

**D&G Hoists & Cranes Pty Ltd (In Liquidation)
ACN 084 148 096 (“the Company / DGWA”)**

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

12 December 2016

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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 our previous reports.

This report should be read in conjunction with the:

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

which are available on the Ferrier Hodgson website at www.ferrierhodgson.com.au.

We provide an update to the progress of the liquidation since our last report under the relevant headings.

2 Recovery of Unfair Preference Payments from Creditors

As advised in our previous reports, our investigations into the affairs of DGWA have identified a number of possible transactions that may be voidable as unfair preferences under section 588FA of the Corporations Act 2001 (the Act).

To date, we have recovered unfair preference payments totalling \$3,566,977 from various creditors as detailed below:

Creditor name	Amount Recovered (\$)
Australian Taxation Office	3,270,946
Other trade creditors	296,031
Total	\$3,566,977

At the time of writing, we are continuing our recovery actions for unfair preference in the quantum of approximately \$1.74M. We note that negotiations are ongoing with the respective parties to resolve the matter through a negotiated settlement. If required, we may need to have the matter resolved by the Court.

We will provide further updates to creditors with regard to our recovery actions in our next report to creditors.

3 Second and Final Preferential Dividend to Priority Creditors

As previously advised, a first interim preferential dividend totalling \$711,982 was distributed to priority creditors (i.e. employees) on 15 June 2015 at a rate of:

- 100 cents in the dollar in respect of admitted claims for employees' unpaid wages and superannuation (as ranked under section 556(e) the Act); and
- 60 cents in the dollar in respect of admitted claims for employees' unpaid leave entitlements and amount due under industrial instruments (as ranked under section 556(g) of the Act).

On 3 May 2016, we declared a second and final preferential dividend of \$768,778 to priority creditors at a rate of:

- 40 cents in the dollar (being the balance) in respect of admitted claims for employees' unpaid leave entitlements and amount due under industrial instruments (as ranked under section 556(g) of the Act); and
- 100 cents in the dollar in respect of admitted claims for employees' retrenchment payments (as ranked under section 556(h) of the Act).

Following the payment of the second and final preferential dividend, we note that priority creditors have been paid in full.

4 Statement of Position

We 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 30 November 2016. The following notes should be read in conjunction with the table overleaf:

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Statement of Position as at 30 November 2016	Notes	Liquidator's ERV High (\$)	Liquidator's ERV Low (\$)
Assets not subject to charges			
Cash at bank as at 30 November 2016		698,051	698,051
Total assets not subject to charges and available to meet cost of liquidation		698,051	698,051
Less: Cost of liquidation			
Outstanding liquidator's fees up to 30 November 2016		(6,845)	(6,845)
Outstanding liquidator's disbursements up to 30 November 2016		(190)	(190)
Estimated future liquidator's fees		(52,930)	(100,000)
Estimated future liquidator's disbursements		(15,000)	(20,000)
Estimated future legal fees and costs		(40,000)	(50,000)
Contingencies for other expenses		(20,000)	(30,000)
Total cost of liquidation		(134,964)	(207,034)
Surplus / (Deficit) after cost of liquidation		563,087	491,017
Total Voidable Transaction and Other Recoveries	i	1,740,428	Unascertained
Less: Estimated cost of recoveries		(300,000)	Unascertained
Estimated amount available to unsecured creditors		2,003,515	491,017
Estimated amount owing to NAB (secured creditor)	ii	(861,715)	(861,715)
Estimated amount owing to DLL / Manitowoc (secured creditor)		(7,512,183)	(7,512,183)
ME Bank (secured creditor)		(215,932)	(215,932)
Unsecured Trade Creditors		(11,348,247)	(12,000,000)
Australian Taxation Office		(3,871,578)	(3,871,578)
Payroll Tax		(342,515)	(342,515)
Contingent Claims - Shortfall to HP financiers		(7,377,841)	(7,377,841)
Total Unsecured Creditors' Claims	iii	(31,530,011)	(32,181,764)
Estimated Surplus / (Deficiency)		(29,526,495)	(31,690,747)
Estimated Dividend Rate (cents in \$)		6.35	1.53

i. Total estimated voidable transaction and other recoveries

Our ongoing investigations into the affairs of DGWA have identified a number of other possible transactions that may fall under the provisions of unfair preferences under Section 588FA of the Act.

As mentioned in section 2, we estimate that a further recovery of up to \$1,740,428 may be available to the Company, of which we continue to progress our recovery action.

