

Joint Liquidators' Progress Report

S.192

Pursuant to Sections 92A and 104A and 192
of the Insolvency Act 1986

To the Registrar of Companies

Company Number

03007870

Name of Company

USI Overseas Holdings Limited

I

Kevin Hellard

Grant Thornton UK LLP

30 Finsbury Square

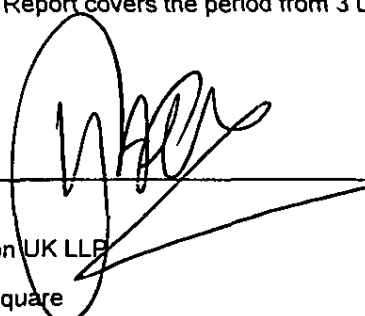
London

EC2P 1AG

the Joint Liquidator of the company attach a copy of my Progress Report
under section 192 of the Insolvency Act 1986

The Progress Report covers the period from 3 December 2015 to 2 December 2016

Signed



Date

31 January 2017

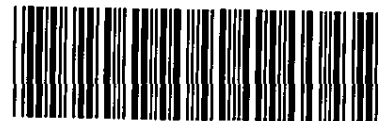
Grant Thornton UK LLP

30 Finsbury Square

London

EC2P 1AG

THURSDAY



A18

A5ZEIJRU

02/02/2017

#36

COMPANIES HOUSE

Ref KJH/DJF/CGJ/CES/U00043/9

Our Ref KJH/AW/DJF/CGJ/CES/U00043/7

To the creditors and members

31 January 2017

Dear Sirs

Recovery and Reorganisation

Grant Thornton UK LLP
30 Finsbury Square
London
EC2P 2YU

T +44 (0)161 953 6900
F +44 (0)161 953 6901
www.grant-thornton.co.uk

USI Overseas Holdings Limited - In Liquidation ("the Company")

1 Introduction

- 1.1 Together with Nicholas Wood, I was appointed Joint Liquidator of the Company when it moved from administration into creditors' voluntary liquidation on 3 December 2012 pursuant to Schedule B1 Paragraph 83 of the Insolvency Act 1986. The Company had gone into administration on 13 December 2011, when Allan Graham and David Standish of KPMG LLP were appointed joint administrators.
- 1.2 In accordance with section 104A of the Insolvency Act 1986, I now report on the progress of the liquidation for the year ended 2 December 2016 and attach
- Appendix A, an account of our receipts and payments for the year ended 2 December 2016
 - Appendix B, a statement of the remuneration charged by the joint liquidators in the period to 2 December 2016 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 joint liquidators (rule 4.49E)
 - Appendix E, an extract from the Insolvency Rules 1986 relating to creditors' rights to challenge the joint liquidators' remuneration or expenses if excessive (rule 4.131)
- 1.3 Please note that we are both authorised by the Insolvency Practitioners Association to act as insolvency practitioners and are bound by the Insolvency Code of Ethics when carrying out all professional work relating to an insolvency appointment.

2 Statutory information

- 2.1 The Company's statutory details are as follows

Registered number 03007870

Registered office Grant Thornton UK LLP, 30 Finsbury Square, London, EC2P 2YU

3 Progress report

- 3.1 In January 2010, the Tax Office of Pescara, Italy obtained judgment for approximately €43.2

Chartered Accountants

Grant Thornton UK LLP is a limited liability partnership registered in England and Wales: No OC307742. Registered office: Grant Thornton House, Melton Street, Euston Square, London NW1 2EP. A list of members is available from our registered office. Grant Thornton UK LLP is authorised and regulated by the Financial Conduct Authority. Grant Thornton UK LLP is a member firm of Grant Thornton International Ltd (GTIL). GTIL and the member firms are not a worldwide partnership. Services are delivered by the member firms. GTIL and its member firms are not agents of, and do not obligate, one another and are not liable for one another's acts or omissions. A list of personnel permitted by Grant Thornton to accept appointments as insolvency practitioners and of their respective authorising bodies may be inspected at the above address. Please see www.grant-thornton.co.uk for further details.

