

## Liquidator's Progress Report

# S.192

Pursuant to Sections 92A and 104A and 192  
of the Insolvency Act 1986

To the Registrar of Companies

Company Number

04178264

Name of Company

In-Stone (Europe) Limited

I / We

Kevin J Hellard, 30 Finsbury Square, London, EC2P 2YU

the liquidator(s) of the company attach a copy of my/our Progress Report  
under section 192 of the Insolvency Act 1986.

The Progress Report covers the period from 15/03/2016 to 14/03/2017

Signed

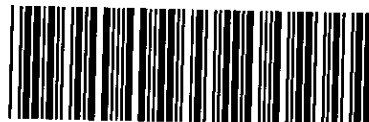
Date

11/05/17

Grant Thornton UK LLP  
30 Finsbury Square  
London  
EC2P 2YU

Ref: I73013/KJH/TPB/KZE/LKG

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COMPANIES HOUSE

Our Ref KJH/TPB/KE/I73013/7

To the creditors and members

Recovery and Reorganisation

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11 May 2017

Dear Sirs

**In-Stone (Europe) Limited - In liquidation ("the Company")**

**1 Introduction**

- 1.1 I was appointed joint liquidator of the Company, together with Stephen Hunt of Griffins by an Order of the High Court of Justice on 20 March 2012, in place of Mr Costas Morfakis of Axiom Recovery LLP. Mr Theodoulos Papanicola of Bond Partners LLP was originally appointed administrator on 13 April 2010. The Company entered creditors' voluntary liquidation on 9 December 2010, and Mr Papanicola was appointed liquidator. Mr Morfakis replaced Mr Morfakis as joint liquidator following an Order of the High Court of Justice. Mr Hunt resigned as joint liquidator on 14 March 2013.
- 1.2 Rule 4.49C-CVL of the Insolvency Rules 1986 sets out the periods for which a liquidator must produce a progress report. Rule 4.49C – CVL(3) covers the period when a liquidator ceases to act and states the prescribed period for which the liquidator must produce a progress report ends on the date of that liquidator's ceasing to act. Where there are joint liquidators and one leaves office, the progress report drafted when they leave will be completed in the name of all appointees at that date.
- 1.3 I now report on the progress of the liquidation in accordance with section 104A of the Insolvency Act 1986 for the period from 15 March 2016 to 14 March 2017. I attach:
- Appendix A, an account of my receipts and payments for the year ended 14 March 2017 and also for the whole liquidation to 14 March 2017
  - Appendix B, a statement of the remuneration charged by the liquidator in the period to 14 March 2017 and a statement of expenses incurred in the period
  - Appendix C, an analysis of time costs as required by Statement of Insolvency Practice 9
  - Appendix D, an extract from the Insolvency Rules 1986 relating to creditors' rights to request additional information from the liquidator (rule 4.49E)
  - Appendix E, an extract from the Insolvency Rules 1986 relating to creditors' rights to challenge the liquidator's remuneration or expenses if excessive (rule 4.131).

**Chartered Accountants**

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- 1.4 I am licensed by the Insolvency Practitioners Association to act as an insolvency practitioner and I am bound by the Insolvency Code of Ethics when carrying out all professional work relating to an insolvency appointment.

## **2 Statutory information**

- 2.1 The Company's statutory details are as follows:

Registered number 04178264

Registered office 30 Finsbury Square, London, EC2 2YU

## **3 Progress report**

### **Claims against directors of the Company**

- 3.1 Court proceedings were issued against the directors of the Company, Richard Olley, David Olley Susan Jerry and Philip Holliday (together "the Respondents"), on 28 July 2015 in relation to:
- (i) the disposal of an Italian Property with a book value of £211,598
  - (ii) dividends unlawfully paid to the shareholders totalling £25,629
  - (ii) increase in the deficit to creditors £318,776.61 since 2 September 2009
- 3.2 On 13 August 2015 a Consent Order was approved with the Respondents agreeing a Court timetable. After the Event Insurance policy ("ATE") was incepted, to protect the Company's interest should a costs order be made against it. My solicitors, Mills & Reeve LLP (Mills & Reeve") and Counsel have agreed to act on a Conditional Fee Agreement basis in this matter.
- 3.3 In October 2015, the Respondents filed their defence in the proceedings and a response to their defence was filed with the Court on 20 November 2015.
- 3.4 In January 2016 a further Consent Order was agreed between the parties in relation to *standard disclosure, the filing of further evidence and permission to call an expert witness to provide expert evidence in relation to insolvency matters*. The matter was initially set down for trial in August 2016.
- 3.5 Following extensive disclosure by the Respondents in March 2016, the Respondents produced a further witness statement in April 2016 and our witness statement in response to this was filed in June 2016.
- 3.6 The Respondents then instructed an expert witness. As a result of this I had no alternative other than to re-arrange court directions with the parties and have the trial re-listed for a later date. The Respondents Experts report was produced in October 2016. In the interests of saving costs, I elected not to instruct an expert. Instead, it was agreed that I would prepare a joint statement with the Respondent's expert setting out the issues we agree and disagree upon in order to assist the Court. The joint statement was prepared and filed in November 2016.
- 3.7 The matter was listed for a four day trial commencing on 9 May 2017.

