

The Insolvency Act 1986

**2.24B****Administrator's progress report**

Name of Company

LMB Realisations Limited (Formerly Bon Marche Limited)

Company number

00270937

In the  
High Court of Justice, Chancery Division, Companies CourtCourt case number  
400 of 2012

We

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Administrators of the above company attach a progress report for the period

from

20 January 2012

to

19 July 2012

Signed

*E G Boyle*

Joint Administrators

Dated

8 August 2012

**Contact Details:**

You do not have to give any contact information in the box opposite but if you do, it will help Companies House to contact you if there is a query on the form. The contact information that you give will be visible to searchers of the public record.

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When you have completed and signed this form, please send it to the Registrar of Companies at -

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COMPANIES HOUSE



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To all known creditors

Our ref **EB/JL/LH/TJS**

Contact **Thomas Swiers**  
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8 August 2012

Dear Sirs

**LMB Realisations Limited - in Administration (formerly Bon Marche Limited) ("the Company")**

**Joint Administrators - Richard Dixon Fleming, Christine Mary Laverty, Edward George Boyle and Mark Granville Firmin**

In accordance with Rule 2 47(4) of the Insolvency (Amendment) Rules 2003, I attach Form 2 24B, the Joint Administrators' progress report for the period 20 January 2012 to 19 July 2012

The Joint Administrators have sought permission of the Court to make a distribution to unsecured creditors of the Company, in respect of the prescribed part, pursuant to Paragraph 65(3) of Schedule B1 to the Insolvency Act 1986, and a hearing is scheduled for October 2012 to consider this application

In the meantime, the Joint Administrators invite creditors to notify any claims in writing on the enclosed proof of debt form (or complete the enclosed nil claim form if they consider that they do not have a claim) The Joint Administrators will retain these claims until such time as permission to agree unsecured claims has been obtained or a Liquidator is appointed

If you have any queries or require any additional information, please contact Thomas Swiers of on the above number

Yours faithfully  
for LMB Realisations Limited (Formerly Bon Marche Limited)

*E Boyle*

**E Boyle**  
**Joint Administrator**

The affairs, business and property of the Company are being managed by the Joint Administrators

Christine Mary Laverty and Richard Dixon Fleming are authorised to act as insolvency practitioners by the Insolvency Practitioners Association  
Edward George Boyle and Mark Granville Firmin are authorised to act as insolvency practitioners by the Insolvency Practitioners Association  
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SATURDAY

KPMG LLP, a UK limited liability partnership, is a subsidiary of KPMG Network, a Swiss entity  
Europe LLP and a member firm of the KPMG network of member firms affiliated with KPMG International Cooperative, a Swiss entity

**COMPANIES HOUSE**

Registered in England No OC301540  
Registered office 15 Canada Square London E14 5GL



**LMB Realisations Limited (in Administration)**  
**(formerly Bon Marche Limited)**

**Progress Report**  
**for period from 20 January 2012 to**  
**19 July 2012**

**KPMG LLP**

**8 August 2012**

*This report contains 28 pages*



*LMB Realisations Limited (in Administration) (formerly Bon Marche Limited)*  
*for period from 20 January 2012 to 19 July 2012*  
KPMG LLP  
8 August 2012

## Notice: About this Report

This Report has been prepared by Christine Mary Lavery, Richard Dixon Fleming, Edward George Boyle and Mark Granville Firmin, the Joint Administrators of LMB Realisations Limited, solely to comply with their statutory duty under the Insolvency Act 1986 and Insolvency Rules 1986 to provide creditors with an update on the progress of the administration of the estate, and for no other purpose. It is not suitable to be relied upon by any other person, or for any other purpose, or in any other context.

This Report has not been prepared in contemplation of it being used, and is not suitable to be used, to inform any investment decision in relation to the debt of or any financial interest in LMB Realisations Limited.

Any estimated outcomes for creditors included in this Report are illustrative only and cannot be relied upon as guidance as to the actual outcomes for creditors.

Any person that chooses to rely on this Report for any purpose or in any context other than the Insolvency Act and Insolvency Rules 1986 (as amended) does so at their own risk. To the fullest extent permitted by law, the Joint Administrators do not assume any responsibility and will not accept any liability in respect of this Report.

Christine Mary Lavery and Richard Dixon Fleming are authorised to act as insolvency practitioners by the Insolvency Practitioners Association.

Edward George Boyle and Mark Granville Firmin are authorised to act as insolvency practitioners by the Institute of Chartered Accountants in England & Wales.

The Joint Administrators act as agents for LMB Realisations Limited and contract without personal liability. The appointments of the Joint Administrators are personal to them and, to the fullest extent permitted by law, KPMG LLP does not assume any responsibility and will not accept any liability to any person in respect of this Report or the conduct of the administration.

All figures contained within the Report, unless otherwise stated, are net of VAT.



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*for period from 20 January 2012 to 19 July 2012*  
KPMG LLP  
8 August 2012

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## Glossary

Act	The Insolvency Act 1986
Administration	The Administration Order granted by the High Court of Justice, Chancery Division, Companies Court over LMB Realisations Limited (in Administration) (formerly Bon Marche Limited) on 20 January 2012 Court case number 400 of 2012
Company	LMB Realisations Limited (in Administration) (formerly Bon Marche Limited)
Excluded Stores	The Company stores in Balham, Perth and St Albans
Peacocks Group/ Peacocks	The Peacock group of companies (including the Company)
Hogan Lovells	Hogan Lovells International LLP
Joint Administrators	Christine Mary Lavery, Richard Dixon Fleming, Edward George Boyle and Mark Granville Firmin of KPMG LLP
Lenders	Consortium of banks with senior facilities secured across the Company upon appointment. Cross guarantees were also in place with the wider Peacocks group of companies
Purchaser	Bonmarche Limited (formerly Bluebird UK Bidco Limited, a purchasing vehicle for Sun European Partners LLP)
RoT	Retention of title
Rules	The Insolvency Rules 1986
SIP	Statement of Insolvency Practice
SPA	Sale and Purchase Agreement relating to the sale of the business and assets of LMB Realisations Limited, dated 20 January 2012
TSA or Transitional Services Agreement	An agreement between The Peacock Group plc, Peacocks Stores Limited, Dorsman Estates Co Limited, Peacocks (Nantgarw) Limited (all in Administration) and the Purchaser, dated 20 January 2012
Worldpay	Worldpay (UK) Limited



