

**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 Court	Court case number 400 of 2012

We

Christine Mary Lavery  
KPMG LLP  
8 Salisbury Square  
London  
EC4Y 8BB

IP number 9121

Richard Dixon Fleming  
KPMG LLP  
8 Salisbury  
London  
EC4 8BB

IP number 8370

Edward George Boyle  
KPMG LLP  
8 Salisbury Square  
London  
EC4 8BB

IP number 9077

Mark Granville Firmin  
KPMG LLP  
1 The Embankment  
Neville Street  
Leeds  
LS1 4DW  
IP number 9284

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

from	to
20 July 2013	19 January 2014

Signed

*Ed Boyle*

Joint Administrator

Dated

17 February 2014

**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.

James Stronach  
KPMG LLP  
1 The Embankment  
Neville Street  
Leeds  
LS1 4DW  
DX Number DX 724440 Leeds

Tel +44 113 254 2902  
DX Exchange

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

Companies House, Crown Way, Cardiff CF14 3UZ

DX 33050 Cardiff





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

**Progress Report to creditors  
for the period from 20 July 2013 to  
19 January 2014 pursuant to Rule  
2.47 of the Insolvency Rules 1986  
(as amended)**

KPMG LLP

17 February 2013

*This report contains 20 Pages*



*LMB Realisations Limited (in Administration) (formerly Bon Marche Limited)*  
*for the period from 20 July 2013 to 19 January 2014 pursuant to Rule 2.47 of the Insolvency*  
*Rules 1986 (as amended)*  
KPMG LLP  
17 February 2013

## 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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## 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)
Court	High Court of Justice, Chancery Division
Hogan Lovells	Hogan Lovells International LLP
IR86	The Insolvency Rules 1986
Joint Administrators	Christine Mary Lavery, Richard Dixon Fleming, Edward George Boyle and Mark Granville Firmin of KPMG LLP
Lenders	Syndicate of banks with senior facilities secured across the Company upon appointment Cross guarantees were also in place with the wider Peacocks Group
Peacocks Group/ Peacocks	The Peacock group of companies (including the Company)
Purchaser	Bonmarche Limited (formerly Bluebird UK Bidco Limited, a purchasing vehicle for Sun European Partners LLP)
SIP	Statement of Insolvency Practice



## 1 Executive Summary

- This progress report covers the 6 month period from 20 July 2013 to 19 January 2014
- The Administrators' Statement of Proposals was approved on 26 March 2012 and has not been modified
- As previously reported, 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
- Pursuant to paragraph 65(3) of Schedule B1 to the Act, the Court granted the Joint Administrators the authority to make a Prescribed Part distribution to the unsecured creditors of the Company
- The Prescribed Part dividend of 0.6534p in the pound was declared on 18 March 2013 and paid on 21 March 2013
- Full details of the Joint Administrators' progress report are attached together with all the relevant statutory information
- The Administration is currently due to end on 19 July 2014. The exit route for the Administration will be via dissolution of the Company. There are a number of outstanding matters that need to be finalised before the Administration can be concluded, and if these cannot be concluded by 19 July 2014 then an extension to the Administration will be sought
- 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 Progress to date**

### **2.1 Communication**

The Joint Administrators' third progress report was circulated to all known creditors of the Company on 12 August 2013

### **2.2 Strategy & trading**

#### **2.2.1 Sale of business**

As detailed in previous reports, the Joint Administrators concluded a pre-packaged sale of the business and certain assets of the Company to the Purchaser, Bonmarche Limited for total consideration of £12 million. All material matters relating to the sale have now been concluded with the Purchaser.

#### **2.2.2 Leasehold property**

In respect of the closed stores, 44 landlords are yet to accept surrender to date. These landlords have been advised that any lease held in the name of the Company will transfer to the Crown as "bona vacantia" upon dissolution of the Company, should the landlord not accept surrender before this date. Dissolution will occur three months after the date that form 2.35B "Notice of move from Administration to dissolution" is filed at Companies House.