For completeness, we also note that there are inherent risks and significant costs involved in pursuing such claims and therefore the final recovery amount may differ considerably from the estimates.

ii. Secured creditors' debts

NAB

As noted previously, on 13 August 2012, the NAB appointed PWC as agents to collect factored debts, and in the event that NAB are unsuccessful in collecting sufficient debtors to satisfy their liability, then they will have a claim against the Company and rank as a secured creditor for the balance of their debt per the nature of their security agreement with the Company. Based upon

our analysis, we estimate that NAB has experienced a shortfall from the collection of factored debts.

DGWA had also previously provided a guarantee to the NAB in relation to the obligation of CI (a related entity) for the purchase of a Demag 350 Tonne AC350 mobile crane (Demag 350) which was purchased by the Company in or around November 2008 for \$4.0M. We have been advised that the shortfall from the sale of the Demag 350 is approximately \$735,000 (before accrued interest).

Based upon our recent correspondence with NAB, it is estimated that the current amount owing to NAB is \$861,715.

For completeness, we 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, we estimate the Company's liability to unsecured creditors to be between \$31.5M and \$32.2M. However, this figure is subject to the receipt and adjudication of final proof of debt from creditors.

At the time of writing, no distributions have been made to unsecured creditors of the Company. From our analysis, we anticipate that a dividend may be available to unsecured creditors. In the event that a dividend is available, we will write to creditors again to advise of the Liquidator's intention to declare dividend.

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, we have lodged our 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, we advise that we are progressing our investigations with a view to complete and lodge the supplementary report with ASIC in due course.

6 **Receipts and Payments**

We table at **Annexure A**, a summary of the receipts and payments for the period 1 December 2015 to 30 November 2016.

7 Liquidators' Remuneration

Set out below is a summary of the Liquidators' remuneration (GST exclusive) from the commencement of the Liquidation to 30 November 2016:

Description	Amount Incurred (\$)	Amount Approved (\$)	Amount Drawn (\$)	Less: Amount Invoiced* (\$)	Balance Available (\$)
Liquidators remuneration incurred for the period 14 September 2012 to 30 November 2015	1,181,334	1,162,889	1,162,889	18,445	-
Liquidators remuneration incurred for the period 1 December 2015 to 30 November 2016	97,071	150,000	90,226	N/A	59,774
Total	\$1,278,404	\$1,312,889	\$1,253,115	\$18,445	\$59,774

**Remuneration received from the Department of Employment and Workplace Relations on 26 November 2013 in relation to the Fair Entitlements Guarantee Act 2012 or its predecessor schemes (i.e. GEERS) as outlined in our previous reports.*

We have undertaken a proper assessment of our remuneration claimed for our appointment as Liquidators of the Company in accordance with the law and applicable professional standards. We are satisfied that the remuneration claimed is in respect of necessary work properly performed in the conduct of the Liquidation.

8 Outstanding Matters to Finalise the Liquidation

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

- Completion of our investigations and lodgement of the supplementary Section 533 report to the ASIC;
- The pursuit (and resolution) of further potential unfair preference and insolvent trading claims; and
- Calling for proofs and adjudication of same and declaration of dividends to ordinary unsecured creditors (as applicable).

Once the above matters have concluded, we 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 Jason Soo of this office.

Yours faithfully
D&G Hoists & Cranes Pty Limited



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
DGV	D&G Hoists & Cranes (Aus) Pty Ltd (In Liquidation) ACN 136 357 054 formerly trading as D&G Verticon Hoists & Cranes
Company or 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 Pte Ltd
M	Million dollars
Manitowoc	Manitowoc Crane Group Australia Pty Ltd
ME Bank	Members Equity Bank
NAB	National Australia Bank Limited
PwC	Pricewaterhouse Coopers

Annexure A

Summary of Receipts and Payments for the period 1 December 2015 to 30 November 2016

Summary of Receipts & Payments For the period 1 December 2015 to 30 November 2016	Amount (\$) (excl GST)	Amount (\$) (excl GST)
Receipts		
Balance c/f from 30 November 2015		6,755,406
Bank interest	20,952	
Repayment of JP Nelson loan from DGV	652,052	
GST control	27,278	700,283
Payments		
Balance c/f from 30 November 2015		(5,757,563)
Second and final preferential dividend		
- Annual leave	(136,685)	
- Leave loading	(23,710)	
- Fares & travel allowance	(3,404)	
- Rostered days off	(67,144)	
- Sick leave	(64,693)	
- Long service leave	(23,334)	
- Payment in lieu of notice (PILN)	(298,822)	
- Superannuation - triggered by payment of PILN @ 9.5%	(28,388)	
- Redundancy	(122,600)	
Liquidators' disbursements	(2,439)	
Liquidators' fees	(200,511)	
Legal fees	(5,997)	
Printing & stationery	(1,356)	
GST on payments	(20,994)	(1,000,075)
Account balance as at 30 November 2016		\$698,051