



## **MAINZEAL GROUP LIQUIDATION**

### **Liquidators' Six-Monthly Report to Creditors and Shareholders**

Pursuant to Section 255 of the Companies Act 1993

Reporting Period: 28 February 2023 to 28 August 2023

## 1. Introduction

Brian Mayo-Smith and Andrew James Bethell (IP5), of BDO Auckland and Stephen John Tubbs, of BDO Christchurch, all Chartered Accountants (“the Liquidators”), were appointed joint and several liquidators of the below Companies on 28 February 2013 by special resolution of the shareholders in accordance with Section 241(2)(a) of the Companies Act 1993 (“the Act”) with approval of the High Court.

- Mainzeal Property and Construction Limited (“MPCL”)
- Mainzeal Living Limited (“MLL”)
- 200 Vic Limited
- Mainzeal Group Limited
- Building Futures Group Holdings Limited
- Building Futures Group Limited
- Mainzeal Residential Limited
- Mainzeal Construction Limited
- Mainzeal Limited
- Mainzeal Construction SI Limited
- MPC NZ Limited
- RGRE Limited

(together “the Companies”)

Stephen Tubbs retired as liquidator on 8 December 2016 prior to his retirement from BDO Christchurch. On 30 August 2021 and as a result of legislative changes, Brian Mayo-Smith retired as liquidator and BDO Auckland partner, Andrew McKay (IP40), was appointed replacement liquidator.

There have been no changes to the Declaration of Independence, Relevant Relationships and Indemnities set out in our previous report.

The Liquidators were earlier appointed liquidators of King Facade Limited (“KFL”) on 12 February 2013 also by special resolution of the shareholders in accordance with Section 241(2)(a) of the Act.

In accordance with Section 255 of the Act we are obliged to report to all creditors and shareholders on the conduct of the liquidation during the preceding six-month period. We report on all the Companies and KFL together using 28 February 2013 as the liquidation commencement date.

This report should be read in conjunction with our previous reports for the Companies and KFL pursuant to Section 255(2)(c) of the Act.

## 2. Restrictions

This report is not intended for general circulation, nor is it to be reproduced or used for any purpose other than that outlined above without our written permission in each specific instance.

We do not assume any responsibility or liability for any losses occasioned to any party as a result of the circulation, publication, reproduction or use of this report contrary to the provisions of this paragraph.

---



We reserve the right (but will be under no obligation) to review this report and if we consider it necessary to revise the report in the light of any information existing at the date of this report which becomes known to us after that date.

### **3. Conduct of the liquidation within the reporting period**

#### **Litigation against MPCL's directors and KFL**

On Friday 25 August 2023, the Supreme Court released its judgment in relation to the directors' appeal and Liquidators' cross appeal.

The Supreme Court dismissed the appeals by the directors and in part allowed the cross appeal of the Liquidators. The Supreme Court ordered the directors to contribute to the assets of the Companies \$39.8m together with interest at the prescribed rates for the period from 28 February 2013 to the date of the Judgment. Dame Shipley and Messrs Tilby and Gomm are liable for \$6.6m each plus interest and Mr Yan is liable for the full judgment sum. With interest, the judgment sum exceeds \$60m.

In addition, the directors were ordered to pay costs of \$65,000 plus disbursements.

Initial calculations indicate that Dame Shipley and Messrs Tilby and Gomm would be liable for a further \$3.4m each in respect of the interest component, making their individual liability of approximately \$10m.

#### **Recovery Action**

The Liquidators have:

1. sealed the Supreme Court's judgment;
2. made demand that the directors make payment of the judgment sum plus including interest and costs; and
3. asked for the release of the bank bond provided/put up as security for costs.

The Liquidators are conferring with their legal advisers on the next steps regarding recovery of the judgment sums. Proposed future actions will include enforcement of the Supreme Court judgment on the directors by issuing and pursuing bankruptcy proceedings against any or all of them, if required.

#### **Future Distribution**

Once recovery action has been progressed, funds recovered and litigation costs settled, the Liquidators intend to make an interim distribution to all admitted unsecured creditors. The quantum of such distribution will be dependent on the sums recovered.

