

22 December 2023

**svpartners**  
specialist accountants & advisors

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## **MCG Investment Group Pty. Ltd. (In Liquidation)**

**Formerly trading as  
Diamonds By Germani  
Germani Australia  
Germani Group  
Germani Jewellery Australia  
Germani Jewellery Group  
Germani Jewellery Sydney  
Germani Sydney Group  
Germani Sydney Jewellers  
House Of Germani  
House Of Germani Jewellery  
ACN 614 996 164  
(the Company)**

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## **STATUTORY REPORT BY LIQUIDATOR**

**Date of Appointment:**

6 October 2023

**External Administrator(s):**

Jason Lloyd Porter

**Contact:**

Claudia Atai

(02) 8986 8954

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**SV Partners**

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SYDNEY SOUTH NSW 1235

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## Glossary

Abbreviation	Meaning
ATO	Australian Taxation Office
Act	<i>Corporations Act 2001 (Cth)</i>
AIIPAAP	All Present and After-acquired Property
ARITA	Australian Restructuring Insolvency & Turnaround Association
ASIC	Australian Securities and Investments Commission
Company	MCG Investment Group Pty. Ltd. Formerly trading as Diamonds By Germani, Germani Australia, Germani Group, etc.
Director	Michel Germani
Shadow / De facto Director	Coco Germani AKA Weiqin Zhang
DIRRI	Declaration of Independence, Relevant Relationships & Indemnities
FEG	Fair Entitlements Guarantee
GSI	General Security Interest
IPR-C	<i>Insolvency Practice Rules (Corporations)</i>
IPS-C	<i>Insolvency Practice Schedule (Corporations)</i>
Liquidator	Jason Lloyd Porter
PMSI	Purchase Money Security Interest
PPSA	<i>Personal Property Securities Act 2009 (Cth)</i>
PPSR	Personal Property Securities Register
Regulations	<i>Corporations Regulations 2001 (Cth)</i>
ROCAP	Report on Company Activities and Property
ROT	Retention of Title

## Annexures

Annexure	Document Description
A	List of Unsecured Creditors
B	Summary of Receipts and Payments
C	<u>Information Sheets:</u> Offences and Recoverable transactions
D	Proof of Debt form

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## 1. Introduction

Pursuant to section 70-50 of the IPS-C and section 70-40 of the IPR-C, a report to creditors must be provided within three months of my appointment. The purpose of this report is to provide an update on the progress of the Liquidation and inform you of the likelihood of a dividend being paid.

This report should be read in conjunction with my previous report to creditors dated 1 November 2023.

### 1.1 Liquidator's Prior Involvement

The DIRRI was included in my initial correspondence to creditors, and I am not aware of any circumstances which have changed and would require me to amend the previously circulated DIRRI.

### 1.2 Company History and Nature of the Business

The Company was incorporated on 23 September 2016 and formerly operated a luxury jewellery store business from premises located at Shop 1 / 488 George Street, Sydney NSW 2000 (**the Premises**). The Company ceased trading on 19 January 2023, prior to my appointment, due to an alleged robbery within the Premises. The Director of the Company is Michel Germani and is presently incarcerated in Silverwater Jail. The incarceration is purportedly linked to allegations of criminal activity that the Director orchestrated a robbery with the intention of defrauding the Company's insurers.

According to my investigations, it appears that Coco Germani, the former Director of the Company was responsible for the day-to-day management of the Company (**the Shadow Director**). The Shadow Director is the spouse of the Director and corporate power of attorney of the Company.

### 1.3 Receipts and Payments

A summary of receipts and payments report is attached at **Annexure B** for the period 6 October 2023 to 22 December 2023.

## 2. Assets and Liabilities of the Company

The table below provides a summary of the estimated realisable assets and liabilities of the Company as at the date of my appointment:

Description	Notes	Estimated Realisable Value \$	Realised Values \$
<b>Assets</b>			
Cash at Bank	2.1	13.17	13.17
Trade Debtors	2.2	Nil	Nil
Related Party Loans	2.3	Nil	Nil
Motor Vehicles / Plant and Equipment	2.4	Unknown	Nil
Stock	2.5	Nil	Unknown
Other Assets	2.6	Nil	Nil
<b>Total Assets</b>		<b>\$13.17</b>	<b>\$13.17</b>
<b>Liabilities</b>			
Secured Creditor(s)	2.7	276,827.46	276,827.46
Employee Entitlements	2.8	9,390.69	9,390.69
Unsecured Creditors	2.9	2,652,661.55	2,652,661.55
<b>Total Liabilities</b>		<b>\$2,938,879.70</b>	<b>\$2,938,879.70</b>
<b>Estimated Surplus/(Deficiency)</b>		<b>(\$2,938,866.53)</b>	<b>(\$2,938,866.53)</b>

### Notes

#### 2.1 Cash at Bank

Upon my appointment, I wrote to all major banks and financial institutions, seeking details of any bank accounts currently or formerly operated by the Company.

