

Annual Report to Creditors dated 15 January 2018

Pursuant to Section 508 of the Corporations Act 2001

Force Corp Pty Limited

ACN 109 630 079

Force Towers Pty Limited

ACN 159 994 902

English & Leeds Pty Limited

ACN 120 813 327

Minipickers Holdings Pty Limited

ACN 150 280 416

Equipment Rental Investments Pty Limited

ACN 147 941 268

S.A. Access Equipment Pty Limited

ACN 007 884 933

A.C.N. 085 602 348 Pty Limited

ACN 085 602 348

**(All Receivers & Managers Appointed and In Liquidation)
(collectively "the Companies")**

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1. Executive Summary

1.1 Appointment

I refer to the appointment of Vaughan Neil Strawbridge and I as Joint and Several Administrators and subsequently Joint and Several Liquidators of the Companies on 13 July 2015 and 23 November 2015 respectively.

Concurrently, Messrs Christopher Hill and Brett Lord of PPB Advisory were appointed Receivers and Managers (**Receivers**) of the Companies on 13 July 2015 subject to security interests held by Recfin Nominees Pty Limited (in its capacity as trustee of the Recfin Series 2014-2 Trust) (**Recfin Nominees**).

I advise that Brett Lord ceased to act as a Receiver and Manager of the Companies on 21 February 2017. Christopher Hill continues to act as Receiver and Manager of the Companies.

1.2 Purpose of Report

This report has been prepared in accordance with Section 508(1)(b) of the *Corporations Act 2001 (Cth)* (**the Act**) and outlines for each company:

- i. An account of the Liquidators' acts and dealings and the conduct of the winding up for the period 23 November 2016 to 22 November 2017
- ii. A description of the acts and dealings that remain to be carried out in order to complete the winding up
- iii. An estimate of when the winding up is likely to be completed.

1.3 Investigations, Offences and Voidable Transactions

The Liquidators lodged separate reports with the Australian Securities & Investments Commission (**ASIC**) regarding each company's demise on 8 February 2016 pursuant to Section 533(1) of the Act.

ASIC subsequently advised the Liquidators on 10 February 2016 that after considering the Liquidators' reports, ASIC has sought further details about possible alleged misconduct relating to the officers of Force Corp Pty Ltd (**Force Corp**) and requested a supplementary report for this company pursuant to Section 533(2) of the Act. The supplementary reports were lodged with ASIC on 30 June 2017.

The Liquidators have realised \$1,138,000 from the settlement of alleged voidable transaction recoveries in the winding up of Force Corp pursuant to Section 588FE of the Act. The terms of each settlement are confidential and cannot be disclosed to creditors.

The Liquidators are continuing to pursue the remaining unfair preference claims.

1.4 Completion

The winding up of each company is expected to be finalised in 2020, subject to the following tasks being completed:

- i. Continue to pursue the remaining unfair preference claims for the liquidation of Force Corp;
- ii. Continue to progress the legal proceedings against the directors of Force Corp regarding the alleged insolvent trading claim; and
- iii. Ongoing statutory compliance obligations.

2. Key Activities and Conduct during the Appointments

2.1 Administrators and Liquidators Appointments

On 13 July 2015, Vaughan Strawbridge and I were appointed Joint and Several Administrators of the Companies by Lease Collateral Pty Limited (in its capacity as trustee of the Specialised Finance Warehouse Trust 1) (**Lease Collateral**) pursuant to Section 436C of the Act.

At the Second Meeting of Creditors of the Companies duly convened and held on 23 November 2015, creditors resolved that each company be wound up pursuant to Section 439C(c) of the Act and that Vaughan Strawbridge and I be appointed as Liquidators of each company.

2.2 Receivers and Managers Appointment

Messrs Christopher Hill and Brett Lord of PPB Advisory were appointed Receivers of the Companies on 13 July 2015 subject to security interests held by Recfin Nominees. Brett Lord ceased to act as a Receiver and Manager of the Companies on 21 February 2017. Christopher Hill continues to act as Receiver and Manager of the Companies.

As previously advised in our Report to Creditors pursuant to Section 439A of the Act dated 12 November 2015 (**Section 439A Report**), the assets, undertakings and the trading of the Companies were subject to the Receivers' appointment. Force Corp was the only trading entity of the Group as at the date of the initial appointment.

2.3 Reports with ASIC

The Liquidators lodged separate reports with ASIC regarding each company's demise on 8 February 2016 pursuant to Section 533(1) of the Act.

