

8 December 2017

**Sfopps Pty Ltd (In Liquidation)
ACN 606 027 990 (the “Company”)**

Statutory Report to Creditors

1. Introduction

At a meeting of the Company’s creditors held on Thursday, 10 August 2017, Mr Ross Blakeley and I (“**Liquidators**”) replaced the Former Liquidators of the Company, Mr William Robson and Mr Bill Cotter of Robson Cotter Insolvency Group (“**Former Liquidators**”).

The purpose of this report is to provide creditors with an update on the progress of the liquidation and advise of the likelihood of a dividend being paid to creditors.

This report is mandatory under Section 70-40 of the *Insolvency Practice Rules (Corporations) 2016 (Cth)* (“**Rules**”).

2. Statutory Information and reasons for failure

According to the records held at the Australian Securities and Investments Commission:

- (i) the Company was incorporated on 25 May 2015;
- (ii) the sole director and shareholder at the time of incorporation was Ms Theresa Spits;
- (iii) Ms Spits resigned as director of the Company on 1 September 2016;
- (iv) Ms Lisa Baker was appointed director in place of Ms Spits on 1 September 2016; and
- (v) Ms Spits transferred her shareholding to Ms Lisa Baker on 1 September 2016.

The Liquidators have held one meeting with Ms Spits on 20 October 2017 to discuss, inter alia, the Company’s business and activities and the reasons for failure. Ms Spits advised the following:

- (i) The Company previously operated in the construction industry and engaged contractors for and on behalf of a related entity, Imagebuild Group Pty Ltd (In Liquidation)(“**IBG**”);
- (ii) The Company’s role was to manage the subcontractors engaged to complete developments of IBG; and

FTI Consulting (Australia) Pty Limited

ABN 49 160 397 811 | ACN 160 397 811

Level 16, Bourke Place | 600 Bourke Street | Melbourne VIC 3001 | Australia

Postal Address | GPO Box 538 | Melbourne VIC 3001 | Australia

+61 3 9604 0600 telephone | +61 3 9604 0699 fax | fticonsulting.com

- (iii) The Company's failure was a result of a dispute with one of its subcontractors that delayed the completion of a project. This also affected the Company's reputation and in turn, its relationships with other subcontractors.

The Liquidators have not received sufficient documentary evidence to confirm the above statements by Ms Spits, including verifying the general business activities and operations of the Company. No contract or agreement determining the relationship between IBG and Sfopps has been sighted.

3. Financial Position Summary

Ms Lisa Baker submitted a Report as to Affairs ("RATA") to the Former Liquidators. The RATA did not disclose any realisable assets and records that the Company had \$2.5 million of unsecured creditors. The RATA did not include a list of the unsecured creditors of the Company.

The Liquidators have made several attempts to contact Ms Baker who has been unresponsive to date. The Liquidators have subsequently received information suggesting that Ms Baker had no involvement with the Company, and further, the Company ceased to trade prior to Ms Baker's appointment as director on 1 September 2016.

Ms Spits advised the only assets of the Company comprised of sundry office equipment, however, she has asserted this was taken by subcontractors in lieu of not receiving payment from the Company.

To date, the Liquidators have identified 38 potential creditors with total claims of approximately \$2.7 million. The Liquidators note that certain creditors have advised that they may alternatively be creditors of IBG. Thus, further investigations are required to establish the existence, quantum and veracity of creditor claims.

In addition to this, the Liquidators have received a claim from the Liquidator of IBG, Mr Glenn Crisp of Jirsch Sutherland, in the amount of \$24,706,421. The basis of this emulates from an ATO amended assessment which disallowed GST input credits claimed by IBG relating to services purportedly provided by the Company.

The Liquidators will assess this and all other claims in due course, together with any potential assets.

4. Investigations

In addition to establishing potential assets and liabilities, part of the Liquidators' role is to identify possible offences committed by the Director, Former Director and/or Company under the Act and report these findings to the Australian Securities and Investments Commission ("ASIC").

The Liquidators are also required to conduct investigations into the Company's affairs to identify possible voidable transactions and determine whether the Company traded whilst insolvent.

The results of our initial investigations to date are outlined below.

4.1 Adequacy of book and records

Section 286 of the Act requires a company to keep written financial records that correctly record and explain its transactions, financial position and performance, to enable true and fair financial statements to be prepared and audited. Financial records must be kept for seven years after the completion of the transaction to which the records pertain.

To date, the only Company books and records recovered by the Liquidators comprise:

- (i) Two folders of creditor invoices that were provided by the Former Liquidators; and
- (ii) A MYOB accounting file in the name of the Company, however, it appears the MYOB file may be a copy of IBG's accounts.