The following accounts have been identified with Westpac:

Account Name	BSB / Account Number	Balance as at 9/10/2023
MCG INVESTMENT GROUP PTY. LTD	xxx143 xxx232	23.17 CR
MCG INVESTMENT GROUP PTY. LTD	xxx143 xxx240	0.00
MCG INVESTMENT GROUP PTY. LTD	xxx702 xxx902	0.00

I have recovered \$13.17 from this source and do not anticipate any further recoveries from this source.

## 2.2 Trade Debtors

The books and records of the Company do not disclose any trade debtors outstanding. If debtors are identified I will take steps to recover trade debtors, if commercial.

## 2.3 Related Party Loans

The books and records of the Company do not disclose any related party loans owed to the Company. Should I identify any related parties with debts owed to the Company, I will take steps to recover same, if commercial.

## 2.4 Motor Vehicles / Plant and Equipment

As detailed in my previous report, the Company is the registered owner of a 2017 Land Rover Range Rover (VIN SALGA2EE0GA311758 Rego No. EGX04R) (**the Vehicle**) which is encumbered and subject to a registered security interest in favour of Volkswagen Financial Services Australia (**VWFS**). I provided instructions to Slattery Auctioneers (**Slattery**) to secure the vehicle. On inspection of the asset, I determined there to be no realisable equity. The Company's interest in the asset was disclaimed and the asset was made available for collection by VWFS. Should VWFS suffer a shortfall from the sale of the asset, they will rank as an unsecured creditor in the Liquidation.

## 2.5 Stock

As detailed in my previous report, my investigations into the books and records have identified jewellery stock worth \$1,033,989 which had been accounted for as stolen as a result of the alleged robbery in January 2023. The stolen jewellery appears to have been subject to consignment agreements between MG Jewellery, Pierre Germani who are related parties to the Company and Cartmer Jewellery. The stock's identification and location remains unknown.

I have made contact with the NSW police seeking information on the jewellery that was stolen however I have yet to receive documentation from their office. My investigations are continuing in this regard.

## 2.6 Other Assets

I am not aware of any other assets owned by the Company. If creditors are aware of any other assets of the Company, please contact my office.

## 2.7 Secured Creditor(s)

Details of creditors registered on the Personal Property Securities Register (PPSR) is below:

Secured Creditor	Amount Owed (\$)	Date of Registration	Type of Security*
ZWAB Ventures Pty Ltd	Unknown	11-12-2019	All Pap No Except
ZWAB Ventures Pty Ltd	Unknown	11-12-2019	Account
VOLKSWAGEN FINANCIAL	276,827.46	29-02-2020	Motor Vehicle

SERVICES AUSTRALIA PTY LIMITED			
BIZCAP AU PTY LTD	Unknown	29-11-2021	All Pap No Except
BIZCAP AU PTY LTD	Unknown	07-02-2022	All Pap No Except
BIZCAP AU PTY LTD	Unknown	21-07-2022	All Pap No Except
BIZCAP AU PTY LTD	Unknown	12-08-2022	All Pap No Except
BIZCAP AU PTY LTD	Unknown	12-08-2022	Account
BIZCAP AU PTY LTD	Unknown	20-12-2022	Account
Michel Germani	Unknown	08-02-2023	All Pap No Except

\*A GSI usually applies to circulating and non-circulating security interests over substantially all of the Company's assets and a PMSI usually applies to a security interest over specific Company assets – commonly non-circulating assets (e.g: motor vehicles) and circulating assets (e.g: inventory).

On my appointment, I issued correspondence to all the above secured creditors notifying them of my appointment and requesting they provide details of their securities.

Creditors claiming to have a security interest registered on the PPSR are requested to immediately send all documentation supporting same to my office at PO Box A2631, SYDNEY SOUTH NSW 1235.

