

Rule 2 47

Form 2 24B (CH)

The Insolvency Act 1986

Administrator's progress report

Name of Company
Brian Livesey Limited

Company number
01074857

In the High Court of Justice, Preston
District Registry

Court case number
366 of 2007

(a) Insert full name(s)
and address(es) of the
administrator(s)

We (a) David Acland and Andrew Dick of Begbies Traynor (Central) LLP, 1 Winckley Court,
Chapel Street, Preston, PR1 8BU

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

from

to

(b) Insert dates

(b) 19 June 2010

(b) 10 December 2010

Signed


Joint Administrator

Dated

13.12.10

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.

Begbies Traynor (Central) LLP

1 Winckley Court, Chapel Street, Preston, PR1 8BU

Tel Number 01772 202000

Fax Number 01772 565243

DX Number

FRIDAY



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24/12/2010
COMPANIES HOUSE

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

David Acland and Andrew Dick were appointed joint administrators on 19 December 2007

The affairs, business and property of the Company are being managed by the joint administrators, who act as the Company's agents and without personal liability

Brian Livesey Limited (In Administration)

Progress report of the joint administrators pursuant to Rule 2.47 of The Insolvency Rules 1986

Period: 19 June 2010 to 10 December 2010

Important Notice

This progress report has been produced by the administrators solely to comply with their statutory duty to report to creditors on the progress of the administration. The report is private and confidential and may not be relied upon, referred to, reproduced or quoted from, in whole or in part, by creditors for any purpose other than this report to them, or by any other person for any purpose whatsoever

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1. INTERPRETATION

<u>Expression</u>	<u>Meaning</u>
"the Company"	Brian Livesey Limited (In Administration)
"the administration"	The appointment of administrators under Schedule B1 to the Insolvency Act 1986 on 19 December 2007
"the administrators"	David Acland of Begbies Traynor (Central) LLP, 1 Winckley Court, Chapel Street, Preston, PR1 8BU and Andrew Dick of Begbies Traynor (Central) LLP, 340 Deansgate, Manchester, M3 4LY
"the Act"	The Insolvency Act 1986 (as amended)
"the Rules"	The Insolvency Rules 1986 (as amended)
"secured creditor" and "unsecured creditor"	Secured creditor, in relation to a company, means a creditor of the company who holds in respect of his debt a security over property of the company, and "unsecured creditor" is to be read accordingly (Section 248(1)(a) of the Act)
"security"	(i) In relation to England and Wales, any mortgage, charge, lien or other security (Section 248(1)(b)(i) of the Act), and (ii) In relation to Scotland, any security (whether heritable or moveable), any floating charge and any right of lien or preference and any right of retention (other than a right of compensation or set off) (Section 248(1)(b)(ii) of the Act)
"preferential creditor"	Any creditor of the Company whose claim is preferential within Sections 386, 387 and Schedule 6 to the Insolvency Act 1986

2. STATUTORY INFORMATION

Name of Company	Brian Livesey Limited
Trading name(s)	The Livesey Group
Date of Incorporation	3 October 1972
Company registered number	01074857
Company registered office	Begbies Traynor, 1 Winckley Court, Chapel Street, Preston, PR1 8BU

3. DETAILS OF APPOINTMENT OF ADMINISTRATORS

Names of administrators	David Acland and Andrew Dick, Licensed Insolvency Practitioners of Begbies Traynor (Central) LLP
Date of administrators' appointment	19 December 2007
Date of administrators' resignation	N/a
Court	High Court of Justice, Preston
Court Case Number	366 of 2007
Person(s) making appointment / application	The Directors of the Company
Acts of the administrators	The administrators act as officers of the court and as agents of the Company without personal liability. Any act required or authorised under any enactment to be done by an administrator may be done by any one or more persons holding the office of administrator from time to time.
EC Regulation on Insolvency Proceedings	The EC Regulation on Insolvency Proceedings (Council Regulation (EC) No 1346/2000) applies to these proceedings which are 'main proceedings' within the meaning of Article 3 of the Regulation.
Administrators' term of office	The Administrators' term of office was originally extended for a further 6 months until 19 June 2009 in accordance with the resolution of the Company preferential creditor. The Administrators' then sought consent of the Court to extend the period of Administration for 6 months until 19 December 2009 and again for a further 12 months until 19 December 2010.

