

Rule 2.47

Form 2.24B (CH)

The Insolvency Act 1986

Administrator's progress report

Name of Company
Abdulla's Horticulture Limited T/as
Carpenders Park Nursery

Company number
02475506

In the
High Court of Justice

[full name of court]

Court case number
22190 of 2009

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

We (a) Louise Donna Baxter and Jamie Taylor of Begbies Traynor (Central) LLP, The Old Exchange, 234 Southchurch Road, Southend on Sea SS1 2EG

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

from

to

(b) Insert dates

(b) 7 July 2010

(b) 6 January 2011

Signed

Joint Administrator

Dated

31/1/2011

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.

Begbies Traynor (Central) LLP

The Old Exchange, 234 Southchurch Road, Southend on Sea, SS1 2EG

Tel Number 01702 467255

Fax Number 01702 467201

DX Number

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



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05/02/2011

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COMPANIES HOUSE

SATURDAY

Louise Donna Baxter and Jamie Taylor were appointed joint administrators on 7 January 2010

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

Abdulla's Horticulture Limited T/as Carpenders Park Nursery (In Administration)

Progress report of the joint administrators pursuant
to Rule 2.47 of The Insolvency Rules 1986

Period: 7 July 2010 to 6 January 2011

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1. INTERPRETATION

<u>Expression</u>	<u>Meaning</u>
"the Company"	Abdulla's Horticulture Limited T/as Carpenders Park Nursery (In Administration)
"the administration"	The appointment of administrators under Schedule B1 to the Insolvency Act 1986 on 7 January 2010
"the joint administrators"	Louise Donna Baxter and Jamie Taylor of Begbies Traynor (Central) LLP, The Old Exchange, 234 Southchurch Road, Southend on Sea, SS1 2EG
"the Act"	The Insolvency Act 1986
"the Rules"	The Insolvency Rules 1986
"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(a), Insolvency Act 1986)
"security"	(i) In relation to England and Wales, any mortgage, charge, lien or other security 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(b), Insolvency Act 1986)
"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	Abdulla's Horticulture Limited
Trading name(s)	Carpenders Park Nursery
Date of Incorporation	28 February 1990
Company registered number	02475506
Company registered office	The Old Exchange, 234 Southchurch Road, Southend on Sea, SS1 2EG

3. DETAILS OF APPOINTMENT OF ADMINISTRATORS

Names of joint administrators	Louise Donna Baxter and Jamie Taylor, Licensed Insolvency Practitioners of Begbies Traynor (Central) LLP, The Old Exchange, 234 Southchurch Road, Southend on Sea, SS1 2EG
Date of administrators' appointment	7 January 2010
Date of administrators' resignation	N/A
Court	High Court of Justice
Court Case Number	22190 of 2009
Person(s) making appointment / application	Directors
Acts of the joint administrators	The joint 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.
Extension of the administration	The period of administration has been extended by consent of the secured creditor by 6 months until 6 July 2011.
EC Regulation on Insolvency	The EC Regulation on Insolvency Proceedings (Council Regulation (EC) No 1346/2000) applies to these proceedings which are 'main proceedings' within the meaning of Article 3 of the Regulation.

4. PROGRESS DURING THE PERIOD

Attached at Appendix 1 is our abstract of receipts and payments for the period from 7 July 2010 to 6 January 2011.