Given the asserted operations of the business, the current records received would be considered inadequate and thus the Company has likely not complied with its obligations pursuant to Section 286 of the Act.

4.2 Report pursuant to Section 533 of the Act

On 26 May 2017, the Former Liquidators lodged a report pursuant to Section 533 of the Act to ASIC, detailing a number of suspected breaches of the Act by the Company's officers or the Company.

ASIC responded requesting that the Liquidators submit a supplementary report pursuant to Section 533(2) of the Act. The Liquidators are currently preparing this report.

4.3 Company's dealings with IBG and the ATO

As noted previously, the Liquidators have not received sufficient evidence substantiating the Company's operations and activities and specifically, have not been able to establish the true business relationship and nature of related party transactions involving IBG.

The Liquidators are in possession of an ATO Amended Assessment ("**Assessment**") for IBG dated 16 May 2016. In the Assessment, the Company purportedly provided approximately \$24 million of services to IBG in two months of operations. The assessment resulted in GST input credits totalling approximately \$2.2 million being disallowed by the ATO and therefore increasing IBG's liability to the ATO for this amount.

The Liquidators are continuing their investigations to better determine the relationship between IBG and the Company, and the implications of the amended assessment against IBG on the Company.

4.4 Voidable Transactions

Insolvent Trading - Section 588G of the Act

Pursuant to Section 588G of the Act, a director of a company has a duty to prevent a company from incurring debts whilst it is insolvent. Should a company incur such debts, a liquidator is entitled, pursuant to Section 588M of the Act, to commence proceedings against a current or former director to recover damages equivalent to the amount of the debts incurred during their directorship which remain unpaid by the company.

Given the limited assets identified to date and the potential number, quantum and aging of creditors, the Company may have traded whilst insolvent since inception.

Prior to commencing any action against the Director or Former Director, it is necessary for the Liquidators to satisfy themselves that the Director/Former Director has a capacity to pay any claim made against them. The Liquidators are continuing their investigations into the personal financial position of the Director and Former Director in that regard.

Uncommercial Transaction – Section 588FB of the Act

A transaction of a company is an uncommercial transaction of the company if, and only if, it may be expected that a reasonable person in the company's circumstances would not have entered into the transaction, having regard to:

- i. the benefits (if any) to the company of entering into the transaction; and
- ii. the detriment to the company of entering into the transaction; and
- iii. the respective benefits to other parties to the transaction of entering into it; and
- iv. any other relevant matter.

The Liquidators' investigations reveal the Company transferred funds totalling \$1,497,150 to IBG between the period 21 October 2015 to 11 March 2016. Ms Spits was unable to provide reasons why these payments were made.

The Liquidators consider such payments may constitute uncommercial transactions pursuant to Section 588FB of the Act, given no apparent benefit was received by the Company.

If the payments are considered uncommercial, the Liquidators will submit a claim to the liquidators of IBG. However, based on a report prepared by the liquidators of IBG dated 15 November 2017, it is likely that no dividends will be paid from that entity.

Preferential Payments – Section 588FA of the Act

Transactions (including a payment of money) between the Company and an unsecured creditor six (6) months prior to the relation back day may constitute an unfair preference payment if the company was insolvent at the time of the transaction and it is likely that the recipient (i.e. the creditor) received a greater repayment than they would have if the Company's affairs were wound up.

In this case, the relation back day is the date of the Former Liquidators appointment on 8 December 2016, with the relation back period being 8 June 2016 to 8 December 2016.

The Liquidators' investigations have identified that in the six months prior to the appointment of the Former Liquidators, payments totalling approximately \$400,000 were made which are potentially unfair preference payments.

The Liquidators investigations are continuing in this regard.

5. Receipts and Payments

There have been no receipts or payments in the liquidation to date.

6. Likelihood of a dividend

No physical assets have been identified by the Liquidators to date.

The likelihood of a dividend will be dependent upon the success of the recovery actions outlined in sections 4 of this report.

In the event that sufficient realisations or recoveries are made to enable a dividend to creditors, the Liquidators will provide a formal notice requesting creditors to submit a formal proof of debt to participate in the dividend.

7. Cost of the liquidation

The Liquidators' fees and disbursements incurred from appointment to 24 November 2017 total \$54,445 excluding GST.

The Liquidators are yet to seek approval for their remuneration from creditors.

8. Way Forward

In order to advance further investigations which may progress to taking certain recovery actions, the Liquidators may consider undertaking public examinations of relevant parties. However, the liquidation is currently without funds to undertake public examinations.

The Liquidators are currently in discussions with a creditor regarding the provision of funds to hold public examinations, however, if any other creditor is willing to provide funds, they are requested to put their proposal in writing to the Liquidators.

