

8 July 2021



Australian Music Group
Holdings & Associated
Companies
(All In Liquidation)

Report to Creditors

Australian Music Group Holdings Pty Ltd ACN 127 691 534 (“AMGH”)
AMG Shared Services Pty Ltd ACN 117 052 936 (“AMGSS”)
Australian Music Group Pty Ltd ACN 127 926 434 (“AMG”)
Australian Music Pty Ltd ACN 125 007 561 (“AMPL”)
Billy Hyde Imports Pty Ltd ACN 102 430 704
Billy Hyde Music Adelaide Pty Ltd ACN 118 409 466
Billy Hyde Music Brisbane Pty Ltd ACN 110 657 719
Billy Hyde Music Gold Coast Pty Ltd ACN 125 873 752
Billy Hyde Music Group Pty Ltd ACN 116 398 371
Billy Hyde Music Sunshine Coast Pty Ltd ACN 121 011 970
Intermusic Distribution Pty Ltd ACN 006 539 831
MLA Asset Services Pty Ltd ACN 131 523 905
MLA Services Pty Ltd ACN 005 564 509
Music Link Australia Pty Ltd ACN 005 541 239
Music Link Orchestral Supplies Pty Ltd ACN 117 581 996
Musicklink Group Pty Ltd ACN 125 412 464
The Billy Hyde Group Pty Ltd ACN 126 132 107
(All In Liquidation)
(Collectively “the Group” or “Companies”)
Formerly trading as “Allans Billy Hyde”

I refer to my update to Creditors dated 20 April 2018. The purpose of this report is to provide an update to creditors on the progress of the Liquidations of the Companies since my last report, advise creditors of an upcoming court application regarding the allocation of funds between Group entities from a recent recovery and provide notice of my intention to apply to the court for approval of remuneration as stipulated in Form 16 attached.

Recent Actions and Current Status of the Liquidations

Creditors will note from my prior update that all matters relating to the pursuit of voidable transactions had been resolved and that I was considering whether formal proceedings for a trading whilst insolvent action would be brought against the directors of the Group (“**Directors**”). Formal proceedings were subsequently commenced, with a settlement of \$500,000 being reached at a court ordered mediation, which is discussed in further detail below.

The cash at bank balances in relation to each entity within the Group is set out in the below table:

Table 1: Cash at Bank Balances

Entity	Cash at Bank 30 June 2021	Proposed allocation of litigation Proceeds	Cash at Bank after allocation
Australian Music Group Holdings Pty Ltd	272.1	14,355.0	14,627.1
AMG Shared Services Pty Ltd	712,335.1	71,649.5	783,984.6
Australian Music Group Pty Ltd	0.0	268,327.4	268,327.4
Australian Music Pty Ltd	1,125,503.9	133,319.1	1,258,823.0
Billy Hyde Imports Pty Ltd	1,687.0	0.0	1,687.0
Billy Hyde Music Adelaide Pty Ltd	61.5	98.1	159.5
Billy Hyde Music Brisbane Pty Ltd	1,557.8	0.0	1,557.8
Billy Hyde Music Gold Coast Pty Ltd	289.9	2.8	292.7
Billy Hyde Music Group Pty Ltd	339.6	547.4	886.9
Billy Hyde Music Sunshine Coast Pty Ltd	393.9	0.0	393.9
Intermusic Distribution Pty Ltd	0.0	588.1	588.1
MLA Asset Services Pty Ltd	0.0	0.0	0.0
MLA Services Pty Ltd	178.6	7,442.9	7,621.5
Music Link Australia Pty Ltd	1,298.0	2,473.4	3,771.4
Musiclink Group Pty Ltd	0.0	635.7	635.7
Musiclink Orchestral Supplies Pty Ltd	0.0	252.2	252.2
The Billy Hyde Group Pty Ltd	1,545.0	308.5	1,853.5
Total	1,845,462.4	500,000.0	2,345,462.4

No further recoveries are expected in the respective liquidations which are now positioned to be finalised. This has necessitated the following:

- Consideration as to how the funds from the trading whilst insolvent action should be allocated across the relevant Group entities;
- Further consideration of the Deed of Cross Guarantee dated 26 June 2012 ("**Cross Deed**") and what impact it may have on priority and unsecured distributions; and
- Reviewing creditor claims and, in particular, proofs of debt received with a view to efficiently deal with creditor claims in entities in which there may be a dividend.

