

Our Ref: OK.NS.SB.DVK000.Sect.20

1 March 2012

**TO THE CREDITOR AS ADDRESSED**

Dear Sir / Madam,

**D V KELLY PTY LIMITED (IN LIQUIDATION)**  
**ABN: 43 000 401 605 (the "Company")**

As you are aware, on 23 January 2012, Mr Daniel P Juratowitch and I were appointed the Joint & Several Administrators of the Company pursuant to a resolution of the Board of Directors of the Company in accordance with Section 436A of the Corporations Act 2001. By an Order of the Federal Court of Australia, General Division, dated 24 February 2012, the Company was wound up and Mr Daniel P Juratowitch and I were appointed Official Liquidators of the Company.

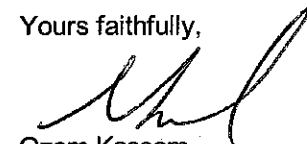
A meeting of the creditors of the Company will be held at the offices of Cor Cordis Chartered Accountants, Level 10, 76 - 80 Clarence Street, Sydney NSW 2000 on Friday, 16 March 2012 starting at 10:00 AM.

Enclosed herewith are the following documents for your attention:

1. Notice of Meeting;
2. Official Liquidators' Report;
3. Cor Cordis Guide to Hourly Rates and Disbursements;
4. Form of Proxy; and
5. Form of Proof of Debt.

If you have any questions, please contact Mr Steven Bazouni of this office on (02) 8221 8448.

Yours faithfully,



Ozem Kassem  
Official Liquidator

**Enc.**

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406 Collins Street  
MELBOURNE VIC 3000  
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MELBOURNE VIC 8007  
T (03) 8320 5600  
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Level 10  
80 Clarence Street  
SYDNEY NSW 2000  
PO Box Q1165 QVB Post Office  
SYDNEY NSW 1230  
T (02) 8221 8433  
F (02) 8221 8422

Level 24 AMP Place  
10 Eagle Street  
BRISBANE QLD 4000  
T (07) 3123 5577  
F (07) 3303 8787  
(By Appointment)

**FORM 529****Corporations Act 2001****Section 473(3)****NOTICE OF MEETING OF CREDITORS OF****D V KELLY PTY LIMITED (IN LIQUIDATION)  
ABN: 43 000 401 605 (the "Company")**

Notice is given that a meeting of the creditors of D V Kelly Pty Limited will be held at the offices of Cor Cordis Chartered Accountants, Level 10, 76 – 80 Clarence Street, Sydney NSW on Friday, 16 March 2012 starting at 10:00 AM.

**AGENDA**

- To lay before the meeting the Official Liquidators' account and report and give any explanation thereof;
- To consider the Voluntary Administrators' remuneration for the period 23 January 2012 to 24 February 2012 in the sum of \$145,640.50 (plus GST);
- To consider the Official Liquidators' remuneration for the period 25 February 2012 to the finalisation of the liquidation in the sum of \$50,000.00 (plus GST); and
- Any other matters.

DATED this 1<sup>st</sup> Day of March 2012



Ozem Kassem  
Official Liquidator



# **Joint and Several Official Liquidators' Report to Creditors**

**D V KELLY PTY LIMITED (IN LIQUIDATION)  
ABN: 43 000 401 605**

Dated: 1 March 2012

**OZEM KASSEM AND DANIEL P JURATOWITCH  
JOINT & SEVERAL OFFICIAL LIQUIDATORS**

**D V KELLY PTY LIMITED (IN LIQUIDATION)  
ABN: 43 000 401 605 (the "Company")**

**OFFICIAL LIQUIDATORS' REPORT TO CREDITORS**

As you are aware, on 23 January 2012, Messrs Ozem Kassem and Daniel P Juratowitch were appointed the Joint & Several Administrators of the Company pursuant to a resolution of the Board of Directors of the Company in accordance with Section 436A of the Corporations Act 2001 (the "Act"). By an Order of the Federal Court of Australia, General Division, dated 24 February 2012, the Company was wound up pursuant to an application by the Deputy Commission of Taxation ("DCT") and Mr Daniel P Juratowitch and I were appointed Official Liquidators of the Company.

As a result of the Company being wound up on 24 February 2012, the meeting of creditors pursuant to Section 439A of the Act did not take place. This Report to Creditors should be read in conjunction with Administrators' 439A Report to Creditors ("the Administrators' Report") issued on 20 February 2012.

This Report deals with the progress of the liquidation under the following headings:

- Liquidation Update
- The Company and its Officers
- Background / History of the Company
- Reasons for Failure
- Historical Financial Performance
- Updated Summary of Assets & Liabilities
- Investigations
- Summary of Receipts and Payments
- Dividend Likelihood
- Administrators' and Official Liquidators' Remuneration and Disbursements
- Meeting of Creditors

**LIQUIDATION UPDATE**

As previously advised in the Administrators' Report, the Administrators continued to trade the business of the Company for the period 23 January 2012 to 16 February 2012. In this regard, the Administrators ceased trading the business of the Company as a result of the execution of the Asset Sale Agreement with Mr Natale Antonio Finocchiaro, the landlord of the Company's leased premises, on 16 February 2012 ("the Sale Agreement") which was discussed in detail in the Administrators' Report.

As a result of the winding up of the Company, the Official Liquidators have proceeded to realise the assets of the Company for the benefit of creditors. An update in respect to the recovery and realisations of the Company's assets is detailed later herein.

**THE COMPANY AND ITS OFFICERS**

According to the records held at the Australian Securities and Investments Commission ("ASIC"):

- The Company was incorporated in the state of New South Wales on 29 June 1962;
- The details of the Company's officeholders are as follows:

Name	Position	Appointment Date
Lawrence Robert Kelly	Director / Secretary	29/06/1962
Raima Joan Kelly	Director	29/06/1962
John Arthur Kelly	Director	12/05/1970

Furthermore, the Official Liquidators note that based on the investigations to date and assertions made by numerous creditors of the Company, Messrs Jason Kelly and Craig Kelly, sons of Mr Lawrence Kelly and Mrs

Raima Kelly, may also be shadow/de-facto directors of the Company. Further discussions in this regard can be found in the 'Investigations' section of this report.

- The Company's share capital is comprised of one thousand two hundred and sixty (1,260) ordinary shares with a paid up value of \$2.00 each, the details of which are as follows:

Shareholder	Class of Shares	No. of Shares	Paid Up Value	Beneficially Held
Lawraima Pty Limited	Ordinary	600	\$1,200	Yes
Raima Joan Kelly	Ordinary	15	\$30	Yes
John Arthur Kelly	Ordinary	420	\$840	Yes
Lawrence Robert Kelly	Ordinary	225	\$450	Yes

- The Company's registered office and its principal place of business are as follows:

**Registered Office** 24 Wendlebury Road  
Chipping Norton NSW 2170

**Principal Place of Business** 24 Wendlebury Road  
Chipping Norton NSW 2170

- The Company has the following registered charges over its assets:

Chargeholder	Charge Number	Date Created	Date Registered	Type
St. George Finance Limited / Westpac Banking Corporation	1367061	29/09/2006	18/10/2006	Fixed & Floating
Network Consumer Finance Pty Limited	2218030	11/08/2011	12/08/2011	Fixed & Floating

The above mentioned fixed and floating charge held by St. George Finance Limited ("St. George") is held as security in respect to an overdraft/trade refinance facility and monies loaned to the Company, the details of which are discussed later in this report.

The above mentioned fixed and floating charge held by Network Consumer Finance Pty Limited ("NCF") is held as security in respect to monies advanced to the Company, the details of which are discussed later in this report.

- A personal name search on the Directors reveals that they are the current directors and/or shareholders of the following corporations in Australia:

**Mr John Arthur Kelly**

Company	Officeholding	Shareholder	Appointment	
			Date	Status
N S W National Coursing Association Registrations Pty Limited	Former Director	No	14/04/1989	Deregistered
New South Wales National Coursing Association Limited	Former Director	No	14/04/1989	Registered
NSW National Coursing Association Services Pty Limited	Former Director	No	14/04/1989	Deregistered
Brabrooke Pty Limited	Director	Yes	15/08/1996	Registered
Valentino Home Fashion Pty Limited	Director	Yes	17/07/2002	In Liquidation

**Mrs Raima Joan Kelly**

Company	Officeholding	Shareholder	Appointment	
			Date	Status
Lawraima Pty Limited	Former Director/ Secretary	Yes	18/06/1973	In Liquidation

**Mr Lawrence Robert Kelly**

Company	Officeholding	Shareholder	Appointment	
			Date	Status
Valentino Home Fashion Pty Limited	Former Director	Yes	17/07/2002	In Liquidation
Lawraima Pty Limited	Former Director/ Secretary	Yes	18/06/1973	In Liquidation

The above indicates that the Directors of the Company are also directors of a number of other failed companies in Australia.

**BACKGROUND / HISTORY OF THE COMPANY**

As detailed in the Administrators' Report, the Company was incorporated in the state of New South Wales on 29 June 1962 and operated as a 'family run' furniture & fixtures wholesaling business from leased premises located at 24 Wendlebury Road, Chipping Norton NSW 2170. The Company's operations predominantly consist of importing 'flat packed' furniture from Asia, assembling this inventory at its Chipping Norton factory, and selling the product to its major customer, Harvey Norman. The Company also operated a small retail outlet located at Boot Hill, Corner Swettenham & Campbelltown Road, Minto NSW 2566.

As at the date of the appointment of the Administrators, the Company employed fifteen (15) staff, comprising of nine (9) full-time staff (including the current Directors and related parties of the Directors) and six (6) part-time staff as well as one (1) contractor. These employees have since been terminated as a result of the Administrators' decision to trade at a reduced capacity and ultimately ceasing to trade the business of the Company on 16 February 2012.

**REASONS FOR FAILURE**

As detailed in the Administrators' Report, the Company's failure can be attributed to the following factors:

- Poor Management of the Company's Affairs;
- Poor Record Keeping / Financial Control;
- Excessive Inventory Levels;
- Decline in Revenues / Profitability; and
- Insufficient Cash Flow.

However, the catalyst for the appointment of the Administrators to the Company was the winding-up application filed by the DCT on 15 December 2011, which ultimately led to the appointment of the Official Liquidators.

**HISTORICAL FINANCIAL PERFORMANCE**

As disclosed in the Administrators' Report, the management accounts extracted from the MYOB computerised software package, maintained by the Company for the years ending 30 June 2010, 30 June 2011 and the period ending 23 January 2012 (being date of appointment of Administrators) had not been reconciled for a significant period of time and accordingly did not reflect the true financial position of the Company.

Notwithstanding the above, subsequent to issuing the Administrators' Report, the Administrators/Official Liquidators were provided with financial statements for the year ended 30 June 2010 and 30 June 2011 by one of the Company's secured creditors, NCF, which were provided to them to secure monies advanced to the Company. These financial statements are summarised as follows:

Balance Sheet As at	Financial Statements 30-Jun-2010 (\$)	Financial Statements 30-Jun-2011 (\$)
<b>Current Assets</b>		
Cash and Cash Equivalents	5,270	7,480
Trade and Other Receivables	422,210	425,632
Inventories	2,391,267	1,982,430
Trade Inventories	152,715	161,877
Valentino World Square	399,202	399,202
<b>Total Current Assets</b>	<b>3,370,664</b>	<b>2,976,621</b>
<b>Non-Current Assets</b>		
Property, Plant, Equipment & Fittings	245,220	245,220
Showroom QLD	450,000	450,000
Building Chipping Norton 1	1,000,000	-
Building Chipping Norton 2	775,000	775,000
Motor Vehicles	92,500	92,500
<b>Total Non-Current Assets</b>	<b>2,562,720</b>	<b>1,562,720</b>
<b>Total Assets</b>	<b>5,933,384</b>	<b>4,539,341</b>
<b>Current Liabilities</b>		
Trade & Other Payables	(16,512)	(28,721)
Overdraft	(539,397)	(524,215)
Provision for GST	(125,213)	(81,128)
<b>Total Current Liabilities</b>	<b>(681,122)</b>	<b>(634,064)</b>
<b>Non-Current Liabilities</b>		
Trade Loans	(252,715)	(197,249)
Commercial Bill	(2,000,000)	(1,000,000)
<b>Total Non-Current Liabilities</b>	<b>(2,252,715)</b>	<b>(1,197,249)</b>
<b>Total Liabilities</b>	<b>(2,933,837)</b>	<b>(1,831,313)</b>
<b>Net Assets / (Deficiency)</b>	<b>2,999,547</b>	<b>2,708,028</b>

