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BAKER TILLY

YEW TREE (HIGHCLERE) LIMITED – IN LIQUIDATION

**LIQUIDATOR'S PROGRESS REPORT**

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## **YEW TREE (HIGHCLERE) LIMITED IN LIQUIDATION**

### **LIQUIDATOR'S PROGRESS REPORT**

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#### **1. PURPOSE OF REPORT**

This report has been prepared in accordance with insolvency legislation to provide creditors and members of the company with information relating to the progress of the liquidation in the period from 25 July 2013 to 24 July 2014

This report has been prepared solely to comply with the statutory requirements of Rule 4.49B of the Insolvency Rules 1986 (as amended). The purpose of the report is to provide creditors and members with information relating to the progress of the Winding Up in the period from 25 July 2013 to 24 July 2014. It has not been prepared for use in respect of any purpose, or to inform any investment decision in relation to any debt or financial interest in the company. Any estimated outcomes for creditors are illustrative and may be subject to significant change. Neither the Liquidators nor Baker Tilly Restructuring and Recovery LLP accept any liability whatsoever arising as a result of any decision or action taken or refrained from as a result of information contained in this report.

#### **2. LIQUIDATOR'S APPOINTMENT**

Duncan Beat of Baker Tilly was appointed Liquidator of Yew Tree (Highclere) Limited on 25 July 2013 by a meeting of creditors.

#### **3. COMPANY DETAILS**

Attached at Appendix A is an extract of information from the company's file held at Companies House.

#### **4. RECEIPTS AND PAYMENTS SUMMARY**

Attached at Appendix B is a summary of my receipts and payments for the period from 25 July 2013 to 24 July 2014.

##### **VAT Basis**

Receipts and payments are shown net of VAT, with any amount due to or from HM Revenue and Customs shown separately.

## **5. CREDITORS' CLAIMS**

Creditors' claims as set out in the Official Receiver's report to creditors totalled £1,885,652

The agreement of creditors' claims by the Liquidator is a separate matter and will be dealt with in due course, initially by reference to the proofs of debt lodged in the proceedings by creditors themselves. Creditors' claims will only be formally agreed if sufficient funds are realised to enable a distribution to be made.

## **6. PRESCRIBED PART**

The "Prescribed Part" is a statutory amount of the company's assets subject to a floating charge to be set aside for the benefit of the Company's non-preferential creditors.

Whilst there are creditors secured by fixed and qualifying floating charges over the assets and undertaking of the company, it is not yet known whether those creditors will receive any recovery under their floating charges. The amount of the company's net property is unknown at present and the Liquidator is therefore unable to provide an estimate of the amount of the Prescribed Part of the assets under Section 176A of the Insolvency Act 1986 (as amended).

## **7. DIVIDEND PROSPECTS FOR CREDITORS**

Dividend prospects for creditors are unknown at present. Any dividend is dependent on the realisation of assets detailed in sections 8 and 9 below.

## **8. CONDUCT OF THE WINDING UP IN THE PREVIOUS TWELVE MONTHS**

### **8.1. Investigations**

The Liquidator has been investigating the circumstances surrounding the sale of the business and how the funds realised from the sale were distributed. Investigations are ongoing and it is not yet certain as to whether any funds can be realised for the benefit of the liquidation.

### **8.2. Potential Claim for Compensation for Mis-selling of Interest Rate Hedging Product**

As you may be aware, a settlement agreement was recently reached between the Financial Conduct Authority ("FCA") and certain major banks, including National Westminster Bank plc in relation to the sale of interest rate hedging products. The Liquidator is aware that the Company was sold a relevant Interest Rate Hedging Product and it appears that the company falls within the scope of the FCA settlement and should therefore be entitled to redress.

Initial investigations indicate that there may be compensation due to the company, which could be substantial. However, it should be noted that there has not, as yet, been any clarification as to how any such compensation would be treated and thus which creditors would have priority. The Liquidator is therefore at present unable to ascertain whether any such funds would be available for creditors.

## **9. ASSETS REMAINING TO BE REALISED**

The Liquidator is continuing to investigate the matters set out in section 8 and the liquidation will remain open until these matters have been finalised.

