

The Insolvency Act 1986

Administrator's progress report**R2.38**

Pursuant to Rule 2.38 of the Insolvency (Scotland) Rules 1986

Name of Company
FM Developments Limited

Company number
SC172175

We
Anne O'Keefe
Zolfo Cooper
The Zenith Building
26 Spring Gardens
Manchester
M2 1AB

Fraser Gray & Elizabeth Mackay
Cornerstone
107 West Regent Street
Glasgow
G2 2BA

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

from	to
22 February 2012	23 August 2012

Signed

Joint Administrator

Dated

20/09/12

Contact Details:

You do not have to give any contact information in the box opposite but if you do, it will help Companies House to contact you if there is a query on the form.

The contact information that you give will be visible to searchers of the public register.

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When you have completed and signed this form, please send it to the Registrar of Companies at:-
Companies House, 4th Floor, Edinburgh Quay 2, 139 Fountainbridge, Edinburgh, EH3 9FF
DX 235 Edinburgh / LP 4 Edinburgh-2



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21/09/2012

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Joint Administrators' Progress Report for the period 23 February 2012 to 22 August 2012

FM Developments Limited
In Administration

20 September 2012

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1 Statutory information

- 1.1 Anne O'Keefe was appointed Joint Administrator of FM Developments Limited (the Company) together with Fraser Gray and Elizabeth Mackay on 23 February 2009 by the Court of Session, Edinburgh. The application for the appointment of Joint Administrators was made by the Governor and Company of the Bank of Scotland plc (the Bank), The Mound, Edinburgh, EH1 1YZ.
- 1.2 This Administration is being handled by Zolfo Cooper's Manchester office, situated at The Zenith Building, 26 Spring Gardens, Manchester, M2 1AB.
- 1.3 The trading address of the Company was 9 Great Stuart Street, Edinburgh, Midlothian, EH3 7TP.
- 1.4 The registered office of the Company has been changed to c/o Zolfo Cooper, Cornerstone, 107 West Regent Street, Glasgow, G2 2BA and its registered number is SC172175.
- 1.5 In accordance with paragraph 100(2) of schedule B1 to the Insolvency Act 1986, the functions of the Administrators may be exercised by any or all of the Joint Administrators.

2 Progress of the Administration

- 2.1 Attached at Appendix A is the Joint Administrators' Receipts and Payments Account for the period 23 February 2012 to 22 August 2012, together with a Cumulative Receipts and Payments Account for the period 23 February 2009 to 22 August 2012.
- 2.2 The Joint Administrators are continuing to pursue the second objective of achieving a better result for the Company's creditors as a whole than would be likely if the Company was wound up (without first being in Administration).
- 2.3 The Company has made a number of loans to other insolvent group companies (of which the Joint Administrators also act) during the Administration. These loans were required to pay various costs and will be repaid when sufficient funds are available in the respective group companies. Since the period of this report all loans have been repaid and there is no remaining balance due to the Company.
- 2.4 Progress to date in respect of the realisation of the Company's remaining assets is shown below.

Overseas subsidiaries

- 2.5 As advised in previous reports, the Joint Administrators have carried out detailed investigations into funding (by way of loans and investments) provided by the Company to various overseas subsidiaries in respect of property developments in the Caribbean and Cape Verde. Following on from these investigations the Joint Administrators have commenced legal action against the directors of the Company for misfeasance. A summons was served on the directors on 28 June 2012 and it is anticipated that the action will be ongoing for some considerable time.

Dovecot, Haddington

- 2.6 As stated in the last report, the sale of the property at Dovecot, Haddington, completed on 5 March 2012 for consideration of £315,000.

Rent

- 2.7 Rent totalling £13,313 has been received from a tenant of Ury Estate for the period of their occupation during the Administration. No further realisations will be achieved in respect of rent.

Other assets

- 2.8 Bank interest of £7,484 has been received in this period bringing total realisations from this source to £35,295.

3 Assets still to be realised

- 3.1 As detailed in section 2, the legal action against the directors is ongoing.

