

Rule 4.49C

The Insolvency Act 1986

Liquidator's Progress Report

Pursuant to Section 92A and 104A
of the Insolvency Act 1986**S.192**

To the Registrar of Companies

For official use

Company Number

6287661

Name of Company

(a) Insert full name of
company

(a)

ABERGAVENNY 4x4 LIMITED

(b) Insert full name(s) and
address(es)

(b)

BARRY GIBSON MITCHELL
BARRY MITCHELL & COMPANY
PENTRE FARM HOUSE
MAMHILL
GWENT NP4 0JHthe liquidator(s) of the company attach a copy of my Progress Report under section 192 of the
Insolvency Act 1986

Signed

A.G. Mitchell

Date

31 July 2013

Presenter's name
address and reference (if
any)

As Above

For Official Use

Liquidation Section

Post Room

MONDAY



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02/09/2013

#29

COMPANIES HOUSE

ABERGAVENTNY 4 x 4 LIMITED
in creditors' voluntary liquidation
('A4x4' or 'the Company')

First annual progress report of the liquidator
to members and creditors pursuant to
Section 104A of The Insolvency Act, 1986

STATUTORY INFORMATION

Company number	6287661
Registered office	Pentre Farm House Mamhilad Gwent NP4 OJH
Former trading address	Unit 18 Mill Street Industrial Estate Abergavenny Monmouthshire NP7 5HE
Office holder	Barry Gibson Mitchell (418: ICAEW) Pentre Farm House Mamhilad Gwent NP4 OJH

BACKGROUND

Within the Aide Memoire distributed to members and creditors at and following the meetings on 1 June 2012, it was explained that A4x4 was incorporated in June 2007, since which time it had been under the sole directorship of Mr Haydn David Jenkins ("Mr Jenkins" or "the director"). The Company had operated from a small trading estate in Abergavenny as a Landrover parts stockist, taking over a business which Mr Jenkins had previously conducted in partnership with a major national distributor

The Aide Memoire explained, inter alia, that A4x4 had faced two entirely separate sets of difficulties.

1. Unreliability of accounting records

(1) From the outset its accounting affairs (monthly payrolls, quarterly VAT returns, the preparation of annual accounts and the filing of Corporation Tax returns had been entrusted to a Cardiff based accountant ('the Cardiff accountant'). While Mr Jenkins harboured doubts as to the efficacy of these arrangements (A4x4 received a stream of arbitrary VAT assessments and late filing notices from Companies House), he was constantly assured by the Cardiff accountant that all was well. threatened enforcement action by HM Revenue & Customs ("HMRC") never materialised and Mr Jenkins's more immediate concerns were a lack of annual accounts and difficulties arising from a change in the accounting system instigated by the Cardiff accountant.

Matters came to a head towards the end of 2012 when A4x4 was suddenly faced with a demand from HMRC for some £70,000. Mr Jenkins approached a firm of accountants in Cwmbran, Green & Co, who:

(a) Confirmed that A4x4's VAT records were in disarray liabilities went back to 2009/10 and no returns had been filed since May 2010

(b) Produced management accounts for the years to 31 May 2009 to 2011 which showed only a marginal trading result.

2. Viability of the trading operation

The production of management accounts (supra) caused an immediate review of A4x4's position. It was evident, inter alia, that:

(i) The gross margin had fallen from over 40% in the first year of trading to some 27% more recently.

(ii) Three significant wholesale customers who had previously obtained parts from A4x4 had gone directly to suppliers: this represented not only a loss of turnover to A4x4 but meant that the three former customers became competitors of the Company

(iii) These new outlets together with Internet trading had produced the significant fall in gross profit.

(iv) The DIY market was reducing on account of the relative complexity of new (Landrover) models

(v) General economic conditions were producing significant bad debts (upwards of £20,000) and a number of customers had otherwise gone out of business.

(vi) At the same time overheads - in particular rent, rates and fuel - continued to rise inexorably.

In sum, and while the liabilities to HMRC were likely not as great as demanded, it was evident that A4x4 did not have a viable trade: furthermore its fortunes could only deteriorate still further. Accordingly the decision was taken to cease to trade and to place A4x4 into liquidation.

OVERALL OUTCOME

Set out as Appendix A is a comparison between the outcome of the liquidation as estimated by the director in the Statement of Affairs and the position as it appears at the end of the first year of the liquidation.

