

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

04558851

Name of Company

Barry Collen Ltd ✓

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 15/03/2015 to 14/03/2016

Signed



Date

22/04/16

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

Ref B79037/KJH/TPB/KMH/LKM

SATURDAY



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23/04/2016

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COMPANIES HOUSE

Our Ref KJH/TPB/KMH/B79037/KG/7

To the creditors and members

Recovery and Reorganisation

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22 April 2016

Dear Sirs

Barry Collen Limited - In Liquidation (the Company)

1 Introduction

- 1.1 The previous liquidator, Mr Ninos Koumettou of Alexander Lawson Jacobs was appointed liquidator in place of Mr Theodoulos Papanicola of Bond Partners LLP by an Order of the High Court of Justice on 23 December 2011. Mr Papanicola was appointed as administrator on 30 November 2009. The administration was converted to creditors' voluntary liquidation on 6 December 2010. I was appointed joint liquidator together with Stephen Hunt of Griffins on 15 May 2012 by Order of the High Court of Justice. Mr Hunt resigned as liquidator on 14 March 2013 by an Order of the High Court of Justice.
- 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 In accordance with section 104A of the Insolvency Act 1986, I now report on the progress of the liquidation and attach:
- Appendix A, an account of my receipts and payments for the year ended 14 March 2016 and also for the whole liquidation to date,
 - Appendix B, a statement of the remuneration charged by the joint liquidators in the period 15 March 2015 to 14 March 2016 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 and 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 04558851

Registered office 30 Finsbury Square, London, EC2P 2YU

3 Progress report

Assets

Sale of business and assets

- 3 1 The Company transferred its fixed assets to Barry Collen (Holdings) Limited (BCHL), a Company associated by way of common directors, prior to the appointment of the administrator. On 24 March 2009 a valuation report was prepared by CJM Asset Management which valued the assets at £67,930 (ex-situ valuation)
- 3 2 Minutes of shareholders meeting convened on the same day advised that "fixed assets valued by CJM Asset Management on 24/3/09 at the value of £67,930 would be used in consideration of back years rent to the holding company "
- 3 3 Further investigations were carried out into this matter and is referred to below

Book Debts/Retentions

- 3 4 The administrators proposals stated that the Company had retentions of £454,849 of which the majority would be recovered in full. It was originally agreed that BCHL would collect the debts and receive 50% of the proceeds. Mr Papanicola felt it was more appropriate for the assets to be sold to BCHL and was purchased for £142,500
- 3 5 I have am not aware of any other realisable asset

Investigations

Claims identified against Barry Collen (Holdings) Limited (BCHL) and the directors

- 3 6 Following my review of the Company's books and records it became apparent that the assets valued at £67,930, mentioned above, were transferred to BCHL in consideration of a back year's rent owed by the Company to BCHL, constituting a preference under s 239 of the Insolvency Act 1986 (IA 1986)

3 7 Furthermore, a guillotine, valued at £9,000 in-situ and £5,000 ex-situ, was transferred from the Company to BCHL for no consideration, constituting a transaction at an undervalue pursuant to s 238 IA 1986. I also considered that in causing or allowing these transfers to take place, the Company's directors had breached their fiduciary and/or statutory duties to the Company and/or acted in breach of trust.

3 8 Accordingly, I instructed solicitors, Gateley LLP (now Gateley Plc), to commence proceedings against BCHL and the Company's directors on my behalf. Following negotiations between the parties, acting by their legal representatives, the proceedings were settled in August 2015 in the sum of £60,000.

Bond claim

3 9 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 10 A bond claim has been submitted in this case, and the loss adjusters presenting the surety have agreed a settlement figure with me, in respect of excessive fees drawn by the former office holder. However, this is subject to acceptance by the surety, and confirmation is awaited.

4 Creditors and dividend prospects

4 1 There are no secured or preferential creditors in this matter.

4 2 Unsecured creditors were estimated at £1,290,908.79 in the statement of the administrator's proposals filed at Companies House on 22 December 2009. I have received claims totalling £1,703,360.15.

4 3 The prospects of a dividend will be dependent on the outcome of the issues raised above.

5 Liquidator's remuneration and disbursements

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 Creditors passed a resolution on 14 January 2010 approving that the remuneration of the administrator be fixed on a time costs basis. Mr Papanicola drew administration fees of £183,500 against the time cost resolution (£141,000 during the administration period and £42,500 during the liquidation period). Mr Papanicola also drew a statement of affairs fee of £10,000 and pre appointment costs of £6,010.

