

The Insolvency Act 1986

**Administrator's progress report**

Name of Company
Max Hotels (York) Limited t/a Royal York Hotel

Company number
05404182

In the High Court of Justice, London (full name of court)
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Court case number
5365 of 2012

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

I/We (a)  
Timothy John Edward Dolder  
RSM Tenon Restructuring  
Cedar House  
Breckland  
Linford Wood  
Milton Keynes  
MK14 6EX

Colin David Wilson  
RSM Tenon Restructuring  
11th Floor  
66 Chiltern Street  
London  
W1U 4JT

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

(b) Insert date

From
(b) 29 June 2012

To
(b) 28 December 2012

Signed

Joint / Administrator(s)

Dated

18/1/13

**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

Timothy John Edward Dolder  
RSM Tenon Restructuring  
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Breckland  
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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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COMPANIES HOUSE

**Max Hotels (York) Limited t/a Royal York Hotel (“the Company”)  
In Administration**

**Joint Administrators’ First Progress Report  
for the period from 29 June 2012 to 28 December 2012**

**Issued on: 18 January 2013**

Timothy John Edward Dolder and Colin David Wilson of RSM Tenon Restructuring are the Joint Administrators of the Company and this is their report on the progress of the Administration of the Company for the six month period from 29 June 2012 to 28 December 2012

## **1. Statutory Information**

Statutory information relating to the Company is attached at **Appendix I**

## **2 Joint Administrators' Receipts and Payments Account**

A summary of the Joint Administrators' receipts and payments account relating to the Company for the relevant period from 29 June 2012 to 28 December 2012 is attached at **Appendix II**

## **3. Action Taken by the Joint Administrators since Appointment**

As no meeting of creditors was requisitioned, I can confirm that creditors have been deemed to approve the Administrators' proposals previously circulated on 10 August 2012

### *Leasehold Property (known as the Royal York Hotel, Brighton ("the Hotel"))*

As previously reported, the Directors estimated in the Statement of Affairs that the property was likely to realise £10 million. The opinion of value by our agents, GVA, is substantially different and they estimate value in the region of £5-£7 million

The property has been actively marketed by GVA since August 2012 and there has been considerable interest so far. GVA are in the process of conducting further viewings at present and it is anticipated that we will seek a sale in the short-term. We hope a sale of the business as a going concern will be achieved rather than purely a sale of the property

The Company borrowed money against its leasehold property, secured by a Debenture and a first priority fixed charge in favour of AIB Group (UK) Plc ("AIB"). Any realisations in respect of the property will be paid to AIB, based upon present estimates

### *Trading Position*

The Royal York Hotel ("the Hotel") has been traded by Convivial Management Solutions ("Convivial"), our nominated agents, since appointment. The current trading surplus received is £81,738 for June to September

Trading losses were incurred in October and November. These amounts have not yet been repaid to our trading agents and will be shown in the next progress report to creditors

The trading of the Hotel is reviewed monthly. Currently, we believe the value of the business is better maintained as a hotel and we expect in certain months to make a trading loss

### *Furniture & Equipment*

The Directors indicated the chattel assets to be worth £505,850 in their Statement of Affairs

The Hotel contains various chattel assets such as general furniture, kitchen equipment and decorative items. We instructed Wyles Hardy & Co Limited, chattel valuation agents, to catalogue and value all items. The valuations of these assets were detailed in our Proposals report

If a purchaser is found for the Hotel in the next six months, negotiations in respect of a sale figure for the furniture and equipment will be entered into and detailed in the next progress report

#### *Stock*

The Directors estimated the stock at the Hotel was worth £3,000

A stock take was conducted following our appointment and the value of the stock in situ was £610

#### *Book Debts*

The Directors estimated the outstanding book debt ledger in their Statement of Affairs would realise £114,401

The total outstanding ledger found in the Company's records on appointment was £46,774 and after applying a prudent 50% provision, as it appears several debtors had been paid prior to our appointment, the Administrators anticipate a collectable value of £23,387

To date, realisations totalling £16,115 have been achieved. We are continuing to take action to realise the remaining outstanding debts, however, there appears to be various accounts which were paid pre-appointment and several disputes which require further investigation

#### *Petty Cash*

The petty cash on appointment was £352. This balance has been incorporated with the new trading float operated by Convivial and will be included in the trading figures

#### *Third Party Funds*

AIB have transferred an amount of £9,537.11 to the Administration following appointment in respect of card transactions paid by customers before our trading agents card facility was in place. We are awaiting confirmation from our trading agents as to whether these funds should be considered a trading surplus for the Administration or should be repaid to Convivial.

