

Liquidator's Progress Report

S.192

Pursuant to Sections 92A and 104A and 192
of the Insolvency Act 1986

To the Registrar of Companies

Company Number

07898567

Name of Company

ERH Construction Limited

I / We


Nigel Morrison, Hartwell House, 55-61 Victoria Street, Bristol, BS1 6FT

Alistair Wardell, 11/13 Penhill Road, Cardiff, South Glamorgan, CF11 9UP

the liquidator(s) of the company attach a copy of my/our Progress Report
under section 192 of the Insolvency Act 1986

The Progress Report covers the period from 24/09/2015 to 23/09/2016

Signed



Date 8 November 2016

Grant Thornton UK LLP
Hartwell House
55-61 Victoria Street
Bristol
BS1 6FT

Ref E20597015/NZM/PAM/KLM/JET

SATURDAY



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12/11/2016

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COMPANIES HOUSE



Our Ref NZM/PAM/KLM/JET/E20597014/

To the creditors and members

8 November 2016

Dear Sirs

Recovery and Reorganisation

Grant Thornton UK LLP
4 Hardman Square
Spinningfields
Manchester M3 3EB

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ERH Construction Limited (Construction) and E.R.Hemmings (Building) Limited (Building) (together the Companies) - Both in Liquidation

1 Introduction

1.1 Following my appointment as joint liquidator of the above Companies with Alistair Wardell on 24 September 2015, in accordance with section 104A of the Insolvency Act 1986 I now report on the progress of the liquidations for the year ended 23 September 2016 and attach

- Appendix A, an account of our receipts and payments for the year ended 23 September 2016 and also for the whole liquidations to date
- Appendix B, a statement of the remuneration charged by the joint liquidators in the period 24 September 2015 to 23 September 2016 and a statement of expenses incurred in the period
- Appendix C, an analysis of time costs as required by Statement of Insolvency Practice 9
- Appendix D, an extract from the Insolvency Rules 1986 relating to creditors' rights to request additional information from the liquidator (rule 4.49E)
- Appendix E, an extract from the Insolvency Rules 1986 relating to creditors' rights to challenge the liquidator's remuneration or expenses if excessive (rule 4.131)

1.2 Please note that we are both authorised by the Insolvency Practitioners Association to act as insolvency practitioners

2 Statutory information

2.1 The Companies statutory details are as follows

Company	Registered number	Registered office
ERH Construction Limited	07896567	c/o Grant Thornton UK LLP, 4 Hardman Square, Spinningfields, Manchester, M3 3EB
E R.Hemmings (Building) Limited	02429840	c/o Grant Thornton UK LLP, 4 Hardman Square, Spinningfields, Manchester, M3 3EB

Chartered Accountants

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3 Progress report

Realisation of assets during the Administrations

3.1 Prior to our appointment as joint liquidators of the Companies, Alistair Wardell and I were appointed as joint administrators on 4 November 2014. On 24 September 2015, I filed Form 2.34B – notice of move from administration to creditors' voluntary liquidation at the Registrar of Companies. The administrations ended and we were appointed as joint liquidators.

3.2 The realisations during the administrations were:

	Construction	Building
Work in Progress (WIP)	19,168	26,428
Book debts	262,030	164,017
Cash at bank	268,618	3,038
Miscellaneous refunds	-	635
	<hr/> 549,816	<hr/> 194,118

Progress of the Liquidations

3.3 Asset realisations and payments to date are detailed in the attached receipts and payments accounts at Appendix A.

3.4 Surplus funds from the administrations of £343,952 for Construction and £115,001 for Building were transferred to the liquidations.

Trade debtors/Work in Progress (WIP)

3.5 I instructed quantity surveyors, Craigdam Services Limited (Craigdam), to assist me in the collection of book debts and WIP.

3.6 Construction book debts totalling approximately £694,000 and WIP totalling approximately £98,000 were outstanding at the date of my appointment. Since the administration ended, a further £55,000 of WIP and £2,674 of book debts have been recovered.

