

**The Fulcrum AUS Pty Limited (In Liquidation)
ACN 613 195 798
("the Company")**

REPORT TO CREDITORS

3 March 2020

DATE OF APPOINTMENT

7 September 2018

EXTERNAL ADMINISTRATORS

Joseph Hayes and Andrew McCabe

CONTACT

Tom Gilbert
(02) 9210 1703
Email: insolvency@wexted.com

Wexted Advisors
Level 12, 28-34 O'Connell Street
SYDNEY NSW 2000



Contents

1. Introduction	3
2. Company background	3
3. Activities undertaken to date	3
4. Asset realisations	4
5. Public examinations.....	8
6. Dividend prospects	8
7. Meeting of Creditors	9
8. Further Information and contact details.....	9

Appendices

Appendix	Document description
A	Updated Declaration of Independence, Relevant Relationships and Indemnities
B	Listing of creditors
C	Notice of Meeting of Creditors
D	Remuneration Approval Report
E	Proxy form
F	Proof of Debt form

Please return the Appointment of Proxy and Proof of Debt forms at **Appendix E and F** prior to the meeting of creditors by one of the following methods:

Contact name:	Tom Gilbert
By email:	insolvency@wexted.com
By post:	Wexted Advisors GPO Box 7091 Sydney NSW 2001



1. Introduction

We refer to our appointment as Joint and Several Liquidators of the Company on 7 September 2018 by a resolution of the Company's members. This report should be read in conjunction with our Report to Creditors dated 19 September 2018 ("First Report").

The purpose of this report is to provide creditors with an update regarding the conduct of the liquidation to date and to convene a meeting of creditors.

On 5 November 2018, Joseph Hayes and Andrew McCabe of Wexted Advisors were appointed Joint and Several Liquidators of the related entity, The Fulcrum Group (Australia) Pty Limited ("FGA"). FGA is the Company's sole shareholder. Pursuant to section 506A(4)(c) of the Corporations Act 2001 ("the Act") we provide an updated Declaration of Independence, Relevant Relationships and Indemnities ("DIRRI") at **Appendix A**, to disclose our appointment to FGA. This appointment does not impact on our independence to liquidate the Company.

2. Company background

The Company was incorporated in June 2016 and operated a technology business offering marketing customer data platforms from premises in Sydney NSW. The company employed 25 people in the 12 months prior to our appointment and had 10 staff members as at the date of appointment.

FGA is the holding entity of the Company and its sole owner. FGA raised funds from approximately 49 investors and loaned these to the Company and the other trading entity, The Fulcrum Limited (In Receivership)(In Liquidation)("the NZ Subsidiary").

FGA was also the sole owner of the NZ Subsidiary. The key asset of the Group, the Fulcrum Hub, was recorded on the NZ Subsidiary's balance sheet. We understand the Receivers and Managers of the NZ Subsidiary have sold the Fulcrum Hub to N3 Hub Limited. We requested a copy of the sale agreement, however, this was not provided as the sale was subject to confidentiality.

The Company, through the Australian based development team and staff capitalised expenses for the development of the Fulcrum Hub. We understand the purchaser met with Company staff prior to the liquidation and that on or before the liquidation, the purchaser engaged six Company staff. We notified FEG of the transfer of these transferring employees.

Our investigations are continuing regarding this matter.

3. Activities undertaken to date

Since our First Report, we have undertaken a number of key tasks including, but not limited to:

- Liaising with employees and the Attorney-General's Department ("AGD"), to facilitate the payment of \$154.5K to eight employees;
- Pursuing and collecting \$171.2K from debtors. Liaising with our lawyers for the collection of debts;
- Disclaiming uncommercial lease contracts with parties who held security interests in assets (i.e. a photocopier);
- Liaising with the landlord regarding title to plant and equipment and termination of the lease contract;
- Obtaining insurance on the Company's assets. Liaising with our insurance broker regarding adequacy of cover;
- Liaising with employees regarding the collection of Company assets;
- Realising Company assets including computer equipment and mobile phones;
- Communicating with employees and creditors, including the First Report, various email



- correspondence, telephone discussions and meetings;
- Investigating the ownership of the Fulcrum Hub, the disposal to N3 Hub Pty Limited, and the transfer of staff from the Company to N3 Hub Pty Limited;
- Our investigations have included:
 - discussions and meetings with staff, investors and brokers;
 - reviewing Company records, including financials, management accounts, investor presentations, minutes of board meetings and other records; and
 - limited email correspondence and meetings with the director(s).
- Reporting our investigation findings to ASIC, and where appropriate to the AGD;
- Raising funding for the public examination of the directors of the Company, and the parent entity, FGA;
- Engaging with and liaising with our lawyers, Johnson Winter & Slattery (“JWS”) regarding the examinations of the directors. Briefing counsel regarding the examinations;
- Preparing for and attending the private examination of a director of a related company; and
- Convening the public examination of the directors for 28 May 2020 in Sydney. Further information on the public examination is provided in section 5.1 of this report.

4. Asset realisations

A summary of the receipts and payments in the liquidation is set out below.

	Note	Actuals 7-Sept-18 to 26-Feb-20 \$	Forecast 27-Feb-20 to completion \$	Total (\$)
Receipts				
Cash at bank	4.1	35	-	35
Sundry debtors	4.2	171,150	-	171,150
Plant and equipment	4.3	8,650	-	8,650
Litigation recoveries	4.4	-	(unknown)	(unknown)
Bank interest		703	-	703
GST refund		2,875	12,458	15,333
Total receipts		183,413	12,458	195,871
Payments				
Bank charges		(166)	-	(166)
Auctioneers' costs		(484)	-	(484)
Legal fees and costs	4.5	(25,179)	(66,000)	(91,179)
Liquidators' remuneration	4.6	(33,000)	(66,000)	(99,000)
Sundry provisions		-	(5,042)	(5,042)
Total payments		(58,829)	(137,042)	(195,871)
Estimated cash balance		124,584	-	-

4.1 Cash at bank

We recovered an amount of \$35 from the Company's pre-appointment Westpac account. We have not identified any other bank accounts operated or maintained by the Company. Should creditors be aware of any additional accounts please contact our office.

4.2 Sundry debtors

As outlined in the First Report, the Company's records indicated there were three debtors in the amount of \$195,800.



