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The Secretary  
Parliamentary Joint Committee  
On Corporations and Financial Services  
Parliament House  
Canberra ACT 2600

Dear Dr. Kathleen Dermody,

I have been corresponding with Mr. Ross Cameron, Parliamentary Secretary to the Treasurer, in respect of the Topic under consideration by your committee. Unfortunately, I was unaware of any dead line for submissions and, on enquiring from Mr. Cameron, was informed that the Committee had not yet reported. He therefore advised me to nevertheless make my submission for what it might be worth.

I think I can do no better than forwarding you copies of my letters to the Parliamentary Secretary and draw your attention to the invariably dismal outcome of liquidations under the current scheme and law. The attached samples of reports from KPMG in the N.E.M.G.I.A (Insurance) and from Pitcher Partners re K.C. Park Safe et al, speak for themselves. They make it quite clear that the vast majority of any outstanding amounts of money go to so-called professional service providers, charging professional public fees for work able to be done by normal accountancy qualificants and clerks. If nothing else comes of the reconsideration of this grave matter than the ability of the Tax Department or Public Trustees etc. to bid for this type of work it will provide significant relief to Creditors. In addition, depending on the particular industrial branch of the defaulting company, specific experts could be recruited as advisers on a sessional basis, thus further limiting costs and providing greater prospect of recovery of funds. When I was asked to assist in insurance matters I was disarmingly advised that the Liquidators knew nothing about insurance. You can imagine how much time would have to be spent and paid for on post-graduate education!!

However, there is one weighty problem lurking in the background of these exercises. It is quite naïve to assume that a particular Public Accountancy firm can ever say it has no interest in the position of certain other branches, e.g. Insurance Companies, Finance Companies, Banks, forever figuring as either creditors or debtors in the context of a liquidation. We heard from KPMG in the HIH case that they do not intend to pursue The Government Watchdog of Insurers, APRA or indeed the Federal Government for any contribution to the recoverable sums. Of course it would be ridiculous to think that not other than pure legal aspects enter into such decisions. If the many continuous press reports on the role of these entities is in any way reliable prospects of success definitely existed. You can always get a barrister to say something else and the opinions of these "learned" sources should be made public in their respective quintessence, so that creditors would also be able to make a decision or at least a judgment, not just having to accept these decisions from persons without legal qualifications and, in the HIH case, without any Insurance qualifications.

I suppose I have said it several times, but please believe me I am certain that if this matter became one for public discussion the pigs would soon be chased from the trough!!

Best regards,

  
Hans S. Roleff

13.4.2004



PITCHER PARTNERS

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- K C PARK SAFE PTY LTD (IN LIQUIDATION) ACN 006 304 285**
- K C MELBOURNE PTY LTD (IN LIQUIDATION) ACN 061 457 010**
- K C PARK SAFE (BRISBANE) PTY LTD (IN LIQUIDATION) ACN 050 277 239**
- K C PARK SAFE (TAS) PTY LTD (IN LIQUIDATION) ACN 059 896 409**
- K C PARK SAFE (NSW) PTY LTD (IN LIQUIDATION) ACN 054 635 924**
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- K C PARK SAFE (WA) PTY LTD (IN LIQUIDATION) ACN 066 759 528**
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- (K C PARK SAFE GROUP)**

### ANNUAL MEETING OF CREDITORS & MEMBERS

I have convened a meeting of creditors and members to be held at Level 8, 161 Collins Street, Melbourne, Victoria on 22 July 2002 at 10.30 am. Accordingly, I attach:

- 1 Liquidator's report to creditors.
- 2 Summary of the liquidator's receipts and payments.
- 3 Statutory notice convening the meeting.
- 4 Proxy form.

Creditors and Members who are unable to attend the meeting and wish to be represented, should ensure that a proxy form is completed.

Please address any enquiries to Ms Joanne Traynor of my staff on (03) 9289 9915 or facsimile no 03 9289 9829.

Dated this 28<sup>th</sup> day of June 2002

  
G M RAMBALDI  
Liquidator

Encl

LCV/EPG/AT/10022

<b>PAYMENTS</b>	
Car Parking Refunds	2,148.00
Accountants Fees - External	6,159.00
Cleaning expenses	197.00
Freight outwards	300.00
Insurance	2,974.75
Light & heat	3,568.01
Mail Redirection	270.00
Meeting Room Hire	1,133.60
Motor vehicle expenses	2,016.55
Hire & leasing costs	13,462.74
Printing & stationery	113.40
Server & Workstation expenses	560.00
Rent & rates	6,055.59
Security Services	2,287.72
Sundry expenses	14,169.05
EFT's Received post 5/11/98	28,661.58
Freedom of Information requests	647.05
Annual leave - Administrators period	1,343.41
Wages	2,226.89
Reimbursement of expenses	46.60
Work Cover premium	679.50
Superannuation	299.54
Waste collection	485.00
Fixed - auction fees/expenses	6,818.93
Advertising	2,614.60
Investigators costs	600.00
Valuation/Auctioneer's charges	5,087.89
Bank charges/transaction taxes	4,844.82
Liquidator's disbursements	28,290.16
Voluntary Administrator's Disbursements	22,724.02
Part Transfer	40,000.00
Remuneration of Liquidator @ IPAA	948,699.82
Voluntary Administrator's Fees	250,000.00
Assignment of leases	20,000.00
Searches	2,256.48
Accountants Fees	2,676.37
Solicitor's costs	3,617.30
Mills Oakley Lawyers	85,536.19
Solicitor's costs - Arnold Bloch Leibler	45,901.22
Legal Fees - Darrer Muir Fleiter	68,355.00
Costs order	5,000.00
Storage of documents	15,687.79
Group Tax	1,109.33
Superannuation expense	2,836.11
Distribution to partly secured creditors	77,802.24
Distribution to floating charge creditors	7,281.73
Tax clearing account	843.00
Suspense	1,302.00
Tax Payments	32,639.38
<b>Total payments</b>	<b><u>1,772,329.36</u></b>
<b>Plus Bank Guarantee</b>	<b>120,000.00</b>
<b>Balance at Bank(s)</b>	<b>439,531.65</b>