## **10. ADMINISTRATION AND PLANNING**

The Liquidator has ensured that all statutory requirements have been adhered to and all other duties in relation to the management of the case have been completed. This includes, but is not limited to, the following activities:

- Statutory duties associated with the appointment including the filing of relevant notices,
- Notification of the appointment to creditors, members, employees and other interested parties,
- Reviewing available information to determine appropriate strategy;
- Setting up and maintaining bank accounts,
- Setting up case files,
- Periodic progress review of the case,
- Correspondence regarding security bond

## **11. LIQUIDATOR'S REMUNERATION AND DISBURSEMENTS**

### **11.1. Basis of Remuneration**

The basis of the Liquidator's remuneration and disbursements was approved by creditors on 10 September 2013, when the following resolutions were passed:

"The Liquidator shall be remunerated by reference to time properly spent in dealing with matters relating to the liquidation, such time to be charged at the hourly charge out rate of the grade of staff undertaking the work at the time it was undertaken"

"The Liquidator be authorised to draw 'Category 2' disbursements in accordance with the policy provided to creditors"

## **11.2. Remuneration and Disbursements incurred in the period from 25 July 2013 to 24 July 2014**

In accordance with insolvency legislation we are required to report remuneration 'charged' This reflects the time charged to the case and is the maximum that can be taken in fees by the Liquidator It does not necessarily reflect the amount of remuneration that will ultimately be taken by the Liquidator in remuneration

If there are insufficient realisations to allow the Liquidator remuneration to be recovered in full, any balance will be written off Details of any write off will be set out in the final report

### **11.2.1. Liquidator's remuneration**

The Liquidator has incurred time costs of £17,672 in respect of work done in the current period (a summary of which is set out in Appendix G) Details of the sums drawn in respect of remuneration for the period covered by this report are set out in the receipts and payments account (Appendix B)

Attached are the following

- Appendix C Baker Tilly Restructuring and Recovery LLP's Charging, Expenses and Disbursements Policy Statement
- Appendix D. Liquidator's Charge Out and Disbursement Rates,
- Appendix E. Category 2 Disbursements Table, and
- Appendix G Liquidator's Time Cost Analysis for the period set out above

No fees have been drawn to date and the Liquidator's time costs remain outstanding in full

### **11.2.2. Liquidator's disbursements**

Disbursements incurred in the period in accordance with the resolution above are detailed on Appendix F (Statement of Expenses)

## **12. LIQUIDATOR'S STATEMENT OF EXPENSES**

A statement of the expenses incurred during the period, is attached at Appendix F This includes all expenses incurred by the Liquidator in the period of the report irrespective of whether they have been paid or not and may include estimated amounts where actual invoices have not been received The receipts and payments abstract at Appendix B sets out the expenses actually paid in the period

**13. CREDITORS' RIGHT TO INFORMATION AND ABILITY TO CHALLENGE EXPENSES**

In accordance with the provisions of Rules 4.49E and 4.131 of the Insolvency Rules 1986 creditors have a right to request further information about remuneration or expenses and to challenge such remuneration or expenses.

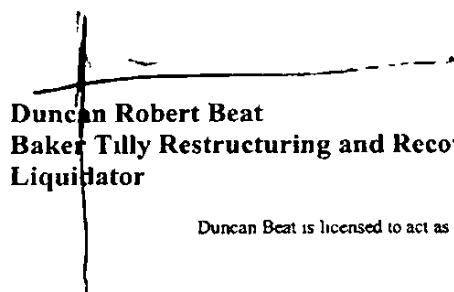
A request for further information must be made in writing within 21 days of receipt of this report

Any secured creditor, or any unsecured creditor with either the concurrence of at least 10% in value of the unsecured creditors (including that creditor) or the permission of the court, may apply to court that the remuneration charged, the basis fixed or expenses incurred by the liquidator are in all the circumstances excessive.

Any such challenge must be made no later than eight weeks after receipt of the report which first discloses the charging of remuneration or incurring of the expenses in question

A Creditors' Guide to Liquidators' Fees, which provides information for creditors in relation to the remuneration of a Liquidator, can be accessed by following the links within our website. Please note that a hard copy of any document uploaded to our website can be requested

Should you have any further queries please do not hesitate to contact me



**Duncan Robert Beat**  
**Baker Tilly Restructuring and Recovery LLP**  
**Liquidator**

Duncan Beat is licensed to act as an Insolvency Practitioner in the UK by the Secretary of State