## 1 Executive Summary

- This progress report covers the period from appointment to 19 July 2012
- The Administrators' Statement of Proposals was approved on 26 March 2012 and has not been modified (see section 2 Statement of Proposals)
- As reported with my proposals, a sale of substantially all of the Company's business and assets was concluded on my appointment on 20 January 2012
- There was no prospect of saving the Company. Therefore, the purpose of the administration, in accordance with Paragraph 3(1)(b) of the Act 1986 is achieving a better result for the Company's creditors as a whole than would be likely if the Company were wound up
- Based on the expected level of realisations and the amounts owed to the secured creditors, it is unlikely that there will be sufficient funds available to facilitate a distribution to unsecured creditors other than under the Prescribed Part rules. It is anticipated that the maximum prescribed part of £600,000 will be made available to the unsecured creditors
- The Joint Administrators are seeking permission from the court to make a dividend payment to unsecured creditors from the prescribed part, and a court hearing is listed for October 2012 to consider this application
- Full details of the Joint Administrators' progress report are attached together with all the relevant statutory information
- This progress report should be read in conjunction with our previous reports sent to the Company's creditors

*Ed Boyle*

Joint Administrator – Edward Boyle





## 2 Statement of Proposals

The Joint Administrators' Statement of Proposals was circulated on 13 March 2012

Pursuant to Paragraph 52(1)(b) of Schedule B1 to the Insolvency Act 1986 the Joint Administrators did not convene a creditors meeting as it was considered that the Company had insufficient property to enable a distribution to be made to unsecured creditors other than by virtue of Section 176(A)(2)(a) (Prescribed Part)

As a meeting was not requisitioned by creditors, the Joint Administrators' Statement of Proposals, as circulated, was deemed approved on 26 March 2012. No modifications were received

## 3 Progress to date

### 3.1 History of the Company

The Company (formerly Bon Marche Limited) was incorporated in 1932 and became part of the Peacocks Group in 2002

The Company was the main trading entity of the Bonmarche brand, one of the UK's largest retailers of affordable, quality, plus size women's clothing. The business operated from a head office and distribution centre in Wakefield, West Yorkshire and primarily traded from 392 leasehold stores, three concession stores and through [www.bonmarche.co.uk](http://www.bonmarche.co.uk)

Christine Lavery, Richard Fleming, Edward Boyle and Mark Firmin of KPMG LLP were appointed Joint Administrators of the Company on 20 January 2012. Three other companies in the Peacocks Group Wiltex by Wilson Limited, Inhoco 336 Limited, and Hilton Fashions Limited (all subsidiaries of the Company) also entered administration on 20 January 2012

At the date of appointment the Company employed 3,888 members of staff

### 3.2 Events leading to the Joint Administrators' appointment

The Company received funding from the Lenders and these borrowings are subject to cross guarantees from Peacocks companies and are secured by debentures. In addition, Peacocks had significant additional funding with other financiers totalling in excess of £600 million

Whilst the Company historically traded profitably, it was under increasing margin pressure as it discounted prices to maintain sales volumes. As sales and margins reduced, the viability of ongoing trading came into question due to the relatively high operating



cost base of the Company, including its ability to contribute to the wider Peacocks cost base

From mid-2011, Peacocks considered its options with the Lenders. KPMG LLP was involved in these discussions, acting as advisors to the Lenders. As a result of these discussions, further finance was sought by Peacocks from the existing shareholders, alternative providers of capital finance and the Lenders in order to enable Peacocks (including the Company) to continue trading and avoid insolvency. Discussions regarding funding for the Company ran into January 2012.

As with many retail businesses, the Company's trading was traditionally weak in January and February and its forecasts showed it had a funding requirement during this period to continue trading. The Company was reliant on Peacocks' facilities for this funding, and Peacocks was already in the process of restructuring. Therefore, in December 2011, having identified the Company's working capital requirements, Peacocks management decided to explore a sale of the shares of the Company. An agreement for a sale was not completed. As a result, the Company decided to market the business via an accelerated sales process.

On 22 December 2011, the Company instructed a firm of corporate finance advisors, DC Advisory Partners Ltd, to assist it in seeking a buyer for the Company's business and assets. The proposed Joint Administrators monitored the process closely from the outset and this process was summarised in the SIP16 memorandum, which was circulated to all creditors on 26 January 2012.

Following the marketing, the proposed Joint Administrators reviewed all offers received. Based on the information available to the proposed Joint Administrators at that time, the offer from Sun European Partners LLP provided an enhanced return to creditors when compared to the other offers received.

The proposed Joint Administrators communicated with the Lenders on a regular basis throughout the bidding process and discussed the proposed pre-packaged sale with HM Revenue & Customs.

The trading entities of Peacocks other main business, the Peacocks retail chain, were placed into administration on 19 January 2012.

On 20 January 2012, Christine Lavery, Richard Fleming, Edward Boyle and Mark Firmin of KPMG LLP were appointed Joint Administrators over the Company and a sale of the business and assets was completed shortly after the appointment.

### **3.3 Strategy & trading**

#### **3.3.1 Sale of business**

In order to achieve the purpose of the administration, the following courses of action were considered:

- managed wind down through a trading administration;



- a sale of the business from a trading administration, and
- a pre-packaged sale of the business immediately following the appointment of Joint Administrators

The proposed Joint Administrators concluded that a pre-packaged sale immediately following their appointment, rather than a sale following a period of trading during administration, produced the best return to creditors

As previously reported, the Joint Administrators concluded a pre-packaged sale of the business and certain assets of the Company to Bonmarche Limited (formerly Bluebird UK Bidco Limited, a purchasing vehicle for Sun European Partners LLP) immediately following their appointment

This included a sale of the Company's interest in the Head Office and Warehouse, 389 of the 392 leasehold stores, the three concession stores, store equipment, goodwill, IT systems, motor vehicles, stock, certain Company records, the [www.bonmarche.co.uk](http://www.bonmarche.co.uk) website and the majority of book debts

The total consideration of £12 million was received on completion and can be allocated as follows

(i)	the Equipment, the sum of	£6,600,000
(ii)	the Completion Cash Amount, the sum of	£150,000
(iii)	the Stock, the sum of	£5,249,989
(iv)	*Other assets, the sum of	£11
	<b>TOTAL</b>	<b>£12,000,000</b>

\*Other assets included, but were not limited to, properties, goodwill, IT systems, employee records, the Company website, book debts. All such other assets have a £1 consideration

As part of the sale agreement, a licence to occupy was entered into with the Purchaser for 389 retail stores

Due to the imminent expiry of their leases, three stores were excluded from the sale Balham, Perth and St Albans

### **3.3.2 Trading**

As detailed above, the Excluded Stores were not transferred to the Purchaser under the terms of the SPA. The leases for the Excluded Stores, the employees and stock all remained with the Company following the appointment of the Joint Administrators

The Joint Administrators trading strategy for these stores was largely driven by the fact that the leases were due to expire shortly after appointment, all three stores were closed and cleared by 30 January 2012



Following the closure of the Excluded Stores the minimal residual stock was sent to auction. All 19 employees of the Excluded Stores were made redundant by the Joint Administrators on the closure of the stores.

The Company's total revenue during the trading period was £24,861 and direct labour costs of £10,174 were incurred.

