

# INTERIM ADVANCE CORPORATION PTY LTD

(Subject to Deed of Company Arrangement)

ACN 094 743 843

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## MINUTES OF MEETING OF CREDITORS OF INTERIM ADVANCE CORPORATION PTY LTD (SUBJECT TO DEED OF COMPANY ARRANGEMENT) HELD AT GRANT THORNTON LEVEL 1, 10 KINGS PARK ROAD, WEST PERTH WA ON 2 MARCH 2010 AT 10:00 AM.

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### PRESENT:

Tony Douglas-Brown - Chairperson  
Denis Brodschii - Grant Thornton assisting the  
Chairperson

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#### In Person

Oliver Douglas - Great Southern Land Discretionary  
Trust  
Stephanie Douglas - Colbert Pty Ltd & David Herlihy Pty  
Ltd  
Paul Robinson - Observer (Ressard Pty Ltd)  
Matthew Donnelly - Observer (Grant Thornton)

#### By Phone

Benjamin Dakis - The Australian Taxation Office  
Donald Green - Ninelen Pty Ltd & Corvarr Pty Ltd

### INTRODUCTION:

Mr Douglas-Brown introduced himself and Mr Brodschii to the meeting and advised that this was a meeting of creditors to consider options available to creditors which were:

- a) Termination of the Deed of Company Arrangement ("DOCA") and winding up of the Company;
- b) Variation of the DOCA to enable it to continue; or
- c) Continuation of the existing DOCA without modification.

Mr Douglas-Brown noted that for the reasons set out in report issued to creditors on 12 February 2010 the Deed Administrator's recommendation was to terminate the DOCA and wind up the Company.

### CHAIRPERSON:

Mr Douglas-Brown advised that in accordance with Regulation 5.6.17 of the Corporations Regulations (the "Regulations"), he would act as Chairperson of the meeting and declared the meeting open.

### CONVENIENCE OF MEETING:

The Chairperson advised that notices of the meeting had been sent to all known creditors on 12 February 2010. The minimum five-business day's

notice of the convening of the meeting, as required by Section 445F (2) had therefore been given.

Following a review of the Attendance Register, the Chairperson advised that the major creditors were either in attendance or represented by proxy, and then declared that the meeting was held at a time and place convenient to the majority of creditors in accordance with Regulation 5.6.14 of the Regulations.

#### **PROXIES:**

The Chairperson asked whether all those present had signed the Attendance Register.

The Chairperson then advised the meeting that a number of proxies had been received and reviewed the proxies for the meeting:

<b>Creditor Name</b>	<b>Proxy</b>	<b>Amount Admitted (\$)</b>
Australian Taxation Office	Benjamin Dakis	1,005,722
Belven Enterprises Pty Ltd	Chairperson	23,655
Braid Pty Ltd ATF the Dee	Chairperson	2,572
Colbert Pty Ltd	Stephanie Douglas	82,500
David Herlihy Pty Ltd	Stephanie Douglas	82,500
Digital Document Solutions	Chairperson	11,271
Great Southern Land Discretionary	Oliver Douglas	820,000
Lorkey Pty Ltd & GTSE Pty Ltd	Chairperson	28,538
Mercedes Benz Financial Services	Chairperson	131,476
Moneygram	Chairperson	174,425
Ninelen Pty Ltd	Donald Greene	1
North Shore Corporate	Chairperson	9,020
Office of State Revenue	Chairperson	232,961
PT Limited	Chairperson	249,417
Talbot Olivier	Chairperson	258,447
Toyota Finance Australia Ltd	Chairperson	6,970
Yeperenye Pty Ltd	Chairperson	16,484

The Chairperson referred to the claim by Ninelen Pty Ltd and the ruling made at the previous meeting of creditors in respect of the claim.

The Chairperson noted that he did not propose to vary the ruling made at the last meeting, and thus admit the claim by Ninelen for one dollar for voting purposes at the present meeting for reasons set out below.

The Chairperson advised in respect of the claim and the ruling that:

- A number of documents relating to this claim and also relating to the sale of the franchise stores at Geraldton and Midland have been reviewed.
- The defence and counterclaim prepared by the Company have also been reviewed.
- It appears that Ninelen discontinued operating the Geraldton store and did not take up the Midland store.
- The claim appears to be made amongst other things for the refund of the franchise fees in addition to a claim for damages.
- The Company (Interim Advance Corporation Pty Ltd) on the other hand claims that Ninelen breached the franchise agreement for Geraldton by re-opening under another name

using the intellectual property of the Company and further failed to take up the Midland Store.

