



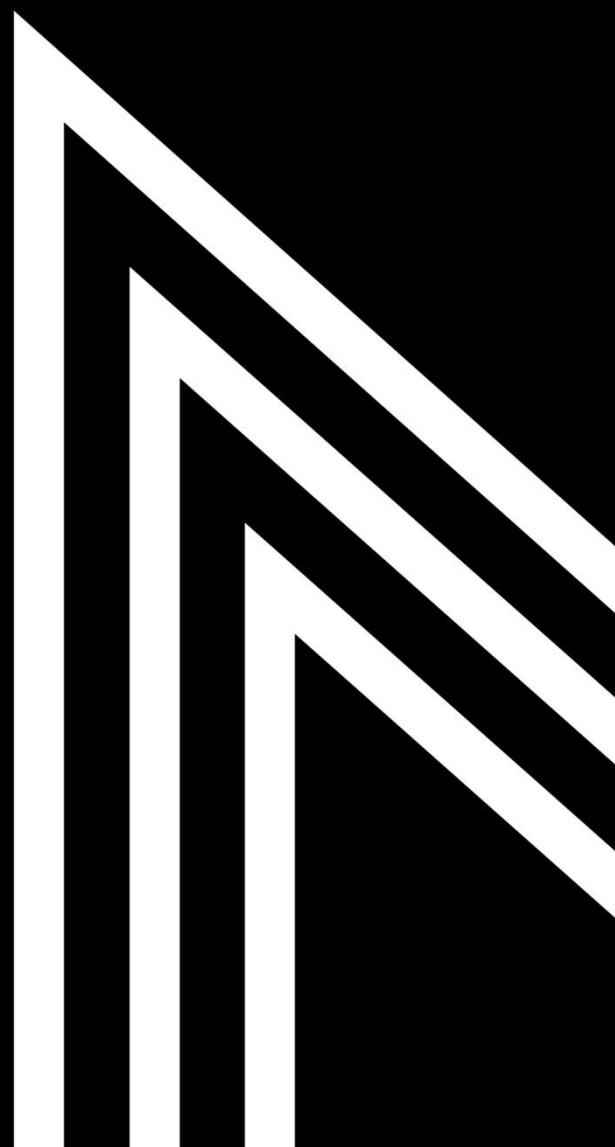
**The Chris Marco Scheme (Receivers and
Managers Appointed) (In Liquidation)
AMS Holdings (WA) Pty Ltd in its own right
and as trustee for the AMS Holdings Trust
(Receivers and Managers Appointed) (In
Liquidation)**

Statutory Report to Creditors

8 March 2021



McGrathNicol



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1 Introduction

I refer to our previous correspondence regarding the appointment of Rob Kirman and I as **Receivers and Managers** of:

- the personal property of Mr Chris Marco (DOB: 23 June 1958);
- the unregistered Scheme operated by Mr Marco (**the Scheme**); and
- AMS Holdings (WA) Pty Ltd in its own capacity and as trustee for the AMS Holdings Trust (**AMS**)

and our appointment as **Liquidators** of:

- the Scheme; and
- AMS.

Whilst each of the Scheme and AMS constitute separate liquidations, they operated together and are therefore reported on collectively in this report. The Liquidators are yet to seek pooling orders for these liquidations but expect to do so in due course.

The purpose of this report is to:

- provide you with an update on the progress of the liquidations; and
- advise you of the likelihood of a dividend being paid in the liquidations.

1.1 Background and business activities

Based on discussions with Mr Marco, the Liquidators' investigations into the affairs of AMS and the Scheme, and a review of the various Court documents, a summary of the business activities of AMS, Mr Marco and the Scheme are as follows:

- Mr Marco claims to have operated as a private investor who accepted funds from investor clients for the purposes of investing to generate returns for investors.
- From around October 2002, Mr Marco began taking on certain family members as investor clients. From around 2010, non-family member investor clients were taken on as a result of word of mouth introductions.
- Mr Marco operated under the the business name 'Coastline Group' which was a trading name used by Mr Marco personally. The Scheme purportedly engaged in bank instrument trading, known as private placement programs (**PPP**), allegedly involving products such as bank guarantees, medium term notes and treasury strips.
- Mr Marco and/or AMS also invested in property assets and motor vehicles using investor funds.
- All amounts deposited by, or owing to, investors were personally guaranteed by Mr Marco via a Declaration of Trust (**DOT**). A DOT was entered into with each investor to record the terms of agreement between them, such as the amount of the investment, its term and the rate of interest payable.
- All funds provided by the investors were pooled. These funds were then used for a variety of purposes such as:
 - increasing the level of proof of funds to support PPP opportunities;
 - paying for all overheads of the Scheme and AMS (i.e. the Coastline business);
 - paying for all interest and principal amounts due and payable to investors in accordance with their DOTs; and
 - paying for the acquisition and enhancements of assets.
- The investment model used by Mr Marco required an ever increasing liability to be accrued until a successful private placement program was completed at which point Mr Marco would have sufficient cash available to meet the accrued liability to investors.
- Since the commencement of the Scheme, no successful PPP's had been achieved and the Liquidators are yet to be provided with compelling evidence to support Mr Marco's position that such investments exist.
- Due to the lack of returns from investments made by Mr Marco, amounts due and payable to investors were funded by cash received from other (typically new) investors.

