

The Insolvency Act 1986

Statement of administrator's proposals

Pursuant to paragraph 49 of Schedule B1 to the Insolvency Act 1986
and Rule 2.25 of the Insolvency (Scotland) Rules 1986

Name of Company Rutherford Property Developments Ltd	Company number SC255121
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(a) Insert full name(s) and address(es) of administrator(s) We (a) Blair Carnegie Nimmo and Gary Steven Fraser of KPMG LLP, Saltire Court, 20 Castle Terrace, Edinburgh EH1 2EG

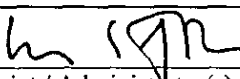
attach a copy of our proposals in respect of the administration of the above company.

A copy of these proposals was sent to all known creditors on

(b) Insert date

(b) 1 February 2010

Signed


Joint / Administrator(s)

Dated

1/2/10

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 made available to searchers.

	Tel
DX Number	DX Exchange

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





**Rutherford Property Developments Limited
(in administration)**

**Joint administrators' report to creditors
pursuant to Paragraph 49 of Schedule
B1 to
the Insolvency Act 1986**

1 February 2010

KPMG LLP

This report contains 13 pages

gsf/dcm/dmb/982



***Rutherford Property Developments Limited
(in administration)***

*Joint administrators' report to creditors pursuant to Paragraph 49 of Schedule B1 to
the Insolvency Act 1986
KPMG LLP*

Notice: About this Report

This Report has been prepared by Blair Carnegie Nimmo and Gary Steven Fraser, the Joint Administrators of Rutherford Property Developments Limited, solely to comply with their statutory duty to report to creditors under the Insolvency Rules 1986 on the progress of the administration, and for no other purpose. It is not suitable to be relied upon by any other person, or for any other purpose, or in any other context.

This Report has not been prepared in contemplation of it being used, and is not suitable to be used, to inform any investment decision in relation to the debt of or any financial interest in Rutherford Property Developments Limited.

Any estimated outcomes for creditors included in this Report are illustrative only and cannot be relied upon as guidance as to the actual outcomes for creditors.

Any person that chooses to rely on this Report for any purpose or in any context other than under the Insolvency Rules 1986 does so at its own risk. To the fullest extent permitted by law, the Joint Administrators do not assume any responsibility and will not accept any liability in respect of this Report to any such person.

Blair Carnegie Nimmo and Gary Steven Fraser are authorised to act as insolvency practitioners by Institute of Chartered Accountants in Scotland.

The Joint Administrators act as agents for Rutherford Property Developments Limited and contract without personal liability. The appointments of the Joint Administrators are personal to them and, to the fullest extent permitted by law, KPMG LLP does not assume any responsibility and will not accept any liability to any person in respect of this Report or the conduct of the administration.



Rutherford Property Developments Limited
(in administration)

*Joint administrators' report to creditors pursuant to Paragraph 49 of Schedule B1 to
the Insolvency Act 1986*
KPMG LLP

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1 Introduction

We, Blair Carnegie Nimmo and Gary Steven Fraser of KPMG LLP were appointed Joint Administrators of Rutherford Property Developments Limited ("Rutherford" or "the Company") on 7 December 2009.

We were appointed by the directors of the Company.

In accordance with paragraph 100 (2) of schedule B1 of the Insolvency Act 1986 the functions of the Joint Administrators may be exercised by either of or both the Joint Administrators.

In accordance with paragraph 49 of schedule B1 of the Insolvency Act 1986 we set out below our report to the creditors of the Company together with our proposals for achieving the purpose of the Administration and for the conduct of the Administration.

The report also includes certain information which is required to be provided to creditors in accordance with Rule 2.25 (1) of the Insolvency (Scotland) Rules 1986.

2 Statutory and other information

A summary of the statutory and other relevant information relating to the Company is set out on Appendix 1.

3 Background and events leading up to the appointment

We have set out below our understanding of the background to the Company and the events leading up to the date of our appointment based on information obtained during the course of the Administration to date.

3.1 Background

Rutherford was incorporated in September 2003 specifically to undertake residential property developments. The Company had ceased trading prior to our appointment. It had no employees and all work had been undertaken by contractors.

After undertaking several successful property developments, the Company acquired a site at Blackerstone Steadings, Abbey St. Bathans, Duns, which included a disused and derelict steadings building. The Company undertook the development of the site into four residential units for resale. The Company successfully completed the development but at significantly increased costs resulting from delays in the construction process. Around the time that the development was completed in early 2009, the residential property market slowed dramatically and the Company struggled to achieve sales of the units.

By mid 2009, the Company had completed, at a discount, one sale. As the properties lay empty, bank interest and other costs continued to accrue and in early December 2009,

with no interest being shown in the properties, bank support was withdrawn and the Company was placed into administration.

3.2 Reasons for insolvency

The directors of the Company have attributed the failure of the Company to the rapid downturn in the residential property market which occurred during the course of completing and selling the units at Blackerstone Steadings.

As a result of the downturn, the Company was unable to attract interest in the properties at a level sufficient to enable sales of the units at the development to be completed profitably. This resulted in pressure on the Company's cash flow, culminating in bank funding being withdrawn and, as a result, the Directors had no option but to place the Company into administration.

4 Objectives of the Administration

Paragraph 3(1) of Schedule B1 of the Insolvency Act 1986 sets out the three objectives of the Administration process. These are:

- a. rescuing the Company as a going concern; or
- b. achieving a better result for the Company's creditors as a whole than if the Company was wound up (without first being in Administration); or
- c. realising property in order to make a distribution to one or more secured or preferential creditors.

