

23 February 2023

Ref: 207-230223-DRH

**TO THE SHAREHOLDER**

**VICTORY OFFICES LIMITED  
(IN LIQUIDATION)  
ACN: 616 150 022 ("the Company")**

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We refer to our appointment as Joint & Several Liquidators of the Company on 21 November 2022.


We advise that we have issued a report to creditors of the Company in accordance with Part 70-40 of the Insolvency Practice Rules (Corporation) 2016 dated 20 February 2023 ("the Report").

As per the ASX Listing Rules, Guidance Note 8, Section 4.23 we enclose the Report which discloses the current status of the liquidation.

Please note that Annexures C to I of the Report have been excluded as they are relevant only for the purpose of creditors voting on our remuneration and disbursements and the former Administrators' remuneration and disbursements and complying with our legal obligations pursuant to the Corporations Act 2001.

If you require a full copy of the Report including Annexures C to I or have any queries in respect to the Report, please contact our office at [victoryoffices@rodgersreidy.com.au](mailto:victoryoffices@rodgersreidy.com.au).

Yours faithfully,



**S. CREMIN  
JOINT & SEVERAL LIQUIDATOR**

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Melbourne VIC 3000  
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Flinders Lane VIC 8009  
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**VICTORY OFFICES LIMITED  
(IN LIQUIDATION)**

**ACN: 616 150 022  
("Company")**

**STATUTORY REPORT BY LIQUIDATOR**

**In accordance with Part 70-40 of the  
Insolvency Practice Rules (Corporations)  
2016 ("IPR")**

**Dated: 20 FEBRUARY 2023**

**Melbourne:**

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Melbourne Vic 3000  
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ACN 122 011 321  
Limited liability by schemes approved  
under Professional Standards Legislation

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6. What happens next with the liquidation

## Documents Enclosed

Annexure	Document	Action Required
A	Current and former subsidiaries	No
B	ROCAP summary	No
C	Rodgers Reidy Remuneration Approval Report	No
D	Rodgers Reidy Guide to Hourly Rates	No
E	Notice of proposal to creditors (4)	Yes – please vote and return by <b><u>5PM on 17 March 2023</u></b>
F	Informal Proof of Debt form	Yes – if not already done, please complete and send with proposal voting forms.
G	Information Sheet – Proposals without Meetings	No
H	DV Recovery Management Remuneration Report	No
I	DV Recovery Management Notice of proposal to creditors (2)	Yes – please vote and return by <b><u>5PM on 17 March 2023</u></b>

## 1. Joint & Several Liquidators' appointment and purpose of this report

We refer to our initial information for creditors dated 14 December 2022 in which we advised you of our appointment as Joint & Several Liquidators and your rights as a creditor in the liquidation.

This report is issued in accordance with part 70-40 of the IPR.

The purpose of this report is to:

- Explain the causes of the Company's failure;
- Provide an estimate of the assets and liabilities of the Company;
- Provide you with an update on the progress of the liquidation;
- Brief you on further inquiries that need to be undertaken;
- Advise you of likely recovery actions;
- Advise you of the likelihood of a dividend being paid in the liquidation; and
- Provide an estimated timeframe for completion of the liquidation.

We are requesting that you consider our detailed remuneration approval report and pass various proposals to approve our remuneration and internal disbursements without a meeting. We have also included the Former Administrators' remuneration report for the voluntary administration period for your consideration.

The information contained in this Report is based on our investigations conducted to date into the affairs of the Company and advice from relevant parties.

The financial position of the Company disclosed in this report is a 'best estimate' only, based upon information made available to us as at the date of preparing this report. The data used in this report may change as further information becomes available and after all matters in the liquidation are finalised.

## 2. What to do next

You should now:

- read our report and attached information;
- determine if and how you are going to vote on the proposals; and
- complete and return your proposal voting forms and proof of debt by **5PM on 17 March 2023** to Mr David Hetherington of this office at [dhetherington@rodgersreidy.com.au](mailto:dhetherington@rodgersreidy.com.au).