Sale of the Business

At the outset of the Administration the company's assets were valued by independent agents Edward Symmons & Partners on both a 'going concern' basis and also a 'limited disposal period' basis. The agents anticipated the following values

	<u>Going Concern</u>	<u>Limited Disposal Period</u>
Garden Centre Equipment	42,000	7,200
Motor Vehicle	2,200	1,600
Stock	130,000	62,000
Goodwill	25,000	-

The estimate with regard to the Goodwill was stated to be highly speculative as the tenancy relating to the premises was thought to be non assignable since the Landlord is owed a considerable sum in respect of back rent

However, an offer was received in the sum of £50,000 in respect of the company's physical assets and an additional deferred consideration for the company's Goodwill which would equate to 4% of the purchasing company's turnover relating to its first 12 months of trade at the Garden Centre

This offer was initially not recommended by the agents as it fell short of the valuation. However numerous claims were made by suppliers in respect of Retention of Title over the stock and many of these proved to be valid claims. A large volume of the stock has subsequently been returned to suppliers

The adverse weather conditions in January 2010 also ruined a considerable portion of the company's outdoor stock. Owing to these factors, the estimated realisable figure which might be achieved by the Administrators in respect of stock was subsequently reduced significantly

The proposed purchaser was willing to take on the liabilities which might arise from further Retention of Title claims and therefore, the agents recommended that the offer should now be accepted

Solicitors were then instructed to prepare the necessary sale agreement however the purchaser changed the proposed terms of payment and therefore the finalisation of the sale was delayed pending further negotiations

During this process, there was further consideration of the company's tenancy agreement which, it was understood, was held in the directors' names on trust for the company. Various third parties had shown an interest in acquiring use of the site and expert advice was sought in relation to the value of the Business Farm Tenancy. Specialist agents advised that they considered the tenancy agreement to have no value however an offer in the sum of £175,000 was received from a third party to purchase the assets and gain an assignment of the tenancy

However, the directors subsequently disputed the fact that the tenancy was held on trust and the landlord, who had been assisting, withdrew support for a potential assignment of the tenancy. These

factors scuppered any deal concerning the tenancy, with no other parties interested in purchasing only the assets, it was necessary to return to the initial offer which had been received

Several weeks had passed since the initial offer was received and the purchaser subsequently revised his offer as follows

	£
Stock	30,000
Goodwill	10,000
Equipment and Vehicle	<u>10,000</u>
	<u>50,000</u>

Since the business had been closed for some time by this stage, the value of Goodwill had eroded significantly. Further Retention of Title claims had been agreed which reduced the value of stock available for sale. Therefore, on the advice of the instructed agents, Edward Symmons and Partners, this revised offer was accepted.

The sale completed on 17 June 2010 and the sale proceeds have been received.

Book Debts

The company's book debt ledger reflected the sum of £2,144.29 owed to the company at the date of our appointment. This relates to eight separate debts each for small amounts. These have been pursued and the sum of £539.54 has been received to date.

Potential Preference Claim against Directors

During the course of my investigations, it became apparent that each of the two directors had received £24,000 from the company over an eight month period prior to the Administration. It appeared that these payments could be challenged as 'preference' payments in accordance with Section 239 of the Insolvency Act 1986 and I wrote to the directors accordingly.

They advised however that they have both entered into Individual Voluntary Arrangements owing to their personal financial situations and I am currently liaising with the Supervisor of their Arrangement, initially to confirm that I am able to claim in their Arrangements and secondly to establish what level of return can be expected over what period of time.

COSTS OF THE ADMINISTRATION

As previously reported the joint administrators' remuneration is fixed by reference to the time properly given by the joint administrators (as administrators) and the various grades of their staff calculated at the prevailing hourly charge out rates of Begbies Traynor (Central) LLP for attending to matters arising in the administration and, subject to approval detailed below, they will be authorised to draw disbursements, including disbursements for services provided by their firm (defined as Category 2 disbursements in Statement of Insolvency Practice 9), in accordance with their firm's policy, details of which accompanied the *Statement of Proposals of the Joint Administrators for Achieving the Purpose of the Administration pursuant to Paragraph 49 of Schedule B1 to the Insolvency Act 1986 and Rule 2.33 of the Insolvency Rules 1986*.

Please note in particular that the company's books and records are stored with Archive Facilities Limited which is associated to partners of Begbies Traynor (Central) LLP. Storage costs incurred in this regard will be classified as Category 2 disbursements.

