

## Fenn & Wilson Limited (In Liquidation) Liquidators First Report

21 October 2009

### 1. Background

Pursuant to section 241 of the Companies Act 1993 the above named company was put into Liquidation by the appointment of Joint and Several Liquidators.

Kenneth Peter Brown and Thomas Lee Rodewald were appointed as joint liquidators of the company by special resolution of the shareholders dated 13<sup>th</sup> day of October 2009 at 3.05pm. The Liquidation commenced on this date.

### 2. Disclaimer

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### 3. Company Information

Date of Incorporation: 1 March 2007

Trading Address: Ex 347C Back Ormond Road, Gisborne

Type of business: Trenching Contractors

Date trading ceased: May 2009

Shareholders: Brendan James Fenn (75)  
Suzanne Catherine Wilson (25)

Director: Brendan James Fenn

#### **4. Events leading to appointment of Liquidators**

The Director of the company advises the business suffered as a result of the death of his business partner. Unresolved disputes between the Director and the deceased's estate impacted on the ability of the company to trade, a decision was made to cease trading then appoint Liquidators.

#### **5. Statement of Affairs**

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

This has been prepared from information provided by the Director of the company and the Liquidators are not yet able to express an opinion on the validity of that information.

No value has been entered for the plant and equipment of the company as this may prejudice any fair sale.

The values entered for IRD are estimates only, IRD are yet to provide a proof of debt to confirm these figures, likewise with John Deere.

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

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

The Liquidators will secure the assets and liaise with the respective secured creditors.

An investigation will be conducted of the company's books and records to establish if there are any potentially voidable transactions that require investigation, potential current account issues, and ensure the Director has complied with the duties and obligations imposed on him under the Companies Act 1993.

#### **7. 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 and a final report at the conclusion of the liquidation.

#### **8. Creditors Meeting**

A Liquidator may call a meeting of creditors in order to decide whether an application should be made to the Court to appoint a replacement Liquidator.

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 Liquidator requiring a meeting to be called.

The Liquidators dispense 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 Liquidators 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 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.

#### **9. Creditors Claims**

If your terms of trade with the company include reservation of title of goods supplied please contact Paul Clark on 07 571 6280.

Please complete and return the enclosed Unsecured Creditors Claim form by 13 November 2009 to P O Box 15660, Tauranga. 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 Liquidators, they are not entitled to share in any distribution to creditors that may be made by the Liquidators.

#### **10. Further Information**

If you require any further information or if you have any information that will be of assistance to the Liquidators please contact Paul Clark at our Tauranga Office.



Thomas Lee Rodewald  
*Joint Liquidator*

## *Appendix I*

Fenn & Wilson Limited (In Liquidation)  
Statement of Affairs  
as at the date of the appointment of the  
Liquidators being 13<sup>th</sup> October 2009

	<i>Estimated to realise</i>
<b>Assets</b>	
Plant & Equipment	Not disclosed
Debtors	<u>12,000</u>
	<b>12,000</b>
<b>Less Secured Claims</b>	
John Deere	15,000
Nissan Finance	5,559
ANZ National Bank	39,131
Global Survey	<u>1,402</u>
	61,092
<b>Less Preferential Claims</b>	
IRD - PAYE	2,478
<b>Deficit before Unsecured Creditors</b>	<b>(51,570)</b>
<b>Less Unsecured Creditors</b>	
Trade Creditors	7,587
<b>Deficit (before costs of liquidation)</b>	<b>(59,157)</b>

*Disclaimer*

*This statement should be read in conjunction with the disclaimer on page one of the above Liquidators report and Rodewald Hart Brown Ltd 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 liquidators.*

*Rodewald Hart Brown Limited*

## *Appendix II*

### Fenn & Wilson Limited (In Liquidation) Schedule of Creditors as at 13 October 2009

ANZ National Bank	PO Box 1246		Gisborne
Global Survey Limited	PO Box 305 145	Triton Plaza, Albany	Auckland
Inland Revenue Department	Private Bag		Gisborne
John Deere Credit Limited	PO Box 2213	Crestmead, Queensland	Australia 4132
Nissan Finance New Zealand Ltd	PO Box 109-018	Newmarket	Auckland
Accident Compensation Corporation	PO Box 38 023	Te Puni	Wellington
Emerre & Hathaway Ins Ltd	PO Box 1386		Gisborne
Graham & Dobson	PO Box 1247		Gisborne
Land Transport New Zealand	Private Bag 11777	Manawatu Mail Centre	Palmerston North 4442
Wilson Brothers Trust	PO Box 62	Tologa Bay	Gisborne

# 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) 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 Hart Brown Limited 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 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: <p style="text-align: center;"><b>Fenn &amp; Wilson Limited (In Liquidation)</b></p>	
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 abovenamed creditor for the sum of [amount in words and figures]: <p style="text-align: right;">\$</p>	
Either: I hold no security for the amount claimed; or I am surrendering my security and I am claiming as an unsecured creditor (omit whichever does not apply)	
Full particulars of the claim are set out, and any supporting documents that substantiate the claim are identified on the reverse of the form. <i>(Please include copies of all unpaid invoices)</i>	
Signed:	Date:
<b>WARNING:-</b>	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 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:      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.	