- 3.8 In April 2016, I held a settlement meeting with the Fourth Respondent, Mr Holliday, and following negotiations, I agreed to compromise the claims against him subject to certain confidentiality clauses. The settlement monies have been received in full and are currently being held in my solicitors' client account. The settlement secured was based on both the merits of the claim against the Forth Respondent and his asset position.
- 3.9 In the period leading up to the trial, the three remaining Respondents entered into settlement discussions. Despite these discussions with the Respondents, the Respondents failed to put forward an acceptable settlement offer and the matter proceeded to court. However, immediately prior to the commencement of the trial, I was able to agree to an acceptable compromise of the claims against each of the remaining Respondents which based on legal advice and the approval of the insurers I was able to accept. Further details of the terms of settlement will be provided in my next report to creditors in so far as I am able, subject to the confidentiality terms of the settlement agreements. All remaining settlement sums should be received by August 2017.
- 3.10 Following the settlement of the claims against all of the Respondents, the trial was vacated and the case stayed.

#### **Bond claim**

- 3.11 It is a statutory duty that all practising licensed insolvency practitioners have suitable insurance in place to protect the creditors in the event of fraud and dishonesty by the practitioner. This is commonly known as a bond. It is a requirement that there should be both a specific bond, in relation to the specific assets of each individual case and a general bond in relation to a practitioner's whole portfolio of cases.
- 3.12 I submitted a claim against Mr Papanicola's insolvency bonding in the administration and liquidation.
- 3.13 The claim also included a request that the bondsman reimburse the current office holders for the duplication costs incurred in progressing the case and the costs of compilation and negotiation of the bond claim. I have incurred central costs in taking over Mr Papanicola's portfolio of cases and the claim included a request that the bondsman reimburse a portion of these costs.
- 3.14 I have now agreed a settlement of this claim with the bondsman and have received the sum of £250,000 and £63,775, in relation to my claims submitted in the administration and liquidation, respectively. The settlement received is in respect of the primary loss, interest and our case specific costs.
- 3.15 The claim for central costs remains outstanding and will be agreed separately.

#### **4 Creditors and distributions**

- 4.1 There are no preferential creditors in this matter.
- 4.2 Total unsecured creditors were estimated at £696,501 as at the date of administration. I have received claims totalling £1,392,310.

- 4.3 A distribution will be made to creditors in due course once all settlement sums have been received and expenses of the liquidation settled.

## **5 Liquidator's remuneration and expenses**

- 5.1 Office holders are obliged to provide creditors with information pertaining to fees and expenses drawn from the estate over which they are appointed.
- 5.2 At a meeting of creditors convened for 14 June 2013, the following resolution was passed:
- 5.3 "The liquidator's remuneration be fixed by reference to the time properly given by the liquidator and his staff in attending to matters arising in the liquidation in accordance with the firm's London charge out rates given from time to time."
- 5.4 In accordance with Statement of Insolvency Practice (SIP 9), I attach at Appendix C a summary of my time costs, by grade of staff and the type of work. This shows a total time costs to 14 March 2017 of £361,547.75 represented by 1,192.43 hours at an average charge out rate of £303.20 per hour. You will note from the receipts and payments account attached at Appendix A, that I have drawn fees of £51,938.00. Time costs of £150,010.55, represented by 468.57 hours at an average of £320.15 per hour, have been incurred in the period but not drawn are disclosed in Appendix B.
- 5.5 Griffins time costs to 14 March 2013 total £50 represented by 0.25 hours at an average hourly rate of £200.
- 5.6 Background information regarding the fees of liquidators can be found at [www.insolvency-practitioners.org.uk](http://www.insolvency-practitioners.org.uk) (navigate via "Technical" to "Creditors Guides to Fees"). Alternatively I will supply this information by post on request.
- 5.7 No expenses have been drawn on account in the period. I have incurred expenses totalling £189 in the period which are disclosed in Appendix B.

## **6 Other expenses incurred by the liquidators**

As mentioned above, Mills & Reeve are acting on a Conditional Fee Agreement basis. Their legal costs and disbursements in the period of this report are £73,195.50 and £15,426.63, respectively, as set out in Appendix B.