## APPENDIX A

### STATUTORY INFORMATION

COURT & REFERENCE	In the High Court of Justice, Chancery Division No 00479 of 2013
COMPANY NAME	Yew Tree (Highclere) Limited
PREVIOUS COMPANY NAMES	None
COMPANY NUMBER	04637992
DATE OF INCORPORATION	15 January 2003
TRADING NAME	The Yew Tree
TRADING ADDRESS	Hollington Cross, Andover Road, Highclere, Nr Newbury RG20 9SE
PRINCIPAL ACTIVITY	Pubs and Restaurants
REGISTERED OFFICE	Highfield Court, Tollgate, Chandlers Ford, Eastleigh, Hampshire SO53 3TZ
FORMER REGISTERED OFFICE	Hollington Cross, Andover Road, Highclere, Nr Newbury RG20 9SE

## APPENDIX B

### Receipts and Payments Abstract: 5529650 - Yew Tree (Highclere) Limited In Liquidation

Bank, Cash and Cash Investment Accounts' From: 25/07/2013 To: 24/07/2014

SOA Value £	25/07/2013 to 24/07/2014		Total to 24/07/2014	
	£	£	£	£
ASSET REALISATIONS				
0 00	Bank Interest Gross	4 26	4 26	
0 00	Petition costs	1,165 00	1,165 00	
0 00	Rates Refund	<u>13,272 59</u>	<u>13,272 59</u>	
		14,441 85		14,441 85
COST OF REALISATIONS				
0 00	Bank Charges	(66 00)	(66 00)	
0 00	ISA Quarterly Charges	(22 00)	(22 00)	
0 00	OR's Fees & Expenses	(2,235 00)	(2,235 00)	
0 00	Sec of State Fees	(3,961 40)	(3,961 40)	
0 00	Tax Deducted at Source	<u>(0 85)</u>	<u>(0 85)</u>	
		(6,285 25)		(6,285 25)
0 00		<u>8,156 60</u>		<u>8,156 60</u>
REPRESENTED BY				
	ISA NIB		<u>8,156 60</u>	
				8,156 60
				<u>8,156 60</u>



## **APPENDIX C**

### **BAKER TILLY**

#### **CHARGING, EXPENSES AND DISBURSEMENTS POLICY STATEMENT**

##### **Charging policy**

- Partners, directors, managers, administrators, cashiers, secretarial and support staff are allocated an hourly charge out rate which is reviewed from time to time
- Work undertaken by cashiers, secretarial and support staff will be or has been charged for separately and such work will not or has not also been charged for as part of the hourly rates charged by partners, directors, managers and administrators
- Time spent by partners and all staff in relation to the insolvency estate is charged to the estate
- Time is recorded in 6-minute units at the rates prevailing at the time the work is done
- The current charge rates for Baker Tilly Southampton Office are attached
- Time billed is subject to Value Added Tax at the applicable rate, where appropriate.
- It is the office holder's policy to ensure that work undertaken is carried out by the appropriate grade of staff required for each task, having regard to its complexity and the skill and experience actually required to perform it
- Baker Tilly's charge out rates are reviewed periodically.

##### **Expenses and disbursements policy**

- Only expenses and disbursements properly incurred in relation to an insolvency estate are re-charged to the insolvency estate
- Expenses and disbursements which comprise external supplies of incidental services specifically identifiable to the insolvency estate require disclosure to the relevant approving party, but do not require approval of the relevant approving party prior to being drawn from the insolvency estate. These are known as "Category 1" disbursements
- Expenses and disbursements which are not capable of precise identification and calculation (for example any which include an element of shared or allocated costs) or payments to outside parties that the firm or any associate has an interest, require the approval of the relevant approving party prior to being drawn from the insolvency estate. These are known as "Category 2" disbursements
- A resolution to consider approving "Category 2" disbursements at the rates prevailing at the time the cost is incurred to Baker Tilly will be proposed to the relevant approving party in accordance with the legislative requirements
- General office overheads are not re-charged to the insolvency estate as a disbursement.
- Any payments to outside parties in which the office holder or his firm or any associate has an interest will only be made with the approval of the relevant approving party
- Expenses and disbursements re-charged to or incurred directly by an insolvency estate are subject to VAT at the applicable rate, where appropriate

**APPENDIX D****BAKER TILLY****LIQUIDATOR'S CURRENT CHARGE OUT AND DISBURSEMENT RATES**

<b>HOURLY CHARGE OUT RATES</b>			
<b>Rates at commencement</b>		<b>Current rates</b>	
	<b>£</b>		<b>£</b>
Partner and director	350 to 435	Partner	350 to 435
Associate director, manager & supervisor	235 to 310	Director / Associate Director	320 to 375
Other senior professionals	130 to 195	Manager	265
Support staff	105	Administrator	110 to 195
		Support staff	105

