

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 15/03/2014 to 14/03/2015

Signed

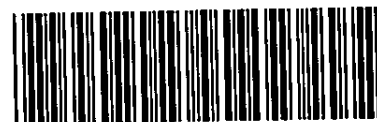
Date

14/4/15

Grant Thornton UK LLP
30 Finsbury Square
London
EC2P 2YU

Ref B79037/KJH/TPB/KZE/CES

WEDNESDAY



A45CLSCI
A21 15/04/2015 #65
COMPANIES HOUSE

Our Ref KJH/TPB/B79037/KG/7

To the creditors and members

Recovery and Reorganisation

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14 April 2015

Dear Sirs

Barry Collen Limited - In Liquidation ("the Company")

1 Introduction

- 1.1 The previous liquidator, Mr Ninos Koumettou of Alexander Lawson Jacobs LLP 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 as joint liquidator of the above company together with Stephen Hunt of Griffins on 15 May 2012 by Order of the High Court of Justice and report on the progress of the liquidation in accordance with section 104A of the Insolvency Act 1986. Mr Hunt resigned as liquidator on 14 March 2013 by an Order of the High Court of Justice.
- 1.2 I now report on the progress of the liquidation in accordance with section 104A of the Insolvency Act 1986.
- 1.3 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.
- 1.4 I now report for period from 15 March 2014 to 14 March 2015 and attach
- Appendix A, an account of my receipts and payments for the year ended 14 March 2015 and also for the whole liquidation to date,
 - Appendix B, a statement of the remuneration charged by the joint liquidators in the period to 14 March 2015 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 5 I am authorised by The Insolvency Practitioners Association to act as an insolvency practitioner

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 ("BCH") and the directors

- 3 6 Following my review of the Company's books and records it became apparent that the transfer of the assets valued at £67,930, mentioned above, were transferred for back years of rent due to BCH. Furthermore, a guillotine valued at £9,000 in-situ and £5,000 ex-situ was excluded from the valuation.
- 3 7 I instructed solicitors, Gateley LLP, to deal with this matter on my behalf. A letter before action was issued on 5 March 2014 to BCH and the directors of the Company claiming the following

The transfer of assets to BCH constituted a preference payment pursuant to s239 of the Insolvency Act 1986 ("IA1986"). Given that BCH is connected to the Company, it is presumed to have been influenced in deciding to transfer the assets by a desire to prefer BCH to other creditors of the Company.

The transfer of the Guillotine to BCH for no consideration constitutes a transfer at an undervalue pursuant to s238 IA1986

A claim against the directors for breaching their fiduciary duties, and/or breach of duty and/or breach of trust pursuant to s212 IA 1986 in allowing the transfers to occur

My solicitors has been in correspondence with the defendants' solicitors, Eversheds LLP, and the matter is ongoing

Bond claim

- 3 8 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 9 A bond claim has been submitted in this case. This may result in further recoveries, but at present it is too early to estimate the likelihood of this occurring. At this stage no finding has been made in respect of fraud and dishonesty
- 3 10 The surety is represented by loss adjusters. The loss adjusters have indicated that they would be willing to recommend an offer to the surety in respect of excessive fees drawn by the former liquidator [and administrator]. We do not consider that the offer is at an acceptable level and are continuing to negotiate with the loss adjusters and the surety

4 Creditors and dividend prospects

- 4 1 There are no secured or preferential creditors in this matter
- 4 2 Unsecured creditors were estimated at £1,290,909 in the statement of the administrator's proposals filed at Companies House on 22 December 2009. I have received claims totalling £1,703,360
- 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 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 3 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 incurred in the whole period of the liquidation to 14 March 2015 of £70,948

represented by 284.84 hours at an average charge out rate of £249 per hour. You will note from the receipts and payments account attached at Appendix A, that no remuneration has been drawn to date. Time costs of £27,245 representing 90.09 hours at an average of £302 per hour have been incurred in the period of this report, representing but not drawn are disclosed in Appendix B.

- 5.4 Background information regarding the fees of liquidators can be found at www.insolvency-practitioners.org.uk (navigate via "Technical" to "Creditors Guides to Fees"). Alternatively I will supply this information by post on request.
- 5.5 Expenses of £231 have been drawn in the period. I have incurred expenses of £65 in the period of this report which are disclosed in Appendix B. Griffins did not incur any expenses in the period.

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.
- 6.2 Gateley LLP ("Gateley") have been instructed to act on a Conditional Fee Arrangement with 50% uplift if claims are successful. To date no remuneration or disbursements have been paid to Gateley. Legal fees and disbursements incurred by Gateley but not yet paid in the period of this report are disclosed in Appendix B.
- 6.3 If further information or clarification is required regarding this report, please contact Kim Edwards on 0161 953 6490 or email kim.edwards@uk.gt.com.

