

# RSM Bird Cameron Partners

Chartered Accountants

RSM Bird Cameron Partners

20 April 2012

Mr Tim Bryant  
Committee Secretary  
Senate Economics References Committee  
Po Box 6100  
Parliament House  
Canberra, ACT 2600

**Via Email – [economics.sen@aph.gov.au](mailto:economics.sen@aph.gov.au)**

Dear Mr Bryant

**The Hollioake Group Pty Ltd (Controller Appointed) (In Liquidation)  
ACN 091 388 724 (“the Company”)  
As Trustee for the Holysmoke Trust**

I refer to your letter dated 4 April 2012 in relation to an enquiry being undertaken by the Senate Economics References Committee into the post GFC banking sector.

I was appointed Official Liquidator of the Company on 14 September 2010 pursuant to an order of the Federal Court. This appointment was the outcome of a successful winding up application filed by the Deputy Commissioner of Taxation. The Deputy Commissioner of Taxation has subsequently lodged a proof of debt in the administration in the amount of \$1,083,748.22

The Company operated a Property Development business in the Perth metropolitan area. Mr John Hollioake was the sole director of the Company at the date of my appointment. My report to creditors dated 5 December 2011 (attached) provides further background information regarding my investigations of the Company's affairs.

Prior to my appointment as Official Liquidator the Commonwealth Bank of Australia (CBA) appointed a Receiver and Manager over all the assets and undertaking of the Company. Bankwest also prior to my appointment took control of two Company properties as Mortgagee in Possession. The Receivers and Manager and Bankwest have realised the secured assets. The funds realised have been insufficient to discharge CBA and Bankwest's secured debt.

I have subsequently received proofs of debt from CBA (\$696,450.72) and Bankwest (\$2,922,149.34).

The unsecured liabilities of the Company currently approximate \$15,065,611.27. I expect that the total amount of these claims will increase slightly as additional proofs of debt are received from the Company's creditors. This figure differs from the one provided in my report to creditors (December 2011) primarily due to the CBA and BankWest subsequently lodging claims as unsecured creditors for the shortfall of loans owing by the Company.

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I am presently adjudicating proof of debts received from creditors. I have received a claim of \$846,131.11 from Ms Eboni Bullock (Holloioake) comprising of "untaken salary" and "money initially deposited" into the Company by the Late Ben Hollioake and apparently subsequently transferred into Ms Bullock's name.

I recently sought further particulars from Ms Bullock in order to verify her claim. The books and records of the Company are deficient and this has hindered my adjudication of Ms Bullock's claim and therefore the need for further particulars.

I have no objections with this letter being made a public document.

Should you have any further queries in this matter, please contact myself or Mr Jerome Mohen of this office on (08) 9261 9449.

Yours Sincerely

MARK CONLAN  
Official Liquidator

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## THE HOLLIOAKE GROUP PTY LTD (CONTROLLER APPOINTED) (IN LIQUIDATION)

ACN: 091 388 724

As Trustee for the Holysmoke Trust  
("the Company")

### REPORT TO CREDITORS

5 December 2011

DATE OF MEETING OF CREDITORS: 20 December 2011

AT THE OFFICES OF: RSM Bird Cameron Partners

DATE OF APPOINTMENT OF :  
14 September 2010

APPOINTEE:  
Mark Conlan



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- A – Declaration of Independence, Relevant Relationships and Indemnities
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### Enclosures

- Notice of Meeting
- Proxy Form
- Formal Proof of Debt
- ASIC Information Sheet Summary

## 1. Introduction

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I was appointed as the Official Liquidator of the Company pursuant to an Order of the Federal Court of Australia on 14 September 2010. The application for the winding up of the Company was made by the Deputy Commissioner of Taxation ("DCT").

Attached as Annexure A is my Declaration of Independence, Relevant Relationships and Indemnities ("DIRRI").

A summary of the pertinent aspects of the winding up of the Company are as follows:

- I have received a Report as to Affairs ("RATA") and a director questionnaire.
- To date I have received a limited quantity of books and records of the Company.
- The Company acted as Trustee for the Holysmoke Trust and operated a Property Development business in the Perth metropolitan area. The Company ceased trading at the date of my appointment as liquidator. .
- Mr John Hollioake ("the Director") was the sole director at the date of my appointment.
- The Company has registered fixed and floating charges in favour of the Bank of Western Australia Limited ("BankWest") and the Commonwealth Bank of Australia ("CBA").
- BankWest and CBA, or more particularly their agents, have taken possession of all of the properties of the Company. BankWest is acting as Mortgagee in Possession for two of the properties of the Company and is the Controller.
- Mr James Donnelly of Grant Thornton was appointed as Receiver and Manager ("R&M") over all of the assets and undertakings of the Company on 23 August 2010 by the CBA.
- The R&M realised assets and subsequently ceased to act on 30 May 2011.
- BankWest and CBA have both advised that after the sale of the Companies properties shortfalls will exist of approximately \$4,517,000 and \$668,000 respectively.
- The Company has unsecured liabilities of \$9,310,180.
- The Director became a bankrupt on 14 October 2011.
- I have successfully recovered \$201,837 from the DCT for preference payments it received from the Company.

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- A dividend estimated at between 0.87 cents and 0.99 cents in the dollar is likely to be paid to ordinary unsecured creditors, after the costs, charges and expenses of the winding up. The final dividend position will be dependent upon further recoveries (if any) and the quantum of admitted claims and liquidation costs.
- I will be declaring a dividend to ordinary unsecured creditors in the near future and encourage creditors to complete and return the enclosed Form 535 Formal Proof of Debt form.
- The results of my investigations are set out in the body of this report.

A meeting of creditors will be held at the offices of RSM Bird Cameron Partners on Tuesday, 20 December 2011 to consider the progress of the winding up, to approve my remuneration and to consider the other matters outlined in the attached agenda. Creditors who wish to attend are requested to arrive prior to the commencement of the meeting to allow for a review of their paperwork and completion of the attendance register. Corporate creditors are advised that a Proxy Form must be completed and signed by a director. Creditors are advised that all Proofs of Debt and Proxy Forms must be forwarded to my office no later than 4.00pm the day prior to the meeting. They can be submitted via facsimile on (08) 9261 9340 or email [jerome.mohen@rsmi.com.au](mailto:jerome.mohen@rsmi.com.au).

The Director has advised that the reason for the Company's financial difficulties was due to an inability to secure funding for a project in Mount Pleasant. The Director believes that the funds from this project would have enabled further developments and projects of the Company to continue and the profits realised would have been sufficient to reduce the Company's debt. The Director advised that due to the lack of funds the Company was unable to meet its current obligations including the interest payments owed to BankWest which lead to BankWest defaulting the Company's current loan. . Based on the investigations and information provided to date, I have formed the view that the causes of failure were poor strategic management, as the Company traded with a high working capital gearing ratio whereby current liabilities were substantially in excess of current assets. Although the Company had several large assets on hand they were unable to realise these assets in time to pay its debts as and when they fell due.

If creditors have any information which may assist my investigations they should consider attending the forthcoming meeting or otherwise contact Jerome Mohen of my office within 21 days of the date of this report.

There are a number of information sheets published by Australian Securities and Investments Commission ("ASIC") and the Insolvency Practitioners Association of Australia ("IPA") outlining the rights and responsibilities of creditors along with information regarding the liquidation process generally may be downloaded from [http://www.rsmi.com.au/services/turnaround\\_and\\_insolvency.html](http://www.rsmi.com.au/services/turnaround_and_insolvency.html) or [www.asic.gov.au](http://www.asic.gov.au). A summary of these information sheets is enclosed.

## 2. Statutory Information

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The statutory information for the Company is set out below. This information was obtained from a search of the ASIC database.

Company name	The Hollioake Group Pty Ltd (Controller Appointed) (In Liquidation) Formerly known as "Holy Smoke Developments Pty Ltd (ceased 17 February 2002)
ACN	091 388 724
Registered Office Address	Advanced Taxation Consultants 47A Kirwan Street FLOREAT WA 6014
Principal Place of Business	Unit 5 Benjamin Heights 47 Mount Street WEST PERTH WA 6005
Date of incorporation	31 January 2000
Registered Charges	Debenture creating fixed and floating charges over all the assets of the Company registered on 5 June 2007 in favour of BankWest.  Debenture creating fixed and floating charges over all the assets of the Company registered on 14 March 2008 in favour of BankWest.  Debenture creating fixed and floating charges over all the assets of the Company registered on 13 December 2007 in favour of CBA.  Debenture creating fixed and floating charges over all the assets of the Company registered on 30 June 2008 in favour of CBA.
Director	John Francis Hollioake
Former Directors	Adam John Hollioake (ceased 24 November 2009) Eboni Biarnca Hollioake (ceased 24 November 2009)
Related Entities	ChaseGold Pty Ltd Rawpower Enterprises Pty Ltd Decksides Holdings Pty Ltd Core National Pty Ltd
Authorised & issued share capital	3 ordinary shares fully paid at \$1.00 each
Shareholders	John Francis Hollioake      1 ordinary share Adam John Hollioake        1 ordinary share Eboni Biarnca Hollioake    1 ordinary share

## **3. Financial Information**

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### **3.1 Books and Records**

I have received a quantity of books and records from the Director and the Company's accountant. The books and records provided include unsigned draft financial statements up to 30 June 2008, a range of tax invoices, a quantity of related party documentation and accounting software data files with transactions recorded up until 10 June 2009.