Any creditor who advances funds may, subject to Section 564 of the Act, receive a priority over the creditors of the Company, for the amount of that advance, if a successful recovery is obtained and a distribution is available.

Creditors shall be updated of our investigations and actions in due course.

Should creditors request the Liquidators hold a meeting of creditors, the request for a meeting must comply with the guidelines set out in the enclosed information sheet. The Liquidators will then attend to holding a meeting of creditors.

9. Where can you get more information?

The Australian Restructuring Insolvency and Turnaround Association (“**ARITA**”) provides information to assist creditors with understanding liquidations and insolvency.

This information is available from ARITA’s website at arita.com.au/creditors.

ASIC also provides information sheets on a range of insolvency topics. These information sheets can be accessed on ASIC’s website at asic.gov.au (search for “insolvency information sheets”).

Should you have any queries, please contact the Liquidators office on (03) 9604 0600.

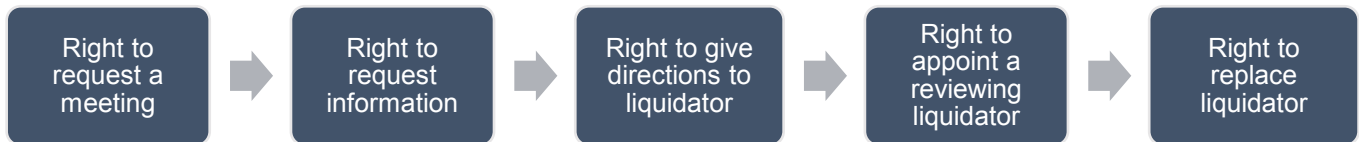
Yours faithfully



Paul Allen
Liquidator

Creditor Rights in Liquidations

As a creditor, you have rights to request meetings and information or take certain actions:



Right to request a meeting

In liquidations, no meetings of creditors are held automatically. However, creditors with claims of a certain value can request in writing that the liquidator hold a meeting of creditors.

A meeting may be requested in the first 20 business days in a creditors' voluntary liquidation by $\geq 5\%$ of the value of the debts held by known creditors who are not a related entity of the company.

Otherwise, meetings can be requested at any other time or in a court liquidation by:

- $> 10\%$ but $< 25\%$ of the known value of creditors on the condition that those creditors provide security for the cost of holding the meeting
- $\geq 25\%$ of the known value of creditors
- creditors by resolution, or
- a Committee of Inspection (this is a smaller group of creditors elected by, and to represent, all the creditors).

If a request complies with these requirements and is 'reasonable', the liquidator must hold a meeting of creditors as soon as reasonably practicable.

Right to request information

Liquidators will communicate important information with creditors as required in a liquidation. In addition to the initial notice, you should receive, at a minimum, a report within the first three months on the likelihood of a dividend being paid.

Additionally, creditors have the right to request information at any time. A liquidator must provide a creditor with the requested information if their request is 'reasonable', the information is relevant to the liquidation, and the provision of the information would not cause the liquidator to breach their duties.

A liquidator must provide this information to a creditor within 5 business days of receiving the request, unless a longer period is agreed. If, due to the nature of the information requested, the liquidator requires more time to comply with the request, they can extend the period by notifying the creditor in writing.

Requests must be reasonable.

They are not reasonable if:

Both meetings and information:

- (a) complying with the request would prejudice the interests of one or more creditors or a third party
- (b) there is not sufficient available property to comply with the request
- (c) the request is vexatious

Meeting requests only:

- (d) a meeting of creditors dealing with the same matters has been held, or will be held within 15 business days

Information requests only:

- (e) the information requested would be privileged from production in legal proceedings
- (f) disclosure would found an action for breach of confidence
- (g) the information has already been provided
- (h) the information is required to be provided under law within 20 business days of the request

If a request is not reasonable due to (b), (d), (g) or (h) above, the liquidator must comply with the request if the creditor meets the cost of complying with the request.

Otherwise, a liquidator must inform a creditor if their meeting or information request is not reasonable and the reason why.

Right to give directions to liquidator

Creditors, by resolution, may give a liquidator directions in relation to a liquidation. A liquidator must have regard to these directions, but is not required to comply with the directions.

If a liquidator chooses not to comply with a direction given by a resolution of the creditors, they must document their reasons.

An individual creditor cannot provide a direction to a liquidator.

Right to appoint a reviewing liquidator

Creditors, by resolution, may appoint a reviewing liquidator to review a liquidator's remuneration or a cost or expense incurred in a liquidation. The review is limited to:

- remuneration approved within the six months prior to the appointment of the reviewing liquidator, and
- expenses incurred in the 12 months prior to the appointment of the reviewing liquidator.