The above matters are elaborated on below.

1. Insolvent Trading

Creditors will recall that the Liquidator identified a potential claim against the Directors of the Group for trading whilst insolvent in contravention of section 588G of the Corporations Act 2001 ("**Act**").

The Liquidator subsequently commenced an insolvent trading claim in the Supreme Court of Victoria ("**Court**") against the Directors. Significant work was necessary to prepare the claim for Court, including:

- Filing a Statement of Claim with the Court;
- Filing an affidavit with the Court initiating proceedings;
- Preparing a Solvency Report;

- Attending to pre-discovery and publicly examining the Directors; and
- Attending a judicial mediation with the Directors.

At a judicial mediation held on 2 December 2019, a settlement was reached with the Directors pursuant to which the Directors were required to pay an amount of \$500,000 (“**Proceeds**”). Payment of the settlement sum was received on 16 March 2020.

The Liquidator considered that agreeing to the settlement represented the best outcome for creditors, as it:

- had regard to the Directors’ financial capacity to meet a claim noting there was uncertainty to recover payment from the Directors in full;
- was timely; and
- provided certainty of outcome and return.

1. Application for Distribution of Funds

The proceeds were paid into the bank account of AMPL. Given that the claims made in the insolvent trading proceeding are in respect of debts incurred by entities of the Group, the Liquidator has had to consider the basis on which the Proceeds ought to be distributed amongst the Group Companies.

The Liquidator considers the appropriate method by which the Proceeds should be distributed is in proportion to each amount of the claim (debts incurred) for insolvent trading made in respect of each of the Companies (“**Proportionate Method**”). It is necessary for the Liquidator to seek orders of the court that the Proceeds be allocated in this way. The application to the court, including all exhibits, is a substantial document running to many pages. Therefore, in order to save printing and posting costs, the full application is available for download on FTI Consulting’s creditor portal at <http://www.fticonsulting-asia.com/creditors>. Should you require a printed copy of the application, please contact this office on (03) 9604 0600 or via email at AMGcreditors@fticonsulting.com

It is the Liquidator’s view that the Proportionate Method is the most logical, just and efficient process for distribution of the Proceeds. The distribution under this method corresponds to the debts incurred by each of the Companies in the Group and is accordingly equivalent to the loss and damage incurred by their respective creditors. The allocation that would result from the Proportionate Method is estimated as follows:

Table 2: Proportionate Method Distribution

Company	Percentage of creditors included in Insolvent Trading		Proceeds allocation amount
	Claim		
AMGSS	14.3%		71,649.53
AMPL	26.7%		133,319.13
AMGH	2.9%		14,355.00
AMG	53.7%		268,327.38
Billy Hyde Music Adelaide Pty Ltd	0.0%		98.06
Billy Hyde Music Gold Coast Pty Ltd	0.0%		2.80

Billy Hyde Music Group Pty Ltd	0.1%	547.37
Intermusic Distribution Pty Ltd	0.1%	588.06
MLA Services Pty Ltd	1.5%	7,442.88
Music Link Australia Pty Ltd	0.5%	2,473.40
Musiclink Group Pty Ltd	0.1%	635.74
Musiclink Orchestral Supplies Pty Ltd	0.1%	252.15
The Billy Hyde Group Pty Ltd	0.1%	308.53
Total	100.0%	500,000.00

The Liquidator has had regard to two other possible methods of distribution:

- the amount will be allocated proportionally but adjusted according to the strength or weakness of each of the claims comprising each Company making up the Group's claim for insolvent trading ("**Risk Adjusted Method**") (i.e. analyse the strength and/or weakness for the prospects of each debt); and
- the Proceeds will be distributed equally between the Companies (i.e. split equally between the 17 Companies of the Group) ("**Even Method**").

