

Rule 2.33

Form 2.17B

The Insolvency Act 1986

Statement of administrator's proposals 2.17B

Name of Company:
Ely Property (UK) Limited

Company number:
03909350

In the:
Royal Courts of Justice,
Chancery Division
Companies Court

Court case number:
15651 of 2009

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

We, (a) Neil John Mather of Begbies Traynor (Central) LLP, 32 Cornhill, London, EC3V 3BT
and William John Kelly of Begbies Traynor (Central) LLP, 4th Floor, Newwater House, 11
Newhall Street, Birmingham, B3 3NY

* Delete as applicable

attach a copy of ~~*my~~ / our proposals in respect of the administration of the above company.

A copy of these proposals was sent to all known creditors on

(b) Insert date

(b) 18 August 2009

Signed:

Joint Administrator

Dated:

18/08/2009

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
32 Cornhill, London, EC3V 3BT

Tel: 020 7398 3800

Fax Number: 020 7398 3799

DX Number:



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20/08/2009

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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

THURSDAY

Neil John Mather and William John Kelly appointed joint administrators on 23 June 2009.

The affairs, business and property of the Company are being managed by the joint administrators, who act as the Company's agents.

Ely Property (UK) Limited (In Administration)

Report and Proposals of the joint administrators under the provisions of Paragraph 49 of Schedule B1 to the Insolvency Act 1986

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1. INTERPRETATION

<u>Expression</u>	<u>Meaning</u>
"the Company"	Ely Property(UK) Limited (In Administration)
"the administration"	The appointment of administrators under Schedule B1 of the Insolvency Act 1986 on 23 June 2009
"the joint administrators"	Neil John Mather of Begbies Traynor (Central) LLP, 32 Cornhill, London, EC3V 3BT and William John Kelly of Begbies Traynor (Central) LLP, 4 th Floor, Newwater House, 11 Newhall Street, Birmingham, B3 3NY
"the Act"	The Insolvency Act 1986, as amended
"the Rules"	The Insolvency Rules 1986, as amended
"the creditors"	All preferential creditors and all unsecured creditors
"preferential creditor"	Any creditor of the Company whose claim is preferential within Section 386 of the Insolvency Act 1986 as at 23 June 2009 being the date the Company entered administration.
"unsecured creditor"	Any person (other than a preferential creditor) who has, or claims to have, any claim against the Company (whether the claim be present, future or contingent or prospective and whether liquidated or for damages and whether arising in contract or tort or otherwise) in connection with or arising from any matter occurring prior to 23 June 2009.

2. STATUTORY INFORMATION

Date of Incorporation:	19 January 2000
Company registered number:	03909350
Registered office:	32 Cornhill, London, EC3V 3BT
Trading address:	c/o Omagus Corporate Services, No 1 Great Cumberland Place, London W1H 7AL
Principal business activities:	Development & Sell Real Estate
Trading names:	Ely Property (UK) Limited, BHE Developments Limited
Director:	David Mintz
Company Secretary:	Mewan Alwis
Auditors:	R Fulena and Co
Share capital:	10,000 shares of 1p each
Shareholders:	Mewan Alwis ZRN Nominees (0083) Limited Alan Mark Pesskin David Yudit as Executor of Robin Michael Pesskin (Deceased) Paul Richard Stockton Assura Lift Holdings Limited

3. DETAILS OF APPOINTMENT OF ADMINISTRATORS

Name(s) of joint administrator(s): Neil John Mather, Partner and Licensed Insolvency Practitioner of Begbies Traynor (Central) LLP, 32 Cornhill, London, EC3V 3BT and William John Kelly, Partner and Licensed Insolvency Practitioner of Begbies Traynor (Central) LLP, 4th Floor, Newwater House, 11 Newhall Street, Birmingham, B3 3NY

Date of administrators' appointment: 23 June 2009

Court: High Court of Justice, Chancery Division, 15651 of 2009

Person(s) making appointment / application: AIB Group (UK) plc.

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 / territorial] proceedings' within the meaning of Article 3 of the Regulation.

