

# S.192

**Liquidator's Statement of Receipts and Payments  
Pursuant to Section 192 of The Insolvency Act 1986**

To the Registrar of Companies

**For Official Use**

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Name of Company  
**Lehman Brothers ODC3 Limited**


Company Number


**06324460**

We,  
Bruce Mackay  
Baker Tilly Restructuring and Recovery LLP  
25 Farringdon Street  
London EC4A 4AB

Geoffrey Lambert Carton-Kelly  
Baker Tilly Restructuring and Recovery LLP  
25 Farringdon Street  
London EC4A 4AB

the Liquidators of the company, attach a copy of our statement of receipts and payments under section 192 of the Insolvency Act 1986


  
Signed \_\_\_\_\_  
Geoffrey Lambert Carton-Kelly

  
\_\_\_\_\_  
Bruce Alexander Mackay

Dated. 5/1/2012

5/1/2012

Baker Tilly Restructuring and Recovery LLP  
25 Farringdon Street, London EC4A 4AB  
Ref BAM/MBO/SLL

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**IN THE MATTER OF**  
**LEHMAN BROTHERS ODC3 LIMITED -**  
**IN CREDITORS' VOLUNTARY LIQUIDATION**  
**("ODC3")**

**JOINT LIQUIDATORS' PROGRESS REPORT**

**5 JANUARY 2011**

**BRUCE ALEXANDER MACKAY AND GEOFFREY LAMBERT CARTON-KELLY**  
**JOINT LIQUIDATORS**

**APPOINTED 5 NOVEMBER 2010**

**BAKER TILLY RESTRUCTURING AND RECOVERY LLP**  
**25 FARRINGDON STREET**  
**LONDON EC4A 4AB**

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## **1. PURPOSE OF REPORT**

This report has been prepared in accordance with insolvency legislation to provide creditors, members and the registrar of companies with information relating to the progress of the liquidation in the period from 5 November 2010 to 4 November 2011.

This report has been prepared solely to comply with the statutory requirements of Section 104A of the Insolvency Act 1986 and Rule 4.49C of the Insolvency Rules 1986 (as amended). It has not been prepared for use in respect of any other purpose, or to inform any investment decision in relation to any debt or financial interest in the company. Any estimated outcomes for creditors are illustrative and may be subject to significant change. Neither the Liquidators nor Baker Tilly Restructuring and Recovery LLP accept any liability whatsoever arising as a result of any decision or action taken or refrained from as a result of information contained in this proposal.

## **2. PROGRESS OF THE LIQUIDATION**

### **2.1. Realisation of Assets**

Prior to the Joint Liquidators appointment a cash balance of £2,479,787 was held in a Lehman Group designated escrow account. In order to secure and safeguard these funds the balance was transferred to a Baker Tilly client account prior to liquidation. Following the appointment of the Joint Liquidators the funds were transferred to a liquidation account and invested on the Money Market.

During the period to 4 November 2011 bank interest of £16,457 has been received on funds held in the liquidation accounts. The investment of funds is periodically reviewed to ensure that the rate of interest received is favourable.

### **2.2. Investigations**

In accordance with the Liquidators' statutory obligations, the Joint Liquidators have carried out investigations and have filed the appropriate report with the Investigations and Enforcement Services in relation to the conduct of the Directors.

### **2.3. Tax Matters**

ODC3 is VAT registered and was a member of a Lehman VAT group. Following our appointment ODC3 was removed from the VAT group and the necessary returns have now been filed.

Lehman Brothers Limited ("LBL") prepared the ODC3 Corporation Tax returns for the following periods:-

- 1 December 2007 to 30 November 2008;
- 1 December 2008 to 30 November 2009; and
- 1 December 2009 to 4 November 2010.

The 2008 return shows a large capital gain as a result of the sale of the Slough Data Centre. Group Relief has been used to extinguish this capital gain. The Baker Tilly tax team have reviewed the returns and all have now been submitted to HM Revenue & Customs ("HMRC").

#### **2.4. General Case Administration**

All statutory forms including the Statement of Affairs have been filed and recorded at Companies House, and the appointment of the Joint Liquidators was advertised in the London Gazette.

Case reviews have been conducted periodically in order to review case strategy and progression.

