

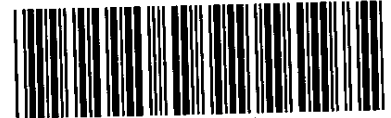
AM10

Notice of administrator's progress report



Companies House

WEDNESDAY



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A09

29/04/2020

#114

COMPANIES HOUSE

1 Company details

Company number 0 7 3 2 0 0 9 5

Company name in full Burningnight Limited

→ Filling in this form
Please complete in typescript or in
bold black capitals.

2 Administrator's name

Full forename(s) Andrew

Surname Mackenzie

3 Administrator's address

Building name/number Fourth Floor

Street Toronto Square

Post town Toronto Street

County/Region Leeds

Postcode L S 1 2 H J

Country

4 Administrator's name ①

Full forename(s) Julian

Surname Pitts

① Other administrator
Use this section to tell us about
another administrator.

5 Administrator's address ②

Building name/number Fourth Floor

Street Toronto Square

Post town Toronto Street

County/Region Leeds

Postcode L S 1 2 H J

Country

② Other administrator
Use this section to tell us about
another administrator.

AM10

Notice of administrator's progress report

6 Period of progress report

From date	^d 2	^d 8	^m 0	^m 9	^y 2	^y 0	^y 1	^y 9
To date	^d 2	^d 7	^m 0	^m 3	^y 2	^y 0	^y 2	^y 0

7 Progress report☒ I attach a copy of the progress report**8** Sign and dateAdministrator's
signature

Signature

X



X

Signature date

^d 2	^d 3	^m 0	^m 4	^y 2	^y 0	^y 2	^y 0
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AM10

Notice of administrator's progress report



Presenter information

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

Contact name	Laura Amann
Company name	Begbies Traynor (Central) LLP
Address	Fourth Floor Toronto Square
Post town	Toronto Street
County/Region	Leeds
Postcode	L S 1 2 H J
Country	
DX	
Telephone	0113 244 0044



Checklist

We may return forms completed incorrectly or with information missing.

Please make sure you have remembered the following:

- ☐ The company name and number match the information held on the public Register.
- ☐ You have attached the required documents.
- ☐ You have signed the form.



Important information

All information on this form will appear on the public record.



Where to send

You may return this form to any Companies House address, however for expediency we advise you to return it to the address below:

The Registrar of Companies, Companies House,
Crown Way, Cardiff, Wales, CF14 3UZ.
DX 33050 Cardiff.



Further information

For further information please see the guidance notes on the website at www.gov.uk/companieshouse or email enquiries@companieshouse.gov.uk

This form is available in an alternative format. Please visit the forms page on the website at www.gov.uk/companieshouse



Andrew Mackenzie and Julian Pitts were appointed joint administrators on 28 September 2018

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.

Burningnight Limited (In Administration)

Progress report of the joint administrators

Period: 28 September 2019 to 27 March 2020

Important Notice

This progress report has been produced by the administrators solely to comply with their 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.

Contents

- ☐ Interpretation
- ☐ Statutory information
- ☐ Details of appointment of administrators
- ☐ Progress during the period
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- ☐ Expenses
- ☐ Assets that remain to be realised and work that remains to be done
- ☐ Other relevant information
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- ☐ Conclusion
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1. INTERPRETATION

<u>Expression</u>	<u>Meaning</u>
"the Company"	Burningnight Limited (In Administration)
"the administration"	The appointment of administrators under Schedule B1 to the Insolvency Act 1986 on 28 September 2018
"the administrators" "we" "our" and "us"	Andrew Mackenzie of Begbies Traynor (Central) LLP, Fourth Floor, Toronto Square, Toronto Street, Leeds, LS1 2HJ and Julian Pitts of Begbies Traynor (Central) LLP, Fourth Floor, Toronto Square, Toronto Street, Leeds, LS1 2HJ
"the Act"	The Insolvency Act 1986 (as amended)
"the Rules"	The Insolvency (England and Wales) Rules 2016 (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

2. STATUTORY INFORMATION

Name of Company	Burningnight Limited
Date of Incorporation:	20 July 2010
Company registered number:	07320095
Company registered office:	Fourth Floor, Toronto Square, Toronto Street, Leeds, LS1 2HJ

