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23 MAY 2016

Kavia Holdings Pty Ltd ACN 050 108 757

(In Liquidation) (“the Company”)

## Table of Contents

<b>Section 1: Introduction .....</b>	<b>2</b>
Purpose of the Report .....	2
Glossary .....	2
Disclaimer .....	2
<b>Section 2: Background &amp; Key Work Undertaken .....</b>	<b>2</b>
Background .....	2
Key Work Undertaken During the Report Period .....	3
<b>Section 3: Unfair Preference Recoveries .....</b>	<b>3</b>
Introduction .....	3
Unfair Preference Claim against the ATO .....	3
<b>Section 4: Estimated Return to Ordinary Unsecured Creditors .....</b>	<b>4</b>
<b>Section 5: Acts and Dealings to be Undertaken .....</b>	<b>4</b>
<b>Section 6: Estimated Timeframe for Completion of the Liquidation .....</b>	<b>4</b>
<b>Section 7: Statutory Issues .....</b>	<b>4</b>
Statutory Reporting .....	4
<b>Section 8: Receipts and Payments .....</b>	<b>4</b>
<b>Section 9: Queries .....</b>	<b>5</b>
<b>Schedule 1: Glossary .....</b>	<b>6</b>

## Section 1: Introduction

### Purpose of the Report

1. The Liquidators have prepared this report pursuant to Section 508 of the Act to provide, amongst other things, the following information:
  - 1.1 An account of the acts and dealings of the Liquidators and the conduct of the winding up of the Company for the 12 months to 24 February 2016;
  - 1.2 A description of the acts and dealings that remain to be carried out in order to complete the winding up; and
  - 1.3 An estimate of when the liquidation is likely to be finalised.
2. This report should be read in conjunction with the Liquidators' previous reports to creditors dated 13 September 2013, 11 December 2013, 17 February 2014 and 22 May 2015.

### Glossary

3. A glossary of the defined terms used in this report appears at Schedule 1.

### Disclaimer

4. This report is based on information sourced from the Company's books and documents and information provided to the Liquidators. The Liquidators have reviewed the books, documents and information and whilst limited independent verification of the information has been conducted, no audit has been undertaken.
5. The Liquidators have no reason to doubt the information contained in this report. The statements and opinions given in this report are given in good faith and in the belief that such statements and opinions are not false or misleading. The Liquidators reserve the right to alter any conclusions reached on the basis of any changed or additional information which may become available to them.
6. Neither the Liquidators, FTI Consulting, nor any employee thereof undertakes any responsibility in any way whatsoever to any person in respect of any errors in this Report arising from incorrect information provided to the Liquidators.
7. This report is not for general circulation, publication, reproduction or any other use other than to assist the Creditors in evaluating their position as Creditors of the Company and must not be disclosed without the written approval of the Liquidators.
8. The Liquidators do not assume or accept any responsibility for any liability or loss sustained by any Creditor or any other party as a result of the circulation, publication, reproduction or any other use of the report.
9. Each Creditor must seek their own independent legal advice as to their rights and the options available to them with respect to the liquidation of the Company.

## Section 2: Background & Key Work Undertaken

### Background

10. Mr Quentin Olde and Mr Michael Ryan of FTI Consulting were appointed as Joint and Several Administrators of the Company on 16 April 2013 by ANZ pursuant to Section 436C of the Act.
11. Immediately following the Administrators' appointment, Mr Marcus Ayres and Mr Stephen Parbery of PPB were appointed Receivers and Managers of the Company pursuant to the terms of a security interest registered against the Company in favour of ANZ. As a result of their appointment, the Receivers assumed full control of the Company's assets and trading operations. Following their appointment, the Company and the business continued to trade on a "business as usual" basis under the control of the Receivers.
12. The appointment of the Administrators and Receivers of the Company occurred in conjunction with the same appointments over companies contained in the Group.

