

The Insolvency Act 1986

**Administrator's progress report**

Name of Company HPEMS Limited	Company number 05186464
In the High Court of Justice, Chancery Lane [full name of court]	Court case number 6481 of 2013

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

I / We (a) Jamie Taylor of Begbies Traynor (Central) LLP, The Old Exchange, 234 Southchurch Road Southend on Sea SS1 2EG and Dominik Thiel Czerwinke of Begbies Traynor (Central) LLP, The Old Exchange, 234 Southchurch Road, Southend on Sea Essex

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

(b) Insert dates

from

to

(b) 18 March 2014

(b) 17 September 2014

Signed

Joint / Administrator(s)

Dated

15/10/14

**Contact Details:**

You do not have to give any contact information in the box opposite but if you do, it will help Companies House to contact you if there is a query on the form. The contact information that you give will be visible to searchers of the public record.

Begbies Traynor (Central) LLP	
The Old Exchange, 234 Southchurch Road, Southend on Sea, SS1 2EG	
	Tel Number 01702 467255
Fax Number 01702 467201	DX Number

When you have completed and signed this form please send it to the Registrar of Companies at  
Companies House, Crown Way, Cardiff, CF14 3UZ  
DX 33050 Cardiff



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A32 18/10/2014 #260  
COMPANIES HOUSE

The affairs, business and property of the Company are being managed by the joint administrators, who act as the Company's agents and without personal liability

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## **HPEMS Limited (In Administration)**

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Progress report pursuant to Rule 2.47 of the  
Insolvency Rules 1986

Period: 18 March 2014 to 17 September 2014

## **Important Notice**

This progress report has been produced to comply with our statutory duty to report to creditors on the progress of the administration. The report is private and confidential and may not be relied upon, referred to, reproduced or quoted from, in whole or in part, by creditors for any purpose other than this report to them, or by any other person for any purpose whatsoever.

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# 1. INTERPRETATION

<u>Expression</u>	<u>Meaning</u>
"the Company"	HPEMS Limited (In Administration)
"the administration"	The appointment of administrators under Schedule B1 to the Insolvency Act 1986 on 18 September 2013
"the administrators" "we" "our" and "us"	Jamie Taylor of Begbies Traynor (Central) LLP, The Old Exchange, 234 Southchurch Road, Southend on Sea, SS1 2EG and Dominik Thiel Czerwinke of Begbies Traynor (Central) LLP, The Old Exchange, 234 Southchurch Road, Southend on Sea, SS1 2EG
"the Act"	The Insolvency Act 1986 (as amended)
"the Rules"	The Insolvency Rules 1986 (as amended)
"secured creditor" and "unsecured creditor"	Secured creditor, in relation to a company, means a creditor of the company who holds in respect of his debt a security over property of the company, and "unsecured creditor" is to be read accordingly (Section 248(1)(a) of the Act)
"security"	(i) In relation to England and Wales, any mortgage, charge, lien or other security (Section 248(1)(b)(i) of the Act), and  (ii) In relation to Scotland, any security (whether heritable or moveable), any floating charge and any right of lien or preference and any right of retention (other than a right of compensation or set off) (Section 248(1)(b)(ii) of the Act)
"preferential creditor"	Any creditor of the Company whose claim is preferential within Sections 386, 387 and Schedule 6 to the Insolvency Act 1986

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## 2. COMPANY INFORMATION

Trading name(s)	N/A
Date of Incorporation	22 July 2004
Company registered number	05186464
Company registered office	The Old Exchange, 234 Southchurch Road, Southend on Sea, SS1 2EG

## 3. DETAILS OF APPOINTMENT OF ADMINISTRATORS

Date of administrators' appointment	18 September 2013
Date of administrators' resignation	N/A
Court	High Court of Justice, Chancery Lane
Court Case Number	6481 of 2013
Person(s) making appointment / application	Lloyds Bank YSB Plc
Acts of the administrators	The administrators act as officers of the court and as agents of the Company without personal liability. Any act required or authorised under any enactment to be done by an administrator may be done by any one or more persons holding the office of administrator from time to time.
EC Regulation on Insolvency Proceedings	The EC Regulation on Insolvency Proceedings (Council Regulation (EC) No 1346/2000) applies to these proceedings which are 'main proceedings' within the meaning of Article 3 of the Regulation.