**STATEMENT OF RECEIPTS AND PAYMENTS**  
**K C PARK SAFE GROUP COMBINED CASH BOOK FOR THE PERIOD**  
**16 DECEMBER 1998 TO 15 JUNE 2002**

<b>RECEIPTS</b>	40,000.00
Part Transfer	64,497.35
Stamp Duty Refund	11,444.09
Management Fees	22,152.19
Permanent Parking receipts	160.00
Swinburne Uni Infringement Notices	2,766.20
Charge Parking	542.00
Bond - Jolimont Terrace	362.00
Soft drink vending machine	4,381.00
Vouchers	190.00
Cleaning	37,300.17
Deposit interest	40,000.00
Settlement of Trust issue	564.00
Rental Bond refund	6,529.15
Sundry receipts	145,000.00
K C Treasury Settlement	948,911.47
Settlement of preference action	445,000.00
Assignment of leases	230,061.62
Cash at bank on appointment	220.00
Computers	44,613.39
Motor Vehicles	14,679.38
Sundry debtors - Schedule B	48,120.00
Plant & Equipment	85,000.00
Loan Account - BHK Investments P/L	17,863.00
Tax clearing account	1,302.00
Suspense	202.00
Tax Receipts	<u>202.00</u>
<b>Total receipts</b>	<u><u>2,211,861.01</u></u>



Chartered Accountants

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Australia

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Australia

Telephone: (02) 335 7000  
Facsimile: (02) 299 7077  
DX 1056 SYDNEY

1 July 1996

**National Employers' Mutual General Insurance Association Limited ("NEM")  
(In Liquidation)**

**Report to Creditors**

As you are aware, Mr D A Crawford and I were appointed Liquidators of NEM on 27 August 1990 by Order of the Supreme Court of New South Wales. We had previously been appointed Provisional Liquidators on 1 May 1990.

NEM was incorporated in the United Kingdom ("UK") and operated as a branch in Australia. Messrs A J McMahon and R Smith of KPMG, London are the UK Joint Liquidators and are responsible for realising NEM's assets outside of Australia.

The Australian liquidation is ancillary to the UK liquidation and is concerned solely with the recovery of Australian assets and dealing with the claims of Australian creditors.

This report provides details of developments in the administration since our last report to creditors dated 28 February 1995.

**1. Summary**

- An interim distribution of 2 cents in the dollar was declared on 31 March 1995 and has been paid to creditors whose claims have been admitted.
- The Liquidators have recently performed an exercise to determine the final value that should be placed on the claims of each of the Statutory Guarantee Funds ("the Funds") in this administration. The Liquidators retained actuaries to recommend the final amount of each claim. The actuaries' recommendations were approved by NEM's Committee of Inspection on 6 June 1996.
- The Liquidators intend to declare a second and possibly final Australian distribution on 31 July 1996. The amount of the second dividend is expected to be approximately one cent in the dollar bringing the total Australian distributions to three cents in the dollar.
- The Liquidators have commuted all of the Australian workers' compensation quota share reinsurance treaties except for one treaty which relates to an insurer in the US that is in liquidation.



- The Liquidators have settled supplementation balances with the Victorian WorkCover Authority. The terms of the settlement were approved by NEM's Committee of Inspection.
- The UK Joint Liquidators are continuing to realise NEM's worldwide assets and are pursuing a substantial claim against the AGF Group, a French insurer who acquired NEM's UK business just prior to liquidation.
- The UK Joint Liquidators intend to pay equalising distributions to Australian creditors late this year which will top up distributions received by Australian creditors to 5 cents in the dollar. The UK Joint Liquidators have indicated that they intend to apply the equitable UK principle of hotch-pot when adjudicating upon Australian creditors' claims. This is discussed further in section 7.3 and Annexure 4.
- The UK Joint Liquidators anticipate declaring a second interim dividend to worldwide creditors in late 1996 or early 1997. Australian creditors with net claims after the application of hotch-pot will be included in this distribution.

We now report in greater detail on developments in the administration.

## **2. Interim distribution in Australia**

The Australian Liquidators declared an interim dividend of 2 cents in the dollar for all Australian creditors on 31 March 1995. Creditors whose claims have been admitted, have received payment of the interim dividend. Payments totalling approximately \$3.5 million have been made to creditors to date.

For the purposes of the interim distributions, creditors' claims are being dealt with as follows:

- Creditors will be admitted to proof for the net amount of their claim after allowing for any amounts received by way of recoveries or otherwise.
- Creditors who have received a priority payment from the Australian Liquidators of reinsurance recovered on their claim (in accordance with Section 447 of the Companies (New South Wales) Code ("the Code")) will be admitted for the net amount of their claim.
- Creditors will only receive an interim dividend distribution in respect of claims under policies of insurance that have been paid. Claims for outstanding estimates have been stood over until such time as they become a sum certain.

## **3 Australian assets**

Annexure 1 to this report is a summary of the Australian Liquidators' receipts and payments for the period from 27 August 1990 to 25 June 1996. A separate account is maintained for the collection and distribution of reinsurance recoveries

We make the following comments:

### **3.1 *Recovery of additional premium and collection of debtors***

Since 1 May 1990, approximately \$4 million has been collected as a result of wage audits conducted prior to and since the date of our appointment. At the date of this report only a few premium recovery matters have yet to be finalised. These matters are the subject of legal action and are in the hands of our solicitors. In addition, there are a few debtors who are paying unpaid premium by instalments. It is not expected that further significant recoveries will be made in respect of these matters.

