

IN THE SUPREME COURT OF NEW SOUTH WALES

DIVISION: EQUITY

No. 169447 of 2017

REGISTRY: SYDNEY

IN THE MATTER OF PLUTUS PAYROLL AUSTRALIA PTY LIMITED

ACN 169 205 127

Deputy Commissioner of Taxation  
Plaintiff

Plutus Payroll Australia Pty Limited (in provisional liquidation) ACN 169 205 127  
and others named in the Schedule  
Defendants

**AFFIDAVIT OF TIMOTHY BRYCE NORMAN  
2 JULY 2017**

I, Timothy Bryce Norman, of Deloitte Financial Advisory Pty Limited, Level 2, 8 Brindabella Circuit, Brindabella Business Park, Canberra Airport, Australian Capital Territory, Official Liquidator, say on oath:

1. I am a partner in the chartered accounting firm Deloitte Financial Advisory Pty Limited and one of the three provisional liquidators appointed to the defendant companies in these proceedings.
2. Annexed to this affidavit and marked with the letter "A" is a report dated 2 July 2017 prepared by me and with the assistance of staff working under my supervision (**Report**). The Report provides an update as to the status of the provisional liquidations of the defendant companies, and the investigations to date into the companies' affairs.
3. The Report has been prepared from my own knowledge and from the information that I have obtained through my role as provisional liquidator.



---

Filed on behalf of the Provisional Liquidators of the defendants

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SWORN at Melbourne on 2  
July 2017

Signature of deponent



Name of witness

Elizabeth Ann Yick

Address of witness

Rialto Towers, 525 Collins Street, Melbourne, Victoria

Capacity of witness

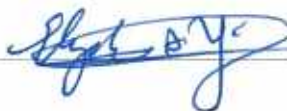
Solicitor

And as a witness, I certify the following matters concerning the person who made this affidavit (**deponent**):

1. I saw the face of the deponent.
2. I have confirmed the deponent's identity using the following identification document:

Victorian Driver's Licence No. 055305419 (current)  
Identification document relied on (may be original or certified copy)<sup>1</sup>

Signature of witness:



**ELIZABETH ANN YICK**  
of 525 Collins Street, Melbourne  
An Australian Legal Practitioner  
within the meaning of the Legal  
Profession Uniform Law (Victoria)

<sup>1</sup> 'Identification documents' include current driver licence, proof of age card, Medicare card, credit card, Centrelink pension card, Veterans Affairs entitlement card, student identity card, citizenship certificate, birth certificate, passport or see Oaths Regulation 2011 or JP Ruling 003 - Confirming identity for NSW statutory declarations and affidavits, footnote 3.



This and the following 14 pages is the annexure marked "A" to the Affidavit of Timothy Bryce Norman sworn 2 July 2017 before me:

Elizabeth Ann Yick,  
solicitor

**ELIZABETH ANN YICK**  
of 525 Collins Street, Melbourne  
An Australian Legal Practitioner  
within the meaning of the Legal  
Profession Uniform Law (Victoria)

**IN THE MATTER OF PLUTUS PAYROLL AUSTRALIA PTY LIMITED  
(ACN 169 205 127) (PROVISIONAL LIQUIDATORS APPOINTED)**

Proceeding No: 2017/00169447

**Deputy Commissioner of Taxation**  
Plaintiff

<b>Plutus Payroll Australia Pty Limited</b> (ACN 169 205 127) (Provisional Liquidators Appointed)	First Defendant
<b>PPA Contractors Australia Pty Ltd</b> (ACN 605 218 273) (Provisional Liquidators Appointed)	Second Defendant
<b>PPA Services Australia Pty Ltd</b> (ACN 605 903 660) (Provisional Liquidators Appointed)	Third Defendant
<b>PP Aus Holdings Pty. Ltd.</b> (ACN 613 038 654) (Provisional Liquidators Appointed)	Fourth Defendant
<b>PP Australia NSW Pty. Ltd.</b> (ACN 613 037 442) (Provisional Liquidators Appointed)	Fifth Defendant
<b>PP Services (WA) Pty. Ltd.</b> (ACN 613 042 587) (Provisional Liquidators Appointed)	Sixth Defendant
<b>PPA (SA) Pty. Ltd.</b> (ACN 613 038 234) (Provisional Liquidators Appointed)	Seventh Defendant
<b>PPA NT Pty. Ltd.</b> (ACN 613 037 175) (Provisional Liquidators Appointed)	Eighth Defendant
<b>RAM Enterprises Australia Pty Ltd</b> (ACN 157 988 639) (Provisional Liquidators Appointed)	Ninth Defendant
<b>SAI Solutions Australia Pty Ltd</b> (ACN 159 529 183) (Provisional Liquidators Appointed)	Tenth Defendant