### **3.3.3 Joint Administrators' actions since appointment**

Since 20 January 2012, the Joint Administrators have been engaged primarily in

- completion of the sale of the business and assets of the Company,
- collection of Company book debts that had been excluded from the sale,
- preparing a reconciliation of the Company's debtors (credit card and online receipts) and cash in transit to store records,
- assisting the Purchaser with the release of assets sold under the SPA, including book debts and stock,
- assisting with the implementation of the TSA,
- assisting the Purchaser where necessary with RoT matters,
- collection of rent from the Purchaser and payment of landlords,
- correspondence with landlords in respect of leasehold property,
- assisting with transition for rates prepayments with councils,
- trading and wind down of the Excluded Stores,
- dealing with creditor queries,
- reporting to creditors,
- establishing the tax and VAT position of the Company,
  - statutory and compliance matters, and
  - making distributions to secured creditors

### **3.4 Communication**

The Joint Administrators wrote to all known creditors on 24 January 2012 advising them of their appointment.

Following this, the Administrators' Statement of Proposals was circulated to all known creditors of the Company on 13 March 2012.



### **3.5 Assets**

#### **3.5.1 Assignment of leases**

Under the terms of the SPA, the Company granted the Purchaser a licence to occupy 371 of the 374 leasehold stores in the Company's portfolio. In addition, and under the terms of a separate licence agreement and TSA, Peacocks granted the Purchaser of the Company the right to occupy 18 stores on a temporary basis, where Peacocks and the Company shared the store.

During the period the Purchaser has been negotiating with the various landlords of the stores, which it occupies under licence from the Company with a view to completing assignment of the existing lease or the grant of a new lease.

Of the 389 stores that were originally occupied by the Purchaser, it was anticipated that 156 were unlikely to be retained. To date, 122 stores have been closed and surrender of the leases have been offered to the landlords.

The leases on 167 of the stores originally occupied have either been assigned to the Purchaser or surrendered and a new lease granted. The Company's past, present and future liabilities under the leases of these stores have been extinguished.

The remaining 100 stores continue to be occupied by the Purchaser under the licence to occupy granted by the Company. The process of assignment or surrender of the leases of these stores will continue until the licence period expires.

The Joint Administrators have engaged Hogan Lovells to provide legal advice regarding this process in respect of the Company's obligations under the leases.

The Purchaser has continued to pay the Company the licence fee required under the licence to occupy and the Company has continued to settle the charges due under the leases.

#### **3.5.2 Intangible assets**

Intangible assets comprise the Customer lists, Website, Property rights/ Patents, Goodwill, IT Systems, Contracts, Company brand, domain name and all associated intellectual property rights. These assets were purchased as part of the sale of the business and assets.

#### **3.5.3 Furniture and equipment**

£6,600,000 of the consideration received for the pre-packaged sale was in relation to furniture and equipment held at the Company's head office and the 389 retail stores included in the sale.

£5,303 has been received from the sale of assets from the Excluded Stores. The Joint Administrators appointed Fox Lloyds Jones Limited to clear these stores and realise the available assets.



#### **3.5.4 Stock**

£5,249,989 of the consideration received for the pre-packaged sale was in relation to stock held at the Company's head office and the 389 retail stores included in the sale

#### **3.5.5 Cash floats**

£150,000 of the consideration received for the pre-packaged sale was in relation to cash floats held in the 389 retail stores included in the sale.

#### **3.5.6 Cash in transit**

Under the terms of the SPA, the Company is entitled to receive all cash from sales made prior to their appointment, which were banked post appointment. The Joint Administrators have received £964,087 in cash in transit during the period.

Included in the cash in transit figure are amounts received from the pre appointment bank accounts held by the Company for post appointment receipts. It is anticipated that it will be necessary to refund approximately £28,000 to the Purchaser in respect of monies received by the Joint Administrators which relate to post appointment takings due to the Purchaser. In addition, it is anticipated that a payment to the Purchaser of approximately £29,000 will be required in respect of monies received into the Company's pre appointment bank accounts which are in fact due to the Purchaser.

The Joint Administrators have refunded £13,991 in respect of a business rates rebate which was paid into the Company's pre appointment bank account in error (these funds were paid automatically to the Joint Administrators' account).

#### **3.5.7 Rent**

On surrender of the lease at the Balham store, the landlord refunded a lease premium of £125,928 which was due to the Company. The Joint Administrators do not anticipate any further receipts in respect of lease premiums.

#### **3.5.8 Cash Trust**

£309,985 has been received in relation to the employee trust, following legal advice on correct treatment of monies held.

#### **3.5.9 Worldpay monies**

Under the terms of the SPA, the Company was entitled to receive all debts due from the Company's merchant services providers (excluding the first £250,000 received from Worldpay which was payable to the Purchaser). In accordance with that agreement, the Joint Administrators received £1,382,856 after the deduction of Worldpay fees and the amounts due to the Purchaser.

#### **3.5.10 Other assets**

During the period, the Joint Administrators have received £16,219 and £230 in respect of interest, and sundry refunds of £8,559 which relate to a business rates refund and the refund of funds held by legal advisors and agents to the Company.



### **3.5.11 Debts due from other Peacocks companies**

The Company was owed £66 million by other Peacock companies however, due to the administration within the wider Peacocks group, recoveries from these debts will be limited

## **3.6 Liabilities**

### **3.6.1 Secured creditors**

The Lenders have the benefit of a debenture dated 23 January 2006, providing a floating charge over the Company's assets securing borrowings that are subject to cross guarantees from all Peacocks companies

Based upon current information, the Joint Administrators anticipate that the Lenders will not recover their debt in full. To date, distributions of £11.9 million have been made

### **3.6.2 Preferential creditors**

There are preferential claims in respect of accrued holiday pay for those staff that did not transfer as part of the sale of business and assets. It is anticipated that these will be paid in full

### **3.6.3 Unsecured creditors**

Based upon current information, the Joint Administrators do not expect that there will be sufficient funds available to make a distribution to the Company's unsecured creditors other than under the Prescribed Part rules. It is anticipated that the maximum prescribed part of £600,000 will be made available to the unsecured creditors

Due to the nature of the Company's business and the large number of creditors, we have received a large number of queries from the creditors of the Company

The Joint Administrators have sought permission of the Court to make a distribution to unsecured creditors of the Company in respect of the Prescribed Part pursuant to Paragraph 65 of Schedule B1 to the Act, and a hearing is scheduled for October 2012 to consider this application

In the meantime, the Joint Administrators invite creditors to notify any claims in writing on the enclosed proof of debt form (or complete the enclosed nil claim form if they consider that they do not have a claim). The Joint Administrators will retain these claims until such time as permission to agree unsecured claims has been obtained

### **3.6.4 Shareholders**

100% of the called issued share capital is owned by Bon Marche Group Holdings Limited.

