

02573364



**Nick Orchard Properties Limited  
In Liquidation**

**In the High Court of Justice  
No. 6758 of 2015**

**Company Number:02573364**

**Liquidator's annual report to creditors  
for the period 21 December 2015 to 20 December 2016  
and Fee Estimate**

FRIDAY



\*Q61FA5K9\*

QIQ

03/03/2017

#46

COMPANIES HOUSE



## **Contents**

1. Summary
2. Meeting of Creditors
3. Realisation of Assets
4. Investigations
5. Statutory and Professional Compliance
6. Creditors' Communication, Claims and Distributions
7. Time Costs and Expenses Summary
8. Receipts and Payments Account
9. Quality of Service and Code of Ethics
10. Creditors' rights
11. Next Report

## **Appendices**

### **A. Fee information pack:**

- A1 Griffins' Time Analysis for the period 21 December 2015 to 20 December 2016 and details of charge out rates provided in accordance with the Statement of Insolvency Practice 9
- A2 Table of Actual and Projected Time Costs
- A3 Estimated Outcome Statement
- A4 Expenses Estimate
- A5 Statutory and Creditor Compliance Tasks

### **B. Receipts and Payments Account and Statutory Information.**

- B1 Liquidator's Receipts and Payments Account for the period 21 December 2015 to 20 December 2016
- B2 Statutory Information

### **C. Creditor Documentation:**

- C1 Notice of Creditors' Meeting
- C2 Proxy Form
- C3 Proof of Debt Form
- C4 Creditors' rights – Rules 4.49E and 4.131 of the Insolvency Rules 1986



## **1 Summary**

The company was placed into compulsory liquidation on 21 December 2015 and I was appointed Liquidator by the Court following the failure of its Company Voluntary Arrangement

In accordance with Rule 4.49B Insolvency Rules 1986 ("IR1986"), I now provide creditors with an annual progress report. Additional information in respect of the company and office holder is attached at Appendix B2.

This report provides creditors with the following:

- My review of the case and the work undertaken to date;
- An explanation of anticipated future work on the case and why it is required;
- Details of estimated time costs and the estimated expenses for dealing with these matters;
- An explanation of my statutory and professional compliance duties as Liquidator.

### **1.1 Estimated Return to Creditors**

The *Estimated Outcome Statement* at Appendix A3 provides a detailed breakdown of estimated realisations, costs and expenses in respect of this case.

From the information currently available to me, it is not possible to estimate whether there will be funds available to enable a dividend to be paid to creditors.

## **2 Meeting of Creditors**

I am convening a meeting of creditors on 13 March 2017, the purpose of which is to establish a Liquidation Committee or, in the absence of a Committee, to agree the basis of the Liquidator's remuneration.

The function and purpose of a Committee is to:

- Assist the office holder(s) in discharging their functions, and act in relation to them in such manner as may be agreed from time to time. The Committee may also require the office holder(s) to attend before it at any reasonable time and furnish it with information relating to the exercise of their functions.
- Represent the interests of the creditors as a whole, not just the interests of its individual members. In addition to its statutory functions, which are set out in the Statement of Insolvency Practice (SIP) 15, it may also serve to assist the office holder(s) generally and act as a sounding board for them to obtain views on matters pertaining to the liquidation.

### **2.1 Creditor Documentation**

The notice convening the meeting, together with a proxy and proof of debt form, were provided to you with the covering letter notifying you of this report. Further copies are attached at Appendix C.

If you have not already submitted your claim in the liquidation then please do so now. In accordance with Rule 12A.10 of the IR1986, proof of debt forms can be delivered by post or electronically (scanned copy by email or fax).

This meeting is purely formal and unless you have a query that cannot be satisfied through correspondence, your attendance at the meeting is not specifically required. If there are any matters requiring clarification, please do not hesitate to contact this office.

### **3 Realisation of Assets**

I have identified no assets belonging to the company.

### **4 Investigations**

#### **4.1 Initial Investigations**

Investigations into the affairs of the company were undertaken by the Official Receiver prior to my appointment.

As Liquidator, I am required to undertake my own investigations into the company's affairs based on the information available to me, to assess whether there is a case for further, more detailed, investigation into any aspect of the company's financial affairs.

This exercise is conducted taking into account the level of assets available to fund any identified further investigations or actions, and the materiality of any matters that have arisen.