1.2 Circumstances of appointment

On 9 December 2019, Rob Brauer of McGrathNicol was contacted by the Australian Securities and Investments Commission (**ASIC**) to complete a conflict check in regards to the parties involved in the Federal Court proceedings WAD 481/2018 (**Proceedings**), being Mr Marco and AMS, and to provide a consent to act as court appointed receivers or liquidators, as required in the Proceedings.

The Proceedings were as a result of significant and long standing investigations undertaken by ASIC into the affairs of Mr Marco, AMS and the Scheme, and followed on from asset preservation orders imposed on Mr Marco by the Federal Court dated 1 November 2018.

Subsequently, on 27 May 2020, Rob Brauer and Rob Kirman of McGrathNicol were appointed as interim Receivers and Managers over the individual property and corporate property of the defendant's (Mr Marco and AMS) in the proceedings (**Interim Receivers**). The Interim Receivers provided a report to the Court on 24 July 2020 on the asset and liability position, solvency position and estimated return to investors.

On September 2020, the directors of AMS (Chris and Damon Marco) appointed Cameron Shaw, Richard Albarran and Marcus Watters of Hall Chadwick as Voluntary Administrators of AMS. The Voluntary Administrators were subsequently appointed liquidators of AMS on 26 November 2020.

Notwithstanding, on 7 December 2020, the Federal Court made orders declaring that:

- Mr Marco and AMS contravened the provisions of section 911A of the Corporations Act, i.e. that a financial services business was conducted without an Australian Financial Services Licence between 1 January 2014 and 31 October 2018; and
- Mr Marco and AMS operated the Scheme in contravention of section 601ED(5) of the Corporations Act in circumstances where the Scheme was required to be registered.

As a result, the Court ordered:

- the appointment of Rob Brauer and Rob Kirman as joint and several receivers and managers of the property of Mr Marco, AMS in its own right and as trustee for the AMS Holdings Trust;
- that the Scheme be wound up;
- that pursuant to section 532 of the Corporations Act leave be granted for Mr Brauer and Mr Kirman be appointed as joint and several liquidators of the Scheme and of AMS;
- that the appointment of Cameron Shaw, Richard Albarran and Marcus Watters of Hall Chadwick as liquidators of AMS be terminated; and
- the asset preservation orders dated 1 November 2018 be vacated.

From 7 December 2020, the Receivers and Managers and Liquidators entered into possession of the assets of Mr Marco, AMS and the Scheme and have commenced strategic asset realisation processes on behalf of creditors.

In accordance with the Court orders, all amounts realised by the Receivers are to be delivered up to the Liquidators for distribution to creditors.

1.3 Progress of liquidation

Since their appointment on 7 December 2020, the Liquidators have focussed their attention on securing, implementing and commencing sale processes of tangible asset classes as a priority (refer section 2.1). Concurrently, the Liquidators have been undertaking the work required to review and agree investors' claims with a view to being in a position to pay an interim dividend as soon as possible.

The Liquidators held the first meeting of creditors on 10 February 2021. In advance of the meeting, the Liquidators reviewed and adjudicated proof of debts for voting purposes and attended to queries from investors. At the meeting, creditors passed a resolution appointing a Committee of Inspection (**COI**) comprising the following members:

- Ken Loughton representing Wemar Pty Ltd ATF KJ Loughton Family Trust;
- Tony Cumace representing Main Street Capital WA Pty Ltd & Ors;
- Caroline Marissen representing Phoenixx CMM Superfund & Ors;

- Craig Fleet representing The Fleet Family Trust No 1 & Ors;
- Terry Giannakopoulos representing G4 Management Pty Ltd as trustee for the G4 Family Trust;
- Robert Genovesi representing Glasscurves Pty Ltd & Ors; and
- Peter Caughey representing Eosos Pty Ltd ACN 616 158 279 ATF Kalmeren Trust & Ors.

The investigation work streams are in a preliminary phase only to date (refer section 3), but will be progressed once the majority of investor claims are agreed and known assets are realised.

2 Estimated assets and liabilities

In a liquidation, the directors are required to complete a Report on Company Affairs and Property (**ROCAP**) setting out a detailed assessment of the company's asset and liability position and causes of failure.

The Liquidators sent a formal request for a ROCAP and questionnaire to Mr Chris Marco and Mr Damon Marco, the co-director of AMS, (together, **Directors**).