#### **2.2.3 Joint Administrators' actions**

Since my previous report, the Joint Administrators have been engaged primarily in the following activities.

- correspondence with landlords and the Purchaser in respect of leasehold property matters,
- transferring rates recoveries to the Purchaser,
- dealing with creditor queries and correspondence,
- reporting to Lenders, and
- statutory and compliance matters including completion of VAT returns



## **2.3 Assets**

### **2.3.1 Cash at bank**

£1,402,581 has been received in the period which relates to cash held in the Company's pre appointment bank accounts at the date the Company entered Administration

## **2.4 Liabilities**

### **2.4.1 Secured creditors**

The Lenders have the benefit of a debenture dated 23 January 2006, providing a floating charge over the Company's assets

Based upon current information, the Joint Administrators anticipate that the Lenders will not recover their debt in full

### **2.4.2 Preferential creditors**

As previously reported, preferential claims totalling £3,613 have been paid in full

### **2.4.3 Unsecured creditors**

As previously reported, total Prescribed Part funds of £600,000 (before costs) were made available and paid to all unsecured creditors on 21 March 2013 which represented a Prescribed Part dividend of 0.6534p in the pound. No further dividend to unsecured creditors is anticipated.

### **2.4.4 Shareholders**

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

There will be insufficient funds to enable a distribution to be made to the shareholders of the Company

## **2.5 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 IR86. A creditors' guide to fees can be found at

[http://www.r3.org.uk/media/documents/publications/professional/Guide\\_to\\_Administrators\\_Fees\\_Nov2011.pdf](http://www.r3.org.uk/media/documents/publications/professional/Guide_to_Administrators_Fees_Nov2011.pdf)

However, if you are unable to access this guide and would like a copy, please contact James Stronach on 0113 254 2902





***LMB Realisations Limited (in Administration) (formerly Bon Marche Limited)***  
*for the period from 20 July 2013 to 19 January 2014 pursuant to Rule 2.47 of the Insolvency*  
*Rules 1986 (as amended)*  
**KPMG LLP**  
**17 February 2013**

In the 6 month period from 20 July 2013 to 19 January 2014, the Joint Administrators have incurred time costs of £55,542, representing 169 hours at an average rate of £329 per hour. Time costs for the whole period since appointment are £1,837,329 representing 5,529 hours at an average rate of £332 per hour.

This includes any Tax, VAT, Employee, Health and Safety, Pensions and Real Estate Advisory team 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.

In accordance with Rule 2.106 5A(b)(ii) IR86 approval for the Joint Administrators fees and disbursements has been obtained from both the secured and preferential creditors. The Joint Administrators have drawn remuneration of £135,771 plus disbursements of £324 during the period covered by this report.

Of the Joint Administrators fees drawn, £86,290 relate to costs incurred in identifying and agreeing over 300 creditor claims with a combined value of £78,241,120 and making the resulting distribution. These costs were met from the Prescribed Part. The remaining £49,481 represent time costs accrued and approved in the previous reporting period.

Expenses (both administrators' remuneration and third party expenses) incurred in this period total £57,607 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 IR86 are included in Appendix 5 should creditors wish to do so.



## **2.6 Future conduct of the Administration**

### **2.6.1 Outstanding matters**

It is proposed that the Joint Administrators will continue to manage the affairs, business and property of the Company in order to achieve the purpose of the Administration. This will include, but is not limited to

- finalising the Administration including payment of all Administration liabilities,
- liaison with landlords where required and where surrenders have not yet been completed,
- considering the merits of pursuing a potential claim against a third party which the Joint Administrators have identified; and
- completion of statutory formalities

The Court granted an extension to the Administration until 19 July 2014. The Joint Administrators intend to either bring the Administration to a close and lodge Form 2.35B, notice of move from Administration to dissolution prior to this date, or seek an extension to the Administration prior to this date.