It will be seen that there has been an increase in the overall deficit of some £27000, principally on account of the

costs associated with the liquidation The full reconciliation between the two positions is as follows

	£'000	£'000
Original deficit projected by the director		38
Add: Estimated costs of the liquidation		22
Add: Reduction in physical asset recoveries	2	
Less: Additional funds at Bank	<u>1</u>	1
Add: Increased claims of creditors		
Trade and expense creditors	5	
HMRC - VAT	<u>3</u>	
	8	
Less: Reduction in Corporation Tax	(1)	
Reduced claims of employees re notice pay and redundancy	(2)	
Elimination of shortfall to secured creditor	(1)	<u>4</u>
Deficit as estimated by the Liquidator		<u>65</u>

CONDUCT OF THE LIQUIDATION

Realisation of assets

Vauxhall Combo van EK 56 BWO

This was estimated to have negative equity of £1446. Since the Agreement was subject to Mr Jenkins's personal guarantee, he 'took over' the Agreement, thereby relieving A4x4 of the liability for the shortfall.

Balance at Bank

In addition to monies held by Barclays Bank PLC (£8018.40), I also recovered (after a protracted struggle) further monies of £828.11 held by the Merchant Services provider (credit card processor).

Physical assets

The Company's physical assets comprising its plant and equipment and stocks were appraised by the Cardiff firm of Chartered Surveyors, Hicks Day Jones Westlake ("Westlake") who reported under date of 31 May 2012.

(i) Plant and equipment was extremely limited, comprising parts shelving and racking, old computer equipment and even older general office equipment: there was also a banding tool Westlake attributed a value of £1050 to such assets but assuming

that a sale could be made privately to a local 'end user' i.e. the value of the equipment did not warrant removal and public sale

(ii) So far as A4x4's stocks were concerned, the great majority of these derived from a single Landrover parts supplier, Border Holdings (UK) Limited trading as Britpart ("Britpart")

(a) Britpart claimed reservation of title ("ROT") over the whole of such stocks and Westlake agreed that such ROT was valid.

(b) Britpart removed the whole of its inventories in the days following the liquidation against a listing agreed with Mr Jenkins.

(c) Over the course of the next three months Britpart then 'evaluated' the stocks that had been recovered and issued credit notes totalling £27086 - although I was not advised of this until October 2012. In the circumstances, the decision as to whether or not a part could be 're-stocked' rested solely with Britpart but Britpart clearly spent a considerable time on the exercise and also waived a 15% handling charge which it was entitled to levy against returns

(d) The stocks that remained, represented a limited selection of non-Landrover parts and a very slow-moving base stock of nuts, bolts, washers etc. ("the residual stocks")

(iii) The only offer in respect of the residual stocks and the racking was of £500 from a motor factor on the same industrial estate as A4x4. Following Westlake's intervention and discussion with the factor's principal, the offer was increased to £1000. Westlake recommended acceptance since, as already explained, the nature of the assets warranted neither removal nor an in situ sale to the general public.

Book debt

Reference has already been made in an earlier section of this Report to certain difficulties within A4x4's accounting system. These affected not only the proper reflection of liabilities to HMRC but also the recording and tracking of book debts. In the case of the latter, there was a specific problem arising from a change in the accounting system and where it was not clear whether balances on the previous system had been correctly brought forward and/or been correctly 'credited off' the new system (upon payment) once established upon it. In addition it became clear that the conduct of the business had operated on a significant degree of 'trust'. Many debtors were not fully identifiable, credit was overly extended, returns were not strictly controlled, payments were not always 'marked off' and 'set off' was not regularly calculated

Upon appointment, I carried out a line by line assessment with Mr Jenkins which, after adjustment for the factors identified above, suggested that book debt of £60791 warranted

pursuit - as compared with the amount of £52903 referred to in the Statement of Affairs.

The pursuit of such debt represented a significant task: it was spread over some 200 customers it dated as far back as 2008 and was incompletely documented. Nevertheless, in conjunction with Mr Jenkins, I embarked on a series of measures - writing (mainly by Recorded Delivery), responding to queries, providing documentation and resorting to Claim Forms and in one case the involvement of solicitors. I also held regular meetings with Mr Jenkins to review progress and to plan further measures in respect of particular debtors. These endeavours have achieved the following results to date.

	£	£
Debt identified as warranting pursuit (supra)		60791
Deduct: Payments recovered to date		<u>33794</u> 26997
Deduct: Written off to date		
Previously paid	3067	
Credit notes due (incl warranty)	2621	
Set-off/contra	1053	
Insolvent	<u>845</u>	<u>7586</u>
Still being actively pursued (some 60 accounts)		<u>19411</u>

The scale of the endeavours needed to assess and chase some 200 trade debts, each with its own circumstances, has been considerable. Equally I have been mindful of the need to produce an economic return to creditors and I return to my proposed treatment of the costs involved in a later section of this Report.

