

The Insolvency Act 1986

## Statement of administrator's proposals

Name of Company Commercial Motors (South West) Limited	Company number 04729427
In the Royal Courts of Justice  [full name of court]	Court case number 10189 of 2009

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

~~I~~ We (a) Nigel Morrison of Grant Thornton UK LLP, Hartwell House, 55-61 Victoria Street, Bristol, BS1 6FT and Alistair Wardell of Grant Thornton UK LLP, 11-13 Penhill Road, Cardiff, CF11 9UP

attach a copy of ~~my~~ our proposals in respect of the administration of the above company.

A copy of these proposals was sent to all known creditors on

(b) Insert date

(b) 31 March 2009

Signed

Joint / Administrator(s)

Dated 31 March 2009

### 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.

Grant Thornton UK LLP	
Hartwell House, 55-61 Victoria Street, Bristol, BS1 6FT	
	Tel 0117 305 7600
DX Number	DX Exchange

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

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Our Ref HW/SJH/NM/C03957/7

**TO THE CREDITORS**

**Recovery and Reorganisation**

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31 March 2009

Dear Sirs

**Commercial Motors (South West) Limited - In Administration (CMSW or the Company)**

**Royal Courts of Justice - Case 10189 of 2009**

**1 INTRODUCTION**

1.1 Following the appointment of myself and Alistair Wardell as joint administrators of the Company by the directors on 6 February 2009, I am submitting my proposals pursuant to paragraph 49(1) of Schedule B1 to the Insolvency Act 1986 for achieving the objectives of the administration

1.2 This report contains the information required by Rule 2.33 of the Insolvency Rules 1986

1.3 In accordance with paragraph 100 (2) of Schedule B1 to the Insolvency Act 1986 the functions of the administrators are to be exercised by any or all of them.

**2 STATUTORY INFORMATION**

2.1 The Company's statutory details are as follows

Registered number 04729427

Date of incorporation 10 April 2003

Registered office C/o Grant Thornton UK LLP  
Hartwell House  
55-61 Victoria Street  
Bristol  
BS1 6FT

Trading address Commercial Motors (South West) Ltd  
Kings Weston Lane  
St Andrews Road  
Avonmouth  
Bristol  
BS11 9BY

Also premises at Bristol, Chilcompton,  
Exeter, Plymouth, St Austell and Yeovil

Authorised share capital	50,000 ordinary shares of £1 each
Issued share capital	50,000 ordinary shares of £1 each
<b>Directors:</b>	<b>shareholding</b>
Audrey Williams	7,500 ordinary shares of £1 each
Lois Williams	7,500 ordinary shares of £1 each
Paul Williams	20,000 ordinary shares of £1 each
<b>Secretary</b>	<b>shareholding</b>
Lois Williams	see above

- 2.2. The administration constitutes "main proceedings" under the EC Regulation on Insolvency Proceedings

### **3 BACKGROUND TO ADMINISTRATORS' APPOINTMENT**

- 3.1. The Company was incorporated on 10 April 2003 for the purpose of operating the Mercedes Benz commercial vehicle franchise in the South West of England
- 3.2. The Company employed 189 staff across branches in Avonmouth, Bristol, Chilcompton, Exeter, Plymouth, St Austell and Yeovil
- 3.3. Whilst the Company reported profits in its management accounts, adverse working capital movements and the overall downturn in the commercial vehicle market led to increased overdraft exposure and a breach in the Company's facilities with HSBC Bank plc (the Bank)
- 3.4. Grant Thornton UK LLP (the firm) was first consulted by the directors and the Bank, who hold a fixed and qualifying floating charge over the assets of the Company, in October 2008 with a view to carrying out an Independent Business Review on the Company's financial position
- 3.5. Prior to that consultation, neither I nor the firm, had any dealings or involvement with the Company, the directors or its secretary
- 3.6. The firm carried out a brief investigation into the Company's financial position and produced a report dated 16 October 2008 on the short term cashflows
- 3.7. My conclusions and recommendations in respect of the financial position of the Company were for the Bank to continue its support, in line with sensitised cash flow forecasts, provided the management sought a purchaser for the business and introduced enhanced procedures for the monitoring of cash flows
- 3.8. Efforts were made by the directors to sell the Company and discussions took place with a number of potential purchasers who carried out financial due diligence on the business but no offer was forthcoming