3.7 Building book debts totalling approximately £763,000 and WIP totalling approximately £449,000 were outstanding at the date of my appointment. Since the administration ended, a further £19,778 of book debts has been recovered.

3.8 I confirm that the debt collection process for the Companies has now been finalised and there will be no further realisations to be made in this respect.

Intercompany position

3.9 Following the consolidation of the group bank accounts, Building and Construction were both owed amounts by the other group companies. The recoverability of these debts is very complex due to counter claims, set offs and other legal issues. I sought direction from Counsel regarding the recoverability of the debts.

- 3 10 As mentioned in my proposals, in the weeks leading up to the appointment certain contracts were novated by Construction to another group company, ERH Communications Limited (Communications), for no consideration
- 3 11 I have recovered £200,000 from Communications as a settlement for the intercompany debt and I am continuing to pursue the directors for the contract novations of c£355,000

Liabilities

Secured creditors

- 3 12 The Royal Bank of Scotland plc (RBS) had a fixed and floating charge over the assets of the Companies created on 5 October 2012. At the date of our appointment however, RBS had no lending to the Companies

Preferential creditors

- 3 13 The only known preferential creditors are the former employees of Construction who were made redundant on or since 16 October 2014. Preferential claims are subject to a maximum limit set by the insolvency legislation
- 3 14 Preferential claims total £30,179 and were paid in full January 2016
- 3 15 There are no known preferential creditors in Building as all staff were employed by other group companies

Unsecured creditors

- 3 16 From the statements of affairs prepared by the directors, the unsecured creditors at the date of appointment were

Construction unsecured creditors	£
Subcontractors	2,958,813
Trade and Expense Creditors	227,233
HMRC – VAT	229,211
HMRC – PAYE/NI	55,404
Total	3,470,661

Building unsecured creditors	£
Subcontractors	49,638
Trade and Expense Creditors	179,641
HMRC – VAT	229,211
HMRC – PAYE/NI	85,763
Intercompany – ERH Construction Limited	2,861,076
Intercompany – ERH Holdings Limited	207,960
Total	3,613,289

- 3 17 Based on current estimates and anticipated future realisations, I anticipate a dividend to creditors of 2 to 5 pence in the pound for Building and up to 15 pence in the pound for Construction

4 Joint liquidators' remuneration and expenses

- 4 1 On 8 January 2015, the creditors resolved that we draw our remuneration by reference to our time costs and our pre-administration costs unpaid at the date of appointment can be ranked as an expense in the administrations
- 4 2 Pre-appointment time costs of c£69,000 were written off as they were not considered to be wholly relating to the appointment process
- 4 3 Pre-administration costs of £5,766 for Building and £17,298 for Construction were paid during the administration. The pre-administration costs were in respect of assisting management in the preparation of placing the Companies into administration
- 4 4 You will note from the SIP 9 tables attached at Appendix C that our time costs to date for the liquidations are £4,989 for Building and £42,859 for Construction. The time costs for Construction include £25,866 of unpaid administration costs at the date of the liquidation. You will also note from the receipts and payments accounts attached at Appendix A that we have drawn administrators' fees of £55,000 for Building and £40,105 for Construction during the liquidation
- 4 5 Background information regarding the fees of administrators can be found at www.insolvency-practitioners.org.uk (navigate via 'Regulation and Guidance' to 'Creditors Guides to Fees'). Alternatively, we will supply this information by post on request. Time is charged in units of 6 minutes
- 4 6 Pursuant to rule 4.127(5A) of the Insolvency Rules 1986, this basis applies also in the liquidation
- 4 7 In addition, we have drawn expenses of £5 from the administration of Construction as indicated in Appendix A and have expenses in the liquidations of Construction and Building to take in due course, as set out in Appendix B