A summary of the ROCAPs, Mr Marco's view and the Liquidators' view on estimated realisable values (**ERV**) is summarised below:

Net asset and liability position							
\$	Reference	Chris Marco ERV ¹	AMS Directors' ROCAP ²	Adjustment on Consolidation ³	Consolidated Total	Liquidators' ERV High	Liquidators' ERV Low
Cash	2.1.1	6,664,535	835	(835)	6,664,535	5,856,909	5,856,909
Loans recoverable	2.1.2	14,593,277	237,400	(12,197,612)	2,633,065	11,783,621	950,000
Property	2.1.3	6,027,273	13,640,000	(600,000)	19,067,273	11,505,000	9,204,000
Plant and equipment	2.1.4	-	-	-	-	20,000	10,000
Motor vehicles	2.1.5	2,635,000	-	-	2,635,000	3,045,000	3,045,000
Investments	2.1.6	386,468,644	548,700	(548,700)	386,468,644	2,738,643	1,024,219
Total assets		416,388,729	14,426,935	(13,347,147)	417,468,517	34,929,173	20,080,128
Priority Creditors	2.2.1	-	-	-	-	-	-
Westpac Facilities	2.2.2	(135,639)	(18,506)	-	(154,145)	(825,687)	(825,687)
Investor Liabilities	2.2.3	(254,468,388)	-	-	(254,468,388)	(254,468,388)	(254,468,388)
Trade creditors	2.2.4	(37,768)	(83,630)	13,992	(107,406)	(120,335)	(120,335)
Total liabilities		(254,641,795)	(102,136)	13,992	(254,729,939)	(255,414,410)	(255,414,410)
Net assets / (liabilities)		161,746,934	14,324,799	(13,333,155)	162,738,578	(220,485,237)	(235,334,282)

Notes:

1 - Assets and liabilities of Mr Marco in his personal capacity and the Scheme per correspondence with Mr Marco dated June and July 2020

2 - Assets and liabilities of AMS in accordance with ROCAPs provided by the Directors of AMS dated January 2021

3 - Adjustments applied for inter-company loans (unrecoverable) and asset and liabilities disclosed in both the Scheme and AMS

On a consolidated basis, Mr Marco considers the Scheme to have a net asset position of \$163 million, which compares to the Liquidators' view of a net liability position of between \$220 million and \$235 million. The most significant varying factor between Mr Marco's position and the Liquidators' ERV, relates to the value of investments and investor liabilities.

Each item is discussed separately below.

2.1 Assets

2.1.1 Cash at bank

The Liquidators wrote to 76 banks in Australia with notification of the Liquidators' appointment. The Liquidators also wrote to international banks where either Mr Marco or AMS were understood to have held bank accounts in the past.

As a result, the Liquidators have been notified of twelve current bank accounts in the name of Chris Marco or AMS, comprising two accounts with HSBC (in Australia) with nil balance, nine accounts with Westpac Banking Group (**Westpac**) and one account with National Australia Bank (nil balance).

On appointment, the Westpac accounts (**Accounts**) contained \$5,856,909. Subsequently, the Accounts were closed and \$5,031,222 was deposited into the liquidation bank account. The Liquidators note \$825,687 has been withheld by Westpac on account of Westpac considering its entitlement to set-off these credit funds against Mr Marco's and/or AMS' indebtedness to Westpac, which comprises two personal credit cards and a loan facility in AMS. Westpac separately holds a direct security interest (registered mortgage) over the AMS owned property located in Osborne Park.

The Liquidators are continuing to investigate the potential of foreign bank accounts, but to date have not located any additional accounts in the name of Mr Marco, the Scheme or AMS.

2.1.2 Loans recoverable

A summary of the non-investment related debtors and loans outstanding as at the date of liquidation are set out below:

Summary of Debtors and Loans				
Debtor	Scheme or AMS	Per books and records	Liquidators ERV High	Liquidators ERV Low
Andrew Douglas Purser	Scheme	1,382,840	1,475,000	950,000
Andrew Douglas Purser	Scheme	1,000,000	650,000	-
Damon Marco (son)	Scheme	2,689,928	2,759,422	-
Talitha Marco (daughter)	Scheme	1,628,084	1,658,085	-
Beverley Marco (sister)	Scheme	1,529,950	1,529,950	-
Linda Marissen (Executive Assistant)	Scheme	1,083,838	1,070,491	-
Redacted (investors)	Scheme	1,300,000	1,300,000	-
	Scheme	592,064	683,273	-
	Scheme	220,000	220,000	-
	Scheme	200,000	200,000	-
	AMS	200,000	200,000	-
Other	AMS	37,400	37,400	-
Total		11,864,104	11,783,621	950,000

The Liquidators' ERV's are based on company transaction listings and financial records. With the exception of Mr Purser (whose debt is secured by a registered property mortgage), the Liquidators low ERV is shown as nil as either (i) the counterparty disputes such a claim exists, or (ii) the Liquidators are not yet aware of each parties capacity to pay, or both. It is the Liquidators' view that amounts are owing from each of these parties.

2.1.2.1 Andrew Purser

Mr Purser is an ex-business partner of Mr Marco, and the beneficiary of a loan of \$1.25 million advanced by Mr Marco to fund the purchase of his Subiaco home, for which no repayment has occurred. Mr Marco retained a registered mortgage over the property and has previously obtained a Court judgment for Mr Purser's vacation of the property (albeit the judgment was not enforced).

In addition to the home loan, Mr Purser is further indebted to Mr Marco for \$1.0 million in relation to historical business ventures. A Deed of Acknowledgement of Debt was documented and executed between the parties in 2016, and further submitted in a Court proceeding in 2018.

