

**IN THE MATTER OF PROPERTY TUITION PTY LTD  
(ACN 129 421 281)**

**Proceeding No: VID407/2015**

**Australian Securities and Investments Commission**

Applicant

**Jamie Neville McIntyre** First Respondent

**Dennis McIntyre** Second Respondent

**Archery Road Pty Ltd  
(ACN 162 921 735)** Third Respondent

**Secret Valley Estate Pty Ltd  
(ACN 602 817 532)** Fourth Respondent

**Kingsway South Holdings Pty Ltd  
(ACN 159 230 976)** Fifth Respondent

**Bendigo Vineyard Estate Pty Ltd  
(ACN 600 088 211)** Sixth Respondent

**Melbourne Tarniet Estate Pty Ltd  
(ACN 603 945 393)** Seventh Respondent

**Property Tuition Pty Ltd  
(ACN 129 421 281)** Eighth Respondent

**Education Holdings Pty Ltd  
(ACN 129 551 917)** Ninth Respondent

**Sourcing Property Pty Ltd  
(ACN 602 474 779)** Tenth Respondent

Ninth Respondent's Report

**Education Holdings Pty Ltd  
(Provisional Liquidators Appointed)  
15 December 2015**



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## Definitions

21 <sup>st</sup> Century Group	Education Holdings Pty Ltd, Property Tuition Pty Ltd, Archery Road Pty Ltd, Secret Valley Estate Pty Ltd, Kingsway South Holdings Pty Ltd, Bendigo Vineyard Estate Pty Ltd, Melbourne Tarniet Estate Pty Ltd, Sourcing Property Pty Ltd and other entities controlled by Dennis and / or Jamie McIntyre
21 <sup>st</sup> Century Media Holdings Pty Ltd	Media Holdings
805 ARPL	805 Archer Road Pty Ltd (In Liquidation) (Subject to Deed of Company Arrangement)
ARITA	Australian Restructuring Insolvency and Turnaround Association
ARPL	Archery Road Pty Ltd
ASIC	The Australian Securities & Investments Commission
ATO	Australian Taxation Office
Bendigo property or Bendigo Vineyard Estate and Resort	51 St Andrews Road, Maiden Gully
Bendigo Scheme	Bendigo Vineyard Estate Scheme
Bendigo Vineyard	Bendigo Vineyard Estate Pty Ltd
Botanica	805 Archer Road, Kialla, Victoria
Broadview	Broadview Pinkett Pty Ltd
Corporate Respondents	Education Holdings Pty Ltd, Property Tuition Pty Ltd, Archery Road Pty Ltd, Secret Valley Estate Pty Ltd, Kingsway South Holdings Pty Ltd, Bendigo Vineyard Estate Pty Ltd, Melbourne Tarniet Estate Pty Ltd, Sourcing Property Pty Ltd
Date of Appointment	7 October 2015
Deloitte	Deloitte Touche Tohmatsu
Developments	805 Archer Road, Kialla, Victoria, 1955 Old Sydney Road, Bylands, Victoria, 124 Booth Road, Brookhill, Queensland, 51 St Andrews Road, Maiden Gully, Victoria and 1491 Dohertys Road, Mount Cottrell, Victoria
Development Companies	Archery Road Pty Ltd, Secret Valley Estate Pty Ltd, Kingsway South Holdings Pty Ltd, Bendigo Vineyard Estate Pty Ltd and Melbourne Tarniet Estate Pty Ltd
DIRRI	Declaration of Independence and Relevant Relationships and Indemnities
DOCA	Deed of Company Arrangement
Education Holdings	Education Holdings Pty Ltd, formerly 21 <sup>st</sup> Century Education Pty Ltd
ERV	Estimated Realisable Value
FME	Farm Management Enterprises Pty Ltd
Henry River	Henry River Pty Ltd
IOC3	Isle of Capri 3 Pty Ltd
Kialla property	805 Archer Road, Kialla
KS Holdings	Kingsway South Holdings Pty Ltd
LRA	Lot Reservation Agreement
LRD	Lot Reservation Deed
Management	Management of the Company
McIntyre Controlled Entities	Broadview Pinkett Pty Ltd, Pinnacle Event Management Pty Ltd, Financial Educators Association Pty Ltd, Salarium Services Pty Ltd, 21st Century Media Holdings Pty Ltd, Isle of Capri 2 Pty Ltd, Isle of Capri 3 Pty Ltd, Property Direct (International) Pty Ltd, GC