A further amount of £7,581 was received into our account which has now been identified as due to Max Serviced Apartments after a payment error by their customer. Following receipt of the relevant evidence, this amount has been repaid.

#### *Investigations*

Administrators have a duty to submit confidential report or return to the government's Disqualification Unit on the conduct of those persons who acted as directors of the Company in the three year period before the administration and these duties have been completed.

#### **4. Future Actions of the Joint Administrators**

The Joint Administrators do not anticipate at this stage that the Administration will need to be extended beyond the current duration of 12 months, however, this will be reassessed in May 2013 to allow sufficient time to obtain an extension by consent of the secured creditors, if required

The Joint Administrators will continue to trade the Hotel until such time as a sale can be agreed, whilst it remains commercially sensible to trade. This strategy will be reviewed on a constant basis in conjunction with Convivial and AIB. Once a sale is achieved, the Joint Administrators will arrange for the funds to be distributed accordingly and proceed to close the Administration.

#### **5. Liabilities and Dividends**

##### *Secured Creditors*

The debt due to AIB is secured by a Debenture and a first fixed charge over the Hotel. Any realisations in respect of the property will be paid to AIB under their fixed charge in the first instance.

If a floating charge realisations are sufficient to cover costs and a Prescribed Part distribution to unsecured creditors then a further distribution will be applicable for AIB under their floating charge. At present, this appears unlikely.

##### *Preferential Creditors*

It is anticipated that the employees will transfer to the purchaser of the business if a sale as a going concern under TUPE Regulations is achieved. However, we are aware that the Company paid several members of staff by cheque, which were later returned unpaid and therefore this may give rise to some limited preferential claims.

##### *Unsecured Creditors*

As advised in my proposals report, it is unfortunately unlikely that there will be a dividend to unsecured creditors.

#### **6 Joint Administrators' Remuneration, Disbursements and Expenses**

##### *Basis of remuneration and disbursements*

The Joint Administrators' proposals provided for the Joint Administrators to be remunerated with reference to time properly spent in dealing with matters in the Administration and that disbursements would be drawn in accordance with the tariff outlined in **Appendix III**.

The Joint Administrators' remuneration must, in the first instance, be agreed by AIB and it has been confirmed that fees can be drawn as follows:

- Time costs basis, but capped at £50,000 plus disbursements and VAT if completed within a 6 month period
- Time costs basis but capped at £75,000 plus disbursements and VAT if completed in more than 6 months but within the statutory 12 month period

The Joint Administrators' remuneration must also be ratified by Michael Rawson and Imperial Property Company (London) Limited as they are also secured chargeholders, albeit that they will not receive any distribution of funds in the Administration. The approval of our remuneration will be sought when the secured creditors are sent a

copy of this progress report. It is also appropriate we seek the ratification of preferential creditors in case, in due course, there are funds to distribute to them.

*Remuneration charged and drawn in the period*

The Joint Administrators' time costs were incurred (exc VAT) as follows

	Incurred	Paid
For the period 29 June 2012 (date of appointment) to 28 December 2012	£103,897	Nil

In accordance with Statement of Insolvency Practice 9, attached at **Appendix III**, is a breakdown of these time costs. As previously stated, the maximum Administration fees will be £75,000 within the 12 month period.

*Disbursements incurred and drawn*

The Joint Administrators' disbursements incurred during the period of this report and those reimbursed in the period are summarised below. Details are in the attached **Appendix III**.