STATUTORY PURPOSE OF ADMINISTRATION

Paragraph 3 of Schedule B1 to the Act provides as follows:

- "3 (1) The administrator of a company must perform his functions with the objective of:
- (a) rescuing the company as a going concern, or
 - (b) achieving a better result for the company's creditors as a whole than would be likely if the company were wound up (without first being in administration), or
 - (c) realising property in order to make a distribution to one or more secured or preferential creditors.
- (2) Subject to subparagraph (4), the administrator of a company must perform his functions in the interests of the company's creditors as a whole.
- (3) The administrator must perform his functions with the objective specified in subparagraph (1)(a) unless he thinks either:
- (a) that it is not reasonably practicable to achieve that objective, or
 - (b) that the objective specified in subparagraph (1)(b) would achieve a better result for the company's creditors as a whole.
- (4) The administrator may perform his functions with the objective specified in subparagraph (1)(c) only if:
- (a) he thinks that it is not reasonably practicable to achieve either of the objectives specified in subparagraph (1)(a) and (b), and
 - (b) he does not unnecessarily harm the interests of the creditors of the company as a whole."

4. CIRCUMSTANCES GIVING RISE TO THE APPOINTMENT OF ADMINISTRATORS

The Company was incorporated on 19 January 2000 under the name Waiting Room Magazines Limited. The Company changed its name in February 2000 to B.H.E. (York) Limited, and to B.H.E. Developments Limited in April 2006 and finally in May 2008, it changed to its current name. Using the name B.H.E. Developments Limited, the Company was used as a Special Purpose Vehicle ("SPV") company by British Health Enterprises Limited to acquire a property in Finchley, North London for £4m. This purchase made in May 2007 was 100% debt funded. In March 2007, the property was valued at £4m.

The property consists of a 3 storey office building, and at the time of the purchase, planning consent that would expire in July 2008 was obtained for a new build 9 storey scheme comprising of residential apartments above a ground floor office. The borrower's initial strategy was to obtain revised planning permission during the last quarter of 2007 and sell the property thereafter. Further funding in this regard was supported by Allied Irish Bank plc ("the Bank") but was withdrawn when no agreement was reached with the proposed purchaser.

The Company was subsequently acquired by Ely Property Group Limited (a wholly owned subsidiary of Newcourt Group plc) in January 2008 and changed to its current name in May 2008. Under advice, the Company submitted two applications for residential and student schemes and both were declined in July 2008 and unsuccessfully appealed in June 2009.

The Bank's facility to the Company expired at the end of March 2009 and their security over the Company was reviewed by their solicitors at the end of April. The Bank then issued a letter of demand on 19th June 2009 to the Company who failed to pay their indebtedness of c.£4.3m. The Company had been presented with a winding up petition that was due to be heard on 24th June 2009, but the petition was dismissed following the appointment of the administrators by the Bank on 23rd June 2009.

5. THE ADMINISTRATION PERIOD

Receipts and Payments

Attached at Appendix 1 is our account of receipts and payments from the commencement of administration to date, incorporating our projected outcome for creditors.

Progress to Date

Since my appointment as joint administrator, the following events have taken place:

Statutory Duties

On appointment, the administrators ensured that all standard letters were sent to various parties including the Company's creditors and all statutory advertising was completed. The administrators also requested the Company's director to complete questionnaires relating to the affairs of the Company and submit statement of affairs as at the date of administration.

Creditors

The administrators continue to receive creditor claims and deal with all queries as and when they arise.

Property

There have been a number of parties interested in purchasing the property and the administrators continue to forward all offers to the Bank for their consideration. The Bank is at present reviewing various proposals in relation to the property and continues to update the administrators of its progress in this regard.

6. JOINT ADMINISTRATORS' PROPOSALS

Purpose of the Administration

We are required to set out our proposals for achieving the purpose of the administration which in this context means one of the objectives specified in paragraph 3 of Schedule B1 to the Act as set out at section 3 of this report above.

For the reasons set out in our report, we presently consider that it is not reasonably practicable to achieve either of the objectives specified in subparagraph 3(1)(a) and 3(1)(b), and consequently the most appropriate objective to pursue in this case is that specified in subparagraph paragraph 3(1)(c), namely realising property in order to make a distribution to one or more secured or preferential creditors. We furthermore consider that pursuing this objective should not unnecessarily harm the interests of the creditors of the Company as a whole.