3. DETAILS OF APPOINTMENT OF ADMINISTRATORS

Names of the administrators:	Andrew Mackenzie, a Licensed Insolvency Practitioner of Begbies Traynor (Central) LLP, Fourth Floor, Toronto Square, Toronto Street, Leeds, LS1 2HJ and Julian Pitts, a Licensed Insolvency Practitioner of Begbies Traynor (Central) LLP, Fourth Floor, Toronto Square, Toronto Street, Leeds, LS1 2HJ
Date of administrators' appointment:	28 September 2018
Date of administrators' resignation:	N/A
Court:	Leeds High Courts of Justice
Court Case Number:	2018-991 of 2018
Person making appointment:	Crowdstacker Corporate Services Limited as Qualifying Floating Chargeholder
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.
EU Regulation on Insolvency Proceedings:	Regulation (EU) 2015/848 of the European Parliament and of the Council applies to these proceedings which are 'main proceedings' within the meaning of Article 3 of the Regulation.
Extensions of the administration period	The administration period was extended by order of the Court for a period of 12 months.

4. PROGRESS DURING THE PERIOD

Receipts and Payments

Attached at Appendix 1 is our abstract of receipts and payments for the period from 28 September 2019 to 27 March 2020.

What work has been done in the period of this report, why was that work necessary and what has been the financial benefit (if any) to creditors?

Details of the types of work that generally fall into the headings mentioned below are available on our firm's website - <http://www.begbies-traynorgroup.com/work-details> Under the following headings we have explained the specific work that has been undertaken on this case. Not every piece of work has been described, but we have sought to give a proportionate overview which provides sufficient detail to allow creditors to understand what has been done, why it was necessary and what financial benefit (if any) the work has provided to creditors.

The costs incurred in relation to each heading are set out in the Time Costs Analysis which is attached at Appendix 2. There is an analysis for the period of the report and also an analysis of time spent on the case since the date of our appointment. The details below relate to the work undertaken in the period of the report only. Our previous reports contain details of the work undertaken since our appointment.

General case administration and planning

The administrators have carried out regular case reviews throughout the administration to ensure that matters were progressed. Case strategy has been amended accordingly and internal discussions have been held as part of this in particular in relation to the outcome of the investigations undertaken and what actions should be taken against third parties both prior and post meetings held with solicitors and counsel.

General administrative tasks such as filing and other tasks that do not relate to the below headings are also recorded to this heading.

This work has not been of financial benefit to creditors but is necessary in order to ensure that the case is progressed and remains compliant.

Compliance with the Insolvency Act, Rules and best practice

During the period of this report, we have prepared and issued to all relevant parties our six-monthly progress report dated 22 October 2019 in order to provide an update to the creditors of the progress made during the administration. This report was filed at Companies House in order to meet statutory requirements.

We have also monitored realisations during the period to ensure that the statutory bond is sufficient to cover the value of total realisations during the Administration in order to protect the interests of the Company's creditors.

Our cashier has spent time in reconciling the bank account and processing receipts and payments within the period.

This work is not of direct financial benefit to creditors, however is required in order to ensure that the matter remains compliant with the Act and Rules.

Investigations

In my previous report dated 22 October 2019, I reported that a notice of claim has been issued to parties who we consider to be de jure, de facto and shadow directors relating to the following potential causes of action:

- Damages for breach of their fiduciary duties as set out in Sections 172, 175 and/or 176 of the Companies Act 2006;
- Dishonest assistance in breach of their statutory fiduciary duties;
- Conspiracy to injure the Company and other companies within the group by unlawful means;
- That they have been preferred by their own actions and those of the companies contrary to Section 239 of the Insolvency Act 1986;
- That they are the beneficiaries of a series of transactions or a single large transaction at an undervalue between themselves and the Company and other companies contrary to Section 240 of the Insolvency Act 1986;
- That they are the beneficiaries of a series of transactions or a single large transaction at an undervalue designed to put assets beyond the reach of creditors of the Company and companies; and
- Actions against chargeholders' security as a result of the above causes of action.

We are yet to achieve a recovery for the estate in relation to the above matters, therefore solicitors fees have not yet been drawn and cannot be seen in the Receipts and Payments account attached at appendix 1. The litigation in this matter is on-going and we are also liaising with third party litigation funders in relation to the claims identified and the likelihood of success in entering into litigation.

During the period of this report, time has also been spent liaising with our contacts at HM Revenue & Customs ("HMRC") in respect of their enquiries into the Company's business transactions and properties. HMRC collected some of the Company's books and records that were of interest to them and their investigations are ongoing.