### **3 Comments on the Appendices**

#### **3.1 Appendix 1: Statutory information**

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

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

##### **Receipts**

Please see Section 2.3 for comments on the receipts during the period

##### **Payments**

Please see Section 2.5 for comments on payments made in the period

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

##### **3.3.1 Tax**

##### **3.3.1.1 Post Appointment VAT**

During the period covered by this report, various tasks have been carried out by KPMG VAT specialists. This work was in relation to the completion of post-appointment VAT returns including liaising with HMRC on their queries on returns submitted.

Time costs of £8,107 (19 hours) have been spent in relation to this, and other VAT matters including time spent deregistering the Company from VAT.

##### **3.3.2 Creditors and claims**

##### **3.3.2.1 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 £7,824 (29 hours) have been spent in the period in relation to general correspondence with creditors.

##### **3.3.2.2 Statutory Reports**

Time costs of £10,043 (35 hours) were incurred in relation to the preparation and circulation of statutory reports.

##### **3.3.3 Asset Realisation**

##### **3.3.3.1 Leasehold Property**

The Joint Administrators have continued to assist the Purchaser with ongoing leasehold property matters as and when required.

Time costs of £10,420 (37 hours) have been spent in the period in relation to this matter.



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17 February 2013

### 3.4 **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



## Appendix 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	18 months to 19 July 2014
Office holders details	<p>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</p> <p>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 &amp; Wales</p>
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



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*KPMG LLP*  
*17 February 2013*

## **Appendix 2 - Office holders' receipts and payments account for the period 20 July 2013 to 19 January 2014**

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

<b>Statement of Affairs</b>	<b>From 20/07/2013 To 19/01/2014</b>	<b>From 20/01/2012 To 19/01/2014</b>
<b>POST-APPOINTMENT SALES</b>		
Sales	<u>NIL</u>	<u>24 861 00</u>
	NIL	24 861 00
<b>OTHER DIRECT COSTS</b>		
Direct labour	<u>NIL</u>	<u>10 173 87</u>
	NIL	(10,173 87)
<b>TRADING SURPLUS/(DEFICIT)</b>	<u><u>NIL</u></u>	<u><u>14,687 13</u></u>



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

Statement of Affairs	From 20/07/2013 To 19/01/2014	From 20/01/2012 To 19/01/2014
<b>ASSET REALISATIONS</b>		
100,000 00	Assignment of leases	NIL 1 00
	Leasehold property	NIL
	Customer lists	NIL 1 00
	Inter company debtors	NIL 50,715.53
6,500,000 00	Furniture & equipment	NIL 6,605,302.55
	Investment in other group companies	NIL 1 00
5,250,000 00	Stock	NIL 5,249,989 00
	Website	NIL 1 00
	Book debts	NIL 1 00
	Other assets	NIL 1 00
	Employee Records	NIL 1 00
	Property rights/Patents	NIL 1 00
NIL	Goodwill	NIL 1 00
	IT systems	NIL 1 00
	Contracts	NIL 1 00
3,083,000 00	Cash in transit	NIL 1,011,726 00
	Rent	NIL 123,844.58
	Cash - trust	NIL 309,985 00
	Cash floats	NIL 150,000 00
		<u>NIL 13,501,573.66</u>
<b>OTHER REALISATIONS</b>		
	Bank interest, gross	794.41 27,752.83
	Refunded legal fees	NIL 34,275.57
	Interest earned	NIL 230.14
	Recovered costs	NIL 255,831.94
	Sundry refunds	12.69 20,625.31
	Trading Surplus/(Deficit)	NIL 14,687.13
	Funds returned from landlords	NIL 27,681 00
	Worldpay Monies	NIL 1,413,023.70
	Cash at bank	1,402,580.82 1,559,887.53
	Funds rec'd on behalf of Bluebird - Wpay	NIL 234,793.40
	Funds rec'd on behalf of 3rd parties	NIL 60,000 00
	Funds rec'd in respect of lease charge	NIL 11,938,828.06
		<u>1,403,387.92 15,587,616.61</u>
<b>COST OF REALISATIONS</b>		
	Funds paid in respect of lease charges	NIL 9,345,271.91
	Funds paid on behalf of 3rd parties	NIL 60,000 00
	Recoverable costs	NIL 37,137.94
	Legal fees in respect of prescribed part	NIL 2,500 00
	Cash in transit refunded to 3rd parties	NIL 116,478.55
	Store clearance costs	NIL 1,380 00
	Funds paid on behalf of Bluebird	NIL 1,193.01
	Funds paid to Bluebird - Wpay	NIL 234,548.09
	Administrators' fees	135,770.56 1,151,554.56
	Administrators' expenses	324.01 735.95
	Worldpay charges	NIL 108,515.11
	Agents'/Valuers' fees	NIL 11,850 00
	Legal fees	NIL 270,630.69
	Payments to BM re overpaid lease charges	NIL 2,621,188.90
	Costs in respect of subsidiaries	NIL 37,265.53