**PROVISIONAL LIQUIDATORS' REPORT**

**2 July 2017**



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## Definitions

AFP	Australian Federal Police
AFSA	Australian Financial Security Authority
AGS	Australian Government Solicitor, solicitor acting for the Deputy Commissioner of Taxation
ASIC	The Australian Securities & Investments Commission
ASX	Australian Securities Exchange
ATO	Australian Taxation Office
CBA	Commonwealth Bank of Australia Ltd
Companies	The first to the tenth defendants as set out in the List of Companies below.
Date of appointment	9 June 2017
Deloitte	Deloitte Financial Advisory Pty Ltd
ERV	Estimated Realisable Value
GST	Goods and Services Tax
Order	Order made by Justice Abdi on 9 June 2017 in the Supreme Court of New South Wales, Equity Division, No. 2017/00169447
PAYG Withholding Tax	Pay As You Go Withholding Tax
PPSR	Personal Properties Securities Register
Proceeding	Supreme Court of New South Wales, Equity Division, No. 2017/00169447
Provisional Liquidators, We, Us	Timothy Norman, Salvatore Algeri and Ezio Senatore appointed pursuant to s 472(2) of the Act as Joint and Several Provisional Liquidators of the Companies pursuant to the Order
PSR	Property Seizure Records
RATA	Report as to Affairs
The Act	Corporations Act 2001
The Court	The Supreme Court of New South Wales

## List of Companies

First Defendant	Plutus Payroll Australia Pty Limited (ACN 169 205 127) (Provisional Liquidators Appointed)
Second Defendant	PPA Contractors Australia Pty Ltd (ACN 605 218 273) (Provisional Liquidators Appointed)
Third Defendant	PPA Services Australia Pty Ltd (ACN 605 903 660) (Provisional Liquidators Appointed)
Fourth Defendant	PP Aus Holdings Pty. Ltd. (ACN 613 038 654) (Provisional Liquidators Appointed)
Fifth Defendant	PP Australia NSW Pty. Ltd. (ACN 613 037 442) (Provisional Liquidators Appointed)
Sixth Defendant	PP Services (WA) Pty. Ltd. (ACN 613 042 587) (Provisional Liquidators Appointed)
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Eighth Defendant	PPA NT Pty. Ltd. (ACN 613 037 175) (Provisional Liquidators Appointed)
Ninth Defendant	RAM Enterprises Australia Pty Ltd (ACN 157 988 639) (Provisional Liquidators Appointed)
Tenth Defendant	SAI Solutions Australia Pty Ltd (ACN 159 529 183) (Provisional Liquidators Appointed)

## 1. Executive Summary

### 1.1. Purpose of this report

This report has been prepared to provide an update as to the status of the provisional liquidations of the Companies and the investigations to date into the Companies' affairs.

Nothing in this report is intended to comprise a waiver of any privilege that may attach to any of the matters stated in this report.

### 1.2. Details of appointment

On 2 June 2017, Timothy Norman, Salvatore Algeri and Ezio Senatore consented to act as Joint and Several Provisional Liquidators of the Companies at the request of the ATO. This request was a result of investigations conducted by the ATO and AFP concerning allegations of fraudulent transactions entered into by the Companies.

During the course of the past six months, the ATO together with the AFP have undertaken the following actions in relation to the Companies:

1. issued formal garnishee notices to third parties holding the Companies' funds;
2. search and seizure of property; and
3. taken control of the Companies' books and records;

(together, the ATO Investigations).