### **3.2 *Reinsurance recoveries***

As previously reported, reinsurance recoveries are subject to the operation of Section 447 of the Code which provides that reinsurance recoveries should be paid to the third party in respect of whom the liability was incurred. Accordingly, all reinsurance recoveries are paid to the policyholder or creditor incurring the primary debt subject to policies of insurance issued by NEM which were in turn protected by reinsurance.

Over the past two years, the Australian Liquidators have sought commutations of Australian workers' compensation quota share treaties with NEM's reinsurers. All of the treaties have now been commuted except for one treaty which relates to a US insurer who is in liquidation. These commutations have resulted in recoveries of approximately \$2.3 million. A further \$115,000 is yet to be collected from one of NEM's reinsurers.

As a result of the commutations that have taken place, the Australian Liquidators have stopped sending quarterly reports to reinsurers thereby avoiding unnecessary costs to the administration.

Further recoveries have also been made from professional indemnity reinsurers in respect of professional indemnity claims. To date approximately \$1.95 million has been recovered with future recoveries estimated at between \$300,000 and \$500,000. At this stage, there are only five outstanding professional indemnity claims.

### **3.3 *Victorian Supplementation Fund***

In previous reports, we have outlined the background to a High Court of Australia decision affecting claims against the Victorian Supplementation Fund. The High Court decision largely favoured the Accident Compensation Commission (now the Victorian WorkCover Authority), although it also found that certain claims for recompense were still payable by the VWA.

Following that decision, the Australian Liquidators have retained Trowbridge Consulting, to perform an actuarial analysis of the balances owing between NEM and the VWA. Trowbridge's report was finalised in early 1996.



Following receipt of this report, discussions took place with the VWA about a possible settlement of all supplementation issues and s.129 contributions owing by NEM to the VWA. A settlement offer was made by the VWA, the details of which are required to remain confidential as there a number of other insurers in Victoria who are currently negotiating settlements of supplementation with the VWA. The Liquidators recommended acceptance of the offer to NEM's Committee of Inspection at the recent meeting and a resolution was passed that the offer be accepted. A Formal Deed of Settlement will be signed shortly.

### 3.4 *Other assets*

The Liquidators are attempting to recover a number of other assets although the realisations are unlikely to be material in terms of NEM's liabilities. It is difficult to estimate when these matters will be finalised as most are in the hands of solicitors and subject to the Court's timetable. We will continue to pursue these assets until such time as payment is made or our solicitors advise that it is uneconomic to continue to pursue recovery.

## 4 **Creditors**

### 4.1 *Statutory Guarantee Funds*

As outlined in previous reports, NEM's main business activity in Australia prior to its liquidation was the writing of workers' compensation insurance. Following its liquidation in 1990, legislation in each state and territory in which NEM wrote business operated to establish Statutory Guarantee Funds to continue to make workers compensation payments on behalf of policyholders with valid claims. As a result of the making of the payments on behalf of the policyholders, the Funds are entitled to stand in policyholder's position and claim for the payments made in the liquidation.

The fixing of the final value of the Funds' claims was the most significant matter remaining in the Australian Liquidation. To date in excess of \$210 million has been paid to workers' compensation claimants by the Funds. Undiscounted outstanding estimates of reported claims and incurred but not reported ("IBNR") claims are estimated by the Funds to be approximately \$220 million.

To fix the final amounts of the Funds' claims, the Liquidators needed to determine a value for each Fund for their outstanding and IBNR liabilities. The approach adopted to valuing these amounts was as follows:

- Richard Wilkinson, an actuary with KPMG, London oversaw the process. Sydney actuaries, Edward Torrance Martin Pty Limited, were retained to analyse the workers' compensation portfolio of each of the Funds and to provide the Liquidators with recommendations of the final value for the claim of each Fund.
- In New South Wales and Victoria, the respective WorkCover Authorities

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- In New South Wales and Victoria, the respective WorkCover Authorities retain actuaries to produce valuations of NEM's liabilities. The most recent actuarial valuations were closely reviewed to determine the

reasonableness of the assumptions used and the methods employed in producing the valuations. Discussions also took place with the claims' managers for each of those States.

- In the other States and the Territories, actuarial valuations are not produced due to the smaller size of the number of outstanding claims in those States and Territories. Each State and Territory reports regularly to the Liquidators and has provided detailed information on outstanding claims. Evidence gained from the actuarial procedures used in New South Wales and Victoria was used to determine an appropriate IBNR factor for each State and Territory.
- Edwards Torrance Martin produced a report which contained their recommendations. This report was circulated to each Fund manager and comments noted.
- A creditors' Committee of Inspection meeting was convened on 6 June 1996 to consider, amongst other things, the recommendations by Edwards Torrance Martin. The Committee passed resolutions authorising the Liquidators to admit the Funds' claims for the amounts recommended. The members of the Committee representing Funds abstained from voting in relation to their own claims.

As a result of this exercise, the Liquidators intend to admit the Funds' claims for approximately \$330 million. This amount is net of reinsurance recoveries of approximately \$7 million paid to the Funds in accordance with section 447 of the Code. The Liquidators will shortly seek to enter into agreements with the Funds binding their claims to the amounts passed at the Committee meeting.

#### 4.2 *Professional Indemnity policyholders*

The Liquidators are continuing to make recoveries from NEM's reinsurers in respect of professional indemnity claims made against NEM. These reinsurance recoveries are paid by the Liquidators to the policyholders concerned in accordance with section 447 of the Code.