I have identified certain issues that require further investigation and these are set out below.

#### **4.2 Further Investigations**

##### Company transactions

I have conducted an initial review of the company bank statements which identified a number of transactions which need further investigation. I am making further enquiries with the director and relevant third parties in order to identify what further action is required to reclaim any monies for the benefit of the estate.

##### Investigations into the company's affairs

I have conducted an initial review of the company's affairs and identified a number of issues which require further investigation. I am currently unable to comment further on the nature of these investigations so as not to prejudice my enquiries. This may or may not lead to recoveries for the benefit of the estate.

### **5 Statutory and Professional Compliance**

I am required to meet a considerable number of statutory and regulatory obligations. This work does not provide a direct financial benefit to creditors but is a necessary requirement of the liquidation process.

Whilst these tasks do not have a direct benefit in enhancing realisations for the insolvent estate, they assist in the efficient and compliant progression of the Liquidation. This ensures that my staff and I carry out our work to high professional standards.

In order that creditors can have an informed understanding of these matters, they are listed at Appendix A5.

## **6 Creditors' Communication, Claims and Distributions**

I am required, as Liquidator, to undertake certain tasks in relation to creditors' claims. This work does not provide a direct financial benefit to the liquidation estate but is essential to the administration of the case.

In order that creditors can have an informed understanding of these matters, they are listed at Appendix A5.

The current position as regards creditors' claims is detailed below.

### **6.1 Secured Creditors**

Bank of Scotland ("BOS") holds a fixed and floating charge over the company's property.

At the date of liquidation, the indebtedness was estimated at £1,780,000.

The charge was created on 13 April 2006. Where the Company has granted a floating charge after the 15 September 2003, Section 176A Insolvency Act 1986 ("IA1986") provides that a percentage share of realisations from net floating charge assets is set aside for unsecured creditors ("the prescribed part"), subject to certain exceptions.

I would confirm that the value of the company's net floating property is nil and as such no funds are available under the prescribed part to pay a dividend to unsecured creditors.

Any shortfall arising under the fixed and floating charge of BOS will rank as an unsecured claim.

### **6.2 Preferential Creditors**

No preferential claims have been received in the liquidation and none are expected.

### **6.3 Unsecured Creditors**

The Official Receiver's initial report showed seven unsecured creditors with a total value of £555,049.36.

I have received five claims totalling £106,901.97 but I have not yet adjudicated on these claims. I am aware of two potential creditors who have not yet submitted their claims. Their total estimated debts are uncertain.

Dividend prospects are presently uncertain.

## **7 Time Costs and Expenses Summary**

### **7.1 Time Costs**

The table at Appendix A1 details my total time costs for dealing with this case. It also provides details of the activity costs to date incurred by me and my staff, by grade, together with details of the hourly charge-out rates.

In the period 21 December 2015 to 20 December 2016, my staff and I have recorded time costs of £14,568.80. It is the policy of Griffins to use the most junior grade of staff compatible with the efficient conduct of a matter to minimise the costs to creditors.

Appendix A2 provides a summary of these time costs and projected future costs.

#### Fee Resolution

I am convening a meeting of creditors and will be seeking approval of the following resolution for my fees:

In the absence of a Liquidation Committee to approve that the Liquidator's remuneration be calculated on the basis of time properly spent by the Liquidator and his/their staff, subject to an authorised maximum of £37,424.90, (net of VAT).

In the event that my time costs exceed this estimate, or I anticipate that they are likely to exceed this estimate, I may seek a further resolution for this additional time and should I do so I will provide an updated report.

Further information regarding remuneration can be found in "A Creditors' Guide to Liquidator's Remuneration", which is available for download at the following address: <http://www.griffins.net/technical/>. A hard copy can be provided upon request.

In addition, creditors can find more information on the insolvency process at <http://www.creditorinsolvencyguide.co.uk/>.

## **7.2 Expenses and Disbursements**

The table at Appendix A4 details the actual expenses and category 1 disbursements incurred to date and the projected future expenses to the closure of the case. These expenses total £9,663.53.

'Expenses' are amounts properly payable by the office holder from the estate. These may include, but are not limited to, legal and agents' fees.

'Disbursements' are expenses met by the office holder and reimbursed to the office holder in connection with an insolvency appointment and will fall into two categories, category 1 and category 2. These are further explained at Appendix A1.

