

TO CREDITORS

18 February 2009

Dear Sir/Madam

KARL SULEMAN ENTERPRIZES PTY LIMITED
(In Liquidation)
A.B.N. 40 090 895 364

I refer to the appointment of Neil Cussen and myself as Joint Liquidator of the above company on 7 December 2001.

I now enclose a report on the current position of the Liquidation, which also includes:

1. Formal Notice of Annual General Meeting of the Company and its Creditors scheduled for Friday, 6 March 2009.
2. Form of proxy for the Annual General Meeting.
3. Summary of Liquidators' Receipts and Payments to 31 January 2009.

Should you have any queries regarding this matter please contact **Edwina Chen** of this office on (02) 9322 7000.

Yours faithfully



P G Weston
For and on behalf of P G Weston and N R Cussen
Joint Liquidators



Karl Suleman Enterprizes Pty Limited

(In Liquidation)

A.B.N. 40 090 895 364

Report to Creditors

18 February 2009

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Annexure A **Liquidators' Receipts and Payments to 31 January 2008**

Annexure B **Formal Notice of Annual General Meeting of the Company
and its Creditors**

Annexure C **Form of Proxy**

Annexure D **About Deloitte**

1 Introduction

Neil Cussen and I were appointed as Voluntary Administrators of Karl Suleman Enterprizes Pty Limited (“KSE”) on 12 November 2001 and subsequently as Liquidators on 7 December 2001.

This report has been prepared pursuant to Section 508 of the Corporations Act 2001 (“the Act”) for the purpose of updating creditors on the progress of the Liquidation and should be read in conjunction with previous reports to creditors and specifically the last report dated 20 February 2008. Copies of previous reports prepared in respect of the KSE Liquidation are available via our website which can be accessed as follows:

www.deloitte.com.au > Services > Corporate reorganisation services > Businesses under administration > Karl Suleman Enterprizes Pty Limited (In Liquidation) > Reports to creditors

Creditors should note that prior to 2007 reports were sent out whilst Neil Cussen and I were partners of Horwath Sydney Partnership. In February 2007, Horwath Sydney Partnership and Deloitte Touche Tohmatsu joined and we are now partners of Deloitte Touche Tohmatsu. This merger has no material affect on our role or appointment as Liquidators of KSE.

An annual general meeting of the company and its creditors has been convened for **Friday 6 March 2009 at 11.00am at Level 9, 33 Erskine Street, Sydney NSW 2000.**

Please note that your attendance at this meeting is not mandatory.

2 Executive summary

- Most matters pertaining to the winding up have been completed apart from residual legal recovery proceedings which were commenced following detailed investigations into the collapse of the company. The issues dealt with in this report specifically relate to the status of these legal proceedings and the likely return to creditors.
- I have continued to endeavour to reach commercial settlements on recovery actions wherever possible and on the basis of legal advice. I note that since my last report to creditors, a further \$100,500 in legal recoveries has been achieved.
- For matters with no likely prospects of settlement, it is envisaged that they will proceed to trial sometime this year, including the legal action commenced against professional advisor Philip Pham and others associated with Mr Pham.
- Meetings of the Committee of Inspection continue to be convened when appropriate, with Committee members consulted on all relevant issues pertaining to the winding up. To date there have been approximately 40 meetings with the Committee of Inspection.
- The ultimate return to creditors is dependant upon funds recovered from the various legal actions on foot, and the costs involved in running these actions. I am therefore unable to confirm the amount and timing of a second dividend to creditors at this point in time. However, in considering the legal costs incurred to date and the estimated recovery from

each of the actions still on foot, **I am still of the view that the ultimate return to creditors will be between 2.5 cents and 12.5 cents in the dollar.**

- The adjudication of creditor claims has not been finalised, with 30-odd claims remaining under consideration. As requested by the Committee of Inspection, this adjudication process will be completed when I am in a position to pay a second dividend to creditors.
- A copy of the receipts and payments from commencement of the Liquidation to 31 January 2009 is attached as **Annexure A** of this report.

3 Recovery actions

Following detailed investigations into the collapse of the company and its illegal managed investment scheme, recovery proceedings were commenced against various parties including, in most instances, formal legal proceedings.

I have continued to endeavour to reach commercial settlements wherever possible and on the basis of legal advice. In a number of cases where this has not been possible, bankruptcy proceedings have been undertaken against the individuals involved subject to assessment of commerciality to undertake proceedings of this nature.

Due to confidentiality issues, specific details of each of the actions cannot be disclosed in regard to settlements. I note however that since my last report to creditors in February 2008, a further \$100,500 in legal recoveries has been achieved.