While some £34000 has now been recovered, I have not, at this stage, adjusted the estimated overall recovery of £35000 shown in the Statement of Affairs. While it is not possible to say how long worthwhile recovery efforts should continue, I shall shortly resort to Claim Forms in a significant number of cases and in an attempt to bring the exercise to a conclusion.

Refunds and deposits

(i) Small refunds were obtained in respect of insurances, which had previously been paid.

(ii) My review of A4x4's records identified that a deposit of £1500 had been placed with a previous landlord. Since the rent was paid up to date and there was no evidence of dilapidations, I sought return of the deposit from the present landlord's agents. This drew entirely unsatisfactory responses from the agents and I have been obliged to involve my solicitor who has been in correspondence with both the agent and the

landlord. I anticipate a small net recovery from this source though to date no such recovery has been recognised within the Outcome Statement (Appendix A).

Agreement of creditors' claims

HMRC

Reference was made in the opening section of this Report to the generally unsatisfactory nature of A4x4's accounting affairs. I wrote specifically to the relevant sections of HMRC regarding Corporation Tax, PAYE/NI and VAT, receiving an extremely fair hearing from all quarters. The results of those contacts have been as follows.

(1) Corporation Tax

HMRC agreed to withdraw assessments totalling £34040 for the year ended 31 May 2008 on the basis that they were unrealistic in the context of A4x4's activities. This left a series of assessments (mainly penalties) which approximated to the liabilities calculated by Green & Co (£4081.68).

(ii) PAYE/NI

It seems that in addition to the liability for May 2012, that for April 2012 had also not been paid over to HMRC. Accordingly HMRC's claim under this head is £782.50.

(iii) VAT

Both Green & Co and I were involved in attempting to reconstruct and reconcile the VAT position - at least to the time that Green & Co had assisted in the completion of accounts (31 May 2011). HMRC was extremely tolerant of these endeavours and also agreed to accept estimates for the last year of A4x4's trading. The agreed liability was reduced from HMRC's initial claim of some £50000 to £31288.27.

Trade and expense creditors

Of seventeen trade creditors identified at the time of the Statement of Affairs, one has been eliminated, the claims of six have been agreed and claims are either awaited or under discussion with the remainder.

My present assessment is that trade and expense creditors will amount to £35392.

Employees' notice pay and redundancy

While the Redundancy Payments Service calculated increased redundancy entitlements, neither Mr Jenkins nor the senior member of staff qualified for notice pay, given the timing of their finding alternative employment. Accordingly there has been a net

reduction of some £2000 in respect of liabilities under this head

Director's advances

These remain as estimated at the time of compiling the Statement of Affairs.

Shortfall to secured creditor

This potential liability has 'fallen away', given the arrangements in respect of the Vauxhall van (supra)

General matters

Statutory

I have complied with the obligations imposed by statute and by my regulating body.

Conduct of the Director

In accordance with statutory requirements, I have submitted a conduct report to the Insolvency Services Section of the Department for Business, Innovation and Skills pursuant to the Company Directors Disqualification Act, 1986.

RECEIPTS AND PAYMENTS ACCOUNT

This is set out at Appendix B. Reference has already been made to the source of all receipts and it will be seen that expenses have only been incurred in respect of matters directly attributable to the liquidation.

LIQUIDATOR'S COSTS AND REMUNERATION

Authority

(i) At the first meeting of creditors on 1 June 2012, it was agreed that there should be a convening fee of £2500 (plus VAT)

(11) So far as the costs of the liquidation itself were concerned, the first meeting of creditors agreed that my costs should be charged on the basis of time properly spent in attending to matters arising in the liquidation and at respective rates of £85 per hour for work of a technical nature (involving the liquidator) and £35 per hour for administrative support.

Time spent and fees drawn

(1) My records show that in preparing for the convening of the first meeting of creditors on 1 June 2012, I spent some 36 50 hours. At an hourly rate of £85 this would give costs of £3102.50 As already indicated the convening fee was in fact set at £2500 This was drawn in July 2012.

