

2.24B

The Insolvency Act 1986

Administrator's progress report

Name of Company Biomass Industrial Crops Limited	Company number 03563497
In the High Court of Justice (full name of court)	Court case number No 20682 of 2009

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

I/~~We (a)~~
Timothy Alexander Close
Milsted Langdon LLP
Winchester House
Deane Gate Avenue
Taunton
Somerset
TA1 2UH

administrator~~(s)~~ of the above company attach a progress report for the period

(b) Insert date

From (b) 23 May 2011	To (b) 22 November 2011
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Signed


~~Joint~~ Administrator~~(s)~~

Dated

20/12/11

THURSDAY



A58

A00Q44GW

22/12/2011

#277

COMPANIES HOUSE

**ADMINISTRATOR'S PROGRESS
REPORT
FOR THE PERIOD
23 MAY 2011 TO 22 NOVEMBER 2011**

**BIOMASS INDUSTRIAL CROPS
LIMITED -
IN ADMINISTRATION**

BIOMASS INDUSTRIAL CROPS LIMITED - IN ADMINISTRATION

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BIOMASS INDUSTRIAL CROPS LIMITED - IN ADMINISTRATION

THE ADMINISTRATOR'S PROGRESS REPORT

1.0 Statutory information

- 1 1 I was appointed as Administrator of the Company on 23 November 2009 The appointment of an Administrator was made by the directors of the company
- 1 2 This Administration is being handled by Milsted Langdon LLP at Winchester House, Deane Gate Avenue, Taunton, Somerset, TA1 2UH The Administration is registered in the High Court of Justice, under reference number 20682 of 2009
- 1 3 The principal trading address of the Company was 2 Alrewas Hayes, Burton on Trent, Staffordshire, DE13 7DL The business traded under the name Bical
- 1 4 The registered office of the Company was Curdon Mill, Lower Vellow, Williton, Taunton Somerset, TA4 4LS but has now been changed to Winchester House, Deane Gate Avenue, Taunton, TA1 2UH, and its registered number is 03563497

2.0 Progress of the Administration

- 2 1 Attached at Appendix A is my Receipts and Payments Account for the period from 23 May 2011 to 22 November 2011. This also includes a cumulative Receipts and Payments Account for the period from 23 November 2009 to 22 November 2011
- 2 2 The business and assets were sold under a 'pre pack' sale, the details of which were given in the proposal document dated 24 December 2009 These may be summarised as follows

Date of transaction	Asset involved and nature of transaction	Consideration Paid and Date	Sold to	Relationship
23 November 2011	Sale of all assets and goodwill	£150,000 paid	Renewable Energy Crops Limited	Connected by shareholders

- 2 3 In my last report I advised on the outcome of the trial in respect of the wooden storage crates that were subject to a Retention of Title ('ROT') claim that was held in court to be valid

BIOMASS INDUSTRIAL CROPS LIMITED - IN ADMINISTRATION

3.0 Assets still to be realised

- 3 1 The only possible future realisation relates to a trust account, where money is held in a Bond Guarantee Indemnity (BGI) with Barclays Bank Plc ('Barclays') in respect of Energy Aid Payments from the Rural Payments Agency ('RPA') These monies were held by Barclays pending the RPA's final audit of deliveries under the scheme
- 3 2 The RPA completed their audit during February 2011 and confirmed that the bond could finally be released. Barclays had originally indicated that once the RPA had confirmed that they were satisfied with their audit, the original transactions could be reversed and the monies repaid directly to the bond providers
- 3 3 It was therefore anticipated that the majority of monies would be returned directly to the growers and funds deposited by Bical (as opposed to deposits made directly by growers) amounting to €40,000 would be paid by me In September 2011 Barclays advised that they were not able to pay the growers directly and further information came to light suggesting that the mechanisms of how the BGI deposit was made were different to those previously advised to me
- 3 4 As a result I have sought to obtain as much information as possible about the creation and operation of the Barclays account This information has been passed to my solicitors, who believe that the monies may not represent 'trust monies' As a result I have instructed a specialist Counsel to review the evidence and to provide an opinion on how the monies should be dealt with This opinion has not yet been received
- 3 5 It is probable that once the opinion is received, it will be necessary to apply to Court for directions on how the monies should be distributed At this stage I would expect that all parties who have an interest in the proceedings, including the growers, will be invited to participate in this process