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17 February 2013

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

Statement of Affairs	From 20/07/2013 To 19/01/2014	From 20/01/2012 To 19/01/2014
Storage costs	263 01	8,986 51
Statutory advertising	NIL	489 55
Other property expenses	NIL	190 44
Insurance Costs	NIL	15,774 70
Bank charges	12 50	1,050 00
	<u>(136,370 08)</u>	<u>(14 026 741 44)</u>
<b>PREFERENTIAL CREDITORS</b>		
Subrogated EP(C)A claim	NIL	2,784 64
Employees' wage/holiday pay	NIL	827 66
	<u>NIL</u>	<u>(3,612.30)</u>
<b>FLOATING CHARGE CREDITORS</b>		
(14 332,000 00) Floating charge	<u>NIL</u>	<u>12 863 061 82</u>
	<u>NIL</u>	<u>(12,863,061 82)</u>
<b>UNSECURED CREDITORS</b>		
(52,114,491 28) Trade & expense	<u>NIL</u>	<u>511,197 04</u>
	<u>NIL</u>	<u>(511,197 04)</u>
<b>DISTRIBUTIONS</b>		
(204 359 00) Ordinary shareholders	<u>NIL</u>	<u>NIL</u>
	<u>NIL</u>	<u>NIL</u>
<u>(51,717,850 28)</u>	<u><u>1,267,017 84</u></u>	<u><u>1,684,577 67</u></u>
<b>REPRESENTED BY</b>		
Floating ch. VAT rec'able		299 488 25
Floating charge current		1 683 303.27
Floating ch. VAT rec'able leases		738 254 24
Floating ch. VAT payable leases		(501 605 43)
Floating ch. VAT payable		(57 560 71)
Floating ch. VAT control		(239 275 13)
Leases VAT control		(238 026 82)
		<u><u>1 684,577 67</u></u>





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## Appendix 3 - Analysis of office holders' time costs for the period 20 July 2013 to 19 January 2014