	Princess Boatshare Pty Ltd, Farm Management Enterprise Pty Ltd, Siddha Holdings Pty Ltd and Phoenix Investment Holdings LLC
Melbourne Grove Estate or Mt Cottrell Property	1491 Dohertys Road, Mount Cottrell, Victoria
MGE Scheme	Melbourne Grove Estate Scheme
MIS	Managed Investment Scheme
NAB	National Australia Bank Ltd
Oak Valley Lakes Estate and Resort	124 Booth Road, Brookhill, Queensland
Order	Order made by Middleton J. on 7 October 2015 in the Federal Court of Australia, Victoria General Division No.VID 407/2015
OVE Scheme	Oak Valley Estate Scheme
Pinnacle	Pinnacle Event Management Pty Ltd
POD	Proof of Debt
PPSA	Personal Properties Security Act
PPSR	Personal Property Securities Register
Proceeding	Federal Court of Australia, Victoria General Division No.VID 407/2015 between ASIC and Jamie Neville McIntyre &OR's commenced by Originating Process dated 3 August 2015
PDI	Property Direct (International) Pty Ltd
Provisional Liquidators	Simon Wallace Smith and Robert Scott Woods appointed pursuant to s472(2) of the Act as joint and several provisional liquidators of each of the Corporate Respondents pursuant to the Orders
PSA	Property Sourcing Agreement
PT	Property Tuition Pty Ltd formerly 21 <sup>st</sup> Century Property Pty Ltd
RATA	Report as to Affairs
Salarium Services	Salarium Services Pty Ltd
Schemes	Botanica, Secret Valley Estate, Oak Valley Lakes Estate and Resort, Bendigo Vineyard Estate and Resort and Melbourne Grove Estate
Secret Valley	Secret Valley Estate Pty Ltd
Secret Valley Estate or Wallan Property	1955 Old Sydney Road, Bylands, Victoria
Sourcing Property	Sourcing Property Pty Ltd
SV Scheme	Secret Valley Estate Scheme
Tarniet	Melbourne Tarniet Estate Pty Ltd
The Act	Corporations Act 2001
The Court	The Federal Court of Australia or any of the state Supreme Courts
The Regulations	Corporations Regulations 2001
Townsville Property	124 Booth Road, Brookhill, Queensland
WBC	Westpac Banking Corporation Ltd
www	What Working Women Want
Xero	Xero Accounting Software Program

## Education Holdings Pty Ltd

This report should be read in conjunction with our summary report.

Education Holdings was incorporated on 5 February 2008. Matthew Dolheguy is the sole Director and Secretary of Education Holdings. We note that Dennis McIntyre was the Director of Education Holdings from 15 October 2009 to 8 May 2015 and Matthew Dolheguy became a Director on 10 June 2015.

As discussed in further detail below, we consider that Jamie McIntyre is also a director of Education Holdings for the purposes of Section 9 of the Act.

The sole shareholder of Education Holdings is Broadview. Jamie McIntyre is the sole shareholder of Broadview. We note that Broadview is the Trustee for the McIntyre family trust.

Since 19 June 2015, the registered office and principal place of business of Education Holdings was Level 1, 91-97 William Street, Melbourne, Victoria. Prior to this date, the registered office and principal place of business was Level 8, 96-100 Albert Road, South Melbourne, Victoria (“Albert Road premises”).

A copy of the historical company extract maintained by ASIC is attached as **annexure EH-1**.

### 1. Company Background

From our investigations and interviews conducted with key personnel, it appears that Education Holdings hosted seminars and training programs, including “2 Day Education for Life” seminars in Melbourne, Sydney, Perth and Brisbane.

Both Dennis and Jamie McIntyre have advised that Education Holdings did not employ staff and further that a related entity, Salarium Services employed all 21<sup>st</sup> Century Group staff. We note that our investigations have not indicated otherwise.

Education Holdings formed part of the 21<sup>st</sup> Century Group which was, or was to be, involved in, among other things, the promotion, sale and or development of land-banking schemes.

According to Jamie McIntyre, PT was responsible for the promotion of various land-banking opportunities, including the Schemes listed below. He has advised that Education Holdings was not involved in the promotion and / or sale of land-banking options.

Schemes	Developments	Developers
Botanica	805 Archer Road, Kialla, Victoria	Archery Road Pty Ltd
Secret Valley Estate	1955 Old Sydney Road, Bylands, Victoria	Secret Valley Estate Pty Ltd
Oak Valley Lakes Estate and Resort	124 Booth Road, Brookhill, Queensland	Kingsway South Holdings Pty Ltd
Bendigo Vineyard Estate and Resort	51 St Andrews Road, Maiden Gully, Victoria	Bendigo Vineyard Estate Pty Ltd
Melbourne Grove Estate	1491 Dohertys Road, Mount Cottrell, Victoria	Melbourne Tarniet Estate Pty Ltd

## 2. Summary of Transactions

According to both Dennis and Jamie McIntyre, in consideration for promoting sales of lots in the developments on behalf of the Development Companies, PT was entitled to, pursuant to a commission agreement between the respective companies, receive 50% of the lot reservation fees paid by investors. This fee was to satisfy “administrative expenses, marketing expenses and commissions paid to PT.”<sup>1</sup> We note that we have not been able to locate a copy of the commission agreement.

According to Dennis and Jamie McIntyre, Education Holdings was not a party to the purported commission agreement. Our investigations have revealed that a significant portion of the funds received by PT from the Development Companies, whether pursuant to this commission agreement or otherwise were subsequently paid to Education Holdings.

During separate interviews with both Jamie and Dennis McIntyre on 19 October 2015 and 20 October 2015, respectively we requested that a copy of the commission agreement be provided to our office. On 20 October 2015, a list of documentation / information required to be provided to our office (including the commission agreement) was emailed to Michaela Prince of Carlton Ross.<sup>2</sup> On 23 October 2015, Michaela Prince of Carlton Ross emailed our office and advised that Dennis McIntyre believed that a copy of the commission agreement had been provided to ASIC. We note that ASIC has advised that they have not been provided with or sighted a copy of the agreement. On 2 November 2015, Ms Stephanie Forgione of our office emailed Michaela Prince and requested details of who provided the commission agreement to ASIC and asked that they seek a copy of the agreement from that person. On 10 November 2015, we received a reply email advising that they were unsure who provided the commission agreement to ASIC and accordingly were unable to provide our office with this information.

On the basis of the above, we have concerns about the existence of a documented commission agreement between the respective Development Companies and PT.