## 3. Update on the progress of the liquidation

### 3.1. What happened to the business

Messrs Danny Tony Vrkic and Daniel John O'Brien ("Former Administrators") were appointed Voluntary Administrators of the Company on 8 November 2022 by resolution of the Company's directors.

On 9 June 2022, the creditor Zig Inge 180 St Kilda Road Pty Ltd (ACN 607 365 391) ("Zig Inge") made an application to wind up the Company on the ground of insolvency. After several adjournments, the Supreme Court of Victoria made an order to wind up the Company on 21 November 2022 and Mr Barnden and I were appointed joint and several liquidators on that date. Pursuant to Section 435C(3)(g) of the Corporations Act 2001, the Voluntary Administration ended as a result of the winding up ordered by the Court.

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Since our appointment we have made enquiries with many stakeholders, interviewed current directors and taken possession of a significant quantum of records and electronic data to assist our investigations.

The Company's affairs are complex and our investigations into the nature of transactions with current and former Subsidiaries (as detailed in Annexure A) (collectively "Subsidiaries") and potential recoveries available for the benefit of creditors and shareholders is ongoing. As such, we do not intend to provide full particulars of our findings at this early stage and will provide a more detailed report to creditors once our investigations are further advanced.

Notwithstanding same, we set out below an overview of the Company's affairs based on our enquiries to date:-

- The Company was registered on 28 November 2016 and publicly listed on the Australian Stock Exchange ("ASX") on 14 June 2019;
- The Company is the parent/holding company of nine (9) subsidiary companies and twenty-one (21) former subsidiaries which, amongst other activities, provided shared/co-working and flexible office space across four (4) states/territories in Australia. A schedule of the current and former subsidiaries is enclosed at Annexure A;
- There appears to have been no standalone financial reporting for the respective Subsidiaries. Financial statements were prepared on a consolidated basis for the Victory Offices Limited Group of companies ("Group");
- The Company does not appear to have a bank account or hold any assets other than shares in the Current Subsidiaries;
- The Subsidiaries appear to have entered into lease agreements with landlords and suppliers in respect to the management of the leased office space to customers;
- Several of the leases inspected to date appear to have been guaranteed by the Company giving rise to claims from creditors in respect to unpaid rent and outgoings obligations of the Subsidiaries;
- Many landlords terminated lease agreements held with Subsidiaries due to non-payment; and
- The Group had been trading at a loss from at least 30 June 2021 according to the FY22 financial statements. Given the nature of the group's activities, revenue appears to have reduced significantly as a result of the COVID-19 pandemic in 2020 and subsequent lockdowns in Victoria, during 2020 and 2021.

Mr Dan Baxter, one of the Company's four (4) directors, has stated that the cause of the Company's failure was due to the negative impacts of COVID-19, including high rental costs and legal challenges with landlords as well as the competition in the market.

Given the preliminary nature of our investigations, we do not intend to comment on the reasons for the Company's failure at this stage.

### **3.2. Company officers**

We make the following comments with respect to the Company's officers:

- Alan Jones, Tadeusz Chwasta, Dan Baxter and Manisha Baxter are current directors of the Company. Mark Licciardo is the Company's sole secretary. Dan Baxter and Manisha Baxter were executive directors and Alan Jones and Tadeusz Chwasta were non-executive directors;
- Stephen Bracks and Kelly Humphreys both resigned as non-executive directors on 24 May 2022;

- We have received a completed Report on Company Activities and Property (“ROCAP”) from Tadeusz Chwasta, Dan Baxter, Manisha Baxter, Mark Licciardo, Stephen Bracks and Kelly Humphries and have lodged same with the ASIC;
- We have not received a ROCAP from Alan Jones. We have recently located an email address for Mr Jones and have requested a ROCAP; and
- We have received a ROCAP from the Former Administrators and have lodged same with the ASIC.