ASIC subsequently advised the Liquidators on 10 February 2016 that after considering the Liquidators' reports, ASIC has sought further details about possible alleged misconduct relating to the officers of Force Corp Pty Limited and had requested a supplementary report for this company pursuant to Section 533(2) of the Act.

The application requesting funding was lodged with ASIC on 17 March 2016. ASIC subsequently approved funding of \$49,000 (excluding GST) for the Liquidators to prepare four separate Supplementary Reports in relation to the conduct of each Director of Force Corp pursuant to Section 533(2) of the Act.

The supplementary reports were lodged with ASIC on 30 June 2017.

2.4 Voidable Transaction Recoveries (Force Corp)

The Liquidators identified 15 creditors of Force Corp who received voidable unfair preference payments during the Relation Back Period. These creditors were selected due to the substantial size of the claim and the likelihood of recovery, based on evidence through investigations undertaken during the winding up.

Throughout 2016, the Liquidators issued correspondence to each of the creditors identified, detailing the nature of the quantum of each claim respectively and providing an outline of the evidence documented through detailed investigations of Force Corp's books and records.

By 20 November 2017, \$1,138,000 had been recovered in the winding up of Force Corp from five creditors through settlement and informal mediation on their unfair preference claims.

The Liquidators are continuing to pursue the remaining unfair preference claims.

2.5 Insolvent Trading Claim (Force Corp)

The Liquidators of Force Corp have commenced proceedings in the Supreme Court of New South Wales (**the Court**) alleging that the Directors of Force Corp (**the Defendants**) had traded the Company whilst insolvent for the period 1 July 2014 to 13 July 2015 (inclusive) with the claim totalling \$17,305,695.

An Originating Process was filed with the Court in the Equity Division on 14 March 2017, along with the subsequent filing of a Statement of Claim on 11 April 2017, case number 2017/00078336.

The quantum of the alleged insolvent trading claim comprises of the following amounts:

Category of claim	Amount (\$)
Trade Creditors	9,349,794
Statutory Creditors	799,766
Employee Creditor Claims	2,156,135
Helmsman Funds Management Ltd	5,000,000
Total Insolvent Trading Claim	17,305,695

Each of the Defendants identified in the Liquidators' Statement of Claim filed their defences with the Court on 12 May 2017.

The Defendants also filed a Statement of Cross-Claim (**Cross-Claim**) with the Court on 12 May 2017 against the following parties:

- (i) Lease Collateral Pty Ltd (ABN 14 168 112 471) as trustee for the Specialised Finance Warehouse Trust 1 (ABN 78 440 193 746)
- (ii) Challenger Life Company Limited (ABN 44 072 486 938)
- (iii) 255 Finance Pty Ltd (ABN 23 168 112 507)
- (iv) Christopher Clarke Hill, Receiver and Manager of Force Corp
- (v) Brett Lord, former Receiver and Manager of Force Corp
- (vi) PPB Pty Limited ACN 130 343 252 acting as trustee of the PPB Unit Trust
- (vii) Force Corp Pty Limited (Receivers and Managers Appointed) (In Liquidation)

The Liquidators are currently awaiting a determination from the Court as to whether the Defendants are eligible in bringing their Cross-Claim.

2.6 Engagement of a Litigation Funder (Force Corp)

Pursuant to Section 477(2)(b) of the Act, except with the approval of the Court, the Committee of Inspection, or a resolution of the creditors, a liquidator of a company must not enter into an agreement on the company's behalf if the terms of the agreement are more than three months after the agreement is entered into, even if the term may end, or the obligations may be discharged, within those three months.

At the Committee of Inspection meeting held on 29 August 2016 for the winding up for Force Corp, Committee members resolved for the Liquidators to enter into two separate litigation funding agreements with Litigation Lending Services Limited (**LLS**) for the purposes of progressing the alleged insolvent trading claim and unfair preference claims against other parties.

The funding agreements came into effect on 7 September 2016.

2.7 Public Examinations (Force Corp)

To assist the Liquidators with their investigations into the demise of the Company, Public Examinations were conducted in the Court pursuant to Section 596A and Section 596B of the Act. The scheduled dates for the Public Examinations were 3 November 2016 and 4 November 2016 and 30 January 2017 to 3 February 2017 (inclusive).