	Incurred	Paid
Category 1 disbursements from 29 June 2012 to 28 December 2012	£493.36	Nil
Category 2 disbursements from 29 June 2012 to 28 December 2012	£27.00	Nil
<b>Total</b>	<b>£520.36</b>	<b>Nil</b>

*Expenses (professional advisors) charged and drawn in the period*

The following professional advisors have been instructed in this matter

Professional Advisor	Nature of Work	Fee Arrangement
GVA Grimley Limited	Valuation Agents: valuation, marketing and sale of Hotel	1% of gross sale proceeds up to £7M and 1.5% of gross sale proceeds in excess of £7M
Convivial Management Solutions	Trading Agents: ongoing trading of the Hotel	Fixed management fee of £4,000 plus VAT per month
TLT Solicitors LLP	Solicitors: sale agreement and general legal advice	Time costs

The choice of professionals and the Administrators' fee arrangement with them was based on perception of their experience and ability to perform this type of work, the complexity and nature of the assignment.

Details of the costs incurred and paid by the Administrators in relation to administration expenses for the period are also attached at **Appendix III**.

## **Pre-administration costs**

Before a company enters into any form of insolvency proceedings, professional costs are necessarily incurred in order to ensure that

- > The most suitable form of proceedings is chosen, in the interests of creditors
- > The mechanics of initiating the proceedings and appointing an insolvency practitioner is dealt with appropriately

The Joint Administrators do not intend to seek authority to cover the payment of these costs in relation to this matter and they will be written off

## ***Creditors' Guide to Fees and Statement of Creditors' Rights***

Creditors have a right to request further information from the Administrators and additionally have a right to challenge the Administrators' remuneration and expenses time limits apply Details can be found in the document 'Remuneration Guidelines Administration (post 6 April 2010)' which you can access and download at <http://www.rsmtenon.com/creditorguides> Alternatively a copy is available free of charge upon request from the address above

## **7. End of Administration**

As outlined in the initial Proposals report to creditors, it is the Joint Administrators intention to exit the Administration by dissolution

The Joint Administrators will seek the agreement of the Secured and preferential creditors that upon the Company proceeding into dissolution, the Joint Administrators discharge from liability, pursuant to paragraph 98 of Schedule B1 shall take effect 14 days following the Company filing the notice of moving from administration to dissolution

At present, it is anticipated that the Administration will continue for the full period of 12 months and will not require extension

The next report to creditors will be issued in June 2013



**Tim Dolder**

Joint Administrator

*Licensed in the United Kingdom to act as an insolvency practitioner by the Insolvency Practitioners Association  
The affairs, business and property of the Company are being managed by the Administrators*

**Company information**

Company name	Max Hotels (York) Limited t/a Royal York Hotel
Previous name	None
Company number	05404182
Date of incorporation	24 March 2005
Trading address	Royal York Hotel, 41-42 Old Steine, Brighton, BN1 1NH
Current registered office	c/o Cedar House, Breckland, Linford Wood, Milton Keynes, MK14 6EX
Former registered office	409-411 Croydon Road, Beckenham, Kent, BR3 3PS
Principal trading activity	Hotel

**Appointment details**

Joint Administrators' name and address	Timothy John Edward Dolder and Colin David Wilson of RSM Tenon Restructuring, Cedar House, Breckland, Linford Wood, Milton Keynes, MK14 6EX
Date of appointment	29 June 2012
Court name and reference	High Court of Justice, London No 5365 of 2012
Appointment made by	AIB Group (UK) p l c (qualifying floating chargeholder) 2nd Floor, 1 St Helens, Undershaft, London, EC3A 8AB
Actions of Joint Administrators	Any act required or authorised under any enactment to be done by an Administrator may be done by either or both of the Administrators acting jointly or alone



**Max Hotels (York) Limited t/a Royal York Hotel**  
**(In Administration)**  
**Joint Administrators' Abstract of Receipts & Payments**  
**To 28/12/2012**

