

The Insolvency Act 1986

Administrator's progress report

Name of Company
DCM Optical Clinic Plc

Company number
04488288

In the
High Court of Justice

[full name of court]

Court case number
6727 of 2013

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

I / We (a) Paul Dounis of Begbies Traynor (Central) LLP, Third Floor West, Edinburgh Quay 2, 139 Fountainbridge Edinburgh EH3 9QG and Kenneth Wilson Pattullo of Begbies Traynor (Central) LLP, Third Floor West, Edinburgh Quay 2, 139 Fountainbridge Edinburgh EH3 9QG

administrator(s) of the above company attach a progress report for the period

(b) Insert dates

from

to

(b) 10 October 2013

(b) 9 April 2014

Signed


Joint / Administrator(s)

Dated

02/05/2014

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

Third Floor West, Edinburgh Quay 2, 139 Fountainbridge, Edinburgh EH3 9QG

Tel Number 0131 222 9060

Fax Number 0131 222 9061

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



SATURDAY

Paul Dounis and Kenneth Pattullo were appointed joint administrators on 10 October 2013

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

DCM Optical Clinic Plc (In Administration)

Progress report of the joint administrators pursuant to Rule 2.47 and 2.112 of The Insolvency Rules 1986

Period: 10 October 2013 to 9 April 2014

Important Notice

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

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1. INTERPRETATION

<u>Expression</u>	<u>Meaning</u>
"the Company"	DCM Optical Clinic Plc (In Administration)
"the administration"	The appointment of administrators under Schedule B1 of the Act on 10 October 2013
"the administrators", "we", "our", "us"	Paul Dounis of Begbies Traynor (Central) LLP, Third Floor West, Edinburgh Quay 2, 139 Fountainbridge, Edinburgh, EH3 9QG and Kenneth Wilson Pattullo of Begbies Traynor (Central) LLP, Third Floor West, Edinburgh Quay 2, 139 Fountainbridge, Edinburgh, EH3 9QG and
"the Act"	The Insolvency Act 1986 (as amended)
"the Rules"	The Insolvency Rules 1986 (as amended)
"secured creditor" and "unsecured creditor"	Secured creditor, in relation to a company, means a creditor of the company who holds in respect of his debt a security over property of the company, and "unsecured creditor" is to be read accordingly (Section 248(1)(a) of the Act)
"security"	(i) In relation to England and Wales, any mortgage, charge, lien or other security (Section 248(1)(b)(i) of the Act), and (ii) In relation to Scotland, any security (whether heritable or moveable), any floating charge and any right of lien or preference and any right of retention (other than a right of compensation or set off) (Section 248(1)(b)(ii) of the Act)
"preferential creditor"	Any creditor of the Company whose claim is preferential within Sections 386, 387 and Schedule 6 to the Act

2. STATUTORY INFORMATION

Name of Company	DCM Optical Clinic Plc	
Trading name	Optical Express	
Date of Incorporation	17/07/2002	
Company registered number	04488288	
Company registered office	340 Deansgate, Manchester, M3 4LY	
Former registered office	White Rose House, 28A York Place, Leeds, LS1 2EZ	
Trading address	5 Deerdynes Road, Westfield, Cumbemauld, G68 9HF	
Principal business activities	Optician and refractive surgery services	
Directors and details of shares held in the Company (if any)	Name	Shareholding
	David Charles Mouldsdales	1
	June Mouldsdales	Nil
Company Secretary and details of the shares held in Company (if any)	Name.	Shareholding
	Graeme Ramsay Murdoch	Nil
Auditors	Baker Tilly UK Audit LLP Breckenridge House 274 Sauchiehall Street Glasgow G2 3EH	
Share capital	50,000 Ordinary Shares of £1 each	
Shareholders	David Mouldsdales DCM (Optical Holdings) Limited	

3. DETAILS OF APPOINTMENT OF ADMINISTRATORS

Names of the administrators	Paul Dounis and Kenneth Pattullo, Licensed Insolvency Practitioners of Begbies Traynor (Central) LLP, Third Floor West, Edinburgh Quay 2, 139 Fountainbridge, Edinburgh, EH3 9QG
Date of appointment	10 October 2013
Court	High Court of Justice, Chancery Division

Court Case Number	6727 of 2013
Person(s) making appointment / application	Company directors
Acts of the administrators	The administrators act as officers of the court and as agents of the Companies without personal liability. Any act required or authorised under any enactment to be done by an administrator may be done by any one or more persons holding the office of administrator from time to time.
EC Regulation on Insolvency Proceedings	The EC Regulation on Insolvency Proceedings (Council Regulation (EC) No 1346/2000) applies to these proceedings which are main proceedings within the meaning of Article 3 of the Regulation.