Realisation of assets

Intellectual Property

We provided an IP licence to Bierkeller Birmingham Limited and Peak Topco Limited permitting these parties to use the trademarks of the Company for a period of six months, keeping the prospect of any realisable value alive whilst trading. The total sum of £3,000 has been allocated to these asset during the reporting period of this report from the funds received direct by our solicitors.

Following the expiry of the IP licence, we requested offers from both Bierkeller Birmingham Limited and Peak Topco Limited for the intellectual property of the Company. No further expressions of interest for the intellectual property were received from other parties despite it having been marketed for a number of months prior to the administrators' appointment and following. We were advised by agents that no further interest had been received by them nor would they expect to receive any.

Unfortunately, the administrators were unable to accept the best offer received, despite it being an offer in line with the valuation obtained, as the secured creditor was not prepared to release their security over the asset and were not prepared to accept the offer received. We have advised the secured creditor that there is nothing further we can achieve in respect of the intellectual property if they are not prepared to release their security as the offers received are below their expectations, despite being in line with the valuation obtained.

Sale of Shares

During the period of this report, time has been spent liaising the secured creditor, the purchaser and their solicitors in respect of realising the Company's share in Startermode Limited. The sale was agreed for the sum of £5,000, which is reflected in the Receipts and Payments account attached at appendix 1. The Company is the 100% shareholder of Startermode and therefore has received the share sale proceeds of £5,000.

Rent Receivable

The sum of £1,769 has been received from the Company's former bank account, as credits being received from rental income due the Nottingham car park. No further income is due from this source following the assignment of the lease of the Nottingham premises.

Bank Interest

We have ensured that funds are appropriately invested and have received bank interest in the sum of £60, which has accrued on the funds held in the bank account with Lloyds Bank.

Dealing with all creditors' claims (including employees), correspondence and distributions

We have spent time corresponding with the secured creditor in particular in respect of the intellectual property.

Time has also been spent dealing with queries from unsecured creditors and lodging all the proof of debts we have received.

Other matters which includes seeking decisions of creditors via deemed consent procedure and/or decision procedures, meetings, tax, litigation, pensions and travel

We have stored the vast majority of books and records we uplifted from the Company's former storage facility with Restore plc. The sum of £142 has accrued to Restore plc in this respect.

The Company had previously paid the sum of £606 to Royal Mail in respect of mail redirection costs. This was for the post to be sent directly from the Company's previously registered office to the Liquidators office. The sum of £303 was paid by the Company for the mail redirection of one of its subsidiaries, Cornertrack Limited ("Cornertrack") in Administration. This cost was repaid from Cornertrack to the Company during this period.

The sum of £1,200 has been paid to Power Epos in respect of their fees incurred in storing the Company's server to allow the administrators and their third party advisors access to the Company's electronic files to assist with their investigations and information still required to discharge their statutory duties.

The sum of £3 has been paid to the Land Registry in respect of land registry search fees.

It is unclear at present whether the work carried out will lead to any financial benefit to creditors.

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 creditor

We anticipate that there will be insufficient funds available to enable the secured creditor to be paid in full and they will suffer a significant, if not a total shortfall on its lending.

Preferential creditors

There are no known preferential claims.

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

Details of how the prescribed part for unsecured creditors is calculated were provided in our statement of proposals.

Unsecured creditors

Based upon realisations to date and estimated future realisations there will be insufficient funds available to enable a dividend to be paid to the unsecured creditors.

We would advise that should the claims identified (as set out above) be successfully pursued and lead to material recoveries in the estate, then the position in relation to whether there will be sufficient funds to enable a distributed to creditors may change.

Effect of administration on limitation periods under the Limitation Act 1980

As we have previously confirmed, the Limitation Act 1980 continues to apply to all debts due from the Company. Case law indicates that where a company is in administration, time does not stop running for limitation purposes pursuant to the Limitation Act 1980. If you have any concerns in relation to your claim against the Company becoming time-barred during the course of the administration, we strongly recommend that you seek independent legal advice on the options available to you to prevent this.

6. REMUNERATION & DISBURSEMENTS

Our remuneration has been fixed by reference to the time properly given by us and the various grades of our staff calculated at the prevailing hourly charge out rates of Begbies Traynor (Central) LLP in attending to matters as set out in the fees estimate.

We are also authorised to draw disbursements for services provided by our firm and/or entities within the Begbies Traynor group, 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.

Our time costs for the period from 28 September 2019 to 27 March 2020 amount to £29,748 which represents 81 hours at an average rate of £369 per hour. Further information in relation to our time costs is set out at Appendix 2 and provides details of the work undertaken by us and our staff following our appointment only.