4.0 Administrator's Remuneration

- 4 1 The Creditors approved that the basis of the Administrator's remuneration be fixed either by reference to the time properly spent by him and his staff in managing the Administration

BIOMASS INDUSTRIAL CROPS LIMITED - IN ADMINISTRATION

- 4.2 My time costs for the period from 23 May 2011 are £21,931. This represents 143.61 hours at an average rate of £152.71 per hour. Attached as Appendix B is a Time Analysis which provides details of the activity costs incurred by staff grade during this period in respect of the costs fixed by reference to time properly spent by me in managing the Administration. To date, £40,000 plus disbursements of £1,405.21 have been drawn on account, these being the limit on fees originally agreed by the chargeholder and preferential creditors.
- 4.3 Also attached as Appendix C is a cumulative Time Analysis for the period from 23 November 2009 to 22 November 2011 which provides details of my time costs since appointment, together with explanatory notes.
- 4.4 Attached as Appendix D is additional information in relation to this firm's policy on staffing, the use of subcontractors, disbursements and details of our current charge-out rates by staff grade.
- 4.5 I have not drawn further fees despite authorisation to do so as the funds available from which these may be drawn are not known at the present time. Legal fees in excess of the funds held have been incurred in relation to the ROT trial and, until the final realisations in the case are known, it is not possible to determine what fees may be drawn.

5.0 Estimated outcome for creditors

Secured Creditors

- 5.1 There were two secured creditors, Clydesdale Bank Plc ('The Bank') and Clydesdale Bank Asset Finance Limited. The Bank also benefited from personal guarantees, and I understand that negotiations were held between the guarantors and the Bank to agree a settlement figure. Notwithstanding this settlement the Bank remains a secured creditor of the Company. As previously reported Clydesdale Asset Finance has security over a miscanthus processing plant which was not part of the equipment sold to Renewable Energy Crops, and which I understand was collected by Clydesdale from the Company's former trading premises.

BIOMASS INDUSTRIAL CROPS LIMITED - IN ADMINISTRATION

5 2 I have not yet been notified of a shortfall in relation to the collection/disposal of the plant, but in the event that a shortfall exists it will rank as an unsecured creditor

5 3 Clydesdale Bank Plc holds a fixed and floating charge over the Company's assets. At the date of the Administration the indebtedness to the secured creditor was estimated at £96,171. Since that time a distribution under the Bank's fixed charge of £7,000 has been made and I am advised that the guarantors have discharged an element of the Bank's debt.

Preferential Creditors

5 4 A summary of preferential claims is detailed below

Preferential claim	Agreed Claim £	Statement of Affairs Claim £	Dividend paid p in the £
Employee claims	6,165 00	} 36,790	Nil
Department for Business Innovation & Skills (BIS)	27,218 67		Nil

5 5 Whilst it was initially thought that preferential creditors would be paid in full, as a result of the decision in the ROT trial the prospects of the payment of a dividend to the preferential creditors is not known at this time

Unsecured Creditors

5 6 Claims from 167 creditors have been received amounting to £12,714,936 17. The statement of affairs disclosed that the company had 318 creditors owed a total of £4,192,055. The difference relates principally to a claim in excess of £9 million from EDF for breach of contract. These figures do not take into account any claims arising from 'multiplication contracts' and similar commitments.

5 7 There are insufficient funds with which to pay a dividend to non-preferential creditors. I have therefore not pursued or agreed any non preferential unsecured claims.

BIOMASS INDUSTRIAL CROPS LIMITED - IN ADMINISTRATION

5 8 Whilst the final position regarding costs associated with the litigation has not yet been determined, the costs of defending the litigation means that a prescribed part distribution in this case is considered unlikely

6.0 Ending the Administration

6 1 Typically, administrations automatically end after one year. However, in view of the ongoing litigation and the unresolved RPA bond matter, having already been granted a six month extension by creditors I then applied to Court for a further extension of the administration to enable the Retention of Title dispute to progress to trial. On 13 May 2011 an order was granted extending the administration until 22 May 2012. If the RPA bond entitlements cannot be determined well before this date, a further extension may be required.