There will be insufficient funds to see a distribution to the shareholders of the Company.



### **3.7 Expenses for the period**

The receipts and payments for the period are set out in the attached Receipts and Payments Account (see Appendix 2)

The office holders' time costs for the period of this report are also attached (see Appendix 3)

The statutory provisions relating to remuneration are set out in Rule 2 106 of the Insolvency Rules 1986. A creditors' guide to fees can be found at

[http://www.r3.org.uk/media/documents/technical\\_library/SIPS/SIP\\_9\\_EW\\_Nov\\_2011.pdf](http://www.r3.org.uk/media/documents/technical_library/SIPS/SIP_9_EW_Nov_2011.pdf)

However, if you are unable to access this guide and would like a copy, please contact Tom Swiers on 0113 231 3316

Since our appointment to 19 July 2012, we have incurred time costs of £1,036,280, representing 2,938 hours at an average rate of £353 per hour. This includes the Tax, VAT, Health and Safety and Pensions advice from KPMG LLP in-house specialists

A detailed breakdown of the charge out rates for the duration of the administration is included at Appendix 3 to this Report

Please note that all staff who have worked on this assignment, including cashiers and secretarial staff have charged time directly to the assignment and are included in the analysis of time spent. The cost of staff employed in central administration functions is not charged directly to this assignment but is reflected in the general level of charge out rates.

The Joint Administrators' Proposals included the following resolutions

- the Joint Administrators will be discharged from liability under Paragraph 98 of Schedule B1 to the Act immediately upon their appointment as Joint Administrators ceasing to have effect,
- that in the event that no creditors' committee is formed, the Joint Administrators will seek approval from the secured and preferential creditors that they be authorised to draw fees on account from the assets of the Companies from time to time during the period of the administration based on time properly spent at KPMG LLP charge out rates that reflect the complexity of the assignment. In the event that Christine Lavery, Richard Fleming, Edward Boyle and Mark Firmin be appointed Joint Liquidators then they will be able to draw fees on the same basis as the Joint Administrators as agreed by the Company creditors,
- that the costs of KPMG LLP in respect of Health and Safety, Pension, Tax, Receivables Realisation Group and VAT advice provided to the Joint Administrators be based upon time costs and shall be paid out of the assets of the Company, and
- that the Joint Administrators will be authorised to draw disbursements from time to time to include category 2 disbursements





*LMB Realisations Limited (in Administration) (formerly Bon Marche Limited)*  
*for period from 20 January 2012 to 19 July 2012*  
*KPMG LLP*  
*8 August 2012*

The Joint Administrators have not drawn any remuneration during the period covered by this report but have sought approval of costs from secured and preferential creditors

The Joint Administrators have incurred disbursements of £5,176 and to date no disbursements have been drawn (see Appendix 3 for further details)

Expenses for this period total £9,595,477 including amounts not yet paid (see Appendix 4 for details)

Additional information about the expenses charged for the period is available from the office holder upon request by any secured creditor, and any other creditor or creditors owed 5% or more in value of the unsecured liabilities listed. Full details of the process to obtain more information under Rule 2.48A IR86 and to challenge the Joint Administrator's remuneration and expenses under Rule 2.109 IR6 are included in Appendix 6 should creditors wish to do so.



## 4 **Comments on the Appendices**

### **4.1 Appendix 1: Statutory information**

A summary of key statutory information for the Company, including previous names and addresses, is included in Appendix 1

### **4.2 Appendix 2: Receipts & payments account for the period**

#### **4.2.1 Receipts**

##### **4.2.1.1 Assets**

Please see Section 3.5 for comments on the receipts during the period

##### **4.2.1.2 Lease receipts**

A total of £9,254,764 has been received from the Purchaser in respect of payments due to landlords. A further sum of £27,681 has been returned from landlords as overpaid lease charges

#### **4.2.2 Payments**

##### **4.2.2.1 Trading payments**

The only trading payment incurred during the period is in respect of direct labour costs, please see section 3.3.2

##### **4.2.2.2 Funds paid in respect of lease charges**

The Company has made payments to landlords and managing agents of the properties of which the Company is lessee upon receipt of a valid invoice, rent demand or application for payment

During the period, the Company has made payments of £6,914,960 in respect of lease charges. In the event that a payment has been made in respect of a lease charge for which the Company is no longer liable, repayments have been made to the Company

##### **4.2.2.3 Recoverable costs**

During the period, the Joint Administrators have paid £4,134 in respect of costs which will subsequently be recovered from the Purchaser. These are costs incurred in relation to providing assistance to the Purchaser as required under the SPA

##### **4.2.2.4 Cash in transit refunded to third parties**

The Joint Administrators received in error a refund of business rates. The refund was received into the pre appointment bank account (and subsequently transferred to the Joint Administrators account), however, the repayment was an error by the relevant rating authority and was returned



Please see section 3.5.6 for further details

#### **4.2.2.5 Store clearance costs**

Costs of £1,200 have been paid in the period to agents appointed by the Joint Administrators in relation to the clearance of the Balham store (one of the Excluded Stores)

#### **4.2.2.6 Funds paid on behalf of Bluebird**

£1,193 has been paid in the period on behalf of the Purchaser in relation to the name change of the Company. This will be re-charged to the Purchaser as per the terms of the SPA.

#### **4.2.2.7 Funds paid to Bluebird – Worldpay**

Of the funds received from Worldpay £34,548 related to funds that were included in the sale and as such have now been paid over to the Purchaser.

#### **4.2.2.8 Worldpay charges**

Charges of £108,515 were incurred whilst securing the release of the funds held by the Company's pre-appointment merchant services provider (Worldpay).

#### **4.2.2.9 Agents'/Valuers' fees**

The Joint Administrators instructed Fox Lloyd Jones Limited to clear the Excluded Stores and realise the appropriate assets from those stores. Agents' fees of £11,850 have been paid during the period.

#### **4.2.2.10 Legal fees**

Legal fees of £104,811 were paid in the period, in relation to advice given in relation to the administration, including advice given in relation to leasehold property, RoT, customer contracts and letters of credit.

#### **4.2.2.11 Payments to Bonmarche regarding overpaid lease charges**

The licence to occupy provides that the Purchaser must put the Company in funds for any anticipated lease charges that will occur under the leases 5 working days prior to their due date.

Subsequent changes to the leases profile may reduce the value of the actual lease charges payable and as a result the Company is required to repay any overpayment to the Purchaser. To date the Company has repaid £1,111,054 to the Purchaser in respect of overpaid lease charges.

#### **4.2.2.12 Storage costs**

£576 of storage costs have been paid during the period. This is in relation to the collection, organisation and ongoing storage of Company books and records.