To 27 March 2020, we have drawn the total sum of £25,000 on account of our remuneration, against total time costs of £333,012 incurred since the date of our appointment.

Time Costs Analysis

In addition to the time costs information disclosed at Appendix 2 for the period of this report, a cumulative Time Costs Analysis for the period from 28 September 2018 to 27 March 2020 is also attached at Appendix 2.

As can be seen from the information above and as previously report, we have exceeded the limit of our previously approved estimate in the sum of £251,580. For the avoidance of any doubt, we have not drawn any remuneration in excess of the level approved. The reasons why the previously approved estimate has been exceeded are as follows:

- The previously approved fees estimate was based on charge out rates that were applied by our firm at the time the estimate was produced. With effect from 1 December 2018, the charge out rates of all grades of staff were increased (see Appendix 2). Our costs have exceeded our previous estimate, partly as a consequence of this increase.
- We have undertaken additional work, in particular work has been carried out in dealing with the Company's interests in its capacity as shareholder of the subsidiary companies within the group.

- Significant time has been spent carrying out detailed investigations that were not initially envisaged at the time the fees estimate was prepared.
- Given the complexities of this matter, a significant amount of the work required has been undertaken by senior members of staff who have the experience, expertise and necessary competencies required to carry the work. Senior staff involvement has increased significantly since our last progress report given the move from investigatory work towards impending commencement of litigation and the serious implications of the causes of action being considered.

In light of the above, we are obliged to provide the secured creditor with details of the additional work that has been undertaken along with details of the time and cost of that additional work and to seek approval of our increased estimate from them.

Disbursements

To 27 March 2020, we have not drawn any Category 1 or Category 2 Disbursements.

Disbursements treated as Category 2 disbursements

Other amounts paid or payable to any party in which the office holder or his firm or any ass has an interest	
Type and purpose	Amount £
Eddisons Commercial Limited which is a member of the Begbies Traynor group, has provided advice and assistance in identifying any assets owned by the Company, liaised with third party suppliers in order to collate the lease/hire purchase agreements and prepared desktop valuations in respect of the leasehold premises for the subsidiary companies.	5,000
TOTAL	5,000

A copy of 'A Creditors Guide to Administrators' Fees (E&W) 2017 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. Alternatively, if you require a hard copy of the Guide, please contact my/our office and I/we will arrange to send you a copy.

7. ADMINISTRATORS' EXPENSES

A statement of the expenses incurred during the period of this progress report is attached at Appendix 3. A cumulative statement of expenses also appears at Appendix 3 which details the expenses incurred since the date of our appointment.

Legal Fees

Gosschalks solicitors have been instructed to assist the administrators during the administration and to provide legal advice generally on all matters arising throughout. The following details the matters dealt with together with a breakdown of the fees incurred to date in relation to **this administration only**.

- Advising on the sale of the Company's shares in the Harrogate Bar Co Limited in Administration - £4,278
- Providing advice and chasing the debtors of the Company - £481
- Advising on the winding up petition issued against the Company and arranging for its dismissal at the hearing on 26 November 2018 - £2,161

Below sets out the matters dealt with together with a breakdown of the fees incurred for which the Company is **jointly and severally liable together with others of the 11 companies within the group** due to the linked and inter-twined supply structure, banking and borrowing arrangements between the group companies.