Profit and Loss Period Ending	Financial Statements 30-Jun-2010 (\$)	Financial Statements 30-Jun-2011 (\$)
<b>Income</b>		
Sales	3,858,603	3,529,051
<b>Total Income</b>	<b>3,858,603</b>	<b>3,529,051</b>
Cost of Goods Sold	(1,471,570)	(1,654,772)
<b>Gross Profit from Trading</b>	<b>2,387,033</b>	<b>1,874,279</b>
<b>Expenses</b>		
Payroll Expense	(708,727)	(386,170)
Superannuation	(60,764)	-
Payroll Tax	(8,001)	-
Advertising & Trade Shows	(14,202)	(5,698)
Sales Rebates and Commissions	(196,847)	(160,004)
Rent	(461,753)	(469,873)
Cleaning and Maintenance	(6,542)	(2,323)
Vehicle Expense	(28,716)	(12,531)
Vehicle Leasing	(25,870)	(18,974)
Freight and Cartage	(65,498)	(37,477)
Postage	(5,168)	(4,750)
Travel & Accomodation	(1,280)	(1,950)
Insurance - General	(119,051)	(81,820)
Insurance - Life	(37,298)	(35,504)
Bank Fees	(9,344)	(10,826)
Utilities	(14,587)	(5,498)
Telephone	(19,968)	(7,026)
Accountancy & Legal	(11,379)	(12,417)
Other	(8,287)	(3,215)
<b>Total Expenses</b>	<b>(1,803,280)</b>	<b>(1,256,054)</b>
<b>Net Profit / (Loss)</b>	<b>583,753</b>	<b>618,225</b>
<b>Significant Expense Line Items</b>		
Payroll Expense	(708,727)	(386,170)
Sales Rebates and Commissions	(196,847)	(160,004)
Rent	(461,753)	(469,873)
	<b>(1,367,327)</b>	<b>(1,016,047)</b>
% of Total Expenses	75.82%	80.89%

Having regard to the above, the Official Liquidators are of the opinion that the above financial statements do not give a true perspective of the Company's financial position and cannot be relied upon based on the following:

- The financial statements appear to be unaudited and do not appear to have been prepared by an external accountant;
- The financial statements significantly overstate the value of the Company's inventory. As detailed in the Administrators' report, the stock-take undertaken by the Administrators'/Official Liquidators' valuers/auctioneers, Dominion Group (NSW) Pty Limited ("Dominions"), revealed that the Company's inventory has a wholesale value of approximately \$442,000, which translates to a cost value of approximately \$200,000, and that such inventory had an estimated Forced Liquidation Value ("FLV") of approximately \$45,000 (including GST). However, the Company's financial statements disclose inventory totalling \$2,144,307 as at 30 June 2011, which is significantly above the value attributed by Dominions;
- The account titled 'Valentino World Square' appears to relate to the legal claim which was detailed in the Administrators' Report for approximately \$400,000 in respect to the flooding of the Company's former retail store at World Square Shopping Centre. The Official Liquidators note that this is a contingent asset of the Company and accordingly, should not have been included in the Company's financial statements;



- The financial statements significantly overstate the value of the Company's plant and equipment. As detailed in the Administrators' Report, the valuation conducted by Dominions on the Company's unencumbered plant and equipment revealed that the Company's unencumbered plant and equipment had a Fair Market Value In Continued Use ("FMV") of \$62,390 (including GST) and a FLV of \$25,450 (including GST) respectively. However, the financial statements above disclose plant and equipment in the amount of \$245,220 as at 30 June 2011;
- The financial statements disclose an account titled 'Building Chipping Norton 2' in the amount of \$775,000 as at 30 June 2011. In this regard, the Official Liquidators have conducted searches of the database of the New South Wales Land Titles Office in the name of the Company which reveal that the Company is not the registered proprietor of any real properties in New South Wales. The Official Liquidators have also conducted searches of RPData.com.au which reveal that the Company has not owned any real properties in New South Wales since approximately July 2007. Accordingly, it appears that the financial statements provided are inaccurate in this regard and significantly overstate the Company's asset position;
- The financial statements disclose an account titled 'Showroom QLD' in the amount of \$450,000 as at 30 June 2011. In this regard, the Official Liquidators have conducted searches of RPData.com.au which reveal that the Company has not owned any real properties Queensland since approximately October 2006. Again, it appears that the financial statements provided are inaccurate in this regard and significantly overstate the Company's asset position;
- The financial statements do not appear to account for several of the Company's major liabilities. In particular, the financial statements do not disclose the significant debt owing to the landlord on the Company's leased premises, nor do they account for any payroll liabilities owing in respect to superannuation and other employee entitlements;
- Based on the information received from the Australian Taxation Office ("ATO"), it appears that the financial statements do not account for the significant liability owing to the ATO. In this regard, the Running Balance Account Statement provided by the ATO disclosed that as at 30 June 2011, the Company owed an amount of \$724,722.40, confirming that the Company may have understated its liability position.

The Official Liquidators understand that the above set of financials were provided to NCF in order to obtain finance. In this regard, based on the Official Liquidators' investigations to date, it appears that the financial statements are incorrect and do not reflect the Company's true financial position as at the above dates. Accordingly, it appears that the Company may have misrepresented its financial position in order to procure finance.

#### **UPDATED SUMMARY OF ASSETS & LIABILITIES**

Pursuant to Section 438B(2) of the Act, the Director of the Company is required to provide the Administrators' with a statement about the Company's business, property, affairs and financial circumstances. Such a statement normally takes the form of a Report as to Affairs ("RATA").

As at the date of drafting this report, the Company's Directors are yet to provide a completed RATA to the Official Liquidators. Accordingly, the following table is a summary of the assets and liabilities of the Company based upon the Administrators'/Official Liquidators' discussion with the Directors and the records of the Company (Book Value) and the investigations conducted by the Administrators'/Official Liquidators to date (Official Liquidators' Known Value).

	Notes	Book Value (\$)	Official Liquidators' Known Value (\$)
<b>Assets</b>			
Trade Debtors	1	68,162	52,845
Inventory	2	1,000,000	176,072
Unencumbered Plant and Equipment	3	100,000	25,450
Contingent Assets	4	Unknown	Unknown
Related Party Loans	5	39,911	39,911
<b>Total Assets</b>		<b>1,208,073</b>	<b>294,279</b>
<b>Liabilities</b>			
Secured Creditor - St. George	6	(2,000,000)	(1,969,885)
Secured Creditor - NCF	7	(135,000)	(134,659)
<b>Total Secured Creditor Claims</b>		<b>(2,135,000)</b>	<b>(2,104,544)</b>
<u>Priority Employee Entitlements:</u>	8		
Unpaid Wages		(29,498)	(29,498)
Superannuation		(21,710)	(105,906)
Annual Leave		(40,176)	(40,176)
Leave Loading		(7,001)	(7,001)
Long Service Leave		(42,212)	(42,212)
Payment In Lieu of Notice		(24,473)	(24,473)
Redundancy		(76,274)	(76,274)
<b>Total Priority Employee Entitlements</b>		<b>(241,344)</b>	<b>(325,540)</b>
<u>Unsecured Creditors:</u>	9		
ATO		(800,000)	(763,333)
Ordinary Unsecured Creditors		(101,240)	(666,383)
Excluded Employee Claims - Non Priority		(487,482)	(487,482)
<b>Total Unsecured Creditor Claims</b>		<b>(1,388,722)</b>	<b>(1,917,198)</b>
<b>Total Liabilities</b>		<b>(3,765,066)</b>	<b>(4,347,281)</b>
<b>Estimated Shortfall</b>		<b>(2,556,993)</b>	<b>(4,053,002)</b>

\* Subject to the Costs of the Administration / Liquidation

The figures disclosed in the table above reflect the Company's position as at the date of the appointment of Administrators on 23 January 2012.

**Note 1. Trade Debtors**

As detailed in the Administrators' Report, the Company had outstanding trade debtors with a book value of \$71,586.26 as at 23 January 2012, of which \$30,854.45 was successfully recovered as at the date of drafting the Administrators' Report.

However, as a result of further credit claims being raised against the Company in respect to the goods supplied, the Company's outstanding trade debtors have subsequently been reduced to \$52,845.43.

The Official Liquidators advise that they have recovered a total of \$32,234.16 in respect to outstanding trade debtors as at the date of drafting this report.

The Official Liquidators are currently in the process of continuing to seek recovery of the remaining balance of the outstanding trade debtors.

**Note 2. Inventory**

As detailed earlier herein and in the Administrators' Report, the stock-take undertaken by Dominions revealed that the Company's inventory had a wholesale value of approximately \$442,000, which translates to a cost value of approximately \$200,000, and that such inventory had an estimated FLV of approximately \$45,000 (including GST) (subject to marketing and selling costs in the amount of approximately \$15,000).

As previously advised, the Administrators/Official Liquidators are unable to ascertain the current value of the Company's inventory as a result of the Company's poor record keeping. In this regard, the Administrators / Official Liquidators have assessed the estimated realisable value ("ERV") of the inventory based on their total realisations of the Company's inventory during the trading period. The Official Liquidators note that a subsequent reconciliation of inventory sales after the issuing of the Administrators' Report has been undertaken. A summary of the breakup of the updated ERV of the Company's inventory is detailed below:

	Amount (\$) (inc GST)
Cash Sales	50,206
Credit Sales Collected to Date	41,856
Credit Sales to be Collected	29,010
Proceeds from Bulk Sale to Landlord	55,000
<b>Total Trading Sales</b>	<b>176,072</b>

As seen in the table above, a subsequent reconciliation of the Administrators'/Official Liquidators' realisations in respect to the Company's inventory reveals that the Administrators/Official Liquidators have achieved total realisations in the sum of \$176,072 (including GST), which is significantly above the FLV of \$45,000 (including GST) attributed to the inventory by Dominions.

**Note 3. Unencumbered Plant and Equipment**

As disclosed earlier herein and in the Administrators' Report, the valuation conducted by Dominions on the Company's unencumbered plant and equipment revealed that the Company's unencumbered plant and equipment had a FMV of \$62,390 (including GST) and a FLV of \$25,450 (including GST) respectively.

The Official Liquidators again note that the Company's unencumbered plant and equipment was subject to the Sale Agreement entered into between the Administrators and Mr Natale Antonio Finocchiaro, the landlord of the Company's leased premises, and was transferred as consideration for the outstanding rental obligations during the Administrators' trading period, which totalled \$26,585.81.

**Note 4. Contingent Assets – Legal Claims**

As detailed in the Administrators' Report, the Directors have advised that the Company is currently a party to four (4) legal actions against various parties. The Official Liquidators are currently in the process of obtaining the documentation to enable them to make a determination as to the Company's position in this regard and have requested the said documents from Mr Craig Kelly who acted on behalf of the Company in respect to these proceedings.

As mentioned in the Administrators' Report, a dividend to the Company's priority employee creditors and St. George could potentially be payable in the event that the Company is successful in the above mentioned legal proceedings.

Furthermore, the Administrators previously sought expressions of interest from the general body of creditors to provide funding for the Company's litigation in the Administrators' Report. The Official Liquidators advise that no expressions of interest have been received in relation to funding any of the above claims.

**In this regard, the Official Liquidators are again seeking expressions of interest from the general body of creditors to provide funding for the Company's litigation. As mentioned in the Administrators' Report, in the event that any creditor agrees to provide the requested funding and indemnity, and the Official Liquidators are successful in recovering the Company's legal claim(s), the 'funding creditors' would then be able to seek an order of the Court pursuant to Section 564 of the Act granting the 'funding creditors' priority over other unsecured creditor claims. Should creditors be interested in funding any of the above claims, then they are requested to contact the Administrators' office by close of business on Thursday, 15 March 2012.**

**Note 5. Related Party Loans**

**a) Loan Account – Homewares Depot**

As detailed in the Administrators' Report, the Company's management accounts reveal a related party loan to Homewares Depot Pty Limited ("Homewares Depot"), a related entity which Mr Jason Kelly is a current director of, in the amount of \$10,065 as at 23 January 2012. The Administrators'/Official Liquidators' review of the Company's General Ledger has revealed that these amounts represent loans made to Homewares Depot.

In this regard, the Administrators'/Official Liquidators have written to Homewares Depot requesting payment of the amounts owing to the Company. As at the date of drafting this report, the Official Liquidators are yet to receive a response or payment and accordingly, the Official Liquidators will be conducting further recovery actions in this regard.

**b) Loan Account – Valentino Home Fashion**

As detailed in the Administrators' Report, the Company's management accounts reveal a related party loan account to Valentino Home Fashion Pty Limited ("Valentino Home Fashion"), which is currently in liquidation and is a related entity of the Company by way of common directors (being Messrs John Kelly and Lawrence Kelly) as well as Mr Jason Kelly. The Administrators'/Official Liquidators' review of the Company's General Ledger has revealed that these amounts represent loans made to Valentino Home Fashion.

