



DEM ASIA GROUP

PMR CRITERION PTY LIMITED

(IN LIQUIDATION)

ACN 609 328 976

TRADING AS THE CRITERION HOTEL

STATUTORY REPORT TO CREDITORS
PURSUANT TO
IPR 70-40 OF THE CORPORATIONS ACT 2001

14 FEBRUARY 2018



REPORT TO CREDITORS

PMR CRITERION PTY LIMITED (IN LIQUIDATION) ACN 609 328 976

("THE COMPANY")

On 7 June 2017, I was appointed Administrator of the above Company pursuant to Section 436A of the *Corporations Act* 2001 (the "**Act**"). I was subsequently appointed Liquidator of the Company on 12 July 2017. I refer to my initial Information Notice to Creditors sent on the 9 June 2017, advising that you may be a creditor of the Company and your rights as a creditor in the liquidation.

The purpose of this report is to advise you of the following:

- a) The estimated amounts of Assets and Liabilities of the Company;
- b) The progress of the Liquidation, including:
 - i) inquiries that have been undertaken to date;
 - ii) possible further inquiries and/or recovery actions (if any);
- c) My opinion as to what happened to the business of the Company;
- d) The likelihood of a dividend being paid in the liquidation once the affairs have been fully wound up

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GLOSSARY

Abbreviation	Full Text
Act	<i>Corporations Act 2001</i>
Administrator	Damien Mark Hodgkinson
ASIC	Australian Securities and Investments Commission
Company	PMR Criterion Pty Limited (Administrator Appointed) ACN 609 328 976 trading as The Criterion Hotel
COGS	Cost of Goods Sold
CRA	Company Report on Affairs
ERV	Estimated Realisable Value
PMSI	Purchase Money Security Interests
PPSR	Personal Property Security Regulation
Premises	148 John Street, Singleton NSW

1. DISCLAIMER

Whilst every care has been taken in the preparation of this report, I am unable to warrant the accuracy, completeness or reliability of the information contained as it was compiled from the available books and records of the Company and information provided by relevant parties and no audit has been conducted. My conclusions as detailed herein are subject to change as future investigations are undertaken.

These forecasts and estimates may change as:

- my assessment of potential asset realisations progresses; and
- creditors' claims are made and adjudicated upon.

The forecasts and estimates in this report are my best assessment in the circumstances, and creditors should note that the Company's ultimate deficiency, and therefore the outcome for creditors, could differ from the information provided in this report.

2. UPDATE ON THE PROCESS OF THE LIQUIDATION

I have set out the information below to provide creditors with an update regarding the conduct of the Company's liquidation.

2.1 INCORPORATION

Detailed below is a summary of information relating to the Company as recorded by the Australia Securities and Investment Commission ("ASIC") as at the date of my appointment of Administrator.

Company:	PMR Criterion Pty Limited
ACN:	609 328 976
Date of Incorporation:	16 November 2015
Registered Office:	95 Darby Street, COOKS HILL NSW 2300
Principal Place of Business:	148 John Street, SINGLETON NSW 2330
Business / Trading Names:	The Criterion Hotel

2.2 FORMER AND CURRENT DIRECTORS AND SECRETARIES

A search of the records of ASIC revealed that the directors of the Company since the Company's formation are as follows:

Name of Director	Date Appointed	Date Ceased
Raymond Paul Wynne	28 September 2016	Current
Richard Julian Wynne	16 November 2015	21 February 2017
Raymond Paul Wynne	16 November 2015	13 January 2016

A search of the records of ASIC revealed that the secretaries of the Company since the Company's formation are as follows:

Name of Secretary	Date Appointed	Date Ceased
Raymond Paul Wynne	21 February 2017	Current
Richard Julian Wynne	16 November 2015	21 February 2017
Raymond Paul Wynne	16 November 2015	13 January 2016

2.3 SHAREHOLDING

As at the date of my appointment, there were 1,000 ordinary class shares full paid.

