

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 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

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

(b) Insert date

From
(b) 23 November 2009

To
(b) 22 May 2010

Signed


Joint Administrator(s)

Dated

23 June 2010

SATURDAY



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A37

26/06/2010

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COMPANIES HOUSE

MILSTED LANGDON LLP
Winchester House Deane Gate Avenue Taunton TA1 2UH

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Our Ref BIOM/SMA/clo/100P

23 June 2010

**When calling please
ask for:** Susannah Adams
or e-mail: sadams@milsted-langdon.co.uk

TO ALL KNOWN CREDITORS

BIOMASS INDUSTRIAL CROPS LIMITED (T/A 'BICAL') - IN ADMINISTRATION

Further to my letter dated 24 December 2009 enclosing my proposals in respect of the above named company, I am now pleased to provide my first progress report on this administration, in accordance with Rule 2 47 of the Insolvency Rules 1986

This has been a difficult case, even after six months new issues are arising on a regular basis that require investigation and are rarely straightforward Summarised below are the principal matters dealt with in the administration

1. ASSETS

- 1 1 As previously reported, a sale of the stock, plant and equipment, debts, goodwill and intellectual property rights to Renewable Energy Crops Limited ('REC'), took place on 23 November 2009 immediately after my appointment as administrator The full consideration of £150,000 was paid on completion Assets were valued by my agents, Edward Symmons
- 1 2 The above sale included a large quantity of wooden storage crates, the supplier of which is claiming retention of title A proportion of these crates were excluded from the sale The retention of title claim is not accepted by me and the supplier has now issued legal proceedings which have been defended If the matter proceeds to trial the outcome will not be known for some time and there will inevitably be significant costs
- 1 3 The shares in the Company's subsidiaries, which dealt with the "grower groups", were excluded from the initial sale of the Company's trade and assets, as there was insufficient time to investigate the complex intercompany structure in order to ascertain the assets, liabilities and contractual commitments of each of these companies before the sale

Also at BRISTOL and YEOVIL

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MGI is a worldwide association of independent auditing, accounting and consulting firms Neither MGI nor any member firm accepts responsibility for the activities, work, opinions or service of any other members
Mr T A Close, Mr R A Isaacs and Mr S A Rowe are licensed as insolvency practitioners in the UK by the Institute of Chartered Accountants in England and Wales Where they are appointed as Administrator they act as agents of the company without personal liability In such cases the affairs, business and property of the company are being managed by them as Administrators



- 1 4 As previously reported, I received an offer of £15,000 from REC for all of the company's shares in its subsidiaries. There are four subsidiary companies of Bical - BiSel, BiCep, BiEd and BiEcc. Solicitors were instructed by both sides but there have been many difficulties in trying to effect the disposal of Bical's shareholding in these companies, including complex pre-emption rights and onerous contractual commitments.
- 1 5 As a result of these complications, to date the shares in only one of the subsidiaries, BiCep, has been sold realising £2,000. My solicitors have issued a contract to REC's solicitors for the purchase of BiSel Limited for £5,500 but this has not progressed for some time. REC have now confirmed that they no longer wish to continue with the purchase of BiEd and BiEcc.
- 1 6 Aside from the shares, the only other possible future realisation outlined in my proposals related to a trust account, where money is held in a Bond Guarantee Indemnity (BGI) with Barclays in respect of Energy Aid Payments from the RPA. These monies are currently held by Barclays pending the RPA's final audit of deliveries under the scheme.
- 1 7 The RPA have informed me that they are still in the process of completing their audit. The status of these monies is far from clear but I do not propose incurring costs in investigating matters further until it is confirmed that monies are available.

2. CREDITORS' CLAIMS

2 1 Secured Creditors

- 2.1 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 are being held between the guarantors and the Bank. Clydesdale Asset Finance has security over a miscanthus processing plant which was not part of the equipment sold to Renewable Energy Crops.
- 2 1 2 I understand that this equipment has now been collected from Bical's former trading premises, and whilst I anticipate that there will be a shortfall Clydesdale have not yet notified me of this. The shortfall will rank as an unsecured creditor.

2 2 Preferential creditors

- 2 2 1 Payments made to former employees in respect of outstanding salary and holiday pay rank as preferential claims. Some of these claims have been paid by the Redundancy Payments Office ('RPO') which now stands in the shoes of employees in respect of some preferential elements of their claims.
- 2 2 2 I have received a preferential claim from the RPO for £27,218.67. There are additional claims from employees in respect of their holiday pay and these amount to £6,165. These claims are significantly greater than anticipated at the time of my appointment.
- 2 2 3 I anticipate that preferential creditors will be paid in full.

2 3 Unsecured creditors

2 3 1 Claims from 156 creditors have been received amounting to £3,169,245 The statement of affairs disclosed that the company had 318 creditors owed a total of £4,192,055 These figures do not take into account any claims arising from 'multiplication contracts' and similar commitments.