## 4. PROGRESS DURING THE PERIOD

Attached at Appendix 1 is our abstract of receipts and payments for the period from 18 March 2014 to 17 September 2014.

### ASSET REALISATIONS

#### Debtors/Retentions

Immediately on appointment, our agents Leslie Keats were instructed to commence the book debt collection activities with the assistance of Mr Murphy.

The book value of the Company's book debts totalled £1,363,690.00 based on the advice and paperwork provided. This included outstanding invoices (including VAT) of £2,194, Application/Final Accounts of

£1,214,308 and outstanding Retentions of £147,118. A 50% provision was applied against these figures solely for the purposes of the directors Statement of Affairs

To date, the sum of £3,446 73 has been received in respect of the Company's debtors. No realisations have been made to date in respect of the retentions. During this period, no realisations have been made in respect of the Company's debtors

A number of the debts and retentions are either disputed or their defects periods are yet to expire. Our agents are continuing to pursue outstanding sums and it is presently uncertain as to the realisations achievable in this respect. Further disclosure in this regard may be prejudicial to collection efforts

#### **VAT Refund (held by Bank)**

A VAT refund due to the Company was paid directly to the Company's former bank account held with Lloyds Bank Plc. This has been paid to Lloyds Bank Plc as part settlement of the bank's outstanding liability under the terms of their floating charge

#### **Insurance Claims**

Some of the company's debtors were subject to insurance claims. To date, the sum of £58,500 has been realised in this respect

#### **Cash at Bank**

As stated in the Joint Administrator's proposals, approximately £5,000 was held by the bank at the point of Administration. These funds would be offset by the bank against their secured debt

#### **Sundry Refund**

Sundry Refunds have been received in the sum of £501 34

#### **Bank Interest Gross**

The sum of £33 67 has been realised in respect of bank interest gross

## **5. ESTIMATED OUTCOME FOR CREDITORS**

Details of the sums owed to each class of the Company's creditors were provided in our statement of proposals.

On the basis of realisations to date and estimated future realisations we estimate an outcome for each class of the Company's creditors as follows

#### **Secured creditors**

##### **Lloyds TSB Bank Plc**

The Company was estimated to owe the sum of £460,000 to Lloyds Bank Plc in relation to an outstanding overdraft. The bank have fixed and floating charges over all property and assets present and future, including goodwill, book debts, uncalled capital, buildings, fixtures and fixed plant and machinery

A notice has been received from indicating that the sum of £482,116 is owed to the bank

The sum of £54,355 has been paid to Lloyds Bank Plc, by way of a VAT refund due to the Company which was paid directly by HMRC to the bank. Further distributions are likely to be paid in due course, however the

timing and quantum will be heavily dependent on the realisation of the book debts and retentions previously mentioned in this report

#### Mr & Mrs Murphy

The sum of £170,000 is estimated to be owed to Mr & Mrs Murphy, who acted as security providers in respect of the loan from Rowanmoor Group to the Company. Again, the timing and quantum of any dividend in this regard will be heavily dependent on the realisation of the book debts and retentions previously mentioned in this report

#### **Preferential creditors**

We consider that there will be sufficient funds for preferential creditors to be paid in full

#### **Prescribed Part for unsecured creditors pursuant to Section 176A of the Act**

Section 176A of the Act provides that, where the company has created a floating charge on or after 15 September 2003, the administrator must make a prescribed part of the Company's net property available for the unsecured creditors and not distribute it to the floating charge holder except in so far as it exceeds the amount required for the satisfaction of unsecured debts. Net property means the amount which would, were it not for this provision, be available to floating charge holders out of floating charge assets (i.e. after accounting for preferential debts and the costs of realising the floating charge assets). The prescribed part of the Company's net property is calculated by reference to a sliding scale as follows

- ☐ 50% of the first £10,000 of net property,
- ☐ 20% of net property thereafter,
- ☐ Up to a maximum amount to be made available of £600,000

An administrator will not be required to set aside the prescribed part of net property if

