

Rule 2.47

Form 2.24B

The Insolvency Act 1986

Administrator's progress report**2.24B**

Name of Company:
Absolute Leisure Limited

Company number:
3770523

In the:
Newcastle upon Tyne District Registry of
the High Court

Court case number:
1487 of 2009

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

We (a) Andrew David Haslam and Gerald Maurice Krasner of Begbies Traynor (Central) LLP,
2 Collingwood Street, Newcastle upon Tyne, NE1 1JF

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

(b) Insert dates

from / to

(b) 8 May 2009 to 7 November 2009

Signed:

Joint Administrators

Dated:

4/12/09

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

2 Collingwood Street, Newcastle upon Tyne, NE1 1JF.

Tel Number: 0191 2699820

Fax Number: 0191 2699821

DX Number:

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

MONDAY



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07/12/2009
COMPANIES HOUSE

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Andrew David Haslam and Gerald Maurice Krasner were appointed Joint Administrators on 8 May 2009

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

Absolute Leisure Limited (In Administration)

Progress report of the Joint Administrators pursuant to Rule 2.47 of The Insolvency Rules 1986

Period: 8 May 2009 to 7 November 2009

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 - 2. Joint Administrators' time costs and expenses
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1. INTERPRETATION

<u>Expression</u>	<u>Meaning</u>
"the Company"	Absolute Leisure Limited (In Administration)
"the Administration"	The appointment of Administrators under Schedule B1 to the Insolvency Act 1986 on 8 May 2009
"the Joint Administrators"	Andrew David Haslam and Gerald Maurice Krasner of Begbies Traynor (Central) LLP, 2 Collingwood Street, Newcastle upon Tyne, NE1 1JF
"the Act"	The Insolvency Act 1986
"the Rules"	The Insolvency Rules 1986
"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(a), Insolvency Act 1986)
"security"	(i) In relation to England and Wales, any mortgage, charge, lien or other security 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(b), Insolvency Act 1986)
"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:	Absolute Leisure Limited
Trading names:	Coco Mos Restaurant, 26 The Side, Tyne House, Newcastle upon Tyne, NE1 3JE The Angel Hotel, Lengsyard, Baxtergate, Whitby, YO21 1DE
Date of Incorporation:	13 May 1999
Company registered number:	3770523
Company registered office:	Begbies Traynor (Central) LLP, 2 Collingwood Street, Newcastle upon Tyne, NE1 1JF

3. DETAILS OF APPOINTMENT OF ADMINISTRATORS

Names of Joint Administrators:	Andrew David Haslam and Gerald Maurice Krasner, Licensed Insolvency Practitioners of Begbies Traynor (Central) LLP, 2 Collingwood Street, Newcastle upon Tyne, NE1 1JF
Date of Administrators' appointment:	8 May 2009
Court:	Newcastle upon Tyne District Registry of the High Court
Court Case Number:	1487 of 2009
Person making appointment / application:	Director – Anthony Knox
Acts of the Joint Administrators:	The Joint 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:	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.

4. PROGRESS DURING THE PERIOD

Attached at Appendix 1 is our abstract of receipts and payments for the period from 8 May 2009 to 7 November 2009.

Assets

Freehold Property – The Angel Hotel, Lengyard, Baxtergate, Whitby, YO21 1DE

As detailed within the Proposals a management agreement was entered into with the previous management team to operate this outlet whilst a marketing exercise to sell the property was undertaken. The agents, Christie & Co Limited have extensively marketed this property. Offers have been received but a sale has not yet been agreed. The Directors' Statement of Affairs indicates a book value of £2,400,000. The valuation prepared by Christie & Co Limited is not mentioned in this report so not to prejudice a sale.

To date £2,250 has been received in management fees.

Leasehold Property – Coco Mos, 26 The Side, Tyne House, Newcastle upon Tyne, NE1 3JE

This outlet was closed on our appointment as it was not viable to operate. The lease was marketed by Christie & Co Limited. Offers were received and the landlord's agreement to the assignment of the lease was granted. On 24 August 2009 a premium was secured on the sale of the lease in the sum of £60,000. Creditors will note from Appendix 1 that the Directors in their Statement of Affairs included a book value for the lease in the sum of

£540,000. Christie and Co Limited valued the leasehold interest at a forced sale value of £nil and a best value of £100,000.

