

The Insolvency Act 1986

## Administrator's progress report 2.24B

Name of Company <b>Daniel Lynch Limited</b>	Company number <b>01337025</b>
In the High Court of Justice, Chancery Division, Birmingham District Registry <small>[full name of court]</small>	Court case number <b>3190 of 2004</b>

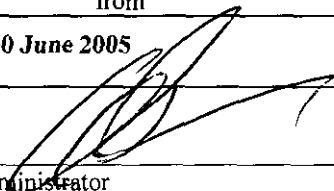
(a) Insert full name(s) and  
address(es) of  
administrator(s)

(a) Gerald Irwin, of Irwin & Company, Station House, Midland Drive, Sutton  
Coldfield, West Midlands B72 1TU;

Administrator of the above Company attach a progress report for the period

from	to
(b) 30 June 2005	(b) 29 December 2005

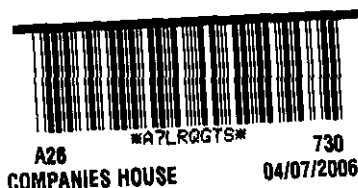
(b) Insert dates

Signed   
Administrator  
Dated 30/12/05

### Contact Details:

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

Irwin & Company, Station House, Midland Drive, Sutton Coldfield, West Midlands B72 1TU	
Tel: 08700 111812	
DX Number	DX Exchange



When you have completed and signed this form please send it to the Registrar of Companies at:

Companies House, Crown Way, Cardiff, CF14 3UZ

DX 33050 Cardiff

# IRWIN & COMPANY

Licensed Insolvency Practitioners  
Business Rescue, Recovery & Turnaround

Station House  
Midland Drive  
Sutton Coldfield  
West Midlands B72 1TU  
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08700 111812  
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08700 111813  
E-mail  
mail@irwinuk.net  
Website  
www.irwin-insolvency.co.uk

## TO ALL KNOWN CREDITORS

6 December 2005

Our ref: GI/jdp/LA/X

Dear Sirs

**DANIEL LYNCH LIMITED  
(IN ADMINISTRATION)  
IN THE HIGH COURT OF JUSTICE, CHANCERY DIVISION,  
BIRMINGHAM DISTRICT REGISTRY NO. 3190 OF 2004**

I refer to my appointment as Administrator of the above Company on 30 December 2004.

I am writing to provide you with a further progress report, in accordance with Rule 2.47(1) & (2) of the Insolvency Rules 1986 (Amendment Rules, Schedule 1, Part 2), on matters which have arisen in the Administration since 30 June 2005.

This report should be read in conjunction with my previous progress report to creditors, issued on 29 July 2005.

### 1. Summary of Receipts and Payments

Enclosed is a Summary of receipts and payment in the Administration, for the period 30 December 2004 to 5 December 2005, from which you will note that there are funds in hand of £378,887.44.

### 2. Property at 2 Fieldgate House, Fieldgate Lane, Kenilworth

As mentioned in my previous progress report, this property was initially marketed by Messrs Shortland Horne, Estate Agents, in the sum of £289,950.

Despite a number of initial viewings, no offers were received.

At the request of the Bank of Ireland plc, Messrs Connells were later instructed to jointly market the property, at which time the asking price was reduced by £20,000.

Connells received a number of initial enquiries and undertook several viewings at the property. However, still no offers were received. As such, on the Agents recommendation, the asking price for the property was reduced by a further £20,000, to £249,950, in an attempt to attract an offer.

As a result, I am pleased to advise that an offer for the property, in the sum of £230,000, was received by Connells, during September 2005. Connells recommended that the offer be accepted, on the basis of the following:

1. No offers have been received since February 2005;
2. It is a cash offer with no chain or mortgage application required;
3. The offer is a fair reflection of the current market conditions;
4. The joint agents, Shortland Horne, verbally advised that any offer in the region of £230,000 and above should be seriously considered, also given the current market conditions;
5. A sale at this level will clear the indebtedness to Bank of Ireland plc, as mortgagee, in full;
6. A quick sale will minimise the level of interest accruing on the Bank of Ireland's indebtedness (which at present is £23.62 per day);
7. Should the offer be rejected, it is not unlikely that Bank of Ireland plc may appoint their own Receiver to realise the property, which may potentially be for a lower sum and therefore to the detriment of the general body of creditors.