<b>S of A £</b>		<b>£</b>	<b>£</b>
	<b>SECURED ASSETS</b>		
10,000,000	Leasehold Land & Property	<u>NIL</u>	NIL
	<b>COSTS OF REALISATION</b>		
	Marketing costs	1,649 03	
	Agents/Valuers Fees	<u>1,500 00</u>	(3,149 03)
	<b>SECURED CREDITORS</b>		
(7,875,000)	AIB Group (UK) plc	<u>NIL</u>	NIL
	<b>ASSET REALISATIONS</b>		
505,850	Furniture & Equipment	NIL	
3,000	Stock	NIL	
114,401	Book Debts	16,114 83	
475	Petty Cash	NIL	
	Bank Interest Gross	3 78	
NIL	Trading Surplus	81,738 00	
	Third Party Funds	<u>17,118 11</u>	114,974 72
	<b>COST OF REALISATIONS</b>		
	Legal Fees	10,022 50	
Uncertain	Third Party Funds	7,581 00	
	Trading agents fees	12,263 02	
	Other Property Expenses	<u>495 00</u>	(30,361 52)
	<b>PREFERENTIAL CREDITORS</b>		
NIL	Employee Arrears/Hol Pay	<u>NIL</u>	NIL
	<b>UNSECURED CREDITORS</b>		
(205,564)	Trade & Expense Creditors	NIL	
(125,000)	Director's Loan Account	NIL	
(441,665)	Shareholders Loan Accounts	NIL	
(33,295)	HM Revenue & Customs (PAYE/NIC)	NIL	
(51,303)	HM Revenue & Customs (VAT)	NIL	
(183,176)	Intercompany Debts	<u>NIL</u>	NIL
	<b>DISTRIBUTIONS</b>		
(1,000)	Ordinary Shareholders	<u>NIL</u>	NIL
<u><b>1,707,723</b></u>			<u><b>81,464.17</b></u>
	<b>REPRESENTED BY</b>		
	Vat Receivable		5,184 31
	Current Account - Floating		76,279 86
			<u><b>81,464.17</b></u>

## **Appendix III – Information relating to the Joint Administrators' Fees and Expenses**

**Max Hotels (York) Limited t/a Royal York Hotel****Information relating to the Joint Administrators' Fees and Expenses****1. Explanation of Administrators' charging and disbursement recovery policies****1.1. Time recording**

Work undertaken on cases is recorded in 6 minute units in an electronic time recording system. Time properly incurred on cases is charged at the hourly rate of the grade of staff undertaking the work that applies at the time the work is done. The current hourly charge out rates are

	Rate since 01/11/2011 £
Director and licensed Insolvency Practitioner	395 – 495
Senior Manager	295
Manager and Assistant Manager	235 – 240
Senior Administrator	195
Administrator	160

**1.2. Disbursement recovery**

Disbursements are categorised as either Category 1 or Category 2

**Category 1 disbursements**

External supplies of incidental services specifically identifiable to the case. Where these have initially been paid by RSM Tenon Restructuring and then recharged to the estate, approval from creditors is not required.

Examples of category 1 disbursements include postage, case advertising, specific bond insurance, company search fees, external room hire, storage, case management software system, invoiced travel and properly reimbursed expenses incurred by personnel in connection with the case (including business mileage up to HMRC approved rate for cases commenced before 1 November 2011).

**Category 2 disbursements**

These include elements of shared or allocated costs incurred by RSM Tenon Restructuring and recharged to the estate; they are not attributed to the estate by a third party invoice and/or they may include a profit element. These disbursements are recoverable in full, subject to the basis of the disbursement charge being approved by creditors in advance.

Category 2 disbursements charged by RSM Tenon Restructuring are as follows

<b>Disbursement charge</b>	<b>Rate</b>
Company searches (RSM Tenon Tracker)	£10 per case
File set up	£7 per file
Photocopying, scanning and faxes	10p per side of paper
Mileage	45p per mile
Room hire (internal) - London	£150 per hour
Room hire (internal) - outside London	£100 per hour
Reports to creditors and members - posted	50p per report
Reports to creditors and members - published on line	25p per report

**2. Description of work carried out**

Section 3 of this appendix outlines the time costs to date in relation to activities undertaken during this period. These can be summarised as follows:

## **2.1. Pre-appointment**

Details of the Joint Administrators' pre-administration costs are set out in the main body of the report

## **2.2 Administration and planning**

This includes the following activities which have been undertaken

- > Statutory duties associated with the appointment including the filing of relevant notices
- > Notification of the appointment to creditors, members, employees and other interested parties
- > Setting up case files
- > Reviewing available information to determine appropriate strategy
- > Setting up and maintaining bank accounts
- > 6 monthly progress review of the case

Staff of different levels were involved in the above activities depending upon the experience required