As mentioned in the Administrators' Report, an Official Liquidator was appointed to Valentino Home Fashion on or around 10 February 2012 and accordingly, the Official Liquidators are of the opinion that it is unlikely any recoveries will be made in relation to this asset.

**Note 6. Secured Creditor – St. George**

As detailed earlier herein, the records held with the ASIC reveal that the assets of the Company are subject to a fixed and floating charge registered in favour of St. George in respect to an overdraft/trade refinance facility and monies loaned to the Company.

As mentioned in the Administrators' Report, the Company maintained an overdraft account with St. George which subject to St. George's fixed and floating charge, the details of which are summarised as follows:

Account Name	BSB No.	Account No.	Balance (\$)
D V Kelly Pty Limited	332-011	0000552584163	(716,679)

As at the date of the drafting of this report, the majority of the other banks have advised that no accounts maintained by the Company have been located.

The Company's total liability to St. George under its fixed and floating charge, including the overdraft account mentioned above, is comprised of the following:

Facility	Amount (\$)
Bills Matured Account	1,166,346.74
Overdraft / Trade Refinance Facility	803,538.25
<b>Total</b>	<b>1,969,884.99</b>

The Official Liquidators advise that St. George's fixed and floating charge has priority over the fixed and floating charge registered to NCF.

As mentioned in the Administrators' Report, the St. George facility is also secured by way of registered mortgages over real properties owned by related parties as well as registered fixed and floating charges and cross guarantees over a number of related entities. Furthermore, the Directors of the Company and Mr John Kelly's wife, Mrs Susan Kelly, have also provided personal guarantees to St. George in respect to the above detailed outstanding amounts.

**Note 7. Secured Creditor – NCF**

As detailed earlier herein, the records held with the ASIC reveal that the assets of the Company are also subject to a fixed and floating charge registered in favour of NCF in respect to monies advanced to the Company on 10 October 2011. The Company's total liability to NCF under this facility totalled \$134,658.55 as at the date of appointment of the Administrators.

As advised earlier, St. George's fixed and floating charge has priority over the fixed and floating charge registered to NCF.

**Note 8. Priority Employee Entitlements**

Pursuant to Section 556(1)(e) of the Act, any claims for outstanding employee entitlements (except excluded employee claims) are afforded a higher priority against the Company's assets. It should be noted that outstanding employee entitlements including wages, annual leave, long service leave, payment in lieu of notice ("PILN") and severance payments are further protected under the General Employee Entitlements and Redundancy Scheme ("GEERS") which is administered by the Department of Education, Employment and Workplace Relations ("DEEWR").

However, outstanding superannuation contributions are not protected under GEERS. In the case of any future priority dividend distribution, the ATO is the relevant authority to prove for outstanding superannuation contributions that were not paid within the statutory time period, who will then distribute the priority dividend to the relevant employees. In addition, the ATO is entitled to claim interest and penalties associated with the outstanding superannuation contributions.

Section 556 of the Act defines an 'Excluded Employee' as an employee of the Company who has been at any time during the period of twelve (12) months prior to the appointment acted in the capacity of a director / secretary of the Company and / or any employees who are a relative of a director / secretary. In this regard, Mr Lawrence Kelly, Mr John Kelly and Mrs Raima Kelly are considered Excluded Employees as Directors of the Company, as well as Mr Jason Kelly, Mr Philip Kelly and Mrs Susan Kelly, in their capacities as relatives of the Directors of the Company, are also considered Excluded Employees. Accordingly, they will only be entitled to claim priority employee entitlements to a limit of \$3,500 each, being \$2,000 for outstanding wages & superannuation and \$1,500 for accrued annual leave, leave loading, long service leave, PILN and redundancy entitlements.

As mentioned earlier herein, the Company employed fifteen (15) staff as at the date of appointment of the Administrators, comprising of nine (9) full-time staff (including the current Directors and related parties of the Directors) and six (6) part-time staff. During the voluntary administration period, the Administrators terminated the employment of all the Company's employees as part of their winding down of the Company's operations. The following table provides a summary of the Company's outstanding employee entitlements based upon the records of the Company and information known to the Official Liquidators:

Entitlements	Non-Priority - Excluded		Total (\$)
	Priority (\$)	Employees (\$)	
Wages	29,498	131,035	160,533
Superannuation	105,906	18,890	124,795
Annual Leave	40,176	164,906	205,082
Leave Loading	7,001	28,859	35,859
Long Service Leave	42,212	25,738	67,950
PILN	24,473	25,716	50,189
Redundancy	76,274	92,339	168,612
<b>Total</b>	<b>325,540</b>	<b>487,482</b>	<b>813,021</b>

As detailed in the Administrators' Report, an accurate reconciliation of outstanding superannuation contributions owing to the Company's employees is unable to be undertaken due to the poor state of the Company's records. However, the Proof of Debt lodged by the ATO reveals that the Company is liable to pay Superannuation Guarantee Charges ("SGC"), penalties and associated interest in respect to outstanding superannuation contributions in the amount of \$84,195.87 for the period 1 April 2009 to 30 June 2010. The Administrators/Official Liquidators have estimated further unpaid superannuation contributions in addition to the Company's SGC debt to be approximately \$40,599.57, resulting in an overall liability in respect to unpaid superannuation contributions of approximately \$124,795.44. Again, due to the poor state of the Company's records and the failure of the Company's management accounts to provide for

outstanding employee entitlements, the Administrators/Official Liquidators are unable to determine the Company's true position in respect to outstanding superannuation contributions.

It should be noted that priority employee entitlements are paid in priority to the secured creditor claims of St. George and NCF from realisations of the assets subject to a floating charge. Accordingly, such assets would include the realisation of the Company's trading stock, trade debtors, and any recoveries of loan accounts.

#### **Note 9. Unsecured Creditors**

##### ATO Claim

As detailed in the Administrators' Report, the ATO has lodged a claim in this administration in the amount of \$763,333.32 in relation to the Company's Running Balance Account ("RBA") deficits in respect to Business Activity Statement ("BAS") liabilities, income tax liabilities and interest charges incurred. In addition, the ATO has advised that the Company has failed to lodge the following:

- Activity Statements for the months ending July 2011, August 2011, October 2011, November 2011 and January 2012 and the quarters ending 30 September 2011, 31 December 2011 and 31 March 2012;
- Outstanding Income Tax Returns for the years ending 30 June 2008, 30 June 2009, 30 June 2010, 30 June 2011 and 30 June 2012; and
- PAYG Payment Summaries for the years ended 30 June 2003, 30 June 2004, 30 June 2005, 30 June 2010, 30 June 2011 and 30 June 2012.

Due to the inaccuracies of the management accounts of the Company, the Administrators / Official Liquidators are unable to estimate the Company's BAS and income tax liabilities in respect to the above outstanding lodgement periods.

##### Ordinary Unsecured Creditor Claims

The records of the Company and the investigations conducted by the Administrators / Official Liquidators reveal that the Company had ordinary unsecured creditors totalling \$666,383.06 as at 23 January 2012. Enclosed herewith is a detailed schedule of all known ordinary unsecured trade creditors of the Company. As at the date of drafting this report, six (6) Proofs of Debts totalling \$35,430.30 have been lodged by the known ordinary unsecured creditors in the administration. However, a detailed review of the Proofs has not yet been undertaken and accordingly, the value of creditors claims that would be admitted to rank for a dividend may differ when the final adjudication process is undertaken.

A formal Proof of Debt form is attached to this report for those creditors who are yet to submit a claim and supporting documentation.

## **INVESTIGATIONS**

Comments concerning the investigations into voidable transactions and other investigations required by the Act are set out below.

In accordance with the requirements of Corporations Regulations 5.3A.02, the Administrators / Official Liquidators have sought to establish whether there are any transactions in respect of which money, property or other benefits may be recoverable by the Official Liquidators under Part 5.7B of the Act.

### **1. Insolvent Trading**

Section 588G of the Act provides that a director, including a shadow or de-facto director, of a company may be held personally liable for debts incurred at a time when the company was proven to be insolvent or became insolvent as a result of incurring a debt.

Pursuant to Section 588G of the Act, a director of a company has a duty to prevent the company from trading whilst insolvent. If a director is found guilty of such an offence, the director may be held liable for the debts incurred by the Company during the period it traded whilst insolvent.

It has been established that insolvency is primarily based on a cash flow test, although a balance sheet test may also be used to support the results of the cash flow test. Accordingly, to prove insolvency, it requires a consideration of the Company's circumstances in their entirety.

As detailed in the Administrators' Report, the preliminary investigations into insolvent trading have revealed that the Company may have traded whilst insolvent from at least 1 April 2009. This was based on the following indicators:

i. Inability to produce timely and accurate financial information to display the Company's trading performance and financial position, and make reliable forecasts.

The Administrators'/Official Liquidators' observations of the Company's business have revealed that its accounting and operations systems and practices are out-dated and have been neglected for quite some time. Furthermore, the financial statements provided to date appear to be incorrect and unreliable. Subject to further investigations and the provision of records, the Company may be deemed to have failed with Section 286 of the Act with respect to the requirement to keep adequate records. Section 588E(4) of the Act provides that a Company is presumed insolvent for the period which it failed to maintain adequate records.

ii. Overdue Taxation Liabilities

As noted above, the ATO has lodged a claim in this administration in the amount of \$763,333.32 in relation to the Company's RBA deficit debt in respect to BAS liabilities, income tax liabilities and interest charges incurred. In addition, the ATO has advised that the Company has failed to lodge numerous tax assessments and accordingly, its debt is subject to change. This culminated in the DCT filing a winding up application against the Company on 15 December 2011.

The failure to lodge tax assessments on time and the failure to maintain its payment obligations can be an indicator that it was not able to meet all of its statutory obligations as and when they fell due. Often when a company is experiencing difficulty in meeting its obligations to trade creditors, it will neglect its taxation obligations to assist with cash flow.

iii. Outstanding Superannuation Contributions

As noted above, the ATO Proof of Debt reveals that the Company is be liable to pay SGC in respect to outstanding superannuation contributions, penalties and interest charges in the amount of \$84,195.87 for the period 1 April 2009 to 30 June 2010.

Furthermore, a review of the Company's employee records has revealed that the Company has outstanding superannuation contributions, including the above SGC liability, totalling \$124,795.44.

An employer is required to pay superannuation contributions to the relevant superannuation funds within twenty-eight (28) days of the quarter end. In this regard, it appears that the Company may have failed to make the said payments and subsequently satisfy the Superannuation Guarantee Charge. Often when a company is experience difficulty meeting its obligations to trade creditors, it will neglect its superannuation obligations in order to assist with cash flow.

iv. Aged Payables (Trade Creditors)

Ageing as at	30-Jun-11		23-Jan-12	
	Total (\$)	Total (%)	Total (\$)	Total (%)
Less than 30 Days	6,257	6.17	6,224	6.12
31-60 Days	2,375	2.34	17,643	17.35
61-90 Days	1,644	1.62	10,642	10.47
Over 90 Days	91,168	89.87	67,172	66.06
<b>Total</b>	<b>101,444</b>	<b>100.00</b>	<b>101,681</b>	<b>100.00</b>

As seen in the table above, the Company's management accounts reveal a historical trend of significant aged payables in excess of thirty (30) days. This is an indicator that the Company was paying trade creditors outside trading terms.

v. Rental Arrears

As mentioned in the Administrators' Report, the Administrators were provided with a Statement of Claim in the amount of \$423,374.37 as at 1 November 2011 which was filed in the District Court of New South Wales, General Division (Case Number: 2011/383800) by the landlord on the Company's leased premises. This reveals that the Company had a history of late payment of its rental obligations. In this regard, the Company's rental payment history is summarised as follows:

Date Due	Date Paid	Amount Paid
01-Aug-09	26-Aug-10	Paid in Full
01-Sep-09	26-Aug-10	Paid in Full
01-Oct-09	26-Aug-10	Paid in Full
01-Nov-09	26-Aug-10	Paid in Full
01-Dec-09	26-Aug-10	Paid in Full
01-Jan-10	26-Aug-10	Paid in Full
01-Feb-10	27-Aug-10	Paid in Full
01-Mar-10	21-Sep-10	Paid in Full
01-Apr-10	09-Nov-10	Paid in Full
01-May-10	31-Dec-10	Paid in Full
01-Jun-10	16-Feb-11	Paid in Full
01-Jul-10	22-Mar-11	Paid in Full
01-Aug-10	22-Mar-11	Paid in Full
01-Sep-10	30-Mar-11	Paid in Full
01-Oct-10	06-Apr-11	Paid in Full
01-Nov-10	06-Apr-11	Paid in Full
01-Dec-10	06-Aug-11	Paid in Full
01-Jan-11	19-Apr-11	Paid in Full
01-Feb-11	23-Apr-11	Paid in Full
01-Mar-11	-	Part Payment

As seen in the table above, it is evident that the Company was unable to meet its rental instalments as and when they fell due since at least 1 August 2009. The Official Liquidators note that the Company did not make any further payments in respect to rental instalments for the period 1 April 2011 to the date of appointment of the Administrators. The landlord's total claim against the Company has been estimated to be approximately \$534,258.77.

vi. Judgment Debts

As mentioned in the Administrators' Report, the Administrators conducted an 'eCheck 3' search of the Australian Business Research database on the name of the Company. This report revealed the following judgment debts made against the Company:

Judgment Date	Creditor	State	Amount (\$)
13-Dec-07	Forster Mercantile Collections	NSW	1,290.00
29-Sep-08	Bohemia Crystal Pty Limited	NSW	4,009.00
02-Jun-09	Noritake Australia Pty Limited	NSW	12,887.00

**Conclusion**

Having regard to the above preliminary analysis, the Official Liquidators may have a claim for insolvent trading from at least 1 April 2009.