#### **4.2.2.13 Statutory advertising**

In order to comply with our statutory duties, the Joint Administrators have paid £413 in relation to statutory advertising

#### **4.2.2.14 Other property expenses**

£190 has been paid in the period in respect of cleaning services and agents fees in relation to the Excluded stores

#### **4.2.2.15 Insurance costs**

Insurance costs of £3,055 have been paid during the period

#### **4.2.2.16 Bank Charges**

Bank charges of £363 have been incurred by the Joint Administrators in relation to the operation of their fixed and floating bank accounts

#### **4.2.2.17 Bluebird Settlement**

A payment of £200,000 has been made to the Purchaser in the period which relates to pre-appointment funds received from Worldpay (this is also reflected as a receipt in our accounts)

### **4.3 Appendix 3: Analysis of office holders' time costs**

#### **4.3.1 Statutory and Compliance**

##### **4.3.1.1 Appointment and related formalities**

Following the appointment of the Joint Administrators, time costs of £34,368 (114 hours) have been incurred in relation to notifying all parties other than creditors of the appointment, instructing agents and solicitors and dealing with all other appointment related formalities

#### **4.3.2 Tax**

##### **4.3.2.1 Post appointment corporation tax**

The Joint Administrators have been working with HMRC to agree the corporation tax liability for the Company in respect of the post-appointment period to 31 March 2012, and the pre-appointment periods to 31 March 2011 and 19 January 2012

Costs in relation to corporation tax for the Company wholly relate to finalising and agreeing with HMRC the corporation tax position for the Company for these periods, up to 31 March 2012

Time costs of £81,299 (176 hours) have been incurred in the period in relation to this matter



#### **4.3.2.2 Post Appointment VAT**

During the period covered by this report, various tasks have been carried out by KPMG VAT specialists. This work includes confirming the pre-appointment VAT claim with HMRC and submission of outstanding VAT returns, assisting with clearing goods through Customs, negotiating with HMRC on duty position, providing advice on the availability and sustainability of customs reliefs and the completion of the post-appointment VAT returns.

Time costs of £37,276 (78 hours) have been spent in relation to these, and other VAT matters.

#### **4.3.3 Creditors and claims**

##### **4.3.3.1 General correspondence**

Due to the nature of the Company's business and the large number of creditors, we have received a large number of queries from the creditors of the Company.

Time costs of £48,755 (166 hours) have been spent in the period in relation to general correspondence with creditors.

##### **4.3.3.2 Statutory Reports**

Time costs of £43,593 (116 hours) were incurred in relation to the preparation and circulation of statutory reports.

#### **4.3.4 Asset Realisation**

##### **4.3.4.1 Leasehold Property**

On completion of the sale of business, the Purchaser, with the consent of the Joint Administrators, began a process of negotiating with the various landlords of the consent stores with a view to completing assignment of existing leases or surrender of existing leases and the creation of new leases.

During this process the Company has charged the Purchaser a licence fee for the lease charges it becomes liable for under the leases, as well as making payments to the various landlords for these charges.

The Joint Administrators have assisted the Purchaser in this process by providing the necessary authority to discharge their rights under the leases.

Time costs of £406,062 (1,259 hours) have been spent in the period in relation to this matter.

##### **4.3.4.2 Sale of business**

Time costs of £64,836 (180 hours) have been spent in the period dealing with the sale, and subsequent responsibilities under the SPA.



#### **4.4 Appendix 4: Expenses for the period**

Expenses for the period are summarised in Appendix 4 which include the time costs as analysed in Appendix 3

##### **4.4.1 Funds paid in respect of lease charges**

The Joint Administrators have requested that all landlords submit a valid demand for lease charges in order to receive payment. To date there are outstanding invoices in the period with an estimated value of £677,348. This figure will reduce significantly over the period as leases are assigned or surrendered and the liabilities in relation to these leases are extinguished.

##### **4.4.2 Legal fees**

To date the Joint Administrators have received invoices for services provided in respect of the administration totalling £76,516 which have not been paid in the period covered by this report.

##### **4.4.3 Payments the Purchaser regarding overpaid lease charges**

Under the SPA the Purchaser is required to put the Company in funds for any expected lease charges five working days prior to the charges becoming due. The Company holds these funds until a valid demand for lease charges is received. When a lease relating to a charge is assigned or surrendered before payment is made to the landlords, the past, present and future liabilities in relation to that lease are extinguished. A refund of £303,166 is due to the Purchaser from the Company.

##### **4.4.4 Storage costs**

Storage costs of £100 have been accrued in the period and not paid. As mentioned in section 4.2.2.12, these relate to the ongoing storage of Company books and records, acquired by the Joint Administrators on their appointment.



## 5 Appendix 1

### 5.1 Statutory information

<b>Appointment</b>	
Company name & Trading style	LMB Realisations Limited (formerly Bon Marche Limited)
Administration	The Administration Order was made on 20 January 2012 in High Court of Justice, Chancery Division, Companies Court number 400 of 2012 application by Directors
Date of appointment	20 January 2012
Extension obtained	N/A
Office holders details	Christine Mary Lavery and Richard Dixon Fleming were appointed on 20 January 2012 and are authorised to act as insolvency practitioners by the Insolvency Practitioners Association
	Edward George Boyle and Mark Granville Firmin were appointed on 20 January 2012 and are authorised to act as insolvency practitioners by the Institute of Chartered Accountants in England & Wales
Application of EC regulations	EC regulations apply and these proceedings will be the Main Proceedings as defined in Article 3 of the EC regulations
<b>Company Information</b>	
Company registration number	00270937
Previous registered office	Capital Link Windsor Road Cardiff South Glamorgan CF24 5NG
Present registered office	KPMG LLP, 1 The Embankment Neville Street Leeds LS1 4DW



*LMB Realisations Limited (in Administration) (formerly Bon Marche Limited)*  
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## **6 Appendix 2**

### **6.1 Office holders' receipts and payments account**



**LMB Realisations Limited (formerly Bon Marche Limited)**  
**(In Administration)**  
**Administrators' Trading Account**

Statement of Affairs	From 20/01/2012 To 19/07/2012	From 20/01/2012 To 19/07/2012
POST-APPOINTMENT SALES		
Sales	24,861 00	24,861 00
	<u>24,861 00</u>	<u>24,861 00</u>
OTHER DIRECT COSTS		
Direct labour	10,173 87	10,173 87
	<u>(10,173.87)</u>	<u>(10,173 87)</u>
<b>TRADING SURPLUS/(DEFICIT)</b>	<u><u>14,687.13</u></u>	<u><u>14,687.13</u></u>

**LMB Realisations Limited (formerly Bon Marche Limited)**  
**(In Administration)**  
**Administrators' Abstract of Receipts & Payments**