Class	Description	Number Issued	Total Amount Paid	Total Unpaid Amount	Document Number
ORD	Ordinary Shares	1,000	1,000	0.00	2E2735357

The shareholder details follow:

Shareholder	Number Held	Beneficially Held	Paid	Document Number
Raymond Paul Wynne	340 Ordinary Shares	Yes	Fully	2E2735357
Richard Julian Wynne	330 Ordinary Shares	Yes	Fully	2E273357
Maureen Anne Wynne	330 Ordinary Shares	Yes	Fully	2E2735357

2.4 REGISTERED SECURITY INTERESTS

A search of the Personal Property Securities Register (“PPSR”) which details all registered security interests against the Company and/or its property pursuant to the *Personal Property Securities Act 2009* reveal the following registered security interest:

Security Holder	Registration Number	Registration Start Date	PMSI	Collateral Type
Zac O’Sullivan SMSR Pty Limited	201511260027982	26/11/2015	Yes	All present and after acquired property. No exceptions
TAB Limited	201601070028387	07/01/2016	Yes	Equipment supplied. All present and after acquired property
TAB Limited	201601070028394	07/01/2016	Yes	Equipment supplied. All present and after acquired property
Keno (NSW) Pty Limited	201601070028534	07/01/2016	Yes	Equipment supplied. All present and after acquired property
Keno (NSW) Pty Limited	201601070028547	07/01/2016	Yes	Equipment supplied. All present and after acquired property
Foster’s Australia Pty Limited	201602030031852	03/02/2016	Yes	Goods supplied – All present and after acquired property
Global Gaming Industries Pty Limited	201602240032372	24/02/2016	Yes	All goods owned and supplied – All present and after acquired property
Tooheys Pty Limited	201603040004321	04/03/2016	Yes	Goods supplied – All present and after acquired property
The Trustee for Cookers Trust	201608090054646	09/08/2016	Yes	Goods supplied – All present and after acquired property

Further investigation and review was completed to ascertain the validity of the registered security interests detailed above.

3. ESTIMATED AMOUNTS OF ASSETS AND LIABILITIES

3.1 ASSETS AND LIABILITIES OF THE COMPANY

Following is a table where I have estimated the deficiency of the Company using the balance sheet for the Company as at 31 March 2017, obtained from the Company’s external book keeper (adopted as the Company’s Book Value as at 31 March 2017). I have included my estimated realisable values (“**ERV**”) as at the date of my appointment (7 June 2017) on a high and low scenario. I have also included the asset realisation to date of this report.

Estimated Return to Creditors

	Book Value As at 31 March 2017 (\$)	ERV (Low) as at 7 June 2017 (\$)	ERV (High) As at 7 June 2017 (\$)	Assets Realised to Date of this Report (\$)	Ref
Assets					
Cash at Bank	\$2,268	0	0	0	
Cash on Hand	\$5,996	0	0	0	
Plant and Equipment - Owned	\$0	20,000	45,000	26,762	4.1
TAB Bond	\$5,000	5,000	5,000	2,275	4.2
Inventory	\$23,271	3,821	3,821	0	4.3
Less ROT - Tooheys		(821)	(821)	0	
Total Assets	\$36,536	28,000	53,000	29,036	
Less: Costs of External Administration					
Administrator's Remuneration		30,000	30,000	29,000	
Administrator's Disbursements		2,000	2,000	0	
Total Costs of Administration		32,000	32,000	29,000	
Assets Available to Priority Creditors		(4,000)	21,000		
Priority Liabilities					
Superannuation	\$47,090	55,412	55,412	FEG Claim	
Entitlements	Unknown	Unknown	Unknown	Nil	
Employee Entitlements	\$47,090	55,412	55,412		
Total Realisations Available to Priority		Nil	Nil		
Liquidator's Costs		12,500	12,500	0	
Liquidators' Disbursements		2,000	2,000	0	
Total Costs of Administration		14,500	14,500	0	
Creditor Claims					
Landlord	\$0	265,225	265,225		
Other Creditor Claims					
Trade Creditors	\$10,770	36,227	36,227		
OLGR - Gaming Tax	(31,330)	31,584	31,584		
Licence Agreement Claims - Aristocrat		65,267	65,267		
ATO Integrated Account	\$91,425	103,020	103,020		
Director Loan	\$35,765	35,765	35,765		
Total Other Creditor Claims	\$106,631	\$271,863	\$271,863		
Total Creditor Claims	106,631	537,088	537,088		
Total Estimated Deficiency (excluding Administration Costs)	(\$117,185)	(\$564,500)	(\$539,500)		

