

Update to creditors 6 June 2017

ACN 000 237 678 Pty Ltd (Formerly Custom Coaches (Sales) Pty Ltd) (In Liquidation) ACN 000 237 678 ("CCSPL" or "the Company")

1 Key messages

As previously advised in our Annual Meeting and Report to creditors dated 14 November 2016 (**AGM-16 Report**), we do not expect there to be any return to unsecured creditors. This position has not changed.

As detailed in the AGM-16 Report, the Liquidators identified the following key matter to attend to in order to finalise the Liquidation: "*Lodge an application to the Court to seek directions and orders regarding the distribution of the remaining funds to creditors and deregistering the Company.*" (See section 4 of the AGM-16 Report for further details).

On 13 April 2017, the Company and the Liquidators filed an Originating Process in conjunction with a supporting Affidavit of myself sworn on 13 April 2017 in the Supreme Court of New South Wales (**Court**) in proceeding number 2017/00112912 (**the Application**). The application is fixed for hearing before the Honourable Justice Robb on 22 June 2017 in the Supreme Court of New South Wales. Please find attached a sealed copy of the Court's Orders dated 15 May 2017 (**Annexure B**).

2 Next steps

Creditors are not required to respond or act upon this notice. However, if you wish to be heard or appear in opposition to the Application or wish to make any submissions to the Court on the Application, would you please advise our legal representative, Kevin Shum of Clayton Utz Lawyers on (02) 9353 4653 or by email kshum@claytonutz.com by no later than 5.00pm on Wednesday, 14 June 2017.

3 Further information

Further information on the background to the Application is attached at Annexure A of this letter. This should be read in conjunction with our prior update reports to creditors.

If you have any other queries in relation to the above, please do not hesitate to contact Kevin Thay of this office by email at kthay@deloitte.com.au.

Yours faithfully,



Vaughan Strawbridge
Joint and Several Liquidator

Annexure A

On 16 September 2016, Timothy Norman and I were appointed Liquidators of the Company (**Liquidators**) pursuant to section 439C(c) of the *Corporations Act 2001* (Cth) (**the Act**).

The Liquidators have sought judicial advice pursuant to the Act, as to whether the Liquidators are justified to retire in the circumstances stipulated below. On 13 April 2017, the Company and the Liquidators filed an Originating Process in conjunction with a supporting Affidavit of myself sworn on 13 April 2017 in the Supreme Court of New South Wales (**Court**) in proceeding number 2017/00112912 (**Application**).

On 30 July 2008, the Company entered into a subcontract agreement with a confidential customer (**Customer**), pursuant to which five unconditional bank performance guarantees were granted in favour of the Customer in the total sum of \$1,250,000.00 (**Bank Guarantees**). The first bank guarantee expired on 30 June 2016, and the remaining four bank guarantees will expire on 1 July 2018, 1 July 2019, 1 July 2020 and 1 July 2021, respectively.

The secured creditor, the National Australia Bank Limited (**NAB**), is entitled to hold the cash deposit of the Company as security for the Bank Guarantees.

The Liquidators have completed all matters to wind up the Company and have formed the view that the cash deposit currently held by NAB, is of an amount that will be sufficient to discharge most, if not all, of the debt owed to the Department of Employment (**Department**), who is a priority creditor of the Company and is ranked ahead of other unsecured creditors.

In other words, there will be no surplus available for any distribution to unsecured creditors upon payment of any remaining cash deposit to the Department.

In the interest of minimising the incurring of any additional unnecessary costs and expenses that will likely be incurred if the Liquidators are required to remain in office until 1 July 2021, on 24 March 2017 the Liquidators entered into a Payments Deed with NAB and the Department. The Payments Deed provides a contractual arrangement whereby NAB is to transfer any unclaimed deposit of the Company to the Department upon expiration of the remaining Bank Guarantees.

The Payments Deed will have no force or effect unless and until the Liquidators have received directions from the Court either approving the Payments Deed or providing that the Liquidators are justified in entering into the Payments Deed.

The Application is fixed for hearing before the Honourable Justice Robb on 22 June 2017. Please find **attached** a sealed copy of the Court's Orders dated 15 May 2017.

Form 43
UCPR 36.11



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JUDGMENT/ORDER

COURT DETAILS

Court	Supreme Court of NSW
Division	Equity
List	Corporations List
Registry	Supreme Court Sydney
Case number	2017/00112912

TITLE OF PROCEEDINGS

First Plaintiff	ACN 000 237 678 Pty Ltd (Formerly Custom Coaches (Sales) Pty Ltd (in liquidation))
Second Plaintiff	Vaughan Neil Strawbridge in his capacity as Joint and Several liquidator of the First Plaintiff
Number of Plaintiff(s)	3
First Defendant	
Corporation subject of the proceeding	ACN 000 237 678 Pty Ltd (Formerly Custom Coaches (Sales) Pty Ltd (in liquidation)) Refer to Party Details at rear for full list of parties

DATE OF JUDGMENT/ORDER

Date made or given	15 May 2017
Date entered	17 May 2017

TERMS OF JUDGMENT/ORDER

THE COURT ORDERS THAT the application for judicial advice be fixed for hearing on 22 June 2017 before Justice Robb with a half day estimate.

THE COURT DIRECTS THAT the applicant lodge with his Honour's Associate a bundle of all evidence and documents relied on and an outline of submissions by 15 June 2017.

SEAL AND SIGNATURE



Signature	D Eden (LS)
Capacity	Chief Clerk
Date	17 May 2017

If this document was issued by means of the Electronic Case Management System (ECM), pursuant to Part 3 of the Uniform Civil Procedure Rules (UCPR), this document is taken to have been signed if the person's name is printed where his or her signature would otherwise appear.

PARTY DETAILS

PARTIES TO THE PROCEEDINGS

First Application under Corporation Law

Plaintiff(s)

First Plaintiff

ACN 000 237 678 Pty Ltd (Formerly Custom Coaches (Sales) Pty Ltd (in liquidation)

Second Plaintiff

Vaughan Neil Strawbridge in his capacity as Joint and Several liquidator of the First Plaintiff

Third Plaintiff

Timothy Bryce Norman in his capacity as joint and several liquidator of the first plaintiff

Defendant(s)

First Defendant