5 3 At a meeting of creditors dated 13 December 2012 the following resolution was approved by creditors

"That the basis of the joint liquidators' remuneration be agreed by reference to the time properly given by the joint liquidators and their staff in attending to matters arising in the liquidation "

5 4 You will note from the SIP 9 table attached at Appendix C that my time costs to date are £94,935 75 represented by 366 00 hours at an average charge out rate of £259 39 and from the receipts and payments account attached at Appendix A, that I have drawn £25,000 00 Time costs of £22,913 90 were incurred in the period as disclosed in Appendix B

5 5 Griffins incurred time costs of £62 09 up until the resignation of Mr Hunt as disclosed in Appendix B

5 6 Time is charged in units of 6 minutes Background information regarding the fees of liquidators can be found at https://www.r3.org.uk/media/documents/publications/professional/Guide_to_Liquidators_Fees_Oct_2015.pdf Alternatively I will supply this information by post on request.

5 7 In addition, we have drawn expenses of £281 04 to date as indicated in Appendix A and have further expenses of £171 00 to take in due course as set out in Appendix B

5 8 Griffins did not incur any expenses prior to Mr Hunt's resignation


6 Other expenses incurred by the liquidator

6 1 I attach at Appendix B a statement of costs incurred and paid and costs accrued and not yet paid relating to matters in the liquidation Gateley Plc (Gateley) were instructed to act on a Conditional Fee Arrangement with 50% uplift if claims are successful Legal fees, expenses and disbursements paid to Gateley are disclosed in Appendix A and B

If further information or clarification is required regarding this report, please contact Karen Huxter on 020 7865 2257 or email karen.huxter@uk.gt.com

Yours faithfully
for and on behalf of Barry Collen Limited



 Kevin J Hellard
Liquidator

Enc

A Abstract of the liquidator's receipts and payments

| Statement of affairs Estimated to realise £ | Former Liquidators | Current Liquidators | |
|---|-----------------------|---------------------|------------------|
| | From | From | From |
| | 06/12/2010 | 15/03/2015 | 15/05/2012 |
| | to 15/05/2012 | to 14/03/2016 | to 14/03/2016 |
| | £ | £ | £ |
| Receipts | | | |
| Monies from Administration | 25,282 86 | 0 00 | 0 00 |
| Book Debts | 348 27 | 0 00 | 0 00 |
| Sale of Debts | 23,750 00 | 0 00 | 0 00 |
| Bank Interest Gross | 111 10 | 0 00 | 5 69 |
| Funds recovered from former Liquidator | | 0 00 | 5,892 19 |
| Settlement Monies | | 60,000 00 | 60,000 00 |
| VAT Receivable | | 61 46 | 0 00 |
| | <u>0 00</u> | <u>60,061 46</u> | <u>65,897 88</u> |
| Payments | | | |
| Specific Bond | 296 00 | 0 00 | 0 00 |
| Former Liquidator's Fees | 42,500 00 | 0 00 | 0 00 |
| Former Office Holder Expenses | 11 27 | 0 00 | 0 00 |
| Corporation Tax | 14 28 | 0 00 | 0 00 |
| Statutory Advertising | 275 20 | 0 00 | 76 50 |
| VAT Receivable | 503 29 | 0 00 | 0 00 |
| Current Liquidator Fees | 0 00 | 25,000 00 | 25,000 00 |
| Current Liquidator Expenses | 0 00 | 50 26 | 281 04 |
| Legal Fees | 0 00 | 29,895 93 | 29,895 93 |
| Legal Expenses | 0 00 | 384 07 | 384 07 |
| Legal Disbursements | 0 00 | 50 00 | 50 00 |
| After the Event Insurance | 0 00 | 7,870 50 | 7,870 50 |
| | <u>43,600 04</u> | <u>63,250 76</u> | <u>63,558 04</u> |
| Balance | <u>5,892 19</u> | <u>-3,189 30</u> | <u>2,339 84</u> |

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

| | Charged/incurred in period 15 March 2015 to 14 March 2016 | Cumulative charged/incurred to 14 March 2016 | Of which paid to 14 March 2016 |
|----------------------------|--|--|--------------------------------------|
| | £ | £ | £ |
| Grant Thornton UK LLP fees | 22,913 90 | 94,935 75 | 25,000 00 |
| Grant Thornton UK expenses | | | |
| Bond | Nil | 10 00 | 10 00 |
| Statutory Advertising | Nil | 76 50 | 76 50 |
| Land Registry Searches | Nil | 76 00 | 76 00 |
| Courier Costs | 50 26 | 68 99 | 68 99 |
| Travel costs | 171 00 | 247 65 | 76 65 |
| Accommodation costs | Nil | 49 40 | 49 40 |
| Griffins fees | N/A | 62 09 | Nil |
| Griffins expenses | N/A | Nil | Nil |
| Gateley Plc fees | 9,803 93 | 29,895 93 | 29,895 93 |
| Gateley Plc Expenses | 301 07 | 384 07 | 384 07 |
| Gateley Plc Disbursements | 50 00 | 50 00 | 50 00 |