At present there are only five claims that are still to be finalised. However, the value of a few professional indemnity claims may not be known for several years where the claim relates to a minor and the timeframe in which a claim can be made has not yet elapsed. The Liquidators have determined reserves for these cases and will hold back sufficient funds to enable them to pay equalising distributions when their claims have been determined.

Professional indemnity policyholders will be admitted for the net amount of their claim after deducting reinsurance recoveries paid to them in accordance with section 447 of the Code. The total value of the professional indemnity claims after reinsurance recoveries is expected to be less than \$800,000.

**4.3 Other creditors**

The Liquidators are continuing to adjudicate on other creditors' claims. The majority of these claims have now been admitted. Only a small number of claims are still under consideration and these should be finalised within the next few months. In particular the resolution of Victorian supplementation should enable a number of Victorian claims previously stood over to be admitted.

**5 Australian liabilities**

As a result of the above matters, the Liquidators are now able to determine the approximate final value of creditors' claims. These amounts have been calculated after reinsurance recoveries paid to the respective creditors.

	\$ millions
Workers' compensation claim	330.3
Professional indemnity claims	0.8
Other creditors	7.2
<i>Total claims</i>	<u>338.3</u>

**6 Equalising dividends and the second interim dividend to creditors**

As a result of the above matters, an equalising dividend can be paid to the Funds for that portion of their claim which had not been crystallised at the time of the first interim dividend distribution.

In addition, the Australian Liquidators are now in a position to declare a second and possibly final distribution to Australian creditors. This distribution will be declared on 31 July 1996 and is likely to be approximately one cent in the dollar (\$3.38 million on total claims of \$338.3 million). A notice advising creditors of the Liquidators' intention to declare a further is enclosed as Annexure 2.

**7 UK Administration**

**7.1 Asset realisations**

As creditors are aware, the majority of NEM's assets are situated outside of Australia and are under the control of the UK Joint Liquidators. Realisations to date have been approximately £54 million and currently the UK Liquidators hold almost £36 million under their control.

Major realisations have been:

- The sale of NEM's branches and subsidiaries in various locations



- Reinsurance recoveries in respect of NEM's Joint Venture with Chancellor Insurance Company Limited, now under a Scheme of Arrangement;
- Reinsurance recoveries from excess of loss reinsurers in respect of NEM's Australian workers' compensation business;
- Recoveries of various assets from the USA in respect of NEM's operations in that country.

The UK Joint Liquidators have also instituted proceedings against the AGF Group for a substantial sum in relation to the sale of part of NEM's UK business just prior to liquidation in 1990. The matter is scheduled to be heard in Court from 1 October 1996. The outcome of this claim will have a material impact on the ultimate rate of dividend payable to creditors. Creditors will be advised of significant developments.

## 7.2 *Payment of a second interim distribution*

As a result of the longtail nature of NEM's insurance business, the complexities arising in respect of claims involving set off in the London market and the substantial claim against AGF, the UK Liquidators are unable to give an estimate of the likely time required to complete the winding up or the ultimate rate of dividend payable.

However, the UK Liquidators have indicated that they expect to be able to declare a further interim dividend at the end of 1996 as a result of the valuation exercise performed on the Statutory Guarantee Funds' claims. The UK Liquidators intend to pay this distribution to Australian creditors as well as an equalising distribution in respect of the first interim dividend of five cents in the pound.

Under UK Insolvency Law, each creditor in a liquidation is required to lodge a Proof of Debt. Accordingly, for Australian creditors to receive payment of any distributions from the UK, it is necessary for them to lodge a UK Proof of Debt form with the UK Liquidators.

The Australian and UK liquidators have reached agreement that Australian creditors' claims will be admitted in the UK liquidation for the same value that they have been admitted in the Australian administration. UK Insolvency Law also requires claims to be converted to pounds sterling at the prevailing rate of exchange applying at the date of liquidation, (in this case £1 equals A\$2.28). Dividends must also be paid to creditors in pounds sterling.

Creditors whose claims have been admitted in the Australian Liquidation will find a UK Proof of Debt form attached to this report as Annexure 3. The UK form lists the amount of the creditors' claim that has been admitted in Australian administration and its sterling equivalent. If a UK Proof of Debt form is not attached to this report, your claim has yet to be admitted or the ultimate value of your claim has not yet been finalised, in which case a UK Proof of Debt form will be forwarded to you when the amount of your claim is resolved.

Creditors are requested to check the details on the forms, in particular the current address and contact name, sign the forms and return them to this office.

**7.3 Hotch-pot of Australian Creditors' claims**

As previously reported, the UK Liquidators have indicated that they intend to apply the equitable UK principle of hotch-pot when adjudicating upon Australian creditors' claims. Attached to this report as Annexure 4 is a short paper providing creditors with information on the application of this principle and several illustrative examples of its application in practice.

**8. Completion of the Australian administration**

It is unlikely that the administration will be able to be finalised for some time due the possibility of further claims against NEM, particularly professional indemnity claims. However, the involvement of the Liquidators and their staff will reduce considerably after the payment of the equalising and second dividend distributions.

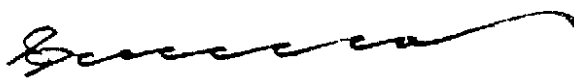
**9. Australian Committee of Inspection**

The Liquidators acknowledge the assistance of the members of the Committee in the administration. The Committee did not meet during 1995 but met recently in June as referred to earlier in this report. In addition they have dealt with a number of matters by correspondence.

**10. Other matters**

The Liquidators' account of receipts and payments may be inspected at our offices by appointment during normal business hours.

