
Deed Administrators' Report

Pursuant to Section 445F of the Corporations Act 2001



**WESTERN KINGFISH LIMITED
ACN 122 711 880
(Subject to Deed of Company Arrangement)**

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Garry Trevor

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15 January 2010





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GLOSSARY OF TERMS

Abbreviation	Description
Act	The Corporations Act 2001
ASIC	Australian Securities and Investments Commission
ASX	Australian Stock Exchange
ATO	Australian Taxation Office
DOCA	Deed of Company Arrangement
ERV	Estimated Realisable Value

LISTING OF ANNEXURES

Annexure 1	Deed Administrators' / Trustees' Remuneration
	Liquidators' Remuneration
	The Firm's Schedule of Hourly Rates & General Guide to Staff Experience



EXECUTIVE SUMMARY

This report should be read in conjunction with the Administrators' and Deed Administrators' previous reports to creditors dated 6 January 2009, 13 March 2009 and 22 June 2009.

Andrew Saker, Martin Jones and Garry Trevor were appointed as Joint and Several Administrators of Western Kingfish Limited ("WKL") on 2 December 2008, pursuant to Section 436A of the Corporations Act ("the Act") and were subsequently appointed Joint and Several Deed Administrators on 14 April 2009.

At a meeting of creditors of WKL held on Friday, 29 June 2009, creditors passed a resolution requiring the company to execute an amended Deed of Company Arrangement ("DOCA"). The DOCA was executed by WKL on 17 July 2009 and has been lodged with the Australian Securities and Investments Commission ("ASIC") as required.

As you would be aware, under the Company's Reconstruction Deed, as varied on several occasions, the proponent of the DOCA, Trident Capital Pty Ltd ("Trident") was required to complete a capital raising of a minimum subscription of \$2 million by 18 December 2009. In this regard, Trident was unsuccessful and accordingly the Reconstruction Deed terminated on 18 December 2009. The Company's DOCA remains on foot however in its current form is unable to be completed.

The purpose of this report is to put forward a proposal to creditors of WKL to vary the existing DOCA and to enter into a holding DOCA to allow the Deed Administrators' time to attempt to realise value for WKL's corporate shell.

Essentially, the holding DOCA proposed will allow the Deed Administrators until 31 March 2010 to attempt to realise some value for WKL's corporate shell. In this regard, if the holding DOCA is approved, the Deed Administrators will have until 31 March 2010 to market the corporate shell of WKL and report back to creditors with any potential offers received with respect to the same, if any.

The Deed Administrators recommend that creditors accept the holding DOCA for the following key reasons:

1. If the holding DOCA is not accepted by creditors WKL will proceed into liquidation and it is very unlikely any value will be realised for WKL's corporate shell; and
2. Given that the company is likely to need to enter into a new lease arrangement with Summermor Pty Ltd to maintain its ASX listing, given that WKL retains an aquaculture license subject to this lease agreement there is scope for Summermor Pty Ltd's contingent unsecured claim against WKL to be mitigated.



We also note, that based upon our preliminary investigations there do not appear to be any recoveries of substance available to the company which may be pursued by a Liquidator.

A meeting of creditors of WKL has been convened for Monday, 25 January 2010 at 10.00 am WST at the offices of Ferrier Hodgson, Level 26, BankWest Tower, 108 St George's Terrace, Perth, Western Australia. At this meeting, the following options are available to creditors regarding WKL's future:

- That the company vary the existing DOCA and enter into the proposed holding DOCA; or
- That the DOCA be terminated and control of the company revert to its directors; or
- That the DOCA be terminated and the company be wound up.

1. INTRODUCTION

1.1 Third Meeting of Creditors

The third meeting of creditors of WKL was held on Monday, 29 June 2009 at the offices of Ferrier Hodgson, Level 26, BankWest Tower, 108 St George's Terrace, Perth, Western Australia at 10:00 am WST.

At the third meeting, creditors resolved to accept Trident's varied DOCA proposal. The varied DOCA was executed on 17 July 2009.

1.2 Purpose of Report

As you would be aware, the Deed Administrators and the proponent of WKL's existing DOCA, Trident, previously extended the End Date (as defined in the varied Reconstruction Deed) by which certain conditions under the DOCA must be satisfied, to 18 December 2009. This was to allow further time for Trident to prepare and lodge WKL's prospectus and also to allow further time for Trident to attempt to complete its capital raising as proposed under the prospectus.