### 3.3. Assets and liabilities

The ROCAP details the estimated assets and liabilities of the Company as at the date of our appointment. The table below details our estimated realisable value (“ERV”) in comparison to two (2) of the executive Directors ROCAP’s, Dan Baxter and Manisha Baxter ERV. Please see Annexure B for a summary of the ROCAPs received from the Non-executive Directors and former directors as well as the Former Administrators:-

	Manisha Baxter’s ERV (\$)	Dan Baxter’s ERV (\$)	Liquidators’ ERV (\$)
<b>Estimated Assets</b>			
Cash at bank	-	-	Nil
Debtors	-	-	Unknown
<b>Total Estimated Assets</b>	-	-	<b>Unknown</b>
<b>Estimated Liabilities</b>			
Priority (Employee) Creditors	Nil	Nil	Nil
Unsecured (Non-Related Party) Creditors	5,132,089.66	5,132,089.66	10,229,009.75
Unsecured (Related Party) Creditors	4,308,863.00	4,308,863.00	22,045,476.00
<b>Total Estimated Liabilities</b>	<b>9,440,952.66</b>	<b>9,440,952.66</b>	<b>32,274,485.75</b>
<b>Surplus (Deficiency)</b>	<b>(9,440,952.66)</b>	<b>(9,440,952.66)</b>	<b>(32,274,485.75)</b>

We make the following comments in respect to the above:

#### Assets

##### *Cash at bank*

We have contacted all major banks to advise of our appointment and request details of any bank accounts and facilities held in the Company’s name. We have not received any positive responses.

##### *Debtors*

As discussed above, it appears that customers contracted with Subsidiaries and as such, rental amounts due appear to be owed to those respective subsidiaries. Our investigations into same are continuing.

#### Liabilities

##### *Petitioning Creditor*

Zig Inge retains a priority for its costs of the winding up in accordance with Sections 466 and 556 of the Act.

In the event there are sufficient recoveries, I will adjudicate on the petitioning creditor’s priority claim.

### **Priority (Employee) Creditors**

The Company does not appear to have any outstanding employee entitlements as at the date of our appointment. Based on our enquiries, it appears that employees utilised in the Group's operations were engaged by a subsidiary.

The Company's financials disclose the salaries of the executive and non-executive directors were circa \$1million plus superannuation in total. We are not aware of any amounts outstanding with respect to same.

### **Unsecured (Non-Related Party) Creditors**

We are aware of non-related unsecured creditor claims totalling \$10,229,009.75. The Company's major non-related unsecured creditors include the petitioning creditor Zig Inge (\$5,544,560.40), Maia Financial Pty Ltd (\$2,285,849.83) and the Australian Taxation Office (\$1,756,691.18).

### **Unsecured (Related Party) Creditors**

We are aware of related party unsecured creditor claims totalling \$22,045,476 which appear to relate to three (3) insolvent trading claims by former subsidiary companies totalling \$10,389,613, a loan facility from ABN 74 616 150 077 Ltd (In Liquidation) (Receivers and Managers Appointed) of \$8,000,000 and a loan from the current director, Dan Baxter of \$4,308,863. Our investigations in respect to these claims are ongoing. We have not adjudicated on any creditor claims at this stage.

### **3.4. Receipts and payments to date**

There have been no receipts and payments in the winding up to date.

### **3.5. Creditor correspondence**

Our office has continued to field a significant number of calls and correspondence from customers, suppliers, landlords and other creditors of subsidiaries with queries regarding their outstanding debts and affairs. We have referred these creditors to the appropriate entity where possible and requested further information to assist with our investigations.

### **3.6. ASX Listing**

We have complied with our obligations under the ASX listing rules.

**Should creditors be interested in purchasing the listed shell, please notify our office as soon as possible.**

### **3.7. Investigations and possible recovery actions**

There are a number of possible recovery actions that may be brought by a liquidator under Part 5.7B of the Act which may result in funds being available for distribution to creditors.

We also have an obligation to report any possible breaches of duties by the directors or likely misconduct that comes to our attention to the Australian Securities and Investments Commission ("ASIC"). The ASIC may, as a consequence of such a report, prosecute the directors and a successful prosecution may result in the directors being fined and/or banned from being a director or manager of a corporation for a period of time.

Given that there are no funds in the liquidation, we have sought external funding in order to investigate the Company's affairs and if applicable, pursue any claims of merit. We may also consider seeking funding from a litigation funder which is discussed further at Section 3.7.3.