Of the funds received by PT, we have identified funds totalling approximately \$1.1m paid to Education Holdings between the period 1 January 2014 and 7 October 2015. During the same period, we have identified net payments from Education Holdings to McIntyre controlled entities totalling \$1.7m, the majority of these funds, \$651,000 paid to Broadview.

A summary of these movements is provided in the table below:

Entity	Inflow from McIntyre controlled entities (\$)	Outflow from McIntyre controlled entities (\$)	Net Inflow / (Outflow) (\$)
Broadview	158,516	810,232	(651,716)
Pinnacle	332,642	678,119	(345,477)
Salarium Services	48,978	202,022	(153,043)
Isle of Capri 2 Pty Ltd OR Isle of Capri 3 Pty Ltd	4,867	43,938	(39,071)
PDI	33,050	169,670	(136,620)
GC Princess	-	36,918	(36,918)
Siddha Holdings Pty Ltd	3,870	15,900	(12,030)
Phoenix Investment Holdings LLC	-	340,600	(340,600)
Land Farm Management	-	4,750	(4,750)
<b>Totals</b>	<b>\$581,923</b>	<b>\$2,302,149</b>	<b>(\$1,720,225)</b>

<sup>1</sup> Para 23 of affidavit of Jamie McIntyre, sworn on 31 August 2015

<sup>2</sup> Carlton Ross represent Dennis and Jamie McIntyre

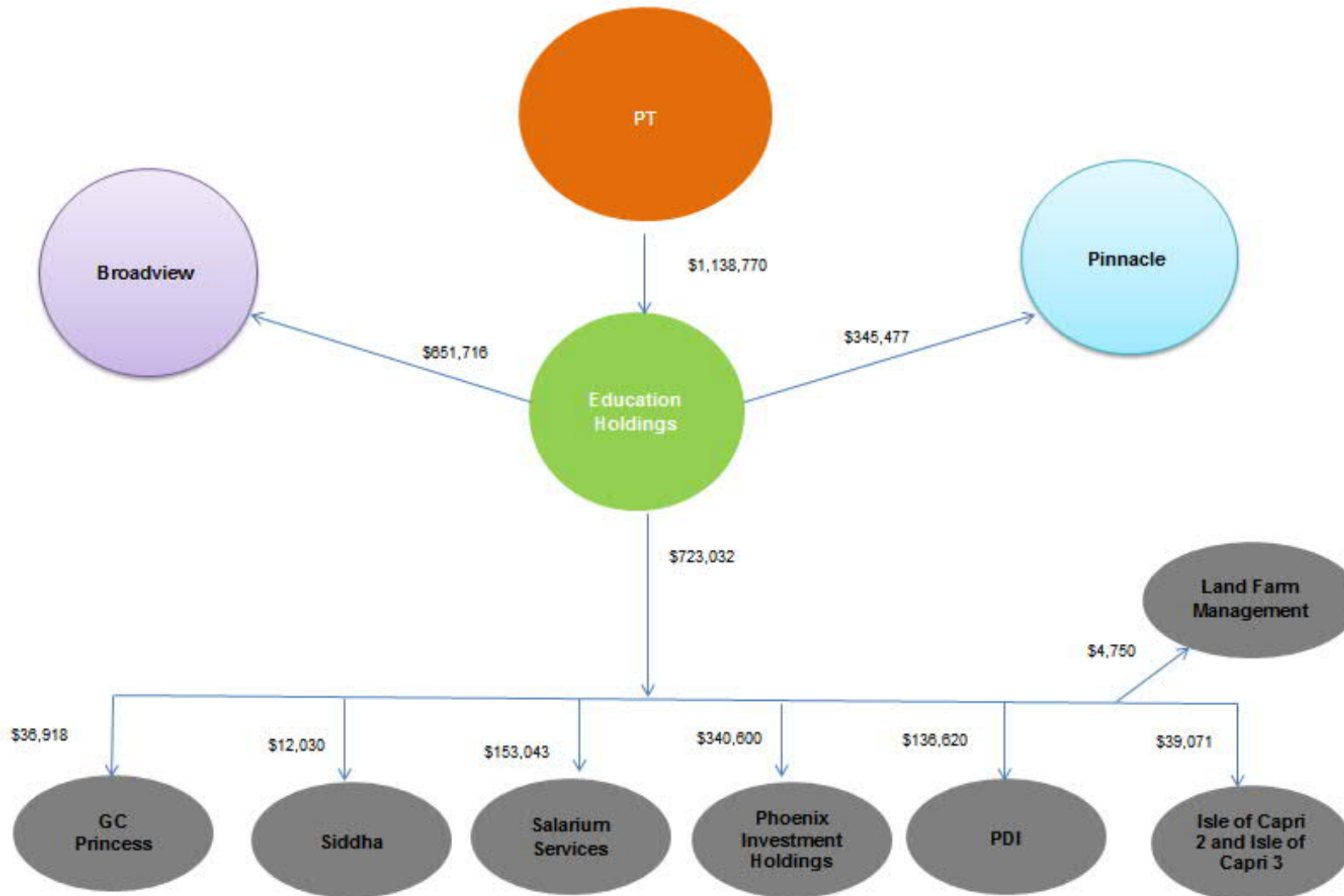
We note that despite the receipt of \$1.1m from PT, Education Holdings only had cash at bank of \$263 at the date of our appointment. It appears that the income / cash generated from operating activities together with any loans received from PT, was used in part to satisfy operating expenses and fund losses and the balance was paid out to McIntyre controlled entities.