- million against the Company. The Company subsequently appealed against the judgment and the outcome of that appeal is still awaited. There remains the possibility that the Company may secure tax refunds from Italian tax authority for €11 million, although for that to be achieved, the Company would need to be successful in all areas of its various appeals. Together with advisers, I have met the Italian tax authorities several times in Italy to discuss the appeals and to update the authorities as to the progress of my investigations, specifically regarding various claims we identified against the Company's directors (see below).
- 3.2 In previous reports I have referred to the investigations carried out by the liquidators into the manner in which the Company was restructured prior to its insolvency. As a result of those investigations, the liquidators identified claims against the directors of the Company and proceedings were issued December 2015. After extensive negotiations, both before and after the proceedings were issued a mediation was agreed and took place in July 2016. Whilst at the mediation a settlement of the Company's claims was agreed in principle, further lengthy negotiations were necessary and the terms of settlement were finally agreed and a deed of settlement and release ("the Settlement") was entered into dated 1 December 2016.
- 3.3 The settlement provided for
- The waiver of the claims in the Company's liquidation of all of the Jacuzzi group creditors in the event that the Company's appeal against the Italian tax authorities was unsuccessful in whole or in part
 - A mechanism whereby the Joint Liquidators would cooperate with the Jacuzzi group creditors in relation to the Italian tax appeals
 - The payment of \$9.5 million to the Company which has now been received in full
- 3.4 According to the statement of affairs, unsecured creditors total approximately £66,564,014. This sum includes the claims of the Tax Office in Pescara and various claims submitted by companies within the Jacuzzi group.
- 3.5 As a result of the settlement, should the Company ultimately have a liability to the Italian tax authority, once the appeal process has been completed (or compromise agreed), then it will be the only creditor in the liquidation. Accordingly the waiver of the Jacuzzi group creditors has the effect of significantly increasing the level of dividend the tax authority will receive in those circumstances.
- 3.6 As set out in the joint administrators' final progress report ("the Administrators' Final Report"), as at the date of the administration, secured creditors were owed approximately £22.4 million.
- 3.7 However, the Joint liquidators are now aware that the secured lender had executed a deed of release in July 2013 under which the Company's undertakings, liabilities and obligations under the debenture and Brazilian Quota Pledge agreement dated 20 January 2010, were irrevocably and unconditionally released and discharged.
- 3.8 There are no preferential creditors in this matter.

4 Joint liquidators' remuneration

- 4.1 At a meeting of creditors held on 8 February 2013, prior to the identification of claim against the Company's director, the creditors resolved that the joint liquidators may draw remuneration by reference to standard time costs. The joint liquidator did not at this point seek to agree any element of success fee to reflect the circumstances of the engagement.
- 4.2 You will note from the SIP 9 table attached at Appendix C that our time costs to 2 December 2016 are £639,797, representing 1,509.92 hours at an average hourly rate of £423.73. The joint liquidators' average hourly rate reflects the unusual and complex nature of the work required in this matter necessitating high levels of partner / associated director input.
- 4.3 On 2 December 2016, liquidation fees totalling £609,083 had been billed of which £37,619 had been paid. The balance has subsequently been settled after 2 December 2016 following receipt of the proceeds of the settlement. Time costs of £150,553 incurred in the period, but not paid by 2 December 2016 are disclosed in Appendix B.
- 4.4 All partners and staff are charged out at hourly rates appropriate to their grade. Support staff (i.e. secretaries, cashiers and filing clerks) are charged to the case for the time they work on it. Details of the joint liquidators' hourly charge out rates are as follows:

	£
Partners up to	615
Directors up to	515
Managers up to	470
Other senior professional up to	305
Administrators up to	230
Assistants and support staff up to	175

- 4.5 Background information regarding the fees of liquidators can be found at <http://www.insolvency-practitioners.org.uk> (navigate via 'Regulation and Guidance' to 'Creditors Guides to Fees'). Alternatively I will supply this information by post on request.

5 Joint Liquidators' Expenses

- 5.1 The joint liquidators instructed legal advisers and counsel in respect of the investigation identified in paragraph 3.2 of this report.
- 5.2 Given that no funds were available in the estate and that creditors were unable / unwilling to fund an investigation, both lawyers and counsel were retained on a contingent basis. This process, which is overseen by the appropriate regulators, means that the Company's liability to fees is only triggered in the event of a successful outcome in litigation. However in these circumstances a success fee is paid to reflect the risk undertaken. In this case a success fee of 100% of standard rates was agreed with Company's advisers.


- 5 3 Legal fees including success fees in relation to settled claims have been incurred to 2 December 2016 total £2,489,372.35 of which £39,175.67 has been paid to that date. In addition, Counsel's fees totalling £77,392.69 including success fees have been incurred to 2 December 2016 of which £11,410 has been paid to that date.
- 5 4 Legal disbursements, including mediator, court and issuing fees totalling £21,722.65 have also been incurred to 2 December 2016 of which £1,454.17 has been paid to that date.

6 Additional Receipts and Payments Occuring after 2 December 2016

- 6 1 The total impact of the settlement of the claim against the directors on the attached receipts and payments account is.

	£	£
Receipts		
Settlement sum		7,515,820
Interest		37
		<u>7,515,857</u>
Payments		
Liquidators fees	602,799	
Liquidator Expenses (Principally travel / Subsistence)	10,766	
Legal Fees		
-Solicitors UK	2,422,163	
-Solicitors Italy	28,033	
-Counsel	65,983	
Other legal costs (Principally issue and mediator fee)	20,268	
		<u>(3,150,012)</u>
Total		<u>4,365,845</u>

Yours faithfully
for and on behalf of USI Overseas Holdings Limited


Kevin J. Hellard
Joint Liquidator
Enc

A Abstract of the joint liquidators' receipts and payments account 3 December 2012 to 2 December 2016