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**Any creditor that is willing to provide funding in respect to same should contact our office as a matter of urgency.**

Our investigations are in their preliminary stages and in order to not prejudice any potential recoveries we will not provide any detail in this report with respect to potential claims that may be brought under Part 5.7B of the Act.

Some of the common claims available to a liquidator are summarized below.

### **3.7.1. Transactions with Directors/Related Entities**

A transaction of a company is an unreasonable director related transaction and may be set aside if the company entered into the transaction with a director or a close associate of a director of the company and if it may be expected that a reasonable person in the company's circumstances would not have entered into the transaction. Transactions include payments, the issue of securities, conveyances or other dispositions of property by a company in favour of a director, a relative, de facto spouse or related entity of a director.

In addition, payments made to related entities may be voidable and therefore available for recovery to a Liquidator of a company if it is also an insolvent transaction, that is, if entering into the transaction caused the company to become insolvent or the company was insolvent at the time the transaction occurred.

Pursuant to Section 588FE of the Act where the transaction involved a related entity of the company and it was entered into during the four (4) years ending on the relation back day, being the date of our appointment, it may be voidable.

Our investigations into potential unreasonable director related transactions are ongoing.

### **3.7.2. Insolvent trading**

Directors have a positive duty to prevent a company from trading whilst it is insolvent. If it can be established that a director has breached his or her duties to prevent the Company from incurring debts whilst it was insolvent, a liquidator could recover from those directors an amount equal to the loss that has been suffered by the creditors whose debts remain unpaid.

Our preliminary investigations suggest that the Company may have been insolvent from at least 30 June 2021 and accordingly the Directors may be liable for any debts incurred by the Company that remain unpaid since that time.

Our investigations into same are ongoing. Further, funding will be required in order to bring such an action. In the absence of funding from creditors or the ASIC, we may seek funding from a Litigation Funder.

### **3.7.3. Litigation Funding**

Litigation funding involves an application being made to a funder, often an insurance company. The funder will then assess the merits of the claim and the likelihood of being able to enforce and recover funds from the defendant.

If satisfied on both counts, it will provide funding to pursue the action and provide an indemnity for any potential adverse cost orders against the Liquidator. In return for funding the action, the funder will be entitled to charge a fee that reflects its costs and the risk it has taken. The funder often charges between 30% to 50% of the total recovery. If the action is unsuccessful, the funder does not receive payment.

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Creditors are only entitled to the residual proceeds. That is all costs, including the funding costs, must be deducted from recoveries arising from the action, with the net proceeds being available to creditors.

Our investigations are ongoing and we will seek advice as to the strength and commerciality of any claims, prior to seeking funding.

#### **3.7.4. Breaches Reported to the ASIC**

At this early stage, we have not concluded our view as to whether there are breaches of duties by the current and/or former directors. We will lodge a report with the ASIC pursuant to Section 533 of the Act detailing our view on same within six (6) months of our appointment. The report to the ASIC has qualified privilege and is not available for public viewing.

We have requested the ASIC to provide funding to enable us to further our investigations and assist with potential recoveries for the benefit of creditors and shareholders. As stated earlier, given the preliminary nature of our investigations, we do not intend to comment further at this stage.

#### **3.7.5. Further inquiries to be undertaken**

We plan to undertake the following:

- Continue our investigations in respect to the Company's affairs and potential realisations for the benefit of creditors and shareholders;
- Obtain funding in order to facilitate our investigations;
- If warranted, bring any actions of merit that may result in a recovery for the benefit of creditors and shareholders.

**Should creditors wish to fund and/or assign or purchase any potential action arising from our investigations, please contact our office urgently.**

#### **3.7.6. Recoveries**

As requested in our last correspondence, if creditors are aware of any specific assets of the Company or matters requiring investigation, please contact our office urgently.

### **4. Likelihood of a dividend**

The likelihood of a dividend being paid to creditors is dependent on a number of factors including:

- the costs of the winding up;
- whether funding is obtained to enable any claims of merit to be brought;
- the amount of assets realisable and the costs of realising those assets;
- the statutory priority of certain claims and costs; and
- the value of various classes of creditors' claims including priority and unsecured creditor claims.