We advise that Trident's attempt to raise the minimum subscription was unsuccessful. Given that the End Date has expired, the Reconstruction Deed has terminated and we intend to commence a new marketing campaign for WKL's shell.

It is proposed that WKL terminates its existing DOCA and enters a new holding DOCA during this process to allow the Deed Administrators sufficient time to market and potentially realise value for WKL's corporate shell.

Section 445A of the Act provides that a DOCA may be varied or terminated by a resolution passed at a meeting of the company's creditors convened under section 445F of the Act. This report sets out the Deed Administrators' opinion about each of the following matters:



- *Whether it would be in the creditors' interests for the company to terminate the existing DOCA and execute a holding DOCA;*
- *Whether it would be in the creditors' interests for the company to be wound up;*
- *Whether it would be in the creditors' interests for the DOCA to be terminated and control of the company revert to its directors; and*
- *The Deed Administrators' reasons for those opinions.*

1.3 Statement of Independence

We considered the question of our independence prior to accepting our appointment as Administrators and subsequently Deed Administrators of WKL. To the best of our knowledge, the following relationships existed prior to our appointment:

1. Garry Trevor and Andrew Saker first provided verbal solvency advice to the directors of WKL on 13 November 2008; and
2. Andrew Saker discussed the financial position of WKL with the directors on 1 December 2008.

We also confirm that we have not been provided with any indemnity, guarantee or contribution from the Directors or their associated businesses or a creditor for any of our fees and expenses. We do note however, that Trident has forwarded an amount of \$10,000.00 including GST to WKL as a contribution towards our professional fees and legal costs of amending the DOCA.

Martin Jones, Andrew Saker and Garry Trevor are partners of Ferrier Hodgson. Ferrier Hodgson is Australia's and the Asia-Pacific's largest independent corporate restructuring practice with 40 partners and over 300 staff throughout Australia and Asia. Ferrier Hodgson does not provide accounting, audit, legal or taxation services.

Andrew Saker is a Chartered Accountant, Registered Liquidator and member of the Insolvency Practitioners Association of Australia with over 20 years experience in corporate insolvency.

Martin Jones is a Chartered Accountant, Registered Liquidator and member of the Insolvency Practitioners Association of Australia with over 25 years experience in corporate insolvency.

Garry Trevor is a Chartered Accountant, Registered Liquidator and member of the Insolvency Practitioners Association of Australia with over 30 years experience in corporate insolvency.

Further information regarding Ferrier Hodgson and the Administrators can be obtained from the firm's website at www.ferrierhodgson.com.



2. STATEMENT OF POSITION

2.1 Summary

The following table summarises the Deed Administrators' updated estimated statement of position under a liquidation scenario in comparison to the holding DOCA, which the Deed Administrators recommend creditors resolve to accept:

Statement of Position	Para Ref	Deed Administrators' ERV Liquidation Scenario (\$)	Deed Administrators' ERV Holding DOCA Scenario (\$)
Floating Charge Assets			
Cash at Bank	2.1.1	472,608	472,608
Total Assets Available		472,608	472,608
Less: Priority Creditors			
Deed Administrators' / Trustees' Fees Incurred		(35,232)	(35,232)
Provision for Deed Administrators' / Trustees' Fees		-	(60,000)
Provision for Liquidators' Fees		(70,000)	-
Provision for Legal Fees		(50,000)	(50,000)
Total Assets Available for Unsecured Creditors		317,376	337,376
Unsecured Creditors	2.1.2		
Trade Creditors		(460,000)	(460,000)
Directors' Non-Priority Entitlements		(344,434)	(344,434)
Contingent Claims – Summermor (Property Lease)		(745,896)	(745,896)
Total Unsecured Creditor Claims		(1,550,330)	(1,550,330)
Estimated Surplus / (Deficiency)		(1,232,954)	(1,212,954)
Estimated Return to Unsecured Creditors (Cents in Dollar)		20.47 cents in \$	21.76 cents in \$
Contingent Assets			
Add: Proceeds from Sale of WKL Corporate Shell		-	TBD
Estimated Surplus / (Deficiency)		(1,237,954)	TBD
Estimated Return to Unsecured Creditors (Cents in Dollar) with Contingent Asset		20.47 cents in \$	TBD

Please refer to the Administrators' and Deed Administrators' Reports to Creditors dated 6 January 2009, 13 March 2009 and 22 June 2009 for details regarding the figures depicted in the Statement of Position above.