4 PROGRESS DURING THE PERIOD

Attached at Appendix 1 is our abstract of receipts and payments for the period 10 October 2013 to 9 April 2014.

As advised in the Administrators' proposals, the pre packaged sale of the business to Optical Express Limited ("OEL") involved the sale of certain assets of the business, including goodwill, plant and machinery and debtors. A sale price of £130,000 was achieved.

From the twenty properties leased by the Company at the date of appointment, five of the leases have been surrendered by the Administrators and seven have been assigned to the OEL. The Administrators are currently in discussions with the various landlords' solicitors in order to finalise the surrenders/assignments of the remaining leases.

£100,000 has been refunded to the Administration by the Company's merchant service providers, World Pay. These funds were taken from the Company in the period prior to the appointment of Administrators and held by World Pay as security against performance of the Company's obligations. The Administrators are currently seeking legal advice as to whether the funds rightfully belong to the Administration or are included as part of the sale and purchase agreement.

Funds totalling £46,798 have been received in respect of rates rebates for the various properties occupied by the Company prior to our appointment. The Administrators continue to ingather the remaining rebates, which are estimated to be in the region of a further £15,000.

5 ESTIMATED OUTCOME FOR CREDITORS

Secured creditor

The Company granted a floating charge to Royal Bank of Scotland plc in May 2007 who subsequently sold its debt and related security to Pacific Shelf 1741 Limited.

The floating charge holder has agreed to waive its right to a dividend where such a claim would reduce the funds available to unsecured creditors from the prescribed part below £30,000.

As a result of this arrangement, it is anticipated that circa £32,000 will be available to the floating charge creditor.

Preferential creditors

There are no known preferential claims in the case

Unsecured creditors

Based upon realisations to date and estimated future realisations there will be insufficient funds available to enable a dividend to be paid to the unsecured creditors, other than the distribution from the prescribed part

Prescribed Part for unsecured creditors pursuant to Section 176A of the Act

Section 176A of the Act provides that, where the company has created a floating charge on or 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 debts. *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 realising the floating charge assets). The floating charge holder may not participate in the distribution of the prescribed part of the Company's net property. The *prescribed part of the Company's net property* 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 of net property* if

- ☐ the *net property* is less than £10,000 and the administrator thinks that the cost of distributing the *prescribed part* would be disproportionate to the benefit, (Section 176A(3)) or
- ☐ the administrator 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))

As a result of the floating charge waiver, unsecured creditors are anticipated to receive a total of £30,000 from the prescribed part

It is intended that we will apply to court in accordance with paragraph 65(3) of Schedule B1 to the Act to distribute this amount to the unsecured creditors

6 THE ADMINISTRATORS' REMUNERATION & DISBURSEMENTS

Our remuneration has been fixed by reference to the time properly given by us as administrators the various grades of our staff calculated at the prevailing hourly charge out rates of Begbies Traynor (Central) LLP in attending to matters arising in the administration and we are authorised to draw disbursements, including disbursements for services provided by our firm (defined as category 2 disbursements in Statement of Insolvency Practice 9) in accordance with our firm's policy, details of which accompanied the Statement of Proposals for achieving the purpose of administration and which are attached at Appendix 2 of this report

Our time costs for the period from 10 October 2013 to 9 April 2014 amount to £82,818 which represents 296.40 hours at an average rate of £279 per hour

The following further information in relation to our time costs and disbursements is set out at Appendix 2

- ☐ Narrative summary of time costs incurred
- ☐ Table of time spent and charge-out value for the period 10 October 2013 to 9 April 2014
- ☐ Begbies Traynor (Central) LLP's policy for re-charging disbursements
- ☐ Begbies Traynor (Central) LLP's charge-out rates

No fee has been drawn by the Administrators in respect of remuneration during the period

7 ADMINISTRATORS' EXPENSES

A statement of the expenses incurred by us during the period of this progress report is attached at Appendix 3