In relation to the amounts outstanding, Mr Purser does not dispute the debts, but has raised counterclaims in relation to the \$1.0 million owed regarding historical business ventures. Since appointment, the Liquidators have corresponded and met with Mr Purser a number of times in relation to the liabilities, and now agreed and executed a Deed of Settlement and Release. Terms of the Deed remain confidential, but settlement is scheduled to complete around 31 March 2021.

2.1.2.2 Damon Marco

The Liquidators have undertaken a detailed investigation into the funds which Mr Marco advanced to his son, Damon Marco, including reconciling all account transactions to bank statements. Investigations indicate that Damon Marco received the benefit of funds totalling c.\$2.8 million between FY11 and FY19.

The Liquidators have written to Damon Marco in relation to the nature of funds advanced to him. Damon Marco has provided some explanation of specific transactions accounting for a portion of the total amount advanced, but in general does not consider himself to be a debtor of Mr Marco or the Scheme.

The Liquidators are not satisfied with the explanation nor standard of supporting documentation provided by Damon Marco, and have prepared a formal demand to be issued in the short term.

In addition to the funds advanced, Damon Marco is holding, and maintaining entitlement to, a portion of the sale proceeds of a residential property, which appears to have been otherwise funded by Scheme funds. The Liquidators have put Damon Marco on notice not to dissipate these funds subject to further investigation by the Liquidators and provision of documentation to support his purported entitlement.

2.1.2.3 Talitha Marco

Scheme records detail funds totalling c.\$1.6 million having been advanced to Mr Marco's daughter, Talitha Marco. Ms Marco operated an antique gallery as a sole trader from one of the Claremont commercial properties owned by AMS, and has recently vacated that property. It would appear that Mr Marco provided significant financial support to Ms Marco's business between FY11 and FY19, including by way of direct loans, loans to purchase stock and cash transactions.

Since their appointment, the Liquidators have undertaken a detailed investigation into the funds which Mr Marco advanced to his daughter, including reconciling all account transactions to bank statements.

The Liquidators have written to Ms Marco in relation to the nature of funds advanced to her. Ms Marco has provided some explanation of specific transactions accounting for a portion of the total amount advanced, and has asserted a number of undocumented arrangements in off-set to the funds advanced.

The Liquidators are not satisfied with the explanation nor standard of supporting documentation provided by Ms Marco, and have prepared a formal demand to be issued in the short term.

2.1.2.4 Beverley Marco

Beverley Marco is Mr Marco's sister. Based on Scheme records, Ms Marco appears to have received the benefit of c.\$1.5 million expended by Mr Marco on her personal residence.

Since their appointment, the Liquidators have undertaken a detailed investigation into the funds which Mr Marco advanced to his sister, including reconciling all account transactions to bank statements. The Liquidators have written to Ms Marco in relation to the funds advanced, which has gone largely unaddressed.

In summary, the Liquidators are not satisfied with the explanation nor standard of supporting documentation provided by Ms Marco, and have prepared a formal demand to be issued in the short term.

In addition to the funds advanced, Ms Marco is holding, and maintaining entitlement to, a portion of the sale proceeds of a separate residential property, which appears to have been otherwise funded by Scheme funds. The Liquidators have put Ms Marco on notice not to dissipate these funds, subject to further investigation by the Liquidators and provision of documentation to support her purported entitlement.

2.1.2.5 Linda Marissen

Linda Marissen is the former executive assistant of Mr Marco. Based on Scheme records, Ms Marissen appears to have received the benefit of c.\$1.1 million between FY11 and FY19. In correspondence, Ms Marissen (and Mr Marco) have disputed the nature of the payments as being "investor earnings" as opposed to a repayable loan.

The Liquidators have further investigated and reconciled the relevant transactions comprising the funds advanced and/or expenses incurred on behalf of Ms Marissen and remain of the view that the amount is a debt to be repaid. A formal demand has been prepared for issue in the short term.

2.1.2.6 Investors

Scheme records also indicate the existence of at least 5 investors who have received funds advanced outside of the parameters of their investment(s) with Mr Marco. The Liquidators have undertaken a detailed investigation into each individual position and circumstances, and have prepared formal demand letters for issue in the short term.

2.1.3 Property

Mr Marco purchased and developed numerous properties in his name, family members' names, and through AMS using investor funds. For privacy reasons, the specific addresses are not provided, but a summary of the properties is provided below:

Real Property Holdings							
Suburb	Property Type	Scheme or AMS	Liquidators' ERV High	Liquidators' ERV Low	Sales Agents		
Mount Hawthorn	Residential	Scheme	Redacted (commercial in confidence)		Real Mark		
Mount Hawthorn	Residential	Scheme			Real Mark		
Mount Hawthorn	Commercial	Scheme			Knight Frank		
Mount Hawthorn	Commercial	AMS			Knight Frank		
Mount Hawthorn	Commercial	AMS			Knight Frank		
Osbourne Park	Commercial	AMS			Knight Frank		
Joondanna	Residential	AMS			Limnios		
Joondanna	Residential	AMS			Limnios		
Joondanna	Residential	AMS			Limnios		
Claremont	Commercial	AMS			CBRE		
Claremont	Residential / Commercial	AMS			CBRE		
Claremont	Residential / Commercial	AMS			CBRE		
Claremont	Residential / Commercial	AMS			CBRE		
Claremont	Commercial	AMS			CBRE		
Total					11,505,000	9,204,000	

Following their appointment, the Liquidators engaged an independent registered valuer (Acumentis (WA) Pty Ltd) to provide market valuations for each property. The Liquidators' high ERV is based on the Acumentis valuations, whilst the low ERV reflects a 20% discount to the Acumentis valuations. Individual property valuations are commercial in confidence at this time.