We note that the existence and value of creditor claims above are not admitted but are subject to the receipt and formal adjudication of final proofs of debt from those creditors. The value of claims represented in the above table may also change if further creditor claims are received by the Deed Administrators, Trustees or Liquidators as the case may be, on or after the date of this report.

Additionally, we make the following comments:

2.1.1 Cash at Bank

The cash at bank balance of \$472,608 represents cash available following recent asset sales and refunds received less further administration costs including ongoing insurance costs and legal fees incurred.



2.1.2 Unsecured Creditors

This amount represents likely unsecured creditor claims based on WKL's records and proofs of debt received to date. The final amount will be subject to the formal adjudication of creditors' claims by the Deed Administrators, Trustees or Liquidators as the case may be.

3. RECEIPTS AND PAYMENTS

3.1 Summary of Receipts and Payments

A summary of the receipts and payments of the administration for the period 2 December 2008 to 31 December 2009 is tabled below:

Summary of Receipts and Payments	Amount (\$)
RECEIPTS	
Cash at Bank	543,015.25
Research and Development Tax Refund	614,115.04
Non Refundable Deposits	30,000.00
Other Refunds	2,857.52
Bank Interest	1,299.51
Plant and Equipment	976,831.38
Workers Compensation Income	13,894.01
Sale of Fish Feed	462.80
Total Receipts	2,182,475.51
PAYMENTS	
Auctioneer's Costs	(236,399.66)
Consumables	(2,955.90)
Employee's Expense Claims	(3,235.91)
Priority Dividend	(133,713.83)
Freight Inwards	(3,723.84)
Freight Outwards	(685.03)
Fuel & Oil	(6,108.87)
Hire & Leasing	(91,673.02)
Insurance	(37,099.27)
Legal Fees	(188,818.54)
Motor Vehicle Expenses	(2,116.38)
Printing & Stationery	(728.00)
Rent & Rates	(51,679.89)
Repairs & Maintenance	(157,666.56)
Stamp Duty	(2,197.16)
Subcontractors	(57,967.79)
Sundry Expenses	(7,867.85)
Superannuation	(21,033.22)
Telephone & Fax	(3,347.58)
Utilities	(7,939.29)
Wages & Salaries	(283,505.08)
Advertising	(21,884.20)
Appointee's Fees	(291,760.26)
Appointee's Disbursements	(40,001.50)
Bank Charges	(748.50)
PAYG Control	(40,779.76)
GST Control: GST Paid (Received)	(14,231.00)
Total Payments	(1,709,867.89)
Net Cash at Bank at 31 December 2009	\$472,607.62



4. STATUTORY INVESTIGATIONS

Please refer to the Administrators' Report to Creditors dated 6 January 2009 for details regarding the Administrators' statutory investigations and potential recoveries available in a liquidation scenario.

For ease of reference, we summarise below the likely date of insolvency of WKL:

Indicators	Earliest Estimated Date
Ageing of Trade Payables	30 November 2008
Working Capital	N/A
Profit and Loss Statements	30 June 2007
Statutory Payments	N/A

Based on the above analysis, it is our preliminary view that WKL was not insolvent at the time of our appointment, however given the unavailability of additional capital, the ongoing trading costs, no current revenue stream and costs already incurred due for payment on or before 31 December 2008 it is likely that the company would have become insolvent shortly thereafter in January 2009.

A Liquidator would need to conduct further investigations, and possibly conduct public examinations of relevant parties, to ultimately determine this position.

Our preliminary investigations did not identify any voidable transactions (unfair preferences or uncommercial transactions) that may be recoverable by a Liquidator. Again, a Liquidator would need to conduct further investigations, and possibly conduct public examinations of relevant parties, to ultimately determine this position.

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5. PROPOSED HOLDING DOCA

5.1 Summary of Proposed Holding DOCA

We table below the proposed holding DOCA to be put forward;

Key Elements	Proposed Variations to DOCA
Deed Administrators	<ul style="list-style-type: none"> The current Deed Administrators continue as Deed Administrators for the purposes of the DOCA.
Purpose of the Deed Proposal	<ul style="list-style-type: none"> Enable sufficient time to realise value for WKL's corporate shell. The Deed will extend to 31 March 2010 or such other period as agreed by creditors at a meeting of creditors.
Conditions of Offer:	<ul style="list-style-type: none"> The Deed Administrators to undertake a marketing campaign to market and sell the WKL shell. The Deed Administrators' fees and costs to be paid from funds currently held by the company. The Deed Administrators to report and put forward any recapitalisation proposals to creditors by 31 March 2010 and their recommendations.
Estimated Total Assets Available to Unsecured Creditors from Bid Price, Surplus Assets, and Deed Administrators' Net Working Capital:	<ul style="list-style-type: none"> \$336,217 plus value for WKL's corporate shell
Proposed Completion Date:	<ul style="list-style-type: none"> By 31 March 2010
Likely Dividend Range to Creditors	<ul style="list-style-type: none"> Unsecured Creditors: 21.76 to 100 cents in dollar.