## 2.8 Employee Entitlements

The known outstanding employee entitlements are as follows:

Priority Claim	Amount Owed (\$)
Superannuation	9,390.69
Wages	Nil
Annual Leave	Nil
Redundancy	Nil
<b>Total</b>	<b>\$9,390.69</b>

Employee entitlements are afforded a priority over unsecured creditors in the Liquidation and employees may be able to claim their outstanding entitlements (excluding superannuation) through the Department of Employment and Workplace Relations. In addition to lodging a formal claim, all employees should refer to <https://www.dewr.gov.au/fair-entitlements-guarantee> for information on how to claim any entitlements.



Pursuant to section 556 of the Act, employee entitlements claimed by a Director or related parties are capped at an amount of \$1,500 for leave entitlements and \$2,000 for wages and superannuation. Entitlements above the capped amounts will rank as unsecured creditor claims in the Liquidation.

## **2.9 Unsecured Creditors**

A summary of the known unsecured creditors is provided at **Annexure A**.

If you are a creditor and are not reflected in the attached list of creditors, please contact my office and lodge a proof of debt at **Annexure D** as soon as practicable.

### 3. Investigations

#### 3.1 Summary of Related Parties

The current and former Director were (within the last 12 months) a Director or Shareholder of the following companies:

##### Michel Germani

Company Name	Date Appointed as Director	Date Resigned as Director	Shareholder?
MG JEWELLERY PTY. LTD.	24-May-16	Current	Yes
MCG INVESTMENT GROUP PTY. LTD.	1-Dec-22	Current	Yes

##### Coco Germani

Company Name	Date Appointed as Director	Date Resigned as Director	Shareholder?
PACIFIC HOLDINGS AUSTRALIA PTY LTD	25-May-19	Current	Yes
INTERNATIONAL INVESTMENT GROUP PTY LTD	18-Oct-18	Current	Yes
STATE CAPITAL PTY LTD	1-Dec-22	Current	Yes
MCG INVESTMENT GROUP PTY. LTD.	23-Sep-16	1-Dec-22	Previous shareholder

#### 3.1.1 Shadow / De facto Director:

Section 9 of the Act provides the following definition of a director:

"**director**" of a company or other body means:

(a) a person who:

- (i) is appointed to the position of a director; or
- (ii) is appointed to the position of an alternate director and is acting in that capacity; regardless of the name that is given to their position; and

(b) unless the contrary intention appears, a person who is not validly appointed as a director if:

- (i) they act in the position of a director; or
- (ii) the directors of the company or body are accustomed to act in accordance with the person's instructions or wishes.

Subparagraph (b)(ii) does not apply merely because the directors act on advice given by the person in the proper performance of functions attaching to the person's professional capacity, or the person's business relationship with the directors or the company or body. The term "director" in section 9 is extended to those persons considered "de facto" and "shadow directors".

A de facto director includes someone who has acted as director even though not validly appointed and someone who acts as director even if there has been no purported appointment: *Re Richborough Furniture Ltd* [1996] 1 BCLC 507.

From my preliminary investigations, it appears that Coco Germani may have been a shadow director of the Company as it appears she undertook the below roles within the Company:

- Liaising with major jewellery suppliers such as MG Jewellery, Cartmer Jewellery and Pierre Germani;
- Control and access of the bank accounts and payments as she was a signatory of the accounts and appear to have transferred, accessed and withdrew funds as she saw fit;
- Control of the assets such as the Motor Vehicle; and
- Oversight of the business such as being the subscriber and main point of contact for the accountants.

### 3.2 Offences

As Liquidator of the Company, I have a right to:

- recover transactions that were unfair, uncommercial or preferential (referred to as voidable transactions);
- pursue the Director(s) for insolvent trading and offences; and
- sell rights to pursue voidable transactions to a third party.

Information on offences and recoverable transactions is attached as **Annexure C**.

Directors or Officers, as defined in section 9 of the Act, can be held accountable for offences when they fail to discharge their duties in accordance with the Act.

My inquiries indicate the Directors may have committed the following offences:

Offence	Notes	Reference to Act
Continuing to trade the Company whilst insolvent	3.2.1	588G
Failure to act with a degree of care and diligence	3.2.3	180
Failure to act in good faith and for a proper purpose	3.2.3	181
Improper use of position and/or information to gain an advantage to the detriment of the Company	3.2.4	182, 183
Failure to act in good faith and/or, improper use of position and/or information to gain an advantage to the detriment of the Company (criminal offence)	3.2.3, 3.2.4	184
Failure to disclose property or engagement in fraudulent activities	3.2.5	590

These offences will be reported to ASIC in a confidential report pursuant to section 533 of the Act.

