

The Fulcrum Group (Australia) Pty Limited (In Liquidation)
ACN 615 925 703
(“the Company”)

REPORT TO CREDITORS

3 March 2020

DATE OF APPOINTMENT

5 November 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. Dividend prospects	6
6. Summary of investigations and next steps	6
7. Meeting of creditors	7
8. Further information and contact details	7

Appendices

Appendix	Document description
A	Listing of creditors
B	Notice of Meeting of Creditors
C	Remuneration Approval Report
D	Proxy form
E	Proof of Debt form

Please return the Appointment of Proxy and Proof of Debt forms at **Appendix D and E** 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 5 November 2018 by a resolution of the Company's members. This report should be read in conjunction with our Report to Creditors dated 13 November 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.

Creditors will recall that we were also appointed Joint and Several Liquidators of related entity The Fulcrum AUS Pty Ltd ("**the Australian Subsidiary**") on 7 September 2018.

2. Company Background

At the time of this report we are yet to receive a Report as to Affairs ("RATA") from the Company Directors.

As stated in our First Report, the Company was the holding entity and shareholder of the Australian Subsidiary and The Fulcrum Limited ("**the NZ Subsidiary**"). The Company raised funds from investors and loaned these funds to its trading subsidiaries, being the Australian Subsidiary and the NZ Subsidiary. Based on the limited books and records available, it appears the Company's only assets was its investment in both subsidiaries and amounts loaned to both the Australian Subsidiary and the NZ Subsidiary.

The key asset of the Group, The Fulcrum Hub, was recorded on the NZ Subsidiary's balance sheet. The Receiver of the NZ Subsidiary has sold all interest and entitlement that the NZ Subsidiary has in the Fulcrum Hub. We requested a copy of the sale agreement; however this was not provided as the sale was subject to confidentiality. We continue to investigate the ownership of the Fulcrum Hub.

The Australian Subsidiary operated and developed the Fulcrum Hub in Australia to service clients and generate revenue. It operated from Level 3, 2 Bulletin Place, Sydney NSW, being the registered office and principal place of business of the Company.

3. Activities undertaken to date

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

- Communicating with 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;
- 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 5-Nov-18 to 26-Feb-20 \$	Forecast 27-Feb-20 to completion \$	Total (\$)
Receipts				
Bank interest		1	-	1
Litigation funding	5.2	47,500	-	47,500
Bank refund		50	-	50
GST refund		-	20,037	20,037
Total receipts		47,551	20,037	67,588
Payments				
Bank charges		(51)	-	(51)
Legal fees	3.7	(12,608)	(27,500)	(40,108)
Court filing fees		(2,815)	-	(2,815)
Transcript fees		(1,334)	-	(1,334)
Liquidators fees – actual		-	(110,157)	(110,157)
Liquidators fees – future		-	(66,000)	(66,000)
Total payments		(16,809)	(203,657)	(220,465)
Estimated cash balance		30,743	-	-

4.1 Related entity loans

Records in our possession indicate that the Australian Subsidiary and the NZ Subsidiary are indebted to the Company in the amount of \$1,694,902 and \$3,631,575 respectively. The Liquidators of both the Australian Subsidiary and the NZ Subsidiary have advised that a dividend to ordinary unsecured creditors is unlikely. As such, these loans are uncollectible. We do not anticipate any recovery from related entity loans.

4.2 Shares in subsidiaries

Records in our possession indicate that the Australian Subsidiary and the NZ Subsidiary are indebted to the Company in the amount of \$1,694,902 and \$3,631,575 respectively. The Liquidators of both the Australian Subsidiary and the NZ Subsidiary have advised that a dividend to ordinary unsecured creditors is unlikely. As such, these loans are uncollectible. We do not anticipate any recovery from related entity loans.

4.3 Secured creditors

A search of the Personal Property Securities Register (“PPSR”) did not disclose any security interests registered against the Company’s assets.

4.4 Employee creditors

As mentioned in our First Report, we understand the Company was a non-trading holding company, which did not have any employees. To date we have not been made aware of any priority employee creditors.

4.5 Ordinary unsecured creditors

As at the date of this Report we are aware of unsecured claims totalling \$1,655,742. Creditors are referred to the attached listing marked as **Appendix A** for further details.



To date we have received Proof of Debt forms from creditors totalling \$1,594,247. Creditors are advised that at this stage we have not adjudicated on creditor claims, and therefore all claims are subject to verification.