5.2 Key Commercial Features

We summarise below the key conditions of the proposed holding DOCA:

- Approval by creditors at the meeting of creditors convened for Monday, 25 January 2010 to give effect to the holding DOCA;
- The Deed Administrators commence a marketing campaign as soon as practicable, if the holding DOCA is approved by creditors; and
- The Deed Administrators to assess and report to creditors prior to 31 March 2010 with any recapitalisation proposals put forward, providing their recommendations.

In the event that no recapitalisation proposals are put forward by 31 March 2010 for consideration by creditors then the DOCA will terminate and WKL will enter into liquidation unless the DOCA is varied following approval by creditors of WKL. In the event that the Deed Administrators consider no recapitalisation proposals are likely to be put forward or other unforeseen circumstances arise which prevent WKL



realising some value for its corporate shell (in the Deed Administrators' opinion), the Deed Administrators will as soon as practicable issue a report to creditors explaining the relevant circumstances and convene a meeting to consider a resolution to vary or terminate the DOCA.

The sale of the shell would also see the preservation of some value for existing shareholders upon relisting of its securities.

In view of the above, the Deed Administrators recommend that creditors accept the proposed holding DOCA put forward for the following key reasons:

1. If the holding DOCA is not accepted by creditors WKL will proceed into liquidation and it is very unlikely any value will be realised for WKL's corporate shell; and
2. Given that the company is likely to need to enter into a new lease arrangement with Summermor Pty Ltd to maintain its ASX listing, given that WKL retains an aquaculture license subject to this lease agreement there is scope for Summermor Pty Ltd's contingent unsecured claim against WKL to be mitigated.

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6. CREDITORS' OPTIONS, DIVIDEND ESTIMATES AND COST ESTIMATES

We herewith set out our opinion on whether it is in the creditors' interests:

- The company to vary the existing DOCA and enter into the proposed holding DOCA; or
- That the company should terminate the existing DOCA and control of the company revert to its directors; or
- That the company be wound up.

In forming our opinion, it is necessary to consider an estimate of the dividend creditors might expect, and the likely costs, under each option.

6.1 Winding up of Company

We note that by winding up WKL it is unlikely that any value will be realised for WKL's corporate shell as WKL will likely lose its ASX listing status.

Accordingly, given that the holding DOCA proposal proposes that the Deed Administrators seek to realise value for WKL's corporate shell, a greater return to creditors of WKL than in a liquidation scenario may be achieved. As set out in section 2 of this report, we are of the opinion that the company should not be wound up.

6.2 DOCA to be Terminated and Control Revert to Directors

As WKL is clearly insolvent, we do not recommend that control of the company revert to its directors as there is no formal orderly process for WKL to realise its assets to distribute to creditors. This option is not in creditors' interests.

6.3 Proposed Holding DOCA

As discussed above in section 5 of this report, the Deed Administrators have conducted an assessment of the holding DOCA and recommend that creditors resolve to accept to execute this holding DOCA, and terminate the existing DOCA, for the following key reasons:

1. If the holding DOCA is not accepted by creditors WKL will proceed into liquidation and it is very unlikely any value will be realised for WKL's corporate shell; and
2. Given that the company is likely to need to enter into a new lease arrangement with Summermor Pty Ltd to maintain its ASX listing, given that WKL retains an aquaculture license subject to this lease agreement there is



scope for Summermor Pty Ltd's contingent unsecured claim against WKL to be mitigated.

Accordingly, the Deed Administrators recommend creditors resolve to execute the proposed holding DOCA.

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7. DEED ADMINISTRATORS' OPINION

From our calculations in section 2 of this report, we estimate that the return to unsecured creditors of WKL in the holding DOCA scenario will be in the range of 21.76 to 100 cents in the dollar, pending any value realised for WKL's corporate shell, which is likely to be greater than in a liquidation scenario (estimated dividend of 20.47 cents in the dollar).