## Notes

### **3.2.1 Insolvent Trading**

The current and former Directors of the Company have a duty to prevent the Company from trading whilst insolvent. Section 95A of the Act specifies an entity is considered insolvent where it cannot pay all its debts as and when they become due and payable.

An insolvent trading claim pursuant to section 588G of the Act is only available if the Directors incurred debts at or after a time when a reasonable person in the Directors position would suspect the Company was insolvent. In those circumstances, the Directors may be personally liable for the Company debts incurred after the date of insolvency and still outstanding at the date of Liquidation.

My investigations reveal the estimated date of insolvency is 8 November 2019 as the Company:

- was balance sheet insolvent from this time and for all subsequent periods;
- experienced continuing trading losses from this time and for all subsequent periods;
- was unable to meet creditors' payment terms from this time and for all subsequent periods;
- received several demands, judgments, and writs from creditors.

My preliminary estimate is that the Company incurred debts totalling \$2,069,772 which remain outstanding after 8 November 2019.

Based on the information currently known, I do not believe the Directors have any defence available to avoid personal liability of a potential insolvent trading claim.

In considering potential action against the Directors for insolvent trading, I assessed their capacity to meet a potential successful judgment. I have undertaken searches on the LPI Database to identify any real property registered in the name of the Company, the current and former Director and I have identified the following assets:

- My enquiries show that the former Director is potentially a registered proprietor of real property located in 17 / 14-18 Peggy Street, Mays Hill NSW 2145 and 5 / 212 Pennant Hills Road, Oatlands NSW 2117. I am unaware of the equity position;
- The Director and Company hold no interests in any property or land; and
- The Director and Shadow Director hold multiple shareholdings and I am unaware of the estimated value of the shareholdings.

### 3.2.2 Failure to Act with Care and Diligence & in Good Faith and for a Proper Purpose

The Directors continued to trade the Company when he knew or ought to have known that the Company was insolvent.

In addition, the Directors may have conducted an insurance fraud as a form to boost cashflow by orchestrating a fraudulent robbery of the consigned stock. The Director(s) have failed to act with care and diligence with respect to the stock held on the Premises and per my investigations the Director(s) had lodged insurance claims previously.

The Director(s) has failed to ensure the Company maintained its statutory taxation lodgements. Correspondence from the ATO advised the Company has the following outstanding lodgements:

<b>Document</b>	<b>Period</b>
Activity statement	Quarter ended 31 March 2023
Activity statement	Quarter ended 30 June 2023
Activity statement	Quarter ended 30 September 2023
Income tax return	Year ended 30 June 2024
PAYG payment summary	Year ended 30 June 2022
PAYG payment summary	Year ended 30 June 2023

The Director(s) may have contravened this section of the Act criminally as their actions appear to have been intentionally dishonest and/or reckless.

### 3.2.3 Improper Use of Information and Position to Gain an Advantage

As stated above, the Director(s) may have conducted insurance fraud, improperly using their position as Director(s) for personal gain. In addition, it appears the Director(s) obtained a financial advantage by deception as Company funds were used for the Director's personal expenses such as paying for residential rent, cash withdrawals and medical GP fees.

The Director may have contravened this section of the Act criminally as his actions appear to have been intentionally dishonest and/or reckless.

### 3.2.4 Failure to Disclose Property and/or Engagement in Fraudulent Activities

The Director(s) have engaged in an alleged fraudulent insurance fraud in an attempt to secure financial compensation. According to court documents, Michel Germani was charged with aggravated robbery and depriving a person of liberty, attempting to dishonestly obtain financial advantage by deception, publishing false misleading material to obtain property, and participating in a criminal group contributing to criminal activity.

## 4. Voidable Transactions

Transactions that are deemed an unfair preference, unfair loan, uncommercial or unreasonable, can be reversed by a Liquidator. Once recovered, these funds or assets are available to creditors.

### Cash Withdrawals

Upon review of the bank statements, I have identified cash withdrawals of **\$251,802.50** from 8 November 2019 to 6 February 2023 which comprises the period of insolvency.