The following parties were examined by the Liquidators to assist with their investigation into the affairs of the Company:

Name of committee member	Director or Secretary	Position held	Date of Examination
Vijaya Schwerdt	-	Finance Manager	3 November 2016
Kirit Mistry	-	Financial Controller	4 November 2016
Paul McGlone	-	Chief Executive Officer	30 January 2017
David Marshall	Secretary	Chief Financial Officer	31 Jan–2 Feb 2017
Christopher Munday	Former Director	General Manager Strategy	31 January 2017
Carmelo Caltabiano	Director	Non-Executive	1 February 2017
Garry Ash	Director	Non-Executive	2 February 2017
Drew Semken	Director	Non-Executive	2 February 2017
Pasquale Italiano	Former Alternate Director	General Manager of Operations	2 February 2017
Ian Johnson	Director	Non-Executive	3 February 2017

The information heard at the Public Examinations has been used to progress both the alleged insolvent trading claim and voidable transactions identified by the Liquidators.

2.8 Realisation of Assets

Coates Hire Access SPV Pty Limited completed the acquisition of the majority of Force Corp's assets on 1 September 2015. Due to the commercially sensitive nature of the sale, the Liquidators have not been provided with the particulars for this transaction.

We understand that all remaining assets of the Companies have been realised which included assisting Recfin Nominees with the collection of debtors subject to the Receivables Purchasing Agreement.

The Liquidators have been notified by the Receivers that there were insufficient realisations to payout the first ranking secured chargeholders Lease Collateral and Recfin Nominees, **resulting in zero realisations available for the benefit of unsecured creditors.**

2.9 Fair Entitlements Guarantee (Force Corp)

As advised in previous communications, once Force Corp was placed into Liquidation, eligible employees would be able to lodge a claim for assistance on certain classes of their outstanding entitlements to the Fair Entitlements Guarantee (**FEG**) scheme, which is administered through the Australian Government's Department of Employment (**DOE**).

The Liquidators assisted former employees and the DOE with the verification and distribution of eligible entitlements. Strict time limits apply under the FEG scheme whereby claims from eligible employees must be made by either no more than 12 months after the end of their employment or the date of the insolvency event (whichever is later). As both milestone dates have now lapsed, no further claims under the FEG scheme can be made by former employees of the Company.

The DOE has advanced \$5,467,482 under the FEG scheme for outstanding employee entitlements which is summarised in the table below:

Category of Entitlement	Amount (\$)
Unpaid Wages (salary sacrifice superannuation)	40,138
Annual Leave (including Leave Loading)	1,016,853
Long Service Leave	656,350
Payment in Lieu of Notice (PILN)	1,448,955
Redundancy	2,305,186
Total Employee Claims (funded by DOE)	5,467,482

The Liquidators received funding from DOE under the FEG scheme to distribute eligible employees of \$5,436,360. The difference between the DOE's Proof of Debt (\$5,467,482) and the funding received relates to monies advanced directly by DOE to eligible employees under the FEG scheme (\$31,122) as a result of a procedural change which came into effect on 1 July 2016.

The DOE has a right of subrogation in the winding up pursuant to Section 560 of the Act for amounts paid to priority (employees) creditors for outstanding entitlements.

As at the date of this report, no funds have been distributed to employees for outstanding entitlements by the Liquidators in accordance with Section 556 of the Act.

2.10 Meeting of the Committee of Inspection of Force Corp

The second meeting of the members of the Committee of Inspection of Force Corp was held on 7 December 2017 for the purposes of:

- Receiving a Circular from the Liquidators providing an update on the Winding Up
- The consideration and, if thought fit, the approval of the Liquidators' professional fees and disbursements
- The consideration of any other business.

At the meeting, the Committee approved the Liquidators' remuneration for the period 1 July 2016 to 31 October 2017 which totalled \$566,588.50 plus GST, and the Liquidators' disbursements for the period 1 July 2016 to 31 October 2017 which totalled \$9,776.10 plus GST.

The minutes of this meeting were lodged with ASIC on 13 December 2017, a copy of which can be obtained from the Liquidators upon request by contacting Will Hanrahan of this office on (02) 9322 3397 or forcecorp@deloitte.com.au.

3. Receipts and Payments

Pursuant to Section 539(1) of the Act, a liquidator must, within 1 month after the end of the period of 6 months from the date of his or her appointment and of every subsequent period of 6 months during which he or she acts as liquidator lodge with ASIC an account of the receipts and payments.

The latest lodgements of the receipts and payments with ASIC occurred for each company on 5 December 2017.

A copy of the respective accounts may be inspected at the Liquidators' office during normal business hours by prior appointment.

A summary of the receipts and payments for each entity for the period 23 November 2015 – 22 November 2017 (inclusive) is annexed to this report as outlined in the table below:

Entity name	Attachment
Force Corp Pty Limited ⁽¹⁾	Annexure A
Force Towers Pty Limited	Annexure B
English & Leeds Pty Limited	Annexure C
Minipickers Holdings Pty Limited	Annexure D
Equipment Rental Investments Pty Limited	Annexure E
S.A. Access Equipment Pty Limited	Annexure F
A.C.N. 085 602 348 Pty Limited	Annexure G

Note (1): Receipts & Payments for Force Corp for the period 13 July 2015 – 22 November 2017.