6 2 It is anticipated that the exit from administration will be by dissolution.

6.3 The Administrator will be discharged from liability under Paragraph 98(3) of Schedule B1 to the Insolvency Act 1986 immediately upon his appointment as Administrator ceasing to have effect.

7.0 Next report

7 1 The Administrator is required to provide a progress report within one month of the end of the next six months of the Administration or earlier if the Administration has been finalised or he wishes to extend it.

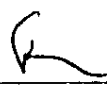
For and on behalf of
Biomass Industrial Crops Limited



Timothy Alexander Close
Administrator

Biomass Industrial Crops Limited
(In Administration)
Administrator's Abstract of Receipts & Payments

Statement of Affairs	From 23/05/2011 To 22/11/2011	From 23/11/2009 To 22/11/2011
SECURED ASSETS		
9,995 00 Goodwill	NIL	9,995 00
5,003 00 Intellectual Property	NIL	5,003 00
	NIL	14,998 00
SECURED CREDITORS		
Clydesdale Bank	7,000 00	7,000 00
	(7,000 00)	(7,000 00)
ASSET REALISATIONS		
50,000 00 Plant & Machinery	NIL	50,001 00
1 00 Furniture & Equipment	NIL	NIL
65,001 00 Stock	NIL	65,001 00
20,000 00 Book Debts	NIL	20,000 00
15,000 00 Investment in Subsidiary	NIL	7,500 00
Cash at Bank	NIL	67 13
Bank Interest Gross	50 21	359 09
Sundry Refunds	NIL	8,864 35
	50 21	151,792 57
COST OF REALISATIONS		
Specific Bond	NIL	260 00
Office Holder's Fees	NIL	40,000 00
Office Holder's Expenses	NIL	1,405 21
Agents/Valuers Fees	NIL	3,900 00
Legal Fees	14,045 00	52,361 64
Corporation Tax	NIL	50 61
Storage Costs	NIL	727 49
Re-Direction of Mail	NIL	104 00
Statutory Advertising	NIL	208 80
Insurance of Assets	6,807 84	12,725 94
	(20,852 84)	(111,743 69)
165,000.00	(27,802.63)	48,046 88
REPRESENTED BY		
Vat Receivable		17,023 62
Bank I Current		31,023 26
		48,046 88


 Timothy Alexander Close
 Administrator

Notes

This estate is VAT registered and therefore VAT should be recoverable

No dividends have been paid to preferential or unsecured creditors

Biomass Industrial Crops Limited
Time and disbursement analysis
For the period 23 May 2011 to 23 November 2011

Charge group	Partner	Manager	Other Senior Professionals	Assistants and Support Staff	Total	Total cost (£)	Avg Hourly Rate (£)
Administration & planning	2 51	0 80	0 70	2 55	6 56	794 70	121 14
Investigations	0 00	0 00	0 10	0 20	0 30	10 10	33 67
Realisations	58 60	3 00	1 45	3 35	66 40	12,902 25	194 31
Creditors	4 90	4 30	6 10	5 05	20 35	2,066 10	101 53
ROT Trial and RPA Bond	3 70	38 60	0 00	1 50	43 80	5,798 10	132 38
Fixed charge realisations	0 00	1 40	2 90	1 90	6 20	360 10	58 08
Total time	69 71	48 10	11 25	14 55	143 61	21,931 35	152 71

Disbursements

Faxes	1 00
Photocopying	6 90
Travel Costs	36 60
Mileage	97 19
Mailing Fee (Insolvency)	186 38
Total disbursements	328 07
Amount from previous period(s)	94,193 77
Grand Total	116,453 19

N B For a more detailed explanation of the categories above please see the attached analysis

Biomass Industrial Crops Limited
Time and disbursement analysis
For the period 23 November 2009 to 22 November 2011