<b>"CATEGORY 2" DISBURSEMENT RATES</b>	
Company searches (Tracker)	£10 per case
File set up	£7 per file
Photocopying, scanning and faxes	10p per side of paper
Mileage	45p per mile
Room hire (internal) - London	£150 per hour
Room hire (internal) - outside London	£100 per hour
Reports to creditors and members - posted	50p per report
Reports to creditors and members - published on line	25p per report

**APPENDIX E****BAKER TILLY****LIQUIDATOR'S DISBURSEMENTS TABLES****CATEGORY 1 DISBURSEMENTS**

<b>Amounts paid or payable</b>		
<b>Recipient, Type and Purpose</b>	<b>Paid</b>	<b>Unpaid</b>
Specific Penalty Bond	-	£125 00
Postage	-	£66 93
Statutory Advertising	-	£75 00
Courier costs	-	£23 18
<b>Total</b>	-	<b>£290 11</b>

**CATEGORY 2 DISBURSEMENTS**

<b>Amounts paid or payable to the Office Holder's firm or to any party in which the office holder or his firm or any associate has an interest</b>		
<b>Recipient, Type and Purpose</b>	<b>Paid</b>	<b>Unpaid</b>
Mileage	-	£2 13
<b>Total</b>	-	<b>£2.13</b>

## APPENDIX F

### STATEMENT OF EXPENSES INCURRED BY THE LIQUIDATOR IN THE PERIOD FROM 25 JULY 2013 TO 24 JULY 2014

Type and Purpose	Incurred in Period
Legal fees – review of creditor's claim	£325 00
Total	£325.00

## **APPENDIX G**

### **LIQUIDATOR'S TIME COST ANALYSIS**

**FOR THE PERIOD FROM 25 JULY 2013 TO 24 JULY 2014**

# Restructuring & Recovery SIP9 Summary Level 2

Yew Tree (Highclere) Limited

1046724 / 702 - CCLQ001 - Compulsory Liquidation

For the period 25/07/2013 to 24/07/2014

Period	Hours Spent	Partners	Directors / Associate Directors	Managers	Assistant Managers	Administrators	Assistants & Support Staff	Total Hours	Total Time Costs	Average Rates
From Jan 2003										
<b>Administration and Planning</b>										
Appointment	0.0	0.0	0.0	0.0	0.0	4.4	0.0	4.4	£ 858.00	195.00
Background information	0.0	0.0	0.0	0.9	0.0	0.3	0.0	1.2	£ 297.00	247.50
Case Management	3.4	0.0	0.3	17.2	0.0	6.3	1.1	28.3	£ 7,084.00	250.32
Receipts and Payments	0.0	0.0	0.0	0.0	0.0	2.2	0.0	2.2	£ 451.00	205.00
Tax Matters	0.2	0.0	0.0	0.0	0.0	0.7	0.8	1.7	£ 322.00	189.41
<b>Total</b>	<b>3.6</b>	<b>0.0</b>	<b>0.3</b>	<b>18.1</b>	<b>0.0</b>	<b>13.9</b>	<b>1.9</b>	<b>37.8</b>	<b>£ 9,012.00</b>	<b>238.41</b>
<b>Investigations</b>										
Investigations/CDDA	0.0	0.0	0.0	19.6	0.0	2.3	0.0	21.9	£ 5,189.50	236.96
<b>Total</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>19.6</b>	<b>0.0</b>	<b>2.3</b>	<b>0.0</b>	<b>21.9</b>	<b>£ 5,189.50</b>	<b>236.96</b>
<b>Realisation of Assets</b>										
Assets - general/other	0.0	0.0	0.6	0.5	0.0	0.0	0.0	1.1	£ 347.50	315.91
<b>Total</b>	<b>0.0</b>	<b>0.0</b>	<b>0.6</b>	<b>0.5</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>1.1</b>	<b>£ 347.50</b>	<b>315.91</b>
<b>Creditors</b>										
Secured Creditors	0.0	0.0	0.4	0.0	0.0	0.0	0.0	0.4	£ 128.00	320.00
Unsecured Creditors	0.0	0.0	1.4	3.5	0.0	9.1	0.2	14.2	£ 2,994.75	210.90
<b>Total</b>	<b>0.0</b>	<b>0.0</b>	<b>1.8</b>	<b>3.5</b>	<b>0.0</b>	<b>9.1</b>	<b>0.2</b>	<b>14.6</b>	<b>£ 3,122.75</b>	<b>213.89</b>
<b>Total Hours (From Jan 2003)</b>	<b>3.6</b>	<b>0.0</b>	<b>2.7</b>	<b>41.7</b>	<b>0.0</b>	<b>25.3</b>	<b>2.1</b>	<b>75.4</b>	<b>£ 17,671.75</b>	<b>234.37</b>
<b>Total Time Cost (From Jan 2003)</b>	<b>£ 1,267.50</b>	<b>£ 0.00</b>	<b>£ 933.00</b>	<b>£ 10,545.50</b>	<b>£ 0.00</b>	<b>£ 4,703.50</b>	<b>£ 222.25</b>	<b>£ 17,671.75</b>		
<b>Total Hours</b>	<b>3.6</b>	<b>0.0</b>	<b>2.7</b>	<b>41.7</b>	<b>0.0</b>	<b>25.3</b>	<b>2.1</b>	<b>75.4</b>	<b>£ 17,671.75</b>	<b>234.37</b>
<b>Total Time Cost</b>	<b>£ 1,267.50</b>	<b>£ 0.00</b>	<b>£ 933.00</b>	<b>£ 10,545.50</b>	<b>£ 0.00</b>	<b>£ 4,703.50</b>	<b>£ 222.25</b>	<b>£ 17,671.75</b>		
<b>Average Rates</b>	<b>352.08</b>	<b>0.00</b>	<b>345.56</b>	<b>252.89</b>	<b>0.00</b>	<b>185.91</b>	<b>105.83</b>	<b>234.37</b>		