4. PROGRESS DURING THE PERIOD

This report should be read in conjunction with the Administrators' proposals and the interim progress reports which were circulated to all known creditors on 12 February 2008 ("the first report"), 18 July 2008 ("the second report"), 16 January 2009 ("the third report"), 3 July 2009 ("the fourth report"), 18 January 2010 ("the fifth report") and 12 July 2010 ("the sixth report").

Attached at Appendix 1 is our abstract of receipts and payments for the period from 19 December 2007 to 10 December 2010.

Debtors and Retentions

The Company records detailed debtors with a book value of £409,329 and retentions with an un-invoiced value of £652,875 in respect of both finished contracts and smaller contracts and maintenance work undertaken by the Company. The Administrators instructed quantity surveyors, Naismiths LLP, to assist with the collection exercise and this has resulted in collections to date totalling £54,785. Naismiths LLP have advised that future recoveries, if any, will be nominal.

Intercompany / Associated Accounts / Investigations

The various inter company and associated accounts have been detailed within our previous reports. It is unlikely that recoveries will be made from the intercompany accounts however the investigations have identified two payments made from the Company to associated parties in the period immediately preceding the Administration in the sums of £90,000 and £70,000 respectively.

Our instructed solicitors, Addleshaw Goddard LLP ("Addleshaws") are assisting us with a view to recovering some or all of these amounts. Negotiations between the Administrators, the associated parties and their legal representatives have been protracted and no settlement has been agreed to date. The Administrators held a meeting with Addleshaws in May 2010 to discuss the strategy to recover these sums and we are investigating the possibility of litigation insurance to pursue these matters further.

Addleshaws are currently waiting to hear from their brokers outlining the costs of the pending litigation.

HM Revenue & Customs ("HMRC")

As previously advised, due to the nature of the Company's operations it had a significant VAT reclaim for the quarter ending November 2007, however this sum will be subject to crown set-off. HMRC have requested that the Administrators provide certain information to support the claim. The Company's former in-house accountant was assisting the Administrators with obtaining this information together with Moore & Smalley Chartered Accountants ("Moore & Smalley").

In view of the complexity of the Company's tax position, the Administrators have subsequently been required to provide copies of a print out of each of the transactions making up the returns and also to provide copies of a large number of invoices, the latter exercise requiring the Administrators' staff to review the large volume of Company records and in some cases contact the supplier to obtain copies. Unfortunately, the Joint Administrators have been unable to provide all the copy VAT invoices and HMRC dispute a large element of the return. The Administrators have been unable to provide any further information to support the VAT reclaim and the claim has been rejected.

In addition, HMRC were investigating the Company's tax affairs specifically with regard to the Company's liability for Corporation Tax between the years 2000-2005. This matter is ongoing.

Bank Interest

The sum of £991.34 has been received to date. Corporation tax is payable on these monies.

5. ESTIMATED OUTCOME FOR CREDITORS

Preferential Creditors

A final preferential claim in the sum of £26,593.76 has been received from the Redundancy Payments Office ("RPO") in respect of monies paid to employees for arrears of wages and holiday pay. A review of the employees' claims in their own right has been undertaken and these claims amount to £23,100.12 resulting in total preferential claims of £49,693.88.

A 10p in the £ distribution has been paid to the preferential creditors. It is not yet known whether further monies will become available to the preferential creditors. This is dependent on whether our investigations and recovery of monies from the associated parties is successful.

Unsecured Creditors

Based on current realisations there are insufficient funds available to pay a distribution to unsecured creditors. It is not yet known whether monies will become available in the Liquidation following completion of our investigations and the payment of preferential claims and the costs of Liquidation.

6. ADMINISTRATORS' REMUNERATION AND DISBURSEMENTS

As previously reported the joint administrators' remuneration is based on hourly costs at scale rates calculated on the time properly spent in the course of the administration and they are authorised to draw disbursements in accordance with the explanatory note on the subject, which accompanied *The Report and Proposals of the Joint Administrators*.

The relevant resolutions were approved by a resolution of the preferential creditor pursuant to Rule 2.106 of the Insolvency Rules 1986.