My staff were able to access the accounting software data files referred to in the preceding paragraph, and, without introducing any further financial data, produced balance sheets and profit and loss accounts ("Management Accounts") for the financial year ending 30 June 2009 and 30 June 2010.

The Management Accounts record properties that had been sold as assets therefore overstating the net asset position. There is also a distinct lack of source documents making the Company books and records most likely un-auditable. Section 286 of the Corporations Act ("the Act") requires a Company to keep written financial records that correctly record and explain its transactions, financial position and performance that would enable true and fair financial statements to be prepared and audited. This section also requires a Company to retain its financial records for a period of seven (7) years after the transactions covered by the records are completed.

At this stage, I consider that the Company has not complied with Section 286 of the Act in relation to maintaining its books and records. The Company has failed to maintain books and records from 11 June 2009 to the date of my appointment which truly and accurately reflect the financial position of the business. On this basis and in accordance with Section 286 of the Act it is possible that a claim exists that the Company traded whilst insolvent from 11 June 2009 to 14 September 2010.

### **3.2 Report as to Affairs**

On 14 September 2010 I requested a RATA and director questionnaire detailing the assets and liabilities of the Company and circumstances leading to the winding up of the affairs of the Company. On 12 October 2010 I received a completed RATA and director questionnaire.

The RATA is summarised in the following table. The table also includes the book value and estimated realisable value ("ERV") and also my opinion regarding the likely ERV based on my enquiries conducted to date.



	Notes	Book Value \$	ERV \$	Liquidator's ERV \$
<b>ASSETS</b>				
Assets Subject to Specific Charges	3.2.1	12,500,000	11,350,000	Unknown
Total Assets		12,500,000	11,350,000	Unknown
<b>LIABILITIES</b>				
Statutory Liabilities	3.2.2	890,000	890,000	882,947
Unsecured Creditors	3.2.3	9,162,547	8,369,416	8,427,232
Partly Secured Creditors	3.2.4	400,000	400,000	Unknown
Secured Creditors	3.2.5	9,513,320	9,513,320	9,672,651
Total Liabilities		19,965,867	19,172,736	Unknown
<b>Surplus / (Deficiency)</b>		<b>(7,465,867)</b>	<b>(7,822,736)</b>	<b>Unknown</b>

Note: - The above financial analysis does not include the costs of the winding up.

### 3.2.1 Assets Subject to Specific Charges

At the date of my appointment the Company owned three (3) properties.

BankWest is acting as Mortgagee in Possession for two (2) of these properties located at Queens Road, Mount Pleasant and Star Street, Welshpool. BankWest has advised me that they have not yet finalised the sale of these properties but expect settlement of these properties in the near future. At this stage I am unable to verify the ERV of these properties.

The R&M appointed by CBA has sold the Company's other property in Mount Street, West Perth for \$2,586,273.

### 3.2.2 Statutory Liabilities

The DCT has submitted a formal proof of debt to me in the amount of \$882,947.22.

The proof of debt lodged by the DCT, will likely increase by the amount of \$201,837.00 being the amount of unfair preference payments recovered by me from the DCT. Full details of unfair preferences are at section 5.1.1 of this report.

### 3.2.3 Unsecured Creditors

Further to the outstanding statutory liabilities the Director's RATA and my investigations have identified forty six (46) unsecured creditors in the amount of \$8,369,416. I expect that these claims will increase slightly as additional creditor invoices are received.

Table 1 below lists the major unsecured creditors including related parties.

<b>Name</b>	<b>Amount (\$)</b>
John and Daria Hollioake	1,542,287
Martin Ryman	1,500,000
Rawpower Enterprises Pty Ltd	1,300,000
Adam and Sherryn Hollioake	1,017,581
Deputy Commissioner of Taxation	882,947
Eboni and Stephen Bullock	846,131
Waters Investment Trust	558,000
Harden-Jones Architects	340,844
Other unsecured creditors (38)	1,322,390
<b>Total</b>	<b>9,310,180</b>

**Table 1: Unsecured Creditors**

### **3.2.4 Partly Secured Creditors**

The Director's RATA recorded Wallis Investments as a partly secured creditor in the amount of \$400,000.00.

### **3.2.5 Secured Creditor**

As noted above, both BankWest and CBA have two (2) fixed and floating charges over the Company.

BankWest is acting as Mortgagee in Possession for two of the Companies properties at Queens Road, Mount Pleasant and Star Street, Welshpool. BankWest is yet to finalise their dealings with the Company's properties, but have advised me that they expect an amount of approximately \$4,517,000 to remain owing to the bank after the sale of the two properties.

The CBA, appointed Mathew James Donnelly of Grant Thornton as Receiver and Manager ("R&M") over all of the assets and undertakings of the Company on 23 August 2010. The R&M resigned on 30 May 2011. I understand the R & M's activities were essentially restricted to the realisation of the property at Mount Street in West Perth. After the sale of the property and the costs, expenses and charges of the R&M were met the CBA has advised that a shortfall of approximately \$668,000 exists.

The effect of the R&M appointment is that all assets of the Company subject to BankWest and CBA's security vests with them until they retire. After the retirement of the R&M I reviewed the asset position of the Company. It appears all assets have been realised by BankWest and the R&M. However, as discussed at section 3.2.6 I am undertaking further enquiries to confirm this position.

The pertinent aspects of investigating the validity, or otherwise, of a charge is establishing various elements such as the provision of fair consideration giving rise to the creation of a charge, registration of the charge and whether the charge is able to be voided by a Liquidator. Finally, it is necessary to establish whether the charge is able to be voided due to the charge being granted to a related party who enforces it within 6 months of creation.

Certain charges are voidable by a liquidator:

- Floating charges created within six months of the liquidation unless valuable consideration is provided as consideration for the charge;
- Unregistered charges; and
- Charges in favour of related parties who attempt to enforce the charge within 6 months of its creation.

I have reviewed this information and I am satisfied as to the validity of the security.

### **3.2.6 Debtors**

The management accounts of the Company records debtors in the amount of \$344,417. The main debtor recorded in the Company records is an individual recorded as owing \$300,000. The Director has advised that this debtor and all others have been collected before my appointment. I intend to undertake further investigations to confirm that there are no outstanding debtors of the Company.

I have also written to all local government councils in the metropolitan area to enquire whether there are any development related bonds being held which are payable to the Company. As at the date of this report I am yet to receive any positive responses of any of the councils.

## 4. Initial Enquiries

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### 4.1 Investigations

I have undertaken various searches as set out below:

- Bank account searches were conducted with numerous financial institutions to ascertain where the Company held bank accounts. Bank accounts were identified with the CBA, BankWest and Suncorp Bank (“Suncorp”).
  - The CBA and BankWest bank accounts were heavily overdrawn at the date of my appointment.
  - The Suncorp bank account had a balance of credit funds in the amount of \$2,208.64 which I have since realised and applied in the liquidation.
- Property searches identified properties in the name of the Company. As stated at section 3.2.1 above BankWest and CBA appointed a Controller and Receiver and Manager respectively over all the properties of the Company. No other properties, other than those that have been dealt with by BankWest and CBA, have been identified. I have also conducted investigations into past sales of the Company’s previous properties. Prima facie it appears that past sales of land appear to be at arm’s length and at fair value, barring one sale discussed further at section 5.1.5 of this report.
- Motor Vehicle searches revealed seven (7) vehicles in the name of the Company. Five (5) of these vehicles were subject to Prestige Purchase Agreements with BMW Financial Services. The other two (2) vehicles were subject to term purchase agreements with Capital Finance Australia Limited. I have assessed whether there is any equity in these vehicles. This was performed by comparing the payout value to a market value and auction value provided for each vehicle by an independent certified valuer and auctioneer. Each vehicle’s payout figure was greater than the market and auction value. Accordingly there was no equity in any of the vehicles so I disclaimed each agreement.
- A search of the state Sheriff’s Office indicates that the Sheriff does not hold any goods, monies or unexecuted warrants or writs for the six months prior to my appointment.
- Searches of the state Office of State Revenue and ASIC websites have not identified any unclaimed monies in the Company’s name.
- A search of the National Personal Insolvency Index confirms that the Director was made bankrupt via a debtor’s petition presented on 14 October 2011. The trustee of his bankrupt estate has advised that a return to creditors is unlikely at this point in time.
- An ASIC personal name search of the Director indicates that he is the current director of ChaseGold Corporation Pty Ltd and was the former director of Rawpower Enterprises Pty Ltd, Decksides Holdings Pty Ltd and Core National Pty Ltd. The Director’s bankruptcy on 14 October 2011 precludes him from acting in any capacity as an officer of a Company.