### **3. ASSETS REMAINING TO BE REALISED**

#### **3.1. Loan to Mable Commercial Funding Limited ("Mable")**

The Directors' Statement of Affairs details a receivable in the sum of \$163,489,035 from Mable. Mable was placed into Administration with PriceWaterhouse Coopers LLP ("PwC") on 23 September 2008.

PwC have informed us that they have realised the majority of Mable's assets, and that they are now collecting monthly payments in relation to a secured lending facility. They do expect to pay a dividend to creditors, but the timing and quantum cannot yet be confirmed. The Joint Liquidators have not formally submitted ODC3's claim in the Mable Administration, but anticipate doing so shortly.

### **4. CREDITORS' CLAIMS AND DIVIDEND PROSPECTS**

#### **4.1. Unsecured Creditors**

In order to facilitate the sale of the Slough Data Centre in late 2008, Lehman Group creditors agreed to subordinate their debt. The majority of creditors' claims are therefore subject to the subordination agreement dated 24 October 2008.

The Statement of Affairs shows that HMRC are the only non-subordinated creditor with an estimated claim of \$1,008,295. The estimated claim is in respect of a corporation tax liability in relation to the capital gain that arose from the sale of the Slough Data Centre. As mentioned at 2.3 above, a Group Relief claim has been submitted in order to extinguish the gain. HMRC have not submitted a claim in the liquidation and before paying the subordinated creditors the Joint Liquidators will need to be satisfied that HMRC do not have a residual tax liability.

The Directors' Statement of Affairs details subordinated creditors' claims in the sum of \$165,235,075. To date the Joint Liquidators have received 2 claims totalling £184,164,007. These claims have not yet been admitted for dividend purposes, and a formal claims agreement process is underway. In order to assist the Joint

Liquidators with the agreement of unsecured claims, you are asked to complete and return the proof of debt form at Appendix H, if you have not done so previously.

#### **4.2. Prescribed Part**

The "Prescribed Part" is a statutory amount, calculated as a percentage of net floating charge realisations, which entitles unsecured creditors to a share of realisations. This is calculated on a sliding scale up to maximum of £600,000 before costs.

There are no creditors secured by charges over the assets and undertakings of the Company. There is therefore no requirement to estimate the amount of the prescribed part of the assets under Section 176A of the Insolvency Act 1986 (as amended).

### **5. RECEIPTS AND PAYMENTS SUMMARY**

We attach as Appendix B a summary of our receipts and payments for the period from 5 November 2010 to 4 November 2011.

#### **5.1. VAT Basis**

Receipts and payments are shown net of VAT, with any amount due to or from HM Revenue & Customs shown separately.

### **6. COSTS AND JOINT LIQUIDATORS' REMUNERATION**

#### **6.1. Joint Liquidators' Remuneration and Disbursements**

The Joint Liquidators' remuneration has been approved on a time cost basis by creditors of ODC3 at the meeting of creditors held pursuant to Section 98 of the Insolvency Act 1986 on 5 November 2010. We have incurred time costs of £48,831 plus VAT since the date of our appointment. Of this, a total of £47,593.50 has been paid and £1,237.50 remains outstanding as at the date of this report.

Approval has also been given to draw disbursements, including category 2 disbursements. Details of the current rates are attached at Appendix D.

#### **6.2. Remuneration and Disbursements incurred in the period from 5 November 2010 to 4 November 2011**

We have incurred time costs of £47,552 and we have drawn fees of £38,189.50 plus VAT in the year to 4 November 2011, the period covered by this report. An analysis of time incurred in the period is attached at Appendix G.

Category 2 disbursements incurred in the period are detailed in Appendix E.

## **7. JOINT LIQUIDATORS' STATEMENT OF EXPENSES**

A statement of the expenses incurred during the period, is attached at Appendix F. This includes all expenses incurred by the Joint Liquidators in the period of the report irrespective of whether they have been paid or not and may include estimated amounts where actual invoices have not been received. The receipts and payments abstract at Appendix B sets out the expenses actually paid in the period.