Further investigations are required to determine the precise date of insolvency and to quantify the loss suffered by creditors. The Official Liquidators intend to conduct a further, more in depth investigation to ascertain the merits of commencing an action against the Directors for insolvent trading, including their financial capacity to meet any demand made against them for insolvent trading.

In this regard, the Administrators/Official Liquidators have conducted searches of the database of the New South Wales Land Titles Office in the names of the current Directors, Mr Lawrence Kelly, Mr John Kelly and Mrs Raima Kelly as well as Mr Jason Kelly in his possible capacity as a shadow/de-facto director. The results of these searches as well



as an analysis of the financial position of each of the Directors and possible shadow/de-facto director are detailed below.

1. Mr Lawrence Kelly and Mrs Raima Kelly

The searches of the database of the New South Wales Land Titles Office in the names of Mr Lawrence Robert Kelly and Mrs Raima Joan Kelly have revealed that they are the joint registered proprietors of one (1) real property in New South Wales, the details of which are summarised in the table below:

Title	Dealing	Address	Mortgagee	Ownership
15/285691	TAF479044	27 Jane Jarvis Way Macquarie Links NSW 2565	Australia and New Zealand Banking Group Limited	Joint Tenants

To assist in their enquiries, the Administrators requested a personal asset and liability statement from Mr Lawrence Kelly and Mrs Raima Kelly. The information contained in this statement can be summarised as follows:

	Amount (\$)
<b>Assets</b>	
Home	585,000
Cash	30
Motor Vehicle	2,000
Household Contents	5,000
<b>Total Assets</b>	<b>592,030</b>
<b>Liabilities</b>	
Home Mortgage	(364,113)
Other Loans	(220,000)
Credit Cards	(19,580)
Other Liabilities	(5,847)
<b>Total Liabilities</b>	<b>(609,540)</b>
<b>Net Assets (Deficiency)</b>	<b>(17,510)</b>

Notwithstanding the above, the Administrators/Official Liquidators note that Mr Lawrence Kelly and Mrs Raima Kelly have personally guaranteed the significant debt due to St. George. The Administrators/Official Liquidators' investigations into the affairs of the Company have revealed that a significant shortfall is likely to exist on the amounts owing to St. George. Accordingly, their net asset position is expected to deteriorate significantly after providing for his liability on the shortfall on the debts owing to St. George.

2. Mr John Kelly

The searches of the database of the New South Wales Land Titles Office in the name of Mr John Arthur Kelly have revealed that Mr John Kelly is the registered proprietor of two (2) real properties in New South Wales, the details of which are summarised in the table below:

Officeholder	Title	Dealing	Address	Mortgagee	Ownership
John Arthur Kelly	22/238921	TN887829	12 Sylvan Grove Picnic Point NSW 2213	St. George	Joint Tenants (50% Share)
John Arthur Kelly	45/SP60724	T8201795	45/37 Bay Street Glebe NSW 2037	National Australia Bank Limited	Joint Tenants (50% Share)

The Administrators/Official Liquidators are not aware of the equity positions of the above properties, however the Administrators/Official Liquidators have conducted searches of RPData.com.au which reveals that the purchase price of abovementioned properties are as follows:

Officeholder	Address	Purchase Date	Purchase Price
John Arthur Kelly	12 Sylvan Grove Picnic Point NSW 2213	10/05/1974	61,000
John Arthur Kelly	45/37 Bay Street Glebe NSW 2037	30/10/2001	342,000

To assist in their enquiries, the Administrators requested a personal asset and liability statement from Mr John Kelly. The information contained in this statement can be summarised as follows:

	Amount (\$)
<b>John Kelly</b>	
<b>Assets</b>	
Home	700,000
Cash	100
Motor Vehicle	-
Household Contents	5,000
<b>Total Assets</b>	<b>705,100</b>
<b>Liabilities</b>	
Home Mortgage	-
Other Loans	-
Credit Cards	(15,000)
Other Liabilities	(1,400)
<b>Total Liabilities</b>	<b>(16,400)</b>
<b>Net Assets (Deficiency)</b>	<b>688,700</b>

The Administrators/Official Liquidators note that they are unaware of the current market value on the Glebe property nor the amounts owing to the mortgagee on the property. However, the Administrators/Official Liquidators obtained a 'kerbside appraisal' from Raine & Horne Commercial to ascertain the estimated market value of Mr John Kelly's Picnic Point property which reveals the estimated market value on the property to be between \$670,000 and \$690,000. The Administrators/Official Liquidators note that the above statement does not include the amounts owing to St. George under its registered mortgage in respect to the Company's debt mentioned earlier.

Notwithstanding the above, Mr John Kelly has also personally guaranteed the significant debt due to St. George. Accordingly, Mr John Kelly's net asset position is expected to deteriorate significantly after providing for his liability on the shortfall on the debts owing to St. George.

Furthermore, the DCT has served Mr John Kelly with a Director's Penalty Notice ("DPN") pursuant to Section 222AOE of the Income Tax Assessment Act 1936. The Administrators/Official Liquidators understand that the DPN has been served in respect to amounts totalling \$74,942.07 in relation to unpaid PAYG withholding amounts of the Company. Irrespective of liquidation of the Company, it is likely that the ATO will continue to pursue Mr John Kelly under the DPN. As a result, Mr John Kelly will be required to enter into some form of repayment arrangement to satisfy the debt owing under the DPN and stave off any bankruptcy proceedings against him, thereby further reducing any net assets which may be available to satisfy any insolvent trading claim made against him.

### 3. Mr Jason Kelly

As detailed above, Section 588G of the Act provides that a director, including a shadow or de-facto director, of a company may be held personally liable for debts incurred at a time when the company was proven to be insolvent or became insolvent as a result of incurring a debt. Section 9 of the Act includes shadow directors and de-facto directors within the definition of "director".

As mentioned earlier in the Administrators' Report, the Administrators'/Official Liquidators' investigations and observations of the Company's affairs have revealed the possibility that Mr Jason Kelly, son of Mr Lawrence Kelly and Mrs Raima Kelly, may be a shadow or de-facto director of the Company. In this regard, the Administrators have identified the existence of a number of factors which indicate that Mr Jason Kelly may be shadow or de-facto director of the Company, the details of which are as follows:

- The Administrators'/Official Liquidators' enquiries reveal that Mr Jason Kelly is an authorised signatory on the Company's bank account with St. George;
- Mr Jason Kelly's involvement with the Company appears to go beyond his capacity as an employee of the Company. The Administrators'/Official Liquidators' dealings with the Company since their appointment reveal that Mr Jason Kelly appears to be actively involved in the day-to-day management of the Company and has assumed the 'Managing Director' role since the stroke suffered by his father Lawrence Kelly.
- The Administrators'/Official Liquidators' observations of the Company's operations reveal that Mr Jason Kelly was the ultimate source of decision making within the Company, which is evidence by the fact that Mr Jason Kelly directed employees / handled payroll, oversaw stock purchases and orders, actively dealt with the Company's customers and was responsible for the maintenance of the Company's books and records.

Having regard to the above, the Official Liquidators are of the opinion that Mr Jason Kelly may be a shadow or de-facto director of the Company and accordingly, he may also be held liable for an insolvent trading claim pursuant to Section 588G of the Act.

The Official Liquidators note that subsequent to issuing the Administrators' Report, Mr Jason Kelly and Mr Lawrence Kelly have both denied the claims that Mr Jason Kelly acted in the capacity as a shadow or de-factor director of the Company. Accordingly, the Official Liquidators intend to conduct further investigations in this regard.

The searches of the database of the New South Wales Land Titles Office in the name of Mr Jason Andrew Kelly have revealed that Mr Jason Kelly is the registered proprietor of two (2) real properties in New South Wales, the details of which are summarised in the table below:

Officeholder	Title	Dealing	Address	Mortgagee	Ownership
Jason Andrew Kelly	10/285664	T7837692	15 Strathwallen Close Macquarie Links NSW 2565	Australia and New Zealand Banking Group Limited	Sole Proprietor
Jason Andrew Kelly	92/1076221	TAD976749	117 Moleton Road Lowanna NSW 2450	National Australia Bank Limited	Tenants in Common (5% Share)

**Subsequent to issuing the Administrators' Report, the Official Liquidators have been advised by Mr Jason Kelly that he is not the registered proprietor of the above Lowanna property.**

The Official Liquidators are not aware of the equity position of the above Macquarie Links property, however the Administrators'/Official Liquidators have conducted searches of RPData.com.au which reveals that the purchase price of the abovementioned property is as follows:

Officeholder	Address	Purchase Date	Purchase Price
Jason Andrew Kelly	15 Strathwallen Close Macquarie Links NSW 2565	2/04/2001	175,000

The Administrators'/Official Liquidators note that they are unaware of the current market value on the above properties nor the amounts owing to the respective mortgagees.

In addition, the Company's Directors and possible shadow/de-facto director are also shareholders in a number of other companies in Australia, the details of which are summarised in the table below:

Officeholder	Company	Share Class	No. Held	Beneficially Owned
Lawrence Robert Kelly	Lawraima Pty Limited (In Liquidation)	MAN	10	Yes
Lawrence Robert Kelly	Lawraima Pty Limited (In Liquidation)	Ordinary	10	Yes
Lawrence Robert Kelly	Valentino Home Fashion Pty Limited (In Liquidation)	Ordinary	25	Yes
Raima Joan Kelly	Lawraima Pty Limited (In Liquidation)	MAN	5	Yes
Raima Joan Kelly	Lawraima Pty Limited (In Liquidation)	Ordinary	5	Yes
John Arthur Kelly	Brabrooke Pty Limited	Ordinary	4	Yes
John Arthur Kelly	Valentino Home Fashion Pty Limited (In Liquidation)	Ordinary	25	Yes
Jason Andrew Kelly	Valentino Home Fashion Pty Limited (In Liquidation)	Ordinary	25	Yes
Jason Andrew Kelly	Valentino Franchising Pty Limited	Ordinary	25	Yes

The Directors' and possible shadow/de-facto director's net asset positions may increase depending upon the value (if any) of their shareholdings in these other entities. However, as can be seen in the table above, a majority of these entities have been placed into external administration and accordingly, it is unlikely that any value can be attributed to their shareholdings in these entities.

Having regard to the above information, it would appear that based on preliminary investigations into the financial positions of the Directors, neither Mr Lawrence Kelly, Mr John Kelly or Mrs Joan Kelly would have sufficient net assets to satisfy any successful insolvent trading action against them by the Official Liquidators. Further investigations will need to be undertaken by the Official Liquidators to determine the Directors' ability to meet any judgment made against them.

Finally, it would appear that based on preliminary investigations into the financial position of Mr Jason Kelly in his capacity as a shadow or de-facto director that he may have some capacity to satisfy a successful insolvent trading action made against him by the Official Liquidators. Further investigations will need to be undertaken by the Official Liquidators to determine whether Mr Jason Kelly is in fact a shadow/de-facto director as well Mr Jason Kelly's ability to meet any judgment made against him for insolvent trading in the event that it is proven that he is a shadow or de-facto director.