(ii) So far as the liquidation itself is concerned, I have already made reference to the considerable endeavours which were necessarily devoted to the pursuit of A4x4's book debts - as well as to the need to produce a cost effective result. Although the work was undertaken by myself, I recognise that much of it was of a routine nature: accordingly I have charged the whole of my time in respect of such debt collection (139.7 hours) at the administrative rate of £35 per hour. Particularly recognising the treatment of such time in respect of book debt, an analysis of the time incurred during this reporting period (the year to 31 May 2013) is as follows:

<u>Category of work</u>	<u>Technical time hrs</u>	<u>Administrative assistance hrs</u>
Formalities - reporting to creditors and the filing of statutory returns	21 5	9.4
Assets realisation (other than book debt)	7 7	2.1
Banking arrangements	4.5	15 3
Debtor collection	-	139.7
Employees' affairs	10.0	4.3
HM Revenue & Customs		
PAYE/NI/CT	8.8	2.4
VAT	15.7	3 6
General creditors	11.2	7 2
Other matters, lease etc	<u>7.5</u>	<u>3.3</u>
	<u>86.9</u>	<u>187.3</u>
At respective rates	<u>£85</u>	<u>£35</u>
Costs to date	<u>£7386 50</u>	<u>£6555.50</u>
	<u>£13942</u>	

(1) £8000 has been drawn in respect of the above costs in the year to 31 May 2013

(11) I estimate that my time costs in respect of the liquidation will amount to some £17000 in total overall costs of £22000. This estimate recognises the continuing need to produce a cost effective result with regard to the Company's book debt

For the sake of good order, I draw to your attention the fact that comprehensive information in respect of liquidators' fees in general can be obtained from the Institute of Chartered Accountants in England and Wales at www.icaew.com/insolvency and following the link from 'Creditors' guides' to 'A creditors' guide to fees charged by liquidators'

Creditors and members have a right to request further information in respect of the liquidator's remuneration and expenses in accordance with Rule 4.49E of the Insolvency Rules, 1986 and have the right to challenge the amounts drawn under Rule 4.131. Copies of these Rules are available upon request.

RECOVERIES TO CREDITORS AND DIVIDEND PROSPECTS

(1) A4x4 does not face claims from either secured or preferential creditors.

(11) Britpart has made a recovery of some £27000 in respect of ROT.

(111) On the basis of Appendix A, unsecured creditors can anticipate a dividend of some 26p in the £. Given the extent of book debt which remains outstanding (and whose successful realisation would enhance the dividend), I am not able at present to give an indication as to the timing of such a dividend.

IN CONCLUSION

I shall be pleased to provide you with any other information or explanations you may require



B G Mitchell
Liquidator

31 July 2013

ABERGAVENNY 4 X 4 LIMITED
(in liquidation)

Comparison between the outcome estimated by the Director
in the Statement of Affairs and the position
as it appears to the liquidator at 31 May 2013

	Per Director's estimate (1 June 2012) £	Liquidator's assessment (31 May 2013) £
ASSET SUBJECT TO A FIXED CHARGE		
Vauxhall Combo CDTI Delivery		
Van EK 56 BWO	2500	
Deduct: Amount due to Close		
Motor Finance Limited ("CMF")	<u>3946</u>	
Deficit to CMF	(1446)	-
FREE ASSETS		
Balance at Bank	8018	8847
Plant and equipment	1050	
Stocks (net of Reservation of Title returns)	2000	1000
Trade debts	35000	35000
Refund and deposits	<u>-</u>	<u>156</u>
	46068	45003
Deduct COSTS OF LIQUIDATION	<u>-</u>	(22000)
	46068	23003
Deduct: PREFERENTIAL CREDITORS	<u>-</u>	<u>-</u>
	46068	23003
Deduct: UNSECURED CREDITORS		
HM Revenue & Customs		
Corporation Tax	(4955)	(4082)
PAYE/NI	(275)	(781)
VAT	(28071)	(31288)
Trade and expense creditors	(30814)	(35392)
Employees - notice pay and redundancy	(13704)	(11626)
Director's advances	(5000)	(5000)
Shortfall to secured creditor	<u>(1446)</u>	<u>-</u>
OVERALL DEFICIT	(38197)	(65166)

ABERGAVENNY 4 x 4 LIMITED, in liquidation

Receipts and Payments account for the year
1 June 2012 to 31 May 2013

	£	£
RECEIPTS		
Cash at Bank		8846.51
Stocks and racking		1000.00
Book debt		33793.71
Refunds		<u>156.26</u>
		<u>43796.48</u>
PAYMENTS		
Expenses of the liquidation		
Liquidator's costs		
Convening fee	2500.00	
Liquidator's fees (on account)	8000.00	
Liquidator's bond	<u>300.00</u>	10800 00
Fees to others		
Agent's fee	850.00	
Legal fees	654.00	
Administrative assistance	1750.00	
Debt recovery fees	<u>465.00</u>	3719.00
General expenses		
Advertising	620.96	
Bank charges	45.18	
Broadband connection	<u>15.30</u>	<u>681.44</u>
		15200.44
VAT in the liquidation period		<u>2324 19</u>
		<u>17524.63</u>
BALANCE OF FUNDS ON HAND AT 31 MAY 2013		<u>£26271 85</u>