The Risk Adjusted Method is impractical in that it is difficult and potentially costly to differentiate the strength and/or weakness for the prospects of success of each debt given:

- the activities of the Group were intertwined;
- the debts were incurred over a significant period of time;
- the large number of trading debts incurred; and
- that the Cross Deed results in all the Group Companies incurring the contingent debts of each other and therefore the strength of the claim at least in respect of mathematical insolvency of the Group Companies being equal in each case.

If the Even Method is applied, some entities will have a surplus after the payment of debts, and that surplus may then be distributed back to the other entities in the Group as a result of the Cross Deed. This method will have implications for AMGSS in that it is likely employees will receive less than they would under the Proportionate Method. Further, this method is inherently unfair in that the distribution does not reflect the loss and damage of the claim for insolvent trading suffered by each entity, which is in proportion to the debts incurred rather than even.

Accordingly, the Liquidator does not consider either the Risk Adjusted Method or Even Method an appropriate way to deal with the Proceeds and therefore intends to seek an order of the court that the Liquidator is justified in allocating the Proceeds in accordance with the Proportionate Method. The Proceeds would be allocated in proportion to the amount of the claim (debts incurred) of the insolvent trading proceeding made by each of the Companies comprising the Group.

If you wish to object to the Proceeds being allocated in accordance with the Proportionate Method described above, you must, within 21 days of the date of this Report, serve on the Liquidator, a notice of objection stating the grounds of your objection. The Liquidator will then file an affidavit outlining the grounds of any objection(s) received.

2. Pooling

In considering the most logical, just and efficient process of distributing the Proceeds, the Liquidator also considered whether a pooling order would be appropriate in the circumstances.

The effect of a pooling order generally is that each company in the group becomes jointly and severally liable for the debts payable by the other companies and all intra-group debts and claims are extinguished (the 17 Companies in the Group effectively become one Company).

The court will only make a pooling order where:

- it is satisfied that it would be “just and equitable” to do so; and
- there would be no “material disadvantage” to eligible unsecured creditors in making such an order.

The Liquidator has analysed the estimated returns to creditors in a pooling scenario as highlighted in the table below. For illustrative purposes the Group is split into two subgroups as follows:

- AMGSS – this represents the employing company where all priority creditor claims exist; and
- Other entities – this is the sum of all other liquidations within the Group. This demonstrates the anticipated return to unsecured creditors.

Table 3: Pooling Analysis

Cents / \$	Pooling		No Pooling	
	AMGSS	Other Entities	AMGSS	Other Entities
Priority Creditor Claims				
Wages & Superannuation	100.00	-	65.40	-
Leave Entitlements	33.90	-	-	-
Termination	-	-	-	-
Unsecured Creditor Claims				
Unsecured Creditors	-	-	-	3.19

The Liquidator’s assessment is that without a pooling order, the eligible unsecured creditors are estimated to receive between 3 to 4 cents in the dollar. Conversely, in a pooling scenario, eligible unsecured creditors of each of the Companies in the Group would stand to receive no return in the liquidations. This is because in a pooling scenario, eligible priority creditors would have priority over all Group funds compared to ordinary unsecured creditors, not just those funds held in the liquidation of AMGSS. Thus, a pooling order is unlikely to be approved by the Court as ordinary unsecured creditors of the “other entities” will suffer a material disadvantage.

Therefore, the Liquidator does not intend to seek a pooling order.

3. Cross Deed

Each of the Companies comprising the Group are subject to ASIC Class Order number 98/1418 (“**Class Order**”), which is supported by the Cross Deed. The Cross Deed makes each Group entity liable for each creditor of all other Group entities. The Liquidator understands the following in respect of the Cross Deed:

- the priority rules in the context of employee entitlements continue to apply to each Company individually and employees rank equally with other unsecured creditors for any deficiency in the liquidation of other Group entities (to the extent a deficiency exists); and
- by reason of the Cross Deed, creditors of one Company in the Group become creditors of all in the Group, albeit as “guarantee creditors”. There is no distinction between direct unsecured creditors of a particular Group entity and unsecured creditors of other entities within the Group - all unsecured creditors will rank equally.