In accordance with our current policy, no category 2 disbursements have been drawn since my appointment.

## **7.3 Net Financial Benefit to Creditors**

The estimated outcome statement at Appendix A3 shows the projected breakdown of my time costs and how this impacts upon the financial benefit to the liquidation estate.

## **8 Receipts and Payments Account**

An account of my receipts and payments for the period of this report is at Appendix B1, together with a comparison with the amounts recorded in the report prepared by the Official Receiver.

## **9 Quality of Service and Code of Ethics**

The Firm endeavours to provide the best possible standards at all times.

I am bound by the Insolvency Code of Ethics when carrying out all professional work relating to insolvency appointments and details of this can be found at

<http://www.icaew.com/en/members/regulations-standards-and-guidance/ethics/code-of-ethics-d>.

If you would like to make any comments, suggestions, raise a query or make a complaint about the service you have received, please contact my team manager, Ian Ramsay in the first instance at [ian.ramsay@griffins.net](mailto:ian.ramsay@griffins.net). I will provide a response within 21 working days.

## **10 Creditors' rights**

Creditors are advised that Rule 4.49E IR1986 provides the right to request from the Liquidator further information about remuneration or expenses appearing in this report.

Rule 4.131 IR1986 provides creditors with a right to challenge the Liquidator's remuneration and expenses.

*Extracts of these Rules are attached at Appendix C4, for your information.*

## **11 Next Report**

I will report again following the next anniversary of the liquidation, or sooner if the administration of the liquidation is complete.

  
**Stephen Hunt**  
Liquidator

Date: 17 February 2017

## **Fee Information Pack**

### **Contents**

#### **Appendices**

- A1** Griffins' Time Analysis for the period 21 December 2015 to 20 December 2016 and details of charge out rates provided in accordance with the Statement of Insolvency Practice 9.
- A2** Table of Actual and Projected Time Costs.
- A3** Estimated Outcome Statement
- A4** Expenses Estimate
- A5** Statutory and Creditor Compliance Tasks



## Griffins' Time Analysis for the period 21/12/2015 to 20/12/2016

Classification of Work Function								
	Partners	Managers	Other Senior Professionals	Administrators	Support & Other Specialists	Total Hours	Time Cost (£)	Average Hourly Other Rate (£) Incurred
Statutory and Professional Compliance								
STATUTORY Statutory Duties	0.17	0.75	2.00	11.42	0.75	15.08	4,131.63	273.92
Category Total	0.17	0.75	2.00	11.42	0.75	15.08	4,131.63	273.92
Creditors								
CREDITOR Creditor Related Work	0.00	0.17	0.00	1.17	0.00	1.33	422.08	316.56
Category Total	0.00	0.17	0.00	1.17	0.00	1.33	422.08	316.56
Investigations								
INV INIT Initial Investigations	0.00	1.08	14.83	14.58	0.00	30.50	10,015.09	328.36
Category Total	0.00	1.08	14.83	14.58	0.00	30.50	10,015.09	328.36
Overall Total								
	0.17	2.00	16.83	27.17	0.75	46.92	14,568.80	310.53
Amount of remuneration charge in the period								
								£0.00
Total remuneration charge to date								
								£0.00

## **GRIFFINS POLICY ON CHARGEOUT RATES AND DISBURSEMENTS**

### **SCHEDULE OF STANDARD CHARGEOUT RATES IN RESPECT OF GRIFFINS PARTNERS AND STAFF AS AT 1 OCTOBER 2016**

In accordance with Statement of Insolvency Practice 9 "Payments to insolvency office holders and their associates" the following hourly charge-out rates will be applied when fixing the Officeholders Remuneration:

<b>Grade of staff</b>	<b>Hourly Rate</b>
Partners	£400 - £565
Senior Managers	£420 - £450
Managers	£325 - £410
Investigators	£245 - £390
Administrators	£150 - £325
Cashiering	£100 - £275
Support & Other Specialists	£ 70 - £200

The above rates are reviewed annually on 1 October.

It is not our policy to charge for support staff (secretarial, filing, reception) unless such staff are working on an individual matter for more than 7 hours in which case the rate for an Administrator may be applied.

Time is charged in minimum units of 5 minutes for all staff.