In view of the above the offer of £230,000 was duly accepted, subject to contract, on 21 October 2005 and contractual documentation has been prepared and circulated.

I have received a Redemption Statement from Bank of Ireland plc, who are currently indebted for circa £157,000. Therefore, the anticipated surplus, subject to costs, is likely to be in the region of £73,000.

Our agents recently advised that contracts are likely to be exchanged in late December 2005 / early January 2006.

### **3. Lease for Unit 3 Rye Hill Office Park, Allesley, Coventry**

A surrender of the lease for the above premises was concluded on 10 October 2005.

In order to effect a surrender of the lease, it was necessary for me to discharge payment of rent, insurance costs and service charges in the total sum of £5,285, for the period whilst the Company in Administration was in occupation of the premises, namely 30 December 2004 to 28 January 2005.

As an administrator has no power to disclaim a lease by way of a compromise, it was necessary, on commercial grounds, to allow the Landlord to retain the Company's office furniture and equipment, in part settlement of Rent arrears for the period 29 January 2005 to the date of surrender on 10 October 2005.

#### **4. Book Debts**

##### ***General***

Since the date of my last progress report, a further £875 has been received in respect of a sundry book debt due to the Company.

##### ***Butts Park Ventures Limited ("Butts")***

As previously mentioned, my solicitors advised not to pursue a claim against Butts, as this would be extremely expensive and was a speculative claim, anyway.

Daniel Lynch Properties Limited ("Properties") made an offer to acquire any claim which the Company may have against Butts, for a nominal sum plus a percentage of any monetary awards, in the event of a successful outcome.

Having discussed the matter with the Creditors' Committee members, it was duly resolved that the Administrator should not accept the offer from Properties, primarily on the basis of legal opinion, which indicated that the prospect of a successful action by Properties was extremely unlikely.

The offer from Properties was subsequently withdrawn.

##### ***Daniel Lynch (Coventry) Limited ("Coventry")***

Following a meeting with Daniel Lynch and the Company's former accountants, Messrs Pilley & Florsham, I was advised that no monies are due from Coventry, despite the Company's financial records indicating that the sum of £709 was outstanding. According to Pilley & Florsham, the error was attributable to book-keeping inaccuracies and mis-postings.

#### **5. Other Realisations**

Since the date of my last progress report to creditors, a further £5,051 in gross bank interest has been received.

#### **6. Secured Creditors**

##### ***Bank of Ireland***

As mentioned above, Bank of Ireland plc hold a first legal charge over the property at 2 Fieldgate House, Fieldgate Lane, Kenilworth. Bank of Ireland plc has advised that the current level of indebtedness is approximately £157,000.

Providing the above property is sold, as anticipated in paragraph 2 above, it is likely that the indebtedness to Bank of Ireland plc will be repaid in full.

### ***Mr and Mrs Lynch***

Mr and Mrs Lynch hold a debenture, dated 10 September 2004, conferring fixed and floating charges over the Company's assets.

My solicitors have advised that the charge appears legal.

Following a meeting with the director and the Company's former accountants, in August 2005, the Directors Loan Account for Mr and Mrs Lynch was in credit in the sum of £167,944. However, how this account has reached this level is a matter of ongoing investigation.

### ***Daniel Lynch Properties Limited***

Daniel Lynch Properties Limited hold a debenture dated 16 November 2004, conferring fixed and floating charges over the Company's assets.

Following a meeting with the director and the Company's former accountants, in August 2005, the Inter Company Account for Daniel Lynch Properties Limited was in credit in the sum of £37,711. However, how this account has reached this level is a matter of ongoing investigation.

No monies have been paid to either Mr & Mrs Lynch or Daniel Lynch Properties Limited, due to legal advice obtained.

## **7. Preferential Creditors**

According to the Director's Statement of Affairs, preferential claims were estimated in the sum of £8,880, relating to accrued holiday pay due to former employees of the Company.

I can confirm that preferential claims have been received totalling £6,755.

Please note that a first and final dividend, of 100 pence in the pound, was distributed to preferential creditors on 22 November 2005.