3.2 RELATED PARTIES

There are no identified "Related Party" Creditors of the Company.

4. PROGRESS OF THE LIQUIDATION

Below I set out the Company's liquidation process to date:

A Company Report on Affairs ("CRA") has not been received from the Director of the Company. The CRA has not been provided by the Directors and ASIC has been notified of this fact, and appropriate action is being taken to encourage compliance by the Director.

As at the date of my appointment, I assumed control of the Company's assets and its leased premises at 148 John Street, Singleton (the "Premises") from which the Company operated its business, the Criterion Hotel. The Company had ceased trading the Hotel on Sunday 4 June 2017, just prior to my appointment on 7 June 2017. There was no cash on hand left on the Premises.

Following my appointment, I sought to re-commence trading of the Company's business as soon as practicable to transfer the liquor license with a view to selling the business as a going concern for the benefit of creditors. I had secured funding to recommence trading of the business, however, trading was contingent on reaching an agreement with the landlord as to:

- A reduction of the rent payable during the Administration period given that the business would most likely trade at a loss; and
- Negotiating or transferring the existing lease to an incoming purchaser.

An agreement could not be reached with the landlord on the matters noted. Given that the continued operation of the business would require the lease of the Premises to be transferred to an incoming purchaser, it was no longer viable for me to trade on the business to sell it as a going concern. Therefore, I, in my capacity as Administrator, vacated the Premises on 20 June 2017. The business did not trade while the I was in possession of the Premises.

4.1 PLANT AND EQUIPMENT

The Hotel operated 14 poker machines, 11 of which were owned by the Landlord and subject to the terms of the lease, and 3 poker machines acquired from Aristocrat Leisure.

The 3 machines acquired from Aristocrat Leisure were unencumbered having reviewed the PPSR search for the Company. Accordingly, I retained O'Maras Valuers and Auctioneers to sell the poker machines. The poker machines realised \$26,762 net of cost and commission.

4.2 TAB BOND

The balance sheet of the Company discloses a bond held by TAB Corp in the amount of \$5,000.

I requested TAB Corp to return the bond to me. An amount of \$2,275 was returned to me, following a deduction of outstanding money owed to TAB.

4.3 INVENTORY

Following my appointment, I arranged for a stocktake of all inventory items, where the value obtained was \$9,718 at book value.

A retention of title claim in the amount of \$821 in favour of Tooheys Pty Limited, was identified pursuant to a registered PMSI against the Company. The realisable value of inventory was \$3,821 having considered retention of title claims and age of stock.

Following vacation of the Company's Premises, I negotiated with the Landlord to acquire the inventory. This amount was off-set against the rent payable by me, during the Administration for the period 7 June 2017 to 20 June 2017, so no funds were recovered in respect of inventory.

5. INVESTIGATIONS UNDERTAKEN TO DATE

Since my appointment I have made the following enquiries to support my investigation of the Company's affairs:

- Company extract search
- Personal Property and Securities Register searches

- Land Title searches
- Analysis of vehicle finance shortfalls
- Director personal name searches
- Credit file searches
- Review of Company books and Records

A report pursuant to section 533 of the Act was lodged with the ASIC on 23 January 2018, detailing my investigations into the affairs of the Company and possible offences committed by the Company's officers.