C SIP 9 information

Transaction period: 15/03/2015 to 14/03/2016

| | Partner | | Manager | | Executive | | Administrator | | Total | | Avg Hrly Rate | | |
|-----------------------------|---------|--------|---------|----------|-----------|----------|---------------|----------|-------|--------|---------------|-----------|--------|
| | Hrs | £ | Hrs | £ | Hrs | £ | Hrs | £ | Hrs | £ | | | |
| Administration and Planning | 75 | 120.00 | 6.06 | 3,070.90 | 27.70 | 9,449.00 | 29.28 | 8,937.50 | 470 | 830.50 | 68.47 | 20,507.90 | 299.52 |
| Creditors | | | | | | | 235 | 578.00 | | | 235 | 578.00 | 245.11 |
| Investigations | | | | | 10 | 33.00 | 4.15 | 1,988.00 | 10 | 18.00 | 4.35 | 1,245.00 | 286.21 |
| Pensions | | | | | | | | | | | | | |
| Realisation of Assets | | | | | | | | | | | | | |
| Taxation | | | | | 80 | 282.00 | 145 | 348.00 | 50 | 25.00 | 255 | 585.00 | 229.41 |
| Total | 75 | 120.00 | 6.06 | 3,170.90 | 28.40 | 9,694.00 | 37.21 | 9,057.50 | 530 | 871.50 | 77.72 | 22,913.90 | 294.83 |

Total fees billed to date (Time) : £ 25,000

Transaction period: 15/05/2012 to 14/03/2016

| | Partner | | Manager | | Executive | | Administrator | | Total | | Avg Hrly Rate | | |
|-----------------------------|---------|--------|---------|-----------|-----------|-----------|---------------|-----------|--------|-----------|---------------|-----------|--------|
| | Hrs | £ | Hrs | £ | Hrs | £ | Hrs | £ | Hrs | £ | | | |
| Administration and Planning | 75 | 120.00 | 24.89 | 2,848.90 | 52.80 | 17,557.50 | 71.64 | 17,090.05 | 40.12 | 8,816.05 | 190.20 | 54,331.50 | 285.83 |
| Creditors | | | 20 | 18.00 | 30 | 94.00 | 275 | 878.00 | 280 | 393.50 | 585 | 1,281.50 | 219.06 |
| Investigations | | | | | 35.40 | 11,733.50 | 60.25 | 15,335.50 | 57.50 | 8,640.25 | 63.15 | 35,709.25 | 233.17 |
| Pensions | | | | | 3.05 | 147.50 | | | 1.10 | 170.50 | 4.15 | 1,588.00 | 382.85 |
| Realisation of Assets | | | | | | | 40 | 82.00 | | | 40 | 82.00 | 230.00 |
| Taxation | | | | | 2.50 | 801.50 | 3.00 | 708.50 | 8.75 | 423.50 | 12.25 | 1,933.50 | 157.84 |
| Total | 75 | 120.00 | 25.09 | 13,084.90 | 94.05 | 31,894.00 | 138.04 | 33,904.05 | 108.07 | 18,242.80 | 366.00 | 94,935.75 | 259.39 |

Total fees billed to date (Time) : £ 25,000

Narrative description of work carried out

| Activity | Examples of work |
|-----------------------------|---|
| Administration and planning | Case reviews and annual reports, administrative set up, dealing with practitioners' bank account Copy and filing previous officeholders papers for review Storage, filing, bonding Correspondence with solicitors Treasury statutory work |
| Investigations | Reviewing previous officeholders records and prepare strategy note Sending enquiry letters to various parties to establish company' trading position |
| Realisation of assets | Dealing with bank transfer and treasury duties |
| Creditors | Correspondence with creditors |
| Taxation | Dealing with the company's tax affairs |
| Pensions | Establishing whether the company had a pension scheme |

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 1/7/11 | From 1/7/12 | From 1/7/13 | From 1/7/14 | From 1/7/15 |
|----------------------------------|------------------------|------------------------|------------------------|------------------------|------------------------|
| Grade | £/hour | £/hour | £/hour | £/hour | £/hour |
| Partners | 445-560 | 465-580 | 480-600 | 495-615 | 495-615 |
| Directors | 425-460 | 440-480 | 455-500 | 470-515 | 470-515 |
| Managers | 260-425 | 270-440 | 280-455 | 290-470 | 290-470 |
| Other Senior Professionals | 210-275 | 220-285 | 230-295 | 240-305 | 240-305 |
| Administrator | 145-205 | 150-210 | 160-220 | 160-230 | 160-230 |
| Support Staff | 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 |

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 specifyand 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/KMH/LKM/B79037/7

Barry Collen Ltd - In Liquidation

Creditor's Claim Form

Name and address of creditor _____

Company registration number (if the creditor is a company) _____

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
4 Hardman Square, Spinningfields, Manchester, M3 3EB