Yours faithfully



R J Grellman and D A Crawford  
*Joint Liquidators*

**NATIONAL EMPLOYERS' MUTUAL GENERAL INSURANCE  
ASSOCIATION LIMITED  
(IN LIQUIDATION)**

**STATEMENT OF LIQUIDATORS' RECEIPTS AND PAYMENTS  
FOR THE PERIOD FROM 27 AUGUST 1990 TO 25 JUNE 1996**

	\$	\$
<b><u>RECEIPTS</u></b>		
ACC recoveries	535,048.64	
AGCI distribution of surplus funds	743,289.51	
Claims recoveries	1,493,837.91	
Contribution recoveries	612,435.24	
Debtors	335,011.79	
Dividend income	439.46	
Distribution from NEM/IGF Joint Trust account	45,734.39	
Employee mortgage repayments	52,504.24	
Expense recoveries	35,459.41	
Interest	3,131,026.56	
Lapsed policy recoveries	70,116.77	
Medical report recoveries	2,622.58	
Miscellaneous recoveries	80,503.42	
NT Motor Pool	77,500.00	
Preference Recoveries	875,000.00	
Premium recoveries	3,137,060.63	
Pre-appointment quota share reinsurance recoveries	782,126.70	
Proceeds from the sale of shares in listed companies	16,960.56	
Refund of petitioning creditor's taxed costs in relation to the winding up of NEM in the UK	41,715.78	
Refund of petitioning creditor's taxed costs in relation to other winding up proceedings	1,816.98	
Repayment of legal fees in relation to the NEM/IGF Joint Trust account	54,383.50	
Refund of deposit	354.80	
Refund of stamp duty	7,588.70	
Refund of contributions to failed insurers' fund in Tasmania	23,949.68	
Reimbursement of expenses incurred in recovering reinsurance	460,266.98	
Sundry receipts	3,304.91	
TAC recoveries	1,791,914.48	
Transfer from Victorian Recoveries Account	86,646.24	
Transfer from Provisional Liquidator	3,369,843.10	
Transfer from Reinsurance Recoveries Account	11,609.80	17,880,072.76
	<hr/>	
<b><u>PAYMENTS</u></b>		
Advertising	180.50	
Accident Compensation Commission for use of personnel and premises	27,489.72	
Accounting fees	825.00	
Bank charges	17,772.14	
Coinsurer's share of professional indemnity recovery	12,145.37	
Commission paid on lapsed policy recoveries	58,458.72	
Computer consulting services	133,509.20	
Consulting services - audit of workers compensation liabilities	155,517.45	
Consulting services - premium recoveries	141,936.21	
Consulting services - actuarial	76,855.00	
Corporate Management Services - share of WC recoveries	21,225.00	

Courier charges	777.89	
Deputy Commissioner of Taxation - tax instalment deductions	77,538.80	
Insurers Guarantee Fund (Vic) - recovery fees and costs	68,095.58	
Repayment to Employers' Mutual Indemnity Association	5,000.00	
Insurance	2,783.36	
Interim distribution to Statutory Fund creditors at the rate of 2 cents in the dollar on admitted claims	3,428,851.07	
Interim distribution to Professional Indemnity creditors at the rate of 2 cents in the dollar on admitted claims	5,540.18	
Interim distribution to unsecured creditors at the rate of 2 cents in the dollar on admitted claims	112,860.83	
Legal fees	1,523,595.58	
Liquidators' out of pocket expenses	227,332.87	
Liquidators' remuneration as approved by the Creditors' Committee of Inspection	2,900,390.14	
Office expenses	1,511.11	
Provisional Liquidators' remuneration	258,094.65	
Provisional Liquidators' out of pocket expenses	21,625.80	
Rent	28,898.67	
Search fees	1,587.25	
Stamp duty	6,057.53	
Stationery	342.00	
Storage of books and records	73,679.57	
Superannuation contributions	7,069.73	
Supplementation Fund - refund for overpayment of recoveries	5,005.50	
Transport Accident Commission - refund for overpayment of recoveries	17,996.43	
Travelling expenses (Committee members, consultants and Liquidators' staff)	63,637.95	
Victorian surcharge on premium collected	33,082.86	
Victorian WorkCover's share of claims recovery	38,708.02	
Victorian WorkCover's share of Transport Accident Commission recovery	182,626.24	
Wages	190,004.69	
Wage audits	18,050.81	
Withholding Tax	400.14	
Workers' Compensation Supplementary Fund	2,981.10	
Workers' compensation insurance	900.90	
Sundry	1105.72	9,962,685.88
		<hr/>
CASH AT BANK AND ON DEPOSIT AT 25 JUNE 1996		\$7,917,386.88
Represented by:		
Cash at Bank		116,120.52
less unrepresented cheque numbers:		
	1158	157.04
	1182	5.00
	1194	6.00
	1333	13.60
	1438	2,159.40
	1439	4,190.25
	1440	361.11
	1441	396.90
	1442	6,486.44
	1443	315.00
		(14,090.74)
Investments		<hr/>
		7,815,357.10
		<hr/>
		\$7,917,386.88



NATIONAL EMPLOYERS' MUTUAL GENERAL INSURANCE  
ASSOCIATION LIMITED  
(IN LIQUIDATION)