Practically speaking, what this means for creditors is as follows:

- as all employees were creditors of AMGSS, the assets of AMGSS are first available for the benefit of those employee creditors. Those employee creditors then prove equally with unsecured creditors in the liquidations of the remaining Group entities for any deficiency; and
- the assets of the remaining Group entities are, in essence, pooled and available for distribution to the unsecured creditors of the Group equally, together with the employee creditors of AMGSS to the extent there is a deficiency.

The above is discussed further in the context of the estimated return to creditors in Section 5.

4. Liquidator’s Remuneration

The following summarises the Liquidator’s outstanding and future remuneration:

Table 4: Liquidator’s Remuneration Claim		
Period	Company	Amount (Excl GST) (\$)
Historical Remuneration		
25 June 2019 to 30 June 2021 (inclusive)	AMPL	175,589.55
19 April 2017 to 30 June 2021 (inclusive)	AMGH	19,266.00
28 November 2017 to 30 June 2021 (inclusive)	AMG	33,912.00
		228,767.55
Future Remuneration		
1 July 2021 to Conclusion	AMPL	105,194.13
1 July 2021 to Conclusion	AMG	45,182.84
		150,377.97
Total Remuneration Claim		379,145.52

The Liquidator is seeking approval for historical fees of \$175,589.55 for AMPL covering the period 25 June 2019 to 30 June 2021, \$19,266.00 for AMGH covering the period 19 April 2017 to 30 June 2021 and

\$33,912.00 for AMG covering the period 28 November 2017 to 30 June 2021. Work conducted during this period relates to the matters outlined in this Report and in my previous update dated 20 April 2018, however it has primarily consisted of pursuing the insolvent trading claim and determining how the Proceeds should be distributed amongst the Group:

- Reviewing and assessing the solvency position of the Group and compiling evidence in support of same;
- Determining commerciality of pursuing the insolvent trading claim;
- Preparing for and attending to mediation and settlement regarding the insolvent trading claim;
- Reviewing and assessing allocation of creditor claims that formed part of insolvent trading claim;
- Reviewing the Cross Deed;
- Reviewing legal advice;
- Preparing and analysing the estimated outcome statement;
- Analysing the different outcomes under a pooling scenario and a non-pooling scenario; and
- Liaising with solicitors and counsel on the insolvent trading claim and subsequent allocation of the Proceeds.

The Liquidator is also seeking fee approval to an interim capped amount of \$150,377.97 for future work for AMPL and AMG to the conclusion of the Liquidation. It is anticipated that time subject to this approval will be primarily spent in connection with the following:

- Making an application to the Court in relation to the allocation of the Proceeds;
- The review, adjudication and payment of unsecured creditor claims; and
- Dealing with other steps necessary in finalising the liquidations of the 17 entities making up the Group.

Details of the outstanding and future remuneration are provided for in the Remuneration Approval Reports for the relevant Companies and Group on FTI Consulting's creditor portal <http://www.fticonsulting-asia.com/creditors>.

Noting the significant cost to convene a concurrent meeting of creditors for the Group, the Liquidator seeks to make an application under section 90-15 of Schedule 2 - Insolvency Practice Schedule (Corporations) for the court to determine the remuneration properly incurred for the Group.

In addition to the proposed remuneration approval that is being sought as part of this Court application described above, the following remuneration approvals have previously been approved and not yet drawn:

Table 5: Remaining Fee Approvals

Entity	Amount (\$)
Australian Music Group Holdings Pty Ltd	5,329.5
AMG Shared Services Pty Ltd	84,380.0
Australian Music Group Pty Ltd	14,791.0
Australian Music Pty Ltd	0.0
Billy Hyde Imports Pty Ltd	15,000.0
Billy Hyde Music Adelaide Pty Ltd	13,444.9
Billy Hyde Music Brisbane Pty Ltd	15,000.0
Billy Hyde Music Gold Coast Pty Ltd	13,676.0
Billy Hyde Music Group Pty Ltd	15,000.0
Billy Hyde Music Sunshine Coast Pty Ltd	13,941.5
Intermusic Distribution Pty Ltd	13,165.6
MLA Asset Services Pty Ltd	13,215.1
MLA Services Pty Ltd	13,250.3
Music Link Australia Pty Ltd	15,000.0
Musiclink Group Pty Ltd	15,000.0
Musiclink Orchestral Supplies Pty Ltd	15,000.0
The Billy Hyde Group Pty Ltd	15,000.0
Total	290,193.9