We note that the above analysis is made subject to the following qualifications:

- Given the quantum of transactions, we have only conducted an analysis of the PT bank account from 1 January 2014; and
- We cannot confirm the opening balances of any loan accounts prior to this date.



The below is an illustration of these net movements:



## 3. Assets and Liabilities

Matthew Dolheguy provided our office with a completed RATA on 10 November 2015. A copy of the RATA is attached as **annexure EH-2**. We lodged the RATA with ASIC on that same day.

On 16 October 2015, we were provided access to the Xero accounting software maintained by 7 of the 8 Corporate Respondents over which we were appointed, including Education Holdings.

A summary of the RATA and the Xero accounts is provided below together with our ERV of assets and liabilities from investigations conducted to date.

Category	Provisional Liquidators' ERV (\$)	RATA (\$)	Management Accounts (Xero) (\$)
<b>ASSETS</b>			
<b><u>Current Assets</u></b>			
Cash at Bank	263	Nil	2,958
Accounts Receivable	Nil	55,688	48,136
Bartercard <sup>3</sup>	Unknown	Nil	22,297
	<b>263</b>	<b>55,688</b>	<b>73,391</b>
<b><u>Non-Current Assets</u></b>			
Plant and Equipment	Nil	31,555	31,555
Motor Vehicle	Nil	7,840	7,840
Related Party Loans <sup>4</sup>	Unknown	Nil	23,911
	Unknown	39,395	63,306
<b>Total Assets</b>	<b>Unknown</b>	<b>95,083</b>	<b>136,697</b>
<b>LIABILITIES</b>			
<b><u>Current Liabilities</u></b>			
GST	Unknown	Nil	4,243
Accounts Payable	57,459	55,574	36,658
Secured Creditor	Unknown	Nil	Nil
	<b>57,459</b>	<b>55,574</b>	<b>40,901</b>
<b><u>Non-Current Liabilities</u></b>			
Related Party Loans	1,167,203	Nil	1,444,555
<b>Total Liabilities</b>	<b>1,224,662</b>	<b>55,574</b>	<b>1,485,456</b>
<b>Net Surplus / (Deficiency) (Before costs of the Provisional Liquidation)</b>	<b>(\$1,224,399)</b>	<b>\$39,509</b>	<b>(\$1,348,759)</b>

<sup>3</sup> A Bartercard account was recorded as a negative liability in the accounts of Education Holdings and has been restated as a current asset.

<sup>4</sup> A loan of \$23,911 to the McIntyre Trust was recorded as a negative liability and has been restated as a current asset.

## 3.1 Current Assets

### 2.1.1 Cash at Bank

Our investigations revealed that Education Holdings operated one business bank account with Westpac at the date of our appointment with a credit balance of \$263.

Following our appointment, we placed a freeze on the account and have taken control of the credit funds held.

No further accounts have been located.

### 2.1.2 Accounts Receivable

The RATA of Dennis McIntyre lists 37 debtors totalling \$55,688.

The Xero accounts list the value of debtors outstanding as \$48,136.

A review of the invoices comprising the balance indicates that these amounts relate to funds owed for subscription based services such as memberships or the purchase of study courses from Education Holdings.

An ageing analysis of the accounts reveals that all of the accounts are in excess of 300 days.

	(\$)	(%)
< 90 days	-	-
300 days	4,216	9%
600 days	19,427	40%
1200 days	18,679	39%
1200 days plus	5,814	12%
<b>Total</b>	<b>\$48,136</b>	<b>100%</b>

Given the age of the debtor balances, we consider it unlikely that these accounts will be recoverable.

### 2.1.3 Bartercard

The Bartercard account is recorded as a negative liability in the amount of \$22,297. We note that a negative liability is in fact an asset and that this amount has been improperly classified. Accordingly, we have reclassified this as an asset.

We have written to Bartercard Australia requesting the cancellation of the account and seeking further information about the final balance. We have not received a response to our queries.

## 3.2 Non-Current Assets

### 3.2.1 Plant and Equipment

The Xero accounts record written down values for office and computer equipment as \$14,692 and \$16,863, respectively.

We note that the lease of the Albert Road premises from which Education Holdings operated was held by PT. We consider that PT owned the plant and equipment at this premises and note that the plant and equipment is recorded as an asset in the balance sheet of PT.

A liquidator would need to conduct further investigations regarding this equipment including its location and/or whether it has been sold.

## 3.2.2 Motor Vehicle

The Xero accounts and RATA list a motor vehicle with a value of \$7,840.

Our investigations with VicRoads confirm that a 2002 Mazda Van was registered in the name of Education Holdings. The registration expired on 12 July 2015.

During their respective interviews, Dennis and Jamie McIntyre advised that they were unsure of the location of the vehicle. We were subsequently advised that the vehicle was in the possession of Swarit Verma, the CFO of Education Holdings and the 21<sup>st</sup> Century Group. We have requested that the vehicle be delivered to us.

## 3.2.3 Related Party Loans

The McIntyre Trust (Broadview) is recorded as a negative liability in the Xero accounts in the amount of \$23,911. We note that a negative liability is in fact an asset and this amount was been improperly classified. Accordingly, we have reclassified this as an asset. Jamie McIntyre has advised that the trust can repay this debt to Education Holdings.