The Liquidators sought multiple sales and marketing proposals for all Scheme and AMS properties and have since appointed the above sales agents to commence realisation strategies. Agents are currently finalising the marketing material, with campaigns expected to begin in the next 7-10 days.

In recent weeks, the Liquidators have received correspondence from lawyers acting for Mr Marco's wife in relation to the assertion of equitable and other claims to the Mt Hawthorn property in which she and Mr Marco reside. The correspondence intimates the filing of an application with the Court to have the Mt Hawthorn property excluded from the Receivers and Managers' and Liquidators' appointments, rendering it unrecoverable to creditor and investors of the Scheme. Whilst the Liquidators will oppose any application, and do not see any merit in it, it may delay the realisation of that property.

A caveat has also been registered against one of the Mount Hawthorn commercial properties in relation to lease interests. Whilst the Liquidators will need to deal with this caveat, it is not anticipated that it will obstruct the realisation of the property.

In parallel to the above, the Liquidators have continued to oversee the management of the commercial and residential properties tenanted to third parties, and liaise with tenants and their representatives as required. Rental income is being received periodically into the liquidation bank account.

2.1.4 Plant and equipment

Upon the Liquidators' appointment, the Coastline business office in Nedlands was closed and a small amount of furniture and office equipment was recovered. Additionally, various collectables and memorabilia items have been collected from multiple properties. The Liquidators have engaged Slattery Asset Advisory to market and sell these items, with an auction scheduled to be completed by the end of March 2021.

2.1.5 Motor vehicles

As at the date of appointment of the Liquidators, nine motor vehicles were owned by and/or registered to Mr Marco and considered Scheme assets, comprising a classic car collection of eight Australian "muscle" cars and a Chrysler Jeep Trackhawk, which was utilised personally by Mr Marco. All vehicles have now been sold and per the summary below:

Summary of Motor Vehicles	
Motor Vehicle	Realised Value
Ford Falcon XY GTHO Phase III (1971)	1,150,000
Datsun 260z Coupe (1975)	116,000
Chrysler Charger VH E49 (1972)	253,000
Holden Monaro GTS HQ Coupe (1971)	171,500
Holden Torana Liftback LX SS A9X (1977)	435,000
Holden Torana "Bathurst" LJ GTR XU-1 (1972)	233,000
Holden HSV GTSR W1 (2017)	356,000
Holden HSV GTSR Maloo Ute (2017)	230,500
Chrysler Jeep Trackhawk (2018)	100,000
Total (before realisation costs)	3,045,000

Shortly after appointment of the Liquidators, Slattery Asset Advisory was appointed to realise the motor vehicles of Mr Marco. The classic car collection was realised by a special event auction following a 4-5 week intensive multi-media sales campaign, including the achievement of a national record for an Australian production car of \$1.15 million in relation to the 1971 Ford Falcon XY GTHO Phase III. In total, motor vehicle proceeds totalled c.\$3.05 million which was 20% higher than Mr Marco's ERV.

The Liquidators are aware of a number of additional motor vehicles which appear to have been purchased by Scheme funds that are either in the possession of known individuals or have been recently realised and funds retained by individuals. The Liquidators have investigated and reconciled the relevant transactions, and are currently furthering correspondence with the relevant parties.

2.1.6 Investments

A summary of investment programs purportedly in place at the date of our appointment according to information provided by Mr Marco is as follows:

Summary of Investments (AUD Equivalent)						
Investment program	Investment Type	Amount invested	Total returns received to date	Chris Marco & AMS ERV	Liquidators' ERV High	Liquidators' ERV Low
Share portfolio	ASX listed shares	(471,556)	n/a	n/a	892,345	624,641
Broadway Fair Shopping Ctr	Units in property trust	(511,192)	84,534	548,700	570,825	399,578
Anthony Kirkland-Jones	Leased bank guarantee	226,379	8,363	282,790	50,000	-
Krugerrand Investment	Krugerrand Purchase	(141,835)	-	-	-	-
Acapulco Trade & Investment	Monetisation of SBLC	-	-	362,736,750	-	-
Chrysalis Capital Management	Monetisation	(132,800)	-	14,509,470	-	-
Adrian Green	Monetisation	(703,539)	33,761	834,295	-	-
Peter Partos	Monetisation-Private Placement	-	-	-	-	-
Ed Pollak	Monetisation	(1,996,896)	-	-	-	-
Tony Tarky	Private Placement	-	-	-	-	-
Norris Dominique	Private Placement	-	-	-	-	-
US Fed Treasury-R.Gendreau	Private Placement	(1,304,682)	-	1,450,947	725,474	-
Cameron Luck	Private Placement	-	-	-	-	-
Lotusten Asset Management	Investment Management Prog	(184,476)	-	-	-	-
Economic Consultants	Managed Bank Guarantee Prog	(660,991)	-	-	-	-
Louis Lichtenfeld	Monetisation	(1,296,067)	-	1,450,947	-	-
Kirk Widener	Private Placement	-	-	-	-	-
Lorena Harvey - Rob Barclay	Monetisation	(125,682)	-	130,237	-	-
Pienaar Group	Voucher Agreement System Inv	(171,419)	43,528	190,074	-	-
Pienaar Group	Bank Guarantee Program	(645,800)	180,390	180,390	-	-
Chumbra Developments Ltd	Managed Bank Guarantee Prog	(646,782)	-	725,474	-	-
Deloittes	Small Deposit Program	-	-	-	-	-
Lord Stephen Carrington	FOREX Trading Program	(200,000)	160,763	-	-	-
CFXT Hedge Fund	Hedge fund	(347,185)	-	3,428,571	500,000	-
Total		(9,314,522)	511,339	386,468,644	2,738,643	1,024,219