It is expected that for a number of the smaller entities that have around \$15,000 in fee approval remaining, remuneration and incurred costs will be paid to the extent that funds are unavailable in each of these individual entities from the Primary Bank Account (“**Unfunded Companies**”). The Liquidator considers that the payment of the remuneration and incurred costs of the Unfunded Companies is justified given:

- the integrated and interdependent business structure of the Group;
- that tasks undertaken by my staff in relation to one Group entity were usually relevant to at least one other Group entity, if not the Group as a whole;
- it was accordingly necessary for the Liquidator and his staff to investigate the affairs of the Unfunded Companies in the course of investigating and administering the affairs of the Group in liquidation;
- most of the Unfunded Companies were specific purpose entities incorporated to hold leases of retail premises used by the Group, or other discrete operations. The operations of these entities benefitted the group as a whole by enabling trading operations by the funded companies; and
- the Unfunded Companies incurred liabilities under the Cross Deed for the benefit of the funded companies in the Group.

If you wish to object to the Liquidator seeking the approval by the court for his current future remuneration, you must, within 21 days of the date of this Report, serve on the Liquidator, a notice of objection stating the grounds of your objection. The Liquidator will then file an affidavit outlining the grounds of any objection(s) received.

5. Current Financial Position and Estimated Return to Creditors

Detailed below is an estimated return to creditors. For illustrative purposes the Group is split into two subgroups as follows:

- AMGSS – this represents the employing company where all priority creditor claims exist; and
- Other entities – this is the sum of all other liquidations within the Group. This demonstrates the anticipated return to unsecured creditors.

Table 6: Estimated outcome statement as at 30 June 2021 (Proportionate Method)

	AMGSS	Other Entities
Available cash	712,335.1	1,133,127.3
Plus: insolvent trading claim allocation	71,649.5	428,350.5
Less: current and future fees and expenses		
Liquidator's fees and disbursements to 30 June 2021 (ex. GST)	(7,373.5)	(255,231.3)
Liquidator's future fees and disbursements to conclusion (ex. GST) (est.)	(84,380.0)	(178,377.0)
Future legal fees and disbursements to conclusion (ex. GST) (est.)	(75,000.0)	(150,000.0)
Total professional fees and expenses	(166,753.5)	(583,608.2)
Funds available for priority creditors (wages and super)	617,231.1	977,869.6
Total Priority Creditors - Wages and Superannuation	(944,406.8)	N/A
Return to Priority Creditors - Wages and Superannuation	65.4	N/A
Funds available for subsequent priority claims	0.0	977,869.6
Total Priority Creditors - Leave Entitlements	(1,917,113.6)	N/A
Total Priority Creditors – Termination	(3,141,499.1)	N/A
Funds Available for unsecured creditors	0.0	977,869.6
Total Unsecured Creditors	(32,016,896.9)	(32,016,896.9)
Return to Unsecured Creditors	0.0%	3.2%

Creditors should note the following in respect of the above:

- calculation of the quantum of the dividend to creditors is a complex matter and the rate of the dividend provided for above is indicative at this stage, and subject to change should further creditor claims be received;
- employee creditors are anticipated to receive a partial dividend in respect of wages and superannuation out of the liquidation of AMGSS;
- total employee claims are estimated to be just over \$6 million. A deficiency of \$5.4 million is anticipated, which will represent an unsecured claim against the other entities; and
- a return to unsecured creditors at 3.2 cents in the dollar is anticipated at this stage.

Substantial work will be necessary in order to review and consider the creditor claims, and the Liquidator and his staff are in process of reviewing these claims in anticipation to declare a first and final dividend to creditors later in 2021.

6. Proofs of Debt

Creditors who have not submitted a formal proof of debt or claim (“**POD**”) form are invited to do so as soon as possible and accordingly, please find enclosed a notice inviting formal proof of debt or claim. A blank POD form is also enclosed.