Since our First Report we obtained legal advice to pursue the outstanding debtor from Scottish Pacific Group Limited (“ScotPac”) in the amount of \$55,000. ScotPac disputed the work was provided and the debt was owing. We liaised with the Company’s former employees regarding the services provided, the Master Service Agreement, and engage legal representation to assist with the recovery of the outstanding debt. Following extensive negotiations, the matter was settled on 20 January 2020 for \$32,000, inclusive of costs.

At the date of this report we have collected \$171,150 in debtor receipts.

As FEG has made payments to employees of \$118,028, we have considered sections 560 and 561 of the Act, and the priority of payments pursuant to section 556 of the Act. Based on a search of the Personal Property Securities Register (“PPSR”) and our investigations to date, we are of the view that the Company’s circulating assets (i.e. debtors, cash at bank etc) are not subject to a circulating security interest, and accordingly section 561 of the Act does not apply to this administration.

4.3 Fixed assets

We have realised an amount of \$8,650 from the sale of the Company’s plant and equipment (“P&E”). The remaining P&E was either deemed uncommercial to realise or vested in the Landlord as discussed in the First Report. No further realisations are expected from fixed assets.

4.4 Litigation recoveries

We provide a summary of our investigations undertaken to date below for creditors information. As our investigations are continuing, any litigation recoveries are uncertain at this time.

4.4.1 Insolvent trading

Pursuant to section 588G of the Act, a director has a duty to prevent a company from trading whilst it is insolvent. Insolvent trading occurs when an insolvent company incurs a debt at a time where there are reasonable grounds for suspecting that the company would be unable to repay that debt. In such circumstances, a director may be personally liable for debts incurred.

Determining the precise date of insolvency typically depends on many factors, whereby both subjective and objective assessments are made. Whilst certain claims can be made with respect to the issue, quite often litigation is required to be commenced in order that a Court can review the evidence and make (if appropriate) compensation orders.

Based on our preliminary investigation, it appears the Company may have been insolvent from at least 31 January 2018, if not earlier. If this is the case, we may have an insolvent trading claim against the Company’s directors of approximately \$900,000. Further investigations are required to ascertain the precise date of insolvency, the quantum of any such claim and the personal financial position of the Company’s directors.

4.4.2 Voidable transactions

Pursuant to section 588FE of the Act, there are a number of different types of transactions that may be voidable by a liquidator. Voidable transactions include things such as unfair preferences, uncommercial transactions, unfair loans, unreasonable director related transactions and circulating security interests created within six months of the relation back day (i.e. date of appointment of the liquidators). However, the transaction can relate back further in certain circumstances. At this stage, our investigation in respect of potential voidable transactions has focused on the books and records received to date.

Our investigations to date have not identified any significant voidable transactions. However, our investigations are ongoing.



4.4.3 Net intangible assets – Fulcrum Hub development

As outlined in the First Report, the Company may have an interest in the Fulcrum Hub and other intellectual property. We continue to investigate the ownership of the Fulcrum Hub.

To date no consideration has been received by the Company for any ownership or development in the Fulcrum Hub, for customer contracts, for goodwill or for the transferring employees. We have not consented to any sale or waived any right or entitlement to the Fulcrum Hub, or any actions against third parties associated with the disposal or acquisition of the Fulcrum Hub.

The public examination of the directors will assist in providing us with information regarding the Company's affairs, in particular the acquisition, development and sale of the Fulcrum Hub, and the various third parties involved in these transactions. We continue to investigate this matter.

4.5 Legal fees and expenses

Legal advice has been obtained during the administration on:

- (a) The recovery of the ScotPac debt. We engaged Gadens Lawyers who successfully settled the claim against ScotPac for \$32,000. This matter has been settled and legal fees were paid during the period; and
- (b) In conjunction with FGA, the parent entity, we have engaged JWS to assist with the preparation for and conducting of the public examinations of the directors. While work continues to be undertaken in the preparation for the public examinations, no legal fees have been paid to date. Legal fees incurred to date across both entities, FGA and the Company, are approximately \$100,000 at the date of this report.

Future legal fees between the date of this report and the public examination on 28 May 2020 will continue to be incurred. Future legal work will include preparing and briefing counsel, reviewing materials for the examination, attending the two-day public examination with counsel and debriefing the liquidators and creditors who have funded the examinations.

4.6 Liquidators' remuneration and expenses

In our First Report to creditors dated 19 September 2018, we provided a detailed remuneration report to creditors. We sought and obtained creditor approval by circular resolution for our current and future liquidators' remuneration up to \$30,000 plus GST for the administration.

During the liquidation, we undertook a range of activities including debtor collections, P&E realisations, reporting to creditors (First Report), assisting FEG and employees with claims, undertaking investigations and reporting to ASIC. Further details on activities undertaken are outlined in section 3 of this report. During the initial nine months of the liquidation to 25 June 2019, the liquidators' remuneration of \$30,000, plus GST, was incurred and drawn.

At the time of issuing our First Report, we estimated our initial fee for the liquidation to completion to be \$30,000. As creditors maybe aware, there have been a number of unforeseen additional activities required to be undertaken that were not included in our original fee estimate. The key activities are:

- Liaising with our solicitors and counsel regarding the public examination of the directors;
- Preparing a preliminary briefing pack for the public examinations;
- Meeting with employees, investors and brokers of the Company (and of FGA), to obtain further information on the Company's affairs; and
- Liaising with our solicitors to pursue the ScotPac debt.



Accordingly, based on these activities and expected future work to prepare for and attend the public examination of the directors, we seek creditors approval for accrued and future liquidators' remuneration, as follows:

- Accrued fees for the period 26 June 2019 to 18 February 2020 of \$24,890, plus GST (approximately 7.5 months); and
- Future fees for the period 19 February 2020 to completion of \$60,000, plus GST. This includes extensive work in the lead up to the public examination on 28 May 2020.

A detailed report on the accrued and future remuneration for the liquidators and their staff is set out in **Appendix D**.

4.7 Secured creditors

A search of the PPSR revealed that the following creditors had registered a security interest against the Company:

- Fuji Xerox Australia Pty Limited, Fuji Xerox Finance Limited – for the lease of a photocopier; and
- Heartland Bank Limited.