- ☐ the net property is less than £10,000 and the administrator thinks that the cost of distributing the prescribed part would be disproportionate to the benefit, (Section 176A(3)) or
- ☐ the administrator applies to the court for an order on the grounds that the cost of distributing the prescribed part would be disproportionate to the benefit and the court orders that the provision shall not apply (Section 176A(5))

Within the Administrators' proposals we estimated, to the best of our knowledge and belief, that the Company's net property, as defined in Section 176A(6) of the Act, would be £676,351 and the prescribed part of the Company's net property to be £138,270.20. These estimates remain valid, however will be heavily reliant on the realisation of the debts and retentions previously mentioned. To date, prescribed part monies set aside for distribution to creditors after costs amounts to £22,367.34. We must advise that future realisations are uncertain.

On present information we do not intend to make an application to court under Section 176A(5) of the Act for an order not to distribute the prescribed part of net property to the unsecured creditors. However we reserve our position generally in this regard should circumstances materially change.

#### **Unsecured creditors**

A dividend is anticipated to be paid to unsecured creditors from the prescribed part mentioned above which currently totals £22,367.34. Total creditor claims received to date amount to £1,109,509.24. The increase in value of the prescribed part will be heavily dependent on the realisation of the book debts and retentions previously mentioned in this report. Any distribution to unsecured creditors will be done following the move to creditors voluntary liquidation as detailed in section 10 of this report.

## 6. PRE-ADMINISTRATION COSTS

The pre-administration costs that were unpaid at the date of our appointment were detailed in our statement of proposals for achieving the purpose of administration. The following steps have been taken during the period of this report to seek approval of these costs

- Liaising with Lloyds Bank Plc to request completion of the resolution form provided, which includes a resolution on pre-administration costs

## 7. REMUNERATION & DISBURSEMENTS

It is intended that our remuneration will be fixed by reference to the time properly given by us (as administrators) and the various grades of our staff calculated at the prevailing hourly charge out rates of Begbies Traynor (Central) LLP in attending to matters arising in the administration and we will draw disbursements, including disbursements for services provided by our firm (defined as category 2 disbursements in Statement of Insolvency Practice 9) in accordance with our firm's policy, details of which accompanied the Statement of Proposals for achieving the purpose of administration and which are attached at Appendix 2 of this report

It will be for the secured creditor and preferential creditors to formally approve our remuneration and we will write to them separately in this regard. We have been liaising with Lloyds Bank Plc to request completion of the resolution form provided, which includes a resolution administrator's fees and disbursements

Our time costs for the period from 18 March 2014 to 17 September 2014 amount to £6,405.00 which represents 33.5 hours at an average rate of £191.19 per hour

The following further information in relation to our time costs and disbursements is set out at Appendix 2

- ☐ Table of time spent and charge-out value for the period 18 March 2014 to 17 September 2014
- ☐ Begbies Traynor (Central) LLP's policy for re-charging disbursements
- ☐ Begbies Traynor (Central) LLP's charge-out rates

To 17 March 2014, we have not drawn any remuneration, against total time costs of £40,345.00 incurred since the date of our appointment. We have not drawn any disbursements

A copy of 'A Creditors Guide to Administrators' Fees (E&W) 2011' which provides guidance on creditors' rights on how to approve and monitor an Administrator's remuneration and on how the remuneration is set can be obtained online at [www.begbies-traynor.com/creditorsguides](http://www.begbies-traynor.com/creditorsguides). Alternatively, if you require a hard copy of the Guide, please contact our office and we will arrange to send you a copy

## 8. ADMINISTRATORS' EXPENSES

### Legal Fees

SGH Martineau LLP ('SGH') have assisted in advising the Administrators generally, handling the appointment by Lloyd Bank Plc, commenting on our validity of appointment and assisting with Retention of Title claims. The sum of £5,000 plus VAT plus non-vatable disbursements of £35 has been paid to SGH Martineau LLP. SGH have no outstanding costs at present



### **Agents Fees**

Leslie Keats ('LK') LK's fees for their work in reviewing the debtor ledger and providing a report are to be limited to £3,500 + VAT and disbursements in the event that the liability to the secured creditor is discharged in full and surplus funds remain or if not, a reduced fee of £1,000 + VAT was agreed

Their involvement is detailed elsewhere in the report and they have been engaged on a 20% commission basis together with necessary disbursements (such as security costs)

### **Storage**

The sum of £345 75 plus VAT is payable to Archive Facilities (Southend) Limited in relation to the collection and storage of the company's records. Archive Facilities (Southend) Limited is an associate of Begbies Traynor and therefore this constitutes a Category 2 disbursement which requires creditor approval. As stated above, approval in respect of Category 2 disbursements is awaited.