Accordingly, it is our opinion that it is in creditors' best interests to resolve to accept the holding DOCA proposed.

In forming our recommendation to creditors throughout this report, we have considered the following:

- The level of return available to creditors under each option;
- The degree of certainty of completion of the DOCA and assessment of risks; and
- The timing of payment of a dividend to creditors.

We set out below a comparison of the effect on stakeholders of WKL under the restructured WKL:

Stakeholder	Effect of Possible Restructuring	Liquidation
Unsecured Creditors	<ul style="list-style-type: none"> • Estimated possible dividend range of between 21.76 and 100 cents in the dollar, pending any value realised for WKL's corporate shell. • Distribution pending realisation of WKL's shell and success of DOCA, likely to be April 2010. 	<ul style="list-style-type: none"> • Dividend estimated at 20.47 cents in the dollar. • Distribution readily available to be made
Shareholders	<ul style="list-style-type: none"> • Subject to share dilution pending formal offers for WKL's corporate shell, but equity interest preserved. 	<ul style="list-style-type: none"> • Unlikely to be any return.

Having regard to the above, it is our recommendation to creditors that the proposed holding DOCA be approved by creditors of the company.



8. REMUNERATION AND DISBURSEMENTS

At the meeting of creditors convened for Monday, 25 January 2010, we intend seeking approval of the following remuneration.

Deed Administrators' Remuneration

"That the Deed Administrators' remuneration for the period of 1 June 2009 to 31 December 2009 in the amount of \$112,238.50 excluding GST be approved."

We note that creditors previously approved an amount of \$95,000.00 for the whole DOCA period. We further note that we have previously reported our tasks and remuneration for the period 14 April 2009 to 31 May 2009 in the amount of \$28,842.49 excluding GST. As you will not above actual fees for the whole period of 14 April 2009 to 31 December 2009 was an additional \$46,080.99 excluding GST and we now seek approval of the same.

"That a provision for the Deed Administrators' remuneration for the period 1 January 2010 to 24 January 2010 in the amount of \$15,000.00 excluding GST be approved subject to upward or downward adjustment by resolution of creditors."

Prospective Deed Administrators' Remuneration

In the event creditors vote to terminate the existing DOCA and execute a holding DOCA;

"That a provision for the Deed Administrators' remuneration for the period 25 January 2010 to the date of execution of the proposed holding DOCA in the amount of \$15,000.00 excluding GST be approved subject to upward or downward adjustment by resolution of creditors."

"That a provision for the Deed Administrators' remuneration for the period of the DOCA in the amount of \$25,000.00 excluding GST be approved subject to upward or downward adjustment by resolution of creditors and that the Deed Administrator be authorised to draw their fees monthly in arrears."

These amounts are an estimate only as it is not possible, at this stage, to state precise amounts. A further actual fee summary will be presented to creditors at a later date. A summary of the future anticipated tasks under the DOCA is set out in Annexure 1.

Prospective Liquidators' Remuneration

In the event creditors vote to wind up the company;

"That a provision for the Liquidators' remuneration in the amount of \$70,000.00 excluding GST be approved subject to upward or downward adjustment by



resolution of creditors / committee of inspection and that the Liquidators be authorised to draw their fees monthly in arrears.”

The amount is an estimate only as it is not possible, at this stage, to state a precise amount. A further actual fee summary will be presented to creditors at a later date. A summary of the future anticipated tasks under the liquidation is set out in Annexure 1.

The Deed Administrators, (or, where appointed, Liquidators) seek approval of their remuneration on a time basis in accordance with Ferrier Hodgson’s schedule of hourly rates as set out in Annexure 1.

To date, the Administrators / Deed Administrators have drawn fees in the amount of \$273,327.51 (excl GST) and disbursements in the amount of \$16,072.66 (excl GST). Details of the basis on which disbursements are charged are contained in Annexure 1.

9. FURTHER QUERIES

We will advise creditors in writing, if practicable, of any additional matter that comes to our attention after the dispatch of this report that, in our view, is material to creditors’ deliberations.

In the meantime, should creditors have any queries, please do not hesitate to contact either Andrew Saker or Jamie Gunnis at this office.

DATED this 15th day of January 2010.

ANDREW SAKER
Joint and Several Deed Administrator of
Western Kingfish Limited

Annexure 1

Deed Administrators' / Trustees' Remuneration

Liquidators' Remuneration

The Firm's Schedule of Hourly Rates