## **8. Non-Preferential Creditors**

According to the Director's Statement of Affairs, non-preferential claims were estimated in the sum of £1,315,063.

I would advise that, to date, claims have been received from non-preferential creditors totalling £1,042,259 and according to my files, there are outstanding claims totalling £291,351.

Any creditor who has not yet claimed, should now do so.

## **9. Dividend Prospects for Non-Preferential Creditors**

On current information, there is likely to be a dividend available for non-preferential creditors. However, at present, I am unable to comment on the likely level of dividend due to ongoing investigative issues, which are discussed in more detail below.

## **10. Ongoing issues / investigations**

### ***Potential Preference Transactions, pursuant to s.239 of the Insolvency Act 1986 - Directors Loan Account***

According to the Company's financial records, the balance of the Director's Loan Account reduced significantly in the two year period prior to the date of Administration.

The Company's Financial Statements, for the year ended 31 October 2003, indicated that the Directors were owed the sum of £1,026,798.

However, by the date of Administration, on 30 December 2004, the balance on the Director's Loan Account was £167,944, therefore, indicating a reduction of approximately £850,000 in the 22-month period to Administration, which may constitute a Preference, pursuant to Section 239 of the Insolvency Act 1986.

Correspondence has been entered into with Mr & Mrs Lynch, concerning this. Mr Lynch has provided Management Accounts, as at 31 October 2004, which shows that the Company had shareholders funds of circa £226,000 and was therefore apparently solvent.

I have raised a number of queries with Mr Lynch and the Company's former accountants, Messrs Pilley & Florsham, regarding the Management Accounts and I am currently awaiting a response.

### ***Potential Preference Transactions, pursuant to s.239 of the Insolvency Act 1986 - Daniel Lynch Properties Limited***

According to the Company's financial records, the Inter Company Account with Daniel Lynch Properties Limited reduced significantly in the two year period prior to the date of Administration.

The Company's Financial Statements, for the year ended 31 October 2003, indicated that Daniel Lynch Properties Limited owed the Company the sum of £555,939.

However, by the date of Administration, the balance on the Inter Company Account was in credit by £37,711, indicating movement of £593,650.

## **11. Office Holder's Remuneration and Office Holder's Expenses**

To date, the sum of £90,437.25 has been paid to this firm, as remuneration, in accordance with a resolution passed by creditors, on 22 August 2005, which approved that the Administrator's remuneration be based in accordance with the time costs of himself and his staff, for attending to matters arising in the Administration.

I can confirm that the level of this firm's time costs, as at 5 November 2005, amount to £91,000.25, representing 560.60 hours at an average charge-out rate of £162.33 per hour. Enclosed, for your information and as required by Statement of Insolvency Practice 9 ("SIP9") there is a Summary of this firm's time costs as at 5 November 2005.

Category 1 disbursements, as defined by SIP9, which have been expended in the Administration, are as detailed on the attached Summary of Receipts and Payments.

The following category 2 disbursements, as also defined by SIP9 and in accordance with the attached Office Holders Charging and Disbursement Recovery Policies, have been expended in the Administration estate to date:

Stationery and Photocopying charges	£660.80
(at the rate of 10 pence per item)	

I would advise that creditors passed a resolution, on 22 August 2005, approving that the Administrator be entitled to draw category 2 disbursements.

## **12 Extension of Administration**

As you may be aware, the Administration is due to automatically end at the first anniversary, on 30 December 2005.

Initially it was proposed and later agreed by the Creditors' Committee appointed in this matter that the Company would precede into Creditors' Voluntary Liquidation ("CVL") as a suitable exit route from Administration, prior to 30 December 2005.

However, I am advised by my solicitors, that should the Company proceed into CVL, at this time, the decision in a case known as "Re: Leyland Daf" will have a severe impact on the Administrators ability to fund investigations as the costs of doing so will require the prior approval of the Fixed and Floating Charge holders, being Mr & Mrs Lynch and Daniel Lynch Properties Limited, the parties against whom the investigations are to be conducted.

As mentioned in paragraph 10 above, I am investigating certain transactions involving Mr & Mrs Lynch and Daniel Lynch Properties Limited. It is unlikely, therefore, that these charge holders will sanction the costs required to investigate the issues involving them.