### Unknown Withdrawals

Upon review of the bank statements, I have identified payments totalling **\$1,735,243.00** with the following narration "WITHDRAWAL MOBILE TFR Westpac Bus" which appears to be online withdrawals to an unknown account.

### Unreasonable Director-Related Transactions / Uncommercial Transactions

- Upon my review of the available books and records, Pacific Holdings Australia received a total of **\$328,227.51** of payments from the Company within the insolvency period from 11 May 2021 to 8 August 2023 which is a related company. These transactions occurred as part of a related party loan account.
- I have identified payments totalling **\$867,321** to MG Jewellery from 8 November 2019 to 23 January 2023 which is a related company. In addition to this, I have identified payments totalling **\$474,115** which was paid to MOS Jewellery which is an unrelated company. These transactions occurred as part of a related party loan account
- I have identified payments to Coco Germani personally after her formal resignation as a director and shareholder of the Company totalling **\$37,555** which she may not have been entitled to as she was not an employee of the Company and had formally ceased acting as a director.
- I have identified payments totalling **\$131,000** to Marble Operations Pty Ltd trading as Cafe Cino Hilton Sydney Marble Bar Hilton Sydney Restaurant Glass Zeta Bar.
- I have identified payments totalling **\$70,750** to Legend Property who were the managing agents for the property located at unit 6808, 115-123 Bathurst Street, SYDNEY NSW 2000 which was the residential address of the Director and the Shadow Director listed on the ASIC database. In addition to this, I have identified payments totalling **\$85,400** to Lamin Property for an unknown property which requires further investigation to ascertain the nature of these transactions and its personal nature.
- Further to this, I have identified multiple personal expenses such as payments to a family doctor.

The nature of these transactions remain unclear and require further investigations with respect to its recoverability. I am currently investigating the recoverability and commerciality of pursuing these claims.

## 5. Likelihood of a Dividend

Based on the known asset realisations, it appears unlikely a dividend will be payable to any class of creditor unless I am successful in recovering voidable transaction and insolvent trading claims from the Director(s).

If you have not formally lodged your claim in the Liquidation, please find attached at **Annexure D** a formal proof of debt form for you to complete. **Annexure A** is a list of known unsecured creditors, showing those creditors who have lodged a proof of debt and those who have not.

## 6. Request for Funding

As the Liquidation is without funds, creditors are requested to give consideration to providing me with funding in order to pursue the aforementioned claims against the Director and Shadow Director which could include public examinations in order to obtain further information to determine the commerciality of pursuing a claim against the Director.

Should you be in a position to provide me with funding, you are requested to notify this office in writing within fourteen (14) days from the date of this notice and I will provide you with further details in respect of the potential rights of action and anticipated costs.

Pursuant to Section 564 of the Act, in the event property is recovered under an indemnity provided, creditors who provide funding may ask the Court to upgrade their debt to priority status, thus entitling them to be paid any dividend (after reimbursement of the funds provided) ahead of unsecured creditors in consideration of the risk assumed.

## 7. Further Inquiries to be Undertaken

I will proceed with the Liquidation, including:

- realising any additional identified assets;
- completing my investigations into the Company's affairs;
- attempt to gain access to the books and records;
- completing my investigations regarding Voidable Transactions;
- completing my investigations regarding Insolvent Trading;
- investigate the ability of the Director or other parties to repay the identified claims;
- request funding with respect to litigation and/or public examinations of various parties;
- Commencing examination and recovery proceedings (if applicable);
- completing statutory obligations and reporting to ASIC pursuant to section 533 of the Act;
- completing and lodging supplementary reports to ASIC pursuant to section 533(2) of the Act (if required);
- dividend to creditors (if possible); and
- finalisation tasks.



## 8. Where Can You Get Further Information?

ARITA provides information to assist creditors with understanding liquidations and insolvency. This and other information outlining your rights as a creditor can be found at [www.arita.com.au](http://www.arita.com.au).

ASIC also provides information for creditors in a range of information sheets, which can be located at <https://asic.gov.au/regulatory-resources/insolvency/>.

If you have any queries or require further information, please contact Claudia Atai of this office on (02) 8986 8954 or [claudia.atai@svp.com.au](mailto:claudia.atai@svp.com.au).