## **8. CREDITORS' RIGHT TO INFORMATION AND ABILITY TO CHALLENGE REMUNERATION AND EXPENSES**

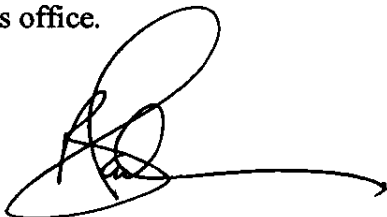
In accordance with the provisions of Rules 4.49E and 4.131 of the Insolvency Rules 1986 creditors have a right to request further information about remuneration or expenses and to challenge such remuneration or expenses.

A request for further information must be made in writing within 21 days of receipt of this report

Any secured creditor, or any unsecured creditor with either the concurrence of at least 10% in value of the unsecured creditors (including that creditor) or the permission of the court, may apply to court that the remuneration charged, the basis fixed or expenses incurred by the liquidator are in all the circumstances excessive.

Any such challenge must be made no later than eight weeks after receipt of the report which first discloses the charging of remuneration or incurring of the expenses in question

Should you have any further queries please do not hesitate to contact Samantha Lightfoot, of this office.



**Bruce Alexander Mackay**  
**Baker Tilly Restructuring and Recovery LLP**  
**Joint Liquidator of Lehman Brothers ODC3 Limited**

Bruce Mackay is licensed to act as an Insolvency Practitioner in the UK by the Institute of Chartered Accountants  
Geoffrey Lambert Carton-Kelly is licensed to act as an Insolvency Practitioner in the UK by the Insolvency Practitioners Association

## Appendix A

### STATUTORY INFORMATION

Company Name:	Lehman Brothers ODC3 Limited
Functions:	The Joint Liquidators' have exercised, and will continue to exercise, all of their functions jointly and severally as stated in the notice of appointment.
Previous Company Names.	Drummerway Limited
Company Number:	06324460
Date of Incorporation	25 July 2007
Trading Name.	Lehman Brothers ODC3 Limited
Trading Address	Puxom Murray LLP, One Royal Exchnage Avenue, London, EC3V 3LT
Principal Activity:	Holding Company
Registered Office.	Currently: Baker Tilly Restructuring and Recovery LLP, 25 Farringdon Street, London EC4A 4AB  Previously: Puxom Murray LLP, One Royal Exchnage Avenue, London, EC3V 3LT



## Appendix B

### JOINT LIQUIDATORS SUMMARY OF RECEIPTS AND PAYMENTS FOR THE PERIOD FROM 5 NOVEMBER 2010 TO 4 NOVEMBER 2011

SOA Value US\$	05/11/2010 to 04/11/2011		Total to 04/11/2011	
	£	£	£	£
<b>ASSET REALISATIONS</b>				
0 00	Bank Interest Gross	16,456 99	16,456 99	
3,985,002 00	Cash at Bank - SoA USD	2,479,787 11	2,479,787 11	
10,793 00	Receivable from Barclays	0 00	0 00	
163,489,035 00	Loan to Mable Commercial Funding Ltd	0 00	0 00	
		<u>2,496,244 10</u>	<u>2,496,244 10</u>	
<b>COST OF REALISATIONS</b>				
0 00	Advertisements	(69 75)	(69 75)	
0 00	Joint Liquidators' Disbursements	(1,489 00)	(1,489 00)	
0 00	Joint Liquidators' Fees	(38,189 50)	(38,189 50)	
0 00	Legal Fees	(46,497 80)	(46,497 80)	
0 00	Pre Liquidation Advisory Fees	(25,014 00)	(25,014 00)	
0 00	Statutory Advertising	(223 90)	(223 90)	
		<u>(111,483 95)</u>	<u>(111,483 95)</u>	
<b>UNSECURED CREDITORS</b>				
(1,008,295 00)	Non-Subordinated Creditors	0 00	0 00	
(165,235,075 00)	Subordinated Creditors	0 00	0 00	
		<u>0 00</u>	<u>0 00</u>	
<b>EQUITY</b>				
(1 00)	Ordinary \$	0 00	0 00	
		<u>0 00</u>	<u>0 00</u>	
<u>1,241,459 00</u>		<u>2,384,760 15</u>	<u>2,384,760 15</u>	
<b>REPRESENTED BY</b>				
	Bank - Current Account	113,606 10		
	Bank - Money Market	2,250,000 00		
	VAT Receivable (Payable)	21,154 05		
		<u>2,384,760 15</u>	<u>2,384,760 15</u>	