We have requested further details from both parties and disclaimed the leasehold interest in the photocopier. Heartland Bank Limited have confirmed they do not have an interest in the Company and have removed their security interest. There is no registered ALLPAAP over the Company.

In addition, we have disclaimed the leasehold interest in the Leased Premises, as detailed in our First Report.

4.8 Employee creditors

Based on the books and records of the Company we calculated outstanding employee entitlements (excluding redundancy entitlements) as at our appointment date as follows:

Category	Company records \$	FEG claims received \$	FEG payments \$
Wages	21,044	23,309	15,888
Superannuation	65,643	N/A	N/A
Annual Leave	56,846	57,981	38,590
PILN	-	53,635	63,551
Redundancy	-	19,616	-
Total	143,533	154,541	118,028

Source: Company records and FEG records

In a liquidation, the employees of the Company have a statutory priority of payment in respect of outstanding entitlements such as wages, superannuation, annual leave, long service leave, payment in lieu of notice ("PILN") and redundancy.

Furthermore, employees may be entitled to lodge a claim under the Fair Entitlements Guarantee ("FEG"), a scheme administered by the Attorney-General's Department ("AGD"). The FEG scheme provides financial assistance to cover certain unpaid employment entitlements to eligible employees who lose their job due to the liquidation of their employer.

The majority of employee entitlements, with exception to superannuation, may be paid by the AGD under the FEG scheme, subject to the AGD's adjudication and any limitations imposed by the FEG.



The AGD may then hold a subrogated right to claim in the place of the employees for any priority dividend to employees. To date, FEG have not received any further claims.

The AGD has lodged a Proof of Debt (“POD”) in the amount of \$118,028 for the gross amount of all payments made to date pursuant to the FEG which are summarised above. As the Company is a small business, with fewer than 15 employees at the date of liquidation, then no redundancy payments have been made. We note FEG received nine claims from employees, adjudicated on these claims and paid eight of these claims. Employees with any outstanding employee entitlements and the AGD’s right of subrogation will continue to have a priority claim against the administration.

4.9 Unsecured creditors

As at the date of this report we are aware of unsecured claims totalling \$1,308,222. Creditors are referred to the attached listing marked as **Appendix B** for further details.

To date we have received Proof of Debt forms from creditors totalling \$970,444. Based on the limited funds in the liquidation, we do not propose to call for formal proof of debts or adjudicate on creditor claims until there are adequate realised assets available to make a distribution to unsecured creditors.

5. Public examinations

In conjunction with our role as Liquidators of FGA, we are in the process of conducting public examinations of the Company’s directors, Ms Christina Domecq and Ms Cassandra Kelly (collectively “the Directors”). Pursuant to section 447(2B) of the Act, we are seeking approval from the creditors of the Company and the creditors of FGA to enter into a cost agreement with JWS who will assist the liquidators with the public examinations. The liquidators have also been provided with funding of \$47,500 by certain shareholders/noteholders (collectively “the Registered Investors”) for this same purpose.

Subsequent to initial difficulties in locating the Directors, summonses were successfully served on both Ms Kelly in the United States and Ms Domecq in New Zealand in or around October 2019. The public examinations are scheduled for **10:15am on 28 May 2020** in The Federal Court of Australia, NSW Registry, Courtroom 19D, 184 Phillip St, Queens Square, Sydney NSW 2000. The examinations are open to the general public to attend, including the Company’s creditors.

Should creditors have any additional information which may assist with our understanding of the Company’s affairs and the reasons for it’s financial difficulties, please contact Tom Gilbert by email at insolvency@wexted.com by Friday, 17 April 2020.

We will continue to liaise with JWS to assist in preparation for the public examinations. For those creditors who are unable to attend the public examination, following the examinations we propose to issue a short update to creditors.

6. Dividend prospects

Section 556 of the Act sets out the order or priority of distributions in a liquidation. In summary, the priority of payments are:

- (i) Liquidators’ remuneration and disbursements;
- (ii) Employee entitlements (including any distributions made by FEG);
- (iii) Unsecured creditors; and
- (iv) Shareholders.

A dividend to any class of creditor is contingent on future litigation recoveries, and the professional cost to complete litigation and finalise the liquidation.



In the event there is no future litigation recoveries in the administration, a dividend to employees or unsecured creditors is unlikely.

7. Meeting of Creditors

A meeting of creditors of the Company will be held on **20 March 2020 at 10:00am** at the offices of Wexted Advisors, Level 12, 28 O'Connell Street, Sydney NSW 2000. Attached at **Appendix C** is a Notice of Meeting of Creditors. Teleconference details will be provided. For further enquiries, contact Lachlan Minogue at lminogue@wexted.com or on (02) 9210 1706.

At this meeting creditors will be requested to approve the Funding Agreement, a payment of a super priority return to Registered Investors, the costs agreement with JWS who will assist the liquidators with the public examinations detailed in section 5 and additional remuneration of the Liquidators as detailed in the attached Remuneration Approval Report (**Appendix D**). Also attached is a Form 532 – Appointment of Proxy (**Appendix E**) and a Form 535 – Proof of Debt (**Appendix F**) for the purposes of voting at the meeting.

Creditors should ensure that the Appointment of Proxy (and Proof of Debt if one has not already been lodged with the Liquidators) is lodged prior to the meeting to be eligible to vote. Corporate creditors are advised that an Appointment of Proxy must be completed and signed by a director.

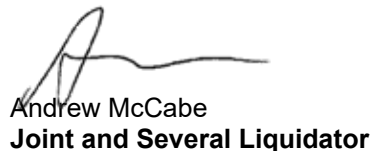
Creditors are advised that attendance at the meeting of creditors has no effect on the admissibility of their claim for dividend purposes.

8. Further Information and contact details

Should creditors have any further information that may assist us in our investigation or require further information in regard to this matter, please contact Mr Tom Gilbert of this office on telephone number (02) 9210 1703 or via email at tgilbert@wexted.com.

DATED this 3rd day of March 2020
The Fulcrum AUS Pty Limited (In Liquidation)


Joseph Hayes
Joint and Several Liquidator


Andrew McCabe
Joint and Several Liquidator



CORPORATIONS ACT 2001

Declaration of Independence, Relevant Relationships and Indemnities

**The Fulcrum AUS Pty Limited (In Liquidation)
ACN 613 195 798
("The Company")**

The purpose of this document is to assist creditors with understanding any relationships that the Liquidators have and any indemnities or upfront payments that have been provided to the Liquidators. None of the relationships disclosed in this document are such that the independence of the Liquidators is affected.