Total remuneration drawn in accordance with the above approval amounts to £60,000. Total time spent on this assignment amounts to 1,035.45 hours at an average composite rate of £177.02 per hour resulting in total time costs to date of £183,293. The following further information as regards time costs and expenses is set out at Appendix 3.

- ☐ Begbies Traynor (Central) LLP's policy for re-charging expenses/disbursements
- ☐ Begbies Traynor (Central) LLP's charge-out rates
- ☐ Narrative summary of time costs incurred
- ☐ Table of time spent and charge-out value

7. ASSETS THAT REMAIN TO BE REALISED

The Administrators and their legal advisors are continuing to investigate payments made to associated parties prior to the Administration.

8. OTHER RELEVANT INFORMATION

Report on Directors conduct

As detailed in the administrators' statement of proposals, the administrators have a duty to submit a report to the Department for Business, Innovation and Skills on the conduct of the directors. The administrators have complied with their duties in this respect.

9. CONCLUSION

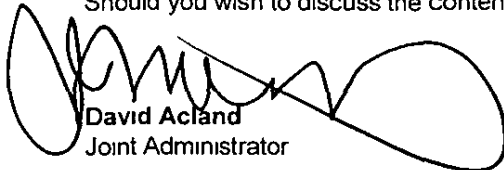
The Administrators have applied to Court in accordance with Paragraph 79 for an order ending the Administration. The Administrators believe that whilst the purpose of the Administration has been sufficiently achieved by effecting a distribution to the preferential creditors, there are ongoing investigations which may result in additional funds for creditors. It was therefore not appropriate to dissolve the Company.

To avoid further repeated court applications to extend the Administration and associated costs thereon, an application to court was made to seek an order to wind up the Company under Section 140 of the Insolvency Act 1986, and that David Robert Acland be appointed as Liquidator.

Legal advisors were instructed to seek discharge of the administration order and our release as Joint Administrators. I can confirm that at a hearing at the High Court of Justice, Manchester District registry on 10 December 2010, the Administrators appointment ceased to have effect and David Acland was appointed as Liquidator of the Company.

The Administrators will be discharged from all liability pursuant to Paragraph 98(1) 14 days after the date of this report.

Should you wish to discuss the contents of this report please contact this office.



David Acland
Joint Administrator

Dated 10 December 2010

JOINT ADMINISTRATORS' ACCOUNT OF RECEIPTS AND PAYMENTS, INCORPORATING ESTIMATED OUTCOME FOR CREDITORS

Period 19 December 2007 to 10 December 2010

	Receipts & Payments to date	Anticipated Receipts & Payments	Projected Outcome
	£	£	£
ASSETS NOT SPECIFICALLY PLEDGED			
Contracts In Progress	-	-	-
Debtors	54,785	Uncertain	54,785
Retentions - Uninvoiced	-	Uncertain	Uncertain
Intercompany Debtors / Investigations	-	Uncertain	Uncertain
H M Revenue & Customs	-	-	-
Investments	15,551	-	15,551
Performance Bond*	30,606	-	30,606
Cash at Bank	15,097	-	15,097
Sundry Refunds	6,368	-	6,368
Bank Interest Gross	991	-	991
	<u>123,398</u>	<u>0</u>	<u>123,398</u>
Payments			
Administrator's disbursements	(1,551)	(120)	(1,671)
Administrator's fees	(60,000)	-	(60,000)
Agent's fees & expenses	(700)	-	(700)
Quantity Surveyors Fees	(5,000)	(5,200)	(10,200)
Legal fees	(25,561)	(7,000)	(32,561)
Statement of Affairs	(3,500)	-	(3,500)
Advertising and Storage Costs	(4,000)	-	(4,000)
Pension Costs	(2,384)	-	(2,384)
Corporation Tax	(263)	(19)	(282)
Court Fees	(56)	-	(56)
Wages / bookkeeping costs	(3,085)	-	(3,085)
Available for preferential creditors	<u>17,298</u>	<u>(12,339)</u>	<u>4,959</u>
Arrears of wages and holiday pay	(4,969)	(44,725)	(49,694)
Available for unsecured creditors	<u>12,329</u>	<u>(57,064)</u>	<u>(44,735)</u>
Summary of balances held			
Fixed charge	0		
Floating charge	<u>12,329</u>		
	<u>12,329</u>		
Held as			
Bank	12,095		
VAT	<u>234</u>		
	<u>12,329</u>		
Summary of potential return to creditors			
Preferential Creditors			4,959
Unsecured Creditors			<u>Nil</u>
			<u>4,959</u>

Note: The Administrators' costs are likely to exceed the fee estimates and are deliberately capped in view of the uncertain recoveries.