4 Joint Administrators' remuneration

- 4.1 The secured creditor approved that the basis of the Joint Administrators' remuneration be fixed by reference to the time properly spent by them and their staff in managing the Administration
- 4.2 The Joint Administrators' time costs for the period 23 February 2012 to 22 August 2012 are £51,341. This represents 192 hours at an average rate of £267 per hour. Attached at Appendix B is a Time Analysis for the period which provides details of the activity costs incurred by staff grade.
- 4.3 Principal areas of activity during the period are discussed in further detail below.
- **Administration and planning** - time has been incurred implementing the case strategy, complying with statutory duties and performing general administrative work. Case related treasury time is also recorded here.
 - **Realisation of assets - standard security** - time has been incurred dealing with investigations into the Company's overseas assets, as well as commencing the legal action against the directors.
 - **Creditors** - time has been incurred corresponding with creditors, preparing statutory reports and reporting to the Bank.
 - **Investigations** - time has been incurred liaising with solicitors regarding investigations into the Company's overseas subsidiaries.
 - **Realisation of assets - floating charge** - time recorded within this category includes dealing with tenants and corresponding with the agent and solicitors in respect of recovery of assets.
 - **Trading** - time has been incurred preparing payments and accounts reconciliation. Treasury time relating to property receipts and payments is also recorded here.

- 4.4 Attached at Appendix C is a Cumulative Time Analysis for the period 23 February 2009 to 22 August 2012 which provides details of the activity costs incurred by staff grade since the Joint Administrators' appointment. Time costs for the cumulative period total £1.17 million. This represents 4,993 hours at an average rate of £235 per hour.
- 4.5 Approval of the Joint Administrators' remuneration has been sought from the Bank in accordance with rule 2.39 of the Insolvency (Scotland) Rules 1986 as amended as the Company has insufficient property to enable a distribution to be made to unsecured creditors.
- 4.6 To date, general fees of £96,205 plus disbursements of £12,763 have been drawn on account. Fees of £79,288 have been drawn in relation to investigations into the overseas subsidiaries.
- 4.7 Attached at Appendix D is additional information in relation to the Joint Administrators policy on staffing, the use of sub contractors, disbursements and details of their current charge-out rates by staff grade.

5 Estimated outcome for creditors

Secured creditor - Bank of Scotland plc

- 5.1 The Company's indebtedness to the Bank at the date of the Joint Administrators' appointment was in excess of £41 million under a cross collateralised revolving security facility with other group companies also in Administration. Credit balances in several bank accounts totalling approximately £4 million have been offset against this debt; however, interest and charges continue to accrue. The assets available in the insolvent group companies, when realised, will be insufficient to repay the Bank in full and it is anticipated that the Bank will suffer a significant shortfall.
- 5.2 To date, £4.9 million has been paid to the Bank under its standard security and £833,220 under its floating charge.

Preferential creditors

- 5.3 The preferential creditors of the Company have been paid in full.

Unsecured Creditors' Fund

- 5.4 Pursuant to section 176A of the Insolvency Act 1986, where there is a floating charge which post dates 15 September 2003, the Joint Administrators are required to create a fund from the Company's net property available for the benefit of unsecured creditors (**Unsecured Creditors' Fund**).
- 5.5 As the Company granted a floating charge to the Bank before 15 September 2003, there is no requirement to create an Unsecured Creditors' Fund.

Unsecured creditors

- 5.6 There will not be sufficient funds to enable a dividend to be paid to the unsecured creditors of the Company.

6 Extending the Administration

- 6.1 The Administration was due to end automatically on 22 August 2012, however it was not possible to conclude all outstanding matters in the Administration prior to this date. As the Administration had already been extended by consent of creditors, the Joint Administrators sought the approval of the court for a further extension to the Administration period of 12 months, in accordance with paragraph 78 of schedule B1 of the Insolvency Act 1986. Creditors were notified the Joint Administrators' intention to seek an extension of the Administration pursuant to paragraph 76(2)(a) of schedule B1 to the Insolvency Act 1986.
- 6.2 The court granted the extension and accordingly, the Administration has been extended to 22 August 2013.

7 Ending the Administration

- 7.1 The Joint Administrators think that the Company has no property which might permit a distribution to its unsecured creditors and therefore, they propose filing a notice together with their final progress report at court and with the Registrar of Companies for the dissolution of the Company. The Joint Administrators will send copies of these documents to the Company and its creditors. The appointment will end following the registration of the notice by the Registrar of Companies.
- 7.2 The Joint Administrators will be discharged from liability under paragraph 98 of schedule B1 to the Insolvency Act 1986 directly after their appointment as Joint Administrators ceases to have effect.

