelson"), who was a guarantor to the Company's obligation under an Invoicing Discounting Agreement with Scottish Pacific Business

Finance Pty Ltd (“SPBF”) had exercised its rights of subrogation over the securities and entitlements of SPBF under the terms of their agreement.

Since then, JP Nelson have taken control of the debtors collection activities, and any surplus funds collected after payment of the JP Nelson’s estimated shortfall of \$296,042 would be available to the Company.

At the time of writing, I am yet to receive any updates or proper reconciliation of accounts from JP Nelson. Given the difficulties in collecting debtors due to potential counterclaims over terminated agreements and off-sets claim by the Company’s clients, I am not presently in a position to estimate what, if any, receivables may be collectible once JP Nelson has discharged the debt owing to it.

## ii. Secured creditors’ debts

### Westpac

As mentioned in my previous report, Westpac holds a first ranking secured charge over the assets of the Company and to date, net proceeds totalling \$1,753,849 was forwarded to Westpac as partial repayment of the secured debts owed by the Company to Westpac.

As at the date of this report, I estimate that the amount owing to Westpac is approximately \$3.9M.

### JP Nelson

As noted in section (i), JP Nelson has exercised its rights of subrogation over the securities and entitlements of SPBF and accordingly, JP Nelson now holds a second ranking secured charge over the assets of the Company in relation to any shortfall it may have in relation to debts owing to it, after the collection of the book debt.

For completeness, I note that while ordinarily secured creditors have a priority of repayment from the realisation of the company’s assets, given that the assets of the Company have been exhausted in full and the proceeds from the sale of the Company’s asset have been remitted, any further outstanding amounts owed to the secured creditors will rank equally with the debts owed to unsecured creditors.

## iii. Unsecured creditors’ debts

Accounting for informal proofs of debts received to date and based upon the Company’s records, I estimate the Company’s liability to unsecured creditors to be between \$29.6M and \$30.2M. However, this figure is subject to the receipt and adjudication of final proof of debt from creditors.

I expect a dividend to be available to unsecured creditors. I anticipate writing to creditors again to advise of the Liquidator’s intention to declare a first and final dividend to ordinary unsecured creditors in January 2018.

## 5 Investigations into the Company’s Affairs

A liquidator is required to lodge a report to the ASIC pursuant to Section 533 of the Act in circumstances where a past or present officer may have been guilty of an offence, or if it is unlikely that the Company will be able to pay its unsecured creditors more than 50 cents in the dollar.

The report to ASIC includes an examination of various aspects of the Company’s trading activities and also gives consideration if offences have been committed by any officers of the Company. These investigations also include the review of any voidable transactions pursuant to section 588FA of the Act and the directors’ duty to prevent the Company from trading whilst insolvent pursuant to section 558G of the Act.

As noted previously, I have lodged my preliminary report with ASIC, and ASIC has requested that a further supplementary report to be prepared as they intend to carry out further investigations into the affairs of the Company and the conduct of its officers. In this regard, I advise that I am progressing my investigations with a view to complete and lodge the supplementary report with ASIC in due course.

## 6 Receipts and Payments

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I table at **Annexure A**, a summary of the receipts and payments for the period from 1 December 2016 to 4 December 2017.

## 7 Outstanding Matters to Finalise the Liquidation

At the time of writing, the main outstanding task in the liquidation relates to:

- Resolution of the collection of the outstanding debtors by JP Nelson and subsequent identification of any surplus;
- Completion of my investigations and lodgement of the supplementary Section 533 report to the ASIC; and
- Calling for proofs and adjudication of same and declaration of a first and final dividend to ordinary unsecured creditors.

Once the above matters have concluded, I will be in a position to finalise the liquidation which will involve the following tasks:

- Convening a final meeting of creditors and members; and
- Attending to final statutory requirements of the liquidation.

Should you have any enquiries in relation to this matter, please do not hesitate to contact Samuel Cohen-Cooke of this office.

Yours faithfully  
**D&G Hoists & Cranes (Aus) Pty Ltd**



**Martin Jones**  
Liquidator

Encl.

## Glossary of terms

Abbreviation	Description
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
CI	Crane Investments (WA) Pty Ltd (In Liquidation) ACN 103 911 266 Formerly trading as Northern Suburbs Crane Hire
Company or DGV	D&G Hoists & Cranes (Aus) Pty Ltd (In Liquidation) ACN 136 357 054 formerly trading as D&G Verticon Hoists & Cranes
DEEWR	Australian Government Department of Employment (previously Department of Education, Employment and Workplace Relations)
DGWA	D&G Hoists & Cranes Pty Ltd (In Liquidation) ACN 084 148 096
DLL	De Lage Landen Pty Ltd
ERV	Estimated Realisable Value
GEERS	General Employee Entitlement Redundancy Scheme
JP Nelson	JP Nelson Equipment Pty Ltd
M	Million dollars
Manitowoc	Manitowoc Crane Group Australia Pty Ltd
SPBF	Scottish Pacific Business Finance Pty Ltd
Westpac	Westpac Banking Corporation

Annexure A

Summary of Receipts and Payments for the period 1 December 2016 to 4 December 2017.

Summary of Receipts & Payments For the period 1 December 2016 to 4 December 2017	Amount (\$) (excl GST)
Cash at Bank as at 1 December 2016	2,062,511
<b>Receipts</b>	
Bank interest	18,270
GST control	9,127
Superannuation refund	827
<b>Total Receipts</b>	<b>28,224</b>
<b>Payments</b>	
Payment of first and final preferential dividend	(1,631,832)
Liquidator's fees	(72,238)
Liquidator's disbursements	(30,396)
GST on payments	(10,263)
<b>Total Payments</b>	<b>(1,744,729)</b>
<b>Cash at Bank as at 4 December 2017</b>	<b>346,007</b>