SUMMARY OF REINSURANCE RECOVERIES ACCOUNT  
AS AT 25 JUNE 1996

	\$	\$
<u>RECEIPTS</u>		
Professional indemnity reinsurance recoveries	1,951,191.99	
Quota share reinsurance recoveries	5,625,163.67	
QBE reinsurance recoveries	377,728.94	
Commutation of quota share treaties	2,307,551.41	
Transfer from general account	2,032.55	
Sprake recovery - co-insurers & reinsurers share transferred from the general account	11,490.46	
-S&G	10,110.90	
-QBE (formerly Eagle Insurance)	<u>160,597.62</u>	10,445,867.54
Interest		
<u>PAYMENTS</u>		
Bank charges	8,815.70	
Distribution of co-insurers share of R G Sprake recovery	10,110.90	
Transfer of pre-appointment quota share reinsurance to the general account	749,642.85	
Transfer of pre-appointment professional indemnity reinsurance to the general account	65,691.17	
Transfer of pre-appointment QBE reinsurance to the general account	38,764.96	
Distribution of worker's compensation quota share reinsurance	6,829,472.53	
Distribution of QBE reinsurance	343,307.49	
Transfer of expenses recovered for the collection of Quota share reinsurance to the General account	354,270.86	
Transfer of expenses recovered for the collection of QBE reinsurance to the General account	5,223.29	
Transfer of interest earned to the General account	131,852.86	
Refund of overpayment of reinsurance account	2,450.23	
Transfer of exchange differences to the General account	56.67	
Distribution of professional indemnity reinsurance recoveries to policyholders	<u>1,906,108.03</u>	<u>10,445,767.54</u>
CASH BOOK BALANCE AS AT 25 JUNE 1996		<u>\$100.00</u>
REPRESENTED BY:		
Interest (less bank charges) to be transferred to the General account		<u>\$100.00</u>

NATIONAL EMPLOYERS' MUTUAL GENERAL INSURANCE  
ASSOCIATION LIMITED  
(IN LIQUIDATION)

SUMMARY OF REINSURANCE RECOVERIES ACCOUNT  
AS AT 25 JUNE 1996

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CASH BOOK BALANCE AS AT 25 JUNE 1996		<u><u>\$100.00</u></u>
<u>REPRESENTED BY:</u>		
Interest (less bank charges) to be transferred to the General account		<u><u>\$100.00</u></u>

V.K. PART.

National Employers' Mutual General Insurance Association Limited (in liquidation)

Liquidators' receipts and payments from 3 October 1990 to 30 November 1999

	£	£
Receipts		25,880,906
Surplus from provisional liquidation		
Sale of branches & subsidiaries	2,462,835	
West Indies	616,693	
Brunei	930,015	
NEM Jamaica	363,197	
NEM France	235,997	
Malawi	19,064	
Hong Kong	1,113,266	
Malaysia		5,741,067
Insurance/reinsurance recoveries	27,420,657	
Chancellor	1,241,340	
London Master Drilling Rig	8,031,257	
Australian XOL	9,887	
Broker Funding	2,496,763	
Other		39,199,904
		973,916
NEMGIA USS Trust Fund		2,000,000
VJ Wright		377,000
Sale of freehold property		656,790
Sub & branch loan repayment		95,372
Employee mortgages repaid		80,144
Book debts		31,137
Office equipment and vehicles		9,184
Sundry		250,390
AGF current a/c		499,306
Deposit refunded		5,933
Cash at bank		2,528
Pausebrand cash at bank		240
Petitioner's deposit (refundable)		65,310
Investment income		5,918,410
Bank interest		9,139,048
Treasury bill interest		688,772
Exchange rate gains		879,583
VAT Refunds received		5,000,000
Antecedant transaction settlement		66,000
AMA Commutation		
Total Receipts carried forward		<u>97,560,941</u>

	£
Total Receipts brought forward	<u>97,560,941</u>
<b>Payments</b>	2,648,170
DTI fees	9,351,008
Office holders' fees	455,697
Office holders' expenses	100,136
Actuarial Fees	3,160,810
Corporation tax	8,191,354
Legal fees	2,372,910
Ins/reins agents' costs	760,832
Salaries & consultancy	29,839
Employee motor & sundry	201,359
Computer soft/hardware	35,045
Committee Expenses	46,249
Advertising	39,508
Sundry	6,548
ILU levy	268
DTI Unclaimed Dividends	3,293,632
VAT Expense	<u>30,693,364</u>
<b>Dividends to Unsecured Creditors</b>	39,628,886
<b>Total Payments</b>	<u>70,322,249</u>
<b>Balance as at 30 November 1999</b>	<u>27,238,691</u>
<b>Heid as:</b>	
National Westminster Bank plc	18,336
Bank of England, ISA	27,220,355
	<u>27,238,691</u>

Hans S. Roleff  
9 Beatrice Place, Ferntree Gully, Vic. 3561  
Ph 03 9758 9352 Fax 03 9778 4257

FAILED  
FOI 3197/04

Attn. The Honourable Ross Cameron MP  
Parliamentary Secretary to the Treasurer  
Parliament House,  
Canberra ACT, 2600

Dear Mr. Cameron,

Thank you for your letter of 29.3.2004. I have considered it carefully. Please advise me if submissions can still be made to the enquiry and if so, how should one be directed.

Let me put it in a nutshell – liquidators under the present scheme are mostly interested in making sure there is enough money to pay themselves. If the funds seem to be running out, since they are not able to charge anyone they will simply desist from further services. I cannot blame them, of course, but the funds are running out because of their exorbitant charges, they are so because the fees are usual professional fees payable by financially sound entities and following some meeting of the minds as to the level of the charges, bearing in mind competition. With the appointment of one liquidator to a failed entity the element of competition is gone, an aspect of free market philosophy, the outlook on which you are relying when stating that "it is preferred that regulated private sector practitioners carry out the liquidations....", so there is an immediately undesirable element introduced into the winding up scheme. Depending on the nature of the failed business mere accountants are not the ultimate experts on all aspects of debt recovery. With an insurance company like HIH for I instance, you would need to know the lot about a raft of insurance branches, the law, the traffic between insurers, third parties, etc. This is all done by outside experts who, again, charge consulting fees and are not just paid wages. I have personally obtained a sizeable recovery for the HIH Liquidators for a fee of \$22000. So, believe me, I know what I am talking about. If a Government Agency were appropriately staffed the creditors would be much, much better off. The Liquidators spread the money around the professional ranks. Only QCs are retained which means a Junior every time at 2/3rds of the fee and so it rolls on until nothing is left. Out of the NEMGIA collapse in NSW and Victoria creditors finished up with less than 10 cents in the Dollar. I could supply you with the financial reports from KPMG on that one. Huge fees! And that for simple work such as sending reminders, working out from usually reasonable records who owes what and then start collecting. I really must urge you to initiate some research into the outcomes of liquidations in Australia. What is more, it takes years for any moneys to be advanced. In the NEMGIA case in the UK KPMG decided to disregard outstanding debts of I seem to recall \$1000. So all the small business creditors just received nothing!! But what possible right do they do that???