The relevant resolutions were approved by Barclays Bank Plc pursuant to Rule 2.106 of the Insolvency Rules 1986.

Total time spent to date on this assignment amounts to 213 hours at an average composite rate of £183.96 per hour resulting in total time costs to date of £39,183. The sum of £11,000 plus VAT has been drawn towards these costs. The following further information as regards time costs and expenses is set out at Appendix 2.

- ☐ Begbies Traynor (Central) LLP's policy for re-charging expenses/disbursements
- ☐ Begbies Traynor (Central) LLP's charge-out rates
- ☐ Table of time spent and charge-out value

The following disbursements have been incurred and settled

	£
Photocopies & Faxes	1,203.90
Telephone, Postage & Stationery	212.50
Specific Penalty Bond	135.00
Statutory Advertising	62.50
Company Search	<u>1.00</u>
	<u>1,614.90</u>

The sum of £11,378.49 plus VAT has been paid to Edward Symmons & Partners in respect of their fees and disbursements for their assistance with the valuation and sale of the company's assets, as well as work carried out in relation to the Retention of Title claims.

The sum of £5,600.95 plus VAT has been paid to DLA Piper solicitors for their assistance in negotiating with the purchaser and preparing the sale agreement.

5. ASSETS THAT REMAIN TO BE REALISED

As detailed above, a low level of book debts remain outstanding which are unlikely to be realised.

We are also pursuing a potential claim against the directors of the company personally for preference payments made prior to the Administration.

6. OTHER RELEVANT INFORMATION

Barclays Bank Plc is owed the sum of £540,940 which is secured by way of a fixed and floating charge over the company's assets. The Bank has been paid a distribution of £10,000 under its fixed charge. Since the Bank's charge was created prior to 15 September 2003, no prescribed part will be set aside for the unsecured creditors.

Preferential claims have been received as follows

	£
Redundancy Payments Office	24,477.97
Employees	<u>1,221.82</u>
	<u>25,699.79</u>

Owing to the level of costs which have been incurred, no distribution will be made to the preferential creditors and therefore no monies will be paid to the Bank under its floating charge.

7. CONCLUSION

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



Louise Donna Baxter
Joint Administrator

Dated 31 January 2011

**JOINT ADMINISTRATORS' ACCOUNT OF RECEIPTS
AND PAYMENTS, INCORPORATING ESTIMATED
OUTCOME FOR CREDITORS**

Period: 7 July 2010 to 6 January 2011

**Abdulla's Horticulture Limited T/as Carpenders Park Nursery
(In Administration)
Joint Administrators' Abstract of Receipts & Payments**

Statement of Affairs		From 07/07/2010 To 06/01/2011	From 07/01/2010 To 06/01/2011
	SECURED ASSETS		
NIL	Leasehold Land & Buildings	NIL	NIL
	Goodwill	10,000 00	10,000 00
		<u>10,000 00</u>	<u>10,000 00</u>
	SECURED CREDITORS		
(540,940 00)	Barclays Bank Plc	10,000 00	10,000 00
		<u>(10,000 00)</u>	<u>(10,000 00)</u>
	ASSET REALISATIONS		
9,000 00	Plant & Machinery	10,000 00	10,000 00
40,000 00	Stock	30,000 00	30,000 00
NIL	Book Debts	240 08	539 54
	Bank Interest Gross	26 14	26 14
		<u>40,266 22</u>	<u>40,565 68</u>
	COST OF REALISATIONS		
	Office Holders Fees	11,000 00	11,000 00
	Office Holders Expenses	1,614 90	1,614 90
	Agents Fees	8,000 00	8,000 00
	Agents Disbursements	3,378 49	3,378 49
	Legal Fees	5,500 00	5,500 00
	Legal Disbursements	100 95	100 95
	Insurance of Assets	1,703 22	1,703 22
		<u>(31,297 56)</u>	<u>(31,297 56)</u>
	UNSECURED CREDITORS		
(404,043 00)	Trade & Expense Creditors	NIL	NIL
(75,000 00)	H M Revenue & Customs - VAT	NIL	NIL
(90,118 00)	H M Revenue & Customs - PAYE/NIC	NIL	NIL
		<u>NIL</u>	<u>NIL</u>
	DISTRIBUTIONS		
(12,500 00)	Ordinary Shareholders	NIL	NIL
		<u>NIL</u>	<u>NIL</u>
(1,073,601.00)		8,968.66	9,268.12
	REPRESENTED BY		
	Vat Receivable		5,179 03
	Bank 1 Current		12,839 09
	Vat Payable		(8,750 00)
			<u>9,268.12</u>