As outlined above, we have conducted an analysis of the bank account maintained by Education Holdings from 1 January 2014. This has revealed that Education Holdings paid net amounts to McIntyre controlled entities totalling approximately \$1.7m. According to both Dennis and Jamie McIntyre, these loans were unsecured and there are no loan agreements in relation to, or in support of same.

Entity	Loan account balance as recorded in Xero (\$)	Net payments to McIntyre controlled entities (\$)	Provisional Liquidators' ERV (\$)
Broadview	23,911	651,716	Unknown
Pinnacle	-	345,477	Nil
Salarium Services	-	153,043	Unknown
Isle of Capri 2 Pty Ltd OR Isle of Capri 3 Pty Ltd	-	39,071	Unknown
PDI	-	136,620	Unknown
GC Princess	-	36,918	Unknown
Siddha Holdings Pty Ltd	-	12,030	12,030
Phoenix Investment Holdings LLC	-	340,600	Unknown
Land Farm Management	-	4,750	Unknown
<b>Totals</b>	<b>\$23,911</b>	<b>\$1,720,225</b>	<b>Unknown</b>

We note the following in relation to the Xero accounts:

- Whilst these accounts record some transactions between Education Holdings and the above McIntyre controlled entities, they do not record a balance owing to Education Holdings, save for Broadview;
- These accounts do not record all transactions in the Education Holdings bank account between the respective companies; and
- These accounts include numerous manual journal entries which reduce any amounts otherwise recorded as payable to Education Holdings.

Further, we provide the following commentary in relation to above related transactions / loans as identified from our analysis of the Education Holdings bank account:

- Broadview is the Trustee for the McIntyre family trust. We note that the Xero accounts record this loan as having a balance of \$23,911. Our analysis however indicates that between the period 1 January 2014 and 7 October 2015, net amounts totalling \$651,716 were paid from the Education Holdings Westpac Bank Account with the narration “Loan to Broadview.” We note that Jamie McIntyre advised that Broadview could repay the debt recorded in Xero of \$23,911 however we cannot confirm whether it is able to repay the \$651,716 identified as being received;
- Dennis McIntyre is the sole director and secretary of Pinnacle. During our interview with Dennis McIntyre, he advised that Pinnacle was unable to repay this debt. We further note that we have reviewed the financial accounts for Pinnacle which record a net asset deficiency in excess of \$3.7m as at 30 June 2015 and a net loss for the financial year ended 30 June 2015 of over \$2.4m. Accordingly, we do not consider this amount to be collectible; and
- Jamie McIntyre has advised that Siddha Holdings Pty Ltd would be able to repay the debt to Education Holdings. We are however unable to confirm same.

We are unable to confirm the collectability of the remaining amounts. We further note that we cannot confirm the opening balances of any loan accounts prior to 1 January 2014 and accordingly a liquidator, if appointed would need to conduct further investigations regarding the amounts owed to Education Holdings.

### 3.3 Current Liabilities

#### 3.3.1 GST

The Xero accounts state that an amount of \$4,243 is owed to the ATO, however the RATA does not disclose any liability to the ATO. We note that we have not reviewed the liability recorded in Xero to determine its accuracy.

The ATO has advised that it does not presently have a claim against Education Holdings, however the ATO has advised that the company has the following outstanding lodgements and therefore may have a claim against Education Holdings once these returns are lodged:

- Income tax returns for the financial years ended 30 June 2014 and 2015;
- Payment summaries for the financial years ended 30 June 2013 and 2014; and
- Business activity statements from October 2014 to October 2015.

### 3.3.2 Accounts Payable

The RATA and Xero accounts record total current liabilities of \$55,574 and \$36,656 respectively, as follows:

Entity	RATA (\$)	Xero (\$)	Estimated Liability (\$)
Optus	5,089	4,913	5,089
Origin Energy	26,546	723	26,546
Leading Internet Solutions	598	598	598
NAB Credit Card	-	914	-
Visa / MasterCard	-	4,284	-
GC Princess	14,100	14,100	14,100
██████████	-	1,656	1,657
██████████	-	228	228
██████████	9,241	9,240	9,241
<b>Total</b>	<b>\$55,574</b>	<b>\$36,656</b>	<b>\$57,459</b>

We note that GC Princes Boatshare Pty Ltd is a related party creditor.

WBC has advised that Education Holdings held a corporate credit card with the bank with a credit limit of \$120,000. Pinnacle would pay the balance owing at the end of each month. As at the date of our appointment, an amount of \$113,000 was outstanding to WBC. We understand that, at this stage the debt has not been paid by Pinnacle. We understand that following our appointment, WBC deducted the outstanding amount from an account maintained by Pinnacle and accordingly, Pinnacle may have a claim against Education Holdings in relation to this amount.

Further, we note that we have not called for Proofs of Debt from creditors and therefore cannot confirm the amounts recorded as outstanding.

### 3.3.3 Secured Creditor

A search of the PPSR reveals that Westpac) holds a security interest over Education Holdings. We have issued correspondence to WBC and are awaiting a response on the nature of the security and balance outstanding, if any.

## 3.4 Non-Current Liabilities

### 3.4.1 Related-Party Loans

In addition to the debt recorded as owing to GC Princess Boatshare in the RATA (\$14,100), the Xero accounts recorded the following party related party loans. As outlined above, an analysis of the Education Holdings Westpac Bank Account has identified the following amounts received from PT and McIntyre controlled entities:

Entity	Xero (\$)	Net Amounts identified from analysis of bank account (\$)
Media Holdings	127,246	1,233
PT	1,309,776	1,138,770
Financial Educators Association	5,200	8,100
Pinnacle	2,333	n/a
Bendigo Vineyard	-	5,000
<b>Total</b>	<b>\$1,444,555</b>	<b>\$1,153,103</b>

Further investigations would need to be conducted by a liquidator, if appointed, to confirm the amounts owed.