Investors should refer to the Interim Receivers' Report for details in respect of each of these purported investments. Since the Liquidators' appointment on 7 December 2020, the initial focus has been on identifying, securing and realising "hard" assets such as the vehicles and properties. As a result, the status of the investment portfolio is largely unchanged since the position reported in the Interim Receivers' Report, with some exceptions as noted below.

2.1.6.1 ASX Share Portfolio

Mr Marco, via a Commsec trading account held by his son Damon Marco, accumulated an ASX share portfolio utilising investor funds. As at the date of appointment of the Liquidators, the share portfolio comprised seven individual stocks with a market value of c.\$0.9 million. The value of the portfolio has increased significantly in the 6-12 month period prior to the appointment of the Liquidators, which may trigger a capital gains tax event on realisation.

The majority of the portfolio is not readily realisable on the open market due to (i) the volume of this individual holding relative to the overall market capitalisation, or (ii) a trading halt in place in respect of one shareholding. Accordingly, the Liquidators have engaged a professional broker to manage the on-market realisation of the relevant stocks over time.

To date, three of the seven stock positions have been liquidated and net proceeds of c.\$50,000 collected.

2.1.6.2 Broadway Fair Shopping Centre

Mr Marco held securities in the property unit trust that owns the Broadway Fair Shopping Centre located at Nedlands, WA. The value of the total investment is c.\$426,000. The realisation of the securities is governed by a constitution and a defined sale process.

The Liquidators have commenced the realisation process by formally offering the securities to existing security holders at a fixed price. Should the offering not be taken up by existing securities holders there is a process of advertising the securities to the wider public. Pending take up of the securities, the realisation of this asset could take c.2-3 months to complete.

The Liquidators' high ERV assumes the current offering will be sufficiently taken up by existing and/or wider public investors at the current fixed price. The low ERV scenario assumes further offers are required at a reduced price in order to liquidate the securities.

2.1.6.3 Other investments

As set out in the Interim Receivers' Report, and based on the latest correspondence with various parties associated with Mr Marco's purported investment programs, the Liquidators have concerns as to the existence and recoverability of many of the investments.

2.2 Liabilities

2.2.1 Priority creditors

In accordance with section 556(1)(e) of the Act, employee entitlements such as wages, leave of absence, retrenchment, payment in lieu of notice and superannuation secure a priority ahead of unsecured creditors.

The Liquidators are aware of at least one potential employee of AMS and/or the Scheme, being Mr Marco's executive assistant Ms Linda Marissen. The terms and conditions of Ms Marissen's employment (if she is an employee) is not conventional and largely undocumented.

At this stage, the Liquidators do not consider any amounts are owed by the Scheme or AMS to priority creditors, but note that further work is required to finalise this position.

2.2.2 Westpac facilities

The Liquidators' investigations to date have identified loan and credit card facilities with Westpac. Westpac has a registered mortgage over the Osborne park property, and has withheld Scheme cash at bank against credit card and term debt liabilities on account of its security.

The Liquidators are currently in dialogue with Westpac in relation to their security and entitlement to off-set the relevant funds against their debt.

2.2.3 Investor liabilities

Investors typically provided funds to Mr Marco to invest in accordance with a DOT. Mr Marco provided each investor with a DOT for each investment which recorded the key investment metrics including the amount invested, interest rate and term of investment. The average interest rate was approximately 7% per quarter (28% per annum).

In total, the Scheme's records indicate there are 133 investors owed a total of \$254.5 million. This includes a calculation of interest accrued of the relevant rate for each investor up to the end of each investors' last term that matured after the Asset Preservation Orders, i.e. on or around 1 November 2018. The calculations of the principal and interest outstanding is after the repayment of \$206.3 million in investment returns and repaid principal since commencement of the Scheme.