2 3 2 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

2 3 3 In view of the uncertainty regarding the outcome of the administration it is not yet known whether a prescribed part distribution will be due in this case although this is considered unlikely

3. DIVIDEND PROSPECTS

3 1 Unfortunately, in view of the ongoing legal proceedings in relation to the storage crates, I have not yet been able to make a distribution to any class of creditor in this matter

3 2 It is not anticipated that any dividend will be paid in this case to non-preferential, unsecured creditors

4. RECEIPTS AND PAYMENTS ACCOUNT

4 1 Attached to this report is a receipts and payments summary for the company for the period from 23 November 2009 to 22 May 2010 This does not take into account the substantial professional fees incurred on this case

5. CORPORATION TAX

5.1 As the administration is ongoing I have not yet been able to agree the corporation tax due

6. STATUTORY REQUIREMENTS

6 1 I have submitted my report on the conduct of all the directors for the past three years This report remains confidential between myself and the Department for Business, Innovation and Skills

7. EXIT FROM ADMINISTRATION

7 1 The administration will automatically end after one year unless I make application for an extension via the creditors or Court

7 2 In view of the ongoing situation with the RPA bond and the litigation that is taking place, I consider it unlikely that I can bring the administration to a close within twelve months and I am therefore proposing to extend the duration of the administration for a further six months, in accordance with paragraph 76 of schedule B1 of the Insolvency Act 1986

23 June 2010

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8. ADMINISTRATOR'S REMUNERATION

- 8.1 In my proposals I set out the proposed basis of my remuneration to be fixed by reference to the time properly spent by my staff and I in managing the administration
- 8.2 I have received approval from the chargeholder and preferential creditors to draw £40,000 plus VAT and disbursements on account
- 8.3 Attached is a time analysis which provides details of the activity costs incurred by staff grade during this period. A summary of these values and the amount which were incurred during the period of this report, together with the approved fee on account, is shown below.

**From 23 November 2009
to 22 May 2010**

	£
Time costs	57,979 95
Total hours	578 95
Average rate	100 15/hour
Disbursements	1,393 46
Time costs authorised on account	40,000
Disbursements drawn	1,393 46

These figures do not include the costs of £18,714 relating to my work prior to my appointment, the majority of which have been written off

- 8.4 Also attached is additional information in relation to my policy on staffing, the use of sub-contractors, disbursements and details of current charge-out rates by staff grade. Further information, including a guide to fees, is available on our website at www.milsted-langdon.co.uk
- 8.5 Should creditors require any further information relating to costs they are entitled to request the same under rule 2.48A and, should they deem it appropriate, take legal action to challenge this remuneration

Should creditors require any further information please do not hesitate to contact either me or my colleague Susannah Adams

Yours faithfully



T A CLOSE
Administrator
Biomass Industrial Crops Limited

Enclosures Statutory Information and Appointment Details
SIP 9 Report
SIP 9 Analysis
Receipts and Payments Account
Form 2.24B
Statement of claim form

BIOMASS INDUSTRIAL CROPS LIMITED - IN ADMINISTRATION

STATUTORY INFORMATION

NAME OF COMPANY: Biomass Industrial Crops Limited

TRADING NAME: Bical

PREVIOUS NAME: None

REGISTERED NUMBER: 03563497

VAT NUMBER: 717 8924 96

DATE OF INCORPORATION: 13 May 1998

PRINCIPAL OBJECTS: Development, processing and sale of Biomass

REGISTERED OFFICE: Winchester House, Deane Gate Avenue, Taunton, Somerset, TA1 2UH

PREVIOUS REGISTERED OFFICE: Curdon Mill, Lower Vellow, Williton, Taunton, Somerset, TA4 4LS

TRADING ADDRESS: Principal Leased Premises at

2 Alrewas Hayes
Burton on Trent
Staffordshire
DE13 7DL

DIRECTORS:		Appointed on	Resigned on
	S P Croxton	7 September 2007	
	A L Jeyes	17 March 2008	
	P A Carver	15 May 2001	
	D R Croxton	13 May 1998	
	A E Hunt	7 September 2007	30 June 2008
	R H C Nourse	7 September 2007	28 December 2007
	B N Woodman	7 September 2007	28 December 2007
	J M Ward	25 August 2000	16 July 2008

COMPANY SECRETARY: M P Bramall Appointed on 15 May 2005

AUTHORISED SHARE CAPITAL: 10,000,000 A - £ Ordinary Shares
990,000,000 Deferred Shares

ISSUED SHARE CAPITAL: 1,764,307 - 1p Ordinary A Shares
117,057,200 1p Deferred Shares

DIRECTORS' SHAREHOLDINGS: As per attached listing

BANKERS:

Clydesdale Bank Plc	Barclays Commercial Bank
6th Floor	4th Floor
20 Waterloo Street	Windsor Court
Glasgow	3 Windsor Place
G2 6DB	Cardiff CF10 3WP

CHARGES:

Fixed and Floating Charge held by Clydesdale Bank Plc created on 22 March 2006 and registered on 29 March 2006, supported by the personal guarantee of the directors of the Company