4.6 Litigation recoveries

4.6.1 Insolvent trading

Pursuant to section 588G of the Act, a director has a duty to prevent the 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 the limited books and records received to date, it appears the Company may have been insolvent from at least 2 August 2018, if not earlier. However, given the lack of available financial information we are unable to reach a definitive conclusion regarding the precise date of insolvency or the quantum of any such claim. Further investigation is required to ascertain the precise date of insolvency and the quantum of any insolvent trading claim against the Directors. We anticipate the public examinations referred to above will further our investigation in respect of insolvent trading.

4.6.2 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. We anticipate the public examinations referred to above will further our investigation in respect of voidable transactions.

4.7 Legal remuneration and expenses

We have engaged JWS to assist in the public examinations of Ms Christina Domecq and Ms Cassandra Kelly.

We will incur costs from JWS for their assistance in this undertaking. Tasks performed for this fee will include obtaining orders for service, the public examinations themselves, review of claims and settlement strategy and associated disbursements.

4.8 Liquidators' remuneration and expenses

Creditors have approved remuneration in the amount of \$50,000 (excluding GST) in the Liquidation to date. In the period from the date of appointment (5 November 2018) to 12 February 2019, time costs have amounted to \$50,475 (excluding GST). These have not been drawn as asset realisations have not been sufficient to meet these costs. Activities undertaken by the liquidators during this period include attending meetings with Registered Investors, liaising with JWS to commence the public examinations, dealing with creditor enquiries, preparing and issuing the initial report to creditors and initial investigations into insolvent trading and voidable transactions prior to our appointment.



Approval is sought from creditors for fees of \$50,144 (excluding GST) for the period from 13 February 2019 to 18 February 2020 and that this is able to be drawn down immediately or as required. Activities undertaken by the liquidators in this period include dealing with creditor inquiries, preparing and issuing correspondence to creditors, processing proofs of debt, collection and review of company books and records, conducting investigation into conduct of company directors and assisting solicitors with ongoing public examinations.

Further approval is also sought from creditors for future fees of \$60,000 (exclusive of GST) for the period from 19 February to the finalisation of the liquidation. Undertakings in this period will include dealing with further creditor enquiries, preparing and issuing this report, preparing for and convening a meeting of creditors, extensive investigations of the company's books and records and in relation to insolvent trading and voidable transactions, assisting solicitors in preparing for public examinations in May and various statutory and administrative tasks.

5. Dividend prospects

At this stage the prospects of a dividend are unknown. A dividend to any class of creditor is contingent on:

- any litigation recoveries; and
- the costs of the liquidation.

6. Summary of investigations and next steps

6.1 Public Examinations

In conjunction with our role as Joint and Several 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 costs 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 and Ms Domecq in October 2019. The public examinations were scheduled to take place on 29 November 2019 but were postponed at the request of Ms Kelly's lawyers. Both examinations will now occur at **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 hearings are open to creditors of the company, the general public and media to attend.

We will continue to liaise with JWS to assist in preparation for the public examinations and will produce further reports at the conclusion of the proceedings.

6.2 Registered Investors funding agreement

The liquidators have been provided with \$47,500 funding by certain shareholders / noteholders (collectively "the Registered Investors") for the purpose of the Public Examinations. At the upcoming meeting of creditors, we will be seeking approval to enter into an agreement (the Funding Agreement) that allows for the repayment of the funding in priority to all other creditor claims, from any asset realisations. The funding will not be repaid if the Liquidators are unable to make sufficient asset realisations.

6.3 JWS Costs agreement

Pursuant to section 447(2B) of the Act, we are seeking approval to enter into a costs agreement with JWS who are assisting the liquidators with the public examinations.



6.4 Report to the Australian Securities and Investments Commission (“ASIC”)

Our report pursuant to section 533 of the Act on the outcome of our preliminary investigation into the affairs of the Company was filed with ASIC on 5 April 2019. Our report examined various aspects of the Company’s trading activities and also considered whether offences had been committed by any officers of the Company which warranted additional investigation by ASIC. On 8 April 2019, ASIC advised that they did not intend to take any further action in relation to the matters identified.

7. Meeting of creditors

A meeting of creditors of the Company will be held on **20 March 2020 at 10:30am** at the offices of Wexted Advisors, Level 12, 28 O’Connell Street, Sydney NSW 2000. Attached at **Appendix B** 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 C**). Also attached is a Form 532 – Appointment of Proxy (**Appendix D**) and a Form 535 – Proof of Debt (**Appendix E**) 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 1700 or via email at tgilbert@wexted.com.