### **DISBURSEMENTS**

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 make a separate charge by way of expenses or disbursements to recover the cost of facilities provided by the firm. Best practice guidance<sup>1</sup> requires that such charges should be disclosed to those who are responsible for approving his remuneration, together with an explanation of how those charges are made up and the basis on which they are arrived at.

### **DEFINITIONS**

Practice guidance<sup>1</sup> classifies expenses into two broad categories:

- *Category 1 expenses (approval not required)* – specific expenditure that is directly related to a particular insolvency case, where the cost of the expense incurred is referable against an independent external suppliers' invoice or published tariff of charges; mileage is charged at the appropriate H M Revenue & Customs rate.
- *Category 2 expenses:* 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 an appointment on a proper and reasonable basis.

### **CHARGING POLICY**

- *Category 1 expenses (approval not required)* – all such items are re-charged to the case as they are incurred.
- *Category 2 expenses (approval required)* – resolutions to be sought from creditors if these category of expenses arise.

1 - Statement of Insolvency Practice 9 (England and Wales)

**GRIFFINS HISTORIC CHARGEOUT RATES SINCE 1 OCTOBER 2010**

STAFF GRADE	1 October 2010	1 October 2011	1 October 2012
	£	£	£
Partners	495	495-545	495-545
Managers	300-350	300-395	300-395
Senior Investigators	300-350	325-380	325-380
Administrators/Investigators	180-280	200-300	200-300
Junior Administrators/Junior Investigators	140-190	145-190	145-250
Support Staff	70-170	70-180	70-180

STAFF GRADE	1 October 2013	1 May 2014
	£	£
Partners	495-565	450-565
Managers	300-400	300-450
Senior Investigators	325-385	325-425
Administrators/Investigators	200-310	200-360
Junior Administrators/Junior Investigators	150-250	150-250
Support Staff	70-220	70-220

STAFF GRADE	1 October 2014
	£
Partners	450-565
Managers	325-450
Investigators	285-380
Administrators	150-310
Support/Cashier Managers	220-275
Support/Cashier Staff	70-180

STAFF GRADE	1 October 2015
	£
Partners	450-565
Senior Manager	400-450
Managers	325-390
Investigators	280-390
Administrators	150-325
Cashiering	100-275
Support	70-200

The above rates are reviewed annually on 1 October, however following the appointment of a new partner on the 1 May 2014 a rate review took place

It is not our policy to charge for support staff (secretarial, filing, reception) unless such staff are working on an individual matter for more than 7 hours in which case the rate for an Administrator may be applied. Time is charged in minimum units of 5 minutes for all staff



**Table of Actual and Projected Time Costs as at 20/12/2016**

	Hours Spent	Accrued Time Costs £	Blended Rate Per Hour £	Estimated Future Hours	Estimated Future Time Costs £	Blended Rate Per Hour £	Total hours	Total Projected Time Costs £	Blended Rate Per Hour £
Realisation of Assets	-	-	-	-	-	-	-	-	-
Investigations	30.50	10,015.09	328.36	50.17	17,628.75	351.38	80.67	27,643.84	342.68
Litigation	-	-	-	-	-	-	-	-	-
Statutory & Professional Compliance	15.08	4,131.63	273.92	21.62	4,589.85	212.30	36.70	8,721.48	237.62
Creditors' Claims	1.33	422.08	316.56	1.84	637.50	346.47	3.17	1,059.58	333.90
<b>Total</b>	<b>46.92</b>	<b>£14,568.80</b>	<b>£310.53</b>	<b>73.63</b>	<b>£22,866.10</b>	<b>£310.42</b>	<b>120.55</b>	<b>£37,424.90</b>	<b>£310.46</b>

The blended rate represents the average chargeout rate across all staff and has been rounded to two decimal points