Statement of Affairs		From 20/01/2012 To 19/07/2012	From 20/01/2012 To 19/07/2012
	ASSET REALISATIONS		
	Assignment of leases	1 00	1 00
100,000 00	Leasehold property	NIL	NIL
	Customer lists	1 00	1 00
6,500,000 00	Furniture & equipment	6,605,302 55	6,605,302 55
	Investment in other group companies	1 00	1 00
5,250,000 00	Stock	5,249,989 00	5,249,989 00
	Website	1 00	1 00
	Book debts	1 00	1 00
	Other assets	1 00	1 00
	Employee Records	1 00	1 00
	Property rights/Patents	1 00	1 00
NIL	Goodwill	1 00	1 00
	IT systems	1 00	1 00
	Contracts	1 00	1 00
3,083,000 00	Cash in transit	964,086 88	964,086 88
	Rent	125,927 91	125,927 91
	Cash - trust	309,985 00	309,985 00
	Cash floats	150,000 00	150,000 00
		<u>13,405,302 34</u>	<u>13,405,302 34</u>
	OTHER REALISATIONS		
	Bank interest, gross	16,219 20	16,219 20
	Interest earned	230 14	230 14
	Sundry refunds	8,559 54	8,559 54
	Trading Surplus/(Deficit)	14,687 13	14,687 13
	Funds returned from landlords	27,681 00	27,681 00
	Worldpay Monies	1,382,856 30	1,382,856 30
	Funds rec'd on behalf of Bluebird - Wpay	234,793 40	234,793 40
	Funds rec'd in respect of lease charge	<u>9,254,764 22</u>	<u>9,254,764 22</u>
		10,939,790 93	10,939,790 93
	COST OF REALISATIONS		
	Funds paid in respect of lease charges	6,914,959 65	6,914,959 65
	Recoverable costs	4,134 26	4,134 26
	Cash in transit refunded to 3rd parties	13,990 87	13,990 87
	Store clearance costs	1,200 00	1,200 00
	Funds paid on behalf of Bluebird	1,193 01	1,193 01
	Funds paid to Bluebird - Wpay	34,548 09	34,548 09
	Worldpay charges	108,515 11	108,515 11
	Agents'/Valuers' fees	11,850 00	11,850 00
	Legal fees	104,811 15	104,811 15
	Payments to BM re overpaid lease charges	1,111,053 81	1,111,053 81
	Storage costs	576 35	576 35
	Statutory advertising	413 05	413 05
	Other property expenses	190 44	190 44
	Insurance Costs	3,054 70	3,054 70
	Bank charges	362 50	362 50
	Bluebird Settlement	<u>200,000 00</u>	<u>200,000 00</u>
		(8,510,852 99)	(8,510,852 99)
	FLOATING CHARGE CREDITORS		
(14,332,000.00)	Floating charge	11,912,386 82	11,912,386 82

**LMB Realisations Limited (formerly Bon Marche Limited)**  
**(In Administration)**  
**Administrators' Abstract of Receipts & Payments**

Statement of Affairs		From 20/01/2012 To 19/07/2012	From 20/01/2012 To 19/07/2012
		(11,912,386 82)	(11,912,386 82)
	UNSECURED CREDITORS		
(52,114,491 28)	Trade & expense	NIL	NIL
		NIL	NIL
	DISTRIBUTIONS		
(204,359 00)	Ordinary shareholders	NIL	NIL
		NIL	NIL
<b>(51,717,850.28)</b>		<b>3,921,853.46</b>	<b>3,921,853.46</b>
	REPRESENTED BY		
	Floating ch VAT rec'able		24,757 28
	Floating charge current		2,642,816 80
	Floating charge current (Leases)		1,635,094 67
	Floating ch VAT rec'able leases		1,478,839 98
	Floating ch VAT payable leases		(1,856,479 39)
	Floating ch VAT payable		(3,175 88)
			<b>3,921,853.46</b>



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## 7 Appendix 3

### 7.1 Analysis of office holders' time costs for the period 20 January 2012 to 19 July 2012

	Partner / Director	Manager	Administrator	Support	Total hours	Time cost	Average hourly rate
<b>Administration &amp; planning</b>							
<b>Bankrupt/Director/Member</b>							
Notification of appointment	0 00	5 00	3 20	0 00	8 20	£3,548 50	£432 74
<b>Cashiering</b>							
General (Cashiering)	15 40	0 00	81 00	0 00	96 40	£29 301 50	£303 96
Reconciliations (& IPS accounting review)	0 00	0 00	7 20	0 00	7 20	£1 753 50	£243 54
	15 40	0 00	88 20	0 00	103 60	31 055 00	£299 76
<b>General</b>							
Books and records	0 00	1 45	12 50	0 30	14 25	£3,520 00	£247 02
Fees and WIP	1 00	4 60	9 65	1 40	16 65	£5 880 00	£353 15
	1 00	6 05	22 15	1 70	30 90	9,400 00	£304 21
<b>Statutory and compliance</b>							
Appointment and related formalities	0 00	21 85	91 50	0 50	113 85	£34 368 00	£301 87
Bonding and bordereau	0 00	1 00	0 50	0 30	1 80	£571 00	£317 22
Checklist & reviews	0 00	44 40	20 10	0 00	64 50	£24 150 00	£374 42
Pre-appointment checks	0 00	7 40	3 13	0 00	10 53	£6 187 50	£587 61
Reports to debenture holders	13 20	15 20	22 95	1 50	52 85	£22 047 50	£417 11
Statutory advertising	0 00	0 20	0 25	0 00	0 45	£160 25	£356 11
Statutory receipts and payments account	0 00	0 00	0 50	0 00	0 50	£137 50	£275 00
Strategy documents	19 00	27 50	4 20	6 90	57 60	£28 133 00	£488 42
	32 20	117 55	143 13	9 20	302 08	115 754 75	£383 19
<b>Tax</b>							
Initial reviews - CT and VAT	0 00	12 10	1 75	0 00	13 85	£6,982 50	£504 15
Post appointment corporation tax	7 00	67 10	101 80	0 00	175 90	£81 299 25	£462 19
Post appointment overseas tax	0 00	0 00	1 10	0 00	1 10	£253 00	£230 00
Post appointment VAT	11 50	61 00	5 05	0 00	77 55	£37 276 00	£480 67
	18 50	140 20	109 70	0 00	268 40	125 810 75	£468 74
<b>Creditors</b>							
<b>Committees</b>							
Meetings	1 00	0 00	0 00	0 00	1 00	£725 00	£725 00
<b>Creditors and claims</b>							
Agreement of preferential claims	0 00	2 80	0 00	0 00	2 80	£1 417 50	£506 25
Agreement of unsecured claims	4 40	2 90	0 00	0 00	7 30	£4 645 00	£636 30
General correspondence	8 00	22 75	134 80	0 00	165 55	£48 754 50	£294 50
Legal claims	0 00	0 00	10 65	0 00	10 65	£2 449 50	£230 00
Notification of appointment	0 00	3 45	7 75	0 00	11 20	£3 494 00	£311 96
Payment of dividends	0 00	1 50	0 00	0 00	1 50	£735 00	£490 00
Pre appointment VAT / PAYE / CT	0 00	0 00	0 75	0 00	0 75	£172 50	£230 00
ROT Claims	2 00	5 55	65 80	0 00	73 35	£19,749 00	£269 24
Secured creditors	0 00	10 80	0 00	0 00	10 80	£5 533 50	£512 36
Statutory reports	4 80	50 85	60 05	0 00	115 70	£43 592 50	£376 77
	19 20	100 60	279 80	0 00	399 60	130,543 00	£326 68