8 Next report

- 8.1 The Joint Administrators are required to provide a progress report within six weeks of the end of the next six month period of the Administration, or the date they cease to act as administrators, if earlier.

For and on behalf of
FM Developments Limited

Anne O'Keefe
Joint Administrator

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**Receipts and Payments Account for the period
23 February 2012 to 22 August 2012 and a Cumulative
Account for the period 23 February 2009 to
22 August 2012**

Appendix A

Statement of Affairs £		23/02/2012 - 22/08/2012 £	23/02/2009 - 22/08/2012 £
	Standard security assets		
	Receipts		
1,280,247	Freehold property and land	315,000	7,585,000
	Bank Interest	4,423	23,436
	Ury Grant of Servitude	-	7,962
	Investments	-	10,000
		<u>319,423</u>	<u>7,626,398</u>
	Payments		
	Repayable loan account	-	14,585
	Bank charges	-	1,055
	Joint Administrators' fees	-	96,205
	Heat and light	1,348	1,677
	Telephone	-	2,183
	Security	-	233,969
	IT costs	-	305
	Repairs and maintenance	-	21,407
	Wages	-	152,323
	PAYE/NIC	-	72,647
	Pension	-	13,808
	Employee benefits	-	1,427
	Sub-contractors	-	1,207
	Payroll costs	-	1,200
	Legal fees	6,535	285,337
	Agent's/valuer's fees	11,444	160,689
	Registers of Scotland fees	-	15
	Quantity surveying costs	-	38,576
	Professional fees	-	9,687
	Payment to Mark Taylor	-	27,500
	Insurance of assets	42,339	42,339
	Overseas investigation costs	9,756	9,756
	Investigation work	-	6,439
	Locksmith	180	180
	Security costs	-	200
		<u>(71,602)</u>	<u>(1,194,716)</u>
	Distributions		
	Paid to standard security holder	-	4,919,863
		<u>-</u>	<u>(4,919,863)</u>

**Receipts and Payments Account for the period
23 February 2012 to 22 August 2012 and a Cumulative
Account for the period 23 February 2009 to
22 August 2012 (Cont'd)**

Appendix A

Statement of Affairs	23/02/2012 - 22/08/2012	23/02/2009 - 22/08/2012
£	£	£
Floating charge assets		
Receipts		
2,760,000 Freehold land and property	-	1,286,500
600 Plant and machinery	-	-
2,000 Furniture and equipment	-	25
383,521 Investments	-	-
- Utility refund	-	25
- VAT refund	-	23,888
2,884 Cash at bank	-	10,748
Rent	13,313	36,848
Rates refund	-	1,898
Insurance claim	-	197
Bank interest	3,061	11,859
Car parking spaces	-	70,000
Pre-appointment funds	-	7,281
Sundry refunds	-	4,337
Service charge income	-	301
	<u>16,374</u>	<u>1,453,907</u>
Payments		
Car parking levies	5,700	5,700
Administrators investigation costs	79,288	79,288
Agent's/valuer's fees	-	19,358
Legal fees	-	3,291
Rates	-	4,564
Audit fees	-	1,500
Bank charges	25	706
Landlord registration fees	-	132
Insurance of assets	3,573	3,573
Sundry expenses	-	1,001
Category 1 disbursements		
Bordereau costs	-	30
Courier costs	-	183
Stationery and postage	321	2,234
Storage costs	1,426	9,123
Re-direction of mail	-	103
Statutory advertising	-	104
Advertising	-	1,016
	<u>(90,333)</u>	<u>(131,906)</u>
Distributions		
Preferential creditors:		
Wage arrears and holiday pay, 19/1/2011	-	19,896
Redundancy payments service, 19/1/2011	-	13,416
Tax/NI deductions, 19/1/2011	-	6,408
Paid to chargeholder	-	833,220
	-	<u>(872,940)</u>
Balance		<u>1,960,880</u>
Represented by		
Interest bearing accounts		1,981,044
VAT payable		(20,164)
		<u>1,960,880</u>