- A search made pursuant to the Freedom of Information Act was made of the Australian Taxation Office.

## 4.2 Report to ASIC

I am required to lodge a report with ASIC pursuant to Section 533 of the Act in circumstances where a past or present officer may have been guilty of an offence, or if it is unlikely that the Company will be able to pay its unsecured creditors more than 50 cents in the dollar.

I confirm that such a report is required in this case as it appears that there will not be a dividend to creditors of more than 50 cents in the dollar and I have lodged my report accordingly. ASIC have advised that they do not intend to commence further investigations in this matter and do not object to this winding up being finalised.

## 5. Voidable Transactions, Insolvent Trading and Director Duties

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Pursuant to Part 5.7B of the Act, a liquidator may void certain transactions of a company in respect of money, property or other benefits for the benefit of creditors. Such voidable transactions may consist of:

### 5.1 Voidable Transactions

#### 5.1.1 Unfair Preference (Section 588FA)

These are transactions between the Company and a creditor resulting in the creditor receiving more than the creditor would receive if the transactions were set aside and the creditor claimed for this amount in the winding-up. Any such voidable transactions must arise in the period beginning six months prior to the relation back day and ending on the date of liquidation.

The DCT filed an application to wind up the Company on 3 May 2010, making the relation back period where preferences can be identified 4 November 2009 to 14 September 2010.

The Company made two (2) payments to the DCT during the relation back period, in the amount of \$201,837.00. Table 1 below sets out the details of the two (2) payments.

Date Paid	Amount (\$)
4 December 2009	101,837.00
5 January 2010	100,000.00
<b>Total</b>	<b>201,837.00</b>

**Table 1: Preference Payments**

These payments were made at a time where the Company was insolvent. A detailed insolvent trading analysis is at section 5.2 of this report. Given a history of contact between the Company and the DCT evidencing the Company's insolvency issues, the fact that the Company had outstanding Income Tax Returns for 2008 and 2009 and the Company's poor history with complying to its statutory taxation liabilities the DCT ought to have had reasonable grounds to suspect the Company was insolvent when the payments were made. At the date the DCT received the payments from the Company it was established that there was a number of unsecured creditors and these creditors remained unpaid at the time of each payment and at the date of my appointment. Taking into account the above facts the DCT received two (2) unfair preference payments from the Company.

Accordingly, I sent a demand to the DCT for repayment of the two (2) preference payments. I have successfully recovered the two (2) unfair preferences in the amount of \$201,837.00 and intend to apply these funds in the liquidation. After the costs, charges and expenses of the winding up, the funds received from this unfair preference claim will be disbursed in a dividend to unsecured creditors to be declared at a later date. Further detail of returns to creditors is at section 6.2 of this report.

My investigations identified a further payment to the DCT of \$100,000 on 3 November 2009. I initially demanded repayment of this amount from the DCT. The DCT rejected this claim on the grounds that 3

November 2009 was not part of the preference period. I sought independent legal advice on this issue which verified the DCT position that the payment of \$100,000 on 3 November 2010 was not a preference payment as it fell outside the preference period which is 4 November 2009 to 14 September 2010.

To date I have not identified any further unfair preference claims, however my investigations into this area is still ongoing. I will report back to creditors if any further recoveries are made in this regard.

## **5.1.2 Uncommercial Transactions (Section 588FB)**

These are transactions entered into that a reasonable person would not have entered into having regard to the benefit to the Company, the detriment to the Company and the benefit to the other parties involved in the transaction. In this instance, it is not necessary for a creditor to be a party to the transaction. Such transactions are only voidable if the Company was insolvent at the time of the transaction.

Based on the investigations conducted to date I have not identified any uncommercial transactions.

## **5.1.3 Insolvent Transactions (Section 588FC)**

These transactions are unfair preferences or uncommercial transactions (refer above) entered into when the Company was insolvent or became insolvent as a result of entering into the transaction. Only unfair preferences which have occurred within six months of the relation back day and uncommercial transactions which have occurred within two years of the commencement of the liquidation can be recovered.

Based on the investigations conducted to date I have not identified any insolvent transactions.

## **5.1.4 Unfair Loans to a Company (Section 588FD)**

These transactions are those representing loans made to the Company where interest or other charges on the loan were extortionate. These transactions can be recovered regardless of when they were entered into.

Based on the investigations conducted to date I have not identified any unfair loans.

## **5.1.5 Unreasonable Director-Related Transactions (Section 588FDA)**

These are transactions that a reasonable person in the Company's circumstances would not have entered into having regard to the benefit to the Company (and other parties to the transaction) and the detriment to the Company. These transactions may be voided if they occurred within four years of the relation back day.

My investigations have revealed that a property owned by the Company in Victoria Park was transferred to the Director in November 2008. Although the consideration of \$600,000 appears to be fair I am yet to be able to verify whether the Company received these funds, and if so whether it was in the way of cash or reduction in Company debt. In June 2009 the Director transferred the land to an unrelated party for \$570,000.

### **5.1.6 Related Party Transactions (Section 588FE(4))**

The above transaction may be a voidable transaction against the director if the Company did not receive any consideration from the Director for the transfer of land. Such a claim would depend on the Directors ability to pay the claim. The Director is currently bankrupted and his ability to pay such a claim for an Unreasonable Director-Related Transaction is discussed in greater detail at Section 5.2.1 of this report.

These transactions are those representing insolvent transactions (unfair preferences or uncommercial transactions) with a related party within four years prior to the relation back day.

Based on the investigations conducted to date I have not identified any related party transactions.

### **5.1.7 Transactions Entered into for the Purpose of Defeating Creditors (Section 588FE(5))**

These transactions are those representing insolvent transactions (unfair preferences or uncommercial transactions) entered into for the purpose of defeating, delaying or interfering with the rights of creditors within ten years prior to the commencement of the liquidation.

Based on the investigations conducted to date I have not identified any transactions entered into for the purpose of defeating creditors.

## **5.2 Insolvent Trading**

In the following circumstances, directors may be personally liable for insolvent trading by the Company:

- A person is a director at the time a company incurs a debt;
- The Company is insolvent at the time of incurring the debt or becomes insolvent because of incurring the debt;
- At the time the debt was incurred, there were reasonable grounds to suspect that the Company was insolvent;
- The director was aware such grounds for suspicion existed; and
- A reasonable person in a like position would have been so aware.

The law provides that the liquidator, and in certain circumstances the creditor who suffered the loss, may recover from the director, an amount equal to the loss or damage suffered. Similar provisions exist to pursue holding companies for debts incurred by their subsidiaries.

A defence is available under the law where the director or holding company can establish:

- There were reasonable grounds to expect that the Company was solvent and they actually did so expect;



- They did not take part in management for illness or some other good reason; or,
- They took all reasonable steps to prevent the Company incurring the debt.

The proceeds of any recovery for insolvent trading by a liquidator are available for distribution to the unsecured creditors before the secured creditors.

As stated above at Section 3 of this report the Company did not produce books and records from 11 June 2009 and is therefore deemed insolvent from this date in accordance with section 286 of the Act. A more in-depth analysis of the insolvency issues faced by the Company is discussed below.

It is my preliminary view, based on the management accounts as summarised below, that the Company was balance sheet and cash flow insolvent from at least 30 October 2009 if not before. As shown below, the Company operated with a working capital deficiency from at least 30 June 2007.

Working capital is representative a company's capacity to meet its current liabilities by the application of its current assets. A shortfall in current assets to meet current liabilities is an indicator of cash flow insolvency. A decline in the working capital position is often a pre-cursor to insolvency.

As stated at section 3 of this report I cannot verify the accuracy of the management accounts maintained by the Company. The management accounts record properties that had been sold prior to the reporting date in the asset section of the Company's balance sheet. This has lead to the 30 June 2009 net asset position to be largely overstated. If the disposal of the properties had been correctly recorded in the Company's management accounts the 30 June 2009 net asset position would be similar to that recorded at 30 June 2007 and 30 June 2008.