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	Partner / Director	Manager	Administrator	Support	Total hours	Time cost	Average hourly rate
<b>Employees</b>							
Agreeing employee claims	0 00	0 20			0 20	£105 00	£525 00
Correspondence	0 00	7 00	21 90	5 25	34 15	£10 429 50	£305 40
Pension funds	0 60	4 40	0 00	0 00	5 00	£2 346 00	£469 20
Pensions reviews	0 00	12 90	51 70	0 00	64 60	£18 443 00	£285 50
	0 60	24 50	73 60	5 25	103 95	31 323 50	£301 33
<b>Investigation Directors</b>							
D form drafting and submission	0 50	0 20	24 05	0 00	24 75	£6 734 00	£272 08
Directors questionnaire / checklist	0 00	0 75	4 00	0 00	4 75	£1 535 00	£323 16
Statement of affairs	0 00	9 40	3 80	0 00	13 20	£5 201 50	£394 05
	0 50	10 35	31 85	0 00	42 70	13 470 50	£315 47
<b>Investigations</b>							
Correspondence re investigations	0 00	0 50			0 50	£210 00	£420 00
Mail redirection	0 00	0 00	0 20	0 00	0 20	£46 00	£230 00
Review of pre appt transactions	3 00	0 00	0 75	0 00	3 75	£2 077 50	£554 00
	3 00	0 50	0 95	0 00	4 45	2 333 50	£524 38
<b>Realisation of assets</b>							
<b>Asset Realisation</b>							
Cash and investments	6 10	43 90	14 80	0 00	64 80	£28 000 00	£432 10
Debtors	8 50	0 60	25 80	0 00	34 90	£13 739 00	£393 67
Freehold property	0 00	10 00	11 70	0 00	21 70	£8 226 00	£379 08
Health & safety	0 00	0 75	0 75	0 00	1 50	£487 50	£325 00
Leasehold property	28 30	376 70	792 85	61 00	1 258 85	£406 061 50	£322 57
Office equipment, fixtures & fittings	0 00	1 00	0 00	0 00	1 00	£420 00	£420 00
Open cover insurance	0 00	3 00	8 85	0 00	11 85	£3 295 50	£278 10
Other assets	36 80	1 40	9 20	0 00	47 40	£26,856 50	£566 59
Pre appointment tax & VAT refunds	0 00	2 10	0 00	0 00	2 10	£1 102 50	£525 00
Rent	0 00	1 10	4 05	0 00	5 15	£1 393 50	£270 58
Sale of business	20 00	25 90	134 10	0 00	180 00	£64 835 50	£360 20
Stock and WIP	0 00	5 40	13 00	0 00	18 40	£6 800 00	£369 57
Vehicles	0 00	0 00	0 20	0 00	0 20	£61 00	£305 00
	99 70	471 85	1 015 30	61 00	1 647 85	561 278 50	£340 61
<b>Trading</b>							
Cash & profit projections & strategy	1 90	8 00	6 00	0 00	15 90	£6 396 50	£402 30
Purchases and trading costs	2 00	0 00	0 00	0 00	2 00	£1 270 00	£635 00
Sales	2 00	5 00	0 00	0 00	7 00	£3 370 00	£481 43
	5 90	13 00	6 00	0 00	24 90	11 036 50	£443 23
<b>Total in period</b>					<b>2 937 63</b>	<b>£1 036 279 50</b>	<b>£352 76</b>
Brought forward time (appointment date to SIP9 period start date)					0 00	£0 00	
SIP9 period time (SIP9 period start date to SIP9 period end date)					2 937 63	£1 036 279 50	
Carry forward time (appointment date to SIP9 period end date)					2 937 63	£1 036 279 50	



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## 7.2 Joint Administrators' charge out rates

### Chargeable rates from 1 October 2010

Grade	Rate per hour £
Partner	725
Associate Partner	635
Director	635
Senior Manager	525
Manager	420
Assistant Manager	305
Assistant	230
Support	120



### 7.3 Administrators' disbursements

<b>Category 1 Expenses</b>	<b>£</b>
Train travel	782 65
Flight costs	259 70
Other transportation costs	228 72
Overnight stay	1,482 50
Meals	486 61
Telephone, telefax, teleprinter	61 62
Contractor costs	47 89
Sundry Expenses	420 00
<b>Total</b>	<b>3,769.69</b>

<b>Category 2 Expenses</b>	<b>£</b>
Mileage	1406 00
<b>Total</b>	<b>1,406.00</b>

#### **KPMG Restructuring policy for the recovery of disbursements**

Where funds permit the officeholder will look to recover both category 1 and category 2 disbursements from the estate. For the avoidance of doubt, such expenses are defined within SIP 9 as follows

**Category 1 disbursements:** These are costs where there is specific expenditure directly referable both to the appointment in question and a payment to an independent third party. These may include, for example, advertising, room hire, storage, postage, telephone charges, travel expenses, and equivalent costs reimbursed to the officeholder or his or her staff.

**Category 2 disbursements:** These are costs that are directly referable to the appointment in question but not to a payment to an independent third party. They may include shared or allocated costs that can be allocated to the appointment on a proper and reasonable basis, for example, business mileage.

Any disbursements paid from the estate are disclosed within the attached summary of disbursements.



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The only Category 2 disbursements that KPMG Restructuring currently charges is mileage, this is calculated as follows:

Mileage claims fall into three categories

Use of privately-owned vehicle or car cash alternative – 40p per mile

Use of company car – 60p per mile

Use of partner's car – 60p per mile

For all of the above car types, when carrying passengers an additional 5p per mile per passenger will also be charged where appropriate