## 4. Opinion as to Solvency

Pursuant to Section 95A of the Act:

- a) a person is solvent if, and only if, the person is able to pay all the person's debts, as and when they become due and payable.
- b) a person who is not solvent is insolvent.

Solvency can be assessed on both a balance sheet and cash flow test. In accordance with the statutory definition, our approach in determining whether Education Holdings was insolvent at all relevant times is based on balance sheet and cash-flow tests. In particular, a working definition of 'insolvency', as an inability to pay debts, as and when they fall due, is dependent on the ability of a company to meet liabilities from the company's assets on hand and/ or the ability to generate sufficient cash flows to meet payment of its debts, as and when they fall due.

According to the Xero accounts, Education Holdings had a net asset deficiency as at the date of our appointment and for the financial years ended 30 June 2013, 2014 and 2015 respectively, as set out below. A copy of the comparative balance sheet is attached as **annexure EH-3**.

	7 October 2015 <sup>5</sup>	30 June 2015	30 June 2014	30 June 2013
	(\$)	(\$)	(\$)	(\$)
Total Current Assets	51,094	56,128	60,378	67,972
Total Non-Current Assets	39,396	39,396	37,871	-
<b>Total Assets</b>	<b>90,490</b>	<b>95,525</b>	<b>98,248</b>	<b>67,972</b>
Total Current Liabilities	18,604	26,053	95,670	114,496
Total Non-Current Liabilities	1,420,645	1,393,455	1,100,839	-
<b>Total Liabilities</b>	<b>1,439,249</b>	<b>1,419,508</b>	<b>1,196,509</b>	<b>114,496</b>
<b>Net Assets</b>	<b>(\$1,348,759)</b>	<b>(\$1,323,984)</b>	<b>(\$1,098,261)</b>	<b>(\$46,525)</b>

We provide the following commentary in relation to the above Xero accounts:

- As outlined previously, current assets predominately comprise accounts receivable. We do not consider the debtors to be collectible;
- Total non-current assets include a motor vehicle. The balance comprises equipment for which further investigation regarding the location and ownership of the vehicle would need to be conducted;
- Current liabilities comprise trade creditors. An aged payables report reveals that an amount of \$26,546 has been outstanding for in excess of 90 days. We note that the account is understated as the company's Bartercard account was recorded as a negative liability for \$22,297; and

<sup>5</sup> We note that the Xero accounts annexed to this report are as at 31 October 2015. We note that Xero is only able to produce a balance sheet as at month end not between specified periods. This does not alter the amounts recorded in the financials.

- The Non-Current Liability balance includes unsecured loans to Education Holdings by related parties totalling \$1.4m. We note that the account is understated due to a negative liability to the McIntyre Trust in the amount of \$23,911.

Based on the above, we have restated the balance sheet as at 7 October 2015, which results in a net asset deficiency, as detailed below:

	7 October 2015 (\$)
Total Current Assets	263
Total Non-Current Assets	Unknown
<b>Total Assets</b>	<b>263</b>
Total Current Liabilities	57,458
Total Non-Current Liabilities	1,167,203
<b>Total Liabilities</b>	<b>1,224,661</b>
<b>Net Assets</b>	<b>(\$1,224,398)</b>

The profit and loss recorded in Xero is set out in the table below. A copy of the profit and loss for the period ended 31 October 2015 is attached as **annexure EH-4** and the comparative profit and loss statements for the years ended 30 June 2013 to 2015 inclusive are attached as **annexure EH-5**.

	7 October 2015 (\$)	30 June 2015 (\$)	30 June 2014 (\$)	30 June 2013 (\$)
<b>Income</b>				
Events	1,154	367,221	492,494	35,409
Referral/Joint Venture	1,409	79,800	1,273	-
Memberships	134	1,087	114,547	5,968
Other income	247	3,354	26	27
<b>Total Income</b>	<b>2,944</b>	<b>451,462</b>	<b>608,340</b>	<b>41,404</b>
Less Cost of Sales	857	79,255	372,306	12,946
<b>Gross Profit</b>	<b>2,087</b>	<b>372,207</b>	<b>236,034</b>	<b>28,458</b>
<b>Less Operating Expenses</b>				
Employment	-	244,208	894,299	65,074
Legal and Accounting Fees	20,909	111,052	(25,308)	9,644
Utilities and Sundry	5,382	80,070	209,442	-
Bad Debts	-	49,547	255,316	-
Rent and Occupancy	-	46,894	207,841	-
Editorial and Publishing	-	598	36,762	-
Entertainment and Hire Fees	-	45,396	48,176	-
Other Expenses	572	20,164	39,483	-
<b>Total Operating Expenses</b>	<b>26,863</b>	<b>597,929</b>	<b>1,666,011</b>	<b>74,718</b>
<b>Net Profit / (Loss)</b>	<b>(\$24,776)</b>	<b>(\$225,722)</b>	<b>(\$1,429,977)</b>	<b>(\$46,259)</b>

We provide the following commentary in relation to the above Xero accounts:

- The primary source of income was from events and seminars held. There was additional revenue generated from membership fees and referral / joint venture fees;
- Revenue generated from events decreased from 30 June 2014 to 30 June 2015 and resulted in a decrease in total income from \$608,340 to \$451,462 respectively. The effect on the company's gross profit was minimised by a reduction in costs of sales by \$293,052 for the same period;



- Employment expenses include salaries and wages, contractors, director's fees and superannuation. We have been advised that Education Holdings did not employ staff and that Salarium Services, a related entity was responsible for employing 21st Century Group staff. We have conducted a review of the journal transactions that comprise the employment expenses and note that for the year ended 30 June 2015, an amount of \$197,740 was paid to the McIntyre Trust and a further amount of \$25,800 was paid to Property Direct (International) Pty Ltd, a related entity, by an adjustment in the accounts on 9 June 2015 for \$223,540. A liquidator, if appointed would need to conduct further investigations regarding these transactions;
- The reduction in bad debts and rent and occupancy expenses, in addition to a decrease in employment costs have reduced the net loss of \$1.4m incurred in 30 June 2014 to \$0.2m for 30 June 2015; and
- For the period ending 31 October 2015 and the financial years ended 30 June 2013 to 30 June 2015 inclusive, Education Holdings has not operated at a profit.

We consider that Education Holdings is insolvent from a cash flow perspective for the following reasons:

- At the date of our appointment, it had cash at bank of \$263;
- Cash flows generated from events and other income streams were insufficient to satisfy its operating expenses. It has incurred continuing trading losses from at least 30 June 2013 onwards;
- It appears to have been reliant on funding from related parties in order to meet its operating expenses from at least 30 June 2013 onwards; and
- It is unable to repay loans from related parties from its income generated from its own business activities.

We also consider that Education Holdings was insolvent from a balance sheet perspective, by virtue of a net asset deficiency of over \$1m as at 30 June 2014 and 2015.

We note that the Xero accounts had no transactions recorded prior to the financial year ended 30 June 2014 however Education Holdings was incorporated in February 2008.

A liquidator, if appointed would need to gain access to any accounts maintained by Education Holdings prior to this financial period in order to confirm Education Holding's solvency position and the date it became insolvent (as applicable).

## 5. Likely return to creditors

A dividend to unsecured creditors is unlikely.

We note that if Education Holdings is wound up, a liquidator would conduct further investigations into its affairs to determine whether there are any claims which may be made, or any transactions which may be recoverable for the benefit of creditors. Any likely return would be dependent on the successful outcome of any recovery proceedings.

## 6. Other information necessary to enable the Company's financial position to be assessed

In order to enable a proper assessment of the financial position of Education Holdings, we would be required to do the following:

- Undertake a complete funds tracing exercise of the bank accounts operated in order to determine the movement of funds;
- Obtain proofs of debt from each creditor;
- Obtain and review source documents in order to verify and explain transactions;
- Obtain Outstanding income tax returns and business activity statements; and
- Obtain and review any loan agreements between the Corporate Respondents and McIntyre controlled entities.

## 7. Suspected contraventions of the Act

### 7.1 Uncommercial Transactions

Section 588FB defines an uncommercial transaction as a transaction where it may be expected that a reasonable person in the company's circumstances would not have entered into the transaction, having regard to:

- a) the benefits (if any) to the company of entering into the transaction; and
- b) the detriment to the company of entering into the transaction; and
- c) the respective benefits to other parties to the transaction of entering into it; and
- d) any other relevant matter.

As outlined above, Education Holdings made unsecured and undocumented loan to related parties (McIntyre controlled entities) totalling approx. \$1.7m as follows:

Entity	Inflow from McIntyre controlled entities (\$)	Outflow from McIntyre controlled entities (\$)	Net Inflow / (Outflow) to McIntyre controlled Entities (\$)
Broadview	158,516	810,232	(651,716)
Pinnacle	332,642	678,119	(345,477)
Salarium Services	48,978	202,022	(153,043)
Isle of Capri 2 Pty Ltd OR Isle of Capri 3 Pty Ltd	4,867	43,938	(39,071)
Property Direct (International) Pty Ltd	33,050	169,670	(136,620)
GC Princess Boatshare Pty Ltd	-	36,918	(36,918)
Siddha Holdings Pty Ltd	3,870	15,900	(12,030)
Phoenix Investment Holdings LLC	-	340,600	(340,600)
Land Farm Management	-	4,750	(4,750)
<b>Totals</b>	<b>\$581,923</b>	<b>\$2,302,149</b>	<b>(\$1,720,225)</b>

We make the following comments in relation to the above payments:

- We have been unable to locate any loan agreements in support of these payments;
- According to Jamie McIntyre, these loans were unsecured and not made pursuant to any loan agreements;
- We have not seen any evidence of any demands for repayments of the above amounts;
- These payments were not properly reflected in the books and records of Education Holdings;
- We have been unable to identify or locate any documentation, source documents or any other documentation which provide explanation regarding the funds paid;
- These payments were made in circumstances where both Dennis and Jamie McIntyre ought to have known that the recipient entities did not have the ability to repay;
- These transactions provided no benefit to Education Holdings and we cannot see that any consideration (whether by the provision of services or otherwise) was given by the recipient entities in exchange for these funds;
- The majority of funds (\$997,193) were paid to Broadview and Pinnacle. Dennis McIntyre is the sole director of Broadview and Pinnacle and Jamie McIntyre the ultimate shareholder / owner. Broadview the Trustee for the McIntyre family trust. Accordingly, we consider that Dennis and Jamie McIntyre may have personally gained a benefit by virtue of payment of these funds;
- We do not consider that a reasonable person would have entered into these transactions having regard to the financial position of Education Holdings and the detriment to Education Holdings;
- These transactions were entered into without the consent of, or disclosure to investors; and

- These transactions were entered into whilst Education Holdings was insolvent and / or it became insolvent by virtue of entering into these transactions.