- In addition there are claims by both parties for loss of income and damages against each other.

The Chairperson then advised that taking into account the points above, given the range of issues involved he proposes to admit Ninelen for voting purposes at this meeting for one dollar.

The Chairperson then asked whether there were any objections to the ruling.

There were no objections.

The Chairperson then referred to claim by MoneyGram and proposed to admit the claim in full. The Chairperson noted that the claim has been reviewed in more detail since the last meeting, the claim appears to be valid and no items came to light which may cause doubts regarding the amount claimed.

The Chairperson noted that the proxy received from MoneyGram indicated the voting instructions, which were to abstain at voting on all resolutions to be put forward.

The Chairperson then referred to claims by Colbert Pty Ltd and David Herlihy Pty Ltd. The Chairperson then admitted the claims in full for voting purposes at this meeting only and noted that the claims will need to be reviewed at a later stage as only limited supporting documentation has been received in respect of the claims.

The Chairperson then advised that Mr Robinson representing Ressard Pty Ltd had not lodged a proxy or a proof of debt for the meeting.

Mr Robison advised that he had discussed the claim with the Deed Administrator in a telephone conversation.

The Chairperson then advised that despite a telephone conversation which took place, no supporting documentation or proof of debt or proxy form was subsequently received from Mr Robinson as was agreed in that telephone discussion.

The Chairperson then advised that despite the lack of proxy or proof of debt, Mr Robinson will be permitted to attend the meeting, however as an observer only. The Chairperson advised that presently the claim by Ressard Pty Ltd will not be admitted because:

- No details or documentary evidence relating to the claim has been received; and
- Given information available to date, Ressard Pty Ltd being a franchisee of the Company is a debtor and not a creditor.

The Chairperson asked whether there were any objections to this ruling.

There were no objections.

The Chairperson then noted that Mr Matthew Donnelly was attending the meeting as an observer only.

**QUORUM:**

The Chairperson noted that a quorum was present in accordance with Regulation 5.6.16 and that the meeting was therefore properly constituted.

**DEED ADMINISTRATORS'  
REPORT:**

The Chairperson drew the meeting's attention to the report to creditors dated 12 February 2010.

The Chairperson advised that:

- The Company was placed into Voluntary Administration on 21 July 2009 due to significant debts it had and the inability to continue to trade.
- Following the execution of the DOCA, it has now become apparent that some of the terms of the DOCA are unlikely to be met.
- Accordingly, a meeting of creditors has been called to consider the position and options available to creditors, which include:
  - a) Termination of the DOCA and winding up of the Company;
  - b) Variation of the DOCA to enable it to continue; or
  - c) Continuation of the existing DOCA without modification.
- The sale of the Company's business comprised a sale of the following:
  - 1. Goodwill
  - 2. A loan book of current debts
  - 3. Plant and equipment
- The sale agreement, which was the basis of the DOCA, provided that in addition, further recoveries were to be made from a percentage of the franchise fees payable to the Company and also a percentage of the Company's book debts that had been deemed "bad" but from which some recoveries were projected over time.
- For a variety of reasons the "merger" and "re-capitalisation" was not able to be completed and there is now a dispute between the parties (the purchaser and Douglas interests).
- To date the Deed Administrator has realised or recovered the following:
  - 1. The "Current" Loan Book (paid for as agreed based on the Sale Agreement);

2. Some "Bad Debt" recoveries (as provided for in the Sale Agreement).

- Amounts outstanding under the Sale Agreement are:
  - Franchise Fees;
  - Plant and Equipment;
  - The Goodwill; and
  - Other monies that may fall due from the "Bad Bank" recoveries.

The Chairperson then referred to the claim by the Company's Secured Lender ("the Bank") which holds a fixed and floating charge over the Company. The Chairperson advised that at the time the DOCA was being entered into it was envisaged that the debt would be paid out. However for a variety of reasons, including the current dispute between the parties involved in the re-capitalised business, this has not been done.

The Chairperson advised that the Bank has appointed a Controller over specific assets of the Company, which means that any sale can no longer be completed without the Bank's consent and no such consent has been given.

The Chairperson then referred to expected collections of "bad debts" and advised that a review of collected bad debts to date and expected future collections has been done in early 2010. Given the current dispute, any future collections of bad debts appear uneconomical as it is likely that the costs of collections will outweigh any recoveries, if the Deed Administrator has to collect these debts.

