



McGrathNicol

McGrathNicol Limited

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Penrich Capital Limited (In Liquidation) (Company) Company number 1495342

Liquidators' first report and notice to creditors (pursuant to s255 and s245 of the Companies Act 1993)

3 April 2020

1. Appointment

Kare Johnstone and Andrew Grenfell were appointed joint and several liquidators (**Liquidators**) of the Company on 27 March 2020 by special resolution of its shareholder.

As Accredited Insolvency Practitioners, the Liquidators are bound by the Restructuring Insolvency and Turnaround Association of New Zealand Inc's (**RITANZ**) Code of Professional Conduct, a copy of which can be located on RITANZ's website (www.ritanz.org.nz).

2. Disclaimer

The purpose of this report is to report to the creditors and shareholder in accordance with Section 255 of the Companies Act 1993 (**Companies Act**).

This report has been prepared based on the information known to the Liquidators as at the date of this report. We reserve the right (but will be under no obligation) to review this report and, if we consider it necessary, to revise the report in the light of any information existing at the date of this report that becomes known to us after that date. We have not independently verified the accuracy of information provided to us, nor have we conducted an audit in respect of the Company. We express no opinion on the reliability, accuracy, or completeness of information provided to us and upon which we have relied.

The Liquidators do not accept responsibility or liability for any losses occasioned to any party as a result of the circulation, publication, reproduction, or use of this report.

In association
with



ADVISORY
RESTRUCTURING



3. Company information

Date of incorporation:	25 March 2004
Trading address:	10A Tussock Lane, Ferrymead, Christchurch 8023
Type of business:	Financial Services Provider
Shareholder:	Penrich Active Capital Management (100%)
Directors:	Kelly Tonkin Kelly Stansfield

4. Events leading to appointment of liquidators

The Liquidators were appointed following the detection of a significant discrepancy in the valuation of the fund, Penrich Global Macro Fund (**Fund**), administered by the Company. The Fund was frozen and New Zealand office closed prior to the Liquidators being appointed and a complaint had been filed with the Serious Fraud Office. The Liquidators are unable to provide any further details at this stage.

5. Statement of affairs

Attached as Appendix 1 is a statement of the Company's affairs as at the date of our appointment.

This has been prepared from information provided by one of the directors of the Company. The Liquidators are not yet in a position to express an opinion on the validity of that information, or the realisable value of the assets.

6. List of creditors

A list of all known creditors has been compiled by the Liquidators based on the information available to us and is attached as Appendix 2. For privacy reasons the addresses of employees have been omitted from the list.

7. Proposals for conducting the liquidation

The Liquidators will be attending to the following matters during the course of the liquidation:

- a) Determination and admittance of creditors' claims.
- b) Consideration of the prospect of recoveries for creditors from voidable transactions (if any) and breaches of directors duties (if any), to the extent that funding is available to conduct the necessary investigations.
- c) Consideration of other actions that may be available for the benefit of all unsecured creditors. Should any creditors have any information on any matter that they feel warrants investigation, please advise the Liquidators in writing.
- d) Payment of any proceeds to creditors in the statutory order.

8. Liquidators' Declaration of Independence, Relevant Relationships and Indemnities (**Declaration**)

Attached as Appendix 3 is a copy of the Liquidators' Declaration. The Liquidators have not identified any matters that would prevent them from accepting the appointment as liquidators of the Company.



9. Liquidators' remuneration

The Liquidators' remuneration is charged on an hourly basis at their standard hourly rates, which are set out in Appendix 4. A schedule of the qualifications and experience generally of staff at each level is also included in this schedule, together with the basis of recharging disbursements paid by the Liquidators.

10. Estimated date of completion of liquidation

It is not practicable to estimate the date of the completion of the liquidation at this stage.

11. Creditors' meeting and notice to dispense meeting of creditors

A liquidator must call a meeting of creditors in accordance with Section 243 of the Companies Act to confirm the appointment of the Liquidators or appoint other liquidators. However, pursuant to section 245 of the Companies Act, a meeting is not required if the costs to hold such a meeting outweigh the assets and liabilities of the Company.

