

# **MAINZEAL GROUP LIQUIDATION**

**Liquidators' Six-monthly Report to Creditors  
and Shareholders**

**Pursuant to Section 255 of the Companies Act 1993**

**Reporting Period: 28 February 2024 to 28 August 2024**

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## 1. Introduction

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

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

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

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

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

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

This report should be read in conjunction with our previous reports for the Companies and KFL

In addition to our statutory obligations, we are also bound by New Zealand Institute of Chartered Accountants Insolvency Services Standard and the RITANZ Code of Professional Conduct (“Code”) when carrying out all professional work relating to our appointment as Liquidators.

In accordance with section 255 of the Act, we report on the Company’s affairs together with our proposals for conducting the liquidation.

Liquidators of insolvent companies are required to be licensed insolvency practitioners. Further details regarding the regulation of insolvency practitioners is available from the Registrar of Companies at: [www.companiesoffice.govt.nz/all-registers/insolvency-practitioners/](http://www.companiesoffice.govt.nz/all-registers/insolvency-practitioners/).

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## 2. Restrictions

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

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

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

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

### Litigation against MPCL's directors and KFL

As advised in our previous reports, the Supreme Court released its judgment in relation to the directors' appeal and Liquidators' cross appeal on Friday 25 August 2023.

The Supreme Court dismissed the appeals by the directors and in part allowed the cross appeal of the Liquidators. The Supreme Court ordered the directors to contribute to the assets of the Companies \$39.8m together with interest at the prescribed rates for the period from 28 February 2013 to the date of the Judgment. With interest, the judgment sum exceeds \$60m.

Dame Shipley and Messrs Tilby and Gomm were held liable for \$6.6m each plus interest and Mr Yan was held liable for the full judgment sum. Calculations of interest payable indicated that Dame Shipley and Messrs Tilby and Gomm would be liable for a further \$3.4m each in respect of the interest component, making their individual liability of approximately \$10m each.

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

### Recovery Action

The Liquidators' report for the period 28 August 2023 to 28 February 2024 recorded the Liquidators' recovery steps against the directors. The Liquidators have settled with three of the defendant directors (Dame Shipley, Gomm and Tilby).

In the last reporting period, the Liquidators sought and obtained the bankruptcy adjudication of the remaining liable director, Richard Yan in relation to enforcement of the judgment sums. Mr Yan's bankruptcy is being handled by the Official Assignee however at this stage it is unknown what, if any recovery will be made from Mr Yan's available assets.

The Liquidators are reviewing a further possible recovery action which will unfold over the next reporting period.

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## Distribution

During May 2024, a second distribution of 4 cents in the dollar was paid to all those admitted creditors who had provided the necessary bank account information. This brings the total distributions to date to 10 cents in the dollar. There is still a significant number of creditors who have failed to respond to the liquidators' communications and for whom the liquidators have insufficient information to make the distribution payments.

As previously noted, no admitted creditor will be excluded from the distributions if they have not provided the requested bank account and contact information, however, no payments can be made to those creditors who have not provided the requested bank account details.

## Receipts and Payments

Attached as **Appendix 1** is a Statement of the Receipts and Payments for the Reporting Period.

## Creditor Claims

### Preferential Creditors

As advised in our previous reports, all preferential creditors have been paid in full.

### Unsecured Creditors

There have been a few new creditors lodging claims received subsequent to the Supreme Court judgment. The current creditor numbers are as follows:

Creditors' Claims Summary	Admitted		Rejected/ Reduced		WIP		Total Claimed	
	\$	#	\$	#	\$	#	\$	#
Total	111,465,935.72	1,411	47,214,017.06	162	819,911.39	5	159,499,864.17	1,411

## 4. Further proposals for completing the liquidation

### Future distributions to unsecured creditors

At this stage it is not known when there will be further distributions to admitted creditors and if so, the quantum of any potential future distribution.

### Estimated date of completion

It is not possible at this time to estimate the date that this liquidation will be completed.

## 5. Liquidators' Remuneration

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

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## 6. Contact information

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

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4 Graham Street

Auckland 1140

DATED this 24 September 2024



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Andrew McKay

Liquidator



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Andrew Bethell

Liquidator

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# APPENDICES

## Appendix 1 - Receipts and Payments

Mainzeal Group Liquidation For the Period 28 February 2024 to 28 August 2024 Summary of Receipts and Payments in \$'000s	Previous Reporting Period	Current 6 months	Total From Appointment 12-Feb-13 to 28-Aug-24
<b>Receipts</b>			
Net Costs Awarded	2,007	0	2,007
Funds Received (Litigation)	23,834	0	23,834
Funds Received (Debtors)	2,000	0	2,000
Isola Interim Distribution	3,028	0	3,028
Surplus from Receivers	8,164	0	8,164
Litigation Funding	8,211	238	8,449
Accounts Receivables and Retentions	727	0	727
Stock	439	0	439
Net Interest	914	191	1,105
Fixed Assets	228	0	228
Other Income	89	0	89
Funds Held by PwC	40	0	40
Retainer Fees	2	0	2
Net GST	49	0	49
<b>Total Receipts</b>	<b>49,733</b>	<b>429</b>	<b>50,163</b>
<b>Payments</b>			
Payment to Litigation Funder	17,525	826	18,351
Distribution to Unsecured Creditors	4,889	4,249	9,138
Distribution to Preferential Creditors	275	0	275
Payroll Deductions	15	305	320
Legal Fees	8,691	49	8,740
Liquidators' Remuneration	4,397	122	4,519
Contractors & Consultants	727	39	765
Records Storage	559	93	651
Administrative Expenses	271	14	285
IT Hosting	154	9	163
Wages & Salaries	74	0	74
Net GST	49	0	49
<b>Total Payments</b>	<b>37,625</b>	<b>5,705</b>	<b>43,330</b>
<b>Cash on Hand</b>	<b>12,108</b>	<b>(5,275)</b>	<b>6,833</b>

## Appendix 2 - Liquidators' remuneration

Mainzeal Group Liquidation											
For the Period 28 February 2024 to 28 August 2024		Administration & Trading		Creditors		Investigation		Reporting		Total	
Liquidators' Remuneration	Hourly Rate	Hours	Cost	Hours	Cost	Hours	Cost	Hours	Cost	Hours	Cost
Partners	722.20	11.25	8,185.00	8.00	5,790.00	23.75	17,135.00	2.50	1,750.00	45.50	32,860.00
Associate	405.58	7.00	2,800.00	44.10	17,953.00	0.00	0.00	5.00	2,000.00	56.10	22,753.00
Senior Manager	587.91	9.75	5,670.00	74.90	44,173.50	7.25	4,185.00	0.00	0.00	91.90	54,028.50
Support Staff	255.90	45.50	11,637.50	1.50	390.00	0.00	0.00	0.00	0.00	47.00	12,027.50
<b>Total</b>		<b>73.50</b>	<b>28,292.50</b>	<b>128.50</b>	<b>68,306.50</b>	<b>31.00</b>	<b>21,320.00</b>	<b>7.50</b>	<b>3,750.00</b>	<b>240.50</b>	<b>121,669.00</b>

### Detail of Work Completed

Administration & Trading	Attend to general administration, accounts payable, and record maintenance
Creditors	Attend to creditors queries, update creditors' contact details and distribution related matters
Investigation	Attend to litigation, recovery of settlement funds and GST on settlement funds related matters
Reporting	Attend to statutory reporting

Details of Disbursements	NZD \$
Courier Services	8.34
Travel Expenses	9.95
<b>Total Disbursements</b>	<b>18.29</b>