DATED this 3rd day of March 2020

The Fulcrum Group (Australia) Pty Limited (In Liquidation)


Joseph Hayes
Joint and Several Liquidator


Andrew McCabe
Joint and Several Liquidator



Appendix A: Creditor listing

Creditor name	Estimated claim (\$)	Related Party
Ernst & Young	23,650.10	
Foundry Innovations Limited (In Receivership)	1,179,408.65	Yes
Seafell Pty Ltd ATF GJG Superannuation Fund	250,000.00	
Whittens and McKeough	37,682.75	
Corpac Partners Pty Limited	165,000.00	
Xero	Unknown	
Crombie Lockwood NZ	Unknown	
Total	1,655,741.50	

Appendix B: Notice of meeting of creditors



CORPORATIONS ACT 2001

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

NOTICE OF MEETING OF CREDITORS

THE FULCRUM GROUP (AUSTRALIA) PTY LIMITED (IN LIQUIDATION) ACN 615 925 703 (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 10:30am.

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 13 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 Group (Australia) Pty Ltd (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 C: 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 Group 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 \$50,000.00 remuneration in the Liquidation. The Liquidators time costs from the date of appointment (being 5 November 2018) to 12 February 2019 was \$50,475.00. These fees have not been pdrawn as asset realisations have not been sufficient to meet these costs. We note that the payment of any Liquidators remuneration is contingent on asset realisations.

This remuneration report details approval sought for fees from 13 February 2019 to finalisation:

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 13 February 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 \$50,143.75 (exclusive of GST), and that the Joint and Several Liquidators can draw the remuneration immediately or as required.”</i>		\$50,143.75
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		\$110,143.75

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 13 February 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 \$50,143.75 (exclusive of GST), and that the Joint and Several Liquidators can draw the remuneration immediately or as required.”

Company: The Fulcrum Group (Australia) Pty Limited **Period from:** 13 February 2018

Practitioner(s): Joseph Hayes and Andrew McCabe **Period to:** 18 February 2020

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

Task Area	General Description	Includes
Creditors 57.3 Hours \$23,165.25 (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.
Investigation 39.6 Hours \$17,161.50 (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



Task Area	General Description	Includes
		transactions and consider recovery action Finalise investigation into possible insolvent trading/breach of directors' duties and consider 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
Admin 21.5 Hours \$9,097.00 (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
Total: \$50,143.75 (excl. GST) Total Hours: 119.5		

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 or as required.”



Company: The Fulcrum Group (Australia) 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 recovery action Preparation of investigation file Lodgement of investigation with ASIC Preparation and lodgement of supplementary report if required



Task Area	General Description	Includes
	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 13 February 2019 to 18 February 2020										
Employee	Position	\$/hour (exc GST)	Total actual hours	Total (\$)	Task area					
					Creditors		Investigations		Admin	
					hrs	\$	hrs	\$	hrs	\$
Joseph Hayes	Partner	600	10.3	6,150.00	2.3	1,350.00	0.8	450.00	7.3	4,350.00
Andrew McCabe	Partner	600	31.6	18,978.00	15.2	9,120.00	14.6	8,778.00	0.6	360.00
James Le Messurier	Manager	430	13.3	5,719.00	7.8	3,354.00	2.7	1,161.00	2.8	1,204.00
Thomas Gilbert	Senior Analyst	315	43.1	13,560.75	26.7	8,394.75	14.9	4,693.50	1.5	472.50
Patrick Skippen	Senior Analyst	315	14.1	4,441.50	0.1	31.50	6.6	2,079.00	7.4	2,331.00
Lachlan Minogue	Junior Analyst	210	2.9	598.50	1.5	315.00	-	-	1.4	283.50
Natasha Spencer	Support	160	4.4	696.00	3.8	600.00	-	-	0.6	96.00
Subtotal (exc GST)			119.5	50,143.75	57.3	23,165.25	39.6	17,161.50	21.5	9,097.00
GST				5,014.38						
Total remuneration (inc GST)				55,158.13						
Average hourly rate (exc GST)				419.51	405		434		423	

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 \$50,143.75 (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 28 February 2020.

10. Summary of Receipts and Payments

Please refer to the Liquidators' report to creditors dated 28 February 2020.

11. Queries

Creditors have the right to request further information from the external administrator if they wish to do so. Please contact this Tom Gilbert of this office on (02) 9210 1700.

12. Information Sheet

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



Appendix D: Appointment of proxy form

CORPORATIONS ACT 2001 APPOINTMENT OF PROXY CREDITORS MEETING

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

THE FULCRUM GROUP (AUSTRALIA) PTY LIMITED (IN LIQUIDATION) ACN 615 925 703 (“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 16 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 13 February 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 \$50,143.75 (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 Group (Australia) Pty Limited (In Liquidation)

1. This is to state that the company was, on 5 November 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.