**Estimated Outcome Statement as at 20/12/2016**

	<u>Hours</u>	<u>Blended Rate</u>	<u>£</u>	<u>Projected net benefit to the Estate</u>
<b>INVESTIGATIONS</b>				
Initial Investigations	Estimated to Realise		0 00	
Time Costs Incurred	[ 30.50 hrs @ 328.36 per hr ]		(10,015.09)	
			<u>(10,015.09)</u>	(10,015.09)
Company Transactions	Estimated to Realise		30,000.00	
Future Time Costs	[ 17.17 hrs @ 349.96 per hr ]		(6,008.75)	
			<u>23,991.25</u>	23,991.25
Investigation into the Company's Affairs	Estimated to Realise		TBC	
Future Time Costs	[ 33.00 hrs @ 352.12 per hr ]		(11,620.00)	
			<u>TBC</u>	TBC
				<u>TBC</u>
<b>STATUTORY AND PROFESSIONAL COMPLIANCE</b>				
Time Costs Incurred	[ 15.08 hrs @ 273.92 per hr ]		(4,131.63)	
Estimated Future Time Costs	[ 21.62 hrs @ 212.30 per hr ]		(4,589.85)	
			<u>(8,721.48)</u>	
Expenses Incurred			<u>(497.53)</u>	(9,219.01)
<b>CREDITOR RELATED WORK</b>				
Time Costs Incurred	[ 1.33 hrs @ 316.56 per hr ]		(422.08)	
Estimated Future Time Costs	[ 1.84 hrs @ 346.47 per hr ]		(637.50)	
			<u>(1,059.58)</u>	(1,059.58)
<b>STATUTORY CHARGES</b>				
Expenses Incurred			(2,630.00)	
Estimated Future Expenses			<u>(6,536.00)</u>	(9,166.00)
Total Estimated sum available to Unsecured Creditors				<u>TBC</u>
Estimated Unsecured Creditors				(106,901.97)
Estimated Surplus				<u>TBC</u>
The blended rate represents the average chargeout rate across all staff and has been rounded to two decimal points, which may result in a slight variance between the estimated cost shown, and the multiplication of the time incurred by the blended rate				

### Expenses Table as at 20/12/2016

	Incurred to date £	Estimated Future £	Total £
<b>Statutory and Professional Compliance</b>			
Statutory Advertising	72 00	-	72 00
Specific Bond	12 50	-	12 50
Courier Charges	395 03	-	395 03
Land Registry searches	18 00	-	18 00
<b>Total</b>	<b>497 53</b>	<b>-</b>	<b>-</b>
<b>Statutory Charges</b>			
Official Receiver Disbursements	2,520 00	N/A	2,520 00
SOS fee (pre 21/07/16)	0 00	6,470 00	6,470 00
Insolvency Service Account - Quarterly Bank Charges	110 00	66 00	176 00
<b>Total</b>	<b>2,630 00</b>	<b>6,536 00</b>	<b>9,166 00</b>
<b>Investigation</b>			
<b>Total Before Vat</b>	<b>3,127 53</b>	<b>6,536 00</b>	<b>9,663 53</b>
<b>TOTAL</b>	<b>3,127.53</b>	<b>6,536.00</b>	<b>9,663 53</b>

## **Statutory and Creditor Compliance Tasks**

### **Post-Appointment Statutory and Professional Compliance**

I am required, as Liquidator, to undertake the following tasks:

- On appointment, set the case up on our insolvency database and maintain and separately record all financial records on the case, including the recording of creditors and employees;
- Return to the Official Receiver a signed undertaking to pay out of the first realisations of assets, both the balance currently appearing in their account and those monies, including fees, guarantees and advances paid by the Official Receiver, becoming due in future and payable under IA1986 and the IR1986;
- Notify creditors of my appointment.
- Obtain a Specific Penalty bond for a sum equal to the company's assets subject to the statutory provisions. This bond covers any losses to the estate for any possible fraud or dishonesty of the Liquidator whether acting alone or in collusion with one or more persons and/or the fraud and dishonesty of any person committed with the connivance of the Liquidator,
- Convene and hold a meeting of creditors to provide creditors with the opportunity to establish a Liquidation Committee;
- If a Liquidation Committee is established prepare a certificate of constitution and hold the first Committee meeting;
- Undertake a one month case review to ensure that all initial statutory matters have been completed, asset realisation and initial investigations commenced;
- Obtain the company's books and records, if not already received;
- Establish whether the company has an occupational pension scheme and, if so, comply with Section 120 Pensions Act 2004 and submit a S120 Notice to the Pension Protection Fund, The Pension Regulator and to the Trustees of the Pension Fund if applicable;
- Where necessary prepare money laundering reports

### **Annual Statutory and Professional Compliance**

In addition to the tasks identified above, each year I am required to undertake the following statutory tasks:

- Prepare and issue an Annual Report to creditors;
- Undertake bi-annual case reviews to ensure that the case is being progressed efficiently and in a timely manner; statutory duties have been undertaken; consider any ethical, money laundering and Bribery Act 2010 issues pertaining to the case and ensure that any identified matters are addressed;
- Submit VAT returns to HM Revenue and Customs, to ensure that any VAT refunds or payments are received or paid;
- Submit annual Tax returns to HM Revenue and Customs;
- Maintain the case cash book, by undertaking quarterly ISA reconciliations and ensure that funds received are paid into the ISA account within 14 days of receipt or forthwith if £5,000 or more is received.