4. Estimated Completion Date

The winding up of each company is expected to be finalised in 2020, subject to the following tasks being completed:

- i. Continue to pursue the remaining unfair preference claims for the liquidation of Force Corp
- ii. Continue to progress the legal proceedings against the directors of Force Corp regarding the alleged insolvent trading claim
- iii. Ongoing statutory compliance obligations.

If you wish to obtain a copy of this report, please contact Will Hanrahan of this office on (02) 9322 3397 or forcecorp@deloitte.com.au and a copy of the report will be forwarded to you.

DATED this 15th day of January 2018.



David John Frank Lombe
Joint & Several Liquidator

**Summary of Receipts and Payments for the period
13 July 2015 to 22 November 2017 (inclusive)**

**Force Corp Pty Ltd
(Receivers & Managers Appointed)
(In Liquidation)
ACN 109 630 079**

Receipts	Amount \$
Funding provided by ASIC (Assetless Administration Fund)	49,000
Funding provided by Litigation Lending Services Ltd	359,962
Funding provided by Challenger and Department of Employment	402,811
Bank Interest	4,136
FEG Monies Received (distributed)	5,436,360
Settlement Monies from Voidable Transaction Claims	1,138,000
TOTAL RECEIPTS	7,390,269
Payments	
Administrators and Liquidators Remuneration	1,047,204
Administrators and Liquidators Expenses	71,479
Data Room	1,000
FEG Monies	5,436,360
Legal Fees and Expenses	408,983
Public Examination Costs	1,737
Payment of Monies to Litigation Lending Services Ltd	202,815
Net GST and PAYG Position	95,155
TOTAL PAYMENTS	7,264,733
CASH AT BANK AS AT 22 NOVEMBER 2017	125,536

**Summary of Receipts and Payments for the period
23 November 2015 to 22 November 2017 (inclusive)**

**Force Towers Pty Ltd
(Receivers & Managers Appointed)
(In Liquidation)
ACN 159 994 902**

Receipts	Amount \$
TOTAL RECEIPTS	nil nil
Payments	
TOTAL PAYMENTS	nil nil
CASH AT BANK AS AT 22 NOVEMBER 2017	nil

**Summary of Receipts and Payments for the period
23 November 2015 to 22 November 2017 (inclusive)**

**English & Leeds Pty Ltd
(Receivers & Managers Appointed)
(In Liquidation)
ACN 120 813 327**

Receipts	Amount \$
TOTAL RECEIPTS	nil nil
Payments	
TOTAL PAYMENTS	nil nil
CASH AT BANK AS AT 22 NOVEMBER 2017	nil

**Summary of Receipts and Payments for the period
23 November 2015 to 22 November 2017 (inclusive)**

**Minipickers Holdings Pty Ltd
(Receivers & Managers Appointed)
(In Liquidation)
ACN 150 280 416**

Receipts	Amount \$
TOTAL RECEIPTS	nil nil
Payments	
TOTAL PAYMENTS	nil nil
CASH AT BANK AS AT 22 NOVEMBER 2017	nil

**Summary of Receipts and Payments for the period
23 November 2015 to 22 November 2017 (inclusive)**

**Equipment Rental Investments Pty Ltd
(Receivers & Managers Appointed)
(In Liquidation)
ACN 147 941 268**

Receipts	Amount \$
TOTAL RECEIPTS	nil nil
Payments	
TOTAL PAYMENTS	nil nil
CASH AT BANK AS AT 22 NOVEMBER 2017	nil

**Summary of Receipts and Payments for the period
23 November 2015 to 22 November 2017 (inclusive)**

**S.A. Access Equipment Pty Ltd
(Receivers & Managers Appointed)
(In Liquidation)
ACN 007 884 933**

Receipts	Amount \$
TOTAL RECEIPTS	nil nil
Payments	
TOTAL PAYMENTS	nil nil
CASH AT BANK AS AT 22 NOVEMBER 2017	nil

**Summary of Receipts and Payments for the period
23 November 2015 to 22 November 2017 (inclusive)**

**A.C.N. 085 602 348 Pty Ltd
(Receivers & Managers Appointed)
(In Liquidation)
ACN 085 602 348**

Receipts	Amount \$
TOTAL RECEIPTS	nil nil
Payments	
TOTAL PAYMENTS	nil nil
CASH AT BANK AS AT 22 NOVEMBER 2017	nil