Accordingly, we consider that these transactions constitute uncommercial transactions.

We note however that we have been unable to confirm the opening balances of the respective loan accounts prior to June 2014 which have been recorded as having a Nil opening balance in the Xero accounts. Accordingly, a liquidator, if appointed, would conduct further investigations regarding these transactions in order to identify any further transactions which may be recoverable for the benefit of creditor.

## 7.2 Insolvent Trading

We consider that the Directors have failed in their duty to prevent insolvent trading pursuant to Section 588G of the Act.

Section 588G(1) of the Act applies if:

- a) a person is a director of a company at the time when the company incurs a debt; and
- b) the company is insolvent at that time, or becomes insolvent by incurring that debt, or by incurring at that time debts including that debt; and
- c) at that time, there are reasonable grounds for suspecting that the company is insolvent, or would so become insolvent, as the case may be; and
- d) that time is at or after the commencement of this Act.

As outlined above:

- We consider Education Holdings to be insolvent and that it has been insolvent from at least 30 June 2014; and
- After this date, Education Holdings continued to incur liabilities and other operating costs which it was unable to service.

As outlined above, a liquidator, if appointed, would conduct further investigations regarding the date PT became insolvent and quantify the debts incurred during this time.

We note that the Directors may be personally liable for insolvent trading.

## 7.3 Breach of Director's Duties

Section 9 of the Act defines a director to include a person who, despite not being validly appointed as a director, acts in that capacity or the directors of the company are accustomed to acting in accordance with that person's instructions.

We consider that Jamie McIntyre is a director of Education Holdings within the definition of section 9 of Act by virtue of the following:

- He liaised with and made representations to ASIC regarding the Company's financial position;
- It is clear, from interviews conducted with the group's Chief Financial Officer and General Manager that they were all accustomed to acting in accordance with the instructions of Jamie McIntyre;

- Swarit Verma (the CFO) advised during his interview that transactions from the bank account were approved by Jamie McIntyre; and
- Dennis McIntyre, the Director was accustomed to acting in accordance with his instructions.

We further consider that both Dennis and Jamie McIntyre have breached the following duties as directors.

#### **7.4 Failure to act in good faith and for a proper purpose**

We have been advised that only Swarit Verma (CFO) and the Directors were signatories to the PT bank account/s and / or had the ability to authorise payments from same. We have further been advised that it was custom for Jamie McIntyre to approve all transactions.

As previously discussed, our investigations indicate that net amounts totalling approximately \$1.7m were loaned to McIntyre controlled entities. We note that as Directors and / or former Directors of the related parties, the Directors ought to have known that the respective entities were not capable of repaying these loans.

We consider that the Directors have acted improperly, not in good faith and without care and diligence to the detriment of Education Holdings, which has resulted in a benefit to other entities which they control.

We consider that by authorising payments to be made from the Education Holdings bank accounts, the Directors have failed to act in good faith and in the best interests of PT. Furthermore, as outlined above, we consider that these loans were made in circumstances where the Directors ought to have known that these related parties did not have the ability to repay. Accordingly, we consider that the Directors actions may have been reckless and in breach of section 184 of the Act. This section extends the civil penalty to a criminal one where it can be shown the director acted recklessly or with intentional dishonesty and failed to act in the best interests of the company or for a proper purpose.

As outlined above, a liquidator, if appointed would be required to conduct further investigations regarding these transactions in order to determine the extent of the payments and / or transactions and to identify any which were in fact repayments of loans made between the respective entities. Further investigations would also need to be conducted in relation to Education Holding's affairs in order to identify any further breaches of the Act and any additional transactions which may be recoverable for the benefit of creditors.

#### **7.5 Failure to maintain proper books and records**

Pursuant to Section 286 of the Act, a company must keep written financial records that correctly record and explain its transactions, financial position and performance and would enable true and fair financial statements to be prepared and presented in accordance with the accounting standards.

As outlined in the Summary Report, from an examination of the books and records we have obtained, it appears that there has been a failure to maintain proper books and records.

Whilst there were financial statements prepared and found amongst Education Holding's records, the transactions underlying the compilation of these accounts were not supported by primary source records such as vouchers, invoices, loan agreements, journals and/or an explanation of the purpose of intercompany transactions. In our opinion, the deficiency in primary source records and the absence of records explaining the significant movement of funds between related entities did not enable an accurate set of financial statements to be prepared.

## **8. Provisional Liquidators' Recommendation**

Given the nature of the breaches identified and the financial position of Education Holdings, we recommend that Education Holdings be wound up to enable proper investigations to be conducted into its affairs.

A liquidator would be required to undertake a detailed funds tracing exercise in order to identify any transactions which may be recoverable for the benefit of creditors.

## Annexures

Document No.	Description of Document
1	Historical extract of the company as at 7 October 2015
2	Report as to Affairs of Matthew Dolheguy dated 5 November 2015
3	Comparative balance sheet extracted from Xero
4	Profit and loss statement for the period 1 July 2015 to 31 October 2015 extracted from Xero
5	Comparative profit and loss for the financial years ended 30 June 2015 to 30 June 2015 extracted from Xero