	Draft Financial Statements		Management Accounts	
	Financial Year-Ended 30/06/2007	Financial Year-Ended 30/06/2008	Financial Year-Ended 30/06/2009	Financial Year-Ended 30/06/2010
	\$	\$	\$	\$
Current Assets	957,462	1,245,739	576,552	No Financial Records Kept
Current Liabilities	7,294,632	6,700,622	4,644,910	
Working Capital	(6,337,170)	(5,454,883)	(4,644,910)	
Current Ratio	0.13	0.19	0.12	
Non-Current Assets	16,341,553	14,958,213	28,260,550	
Non-Current Liabilities	15,322,363	16,166,783	14,294,395	
Net Assets / (Liabilities)	(5,317,980)	(6,663,453)	9,897,798	

**Table 2: Summary of Financial Position**

Table 3 shows that the Company incurred large losses for the financial years ended 30 June 2007 and 30 June 2008. Those losses largely arose because revenue from the sale income was insufficient to meet the operation costs. Creditors should note that the profit shown for the period ended 30 June 2009 may not be accurate due to the reasons discussed previously in this report..

	Draft Financial Statements		Management Accounts	
	Financial Year-Ended 30/06/2007	Financial Year-Ended 30/06/2008	Financial Year-Ended 30/06/2009	Financial Year-Ended 30/06/2010
	\$	\$	\$	\$
Income	1,507,246	14,755,734	14,056,255	
Expenses	2,995,959	16,101,207	2,981,914	No Financial
Net Profit / (Loss)	(1,488,713)	(1,345,473)	11,074,341	Records Kept

**Table 3: Summary of Financial Performance**

The Company conducted a cheque account with CBA and a business bonus account with BankWest. These accounts were consistently overdrawn with overdrawn balances of \$132,638 and \$408,512 owing to CBA and BankWest respectively at the date of my appointment.

At 30 June 2007, the running balance account maintained by the DCT recorded the sum of \$30,086 as due and payable by the Company. The debt escalated to \$882,947 as at the date of my appointment.

From January 2009, the Company entered into various payment arrangements with the DCT to repay the escalating debt owing to the DCT. The Company defaulted on each payment arrangement leading to the DCT filing an application to wind up the Company on 3 May 2010.

In November 2009 the Company defaulted on a payment arrangement with the DCT and was also unable to pay the Goods and Services Tax recorded on the Company’s October Business Activity Statement (“BAS”). At this point in time the Company sought to refinance its activities by obtaining further finance from Suncorp. Notwithstanding that the Company was able to re-finance with Suncorp, the Company did not have sufficient margin in its overdraft facilities (or excess accommodation) with Suncorp, CBA or BankWest to pay its debts in full.

The default on payment for the October BAS, the continued history of failed payment arrangements with the DCT and the fact that further finance gained through Suncorp did not discharge all Company debt in full, indicates the Company was trading whilst insolvent at 30 October 2009 if not earlier.

In these circumstances there may be provable claims against the Director and the former directors, Mr Adam Hollioake and Ms Eboni Hollioake (“the Former Directors”). Any claim against the Former Directors, both of whom resigned on 24 November 2009, would only be for the amount of debts incurred and remain unpaid at the date of my appointment, whilst the Company was insolvent up to the date of their resignation as Company directors.

**5.2.1 Capacity of all parties to pay**

The commercial value of such a claim or claims is dependent upon the capacity of those persons to pay, and the associated costs and potential benefits of such proceedings.

The Director appointed David Solomons and Antony de Vries as Joint and Several Trustees in Bankruptcy (“Trustees”) on 14 October 2011.

The Trustees' Report to Creditors dated 9 November 2011 states "At this stage of the administration, we do not envisage that a dividend will be paid to creditors given the minimal income contributions that the bankrupt will be required to pay."

Accordingly, there appears to be no commercial merits in formally quantifying or pursuing an insolvent trading claim until such time that the Director's Trustees advise of a dividend to creditors from his bankrupt estate.

Adam Hollioake entered bankruptcy by way of creditor's petition on 14 July 2011. Adam Hollioake's trustee has advised that a dividend to creditors is not expected to be paid.

To date I am unaware of the capacity of Eboni Hollioake to pay an insolvent trading claim if one was to be quantified.

Due to the limited period for which a claim would exist against Eboni Hollioake and the fact that I am unaware of her capacity to pay an insolvent trading claim, I believe there is no commercial merit in formally quantifying an insolvent trading claim against her.

Similarly, with Adam Hollioake due to the limited period for which a claim would exist against him and the fact that his trustee has advised there will be no dividend payable to creditors, I believe there is no commercial merit in formally quantifying an insolvent trading claim against him until such time as his trustee advises otherwise regarding a dividend to creditors.

The Director's trustee has also advised that there will be no dividend payable to creditors. I therefore believe there is no commercial merit in formally qualifying or pursuing an insolvent trading claim against the Director until such time as his trustee advises otherwise regarding a dividend to creditors.

I intend to discuss the above with creditors at the forthcoming meeting of creditors.

## 5.3 Directors Duties

In the course of my investigations, I have considered whether there have been any breaches by the directors and/or officers in the conduct of their duties pursuant to the Act.

Pursuant to Section 9 of the Act, an officer is defined to include a director, secretary or a person participating in decision making that affects the whole or a substantial part of the business of the corporation or a person in accordance with whose instructions or wishes the directors of the corporation are accustomed to act.

Pursuant to Part 2D.1 of the Act, officers of a company have duties to ensure that:-

- Section 180 – They exercise their powers and discharge their duties with due care and diligence;
- Section 181 – They act in good faith;
- Section 182 – They do not use their position to gain an advantage; and

- Section 183 – They do not misuse company information to gain an advantage.

The directors and officers of a company are subject to a civil duty of care and discipline as provided for in Section 180(1) of the Act. Subsection 180(c) provides that a director or other officer who makes a “business judgement” is taken to have met the requisite statutory duty and the equivalent requirements in Common Law and in Equity, in respect of the judgement if they:-

- Make the judgement in good faith for a proper purpose;
- Do not have a material personal interest in the subject matter of the judgement;
- Inform themselves about the subject matter of the judgement to the extent they would reasonably believe to be appropriate; and
- Rationally believe that the judgement is in the best interest of the Company.

From the information available and on the basis of my investigation of the Company's affairs to date, it may be possible to assert that the director has not attempted to make rational judgements in the best interests of the Company.

## **6. Expected Return to Creditors**

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### **6.1 Expected Return to Creditors**

I confirm that realisations are currently sufficient to meet all of the costs of the winding up including all of my remuneration as Liquidator. As such, a dividend to unsecured creditors is possible..

At present, I estimate that a dividend in the range of 0.87 cents to 0.99 cents in the dollar will be paid to unsecured non-priority creditors. Details are set out in Annexure C. At this stage of my investigation I have not identified any priority unsecured claims.

Annexure C is purely an estimate of any future dividend. This estimate may change subject to my adjudication of related party claims and the quantum of claims received from unsecured creditors, BankWest and the CBA.

In the near future once I have finalised my investigations into the Company I will declare a non-priority unsecured dividend. I encourage all creditors to submit to me a formal proof of debt form with documentation to support the claim. Once a formal proof of debt form is submitted and accepted by me that creditor will be able to partake in all future dividends of the Company.

### **6.2 Receipts and Payments**

Attached as Annexure D are my receipts and payments as Liquidator. Creditors are advised that a detailed account of the Liquidator's receipts and payments is lodged with ASIC every six months from the date of my appointment as required by s539 of the Act. A copy may be obtained through ASIC or inspected during normal office hours at the offices of RSM Bird Cameron Partners.

## 7. Liquidator's Remuneration

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At the forthcoming meeting, creditors will be asked to approve my remuneration as of 30 November 2011. Enclosed as Annexure B is a Remuneration Report detailing the activities performed, calculation of remuneration, statement of remuneration claim and an explanation of the methods available.

The remuneration that creditors will consider for approval at the forthcoming meeting is summarised as follows:

	\$
Retrospective for the period 14 September 2010 to 30 November 2011	45,276.82
Prospective for the period 1 December 2011 to finalisation	29,945.00
<b>Total</b>	<b>75,221.82</b>

The information provided in this report is to enable creditors to consider the appropriateness of the remuneration claim being made.

Professional fees for work done by my staff and myself are calculated on a time basis in accordance with the appropriate hourly rates set from time to time by RSM Bird Cameron Partners applicable to staff of various levels of experience and skill. Such fees will be drawn on a periodic basis, if and when funds become available.

For the purpose of this administration any increase in rates will be not more than 10% per annum of that disclosed in the attached remuneration report, without further approval by creditors.

The IPA has produced a document entitled "Creditor Information Sheet: Approving Remuneration In External Administrations" that can be downloaded from the IPA website, [www.ipaa.com.au](http://www.ipaa.com.au) or [www.rsmi.com.au](http://www.rsmi.com.au). ASIC also publish information regarding remuneration approval and is obtainable from [www.asic.gov.au](http://www.asic.gov.au).