At this early stage, there have been no realisations in the winding up. There will not be a dividend to any class of creditor in the absence of significant recoveries from possible recovery actions that may be brought by a liquidator under Part 5.7B of the Act as described earlier in this report.

If this position changes, creditors will be contacted and asked to submit a formal proof of debt to enable their claim to be adjudicated to rank for a dividend.

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## 5. Cost of the liquidation

We are seeking approval of our remuneration of \$202,552 excl. GST and disbursements of \$105 excl. GST for the period 21 November 2022 to 15 February 2023 as well as future disbursements of \$500 excl. GST for the period 16 February 2023 to the end of the liquidation.

Attached is a detailed report on our remuneration, called a Remuneration Approval Report (“RAR”). We are unable to pay our remuneration without the approval of creditors or the court.

Further to the above we have been requested to seek approval of the Former Administrators’ remuneration for the period 8 November 2022 to 20 November 2022 of \$28,474 and disbursements of \$450. Attached is a detailed remuneration approval report prepared by the Former Administrators. If you have any questions with respect to Former Administrators remuneration please contact their office.

**Even if creditors approve our remuneration, this does not guarantee that we will be paid, as our remuneration will only be paid if sufficient assets are recovered.**

We are currently not in the possession of any funds to meet our remuneration and internal disbursements. In order to minimise the costs in the winding up, we are seeking approval of our remuneration by way of proposals without a meeting at the time of providing this statutory report to creditors.

Creditors will be aware that the Former Administrators received an upfront payment of \$66,000 from Mr Dan Baxter as an indemnity to cover their initial remuneration and expenses associated with the external administration. These funds cannot be drawn upon to meet their remuneration until it is approved by creditors. The Former Administrators have indicated that the funds will be used to cover their fees and legal costs incurred. We have requested an accounting of these funds and are currently awaiting same.

To participate in the proposals, please complete and return the following by no later than **5PM on 17 March 2023**.

- The “proposal without a meeting” form/s.
- The “proof of debt” form. This provides information about what the company owes you, along with supporting documents for your claim (if not returned previously).

The documents can be scanned and emailed to [dhetherington@rodgersreidy.com.au](mailto:dhetherington@rodgersreidy.com.au) or returned via post to our firm’s address, attention David Hetherington. If you choose to return these documents via post, please ensure that you allow enough time for us to receive them by **5PM on 17 March 2023**.

An information sheet on “proposals without a meeting” is also attached for your reference.

## 6. What happens next with the liquidation

We will attend to the matters detailed earlier in this report.

We will report to creditors again once our investigations are further advanced and we are in a position to provide further detail on the matters arising from same.

If we receive a request for a meeting that complies with the guidelines set out in the creditor rights information sheet (previously provided in our initial creditors notice dated 14 December 2022), we will hold a meeting of creditors.

The timeframe for completion of the winding up is dependent on many factors including whether funding is provided to advance our investigations and pursue any realisations for the benefit of

creditors. As this stage, we are unable to provide an accurate timeframe but expect the winding up will continue beyond twelve (12) months.

### **Compliance with best practice**

We confirm that this report complies with the requirements of the IPR specifically IPR 70-40, as well as the statements of best practice issued by the Australian Restructuring Insolvency and Turnaround Association ("ARITA") with regard to the content of the Statutory Report by Liquidator.

### **Where can you get more information**

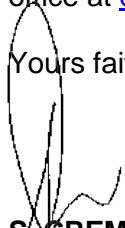
You can access information which may assist you on the following websites:

- ARITA at [www.arita.com.au/creditors](http://www.arita.com.au/creditors); and
- ASIC at [www.asic.gov.au](http://www.asic.gov.au) (search for "insolvency information sheets").

Otherwise, please contact our office should you require further information. There is also information on our firm's website.

Should you have any queries, please do not hesitate to contact Mr David Hetherington of this office at [dhetherington@rodgersreidy.com.au](mailto:dhetherington@rodgersreidy.com.au).