Due to the ATO Investigations, the Deputy Commissioner of Taxation made an application to the Court for winding up orders in respect of the Companies. Applications to wind up the Companies were also initiated by Merrill & Johnny Pty Ltd and Ghassan Dib T/AS Dib Lawyers. After the Deputy Commissioner of Taxation's application to wind up the Companies was served, the director of the first defendant resolved to appoint Mr David Iannuzzi and Mr Vincent Pirina of Veritas Advisory as Joint and Several Voluntary Administrators of the first defendant on 6 June 2017.

On 6 June 2017, the applications made by Merrill & Johnny Pty Ltd and Ghassan Dib T/AS Dib Lawyers were withdrawn. The Deputy Commissioner of Taxation's application for the Companies to be wound up remained on foot.

On 9 June 2017, at the hearing in the Supreme Court of New South Wales, the Court made an order appointing Timothy Norman, Salvatore Algeri and Ezio Senatore as Joint and Several Provisional Liquidators of the Companies.

## 2. Summary of Provisional Liquidators' actions to date

### 2.1. Steps taken on appointment

On appointment, we undertook a number of steps to satisfy our statutory obligations, notify relevant parties of our appointment, and commence investigations into the affairs of the Companies.

These actions have included:

#### 2.1.1. Statutory Items

- lodging notice of our appointment with ASIC;
- advertising our appointment as the Provisional Liquidators in respect of the Companies in *The Australian* newspaper publication;

#### 2.1.2. Appointment Notifications

- issuing correspondence to all major financial institutions to freeze any bank accounts and requesting records and bank statements for any accounts currently or previously held by the Companies;
- issuing notices of appointment to the ATO in respect of each of the Companies;

- issuing circulars to the Sheriffs' Office, State Revenue Office (Land Tax and Payroll Tax departments), WorkCover authorities, and road transport authorities in the various states and territories;
- issuing circulars to share registries requesting records and information held in respect of shares held by the Companies;
- issuing correspondence to all known former advisors to the Companies (including accountants and legal advisors) requesting information including financial statements and details of any proceedings on foot and any funds held in trust (as set out in Section 5.2);
- corresponding with Veritas Advisory, the former voluntary administrators of the first defendant, to request all information in their possession and reviewing the information provided;

### **2.1.3. Preliminary Investigations**

- conducting ASIC historical company searches;
- conducting ASIC directorship searches;
- conducting PPSR searches and issuing correspondence to secured creditors of the Companies (as set out in Section 3.4);
- conducting land title searches of the Companies and the current directors in all states and territories;
- conducting searches of the unclaimed monies database in all states and territories;
- Issuing a general notice of our appointment to the ATO;
- reviewing responses received from initial circulars issued;
- holding numerous meetings and discussions with the ATO and AGS in order to obtain information regarding the Companies' affairs and details of their investigations conducted to date;

### **2.1.4. Assets**

- attending the known former trading locations of the Companies to confirm their current operating status and ascertain the existence of any assets and/or books and records on the premises, including obtaining access to the first defendant's offices at 2-14 Kings Cross Road, Potts Point, NSW on 29 June 2017;
- corresponding with landlords of the former trading locations of the Companies to obtain information regarding assets located on the premises;
- arranging preliminary insurance for any prospective assets identified in the Provisional Liquidation;

### **2.1.5. Books and Records**

- initiating communications with the ATO, AFP and AGS to obtain information relating to the Companies' affairs and reviewing the information provided;
- contacting relevant parties of the AFP to request access to books and records and the PSR catalogue;
- meeting with the AFP and obtaining a digital copy of all available hard copy records held by them;
- inspecting the PSR catalogue and conducting a preliminary review of the hard copy records provided by the AFP to determine their volume and relevance;

### **2.1.6. Directors**

- attempting to communicate with all current directors and relevant former directors of the Companies;
- interviewing the director of first defendant, Mr Brendan Thomassen on 15 June 2017;



- preparing notices of appointment (including RATA) and arranging for those to be served personally on the directors and via registered post;
- corresponding with process servers regarding service outcome;
- reviewing the RATAs received to date from directors of the Companies;