Creditors should contact Jerome Mohen of my office on (08) 9261 9449 if they require further information concerning my remuneration claim.

## **8. Notice of Meeting**

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Please refer to the Notice of Meeting attached. I advise that a meeting of creditors of the Company will be held on Tuesday, 20 December 2011 at 10.00am at the offices of RSM Bird Cameron Partners. Please arrive at the venue with sufficient time to sign the attendance register before the commencement of the meeting.

You do not have to attend this meeting. Non-attendance will not affect the validity of your claim against the Company. You can nominate the Chairman or someone else to attend and vote on your behalf. The Chairman will vote on all resolutions under special proxies as directed by you. Please note that the Chairman may not otherwise vote on any resolution where the Chairman has, or may have, a fiduciary or beneficial interest in the outcome of the particular resolution.

### **8.1 Proxy Form (Form 532)**

Please note that corporate creditors or members must submit a proxy if they intend to vote at the meeting. A Company may execute a document without a common seal if the document is signed by two directors of the Company; or a director and a Company secretary of the Company; or for a proprietary Company that has a sole director who is also the sole Company secretary - that director. A Company with a common seal may execute a document if the seal is fixed to the document and the fixing of the seal is witnessed by two directors of the Company; or a director and a Company secretary of the Company; or for a proprietary Company that has a sole director who is also the sole Company secretary - that director.

The appointment of a proxy must be by an instrument in accordance with Form 532 (enclosed). Proxy forms, or facsimile copies of proxy forms, must be lodged with me at least 15 minutes prior to the meeting. Where a facsimile copy of a proxy is lodged, the original must be lodged within 72 hours after receipt of the faxed copy. A person claiming to be an attorney of a creditor must show the instrument by which he or she was appointed attorney to the chairperson.

### **8.2 Formal Proof of Debt (Form 535)**

Creditors wishing to attend and vote at the meeting should complete and lodge a Formal Proof of Debt form in accordance with the attached Form 535, together with all supporting documentation in respect of the claim, with our office prior to the meeting. Any creditor that does not provide sufficient documentation to evidence their claim may be ineligible to vote at the meeting.

## 9. Disclaimer

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This report and my preliminary investigations into the affairs of the Company have been prepared and conducted from the available books and records provided to me as well as communications with the Company's directors and their advisers. Whilst I have endeavoured to determine the accuracy or otherwise of the information provided I am unable to warrant the accuracy, completeness or reliability of such information. I have not conducted a detailed investigation nor have I audited the Company's financial affairs.

This report is not to be considered legal advice to creditors. Accordingly, creditors should consider seeking their own advice in relation to the matters contained within this report.

Dated this 5<sup>th</sup> day of December 2011.



MARK CONLAN  
Official Liquidator



# Annexure A – Declaration of Independence, Relevant Relationships and Indemnities

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CORPORATIONS ACT 2001

Section 506A

## Declaration of Independence, Relevant Relationships and Indemnities

**The Hollioake Group Pty Ltd**  
**ACN 091 388 724 (“the Company”)**

### Independence

I Mark Conlan, of RSM Bird Cameron Partners have undertaken a proper assessment of the risks to my independence prior to accepting the appointment as Liquidator of The Hollioake Group Pty Ltd. This assessment identified no real or potential risks to my independence. I am not aware of any reasons that would prevent me from accepting this appointment.

### Relevant Relationships

Neither myself, nor my firm, have, or have had within the preceding 24 months, any relationships with the Company, a former insolvency practitioner appointed to the Company or any person or entity that has a charge on the whole or substantially whole of the Company’s property.

There are no other prior professional or personal relationships that should be disclosed.

### Prior Engagements with the Insolvent

Neither myself, nor my Firm, have undertaken any prior engagements for The Hollioake Group Pty Ltd.

### Indemnities

I have not been indemnified in relation to this liquidation, other than any indemnities that I may be entitled to under statute.

Dated: 28/04/2010



.....  
MARK CONLAN  
Official Liquidator

**NOTE:** If circumstances change, or new information is identified, I am required under the IPA Code of Professional Practice to update this Declaration and provide a copy to creditors with my next communication as well as table a copy of any replacement declaration at the next meeting of the company’s creditors.

# Annexure B – Remuneration Report

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## 1. *Initial Advice to Creditors*

### 1.1 **Remuneration Methods**

There are four basic methods that can be used to calculate the remuneration charged by an insolvency Practitioner. They are:

- **Time based / hourly rates**

This is the most common method. The total fee charged is based on the hourly rate charged for each person who carried out the work multiplied by the number of hours spent by each person on each of the tasks performed.

- **Fixed Fee**

The total fee charged is normally quoted at the commencement of the administration and is the total cost for the administration. Sometimes a Practitioner will finalise an administration for a fixed fee.

- **Percentage**

The total fee charged is based on a percentage of a particular variable, such as the gross proceeds of assets realisations.

- **Contingency**

The practitioner's fee is structured to be contingent on a particular outcome being achieved.

### 1.2 **Method chosen**

Given the nature of this administration I propose that our remuneration be calculated on time based / hourly rates. This is because:

- This method reflects our practice of assigning staff at the appropriate level to conduct the necessary work. Individuals are required to record the nature of the work performed at intervals of six minutes. This method ensures creditors are only charged for work that is performed and provides complete transparency.
- Fixed fee and Percentage method are inappropriate as I am unable to estimate with certainty the total amount of fees necessary to complete all tasks required in this administration. In addition I am required to perform a number of tasks which do not relate to the realisation of assets, e.g., statutory obligations, responding to creditor queries, and reporting to ASIC.

It is proposed that the remuneration of the Liquidator be calculated on an hourly basis at the hourly fees charged by RSM Bird Cameron Partners.

### 1.3 Explanation of Hourly Rates

The current rates for my remuneration calculation are set out in the following table together with a general guide showing the qualifications and experience of staff engaged in the administration and the role they take in the administration. The hourly rates charged encompass the total cost of providing professional services.

Classification	Guide to Level of Insolvency Experience	Rate per Hour \$
Appointee	Registered Liquidator / Trustee. Partner bringing his / her specialist skills to the administration or insolvency task.	530
Principal	Qualified. 12+ years experience. Capable of controlling all aspects of an administration and/or insolvency task.	450
Senior Manager	Typically qualified, 7+ years experience. Well developed technical and commercial skills. Assist appointee in the planning and control of all administrations and/or insolvency tasks. Responsible for supervision of junior staff.	365
Manager	Typically qualified, 6-7 years experience. Well developed technical and commercial skills. Assist appointee in the planning and control of all administrations and/or insolvency tasks. Responsible for supervision of junior staff.	300-320
Supervisor	4-6 years experience. Qualified or almost completed CA/CPA/IPAA. Conduct of small appointments, assists in planning and control of medium to larger appointments. Also supervises junior staff.	230-270
Senior 1	2-4 years experience, undertaking CA/CPA/IPAA. Assist planning and control of small to medium jobs and performs some more difficult tasks on larger jobs. Assists in supervision of junior staff.	215
Senior 2	1-3 years experience, undertaking CA/CPA/IPAA, Assist in day to day fieldwork of administrations and/or insolvency tasks under supervision of more senior staff.	170
Intermediate 1	1-2 years experience, graduate, undertaking CA/CPA/IPAA. Assist in day to day fieldwork of administrations and/or insolvency tasks under supervision of more senior staff.	160
Intermediate 2	0-2 years experience, typically will have graduated. Assist in day to day fieldwork of administrations and/or insolvency tasks under supervision of more senior staff.	130
Secretary	Assists all levels of staff undertaking general administrative and secretarial duties.	185
Treasury	Responsible for integrity of all aspect of cash receipts and payments, bank account reconciliations, preparation of statutory lodgements with ATO and ASIC	150
Treasury Assistant	Assists all levels of staff with administrative and bookkeeping tasks and managing Insolvency CORE software.	110
Junior/Filing Clerk	Data input, computer skills and filing. Maintains data entry into specialised insolvency computer system, including receipts and payments and financial information, also prepares bank reconciliations, Form 524's and BAS returns.	70

#### Notes:

1. The scale of fees is intended to be a guide as to the qualifications and experience of the staff engaged. In some instances staff may be engaged under an appropriate classification principally due to experience.
2. The term "Qualified" means that the staff member has completed either the Institute of Chartered Accountants in Australia or Certified Practising Accountants in Australia's education program and/or the Insolvency Practitioners Association of Australia's education program.
3. Time spent on matters is recorded and charged in 6 minute intervals.
4. The above rates are effective as at 30 June 2011.
5. The above rates exclude Goods and Services Tax.