As mentioned in the Administrators' report, Mr Craig Kelly, son of Mr Lawrence Kelly and Mrs Raima Kelly, may also be a shadow or de-facto director of the Company and accordingly, he may also be held liable for an insolvent trading claim pursuant to Section 588G of the Act. However, the Official Liquidators note that subsequent to issuing the Administrators' Report, Mr Lawrence Kelly has denied the claims that Mr Craig Kelly acted in the capacity as a shadow or de-facto director of the Company. Mr Lawrence Kelly has advised that Mr Craig Kelly has not had any involvement with the Company's for the past two (2) years apart from providing advice on the legal proceedings mentioned earlier herein. Accordingly, the Official Liquidators will be conducting further investigations in this regard.

### **Defences to Insolvent Trading**

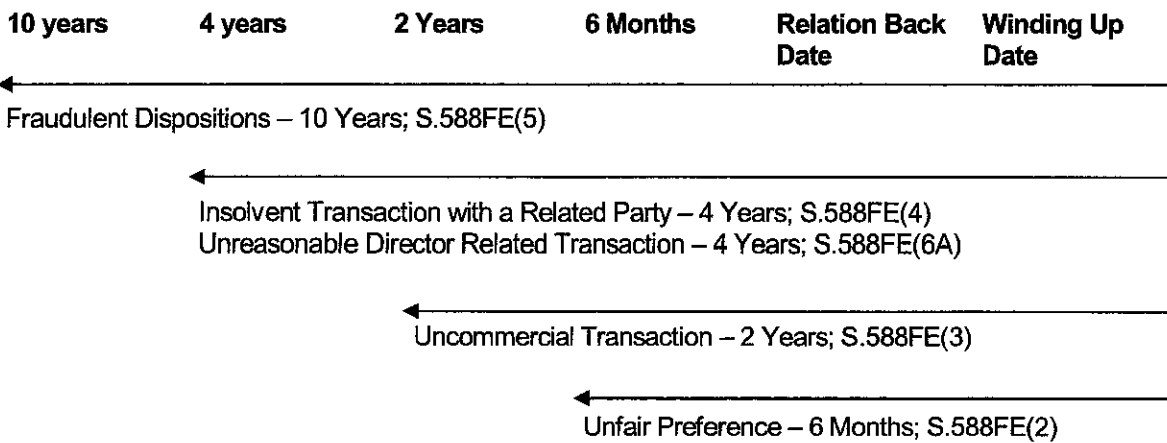
It should be noted that the Act identifies a number of defences available to directors in respect to insolvent trading claims. Creditors should also be aware of the difficulties faced in pursuing an action for insolvent trading, which include but are not limited to:

- any action commenced against the directors would more than likely be vigorously defended;
- the costs associated with commencing and prosecuting any legal actions; and
- the inherent uncertainties associated with litigation.

The Official Liquidators are currently assessing the issue of insolvent trading and determining whether there would be any benefit to creditors as a result of any action for recovery, including the costs involved in pursuing the matter.

***In the event that creditors are interested in funding such enquiries then they are requested to contact the Official Liquidators' office.***

**2. Voidable Transactions**



Based on the investigations performed to date, the Official Liquidators provide comments as follows:

**Unfair Preferences**

The Act allows a Liquidator a right of recovery in respect of transactions made by a company if it was insolvent at the time it entered into the transaction or if it became insolvent because of the transaction, which occurred in the period of six (6) months immediately prior to the relation back date, in this case being the date of appointment of the Administrators, and the unsecured creditor received more than it would have received in the winding up of the Company. For related party creditors, a Liquidator is able to recover Unfair Preference recoveries which date back four (4) years prior to the relation back date.

As detailed in the Administrators' Report, the Administrators'/Official Liquidators' investigations with respect to Unfair Preferences have identified the following payments made within the six (6) months prior to the winding up application being filed against the Company:

No. of Payments	Payee	Amount (\$)
14	Unknown	86,687.52
1	DVK International	45,554.00
<b>Total</b>		<b>132,241.52</b>

In this regard, the Administrators'/Official Liquidators have issued letters to the Directors of the Company requesting further details in respect to the above detailed transactions. As at the date of drafting this report, the Official Liquidators are yet to receive a response. Accordingly, further investigations in respect to the above payments and a commercial assessment of the recovery of any Unfair Preferences are required to be undertaken by the Official Liquidators.

However, it should be noted that there are a number defences available to the recipients of these payments. In particular, the 'Running Account' principle as per Section 588FA(3) of the Act states that payments deemed to be for the purpose of inducing the creditor to provide further goods or services as well as to discharge an existing indebtedness are not preferential provided that the payment made does not exceed the value of goods or services acquired. Accordingly, if the 'Running Account' principle applies to the payments received by the above recipients, then it is unlikely that the payments in full will be deemed preferential in nature, notwithstanding the commerciality of pursuing these payments.

**Uncommercial Transactions**

A transaction of a company is an Uncommercial Transaction and may be set aside if the company was insolvent at the time it entered into the transaction or if it became insolvent because of the transaction and if it may be expected that a reasonable person in the company's circumstances would not have entered into the transaction. Again, a Liquidator may recover such transactions made to related parties within four (4) years of the winding up application being filed, as opposed to two (2) years for a non-related party.

Pre-appointment Disposal of Motor Vehicles:

As detailed in the Administrators' Report, the search obtained from the Roads and Maritime Services reveals that the Company disposed of five (5) motor vehicles prior to the Administrators' appointment, the details of which are as follows:

Rego. No.	Description	Date Acquired	Date Disposed
BHC58A	2008 Nissan Z50 Murano	31/01/2010	20/01/2012
BCF63N	2006 Mercedes Sprinter	01/06/2007	13/01/2012
AH97FG	2001 Hyundai Santa Fe	10/10/2005	13/01/2012
TLV832	1999 Ford Trader	25/08/2000	16/01/2012
VTR891	1999 Mitsubishi Pajero	05/05/1999	13/01/2012

The Administrators/Official Liquidators have issued a letter to the Roads and Maritime Services requesting further details in respect to the disposal of the above motor vehicles and have also issued letters to the Company's Directors requesting details and supporting documentation in respect to the disposal of the vehicles. As at the date of drafting this report, the Administrators/Official Liquidators are yet to receive a response from the Roads and Maritime Services or the Directors of the Company, however the Official Liquidators understand that these transfers were made to related parties. Accordingly, further investigations in respect to these disposals are required to be undertaken by the Official Liquidators.

**Unreasonable Director Related Transaction**

A transaction of a company is an Unreasonable Director Related Transaction and may be set aside if the company entered into the transaction with a director or a close associate of a director of the company and if it may be expected that a reasonable person in the company's circumstances would not have entered into the transaction. Transactions include payments, the issue of securities, conveyances or other dispositions of property by a company in favour of a director, a relative, de-facto spouse or related entity of a director.

Should any of the pre-appointment disposals of motor vehicles mentioned above be deemed as voidable transactions made to a related entity, then these transactions may also be constituted as Unreasonable Director Related Transactions.

Should the payments made to unknown parties identified above be revealed as payments to the Directors and/or related parties, then these transactions may also be constituted as Unreasonable Director Related Transactions, depending on the circumstances of the payments.

Furthermore, as mentioned in the Administrators' Report, Mr Jason Kelly is the current director of DVK International Furniture Pty Limited ("DVK International"). Accordingly, the payment in the amount of \$45,554 made to DVK International identified above may also constitute an Unreasonable Director Related Transaction, depending upon the circumstances of the payment.

In this regard, the Official Liquidators' investigations into this area of the law are continuing.

**Fraudulent Dispositions**

A transaction of a company may be set aside if the company was insolvent at the time it entered into the transaction or if it became insolvent because of the transaction and if the purpose of the transaction was to defeat, delay or interfere with the rights of any or all of its creditors on the winding up of the company.

Should any of the pre-appointment disposals of motor vehicles mentioned above be deemed as voidable transactions, then they may also constitute transactions of this nature, depending on the circumstances of the transactions.

In this regard, the Official Liquidators' investigations into this area of the law are continuing.

**Unfair Loans**

A loan to a company is unfair if, and only if, the interest and/or charges on the loan were extortionate when the loan was made or have since become extortionate because of variation.

The Official Liquidators' further investigations into the affairs of the Company have not identified any such transactions.

**The investigations of potential voidable transactions conducted to date and outlined above are of a limited nature given the poor state of the Company's records.**

Creditors are advised that the difficulties with pursuing voidable transactions (if any) which may be identified include:-

- Legal and accounting fees could be substantial and the matter may take some time to resolve.
- The recipient of the potential voidable transaction may have a valid defence,
- The recipient of the potential voidable transaction may not be in a position to pay back those monies if and when a favourable judgment is received,
- It can be difficult to sustain a claim against a creditor for the receipt of certain types of voidable transaction as the issue of suspicion of insolvency can be disputed.

### **3. Director's Personal Liability for Employee Entitlements**

Pursuant to Section 596B of the Act, a director may be ordered to pay compensation if agreements or transactions were entered into with the intention of avoiding payment of employee entitlements or reducing the amount of entitlements that can be recovered.

Again, should any of the pre-appointment disposals of motor vehicles mentioned above be deemed as voidable transactions made to a related entity, then these transactions may also constitute transactions of this nature as these transfers have effectively reduced the value of realisable assets available to be distributed to priority employee creditors in respect to their outstanding entitlements.

In this regard, the Official Liquidators' investigations into this area of the law are continuing.

### **4. Director's and Officer's Duties**

The related party loan accounts, together with the transactions identified above as possible Unfair Preferences to related parties, Uncommercial Transactions, Unreasonable Director Related Transactions and/or Fraudulent Dispositions could constitute a breach by the Directors of the Company and/or Mr Jason Kelly (having regard to the possibility that he is a shadow/de-facto director) of their duties under Section 181 and Section 182 of the Act, by not acting in good faith in the best interests of the Company and for a proper purpose, and/or improperly using their position to gain an advantage for someone else or causing a detriment to the company.

Accordingly, it would appear that the above mentioned officeholders may have constituted such a breach by failing to meet the Company's taxation liabilities and its debts to trade creditors, as well as allowing the Company to enter into a number of possible related party transactions (namely the motor vehicle disposals mentioned earlier) which may not have been in the commercial interests of the Company. Further investigations into this area of the law are required to be undertaken by the Official Liquidators.

Furthermore, the loan accounts to Homewares Depot and Valentino Home Fashion, and the possible Unreasonable Director Related Transactions to DVK International, could constitute a breach of duties under Section 181 and Section 182 of the Act. Based on the information known to date, a reasonable person in the position of a director would not have advanced monies by way of unsecured loans given the circumstances of the Company and the detrimental effect they would have upon it and its other creditors.

As mentioned earlier herein, the Official Liquidators are of the opinion that the set of financial statements provided to NCF do not reflect the true financial position of the Company and were prepared solely for the purposes of procuring further finance. Accordingly, it appears that the officeholders of the Company may have also constituted breach of duties Under Section 181 and Section 182 of the Act in relation to the misrepresentation of the Company's financial statements.

It is noted that the Official Liquidators cannot recover the amounts as voidable transactions and also recoveries with respect to breach of directors' duties from the Directors of the Company and/or Mr Jason Kelly as they relate to the same set of transactions. As mentioned earlier in this report, it would appear that based on preliminary investigations into the financial positions of the Directors, they appear to have insufficient net assets to satisfy a successful voidable

transaction/breach of Directors' Duties claim by the Official Liquidators. However, it is noted that Mr Jason Kelly may have sufficient net assets to satisfy a successful voidable transaction/breach of Directors' Duties claim by the Official Liquidators. Further investigations will need to be undertaken by the Official Liquidators to determine their abilities to meet any judgement obtained against them.

## **5. Enforceability of Charges**

Under Section 588FJ of the Act, a floating charge registered within six (6) months of the relation back date, in this case after 15 July 2011, is void against the Official Liquidators if the Company was insolvent immediately after the date the charge was created, except so far as:

- The charge secured an advance paid to the Company or at its direction, at or after the charge is registered and as a consideration for the charge; or
- An amount payable for property or services supplied to the Company at or after that time; or
- Interest on such an advance or such amount so payable.

As advised earlier, NCF holds a second-ranking fixed and floating charge over the assets of the Company that was registered on 12 August 2011, which is within the relation back date period. However, as mentioned earlier, it was created to secure a loan paid to the Company as consideration for the charge, and accordingly, is not voidable against the Official Liquidators.

## **6. Adequacy of the Company's Books and Records**

A company is required pursuant to Section 286 of the Act to keep written financial records that:

- Correctly record and explain its transactions and financial position and performance; and
- Would enable true and fair financial statements to be prepared.