Louise Donna Baxter
Joint Administrator

JOINT ADMINISTRATORS' TIME COSTS AND EXPENSES

- a Begbies Traynor (Central) LLP's policy for re-charging expenses/disbursements,
- b Begbies Traynor (Central) LLP's charge-out rates,
- c Table of time spent and charge-out value

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 and also where payments are to be made to outside parties in which the office holder or his firm or any associate has an interest. Best practice guidance² requires 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 expenses (approval not required)* - specific expenditure that is directly related to the case usually referable to an independent external supplier's invoice. All such items are charged to the case as they are incurred.
- *Category 2 expenses (approval required)* - items of incidental expenditure directly incurred on the case which include an element of shared or allocated cost and which are based on a reasonable method of calculation.

(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 may be charge by some offices and is charged at the rate of £100 (London £150) per meeting. External meeting room usage is charged at cost,
- Car mileage is charged at the rate of 50 pence per mile,

Expenses which should be treated as Category 2 expenses (approval required) – in addition to the 2 categories referred to above, best practice guidance indicates that where payments are 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 expenses. The following items of expenditure which

¹ Statement of Insolvency Practice 9 (SIP 9) – Remuneration of insolvency office holders in England & Wales (Effective 1 April 2007)

² Statement of Insolvency Practice 9 (SIP 9) – Remuneration of insolvency office holders in England & Wales (Effective 1 April 2007)

relate to services provided by an entity within the Begbies Traynor Group are to be charged to the case (subject to approval)

- Storage of books and records (when not rechargeable as a *Category 1 expense*) is charged by Archive Facilities Limited, an associated company. The rates applying as at the date of this report are

Minimum charge of £33 per quarter for up to three boxes. Four to Two Hundred Boxes charged at £9.90 per quarter per box. Over two hundred boxes are charged at half the aforementioned price, presently £4.45 per box per quarter. Mileage for collection of books and records is charged at 55p per mile. Provision of cardboard box charged at £2.75 per box. Where Archive Facilities Limited are required to physically pack the books and records, there is a minimum charge of 2 hours at £15 per hour per person required, and at £15 per hour for each hour thereafter. All figures stated are net.

- BTG Asset Consulting may be engaged to undertake valuations and/or disposal of the assets in this case. BTG Asset Consulting are a part of BGN and therefore an associated company. Their charges are based on a percentage of realisations or time costs. Disbursements are charged at cost and mileage is recovered at 40p per mile.

(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 expense*.

- Telephone and facsimile
- Printing and photocopying
- Stationery

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 Southend-on-Sea office as at the date of this report are as follows:

Grade of staff	Charge-out Rate (£ per hour)
Partner 1	450
Partner 2	395
Director	375
Senior Manager	350
Manager	300
Assistant Manager	250
Senior Administrator	220
Administrator	180
Junior Administrator	150
Support	150

Time spent by support staff for carrying out shorter tasks, such as typing or dealing with post, is not charged to cases but is carried as an overhead. Only where a significant amount of time is spent at one time on a case is a charge made for support staff.

Time is recorded in units of 0.10 of an hour (i.e. 6 minute units).