13. At the reconvened second meeting of creditors held on 25 February 2014, the Creditors of the Company resolved that:
  - 13.1 The Company be wound up; and
  - 13.2 That Quentin Olde and Michael Ryan of FTI Consulting be appointed as the Joint and Several Liquidators of the Company.
14. Mr Quentin Olde and Mr Michael Ryan of FTI Consulting were appointed Joint and Several Liquidators of all other companies in the Group on 23 September 2013.
15. PPB informed the Liquidators that they retired as Receivers from the Company, and the other companies in the Group, on 1 October 2014.

### Key Work Undertaken During the Report Period

16. During the Report Period, the Liquidators have attended to the following matters for the Company:
  - 16.1 Investigating and pursuing unfair preferences pursuant to the Act, particularly in relation to the ATO; and
  - 16.2 Required statutory reporting under the Act.

## Section 3: Unfair Preference Recoveries

### Introduction

17. Part 5.7B of the Act allows the Liquidators to bring certain legal recovery proceedings for the benefit of the unsecured Creditors of the Company.
18. The Liquidators have identified one (1) material unfair preference recovery available to the Company, against the ATO, as further discussed below.

### Unfair Preference Claim against the ATO

19. The Liquidators have issued a demand to the ATO, dated 18 March 2015, for unfair preference payments totalling an amount of \$314,412.36.
20. Following unsatisfactory responses from the ATO, the Liquidators engaged solicitors to commence more formal communications with the ATO. The solicitors formally wrote to the ATO on 19 May 2015, outlining the Liquidators' position.
21. On 26 October 2015 the solicitors for the Liquidators wrote to the ATO and requested further records in relation to correspondence between the ATO and the companies within the Group including records relating to file notes and telephone conversations between the ATO and the companies within the Group. Although these had previously been requested they had not been provided by the ATO.
22. Following receipt of additional information by the ATO, the solicitors issued another demand to the ATO on 1 December 2015, referencing material from the additional records received, to reiterate the Company's potential claim for unfair preference payments.
23. On 27 January 2016, a representative for the ATO contacted the Liquidators' solicitors and made an informal verbal offer for unfair preference claims for the respective companies within the Group, being the Company, BVH Management Pty Limited ACN 137 598 577, Marsico Holdings Pty Limited ACN 003 678 608, and Rocks Catering Pty Limited ACN 003 510 656. Subsequent to this correspondence, a formal offer was not received by the ATO.
24. On or around 11 February 2016, the solicitors for the Liquidator filed and served proceedings against the ATO and the directions hearing and orders were made on 2 March 2016. The proceedings were commenced on a collective basis for the respective companies within the Group.
25. The ATO intimated that they may request for the proceedings to be separated on an individual company basis. On 4 April 2016 the solicitors for the Liquidators wrote to the ATO and requested confirmation if the Group matters will proceed together or be separated. The ATO did not respond.

26. In order to expedite the process, the Liquidators instructed their solicitors to serve a formal notice of offer to compromise on the ATO on 9 May 2016 in respect of the Group unfair preference claims. The ATO has 28 days to accept the offer.
27. The proceedings are ongoing, and the Liquidators filed their evidence in chief on 12 May 2016. We will provide creditors with further updates as developments occur.

## Section 4: Estimated Return to Ordinary Unsecured Creditors

28. The forecast return to ordinary unsecured Creditors remains at \$NIL cents in the dollar. Any return to unsecured Creditors is entirely reliant upon successfully recovering the unfair preference payments made to the ATO and the related costs incurred.
29. Creditors will be notified should the circumstances change and it becomes likely that a dividend will be paid.

## Section 5: Acts and Dealings to be Undertaken

30. Prior to the completion of the liquidation, the following matters will be required to be undertaken for the Company:
  - 30.1 Finalising the ATO unfair preference claim, including any ongoing legal proceedings and/or settlement negotiations;
  - 30.2 Attending to all remaining statutory obligations; and
  - 30.3 Convening and holding a final meeting of creditors, permitting there are sufficient funds available.
31. Following the completion of the abovementioned work for the Company, the Liquidators will be in a position to finalise the liquidation.