5 Other expenses incurred by the joint liquidators

- 5 1 Appendix B shows statements of the remuneration charged by the joint liquidators in the period 24 September 2015 to 23 September 2016 and statements of expenses incurred in the period
- 5 2 Temple Bright LLP has been engaged by Construction to provide legal advice with regards to the novation of contracts mentioned in paragraph 3.10. Temple Bright LLP has been paid £17,095 in the period for legal advice in the administration and liquidation. Temple Bright LLP has incurred further costs of £1,475 which have not yet been paid
- 5 3 With the exception of legal costs mentioned above, all professional costs incurred during the period have been paid

Yours faithfully
for and on behalf of the above Companies

A handwritten signature in black ink, consisting of the letters 'NM' followed by a long, horizontal, wavy line.

Nigel Morrison
Joint Liquidator

Enc

ERH Construction Limited - in liquidation
 Joint Liquidators' receipts and payments account
 from 24 September 2015 to 23 September 2016

Receipts	Statement of Affairs (£)	Total (£)
Admin/Receivers Surplus		343,952 15
Stock/WIP		55,000 00
Book Debts		202,674 65
Bank/ISA InterestGross		143 23
Vat on Sales		19,741 12
HMRC - VAT received/paid		21,101 68
		<hr/>
		642,612 83
		<hr/>
Payments		
Administrators Fees		40,105 00
Administrators Expenses		4 50
Quantity Surveyors Fees		34,242 84
Legal Fees (1)		17,095 00
Statutory Advertising		84 60
Preferential Creditors (All)		30,179 39
Vat on Purchases		59,132 27
		<hr/>
		180,843 60
Balance - 23 September 2016		461,769 23
		<hr/>
Made up as follows		
Floating Current Acc		461,769 23
		<hr/>
		461,769 23
		<hr/>

E.R.Hemmings (Building) Limited - in liquidation
 Joint Liquidators' receipts and payments account
 from 24 September 2015 to 23 September 2016

Receipts	Statement of Affairs (£)	Total (£)
Admin/Receivers Surplus		115,001 07
Book Debts		19,777 96
Misc Refunds		123 75
Vat on Sales		10,428 78
HMRC - VAT received/paid		9,196 11
		<hr/>
		154,527 67
		<hr/>
Payments		
Administrators Fees		55,000 00
Quantity Surveyors Fees		2,771 83
Statutory Advertising		84 60
Vat on Purchases		27,223 67
		<hr/>
		85,080 10
Balance - 23 September 2016		<hr/>
		69,447 57
		<hr/>
Made up as follows		
Floating Current Account NIB		69,447 57
		<hr/>
		69,447 57
		<hr/>

B Remuneration charged and expenses incurred by the joint liquidators in the period

	Charged/incurred in period 24/09/2015 to 23/09/2016	Cumulative charged/incurred to 23/09/2016	Of which paid to 23/09/2016
	£	£	£
ERH Construction Limited			
Joint liquidators' fees:			
Time costs	42,859	42,859	Nil
Expenses	Nil	Nil	Nil
Professional fees:			
Craigdam Services Limited	34,243	34,243	34,243
Legal fees:			
Temple Bright LLP	18,570	18,570	17,095
	95,672	95,672	51,338
E.R.Hemmings (Building) Limited			
Joint liquidators' fees:			
Time costs	4,989	4,989	Nil
Expenses	18	18	Nil
Professional fees:			
Craigdam Services Limited	2,772	2,772	2,772
	7,779	7,779	2,772

C SIP 9 information

Introduction

The following information is provided in connection with the liquidators' remuneration and disbursements in accordance with SIP 9

Explanation of Grant Thornton UK LLP charging and disbursement recovery policies

Time costs

All partners and staff are charged out at hourly rates appropriate to their grade, as shown on the attached schedule. Details of the hourly charge-out rates are made available to creditors or committees at the time of fixing the basis of our fees. Support staff (ie secretaries, cashiers and filing clerks) are charged to the case for the time they work on it.

