

## PERTH

Level 26 BankWest Tower  
108 St George's Terrace  
Perth WA 6000 Australia

GPO Box 2537 Perth WA 6001

phone +61 8 9214 1444

fax +61 8 9214 1400

email [fhperth@perth.fh.com.au](mailto:fhperth@perth.fh.com.au)

[www.ferrierhodgson.com](http://www.ferrierhodgson.com)

AJS:AS:JG:D11  
J Gunnis

7 May 2010

**To Creditors****Western Kingfish Limited  
(Subject to Deed of Company Arrangement) (WKL)  
ACN 122 711 880**

We refer to the appointment of Martin Jones, Garry Trevor and myself as Joint and Several Administrators of the above company on 2 December 2008, pursuant to Section 436A of the Corporations Act (the Act) and to our subsequent appointment as Joint and Several Deed Administrators on 14 April 2009.

As you would be aware the fourth meeting of creditors was held on 25 January 2010 and at this meeting creditors resolved to vary the existing Deed of Company Arrangement (DOCA) and enter into a holding DOCA as outlined in the Deed Administrators' report to creditors dated 15 January 2010 to allow time for the Deed Administrators to seek new proposals for the possible recapitalisation and restructure of WKL. The proposed holding DOCA was executed on 12 February 2010.

Enclosed is our Deed Administrators' Report to creditors pursuant to section 445F of the Corporations Act 2001. You will note that the Deed Administrators' opinion regarding the upcoming meeting is to resolve to vary the existing holding DOCA on the terms materially consistent as those detailed in the Deed Administrators' Report dated 7 May 2010 to reflect the proposal put forward by Trident Capital Pty Ltd. We enclose the following regarding the upcoming meeting of creditors;

1. Notice of Meeting. Please note that the meeting commences at **10:00am WST on Monday, 17 May 2010 and will be held at the offices of Ferrier Hodgson, Level 26 BankWest Tower, 108 St George's Terrace, Perth, Western Australia.** You should arrive for registration at least **15 minutes** prior to the meeting.
2. Formal Proof of Debt or Claim Form. If you have previously submitted one of these, you do not need to submit another one for this meeting.

A person is not entitled to vote at the meeting unless they provide or have provided, particulars of the debt or claim to the Deed Administrators before the meeting.

ADELAIDE  
BRISBANE  
MELBOURNE  
SYDNEY  
HONG KONG  
JAKARTA  
KUALA LUMPUR  
MANILA  
MUMBAI  
SHANGHAI  
SINGAPORE  
TOKYO

Affiliated through  
Zolfo Cooper  
and  
Kroll Worldwide  
UNITED STATES  
UNITED KINGDOM



1. Appointment of Proxy form. The form enables you to appoint another person to act on your behalf at the meeting. **Proxy Forms submitted for previous meetings of creditors are not valid for this meeting.**

**The Formal Proof of Debt or Claim Form and Proxy Form should be lodged with this office before the meeting and, in any event not later than 4.00pm on the business day prior to the meeting.** Forms can be sent by facsimile on (08) 9214 1400 marked to the attention of Jamie Gunnis or scanned and emailed to [jgunnis@perth.fh.com.au](mailto:jgunnis@perth.fh.com.au). However, Corporations Regulation 5.6.36A requires lodgement of the original of the Proxy Form with the Administrators' office within 72 hours of lodging the faxed/emailed copy.

4. Deed Administrators' report to creditors pursuant to section 445F of the Corporations Act 2001 which includes an opinion, with supporting reasons, on each of the following matters:
  - Whether it would be in the creditors' interests for the company to be wound up
  - Whether it would be in the creditors' interests to vary the existing DOCA
  - Whether it would be in the creditors' interests for the company to be handed back to its directors

### **The Deed Administrators' Remuneration**

The Deed Administrators' report includes detailed schedules explaining their remuneration claim setting out:

- (a) Details of time spent by category of staff at the rates applicable for such staff
- (b) A summary of the work undertaken by the Deed Administrators and their staff in the administration.

### **Remuneration of Liquidators**

Where creditors resolve that the company be wound up, the Liquidators intend that their remuneration be fixed on the basis of time spent by them and their staff of an appropriate level having regard to the nature and complexity of the work and calculated by reference to the hourly rates set out in the schedule accompanying the Notice of Meeting of Creditors sent out for the purposes of the second meeting of creditors. A further copy of the schedule is included in the Deed Administrators' report to creditors enclosed, together with a schedule setting out the Liquidators' likely tasks.



For further information concerning the Voluntary Administration process and Ferrier Hodgson, you may wish to visit our website at [www.ferrierhodgson.com](http://www.ferrierhodgson.com). Queries regarding the administration should be directed to Jamie Gunnis of this office.