Yours faithfully
for and on behalf of Barry Collen Limited



pp Kevin J Hellard
Liquidator

Enc

A Abstract of the liquidator's receipts and payments

Barry Collen Limited in Creditors' Voluntary Liquidation				
Liquidator's receipts and payments account				
	Statement of Affairs	From 15/5/2012	From 15/3/2014	
	Estimated to Realise	to 14/3/2014	to 14/3/2015	Total
	(£)	(£)	(£)	(£)
Receipts				
Funds recovered from former liquidator		5,892	-	5,892
Bank / ISA interest		6	-	6
		5,898	-	5,898
Payments				
Statutory advertising		77	-	77
VAT Receivable		15	46	61
Liquidator's expenses			231	231
		92	277	369
Balance				5,529
				5,898

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

	Charged/incurred in period to 14 March 2015	Cumulative charged/incurred to 14 March 2015	Of which paid to 14 March 2015
	£	£	£
Liquidators' fees			
Grant Thornton UK LLP Time costs	27,245	70,948	Nil
Expenses	65	231	231
Griffins Time	Nil	62	Nil
Griffins Expenses	Nil	Nil	Nil
Gateley LLP fees	14,431	20,092	Nil
Gateley expenses	66	83	Nil

C SIP 9 information

Barry Collen Ltd - In Liquidation - B30279037 - SIP 9 TIME COST ANALYSIS

Job(s) CVL

Transaction period 15/5/2012 to 14/03/2015

Standard	Partner		Manager		Executive		Administrator		Total		Avg Hrly Rate
	Hrs	£	Hrs	£	Hrs	£	Hrs	£	Hrs	£	
Administration and Planning	18 17	9 438 1	29 25	9 851 5	42 25	10 110 5	42 57	6 318 55	132 24	35 719 2	270 11
Creditors	2	18	3	94	4	102	26	393 8	35	705 5	201 57
Hiatus period											
Investigations			35 1	11 634 5	56 1	14 139 5	57 4	8 624 25	148 6	34 398 25	231 48
Realisation of Assets					4	92			4	92	230
Trading											
Unclassified			1	33					1	33	330
Total	18 37	9 664 1	64 75	21 613	99 16	24 444 66	102 67	16 336 3	284 84	70 947 96	249 08

Total fees billed to date (Time) £

Barry Collen Ltd - In Liquidation - B30279037 - SIP 9 TIME COST ANALYSIS

Job(s) CVL

Transaction period 15/03/2014 to 14/03/2015

Standard	Partner		Manager		Executive		Administrator		Total		Avg Hrly Rate
	Hrs	£	Hrs	£	Hrs	£	Hrs	£	Hrs	£	
Administration and Planning	11 09	5 945 1	14 4	4 852 5	22 3	5 284 5	3 85	564 5	516 4	16 646 6	322 36
Creditors					1	24			1	24	240
Hiatus period											
Investigations			4 8	1 575	33 45	8 966 5			38 25	10 541 5	275 59
Realisation of Assets											
Trading											
Unclassified			1	33					1	33	330
Total	11 09	5 945 1	19 3	6 460 5	55 85	14 275	3 85	564 5	90 09	27 245 1	302 42

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 Storage, filing, bonding, tax and VAT issues Correspondence with solicitors Dealing with company tax position Treasury statutory work
Investigations	Reviewing previous officeholders records Sending enquiry letters to various parties to establish company's trading position
Realisation of assets	Dealing with bank transfers, treasury duties
Creditors	Correspondence with 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
Grade	£/hour	£/hour	£/hour	£/hour	£/hour
Partners	425-535	445-560	465-580	480-600	495-615
Directors	405-440	425-460	440-480	455-500	470-515
Managers	245-405	260-425	270-440	280-455	290-470
Other Senior Professionals	200-260	210-275	220-285	230-295	240-305
Administrator	140-195	145-205	150-210	160-220	160-230
Support Staff	130-150	135-160	140-165	145-170	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. Milage 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

PROOF OF DEBT - GENERAL FORM

**In the matter of Barry Collen Limited
and in the matter of The Insolvency Act 1986**

Date of Liquidation 6 December 2010

1	Name of Creditor	
2	Address of Creditor	
3	Total amount of claim, including any Value Added Tax and outstanding uncapitalised interest as at the date the company went into liquidation (see note)	£
4	Details of any document by reference to which the debt can be substantiated [Note the liquidator may call for any document or evidence to substantiate the claim at his discretion]	
5	If the total amount shown above includes Value Added Tax, please show: (a) amount of Value Added Tax (b) amount of claim NET of Value Added Tax	£ £
6	If total amount above includes outstanding uncapitalised interest please state amount	
7	If you have filled in both box 3 and box 5, please state whether you are claiming the amount shown in box 3 or the amount shown in box 5(b)	
8	Give details of whether the whole or any part of the debt falls within any (and if so which) of the categories of preferential debts under section 386 of, and schedule 6 to, the Insolvency Act 1986 (as read with schedule 3 to the Social Security Pensions Act 1975)	
9	Particulars of how and when debt incurred	

10	Particulars of any security held, the value of the security, and the date it was given	
11	Particulars of any reservation of title claimed, including details of goods supplied, their value and when supplied	
12	Signature of creditor or person authorised to act on his behalf	
	Name in BLOCK LETTERS	
	Position with or relation to creditor	

Admitted to Vote for

£

Date

Liquidator

Admitted preferentially for

£

Date

Liquidator

Admitted non-preferentially for

£

Date

Liquidator

NOTE

A company goes into liquidation if it passes a resolution for voluntary winding up or an order for its winding up is made by the court at a time when it has not already gone into liquidation by passing such a resolution