This information is provided to you to enable you to make an informed assessment on any independence concerns, so you have trust and confidence in our independence and, if not, can act to remove and replace the us if you wish

This declaration is made in respect of us and Wexted Advisors.

A. Independence

We, Joseph Hayes and Andrew McCabe of Wexted Advisors have undertaken a proper assessment of the risks to our independence prior to accepting the appointment as Joint and Several Liquidators of The Fulcrum AUS Pty Limited in accordance with the law and applicable professional standards. This assessment identified no real or potential risks to our independence. We are not aware of any reasons that would prevent us from accepting this appointment.

B. Declaration of Relationships

i. Circumstances of appointment

This appointment was referred to Joseph Hayes and Andrew McCabe of Wexted Advisors by Andrew Grenfell from McGrathNicol New Zealand. Mr Grenfell is the Receiver of The Fulcrum Limited (In Receivership) (In Liquidation), being the New Zealand subsidiary of The Fulcrum Group (Australia) Pty Limited. The reasons we believe that this referral does not result in a conflict of interest or duty are:

- Referral from business advisors including accountants are common place and do not impact on our independence in carrying out our duties as Liquidators of the Company;
- This is the first referral from this source in the last two years, the fees from which are not a significant percentage of our business and accordingly, we are by no means dependent on referrals from this source.

On 5 September 2018, Mr Hayes received a telephone call from Mr Grenfell, to seek a consent to act as liquidator of the Company.

On 6 September 2018, Mr McCabe contacted Mr Grenfell to obtain further details regarding the Company.

On 7 September 2018, Wexted Advisors provided the director, Christina Domecq, with correspondence outlining the Creditors Voluntary Liquidation process, and copies of standard directors and members resolutions for consideration. On 7 September 2018, Mr Hayes and Mr McCabe of Wexted Advisors provided a Consent to Act as Joint and Several Liquidators to the Company.



We did not receive any remuneration for the above.

In our opinion the telephone discussions in the two days prior to our appointment did not affect our independence for the following reasons:

- The ARITA Code of Professional Practice and the Courts recognises the need for practitioners to provide advice on the insolvency process and the options available and we do not consider that such advice results in a conflict or is an impediment to accepting the appointment; and
- The nature of the advice provided to the Company is such that it would not be subject to review and challenge during the course of the Liquidation; and
- The nature of the pre-appointment advice provided to the Company will not influence our ability to fully comply with the statutory and fiduciary obligations associated with the Liquidation of the Company in an objective and impartial manner.

We have provided no other information or advice to the Company or its Director prior to our appointment beyond that outlined in this DIRRI.

ii. **Prior Professional services to the Insolvent**

We or a member of our firm, have, or have had within the preceding 24 months, a relationship with:

Name	Nature of relationship	Reasons
McGrathNicol New Zealand	Joseph Hayes was a former partner of McGrathNicol Australia up until June 2017. Andrew McCabe was a former employee of McGrathNicol Australia up until early 2015.	I believe that this relationship does not result in a conflict of interest or duty because: <ul style="list-style-type: none">▪ Prior working relationships were over 12 months ago;▪ Wexted Advisors have not received from McGrathNicol New Zealand, or referred to McGrathNicol New Zealand any other appointments;▪ The Company's sole shareholder is The Fulcrum Group (Australia) Pty Limited, not The Fulcrum Limited; and▪ We understand that there is no license or any other agreement between The Fulcrum Limited and The Fulcrum AUS Pty Limited.

iii. **Relevant Relationships (excluding Professional Services to the Insolvent)**

Neither we, nor our Firm, have provided any professional services to the Company in the previous 24 months.



iv. Group appointments

Since the date of the appointment of Liquidators, we have subsequently been appointed as Liquidators of the Company's Holding Company, The Fulcrum Group (Australia) Pty Limited:

Name	Nature of relationship	Reasons
The Fulcrum Group (Australia) Pty Limited (FGA)	We were appointed Joint and Several Liquidators of FGA on 5 November 2018. The two entities share common directors, Ms Christine Domecq and Ms Cassandra Kelly.	<p>We believe that this relationship does not result in a conflict of interest or duty because:</p> <ul style="list-style-type: none"> • At the time of our appointment we were not aware of any conflicts between the Company and FGA. Should such a conflict arise, we will keep creditors informed and take appropriate action to resolve the conflict. • Appointment to group and/or related entities are allowed under the COPP and should generate efficiencies in conducting the appointment. • The role undertaken by us as Joint and Several Liquidators of FGA will not influence our ability to fully comply with the statutory and fiduciary obligations associated with the administration of the Company in an objective and impartial manner.

v. No other relevant relationships to disclose

There are no other known relevant relationships, including personal, business and professional relationships, from the previous 24 months with the Company, an associate of the Company, an associate of the Company, a former insolvency practitioner appointed to the Company or any person or entity that has security over the whole or substantially whole of the Company's property that should be disclosed.

C. Indemnities and up-front payments

We have been provided with the following indemnities for remuneration for the conduct of this Liquidation:

Name	Relationship with CPP	Nature of indemnity or payment
Andrew Grenfell in his capacity as Receiver of The Fulcrum Limited, the NZ subsidiary.	Receiver of The Fulcrum Limited, the NZ subsidiary.	The indemnity is capped to \$10,000 plus GST and is only payable in the event that asset realisations in the four months following the liquidators' appointment, are insufficient to cover the Liquidators' remuneration and disbursements.



This does not include statutory indemnities. We have not received any other indemnities or upfront payments that should be disclosed.

DATED this 3rd day of March 2020
The Fulcrum AUS Pty Limited (In Liquidation)



Joseph Hayes
Joint and Several Liquidator



Andrew McCabe
Joint and Several Liquidator

Note:

If circumstances change, or new information is identified, we are required under the Corporations Act 2001 and ARITA's Code of Professional Practice to update this Declaration and provide a copy to creditors with our next communication as well as table a copy of any replacement declaration at the next meeting of the insolvent's creditors. For Creditors' Voluntary Liquidations and voluntary administrations, this document and any updated versions of this document are required to be lodged with ASIC.