A statement of the expenses incurred during the period of this progress report not covered by the above is attached at Appendix 3

## **9. ASSETS THAT REMAIN TO BE REALISED**

The collection of the Company's book debts and retentions remains outstanding. We have discussed with Leslie Keats and the director of the Company and at present, it is uncertain how much we will receive in respect of future realisations.

## **10. OTHER RELEVANT INFORMATION**

### **Report on Directors conduct**

As detailed in our statement of proposals, we have a duty to submit a report to the Department for Business, Innovation and Skills on the conduct of the director. We have complied with our duties in this respect.

### **Investigations completed and action taken**

As explained in our Statement of Proposals, we have undertaken an initial assessment of the manner in which the business was conducted prior to the administration of the Company and potential recoveries for the estate in this respect.

### **Extension of administration**

The administration has been extended until 18 March 2015.

### **Proposed exit route from administration**

On the present information, we are of the opinion that the unsecured creditors of the Company will receive a distribution of prescribed part monies.

As advised in the Administrator's proposals, we do not have a general power to make a distribution to unsecured creditors and may only do so if the court gives permission. It is considered that the court will only grant such permission in exceptional circumstances where the normal course for making distributions to unsecured creditors in a voluntary liquidation is inappropriate. Additionally, there may be matters for enquiry concerning a company's affairs which are not within the scope of an administrator's powers and which can only be properly dealt with by a liquidator.

Consequently, as soon as we are satisfied that we have fully discharged our duties as administrators and that the purpose of the administration has been fully achieved, we propose to implement the provisions of Paragraph 83 of Schedule B1 to the Act whereby on the registration of a notice sent to the Registrar of Companies, our appointment as administrators shall cease to have effect and the Company will automatically be placed into creditors' voluntary liquidation. Paragraph 83(7) provides

The liquidators for the purpose of the winding up shall be-

- (a) a person nominated by the creditors of the company in the prescribed manner and within the prescribed period, or
- (a) if no person is nominated under paragraph (a), the administrator

As part of our Proposals, which were deemed approved by creditors, we confirmed that we would act as joint liquidators in the subsequent winding up of the Company

## 11. CREDITORS' RIGHTS

### **Right to request further information**

Pursuant to Rule 2.48A of the Rules, within 21 days of the receipt of this report a secured creditor, or an unsecured creditor with the concurrence of at least 5% in value of the unsecured creditors, including that creditor (or an unsecured creditor with less than 5% in value of the unsecured creditors, but with the permission of the court) may request in writing that we provide further information about our remuneration or expenses (other than pre-administration costs) which have been detailed in this progress report

### **Right to make an application to court**

Pursuant to Rule 2.109 of the Rules, any secured creditor or an unsecured creditor with the concurrence of at least 10% in value of the unsecured creditors including that creditor (or any unsecured creditors with less than 10% in value of the unsecured creditors, but with the permission of the court) may, within 8 weeks of receipt of this progress report, make an application to court on the grounds that the remuneration charged or the expenses incurred as set out in this progress report are excessive or, the basis fixed for our remuneration is inappropriate

## 12. CONCLUSION

We will report again in approximately six months time or at the conclusion of the administration, whichever is the sooner



