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## Penguin Contracting Limited (In Liquidation) Liquidator's First Report to Creditors and Shareholders

8 April 2019

### 1. Background

Penguin Contracting Limited (In Liquidation) ("the Company") was placed into liquidation by special resolution of the shareholder on the 1st day of April 2019 at 4:00pm. Thomas Lee Rodewald, CAANZ Accredited Insolvency Practitioner of Tauranga and Kim Scott Thompson, Insolvency Specialist of Hamilton were appointed as Joint and Several Liquidators of the company.

### 2. Disclaimer

*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 written permission in each specific instance. The Liquidators do not accept any responsibility or liability for any damage or loss occasioned to any party as a result of the circulation, publication, reproduction or use of this report. In particular the Liquidators take no responsibility for any misinformation contained therein that has been supplied by the company, its officers or any other person. The report is also based upon information available at this date, and the Liquidators therefore reserve the right to review, and if necessary, amend the report.*

### 3. Declaration of Independence, Relevant Relationships and Indemnities

Attached as **Appendix 1** is the Declaration of Independence, Relevant Relationships and Indemnities.

### 4. Company Information

Date of Incorporation: 2 August 2010  
Type of Company: Freight Company  
Date trading ceased: 31 March 2019  
Trading Address: 11 Wickham Street, Hamilton

Shareholders: Callum Douglas McLeod                      Number of Shares: 100  
Directors: Callum Douglas McLeod

### 5. Events Leading to Appointment of Liquidators

The Director of the company has advised the reason for the failure of the Company is due to lack of profitability.

## **6. Statement of Affairs**

We attach as **Appendix 2** a statement of the Company's affairs as at the date of our appointment.

This has been prepared from information provided by a director of the Company and the Liquidator is not yet able to express an opinion on the validity of that information.

Also attached as **Appendix 3** is a list of known creditors as at the date of appointment.

## **7. Proposals for Conducting the Liquidation**

The Liquidators will review the Company's books and records to establish if there are any potentially voidable transactions, any potential shareholder current issues and ensure the Director has complied with their duties and obligations imposed on them under the Companies Act 1993.

## **8. Estimated Date of Completion of Liquidation and Notice As To Further Reports**

It is not practicable to estimate the date of the completion of the liquidation at this stage. Further reports will be issued six monthly, with a final report at the conclusion of the liquidation.

## **9. Creditors Meeting**

Having regard to the assets and liabilities of the company, the likely result of the liquidation and other relevant matters, the Liquidator considers in accordance with section 245 of the Companies Act 1993 that no such meeting should be held.

A meeting will not be called unless within 10 working days after receiving this notice a creditor gives notice in writing to the Liquidators requiring a meeting to be called.

The Liquidator dispenses with holding a creditors meeting pursuant to Section 243 of the Companies Act 1993 as the dividend is expected to be nil or very small.

In accordance with Section 314 of the Companies Act 1993 a creditor or shareholder may request the Liquidator to call a meeting of creditors or shareholders at any time in the course of the Liquidation to vote on a proposal that a Liquidation Committee be appointed to act with the Liquidator. This request must be in writing.

The Liquidator may decline a request by a creditor or a shareholder to call a meeting on the grounds that:

- a) the request is frivolous or vexatious; or
- b) the request was not made in good faith; or
- c) the costs of calling the meeting would be out of proportion to the value of the company's assets.

The decision to decline a request may be reviewed by the Court on the application of any creditor or shareholder.

## 10. Creditors Claims

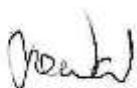
If your terms of trade with the company include reservation of title of goods supplied please contact Carol Cullen by email: [carolc@rodewaldconsulting.co.nz](mailto:carolc@rodewaldconsulting.co.nz)

Please complete and return the enclosed Unsecured Creditors Claim form by 1 June 2019 to Carol Cullen email: [carolc@rodewaldconsulting.co.nz](mailto:carolc@rodewaldconsulting.co.nz). If you believe that you are a secured creditor please contact our Tauranga office and the appropriate forms will be sent to you.

Completion of your claim should be given your urgent attention. If creditors do not lodge a claim with the Liquidator, the creditor is not entitled to share in any distribution to creditors that may be made by the Liquidator.