Directors' Loan Accounts and Intercompany debtors

The last audited accounts of the Company were to the year ending 31 December 2006. Management accounts have been subsequently produced but on investigation it transpired that assets were included within Absolute Leisure Limited's books which were in the name of other Group companies. The Administrators have undertaken investigation work to try and establish in which Group companies assets belong and when transactions have taken place and whether they were for fair value. The intercompany debtor position was also investigated.

The books and records also showed one Director's loan being overdrawn with others being in credit.

The Administrators have met with the Directors of the Group companies, with lawyers present, and have now agreed a full and final settlement figure in respect of all potential liabilities of £40,000. This is to be paid by the Directors in ten instalments of £4,000 per month. To date £12,000 has been received and the payments are up to date.

Investments

The Company has subsidiary companies. Investigations to date indicate that the investments have no value as the subsidiary companies are either dormant or insolvent.

Liabilities

Administrators' Remuneration

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 in accordance with the explanatory note on the subject, which accompanied *The Report and Proposals of the Joint Administrators*.

The relevant resolutions were approved at the initial meeting of creditors held on 16 July 2009.

Total remuneration drawn to date, in accordance with the approved resolution in respect of remuneration, amounts to £30,000. Total time spent to 7 November 2009 on this assignment amounts to 401 hours at an average composite rate of £240 per hour resulting in total time costs to date of £96,512. The following further information as regards time costs and expenses is set out at Appendix 2:

- ☐ SIP9 time cost grid
- ☐ Begbies Traynor (Central) LLP's policy for re-charging expenses
- ☐ Begbies Traynor (Central) LLP's charge-out rates
- ☐ Narrative summary of time costs incurred and summary by staff grade and work activity

A considerable amount of time has been spent on this assignment undertaking the investigation work detailed above. In addition, due to the confusion surrounding which assets belonged to which Group company, further time has been spent identifying which creditors (especially the utility companies and local council creditors) belong to this Company. Negotiating with parties interested in acquiring the assets has also required a lot of time.

Rents Paid - Coco Mos, 26 The Side, Tyne House, Newcastle upon Tyne NE1 3JE

To agree to the assignment of the lease on Coco Mos, the landlord required the rent arrears in the sum of £5,000 to be paid.

All other payments have been made in the normal course of the Administration.

Statement of Affairs

The Directors submitted the Statement of Affairs as at 8 May 2009 on 16 July 2009. This is referred to at Appendix 1.

Secured Creditors

AIB (UK) plc "the Bank" hold a legal mortgage over this property. It is expected that Bank will suffer a shortfall when the property is finally sold.

Preferential Creditors

The claims from employees in respect of Arrears of Pay and Holiday Pay are preferential. We have received a claim in the sum of £26,168 from Department for Business, Innovation and Skills (DBIS).

Prescribed Part Fund for the Non Preferential Creditors

There is no application of the Prescribed Part (S 176A of the Insolvency Act 1986) in this case as there is no floating charge debenture.

Non Preferential Unsecured Creditors

We have received claims from some creditors, a number of creditors have so far failed to lodge claims presumably due to the initial lack of dividend prospects.

HM Revenue & Customs (HMRC) have yet to submit a claim for VAT following the completion of the outstanding pre Administration VAT returns; we have a provisional claim of £65,298

We have completed the P35 for 2008-9 and await a final claim from HMRC; we have received a provisional claim of £204,817.

HMRC appear to have a claim for Corporation Tax, again we have received a provisional claim of £3,545.21.

The DBIS non preferential claim for employee entitlements is £79,696.

5. ASSETS THAT REMAIN TO BE REALISED

The freehold property at Whitby remains to be realised. It is anticipated that an offer will be accepted in the next few weeks to allow a sale to complete. AIB (UK) plc "the Bank" hold a legal mortgage over this property. It is expected that Bank will suffer a shortfall when the property is finally sold.