### **Closing Statutory and Professional Compliance**

After concluding all case related matters, I am required to:

- Prepare and submit a letter to HM Revenue and Customs requesting clearance to close the case;
- Reconcile the cash book ready for closure;
- Prepare and issue the Final Report to creditors and convene the final meeting;
- Advertise the final meeting in the Gazette;
- Notify the Official Receiver of the details of the final meeting;
- Hold the final meeting and prepare the minutes of the meeting;
- File a copy of the final meeting report together with confirmation that the Liquidator has received his release; with the Court, the Official Receiver and the Insolvency Service together with the final receipts and payments account;
- If the creditors have so resolved, the Liquidator must obtain his/their release from the Secretary of State
- Obtain authorisation from the Official Receiver to destroy the books, papers and other records of the company;
- Retain and store the liquidation records for a minimum of 6 years after the vacation of office.



- **Tasks in relation to creditors' claims**

- Ensure that all creditors' claims are listed with the correct addresses and references and that the amount claimed correlates to the Statement of Affairs;
- Enter proof of debt forms/claims as and when they are received;
- Before paying a dividend, review the level of funds available and ensure that all costs and expenses have been paid in accordance with the rules of priority;
- Assignment of the right to dividend, where notice is given to the office-holder by a person entitled to a dividend that he wishes the dividend to be paid to another person;
- Deal with enquires from creditors;
- Adjudicate on claims; and
- Declare and pay a dividend, if sufficient funds are available

**Liquidator's Receipts and Payments Account for the period 21 December 2015 to 20  
December 2016 and Statutory Information**

**Contents**

**Appendices**

- B1** Liquidator's Receipts and Payments Account for the period 21 December 2015 to  
20 December 2016
- B2** Statutory Information

Liquidator's Receipts and Payments Account for the period 21 December 2015 to  
20 December 2016

Statement of Affairs £	From 21/12/2015 To 20/12/2016 £	From 21/12/2015 To 20/12/2016 £
COST OF REALISATIONS		
O R Disbursements	2,520.00	2,520.00
Petitioners Deposit	(1,250 00)	(1,250.00)
Courier charges	395.03	395.03
Statutory Advertising	72 00	72 00
Bank Charges	88 00	88 00
	<u>(1,825 03)</u>	<u>(1,825 03)</u>
UNSECURED CREDITORS		
(555,049 36) Miscellaneous	NIL	NIL
	<u>NIL</u>	<u>NIL</u>
<u>(555,049.36)</u>	<u>(1,825.03)</u>	<u>(1,825.03)</u>
REPRESENTED BY		
VAT Receivable		93.41
No.2 Account		(560.44)
ISA NIB		(1,358.00)
		<u>(1,825.03)</u>

  
Stephen Hunt  
Liquidator

**Statutory Information**

**Company information**

Company name	Nick Orchard Properties Limited
Trading name	As above
Nature of business:	Hotels and Similar Accommodation
Trading address:	Tregea Hotel 16-18 High Street Padstow Cornwall PL28 8BB
Court name:	High Court of Justice
Court reference:	No. 6758 of 2015
Petitioning creditor	Stephen Hunt as Supervisor of the failed Company Voluntary Arrangement

**Liquidator's details**

Name	Stephen Hunt
IP number	9183
Name of firm	Griffins
Firm's address	Tavistock House South, Tavistock Square, London, WC1H 9LG
Date of appointment	21 December 2015



## **Creditor Documentation**

### **Contents**

#### Appendices

**C1.** Notice of Creditors' Meeting

**C2.** Proxy Form

**C3.** Proof of Debt Form

**C4.** Creditors' rights – Rules 4.49E and 4.131 of the Insolvency Rules 1986



**Rule 4.54**

**Notice to Creditors of a Meeting of Creditors**

**Form 4.22**

**Nick Orchard Properties Limited (In Liquidation)**

A meeting of the creditors of the company estate has been summoned by the Liquidator pursuant to Rule 4.54 of the Insolvency Rules 1986 for the purpose of appointing a Liquidation Committee and agreeing the basis of the Liquidator's remuneration.