- 3 9 An additional phase of work was commissioned by the directors and the Bank on 24 November 2008 to focus on and update the short term cashflow forecasts to 31 January 2009, and to provide an update to the funders on the Company's disposal process
- 3 10. On 30 January 2009, the Company defaulted on a scheduled parts payment to its major supplier, Mercedes Benz UK Limited (Mercedes Benz). As a result and in accordance with the Mercedes Benz Truck and Van (Sales and Service) Agreements dated 9 September 2003, the Company's franchise was terminated by Mercedes Benz on 5 February 2009. Mercedes Benz attended the Company's premises in order to reclaim stock under its retention of title clause and was successful in recovering stock from the Bristol and Exeter premises
- 3 11. Having considered all the options the directors considered that the best route for the Company was for it to be placed into administration and subsequently, on 6 February 2009, the directors made the direct appointment of joint administrators in accordance with paragraph 22 of Schedule B1 to the Insolvency Act 1986
- 3 12 The objective of the administration is to achieve a better result for the Company's creditors as a whole than would be likely if the Company were wound up

#### **4 ASSETS AND LIABILITIES**

- 4 1 The directors have been requested to prepare a statement of affairs of the Company, but have not yet done so. We understand the directors have sought assistance with the preparation of the statement of affairs and are advised it may be completed within the next two weeks.
- 4 2 Attached at Appendix B, is a list of the names and addresses of the creditors, the amount of their debts and details of any security held.

#### **5 CONDUCT OF THE ADMINISTRATION**

##### **Trading and financing of the administration**

- 5 1. In view of the termination of the Mercedes Benz sales and service agreements and the removal of stock, trading ceased on my appointment
- 5.2 Of the Company's 189 employees, 17 were retained and the other 172 were made redundant immediately on my appointment.
- 5 3 The 17 employees were retained to assist with the sale of the Company's business and assets, to prepare up to date stock and vehicle counts, bringing up to date the Company's pre administration accounting records and securing the Company's assets and leasehold premises
- 5 4 A further seven employees were made redundant on 20 February 2009. The remaining staff were retained to keep control over the Company's premises and to continue assisting with the sale of the Company's business and assets
- 5 5 I instructed Jardine Lloyd Thompson to arrange appropriate insurance cover

- 5.6. I instructed Osborne Clarke LLP to act as my solicitors.
- 5.7 I instructed Edward Symmons to act as my agents, to provide advice and assistance in relation to the valuation and sale of the Company's physical assets

#### **Realisation of assets**

##### **Business and assets**

- 5.8. I concluded that the best way of achieving the objective of the administration was to attempt to sell the Company's business and assets on an in-situ basis. A number of interested parties were approached, including Mercedes Benz's newly appointed franchisee for the area, City West Commercial Limited (CWC)

- 5.9 On 5 March 2009, the Company's goodwill, plant and machinery/office equipment and vehicles were sold to CWC for £375,000, with my agents advice to accept the offer, apportioned as follows:

- |  |          |
|--|----------|
| • Goodwill                             | £ 75,000 |
| • Plant and machinery/office equipment | £162,000 |
| • Motor vehicles                       | £138,000 |

- 5.10. The receipt of the sales proceeds has been delayed pending the release of the various charges over the assets sold. I expect to receive the sales proceeds from my solicitors in the next few days

##### **Leasehold properties**

- 5.11. At the date of my appointment, the Company occupied leasehold premises in Avonmouth, Bristol, Chilcompton, Exeter, Plymouth, St Austell and Yeovil.
- 5.12. My agents have advised me that there is no value in these leases
- 5.13. As part of the agreement for the sale of the Company's business and assets, a six month licence to occupy premises was granted to CWC allowing them to occupy five of the Company's seven existing properties whilst they negotiate new leases with the landlords. A one month licence was granted on the Plymouth and Yeovil sites to enable CWC to remove plant and machinery and office equipment.
- 5.14 CWC is responsible for all costs whilst in occupation. However, the leases for the premises remain with the Company until they are either assigned or surrendered. Accordingly, I have received £152,983 from CWC in respect of the first three months rent, insurance and other costs for the premises and made payments to the landlords totalling £61,953 to date.

##### **Motor vehicles**

- 5.15 The Company had a significant number of motor vehicles comprising Company vehicles, fully paid vehicle stock, used vehicle stock, demonstrator vehicle stock and consignment vehicles.
- 5.16 The majority of the vehicles were held under finance agreements with a number of finance companies. The Company's interest in these vehicles was sold to CWC as detailed in paragraph 5.9

5 17 Consignment vehicles and vehicles that do not hold any equity will be returned to the respective finance companies

**Stock**

5 18. At the date of my appointment Mercedes Benz was owed circa £1,196,000 in respect of parts supplied but not paid for and was claiming retention of title over stock the Company held to the extent of its indebtedness

5 19 As detailed in paragraph 3.13, Mercedes Benz reclaimed stock under its retention of title clause from the Bristol and Exeter premises shortly prior to my appointment.