- General advice provided on all matters up to but not including appointments by Court Order on 7 December 2018 (jointly and severally liable with Burningnight Limited and Burningnight (Services) Limited) - £21,506 and disbursements of £256
- General advice provided on all matters in the administration after the appointments by Court Order on 7 December 2018 (jointly severally liable with all other group companies in administration) - £33,835 and disbursements of £136
- General advice, preparation and dealing with the Court applications for the administration orders for Anotherdate Limited, Contactwith Limited, Crossingarea Limited, Harrogate Bar Co Limited, Organisetime Limited, Sports Café 2008 (Leeds) Limited, Startermode Limited, Supplyof Limited and Visionary Leisure Limited (jointly severally liable with all other group companies in administration) - £45,714 and disbursements of £242
- Review and advising in relation to the equipment lease agreements (jointly and severally liable with Burningnight Limited and Burningnight (Services) Limited) - £5,082 and disbursements of £1
- Providing advice on the secured creditors' security (jointly severally liable with all other group companies in administration) - £5,904
- Advising and preparing the documentation in relation to the sale of certain of the assets of the group (jointly severally liable with all other group companies in administration other than Burningnight (Services) Limited) - £62,890 plus disbursements of £116
- Providing advice in relation to the potential claims against third parties to include preference, transaction at undervalue and claims against security (jointly severally liable with all other group companies in administration) - £42,096 and disbursements of £461
- Advising on the validity of the administrators' appointment on Burningnight Limited, Burningnight (Services) limited and Cornertrack Limited (jointly and severally liable with Burningnight Limited and Burningnight (Services) Limited) - £1,315 plus disbursements of £47
- Review and advising on the retention of title claim received in relation to equipment supplied to the Harrogate property (jointly and severally liable with Burningnight Limited and Burningnight (Services) Limited) - £2,500
- Considering and advising on the private examination of the secured creditor of Burningnight Limited, Burningnight (Services) Limited and Cornertrack Limited (jointly severally liable with all other group companies in administration) - £1,020
- Considering and advising on the private examination of the director of Burningnight Limited, Burningnight (Services) Limited and Cornertrack Limited (jointly severally liable with all other group companies in administration) - £620
- Providing advice and dealing with correspondence received from the secured creditor of Burningnight Limited, Burningnight (Services) limited and Cornertrack Limited in relation to the progress of the administrations, the exit route of administration and the appointment of any subsequent liquidators (jointly and severally liable with Burningnight Limited and Burningnight (Services) Limited) - £3,679
- Reviewing and advising on the breach of the sale and purchase agreement (jointly severally liable with all other group companies in administration) - £2,166
- Advising on the extensions of the administrations and preparing the Court applications (jointly severally liable with all other group companies in administration) - £15,689 plus disbursements of £2,121

The above fees in the sum of £246,180 and disbursements of £3,381 are **jointly and severally payable** by the Company and the other 11 companies within the group as stated above.

As previously advised solicitor's fees have exceeded the estimate. This is due to the complex matters that have been identified as requiring legal advice. It is difficult to estimate solicitor's future fees, given the significant on-going matters and issues which may lead to litigation, and until a decision is made to proceed it is difficult to

provide useful estimates of legal costs in the possible litigation though they are unlikely to be less than £120,000. For the avoidance of any doubt any litigious proceedings issued will be funded under either a conditional fee agreement or with the benefit of litigation funding, meaning that if the litigation fails those legal costs will not be payable (other than disbursements).

Counsel's fees

We have instructed counsel to advise us on all potential claims and litigation matters. The fees incurred in the sum of £15,000 has been paid during the period of this report. These costs are in relation to advice for which the Company is jointly and severally liable together with others of the 11 companies within the group due to the linked and inter-twined supply structure, banking and borrowing arrangements between the group companies.

Expenses actually incurred compared to those that were anticipated

Creditors will recall that we estimated that the expenses of the administration would total £211,138. That estimate has not been exceeded and we do not expect it to be exceeded if matters progress to conclusion as envisaged

8. ASSETS THAT REMAIN TO BE REALISED AND WORK THAT REMAINS TO BE DONE

What work remains to be done, why is this necessary and what financial benefit (if any) will it provide to creditors?

General case administration and planning

As the administration progresses, updates will need to be made to the strategy dependent upon the outcome of the realisations and investigations. This will include meetings between members of staff to formulate the strategy moving forward and ensure that the strategy is achieved.

We are also required to maintain records to demonstrate how the case was administered and to document the reasons for any decisions that materially affect the case on an ongoing basis. This will include compliance reviews, internal checklist updates, periodic case reviews and maintaining case files.

Whilst this work will not benefit creditors financially, it is necessary to ensure efficient progress of the case and is required in accordance with the law and by our regulatory body.

Compliance with the Insolvency Act, Rules and best practice

We are required to meet a considerable number of statutory and regulatory obligations. Whilst many of these tasks do not have a direct benefit in enhancing realisations for the insolvent estate, they assist in the efficient and compliance progressing of the administration, which ensures that the joint administrators and their staff carry out their work to high professional standards.

We will draft and issue interim progress reports on a six monthly basis to provide an update to the creditors of the progress made during the administration. These documents will be filed to meet statutory requirements.

In addition, a final progress report will have to be produced once the administration has reached its conclusion. This will provide creditors with an overview of the administration, including all realisations, costs and the final outcome for creditors.

Should the administration need to be further extended, the administrators have a duty to seek an extension by Order of the Court.