Appendix B: Creditor listing

Creditor name	Estimated claim (\$)	Related Party
Cassandra Kelly	1,523.77	Yes
Australian Taxation Office	734,139.74	
Fair Entitlements Guarantee (FEG)	118,027.99	
Ashurst Australia	7,237.38	
Avatar Brokers Pty Ltd	1,794.17	
Corpac Partners Pty Limited	165,000.00	
Darren Paterson	1,143.05	
Ernst & Young	23,650.10	
Firebrand	7,227.00	
Firmex Inc.	2,293.47	
Fuji Xerox Australia Pty Ltd	1,120.06	
Harvey Nash PLC	4,950.00	
HLB Mann Judd	7,260.00	
Houston Software Pty Ltd	13,762.68	
iCare Workers Compensation	1,037.84	
Marcus Evans (ANZ) Ltd	28,875.00	
Neverfail Springwater Limited	213.25	
Norton Rose Fulbright	2,747.25	
Paul El Hawzi	60.00	
Pottinger Co Pty Limited	3,525.86	Yes
Rory Watt	19.50	Yes
Sara Brown	312.80	Yes
Savills (NSW) Prop Mgt Pty Ltd	25,846.07	
The Frenchams Group	660.00	
Uber Conference	21.09	
Whitfield Electrical	1,328.25	
The Fulcrum Limited (In Receivership)(In Liquidation)	82,313.46	Yes
A.J. Richardson Properties Pty Ltd	72,132.50	
Total	1,308,222.28	

Appendix C: Notice of meeting of creditors



CORPORATIONS ACT 2001

*Insolvency Practice Rules (Corporations) 2016
section 75-15*

NOTICE OF MEETING OF CREDITORS

THE FULCRUM AUS PTY LIMITED (IN LIQUIDATION) ACN 613 195 798 (THE COMPANY)

NOTICE is hereby given that a meeting of the creditors of the Company will be held at the offices of Wexted Advisor, Level 12, 28 O'Connell Street, Sydney NSW 2000 on 20 March 2020 at 10:00am.

AGENDA

1. To provide creditors with an update on the progress and conduct of the liquidation.
2. To seek creditors' approval of the Joint and Several Liquidators' remuneration.
3. To seek creditors approval to enter into the Funding Agreement with the Registered Investors funding the Public Examination process.
4. To seek creditors approval to pay the Registered Investors a super priority.
5. To seek creditors' approval to enter into an agreement that extends beyond three months, as required by section 477(2B) of the Act.
6. To consider any other business that may be lawfully brought forward.

Attendance at this meeting is not compulsory. Creditors may attend and vote in person, by proxy or by attorney*. The appointment of a proxy must be in the approved form.


A special proxy can be lodged showing approval or rejection of each resolution. Proxy forms must be lodged with our office by 4.00pm on the day prior to the meeting. An attorney of the creditor must show the instrument by which he or she is appointed to the Chairperson of the meeting, prior to the commencement of the meeting.

Telephone conference facilities will be available at the meeting. Please note under Insolvency Practice Rules (Corporations) section 75-35 if you wish to participate in the meeting using such facilities you must give to the convener not later than 4pm 17 March 2020 a written statement setting out:

- (i) the name of the person and of the proxy or attorney (if any); and
- (ii) an address to which notices to the person, proxy or attorney may be sent; and
- (iii) a method by which the person, proxy or attorney may be contacted for the purposes of the meeting.

DATED this 3rd day of March 2020
The Fulcrum AUS Pty Limited (In Liquidation)


Joseph Hayes
Joint and Several Liquidator


Andrew McCabe
Joint and Several Liquidator



***Voting at a Meeting the effect of Insolvency Practice Rules (Corporations) section 75-85:**

Entitlement to vote at meetings of creditors

- (1) A person other than a creditor (or the creditor's proxy or attorney) is not entitled to vote at a meeting of creditors.
- (2) Subject to subsections (3), (4) and (5), each creditor is entitled to vote and has one vote.
- (3) A person is not entitled to vote as a creditor at a meeting of creditors unless:
 - (a) his or her debt or claim has been admitted wholly or in part by the external administrator; or
 - (b) he or she has lodged, with the person presiding at the meeting, or with the person named in the notice convening the meeting as the person who may receive particulars of the debt or claim:
 - (i) those particulars; or
 - (ii) if required—a formal proof of the debt or claim.
- (4) A creditor must not vote in respect of:
 - (a) an unliquidated debt; or
 - (b) a contingent debt; or
 - (c) an unliquidated or a contingent claim; or
 - (d) a debt the value of which is not established; unless a just estimate of its value has been made.
- (5) A creditor must not vote in respect of a debt or a claim on or secured by a bill of exchange, a promissory note or any other negotiable instrument or security held by the creditor unless he or she is willing to do the following:
 - (a) treat the liability to him or her on the instrument or security of a person covered by subsection (6) as a security in his or her hands;
 - (b) estimate its value;
 - (c) for the purposes of voting (but not for the purposes of dividend), to deduct it from his or her debt or claim.
- (6) A person is covered by this subsection if:
 - (a) the person's liability is a debt or a claim on, or secured by, a bill of exchange, a promissory note or any other negotiable instrument or security held by the creditor; and
 - (b) the person is either liable to the company directly, or may be liable to the company on the default of another person with respect to the liability; and
 - (c) the person is not an insolvent under administration or a person against whom a winding up order is in force



Appendix D: Remuneration approval report

1. Declaration

We, Joseph Hayes and Andrew McCabe have undertaken a proper assessment of this remuneration claim for our appointment as Joint and Several Liquidators of The Fulcrum AUS 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 properly performed, in the conduct of the Liquidation.