### 2.1.7. Employees and Creditors

- preparing circulars to employees and creditors of the Companies to inform them of our appointment;
- preparing proof of claim forms;
- corresponding with potential creditors and employees of the Companies to respond to their enquiries and advise on the proof of claim process;
- setting up a separate email account ([plutus@deloitte.com.au](mailto:plutus@deloitte.com.au)) to receive and respond to enquiries. To date, the majority of enquiries have been from potential creditors of the Companies and relate to lodgements of proofs of debt; and
- creating a dedicated Deloitte webpage which includes details of our appointment, general information, contact details for media enquiries, documentation for employees and creditors of the Companies, and links to publications released by the ATO. The webpage can be found at <https://www2.deloitte.com/au/en/pages/finance/articles/plutus-payroll-australia.html>.

## 3. Group Overview

### 3.1. Business activities

The Companies operated as a payroll service provider that was contracted to provide a number of payroll and financial services to its clients, including:

- calculating, processing and remitting payroll to its clients' employees;
- calculating and processing PAYG income tax instalment deductions;
- collecting, remitting and reporting all other tax as levied upon income paid to its clients' employees;
- deducting and paying fringe benefits tax, superannuation, applicable taxes and other statutory charges where applicable; and
- issuing payslips and producing PAYG Payment Summaries for its clients' employees, (together, the Payroll Services).

The Companies had ceased to trade prior to our appointment as Provisional Liquidators. This appears to have occurred following the garnishee notices issued by the Deputy Commissioner of Taxation to the first defendant's banks, CBA and the St George Bank, in or about late April 2017.

### 3.2. Pending legal matters

The Provisional Liquidators have been made aware of two legal matters concerning the first defendant:

- a proceeding commenced in the Federal Court of Australia by the first defendant against the Deputy Commissioner of Taxation, for review of decisions made by the ATO and the Deputy Commissioner of Taxation to issue garnishee notices to the CBA and the St George Bank (the Plutus Proceedings); and
- a subpoena to produce issued to the first defendant (Subpoena).

#### 3.2.1. The Plutus Proceedings

On 26 April 2017, the ATO issued default assessments in relation to Superannuation Guarantee Charges (SGC) and PAYG Withholding Tax for the first defendant. The ATO also included an

assessment for unpaid GST. On the same day, the ATO/Deputy Commissioner of Taxation issued garnishee notices to the CBA and St George Bank in relation to the first defendant.

On 1 May 2017, the first defendant lodged an objection to these assessments with the ATO and subsequently, on 5 May 2017, filed an application at the Federal Court of Australia to have the notices set aside. The application was made on a number of grounds including the ATO's alleged failure to follow standard procedure in relation to the issuing of the notices. The first defendant alleges that the notices, which had the effect of freezing bank accounts, prevented the business from continuing operations and resulted in an estimated 1,200 employees not receiving their entitlements.

These proceedings have been adjourned to 4 July 2017 and it is proposed to adjourn the Plutus Proceedings for a further period of four weeks with consent of the parties.

### **3.2.2. The Subpoena**

On 9 May 2017, the first defendant was served with a subpoena to produce documents relating to its dealings with Brand2Content Pty Ltd issued by Solar Australia Pty Ltd, Get Off The Grid Pty Ltd and Solar Australia Franchising Pty Ltd. At this stage, the Provisional Liquidators do have access to any records which may respond to the Subpoena, and as such, we are presently unable to produce documents in compliance with the Subpoena. The Subpoena return date has been adjourned to 27 July 2017.

### 3.3. Overview of statutory information

A search of the ASIC historical database indicates the following information:

	Plutus Payroll Australia Pty Limited	PP Aus Holdings Pty Ltd	PP Australia NSW Pty Limited	PP Services (WA) Pty Limited	PPA (SA) Pty Limited	PPA NT Pty Limited	PPA Contractors Australia Pty Limited	PPA Services Australia Pty Limited	RAM Enterprises Australia Pty Limited	SAI Solutions Pty Limited
<b>Company information</b>										
ACN	169 205 127	613 038 654	613 037 442	613 042 587	613 038 234	613 037 175	605 218 273	605 903 660	157 988 639	159 529 183
ABN	94 169 205 127	23 613 038 654	32 613 037 442	86 613 042 587	28 613 038 234	58 613 037 175	63 605 218 273	90 605 903 660	60 157 988 639	61 159 529 183
State of registration	Northern Territory	Queensland	New South Wales	Western Australia	South Australia	Northern Territory	New South Wales	New South Wales	New South Wales	New South Wales
Date of incorporation	23 April 2014	16 June 2016	16 June 2016	16 June 2016	16 June 2016	16 June 2016	10 April 2015	18 May 2015	24 April 2012	17 July 2012
Registered office	Unit 418, 4 Columbia Court Baulkham Hills, NSW 2153	214 Penshurst Street Beverly Hills, NSW 2209	32 Cabbage Tree Lane Fairy Meadow, NSW 2519	43 Collins Street Corrimal, NSW 2518	9 Shackle Avenue Concord, NSW 2137	32 Cabbage Tree Lane Fairy Meadow, NSW 2519	Unit 4, 41 Illowra Crescent Primbee, NSW 2502	23 Lymington Street Bexley, NSW 2207	24 Nicholson Street Woolloomooloo, NSW 2011	GPTAA 'Level 28', 25 Bligh Street Sydney, NSW 2000
Principal place of business	Level 18, 1 Alfred Street Sydney, NSW 2000	214 Penshurst Street Beverly Hills, NSW 2209	32 Cabbage Tree Lane Fairy Meadow, NSW 2519	43 Collins Street Corrimal, NSW 2518	9 Shackle Avenue Concord, NSW 2137	32 Cabbage Tree Lane Fairy Meadow, NSW 2519	Suite 4 Level 10, 95-99 York Street Sydney, NSW 2000	Suite 4 Level 10, 95-99 York Street Sydney, NSW 2000	24 Nicholson Street Woolloomooloo, NSW 2011	Level 6, Suite 605, 616- 620 Harris Street Ultimo, NSW 2007
<b>Officers and shareholder/s</b>										
Current Director/s	Brendon Lee Thomasen	Alexander Nappa	Ashley Robert John Mills	Angela Claire Yeoland	Angelo Richard Coppola	Danielle Megan McDonell	Ben Alaban	Anthony Palumberi	James Peter Conway	Ben Steven Fairhall
Former Director/s	Sven Augustus Buckner Simon Paul Anquetil	N/A	N/A	N/A	N/A	N/A	Michelle Joy Dubois Sherrie Anne Smith Damien Anthony Spencer	Matthew McElroy Lisa Simone Wall	Narelle Carolyn Armstrong Michael Brisbane Amit Roy Rajib Bhaumik	Michael Robert Welland Vicki Hooitese-Meursing Shashikumari Sitaram Agrawal Anitabahan Agrawal Sanjay Koul
Current Secretary	Brendon Lee Thomasen	Alexander Nappa	Ashley Robert John Mills	Angela Claire Yeoland	Angelo Richard Coppola	Danielle Megan McDonell	Ben Alaban	Anthony Palumberi	James Peter Conway	Ben Steven Fairhall
Current Shareholder/s	Synep Ltd	Alexander Nappa	Ashley Robert John Mills	Angela Claire Yeoland	Angelo Richard Coppola	Danielle Megan McDonell	Ben Alaban	Anthony Palumberi	James Peter Conway	Ben Steven Fairhall

### 3.4. Security interests

Following our appointment, we performed a search of the PPSR for each of the Companies. Our searches identified the following registrations:

Secured Party	Type	Grantor Entity				Total
		Plutus Payroll Australia Pty Limited	PP Aus Holdings Pty Ltd	PP Australia NSW Pty Limited	PPA NT Pty Limited	
BMW Australia Finance Limited	Motor Vehicle	66	1	1	2	70
Leaseplan Australia Limited	Motor Vehicle	1	-	-	-	1
Macquarie Leasing Pty Ltd	Motor Vehicle	1	-	-	-	1
The Trustee for Redzed Trust	Other Goods	1	-	-	-	1
Toyota Finance Australia Ltd	Motor Vehicle	1	-	-	-	1
Toyota Finance Australia Ltd	Other Goods	1	-	-	-	1
<b>Total</b>		<b>71</b>	<b>1</b>	<b>1</b>	<b>2</b>	<b>75</b>

We have issued correspondence to all of the secured parties for the purpose of investigating the relevant security interests. We are yet to receive responses to this correspondence.