We will also continue to monitor realisations and compare to the statutory bond level to ensure that sufficient cover is in place at all times in order to protect the interests of the Company's creditors.

Time will be spent in monitoring and updating the estate cash book and bank accounts, including regular bank reconciliations and processing receipts and payments.

Investigations

We will continue to liaise with third party funders in relation to the claims identified and the pursuit of those claims should funding be obtained.

Realisation of assets

We do not consider it cost effective to instigate legal proceedings against the debtors because the costs of doing so are likely to outweigh any benefit to the estate.

As detailed above, the administrators are unable to deal with the realisation of the intellectual property and therefore no realisations are expected in this regard.

Apart from the claims identified which we are considering the merits of pursuing, there are no further assets to realise in this matter.

Dealing with all creditors' claims (including employees), correspondence and distributions

We will continue to deal with the number of different classes of creditors involved in the administration. This will include continuing to liaise with the secured creditor and deal with any queries received from other creditors of the Company.

Other matters which includes seeking decisions of creditors via the deemed consent procedure and/or decision procedures, meetings, tax, litigation, pensions and travel

We will continue to ensure submission of VAT and corporation tax returns to HM Revenue & Customs ("HMRC") in respect of the administration period. Once we are in a position to close the case, we will seek clearance from HMRC in respect of CT and VAT.

Whilst the above work will not benefit creditors financially, it is necessary in accordance with statutory requirements and best practice.

How much will this further work cost?

We estimate that the further costs of undertaking and completing this work will be circa £40,000, taking total estimated time costs to £373,012.

Expenses

Details of the expenses that we expect to incur in connection with the work that remains to be done referred to above are as set out in the revised estimate of anticipated expenses which was included at Appendix 2 in our previous progress report dated 24 April 2019.

9. 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, Energy and Industrial Strategy on the conduct of the directors. We have complied with our duties in this respect.

Investigations completed and action taken

As detailed above, we have carried out a detailed investigation into the conduct of the Company and its financial affairs. These investigations have led to our identifying a number of potential claims against third parties, however whether such claims will lead to further recoveries for the benefit of the estate is unknown at present. We are liaising with third party litigation funders as to whether they would be interested in instigating litigation proceedings.

Connected party transactions

We have not been made aware of any connected party transactions.

Extension of administration

The administration has been extended for a period of 12 months by order of the court.

Use of personal information

Please note that in the course of discharging our statutory duties as Joint Administrators, we may need to access and use personal data, being information from which a living person can be identified. Where this is necessary, we are required to comply with data protection legislation. If you are an individual and you would like further information about your rights in relation to our use of your personal data, you can access the same at <https://www.begbies-traynorgroup.com/privacy-notice>. If you require a hard copy of the information, please do not hesitate to contact us.

10. CREDITORS' RIGHTS

Right to request further information

Pursuant to Rule 18.9 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 incurred during the period of this progress report.

Right to make an application to court

Pursuant to Rule 18.34 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 during the period of this progress report are excessive or, the basis fixed for our remuneration is inappropriate.

11. CONCLUSION

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

A handwritten signature in black ink, appearing to read 'Julian Pitts', with a stylized flourish at the end.

Julian Pitts
Joint Administrator

Dated: 23 April 2020

ACCOUNT OF RECEIPTS AND PAYMENTS

Period: 28 September 2019 to 27 March 2020

Statement of Affairs £	From 28/09/2019 To 27/03/2020 £	From 28/09/2018 To 27/03/2020 £
SECURED ASSETS		
Contribution to Administrators' fees	1,040.00	1,640.00
Intellectual Property	3,000.00	5,000.00
	<u>4,040.00</u>	<u>6,640.00</u>
COSTS OF REALISATION		
Agents/Valuers Fees	5,000.00	5,000.00
Legal Fees	NIL	500.00
	<u>(5,000.00)</u>	<u>(5,500.00)</u>
ASSET REALISATIONS		
Bank Interest Gross	59.55	214.23
Book Debts	NIL	1,180.96
Cash at Bank	NIL	31,084.01
Contribution to Legal Costs	NIL	2,100.00
Nottingham Car Park Rent	1,768.55	1,768.55
Sale of Shares in Startermode Limit	5,000.00	5,000.00
VAT Refund	NIL	173,911.83
	<u>6,828.10</u>	<u>215,259.58</u>
COST OF REALISATIONS		
Accountancy Services	NIL	21,750.00
Administrators' Fees	15,000.00	25,000.00
Agents/Valuers Fees (1)	NIL	1,000.00
Agents/Valuers Fees (2)	NIL	2,000.00
Counsel's Fees	15,000.00	22,500.00
IT Consultancy Fees	1,200.00	1,900.00
Land Registry	3.00	42.00
Legal Disbursements	4,240.06	11,764.10
Legal Fees (1)	2,950.00	7,562.85
Mileage	NIL	45.00
Re-Direction of Mail	(303.00)	303.00
Software Licensing	NIL	2,552.40
Specific Bond	NIL	80.00
Statutory Advertising	NIL	84.60
Storage Costs	NIL	69.60
Sustenance	NIL	79.78
Travel	NIL	280.50
VAT Consultant fees	NIL	500.00
	<u>(38,090.06)</u>	<u>(97,513.83)</u>
	<u>(32,221.96)</u>	<u>118,885.75</u>