	Partner / Director	Manager	Administrator	Support	Total hours	Time cost (£)	Average hourly rate (£)
<b>Administration &amp; planning</b>							
<b>Cashiering</b>							
General (Cashiering)	0.80	0.30	4.60		5.70	2,062.00	361.75
Reconciliations (& IPS accounting reviews)		1.70	1.60		3.30	1,260.50	381.97
<b>General</b>							
Books and records			1.00		1.00	255.00	255.00
Fees and WIP	0.20	1.10	7.75		9.05	2,482.50	274.31
<b>Statutory and compliance</b>							
Checklist & reviews			3.50		3.50	877.50	250.71
Closure and related formalities	0.30		0.50		0.80	328.50	410.63
Reports to debenture holders		4.40	5.00		9.40	3,441.00	366.06
Strategy documents	0.50	2.20	0.40		3.10	1,451.50	468.23
<b>Tax</b>							
Post appointment corporation tax		2.70	1.50		4.20	1,626.50	387.26
Post appointment VAT	5.50	4.50	8.55		18.55	8,106.50	437.01
	7.30	6.90	14.40		58.60	21,891.50	373.58
<b>Creditors</b>							
<b>Creditors and claims</b>							
Agreement of unsecured claims			0.50		0.50	120.00	240.00
General correspondence	0.50	2.00	26.50		29.00	7,824.25	269.80
Secured creditors		0.50			0.50	292.50	585.00
Statutory reports	1.00	5.30	28.40		34.70	10,043.00	289.42
<b>Investigation</b>							
<b>Directors</b>							
Correspondence with directors			0.20		0.20	48.00	240.00
<b>Investigations</b>							
Claims against 3rd party advisors	1.00				1.00	670.00	670.00
Mail redirection			1.00		1.00	240.00	240.00
Review of pre-apt transactions	1.50				1.50	1,005.00	670.00
	4.00	7.80	56.60		68.40	20,242.75	295.95
<b>Realisation of assets</b>							
<b>Asset Realisation</b>							
Debtors	3.00				3.00	2,010.00	670.00
Leasehold property		5.90	30.95		36.85	10,419.50	282.75
Open cover insurance		2.00			2.00	930.00	465.00
Other assets			0.20		0.20	48.00	240.00
	1.00	7.90	31.15		42.05	13,407.50	318.85
<b>Total in period</b>					<b>169.05</b>	<b>55,541.75</b>	<b>328.55</b>
Brought forward time (appointment date to SIP 9 period start date)					5,359.53	1,781,786.75	332.45
SIP 9 period time (SIP 9 period start date to SIP 9 period end date)					169.05	55,541.75	328.55
Carry forward time (appointment date to SIP 9 period end date)					5,528.58	1,837,328.50	332.33

Notes: 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 the assignment but is reflected in the general level of charge out rates.



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***Joint Administrators' charge out rates***

<b>Grade</b>	<b>From 1 October 2010 £/hr</b>	<b>From 1 October 2012 £/hr</b>	<b>From 1 October 2013 £/hr</b>
<b>Partner</b>	725	765	765
<b>Associate Partner</b>	635	670	670
<b>Director</b>	635	670	670
<b>Senior Manager</b>	525	550	585
<b>Manager</b>	420	440	465
<b>Senior Administrator</b>	305	320	340
<b>Administrator</b>	230	240	255
<b>Support</b>	120	125	130



## **Administrators' disbursements for the period**

<b>Category 1 Expenses</b>	<b>£</b>
Print Services	327 50
Contractor costs	67 41
<b>Total</b>	<b>394.91</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.

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.



**LMB Realisations Limited (in Administration) (formerly Bon Marche Limited)**  
*for the period from 20 July 2013 to 19 January 2014 pursuant to Rule 2.47 of the Insolvency  
Rules 1986 (as amended)*

KPMG LLP

17 February 2013

## **Appendix 4 - Schedule of expenses for the period 20 July 2013 to 19 January 2014**

<b>Section</b>	<b>Account</b>	<b>Accrued</b>	<b>Paid</b>	<b>Total</b>
		<b>£</b>	<b>£</b>	<b>£</b>
Cost of Realisations	Administrators' fees	55,541.75	0.00	55,541.75
	Administrators' expenses	394.91	80.70	475.61
	Storage costs	1,313.81	263.01	1,576.82
	Bank charges	0.00	12.50	12.50
<b>TOTAL</b>		<b>57,250.47</b>	<b>356.21</b>	<b>57,606.68</b>

Creditors are reminded that the basis on which fees have been reported has been agreed by the secured creditor and 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 this rule is included in Appendix 5.

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 is included in Appendix 5.

## **Appendix 5 - 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