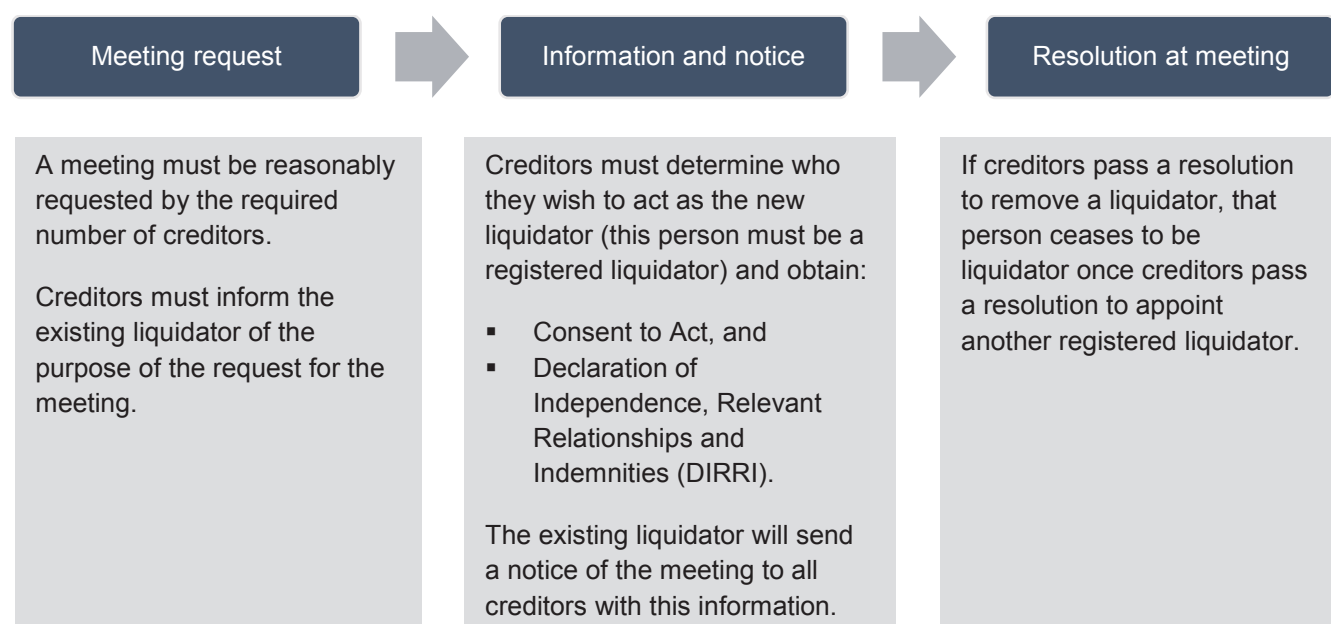
The cost of the reviewing liquidator is paid from the assets of the liquidation, in priority to creditor claims.

An individual creditor can appoint a reviewing liquidator with the liquidator's consent, however the cost of this reviewing liquidator must be met personally by the creditor making the appointment.

Right to replace liquidator

Creditors, by resolution, have the right to remove a liquidator and appoint another registered liquidator.

For this to happen, there are certain requirements that must be complied with:



For more information, go to www.arita.com.au/creditors

Corporations Act (2001)

FORMAL PROOF OF DEBT OR CLAIM (GENERAL FORM)

**SFOPPS PTY LTD ACN 606 027 990
(IN LIQUIDATION) ("THE COMPANY")**

To the Liquidators of Sfopps Pty Ltd (In Liquidation):

1. This is to state that the Company was on 8 December 2016, and still is, justly and truly indebted to:

_____ ABN _____
(full name, ABN and address of the creditor and, if applicable, the creditor's partners. If prepared by an employee or agent of the creditor, also insert a description of the occupation of the creditor)
 for _____ dollars and _____ cents.

Date	Consideration (state how the Debt arose)	Amount (exc GST) \$ c	Amount GST Only \$ c	Remarks (include details of voucher substantiating payment)

2. To my knowledge or belief the creditor has not, nor has any person by the creditor's order, had or received any satisfaction or security for the sum or any part of it except for the following: *(insert particulars of all securities held. If the securities are on the property of the company, assess the value of those securities. If any bills or other negotiable securities are held, show them in a schedule in the following form).*

Date	Drawer	Acceptor	Amount \$ c	Due Date

*3. I am employed by the creditor and authorised in writing by the creditor to make this statement. I know that the debt was incurred for the consideration stated and that the debt, to the best of my knowledge and belief, remains unpaid and unsatisfied.

*3. I am the creditor's agent authorised in writing to make this statement in writing. I know that the debt was incurred for the consideration stated and that the debt, to the best of my knowledge and belief, remains unpaid and unsatisfied.

Signature: Dated:

Occupation:

Address: