

The Insolvency Act 1986

**Administrator's progress report****2.24B**

Name of Company

CanDu Entertainment Group Limited (In Administration)

Company number

05415747

In the

High Court of Justice, Chancery Division, Companies Court

[full name of court]

Court case number

2456 of 2008

(a) Insert full name(s)  
and address(es) of  
administrator(s)I / We (a) Alan Hudson and Robert Hunter KellyErnst & Young LLP, No. 1 Colmore Square, Birmingham, B4 6HQ

administrators of the above company attach a progress report for the period

from

to

(b) Insert date

(b) 20 September 2008

(b) 19 March 2009

Signed

Joint Administrator

Dated

9.4.09

**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

Michael Surr

Ernst &amp; Young LLP, No. 1 Colmore Square, Birmingham, B4 6HQ

Tel: 0121 535 2000

DX Number:

DX Exchange:

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COMPANIES HOUSE

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Companies House, Crown Way, Cardiff, CF14 3UZ

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TO ALL KNOWN CREDITORS

9 April 2009

Ref: CDU/AH/DF/SKL/MJS/PF18.1

Michael Surr  
Direct line: 0121 535 2389  
Direct Fax: 0121 535 2448

Dear Sirs

**CanDu Entertainment Limited ("CanDu")  
CanDu Entertainment Group Limited ("Group")  
(Both in Administration) (together "the Companies")**

**High Court of Justice, Chancery Division, Companies Court**

**Court references: 2457 of 2008 and 2456 of 2008**

**Registered office address: c/o Ernst & Young LLP, No.1 Colmore Square, Birmingham,  
B4 6HQ**

I write, in accordance with Rule 2.47 of the Insolvency (Amendment) Rules 2003, to provide creditors with a report on the progress of the Administrations. This report covers the period from 20 September 2008 to 19 March 2009 and should be read in conjunction with the Joint Administrators' Statement of Proposals ("the Proposals") dated 6 May 2008 and our previous report to creditors dated 20 September 2008.

The Companies entered Administration on 20 March 2008 and A Hudson and R H Kelly were appointed to act as Joint Administrators. The appointment was made by Agilo Limited under the provisions of paragraph 14 of Schedule B1 to the Insolvency Act 1986. Under the terms of the appointment, any act required or authorised to be carried out by the Joint Administrators can be completed by either of them.

The Administration appointments were due to be automatically discharged on 19 March 2009, consequently a six month extension of the Administration orders was granted to 19 September 2009 by the secured creditors of the Companies in accordance with paragraph 76(2)(b) of Schedule B1 to the Insolvency Rules 1986. As such, the Administrations of the Companies will automatically end on 19 September 2009.

**Receipts and payments**

A summary of the receipts and payments arising in the Administrations from the date of appointment to 19 March 2009 is provided at Appendix 1. Key realisations and the conduct of the Administrations to date are discussed later within this report.

The receipts and payments at Appendix 1 do not reflect estimated future realisations or costs.



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## **Summary of progress**

### **1) Properties**

As stated in the Proposals, at the date of appointment the Companies operated from 40 sites, including seven freehold properties. As a result of the sale of business to Yellowhammer Bars Limited (formerly Company Time Limited) ("the Purchaser"), asset realisations were achieved from the freehold properties. Licences to occupy 23 leasehold properties were also granted to facilitate transfer of the leases to the Purchaser. The remaining 10 leasehold properties remained with the Companies as these were excluded from the sale agreement.

The current status of the sites is summarised in the table below.

<b>Status as at 19 March 2009</b>	<b>No. of sites</b>
<i>Freehold properties:</i>	
Sold	7
<i>Leasehold properties:</i>	
Occupied under licence	1
Assigned (1 partially assigned)	10
Returned to landlord - surrender accepted / forfeited	3
Returned to landlord - surrender not accepted	19
	<b>40</b>

### **Freehold properties**

The Administrators successfully sold the freehold properties to the Purchaser as part of the sale agreement.

### **Leasehold properties**

#### *Occupied under licence*

As discussed in my previous report dated 20 September 2008, a substantial amount of time has been spent since my appointment in dealing with the 23 properties initially occupied by the Purchaser under a licence granted by the Administrators. Negotiations with the landlords have resulted in the assignment of nine of the 23 properties to the Purchaser or other third parties.

Where negotiations have been unsuccessful, the licences to occupy were terminated under the terms of the sale agreement. To date, this has been the outcome in the case of 12 properties. The Administrators had to quickly establish whether further realisations from the properties could be achieved in order to minimise the liabilities in the Administrations. Advice from the Administrators' property agents however suggested that extracting further significant realisations from these leasehold properties would not be possible. As a result, these properties have been returned to the landlords as CanDu is unable to fulfil its ongoing obligations under those leases. The properties of three leases have been successfully returned to the landlords and one property partially assigned to the Purchaser, with the landlords of the remaining properties refusing to accept a surrender of the lease to these properties.

Currently, one property remains occupied by the Purchaser under licence and negotiations to finalise the assignment of this property are almost complete. As the initial term of the license to occupy the property expired on 19 March 2009, an extension of this licence was granted to 10 May 2009 to allow assignment negotiations to continue.

#### *Assigned*

Nine properties have been assigned to the Purchaser through successful negotiations with the landlords, and one property partially assigned and partially returned to the landlord.

#### *Returned to landlord*

To date, 22 leasehold properties have been returned to landlords. This comprises 12 sites as a result of the Purchaser terminating its licence to occupy (excluding one property partially assigned, as discussed above), and a further 10 properties which were excluded from the sale agreement. Of the 10 properties excluded from the sale agreement, five sites were formerly occupied by CanDu and five were subject to a sub-tenancy lease agreement.

The Administrators' established that no realisable value could be achieved from the 10 excluded properties and these were returned to the landlords with a request to surrender the lease. Significant time was then spent liaising with the sub-tenants and parties who had been identified as having a potential interest in the leaseholds.

To date, the Administrators have been unable to agree a surrender on 19 of the 22 properties. Following our request to surrender the leases, two of the properties formerly occupied by the Purchasers has been successfully returned to the landlords and one of the excluded properties were determined by the landlord under the terms of the lease and the lease forfeited.

The Administrators' requests to surrender CanDu's interest in the properties' leaseholds, in order to minimise the liabilities of CanDu, have not been accepted. Third party guarantees form part of a majority of the leases and as such, the landlords are reluctant to accept a surrender of the lease which would terminate the guarantee for rent in place. The Administrators are aware that landlords are claiming under the guarantees of the lease for the unpaid rent liabilities and the Administrators have been liaising with the guarantors to reconcile the payments made by CanDu during the Administration and those payments settled by the guarantor. It is expected that the landlords will continue to claim under the guarantee provisions until such time as a replacement lessee has been found.

#### **Future matters**

The Purchaser will require the Administrators' assistance to execute the assignment of the remaining property leases or where applicable, terminate the licence and return the property to CanDu.

#### **2) Other asset realisations**

Since my previous report, a further £1,392 has been received from local authorities as a result of CanDu's prepayments for property rates for the period 20 March 2008 to 5 April 2008

bringing total rates refunds to £21,722. No further realisations are anticipated from rates refunds and the refunds received will shortly be repaid to the Purchaser under the terms of the sale agreement.

Since my previous report to creditors, additional interest of £7,588 has been earned on the Companies' funds held, bringing total interest earned to £23,415.

Realisations from rent receipts have increased by £14,693 from my previous report to total £689,934. These monies relate to funds provided by the Purchaser to enable property related payments to be made in accordance with the licences to occupy granted on the leasehold properties. The property payments made from these funds total £638,519 to date. Upon the refund of surplus funds remitted to the Purchaser there will be net realisations of nil from this source.

No further asset realisations are expected.

### **3) Other costs of realisations**

Since my previous report, the Joint Administrators have drawn fees of £150,000 and disbursements of £1,736.85 in accordance with the Administrators' policy in relation to charging time and disbursements and the Proposals. Further details are provided later in the report.

Legal fees and disbursements of £102,202 have been paid to date. This is an increase of c. £57,000 since my previous report to creditors due to the involvement of solicitors to conclude the assignment and surrender of properties.

Corporation tax liabilities totalling £6,413 have been paid since my last report in relation to the period from my appointment to 19 March 2009. As funds held in the Administrations have now been closed off to interest income, no further tax liability should accrue.

Insurance premiums of £1,470 have been paid since my last report covering the 12 month period from my appointment. It is expected that a further small premium will be payable until the outstanding matters for the Administrations are dealt with.

### **4) Future conduct of the Administrations**

As previously advised, the Administration appointments were due to be automatically discharged on 19 March 2009. The primary areas of work which remain outstanding in the Administrations and warrant an extension to the Administration orders are as follows:

- ▶ Corresponding with the landlords and the Purchaser to conclude any potential assignments or surrenders of lease agreements ahead of ceasing to act as Joint Administrators. Certain monies retained by CanDu to pay for its liabilities for the occupied properties will be distributed to the secured lender if the payment is not accepted by the landlords.

- ▶ Finalising the outstanding Administration liabilities including the payment of storage, insurance and legal costs.
- ▶ Undertaking statutory duties including reporting to the creditors.
- ▶ Move the Companies into Creditors' Voluntary Liquidation ("CVL") to distribute funds available under the prescribed part to the non preferential creditors of the Companies. Further details of which are provided later in the report.

The Joint Administrators considers that a move to CVL would be the appropriate route by which to distribute the prescribed part in both CanDu and Group. Further, a CVL would allow the Liquidator to disclaim the outstanding leases which would in turn quantify landlords' claims in the Administration of CanDu. As outlined in my Proposals the Joint Administrators are empowered to do this with both R H Kelly and myself acting as Joint Liquidators.

It is anticipated that such matters will be completed within a six month timescale. As such, a six month extension of the Administrations from 20 March 2009 to 19 September 2009 was requested and approved by the secured creditors of the Companies under the provision of paragraph 76(2)(b) of Schedule B1 to the Insolvency Act 1986.

### **Other matters**

#### **1) Joint Administrators' remuneration and disbursements**

As stated in the Proposals, the Joint Administrators' remuneration is fixed on a time cost basis by the secured creditors in accordance with Rule 2.106(5A) of the Insolvency Rules 1986. For the period to 19 March 2009, the Administrators have incurred time costs of £330,029.50, and expenses of £1,739.80.

To date, £150,000 has been drawn in Joint Administrators' fees and £1,736.86 in disbursements. There is an analysis of Category 2 disbursements (ie, those disbursements paid to the Joint Administrators' firm) at Appendix 2. At Appendix 3 there is a statement of the Administrators' policy in relation to charging time and disbursements.

#### **2) Secured creditors**

To date, Agilo Limited has received distributions totalling £500,000 as a secured creditor. This excludes the deemed consideration of £10,164,397 paid by the Purchaser and transferred to Agilo Limited as a distribution under its fixed charge. A final distribution to the secured creditor will be made on completion of the Administrations.

#### **3) Preferential creditors**

As stated in my previous report, there are no preferential creditors of the Companies as all arrears of pay, accrued holiday pay and outstanding pension contributions were met by the Purchaser.

#### **4) Non preferential creditors**

There will be insufficient realisations under the floating charge to enable a distribution to be made to the non preferential creditors of the Companies other than by virtue of the prescribed part.

#### **5) The prescribed part**

The prescribed part is a proportion of floating charge assets set aside for non preferential creditors pursuant to section 176A of the Insolvency Act 1986. The prescribed part applies to floating charges created on or after 15 September 2003. Provisions of the prescribed part apply to the Companies.

As previously advised, the Joint Administrators propose to move CanDu into Creditors' Voluntary Liquidation to distribute the prescribed part to the non preferential creditors of CanDu, of which Group is the largest individual creditor.

- ▶ It is estimated that, based on net realisations to date and future estimates, the amount available under the prescribed part to be distributed to CanDu's non preferential creditors will be c. £210,592.
- ▶ Group represents c. 85% of the estimated total non preferential claims against CanDu and as such will receive the majority of the monies available under the prescribed part.

The dividend received by Group will form a floating charge realisation that is also subject to the provisions of the prescribed part. It is our understanding that Group may have one non preferential creditor who would rank for a prescribed part distribution in Group, with surplus realisations being distributed to the secured creditor of Group. As such, it is proposed for Group to move into Creditors' Voluntary Liquidation to make such a distribution.

I will report to you again at the conclusion of the Administrations or in six months time, whichever is the sooner.

Yours faithfully  
for the Companies



A Hudson  
Joint Administrator

The Association of Chartered Certified Accountants authorises A Hudson and The Institute of Chartered Accountants of Scotland authorises R H Kelly to act as Insolvency Practitioners under section 390(2)(a) of the Insolvency Act 1986.

The affairs, business and property of the Companies are being managed by the Joint Administrators, A Hudson and R H Kelly, who act as agents of the Companies only and without personal liability.

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**Appendices**

1. Joint Administrators' receipts and payments account
2. Summary of Joint Administrators' time costs and category 2 disbursements
3. Joint Administrators' policy on fees and disbursements

**Joint Administrators' abstract of receipts and payments for the period  
20 March 2008 – 19 March 2009**

	Statement of Affairs Realisable Value £	Fixed £	Floating £	Total £	Total Previous Report £
<b>Receipts</b>					
Newco rent receipts		689,934.34		689,934.34	675,241.19
Interest income		5,075.59	18,339.28	23,414.85	15,826.81
Sale consideration not distributed		112,500.00		112,500.00	112,500.00
Fixtures and fittings	366,000.00		366,098.00	366,098.00	366,098.00
Furniture and equipment	258,600.00		258,624.00	258,624.00	258,624.00
IT equipment			1.00	1.00	1.00
Stock	182,081.00		310,000.00	310,000.00	310,000.00
Cash floats	186,753.00		166,000.00	166,000.00	166,000.00
Prepayments and other debtors	182,166.00		212,776.10	212,776.10	213,284.34
Rates refunds			21,721.80	21,721.80	20,329.69
VAT payable					87,464.35
	<u>1,175,600.00</u>	<u>807,509.93</u>	<u>1,353,560.18</u>	<u>2,161,070.09</u>	<u>2,225,369.36</u>
<b>Payments</b>					
Bank charges and interest		586.20		586.20	414.79
Joint Administrators' fees & disbursements		75,000.00	76,736.65	151,736.65	
Agents' fees		11,168.00		11,168.00	11,168.00
Legal fees fixed		90,205.35	11,506.15	101,711.50	44,500.00
Legal disbursements		490.50		490.50	290.41
Secured creditors		(83,454.22)	583,454.22	500,000.00	500,000.00
Public notices			369.72	369.72	369.72
Insurance		1,470.00		1,470.00	
Specific bond			264.00	264.00	264.00
VAT receivable					118,678.94
Group control account			99.60	99.60	99.60
Newco rent payments		638,518.96		638,518.96	615,062.50
Corporation tax			8,412.62	8,412.62	
ROT settlements			167,525.46	167,525.46	167,525.46
	<u>-</u>	<u>733,984.79</u>	<u>846,368.62</u>	<u>1,580,353.41</u>	<u>1,458,373.42</u>
<b>Balances in hand</b>		<b>73,525.14</b>	<b>507,191.54</b>	<b>580,716.68</b>	<b>766,995.96</b>

**Note: Deemed consideration**

	Statement of Affairs Realisable Value £	Fixed £
Freeholds	7,100,000.00	7,100,000.00
Long Leaseholds	150,000.00	150,020.00
Short Leaseholds	-	-
Goodwill	3,039,520.00	2,914,375.00
Intellectual Property	-	1.00
Customer List	-	1.00
	<u>10,289,520.00</u>	<u>10,164,397.00</u>

**CanDu Entertainment Group Limited (In Administration)****Joint Administrators' abstract of receipts and payments for the period  
20 March 2008 – 19 March 2009**

	Statement of Affairs Realisable Value £	Fixed £	Floating £	Total £	Total Previous Report £
<b>Receipts</b>					
Group control account			99.60	99.60	99.60
Intercompany account					
	<u>-</u>	<u>-</u>	<u>99.60</u>	<u>99.60</u>	<u>99.60</u>
<b>Payments</b>					
Public notices			75.60	75.60	75.60
Specific bond			24.00	24.00	24.00
	<u>-</u>	<u>-</u>	<u>99.60</u>	<u>99.60</u>	<u>99.60</u>
<b>Balances in hand</b>	-	-	-	-	-

**CanDu Entertainment Limited  
CanDu Entertainment Group Limited  
(Both In Administration) ("the Companies")**

**Summary of Joint Administrators' time costs and category 2 disbursements for the period 20 March 2008 to 19 March 2009**