With the winding up of the company entering its eighth year, I understand creditors' frustrations with the length of time taken to finalise a number of these actions. This has primarily been exacerbated by the due legal process involved and inability to settle with a number of parties.

For matters with no likely prospects of settlement, it is envisaged that they will proceed to trial sometime this year, including the legal action commenced against professional advisor Philip Pham and others associated with Mr Pham.

4 Committee of Inspection

Meetings of the Committee of Inspection continue to be convened when appropriate, with Committee members consulted on all relevant issues pertaining to the winding up.

To date there have been approximately 40 meetings of the Committee as well as ongoing communication between Committee members and my office since the winding up commenced.

5 Dividend to creditors

The ultimate return to creditors is dependant upon funds recovered from the various legal actions, and the costs involved in running these actions – a substantial amount of which has not

yet been paid. These unpaid costs include legal costs, litigation funding costs as well as Liquidators' remuneration and expenses.

I am therefore unable to confirm the amount and timing of a second dividend to creditors at this point in time. However, in considering the legal costs incurred to date and the estimated recovery from each of the actions still on foot, **I am still of the view that the ultimate return to creditors will be between 2.5 cents and 12.5 cents in the dollar.**

A first dividend was declared and paid to creditors in 2002 at a rate of 2.5 cents in the dollar on claims admitted to rank for dividend at that time. Payment of catch-up dividends to creditors who have subsequently had their claims admitted in the winding up is not presently possible due to the lack of available funds, and accordingly has been deferred until funds permit. I note that those creditors eligible for a catch-up dividend will receive their initial 2.5 cents distribution in priority to any further dividend distributions.

6 Adjudication of Proofs of Debt

The adjudication of creditor claims has not been finalised, with 30-odd claims remaining under consideration. As requested by the Committee of Inspection, this adjudication process will be completed when I am in a position to pay a second dividend to creditors. This further dividend will not be paid until all legal actions have been finalised.

A very stringent process was designed to review and adjudicate on Proofs of Debt. The aim of this exercise was to ensure that the money trail could be established between KSE and investors.

Where investors were able to supply all required documentation, claims were admitted. Where none of the elements had been supplied, claims were rejected. If the claimants could produce some of the evidence required but not all, they were assessed on the merits of their individual claims and the quality of the evidence provided.

At the date of this report the following is the position regarding all claims received:

- 1,270 claims totalling \$49,852,611 have been admitted to rank for dividend.
- 621 rejection notices have been sent to creditors relating to \$26,947,605 worth of claims which have been rejected in full.
- 30 claims totalling \$1,274,164 remain under consideration with a final determination yet to be made.

7 Receipts and payments

Attached at **Annexure A** is a copy of the Liquidators' summary of receipts and payments from commencement of the Liquidation to 31 January 2009.

8 Annual general meeting of the company and its creditors

An annual general meeting of the company and its creditors has been called for **Friday 6 March 2009 at 11.00am at Level 9, 33 Erskine Street, Sydney NSW 2000**, at which time creditors will have the opportunity to discuss any issue regarding the Liquidation.

Accordingly, please find attached:

- Formal notice of meeting (**Annexure B**)
- Form of proxy (**Annexure C**)

If you are unable to attend the meeting and wish to be represented by the Chairperson or another person, please forward your completed proxy form by facsimile to our offices no later than 4:00pm before the day of the meeting on facsimile (02) 9322 7261. Alternatively, proxies may be handed to the Chairperson at the commencement of the meeting. Corporate creditors can only be represented at the meeting under appropriate representation under Section 250D of the Act and should complete a proxy form or power of attorney for this purpose.

9 Access to previous reports

Creditors who wish to review previous reports published by the Liquidators on KSE can access these publications via our website:

www.deloitte.com.au > Services > Corporate reorganisation services > Businesses under administration > Karl Suleman Enterprizes Pty Limited (In Liquidation) > Reports to creditors

Creditors requiring any further information prior to the meeting are requested to direct their enquiry to Edwina Chen of this office.