	From 01/07/14 to date
	£
Partners up to	740
Managers up to	470
Administrators up to	345
Assistants and support staff up to	230

Disbursements

Out of pocket expenses are charged at cost and mileage is charged at standard rates. VAT is added to disbursement charges as necessary.

ERH Construction Limited - E20597015 - SIP 9 TIME COST ANALYSIS

Transaction period 24/09/2015 to 23/09/2016

	Partner		Manager		Executive		Administrator		Total	
	Hrs	£	Hrs	£	Hrs	£	Hrs	£	Hrs	£ Avg Hry Rate
Administration and Planning	6 75	3,341 25	5 65	1,964 50	6 75	1,544 80	27 10	4,104 00	46 25	10,954 55
Creditors			2 00	660 00	15 58	4,476 70	39 85	4,088 00	57 43	9,224 70
Hiatus period										
Investigations			2 00	860 00	0 50	145 00	13 20	2,096 00	15 70	3,101 00
Pensions			0 40	208 00					40	208 00
Realisation of Assets			43 80	18,054 00			1 60	208 00	45 40	18,262 00
Taxation			0 30	111 00	1 00	280 00	7 35	708 00	8 65	1,109 00
Trading										
Total	6 75	3,341 25	54 15	21,857 50	23 83	6,458 50	89 10	11,204 00	173 83	42,859 25

Total fees billed to date (Time) . £

E.R.Hemmings (Building) Limited - E20597014 - SIP 9 TIME COST ANALYSIS

Transaction period 24/09/2015 to 23/09/2016

	Partner		Manager		Executive		Administrator		Total	
	Hrs	£	Hrs	£	Hrs	£	Hrs	£	Hrs	£ Avg Hrlly Rate
Administration and Planning	75	371.25	75	247.50	20	35.00	3.50	480.00	5.20	1,133.75 218.03
Creditors			50	165.00	6.50	1,885.00	9.05	888.00	16.05	2,938.00 183.05
Hiatus period										
Investigations					50	145.00			50	145.00 290.00
Pensions			70	364.00					70	364.00 520.00
Realisation of Assets										
Taxation					25	72.50	4.20	336.00	4.45	408.50 91.80
Trading										
Total	75	371.25	1.95	776.60	7.45	2,137.60	16.75	1,704.00	26.90	4,988.25 185.47

Total fees billed to date (Time) : £

ERH Construction Limited - In Liquidation**Costs incurred in the period 24 September 2015 to 23 September 2016**

TASKS	Incurred to date		
	Av Hrlly Rate	Hrs	£
STATUTORY AND ADMINISTRATIVE TASKS	237	46	10,955
File reviews Bank account administration (treasury) Maintenance of records Reports to creditors			
REALISATION OF ASSETS	402	45	18,262
Recovery of intercompany and contract novations Liaise with agents to value contracts Liaise with lawyers and obtain opinion from counsel			
CREDITORS	161	57	9,225
Correspondence with creditors Agree creditor claims			
INVESTIGATION	198	16	3,101
Prepare D Returns and attachments Liaise with insolvency service			
TAXATION	128	9	1,109
Tax compliance VAT compliance			
Pensions	520	0.40	208
Review statutory reporting requirements			
Total costs	247	174	42,859

Appendix C

E.R. Hemmings (Building) Limited - In Administration

Costs incurred in the period 24 September 2015 to 23 September 2016

TASKS	Incurred to date		
	Av Hry Rate	Hrs	£
STATUTORY AND ADMINISTRATIVE TASKS	218	5	1,134
File reviews Bank account administration (treasury) Maintenance of records Reports to creditors			
CREDITORS	183	16	2,938
Correspondence with creditors Agree creditor claims			
INVESTIGATION	290	1	145
Review D Returns and attachments			
TAXATION	92	4	409
Tax compliance VAT compliance			
Pensions	520	1	364
Review statutory reporting requirements			
Total costs	185	27	4,989

D An extract from the Insolvency Rules 1986 relating to creditors' rights to request additional information from the liquidator