## 11. Further Information

If you require any further information or if you have any information that will be of assistance to the Liquidators please contact Carol Cullen by email: [carolc@rodewaldconsulting.co.nz](mailto:carolc@rodewaldconsulting.co.nz)



Thomas Lee Rodewald  
*Joint Liquidator*



Kim Scott Thompson  
*Joint Liquidator*

**Declaration of Independence, Relevant Relationships and Indemnities**

**Name of Insolvent:** Penguin Contracting Limited

We Thomas Lee Rodewald, Chartered Accountant and accredited Insolvency Practitioner along with Kim Scott Thompson, Insolvency Practitioner declare that:

**Independence:**

- We have undertaken a proper assessment of risks to independence in accordance with the law, code and applicable professional standards;
- We have determined that the assessment identified no real or potential risks to independence; or
- We have evaluated the significance of the risk to independence and taken such action as is necessary to preserve the practitioner's independence,
- We are not otherwise aware of any impediments to taking the appointment

**Relationship**

We have had the following communication or contact with the insolvent and/or its director and/or associated parties.

- Kim Thompson met with the director on 21 February 2019 to advise him of the process and consequences of liquidation.

We were referred this appointment by:

Name: Phil Harris  
Firm: NZ Home Loans - director  
Connection to Insolvent: Relative by marriage

We have provided no other information to the insolvent, officers of the insolvent or the advisors.

We have had no relationship with the insolvent, associates of the insolvent or security holder in the preceding 2 years;

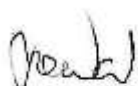
We have not provided any professional services to the company with the preceding 2 years;

We have no other relevant relationships, including personal, business and professional relationships, over the previous 24 months with the insolvent, an associate of the insolvent, a former insolvency practitioner appointed to the Insolvent or any person or entity that has a charge over the whole or substantially whole of the Insolvent's property that should be disclosed.

**Independence and Upfront Payments**

We have received no indemnity from the insolvent or associated party or any other party.

We have received no upfront payment:



Thomas Lee Rodewald



Kim Scott Thompson

**Appendix 2**

**Penguin Contracting Limited (In Liquidation)**  
**Statement of Affairs as at the Date of the Appointment of the**  
**Liquidators being 1 April 2019**

<b>Assets</b>	<b>Note</b>	<b>Estimated to Realise</b> <b>\$</b>
Debtors		25,000
Motor vehicles		<u>250,000</u>
		<u>\$275,000</u>
 <b>Less Secured Claims</b>		
ANZ Bank		Unknown
Heartland Bank		38,001
Leasing and Finance Partnership Limited		242,437
Monument Finance		Unknown
NZ Trucks Limited		Nil
TR Group Limited		Nil
 <b>Less Preferential Claims</b>		
IRD	1	<u>180,696</u>
		Unknown
 <b>Deficit before Unsecured Creditors</b>		 <b>Unknown</b>
 <b>Less Unsecured Creditors</b>		
IRD		20,000
Trade Creditors		<u>150,000</u>
		<u>170,000</u>
 <b>Deficit (before costs of liquidation)</b>		 <b><u>Unknown</u></b>

*Note1: This figure includes penalties and interest of an unknown amount*

*Disclaimer*

*This statement should be read in conjunction with the disclaimer on page one of the above Liquidator's report and Rodewald Consulting Limited have not audited the report and they, their directors or employees accept no liability to any other party in relying on the information presented. The purpose of the report is to give creditors of the company an indication of the financial position of the company as at the date of appointment of the Liquidator.*

*Rodewald Consulting Limited*

**Penguin Contracting Limited(In Liquidation)**  
**Schedule of Creditors as at 01 April 2019**

Name	Address 1	Address 2	City
ANZ Bank New Zealand Limited		ppsrsc1@anz.com	
Dave Metcalfe Panelbeaters Ltd	4 Mexted Place		Hamilton 3216
Heartland Bank	75 Riccarton Road	Riccarton	Christchurch
Leasing & Finance Partnership Limited	P O Box 1061	Shortland Street	Auckland
McLeod Sheetmetal	PO Box 5598	Frankton	Hamilton 3242
Monument Finance Limited	finance@monument.co.nz		
New Zealand Transport Agency	Transport Registry Centre	Private Bag 11777	Palmerston North 4442
New Zealand Trucks Limited	PO Box 23151	Hunters Corner	Auckland
Speedy Lube & Tyre	PO Box 5256		Hamilton 3242
TR Group Limited	PO Box 12541		Auckland
Trucks & Trailers Rental & Lease	PO Box 10076	Te Rapa	Hamilton 3241