Proposals to be considered by creditors

In accordance with paragraphs 3 and 49 of Schedule B1 of the Act, the joint administrators' proposals are as follows:

- i. The Joint Administrators take all necessary actions to preserve the value of the Company's assets and achieve maximum recovery of the Company's assets.
- ii. The Joint Administrators continue to realise the assets of the Company for the benefit of the creditors and instigate any Court actions deemed of value to the Company and its stakeholders.
- iii. Once the assets have been realised, the Administrators will distribute amounts due to secured creditors and preferential creditors.
- iv. The Joint Administrators propose to make application to Court as they deem fit at any time for directions in relation to any particular matter arising in connection with the carrying on of their functions.
- v. The Joint Administrators investigate any antecedent transactions that may have detrimentally affected the Company's financial position.
- vi. The Joint Administrators may, where possible, make a distribution to any preferential creditors in accordance with the requirements of the Act, and if appropriate, may make an application to the Court for the payment of the unsecured creditors.
- vii. The Joint Administrators may exit the administration by way of dissolution, at such time as the Joint Administrators consider that one or more of the purposes of the administration as set out in paragraph 4 above have been achieved.
- viii. If the exit route is by way of a creditors' voluntary liquidation, it is proposed that Neil John Mather of Begbies Traynor (Central) LLP, 32 Cornhill, London, EC3V 3BT and William John Kelly of Begbies Traynor (Central) LLP, 4th Floor, Newater House, 11 Newhall Street, Birmingham, B3 3NY be appointed Joint Liquidators of the Company.
- ix. These proposals shall be subject to such modifications or conditions as the Court may approve or impose.
- x. That, if no creditors' committee is formed, fees be fixed in accordance with Rule 2.106 of the Rules by reference to time properly given by the Joint Administrators and their staff in attending to matters arising in the administration and may draw their remuneration on account as and when funds permit. They be remunerated on the basis of their hourly costs

at scale rates, calculated on the time properly spent in the course of the administration and subject to full disclosure to creditors in accordance with Statement of Insolvency Practice 9 issued by the Joint Insolvency Committee on behalf of the administrators' licensing bodies. Remuneration drawn will be notified to any creditors' committee appointed under paragraph 57 of Schedule B1 to the Act, and they be reimbursed for their incidental expenses. In the absence of a creditors' committee, details of time incurred and disbursements drawn will be reported to creditors in accordance with *Statement of Insolvency Practice 9* issued by the Joint Insolvency Committee on behalf of the administrators' licensing bodies.

In order that the purpose of the administration may be fully achieved, we propose to remain in office as administrators in order to conclude the realisation of the Company's property. Additionally, the principal investigative matters to be dealt with in this respect will include:

- A review of the books and records and financial statements;
- Our investigations into the conduct of the directors of the Company and the submission of our report to the Department for Business Innovation & Skills in this regard;

Exit from Administration

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.

However, it may transpire that it is not possible to finalise the administration as envisaged within one year of the date of our appointment. In particular, this situation will arise if we are not able to conclude a sale of the Company's property. 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 administrator's 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 may therefore become necessary at some future time for us to seek creditor consent to extending the period of the administration for up to a further 6 months following the anniversary of our appointment in order to ensure that the objective of the administration can be fully achieved.

Section 176A Fund for Unsecured Creditors

Section 176A of the Act provides that, where the company has created a floating charge after 15 September 2003, the administrator must make a *prescribed part* of the company's *net property* available for the unsecured creditors and not distribute it to the floating charge holder except in so far as it exceeds the amount required for the satisfaction of unsecured claims. *Net property* means the amount which would, were it not for this provision, be available to floating charge holders out of floating charge assets (i.e. after accounting for preferential debts and the costs of realisation). The *prescribed part* is calculated by reference to a sliding scale as follows:

- 50% of the first £10,000 of *net property*;
- 20% of *net property* thereafter;

- ☐ Up to a maximum amount to be made available of £600,000

An administrator will not be required to set aside the *prescribed part* if:

- ☐ the *net property* is less than £10,000 and he thinks that the cost of distributing the *prescribed part* would be disproportionate to the benefit; (Section 176A(3)) or
- ☐ he applies to the court for an order on the grounds that the cost of distributing the *prescribed part* would be disproportionate to the benefit and the court orders that the provision shall not apply (Section 176A(5)).

Rule 2.33 of the Rules requires that our proposals for achieving the purpose of the administration shall include, to the best of our knowledge and belief, an estimate of the value of the *prescribed part* and an estimate of the value of the Company's *net property*.

We presently estimate these values as £nil and £nil respectively.

On present information we confirm that it is not our intention to make an application to court under section 176A(5). However we reserve our position generally in this regard should circumstances materially change.

Administrators' Remuneration

The joint administrators propose to be remunerated on the basis of their hourly costs at scale rates calculated on the time properly spent in the course of the administration and that they may draw their remuneration on account as and when funds permit. The joint administrators also seek approval to re-charge expenses in line with their firm's policy.