DATED this 18th day of February 2009

Yours faithfully



P G Weston

For and on behalf of P G Weston and N R Cussen
Joint Liquidators

KARL SULEMAN ENTERPRIZES PTY LIMITED
(In Liquidation)
A.B.N. 40 090 895 364

LIQUIDATORS' RECEIPTS AND PAYMENTS TO 31 JANUARY 2009

RECEIPTS	\$
Administration fee charged on sale of trolley business	363.64
Bank interest	71,557.81
Cash at bank on appointment (transfer from Administration)	3,041,877.92
Dividend proceeds – Bankrupt Estate of K & V Suleman	90,935.04
Dividend proceeds – Froggy Holdings Pty Limited (In Liquidation)	724,371.48
DPP reimbursement	2,710.00
Funds collected from Dominic David Stamfords Trust Account	188,000.00
GST payable	44,714.51
GST refund (ATO) (including interest)	862,188.81
Income generated from Pacific Services	191,086.82
Insurance refund	7,590.92
Investors cheques held on trust account	636,750.00
Karl Suleman gambling proceeds	2,400.00
Legal recoveries (loan and agent)	3,839,751.18
Miscellaneous income	4,990.00
Plant & equipment (Pacific Services)	277,494.10
Recovery of subpoena costs including conduct monies	19,965.00
Refund repairs and maintenance	20,112.36
Rent received – advertisement	7,947.11
Repayment of donations	30,000.00
Sale of property (Speed Street, Liverpool)	2,500,000.00
Sundry debtors	880.00
Sundry receipts	2,243.60
Realisations from related administrations	1,325,023.22
	<u>13,892,953.52</u>
PAYMENTS	
Advertising	24,138.08
Agents, auctioneers and valuers fees	390,364.16
Bank fees	3,182.20
Cost order	45,000.00
Court fees	4,703.00
Data retrieval costs	34,607.90
Debt collection costs	1,445.40
Dividends to investors (2.5c in the dollar)	983,492.42
Fraud investigation expenses	1,289.48
Fraud investigation fees	127,002.00
GST receivable	962,909.97
Indemnity (Froggy companies)	486,083.16
Insurance	24,665.14
Legal costs	5,338,665.57
Liquidators expenses	258,851.45
Liquidators remuneration	4,129,062.05
Meeting room hire	7,511.36
Miscellaneous expenses	22,013.88
Payment in full to investors (cheques on trust account)	636,750.00
Private investigation	191,663.02
Registration of trademark for Froggy Holdings	3,680.00
Settlement transfer to Froggy Holdings	33,691.82
Withholding tax on interest	202.64
	<u>13,710,974.70</u>
Balance at bank	<u>181,978.82</u>
	<u>13,892,953.52</u>

FORM 529
CORPORATIONS ACT 2001

Subregulation 5.6.12(2)

KARL SULEMAN ENTERPRIZES PTY LIMITED
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NOTICE OF ANNUAL GENERAL MEETING OF THE COMPANY AND ITS CREDITORS

NOTICE IS GIVEN that an annual general meeting of the abovenamed company and its creditors will be held at **Level 9, 33 Erskine Street, Sydney NSW 2000, on Friday 6 March 2009 at 11:00am.**

The purpose of the meeting is to receive an update from the Liquidators as to the progress of the Liquidation.

DATED this 18th day of February 2009.



P G Weston
For and on behalf of P G Weston and N R Cussen
Joint Liquidators

FORM 532
CORPORATIONS ACT 2001

Regulation 5.6.29

KARL SULEMAN ENTERPRIZES PTY LIMITED
(In Liquidation)
A.B.N. 40 090 895 364

APPOINTMENT OF PROXY

I/WE*⁽¹⁾, (NAME) _____
of (ADDRESS) _____
a creditor of Karl Suleman Enterprizes Pty Limited, hereby appoint ⁽²⁾ _____
or in his/her absence _____ as MY / OUR*, GENERAL / SPECIAL* proxy
to vote at the joint meeting of members and creditors to be held on Friday 6 March 2009 at 11.00am, or at
any adjournment of that meeting and to vote generally as he/she determines.

DATED this day of 2009.

⁽³⁾⁽⁴⁾Signature

Important Notes Covering Completion of Proxy

- (1) If a firm, strike out "I" and set out the full name of the firm.
- (2) Insert the name, address and description of the person appointed.
- (3) The proxy of a creditor who is a corporation must be executed under the Common Seal of the Company, or by a duly authorised officer stating the nature of that authority.
- (4) A proxy initially sent by facsimile must also have the original delivered to the Liquidator's office.

*Strike out where applicable

CERTIFICATE OF WITNESS

Note: This certificate is to be completed only where the person giving the proxy is blind or incapable of writing.
The signature of the creditor is not to be attested by the person nominated as proxy.

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 2009.

Signature of Witness: _____
Description: _____
Place of Residence: _____

About Deloitte

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About Deloitte Australia

In Australia, Deloitte has 12 offices and over 4,500 people and provides audit, tax, consulting, and financial advisory services to public and private clients across the country. Known as an employer of choice for innovative human resources programs, we are committed to helping our clients and our people excel. Deloitte's professionals are dedicated to strengthening corporate responsibility, building public trust, and making a positive impact in their communities. For more information, please visit Deloitte's web site at www.deloitte.com.au.

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