Time Analysis for the period 23 February 2012 to 22 August 2012

Appendix B

	Employee grade (hours)				£		
	Partner/ director	Senior associate	Associate/ analyst	Junior analyst/ support	Total hours	Total cost	Average rate per hour
Administration and planning							
Strategy and control	-	0.8	14.0	-	14.8	3,472.00	235
Statutory duties	-	0.3	0.2	0.6	1.1	207.50	189
Case administration	-	1.1	1.6	0.6	3.3	783.50	237
Accounting and treasury	0.4	1.2	2.8	18.9	23.3	2,939.50	126
Internal documentation	-	-	4.2	1.6	5.8	1,150.00	198
Investigations							
Overseas subsidiaries	23.0	64.8	-	0.4	88.2	29,734.00	337
Realisation of assets - standard security							
Asset realisation strategy	-	1.8	-	-	1.8	567.00	315
Asset identification and valuation	-	-	1.9	0.3	2.2	471.50	214
Sale of assets	-	5.0	-	0.3	5.3	1,609.50	304
Recovery of assets	-	1.0	-	-	1.0	315.00	315
Asset accounting and administration	-	4.6	-	2.9	7.5	1,782.50	238
Realisation of assets - debtors							
Debt collection	-	-	-	0.4	0.4	46.00	115
Realisation of assets - floating charge							
Asset identification and valuation	-	0.1	-	-	0.1	31.50	315
Recovery of assets	-	3.9	-	-	3.9	1,223.50	314
Dealing with third party assets	-	-	0.4	-	0.4	92.00	230
Asset accounting and administration	-	-	-	0.2	0.2	23.00	115
Trading							
Accounting and administration	0.2	1.6	-	0.1	1.9	580.00	305
Creditors							
Reporting to creditors	0.8	1.8	13.9	7.6	24.1	4,994.00	207
Unsecured creditors	0.1	0.5	3.4	3.0	7.0	1,318.50	188
Totals	24.5	88.5	42.4	36.9	192.3	51,340.50	267

Cumulative Time Analysis for the period 23 February 2009 to 22 August 2012

Appendix C

	Employee grade (hours)				Total hours	£	
	Partner/ director	Senior associate	Associate/ analyst	Junior analyst/ support		Total cost	Average rate per hour
Administration and planning							
Planning	-	-	-	0.4	0.4	46.00	115
Strategy and control	256.4	266.4	315.5	62.4	900.7	264,258.00	293
Statutory duties	0.1	5.5	9.5	12.7	27.8	5,197.00	187
Case administration	4.6	64.5	169.4	209.7	448.2	80,412.50	179
Accounting and treasury	5.1	18.9	87.0	241.4	352.4	51,798.50	147
Travel and waiting time	1.2	7.5	89.7	-	98.4	22,255.00	226
Internal documentation	-	0.5	104.8	16.9	122.2	24,692.50	202
Investigations							
Director conduct reports	22.0	5.7	31.6	12.8	72.1	19,387.00	269
Other investigations	105.8	162.5	266.0	132.1	666.4	160,833.00	241
Internal documentation	-	-	45.5	1.8	47.3	10,389.00	220
Realisation of assets - standard security							
Asset realisation strategy	-	7.3	0.5	0.1	7.9	2,421.00	306
Asset identification and valuation	7.1	73.8	260.9	1.6	343.4	82,157.50	239
Sale of assets	43.6	184.7	137.0	0.3	365.6	104,377.00	285
Recovery of assets	-	11.6	27.7	-	39.3	9,813.00	250
Asset accounting and administration	-	9.4	29.4	11.0	49.8	10,604.50	213
Realisation of assets - debtors							
Debt collection	-	3.3	4.0	1.8	9.1	2,086.00	229
Crown debtors	-	0.2	3.7	0.8	4.7	925.50	197
Internal and external documentation	-	-	4.1	-	4.1	881.00	215
Realisation of assets - floating charge							
Asset realisation strategy	-	0.8	-	-	0.8	252.00	315
Asset identification and valuation	-	24.8	74.0	-	98.8	23,899.50	242
Sale of assets	1.0	31.5	57.0	-	89.5	22,680.00	253
Recovery of assets	-	3.9	-	-	3.9	1,223.50	314
Dealing with third party assets	-	0.5	18.2	0.2	18.9	4,024.00	213
Asset accounting and administration	-	-	32.0	1.3	33.3	7,206.00	216
Trading							
Trading activities	-	45.3	283.5	52.0	380.8	80,019.50	210
Accounting and administration	5.4	4.3	36.4	30.1	76.2	14,658.50	192
Creditors							
Creditor claims	-	1.0	12.6	3.3	16.9	3,549.50	210
Debtor litigation	-	0.6	3.0	-	3.6	819.00	228
Internal documentation	-	-	1.7	-	1.7	374.00	220
Creditor strategy	-	-	-	0.1	0.1	11.50	115
Reporting to creditors	26.5	142.1	228.8	60.6	458.0	110,102.50	240
Creditor meetings	-	25.5	84.1	37.9	147.5	29,747.50	202
Creditors' committee	6.0	-	-	-	6.0	2,550.00	425
Secured creditors	-	15.8	9.9	-	25.7	7,250.00	282
Unsecured creditors	0.1	1.6	4.3	3.8	9.8	1,964.00	200
Employees	-	2.7	49.9	9.2	61.8	12,409.50	201
Totals	484.9	1,122.2	2,481.7	904.3	4,993.1	1,175,274.50	235