5 20. Since my appointment I have allowed Mercedes Benz to recover the remainder of its stock from the Company's five other premises on the understanding that the validity of the retention of title claim the stock was reclaimed under remains to be agreed.

5 21 I am taking advice from my solicitors regarding the validity of Mercedes Benz's retention of title claim, the value of stock reclaimed and other matters which will impact on the level of realisations in respect of the stock.

5 22. The Company held very little stock other than that supplied by Mercedes Benz My agents have confirmed that such stock has little realisable value and is likely to be subject to retention of title claims

**Trade debtors**

5.23 The Company's trade debtors are subject to a sales finance agreement with HSBC Invoice Finance Limited (HIF) Trade debtors amounted to £1,388,000 at the end of February 2009 with £740,000 due to HIF

5 24 CWC has agreed to collect the book debts on behalf of HIF

5 25. At this stage it is difficult to predict whether there will be a surplus for the Company after recovery of HIF's advances, collect out fees and costs and termination charges

**Other debtors**

5 26 At the date of appointment, the Company's books and records indicated it was owed money from a number of companies owned and controlled by the directors as follows

- Commercial Motors Ltd - £422,503
- Commercial Motors (Newport) Ltd - £ 27,783
- Other - £ 60,000

5 27 I am currently investigating whether these balances are due to the Company and awaiting information from the directors to assist me with my investigation.

## **Liabilities and outcome for creditors**

### **Secured creditors**

- 5 28 The Bank is owed approximately £1,176,000 in respect of the overdraft and loan before accruing interest and charges. The Bank holds a debenture dated 31 July 2003.
- 5 29 HIF is owed approximately £740,000 before accruing interest and charges (estimated at £50,000 in my estimated outcome statement). HIF holds a fixed charge over the Company's debts dated 13 August 2003.
- 5 30 HSBC Asset Finance (UK) Limited (HAF) and HSBC Equipment Finance (UK) Limited (HEF) are owed approximately £35,000 and hold a chattels Mortgage over certain of the Company's chattel assets dated 15 November 2004.
- 5 31 The Bank is likely to face a shortfall in respect of its lending under the overdraft and loan, the level of which is dependent on floating charge realisations.
- 5 32. HAF & HEF will be repaid in full from the realisation of assets subject to their respective charges. It is hoped that HIF will also recover its lending in full.

### **Preferential creditors**

- 5 33 I estimate employee preferential claims may total £179,000.
- 5 34 The outcome for preferential creditors will be dependent upon the level of floating charge realisations and costs.

### **Unsecured creditors**

- 5 35 I estimate that unsecured creditors claims will be in excess of £2,000,000.
- 5 36 At this stage, I do not believe there will be any surplus assets available to make a distribution to unsecured creditors.

## **Receipts and payments account**

- 5 37 My receipts and payments account covering the period 6 February 2009 to 26 March 2009 is attached (Appendix A).

## **6 PROPOSALS FOR ACHIEVING THE OBJECTIVE OF THE ADMINISTRATION**

- 6 1 The joint administrators will continue to pursue the objective of achieving a better result for the Company's creditors as a whole than would be likely if the Company were wound up.
- 6 2 The objective will be achieved by the joint administrators realising the Company's assets as detailed above.
- 6 3 The joint administrators propose to remain in office in order to realise the Company's assets, distribute surplus funds in the correct statutory priority and to complete their statutory duties.

- 64 It is proposed that the administration will end by the Company going into Creditors Voluntary Liquidation, or if there are no monies available for unsecured creditors, by the dissolution of the Company. If the Company is placed into creditors voluntary liquidation it is proposed that Nigel Morrison and Alistair Wardell will be appointed joint liquidators. However, creditors may nominate a different liquidator providing nomination to that effect is received before the approval of these proposals.

