

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

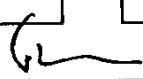
administrator(s) of the above company attach a progress report for the period

(b) Insert date

From
(b) 23 November 2011

To
(b) 10 April 2012

Signed


~~Joint~~ Administrator(s)

Dated

WEDNESDAY



A10 *A1A0FKRN* 30/05/2012 #429
COMPANIES HOUSE

**ADMINISTRATOR'S PROGRESS
REPORT
FOR THE PERIOD
23 NOVEMBER 2011 TO 10 APRIL 2012**

**BIOMASS INDUSTRIAL CROPS
LIMITED -
IN ADMINISTRATION**

BIOMASS INDUSTRIAL CROPS LIMITED - IN ADMINISTRATION

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- B Time Analysis for the period 23 November 2011 to 10 April 2012
- C Cumulative Time Analysis for the Period from date of appointment to date of progress report, together with SIP 9 analysis notes.
- D Additional information in relation to Administrator's fees pursuant to Statement of Insolvency Practice 9

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 November 2011 to 10 April 2012. This also includes a cumulative Receipts and Payments Account for the period from 23 November 2009 to 10 April 2012.
- 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	Assets transferred and the nature of transaction	Consideration paid and value	Acquired by	Connected to
23 November 2011	Sale of all assets and goodwill	£150,000 paid	Renewable Energy Crops Limited	Connected by shareholders

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 was passed to my solicitors, who believe that the monies may not represent 'trust monies'. As a result I instructed a specialist Counsel to review the evidence and to provide an opinion on how the monies should be dealt with.
- 3 5 A draft application as to how the RPA funds should be dealt with from Counsel was received in March 2012. There have been various amendments to this to ensure that an appropriate representation process is achieved for the growers who are involved with the RPA bond.
- 3 6 A final form has been agreed and I have now requested that an application to court be made to progress this.
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BIOMASS INDUSTRIAL CROPS LIMITED - IN ADMINISTRATION

4.0 Administrator's Remuneration

- 4.1 The proposals provided 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
- 4.2 My time costs for the period from 23 November 2011 are £4,588 10. This represents 35 25 hours at an average rate of £130.16 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 10 April 2012 which provides details of my time costs since appointment, together with explanatory notes. My costs relating to the RPA bond matter were initially recorded largely within realisations, on the basis that €40,000 was expected to be remitted to Bical, as outlined in paragraph 3.3. Since the uncertainty arose my costs have been recorded in a separate code. These costs are easily identifiable within the detailed time and disbursement ledger and amount to £7,997.60.
- 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 trial over the retention of title ('ROT') issues referred to in my earlier report and, until the final realisations in the case are known, it is not possible to determine what fees may be drawn
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BIOMASS INDUSTRIAL CROPS LIMITED - IN ADMINISTRATION

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.
- 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 creditor	Estimated claim	Settlement in respect of claim	Estimated dividend in the A
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.

BIOMASS INDUSTRIAL CROPS LIMITED - IN ADMINISTRATION

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.
- 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

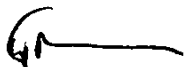
- 6.1 Typically, administrations automatically end after one year However, in view of the ongoing litigation and the unresolved RPA bond matter, having already been granted a six month extension by creditors I then applied to Court for a further extension of the administration to enable the Retention of Title dispute to progress to trial On 13 May 2011 an order was granted extending the administration until 22 May 2012 As the RPA bond entitlements cannot be determined well before this date, a further extension is now being sought from the court
- 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
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BIOMASS INDUSTRIAL CROPS LIMITED - IN ADMINISTRATION

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 23/11/2011 To 10/04/2012	From 23/11/2009 To 10/04/2012
	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		
(96,171 00)	Clydesdale Bank	NIL	7,000 00
		NIL	(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	25 71	384 80
	Sundry Refunds	NIL	8,864 35
		25 71	151,818 28
	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	NIL	52,361 64
	Corporation Tax	24 78	75 39
	Storage Costs	NIL	727 49
	Re-Direction of Mail	NIL	104 00
	Statutory Advertising	NIL	208 80
	Insurance of Assets	NIL	12,725 94
		(24 78)	(111,768 47)
68,829.00		0.93	48,047.81
	REPRESENTED BY		
	Vat Receivable		17,023 62
	Bank 1 Current		31,024 19
			48,047.81



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

No dividends have been paid to creditors

Biomass Industrial Crops Limited
Time and disbursement analysis
For the period 23 November 2011 to 10 April 2012

Charge group	Partner	Manager	Other Senior Professionals	Assistants and Support Staff	Total	Total cost (£)	Avg. Hourly Rate (£)
Administration & planning	1 35	1 70	1 85	0 95	5 85	631 50	107 95
Realisations	0 00	0 00	0 00	1 20	1 20	59 20	49 33
Creditors	5 00	0 00	0 70	6 80	12 50	1,390 00	111 20
RPA Bond	6 30	9 40	0 00	0 00	15 70	2,507 40	159 71
Total time	12 65	11 10	2 55	8 95	35 25	4,588 10	130 16
Disbursements							
Mailing Fee (Insolvency)						184 22	
Archive Management (Insolvency)						1 41	
Total disbursements						<u>185 63</u>	
Amount from previous period(s)						114,202 09	
				Grand Total		<u>118,975 82</u>	

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 10 April 2012

Charge group	Partner	Manager	Other Senior Professionals	Assistants and Support Staff	Total	Total cost (£)	Avg. Hourly Rate (£)
Administration & planning	17 26	161 65	30 35	163 20	372 46	30,291 55	81 33
Investigations	4 80	15 90	15 50	5 35	41 55	3,722 40	89 59
Realisations	154 50	35 20	1 85	15 90	207 45	36,791 35	177 35
Creditors	82 45	92 30	49 00	99 50	323 25	34,678 80	107 28
V/A monitoring and default	0 00	0 00	2 50	0 00	2 50	87 50	35 00
RoT Trial and RPA Bond	10 00	54 20	0 00	1 50	65 70	9,086 70	138 31
Fixed charge realisations	1 50	8 90	2 90	1 90	15 20	1,605 10	105 60
Total time	270 51	368 15	102 10	287 35	1,028 11	116,263 40	113 08

Disbursements

Faxes	7 00
Photocopying	105 90
Travel Costs	36 60
Mileage	97 19
Mailing Fee (Insolvency)	1,850 20
Copy Print Costs	612 62
Archive Management (Insolvency)	80 41
Company Searches	10 00
Total disbursements	<u>2,799 92</u>
Grand Total	<u>118,975 82</u>

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

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