Jamie Taylor  
Joint Administrator

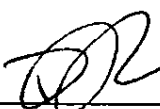
Dated 15 October 2014

# ACCOUNT OF RECEIPTS AND PAYMENTS

Period 18 March 2014 to 17 September 2014

**HPEMS Limited**  
**(In Administration)**  
**Joint Administrators' Abstract of Receipts & Payments**

Statement of Affairs		From 18/03/2014 To 17/09/2014	From 18/09/2013 To 17/09/2014
	<b>SECURED CREDITORS</b>		
(460,000 00)	Lloyds Bank plc	NIL	NIL
(170,000 00)	Mr & Mrs Murphy	NIL	NIL
		NIL	NIL
	<b>ASSET REALISATIONS</b>		
608,251 00	Debtors	NIL	3,446 73
73,594 00	Retentions	NIL	NIL
54,355 00	VAT Refund (Held by Bank)	NIL	54,355 00
	Insurance claims	NIL	58,500 00
5,000 00	Cash at Bank	NIL	NIL
	Sundry Refund	NIL	501 34
	Bank Interest Gross	22 53	33 67
		22 53	116,836 74
	<b>COST OF REALISATIONS</b>		
	Legal Fees (1)	NIL	5,035 00
		NIL	(5,035 00)
	<b>PREFERENTIAL CREDITORS</b>		
(5,849 00)	RPO re Arrears/Holiday Pay	NIL	NIL
(4,645 00)	Employees re Arrears/Hol Pay	NIL	NIL
		NIL	NIL
	<b>FLOATING CHARGE CREDITORS</b>		
	Lloyds TSB Bank plc	NIL	54,355 00
		NIL	(54,355 00)
	<b>UNSECURED CREDITORS</b>		
(1,019,902 00)	Trade Creditors	NIL	NIL
(4,065 00)	Employees	NIL	NIL
(45,000 00)	Directors	NIL	NIL
(20,000 00)	HMRC (non VAT)	NIL	NIL
54,355 00	HMRC (VAT)	NIL	NIL
		NIL	NIL
<b>(933,906.00)</b>		<b>22.53</b>	<b>57,446.74</b>
	<b>REPRESENTED BY</b>		
	Bank 1 Current		37,584 41
	Prescribed Part fund		19,862 33
			<b>57,446 74</b>

  
 \_\_\_\_\_  
 Jamie Taylor  
 Joint Administrator

## TIME COSTS AND DISBURSEMENTS

- a Begbies Traynor (Central) LLP's policy for re-charging expenses/disbursements,
- b Begbies Traynor (Central) LLP's charge-out rates,
- c Table of time spent and charge-out value for the period from 18 March 2014 to 17 September 2014

## BEGBIES TRAYNOR CHARGING POLICY

### INTRODUCTION

This note applies where a licensed insolvency practitioner in the firm is acting as an office holder of an insolvent estate and seeks creditor approval to draw remuneration on the basis of the time properly spent in dealing with the case. It also applies where further information is to be provided to creditors regarding the office holder's fees following the passing of a resolution for the office holder to be remunerated on a time cost basis. Best practice guidance<sup>1</sup> requires that such information should be disclosed to those who are responsible for approving remuneration.

In addition, this note applies where creditor approval is sought to make a separate charge by way of expenses or disbursements to recover the cost of facilities provided by the firm and also where payments are to be made to outside parties in which the office holder or his firm or any associate has an interest. Best practice guidance<sup>2</sup> requires that such charges should be disclosed to those who are responsible for approving the office holder's remuneration, together with an explanation of how those charges are calculated.

### OFFICE HOLDER'S FEES IN RESPECT OF THE ADMINISTRATION OF INSOLVENT ESTATES

The office holder has overall responsibility for the administration of the estate. He/she will delegate tasks to members of staff. Such delegation assists the office holder as it allows him/her to deal with the more complex aspects of the case and ensures that work is being carried out at the appropriate level. There are various levels of staff that are employed by the office holder and these appear below.

The firm operates a time recording system which allows staff working on the case along with the office holder to allocate their time to the case. The time is recorded at the individual's hourly rate in force at that time which is detailed below.

### OFFICE HOLDERS EXPENSES IN RESPECT OF THE ADMINISTRATION OF INSOLVENT ESTATES Best practice guidance classifies expenses into two broad categories:

- *Category 1 expenses (approval not required)* - specific expenditure that is directly related to the case usually referable to an independent external supplier's invoice. All such items are charged to the case as they are incurred.
- *Category 2 expenses (approval required)* - items of incidental expenditure directly incurred on the case which include an element of shared or allocated cost and which are based on a reasonable method of calculation.