Dated this 22<sup>nd</sup> day of December 2023

  
JASON LLOYD PORTER  
LIQUIDATOR

# ANNEXURE A

## Creditor Listing

### MCG Investment Group Pty. Ltd. - MCG Investment Group Pty. Ltd. Formerly trading as Diamonds By

All Creditors

#### SECURED CREDITORS

Creditor Name	Related Party	Address	ROCAP	Advised	Claimed	Trans ID
Bizcap Au Pty Ltd (*NO CLAIM*)		PO Box 195 BALACLAVA VIC 3183	0.00	0.00	0.00	
Germani, Michel		C/- Andrew Stewart, Suite 403, 379 Pitt Street Sydney NSW 2000	0.00	0.00	0.00	
Volkswagen Financial Services		Locked Bag 4002 CHULLORA NSW 2190	0.00	276,827.46	0.00	<a href="#">1453035</a>
Zwab Ventures Pty Ltd		Latep Legal,Suit 2, Level 2, 349 Collins Street MELBOURNE VIC 3000	0.00	0.00	0.00	
<b>Totals for Secured Creditors</b>			4	0.00	276,827.46	0.00

#### PRIORITY CREDITORS

Creditor Name	Related Party	Address	ROCAP	Advised	Claimed	Trans ID
Rising Stella Investment Holdings		C/- Baker Mckenzie , Tower One - International Towers Sydney, 100 Barangaroo Ave Barangaroo NSW 2000	0.00	9,642.90	0.00	<a href="#">1465540</a>
<b>Totals for Priority Creditors</b>			1	0.00	9,642.90	0.00

#### PRIORITY CREDITORS (EMPLOYEES AND SGC)

Creditor Name	Related Party	Address	ROCAP	Advised	Claimed	Trans ID
Al-Khoury, Lana		8/39 Pevensey Street Canley Vale NSW 2176	4,183.19	4,183.19	0.00	<a href="#">1456806</a>
Germani, Coco	YES	2712/91-95 Liverpool Street, Sydney NSW 2000	5,207.50	5,207.50	0.00	<a href="#">1456809</a>
<b>Totals for Priority Creditors (Employees and SGC)</b>			2	9,390.69	9,390.69	0.00

#### UNSECURED CREDITORS

Creditor Name	Related Party	Address	ROCAP	Advised	Claimed	Trans ID
Australian Taxation Office		Via ATO Portal	0.00	242,663.09	167,253.65	<a href="#">1453542</a>
Cartmer Jewellery		Jeweller - Engagement Ring Showroom Sydney Jewellery Repairs, The Dymocks Building, Level 1, Suite 7/428 George St, Sydney NSW 2000 Australia	179,997.00	242,656.40	0.00	<a href="#">1453531</a>
Coco Germani		- SYDNEY NSW 2000	5,207.00	5,207.00	0.00	<a href="#">1464147</a>
FALCON ACCOUNTING PTY LIMITED		PO Box 530 Gungahlin ACT 2912	0.00	4,950.00	4,950.00	<a href="#">1451792</a>
MG JEWELLERY PTY. LTD.		C/- FALCON, ACCOUNTING PTY LTD, UNIT 10, 26 FRANCIS, FORDE BOULEVARD FORDE ACT 2914	996,952.00	994,086.00	0.00	<a href="#">1453534</a>
Pacific Holdings Australia Pty Ltd		- SYDNEY NSW 2000	166,758.00	166,758.00	0.00	<a href="#">1464143</a>
Pierre Germani		Shop G-007 in The Strand Arcade, 412-414 George Street Sydney NSW 2000	193,000.00	193,000.00	0.00	<a href="#">1453536</a>
Rising Stella Investment Holdings		Tower One - International Towers Sydney Level 46, 100 Barangaroo Avenue Sydney NSW 2000	0.00	878,750.50	878,750.50	<a href="#">1462618</a>
<b>Totals for Unsecured Creditors</b>			8	1,541,914.00	2,728,070.99	1,050,954.15
<b>Totals for All Creditors:</b>			15	1,551,304.69	3,023,932.04	1,050,954.15

# ANNEXURE B

**Receipts and Payments Summary By Account: MCG Investment Group Pty. Ltd. - MCG Investment Bank, Cash and Cash Investment Accounts: From: 6/10/2023 To: 22/12/2023 (Gross Method)**