The ASIC have advised that they do not propose to investigate the affairs of the Company.

I have set out below a summary of the investigations I have undertaken to date.

I further note that the director of the Company, Mr Raymond Paul Wynne, declared bankruptcy shortly after the Company's Administration. This negatively impacts any likelihood of recovery against the director in respect of the matters noted in this section.

5.1 BOOKS AND RECORDS (SECTION 286)

Duty to ensure books and records are maintained in accordance with the Corporations Act 2011 (Section 286) – a company must keep written financial records that:

- a) Correctly record and explain its transactions and financial position and performance, and
- b) Would enable true and fair financial statements to be prepared and audited.

I advise creditors that I have taken possession of the Company's hard copy books and records. The Company engaged the services of a bookkeeper to maintain a computerised accounting system for management accounts. Furthermore, the Company utilised the services of an independent, external taxation accountant for the preparation of annual income tax returns and financial statements.

This system enabled the Director to ascertain an accurate perspective of the Company's financial position, as required by the Act.

It appears that the books and records comply with the requirements of the Act.

I note, however, that a set of management accounts provided to the Company's hotel broker cannot be reconciled to the accounts provided by the external book-keeper.

5.2 INSOLVENT TRANSACTIONS (SECTION 588FC)

Insolvent transactions are unfair preferences or uncommercial transactions entered into when a company was insolvent or became insolvent as a result of entering into the transactions.

My investigation into this matter are set out below:

5.2.1 Unfair Preferences (Section 588FA)

These are transactions where a company transacts with a creditor resulting in that creditor receiving more than the creditor would receive if the transaction were set aside, and the creditor claimed the same amount in a liquidation. Unfair preferences paid a company within six months of the relation-back day (the day of the liquidator's appointment) are void against the liquidator. This timeframe is extended to four years should a related entity be a party to the transaction (s588FE (4)).

My investigation identified two unfair preference claims in respect of the following creditors:

1. Australian Taxation Office
2. Department of Industry: Liquor and Gaming NSW

Recovery of these preferences are ongoing and such attempts to recover will continue to be assessed in terms of merit and commerciality to continue pursuit.

5.2.2 Uncommercial Transactions (Section 588FB)

These are transaction entered into that a reasonable person would have entered, having regard to the benefits and detriment to the company and to the other parties involved in the transaction. Uncommercial transactions entered into by a company are voidable against the Liquidator if they were entered into within two years of the relation-back day.

My investigations have not identified any uncommercial transactions.

5.2.3 Unfair Loans to a Company (Section 588FD)

These loans are made to a company where interest and other charges on the loan are extortionate. These transactions can be recovered regardless of when they were entered into as long as they were entered into on or before the winding up begun.

My investigations have not revealed any unfair loans.

5.2.4 Unreasonable Director-Related Transactions (Section 588FDA)

These transactions are entered into by a company and a director, close associate of a director, or person on behalf of a director, which a reasonable person would not have entered into. The transaction must be a payment by a company, the transfer of property by a company, or the incurrance of an obligation of a director by a company. These transactions are voidable if they were entered into within four (4) years of the relation-back day.

My investigations have not revealed any related party transactions.

5.2.5 Transactions Entered into for the Purpose of Defrauding Creditors (Section 588FE (5))

These are insolvent transactions entered into for the purposes of defeating, delaying or interfering with the rights of the creditors and were entered into within a period of ten (10) years prior to the relation-back day.

My investigations have not revealed any such transactions.

5.2.6 Circulating Security Interest created within six months (Section 588FJ)

Where a circulating security interest is granted by a company within six months of the relation-back day, the security is void against the liquidator unless valuable consideration was given, or the company was solvent at the time of granting the circulating security interest.