## **Appendix C**

### **BAKER TILLY RESTRUCTURING AND RECOVERY LLP**

#### **CHARGING, EXPENSES AND DISBURSEMENTS POLICY STATEMENT**

##### **Charging policy**

- Partners, directors, managers, administrators, cashiers, secretarial and support staff are allocated an hourly charge out rate which is reviewed from time to time.
- Work undertaken by cashiers, secretarial and support staff will be or has been charged for separately and such work will not or has not also been charged for as part of the hourly rates charged by partners, directors, managers and administrators.
- Time spent by partners and all staff in relation to the insolvency estate is charged to the estate
- Time is recorded in 6-minute units at the rates prevailing at the time the work is done
- The current charge rates for Baker Tilly Restructuring and Recovery LLP London are attached
- Time billed is subject to Value Added Tax at the applicable rate.
- It is the office holder's policy to ensure that work undertaken is carried out by the appropriate grade of staff required for each task, having regard to its complexity and the skill and experience actually required to perform it
- Baker Tilly Restructuring and Recovery LLP's charge out rates are reviewed periodically.

##### **Expenses and disbursements policy**

- Only expenses and disbursements properly incurred in relation to an insolvency estate are re-charged to the insolvency estate.
- Expenses and disbursements which comprise external supplies of incidental services specifically identifiable to the insolvency estate require disclosure to creditors, but do not require creditors' approval prior to being drawn from the insolvency estate. These are known as "Category 1" disbursements.
- Expenses and disbursements which are not capable of precise identification and calculation (for example any which include an element of shared or allocated costs) require the approval of creditors prior to being drawn from the insolvency estate. These are known as "Category 2" disbursements.
- A resolution to consider approving "Category 2" disbursements at the rates prevailing at the time the cost is incurred to Baker Tilly Restructuring and Recovery LLP London will be proposed to creditors' in general meeting
- General office overheads are not re-charged to the insolvency estate as a disbursement.
- Any payments to outside parties in which the office holder or his firm or any associate has an interest will only be made with the approval of creditors
- Where applicable, expenses and disbursements re-charged to or incurred directly by an insolvency estate are subject to VAT at the applicable rate.

## Appendix D

### BAKER TILLY RESTRUCTURING AND RECOVERY LLP – LONDON

#### JOINT LIQUIDATORS' CURRENT CHARGE OUT AND DISBURSEMENT RATES

CHARGE OUT RATES		
	Rate at commencement £	Current rate £
Partner	400-475	400-485
Manager	195-395	200-400
Administrator	100-175	105-185
Support staff	100	105

“CATEGORY 2” DISBURSEMENT RATES (TABLE A)	
<b>Travel &amp; Subsistence</b>	
Motor travel	40p per mile (from 1 April 2010) 42.5p per mile (from 1 April 2011)
Subsistence	£23
<b>Circulars to Members / Creditors</b>	
Labels	£ 0 16 (BT) or £0.01 (avery plain – 7163) each
Headed paper	£ 0.08 per sheet
Plain paper (continuation)	£ 0 08 per sheet
Large envelopes	£ 0.22 each
Small envelopes	£ 0.08 each
Photocopying charge	£ 0.04 (black & white) £0.20 (colour) per sheet
<b>Stationery</b>	
Lever arch files	£0 75 per file
Cashiering files	£0.75 per file
A-Z dividers	£1 75 per set
1-31 dividers	£2.88 per set
Coloured dividers (5 part)	£0 49 per set
Coloured dividers (10 part)	£0 99 per set
Multi-punch pockets	£0.03 per pocket
Storage boxes	£1 50 per box
<b>Sundry</b>	
Internal room hire (for meetings)	£50-200 dependent on room

## Appendix E

### JOINT LIQUIDATORS' CATEGORY 2 DISBURSEMENTS TABLE

Amounts paid or payable to the Office Holder's firm or to any party in which the office holder or his firm or any associate has an interest		
Recipient, Type and Purpose	Paid	Unpaid
	£	£
None for the period of this report	nil	nil
<b>Total</b>	nil	nil