- 6.1 If further information or clarification is required please contact Kim Edwards on 0161 953 6490 or email [kim.edwards@uk.gt.com](mailto:kim.edwards@uk.gt.com).

Yours faithfully  
for and on behalf of In-Stone (Europe) Limited



DP Kevin J Hellard  
Liquidator

In-Stone (Europe) Limited - in liquidation  
Summary of receipts and payments  
from 9 December 2010 to 14 March 2017

Statement of Affairs	From 09-Dec- 10 to 14-Mar- 16 £	From 15-Mar-16 to 14-Mar- 07 £	Total £
<b>Receipts</b>			
Cash at Bank	77.06	0.00	77.06
Receipt - Balance in hand	63.74	0.00	63.74
Bank/ISA Interest Gross	0.04	0.00	0.04
Bond Settlement in ADM	0.00	250,000.00	250,000.00
Bond Settlement in CVL	0.00	63,775.00	63,775.00
	<b>140.84</b>	<b>313,775.00</b>	<b>313,915.84</b>
<b>Payments</b>			
Liquidators Fees Agreed by the Bondsman	0.00	51,938.00	51,938.00
Agents/Valuers Fees (1)	0.00	65.00	65.00
Legal Fees	0.00	12,198.00	12,198.00
Legal Disbursements	0.00	2,418.03	2,418.03
Bank Charges	44.74	0.00	44.74
	<b>44.74</b>	<b>66,619.03</b>	<b>66,663.77</b>
<b>Net Receipts/(Payments)</b>	<b>96.10</b>	<b>247,155.97</b>	<b>247,252.07</b>
<b>Made up as follows</b>			
Floating Current Account NIB 22/08/2013	96.10	246,885.06	246,981.16
VAT	0.00	270.91	270.91
Receivable	<b>96.10</b>	<b>247,155.97</b>	<b>247,252.07</b>

B Remuneration charged and expenses incurred by  
the liquidator's in the period

	Charged/ incurred in period to 14/3/2017	Cumulative charged/ incurred to 14/3/2017	Of which paid to 14/3/2017
	£	£	£
Joint Liquidators' fees:			
Grant Thornton UK LLP Time costs (or agreed basis)	150,010.55	367,547.75	51,938.00
Grant Thornton UK LLP Time expenses	494.00	1,175.00	Nil
Mills & Reeve LLP fees	73,195.50	167,305.50	12,198.00
Mills & Reeve LLP disbursements	15,426.63	22,363.63	2,418.03
Total	<u>239,126.68</u>	<u>558,391.88</u>	<u>66,554.03</u>

## C SIP 9 information

### In-Stone Europe Limited - In Liquidation - I30273013 - SIP 9 TIME COST ANALYSIS

Transaction period : 20/03/2012 to : 14/03/2017

	Partner		Manager		Executive		Administrator		Total		
	Hrs	£	Hrs	£	Hrs	£	Hrs	£	Hrs	£	Avg. Hrly Rate
Administration and Planning	80.11	41,680.20	422.32	148,423.20	362.12	86,564.00	32.23	5,230.60	896.78	281,898.00	314.34
Creditors			1.65	531.50	3.60	858.00	1.40	322.00	6.65	1,711.50	257.37
Investigations			63.55	20,994.00	196.75	49,655.50	5.45	899.75	265.75	71,549.25	269.24
Pensions			.05	18.00			.10	15.50	.15	33.50	223.33
Realisation of Assets			.50	180.00	2.25	542.00			2.75	722.00	262.55
Taxation			10.40	3,788.00	5.90	1,533.50	4.05	312.00	20.35	5,633.50	276.83
<b>Total</b>	<b>80.11</b>	<b>41,680.20</b>	<b>498.47</b>	<b>173,934.70</b>	<b>570.62</b>	<b>139,153.00</b>	<b>43.23</b>	<b>6,779.85</b>	<b>1,192.43</b>	<b>361,547.75</b>	<b>303.20</b>

**Total fees billed to date (Time) : £ 51,938**

Administration & Planning	Includes; case planning; statutory obligations (e.g statutory returns); maintenance of cash and estate records; general correspondence; dealing with tax correspondence. Correspondence with solicitors and issuing proceedings against the directors.
Investigations	Includes; investigation into Company's affairs and assets that may have been held prior to Liquidation. Investigations into the conduct of the previous office-holder and submit bond claim.
Realisation of Assets	Includes; realisation of property; dealing with Solicitors and liaising with our agents.
Creditors	Includes; correspondence with unsecured creditors.