(A) The following items of expenditure are charged to the case (subject to approval)

- Internal meeting room usage for the purpose of statutory meetings of creditors may be charged by some offices and is charged at the rate of £100 (London £150) per meeting. External meeting room usage is charged at cost;
- Car mileage is charged at the rate of 45 pence per mile;

- *Expenses which should be treated as Category 2 disbursements (approval required)* - in addition to the 2 categories referred to above, best practice guidance indicates that where payments are made to outside parties in which the office holder or his firm or any associate has an interest these should be treated as Category 2 disbursements. The

following items of expenditure which relate to services provided by entities within the Begbies Traynor Group are to be charged to the case (subject to approval)

- Storage of books and records (when not rechargeable as a Category 1 expense) is charged by Archive Facilities (Southend) Limited, an associated company. The rates applying as at the date of this report are: Minimum charge of £40 per quarter for up to three boxes, Four to Two Hundred Boxes charged at £11 per quarter per box, over two hundred boxes are charged at half the aforementioned price, (£5.50 per box per quarter). Mileage for collection of books and records is charged at 55p per mile. Provision of cardboard box charged at £2.75 per box. Where Archive Facilities (Southend) Limited are required to physically pack the books and records, there is a minimum charge of 2 hours at £15 per hour per person required, and at £15 per hour for each hour thereafter. All figures stated are net.
- BTG Asset Consulting may be engaged to undertake valuations and/or disposal of assets. BTG Asset Consulting is a part of Begbies Traynor Group plc and is therefore an associated company. Their charges are based on 15% of realisations or time costs at a Partner rate of £125 per hour and Manager rate of £100 per hour. A separate charge will be levied for any valuations to be provided at a fixed fee of £500 + VAT. Disbursements are charged at cost and mileage is recovered at 40p per mile. All figures stated are net of VAT.
- (B) The following items of expenditure will normally be treated as general office overheads and will not be charged to the case although a charge may be made where the precise cost to the case can be determined because the item satisfies the test of a *Category 1 expense*
  - Telephone and facsimile
  - Printing and photocopying
  - Stationery

### BEGBIES TRAYNOR CHARGE-OUT RATES

Begbies Traynor is a national firm. The rates charged by the various grades of staff that may work on a case are set nationally, but vary to suit local market conditions. The rates applying to the Southend-on-Sea office are as follows:

Charge-out Rate (£ per hour)		
Grade of staff	From 01 May 2011	01 July 2008 to 01 May 2011
Partner	495	450
Partner 2	N/A	395
Director	395	375
Senior Manager	365	350
Manager	315	300
Assistant Manager	270	250
Senior Administrator	235	220
Administrator	185	180
Junior Administrator	160	150
Support	160	150

Time spent by support staff for carrying out shorter tasks, such as typing or dealing with post, is not charged to cases but is carried as an overhead. Only where a significant amount of time is spent at one time on a case is a charge made for support staff. Time is recorded in units of 0.10 of an hour (i.e. 6 minute units).

<sup>1</sup> Statement of Insolvency Practice 9 (SIP 9) - Remuneration of insolvency office holders in England & Wales (Effective 1 April 2007)  
Statement of Insolvency Practice 9 (SIP 9) - Remuneration of insolvency office holders in England & Wales (Effective 1 April 2007)

[illegible]

Cost time cost of unit of work					
Average hourly rate £	450 00	395 00	315 00	185 00	160 00
					60 83
					222 28



## STATEMENT OF ADMINISTRATORS' EXPENSES

Type of expense	Name of party with whom expense incurred	Amount incurred £	Amount discharged £	Balance (to be discharged) £
Photocopying	Begbies Traynor (Central) LLP	263 20	263 20	0
Postage	Begbies Traynor (Central) LLP	458 34	458 34	0
Advertising	The Stationery Office Ltd	75 00	75 00	0
Bonding	Insolvency Risk Services	148 50	148 50	0
Travel expenses	Begbies Traynor (Central) LLP	1 00	1 00	0