The balance in the sum of £28,000 due from the Directors in full and final settlement of any overdrawn loan accounts, asset transfers or intercompany debtor balances is due to be paid over the next seven months.

6. OTHER RELEVANT INFORMATION

At the meeting of creditors held on 16 July 2009 our Proposals for achieving the purpose of the Administration were approved. The proposed exit route from Administration was that of a Creditors' Voluntary Liquidation "CVL" within one year from the appointment date. The reason for this proposed exit route was to allow the Liquidators, should it be necessary, to take actions against the Company which are not available to Administrators. These investigations have now been concluded within the Administration.

The Administrators therefore request the consent of creditors to a revision of the Proposals to allow the chosen exit route to be dissolution and to also extend the Administrators' term of office by six months to allow the collection of the monies from the Directors.

Revised Proposals

- On present information we consider that the Company will have insufficient property to enable a distribution to be made to unsecured creditors. Consequently, as soon as we are satisfied that we have fully discharged our duties as Administrators and that the purpose of the Administration has been fully achieved, we propose to implement the provisions of Paragraph 84 of Schedule B1 to the Act. Under these provisions, on the registration of a notice sent by us to the Registrar of Companies, our appointment as Administrators ceases to have effect, and at the end of three months the Company will automatically be dissolved.

Where an Administrator sends such a notice of dissolution to the Registrar of Companies, he must also file a copy of the notice with the Court and send a copy to each creditor of the Company, and on application by any interested party the Court may suspend or disapply the automatic dissolution of the Company.

- Due to the ten months given to the Directors to pay the settlement figure of £40,000, it has transpired that it is not possible to finalise the Administration as envisaged within one year of the date of our appointment. Yet Paragraph 76 of Schedule B1 to the Act provides that the appointment of an Administrator shall cease to have effect at the end of the period of one year beginning with the date on which it takes effect. However, the Administrators' term of office may be extended either by court order for a specified period or by consent of the creditors for a specified period not exceeding six months. It has therefore become necessary for us to seek creditor consent to extending the period of the Administration for up to a further six months following the anniversary of our appointment in order to ensure that the objective of the Administration can be fully achieved.

As detailed within the initial Proposals it is not expected that there will be any funds available to preferential or unsecured creditors.

7. CONCLUSION

Pursuant to paragraph 58 of Schedule B1 to the Act, the Joint Administrators' revised Proposals will be considered at a meeting of the Company's creditors conducted by means of a postal resolution in accordance with the Notice of conduct of business by correspondence (Form 2.25B) accompanying this document. Rule 2.48(7) provides that a creditor or creditors of the Company whose debts amount to at least 10% of the total debts of the Company, may requisition a meeting of creditors, rather than the meeting being conducted by correspondence. Any such requisition must be in the prescribed manner in accordance with Rule 2.37 and be made within 5 business days of the date on which the Administrators' revised Proposal is sent out.

Subject to the approval of our revised Proposals at the creditors' meeting we will report on progress again in approximately six months time.