Having regard to the assets and liabilities of the Company and the likely result of the liquidation the Liquidators consider, in accordance with Section 245 of the Companies Act, that no such meeting should be held.

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

12. Liquidation committee

In accordance with Section 314 of the Companies Act, a creditor or shareholder may request the Liquidators 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 Liquidators. This request must be in writing.

The Liquidators 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.

13. Creditors' claims

13.1. Personal Property Securities Act / Reservation of Title

Should any creditor believe that they have registered a Purchase Money Security Interest (**PMSI**) on the Personal Property Securities Register (**PPSR**) over any goods, or proceeds from realisation for goods, they should contact the Liquidators immediately.

If any creditor believes that they have a PMSI claim over goods and they have not registered their interest on the PPSR, they should also contact the Liquidators, as should suppliers of consignment or sale or return stock.



13.2. Claim forms

Attached as Appendix 5 is a notice to creditors and also enclosed is a claim form for completion by unsecured creditors. Should you consider you are a secured creditor of the Company, please contact the Liquidators and they will supply to you a secured creditor's valuation and claim form.

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

14. Further information

Should you have any information that you believe would lead to realisations for the benefit of creditors, please set it out in writing, attaching copies of all documentary evidence, and send it to the Liquidators. Please note that the Liquidators can only act on written information as telephone, or other, conversations will be regarded as hearsay by the Court.

15. Prospect of a dividend

We have insufficient information to determine whether there will be any surplus funds to distribute to unsecured creditors at this time. This will depend on the ultimate realisation of the Company's assets, as well as amounts owing to preferential and secured creditors.

16. Contact details

The Liquidators can be contacted at McGrathNicol, Level 17 AIG Building, 41 Shortland Street, Auckland (PO Box 106-733, Auckland 1143). Telephone enquiries should be directed to Leanne de Seymour direct dial (09) 926 5104.

Dated: 3 April 2020

Kare Johnstone
Liquidator



Appendix 1 – Statement of affairs

Statement of affairs of Penrich Capital Limited (In Liquidation)	
As at 27 March 2020	\$
Current assets	
Bank account	50,715
Accounts receivable	102,177
Prepayments/sundry debtors	1,138
Total current assets	154,030
Non-current assets	
Intercompany receivable - Penrich Global Macro Fund	47,235
Office Equipment	10,444
Total non-current assets	57,679
Total assets	211,709
Current liabilities	
Trade and other payables	30,052
GST	(1,378)
PAYE	25,211
Income tax	(23,793)
Total current liabilities	30,092
Non-current liabilities	
Staff incentive scheme shares	88,813
Total non-current liabilities	88,813
Total liabilities	118,905
Net assets	92,804

Source: Company management

Disclaimer: *The Statement of Affairs has been prepared based on information supplied by the Directors and/or management. This information has not been verified. The Liquidators have not carried out an audit of the information supplied and therefore they do not accept any responsibility for the accuracy of the information from which the Statement of Affairs has been prepared. Further, the Statement of Affairs has been prepared for the purpose of the liquidation only, and the Liquidators do not accept any responsibility on any ground whatever, including liability in negligence, to any other person.*



Appendix 2 – List of creditors

Penrich Capital Limited (In Liquidation)

List of creditors as at 27 March 2020

Name	Address
Trade creditors	
ACC	PO Box 242, Wellington 6140
Adobe Systems Software Ireland Ltd	4-6 Riverwalk Drive, Dublin 24, Ireland
Crombie Lockwood Limited	Private Bag 68910, Auckland 1141
DLA Piper Limited	Level 22, 205 Queen Street, Auckland 1010
Inland Revenue	PO Box 39010, Wellington Mail Centre, Lower Hutt
OCS Limited	PO Box 8122, Symonds Street, Auckland 1150
Seymour Holdings Trust	PO Box 17625, Sumner, Christchurch
Sherweb	H-1134 Budapest, Hungary
Spark New Zealand Limited	Private Bag 4742, Christchurch
Sparkle Cleaning	87 Sunline Avenue, Lincoln
Vodafone New Zealand	74 Taharoto Road, Takapuna, Auckland 0622
Xero NZ Limited	19-23 Taranaki Street, Wellington 6011
Employees	
Maira Calley	
Vanessa Henry	
Katee Nesbitt	
Kelly Stansfield	