Charge group	Partner	Manager	Other Senior Professionals	Assistants and Support Staff	Total	Total cost (£)	Avg Hourly Rate (£)
Administration & planning	15 91	159 95	28 50	162 25	366 61	29,660 05	80 90
Investigations	4 80	15 90	15 50	5 35	41 55	3,722 40	89 59
Realisations	154 50	35 20	1 85	14 70	206 25	36,732 15	178 10
Creditors	77 45	92 30	48 30	92 70	310 75	33,288 80	107 12
VA monitoring and default	0 00	0 00	2 50	0 00	2 50	87 50	35 00
ROT Trial and RPA Bond	3 70	44 80	0 00	1 50	50 00	6,579 30	131 59
Fixed charge realisations	1 50	8 90	2 90	1 90	15 20	1,605 10	105 60
Total time	257 86	357 05	99 55	278 40	992 86	111,675 30	112 48

Disbursements

Faxes	7 00
Photocopying	105 90
Travel Costs	36 60
Mileage	97 19
Mailing Fee (Insolvency)	1,665 98
Copy Print Costs	612 62
Archive Management (Insolvency)	79 00
Company Searches	10 00
Total disbursements	2,614 29
Amount from previous period(s)	2,163 60

Grand Total **116,453 19**

N B For a more detailed explanation of the categories above please see the attached analysis

SIP 9 analysis notes - description of work types:

Administration and planning

- Administrative setup
- Case administration
- Appointment notification
- Periodic reviews
- Maintenance of records
- Cashiering
- Secretarial work
- ROT issues pre-litigation

Investigations

- Reviewing financial records for information relevant to the Administration
- Directors conduct reporting

Realisations

- Sale of subsidiaries
- RPA bond situation
- Resolving legacy book debt issues
- RoT issues re box stock
- Partner attendance at ROT trial

Creditors

- Communication with creditors
- Creditor claims
- Assessment of contingent claims

ROT Trial and RPA Bond

- ROT issues post litigation, including manager attendance at trial
- Review of RPA Bond matter
- Liaising with legal advisors and Barclays re RPA Bond matter

Fixed charge realisations

- Liaison with Clydesdale Asset Finance re miscanthus baling machine

BIOMASS INDUSTRIAL CROPS LIMITED - IN ADMINISTRATION

Additional Information in relation to Administrator's fees pursuant to
Statement of Insolvency Practice 9

Appendix D

Policy

Detailed below is Milsted Langdon LLP's policy in relation to

- staff allocation and the use of sub-contractors,
- professional advisors, and
- disbursements

Staff Allocation and the use of Sub-contractors

The general approach to resourcing our assignments is to allocate staff with the skills and experience to meet the specific requirements of the case.

The constitution of the case team will usually consist of a Partner, a Manager, and an Administrator or Assistant. The exact constitution of the case team will depend on the anticipated size and complexity of the assignment and the experience requirements of the assignment. The charge out rate schedule below provides details of all grades of staff and their experience level.

Professional Advisors

On this assignment we have used the professional advisors listed below. We have also indicated alongside, the basis of our fee arrangement with them, which is subject to review on a regular basis.

Name of Professional Advisor	Basis of Fee Arrangement
Beachcroft LLP (legal advice)	Hourly rate and disbursements
Edward Symmons LLP (valuation and disposal advice)	Hourly rate and disbursements

Our choice was based on our perception of their experience and ability to perform this type of work, the complexity and nature of the assignment and the basis of our fee arrangement with them.

BIOMASS INDUSTRIAL CROPS LIMITED - IN ADMINISTRATION

Disbursements

Category 1 disbursements do not require approval by creditors. The type of disbursements that may be charged as a Category 1 disbursement to a case generally comprise of external supplies of incidental services specifically identifiable to the case, such as postage, case advertising, invoiced travel and external printing, room hire and document storage. Also chargeable will be any properly reimbursed expenses incurred by personnel in connection with the case.

Category 2 disbursements do require approval from creditors. These disbursements can include costs incurred which include an element of recharged overhead. On this case the following costs have been incurred:

Disbursement	Charge
Archive storage	55p per box per week
Faxes	50p per sheet
Internal room hire for creditors' meetings	£70
Mailing fees (including postage) - Large	75p per mailed pack
Mailing fees (including postage) - Small	50p per mailed pack
Mileage	40p per mile
Photocopies	10p per sheet
Record boxes	£1.50 per box

Charge-out Rates

A schedule of Milsted Langdon LLP charge-out rates for this assignment effective from 1 May 2010 is detailed below:

	(Per hour) £
Partner	210-230
Managers and Administrators	80-160
Other administrative staff	28-60