Summary of amounts owing to investors

Band	Number	Principal	Interest	Total	Liquidators' ERV High
Less than \$0.5 million	69	(15,637,333)	(3,027,074)	(18,664,407)	(18,664,407)
\$0.5 to \$1.0 million	25	(14,969,038)	(3,572,362)	(18,541,400)	(18,541,400)
\$1.0 to \$2.0 million	14	(14,129,315)	(5,788,533)	(19,917,848)	(19,917,848)
\$2.0 to \$5.0 million	14	(25,642,251)	(15,193,195)	(40,835,446)	(40,835,446)
\$5.0 to \$10.0 million	4	(24,112,415)	(3,132,866)	(27,245,281)	(27,245,281)
\$10.0 to \$20.0 million	6	(70,518,739)	(9,933,389)	(80,452,128)	(80,452,128)
Greater than \$20.0 million	1	(37,579,623)	(11,232,255)	(48,811,878)	(48,811,878)
Total at 1 Nov-18	133	(202,588,714)	(51,879,674)	(254,468,388)	(254,468,388)

The DOTs also include a clause by which Mr Marco personally guarantees each investors' repayment and, therefore, all Scheme amounts outstanding to investors are also deemed to be liabilities of Mr Marco personally.

Although Mr Marco maintained investment records (which the above figures are based upon), the Liquidators do not consider the records are accurate and are required to undertake substantial detailed work to determine the actual amounts owing to each investor. The Liquidators are undertaking the following:

- Working through various complexities with a large number of investors, complicated by matters such as frequent change of beneficiaries, higher volume of underlying individual investors, pooled investor groups, the use of intermediaries, investors with no DOTs, investments where initial deposits have not been verified etc.
- Utilising the forensic analysis and report that ASIC engaged KPMG to prepare as part of the Proceedings as far as possible to avoid duplication of work. However, KPMG's analysis has limitations which include the date range (which covers the period December 2009 to 2018). The Liquidators have received claims from investors relating to investment arrangements with Mr Marco dating back to 2003 which require investigation.
- Investigating unallocated transactions identified in the KPMG report, which comprise of 152 investor deposits and 560 investor payments during the 2009 to 2018 period which could not be allocated to a DOT.
- Over the next four to six weeks the Liquidators are aiming to have provided each investor with a detailed reconciliation of their investments requesting confirmation that the investment details reconcile to their own records, with a view to agreeing claims and addressing queries in advance of a formal adjudication process.
- Meetings have are being arranged with the more complex investor groups to reconcile their investments.

The amounts that investors are permitted to claim for in the liquidation could vary greatly depending on what distribution principle is applied (details at section 5), the key variants being whether accrued interest is permitted, and whether returns already received by investors should be taken into account in adjudicating investor claims.

The Liquidators have not yet formed a view on what will be most fair and equitable distribution method and will provide investors with an update in due course.

2.2.4 Trade creditors

The Liquidators' investigations to date have identified 12 trade creditors of AMS and/or Mr Marco totalling \$120,335, with the majority of the debt being unpaid rental payments in relation to Mr Marco's and AMS' leased Nedlands office.

3 Liquidators' investigations

Since their appointment on 7 December 2020, the Liquidators have focussed their attention on securing, implementing and commencing sale processes of tangible asset classes as a priority. Concurrently, the Liquidators have been undertaking the work required to review and agree investors' claims with a view to being in a position to pay an interim dividend as soon as possible. As such, the Liquidators' investigations to date remain preliminary.

The Liquidators will shortly commence a range of investigative work streams, which may include:

- Undertaking a tracing exercise to determine the application of investors' funds and identifying the ultimate recipients of investor funds.

- Recovery of assets through actions against third parties for voidable transactions (such as uncommercial transactions, director related voidable transactions, unfair preferences etc.) or other breaches of the Corporations Act.
- Other recovery actions available to the Liquidators such as insolvent trading, breach of duty claims.
- Assessing whether any debtor amounts are recoverable from investors and other parties.
- Property remedies, where property has been transferred to a third party (who is not a bona fide purchaser for value without notice), then a claim may be made against the third party, as the new holder of the property.
- Exercising the investigative powers of the Liquidators which can extend to conducting public examination of Mr Chris Marco and Mr Damon Marco and a range of other parties who have knowledge about the affairs of AMS/The Scheme.

The Liquidators reiterate their request for any investors who have information that may assist in the Liquidators' investigations to contact the office as soon as possible.

4 Receipts and payments to date

The Liquidators' receipts and payments in the liquidation to date are set out in the table below:

Receipts & Payments for the period 7 December 2020 to 28 February 2021			
\$ incl. GST	AMS	The Scheme	Total
Receipts			
Pre-appointment cash at bank	-	5,031,222	5,031,222
Sale of motor vehicles (funds received to date)	-	2,452,000	2,452,000
Transfer from Interim Receiver	13,527	186,774	200,301
Pre-appointment cash at bank held on trust by Westpac	56,122	769,565	825,687
Loan from the Scheme	241,227	-	241,227
Sale of shares	-	48,594	48,594
Rental income	27,894	6,250	34,144
Loan from AMS	-	9,245	9,245
Interest income	3,153	235	3,388
Total receipts	341,923	8,503,885	8,845,808
Payments			
Legal fees and disbursements (per Receivers or Liquidators instruction)	-	(275,435)	(275,435)
Loan to AMS	-	(241,227)	(241,227)
Mr Marco's legal fees and disbursements as approved by the Court Order WAD481/2018	-	(74,420)	(74,420)
Advertising	(30,980)	(15,000)	(45,980)
Insurance	(31,547)	(11,974)	(43,521)
Agent fees	(1,685)	(6,095)	(7,780)
Valuation	(9,680)	(3,300)	(12,980)
Loan to the Scheme	(9,245)	-	(9,245)
Rates	(6,655)	-	(6,655)
Security	(3,268)	-	(3,268)
Other expenses	(301)	(2,696)	(2,997)
Property Repairs and Maintenance	(2,462)	(214)	(2,676)
Total payments	(95,823)	(630,360)	(726,183)
Total	246,100	7,873,525	8,119,625

Funds currently held on hand in the liquidation as at the date of this report total \$8,119,625.

