

**WILLIAMS CORPORATION PTY LTD (IN LIQUIDATION)  
ACN 058 737 643**

**LIQUIDATORS' ACCOUNT OF ACTS AND DEALINGS  
IN THE WINDING UP OF THE COMPANY  
FROM 28 AUGUST 2016 TO 27 AUGUST 2017**

Ginette Muller and I were appointed Liquidators of the Company on 28 August 2013. This account, which has been prepared in accordance with the provisions of Section 508(1) of the *Corporations Act 2001 (Cth)* ("the Act"), covers the period from 28 August 2016 to 27 August 2017. As creditors are aware, Ginette Muller resigned as Liquidator of the Company on 8 September 2016. I am now the sole Liquidator in this matter.

In accordance with Section 1592 (Section 539(5) [Repealed]) of the Act, I give notice that six monthly statements of receipts and payments have been lodged with the Australian Securities and Investments Commission.

#### Receipts and Payments

A statement of my receipts and payments for the period 28 August 2016 to 27 August 2017 is **\*attached**.

#### Creditors' Claims

The following Proofs of Debt from creditors have been received:-

Class of Creditor	RECEIVED	
	Number of Proofs	Amount(\$)
Priority	1	13,795
Unsecured	59	9,355,484
<b>Total</b>	<b>60</b>	<b>9,369,279</b>

Unless funds are recovered from the voidable transaction claim against Carl ("Ben") Benjamin Williams it is not anticipated there will be a return to unsecured creditors in the Liquidation. Further details on the progress of this claim are provided below.

#### Investigation into the Affairs of the Company – Public Examination of Ben Williams

My investigations into the affairs of the Company revealed a claim against Ben Williams for \$1,195,824 ("the Claim") resulting from monies he removed from the Company prior to my appointment at a time when he was a director and/or shadow director.

In November 2016 a demand was issued to Ben Williams requiring repayment of the Claim. Numerous correspondences occurred with Ben Williams' lawyers, however, he has never provided evidence to support his assertions that all funds paid to him would be offset by a claim he allegedly has in the Company's Liquidation.

As a result of the above, I engaged solicitors to issue a summons to Ben Williams to be publicly examined. The public examination took place on 17 October 2017. The principal purposes of the examination were to:

- obtain further books and records of the Company so that I can complete my investigations regarding the examinable affairs of the Company;
- investigate the payments to Ben Williams, and determine whether I have any potential claims against him;
- assist me to form a view as to the capacity of Ben Williams to satisfy any judgment that may be entered against him arising out of any legal proceeding I may commence against him; and
- investigate whether I have any other potential claims on behalf of the Company.

Ben Williams was examined on the below specific topics, the outcomes of which are described in the bullet points.

1. Ben Williams failed to properly produce documents pursuant to the summons, despite his assertions he did provide proper evidence to support his claim in the Company. The potential inadequacy of his production of documents pursuant to the Summons.
  - Ben Williams did not accept that his production was inadequate. He asserted he had provided sufficient supporting information to the Liquidator in support of his proof of debt to evidence the balance of his 'running account' with the Company over time.
2. The background of the Port Hinchinbrook development and a chronology of events from prior to Ben Williams' appointment as director in April 2010 up to my appointment in July 2013. This topic included a review of the financial position of the Company over time.
  - There is sufficient evidence to confirm that the Company was insolvent from at least October 2011, or potentially earlier.
3. The role of Thea Williams following Ben Williams' resignation in July 2012, and whether Ben Williams acted as a shadow or de facto director after his resignation.
  - Ben Williams failed to adequately respond to questions surrounding acting as a shadow director. There is a reasonable prospect of establishing that Ben Williams continued to act as a de facto director following his resignation.
4. The Company's poor ATO compliance history.
  - The Company had a poor compliance history and Ben Williams had no plausible explanation for this. He asserted that the Company made many more payments to the ATO than the documents indicated. He was not able to provide any details regarding these alleged payments.

