



McGrathNicol

Nut Butter Wine Pty Ltd (formerly Onebuild Projects) (In Liquidation)
ACN 104 825 667
(NBW)

Circular to Creditors

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I refer to the appointment of Jamie Harris and I as Liquidators of NBW on 13 September 2019.

This Circular provides creditors with an update regarding the progress of the liquidation.

1 Liquidators' Investigations

1.1 Rhys Auliff's Part X arrangement

On 5 March 2020, Mr Auliff's creditors resolved to approve Mr Auliff's personal insolvency arrangement.

The Liquidators submitted a claim of \$871,929.55 for insolvent trading. On 11 June 2020, the Controlling Trustee of Mr Auliff declared a first and final dividend and \$23,864.47 was received by NBW.

1.2 Supplementary Report

The Australian Securities & Investments Commission (**ASIC**) requested the Liquidators prepare a Supplementary Report pursuant to s533(2) of the *Corporations Act 2001*. That report was lodged with ASIC on 17 September 2020.

1.3 Recovery actions

I provide the following update in relation to recovery actions by the liquidators of NBW:

- On 28 January 2020, I issued a letter to the Deputy Commissioner of Taxation (**Commissioner**) regarding payments I considered to be unfair preference payments made by NBW to the Commissioner totalling \$52,000. A settlement amount of \$50,000 was received from the Commissioner on 10 June 2020.
- My investigations identified a number of potential unfair preference payments made to NBW's suppliers prior to my appointment. I have corresponded with certain of those suppliers regarding those claims, however, no further recoveries have been made to date. The liquidators are without funds with which to further pursue those claims, including to pay legal costs required to advance the claims.
- Investigations indicate the following potential unreasonable director related transactions occurred prior to my appointment:
 - an unreasonable salary paid to Mr Auliff's spouse, Ms Auliff. Based on NBW's books and records, the Liquidators consider that Ms Auliff held only a limited role at NBW; and accordingly, the salary paid to Ms Auliff appears to be excessive. The Liquidators have requested information from both Mr Auliff and Ms Auliff in relation to Ms Auliff's work for NBW. I have not yet received a sufficient response to those requests; and

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- a number of transactions were recorded in NBW's Xero accounting software against a job code that corresponds to Mr Auliff's personal address. The Liquidators have requested that Mr Auliff provide details of all expenses allocated to that job code and whether NBW was paid for the work. Mr Auliff has not provided any further information regarding those transactions.

2 Funding invitation for recovery proceedings

The Liquidators do not have access to funding to continue with the recovery actions identified at section 1.3. Accordingly, I invite the creditors of NBW to consider whether they are prepared to provide funds to enable the Liquidators to continue with our investigations and pursue recovery actions.

If you are prepared to provide funding for any potential recovery proceedings, please contact Madison Maurer of this office by email at mmaurer@mcgrathnicol.com by close of business **22 December 2020**.

3 Finalisation of Liquidation

If no creditors are prepared to provide funding to the Liquidators to continue our investigations and potential recovery actions, I intend to finalise the Liquidation and apply to ASIC to deregister NBW.

4 Queries

If you have any queries, please contact Madison Maurer on (07) 3333 9828.

Dated: 2 December 2020

Anthony Connelly
Liquidator