## 2. Declaration

I, Mark Conlan have undertaken a proper assessment of this remuneration claim for my appointment as Official Liquidator of the Company in accordance with the law and applicable professional standards. I am satisfied that the remuneration claimed is in respect of necessary work, that has been properly performed in the conduct of the administration.

I also declare that all disbursements made in the course of the administration were necessary and proper.

## 3. Description of Work

Remuneration charges incurred for the period 14 September 2010 to 30 November 2011 is for the following tasks:

Task Area	\$
Assets	9,494.97
Creditors	6,844.99
Trade On	603.91
Investigation	17,950.22
Administration	10,382.73
<b>Total</b>	<b>45,276.82</b>

The tasks undertaken have included:

### ASSETS

- Debtors
  - Reviewing and assessing debtors ledgers in Company MYOB
- Other Assets
  - Correspondence with local councils to ascertain whether council bonds for the Company exist
  - Tasks associated with assessing the prospect of realising other assets
  - Recovery action of DCT preference claim, including seeking legal advice
- Leasing
  - Reviewing leasing documents
  - Correspondence with BMW Group Financial Services, Capital Finance Australia Limited
  - Liaising with owners/lessors
  - Tasks associated with disclaiming leases

### CREDITORS

- Creditor Enquiries
  - Receive and follow up creditor enquiries via telephone
  - Maintaining creditor enquiry register
  - Review and prepare correspondence to creditors and their representatives via facsimile, email and post
- Secured creditor reporting
  - Preparing reports to secured creditor
  - Correspondence with Bank of Western Australia and Commonwealth Bank of Australia
  - Correspondence with Receivers and Managers
  - Responding to secured creditor's queries
- Creditor reports
  - Preparing section report, investigation, meeting and general reports to creditors
- Dealing with proofs of debt
  - Receipting and filing POD's when not related to a dividend
  - Corresponding with and ATO regarding POD's when not related to a dividend
- Meeting of Creditors

- Meeting of Creditors Preparation of meeting notices, proxies and advertisements
- Preparation of advertisement of meeting.

## EMPLOYEES

## TRADE ON

- Processing receipts and payments
  - Entering receipt and payments into accounting system

## INVESTIGATION

- Conducting investigation
  - Collection of company books and records
  - Correspondence with ASIC to receive assistance in obtaining reconstruction of financial statements, company's books and records and Report as to Affairs
  - Reviewing company's books and records
  - Review and preparation of company nature and history
  - Conducting and summarising statutory searches
  - Numerous searches of Landgate to ascertain asset position of the Company and insure that property previously sold was at fair value
  - Preparation of comparative financial statements
  - Preparation of deficiency statement
  - Review security documents of secured creditors
  - Review of possible preference payments
  - Review of possible insolvent trading claim against the current and former directors
  - Review of specific transactions and liaising with directors regarding certain transactions
  - Liaising with directors regarding certain transactions
  - Liaising with John Hollioake and Adam Hollioake's trustees
  - Preparation of investigation file
  - Lodgement of s533 investigation with the ASIC
- Litigation / Recoveries
  - Internal meetings to discuss status of litigation
  - Identification of preference claim against the DCT
  - All tasks associated with finalising liquidators position regarding preference payments to the DCT and preparation of relevant demands
  - Seek legal advice and conduct research around the pertinent issue of the timing of the preference period
  - Liaise with solicitors and the DCT to settle preference claim
  - Preparing brief to solicitors
  - Liaising with solicitors regarding recovery actions
- ASIC reporting
  - Preparing statutory investigation reports
  - Liaising with ASIC

## ADMINISTRATION

- Correspondence
  - General correspondence, including letters of appointment to various utilities and financial institutions
- Document maintenance/file review/checklist
  - First month, then six monthly administration review
  - Filing of documents
  - File reviews
  - Updating checklists and diaries
- Insurance
  - Identification of potential issues requiring attention of insurance specialists
  - Investigations into whether any insurance premium refunds are owing to the Company
  - Correspondence with insurer regarding initial and ongoing insurance requirements
  - Reviewing insurance policies

- Bank account administration
  - Preparing correspondence opening and closing accounts
  - Requesting bank statements
  - Bank account reconciliations
- ASIC Form 524 and other forms
  - Preparing and lodging ASIC forms including 505, 524,
  - Correspondence with ASIC regarding statutory forms
- ATO and other statutory reporting
  - Notification of appointment
  - Preparing BAS'
- Planning / Review
  - Discussions regarding status of administration
- Books and records / storage
  - Dealing with records in storage
  - Listing of books and records received
  - Sending job files to storage

## 4. Calculation of Remuneration

The Hollioake Group Pty Ltd (Controller Appointed)

ACN: 091 388 724

Remuneration Report

Part 1: Calculation of Remuneration

Period From 14 September 2010 to 30 November 2011

Employee	Position	Average \$ / hour (ex GST)	Total actual hours	Total (\$)	Task Area						
					Assets (\$)	Creditors (\$)	Employees (\$)	Trade on (\$)	Investigation (\$)	Dividends (\$)	Administration (\$)
Greg Dudley	Partner	429.64	0.9	386.68					226.29		160.39
Mark Conlan	Partner	512.58	13.8	7,073.67	4,132.29	940.49			645.29		1,355.60
Neil Cribb	Partner	530.00	0.1	53.00					53.00		
Lalitha Samykanno	Manager	259.68	38.5	9,997.56	2,997.30	721.52		182.00	3,948.04		2,148.70
Timothy Thurbin	Manager	320.00	0.1	32.00		32.00					
Geoffrey Lasscock	Supervisor	230.00	8.9	2,047.00	368.00	414.00			1,058.00		207.00
Alan Chau	Intermediate 1	129.17	0.6	77.50					65.00		12.50
Jerome Mohen	Intermediate 1	154.62	147.3	22,775.40	1,209.88	4,531.36		300.00	11,885.60		4,848.56
Mei Huang	Intermediate 1	144.80	1.3	188.24							188.24
Dominique Cussons	Intermediate 2	130.00	3.6	461.50	422.50				39.00		
Hayley Forshaw	Secretary	145.88	6.1	889.86	180.00						709.86
Simone Steele	Secretary	150.00	1.2	180.00		105.00		45.00	30.00		
Tarryn Thiele	Secretary	145.00	0.4	58.00		14.50		43.50			
Terri Hoy	Secretary	173.89	5.5	956.41	185.00	86.12		33.41			651.88
Malini Tanabalan	Junior/Filing Clerk	66.67	1.5	100.00							100.00
<b>TOTAL (excluding GST)</b>		<b>197.07</b>	<b>229.8</b>	<b>45,276.82</b>	<b>9,494.97</b>	<b>6,844.99</b>		<b>603.91</b>	<b>17,950.22</b>		<b>10,382.73</b>
GST				\$4,527.68							
<b>TOTAL (including GST)</b>				<b>\$ 49,804.50</b>							

## 4.1 Future Fees

Future remuneration is sought in respect of the Liquidation which is summarised as follows.

Task Area	\$
Assets	1,790.00
Creditors	7,400.00
Investigation	4,340.00
Dividend	9,075.00
Administration	7,340.00
<b>Total</b>	<b>29,945.00</b>

This prospective fee approval is to be considered by creditors and will be subject to a cap, which represents the estimated fees based on the best assessment of the work to be undertaken. In the event that there is additional work that is required then a further meeting will be convened to consider a further approval. Fees approved prospectively will be drawn as incurred.