Remuneration drawn will be notified to any creditors' committee appointed under paragraph 57 of Schedule B1 to the Act. In the absence of a creditors' committee, details of time incurred and disbursements drawn will be reported to creditors in accordance with *Statement of Insolvency Practice* 9 issued by the Joint Insolvency Committee on behalf of the administrators' licensing bodies.

Total time spent to date on this assignment amounts to 46.25 hours at an average composite rate of £197 per hour resulting in total time costs to date of £9,110.

To assist creditors in determining this matter, the following further information as regards time costs and expenses is set out at Appendix [3]:

- ☐ Begbies Traynor policy for re-charging expenses
- ☐ Begbies Traynor charge-out rates
- ☐ Narrative summary of time costs incurred and summary by staff grade and work activity

In addition to the information provided at Appendix [3], a copy of the creditors' guide to Administrators' fees is available on request. Alternatively, the guide can be downloaded from http://www.begbies-traynor.com/uploads/documents/jul_08/bt_1215095179_ADM_9503.doc

In the absence of an initial meeting of creditors (see section 8 Conclusion, below) and the establishment of a creditors' committee, the joint administrators' remuneration is fixed by the approval of the secured and preferential creditors in accordance with Rule 2.106 (5A).

7. STATEMENT OF AFFAIRS


The director has yet to submit a sworn statement of affairs and the administrators are therefore unable to provide a copy with these proposals. The administrators are of the opinion that the only asset that will be realisable is the Company's property in Finchley, North London.

8. CONCLUSION

The joint administrators presently consider that the Company has insufficient property to enable a distribution to be made to unsecured creditors (other than by virtue of section 176A(2)(a)).

In these circumstances the obligation to summon an initial meeting of the Company's creditors to consider the joint administrators' proposals is disapplied by paragraph 52(1). The joint administrators are therefore not empowered to summon such a meeting unless creditors, whose debts amount to at least 10% of the total debts of the Company, requisition such a meeting. Any such requisition must be in the prescribed manner in accordance with Rule 2.37 and be made within 12 days of the date on which the administrators' statement of proposals is sent out. The expenses of summoning and holding a meeting at the request of a creditor shall be paid by that person, who shall deposit with the administrators security for their payment. If no such meeting is held, then by Rule 2.33(5), the joint administrators' proposals are deemed to have been approved by the creditors.

In the absence of an initial creditors' meeting I will report on progress again approximately six months after the commencement of the administration, or at the conclusion of the administration, whichever is the sooner.


N J Wather
Joint Administrator
Date: 14/08/2009

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

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

Period 23 June 2009 to 14 August 2009

	Receipts & Payments to date £	Anticipated Receipts & Payments £	Projected Outcome £
ASSET REALISATIONS			
Property in Finchley	-	Uncertain	Uncertain
	-	Uncertain	Uncertain
COST OF ADMINISTRATION			
Statutory advertising	(228)	(250)	(478)
Bordereau	(31)	(350)	(381)
Bank charges	-	(50)	(50)
Companies House	(4)	(10)	(14)
Administrator's Fees	-	Uncertain	Uncertain
Legal Fees and Disbursements	-	Uncertain	Uncertain
Available for Floating Charge Holder	(263)	Uncertain	Uncertain
Less Debts secured by Allied Irish Bank Plc			(4,333,448)
Available for unsecured creditors			Uncertain
Less Unsecured Creditors			(481,495)
Estimated deficiency as regards creditors			Uncertain

Notes

Unsecured creditors figure is based on claims received by the administrators as no statement of affairs has been submitted by the Company director

JOINT ADMINISTRATORS' TIME COSTS AND EXPENSES

- a. Begbies Traynor policy for re-charging expenses;
- b. Begbies Traynor charge-out rates;
- c. Narrative summary of time costs incurred and summary by staff grade and work activity.

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 in Appendix 3.

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 in Appendix 3.

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 (London £150) 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 expense*) is charged on the basis that the number of standard archive boxes held in storage

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

² Statement of Insolvency Practice 9 (SIP 9) – Remuneration of insolvency office holders in England & Wales (Effective 1 April 2007)

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;

(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

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 London office as at the date of this report are as follows:

Grade of staff	Charge-out Rate (£ per hour)
Partner 1	450
Partner 2	395
Director	375
Senior Manager	350
Manager	300
Assistant Manager	250
Senior Administrator	220
Administrator	180
Junior Administrator	150
Support	150

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).

Ely Property (UK) Limited

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