* The performance bond recovery has been settled at 25p in the £ and the prospect of future recoveries is being investigated.

ADMINISTRATORS' TIME COSTS AND EXPENSES

- a Begbies Traynor (Central) LLP's policy for re-charging expenses/disbursements,
- b Begbies Traynor (Central) LLP's charge-out rates,
- c Narrative summary of time costs incurred, and
- d Table of time spent and charge-out value

BEGBIES TRAYNOR CHARGING POLICY

INTRODUCTION

This note applies where a licensed insolvency practitioner in the firm is acting as an office holder of an insolvent estate and seeks creditor approval to draw remuneration on the basis of the time properly spent in dealing with the case. It also applies where further information is to be provided to creditors regarding the office holder's fees following the passing of a resolution for the office holder to be remunerated on a time cost basis. Best practice guidance¹ requires that such information should be disclosed to those who are responsible for approving remuneration.

In addition, this note applies where creditor approval is sought to make a separate charge by way of expenses or disbursements to recover the cost of facilities provided by the firm. Best practice guidance² requires that such charges should be disclosed to those who are responsible for approving the office holder's remuneration, together with an explanation of how those charges are calculated.

OFFICE HOLDER'S FEES IN RESPECT OF THE ADMINISTRATION OF INSOLVENT ESTATES

The office holder has overall responsibility for the administration of the estate. He/she will delegate tasks to members of staff. Such delegation assists the office holder as it allows him/her to deal with the more complex aspects of the case and ensures that work is being carried out at the appropriate level. There are various levels of staff that are employed by the office holder and these appear below.

The firm operates a time recording system which allows staff working on the case along with the office holder to allocate their time to the case. The time is recorded at the individual's hourly rate in force at that time which is detailed below.

EXPENSES INCURRED BY OFFICE HOLDERS IN RESPECT OF THE ADMINISTRATION OF INSOLVENT ESTATES

Best practice guidance classifies expenses into two broad categories.

- ❑ *Category 1 disbursements (approval not required)* - specific expenditure that is directly related to the case usually referable to an independent external supplier's invoice. All such items are charged to the case as they are incurred.
- ❑ *Category 2 disbursements (approval required)* - items of incidental expenditure directly incurred on the case which include an element of shared or allocated cost and which are based on a reasonable method of calculation.

(A) The following items of expenditure are charged to the case (subject to approval)

- Internal meeting room usage for the purpose of statutory meetings of creditors is charged at the rate of £100 per meeting,
- Car mileage is charged at the rate of 40 pence per mile,
- Storage of books and records (when not chargeable as a *Category 1 disbursement*) is charged on the basis that the number of standard archive boxes held in storage for a particular case bears to the total of all archive boxes for all cases in respect of the period for which the storage charge relates.

¹ Statement of Insolvency Practice 9 (SIP 9) – Remuneration of insolvency office holders in England & Wales (Effective 1 April 2007)

² Ibid 1

(B) The following items of expenditure will normally be treated as general office overheads and will not be charged to the case although a charge may be made where the precise cost to the case can be determined because the item satisfies the test of a *Category 1 disbursement*

- Telephone and facsimile
- Printing and photocopying
- Stationery

BEGBIES TRAYNOR CHARGE-OUT RATES

Begbies Traynor is a national firm. The rates charged by the various grades of staff that may work on a case are set nationally, but vary to suit local market conditions. The rates applying to the Preston office as at the date of this report are as follows

	Standard 1 July 2008 – until further notice Regional
Partner 1	395
Partner 2	350
Director	325
Senior Manager	295
Manager	250
Assistant Manager	195
Senior Administrator	160
Administrator	130
Trainee Administrator	100
Support	100

Prior to 1 July 2008, the following rates applied

Grade of staff	Charge-out Rate (£ per hour)
Partner 1	365
Partner 2	305
Director	270
Senior Manager	210
Manager	180
Assistant Manager	145
Senior Administrator	115
Administrator	100
Trainee Administrator	70
Support	100

Time spent by support staff for carrying out shorter tasks, such as typing or dealing with post, is not charged to cases but is carried as an overhead. Only where a significant amount of time is spent at one time on a case is a charge made for support staff.