To date, the Official Liquidators have been provided with various books and records including the Company's MYOB accounting file and limited banking records relating to the Company. However, as mentioned earlier in the report the records received for the Company contain a number of inaccuracies and have not been reconciled for a significant period of time. The Official Liquidators have also been provided with financial statements for the year ended 30 June 2010 and 30 June 2011, however as mentioned earlier, these statements do not appear to be inaccurate and unreliable. In this regard, it appears that the Company has unlikely maintained its records in accordance with Section 286 of the Act.

## **SUMMARY OF RECEIPTS AND PAYMENTS**

A summary of receipts and payments for the period of the administration from 23 January 2012 to 28 February 2012 is attached hereto.

## **DIVIDEND LIKELIHOOD**

Creditors' prospects of receiving a dividend in this liquidation will depend upon the following:

- The recovery of assets available to the Official Liquidators;
- Successful voidable transactions/insolvent trading claims;
- Quantification of all creditors claims; and
- Costs of the administration and liquidation.

However, it is unlikely that a dividend will be paid to any class of creditor unless the Official Liquidators are successful in the recovery of significant monies as a result of voidable transactions and/or insolvent trading claims and/or



breaches of Director's Duties and/or recoveries as a result of legal proceedings that the Company was involved with prior to the Administrators' / Official Liquidators' appointment.

It should be noted that outstanding employee entitlements including wages, annual leave, long service leave, PILN and severance payments are further protected under the GEERS which is administered by the DEEWR. However, outstanding superannuation contributions are not protected under GEERS.

## **ADMINISTRATORS' AND OFFICIAL LIQUIDATORS' REMUNERATION AND DISBURSEMENTS**

In accordance with the IPA's Code of Professional Practice effective 1 January 2011, details of the remuneration being sought for the external administration of the Company are set-out under the headings below.

Insolvency Practitioners are entitled to be remunerated for acting as external administrators of a company. This remuneration can be calculated in number of ways including:

- On the basis of time spent by the external administrator and their staff; or
- A quoted fixed fee, based on the upfront estimate; or
- A percentage of asset realisation

Charging on a **time basis** is the most common method. I have calculated my fees on this basis by using the hourly scale of rates set down by the firm Cor Cordis Chartered Accountants from time to time. A schedule of the hourly rates currently employed is attached for creditor's reference, together with another schedule detailing the hourly rates effective 1 March 2011. Each hour is charged in six (6) minute increments. The rates are calculated to reimburse this firm for its labour and operating overheads in carrying out the tasks required for this administration. Staff are allocated to tasks according to their relevant experience and qualifications. The Official Liquidators consider this method appropriate as it ensures creditors are only charged for work that is performed by their office.

### **1: Declaration**

We, Ozem Kassem and Daniel P Juratowitch of Cor Cordis Chartered Accountants, have undertaken a proper assessment of the remuneration claim hereunder for our appointment as external administrators of D V Kelly Pty Limited, in accordance with the law and applicable professional standards. We are satisfied that the remuneration claimed is in respect of necessary work, properly performed or to be performed in the conduct of this external administration.

### **Administrators' Remuneration from 23 January 2012 to 24 February 2012**

As noted above, the calculation of the remuneration of the Administrators and their staff would be based on a time cost basis and calculated at an hourly scale of rates used by the firm Cor Cordis Chartered Accountants.

Since the appointment of the Administrators on 23 January 2012 to 24 February 2012, the following tasks were undertaken in the administration of the Company:

<b>Task Area</b>	<b>General Description</b>	<b>Includes</b>	<b>Hours</b>	<b>Amount (\$)</b>
<b>Assets</b>	Cash at Bank	Liaising with bank regarding accounts held. Preparing correspondence to St. George to freeze account		
	Plant & Equipment	Investigations regarding Company's plant and equipment. Liaising with Dominions regarding valuation of Company's plant and equipment. Reviewing asset listings. Liaising with interested parties regarding sale of plant and equipment. Negotiations regarding sale of plant and equipment to landlord of Company's leased	104.6	33,056.00

		premises.		
	Stock	<p>Conducting stock takes.</p> <p>Liaising with Dominions regarding stock take and valuation of Company's stock.</p> <p>Preparing and circulating advertisements in Liverpool Leader and mX Newspaper for sale of stock.</p> <p>Reconciling stock take with stock on hand to determine quantity and value of stock held.</p> <p>Liaising with interested parties regarding sale of stock.</p> <p>Reviewing and reconciling stock held overseas and costs to import.</p> <p>Internal meetings to discuss/review offers received for sale of stock.</p> <p>Negotiations regarding bulk sale of residual stock to landlord of Company's leased premises.</p>		
	Debtors	<p>Correspondence with debtors.</p> <p>Reviewing and assessing debtor ledgers.</p> <p>Liaising with Directors regarding collectability.</p> <p>Reviewing documentation in respect to the debtors.</p> <p>Receiving and following up debtor enquires.</p> <p>Liaising with and conducting meetings with Harvey Norman regarding collection of pre-appointment trade debtors.</p>		
	Contingent Assets	Discussions with Directors regarding the Company's legal claims.		
	Insurance	Liaising with PRM Managers regarding insurance requirements of the Company.		
<b>Creditors</b>	Creditors Enquiries	<p>Receiving and following up creditor enquires via telephone.</p> <p>Maintaining creditor enquiry register.</p> <p>Review and prepare correspondence to creditors and their representatives via facsimile, email and post.</p>		
	Secured Creditor	<p>Preparing preliminary report to St. George.</p> <p>Preparing letters to St. George and NCF.</p> <p>Responding to secured creditors' enquiries.</p> <p>Meetings with St. George and NCF/Harvey Norman.</p>		
	Leased Premises	<p>Reviewing leasing documents in respect to Chipping Norton premises.</p> <p>Liaising with managing agent and landlord.</p> <p>Undertaking tasks associated with exercising property rights in respect to the leased premises.</p> <p>Conducting meetings with managing agent and landlord in respect to rental negotiations.</p>	70.9	24,074.00
	Creditor Reports	<p>Drafting first circular to creditors.</p> <p>Drafting and amending Administrators' Report.</p>		
	Meeting of Creditors	<p>Preparing meeting notices, proxies and advertisements.</p> <p>Forwarding notice of meeting to all known creditors.</p> <p>Preparing meeting file including agenda, certificate of postage, attendance register, list of creditors, reports to creditors, advertisement of meeting and draft minutes of meeting.</p> <p>Attending first meeting of creditors.</p> <p>Preparing and lodging minutes of first meeting</p>		

		with ASIC.		
	Dealing with Proofs of Debt	Receiving, reviewing and recording proofs PODs.		
<b>Employees</b>	Meeting of Employees	Meeting with employees regarding notification of appointment and termination of employment.	11.0	3,087.50
	Employee Enquiries	Receiving and following up employee enquiries via telephone and email. Review and prepare correspondence to employees and their representatives via facsimile, email and post. Preparation of letter to employees advising them of termination of employment. Preparation of letter to employees advising of their outstanding entitlements and options available.		
	Calculation of Entitlements	Calculating employee entitlements. Reviewing employee files and the Company's books and records. Reviewing industry awards and National Employment Standards for the calculation of entitlements.		
<b>Trade On</b>	Trade on Management	Liaising with suppliers. Liaising with management and staff. Attendance on site. Liaising with external sales consultant. Dealing with customer sales. Conducting on-site sales of stock. Reconciling back orders and determining orders which can be fulfilled. Co-ordinating customer orders and delivery of customer orders. Attending to the payment of trade-on wages.	246.3	65,738.50
	Processing Receipts and Payments	Entering receipt and payments into accounting systems.		
	Budgeting and Financial Reporting	Reviewing Company's budgets and financial statements. Preparing budgets and cash flows. Meetings to discuss trading position.		
<b>Administration</b>	Document Maintenance/File Review/Checklist	Preparing timetable for Voluntary Administration. Attending to client setup. Attending to mail outs & postage. Filing of documents	36.6	12,308.50
	ATO & Other Statutory Reporting	Notifying statutory bodies of appointment.		
	Bank Account administration	Preparing correspondence opening and closing accounts. Bank account reconciliations. Corresponding with bank regarding specific transfers.		
	Processing Receipts and Payments	Entering receipt and payments into accounting systems.		
<b>Investigation</b>	Conducting Investigation	Attending Chipping Norton premises to collect the Company's books and records. Reviewing the Company's books and records. Review and preparation of Company nature and history. Discussions with Directors to conduct investigations into the affairs of the Company.	24.4	7,376.00

		Liaising with Company's external accountant regarding books and records. Conducting and summarising Company searches. Conducting and summarising searches on Directors and former Directors. Preparing and analysing financial statements schedule. Preliminary investigations regarding voidable transactions and insolvent trading. Reviewing specific transactions and liaising with Directors regarding certain transactions. Investigations in respect to the pre-appointment disposal of motor vehicles. Preparing an investigation file.		
	Legal Issues and Litigation	Preparing letter of instruction to ERA Legal to attend winding up hearing on 1 February 2012. Liaising and corresponding with ERA Legal regarding winding up.		
<b>Total</b>			<b>493.8</b>	<b>\$145,640.50</b>

Enclosed as **Annexure "A"** is a calculation of the work performed by appointee, employee and position for the period of the administration from 23 January 2012 to 24 February 2012, which has been calculated in accordance with the hourly rates charged by Cor Cordis and can be summarised as follows:

Classification	Hours	Hourly	
		Rate (\$)	Total (\$)
Appointee/Partner	34.7	525.00	18,216.15
Senior Manager	25.3	400.00	10,120.00
Manager	136.4	375.00	51,157.03
Supervisor	23.0	325.00	7,475.00
Senior 2	111.0	250.00	27,761.82
Intermediate 1	160.5	190.00	30,495.00
Intermediate 2	1.5	160.00	240.00
Accountant	1.3	135.00	175.50
<b>Professional Fees Payable</b>	<b>493.8</b>		<b>145,640.50</b>
Add: GST			14,564.05
<b>Total Professional Fees</b>			<b>\$ 160,204.55</b>

In summary, for the period of the voluntary administration from 23 January 2012 to 24 February 2012, we are seeking approval of our fees to the maximum amount of \$145,640.50 (plus GST).

**Official Liquidators' Remuneration for the period 25 February 2012 to the Conclusion of the Winding Up**

The Official Liquidators anticipate that further time costs to finalise the liquidation will be in the order of \$50,000.00 (plus GST). In this regard, it is requested that creditors approve the future remuneration from 25 February 2012 to the finalisation of the liquidation on a time basis in accordance with the scale of fees charged by Cor Cordis Chartered Accountants from time to time to a maximum limit of \$50,000.00 (plus GST). For whatever reason, in the event that the costs exceed this amount, then further creditor would be required to be sought.

Task Area	General Description	Tasks Including	Est Value (\$) (Ex GST)
<b>Assets</b>	Cash at Bank	Preparing correspondence to St. George to close pre appointment account.	12,000.00
	Debtors	Liaising and corresponding with trade debtors. Receiving and following up debtor enquires.	

		Reconciling Harvey Norman debtor accounts. Collection of trade debtor amounts. Collection of Administrators' trading sales. Liaising with debt collectors and solicitors. Attending internal meetings to discuss/review any settlements of debts.	
	Contingent Assets	Further discussions with Directors regarding the Company's legal claims. Liaising with legal representatives in respect to assess prospects of success of legal claims. Collecting and reviewing documentation pertaining to legal claims to assess prospects of success of legal claims.	
<b>Creditors</b>	Creditors Enquiries	Advising creditors of the appointment of the Liquidators. Dealing with creditors' enquiries, including telephone attendance and correspondence.	11,000.00
	Creditors Reports	Drafting and amending Official Liquidators' Report to Creditors. Preparing general reports to creditors.	
	Secured Creditor Reporting	Preparing reports to St. George and NCF. Liaising with St. George and NCF.	
	Dealing with Proof of Debts	Receiving, reviewing and recording proofs. Maintaining proof of debt registry.	
	Meeting of Creditors	Preparing and lodging minutes of Section 439A meeting. Convening final meeting of members and creditors.	
<b>Employees</b>	Employee Enquiries	Receiving and following up employee enquiries via telephone and email. Review and prepare correspondence to employees and their representatives via facsimile, email and post. Preparation of letter to employees advising of their outstanding entitlements and options available.	7,000.00
	GEERS	Correspondence with GEERS. Preparing notification spreadsheet. Preparing GEERS quotations. Preparing GEERS distributions.	
<b>Investigation</b>	Conducting Investigation.	Further reviewing the books and records of the Company. Investigating issues raised by creditors. Conducting further investigations regarding the Company's affairs. Further investigations into and reconciliation of related party loan accounts and associated recovery actions (if any). Further investigations into unknown transactions and associated recovery actions (if any). Liaising with the Company's Directors. Preparing Section 533(1) report. Commencing recovery action in respect to voidable transactions identified (if any) and claims for insolvent trading (if any).	15,000.00
<b>Administration</b>	Bank Account Administration	Maintaining bank account and preparing reconciliations.	5,000.00
	ASIC Form 524 and Other Forms	Preparing and lodging ASIC forms including F505, F524, F5011 etc. Corresponding with ASIC regarding statutory forms.	