## NOTES TO APPENDIX G

### LIQUIDATOR'S TIME COST ANALYSIS

#### a) **Administration and Planning**

This includes dealing with the commencement of the case administration, statutory filing of appointment documents with Companies' House, requesting the submission of the Statement of Affairs and filing it at Companies' House, together with day-to-day case administration duties, maintenance of records and ongoing statutory obligations. These include but are not limited to: handling receipts and payments, VAT and corporation tax issues such as the monthly VAT returns, pension queries and general correspondence. Other matters which are required to be dealt with as part of the appointment and which will fall under this heading include case planning and strategy, case reviews, bonding, obtaining company searches, maintenance and obtaining books and records, general meetings / correspondence, statutory and other advertising, insurance, re-directed mail, statutory receipts and payments accounts, dealing with (including the winding up of) company pension schemes where applicable.

#### b) **Investigations**

Where appropriate this will include such matters as investigation of pre-appointment transactions in accordance with the relevant Statement of Insolvency Practice (SIP 2), preparing reports / returns in accordance with the Company Directors' Disqualification Acts and the investigation of any potential antecedent transactions such as transactions at under value and preferences which may result in legal action resulting in a recoverable asset.

#### c) **Realisation of Assets**

This includes dealing with all aspects of the realisation of assets including identifying, securing and insuring assets, and (where applicable), property, business and asset sales, retention of title claims and debt collection. Other matters dealt with during the case administration which will relate to asset realisation may commonly include effecting disclaimers, dealing with landlords, liaising with agents, undertaking inventories, meetings with purchasers / directors, arranging collection of leased assets, obtaining insurance, pursuing antecedent claims identified as part of the investigation work set out above. Details of the specific asset realisation work undertaken on this case are set out in the main body of the report. Asset realisation is considered to be a key aspect of the case administration.

#### d) **Trading**

Where the company has continued trading following the Liquidator's appointment our staff will have had to set up accounts with suppliers in order to trade on an ongoing basis. Payments to suppliers and general correspondence with these have been undertaken. Where trading has ceased, accounts will have been closed and final bills paid. Other matters will also have been dealt with in accordance with the usual trading obligations such as dealing with employees and payroll.

#### e) **Creditors**

Queries from and correspondence with creditors and employees have been necessary aspects of the case administration process. The preparation of the Liquidator's proposals has been undertaken including the attendant aspects of providing and obtaining the required information, convening the creditors' meeting etc. A brief report on the outcome of the creditors' meeting and the report on the first six months of the administration period have both been prepared.

#### f) **Case Specific Matters**

Any case specific matters will generally be set out in the body of the report but will commonly include meetings, correspondence and telephone calls relating to specific issues in the case which do not fall into any of the categories set out above and are specific to the case in question. This may include work done in relation to litigation, general advice or other major issues.