TIME COSTS INFORMATION

- a. Begbies Traynor (Central) LLP's charging policy;
- b. Time Costs Analysis for the period from 28 September 2019 to 27 March 2020; and
- c. Cumulative Time Costs Analysis for the period from 28 September 2018 to 27 March 2020.

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 guidance¹ 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. It also applies where payments are to be made to parties other than the firm, but in relation to which the office holder, the firm or any associate has an interest. Best practice guidance² indicates 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.

EXPENSES INCURRED BY OFFICE HOLDERS IN RESPECT OF THE ADMINISTRATION OF INSOLVENT ESTATES

Best practice guidance classifies expenses into two broad categories:

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

(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 is charged at the rate of £100 (London £150) per meeting;
- Car mileage is charged at the rate of 45 pence per mile;
- Storage of books and records (when not chargeable as a *Category 1 disbursement*) is charged on the basis that the number of standard archive boxes held in storage for a particular case bears to the total of all archive boxes for all cases in respect of the period for which the storage charge relates.

(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 disbursement*:

- Telephone and facsimile

¹ Statement of Insolvency Practice 9 (SIP 9) – Remuneration of insolvency office holders in England & Wales

² Ibid 1

- Printing and photocopying
- Stationery

Expenses which should be treated as Category 2 disbursements (approval required) – in addition to the two categories referred to above, best practice guidance indicates that where payments are to be 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.

Services provided by other entities within the Begbies Traynor group

The following items of expenditure which relate to services provided by entities within the Begbies Traynor Group, of which the office holder's firm is a member, are also to be charged to the case (subject to approval):

Instruction of Eddisons Commercial Limited to provide assistance in valuing the assets of the Company, liaising with party suppliers in order to collate the lease/hire purchase agreements and preparing valuations and advise in respect of the leasehold premises for the subsidiary companies.. Their charges will be calculated on a time costs basis at the prevailing hourly rates for their various grades of staff which are currently as follows:

Grade of staff	Charge-out rate (£ per hour)
Director	£275
Associate	£180
Surveyor	£120
Graduate	£100
Administration	£80
Porters	£35

In addition to the services detailed above, it may become necessary to instruct Eddisons Commercial Limited to provide additional services, not currently anticipated, during the course of the case. In such circumstances and to avoid the costs associated with seeking further approval, the charges for such services will be calculated on a time costs basis at the prevailing hourly rates for their various grades of staff which are currently as follows:

Grade of staff	Charge-out rate (£ per hour)
Director	£275
Associate	£180
Surveyor	£120
Graduate	£100
Administration	£80
Porters	£35

Additional payments received by Eddisons Commercial Limited from purchasers where assets are disposed of by way of auction

In addition to the charges of Eddisons Commercial Limited detailed above for providing the services to the office holder, where any machinery and business assets (other than freehold/leasehold property) are disposed of by way of auction, Eddisons Commercial Limited will also receive a payment from the purchaser, known as a buyer's premium, equivalent to 15% of the successful bid. Where any freehold/leasehold property is disposed of by way of auction, Eddisons Commercial Limited will also receive a payment from the purchaser, known as a buyer's administration fee, in the sum of £600. It is standard auction industry practice for a buyer's premium and buyer's administration fee to be charged. The buyer's premium and buyer's administration fee is paid by the purchaser of the assets and is not paid by the office holder from the assets of the estate.