	ATO and Other Statutory Reporting	Notifying statutory bodies of appointment of the Liquidator. Preparing and lodging BAS.	
	Books and Records/Storage	Attending to records in storage. Forwarding job files to storage.	
<b>Total</b>			<b>\$50,000.00</b>

The above table does not take into account any potential time that may be incurred in the event the Liquidator becomes involved in legal proceedings or recovery of unknown assets or other unforeseen conduct. Should any additional time be required to be incurred in this regard, additional approval would be sought from creditors.

In addition, the above fee resolution does not include any work conducted by the Liquidator in providing assistance in respect to entitlements paid out under GEERS. In the event that funds are advanced under GEERS, the Liquidator may seek a fee to be paid by the Department of Education, Employment and Workplace Relations by facilitating payments to employees under GEERS. This fee is in addition to any fees approved by creditors or Committee of Inspection, in accordance with Section 499(3) of the Act.

As it is currently unclear whether sufficient funds will be realised in the winding up, the above fee resolution does not include work for a distribution to creditors. Should sufficient realisations be made to allow for a distribution then additional fee approval will be sought from creditors.

### 3: Supporting information

#### Statement of remuneration claim

Having regard to the discussion above, the following resolutions will be tabled at the forthcoming meeting of creditors:-

For the period of the voluntary administration from 23 January 2012 to 24 February 2012:

***"THAT the remuneration of the Joint & Several Administrators for the period 23 January 2012 to 24 February 2012, be approved to a maximum limit of \$145,640.50 (plus GST), with such amount to be calculated on a time cost basis using the hourly rates adopted by the firm of Cor Cordis Chartered Accountants as detailed in the Report to Creditors dated 1 March 2012."***

For the period of the official liquidation from 25 February 2012 to the finalisation of the winding up:

***"THAT the remuneration of the Joint & Several Official Liquidators for the period 25 February 2012 to the conclusion of the winding up, be approved to a maximum limit of \$50,000.00 (plus GST), with such amount to be calculated on a time cost basis using the hourly rates adopted by the firm of Cor Cordis Chartered Accountants, as detailed in the Report to Creditors dated 1 March 2012, which may be varied from time to time with such annual increases (if any) be no greater than ten percent (10%), beyond which further approval may be sought from creditors."***

#### Queries

Should creditors require any further information with respect to the remuneration being sought above, they should contact this office prior to the forthcoming meeting of creditors.

#### Information Sheet

A creditor information sheet providing information to creditors regarding the approval of remuneration of an external administrator, adopted by the IPA Code of Professional Practice, effective 1 January 2011, can be obtained from the following website address:

[http://www.ipaa.com.au/user/docs/Creditor\\_Information\\_Sheet.pdf](http://www.ipaa.com.au/user/docs/Creditor_Information_Sheet.pdf)

#### Disbursements

In accordance with statute and the IPA's Code of Professional Practice, Insolvency Practitioners are not required to seek creditor approval for disbursements incurred, however they must account to creditors in a proper manner. Disbursements are generally divided into three types:

- A) disbursements that are externally provided professional services. These are recovered at cost. An example of this disbursement is legal fees.
- B) disbursements that are externally provided non-professional costs such as travel, accommodation and search fees. These disbursements are recovered at cost.
- C) disbursements that are internally provided non-professional costs, such as photocopying and document storage. These disbursements are charged at cost except for photocopying, printing and telephone calls which can be charged at a rate which is intended to recoup both variable and fixed costs.

The Administrators advise that an assessment is made to ensure that all disbursements are necessary and properly incurred in the conduct of this external administration. Creditors have the right to question the incurring of any disbursements and can challenge disbursements in Court.

Having regard to the above, creditors are referred to the attached Cor Cordis Guide to Hourly Rates and Disbursements.

### **MEETING OF CREDITORS**

As disclosed in the attached Notice of Meeting, a meeting of creditors has been convened for Friday, 16 March 2012, at 10:00 AM, at the offices of Cor Cordis Chartered Accountants, Level 10, 76-80 Clarence Street, Sydney NSW 2000.

If you are unable to attend the meeting of creditors you may still be involved by appointing someone to vote on your behalf. You may grant that person a general proxy to vote as he / she sees fit or a special proxy, which sets out your instructions as to how he / she is to vote. For more information on whom you can appoint and how to grant the power please refer to the Appointment of Proxy (Form 532) enclosed.

If creditors have any information concerning assets of the Company or any other matters that may assist the Official Liquidators in the liquidation, I would appreciate it if they would furnish such details to me.

If you require any further information, please do not hesitate to contact Mr Steven Bazouni of this office on (02) 8221 8448.

Dated this 1st day of March 2012

  
Ozem Kassem  
Official Liquidator

Enc.

**D V Kelly Pty Limited (In Liquidation)****ABN: 43 000 401 605****Creditor Listing**

<b>SECURED CREDITORS</b>	<b>Book Value</b>	<b>Advised</b>	<b>Claimed</b>	<b>Control Value</b>
Network Consumer Finance Pty Limited	135,000.00	134,658.55	131,598.19	134,658.55
St. George Finance Limited	2,000,000.00	1,969,884.99	0.00	1,969,884.99
<b>TOTAL SECURED CREDITORS:</b>	<b>2,135,000.00</b>	<b>2,104,543.54</b>	<b>131,598.19</b>	<b>2,104,543.54</b>

<b>PREFERRED (EMPLOYEE) CREDITORS</b>	<b>Book Value</b>	<b>Advised</b>	<b>Claimed</b>	<b>Control Value</b>
<b>WAGES</b>				
Brennan, Keith Robert (Mr)	4,289.98	4,289.98	4,289.98	4,289.98
Cianflone, Stella (Ms)	2,564.85	2,564.85	0.00	2,564.85
Hillery, Natalie (Ms)	3,079.99	3,079.99	0.00	3,079.99
Jiang, Iris (Ms)	531.00	531.00	0.00	531.00
Jones, Craig Anthony (Mr)	5,593.60	5,593.60	8,519.20	5,593.60
Kelly, Jason (Mr)	52,071.43	52,071.43	0.00	52,071.43
Kelly, John (Mr)	26,571.43	26,571.43	26,571.43	26,571.43
Kelly, Lawrence (Mr)	57,857.14	57,857.14	0.00	57,857.14
Kwan, Edmond (Mr)	2,024.88	2,024.88	0.00	2,024.88
Lopez, Maria (Ms)	713.90	713.90	0.00	713.90
Lu, Judy (Ms)	3,730.69	3,730.69	0.00	3,730.69
Moore, Rachel (Ms)	1,504.50	1,504.50	1,504.50	1,504.50
<b>Total Wages:</b>	<b>160,533.39</b>	<b>160,533.39</b>	<b>40,885.11</b>	<b>160,533.39</b>
<b>SUPERANNUATION</b>				
Australian Taxation Office	0.00	84,195.87	0.00	84,195.87
Brennan, Keith Robert (Mr)	2,958.42	2,958.42	2,193.75	2,958.42
Cianflone, Stella (Ms)	1,768.75	1,768.75	0.00	1,768.75
Hillery, Natalie (Ms)	2,124.00	2,124.00	8,442.00	2,124.00
Jiang, Iris (Ms)	671.34	671.34	0.00	671.34
Jones, Craig Anthony (Mr)	2,651.97	2,651.97	0.00	2,651.97
Kelly, Jason (Mr)	4,686.43	4,686.43	0.00	4,686.43
Kelly, John (Mr)	3,034.29	3,034.29	90.00	3,034.29
Kelly, Lawrence (Mr)	5,207.14	5,207.14	0.00	5,207.14
Kelly, Philip (Mr)	5,207.14	5,207.14	0.00	5,207.14
Kelly, Raima (Mrs)	3,645.00	3,645.00	0.00	3,645.00
Kelly, Susan (Ms)	3,645.00	3,645.00	0.00	3,645.00
Kwan, Edmond (Mr)	1,396.38	1,396.38	0.00	1,396.38
Lopez, Maria (Ms)	492.31	492.31	0.00	492.31
Lu, Judy (Ms)	1,768.75	1,768.75	0.00	1,768.75
Moore, Rachel (Ms)	1,342.67	1,342.67	1,035.58	1,342.67
<b>Total Superannuation:</b>	<b>40,599.59</b>	<b>124,795.46</b>	<b>11,761.33</b>	<b>124,795.46</b>
<b>LEAVE OF ABSENCE</b>				
Brennan, Keith Robert (Mr)	17,104.98	17,104.98	17,058.83	17,104.98
Cianflone, Stella (Ms)	8,631.17	8,631.17	0.00	8,631.17
Hillery, Natalie (Ms)	12,120.72	12,120.72	16,514.86	12,120.72
Jiang, Iris (Ms)	936.62	936.62	0.00	936.62
Jones, Craig Anthony (Mr)	21,172.46	21,172.46	20,626.40	21,172.46
Kelly, Jason (Mr)	42,559.61	42,559.61	0.00	42,559.61
Kelly, John (Mr)	26,998.17	26,998.17	26,998.17	26,998.17
Kelly, Lawrence (Mr)	54,364.70	54,364.70	0.00	54,364.70
Kelly, Philip (Mr)	52,403.24	52,403.24	0.00	52,403.24
Kelly, Raima (Mrs)	44,019.21	44,019.21	0.00	44,019.21
Kelly, Susan (Ms)	4,511.77	4,511.77	0.00	4,511.77
Kwan, Edmond (Mr)	5,607.11	5,607.11	0.00	5,607.11
Lopez, Maria (Ms)	1,192.31	1,192.31	0.00	1,192.31
Lu, Judy (Ms)	14,040.06	14,040.06	0.00	14,040.06



Moore, Rachel (Ms)	3,229.41	3,229.41	3,213.06	3,229.41
<b>Total Leave of Absence:</b>	<b>308,891.54</b>	<b>308,891.54</b>	<b>84,411.32</b>	<b>308,891.54</b>
<b>RETRENCHMENT</b>				
Brennan, Keith Robert (Mr)	24,374.91	24,374.91	0.00	24,374.91
Cianflone, Stella (Ms)	9,909.64	9,909.64	0.00	9,909.64
Hillery, Natalie (Ms)	17,499.97	17,499.97	0.00	17,499.97
Jiang, Iris (Ms)	3,761.25	3,761.25	0.00	3,761.25
Jones, Craig Anthony (Mr)	13,984.00	13,984.00	3,496.00	13,984.00
Kelly, Jason (Mr)	22,500.00	22,500.00	0.00	22,500.00
Kelly, John (Mr)	21,000.00	21,000.00	0.00	21,000.00
Kelly, Lawrence (Mr)	21,000.00	21,000.00	0.00	21,000.00
Kelly, Philip (Mr)	25,000.00	25,000.00	0.00	25,000.00
Kelly, Raima (Mrs)	14,700.00	14,700.00	0.00	14,700.00
Kelly, Susan (Ms)	17,500.00	17,500.00	0.00	17,500.00
Kwan, Edmond (Mr)	7,823.40	7,823.40	0.00	7,823.40
Lopez, Maria (Ms)	2,758.25	2,758.25	0.00	2,758.25
Lu, Judy (Ms)	9,909.64	9,909.64	0.00	9,909.64
Moore, Rachel (Ms)	7,080.00	7,080.00	0.00	7,080.00
<b>Total Retrenchment:</b>	<b>218,801.06</b>	<b>218,801.06</b>	<b>3,496.00</b>	<b>218,801.06</b>
<b>TOTAL PREFERRED (EMPLOYEE) CREDITORS:</b>	<b>728,825.58</b>	<b>813,021.45</b>	<b>140,553.76</b>	<b>813,021.45</b>