#### **Receipts and payments**

Attached as **Appendix 1** is a Statement of Receipts and Payments for the reporting period.

#### **Creditor claims**

##### **Preferential creditors**

Preferential creditors have been paid in full.

---



## Unsecured Creditors

Of the approximately 1,400 claims totaling \$158.3m received from creditors of the Companies and KFL, a total of 1,390 claims have been admitted either in full or in part totaling \$111m.

## 4. Further proposals for completing the liquidation

The Liquidators propose at this stage to take the following further actions:

- Pursue recovery of the sums awarded by the Supreme Court;
- Respond to creditor queries;
- Comply with statutory obligations; and
- Distribute available funds to unsecured creditors.

The Liquidators will take further action as appropriate should additional information regarding the Companies' affairs come to the Liquidators' attention. Further actions will be subject to the availability of funding and an assessment of the benefits of pursuing recoveries.

### Likely distribution to unsecured creditors

We expect that there will be some funds available for distribution to unsecured creditors and intend making a interim distribution in the next reporting period. The quantum of any ultimate distribution to unsecured creditors will depend on recoveries.

## IMPORTANT NOTICE

Attached to this report is a separate letter requesting that all admitted creditors confirm their email address and provide their bank account details. Please provide the requested information by emailing it to [Mainzeal.creditors@bdo.co.nz](mailto:Mainzeal.creditors@bdo.co.nz).

### Estimated Date of Completion

It is not practical to estimate the date of the completion of the liquidation at this stage. Our subsequent reports to creditors and shareholders will, when appropriate, advise of an estimated completion date.

## 5. Liquidators' Remuneration

Attached as **Appendix 2** is a breakdown of the Liquidators' fees for the reporting period.

## 6. Contact Information

If you require any further information, please direct enquiries to:

Adrienne Stone ([adrienne.stone@bdo.co.nz](mailto:adrienne.stone@bdo.co.nz))  
BDO Auckland  
PO Box 2219  
Level 4 BDO Centre  
4 Graham Street  
Auckland 1140

---



Dated this 21st day of September 2023.

A handwritten signature in black ink, appearing to read 'A. McKay'.

Andrew McKay  
Liquidator

## Appendix 1 - Receipts and Payments

Receipts and Payments	
28 February 2023 to 28 August 2023	\$'000
<b>Opening Balance</b>	<b>5,715</b>
<b>Receipts</b>	
Litigation Funding	37
Net Interest	100
Net GST	2
<b>Total Receipts</b>	<b>139</b>
<b>Payments</b>	
Legal Fees	10
Liquidators' Remuneration	8
Records Storage	28
Administrative Expenses	4
IT Hosting	2
<b>Total Payments</b>	<b>52</b>
<b>Net Receipts/ (Payments)</b>	<b>87</b>
<b>Funds on Hand</b>	<b>5,803</b>



## Appendix 2 - Liquidators' Remuneration

	Hourly Rate	Administration &		Creditors		Investigation		Reporting		Total	
		Hours	Cost	Hours	Cost	Hours	Cost	Hours	Cost	Hours	Cost
Partners	\$ 700	2.00	1,400.00	0.00	0.00	0.00	0.00	0.00	0.00	2.00	1,400.00
Associate	\$ 398	0.50	200.00	1.50	596.00	0.00	0.00	2.00	796.50	4.00	1,592.50
Senior Manager	\$ 570	0.25	142.50	0.25	142.50	1.50	855.00	1.00	570.00	3.00	1,710.00
Support Staff	\$ 250	12.25	3,062.50	0.00	0.00	0.00	0.00	0.00	0.00	12.25	3,062.50
<b>Total</b>		<b>15.00</b>	<b>4,805.00</b>	<b>1.75</b>	<b>738.50</b>	<b>1.50</b>	<b>855.00</b>	<b>3.00</b>	<b>1,366.50</b>	<b>21.25</b>	<b>7,765.00</b>

### Detail of Work Completed

Administration & Trading	Attend to general administration, accounts payable, and record maintenance
Creditors	Attend to creditors queries and update creditors' contact details
Investigation	Attend to litigation related matters
Reporting	Attend to statutory reporting