Eddisons Insurance Services Limited

Instruction of Eddisons Insurance Services Limited ("EIS") to provide insurance broking services and specifically open cover insurance for the insurable risks relating to the case. The cost of open cover insurance will vary

during the course of the case depending upon the value of the assets and liability risks. The forecasted cost of insurance is £6,000 inclusive of Insurance Premium Tax. The costs of insurance cover for subsequent quarter periods will be dependent upon prevailing insurance market conditions and the ongoing insurable risks on the case.

In accordance with standard insurance industry practice, EIS will receive payment of commission for the services it provides from the insurer. The commission is calculated as a percentage of the insurance premiums payable and such percentage will depend upon the class or classes of assets being insured.

EIS will invoice the insolvent estate for the premium(s) due on the insurer's behalf and receive payment from the estate. EIS will in turn, account to the insurer for the premium(s) payable after deducting any commission payable by the insurer.

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 Leeds office as at the date of this report are as follows:

Grade of staff	Charge-out rate (£ per hour) 1 May 2011 – until further notice
Partner	495
Director	445
Senior Manager	395
Manager	345
Assistant Manager	250
Senior Administrator	225
Administrator	175
Trainee	140
Administrator	
Support	140

Prior to 1 December 2018, the Begbies Traynor (Central) LLP charge-out rates were as follows:

Grade of staff	Charge-out rate (£ per hour) 1 May 2011 – until further notice
Partner	395
Director	345
Senior Manager	310
Manager	265
Assistant Manager	205
Senior Administrator	175
Administrator	135
Trainee	110
Administrator	
Support	60 – 110

Time spent by support staff such as secretarial, administrative and cashiering staff is charged directly to cases. It is not carried as an overhead.

Time is recorded in 6 minute units.

The office holder may use the services of BTG Forensic during the course of the case. BTG Forensic is a specialist department of the office holder's firm which provides forensic accounting services. The current charge-out rates applying to work carried out by BTG Forensic are as follows:

Grade of staff	Charge-out rate (£ per hour)
Partner	250
Senior Manager	175

SIP9 BURNINGNIGHT LIMITED - Administration - 80BU379.ADM. Time Costs Analysis From 28/09/2019 To 27/03/2020

[illegible]

SIP9 BURNINGNIGHT LIMITED - Administration - 80BU379.ADM : Time Costs Analysis From 28/09/2018 To 27/03/2020

[illegible]

STATEMENT OF ADMINISTRATORS' EXPENSES

Type of expense	Name of party with whom expense incurred	Amount incurred £	Amount discharged £	Balance (to be discharged) £
Expenses incurred with entities not within the Begbies Traynor Group				
Counsels fees	Hugh Jory	15,000.00	15,000.00	NIL
Land Registry Search fees	Land registry	3.00	3.00	NIL
IT Consultancy fees	Power Epos Limited	1,200.00	1,200.00	NIL
Legal Fees	Lupton Fawcett LLP	2,950.00	2,950.00	NIL
Legal Disbursements	Gosschalks Solicitors	4,240.06	4,240.06	NIL
Expenses incurred with entities within the Begbies Traynor Group (<i>for further details see Begbies Traynor Charging Policy</i>)				
Agent's fees paid to Eddisons	Eddisons Commercial Limited	5,000.00	5,000.00	NIL

CUMULATIVE STATEMENT OF EXPENSES

Type of expense	Name of party with whom expense incurred	Amount incurred £
Accountancy Services	HCS Accountancy	21,750.00
Agent's Fees	Davis Coffey Lyons	2,000.00
	Eddisons Commercial Limited	8,000.00
	Sanderson Weatherall	1,000.00
Counsel's Fees	Hugh Jory	22,500.00
IT Consultancy Fees	Power Epos Limited	1,900.00
Land Registry Search Fees	Land Registry	42.00
Legal Fees	Clarion Solicitors	3,000.00
	Gosschalks Solicitors	155,000.00
	Metis Law Limited	5,844.21
	Lupton Fawcett LLP	2,950
Legal Disbursements	Clarion Solicitors	100.00
	Gosschalks Solicitors	37,275.59
	Metis Law Limited	157.15
Re-Direction of Mail	Royal Mail Group Limited	303.00
Software Licensing Fee	Visionary Leisure Limited – in Administration	2,552.40
Statutory Advertising	Courts Advertising Limited	84.60
Statutory Bordereau	Marsh Limited	80.00
Storage Costs	Restore plc	211.47
Sustenance	Begbies Traynor (Central) LLP	79.78
Travel & Mileage	Begbies Traynor (Central) LLP	225.50
VAT Consultant Fees	Independent VAT Consultants	500.00