The Chairperson then advised that it is the Deed Administrator's recommendation to terminate the DOCA and wind up the Company because and considering:

- The matters outlined above and those set out in the report to creditors dated 12 February 2010;
- The sale agreement can not be completed;
- Future recoveries of bad debts appear very doubtful; and
- The fundamental principles behind the DOCA can no longer be achieved.

The Chairperson then pointed out that no proposal to vary the DOCA has been received.

The Chairperson then referred to the franchise fees owing to the Company and advised that he is yet to receive any advice from the solicitor acting for the franchisees.

General discussion followed concerning the terms of the sale agreement, the items paid for and the items still outstanding. The Chairperson then referred to the charge holder's appointment of a Controller over certain assets of the Company and briefly discussed the effects of this appointment.

General discussion followed concerning the nature of Company's assets, including the Business Name and the Trade Mark, including the secured creditor's claim over the assets.

The Chairperson asked if there were any other questions creditors wished to raise regarding the report or any other matters.

There were no further matters raised for discussion.

**TERMINATION OF DOCA:** There being no further business, the Chairperson advised that creditors were now to resolve whether to terminate the DOCA.

The Chairperson asked those present and voting to identify themselves.

The Chairperson then read out the proposed resolution:

"The Deed of Company Arrangement executed on 8 September 2009 in relation to Interim Advance Corporation Pty Ltd ACN 094 743 843 be terminated"

The Chairperson asked whether there were any questions relating to the resolution.

Moved: Donald Greene

Seconded: Oliver Douglas

The Chairperson then referred to Regulation 5.6.20 and called for a poll with the majority in value and number of creditors necessary to pass the resolution.

The Chairperson asked those present, in lieu of submitting voting slips as a number of creditors were attending by phone, to indicate their voting instructions, which were:

Mr Dakis: For

Mr Douglas: For

Ms Douglas: For

The Chairperson then referred to the proxies received for the meeting and the voting instructions.

The Chairperson then indicated that all votes were in favour of the proposed resolution with the exception of Ninelen proxy which voted against and MoneyGram proxy which abstained. The Chairperson then confirmed that 94% in value and 15 out of 17 votes admitted for the meeting were in favour of the resolution.

The Chairperson then declared based on a poll the Motion passed.

**RESOLVING FOR  
LIQUIDATION:**

The Chairperson advised that having determined to terminate the Deed of Company Arrangement, creditors had to decide whether to wind up the Company or end the administration.

The Chairperson pointed out that under the provisions of the Corporations Act 2001, the administrator would be the liquidator of the Company.

It was then resolved that:

"Interim Advance Corporation Pty Ltd be wound up voluntarily and that Anthony Hayes Douglas-Brown and Matthew James Donnelly be appointed as Joint and Several Liquidators for the purposes of the winding up."

The Chairperson read out the resolution and asked if creditors had any questions they wished to raise.

Moved: Ben Dakis

Seconded: Stephanie Douglas

The Chairperson declared the Motion Carried on the voices and noted that Mr Greene voted against. The Chairperson noted that 94% in value and 15 out of 17 votes admitted for the meeting were in favour of the resolution.

**COMMITTEE OF  
INSPECTION:**

The Chairperson advised the meeting of the purpose and function of a Committee of Inspection and what role members of that committee would play. He advised creditors that any member of a Committee of Inspection was bound by the duties detailed in the Corporations Act 2001 and they acted in a fiduciary capacity and therefore could not act for their own benefit. The Chairperson asked whether creditors had any queries regarding this.

The Chairperson asked if there were any nominations for the Committee of Inspection and there were none with the exception of Ninelen proxy which indicated that a committee of inspections be appointed however not proposed a nomination.

It was resolved that:

"No Committee of Inspection be appointed"

The Chairperson read out the resolution and asked if creditors had any questions they wished to raise.

Moved: Oliver Douglas

Seconded: Ben Dakis

The Chairperson declared the Motion Carried on the voices and noted that Mr Greene voted against. The Chairperson then noted that 94% in value and 15 out of 17 votes admitted for the meeting were in favour of the resolution.

**LIQUIDATORS'  
REMUNERATION:**

The Chairperson advised that creditors could approve the drawing of the Liquidators' remuneration or failing which, an application could be made to the Court.

The Chairperson then referred to the Remuneration Report issued to creditors with the notice date 12 February 2010 and advised that the rates per hour were also detailed in the report to creditors.

The Chairperson read out the proposed resolution and asked if there were any questions regarding the Liquidators' remuneration.