This estimate of the work to be performed for the period 1 December 2011 onwards by major task area, is as follows:

### ASSETS

- Debtors
  - Correspondence with debtors
  - Reviewing and assessing debtors ledgers
  - Liaising with debt collectors and solicitors
- Other Assets
  - Tasks associated with realising council bonds if any

### CREDITORS

- Creditor Enquiries
  - Receive and follow up creditor enquiries via telephone
  - Maintaining creditor enquiry register
  - Review and prepare correspondence to creditors and their representatives via facsimile, email and post
- Secured creditor reporting
  - Preparing reports to secured creditor
  - Responding to secured creditor's queries
  - Reviewing final position of BankWest and CBA
- Creditor reports
  - Preparing section report, investigation, meeting and general reports to creditors
- Dealing with proofs of debt
  - Receipting and filing POD's when not related to a dividend
  - Corresponding with OSR and ATO regarding POD's when not related to a dividend
- Meeting of Creditors
  - Meeting of Creditors Preparation of meeting notices, proxies and advertisements
  - Forward notice of meeting to all known creditors
  - Preparation of meeting file, including agenda, certificate of postage, attendance register, list of creditors, reports to creditors, and draft minutes of meeting.
  - Preparation and lodgement of minutes of meetings with ASIC
  - Responding to stakeholder queries and questions immediately following meeting



## INVESTIGATION

- Conducting investigation
  - Reviewing company's books and records
  - Review of specific transactions and liaising with directors regarding certain transactions
  - Liaising with directors regarding certain transactions
  - Review and preparation of insolvent trading demands if deemed commercial to pursue
  - Preparation of further investigations into possible unfair preference payments
  - Preparation and lodgement of supplementary report if required
- ASIC reporting
  - Liaising with ASIC

## DIVIDENDS

- Processing proofs of debt
  - Preparation of correspondence to potential creditors inviting lodgement of POD
  - Receipt of PODs
  - Maintain POD register
  - Adjudicating PODs
  - Request further information from claimants regarding POD
  - Preparation of correspondence to claimant advising outcome of adjudication
- Dividend procedures
  - Preparation of correspondence to creditors advising of intention to declare dividend
  - Advertisement of intention to declare dividend
  - Obtain clearance from ATO to allow distribution of company's assets
  - Preparation of dividend calculation
  - Preparation of correspondence to creditors announcing declaration of dividend
  - Advertise announcement of dividend
  - Preparation of distribution
  - Preparation of dividend file
  - Preparation of payment vouchers to pay dividend
  - Preparation of correspondence to creditors enclosing payment of dividend

## ADMINISTRATION

- Correspondence
  - General correspondence
- Document maintenance/file review/checklist
  - Six monthly administration review
  - Filing of documents
  - File reviews
  - Updating checklists
- Insurance
  - Tasks if any in collecting any insurance premium refunds
- Bank account administration
  - Preparing correspondence closing accounts
  - Bank account reconciliations
  - Correspondence with bank regarding specific transfers
- ASIC Form 524 and other forms
  - Preparing and lodging ASIC forms including 505, 524, 911 etc
  - Correspondence with ASIC regarding statutory forms
- ATO and other statutory reporting
  - Preparing BAS'
- Finalisation
  - Notifying ATO of finalisation
  - Cancelling ABN / GST / PAYG registration
  - Completing checklists
  - Finalising WIP
- Planning / Review
  - Discussions regarding status of administration

- Books and records / storage
  - Dealing with records in storage
  - Sending job files to storage

## 4.2 Disbursements

Disbursements are divided into three types: **A, B1, B2**.

- A** Disbursements are all externally provided professional services. These are recovered at cost. An example of an A disbursement is legal fees.
- B1** B1 disbursements are externally provided non-professional costs such as travel, accommodation and search fees. B1 disbursements are recovered at cost.
- B2** Disbursements are internally provided non-professional costs such as photocopying, printing and postage. B2 disbursements are generally charged at cost; though some expenses such as telephone calls, photocopying and printing are charged at a rate which recoups both variable and fixed costs.

Creditor approval is not required for disbursements, however, creditors have the right to question the incurring of disbursements and may challenge disbursements in court.

The following table summarises the disbursements that have been incurred or are anticipated by my firm and are yet to be paid.

Description	Type	Incurred \$	Future Disbursements \$
Legal Fees	A	0.00	2,575.23
Search Fees, Courier and Storage	B1	118.38	1,500.00
Photocopying, postage	B2	107.60	750.00
<b>Total</b>		<b>225.98</b>	<b>4,825.23</b>

Disclosure of disbursements which have been paid is contained in the account of receipts and payments.

## 5 Supporting Information

### 5.1 Statement of Remuneration Claim

The resolutions sought from creditors in respect of the Liquidator's remuneration are specified below and also in the notice of meeting. It is noted that no fees have previously been approved and at this stage it is not anticipated that further fee approval will be required, subject to the disclosure noted above.

Resolutions regarding remuneration to be considered by creditors at the forthcoming meeting are:

1. To consider and if thought fit resolve that the past remuneration of the liquidator, his partners and staff, for the period from 14 September 2010 to 30 November 2011 be fixed and approved in the sum of \$45,276.82 (plus GST and disbursements) calculated on a time basis and charged at the hourly rates of RSM Bird Cameron Partners applicable to the classifications, qualifications and experience of the persons performing the work.
2. To consider and if thought fit resolve that the future remuneration of the liquidator, his partners and staff, for the period from 1 December 2011 to the conclusion of the administration be fixed and approved up to a capped amount of \$29,945.00 (plus GST and disbursements) calculated on a time basis and charged at the hourly rates of RSM Bird Cameron Partners applicable to the classifications, qualifications and experience of the persons performing the work, and that such remuneration may be drawn on a regular basis if and when funds become available, and should the liquidator's fees exceed this amount, he is entitled to seek further and additional fee approval from the creditors.

**For the purposes of this administration any increase in the hourly rates will not be more than 10% per annum of that disclosed in the attached remuneration report without further approval by creditors.**

Creditors are advised that they have the right to obtain further information regarding remuneration which can be requested from my office in writing. Creditors are advised that a remuneration information sheet is available at <http://www.asic.gov.au/infosheets>.

## Annexure C –Dividend Analysis

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### Dividend Analysis as at 5 December 2011 (GST excluded)

	Estimated Dividend (Low)	Estimated Dividend (High)
	\$	\$
<b>Cash at Bank as at 5 December 2011 plus</b>	<b>248</b>	<b>248</b>
<b>Voidable Transaction</b>		
Settlement of Unfair Preference Claim against the DCT	201,837	201,837
<b>Total Funds Available for Distribution</b>	<b>202,085</b>	<b>202,085</b>
<b>Distribution per s556(1) of Corporations Act</b>		
Liquidators Remuneration from 14 September 2010 to cessation of liquidation	75,221	60,000
Liquidators Expenses from 14 September 2010 to cessation of liquidation	5,073	4,000
<b>Estimated Funds Available for Ordinary Unsecured Creditors</b>	<b>121,789</b>	<b>138,085</b>
Ordinary Unsecured Creditors	13,995,232	13,995,232
<b>Ordinary Unsecured Creditor Dividend Estimate (cents/\$)</b>	<b>0.0087</b>	<b>0.0099</b>

Note\*: The above analysis does include claims by Related Parties

Note\*\*: The above analysis includes the shortfall owing to the CBA and BankWest on the proviso that they put in a proof to the liquidation as an unsecured creditor for the amount of the shortfall owing

Note\*\*\* The above analysis includes Wallis Investments proving in the liquidation as an unsecured creditor

## Annexure D – Receipts and Payments

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The Hollioake Group Pty Ltd (Controller Appointed) (In Liquidation)

ACN 091 388 724

As Trustee for the Holysmoke Trust

Summary of Receipts and Payments  
as of 5 December 2011

<b>RECEIPTS</b>	<b>Total (AUD)</b>
Cash At Bank	2,208.64
Settlement of Preferences	201,837
GST Refund	92.00
<b>Total</b>	<b>204,137.64</b>
<b>PAYMENTS</b>	
Petitioner Costs (Non GST)	1,036.00
Liquidators Expenses (inc GST)	1,017.04
<b>Total</b>	<b>2,053.04</b>
<b>Balance in Hand</b>	<b>202,084.60</b>

NOTICE OF MEETING OF CREDITORS

**THE HOLLIOAKE GROUP PTY LTD (CONTROLLER APPOINTED)  
(IN LIQUIDATION)  
ACN 091 388 724**

NOTICE is hereby given that a meeting of the creditors of the Company will be held at the offices of RSM Bird Cameron Partners, on Tuesday, 20 December 2011 at 10.00am WST.

**AGENDA**

1. To discuss the Report to creditors and receive an update and consider the position of the winding up.
2. To consider and if thought fit resolve that the past remuneration of the liquidator, his partners and staff, for the period from 14 September 2010 to 30 November 2011 be fixed and approved in the sum of \$45,276.82 (plus GST and disbursements) calculated on a time basis and charged at the hourly rates of RSM Bird Cameron Partners applicable to the classifications, qualifications and experience of the persons performing the work.
3. To consider and if thought fit resolve that the future remuneration of the liquidator, his partners and staff, for the period from 1 December 2011 to the conclusion of the administration be fixed and approved up to a capped amount of \$29,945.00 (plus GST and disbursements) calculated on a time basis and charged at the hourly rates of RSM Bird Cameron Partners applicable to the classifications, qualifications and experience of the persons performing the work, and that such remuneration may be drawn on a regular basis if and when funds become available, and should the liquidator's fees exceed this amount, he is entitled to seek further and additional fee approval from the creditors.
4. Any other business which may properly be brought before the meeting.

DATED this 5th day of December 2011.