Yours faithfully,



**S. CREMIN**  
**JOINT & SEVERAL LIQUIDATOR**

*Encl.*

## Schedules of the current and former subsidiaries of the Company as at 21 November 2022

### Current Subsidiaries of the Company ("Current Subsidiaries")

Company Name
Victory Offices (420 Collins) Pty Ltd
Victory Equipment & Leasing Pty. Ltd.
Victory Group Holdings International Pty Ltd
VCSO Management Pty Ltd
Victory Offices (900 Ann) Pty Ltd
Victory Offices (600 Church) Pty Ltd
Victory Offices (Canberra) Pty Ltd
Victory Offices Australia Pty Ltd
Victory Offices (2 Esplanade) Pty Ltd

### Former Subsidiaries of the Company ("Former Subsidiaries")

Company Name	Former Name/AKA	External Administrator
Victory Office (275 George - B) Pty Ltd	N/A	N/A
601440395 Pty Ltd (In Liquidation)	35 Collins	Daniel O'Brien of DVRM
608823589 Pty Ltd (In Liquidation)	600 Bourke	Daniel O'Brien of DVRM
613438261 Pty Ltd (In Liquidation)	200 George	Daniel O'Brien of DVRM
629968716 Pty Ltd (In Liquidation)	420 George	Daniel O'Brien of DVRM
630625384 Pty Ltd (In Liquidation)	100 Mount	Daniel O'Brien of DVRM
634191512 Pty Ltd (In Liquidation)	275 George - S	Daniel O'Brien of DVRM
Victory Office (727 Collins) Pty Ltd (In Liquidation)	N/A	Daniel O'Brien of DVRM
Victory Office (Box Hill) Pty Ltd (In Liquidation)	N/A	Daniel O'Brien of DVRM
Victory Office (St Kilda) Pty Ltd (In Liquidation)	N/A	Daniel O'Brien of DVRM
Victory Offices (Barangaroo) Pty Ltd (In Liquidation)	N/A	Daniel O'Brien of DVRM
630624869 Pty Ltd (In Liquidation)	Geelong	David Mutton DM Advisory & Co
633328042 Pty Ltd (in Liquidation)	85 Castlereagh	David Mutton DM Advisory & Co
633439111 Pty Ltd (in liquidation)	Victory Offices (Projects)	David Mutton DM Advisory & Co
Victory Offices (254 George) Pty Ltd	N/A	N/A
Victory Management Services Pty Ltd	N/A	N/A
613438341 Pty Ltd	Chadstone	N/A
615273213 PTY LTD	175 Eagle	N/A
620200357 PTY LTD	333 Collins	N/A
627456008 Pty Ltd	Dandenong	N/A
628734798 Pty Ltd	Sunshine	N/A

## Summary of ROCAPs

	Stephen Bracks ERV (\$)	Tadeusz Chwasta ERV (\$)	Kelly Humphreys ERV (\$)*	Mark Licciardo ERV (\$)*	Daniel O'Brien (former VA) ERV (\$)
<b>Estimated Assets</b>					
Cash at bank	-	-	-	-	-
Debtors	-	-	-	-	-
<b>Total Estimated Assets</b>	-	-	-	-	-
<b>Estimated Liabilities</b>					
Unsecured (Non-Related Party) Creditors	9,852,010.81	5,092,089.66	-	-	9,852,010.81
Unsecured (Related Party) Creditors	22,698,476.00	4,308,863.00	-	-	22,698,476.00
<b>Total Estimated Liabilities</b>	<b>32,550,486.81</b>	<b>9,440,952.66</b>	-	-	<b>32,550,486.81</b>
<b>Surplus (Deficiency)</b>	<b>(32,550,486.81)</b>	<b>(9,440,952.66)</b>	-	-	<b>(32,550,486.81)</b>

*We make the following comments regarding the above*

- Alan Jones & Tadeusz Chwasta are current directors of the Company
- Stephen Bracks & Kelly Humphreys are former directors of the Company
- Mark Licciardo is the current secretary of the Company
- Daniel O'Brien is the former joint and several administrator of the Company
- Kelly Humphreys and Mark Licciardo did not provide a listing of assets or creditors with their ROCAPs