At the meeting, I will be proposing the following resolutions.

1. To appoint a Liquidation Committee
2. In the absence of a Liquidation Committee to approve that the Liquidator's remuneration be calculated on the basis of time properly spent by the Liquidator and his staff, subject to an authorised maximum of £37,424.90, (net of VAT)

The meeting will be held as follows:

Date 13 March 2017

Time 10.00 am

Place Griffins, Tavistock House South, Tavistock Square, London WC1H 9LG

A proxy form is enclosed which must be lodged at the offices of Griffins, Tavistock House South, Tavistock Square, London WC1H 9LG no later than 12 noon on the working day immediately before the meeting to entitle you to vote by proxy at the meeting, together with a completed proof of debt form if you have not already lodged one.

A creditor entitled to attend and vote is entitled to appoint a proxy to attend and vote instead of him. A proxy need not be a creditor. A creditor also has the right to propose a resolution to be voted on by the meeting.

Dated 17 February 2017

Signed



**Stephen Hunt**  
Liquidator  
Griffins  
Tavistock House South  
Tavistock Square  
London, WC1H 9LG



Rule 8.1

Proxy (Winding up by the Court or Bankruptcy)

Form 8.4

Please give full name and  
address for communication

Name of creditor

Address of creditor

Please insert name of  
person (who must be 18 or  
over) or "chairman of the  
meeting" (see note below)  
if you wish to provide for  
alternative proxy holders in  
the circumstances that your  
first choice is unable to  
attend please state the  
name(s) of the alternatives  
as well

Name of proxy holder

1 \_\_\_\_\_  
2 \_\_\_\_\_  
3 \_\_\_\_\_

Please delete words in  
brackets if the proxy holder  
is only to vote as directed  
i.e. he has no discretion

I appoint the above person to be my/the creditor's proxy holder at the meeting  
of creditors to be held on 13 March 2017 or at any adjournment of that  
meeting. The proxy holder is to propose or vote as instructed below (and in  
respect of any resolution for which no specific instruction is given, may vote or  
abstain at his/her discretion).

Any other resolutions which  
the proxy-holder is to  
propose or vote in favour of  
or against should be set  
out in numbered  
paragraphs in the space  
opposite

1. For the appointment of

..... (Name) representing

..... (Name of Creditor) as a member of the  
Creditors' Committee

2. In the absence of a Creditors' Committee to approve that the Liquidator be  
remunerated on the basis of time properly spent by the Liquidator and his  
staff, limited to a time cost estimate of £37,424 90, plus VAT.

[For/Against]

This form must be signed

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Name in CAPITAL LETTERS – \_\_\_\_\_

Only to be completed if the  
creditor/member has not  
signed in person

Position with creditor or relationship to creditor or other authority for signature

Please note that if you nominate the chairman of the meeting to be your proxy-holder he  
will either be a senior staff member of Griffins or the current Liquidator



Date of winding-up order – 21 December 2015		
1	Name of creditor <i>(If a company please also give company registration number)</i>	
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 winding-up order <i>(see note)</i>	
4	Details of any documents by reference to which the debt can be substantiated and provide copies of these documents	
5	If amount in 3 above includes outstanding uncapitalised interest please state amount	
6	Particulars of how and when debt incurred <i>(If you need more space append a continuation sheet to this form)</i>	
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	
10	Name in BLOCK LETTER	
11	Position with or in relation to creditor <i>(e.g. director, accountant, credit controller, etc)</i>	
12	Address of person signing <i>(if different from 2 above)</i>	

If you are registered for VAT the amount claimed should include VAT even if VAT bad debt relief has been claimed under the Value Added Tax Act 1994. Creditors registered for VAT may be able to claim VAT bad debt relief in accordance with Section 36 Value Added Tax Act 1994. In broad terms relief is available when the debt is six months old and "written off" by the creditor entering it on his VAT refunds-for-bad-debts-account. Claims lodged in the liquidation should be gross, including any VAT element. If/when dividends are paid, creditors who have claimed VAT bad debt relief must apportion the dividend between VAT and the net element of their claim and account to HM Revenue & Customs for the VAT element through their VAT return. Insolvency practitioners have no role in administering VAT bad debt relief under the Value Added Tax Act 1994. Creditors who are uncertain how to claim should contact their VAT office or take professional advice.