"The remuneration of the liquidators and any of the liquidators' employees in performance of services performed from the date of liquidation to the date of finalisation of the liquidation be charged in accordance with the Grant Thornton Australia schedule of rates issued from time to time on a bi-annual basis to take into account changes of rates over the period of liquidation up to a maximum of \$50,000 (excluding GST) plus any out of pocket expenses incurred. Approval is given for such amounts approved to be drawn on a monthly basis."

Moved: Ben Dakis

Seconded: Donald Greene

The Chairperson declared the Motion Carried on the voices and noted that Mr Greene voted against. The Chairperson did not use any general proxies and noted that Moneygram, Mercedes Benz, PT Limited and Digital Document Solutions proxies abstained from voting. The Chairperson then noted that 81% in value and 12 out of 17 votes admitted for the meeting were in favour of the resolution.

**DISPOSAL OF BOOKS  
AND RECORDS:**

The Chairperson briefly explained the liquidation process and advised that after clearances had been received it would be necessary to destroy the records. He advised that if creditors did not grant the liquidator approval at this meeting to destroy the records, the liquidator would be required to keep the records for a period of five years, which would mean a further burden on creditors.

It was then resolved that:

"Subject to obtaining approval from the Australian Securities and Investments Commission, pursuant to Section 542(4) of the Corporations Act 2001, the books and records of the Company and the

liquidator be disposed of by the liquidator six months after the dissolution of the company.

Moved: Stephanie Douglas

Seconded: Donald Greene

The Chairperson then reviewed the list of proxies received for the meeting and their voting instructions.

The Chairperson declared the Motion Carried on the voices and noted that Mr Greene voted against and Mr Dakis abstained. The Chairperson then noted that 62% in value and 14 out of 17 votes admitted for the meeting were in favour of the resolution.

**ADDITIONAL POWERS:**

The Chairperson advised that the liquidator has certain inherent powers contained in section 477 of the Corporations Act 2001 and briefly explained these powers.

- s477(1)(b) – pay any class of creditor in full
- s477(1)(c) – compromise creditor claims less than \$20,000
- s477(1)(d) – compromise claims against contributories
- s477(2)(m) – do all such other things necessary for the winding up
- s477(2A) – compromise debts owing to the company more than \$20,000
- s477(2B) – enter into an agreement on the company's behalf that will end more than 3 months after the agreement is entered into

The Chairperson advised that without creditors' approval for the liquidator to exert these additional powers it would be necessary to call meetings of creditors or apply to the court when any of these powers needed to be exercised. The Chairperson stated that to avoid further additional costs creditors could resolve to authorise the liquidator to exercise these powers and these included the power to deal with creditor claims and settle debts.

It was then resolved that:

"Creditors hereby resolve in accordance with Section 506(1A) of the Corporations Act 2001 that the liquidator is authorised to exercise any powers given by Section 477(1)(b)(c) or (d), 477(2)(m), 477(2A) or 477(2B) to a liquidator in a Court Winding Up."

Moved: Donald Greene

Seconded: Oliver Douglas

The Chairperson then reviewed the list of proxies received for the meeting and their voting instructions.

The Chairperson declared the Motion Carried on the voices and noted that Mr Greene voted against and Mr Dakis abstained. The Chairperson then noted that 62% in value and 14 out of 17 votes admitted for the meeting were in favour of the resolution.

**GENERAL  
BUSINESS:**

The Chairperson asked if there were any other items that the meeting wished to raise for discussion.

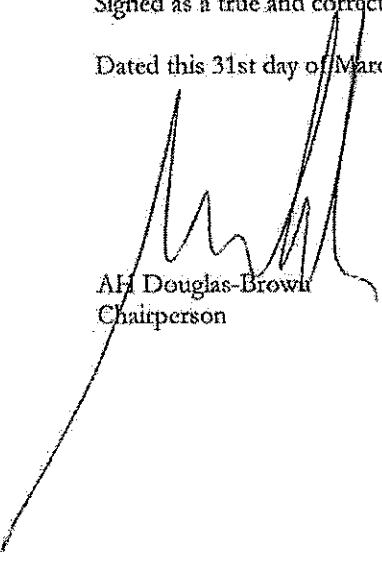
There were no further matters raised.

**CLOSURE:**

There being no further business, the Chairperson thanked those present for their attendance and declared the meeting closed at 10:38 am.

Signed as a true and correct record.

Dated this 31st day of March 2010



AH Douglas-Brown  
Chairperson