Classification of work function	Hours				Total hours	Total time costs	Total average hourly rate
	Partner / director	Manager	Other senior professionals	Assistants & support			
Accounting & administration	12.00	11.90	112.90	161.00	297.80	47,284.50	158.78
Bank & statutory reporting	13.50	3.00	35.80	39.30	91.60	18,271.50	199.47
Creditors	19.00	26.50	19.70	229.10	294.30	39,641.00	134.70
Debtors	0.00	0.00	0.00	4.50	4.50	360.00	80.00
Employee matters	0.50	0.00	18.50	1.40	20.40	3,842.50	188.36
Immediate tasks	11.70	0.00	12.00	33.50	57.20	10,869.00	190.02
Investigations & CDDA	4.00	0.00	12.50	97.00	113.50	13,122.50	115.62
Legal issues	0.00	0.00	1.50	0.00	1.50	300.00	200.00
Other assets	2.50	0.50	0.00	2.50	5.50	1,452.50	264.09
Other matters	1.20	0.00	4.40	0.50	6.10	1,521.50	249.43
Property	62.50	43.50	112.10	493.50	711.60	122,105.50	171.59
Retention of title	2.00	5.00	5.50	86.70	99.20	11,559.00	116.52
Statutory duties	8.00	15.00	34.50	28.50	86.00	16,835.00	195.76
Trading	1.80	0.00	0.00	0.00	1.80	883.50	490.83
VAT & taxation	12.50	56.30	22.70	22.10	113.60	41,981.50	369.56
<b>Total hours</b>	<b>161.20</b>	<b>161.70</b>	<b>382.10</b>	<b>1,196.60</b>	<b>1,904.60</b>	<b>330,029.50</b>	<b>173.28</b>
<b>Total time costs</b>	<b>68,665.00</b>	<b>53,762.50</b>	<b>78,289.00</b>	<b>131,313.00</b>			
<b>Average hourly rate</b>	<b>454.13</b>	<b>332.48</b>	<b>194.57</b>	<b>109.46</b>			

<b>Expenses</b>	<b>1,739.80</b>
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Job title	Rates (£) 01.07.2007 - 30.06.2008	Rates (£) 01.07.2008 onwards
Partner	470	495
Account director	385	405
Assistant director	335	350
Senior executive	260	275
Executive	190	200
Assistant executive	145	155
Analyst (3)	115	120
Analyst (2)	95	100
Analyst	80	85
Cashier	95	100

**Category 2 disbursements**

Of the disbursements of £1,739.80 recorded in the analysis above, £1,033.61 relates to Category 2 disbursements (as defined at Appendix 3). The Category 2 disbursements are analysed as follows:

Type and purpose	£
Mileage	1,018.01
Postage	15.60
<b>Total</b>	<b>1,033.61</b>

**CanDu Entertainment Limited  
CanDu Entertainment Group Limited  
(Both In Administration) ("the Companies")**

**Office holders' charging policy for fees**

The Institute of Chartered Accountants in England and Wales has determined that the Administrators' remuneration should be fixed on the basis of time properly spent by the Administrators and their staff in attending to matters arising in the Administration.

The Administrators have engaged a manager and other staff to work on the cases. The work required is delegated to the most appropriate level of staff taking account of the nature of the work and the individual's experience. Additional assistance is provided by cashiers dealing with the companies' bank accounts and statutory compliance diaries, secretaries providing typing and other support services and filing clerks. Work carried out by all staff is subject to the overall supervision of the Administrators.

All time spent by staff working directly on case-related matters is charged to a separate time code established for each case. Each member of staff has a specific hourly rate, which is subject to change over time. The average hourly rate for each category of staff over the period is shown in Appendix 2, as are the current hourly rates used. The current hourly rates may be higher than the average rates, if hourly rates have increased over the period covered by this report.

In our first report, the Administrators' Statement of Proposals, we informed you of the statutory provision relating to remuneration as set out in Rule 2.106 of the Insolvency Rules. We also provided you with a copy of Business Recovery Professionals' publication 'A Creditors' Guide to Administration Fees'. A further copy is available upon request.

**Office holders' charging policy for disbursements**

Statement of Insolvency Practice No. 9 ("SIP 9") published by R3 (The Association of Business Recovery Professionals) divides disbursements into two categories.

Category 1 disbursements comprise payments made by the office holders' firm, which comprise specific expenditure relating to the administration of the insolvent's affairs and referable to payment to an independent third party. These disbursements can be paid from the insolvent's assets without approval from the Committee. In line with SIP 9, it is our policy to disclose such disbursements drawn but not to seek approval for their payment.

Category 2 disbursements comprise payments made by the office holders' firm which include elements of shared or overhead costs. Such disbursements are subject to approval from Institute of Chartered Accountants in England and Wales as if they were remuneration. It is our policy, in line with SIP 9, to seek approval for this category of disbursement before they are drawn.