## **2.3. Investigations**

The time spent includes

- > Corresponding with the former directors and management
- > Review of questionnaires and comments provided by interested parties
- > Review of Company documentation
- > Completion of statutory returns to the Insolvency Service

Due to the complex nature and importance of the investigations, the staff utilised to conduct such work involved experienced members of staff

## **2.4. Realisation of assets**

Please refer to the main body of the report but in summary the time spent includes

- > Liaising with agents and solicitors
- > Correspondence with interested parties
- > Identifying, securing and insuring of assets
- > Debt collection

Staff were chosen depending upon the appropriate level of experience required for the activity they were required to undertake. The sale of the business was particularly complex and required extensive involvement of the Administrators and senior staff

## **2.5 Trading**

The business is continuing to trade whilst a purchaser is found in order to sell the Hotel as a going concern. The main duties in respect of trading are being conducted by Convivial Management Solutions, trading agents who specialise in the leisure industry, however, the Joint Administrators are still involved in the various aspects of trading the business

Trading activities included

- > Planning appropriate trading strategy with Bank and agents
- > Authorisation of expenditure and commitments
- > Review of trading position
- > Banking trading surplus funds

Staff were chosen depending upon the appropriate level of experience required for the activity they were required to undertake

## 2.6. Creditors

The time spent includes the following matters

- > Recording and maintaining the list of creditors
- > Dealing with employee related matters
- > Reporting to creditors
- > Dealing with creditor queries
- > Reviewing and evaluating creditor claims

Staff were chosen depending upon the appropriate level of experience required for the activity they were required to undertake

## 3. Time and charge-out summary

For the period of the report 29 June 2012 to 28 December 2012, a total of 381 12 hours have been spent at an average charge out rate of £271, bringing the total cost to date to £103,463 No fees have been drawn to date

The table below shows details of the time costs incurred (exc VAT) in the current period

Classification of work function	Insolvency Practitioner/ Partner/ Director	Senior Manager / Assistant Manager	Hours Other senior professionals	Assistants and support staff	Total	Time cost £	Average Hourly rate £
Admin and Planning	11 30	25 25	11 05	5 37	52 97	14,001 17	264 32
Investigations	0 00	18 10	1 00	0 00	19 10	4,413 50	231 07
Realisation of assets	23 90	76 95	25 05	0 25	126 15	34,196 50	271 08
Trading	25 30	48 50	3 90	0 00	77 70	24,131 50	310 57
Creditors	16 50	52 80	35 90	0 00	105 20	26,720 00	253 99
Total hours	77 00	221 60	76 90	5 62	381 12		
Total fees claimed £	31,295 00	56,876 00	14,292 00	999 67		103,462 67	

## 4. Disbursements

Disbursements incurred during the period of this report and those reimbursed in the period are detailed below (exc VAT)

Disbursements	This period	
	Incurred £	Paid £
<i>Category 1</i>		
Bond premium	30 00	0 00
Car parking costs	22 49	0 00
Company Search	7 00	0 00
Online Document Repository	8 00	0 00
Postage	111 28	0 00
Statutory advertising	76 50	0 00
Subsistence	9 39	0 00
Travel costs (taxis, train fares)	228 70	0 00
<b>Total</b>	<b>493.36</b>	<b>0 00</b>
<i>Category 2</i>		
Mileage	27 00	0 00
<b>Total</b>	<b>27.00</b>	<b>0.00</b>

## 5. Professional advisors and expenses

The Joint Administrators have incurred administration expenses in connection with the instruction of the following parties

Name & Activity	This period	
	Incurred £	Paid £
GVA Grimley	1,500 00	1,500 00
Convivial Management Solutions	20,263 02	12,263 02
TLT Solicitors	10,022 50	10,022 50
<b>Total</b>	<b>31,785.52</b>	<b>23,785 52</b>

The above costs exclude VAT

Since the end of the current period on 28 December 2012, we will continue to use the services of TLT Solicitors, GVA Grimley and Convivial Management Solutions for the ongoing trading and eventual sale of the Hotel. Their fees will be charged in accordance with agreed rates (detailed earlier in the report) and subject to the Bank's approval. Any such further costs incurred will be fully reported in my next progress report.