Having reviewed the transactions in the Inter Company Account, it became apparent that a management charge was levied by Daniel Lynch Properties Limited, on 5 November 2004, for £146,875, which may constitute a Preference, pursuant to Section 239 of the Insolvency Act 1986.

Correspondence has been entered into with Daniel Lynch and Pilley & Florsham concerning the management charge transaction, which may possibly constitute a preference.

I am awaiting a copy of the relevant invoice relating to the management charge together with an explanation as to why the charges were levied and what services were provided. Historically though, having perused the inter-company transactions, management charges were levied by Daniel Lynch Limited for services supplied to Daniel Lynch Properties Limited, not the other way around.

On receipt of a response from Daniel Lynch, I shall seek legal advice in order to determine whether proceedings will be brought against Daniel Lynch Properties Limited for the repayment of the above mentioned transaction.

***Potential Preference Transaction at an Undervalue, pursuant to s.238 of the Insolvency Act 1986***

At the initial meeting of creditors, held on 9 March 2005, it was duly minuted that the contract undertaken at Barrells Hall (being Mr & Mrs Lynch's matrimonial home) was agreed at a fixed price of approximately £1.25 million, from which the Company was expected to achieve a nominal profit.

A pricing schedule appended to the Contractors' Proposals, prepared prior to carrying out any work as Barrells Hall, the Company cost of the rebuilding and refurbishing work at Barrells Hall to be approximately £1,216,600 (exclusive of VAT).

However, on undertaking a review and investigation of the Company's Sage Financial Accounting Systems, it appears that the Company incurred costs amounting to £1,985,542 (exclusive of VAT), in relation to the Barrells Hall contract. This contract is in any event the subject of an ongoing investigation and it may be that the works undertaken at Barrells Hall constitute a transaction at an undervalue, pursuant to Section 238 of the Insolvency Act 1986.

I am awaiting a final report from my Quantity Surveyors appointed in this matter and on receipt, I shall seek further legal advice as to whether an action may be brought against Mr & Mrs Lynch, for the recovery of the apparent losses suffered by the Company.



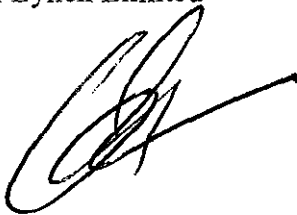
As such, it is proposed that I make an application to Court to extend the Administration for a further 6 months, or until such time as all outstanding investigations have been concluded.

Please note that as soon as all investigative issues have been concluded, I shall immediately proceed to place the Company into CVL in order to effect a dividend distribution for non-preferential creditors of the Company.

**13. General**

I trust that you will find the above report self-explanatory, however, in the meantime should you have any queries, please do not hesitate to contact either me or my manager, John Pearson.

Yours faithfully  
for and on behalf of  
Daniel Lynch Limited

A handwritten signature in black ink, appearing to be 'G. Irwin', written over a horizontal line.

**Gerald Irwin**  
**Administrator**

Licensed to act as an insolvency practitioner by the Association of Chartered Certified Accountants.

**encs**

**Daniel Lynch Limited**  
**(In Administration)**

**Administrator's Abstract Of Receipts And Payments**  
**To 05 December 2005**

<b>RECEIPTS</b>	<b>Total (£)</b>
Property - Bubbenhall	287,000.00
Property - Curriers Close	347,500.00
Property - Broad Lane	487,500.00
Plant & Machinery	8,000.00
Office Furniture & Equipt	1,321.28
Motor Vehicles	8,500.00
Book Debts	183,966.51
Cash at Bank	3,045.73
Morgan Stanley Investment	224.92
Bank Interest Gross	10,418.59
VAT Refund	11,912.23
Sundry Refunds	10.00
Electricity Refund	760.97
VAT Outputs	34,268.72
	<hr/>
	1,384,428.95