**Appendix F****STATEMENT OF EXPENSES INCURRED BY THE JOINT LIQUIDATORS'****IN THE PERIOD FROM 5 NOVEMBER 2010 TO 4 NOVEMBER 2011**

<b>Type and Purpose</b>	<b>Incurred in Period</b>
	<b>£</b>
Travel Expense - Taxi	44 00
Willis Insolvency Bond	1,440 00
Companies House Search Fees	5 00
<b>Total</b>	<b>1,489.00</b>

## Appendix G

### JOINT LIQUIDATORS' TIME COST ANALYSIS

FOR THE PERIOD FROM 5 NOVEMBER 2010 TO 4 NOVEMBER 2011

HOURS SPENT	Partners	Managers	Administrators	Assistants	Total Hours	Total Time Costs	Average rates
<b>Administration and Planning</b>							
Appointment	17	00	81	00	98	£2,225 00	£227 04
Case Management	57	00	71	16	144	£4,145 00	£287 85
Post-appointment - general	10	65	21	00	96	£3,427 50	£357 03
Post-appointment taxation	51	181	33	00	265	£8,483 50	£320 13
Receipts and Payments	01	00	94	00	95	£1,543 50	£162 47
Shareholders/Director/Debtor/ Bkpt	30	00	57	00	87	£2,468 50	£283.74
<b>Totals</b>	<b>166</b>	<b>246</b>	<b>357</b>	<b>16</b>	<b>785</b>	<b>£22,293 00</b>	<b>£283 99</b>
<b>Investigations</b>							
Investigations/CDDA	05	03	42	00	50	£1,063 50	£212 70
<b>Totals</b>	<b>05</b>	<b>03</b>	<b>42</b>	<b>00</b>	<b>50</b>	<b>£1,063 50</b>	<b>£212 70</b>
<b>Realisation of Assets</b>							
Debtors	00	15	15	00	30	£867 50	£289 17
Legal Matters	10	00	56	00	66	£1,465 00	£221 97
<b>Totals</b>	<b>10</b>	<b>15</b>	<b>71</b>	<b>00</b>	<b>96</b>	<b>£2,332.50</b>	<b>£242 97</b>
<b>Creditors</b>							
Unsecured Creditors	00	400	339	00	739	£21,863.00	£295 85
<b>Totals</b>	<b>00</b>	<b>400</b>	<b>339</b>	<b>00</b>	<b>739</b>	<b>£21,863 00</b>	<b>£295 85</b>
<b>TOTAL HOURS</b>	<b>181</b>	<b>664</b>	<b>809</b>	<b>16</b>	<b>1670</b>	<b>£47,522.00</b>	<b>£284 56</b>
<b>TOTAL TIME COST</b>	<b>£8,631 50</b>	<b>£24,643.00</b>	<b>£14,112.00</b>	<b>£165 50</b>	<b>£47,552.00</b>		

**Proof of Debt – General Form**

<b>Lehman Brothers ODC3 Limited In Liquidation</b>	
Proposed date of Winding-Up Order/Resolution for voluntary winding-up 5 November 2010	
1 Name of creditor (If a company please also give company registration number)	
2 Address of creditor for correspondence	
3 Total amount of claim, including any Value Added Tax and outstanding uncapitalised interest as at the date the company went into liquidation	
4 Details of any documents by reference to which the debt can be substantiated (Note There is no need to attach them now but the liquidator may call for any document or evidence to substantiate the claim at his discretion as may the chairman or convenor of any meeting)	
5 If amount in 3 above includes outstanding uncapitalised interest please state amount	£
6 Particulars of how and when debt incurred (If you need more space append a continuation sheet to this form)	
7 Particulars of any security held, the value of the security, and the date it was given	
8 Particulars of any reservation of title claimed in respect of goods supplied to which the claim relates	
9 Signature of creditor or person authorised to act on his behalf	
Name in BLOCK LETTERS	
Position with or in relation to creditor	
Address of person signing (if different from 2 above)	
Admitted to vote for (for Liquidator's use only)	Admitted for dividend for (for Liquidator's use only)
£	£
Date	Date
Liquidator	Liquidator