Time is recorded in 6 minute units

SUMMARY OF OFFICE HOLDERS' TIME COSTS

CASE NAME	BRIAN LIVESEY LIMITED
CASE TYPE	ADMINISTRATION
OFFICE HOLDERS	DAVID ACLAND AND ANDREW DICK
DATE OF APPOINTMENT	19 DECEMBER 2007

1 CASE OVERVIEW

- 1.1 This overview is intended to allow the body responsible for the approval of the office-holder's fees to view the quantum of those fees in the context of the case in question
- 1.2 *Complexity of the case*
This case involves significant assets including work in progress, debtors and long term retentions which have involved lengthy negotiations with the Company's customers
- 1.3 *Exceptional responsibilities*
The Company's tangible assets were disposed of within the months preceding the Administration and therefore, significant investigation work is required to establish whether the transactions were at market value and whether any parties have benefited at the expense of the general body of creditors
- 1.4 *The office-holder's effectiveness*
It was quickly established that the survival of the Company could not be achieved and therefore, the Administrators were proposing to realise the assets in order to pay a dividend to the preferential creditors
- 1.5 *Nature and value of property in question*
The Company's assets include debtors, work in progress, retentions, claims and other debtors with a book value of £4,512,578 together with an outstanding performance bond, a tax reclaim and company investments of circa £173,836
- 1.6 *Anticipated return to creditors*
The secured creditors were discharged prior to the Administration from the disposal of the Company's assets. A distribution of 10p in the £ has been paid to the preferential creditors. It is not yet known whether additional monies will become available in the Liquidation to pay a further distribution. It is not anticipated that there will be sufficient funds available to pay a distribution to unsecured creditors
- 1.7 *Time costs analysis*
An analysis of time costs incurred is attached showing the number of hours spent by each grade of staff on the different types of work involved in the case, and giving the average rate charged for each work type
- 1.8 *The views of the creditors*
Creditors are invited to contact the Administrators with any information they may have surrounding the Company's affairs and assets. The proposals have previously been circulated to all known Creditors for their information. As the Joint Administrators considered that the Company had insufficient property to enable a distribution to be made to unsecured creditors, no initial meeting of the Company's creditors would be summoned and the Joint Administrators proposals were deemed approved. However, the approval of the preferential creditor was sought to the Joint Administrators' resolutions regarding fees, extension and vacation from office. The preferential creditor has approved these resolutions

1 9 *Approval of fees*

The proposals included a provision for the Joint Administrators' to be remunerated on a time costs basis and this is detailed further within the report

1 10 *Other professionals employed & their costs*

Robson Kay & Co have undertaken an inventory of all the property held at the Company's premises. Addleshaw Goddard Solicitors have assisted with the formalities regarding the appointment and are assisting with the Administrators investigations and possible preference actions. Naismiths Quantity Surveyors are instructed to assist with the debtor collections and contract negotiations. Moore & Smalley Chartered Accountants have been instructed to assist with the preparation of the Statement of Affairs.

2 **EXPLANATION OF OFFICE-HOLDERS' CHARGING AND DISBURSEMENT RECOVERY POLICIES**

2 1 Begbies Traynor's policy for re-charging expenses incurred by insolvency office-holders is set out in a separate accompanying note

2 2 The rates charged by the various grades of staff who may work on a case are also set out in a separate accompanying note

3. **SUMMARY OF WORK CARRIED OUT SINCE OUR LAST REPORT**

Since the date of our last report, the following work has been carried out

- Ongoing investigations into the Company's tax affairs
- Ongoing investigations into the payments made to associated parties, pre appointment
- Agreement of preferential claims and payment of an interim 10p in the £ distribution
- The preparation of this report