## 4. Assets and Liabilities

### 4.1. Report as to Affairs

On 14 June 2017, we instructed process servers to serve the current directors (listed in Section 3.3) at their registered address as per the respective company searches, as well as Mr Simon Paul Anquetil and Mr Sven Augustus Buckner, with notices of our appointment and a request to submit to us a RATA as at 9 June 2017 as required by Section 475(1) of the Act.

Mr Anquetil and Mr Buckner are former directors of the first defendant. Their directorships ceased within 12 months of our appointment. Both these individuals were requested to submit a RATA on the basis that they may possess relevant information that would assist in our investigations pursuant to Section 475(2) of the Act.

Process servers have not been successful in locating and serving all the directors. The status of service is as follows:

Entity	Defendant	Director	Status of service
Plutus Payroll Australia Pty Ltd	First Defendant	Brendon Lee Thomasen	Successful
Plutus Payroll Australia Pty Ltd	First Defendant	Simon Paul Anquetil	Unsuccessful
Plutus Payroll Australia Pty Ltd	First Defendant	Sven Augustus Buckner	Successful
PPA Contractors Australia Pty Ltd	Second Defendant	Ben Alaban	Unsuccessful
PPA Services Australia Pty Ltd	Third Defendant	Anthony Palumberi	Successful
PP Aus Holdings Pty Ltd	Fourth Defendant	Alexander Nappa	Individual served did not confirm his identity.
PP Australia NSW Pty Ltd	Fifth Defendant	Ashley Robert John Mills	Unsuccessful
PP Services (WA) Pty Ltd	Sixth Defendant	Angela Claire Yeoland	Unsuccessful
PPA (SA) Pty Ltd	Seventh Defendant	Angelo Richard Coppola	Unsuccessful
PPANT Pty Ltd	Eighth Defendant	Danielle Megan McDonell	Unsuccessful
RAM Enterprises Australia Pty Ltd	Ninth Defendant	James Peter Conway	Successful
SAI Solutions Australia Pty Ltd	Tenth Defendant	Ben Steven Fairhall	Successful

Alternate addresses are currently being investigated to enable a further attempt at service. We have also issued a copy of this notice by registered post to those directors who we have been unable to serve thus far.

To date, we have only received a RATA in respect of the first and sixth defendants. The information from these RATAs is detailed in the following table:

Category	Director's RATA (\$)	
	Plutus Payroll Australia Pty Limited	PPA Services Australia Pty Limited
<b>ASSETS</b>		
Interest in land	-	Not known
Cash on hand	-	Not known
Cash at bank	482,000	Not known
Stock	-	Not known
Debtors	-	Not known
Plant and equipment	-	Not known
Other assets	-	Not known
Assets subject to specific interests	-	Not known
<b>Total Assets</b>	<b>482,000</b>	<b>Not known</b>
<b>LIABILITIES</b>		
Claims by employees	-	Not known
Creditors with a security interest	-	Not known
Unsecured creditors	-	Not known
<b>Total Liabilities</b>	<b>-</b>	<b>Not known</b>
<b>Estimated Surplus / (Deficiency) subject to costs of liquidation</b>	<b>482,000</b>	<b>Not known</b>

We note that we are unable to provide an ERV at this stage as it is subject to a review of the books and records.

To date, we have received a response from the CBA and obtained some records. However we are still awaiting responses from the majority of financial institutions, directors, and other parties in relation to the letters issued.

Based on our current investigations, it would appear that the \$482,000 cash at bank disclosed in the RATA in respect of the first defendant relates to funds held by the CBA in the same account in respect of which the Deputy Commissioner of Taxation has issued garnishee notices, however further investigations are required to confirm this matter.

A copy of the RATAs received to date is attached as **Annexure TN-1**.

## 4.2. Inspection of property locations

Based on our investigations, we understand that the Companies operated from the following four locations:

- 1 Albert Street, Sydney, New South Wales (the Sydney premises);
- Level 1, 2-14 Kings Cross Road, Potts Point, New South Wales (the Potts Point premises);
- Level 2, 11 London Circuit, Canberra, Australian Capital Territory (the London Circuit premises);
- Level 7, AMP Tower, 1 Hobart Place, Canberra City, Australian Capital Territory (the Canberra City premises); and
- Level 2, 707 Collins Street, Docklands, Victoria (the Docklands premises).