Appendix 3 – Liquidators' declaration

Declaration of Independence, Relevant Relationships and Indemnities (Declaration)

Penrich Capital Limited (Penrich or the Company)

The Restructuring Insolvency and Turnaround Association of New Zealand Inc. Code of Professional Conduct (**the Code**) requires the Licensed Insolvency Practitioner/s appointed to an insolvent entity to make a Declaration as to:

- A. their independence generally;
- B. relationships, including
 - a) the circumstances of the appointment;
 - b) any relationships with the company and others within the previous 2 years;
 - c) any prior professional services for the company within the previous 2 years;
 - d) that there are no other relationships to declare; and
- C. any indemnities given, or up-front payments made, to the Practitioner.

This Declaration is made in respect of ourselves, our partners and the firm McGrathNicol.

A. Independence

We, Kare Johnstone and Andrew Grenfell (**Liquidators**), of the firm McGrathNicol, have undertaken a proper assessment of the risks to our independence prior to accepting the appointment as Liquidators of the Company in accordance with the law and applicable professional standards. This assessment identified no real or potential risks to our independence. We are not aware of any reasons that would prevent us from accepting this appointment.

B. Declaration of Relationships

(i) *Circumstances of appointment*

Penrich is a Christchurch based financial services provider which commenced operations in 2004. Penrich provided administration services to an investment fund in the Cayman Islands, Penrich Global Macro Fund (**Fund**). Following a significant discrepancy being found in the valuation of the Fund, Penrich ceased trading and the Fund was closed. McGrathNicol was subsequently approached to confirm they could act as liquidators of the Company.



Neither the Liquidators nor McGrathNicol have been engaged by the Company or any party related to the Company at any time to provide services and as a consequence of the discrepancy the Shareholder resolved to appoint Kare Johnstone and Andrew Grenfell of McGrathNicol as liquidators of Penrich Capital Limited at 1.50 pm on 27 March 2020.

A complaint has been made with the Serious Fraud Office and an investigation into the affairs of the Company will be conducted by the Liquidators.

(i) *Relevant Relationships (excluding professional services to the Insolvent)*

Neither we, nor our firm, have, or have had, within the preceding two years, any relationships with any of the Company or any person or entity that has security over the whole or substantially whole of the Company's property.

(ii) *Prior professional services to the Insolvent*

Neither we, nor our firm, have provided any professional services to the Company, in the previous two years.

(iii) *No other relevant relationships to disclose*

There are no other known relevant relationships, including personal, business and professional relationships, from the previous two years with the Company, or any person or entity that has security over the whole or substantially the whole of the Company's property that should be disclosed.

B. Indemnities and Up-front Payments

We have not been indemnified in relation to this liquidation, other than any indemnities that we may be entitled to under statute.

Dated: 27 March 2020

Kare Johnstone

Andrew Grenfell



Appendix 4 – Hourly rates and disbursements

Explanation of hourly rates		
Title	Guide to qualifications and roles	Hourly rate (excl GST)
Appointee/ Partner	Accredited Insolvency Practitioners, Chartered Accountant or equivalent and generally degree qualified with more than twelve years of experience. Leads assignments with full accountability for strategy and execution.	\$640
Director	Generally, Chartered Accountant or comparable relevant qualification and degree qualified with more than ten years of experience. Autonomously leads insolvency appointments reporting to Appointee/Partner.	\$545
Senior Manager	Generally, Chartered Accountant or comparable relevant qualification and degree qualified with more than seven years of experience. Self-sufficiently conducts small to medium insolvency appointments and leads major work streams in larger matters.	\$480
Manager	Generally, Chartered Accountant or comparable relevant qualification and degree qualified with more than five years of experience. Self-sufficiently conducts small insolvency appointments and takes a supervisory role on work streams in larger matters.	\$420
Assistant Manager	Generally, Chartered Accountant or comparable relevant qualification and degree qualified with more than three years of experience. Autonomously manages work stream activity within appointments.	\$370
Senior Analyst	Generally, degree qualified and undertaking Chartered Accountant's qualification or comparable relevant qualification with more than 16 months of experience. Completes tasks within work streams and appointments under supervision.	\$295
Analyst	Generally, degree qualified and undertaking or about to undertake Chartered Accountant's qualification or comparable relevant qualification with less than one year of experience. Assists with tasks within work streams and appointments under supervision.	\$280
Administrator	Appropriately experienced and undertakes senior level administrative support activities or Treasury activities. May be responsible for day to day management of projects or operations and may have supervisory responsibility for junior staff.	\$275
Secretaries	Appropriately experienced and undertakes support activities, such as meeting co-ordination and preparation of materials where it is efficient and appropriate to do so.	\$170