Andrew D Haslam
Joint Administrator

Dated: 4 December 2009

ABSOLUTE LEISURE LIMITED

APPENDIX 1

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

Period 8 May 2009 to 7 November 2009

Estimated to realise per Statement of Affairs £		Receipts & Payments to date £	Anticipated Receipts & Payments £	Projected Outcome £
	ASSETS SPECIFICALLY PLEDGED			
2,400,000	Freehold Property - The Angel	0	Unknown	0
	Payments			
	Administrators' Fees	0	(50,000)	(50,000)
	Legal Fees	0	(50,000)	(50,000)
	Agents Fees	0	(10,000)	(10,000)
	Available to Fixed Chargeholder		unknown	unknown
(2,400,000)	Fixed Chargeholder - Allied Irish Bank plc	0	(2,300,000)	(2,300,000)
0	Deficit c/d	0	unknown	unknown
	ASSETS NOT SPECIFICALLY PLEDGED			
524,000	Leasehold Property - Coco Mo's	60,000	0	60,000
	Management Fee	2,250	Unknown	2,250
	Cash at Bank	422	0	422
	Directors Loan Account	3,000	7,000	10,000
	Inter Company Balances	9,000	21,000	30,000
	Bank Interest	2	Unknown	2
524,000		74,675	28,000	102,674
	Payments			
	Administrators' fees	(30,000)	(34,182)	(64,182)
	Administrators' disbursements	(176)	(1,000)	(1,176)
	Agents fees & expenses	(10,000)	(1,000)	(11,000)
	Legal Fees	(10,000)	(1,000)	(11,000)
	Legal Disbursements	(1,571)	0	(1,571)
	Professional Advice Fees	(355)	0	(355)
	Specific Bond	(528)	0	(528)
	Stationery & Postage	(601)	(1,000)	(1,601)
	Copying	(416)	(500)	(916)
	Statutory Advertising	(270)	0	(270)
	Other Property Expenses	(75)	0	(75)
	Rents Paid	(5,000)	0	(5,000)
	Other		(5,000)	(5,000)
		(58,992)	(43,682)	(102,674)
	Available for preferential creditors			0
	Arrears of wages and holiday pay	0	0	(26,168)
	Surplus available for creditors	0	0	0

JOINT ADMINISTRATORS' TIME COSTS AND EXPENSES

- a. SIP 9 Time Grid
- b. Begbies Traynor (Central) LLP's policy for re-charging expenses;
- c. Begbies Traynor (Central) LLP's charge-out rates;
- d. Narrative summary of time costs incurred and summary by staff grade and work activity.

Absolute Leisure Limited - In Administration
Time costs analysis for the period from 8 May 2009 to 7 November 2009

30,000

APPENDIX 2b

BEGBIES TRAYNOR (CENTRAL) LLP 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 and also where payments are to be made to outside parties in which the office holder or his firm or any associate has an interest. 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 expenses (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 expenses (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;
- Car mileage is charged at the rate of 40 pence per mile;
- Storage of books and records (when not chargeable as a *Category 1 expense*) 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;
- In addition to the 2 categories referred to above, best practice guidance indicates that where payments are made to outside parties in which the office holder or his firm or any associate has an interest these should be treated as *Category 2 expenses*.

(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 expense*:

- Telephone and facsimile
- Printing and photocopying
- Stationery

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

² Ibid 1

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 Newcastle upon Tyne office as at the date of this report are as follows:

Grade of staff	Charge-out Rate (£ per hour)
Partner	350
Director	325
Senior Manager	295
Manager	250
Assistant Manager	195
Senior Administrator	160
Administrator	140
Junior Administrator	100
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 units of 0.10 of an hour (i.e. 6 minute units).

BEGBIES TRAYNOR (CENTRAL) LLP - NARRATIVE SUMMARY OF TIME COSTS

NEWCASTLE UPON TYNE

CORPORATE APPOINTMENTS

The narrative below refers to the time cost grid provided to creditors in compliance with Statement of Insolvency Practice SIP 9 and summarises the detailed time records maintained by Begbies Traynor (Central) LLP, more detail of time spent with time recorded over 28 separate headings is available on request.

Some of the detail may not be appropriate to this particular insolvency appointment.

ADMINISTRATION AND BANKING

Appointment and Case Planning - initial notifications of appointment to creditors, statutory notices, statutory adverts etc after appointment. All correspondence with Companies House and the Court. Any necessary consideration of validity of appointment. All work relating to obtaining and maintaining the IP bond.

Administration and Banking - general administration not covered within a specific time code. Bank reconciliations, general case banking, fee calculation, SIP 9 grids and WIP.

All closing matters and any post closure work.

Statutory Reporting and Statement of Affairs - all reports and returns not under another specific time coding. Case reviews, consideration of strategy. File notes, planning meetings, internal meetings for case discussion and file reviews.

Preparation and review of receipts and payments accounts.

Contact with Directors re preparation/submission of Statement of Affairs.

INVESTIGATIONS

CDDA and Investigations - drafting and submission of CDDA reports/returns to DBIS and any necessary follow up work in relation to Directors. (Includes any travel specifically for CDDA proceedings).