Yours faithfully

**Western Kingfish Limited**

**Andrew Saker**

Joint and Several Deed Administrator

Encl.

FORM 529

CORPORATIONS ACT 2001

Subregulation 5.6.12(2)

NOTICE OF MEETING OF CREDITORS  
WESTERN KINGFISH LIMITED  
(SUBJECT TO DEED OF COMPANY ARRANGEMENT) ("DOCA")  
ACN 122 711 880 ("the Company")

NOTICE is given that a meeting of the creditors of the Company will be held at the offices of Ferrier Hodgson, Level 26 BankWest Tower, 108 St George's Terrace, Perth, Western Australia, on Monday, 17 May 2010 at 10:00am (WST).


A G E N D A

1. To receive the report of the Deed Administrators
2. Questions from creditors
3. For creditors to resolve:
  - (a) that the Company vary the existing DOCA; or
  - (b) that the Company be wound up; or
  - (c) that control of the Company revert to the directors.
4. To approve the Deed Administrators' remuneration
5. If the Company is wound up, to consider appointing a Committee of Inspection
6. If no Committee is appointed, to fix the remuneration of the Liquidators
7. If no Committee is appointed, to consider the destruction of the books and records at the conclusion of the winding up
8. Any other business that may be lawfully brought forward

Proxies to be used at the meeting should be lodged at the office of the Joint and Several Deed Administrators by 4.00pm on the day prior to the meeting. A creditor can only be represented by proxy or by an attorney pursuant to Corporations Regulations 5.6.28 and 5.6.32 (inclusive) or if a body corporate by a representative appointed pursuant to Section 250D.

In accordance with Regulation 5.6.23(1) of the Corporations Regulations, creditors will not be entitled to vote at this meeting unless they have previously lodged particulars of their claim against the Company in accordance with the Corporations Regulations and that clause has been admitted for voting purposes wholly or in part by the Joint and Several Deed Administrators.

DATED this 7<sup>th</sup> day of May 2010



**Andrew Saker**  
Joint and Several Deed Administrator of  
Western Kingfish Limited

FORM 535  
CORPORATIONS ACT 2001

Subregulation 5.6.49(2)

FORMAL PROOF OF DEBT OR CLAIM

ACN 122 711 880

To the Joint and Several Deed Administrators of Western Kingfish Limited (Subject to Deed of Company Arrangement)

1. This is to state that the company was, on 2 December 2008 <sup>(1)</sup> and still is, justly and truly indebted to <sup>(2)</sup>  
 .....  
 ..... for  
 .....dollars and .....cents.

Particulars of the debt are:

Date	Consideration <sup>(3)</sup>	Amount \$	GST included \$	Remarks <sup>(4)</sup>

2. To my knowledge or belief the creditor has not, nor has any person by the creditor's order, had or received any manner of satisfaction or security for the sum or any part of it except for the following:<sup>(5)</sup>
- 3.<sup>(6)\*</sup> I am employed by the creditor and authorised in writing by the creditor to make this statement. I know that the debt was incurred for the consideration stated and that the debt, to the best of my knowledge and belief, still remains unpaid and unsatisfied.
- 3.<sup>(6)\*</sup> I am the creditor's agent authorised in writing to make this statement in writing. I know that the debt was incurred and for the consideration stated and that the debt, to the best of my knowledge and belief, still remains unpaid and unsatisfied.

DATED this                      day of    2010

Signature of Signatory .....

NAME IN BLOCK LETTERS .....

Occupation .....

Address .....

**See Directions overleaf for the completion of this form**

**OFFICE USE ONLY**

POD No:		ADMIT - Ordinary	\$
Date Received:	/ /	ADMIT - Preferential	\$
Entered into IPS/Computer:		Reject	\$
Amount per RATA	\$	H/Over for Consideration	\$
PREP BY/AUTHORISED		<b>TOTAL PROOF</b>	\$
DATE AUTHORISED	/ /		

## Directions

- \* Strike out whichever is inapplicable.
- (1) Insert date of Court Order in winding up by the Court, or date of resolution to wind up, if a voluntary winding up.
- (2) Insert full name and address of the creditor and, if applicable, the creditor's partners. If prepared by an employee or agent of the creditor, also insert a description of the occupation of the creditor.
- (3) Under "Consideration" state how the debt arose, for example "goods sold and delivered to the company between the dates of ....."; "moneys advanced in respect of the Bill of Exchange".
- (4) Under "Remarks" include details of vouchers substantiating payment.
- (5) Insert particulars of all securities held. Where the securities are on the property of the company, assess the value of those securities. If any bills or other negotiable securities are held, specify them in a schedule in the following form:

Date	Drawer	Acceptor	Amount	Date Due
	\$	¢		

- 
- (6) If proof is made by the creditor personally, strike the two (2) paragraphs numbered 3.
- 