8 ASSETS THAT REMAIN TO BE REALISED

As detailed in section 4, the only assets which remain to be realised are the outstanding rates rebates and completion of assignments or surrenders for the remaining leases

In addition, investigations are ongoing into the rightful owner of the funds received from World Pay

9 CREDITORS' RIGHTS

Right to request further information

Pursuant to Rule 2.48A of the Rules, within 21 days of the receipt of this report a secured creditor, or an unsecured creditor with the concurrence of at least 5% in value of the unsecured creditors, including that creditor, (or an unsecured creditor with less than 5% in value of the unsecured creditors, but with the permission of the court), may request in writing that the administrators provide further information about their remuneration or expenses (other than pre-administration costs) which have been detailed in this progress report

Right to make an application to court

Pursuant to Rule 2.109 of the Rules, any secured creditor or an unsecured creditor with the concurrence of at least 10% in value of the unsecured creditors including that creditor (or any unsecured creditors with less than 10% in value of the unsecured creditors, but with the permission of the court), may within 8 weeks of receipt of this progress report make an application to court on the grounds that the remuneration charged or the expenses incurred by the administrators as set out in this progress report are excessive or, in relation to the basis fixed for the administrators' remuneration, inappropriate

CONCLUSION

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

Should an extension of the administration be required to ensure that the remaining assets are realised and the objective of the administration is achieved, consent to the extension will be requested from the secured creditor

We will report again in approximately six months time or at the conclusion of the administration, whichever is the sooner



Paul Dounis
Dated 2 May 2014

ACCOUNT OF RECEIPTS AND PAYMENTS

Period 10 October 2013 to 9 April 2014

**DCM Optical Clinic Plc
(In Administration)
Joint Administrators' Trading Account**

Statement of Affairs	From 10/10/2013 To 09/04/2014	From 10/10/2013 To 09/04/2014
POST APPOINTMENT SALES		
Licence Fees	<u>113,391 60</u>	<u>113,391 60</u>
	113,391 60	113,391 60
TRADING EXPENDITURE		
Rents	<u>75,293 00</u>	<u>75,293 00</u>
	(75,293 00)	(75,293 00)
<hr/>	<hr/>	<hr/>
TRADING SURPLUS/(DEFICIT)	<u>38,098.60</u>	<u>38,098.60</u>

DCM Optical Clinic Plc
(In Administration)
Joint Administrators' Abstract of Receipts & Payments

Statement of Affairs	From 10/10/2013 To 09/04/2014	From 10/10/2013 To 09/04/2014
COSTS OF REALISATION		
Agents/Valuers Fees	500 00 (500 00)	500 00 (500 00)
ASSET REALISATIONS		
Plant & Machinery, Goodwill, etc	65,004 00	65,004 00
Book Debts	64,996 00	64,996 00
WorldPay refund	100,000 00	100,000 00
Rates Rebates	46,798 16	46,798 16
Bank Interest Net of Tax	104 10	104 10
Trading Surplus/(Deficit)	38,098 60	38,098 60
	<u>315,000 86</u>	<u>315,000 86</u>
COST OF REALISATIONS		
Legal Fees (1)	25,048 00	25,048 00
Legal Outlays	14 00	14 00
Statutory Advertising	84 60	84 60
Bank Charges	27 00	27 00
	<u>(25,173 60)</u>	<u>(25,173 60)</u>
	<u>289,327.26</u>	<u>289,327.26</u>
REPRESENTED BY		
Vat Receivable		43,127 52
Licence Fee Account		100,540 38
Deposit Account		246,067 36
Fixed Charge VAT Receivable		100 00
Licence Fee Deposit		(100,508 00)
		<u>289,327.26</u>

TIME COSTS AND DISBURSEMENTS

- a Begbies Traynor (Central) LLP's policy for re-charging expenses/disbursements,
- b Begbies Traynor (Central) LLP's charge-out rates,
- c Narrative summary of time costs incurred,
- d Table of time spent and charge-out value for the period from 10 October 2013 to 9 April 2014

SUMMARY OF OFFICE HOLDERS' TIME COSTS

CASE NAME DCM Optical Clinic Plc
CASE TYPE ADMINISTRATION
OFFICE HOLDERS Kenneth Wilson Pattullo and Paul Dounis
DATE OF APPOINTMENT 10 October 2013