My search of the PPSR has not revealed any circulating security interests registered against the Company, within six months of the relation-back day.

5.2.7 Directors' Duty to prevent Insolvent Trading (Section 588G)

A director of a company has a duty to prevent a company from incurring a debt when the company is insolvent or there are reasonable grounds to suspect that the company is or would become insolvent.

A director would fail to fulfil that duty if the director was aware of the grounds for suspecting the company is or would become insolvent or a reasonable person in a like position would be aware of such grounds.

The defences available to a director are as follows:

- i) *The director had reasonable grounds to expect, and did expect, that the company was solvent and would remain so; or*
- ii) *The director had reasonable grounds to believe, and did believe, that a competent and reliable person was providing adequate information to the Director and based on that information the director expected the company to be solvent and to remain sol or*
- iii) *The director did not take part in the management of the company at the time due to illness or other good reason; or*
- iv) *The director took reasonable steps to prevent the company from incurring the debt.*

My investigations have revealed the following indicators of insolvency:

- Financial statements that disclose a history of serious shortage of working capital and unprofitable trading
- Difficulties paying debts when they fell due, including dishonoured payments
- Non-payment of statutory debts (e.g. PAYGW, Superannuation Guarantee Charge, GST)
- Deteriorating working capital

Accordingly, I have formed the view that the Director may have traded whilst insolvent because at the time transactions were entered, there were reasonable grounds to believe that Company may not have been able to pay its debts as and when they fell due.

I have reported the matter to ASIC as part of my statutory reporting obligations.

Having said this, as mentioned in my report dated 4 July 2017, I do not foresee achieving a meaningful recovery from the Director as he has declared bankruptcy.

6. FURTHER INVESTIGATIONS TO BE UNDERTAKEN

I will file this report with the ASIC.

I will proceed with the liquidation, including:

- finalising any claims with the FEG on behalf of employees; and
- finalising any preference recoveries as noted,

I will then convene a final meeting of creditors and members of the Company.

I expect to complete the liquidation within the next 3-6 months.

7. LIQUIDATOR'S OPINION

In my review, I determined that several issues impacted the performance of the Company's business:

- The town of Singleton is significantly over serviced for hotels, which has impacted hotel patronage. Any increase in revenue would be achieved only by drawing patrons from competing hotels;
- There was an informal agreement to complete capital works by the landlord to provide an outside smoking and gaming solution. These works were not completed due to absence/delays in development approvals and as such, impacted gaming revenue;
- A review of the Company's management accounts from 1 July 2016 to 31 March 2017 indicated that cost of goods sold ("**COGS**") as a percentage of sales for food was at 67.9% and that the net contribution from Bistro operations was a loss of \$34,411. Profitable hotel operations target a food COGS of 30 -32%.

Similarly COGS as a percentage of bar sales over the same period was 55.8% and that the overall contribution from bar operations was a loss of \$41,163.

The Hotel operated 14 poker machines, 11 of which were owned by the Landlord and subject to the terms of the lease, and 3 machines acquired from Aristocrat Leisure as noted.

For the nine months to 31 March 2017, the Company generated a profit of \$19,579 which included a reduced rent of \$64,195. If the Company had paid its contracted lease value of \$157,745 (ex GST) for the 9 months, it would have generated a loss of \$73,970 before management fees.

8. LIKELYHOOD OF DIVIDEND

It appears unlikely that a dividend will be declared to unsecured creditors due to insufficient asset realisation.

For this reason, I do not at present intend to call for formal proofs of debt from creditors. Should circumstances pertaining to a dividend to unsecured creditors change, I shall advise creditors in writing.

If you have any queries with respect to this matter, please do not hesitate to contact Ms Elena Fiakos of this office on (02) 8004 4313 or elena.fiakos@demasiagroup.com.

Dated this 14 February 2018.



Damien M Hodgkinson
Liquidator
PMR Criterion Pty Limited (In Liquidation)



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