

**Administrator's progress report****2.24B**

Name of Company

Fogarty Limited

Company Number

02524980

In the

High Court of Justice, Chancery Division, Birmingham  
District Registry

(full name of court)

Court case number

8581 of 2009

(a) Insert full name(s) and  
address(es) of  
administrator(s)We (a) Stuart Maddison and Robert Hunt of PricewaterhouseCoopers LLP, Donington Court,  
Pegasus Business Park, Castle Donington, East Midlands, DE74 2UZ

administrators of the above company attach a progress report for the period

from

to

(b) 17 September 2009

(b) 16 March 2010

(b) Insert dates

Signed

  
Joint Administrator

Dated

15 April 2010

**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 you or your company has about the  
company's records.

Clare Davison

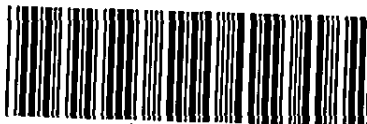
PricewaterhouseCoopers LLP, Benson House, 33 Wellington Street, Leeds, LS1 4JP

Tel 0113 289 4062

&lt; Number

DX Exchange

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21/04/2010

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COMPANIES HOUSE

ave completed and signed this form please send it to the Registrar of Companies at  
House, Crown Way, Cardiff, CF14 3UZ DX 33050 Cardiff

PricewaterhouseCoopers LLP  
Benson House  
33 Wellington Street  
Leeds LS1 4JP  
Telephone +44 (0) 113 289 4000  
Facsimile +44 (0) 113 289 4460  
[www.pwc.com/uk](http://www.pwc.com/uk)

When telephoning please ask for  
Clare Davison on 0113 289 4062

## To all known creditors

14 April 2010

Our ref CND/180210/FOGARTY/PROGREP

Dear Sirs

## Fogarty Limited - in administration ("the Company")

In accordance with Rule 2 47 of the Insolvency Rules 1986 ("IR86"), the Joint Administrators ("the Administrators") write to provide creditors with details of the progress of the Administration in respect of the Company in the six months since the Administrators' appointment on 17 September 2009

## Statutory and financial information

We enclose the following for your information

- Appendix A Statutory information,
- Appendix B Administrators' receipts and payments accounts to 16 March 2010,
- Appendix C Administrators' time costs to 16 March 2010, together with the charge out rates of PricewaterhouseCoopers LLP
- Form 2 24B Administrators' progress report

## Overview of the administrations

Stuart D Maddison and Robert J Hunt were appointed as Administrators of the Company on 17 September 2009. The Administrators' proposals for achieving the purpose of the administration ("the Proposals") were approved by the Company's creditors

The purpose of administration is to achieve one of the following objectives -

- (a) Primarily, rescuing the Company as a going concern, or failing that
- (b) Achieving a better result for the Company's creditors as a whole than would be likely if the Company were wound up (without first being in Administration), or finally
- (c) Realising property in order to make a distribution to one or more secured or preferential creditors

As detailed in the Administrators' Proposals dated 9 November 2009, objective (b) is being pursued as it was not reasonably practical to rescue the Company as a going concern

## Steps taken by the Administrators since appointment

As previously advised, a sale of the business and assets of the Company to Fogarty Filled Products Limited ("Filled Products") was achieved immediately following the Administrators' appointment on 17

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September 2009 In accordance with Statement of Insolvency Practice 16 (Pre-packaged sales in administration), details of the sale were provided to creditors with the initial letter sent on 18 September 2009. As you are aware, the Company was part of the Fogarty Group which consisted of a non-trading holding company, Filled Products and the Company. There had previously been several attempts by the directors of the Company to sell the entire group of companies, however, these attempts were without success due to the level of funds that a purchaser would have to inject to fund the large deficit in respect of the Company's pension scheme. In addition, the structure of the group made it very difficult for the Company to exist in isolation. The Company had only one customer and one supplier both of whom were Filled Products, therefore, it was considered that Filled Products was the only realistic buyer for the business.

In addition, it was not considered commercially viable to continue to trade the business in administration whilst a buyer was sought as this would have severely impacted on the value of the business by damaging the Fogarty Brand and any trading would have relied on the continued financial and operational support of Filled Products which was not considered to be a viable option. The Administrators, therefore, considered that an immediate sale of the business and assets would result in higher realisations for the Company's creditors than would have been likely if the business had been traded in Administration and then sold. The sale to Filled Products also safeguarded the employment of the Company's c 300 employees as they were transferred to the purchaser under TUPE regulations.

The total consideration received for the sale is as follows:

	£
Plant & machinery	225,000
Stock	368,624
Tax losses	25,000
Intellectual property	1
	<hr/> 618,625

Of the total consideration of £618,625, £175,000 was paid on completion, with the remaining £443,625 paid 30 days following completion. In accordance with the terms of the sale agreement, payments of £182,868 in respect of wages due prior to the sale and £96,132 in respect of preferential claims that would have arisen in the administration have been deducted from the sale price, therefore, net realisations achieved total £339,625.