5. The necessity for the Company to obtain funding from other lenders in May 2010.
  - Ben Williams accepted that this loan was to provide working capital to the Company and that the loan amount included sufficient funds to enable the Company to pay interest on the loan. Ben Williams did not accept that this loan and its structure indicated that the Company's was in a difficult financial position.
6. The payments made by the Company to Ben Williams in the period from around 2009 to 2013. In particular.
  - Ben Williams said that he provided a line of credit to the Company that was drawn down and repaid over time according to his capacity and the Company's ability to make repayments. He refused to accept that the payments made to him were in his own personal interest causing detriment to the Company.
7. Ben Williams' personal financial position.
  - Ben Williams denied that he was a co-owner of Shuck Seafood Restaurant or that he had contributed any funds to its renovation. He disclosed a verbal agreement was in place for him to receive a percentage gross turnover, however, due to a restructure of the company that operated the restaurant, he was not receiving the full percentage.
  - Ben Williams stated that he was returning to property development work and has recently consulted for developers.
  - Ben Williams confirmed that he did not own any real estate, shares in public companies, or any other material assets. He also asserted that he was not the beneficiary of any trusts.

I believe there is still a reasonable cause of action against Ben Williams for breach of duty.

Unfortunately, we have been unable to identify any assets or significant income of Ben Williams that would enable him to satisfy any judgment that may be obtained against him. From what Ben Williams has advised during his examination, it appears he has no assets and this position is unlikely to change in the foreseeable future. For that reason, it is not commercially viable to take any further action against Ben Williams in respect of the identified claims.

Should Ben Williams' circumstances improve we can re-evaluate the position.

Should creditors have any details or evidence that may contradict the information provided by Ben Williams during his examination, I should be grateful to receive it.

## Outstanding Issues

### Property

Following settlement of the sale of the Company's property with The Passage Holdings Pty Ltd ("TPH") in September 2016, I secured a first mortgage over three lots to ensure liabilities attributed to the sale were covered in the event TPH did not pay them.

On 7 August 2017, TPH was placed into liquidation following an order of the Supreme Court of Queensland. I am informed the second mortgagee has taken possession of the TPH land and I am in discussions with them regarding payment of the liabilities and the removal of the first mortgage.

**Estimated completion of winding up**

I estimate that this Liquidation will be finalised within the next 6 – 12 months.

Should you have any queries in relation to this matter, please contact Renee Lobb on either (07) 3225 4976 or via email to [Renee.Lobb@fticonsulting.com](mailto:Renee.Lobb@fticonsulting.com).

DATED: 23 November 2017



**Joanne Dunn**  
**Liquidator**

**\*Attach.**

Our Ref: RCL\_434233Annual RTC 2017 Liquidators Account of Acts & Dealings

**Statement of Receipts and Payments**  
for the Period 28 August 2016 to 27 August 2017

<b>Receipts</b>	<b>(\$)</b>
Filing Fees	261.70
Land Rent	2,454.92
GST Control: GST Paid (Received)	270,042.00
Interest Income	150.06
Interests In Land	2,455,000.00
Land Rent	69,103.48
Registrar's Fees	9,775.00
Settlement Adjustments	207,554.02
Stamp Duty	135,200.00
<b>Total Receipts</b>	<b>3,149,541.18</b>
<b>Payments</b>	
Sundry Expenses	(609.00)
Agent's Fees	(495.00)
Appointee Disbursements	(188,013.04)
Commission	(73,975.00)
Document Storage	(165.00)
Fees: Appointee Fees	(1,838,100.00)
Filing Fees	(1,922.40)
Insurance	(8,425.63)
Land Rent	(70,011.32)
Legal Fees	(631,402.60)
Mortgage Registration & Release Fees	(9,775.00)
Registrar's Fees	(33.00)
Secured Creditors (Fixed): Claims	(120,154.00)
Stamp Duty	(135,958.30)
<b>Total Payments</b>	<b>(3,079,039.29)</b>
<b>Net Receipts (Payments)</b>	<b>70,501.89</b>