

Our Ref NSW/JFB/MZC/AMW/F00382/PF7

To the creditors

**Recovery and Reorganisation**

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22 May 2012

Dear Sirs

**Finbow Wines Limited - In Liquidation (the Company)  
In the High Court of Justice No 5500 of 2010**

**1 Introduction**

1.1 Following my appointment as Joint Liquidator of the Company, with David Ingram, on 30 March 2011, in accordance with rule 4.49B of the Insolvency Rules 1986, I now report on the progress of the liquidation for the year ended 29 March 2012 and attach

- Appendix A, an account of the Joint Liquidators' receipts and payments for the year ended 29 March 2012
- Appendix B, a statement of the remuneration charged by the Joint Liquidators in the period 30 March 2011 to 29 March 2012 and a statement of expenses incurred in the period
- Appendix C, an analysis of time costs as required by Statement of Insolvency Practice 9 (SIP9)
- 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)

1.2 Please note that both David Ingram and I authorised by the Insolvency Practitioners Association to act as insolvency practitioners

**2 Statutory information**

2.1 The Company's statutory details are as follows

Registered number 03785939

Registered office

30 Finsbury Square, London EC2P 2YU

TUESDAY



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29/01/2013

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**3 Ongoing police investigation and restraint**

3.1 Shortly after my appointment I became aware that several individuals connected to the Company were under investigation by the police in respect of the Company's affairs. I also learned that a Restraint Order had been obtained by the Police on 4 March 2010 (the

Restraint Order), effectively freezing the assets of those individuals and piercing the Company's corporate veil so as to include its assets in the restraint

- 3 2 Because of the Restraint Order I am unable to realise the assets of the Company I would like to propose to the Crown Prosecution Service (CPS), an amendment to the Restraint Order so that the Company's assets, including claims against third parties are returned to the control of the Joint Liquidators allowing them to be realised for the benefit of the Company's creditors
- 3 3 My staff have written to the CPS on a number of occasions to request a meeting to discuss an amendment to the Restraint Order but to date they have declined to meet with me
- 3 4 In terms of the progress of the criminal investigation, I was advised recently by the Police that five people have been charged and that their first Court appearance was due on 11 May 2012 Three other people who were under investigation will have no further action taken against them The Restraint Order remains in place

#### **4 Realisation of assets**

- 4 1 No assets have been realised to date Upon my appointment, a Company bank account was identified holding the sum of £17,798, however, due to the Restraint Order discussed above, the monies have not been transferred to the Liquidators' bank account
- 4 2 There are no other known assets held by the Company and any further realisations would be the result of making tracing claims against the companies and individuals who received the benefit of the Company's assets However, no recovery action in this regard has been pursued in light of the Restraint Order

#### **5 Investigation into the affairs of the Company**

- 5 1 My staff have undertaken a detailed analysis of the bank account of the Company, obtaining further information from the bank and third parties to identify the recipients of Company monies and determine the legitimacy or otherwise of the payments This has involved writing directly to the recipients of the monies to request explanations of the recipients' dealings with the Company and evidence to support the basis of the receipts
- 5 2 Investigations have been conducted into the directors and shadow directors and their connections to other companies, individuals and properties with a view to tracing Company assets that have been dissipated
- 5 3 Should the issue in respect of the Restraint Order be resolved, my investigation will be recommenced

#### **6 Joint Liquidators' remuneration**

- 6 1 At a meeting of creditors held on 29 June 2011, a resolution was passed fixing the basis of the Joint Liquidators remuneration as time properly spent by us and our staff in administering the liquidation
- 6 2 You will note from the table attached at Appendix C, as required by Statement of Insolvency Practice 9, that time costs of £41,173 plus VAT was incurred in the year since the Joint

Liquidators' appointment No remuneration has been drawn to date as disclosed in Appendix B

- 6.3 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

## **7 Other expenses incurred by the Joint Liquidators**

- 7.1 The expenses as set out in Appendix B have been incurred by the Joint Liquidators and their staff during the period covered by this report. Because there are no funds available in the estate, the Joint Liquidators have not been reimbursed for these costs
- 7.2 The expenses incurred total £337.00 and include Land Registry fees of £108.00, travel costs of £46.90, £30.00 for our specific bond and £152.10 for statutory advertising

## **8 Prospects of a distribution to creditors**

- 8.1 There are no preferential creditors in this matter. I have received unsecured claims totalling £1,623,522. Because no assets have been realised, there are insufficient funds available for a distribution to be made to creditors at this stage

Should you have any queries regarding this matter, please do not hesitate to contact my colleague Michelle Cini, whose details appear below

Yours faithfully  
for and on behalf of Finbow Wines Limited



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Joint Liquidator

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## A Abstract of the Joint Liquidators' receipts and payments

**Finbow Wines Limited**  
**(In Liquidation)**

**Joint Liquidators' Abstract of Receipts And Payments**  
**To 29 March 2012**

	<b>Statement of affairs £</b>	<b>From 30/03/11 to 29/03/12 £</b>
<b>RECEIPTS</b>		
Cash at bank	17,798 00	NIL*
Petitioner's deposit		<u>1,000 00</u>
		<u>1,000 00</u>
<b>PAYMENTS</b>		
Secretary of State fees		<u>72 00</u>
		<u>72 00</u>
Balances in hand		<u>928 00</u>
		<u>1,000 00</u>
Note - VAT is not recoverable		

\*unable to realise at present due to restraint order

B Remuneration charged and expenses incurred by  
the Joint Liquidators in the period

	Paid in period of report £	Charged/ accrued in period but not yet paid £	Total £
Joint Liquidators' fees			
Time costs	-	41,173 00	41,173 00
Statutory advertising	-	152 10	152 10
Travel expenses	-	46 90	46 90
Land Registry searches	-	108 00	108 00
Specific bond	-	30 00	30 00
	-	41,510 00	41,510 00

**SIP 9 for Finbow Wines Limited  
30 March 2011 - 29 March 2012**

**Creditors** Includes, correspondence with preferential and unsecured creditors, pensions and employees

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

Rule 4 49E edited for application to a progress report in a winding-up by the court

- (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
- (6) This Rule does not apply where the liquidator is the Official Receiver

## E An extract from the Insolvency Rules 1986 relating to creditors' rights to challenge the liquidator's 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 sub-paragraph (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 specifyand 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