## **Estimated outcome for creditors**

### **Dividend prospects**

### **Preferential Creditors**

Preferential claims arise in respect of employee claims for arrears of wages and outstanding holiday pay. The directors' statement of affairs estimates preferential claims of £279,000, however these liabilities have transferred to Filled Products as the purchaser of the business under TUPE regulations. As a consequence of the terms of the sale agreement, as discussed above, the TUPE liabilities were deducted from the sale consideration. Therefore, the Administrators do not anticipate any preferential claims in the Administration.

### **Unsecured Creditors**

According to the directors' statement of affairs, unsecured, non-preferential claims total £8,907,874 which is mainly made up of the deficit against the Company's pension scheme. As the Company has no secured or preferential creditors, all realisations, after the costs of the Administration, will be available for distribution to this class of creditor.

The Administrators have received an initial estimated claim of £8,800,000 in respect of the deficit against the Company's pension scheme and a further claim of £226,366 from HM Revenue & Customs.

in respect of the outstanding PAYE and NIC contributions. The level of creditors is therefore expected to be £9,026,366, however, as the claim in respect of the pension scheme deficit is a provisional claim, this amount is subject to change.

A dividend to unsecured creditors will be paid once the claim in respect of the pension scheme is finalised, however, the quantum of this distribution is dependent upon the costs of the Administration and the final level of claims, and is therefore currently unknown. Creditors will be notified in due course of when the Administrators or subsequent liquidators are in a position to make a distribution to the unsecured creditors.

In addition, there will be no return to unsecured creditors by virtue of the Prescribed Part, as no floating charge has been created and therefore the Prescribed Part does not apply in this case.

## **Receipts & payments account**

Attached at Appendix B is an abstract of the Administrators' receipts and payments for the period 17 September 2009 to 16 March 2010.

## **The fulfilment of the Administrators' statutory duties**

The Administrators have a duty to review the conduct of everyone who has acted as a director of the Company in the three years prior to the Administration and report to the Department for Business, Innovation and Skills on their findings. I can confirm that the Administrators have complied with this requirement, however, for confidentiality reasons I am unable to give any further information.

## **Administrators' remuneration**

The Administrators' approved Proposals allowed for the Administrators to draw remuneration by reference to the time properly given by the Administrators and the various grades of their staff in attending to the matters arising in the administration.

To date, the Administrators have incurred time costs of £53,047. This represents 212.05 hours at an average hourly rate of £250.16. To date, no fees have been drawn against these costs, however, fees will be drawn in due course in accordance with the resolution passed by the unsecured creditors.

It has been the Administrators' policy to delegate the routine tasks of the administration to junior staff in order to maximise the cost effectiveness of the work performed. These staff are supervised by senior staff and the Administrators. Any matter of particular complexity or significance that has required responsibility of an exceptional kind has been dealt with by senior staff and the Administrators.

A breakdown of the time costs incurred by grade and work type from the time of the Administrators' previous report to 16 March 2010 is enclosed at Appendix C.

In common with all professional firms, scale rates increase from time to time over the period of administration of each insolvency case. PricewaterhouseCoopers LLP or any successor firm reserves the right to change the rates and grade structure. Full details of the charge out rates currently charged to this case are also attached at appendix C. Specialist departments within PricewaterhouseCoopers LLP, such as tax, VAT, property and pensions, sometimes charge a small number of hours should the Administrators require their expert advice. Their rates vary, however, the figures given provide an indication of the maximum rate per hour.

## Professional advisors

On this assignment the Administrators have used the professional advisors listed below. The Administrators have also indicated alongside, the basis of their fee arrangement with them.

Service provided	Name of firm / organisation	Reason selected	Basis of fees
Legal advice	Shoosmiths	Relevant experience	Time costs
Chattel agents and valuers	Go Industry	Relevant experience	Percentage of realisations

The choices were based on the Administrators' perception of the advisors' experience and ability to perform this type of work, the complexity and nature of the assignment and the basis of the fee arrangement with them. The Administrators have reviewed the fees charged and are satisfied that they are reasonable in the circumstances of this case.

## Ending the administration

The Administrators currently envisage that once the objective of the Administration has been achieved, the Company will be placed into creditors' voluntary liquidation to allow funds to be distributed to the unsecured creditors, or alternatively, an application to court will be made for permission for the Administrators to distribute to the unsecured creditors. If permission is granted, following the distribution to unsecured creditors, the Administrators will file notice under Paragraph 84(1) Sch B1 IA86 with the Registrar of Companies, following registration of which the Company will be dissolved three months later. If permission is not granted the Administrators will place the Company into creditors' voluntary liquidation or otherwise act in accordance with any order of the court.

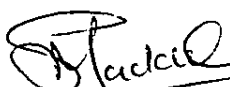
## Future reporting

Pursuant to Rule 2.47 of the Rules, I will provide you with a further report in six months time, or at the end of the administration, whichever is sooner.