## Annexures

- A. If space provided for a particular purpose in a form is insufficient to contain all the required information in relation to a particular item, the information must be set out in an annexure.
- B. An annexure to a form must:
  - (a) have an identifying mark;
  - (b) and be endorsed with the words:

*"This is the annexure of (insert number of pages) pages marked (insert an identifying mark) referred to in the (insert description of form) signed by me/us and dated (insert date of signing); and*
  - (c) be signed by each person signing the form to which the document is annexed.
- C. The pages in an annexure must be numbered consecutively.
- D. If a form has a document annexed the following particulars of the annexure must be written on the form:
  - (a) the identifying mark; and
  - (b) the number of pages.
- E. A reference to an annexure includes a document that is with a form.

**CORPORATIONS ACT 2001**  
**APPOINTMENT OF PROXY CREDITORS MEETING**  
**WESTERN KINGFISH LIMITED**  
**(SUBJECT TO DEED OF COMPANY ARRANGEMENT)**  
**ACN 122 711 880**

\*I/\*We<sup>1</sup> .....  
of .....  
a creditor of Western Kingfish Limited (Subject to Deed of Company Arrangement), appoint<sup>2</sup> .....  
or in his absence as.....  
\*my/our \*(i) general OR \*(ii) special proxy<sup>3</sup> to vote at the meeting of creditors to be held at the offices of Ferrier Hodgson,  
Level 26 BankWest Tower, 108 St Georges Terrace, Perth, Western Australia on Monday, 17 May 2010 at 10:00am WST or  
at any adjournment of that meeting, to vote  
(i) on all matters arising at the meeting; OR  
(ii) on each of the following kinds of resolution in the manner specified:

	<b>For</b>	<b>Against</b>	<b>Abstain</b>
(a) A resolution that the company be wound up	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(b) A resolution that the company vary the existing holding DOCA on terms materially consistent as those detailed in the Deed Administrators' report dated 7 May 2010 to reflect the proposal put forward by Trident Capital Pty Ltd	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(c) A resolution that control of the company revert to the directors	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(d) A resolution that a provision for the Deed Administrators' remuneration for the period 21 April 2010 to 16 May 2010 in the sum of \$10,000.00 exclusive of GST be approved but subject to upward or downward adjustments by resolution of creditors	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(e) A resolution that a provision for the Deed Administrators' remuneration for the period 17 May 2010 to the date of execution of the proposed DOCA in the amount of \$10,000.00 exclusive of GST be approved but subject to upward or downward adjustment by resolution of creditors	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(f) A resolution that a provision for the Deed Administrators' / Trustees' remuneration for the period of the proposed DOCA in the amount of \$25,000.00 exclusive of GST be approved but subject to upward or downward adjustments by resolution of creditors	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(g) A resolution that a provision for the Liquidators' remuneration in the amount of \$40,000.00 exclusive of 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	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(h) If the company is placed into liquidation, a resolution that a Committee of Inspection be appointed	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(i) If the company is placed into liquidation, a resolution that the books and records of the company be disposed of 12 months after the dissolution of the company or earlier at the discretion of the ASIC	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**OR**

I am a secured creditor and the total amount owed to me is \$

DATED this                      day of                      2010

\* Strike out if inapplicable

<sup>1</sup> If a firm, strike out "I" and set out the full name of the firm.

<sup>2</sup> Insert the name, address and description of the person appointed.

<sup>3</sup> If a special proxy add the words "to vote for" or the words "to vote against" and specify the particular resolution.

.....  
Signature<sup>5</sup> of individual or person<sup>6</sup>  
authorised by corporate resolution to  
represent the corporation

OR      The Common Seal of<sup>4</sup>  
was hereunto affixed in the  
presence of

.....  
Director

.....  
Secretary

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CERTIFICATE OF WITNESS<sup>7</sup>

I, ..... of .....  
certify that the above instrument appointing a proxy was completed by me in the presence of and at the request of the person  
appointing the proxy and read to him before he attached his signature or mark to the instrument.

DATED this                      day of                      2010

.....  
Signature of Witness

.....  
Description

.....  
Place of Residence

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<sup>4</sup> The method of affixing the Common Seal is prescribed in Section 127(2) of the Corporations Act 2001 and, usually, the creditor corporation's constitution.  
<sup>5</sup> The signature of the creditor is not to be attested by the person nominated as proxy.  
<sup>6</sup> A corporation may only be represented by proxy or by an attorney appointed pursuant to Corporations Regulations 5.6.28 and 5.6.31A respectively or, by a representative appointed under Section 250D of the Corporations Act 2001. Copy of authority/power of attorney to be annexed.  
<sup>7</sup> This certificate is to be completed only where the person giving it is blind.