Type	Account	GST	Total
<b>NON-TRADING RECEIPTS</b>			
	Equity: Opening Balance		13.17
	Indemnity		20,000.00
		0.00	20,013.17
<b>NON-TRADING PAYMENTS</b>			
	Appointee Disbursements: Printing / Photocopying	(0.98)	(10.73)
	Appointee Disbursements: Searches	(43.84)	(482.25)
	Appointee Disbursements: Searches GST free		(25.00)
	Fees: Appointee Fees	(1,697.29)	(18,670.19)
	Fees: ASIC FM Levy	(75.00)	(825.00)
		(1,817.11)	(20,013.17)
	<b>Net Non-Trading Receipts and Payments</b>	(1,817.11)	0.00
	<b>Net Receipts (Payments)</b>	(1,817.11)	0.00

# ANNEXURE C

# Creditor Information Sheet

## Offences, Recoverable Transactions and Insolvent Trading



### Offences

**A summary of offences under the Corporations Act that may be identified by liquidators or administrators:**

180	Failure by company officers to exercise a reasonable degree of care and diligence in the exercise of their powers and the discharge of their duties.
181	Failure to act in good faith.
182	Making improper use of their position as an officer or employee, to gain, directly or indirectly, an advantage.
183	Making improper use of information acquired by virtue of the officer's position.
184	Reckless or intentional dishonesty in failing to exercise duties in good faith for a proper purpose. Use of position or information dishonestly to gain advantage or cause detriment. This can be a criminal offence.
198G	Performing or exercising a function or power as an officer while a company is under administration.
206A	Contravening a court order against taking part in the management of a corporation.
206A, B	Taking part in the management of corporation while being an insolvent, for example, while bankrupt.
206A, B	Acting as a director or promoter or taking part in the management of a company within five years after conviction or imprisonment for various offences.
209(3)	Dishonest failure to observe requirements on making loans to directors or related companies.
254T	Paying dividends except out of profits.
286	Failure to keep proper accounting records.
312	Obstruction of an auditor.
314-7	Failure to comply with requirements for the preparation of financial statements.
437D(5)	Unauthorised dealing with company's property during administration.
438B(4) / 453F 475(9)) / 497(4) / 530A – 530B	Failure by directors to assist, deliver records and provide information.
438C(5) / 477(3) / 530B	Failure to assist, deliver up books and records and provide information.
588G	Incurring liabilities while insolvent
588GAB	Officer's duty to prevent creditor-defeating disposition
588GAC	A person must not procure a company to make a creditor-defeating disposition
590	Failure to disclose property, concealed or removed property, concealed a debt due to the company, altered books of the company, fraudulently obtained credit on behalf of the company, material omission from Report as to Affairs or false representation to creditors.
596AB	Entering into an agreement or transaction to avoid employee entitlements.

### Recoverable Transactions

#### Preferences

A preference is a transaction, such as a payment by the company to a creditor, in which the creditor receiving the payment is preferred over the general body of creditors. The relevant period for the payment commences six months before the commencement of the liquidation, or three months if a simplified liquidation process is adopted. The company must have been insolvent at the time of the transaction or become insolvent because of the transaction.

Where a creditor receives a preference\*, the payment is voidable as against a liquidator and is liable to be paid back to the liquidator subject to the creditor being able to successfully maintain any of the defences available to the creditor under the Corporations Act.

*\*Must be greater than \$30,000 for unrelated creditors in a simplified liquidation*

#### Creditor-defeating disposition

Creditor-defeating dispositions are the transfer of company assets for less than market value (or the best price reasonably obtainable) that prevents, hinders or significantly delay creditors' access to the company's assets in liquidation. Creditor-defeating dispositions are voidable by a liquidator.

### **Uncommercial Transaction**

An uncommercial transaction is one that it may be expected that a reasonable person in the company's circumstances would not have entered into, having regard to the benefit or detriment to the company; the respective benefits to other parties; and any other relevant matter.

To be voidable, an uncommercial transaction must have occurred during the two years before the liquidation. However, if a related entity is a party to the transaction, the period is four years and if the intention of the transaction is to defeat creditors, the period is ten years. The company must have been insolvent at the time of the transaction, or become insolvent because of the transaction.

### **Unfair Loan**

A loan is unfair if and only if the interest was extortionate when the loan was made or has since become extortionate. There is no time limit on unfair loans – they only must be entered into before the winding up began.

### **Arrangements to avoid employee entitlements**

If an employee suffers loss because a person (including a director) enters into an arrangement or transaction to avoid the payment of employee entitlements, the liquidator or the employee may seek to recover compensation from that person or from members of a corporate group (Contribution Order).