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## 8 Appendix 4

### 8.1 Schedule of expenses for the period 20 January 2012 to 19 July 2012

Section	Account	Accrued £	Paid £	Total £
Direct Costs	Direct Labour	-	10,173 87	10,173 87
Cost of realisations	Funds paid in respect of lease charges	677,348 01	6,914,959 65	7,592,307 66
	Recoverable Costs	-	4,134 26	4,134 26
	Cash in transit refunded to 3 <sup>rd</sup> parties	-	13,990 87	13,990 87
	Store clearance costs	-	1,200 00	12,000 00
	Funds paid on behalf of Bluebird	-	1,193 01	1,193 01
	Funds paid to Bluebird – Wpay	-	34,548 09	34,548 09
	Worldpay charges	-	108,515 11	108,151 11
	Agent'/Valuers' fees	-	11,850 00	11,850 00
	Legal fees	93,835 96	104,811 15	198,647.11
	Payments to BM re overpaid lease charges	303,165 89	1,111,053 81	1,414,219 70
	Storage costs	100 00	576 35	676 35
	Statutory advertising	-	413 05	413 05
	Other property expenses	-	190 44	190 44
	Insurance costs	-	3,054 70	3,054 70
	Bank charges	-	362 50	362 50
	Bluebird Settlement	-	200,000 00	200,000 00
<b>TOTAL</b>		<b>1,074,499.85</b>	<b>8,521,026.86</b>	<b>9,595,476.71</b>

Creditors are reminded that the basis on which fees have been reported has been agreed by the secured creditor and has been requested from the preferential creditors

However to determine if the quantum of the fees to be taken is reasonable the analysis included at Appendix 3 should be reviewed and any additional information can be requested by any secured creditor or any unsecured creditor(s) with at least 5% in value of the unsecured debt in accordance with rule 2 48A IR86 This request must be made within 21 days receipt of the progress report The full text of that rule can be provided on request



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In addition creditors are reminded that the quantum can be challenged by unsecured creditor(s) with at least 10% in value excluding that creditors claim by making an application to court in accordance with rule 2 109 IR86. The full text of this rule can also be provided on request.



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## 9 **Appendix 5**

### 9.1 **Proof of debt and nil claim form**

## Proof of Debt – General Form

<b>LMB Realisations Limited (formerly Bon Marche Limited) in Administration</b>	
<b>High Court of Justice, Chancery Division, Companies Court No 400 of 2012</b>	
Date of Administration 20 January 2012	

  

1	Name of creditor (If a company please also give company registration number)	
2	Address of creditor for correspondence	
3	Total amount of claim, including any Value Added Tax and outstanding uncapitalised interest as at the date of the Administration order	£
4	Details of any documents by reference to which the debt can be substantiated <i>Please insert your reference and attach supporting documentation</i>	
5	If amount in 3 includes outstanding uncapitalised interest please state amount	£
6	Particulars of how and when debt incurred (If you need more space append a continuation sheet to this form)	
7	Particulars of any security held, the value of the security, and the date it was given	
8	Particulars of any reservation of title claimed, in respect of goods supplied to which the claim relates	
9	Signature of creditor or person authorised to act on his behalf	
	Name in BLOCK CAPITALS	
	Position with or in relation to creditor	
	Address of Person signing (if different from two above)	
Admitted to vote for		Admitted for dividend for
£		£
Date		Date

# NIL CLAIM FORM

**In the matter of LMB Realisations Limited (formally Bon Marche Limited) in Administration**  
**and**

**In the matter of the Insolvency Act 1986**

I/We confirm that I/we have no claim in the Administration of the above company and do **not** wish to participate in any distribution to non preferential creditors

Name of creditor		
Address of creditor		
Signature of creditor (or person authorised to act on behalf of creditor)		
Name in block capitals*		
Position with or relation to creditor*		
Date		

\*This need only be completed by businesses, limited companies and partnerships.

## 10 Appendix 6

### 10.1 Extract from the Insolvency Rules 1986

#### Insolvency Rules 1986

##### **2.48A Creditors' request for further information**

- (1) If- (a) **within 21 days of receipt of a progress report** under Rule 2 47-
- (i) a secured creditor, or
  - (ii) an unsecured creditor with the concurrence of **at least 5% in value** of the unsecured creditors (including the creditor in question), or
  - (b) with the permission of the court upon an application made within that period of 21 days, any unsecured creditor, the administrator for further information about remuneration or expenses (other than pre-administration costs) set out in a statement required by Rule 2 47(1)(db) or (dc), the administrator must, within 14 days of receipt of the request, comply with paragraph (2)
- (2) The administrator complies with this paragraph by either—
- (a) providing all of the information asked for, or
  - (b) so far as the administrator considers that—
    - (i) the time or cost of preparation of the information would be excessive, or
    - (ii) disclosure of the information would be prejudicial to the conduct of the administration or might reasonably be expected to lead to violence against any person, or
    - (iii) the administrator is subject to an obligation of confidentiality in respect of the information,
 giving reasons for not providing all of the information
- (3) Any creditor, who need not be the same as the creditor who requested further information under paragraph (1), may apply to the court within 21 days of—
- (a) the giving by the administrator of reasons for not providing all of the information asked for, or
  - (b) the expiry of the 14 days provided for in paragraph (1),
- and the court may make such order as it thinks just
- (4) Without prejudice to the generality of paragraph (3), the order of the court under that paragraph may extend the period of 8 weeks provided for in Rule 2 109(1B) by such further period as the court thinks just.

##### **2.109 Creditors' claim that remuneration is or other expenses are excessive**

- (1) Any secured creditor, or any unsecured creditor with either the concurrence of **at least 10% in value of the unsecured creditors** (including that creditor) or the permission of the court, may apply to the court for one or more of the orders in paragraph (4)
- (1A) An application may be made on the grounds that—
- (a) the remuneration charged by the administrator,
  - (b) the basis fixed for the administrator's remuneration under Rule 2 106,
  - (c) expenses incurred by the administrator,
- is or are in all the circumstances, excessive, or in the case of an application under sub-paragraph (b), inappropriate
- (1B) The application must, subject to any order of the court under Rule 2 48A(4), be made no later than 8 weeks after receipt by the applicant of the progress report which first reports the charging of the remuneration or the incurring of the expenses in question ("the relevant report")
- (2) The court may, if it thinks that no sufficient cause is shown for a reduction, dismiss it without a hearing but it shall not do so without giving the applicant at least 5 business days' notice, upon



receipt of which the applicant may require the court to list the application for a without notice hearing. If the application is not dismissed, the court shall fix a venue for it to be heard, and give notice to the applicant accordingly.

(3) The applicant shall, at least 14 days before the hearing, send to the administrator a notice stating the venue and accompanied by a copy of the application, and of any evidence which the applicant intends to adduce in support of it.

(4) If the court considers the application to be well-founded, it must make one or more of the following orders—

(a) an order reducing the amount of remuneration which the administrator was entitled to charge,

(b) an order fixing the basis of remuneration at a reduced rate or amount;

(c) an order changing the basis of remuneration,

(d) an order that some or all of the remuneration or expenses in question be treated as not being expenses of the administration,

(e) an order that the administrator or the administrator's personal representative pay to the company the amount of the excess of remuneration or expenses or such part of the excess as the court may specify,

and may make any other order that it thinks just, but an order under sub-paragraph (b) or (c) may be made only in respect of periods after the period covered by the relevant report.

(5) Unless the court orders otherwise, the costs of the application shall be paid by the applicant, and are not payable as an expense of the administration.