Rule 4 49E edited for application to a progress report in a creditors' voluntary liquidation

- (1) If
 - (a) within the period mentioned in paragraph (2)
 - (i) a secured creditor, or
 - (ii) an unsecured creditor with the concurrence of at least 5% in value of the unsecured creditors (including the creditor in question), or
 - (b) with the permission of the court upon an application made within the period mentioned in paragraph (2), any unsecured creditor makes a request in writing to the liquidator for further information about remuneration or expenses set out in the progress report, the liquidator must, within 14 days of receipt of the request, comply with paragraph (3) except to the extent that the request is in respect of a matter which was previously included in a progress report.
- (2) The period referred to in paragraph (1)(a) is 21 days of receipt of the progress report
- (3) The liquidator complies with this paragraph by either -
 - (a) providing all of the information asked for, or
 - (b) so far as the liquidator considers that
 - (i) the time or cost of preparation of the information would be excessive, or
 - (ii) disclosure of the information would be prejudicial to the conduct of the liquidation or might reasonably be expected to lead to violence against any person, or
 - (iii) the liquidator is subject to an obligation of confidentiality in respect of the information,
 giving reasons for not providing all of the information
- (4) Any creditor, who need not be the same as the creditor who requested further information, may apply to the court within 21 days of -
 - (a) the giving by the liquidator of reasons for not providing all of the information asked for, or
 - (b) the expiry of the 14 days provided for in paragraph (1),
 and the court may make such order as it thinks just
- (5) Without prejudice to the generality of paragraph (4), the order of the court under that paragraph may extend the period of 8 weeks provided for in Rule 4 131(1B) by such further period as the court thinks just

**E An extract from the Insolvency Rules 1986 relating to
creditors' rights to challenge the liquidator's remuneration or
expenses if excessive**

Rule 4 131

- (1) Any secured creditor, or any unsecured creditor with either the concurrence of at least 10% in value of the creditors (including that creditor) or the permission of the court, may apply to the court for one or more of the orders in paragraph (4)
- (1A) Application by a creditor may be made on the grounds that -
 - (a) the remuneration charged by the liquidator,
 - (b) the basis fixed for the liquidator's remuneration under Rule 4 127, or
 - (c) expenses incurred by the liquidator,
 is or are, in all the circumstances, excessive or, in the case of an application under sub-paragraph (b), inappropriate
- (1B) The application must, subject to any order of the court under Rule 4 49E(5), be made no later than 8 weeks (or in a case falling within Rule 4 108, 4 weeks) after receipt by the applicant of the progress report or the draft report under Rule 4 49D, which first reports the charging of the remuneration or the incurring of the expenses in question ("the relevant report")
- (2) The court may, if it thinks that no cause is shown for a reduction, dismiss the application, but it shall not do so unless the applicant has had an opportunity to attend the court for a hearing, of which he has been given at least 5 business days' notice, but which is without notice to any other party
If the application is not dismissed under this paragraph, the court shall fix a venue for it to be heard, and give notice to the applicant accordingly
- (3) The applicant shall, at least 14 days before the hearing, send to the liquidator a notice stating the venue and accompanied by a copy of the application, and of any evidence which the applicant intends to adduce in support of it
- (4) If the court considers the application to be well-founded, it must make one or more of the following orders -
 - (a) an order reducing the amount of remuneration which the liquidator was entitled to charge
 - (b) an order fixing the basis of remuneration at a reduced rate or amount
 - (c) an order changing the basis of remuneration
 - (d) an order that some or all of the remuneration or expenses in question be treated as not being expenses of the liquidation
 - (e) an order that the liquidator or the liquidator's personal representative pay to the company the amount of the excess of remuneration or expenses or such part of the excess as the court may specify
 and may make any other order that it thinks just, but an order under sub-paragraph (b) or (c) may be made only in respect of periods after the period covered by the relevant report.
- (5) Unless the court orders otherwise, the costs of the application shall be paid by the applicant, and are not payable as an expense of the liquidation