Share Pledge - Robert Loosemore 2,500 shares with a par value of 100 each in Bical France Eurl as well as all rights proceedings from the shares Created 15 October 2008 and registered 30 October 2008

Deed of Charge held by Barclays Bank Plc created on 5 June 2009 and registered on 16 June 2009 over credit balances held by Barclays Bank Plc

DIRECTORS' SHAREHOLDINGS

Name	Deferred 1p	Ordinary A	% Holdings A shares
David Croxton via David Croxton Executive Pension	10,364,791	66,409	3.8%
David Croxton via David Croxton Limited	596,180	3,820	0.2%
Mr D R Croxton	9,398,980	197,720	11.2%
Dr P A Carver	6,340,575	40,625	2.3%
Mr S P Croxton	3,083,146	19,754	1.1%
Total Directors' shareholdings	29,783,672	328,328	18.6%

INFORMATION IN SUPPORT OF OFFICE HOLDERS' REMUNERATION

Case name	Biomass Industrial Crops Limited
Court and number	High Court of Justice No 20682 of 2009
Office Holder	Timothy Alexander Close
Firm	Milsted Langdon LLP
Address	Winchester House, Deane Gate Avenue, Taunton, Somerset, TA1 2UH
Telephone	01823 445566
Reference	BIOM
Type of Appointment	Administrator
Date of Appointment	23 November 2009
Wording of fee authority	The remuneration of the administrator shall be fixed by reference to time properly spent by him and his staff in attending to matters arising from the administration
Date authority given	26 May 2010

These notes should be read in conjunction with the forgoing report which sets out details of the conduct of the administration of this case and gives an indication of the anticipated outcome, if known. The report highlights any matters of complexity or exceptional circumstances and those on which a significant proportion of time has been spent and explains the nature, extent and effectiveness of the associated work undertaken.

Statement of Insolvency Practice 9 outlines what information should be provided in support of Office Holder's remuneration. This includes information on disbursements, including the policies for the selection of agents and advisers, and details of the tasks undertaken in respect of each category of activity included in the analysis of time that is provided with this report. The details of these and "Creditors' Guide to Fees" can be found at www.milsted-langdon.co.uk or are available on request.

Current charge out rates for different grades of staff are given below along with our rates for recharging disbursements incurred. These are subject to periodic review and historic details are also provided on the website above.

	£/hr	
Partners	200-220	plus VAT
Managers and Administrators	70-150	plus VAT
Other administrative staff	28-60	plus VAT

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

Creditors' attention is also drawn to the accompanying account of receipts and payments. This reflects any payments that may have been made to agents and advisers, and in accordance with the above policy.

The table that follows seeks to set out a summary of the time spent on this case.

Biomass Industrial Crops Limited
Time and disbursement analysis
For the period 23 November 2009 to 22 May 2010

Charge group	Partner	Manager	Other Senior Professionals	Assistants and Support Staff	Total	Total cost (£)	Avg. Hourly Rate (£)
Administration & planning	3 25	128 30	8 05	143 15	282 75	21,574 85	76 30
Investigations	4 80	15 90	7 50	4 75	32 95	3,424 60	103 93
Realisations	34 40	13 80	0 00	4 45	52 65	8,791 50	166 98
Creditors	62 45	58 10	23 40	62 65	206 60	23,801 50	115 21
V/A monitoring and default	0 00	0 00	2 50	0 00	2 50	87 50	35 00
Fixed charge realisations	1 50	0 00	0 00	0 00	1 50	300 00	200 00
Total time	106 40	216 10	41 45	215 00	578 95	57,979 95	100 15
Disbursements							
Faxes						6 00	
Photocopying						81 20	
Mailing Fee (Insolvency)						685 64	
Copy Print Costs						612 62	
Company Searches						8 00	
Total disbursements						1,393 46	
				Grand Total		59,373.41	

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

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

Statement of Affairs		From 23/11/2009 To 22/05/2010
	SECURED ASSETS	
9,995 00	Goodwill	9,995 00
5,003 00	Intellectual Property	5,003 00
		<u>14,998 00</u>
	ASSET REALISATIONS	
50,000 00	Plant & Machinery	50,001 00
1 00	Furniture & Equipment	NIL
65,001 00	Stock	65,001 00
20,000 00	Book Debts	20,000 00
15,000 00	Investment in Subsidiary	NIL
	Cash at Bank	3,747 44
	Bank Interest Gross	135 31
		<u>138,884 75</u>
	COST OF REALISATIONS	
	Specific Bond	260 00
	Agents/Valuers Fees	3,900 00
	Legal Fees	22,066 64
	Storage Costs	727 49
	Re-Direction of Mail	104 00
	Statutory Advertising	208 80
	Insurance of Assets	3,931 01
		<u>(31,197 94)</u>
165,000.00		<u>122,684.81</u>
	REPRESENTED BY	
	Vat Receivable	4,154 96
	Bank 1 Current	118,529 85
		<u>122,684.81</u>

Timothy Alexander Close
Administrator