## **7 ADMINISTRATORS' REMUNERATION AND DISBURSEMENTS**

- 71 The joint administrators will request that their remuneration be calculated according to the time properly given by the joint administrators and their staff in attending to matters arising in the administration
- 72 Payments of the joint administrators' remuneration and disbursements are to be met from funds held in the administration in priority to the claims of creditors, and, after approval of the basis, the administrator may draw sums on account
73. The joint administrators will charge out of pocket expenses at cost. Mileage is charged at standard rates which comply with HM Revenue and Customs limits or AA recommended rates. VAT is added to disbursement charges as necessary
74. Time costs to date amounted to £169,288, being 672 hours at an average of £252 per hour. Disbursements to date amount to £1,311. None of my fees or disbursements have been paid to date.
- 75 The creditors committee, if appointed, should determine the basis of the administrators' remuneration
- 76 If no committee is appointed, in accordance with Rule 2.106 of the Insolvency Act 1986, as I do not anticipate a dividend will be paid to unsecured creditors in this matter, I must seek the approval of my fees from all secured creditors and, if asset realisations are available for a distribution to preferential creditors, any preferential creditor whose claim is greater than 50% of total preferential claims. I will seek such approval in due course
- 77 Background information regarding the fees of administrators can be found at <http://www.insolvency-practitioners.org.uk> (navigate via 'Technical' to 'Creditors Guides to Fees'). Alternatively I will supply this information by post on request.

**8 MEETING OF CREDITORS**

- 8 1 A meeting of creditors has not been convened because, in accordance with paragraph 52(1)(b) of Schedule B1 to the Insolvency Act 1986, as I am of the opinion that the Company has insufficient assets to enable a distribution to be made to unsecured creditors.
- 8 2 The proposals contained in this statement will be deemed to have been approved by the creditors unless, within 12 days of this statement being sent out, a meeting is requisitioned by creditors whose debts amount to at least 10% by value of the total debts of the Company

Yours faithfully  
for and on behalf of Commercial Motors (South West) Limited

A handwritten signature in black ink, appearing to be 'NM' followed by a long horizontal stroke with a small upward flick at the end.

Nigel Morrison  
Joint Administrator

The affairs, business and property of Commercial Motors (South West) Limited are being managed by Nigel Morrison and Alistair Wardell, appointed as joint administrators on 6 February 2009

## 9) ESTIMATED OUTCOME STATEMENT

Commercial Motors (South West) Limited - In Administration  
Estimated outcome statement as at 16 March 2009

Notes

Summary	Received/ (paid) to date £k	Estimated future movement £k	Estimated final position £k	Previous Report £k
<b>Fixed charge (property, goodwill etc)</b>				
Goodwill	75,000	0	75,000	0
Less costs	(10,000)	0	(10,000)	0
Plant, machinery etc	35,138	0	35,138	0
Less distribution to HSBC Asset Finance	(35,138)	0	(35,138)	0
Realisations net of costs	65,000	0	65,000	0
Distributions to Bank to date	0 A	0	0	0
Estimated future distributions	0	(65,000)	(65,000) B	0
	65,000	(65,000)	0	0
<b>Fixed charge (debtors)</b>				
Debtors	0	1,388,741	1,388,741	0
Less distributions to HSBC Invoice Finance	0	(790,000)	(790,000)	0
Less provision for disputed debts, contra and write offs	0	(598,741)	(598,741)	0
Realisations net of costs	0	0	0	0
Distributions to Bank to date	0 C	0	0	0
Estimated future distributions	0	0 D	0	0
	0	0	0	0
<b>Floating Charge</b>				
Plant and machinery	126,662	0	126,662	0
Vehicles	138,200	0	138,200	0
Stock	1,000	7,700	8,700	0
Less trading costs	0	0	0	0
Less realisation costs	(228,000)	(35,000)	(263,000)	0
Available for preferential creditors	37,862	(27,300)	10,562	0
Preferential claims - external	0	(179,000)	(179,000)	0
Preferential claims - Bank re wages	0	0	0	0
Available for floating charges	37,862	0	37,862	0
Distributions to Bank to date	0 E	0	0	0
Estimated future distributions	0	0 F	0	0
	37,862	0	37,862	0

**Commercial Motors (South West) Limited - In Administration**  
**Schedule of realisation costs**

	Total £'000	Fixed £'000	Floating £'000
<b>Administration costs</b>			
Joint Administrators' fees	125	7	118
Legal costs - Osborne Clarke	35	3	32
Agents' costs - Edward Symmons	25	0	25
Contingency/Statutory Advertising	5	0	5
	<u>190</u>	<u>10</u>	<u>180</u>
<b>Sale of Business and assets/Holding costs</b>			
Employee wages costs	38	0	38
Rent & rates	30	0	30
Insurance	10	0	10
Other costs	5	0	5
	<u>83</u>	<u>0</u>	<u>83</u>