1 CASE OVERVIEW

1.1 This overview and the time costs analysis attached is intended to provide sufficient information to enable the body responsible for the approval of the office holders' fees to consider the level of those fees in the context of the case

1.2 Complexity of the case

The Company leased and operated 19 outlets from leasehold premises across the UK providing optician and refractive surgery services to customers. The case is not necessarily complex, however the discussions surrounding the pre-packaged sale of the Company involved a higher level of involvement from senior staff

1.3 Exceptional responsibilities

The Administrators have been required to deal with several medical injury claims which were made against the Company prior to our appointment

1.4 The office holders' effectiveness

The strategy adopted by the Administrators' to sell the business through a pre-packaged sale is expected to enhance asset realisations and thus improve dividend prospects for creditors

1.5 Nature and value of property dealt with by the office holders'

The Company owns plant and machinery and book debts which were sold as part of the pre-packaged sale

1.6 Anticipated return to creditors

It is anticipated that there will be a shortfall to the secured creditor and as a result, there will be no distribution to ordinary creditors, other than by way of the prescribed part distribution

1.7 Time costs analysis

An analysis of time costs incurred between 10 October 2013 and 9 April 2014 prepared in accordance with Statement of Insolvency Practice 9 is attached showing the number of hours spent by each grade of staff on the different types of work involved in the case, and giving the average hourly rate charged for each work type

The time costs analysis provides details of work undertaken by the office holders and their staff following their appointment only

1.8 The views of the creditors

Known creditors received confirmation of the appointment of the Joint Administrators' during the first week of the administration and will continue to be updated on the progress of the administration

1 9 Approval of fees

Resolutions regarding the approval of fees have been sent to the secured creditor

1 10 Approval of Expenses and Disbursements

Resolutions regarding the approval of expenses and disbursements have been sent to the secured creditors

1 11 Category 2 Disbursements

In accordance with the resolution obtained in relation to expenses and disbursements, the following Category 2 disbursements and disbursements which should be treated as Category 2 disbursements have been incurred during the period 10 October 2013 to 9 April 2014

Other amounts paid or payable to the office holder's firm	
Type and purpose	Amount £
Travel	£609 62
TOTAL	£609.62

1 12 Other professionals employed

The Joint Administrators have engaged the following agents and solicitors to assist them with the administration

Maclay, Murray & Spens – Solicitors

Sweeney Kincard – Valuers

All agents were chosen as a result of their known areas of expertise and relevant expertise

BEGBIES TRAYNOR CHARGING POLICY

INTRODUCTION

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

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

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

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

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

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

Best practice guidance classifies expenses into two broad categories:

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

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

- Internal meeting room usage for the purpose of statutory meetings of creditors is charged at the rate of £100 (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 disbursement*) is charged on the basis that the number of standard archive boxes held in storage for a particular case bears to the total of all archive boxes for all cases in respect of the period for which the storage charge relates.

¹ Statement of Insolvency Practice 9 (SIP 9) – Remuneration of insolvency office holders in Scotland

² *ibid* 1

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

- Telephone and facsimile
- Printing and photocopying
- Stationery

BEGBIES TRAYNOR CHARGE-OUT RATES

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

Standard 1 July 2008 – 30 April 2011

Partner 1	395
Partner 2	350
Director	325
Senior Manager	295
Manager	250
Assistant Manager	195
Senior Administrator	160
Administrator	130
Trainee Administrator	100
Support	100

Standard 1 May 2011 – until further notice

Partner 1	395
Director	345
Senior Manager	310
Manager	265
Assistant Manager	205
Senior Administrator	175
Administrator	135
Trainee Administrator	110
Support	110

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

Time is recorded in 6 minute units.

STATEMENT OF EXPENSES

Type of expense	Name of party with whom expense incurred	Amount incurred £	Amount discharged £	Balance (to be discharged) £
Bond	Marsh	140 00	140 00	
Statutory Advertising	Courts Advertising	84 60	140 00	
Post	Eagle Counters	109 20	109 20	
Legal Fees	MacLay, Murray & Spens	25,048 00	25,048 00	
Legal Outlays	MacLay, Murray & Spens	14 00	14 00	
Agents fees	Winterhill Largo	500 00	500 00	
Bank charges	Royal Bank of Scotland	27 00	27 00	
Travel	Various	609 62	609 62	