I must say that I am as liberal as you are and as the party is but the Kennett Experiments have shown us the perimeter which is set to the privatization scope. This falls way out of it, by sheer overwhelming evidence of outcomes. Consider the position of State Trustees. They administer the rights of often unknown creditors and

they in turn get what is left to them or what is owed to them. Why not give that to private outfits, they would soon take care of these wonderful funds! I hear what you say about prior disclosure. With respect, that is naïve. The CPA all have one method, high fees for all manner of service, including picking up the phone. What does it help creditors that a CPA discloses that the charge will be \$300 per hour for professional and \$150 for clerical services? So you know from the beginning to write the whole thing off, as that will be the inevitable result. The test is not what is being recovered and distributed but what should or could have recovered or distributed.

I had a particular line of recovery worked out, anything from \$3 Mill upwards but was not allowed to pursue this as it would involve legal proceedings. So, when liquidators bring legal action you can bet that they could have done so many times but decided against it. As I said the first thing done is to assess: Will there be enough to pay ourselves? That has been admitted to me and I have no difficulty of accepting that. But at what rate the funds should be thus alienated is the question. Often the Liquidator was a former service provider to the failed company or some other party interested in the outcome, so who protects us against that. I think you would run out of accountancy firms if you applied any sort of test judging the conflict of interest outlook.

You say that commercial and executive decisions may be required of what work should be done. Granted, but if the test is as to whether the liquidator's involvement will be able to be luxuriously remunerated, including at least business class travel and top hotels, the consulting of mates from the Bar and from the legal profession who indeed may have served the carcass beforehand, you are looking at the heavy price to be paid for those weighty decisions. These could often be made by less formally qualified and costly experienced people.

You have no research available on the outcome of liquidations under the present scheme and without any results of such we will never be put in a position to do the best for creditors, large and small. The big ones can tax deduct outstanding debts, especially banks, carrying doubtful debts forward for years and the tax saved in the end is more than the debt. The small ones will be hardest hit, they have nowhere to go, they often operate at trading losses so there is no tax to be saved. The issue should be referred to the small business councils and to the Taxpayers Association and the Business Associations operating for their members in our country.

Dear Mr. Cameron, I am afraid this will not go away, the one-sidedness of the involvement of professional accounting firms is wasteful and nothing short of scandalous. I was always told that you don't pay \$100 to chase \$50 and whilst a Liquidator will never be guilty of that, he sails close to the wind by not shying back from paying 100% to chase 1% or, ultimately nothing.

Please continue to give this your attention.

With best regards,

  
Hans S. Roleff

1.5.2004



**PARLIAMENTARY SECRETARY  
TO THE TREASURER  
The Hon Ross Cameron, MP**

PARLIAMENT HOUSE  
CANBERRA ACT 2600  
Telephone: (02) 6277 4821  
Facsimile: (02) 6277 8591  
parlsec.treasurer.gov.au

Mr H.S. Roleff  
9 Beatrice Place  
FERNTREE GULLY VIC 3156

20 JAN 2004

Dear Mr Roleff

Thank you for your letter of 8 January 2004 to the Minister for Revenue and Assistant Treasurer concerning liquidators' professional fees. As the matter concerns corporate law, the Minister has referred your correspondence to me for response. I apologise for the delay in responding to you.

You were concerned that liquidators appointed to wind up failed corporations are eroding creditors' funds through professional fees. You have suggested that company liquidations would be better carried out by Commonwealth or State government bodies as a way of minimising costs and increasing returns to creditors.

The *Corporations Act 2001* does not directly prescribe levels of remuneration for liquidators but encourages remuneration to be agreed between the liquidator and the creditors or members of an insolvent company at the outset of an administration. The courts have general powers of supervision over liquidators' remuneration, including a power to review the level of remuneration, order repayment of remuneration, or to set a level of remuneration when it is not practicable for agreement to be reached. Creditors of a company under liquidation have the power to remove a liquidator and replace him/her with another liquidator.

The predominant method for remuneration is based on practitioners charging an hourly rate for time spent working on the administration, but other methods of charging are also possible. The Insolvency Practitioners Association of Australia issues a guide to hourly rates which has generally come to be accepted as reasonable by the courts and many creditors. However, it is open to members and creditors with at least 10 percent of total outstanding debts or the Australian Securities and Investments Commission to apply to a court to have the remuneration varied.

Persons who feel that the remuneration charged by a liquidator is unfair can also seek to have the liquidator's professional association review the particular circumstances. The professional association can arrange for informal mediation to take place with a view to reaching a settlement.

The Government is aware of concerns in relation to the fees charged by insolvency practitioners. A 1997 review into the regulation of insolvency practitioners considered the relative merits of commission-based, fixed-fee based and time-based methods of charging for insolvency services and concluded that the market should be allowed to determine the most cost-effective fee systems.

Australia's insolvency and voluntary administration laws are also currently the subject of an inquiry

As its terms of reference cover the costs of external administration, the Committee will no doubt examine the current regime relating to professional fees. The Government will consider the Committee's final report when it is published.