<b>UNSECURED CREDITORS</b>	<b>Book Value</b>	<b>Advised</b>	<b>Claimed</b>	<b>Control Value</b>
All Ports International Logistics	0.00	5,984.00	0.00	5,984.00
Aplitt Automotive	1,861.45	1,861.45	0.00	1,861.45
ASIC	226.50	226.50	0.00	226.50
Australia Post	233.84	233.84	0.00	233.84
Australian Taxation Office	800,000.00	764,543.47	763,333.32	763,333.32
BP Australia	35.00	35.00	0.00	35.00
Budget Moorebank	4,219.49	4,219.49	0.00	4,219.49
Contact Security	2,311.27	2,311.27	1,973.79	1,973.79
Eco Springs	660.00	660.00	0.00	660.00
Employers Mutual (NSW) Limited	0.00	0.00	23,250.90	23,250.90
E-Tei	3,972.69	3,972.69	0.00	3,972.69
Hainbury Pty Limited	28,408.00	28,408.00	0.00	28,408.00
Integral Energy	2,748.27	2,748.27	3,839.46	3,839.46
Linsell Industrial	14.95	14.95	0.00	14.95
Liverpool City Council	1,739.82	0.00	0.00	0.00
Noritake	9,495.60	9,495.60	0.00	9,495.60
Office of State Revenue	0.00	0.00	5,131.90	5,131.90
Palin Pty Limited	1,167.99	1,167.99	0.00	1,167.99
Partner IT	742.50	742.50	0.00	742.50
Protec	28.96	28.96	0.00	28.96
Pylon Coatings	291.98	291.98	0.00	291.98
Veolia Environmental Services	3,122.20	3,122.20	0.00	3,122.20
Australia Star Communications	1,949.35	1,949.35	0.00	1,949.35
Bears Logistics	77.00	77.00	0.00	77.00
Finocchiaro, Natale Antonio (Mr)	0.00	534,258.77	0.00	534,258.77
Fuji Xerox	3,022.45	3,022.45	525.85	525.85
Macdonald's Furniture Express	488.00	488.00	0.00	488.00
MDL Asset Services	708.40	708.40	708.40	708.40
Quicks Freight Express	1,276.00	1,276.00	0.00	1,276.00
Rob Baker & Associates	6,940.00	6,940.00	0.00	6,940.00
Telstra	595.72	595.72	0.00	595.72
Transtar	23,766.16	23,766.16	0.00	23,766.16
Tweed Shire Council	473.20	473.20	0.00	473.20
VG Auto Paints	16.17	16.17	0.00	16.17
Wanless Wastecorp	647.24	647.24	0.00	647.24
<b>TOTAL UNSECURED CREDITORS:</b>	<b>901,240.20</b>	<b>1,404,286.62</b>	<b>798,763.62</b>	<b>1,429,716.38</b>
<b>Grand Total:</b>	<b>3,765,065.78</b>	<b>4,321,851.61</b>	<b>1,070,915.57</b>	<b>4,347,281.37</b>

**D V Kelly Pty Limited  
(In Liquidation)  
ABN: 43 000 401 605**

**Statement of Receipts and Payments for the Period  
23 January 2012 to 28 February 2012**

<b>Receipts</b>	<b>Amount (\$)</b>
<b>Trading Receipts</b>	
Sales	119,452.69
<b>Total Trading Receipts</b>	<u>119,452.69</u>
<b>Non-Trading Receipts</b>	
Pre-Appointment Debtors	32,234.16
<b>Total Non-Trading Receipts</b>	<u>32,234.16</u>
<b>Total Receipts</b>	<u>151,686.85</u>
<b>Payments</b>	
<b>Trading Payments</b>	<b>Amount (\$)</b>
Freight Outwards	(8.30)
Fuel & Oil	(324.03)
Hire & Leasing	(750.00)
Logistics	(1,602.70)
Merchant Facility Charges	(699.52)
Subcontractors	(9,425.00)
Sundry Expenses	(57.00)
Wages & Salaries	(9,493.26)
Waste Removal	(85.55)
<b>Total Trading Payments</b>	<u>(22,445.36)</u>
<b>Non-Trading Payments</b>	
Bank Charges	(2.65)
<b>Total Non-Trading Payments</b>	<u>(2.65)</u>
<b>Cash at Bank as at 28 February 2012</b>	<u><u>\$ 129,238.84</u></u>
<b>Future Trading Payments</b>	
PAYG Withheld	(1,196.00)
Superannuation Withheld	(962.03)
<b>Total Future Trading Payments</b>	<u>(2,158.03)</u>
<b>Total Payments</b>	<u>(24,606.04)</u>
<b>Net Receipts and Payments</b>	<u><u>\$ 127,080.81</u></u>

## GUIDE TO HOURLY RATES (GST EXCLUSIVE)

Classification	Guide to Level of Insolvency Experience	Hourly Rate (\$)
Appointee/Partner	Registered liquidator/trustee, responsible for all aspects of administration. Non appointee bringing significant experience to the assignment.	525.00
Associate Director	Minimum of ten years insolvency experience, at least five years at manager level and capable of controlling all aspects of an administration. May be appropriately qualified to take appointments in his/her own right.	450.00
Senior Manager	More than seven years insolvency experience, more than three years as a manager. Answerable to the appointee but otherwise responsible for all aspects of administration. Experienced at all levels and considered very competent. Controls staff and their training.	400.00
Manager	Six to seven years insolvency experience, with well-developed technical and commercial skills. Should be constantly alert to opportunities to meet clients' needs and to improve the clients' future operation either by revenue enhancement or by reducing costs and improving efficiency.	375.00
Supervisor	Four to six years insolvency Experience. Will have conduct of minor administrations and experience in control of one to three staff. Assists planning and control of medium to larger jobs.	325.00
Senior 1	Two to four years insolvency experience. Assists planning and control of small to medium sized jobs as well as performing some of the more difficult work on larger jobs.	275.00
Senior 2	One to two years insolvency experience. Required to control fieldwork on small jobs and is responsible for assisting complete fieldwork on medium to large jobs.	250.00
Intermediate 1	0 to two years insolvency experience. Graduate with little or no professional experience. Required to assist in day to day fieldwork under supervision of more senior staff.	190.00
Intermediate 2	0 to two years insolvency experience. Required to assist in day to day fieldwork under supervision of more senior staff.	160.00
Accountant	0 to one year insolvency experience. Trainee undertaking a degree with an accountancy major. Required to assist in day to day fieldwork under supervision of more senior staff.	135.00
Senior Secretary	Appropriate skills	160.00
Secretary	Appropriate skills.	120.00

**Notes:**

1. The Guide to level of Insolvency Experience is intended only to be a guide as to the qualifications and experience of the staff engaged. It should be noted that in some instances staff may be engaged under an appropriate classification principally due to their experience.
2. Time spent on matters is recorded and charged in six (6) minute intervals.
3. This Guide to Hourly Rates is effective as at 1 March 2011.

## DISBURSEMENT COST (GST EXCLUSIVE)

Type of Disbursement	Cost Calculation
Advertising	At actual cost
ASIC Filing Fees	At actual cost
Courier Fees	At actual cost
File Establishment File	\$12.50 per file
Mail outs	At actual cost
Storage Costs	
• Upfront + 5 years storage	\$54.55 per box
• Retrieval	\$6.14 each way (into office, back to storage)
Searches	At actual cost
Printing & Stationery	At actual cost
Photocopying	\$0.50 per page
Travel	
• Airfares	At actual cost
• Accommodation	At actual cost
• Meals	At actual cost
• Cents per Kilometre	1600cc – \$0.63 1601–2600cc – \$0.74 2601cc - \$0.75
Postage	At actual cost
Sundry	
• Legal fees	At actual cost
• Insurance Premiums	At actual cost
• Telephone Calls	At actual cost

**Notes:**

1. Guide to Disbursements is effective as at 27 July 2011.



**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

- INFO 41 *Insolvency: a glossary of terms*
- INFO 74 *Voluntary administration: a guide for creditors*
- INFO 75 *Voluntary administration: a guide for employees*
- INFO 45 *Liquidation: a guide for creditors*
- INFO 46 *Liquidation: a guide for employees*
- INFO 54 *Receivership: a guide for creditors*
- INFO 55 *Receivership: a guide for employees*
- INFO 43 *Insolvency: a guide for shareholders*
- INFO 42 *Insolvency: a guide for directors*
- INFO 84 *Independence of external administrators: a guide for creditors*
- INFO 85 *Approving fees: a guide for creditors*

### 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.

**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.

**FORM 532 – REGULATION 5.6.29  
APPOINTMENT OF PROXY  
CORPORATIONS ACT 2001**

**D V KELLY PTY LIMITED (IN LIQUIDATION)  
ABN: 43 000 401 605 (the "Company")**

**A. Creditor Name and Contact Details**

Name: \_\_\_\_\_  
 Company Name: \_\_\_\_\_ Telephone No: \_\_\_\_\_  
 Address: \_\_\_\_\_

**B. Appointment of Proxy**

I/We, a Creditor of the Company hereby appoint \_\_\_\_\_ or in his/her absence \_\_\_\_\_ or failing that, the Chairperson, as my/our proxy to vote at the meeting of creditors of the Company to be held in the above matter on Friday, 16 March 2012, commencing at 10:00 AM or at any adjournment thereof.

**C. Voting By Proxy (please tick)**

This proxy is to be used as a general proxy to vote on all matters arising at the meeting,

**OR**

This proxy is to be used as a special proxy to vote on the following matters as specifically indicated below.

	<b>Resolution</b>	<b>For</b>	<b>Against</b>	<b>Abstain</b>
(1)	THAT the remuneration of the Joint & Several Administrators for the period 23 January 2012 to 24 February 2012, be approved to a maximum limit of \$145,640.50 (plus GST), with such amount to be calculated on a time cost basis using the hourly rates adopted by the firm of Cor Cordis Chartered Accountants as detailed in the Report to Creditors dated 1 March 2012.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(2)	THAT the remuneration of the Joint & Several Official Liquidators for the period 25 February 2012 to the conclusion of the winding up, be approved to a maximum limit of \$50,000.00 (plus GST), with such amount to be calculated on a time cost basis using the hourly rates adopted by the firm of Cor Cordis Chartered Accountants, as detailed in the Report to Creditors dated 1 March 2012, which may be varied from time to time with such annual increases (if any) be no greater than ten percent (10%), beyond which further approval may be sought from creditors.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**Note:** One of the Official Liquidators will act as Chairperson. If the Official Liquidator is appointed Proxy or if the Chairperson is appointed Proxy, then the proxy vote cannot be exercised in favour of a resolution pertaining to the Official Liquidators' remuneration unless it is marked as a special proxy.

**D. Execution (in accordance with Sections 127 or 250D of the Corporations Act 2001)**

Signature of individual or person authorised by corporate resolution to represent corporation

\_\_\_\_\_

Print Name: \_\_\_\_\_

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 2012

The common Seal was affixed hereto in the presence of:

\_\_\_\_\_

Director

\_\_\_\_\_

Director/Company Secretary

### **Certificate of Witness**

*(This certificate is to be completed only where the person giving the proxy is blind or incapable of writing. The signature is not to be attested to 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/her before he/she attached his/her signature or mark to the instrument.

Signature of witness: \_\_\_\_\_ Dated: \_\_\_\_\_

Place of Residence: \_\_\_\_\_

### **Kindly read below to ensure that you are entitled to cast your vote at the meeting of creditors.**

- A creditor may use this form to appoint a natural person over the age of eighteen (18) as his or her proxy to attend and vote at the meeting.
- **A new Proxy form is required for each meeting of creditors.** This means, that even if you lodged a Proxy with the Official Liquidators / Chairperson at a previous meeting, a new Proxy will be required for this meeting if you wish to cast your vote. The only exception is where a meeting is adjourned, in which case it is the same meeting being held on a different date.
- To assist you with determining whether you will be required to complete this form for the meeting, kindly refer below:
- When appointing a person as your proxy, you may choose:
  - (i) General Proxy – which gives the proxy discretion as to how he or she votes; or
  - (ii) Special Proxy – which specifies the manner in which the proxy is to vote on a particular resolution, and the proxy is not entitled to vote on the resolution except as specified on the form.
- For creditors that are a company, kindly note that the Proxy does not need to have the company seal affixed however, the Proxy must be signed by (pursuant to Section 127 of the Act):
  - (i) Two (2) directors of the company; or
  - (ii) A director and a company secretary of the company; or
  - (iii) For a proprietary company that has a sole director who is also the sole company secretary – that director. In this event, the director must write next to their signature the words “I am the sole director and sole company secretary of the company”.

**FORMAL PROOF OF DEBT OR CLAIM  
(GENERAL FORM)**

To the Official Liquidators of **D V Kelly Pty Limited (In Liquidation)**

1. This is to state that the company was on **23 January 2012**, and still is, justly and truly indebted to:

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

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

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

Date	Drawer	Acceptor	Amount \$c	Due Date

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

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

Signature: \_\_\_\_\_ Dated: \_\_\_\_\_

Occupation: \_\_\_\_\_

Telephone: \_\_\_\_\_ Email: \_\_\_\_\_

Address: \_\_\_\_\_

\*Do not complete if this proof is made by the creditor personally.