Explanation of disbursements	
Disbursements	Rate (excl GST)
Externally provided professional services	At cost
Externally provided non-professional services	At cost
Internal disbursements: office service charge	3.0% of hourly rate
Internal disbursements: staff vehicle use*	\$0.62-\$1.00 per KM, depending on the size of the vehicle's engine
Internal disbursements: conference calls	At cost



Appendix 5 – Notice to creditors

PENRICH CAPITAL LIMITED (In Liquidation)

Public Notice of Appointment of Liquidators

The Companies Act 1993

On 27 March 2020, it was resolved by special resolution, pursuant to section 241 of the Companies Act 1993, that Penrich Capital Limited (**Company**) be liquidated and that Kare Johnstone and Andrew John Grenfell, Chartered Accountants and Accredited Insolvency Practitioners of Auckland (**Liquidators**), be appointed jointly and severally as liquidators.

The liquidation commenced on 27 March 2020 at 1:50 pm.

Creditors and shareholders may direct enquiries to us during normal business hours at the address and contact numbers stated below.

Dated this 3rd day of April 2020.

A handwritten signature in blue ink, appearing to read 'KJH'.

Kare Johnstone, Liquidator.

Liquidators' Address: McGrathNicol, Level 17, 41 Shortland Street, Auckland 1010. Postal Address: PO Box 106-733, Auckland 1143. Telephone: (09) 366 4655. Facsimile: (09) 366 4656. Enquiries to Priscilla Cooper (09) 926 5107. Email insolvency@mcgrathnicol.co.nz

Note: If any creditor claims a security interest over any assets of the Company, please provide details to the Liquidators forthwith.

UNSECURED CREDITOR'S CLAIM

Section 304(1) Companies Act 1993

Name and postal address of creditor in full: Telephone Number () My Reference is (if applicable) 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 McGrathNicol and will be released to other parties only with your authorisation 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 made 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.)
Name of Company in Liquidation: _____ (In liquidation)	
I _____ <i>[If claim is made on behalf of creditor, specify relationship to creditor and authority]</i> claim that the company was at the date it was put into liquidation indebted to the abovenamed creditor for the sum of <i>[Amount in words and figures]</i> : _____ \$ _____	
Either: I hold no security for the amount claimed; or I am surrendering my security and I am claiming as an unsecured creditor <i>[Omit whichever does not apply]</i>	
Full particulars of the claim are set out, and any supporting documents that substantiate the claim are identified, on the reverse of this form. (The liquidator may require the production of a document under section 304 (2) of the Companies Act 1993. You are not required to attach any supporting documents at this stage, but you may attach them now, if you think it would expedite the processing of the claim.)	
Signed: _____ Date: ____ / ____ / ____	
WARNING -	It is an offence under section 304 (6) of the Companies Act 1993 to – Make, or authorise the making of, a claim that is false or misleading in a material particular in knowing it to be false or misleading; or Omit, or authorise the omission, from a claim of any matter knowing that the omission makes the claim false or misleading in a material particular.
Received (Date Stamp)	Reserved for Office Use: Claim admitted for voting purposes: _____ Claim rejected for voting purposes: _____ Claim rejected for payment: _____ Claim admitted for payment: 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.	

PARTICULARS OF CLAIM

Where the claim includes goods supplied by the creditor to the company under a Retention of the Title clause, please give full details including a description of the goods and their value.

If the creditor owes money to the company, please give full details.

Date	Details of Claim and Identification of Documents that Evidence or Substantiate the Claim	Amount \$

If applicable, please record here your GST Registration number: _____
and total GST included in your claim \$ _____