The day to day conduct of the liquidation is under the control of partners and staff of Grant Thornton UK LLP. The routine administration of the case will be at the level of administrator, who is responsible to a manager is experienced in insolvency matters and, together with the appointed partner who is licensed to act as an insolvency practitioner will deal with technical complex matters as they arise. The extent to which time will be incurred by managers and partners will depend on issues which arise as our investigations continue. Details of the hourly rates are made available to creditors or creditor's committees at the time of fixing the basis of our fees. Personnel carrying the Treasury, secretarial and filing functions are charged separately to the professional staff on the case based on the time they work on it.

My charge out rates and those of Griffins are as follows:-

Grant Thornton UK LLP	From 1/07/10	From 1/7/11	From 1/7/12	From 1/7/13	From 1/7/14	From 1/7/15
Grade	£/hour	£/hour	£/hour	£/hour	£/hour	£/hour
Partners	425-535	445-560	465-580	480-600	495-615	495-615
Directors	405-440	425-460	440-480	455-500	470-515	470-515
Managers	245-405	260-425	270-440	280-455	290-470	290-470
Other Senior Professionals	200-260	210-275	220-285	230-295	240-305	240-305
Administrator	140-195	145-205	150-210	160-220	160-230	160-230
Support Staff	130-150	135-160	140-165	145-170	150-175	150-175

**Griffins**



Grade	£/hour
Partners	495-545
Managers/Senior investigators	300-395
Administrators/investigators	200-300
Junior Administrator/ junior investigators	145-190
Support staff	70-170

#### Time Entry - SIP9 Time & Cost Summary

NS7001- In-Scope (Europe) Limited  
Project Code PGST  
From 2003/2012 To 14/03/2019

Classification of Work Function	Partner	Manager	Other Senior Professionals	Assistants & Support Staff	Total Hours	Time Cost (£)	Average Hourly Rate (£)
Administration & Planning	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Custodians	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Investigations	0.00	0.00	0.00	0.25	0.25	50.00	200.00
Legal & Litigation	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Realisations of Assets	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Yielding	0.00	0.00	0.00	0.00	0.00	0.00	0.00
<b>Total Hours</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>0.25</b>	<b>0.25</b>	<b>50.00</b>	<b>200.00</b>
<b>Total Fees Claimed</b>						<b>0.00</b>	
<b>Total Disbursements Claimed</b>						<b>0.00</b>	

#### Disbursements

Out of pocket expenses are charges at cost. Mileage is charged at standard rates which comply with HM Revenue & Customs limits or AA recommended rates. VAT is added to disbursement charges as necessary.

## D An extract from the Insolvency Rules 1986 relating to creditors' rights to request additional information from the liquidator

Rule 4.49E edited for application to a progress report in a creditors' voluntary liquidation

- (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
  - (b) with the permission of the court upon an application made within the period mentioned in paragraph (2), any unsecured creditor makes a request in writing to the liquidator for further information about remuneration or expenses set out in the progress report, 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 a matter which was previously included in a progress report.
- (2) The period referred to in paragraph (1)(a) is 21 days of receipt of the progress report.
- (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) Any creditor, who need not be the same as the creditor who requested further information, may apply to the court within 21 days of -
  - (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.
- (5) Without prejudice to the generality of paragraph (4), the order of the court under that paragraph may extend the period of 8 weeks provided for in Rule 4.131(1B) by such further period as the court thinks just.

## E An extract from the Insolvency Rules 1986 relating to creditors' rights to challenge the liquidator's remuneration or expenses if excessive

### Rule 4.131

- (1) Any secured creditor, or any unsecured creditor with either the concurrence of at least 10% in value of the creditors (including that creditor) or the permission of the court, may apply to the court for one or more of the orders in paragraph (4).
- (1A) Application by a creditor 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.
- (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").
- (2) The court may, if it thinks that no 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.
- (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) 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.
- (5) Unless the court orders otherwise, the costs of the application shall be paid by the applicant, and are not payable as an expense of the liquidation.

Liquidator's ref : KJH/TPB/KZE/LKG/I73013/7  
Claimant's ref :

**In-Stone (Europe) Limited - In Liquidation**

**Creditor's Claim Form**

Name and address of creditor: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Amount claimed in the liquidation: £ \_\_\_\_\_

Particulars of any security held \_\_\_\_\_

Value of security: £ \_\_\_\_\_

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

Name and position of signatory  
(if not personally the creditor): \_\_\_\_\_

Telephone: \_\_\_\_\_

E-mail: \_\_\_\_\_

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

Please provide appropriate documentation in support of your claim.

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.

Please return this form when you have completed it to:

Kevin J Hellard  
Grant Thornton UK LLP  
4 Hardman Square  
Spinningfields  
Manchester  
M3 3EB