<b>PAYMENTS</b>	
Wages / Salaries	7,525.08
P.A.Y.E. and NIC	5,743.37
Telephone charges	157.46
Legal Fees & Expenses	8,788.68
Agensst Fees and Expenses	8,730.00
Stamp Duty / Land Reg fee	9,070.00
Ground Rent Payable	76.79
Bank of Ireland plc	257,319.28
Legal Fees	1,775.00
Removal Forfeiture clause	7,450.00
Ground Rent/Land Reg Fees	6,652.62
less: RBS plc	285,466.24
Legal Fees	4,287.00
Ground Rent/Land Reg Fees	10,077.97
less: Nationwide BS	230,524.83
RBS Credit Card Liability	393.95
Specific Bond	1,840.00
Administrator's Fees	90,437.25
Administrator's Expenses	75.00
Agents/Valuers Fees	1,093.75
Legal Fees (1)	18,409.85
Stationery and Postage	1,047.44
Travelling Expenses	108.40
Accountants Fee - Payroll	250.00
Statutory Advertising	377.50
Insurance of Assets	1,384.95
Council Tax payable	170.32
Rent & Service Charges	5,285.21
Holiday Pay claims	6,754.85
VAT Inputs	23,610.63
Vat Control Account	10,658.09
	<hr/>
	1,005,541.51
Balances in Hand	378,887.44
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	1,384,428.95

Daniel Lynch Limited (In Administration)

Summary of Office Holder's time costs as at 5 November 2005

Hours							Time cost £	Average Hourly Rate £
Classification of work function	Partner	Manager	Other Senior Professionals	Assistants & Support Staff	Total Hours			
Administration and planning Statutory Matters	18.8	90.85	0.5	8.1	118.25	18,224.80	154.12	
Investigations	47.75	109.6	0	0	157.35	27,183.30	172.76	
Realisation of Assets	44.45	80.5	1.5	0	126.45	22,226.35	175.77	
Trading	0	10.1	0	0	10.1	1,515.00	150.00	
Creditors	28.15	75.7	0	6.2	110.05	18,226.80	165.62	
Case specific matters - Cashiering	0	1.7	0.6	10.3	12.6	1,074.00	85.24	
Employees	1.5	5.2	0	19.1	25.8	2,650.00	98.84	
Total hours	140.65	373.65	2.6	43.7	560.60	91,000.25	162.33	
Less: Invoiced to date							(90,437.25)	
Unbilled time costs as at 5 December 2005							£563.00	

Chargeout Rates	2003	2004/2005
Partner	£200 per hour (£175 per hour to 01.07.2003)	225 per hour
Manager	£140 per hour	£150 per hour
Senior Administrator	£100 per hour	£110 per hour
Administrators	£ 80 per hour	£90 per hour
Compliance Manager	£ 70 per hour	£100 per hour
Senior Assistant	£60 per hour	£75 per hour
Senior Support Staff/ Senior Cashier/PA	£70 per hour	£80 per hour
Support Staff/Cashier/ Secretary	£60 per hour	£60 per hour

**IRWIN & COMPANY/G IRWIN & CO  
STATEMENT OF OFFICE HOLDER'S CHARGING AND  
DISBURSEMENT RECOVERY POLICIES**

**1. OFFICE HOLDER'S REMUNERATION – (CHARGE-OUT RATES FOR TIME COSTS)**

	£ per hour
Partner	225
Manager	150
Senior Administrator	110
Administrator	90
Compliance Manager	100
Senior Assistant	75
Senior Support Staff/Senior Cashier/PA	80
Support Staff/Cashier/Secretary	60

For resolution purposes it is proposed to charge the above rates for Office Holder's and staff time incurred on a case or those prevailing when the time is incurred. Charge-out rates will therefore be subject to periodic review.

**2. DISBURSEMENTS – (CATEGORY 1 & 2)**

- i) **Postage** (for creditors' circulars) – prevailing Royal Mail rates – either 1<sup>st</sup> or 2<sup>nd</sup> class, as appropriate, plus VAT.
- ii) **Stationery and Photocopying** (for creditors' circulars) – 10p per sheet/item of stationery, plus VAT.
- iii) **Staff/Office Holder Mileage Allowance** – Current Inland Revenue Flat Scale Rate plus VAT.

Engine Size	Per Mile
Any	40p

- iv) **Internal Room Hire** – (usually only charged for first meeting of creditors) - £50 plus VAT.

For resolution purposes, it is proposed to charge disbursements to a case at the above rate or those prevailing at the time the cost is incurred.