The Companies ceased to trade prior to our appointment, the exact cessation date remains unknown at this point.

Since our appointment, we have attended and confirmed the cessation of operations at these four locations. Furthermore, we note the following in respect of each location:

- **Sydney premises**

On 5 June 2017, we confirmed that the Sydney premises are vacant.

- **Potts Point premises**

These premises have been seized by the AFP. On 29 June 2017, we attended the Potts Point premises in the presence of AFSA to inspect any records and/or assets remaining at the premises. We identified a number of relevant hard copy documents however we did not locate

any financial statements or summary records in order to identify the company's transactions, revenue, expenses, assets and liabilities. We also identified computer systems which we are arranging to be copied or imaged on site in early July 2017.

- **London Circuit premises**

Our enquiries have confirmed that the Companies have vacated the London Circuit premises.

- **Canberra City premises**

We have been in contact with the landlord of the Canberra City premises who confirmed that the Companies no longer operate from this site. There are no records on site, however some office furniture remains and has been secured by the landlord.

- **Docklands premises**

On 8 June 2017, we attended the Docklands premises. The premises have been re-let to an alternative, non-related commercial tenant. No assets or books and records of the Companies remain on site.

### 4.3. Assets identified

Based on our investigations, we have identified limited office furniture at the Potts Point and Canberra City premises. As we have had limited access to the books and records seized by the AFP, we have been unable to ascertain if these are assets of the Companies.

At this stage, we are liaising with the ATO, AGS and AFP to confirm what assets they are holding pursuant to any warrants for the purposes of their investigations.

## 5. Investigations

To date, our investigations have been limited to those outlined in Section 2.1. We propose to undertake more detailed investigations once access to all available books and records of the Companies has been obtained.

### 5.1. ATO and AFP regulatory actions

Prior to our appointment, the ATO and AFP conducted investigations relating to allegations of fraud against the Commonwealth, in particular, allegations that the Companies and their officers had deliberately not remitted PAYG and other employee related payments to the ATO over a sustained period. These investigations are ongoing and included a series of search warrants on 17 May 2017 and a number of individuals allegedly involved in the fraud being charged for defrauding the Commonwealth. By virtue of these actions, our ability to obtain access to records and persons for the purpose of the provisional liquidation have been limited. However, we have recently obtained access to some records held by the AFP of the defendant entities, and have arranged to obtain copies of further electronic material.

### 5.2. Books and records

Our actions to date have been limited as a result of the seizure of books, records and property currently held by the AFP. The records and property were seized prior to our appointment and as at the date of this report we have only inspected some of the Companies' records at the offices of the AFP and the former business premises of the first defendant.

As set out in Sections 2.2 and 5.2 of this report, we have held discussions with the AFP in relation to accessing the books and records in their possession. Based on our discussions with them, it is our understanding that they have seized all or the majority of available books and records (hard and electronic copies) from the properties and offices of the Companies (and their advisers) to facilitate their criminal investigations. We consider these records to be critical for our investigations and necessary to form a view as to the solvency of the Companies, to identify asset recovery opportunities for the benefit of creditors and any breaches of director's duties.

On 27 June 2017, during a meeting with the AFP, they provided us with access to all hard copy records held by them and a copy of the Property Seizure Records (PSR) catalogue for records obtained from the Potts Point property only. According to our recent discussions with the AFP, access to electronic or soft copy records will follow in due course.

The review of hard copy records was limited to a review of incomplete primary source documents and did not include any copies of detailed financial records such as management accounts, list of customers, suppliers and other liabilities nor any general ledger reports. The available hard copy records require further investigation however on their own are insufficient to enable further inquiry. Further, it is not clear from our inspection of the available hard copy records to which of the defendants they relate. Further investigation and access to the electronic records is required to assess the assets and liabilities of each Defendant entity.