2. Executive Summary

To date, the Creditors have approved \$30,000.00 remuneration in the Liquidation. The Liquidators have drawn \$30,000 in remuneration to date relating to the period from appointment, 7 September 2018 to 25 June 2019. This remuneration report details approval sought for the following fees:

Current remuneration approval sought:	Reference	Amount (excl. GST)
Liquidators fees		
Resolution 1 <i>“That the remuneration of the Joint and Several Liquidators for the period from 26 June 2019 to 18 February 2020, calculated on hours spent by the Joint and Several Liquidators, their partners and their staff, at the hourly rates detailed in the schedule of rates forming part of the Initial Remuneration Notice provided to creditors, be approved in the amount of \$24,889.50 (exclusive of GST), and that the Joint and Several Liquidators can draw the remuneration immediately or as required.”</i>		\$24,889.50
Resolution 2 <i>“That the remuneration of the Joint and Several Liquidators for the period from 19 February 2020 to finalisation of the liquidation, calculated on hours spent by the Joint and Several Liquidators, their partners and their staff, at the hourly rates detailed in the schedule of rates forming part of the Initial Remuneration Notice provided to creditors, be approved in the amount of \$60,000.00 (exclusive of GST), and that the Joint and Several Liquidators can draw the remuneration on a monthly basis or as required.”</i>		\$60,000.00
Total – Liquidators’ Remuneration		\$84,889.50

Please refer to report section references detailed above for full details of the calculation and composition of the remuneration approval sought.



3. Description of work completed / to be completed

Resolution 1 – Liquidators accrued remuneration

“That the remuneration of the Joint and Several Liquidators for the period from 26 June 2019 to 18 February 2020, calculated on hours spent by the Joint and Several Liquidators, their partners and their staff, at the hourly rates detailed in the schedule of rates forming part of the Initial Remuneration Notice provided to creditors, be approved in the amount of \$24,889.50 (exclusive of GST), and that the Joint and Several Liquidators can draw the remuneration immediately or as required.”

Company: The Fulcrum AUS Pty Limited **Period from:** 26 June 2019
Practitioner(s): Joseph Hayes and Andrew McCabe **Period to:** 18 February 2020
Liquidation Type: Liquidation **Firm:** Wexted Advisors

Task Area	General Description	Includes
Assets 4.8 Hours \$2,601.50 (excl. GST)	Debtors	Reviewing and assessing debtor ledgers Correspondence with lawyers regarding status of debtor dispute Seeking legal advice regarding treatment of debtors Preparing brief for solicitors Liaising with solicitors regarding documentation required for legal advice
	Other assets	Tasks associated with identifying and valuing other assets
Creditors 36.2 Hours \$14,074.00 (excl. GST)	Creditor Enquiries	Receive and follow up creditor enquiries via telephone Maintaining creditor enquiry register Review and prepare correspondence to creditors and their representatives via facsimile, email and post
	Creditor reports	Preparing and issuing circular to creditors Preparing declaration of independence, relevant relationships and indemnities Preparing section Report to Creditors regarding investigations and further creditors meeting
	Dealing with proofs of debt	Receipting and filing POD when not related to a dividend Corresponding with OSR and ATO regarding POD when not related to a dividend
	Meeting of Creditors	Preparation of meeting notices, proxies and advertisements Forward notice of meeting to all known creditors Preparation of meeting file, including agenda, certificate of postage, attendance register, list of creditors, reports to creditors, advertisement of meeting and draft minutes of meeting. Preparation and lodgement minutes of meetings with ASIC.



Task Area	General Description	Includes
Employees 1.2 Hours \$720.00 (excl. GST)	Employees enquiry	Receive and follow up employee enquiries via telephone Review and prepare correspondence to creditors and their representatives via facsimile, email and post Receive and prepare correspondence in response to employee's objections to leave entitlements
	Calculation of entitlements	Calculating employee entitlements Reviewing employee files and company's books and records
	Fair Entitlements Guarantee	Correspondence with Attorney-General's Department regarding FEG
Investigation 8.9 Hours \$3,533.50 (excl. GST)	Conducting investigation	Collection of company books and records Reviewing company's books and records Review and preparation of company nature and history Preliminary investigation into possible insolvent trading/breach of directors' duties
	Public Examination	Preparation of brief for counsel Liaising with solicitors regarding status of public examinations
Admin 9.5 Hours \$3,960.50 (excl. GST)	Document maintenance / file review / checklist	Filing of documents File reviews Updating checklists
	Correspondence	Correspondence with various parties and maintaining file notes
	Insurance	Identification of potential issues requiring attention of insurance specialists Correspondence with insurance specialist regarding initial and ongoing insurance requirements Reviewing insurance policies Correspondence with previous brokers
	Bank account Liquidation	Preparing correspondence opening accounts Requesting bank statements Bank account reconciliations Correspondence with bank regarding specific transfers
	ASIC Forms	Preparing and lodging ASIC forms including 505, 531, 5011, 507 etc Correspondence with ASIC regarding statutory forms
	ATO & other statutory reporting	Notification of appointment Liaising with ATO regarding SGC audit
	Planning/review	Discussions regarding status of Liquidation
Total: \$24,889.50 (excl. GST) Total Hours: 60.6		



Resolution 2 – Liquidators future remuneration

“That the remuneration of the Joint and Several Liquidators for the period from 19 February 2020 to finalisation of the liquidation, calculated on hours spent by the Joint and Several Liquidators, their partners and their staff, at the hourly rates detailed in the schedule of rates forming part of the Initial Remuneration Notice provided to creditors, be approved in the amount of \$60,000.00 (exclusive of GST), and that the Joint and Several Liquidators can draw the remuneration on a monthly basis.”

Company: The Fulcrum AUS Pty Limited **Period from:** 19 February 2020

Practitioner(s): Joseph Hayes and Andrew McCabe **Period to:** Finalisation

Liquidation Type: Liquidation **Firm:** Wexted Advisors

Task Area	General Description	Includes
Creditors \$20,000.00 (excl. GST)	Creditor Enquiries	Receive and follow up creditor enquiries via telephone Maintaining creditor enquiry register Review and prepare correspondence to creditors and their representatives via facsimile, email and post
	Creditor reports	Preparing and issuing reports to creditors Preparing declaration of independence, relevant relationships and indemnities Preparing Report to Creditors regarding investigations and further creditors meeting
	Dealing with proofs of debt	Receipting and filing POD when not related to a dividend Corresponding with OSR and ATO regarding POD when not related to a dividend
	Meeting of Creditors	Preparation of meeting notices, proxies and advertisements Forward notice of meeting to all known creditors Preparation of meeting file, including agenda, certificate of postage, attendance register, list of creditors, reports to creditors, advertisement of meeting and draft minutes of meeting. Preparation and lodgement minutes of meetings with ASIC.
Investigation \$30,000.00 (excl. GST)	Conducting investigation	Collection of company books and records Reviewing company's books and records Conducting and summarising statutory searches Review of specific transactions and liaising with directors regarding certain transactions Liaising with director regarding certain transactions Preparation of investigation file Finalise investigation into possible voidable transactions and consider recovery action Finalise investigation into possible insolvent trading/breach of directors' duties and consider