All general investigation work other than that specifically required for CDDA reporting and proceedings – e.g. investigations to identify antecedent transactions, preferences, transactions at undervalues, misfeasance's, director overdrawn loan accounts etc.

REALISATION OF ASSETS

Debt Collection - preparation of, and review of, the schedule of book debts, all work and correspondence to collect book debts (but not 'Trading' debts) and other debts such as claims, refunds etc, investigating likelihood of recovery and write offs, all contact with debtors, instruction of solicitors, negotiation of any commercial settlements.

Property, Business and Asset Sales - all steps to be taken to preserve and realise fixed charge assets and floating charge assets (other than book debts) including stock, WIP, plant and equipment, computers, office furniture and equipment and motor vehicles.

Negotiations and steps pre and post completion relating directly to sale of business/assets.

Sale of any intangible assets eg IPR, copyrights, patents.

Retention of Title/Third Party Assets - general enquires, stock-taking, agreeing claims and correspondence with ROT creditors.

Dealing with hire purchase, lease purchase, lease, rental and hire creditors etc.

Dealing with landlords, surrenders and disclaimers of leases.

TRADING (if appropriate)

Trading - Trading strategy meetings, site attendance, dealing with customers/suppliers and dealing with accounts, collection of trading debts and including employee issues arising during trading but not redundancy.

Preparation of trading facts and figures, all necessary accounting, dealing with VAT, PAYE etc for the trading period. Management and control of the trading, reporting to funders, banks and other third parties

CREDITORS

Secured - establishing validity and scope of security, all correspondence and work associated with distribution to secured creditors. Communications with and reporting to secured creditors

Others - correspondence, e-mails, phone calls with preferential and non preferential unsecured creditors (including dealing with enquiries from parties who claim to be creditors) and with members.

Acknowledgement and recording of creditor claims. Adjudication of the claims as appropriate.

Redundancy, employee claims and correspondence (other than employee issues arising as part of trading), DBIS RPO correspondence.

Creditors Committee - meetings, reports to and dealings with creditors committee / liquidation committee, if appointed.

OTHER MATTERS

Meetings - all meetings, including statutory meetings, following appointment other than creditors committee / liquidation committee meetings, other meetings (excluding those specifically part of investigations or CDDA reporting/proceedings) and internal case strategy meetings.

Tax - all statutory returns, VAT returns, CT returns, P35 PAYE returns, all calculations, disputes, enquiries and inspections.

Litigation - all work relating to legal proceedings (following issue of proceedings)

Other - all work involving pension issues.

Travel to businesses, meetings, Courts, Directors, shareholders and in respect of trading insolvencies. (Excludes any travel specifically for CDDA proceedings).

Begbies Traynor (Central) LLP, Newcastle upon Tyne.

Revised Proposals

1) "THAT on present information we consider that the Company will have insufficient property to enable a distribution to be made to unsecured creditors. Consequently, as soon as we are satisfied that we have fully discharged our duties as Administrators and that the purpose of the Administration has been fully achieved, we propose to implement the provisions of Paragraph 84 of Schedule B1 to the Act. Under these provisions, on the registration of a notice sent by us to the Registrar of Companies, our appointment as Administrators ceases to have effect, and at the end of three months the Company will automatically be dissolved.

Where an Administrator sends such a notice of dissolution to the Registrar of Companies, he must also file a copy of the notice with the court and send a copy to each creditor of the Company, and on application by any interested party the court may suspend or disapply the automatic dissolution of the Company".

2) "THAT due to the ten months given to the Directors to pay the settlement figure of £40,000, it has transpired that it is not possible to finalise the Administration as envisaged within one year of the date of our appointment. Yet Paragraph 76 of Schedule B1 to the Act provides that the appointment of an Administrator shall cease to have effect at the end of the period of one year beginning with the date on which it takes effect. However, the Administrators' term of office may be extended either by court order for a specified period or by consent of the creditors for a specified period not exceeding six months. It has therefore become necessary for us to seek creditor consent to extending the period of the Administration for up to a further six months following the anniversary of our appointment in order to ensure that the objective of the Administration can be fully achieved".