Should you have any further questions, please do not hesitate to contact my colleague, Clare Davison, on 0113 289 4062.

Yours faithfully

For and on behalf of the Company



Stuart Maddison  
Joint administrator

*Stuart D Maddison and Robert J Hunt have been appointed as joint administrators of the Company to manage its affairs, business and property as its agents and act without personal liability. Both are licensed to act as insolvency practitioners in the United Kingdom by the Institute of Chartered Accountants in England and Wales.*

## Appendix A - Statutory and other information

### Court details for the Administration:

Full name:

Trading name:

Registered number:

Registered address:

Company directors:

Company secretary:

Shareholdings held by the directors and secretary:

Date of the Administration appointment:

Administrators' names and addresses:

Appointor's / applicant's name and address:

Objective being pursued by the Administrators:

Division of the Administrators' responsibilities:

Proposed end of the Administration:

Estimated dividend for unsecured creditors:

Estimated values of the prescribed part and the

company's net property:

Whether and why the Administrators intend to apply to court under Section 176A(5) IA86:

The European Regulation on Insolvency Proceedings (Council Regulation(EC) No. 1346/2000 of 29 May 2000):

High Court of Justice, Chancery Division, Birmingham District Registry, Case Number 8581 of 2009

Fogarty Limited

Fogarty Limited

02524980

Benson House, 33 Wellington Street, Leeds, LS1 4JP

Stewart George MacDonald, Barry Stephen Roe, Donald Graeme Strachan, John Szymkiv

Gerald John Tawton

None

17 September 2009

Stuart David Maddison and Robert Jonathan Hunt of PricewaterhouseCoopers LLP, Donington Court,

Pegasus Business Park, Castle Donington, East Midlands, DE74 2UZ

The Directors of the Company, Havenside, Fishoft Road, Boston, Lincolnshire, PE21 0AH

Objective (b) achieving a better result for the Company's creditors as a whole than would be likely if the

Company were wound up (without first being in Administration)

In relation to paragraph 100(2) Sch B1 IA86, during the period for which the Administration is in force,

any function to be exercised by the persons appointed to act as Administrators may be done by any or

all of the persons appointed or any of the persons for the time being holding that office

Creditors' voluntary liquidation or dissolution

Currently unknown

Not applicable

Not applicable

The European Regulation on Insolvency Proceedings applies to this Administration and the proceedings are main proceedings

**Appendix B - Administrators' receipts and payments accounts from  
17 September 2009 to 16 March 2010**

<b>Receipts</b>	<b>For the period 17/9/09 to 16/3/10 £</b>	<b>Director's statement of affairs £</b>
Plant and machinery	225,000	400,000
Stock	368,624	368,624
Tax losses	25,000	25,000
Intellectual property	1	1
Cash	1,051	1,051
Interest	31	-
<b>Total receipts</b>	<b>619,707</b>	<b>794,676</b>
<b>Payments</b>		
Agents' Fees	2,779	
Insurance	105	
Legal Fees	14,962	
Legal Disbursements	30	
Statutory Advertising	205	
Bank Charges	35	
Gross wages and salaries	182,868	
Preferential creditors	96,132	
VAT Receivable	2,692	
<b>Total payments</b>	<b>299,808</b>	
<b>Balance</b>	<b>319,899</b>	

# Appendix C

## Fogarty Limited – In Administration Analysis of time costs for the period 30 October 2009 to 16 March 2010

Aspect of Administration	Partner	Director	Senior Manager	Manager	Senior Associate	Associate	Secretarial	Total Hours	Time costs £	Average hourly rate £
1 Strategy & Planning	9 50		0 10	0 20		0 40		10 20	4,423 00	433 63
2 Trading			3 00					3 00	900 00	300 00
3 Asset realisations								-	-	-
4 Investigations			13 40	1 30		3 10		17 80	4,872 00	273 71
5 Creditor claims/distributions/enquiries				0 60	0 80		0 80	2 20	342 00	155 46
6 Accounting and treasury			0 20		3 70	2 25	0 80	6 95	1,127 50	162 23
7 Reporting/liaison with appointor/committee	5 00							5 00	2,250 00	450 00
8 Statutory and compliance			6 05	8 30	9 90	30 25	3 50	58 00	10,960 50	188 97
9 Tax/VAT			8 00	0 45	12 65	9 65		30 75	6,303 50	204 99
10 Employees/Pensions			0 90	5 00	0 50	4 10		10 50	2,302 00	219 24
Total for period to 16 March 2010	14 50	0 00	31 65	15 85	27 55	49 75	5 10	144 40	33,480 50	231 86
B/F at 29 October 2009								67 65	19,566 50	289 23
								212 05	53,047 00	250 16
Charge out rates per hour from 1 July 2009										
- insolvency	450	340	300	250	170	170	70			
- specialist	830	660	570	470	310	200	-			