Task Area	General Description	Includes
		recovery action Preparation of investigation file Lodgement of investigation with ASIC Preparation and lodgement of supplementary report if required
	Public Examination	Preparing brief to solicitor Liaising with solicitor(s) regarding examinations Attendance at examination Reviewing examination transcripts Liaising with solicitor(s) regarding outcome of examinations and further actions available
	Litigation / Recoveries	Internal meetings to discuss status of litigation Preparing brief to solicitors Liaising with solicitors regarding recovery actions Attending to negotiations Attending to settlement matters
Admin \$10,000.00 (excl. GST)	Document maintenance / file review / checklist	Filing of documents File reviews Updating checklists
	Correspondence	Correspondence with various parties and maintaining file notes
	Insurance	Identification of potential issues requiring attention of insurance specialists Correspondence with insurance specialist regarding initial and ongoing insurance requirements Reviewing insurance policies Correspondence with previous brokers
	Bank account Liquidation	Preparing correspondence opening accounts Requesting bank statements Bank account reconciliations Correspondence with bank regarding specific transfers
	ASIC Forms	Preparing and lodging ASIC forms including 505, 531, 5011, 507 etc Correspondence with ASIC regarding statutory forms
	ATO & other statutory reporting	Notification of appointment Liaising with ATO regarding SGC audit
	Planning/review	Discussions regarding status of Liquidation
	Books and records / storage	Dealing with records in storage Sending job files to storage
Total: \$60,000.00 (excl. GST)		



4. Calculation of Remuneration

Remuneration for hours incurred for the period from 26 June 2019 to 18 February 2020																	
Employee	Position	\$/hour (exc GST)	Total actual hours	Total (\$)	Assets				Creditors				Task area				
					hrs	\$	hrs	\$	hrs	\$	hrs	\$	Employees	Investigations	Admin		
Joseph Hayes	Partner	600	1.5	900.00	-	-	-	-	-	-	-	-	-	-	-	1.5	900.00
Andrew McCabe	Partner	600	9.9	5,940.00	3.5	2,100.00	2.4	1,440.00	1.2	720.00	-	-	-	-	-	0.4	240.00
James Le Messurier	Manager	430	25.2	10,836.00	0.8	344.00	20.2	8,686.00	-	-	-	-	-	-	-	3.8	1,634.00
Thomas Gilbert	Senior Analyst	315	19.0	5,985.00	0.5	157.50	10.4	3,276.00	-	-	-	-	-	-	-	2.0	630.00
Patrick Skippen	Senior Analyst	315	1.7	535.50	-	-	-	-	-	-	-	-	-	-	-	1.7	535.50
Lachlan Minogue	Junior Analyst	210	3.3	693.00	-	-	3.2	672.00	-	-	-	-	-	-	-	0.1	21.00
Subtotal (exc GST)			60.6	24,889.50	4.8	2,601.50	36.2	14,074.00	1.2	720.00	8.9	3,533.50	9.5	3,960.50			
GST				2,488.95													
Total remuneration (inc GST)				27,378.45													
Average hourly rate (exc GST)				410.72		542		389		600		397					417



5. Likely Impact on Dividends

The Liquidators are seeking to have their remuneration approved by creditors under section 60-10 of the Insolvency Practice Schedule (Corporations). The proposed resolutions outline the terms for that approval. This Remuneration Report provides detail of the Liquidators proposed remuneration.

Liquidators remuneration is paid in priority to unsecured creditors in accordance with the priorities provided by section 556 of the Corporations Act. If the proposed resolutions are passed it will allow the Liquidators to draw their fees from the funds either presently held or funds recovered in the future. This may reduce the pool of funds available for distribution to unsecured creditors.

The passing of the proposed resolutions will also allow for further work to be performed in the external Liquidation, possibly resulting in further recoveries to be made or identified for the benefit of creditors.

6. Statement of Remuneration Claim

Resolution 1

“That the remuneration of the Joint and Several Liquidators for the period from 26 June 2019 to 18 February 2020, calculated on hours spent by the Joint and Several Liquidators, their partners and their staff, at the hourly rates detailed in the schedule of rates forming part of the Initial Remuneration Notice provided to creditors, be approved in the amount of \$24,889.50 (exclusive of GST), and that the Joint and Several Liquidators can draw the remuneration immediately or as required.”

Resolution 2

“That the remuneration of the Joint and Several Liquidators for the period from 19 February 2020 to finalisation of the liquidation, calculated on hours spent by the Joint and Several Liquidators, their partners and their staff, at the hourly rates detailed in the schedule of rates forming part of the Initial Remuneration Notice provided to creditors, be approved in the amount of \$60,000.00 (exclusive of GST), and that the Joint and Several Liquidators can draw the remuneration on a monthly basis or as required.”

7. Remuneration recoverable from external sources

Not applicable.

8. Disbursements

The Creditors have previously approved \$2,000 in internal disbursements for this matter. To date the liquidators have not drawn any funds for the payment of disbursements.

9. Report on Progress of the Administration

Please refer to the Liquidators' report to creditors dated 3 March 2020.

10. Summary of Receipts and Payments

Please refer to the Liquidators' report to creditors dated 3 March 2020.

11. Queries

Creditors have the right to request further information from the external. Please contact this Tom Gilbert of this office on (02) 9210 1703.

12. Information Sheet

The remuneration sheet guide "Approving Fees Guide to Creditors" can be accessed from the ASIC website.



Appendix E: Appointment of proxy form

CORPORATIONS ACT 2001 APPOINTMENT OF PROXY CREDITORS MEETING

*Insolvency Practice Rules (Corporations) 2016
section 75-25 & 74-150*

THE FULCRUM AUS PTY LIMITED (IN LIQUIDATION) ACN 613 195 798 ("the Company")

*I/*We ⁽¹⁾	
Of	
being a creditor of the Company, appoint ⁽²⁾ or in his or her absence	
to vote for me/us on my/our behalf at the meeting of creditors to be held on 12 March 2020, or at any adjournment of that meeting.	