### **Unreasonable payments to directors**

Liquidators have the power to reclaim '*unreasonable payments*' made to directors by companies prior to liquidation. The provision relates to payments made to or on behalf of a director or close associate of a director. The transaction must have been unreasonable and have been entered into during the 4 years leading up to a company's liquidation, regardless of its solvency at the time the transaction occurred.

### **Voidable charges**

Certain charges over company property are voidable by a liquidator:

- circulating security interest within six months of the liquidation, unless it secures a subsequent advance
- unregistered security interests
- security interests in favour of related parties who attempt to enforce the security within six months of its creation.

## **Insolvent trading**

In the following circumstances, directors may be personally liable for insolvent trading by the company:

- a person is a director at the time a company incurs a debt
- the company is insolvent at the time of incurring the debt or becomes insolvent because of incurring the debt
- at the time the debt was incurred, there were reasonable grounds to suspect that the company was insolvent
- the director was aware such grounds for suspicion existed; and
- a reasonable person in a like position would have been so aware.

The law provides that the liquidator, and in certain circumstances the creditor who suffered the loss, may recover from the director, an amount equal to the loss or damage suffered. Similar provisions exist to pursue holding companies for debts incurred by their subsidiaries.

A defence is available under the law where the director can establish:

- there were reasonable grounds to expect that the company was solvent and they did so expect
- they did not take part in management for illness or some other good reason; or
- they took all reasonable steps to prevent the company incurring the debt.

The director may also be able to avail themselves of safe harbour, if they meet certain conditions.

The proceeds of any recovery for insolvent trading by a liquidator are available for distribution to the unsecured creditors before the secured creditors.

**Important note:** This information sheet contains a summary of basic information on the topic. It is not a substitute for legal advice. Some provisions of the law referred to may have important exceptions or qualifications. This document may not contain all of the information about the law or the exceptions and qualifications that are relevant to your circumstances.

**Queries about the external administration should be directed to the insolvency practitioner's office.**



# ANNEXURE D

**FORM 535**

Subregulation 5.6.49(2)  
Corporations Act 2001 (Cth)

**FORMAL PROOF OF DEBT OR CLAIM (GENERAL FORM)**  
**MCG INVESTMENT GROUP PTY. LTD. FORMERLY TRADING AS DIAMONDS BY GERMANI, GERMANI**  
**AUSTRALIA, GERMANI GROUP, ETC. (IN LIQUIDATION)**  
**ACN 614 996 164 (THE COMPANY)**

To the Liquidator

1. This is to state that the Company was on 6 October 2023, and still is, justly and truly indebted to:

<b>Creditor Name</b>	
<b>Creditor Postal Address</b>	
<b>Telephone</b>	
<b>Email:</b>	
<b>ABN</b> (N/A, if not required)	
<b>FOR</b> \$Amount owing (Dollars & Cents)	\$

Particulars of the debt are:

<b>Date</b>	<b>Consideration</b> (state how the debt arose and attach supporting documentation)	<b>Amount (\$)</b>

2. To my knowledge or belief the creditor has not, nor has any person by the creditor's order, had or received any satisfaction or security for the sum or any part of it except for the following:

<b>Date</b>	<b>Drawer</b>	<b>Acceptor</b>	<b>Amount (\$)</b>	<b>Due Date</b>

3. Signed by (select option):

- I am the creditor personally.
- 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, remains unpaid and unsatisfied.
- I am the creditor's agent authorised in writing to make this statement in writing. I know the debt was incurred for the consideration stated and that the debt, to the best of my knowledge and belief, remains unpaid and unsatisfied.

**If being used for the purpose of voting at a meeting:**

- a) Is the debt you are claiming assigned to you (i.e. a transfer of debt)?  No  Yes
- b) If yes, attach written evidence of the debt, the assignment and consideration given.  Attached
- c) If yes, what value of consideration did you give for the assignment (eg, what amount did you pay for the debt?) \$\_\_\_\_\_
- d) If yes, are you a related party creditor of the Company?  No  Yes

Signature: \_\_\_\_\_

Dated: \_\_\_\_\_

Name: \_\_\_\_\_

Occupation: \_\_\_\_\_

<b>RECEIVE REPORTS BY EMAIL</b>	Yes	No
Do you wish to receive all future reports and correspondence from our office via email?	<input type="checkbox"/>	<input type="checkbox"/>
Email:.....		