The Liquidator is not intending on declaring a dividend at this time and will write to creditors separately when in a position to do so. Creditors are requested to submit their POD form electronically to AMGcreditors@fticonsulting.com noting which entity that their claim relates to.

Should you be unable to submit your POD electronically, please contact this office on (03) 9604 0600 or via email at AMGcreditors@fticonsulting.com to discuss alternative arrangements.

7. Way Forward

The Liquidator intends on dealing with the following in the short to medium term:

- Making an application to court in respect of the allocation of the Proceeds and Liquidator’s remuneration;
- Reviewing and assessing priority and unsecured creditor claims received; and
- Formally declaring and paying priority and unsecured dividends.

Thereafter, the Liquidator will take steps to finalise the liquidations. Creditors will be kept apprised of updates as necessary.

Should you have any queries in relation to this update, please do not hesitate to contact this office on (03) 9604 0600 or via email at AMGcreditors@fticonsulting.com.

Yours faithfully

**Australian Music Group Holdings Pty Ltd & Associated Companies
(All In Liquidation)**



Ross Blakeley
Liquidator

FORM 534

subregulation 5.6.48(3)

Corporations Act 2001

NOTICE INVITING FORMAL PROOF OF DEBT OR CLAIM

Australian Music Group Holdings Pty Ltd ACN 127 691 534 (“AMGH”)

AMG Shared Services Pty Ltd ACN 117 052 936 (“AMGSS”)

Australian Music Group Pty Ltd ACN 127 926 434 (“AMG”)

Australian Music Pty Ltd ACN 125 007 561 (“AMPL”)

Billy Hyde Imports Pty Ltd ACN 102 430 704

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Billy Hyde Music Brisbane Pty Ltd ACN 110 657 719

Billy Hyde Music Gold Coast Pty Ltd ACN 125 873 752

Billy Hyde Music Group Pty Ltd ACN 116 398 371

Billy Hyde Music Sunshine Coast Pty Ltd ACN 121 011 970

Intermusic Distribution Pty Ltd ACN 006 539 831

MLA Asset Services Pty Ltd ACN 131 523 905

MLA Services Pty Ltd ACN 005 564 509

Music Link Australia Pty Ltd ACN 005 541 239

Music Link Orchestral Supplies Pty Ltd ACN 117 581 996

Musiclink Group Pty Ltd ACN 125 412 464

The Billy Hyde Group Pty Ltd ACN 126 132 107

(All In Liquidation)

(Collectively “the Group” or “Companies”)

Formerly trading as “Allans Billy Hyde”


Take notice that creditors of the Company, whose debts or claims have not already been admitted, are required on or before 8 August 2021 to prove their debts or claims and to establish any title they may have to priority by delivering or posting to me at my address a formal proof of debt or claim in accordance with Form 535 or 536 containing their respective debts or claims.

If they do not they will be excluded from:

- (a) the benefit of any distribution made before their debts or claims are proved or their priority is established; and
- (b) objecting to the distribution.

Form of proof may be obtained from me.

Dated this 8th day of July 2021



Ross Blakeley

Liquidator

NOTICE OF INTENTION TO APPLY FOR REMUNERATION

IN THE MATTER OF Australian Music Group Holdings Pty Ltd (ACN 127 691 534), Australian Music Group Pty Ltd (ACN 127 926 434) and Australian Music Pty Ltd (ACN 125 007 561) (All In Liquidation) (Collectively the "Companies")

TO: Creditors of the Companies

TAKE NOTICE that, not less than 21 days after this notice is served on you, I, Ross Blakeley of FTI Consulting, of 600 Bourke Street Melbourne VIC 3000, the liquidator of the above companies, intend to apply to the Court to determine my remuneration.

If you object to my application, you must, within 21 days after being served with this notice, serve on me a notice of objection stating the grounds of objection to the remuneration claimed.

Dated this 8th day of July 2021

A handwritten signature in blue ink that reads "Ross Blakeley". The signature is cursive and fluid.

Ross Blakeley
Liquidator