We have communicated with the following parties whom we believe may or do hold records relating to the Companies:

- ATO and AFP;
- Essentia Partners, the accountant to the Companies;
- Clamenz Lawyers, the legal advisor to the Companies; and
- Veritas Advisory, the former voluntary administrators of the first defendant.

Our communications with these parties are set out below.

### **5.2.1. ATO and AFP**

To date, we have received limited information from the ATO in respect of outstanding employee entitlements and any taxation liabilities. We understand the ATO will be submitting a detailed Proof of Debt outlining its claims for unremitted PAYG, SGC and GST and any associated penalties and interest.

On 27 June 2017, we met with the AFP and obtained access to the first defendant hard copy records held by them. A digital copy of these records was provided on the same day together with a property seizure record for the Potts Point property only. From our review of the hard copy records, there is insufficient information to identify and explain the company's financial affairs. The hard copy documentation consists of selected documents seized by the AFP during their search warrant at the Potts Point premises, and is not a complete set of records that we would ordinarily examine for the purposes of a provisional liquidation. We are also aware that there are claims of legal professional privilege over some of the records seized by the AFP. We are liaising with the AGS in order to deal with the claims for legal professional privilege.

### **5.2.2. Essentia Partners**

On 19 June 2017, we issued correspondence to Essentia Partners, the accountant of the Companies, requesting that, inter alia, they deliver up books and records of the Companies.

On 21 June 2017, we received a reply from Essentia Partners, which contained the following books and records in respect of the First Defendant:

- Financial Report for the financial years ended 30 June 2014, 2015 and 2016; and
- Income Tax Return for the financial years ended 30 June 2014, 2015 and 2016.

Essentia Partners also confirmed that it does not hold documentation in respect of the other Companies and that all hard copy records which may be relevant to the Proceeding were seized from their offices by the AFP.

### **5.2.3. Clamenz Lawyers**

On 20 June 2017, we issued correspondence to Clamenz Lawyers who, based on our discussions with the ATO, appear to have acted as the legal advisor to the Companies.

Information that we requested included details of matters for which Clamenz Lawyers had been provided instructions, details regarding assets and relevant persons of the Companies, details of their trust account and funds held for any of the Defendant entities, and any books and records in their possession be delivered up within 14 days.

At the time of writing this report, we have not received a response from Clamenz Lawyers.

#### 5.2.4. Veritas Advisory

On 6 June 2017, Veritas Advisory were appointed as the joint and several voluntary administrators of the first defendant by the director of the first defendant. This appointment subsequently ceased on 9 June 2017, as a result of the order made appointing us as the Provisional Liquidators.

Following our appointment, we requested information from Veritas Advisory in relation to the Companies. The following records have been provided to us by Veritas Advisory:

- bank responses to the initial bank circular issued by them;
- email correspondence and proof of debts received from creditors of the first defendant;
- email correspondence received from media; and
- other general correspondence.

#### 5.3. Employees

We have not been provided with a complete list of those individuals who were either an employee of the Companies or for whom the Companies provided payroll services for and on behalf of their employers (jointly the Employees). However, the Provisional Liquidators have produced a circular for the benefit of Employees, which has been made available on our website (refer to Section 2.1 of this report).

To date, we have received a number of enquiries from individuals who have indicated that they are employees and wish to lodge a proof of debt. Until we have full access to the books and records of the Companies, the Provisional Liquidators are unable to quantify the number of employees affected and the quantum of entitlements that may be outstanding. We are also unable to identify which company employed these individuals in the absence of the Companies' books and records.

In relation to direct employees of the Companies, we have made efforts to contact three former employees of the first defendant (including its General Manager) for whom we have contact details. We are awaiting responses from these employees.

#### 5.4. CBA and Commbiz Transactions

The limited information we have obtained to date indicate that the Companies operated banking services with the CBA. We have obtained access to the CBA's Commbiz services for the first defendant which details the source of funds received and application of funds by the first defendant over the period 1 February 2016 to 23 June 2017. Our investigations into the payment and receipt of monies by the first defendant are ongoing.



## Annexures

Document No.	Description of Document
1	RATA received from Mr Anthony Palumberi on 22 June 2017 (Sixth Defendant) RATA received from Mr Brendan Thomasen on 26 June 2017 (First Defendant)