## Section 6: Estimated Timeframe for Completion of the Liquidation

32. The Liquidators intend to complete the liquidation of the Company by 31 December 2016, however finalisation is dependent upon the timing of the completion of remaining acts and dealings which may be affected by third parties.

## Section 7: Statutory Issues

### Statutory Reporting

33. The Liquidators continue to comply with their ASIC and ATO statutory reporting obligations by lodging statements of receipts and payments with ASIC and business activity statements with the ATO.

## Section 8: Receipts and Payments

34. A statement of receipts and payments for the Company for the Report Period is provided below.

**Table 1: Statement of Receipts and Payments for the period  
25 February 2015 to 24 February 2016**

	<b>Amount</b>
	<b>\$</b>
<b>Receipts</b>	
GST Received	272.00
Interest Income	1.38
	<u>273.38</u>
<b>Payments</b>	
Appointee Disbursements	(272.70)
	<u>(272.70)</u>
<b>Reconciliation as at 24 February 2016</b>	
Opening Balance	0.00
Receipts	273.38
Payments	(272.70)
<b>Closing Balance</b>	<u>0.68</u>

## Section 9: Queries

35. Should you have any queries in relation to this report, please contact Declan McDonnell of this office on (02) 8247 8000 or [declan.mcdonnell@fticonsulting.com](mailto:declan.mcdonnell@fticonsulting.com).

Yours faithfully  
Kavia Holdings Pty Limited  
(In Liquidation)



Quentin Olde  
Joint and Several Liquidator

## Schedule 1: Glossary

Term	Definition
Act	Corporations Act 2001 (Cth)
Administration	The period from 16 April 2013 up to 25 February 2014
Appointment Date	Appointment of Liquidators on 25 February 2014
ASIC	Australian Securities and Investments Commission
ATO	Australian Taxation Office / Commissioner of Taxation
The Bank or ANZ	Australia and New Zealand Banking Group Limited
Company	Kavia Holdings Pty Ltd ACN 050 108 757
Creditors	Creditors of the Company who have a claim admissible to proof in the Liquidation of the Company
Directors	Mr Christopher Crawley and Ms Judith Crawley
FTI Consulting	FTI Consulting (Australia) Pty Ltd
Group	<p>The companies within the Group are:</p> <ul style="list-style-type: none"> <li>▪ Aldonet Pty Limited ACN 069 830 977</li> <li>▪ Batent Holdings Pty Limited ACN 137 598 586</li> <li>▪ BVH Management Pty Limited ACN 137 598 577 (formerly traded as the Belvedere Hotel)</li> <li>▪ J&amp;J O'Brien Pty Limited ACN 001 872 966 (formerly traded as the Marlborough Hotel)</li> <li>▪ Kavia Holdings Pty Ltd ACN 050 108 757</li> <li>▪ Marsico Holdings Pty Limited ACN 003 678 608 (formerly traded as Jacksons on George Hotel)</li> <li>▪ Rocks Catering Pty Limited ACN 003 510 656 (formerly traded as Watershed Hotel and Cohibar)</li> </ul>
Liquidators	Quentin Olde and Michael Ryan of FTI Consulting
Receivers or PPB	Marcus Ayres and Stephen Parbery of PPB Advisory, the former Receivers and Managers
Report Period	The period from 25 February 2015 to 24 February 2016



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#### About FTI Consulting

FTI Consulting is a global business advisory firm dedicated to helping organisations protect and enhance enterprise value in an increasingly complex legal, regulatory and economic environment. FTI Consulting professionals, who are located in all major business centers throughout the world, work closely with clients to anticipate, illuminate and overcome complex business challenges in areas such as investigations, litigation, mergers and acquisitions, regulatory issues, reputation management and restructuring.

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