In relation to your proposal that Government agencies might carry out company liquidations, it is preferred that regulated private sector practitioners carry out liquidations or winding up proceedings. The main tasks of a liquidator during a winding up are to investigate the corporation's financial affairs and prepare a report on those affairs, call in and realise the corporation's assets and distribute the proceeds to creditors who properly prove their claims in the priority set down in the Corporations Act.

Unlike personal bankruptcies, which are generally less complex and the bulk of cases in Australia are administered by a public body (Insolvency Trustee Service Australia – ITSA), corporate insolvencies require close attention to accounts and company records and the running of a business. It may also require executive and commercial expertise and the exercise of judgement as to how much work should be undertaken or whether a particular task should be undertaken at all. This work is best done by private sector professionals who are subject to regulation by the Government and supervision by the Court, an approach that is found in most other developed countries.

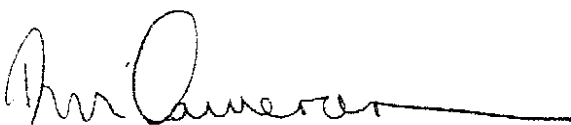
Turning to the other issues in relation to funds management that you mentioned in your letter, the Government considers that the protection of investors is a vital component in promoting a well functioning market and a successful economy. Consequently, the Government has undertaken significant financial sector reform since 1996 including the enactment of the *Financial Services Reform Act 2001* (the FSR Act).

As mentioned in the letter of 2 December 2002 from Mr Bazen to you, the FSR Act, which came into full effect on 11 March 2004, introduces a robust consumer protection regime for financial services, including superannuation, through the combination of licensing, conduct and disclosure requirements. It is designed to strengthen and provide consistent regulation for financial advice, regardless of who is providing the advice. This provides consumers with enhanced protection because of better behaviour and disclosure requirements.

Specifically, the FSR Act requires financial services providers and their agents to “clearly, concisely and effectively” disclose (up-front and on an ongoing basis) the information retail clients need to make informed investment decisions. Information that may be required to be disclosed includes details about the entity providing the financial product or service and information about the products that are being offered to, or held by, the investor. In relation to a financial product being acquired, the provider or agent is required to disclose the benefits and risks of the product, any cost such as fees and charges, as well as information about remuneration to the extent that it will impact on the return to the client from the product. This information should promote more effective disclosure and make fees relating to financial products easier to compare.

I trust this information will be of assistance to you.

Yours sincerely



ROSS CAMERON



Attn. The Honourable Ross Cameron MP  
Parliamentary Secretary to the Treasurer  
Parliament House,  
Canberra ACT, 2600

Dear Mr. Cameron,

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You have no research available on the outcome of liquidations under the present scheme and without any results of such we will never be put in a position to do the best for creditors, large and small. The big ones can tax deduct outstanding debts, especially banks, the small ones feel the loss and if they are running at break-even point they also get no tax relief. I am owed \$20000 by HIH for time I have spent working in their cause, but because I was a contractor selling his time largely, I did not qualify for first-up payments like the employees! How long I have to wait and how much if anything will ultimately be paid is entirely in the hands of the liquidators. They have already decided to limit the source of recoveries by announcing they will not sue APRA or any other Government body. All this without giving the creditors a chance to decide on that course. Please do not think that my representations to you are triggered by self-interest. I know it is too late for me and my fellow creditors. Besides when the Federal Government has recovered its \$500 Mill., advanced to cover the claims of "needy" Third parties, all will be gone. Again, the creditors were not asked if they wanted this third party charity, to be ultimately funded by them!!!

I shall agitate for changes relevant to the problem in party meetings and with my members, State and Federal, because this terrible waste has to be reined in! I hope that you will not consign this further representation to the bottom of the pile of some public servant but strike a real blow for the electorate as a whole. We are in Election Mode!

With best regards,

Hans S. Roleff, 4.5.2004



**PARLIAMENTARY SECRETARY  
TO THE TREASURER  
The Hon Ross Cameron, MP**

PARLIAMENT HOUSE  
CANBERRA ACT 2600

Telephone: (02) 6277 4821  
Facsimile: (02) 6277 8591

[parlsec.treasurer.gov.au](http://parlsec.treasurer.gov.au)

21 MAY 2004

Mr H.S. Roleff  
9 Beatrice Place  
FERNTREE GULLY VIC 3561

Dear Mr Roleff

Thank you for your facsimile of 1 May 2004 concerning the cost of external administrations.

As noted in my previous response, the principle reflected in the law is that the level of fees is a matter for agreement between the creditors and the practitioner in each case. However, creditors who consider that a liquidator's remuneration in a specific case is excessive may apply to a Court to have the remuneration reviewed. Creditors and the Courts are the final arbiters of the quantum of fees charged by practitioners.

The Parliamentary Joint Committee on Corporations and Financial Services is conducting an inquiry into the operation of Australia's insolvency laws. The Committee's terms of reference include the cost of external administrations. The Government will carefully review any suggestions or recommendations the Committee may make in relation to the cost of external administrations.

You inquired whether submissions to the inquiry could still be made. Submissions to the Committee were to be lodged by the end of May 2003. However, the Committee has not reported yet and you may wish to make inquiries of the Committee's secretariat as to whether you may lodge a submission. The Secretary of the Committee is Dr Kathleen Dermody, who may be contacted on 02 6277 3541. Notes to assist in preparing submissions are available from the Secretariat or the website at [www.aph.gov.au/senate/committee](http://www.aph.gov.au/senate/committee).

I trust this information will be of assistance to you and thank you for bringing your concerns to the attention of the Government.

Yours sincerely

ROSS CAMERON