**MARK CONLAN**  
Official Liquidator

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Telephone conference facilities will be available at the meeting. Please note under Corporations Regulations 5.16.13A:

- (a) A person, or the proxy or attorney of a person, who wishes to participate in the meeting by telephone must give to the liquidator, not later than the second-last working day before the day on which the meeting is to be held, written statement setting out:
  - (i) the name of the person and of the proxy or attorney (if any); and
  - (ii) an address to which notices to the person, proxy or attorney may be sent; and
  - (iii) a telephone number at which the person, proxy or attorney may be contacted; and
  - (iv) any facsimile transmission number to which notices to the person, proxy or attorney may be sent.
- (b) A person, or the proxy or attorney of a person, who participates in the meeting by telephone must pay any costs incurred by the person, proxy or attorney in participating and is not entitled to be reimbursed for those costs from the assets of the Company.

Proxies to be used at the meeting should be lodged at the office of the Liquidator by 4.00pm on the day prior to the meeting. A corporation may only be represented by proxy or by an attorney appointed pursuant to Corporations Regulations 5.6.28 and 5.6.31A respectively or, by a representative appointed under Section 250D of the Corporations Act 2001. In accordance with Regulation 5.6.23(1) of the Corporations Regulations, creditors will not be entitled to vote at this meeting unless they have previously lodged particulars of their claim against the Company with the Liquidator.

FORM 535  
CORPORATIONS ACT 2001

Subregulation 5.6.49(2)

FORMAL PROOF OF DEBT OR CLAIM (GENERAL FORM)

ACN 091 388 724

To the Liquidator of **The Hollioake Group Pty Ltd (Controller Appointed) (In Liquidation)**

1. This is to state that the Company was, on **14 September 2010** <sup>(1)</sup> and still is, justly and truly indebted to  
 .....  
 .....for  
 .....dollars and ..... cents.

Particulars of the debt are:

Date	Consideration <sup>(3)</sup>	Amount \$	GST included \$	Remarks <sup>(4)</sup>

2. To my knowledge or belief the creditor has not, nor has any person by the creditor's order, had or received any manner of satisfaction or security for the sum or any part of it except for the following.<sup>(5)</sup>
- 3.<sup>(6)\*</sup> 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, still remains unpaid and unsatisfied.
- 3.<sup>(6)\*</sup> I am the creditor's agent authorised in writing to make this statement in writing. I know that the debt was incurred and for the consideration stated and that the debt, to the best of my knowledge and belief, still remains unpaid and unsatisfied.

DATED this                      day of                      2011

Signature of Signatory .....  
 NAME IN BLOCK LETTERS .....  
 Occupation .....  
 Address .....  
 Email..... Phone.....

**See Directions overleaf for the completion of this form**

**OFFICE USE ONLY**

POD No:		ADMIT - Ordinary	\$
Date Received:	/ /	ADMIT - Preferential	\$
Entered into IPS/Computer:		Reject	\$
Amount per RATA	\$	H/Over for Consideration	\$
PREP BY/AUTHORISED		<b>TOTAL PROOF</b>	\$
DATE AUTHORISED	/ /		

**Directions**

- \* Strike out whichever is inapplicable.
- (1) Insert date of Court Order in winding up by the Court, or date of resolution to wind up, if a voluntary winding up.
- (2) Insert full name and address (including ABN) 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.
- (3) Under "Consideration" state how the debt arose, for example "goods sold and delivered to the company between the dates of .....", "moneys advanced in respect of the Bill of Exchange".
- (4) Under "Remarks" include details of vouchers substantiating payment.
- (5) Insert particulars of all securities held. Where the securities are on the property of the company, assess the value of those securities. If any bills or other negotiable securities are held, specify them in a schedule in the following form:

Date	Drawer	Acceptor	Amount	Date Due
\$	¢			

- 
- (6) If proof is made by the creditor personally, strike the two (2) paragraphs numbered 3.
- 

**Annexures**

- A. If space provided for a particular purpose in a form is insufficient to contain all the required information in relation to a particular item, the information must be set out in an annexure.
- B. An annexure to a form must:
  - (a) have an identifying mark;
  - (b) and be endorsed with the words:
 

*"This is the annexure of (insert number of pages) pages marked (insert an identifying mark) referred to in the (insert description of form) signed by me/us and dated (insert date of signing); and*
  - (c) be signed by each person signing the form to which the document is annexed.
- C. The pages in an annexure must be numbered consecutively.
- D. If a form has a document annexed the following particulars of the annexure must be written on the form:
  - (a) the identifying mark; and
  - (b) the number of pages.
- E. A reference to an annexure includes a document that is with a form.



CORPORATIONS ACT 2001

APPOINTMENT OF PROXY  
CREDITORS MEETING

**THE HOLLIOAKE GROUP PTY LTD (CONTROLLER APPOINTED)  
(IN LIQUIDATION)  
ACN 091 388 724**

\*I/\*We (1) .....

of .....

a creditor of **The Hollioake Group Pty Ltd (Controller Appointed)(In Liquidation)**, appoint (2) .....

or in his or her absence .....

as \*my/our

\* *'general proxy'* to vote at the meeting of creditors to be held on , or at any adjournment of that meeting in respect of all matters **[Do not complete resolutions below]**.

**-OR-**

\* *'special proxy'* to vote at the meeting of creditors to be held on , or at any adjournment of that meeting in the matter detailed below on the proposed resolutions **[Complete resolutions below]**:- (3)

Resolution	For	Against	Abstain
1. To consider and if thought fit resolve that the past remuneration of the liquidator, his partners and staff, for the period from 14 September 2010 to 30 November 2011 be fixed and approved in the sum of \$45,276.82 (plus GST and disbursements) calculated on a time basis and charged at the hourly rates of RSM Bird Cameron Partners applicable to the classifications, qualifications and experience of the persons performing the work.			
2. To consider and if thought fit resolve that the future remuneration of the liquidator, his partners and staff, for the period from 1 December 2011 to the conclusion of the administration be fixed and approved up to a capped amount of \$29,945.00 (plus GST and disbursements) calculated on a time basis and charged at the hourly rates of RSM Bird Cameron Partners applicable to the classifications, qualifications and experience of the persons performing the work, and that such remuneration may be drawn on a regular basis if and when funds become available, and should the liquidator's fees exceed this amount, he is entitled to seek further and additional fee approval from the creditors.			

DATED this                      day of                      2011.

\_\_\_\_\_  
Signature

CERTIFICATE OF WITNESS

This certificate is to be completed only if the person giving the proxy is blind or incapable of writing. The signature of the creditor, contributory, debenture holder or member must not be witnessed by the person nominated as proxy.

I, ..... of .....

certify that the above instrument appointing a proxy was completed by me in the presence of and at the request of the person appointing the proxy and read to him or her before he or she signed or marked the instrument.

Dated:

Signature of Witness:

Description:

Place of Residence:

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\* Strike out if inapplicable

1. If a firm, strike out "I" and set out the full name of the firm.
2. Insert the name, address and description of the person appointed.
3. If a special proxy add the words "to vote for" or the words "to vote against" and specify the particular resolution.



**ASIC**

Australian Securities & Investments Commission

## Insolvency Information for Directors, Employees, Creditors and Shareholders

ASIC has 11 insolvency information sheets to assist you if you're affected by a company's insolvency and have little or no knowledge of what's involved.

These plain language information sheets give directors, employees, creditors and shareholders a basic understanding of the three most common company insolvency procedures—liquidation, voluntary administration and receivership. There is an information sheet on the independence of external administrators and one that explains the process for approving the fees of external administrators. A glossary of commonly used insolvency terms is also provided.

The Insolvency Practitioners Association (IPA), the leading professional organisation in Australia for insolvency practitioners, endorses these publications and encourages its members to make their availability known to affected people.

### *List of information sheets*

- Insolvency: a glossary of terms
- Voluntary administration: a guide for creditors
- Voluntary administration: a guide for employees
- Liquidation: a guide for creditors
- Liquidation: a guide for employees
- Receivership: a guide for creditors
- Receivership: a guide for employees
- Insolvency: a guide for shareholders
- Insolvency: a guide for directors
- Independence of external administrators: a guide for creditors
- Approving fees: a guide for creditors

**Important note:** The information sheets contain a summary of basic information on the topic. It is not a substitute for legal advice. Some provisions of the law referred to may have important exceptions or qualifications. These documents may not contain all of the information about the law or the exceptions and qualifications that are relevant to your circumstances. You will need a qualified professional adviser to take into account your particular circumstances and to tell you how the law applies to you.

### Getting copies of the information sheets

To get copies of the information sheets, visit ASIC's website at [www.asic.gov.au/insolvencyinfosheets](http://www.asic.gov.au/insolvencyinfosheets). The information sheets are also available from the IPA website at [www.ipaa.com.au](http://www.ipaa.com.au). The IPA website also contains the IPA's Code of Professional Practice for Insolvency Professionals, which applies to IPA members.