Please mark any boxes with an X

Proxy Type: General Special

	For	Against	Abstain
<p>Resolution 1 – To consider and if thought fit, approve the Liquidators remuneration from 26 June 2019 to 18 February 2020</p> <p><i>“That the remuneration of the Joint and Several Liquidators for the period from 26 June 2019 to 18 February 2020, calculated on hours spent by the Joint and Several Liquidators, their partners and their staff, at the hourly rates detailed in the schedule of rates forming part of the Initial Remuneration Notice provided to creditors, be approved in the amount of \$24,889.50 (exclusive of GST), and that the Joint and Several Liquidators can draw the remuneration immediately or as required.”</i></p>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p>Resolution 2 – To consider and if thought fit, approve the Liquidators remuneration from 19 February 2020 to finalisation of the liquidation</p> <p><i>“That the remuneration of the Joint and Several Liquidators for the period from 19 February 2020 to finalisation of the liquidation, calculated on hours spent by the Joint and Several Liquidators, their partners and their staff, at the hourly rates detailed in the schedule of rates forming part of the Initial Remuneration Notice provided to creditors, be approved in the amount of \$60,000.00 (exclusive of GST), and that the Joint and Several Liquidators can draw the remuneration on a monthly basis or as required.”</i></p>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>



	For	Against	Abstain
Resolution 3 – To consider and if thought fit, approve the entrance into a funding agreement <i>“That the Liquidators are approved to enter into the Funding Agreement with shareholders of The Fulcrum Group (Australia) Pty Limited (In Liquidation)”</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Resolution 4 – To consider and if thought fit, approve a super priority for returns to Registered Investors <i>“That the Liquidators are approved to make a super priority payment to Registered Investors”</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Resolution 5 – To consider and if thought fit, approve the entrance into an agreement that extends beyond three months <i>“That the Liquidators are approved to enter into a costs agreement that extends beyond three months”</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

DATED this _____ day of _____ 2020.

Signature

CERTIFICATE OF WITNESS

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

I, of

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

Dated:

Signature of Witness:

Description:

Place of Residence:

* Strike out if inapplicable

- (1) If a firm, strike out "I" and set out the full name of the firm.
- (2) Insert the name, address and description of the person appointed.

FORMAL PROOF OF DEBT OR CLAIM (GENERAL FORM)

To the Joint and Several Liquidators of The Fulcrum AUS Pty Limited (In Liquidation)

1. This is to state that the company was, on 7 September 2018 ⁽¹⁾ and still is, justly and truly indebted to⁽²⁾ (full name):

.....
(‘Creditor’)

.....
of (full address)

for \$ dollars and cents.

Particulars of the debt are:

Date	Consideration ⁽³⁾ state how the debt arose	Amount \$	GST included \$	Remarks ⁽⁴⁾ 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 manner of satisfaction or security for the sum or any part of it except for the following:

Insert particulars of all securities held. Where the securities are on the property of the company, assess the value of those securities. If any bills or other negotiable securities are held, specify them in a schedule in the following form:

Date	Drawer	Acceptor	Amount \$ c	Due Date

- I am **not** a related creditor of the Company ⁽⁵⁾
- I am a related creditor of the Company ⁽⁵⁾
relationship: _____

3A.^{(6)*} I am employed by the creditor and authorised in writing by the creditor to make this statement. I know that the debt was incurred for the consideration stated and that the debt, to the best of my knowledge and belief, still remains unpaid and unsatisfied.

3B.^{(6)*} I am the creditor's agent authorised to make this statement in writing. I know that the debt was incurred and for the consideration stated and that the debt, to the best of my knowledge and belief, still remains unpaid and unsatisfied.

DATED this day of 2020

Signature of Signatory.....

NAME IN BLOCK LETTERS

Occupation

Address

See Directions overleaf for the completion of this form

OFFICE USE ONLY

POD No:		ADMIT (Voting / Dividend) - Ordinary	\$
Date Received:	/ /	ADMIT (Voting / Dividend) – Preferential	\$
Entered into CORE IPS:		Reject (Voting / Dividend)	\$
Amount per CRA/RATA	\$	Object or H/Over for Consideration	\$
Reason for Admitting / Rejection			
PREP BY/AUTHORISED		TOTAL PROOF	\$
DATE AUTHORISED / /			

Proof of Debt Form Directions

- * Strike out whichever is inapplicable.
- (1) Insert date of Court Order in winding up by the Court, or date of resolution to wind up, if a voluntary winding up.
- (2) Insert full name and address (including ABN) of the creditor and, if applicable, the creditor's partners. If prepared by an employee or agent of the creditor, also insert a description of the occupation of the creditor.
- (3) Under "Consideration" state how the debt arose, for example "goods sold and delivered to the company between the dates of", "moneys advanced in respect of the Bill of Exchange".
- (4) Under "Remarks" include details of vouchers substantiating payment.
- (5) Related Party / Entity: Director, relative of Director, related company, beneficiary of a related trust.
- (6) If the Creditor is a natural person and this proof is made by the Creditor personally. In other cases, if, for example, you are the director of a corporate Creditor or the solicitor or accountant of the Creditor, you sign this form as the Creditor's authorised agent (delete item 3A). If you are an authorised employee of the Creditor (credit manager etc), delete item 3B.

Annexures

- A. If space provided for a particular purpose in a form is insufficient to contain all the required information in relation to a particular item, the information must be set out in an annexure.
- B. An annexure to a form must:
 - (a) have an identifying mark;
 - (b) and be endorsed with the words:
 - i) "This is the annexure of *(insert number of pages)* pages marked *(insert an identifying mark)* referred to in the *(insert description of form)* signed by me/us and dated *(insert date of signing)*; and
 - (c) be signed by each person signing the form to which the document is annexed.
- C. The pages in an annexure must be numbered consecutively.
- D. If a form has a document annexed the following particulars of the annexure must be written on the form:
 - (a) the identifying mark; and
 - (b) the number of pages.
- E. A reference to an annexure includes a document that is with a form.