	From 3 December 2012 To 2 December 2015	From 3 December 2015 To 2 December 2016	Total
	£	£	£
RECEIPTS			
Administration Surplus	104,883 58	-	104,883 58
Interest Received	203 29	-	203 29
TOTAL RECEIPTS	105,086 87	-	105,086 87
 PAYMENTS			
Liquidators Fees	37,619 10	-	37,619 10
Liquidators Expenses			
Travel, Accommodation and Subsistence	10,793 26	-	10,793 26
Translation Costs	1,071 72	-	1,071 72
Bond Fee	210 00	-	210 00
Statutory Advertising	161 10	-	161 10
Courier, Company Searches and Land Registry Searches	190 48	-	190 48
Corporation Tax	47 35	-	47 35
Bank Charges	17 50	-	17 50
Legal Fees			
GRM Law	25,000 00	-	25,000 00
Tremonti	12,675 67	-	12,675 67
Squires Patton Boggs (UK) LLP	1,500 00	-	1,500 00
Counsel (Blair Leahy 20 Essex Court)	11,410 00	-	11,410 00
Other Legal Disbursements	1,454 17	-	1,454 17
VAT Receivable	2,800 67	-	2,800 67
TOTAL PAYMENTS	104,951 02	-	104,951 02
 NET RECEIPTS	135 85	-	135 85

B Remuneration charged and expenses incurred by the joint liquidators in the period

	Charged/incurred in period 3 December 2015 to 2 December 2016	Charged/incurred in period 3 December 2012 to 2 December 2016	Of which paid to 2 December 2016
		£	£
Joint Liquidators' time costs	150,552.75	639,797.15	37,619.10
Joint Liquidators' Expenses			
Travel, Accommodation and Subsistence	5,238.16	21,340.95	10,793.26
Translation Costs	Nil	1,071.72	1,071.72
Transcription Fees	218.75	218.75	Nil
Bond Fee	Nil	210.00	210.00
Statutory Advertising	Nil	161.10	161.10
Courier, Company Searches and Land Registry Searches	Nil	190.48	190.48
Bank Charges	Nil	17.50	17.50
Corporation Tax	Nil	47.35	47.35
Legal Fees			
Rosenblatt	169,475.07	2,122,163.40	Nil
Squires Patton Boggs LLP	Nil	1,500.00	1,500.00
GRM Law	Nil	25,000.00	25,000.00
Tremonti	28,033.28	40,708.95	12,675.67
Counsel Fees	65,982.69	77,392.69	11,410.00
Mediator Fees	3,690.00	3,690.00	Nil
Issuing and Court Fees	11,185.00	11,185.00	Nil
Other Legal Disbursements	5,393.48	6,847.65	1,454.17

C SIP 9 information

Standard	Partner			Manager			Executive			Administrator			Total		
	Hrs	£	Avg Hrly Rate	Hrs	£	Avg Hrly Rate	Hrs	£	Avg Hrly Rate	Hrs	£	Avg Hrly Rate	Hrs	£	Avg Hrly Rate
Administration and Planning	21 00	12 873 00	613 00	60 05	23 309 00	388 18	79 50	19 703 25	247 84	56 06	8 535 45	152 28	216 61	84 420 70	287 40
Creditors	0 35	203 00	580 00	3 85	1 586 25	408 82	1 50	345 00	230 00	4 80	754 50	157 19	10 50	2 868 75	273 21
Investigations	0 03	18 45	615 00	135 20	56 529 25	418 12	63 00	17 388 00	275 68	37 90	5 985 50	157 93	236 13	79 901 20	338 38
Pensions	-	-	-	0 70	285 00	421 43	-	-	-	0 90	139 50	155 00	1 60	434 50	271 56
Realisation of Assets	384 35	230 787 50	600 46	624 05	247 540 00	396 67	-	-	-	-	-	-	1 008 40	478 327 50	474 34
Taxation	12 80	8 442 00	670 00	4 40	1 966 50	446 93	5 48	1 537 00	280 47	14 20	1 899 00	133 73	36 68	13 844 50	377 44
Total	418 33	252 323 95	603 17	928 25	331 206 00	399 89	149 48	38 953 25	260 59	113 86	17 313 95	152 06	1 509 92	639 797 15	423 73

Activity

Administration and planning

Creditors

Investigations

Realisation of assets

Examples of work

Case planning, Administrative set up, Appointment notification, Maintenance of records, Case review, Statutory matters including bond notification and calculation, Reports, Cashiers duties

Correspondence with unsecured creditors

Obtaining, reviewing and analysing the files of the Company's advisers. Obtaining and reviewing Company books and records, Research into the directors and connected parties of the Company, Liaising with legal advisers, Preparing chronologies, Interviewing two of the former directors of the Company

Meetings with the Pescara Tax authority and the Company's legal advisers in Pescara, Attending various conferences with legal advisers and counsel by telephone and in person, Liaising with legal advisers Work on draft letter before action, Valuation report Particulars of Claim Letter before action, Mediation, Work leading to settlement agreement

D An extract from the Insolvency Rules 1986 relating to creditors' rights to request additional information from the joint liquidators

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 joint liquidators' 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 subparagraph (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 specify

and 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