Additional information in relation to the Joint Administrators' remuneration pursuant to Statement of Insolvency Practice 9 (Scotland)

Appendix D

1. Policy

Detailed below is Zolfo Cooper's policy in relation to:

- staff allocation and the use of sub-contractors;
- professional advisors; and
- disbursements.

1.1 Staff allocation and the use of sub-contractors

The Joint Administrators' general approach to resourcing their assignments is to allocate staff with the skills and experience to meet the specific requirements of the case.

The case team will usually consist of a partner, a senior associate, an associate and an analyst. The exact case team will depend on the anticipated size and complexity of the assignment and the experience requirements of the assignment. On larger, more complex cases, several staff at all grades may be allocated to meet the demands of the case. The Joint Administrators' charge-out rate schedule below provides details of all grades of staff and their experience level.

With regard to support staff, time spent by treasury in relation to specific tasks on an assignment is charged but secretarial time is only recovered if a large block of time is incurred, eg report compilation and distribution.

The Joint Administrators have not utilised the services of any sub-contractors in this case.

1.2 Professional advisors

On this assignment the Joint Administrators have used the professional advisors listed below. The Joint Administrators have also indicated the basis of their fee arrangement with them, which is subject to review on a regular basis.

Name of professional advisor	Basis of fee arrangement
Dundas & Wilson LLP (legal advice)	Hourly rate and disbursements
Anderson Strathern LLP (legal advice)	Hourly rate and disbursements
DM Hall Chartered Surveyors (surveyors)	Hourly rate and disbursements
Colleys (surveyors)	Hourly rate and disbursements
Jardine Lloyd Thompson (insurance)	Risk based premium
David Langdon (valuation and disposal advice)	Fixed fee plus hourly rate and disbursements
Connors of Stonehaven (valuation and disposal advice)	Percentage of realisations
Savills (L&P) Limited (valuation and disposal advice)	Percentage of realisations and hourly rate

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

1.3 Disbursements

Category 1 disbursements do not require approval by creditors. Category 1 disbursements may include external supplies of incidental services specifically identifiable to the case eg postage, case advertising, invoiced travel and external printing, room hire and document storage. Any properly reimbursed expenses incurred by the Joint Administrators and their staff will also be chargeable.

Category 2 disbursements do require prior approval by creditors before they are paid. If they are incurred, they will be drawn in accordance with the resolution approved by creditors. Category 2 disbursements that may be incurred are photocopying, charged at the rate of ten pence per sheet for notifications and reports to creditors and other copying.

2. Charge-out rates

A schedule of Zolfo Cooper charge-out rates for this assignment effective from 1 January 2011 is detailed below.

Description	£
Partner/director	
Partner 1*	445
Partner 2*	395
Director	340
Senior associate	
Senior associate 1*	315
Senior associate 2*	265
Associate/analyst	
Associate	230
Analyst*	220
Junior analyst and support staff	
Junior analyst*	115
Senior treasury associate	155
Treasury associate	105
Treasury analyst	80
Support	75
*Key	
<i>Partner 1 - partners with three or more years' experience at partner level</i>	
<i>Partner 2 - partners with fewer than three years' experience at partner level</i>	
<i>Senior associate 1 - staff with two or more years' experience at senior associate level</i>	
<i>Senior associate 2 - staff with fewer than two years' experience at senior associate level</i>	
<i>Analyst - staff with more than one year's experience at analyst level</i>	
<i>Junior analyst - staff with fewer than one year's experience at analyst level</i>	