**Creditors' rights – Rules 4.49E and 4.131 of the Insolvency Rules 1986**  
**Rule 4.49E Creditors' and members' request for further information**

**4.49E(1) If—**

(a) within the period mentioned in paragraph (2)—

- (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
  - (iii) members of the company in a members' voluntary winding up with at least 5% of the total voting rights of all the members having the right to vote at general meetings of the company,
- or

(b) with the permission of the court upon an application made within the period mentioned in paragraph (2)—

- (i) any unsecured creditor, or
- (ii) any member of the company in a members' voluntary winding up,

makes a request in writing to the liquidator for further information about remuneration or expenses set out in the progress report in accordance with Rule 4.49B(1)(e) or (f) (including by virtue of Rule 4.49C(5)) or in a draft report under Rule 4.49D, the liquidator must within 14 days of receipt of the request, comply with paragraph (3) except to the extent that the request is in respect of matter in a draft report under Rule 4.49D or a progress report required by Rule 4.108 which (in either case) was previously included in a progress report not required by Rule 4.108.

**4.49E(2) The period referred to in paragraph (1)(a) and (b) is—**

- (a) 7 business days of receipt (by the last of them in the case of an application by more than one member) of the progress report where it is required by Rule 4.108, and
- (b) 21 days of receipt (by the last of them in the case of an application by more than one member) of the report or draft report in any other case.

**4.49E(3) The liquidator complies with this paragraph by either—**

- (a) providing all of the information asked for, or
- (b) so far as the liquidator 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 liquidation or might reasonably be expected to lead to violence against any person, or
  - (iii) the liquidator is subject to an obligation of confidentiality in respect of the information,

giving reasons for not providing all of the information

**4.49E(4) Any creditor, and any member of the company in a members' voluntary winding up, who need not be the same as the creditors or members who asked for the information, may apply to the court within 21 days of—**



**Creditors' rights – Rules 4.49E and 4.131 of the Insolvency Rules 1986**

- (a) the giving by the liquidator 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.

**4.49E(5)** Without prejudice to the generality of paragraph (4), the order of the court under that paragraph may extend the period of 8 weeks or, as the case may be, 4 weeks provided for in Rule 4.131(1B) or 4.148C(2) by such further period as the court thinks just

**4.49E(6)** This Rule does not apply where the liquidator is the official receiver.



**Creditors' rights – Rules 4.49E and 4.131 of the Insolvency Rules 1986**

**Rule 4.131 Creditors' claim that remuneration is or other expenses are excessive**

**4.131(1)** Any secured creditor, or any unsecured creditor, with the concurrence of at least 10 per cent in value of the creditors (including that creditor) or the permission of the court, may apply to the court for one or more orders in paragraph (4).

**4.131(1A)** Application may be made on the grounds that—

- (a) the remuneration charged by the liquidator,
- (b) the basis fixed for the liquidator's remuneration under Rule 4.127, or
- (c) expenses incurred by the liquidator,

is or are, in all the circumstances, excessive or, in the case of an application under sub-paragraph (b), inappropriate.

**4.131(1B)** The application must, subject to any order of the court under Rule 4.49E(5), be made no later than 8 weeks (or, in a case falling within Rule 4.108, 4 weeks) after receipt by the applicant of the progress report, or the draft report under Rule 4.49D, which first reports the charging of the remuneration or the incurring of the expenses in question ("the relevant report").

**4.131(2)** The court may, if it thinks that no sufficient cause is shown for a reduction, dismiss the application; but it shall not do so unless the applicant has had an opportunity to attend the court for a hearing, of which he has been given at least 5 business days' notice but which is without notice to any other party.

If the application is not dismissed under this paragraph, the court shall fix a venue for it to be heard, and give notice to the applicant accordingly

**4.131(3)** The applicant shall, at least 14 days before the hearing, send to the liquidator 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.

**4.131(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 liquidator 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 liquidation,
- (e) an order that the liquidator or the liquidator'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."

**4.131(5)** Unless the court orders otherwise, the costs of the application shall be paid by the applicant, and are not payable out of the assets.