5 Distribution process

5.1 Distribution process and next steps

In a liquidation, distributions are normally made according to the pari passu principle, i.e. all unsecured creditors must share equally any available assets of the company, or any proceeds from the sale of any of those assets, in proportion to the debts due to each creditor. In cases that involve unregistered investment schemes (such as the Chris Marco Scheme), the Courts have recognised a range of alternate distribution methodologies where it has been deemed by the Court to be fair and equitable to do so.

For example, the "hotchpot" principle considers that earlier investors are more likely to have received greater gains than later investors who will incur greater losses. This general principle gives rise to the admissions of claims on a net basis, considering cash invested and cash returns received for the life of the Scheme.

It is too early for the Liquidators to comment on which distribution methodology may be appropriate in this instance, other than to bring to creditors' attention that there are a range of potential approaches. The distribution methodology adopted may have a material impact on each creditors' position and return.

In addition to this, there are a number of steps that require detailed work and analysis before any distribution to creditors can be made. At a high level, these steps include:

- Agreeing reconciliations with each investor and obtaining proofs of debts;
- Obtaining tax clearance from the Australian Taxation Office;
- Undertaking scenario analysis for varying distribution principles to consider which might be the most appropriate;
- Applying to Court for a determination on the most equitable distribution principle to achieve the fairest outcome for investors;
- Applying to Court for orders to pool the affairs of Mr Marco, the Scheme and AMS;
- Following Court determination, formally call for proofs of debt (investors who have already submitted proof of debts will not need to resubmit); and
- Formal adjudication on all proof of debts received in accordance with Court directions.

Subject to the Liquidators being able to complete each of the steps above in the timeframes anticipated, the Liquidators are targeting an interim distribution to creditors within approximately 6 months.

5.2 Likelihood of a distribution

A number of factors affect the likelihood of a dividend being paid to creditors, including:

- the size and complexity of the liquidation;
- the amount of assets realisable and the costs of realising those assets;
- the outcome of detailed investigations and recovery proceedings, together with the ability of defendants to satisfy claims;
- the statutory priority of certain claims and costs;
- the value of various classes of claims including priority and unsecured creditor claims, specifically investor claims;
- the distribution methodology adopted by the Liquidators with guidance from the Court as to the fairest and most equitable outcome; and
- the volume of enquiries by creditors and other stakeholders.

Although distributions to creditors are expected in these liquidations, the Liquidators are currently not in a position to provide a detailed estimated return to creditors due to the uncertainty of the above factors and ultimate realisation outcomes (net of costs).

6 Cost of the liquidation

The Liquidators are not seeking fee approval from creditors as part of this report. The approval process of the fees incurred by the Receivers and Managers and Liquidators, will be as follows:

- Receivers and Managers: matters pertaining to the securing and realising of the property of Mr Chris Marco, AMS and/or the Scheme and other receivership matters are required to be approved by the Federal Court of Australia, pursuant to the Court Order dated 7 December 2020; and
- Liquidators: matters pertaining to the winding up of AMS and the Scheme are required to be approved by creditors (or in the absence of creditors, by the Court). The Committees of Inspection have the power to approve the Liquidators' fees.

Whilst fees incurred in relation to the receivership of Mr Marco, AMS and the Scheme do not require the approval of creditors, the Liquidators will keep creditors informed of all fees incurred (both as Receivers and Liquidators) throughout these appointments.

7 What happens next?

The Liquidators will proceed with the liquidation of AMS and the Scheme; which will include:

- realising the remaining properties and assets;
- recovering any further available property;
- undertaking investigations into Mr Marco and AMS' affairs;
- pursuing any viable claims for liquidator recover actions; and
- completing required reporting to ASIC.

The Liquidators expect to be in a position to provide creditors with a detailed estimate of the likely interim return to creditors in the next 6 months, once the adjudication process and Court direction on the distribution principles has been received.

Once the Liquidators have had the opportunity to undertake their investigations and consider potential legal actions, further dividend payments may be paid to creditors in the following 12 to 18 months, the quantum of which will be dependent on the outcome of recovery actions.

The timing of the completion of the liquidations will be dependent on several factors, including the time that may be required to carry out the investigations and pursue legal claims. At the time of writing, we expect to have completed this liquidation within approximately 24 months.

8 Where can you get more information?

You can access information which may assist you at the following websites:

- ARITA at www.arita.com.au/creditors.
- ASIC at www.asic.gov.au (search for "insolvency information sheets").

If you have any queries, please contact Phoebe Donaldson on (08) 6363 7619.

Dated: 8 March 2021



Rob Brauer
Liquidator