## CREDITORS CLAIM FORM

(Also for use by *Preferential Creditors*)  
Section 304 (1) Companies Act 1993

Name and postal address of creditor in full ..... ..... ..... Telephone number: ..... My reference is: ..... (if applicable) E-mail address: ..... <input type="checkbox"/> I consent to receiving future information about the company by email	*Any personal information collected is for the purpose of administering the liquidation in accordance with the Companies Act 1993.  The information will be used and retained by Rodewald Consulting Limited and will be released to other parties only with your authorization or in compliance with the Privacy Act 1993. Under section 304(1) of the Companies Act 1993 any claim by an unsecured creditor against a company in liquidation must be in this prescribed form and must - (a) Contain full particulars of the claim; and (b) Identify any documents that evidence or substantiate the claim. You may have access to, and request correction of any personal information. (*Not applicable, if creditor is not an individual within the meaning of the Privacy Act 1993.)
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### Penguin Contracting Limited (In Liquidation)

I \_\_\_\_\_ (If claim is made on behalf of creditor, specify relationship to creditor and authority) claim that the company was at the date it was put into liquidation indebted to the above named creditor for the sum of [amount in words and figures]:

\$ \_\_\_\_\_

**STATUS OF CLAIM:**

1. I am an unsecured creditor
2. I am surrendering the security I hold and I am claiming as an unsecured creditor
3. I am making a preferential claim (refer details of reverse)
4. I am claiming reservation of title rights pursuant to rights held by me  
(Refer details on reverse)

TICK

Full particulars of the claim are set out, and any supporting documents that substantiate the claim are identified on the reverse of the form. *(Please include copies of all unpaid invoices)*

Signed:	Date:
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WARNING:-	It is an offence under section 304(6) of the Companies Act 1993 to:- Make, or authorize the making of, a claim that is false or misleading in a material particular knowing it to be false or misleading; or  Omit, or authorize the omission, from a claim of any matter knowing that the omission makes the claim false or misleading in a material particular.
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Received (Date Stamp)	Reserved for Office Use:  Claim admitted for voting purposes:      Signed:      Date:  Claim rejected for voting purposes:      Signed:      Date:  Claim rejected for payment:      Signed:      Date:  Preferential claim for:      Ordinary Claim for:      Deferred Claim for: \$      \$      \$  Signed Liquidator:      Dated:
Note: If the decision to admit or reject a claim is amended, regulation 8 of the Companies Act 1993 Liquidation Regulations 1994 requires that it be recorded in writing.	

**Please return this form to:**  
**Rodewald Consulting Ltd, PO Box 15543, Tauranga 3144**  
**carolc@rodewaldconsulting.co.nz**

PARTICULARS OF CLAIM

Date	Details of claim and Identification of Documents that Evidence or Substantiate the Claim (i.e., unpaid invoices)	Amount \$
	<p><b>RETENTION OF TITLE CLAIMANTS ONLY</b> Please provide details of the basis of your retention of title claim and furnish a copy of the documentation showing that such reservation of title clause is a condition of contract.</p> <p style="text-align: right; margin-right: 20px;">Yes/No</p> <p style="text-align: right; margin-right: 20px;">\$.....</p> <p><b>PREFERENTIAL CLAIMANTS ONLY</b></p> <p>1. Are you claiming the full amount of your claim as preferential?</p> <p>2. If no, what part of the claim is preferential?</p> <p>3. Why do you believe you are a preferential creditor?</p> <p>(E.g. employee, GST etc) .....</p> <p>.....</p> <p>4. Details of your claim .....</p> <p>.....</p> <p>.....</p>	

If applicable, please record your GST registration number:   ..... - ..... - .....

Total GST included in your claim    \$.....