It was considered that the protection of Administration would allow the assets of the Company to be realised and achieve a better result for the Company's creditors as a whole than if the Company was wound up (without first being in administration). Consequently, the primary objective of the Administration is objective (b).

5 Events following the appointment including realisation of the assets

5.1 Initial review

Following our appointment, we met with the directors who provided us with the background to the Company, the development at Blackerstone Steadings, and the Company's financial position.

We invited Strutt & Parker, who had a previous involvement and understanding of the development, to tender for the appointment as selling agents and they have now been appointed.

We appointed a firm of quantity surveyors, Gordon Johnston Associates ("GJA") as property manager with a view to assessing and managing the necessary remedial works and overseeing maintenance of the development during the sales process.

GJA has brought to our attention a range of remedial works required across the remaining three units, together with general maintenance (i.e. garden, sewage treatment etc). We are currently awaiting a quote for the completion of these works.

5.2 Sale of the properties

It is our intention to market and sell each of the three properties individually. We have appointed Strutt & Parker to manage this process.

5.3 Realisation of other assets

We are not aware of any other assets owned by the Company.

5.4 Costs of realisation

Our time costs to 29 January 2010 are £4,230. Key areas where costs have been incurred are as follows:

- assessing, implementing and controlling the works required to bring the units to a saleable condition; and
- attending to all statutory matters associated with this type of insolvency.

A full analysis of the Administrators' costs is attached at Appendix 3 together with a creditors' guide to fees at Appendix 4.

6 Amounts payable to secured creditors, preferential creditors and the floating charge holder

6.1 Secured lender

National Westminster Bank plc ("the Bank") has a claim against the Company as at the date of the appointment of £1,444,019.90. It should be noted that interest continues to accrue on this balance.

6.2 Preferential creditors

The Company had no employees and no preferential claims are anticipated.

6.3 Floating charge

National Westminster Bank plc has a floating charge, granted by the Company on 6 December 2004 and registered 11 December 2004, in respect of all sums due to the Bank.

7 Summary of and commentary upon the Statement of Affairs

We have prepared an Estimated Statement of Affairs which is attached at Appendix 2 along with our comments. This has been prepared from information supplied by the directors of the Company. The directors have been requested to submit a formal statement of affairs but this has not yet been received.

It should be noted that the Estimated Statement of Affairs does not include a provision for the costs of asset realisation or the costs of administration.

8 Prescribed part of the Company's net property pursuant to Section 176A of the Insolvency Act 1986

The floating charge was granted after 15 September 2003. Therefore s.176A is applicable, which would allow a prescribed part of the Company's net property to be available for unsecured creditors.

The value of the Company's net property which would, but for s.176A, be available for the floating charge creditor is £nil. A prescribed part will not therefore be payable.

9 Creditors' meeting

Based on the information contained in the Estimated Statement of Affairs and on progress made since the date of Administration, the Joint Administrators estimate that the Company has insufficient property to enable a distribution to be made to unsecured creditors.

Therefore, in accordance with Paragraph 52 (1) (b) of Schedule B1 to the Insolvency Act 1986, the Joint Administrators do not propose to hold an initial creditors' meeting.

The Joint Administrators are, however, required to summon an initial creditors' meeting if it is requested:

- by creditors of the Company whose debts amount to at least 10% of the total debts of the Company;
- in the prescribed manner (detailed below); and
- in the prescribed period (detailed below).

In accordance with Rule 2.25(3) Insolvency (Scotland) Rules 1986, if the Joint Administrators are not requested to call a meeting within twelve days of the date of this report, the Proposals (excluding Proposals relating to the Joint Administrators' remuneration) will be deemed to have been approved by the creditors.

A request for an initial meeting of creditors must be made in writing to the Joint Administrators and include:

- a list of the creditors concurring with the request, showing the amounts of their respective debts in the Administration;
- from each creditor concurring, written confirmation of his concurrence; and
- a statement of the purpose of the proposed meeting.

10 **Joint Administrators' proposals**

The Joint Administrators propose the following:

- to continue to do all such things reasonably expedient and generally exercise all their powers as Joint Administrators as they, in their discretion, consider desirable in order to maximise realisations from the assets of the Company;
- to seek an extension of the administration period if deemed necessary by the Joint Administrators;
- to continue to realise the assets of the Company;
- that in the event that no creditors' committee is formed, the Joint Administrators' remuneration will be based upon time costs properly incurred at KPMG LLP time rates determined in accordance with Rule 2.39 of the Insolvency (Scotland) Rules 1986. They be authorised to draw fees on account from the assets of the Company together with disbursements. A copy of "A creditors' guide to administrators' fees – Scotland" is attached as Appendix 4;
- that the costs of KPMG LLP in respect of tax and VAT provided to the Joint Administrators be based upon time costs at KPMG LLP rates and shall be paid out of the assets of the Company;
- that the Joint Administrators be permitted to pay any realisations to preferential and secured creditors and then take the appropriate steps to dissolve the Company;
- that the Joint Administrators be discharged at the end of the Administration from liability in respect of any action of theirs as Joint Administrators pursuant to paragraph 98 (1) of schedule B1 of the Insolvency Act 1986 immediately following the registration of the notice given pursuant to paragraph 84 of schedule B1 of the Insolvency Act 1986; or
- alternatively, in the event that there are sufficient funds to make a distribution to unsecured creditors (or for any other reason), the Joint Administrators be permitted to move the Company from Administration to Creditors' Voluntary

Liquidation, and for the appointment of Blair Carnegie Nimmo and Gary Steven Fraser as Joint Liquidators of the Company without further recourse to creditors. In accordance with Paragraph 83 (7) of Schedule B1 to the Insolvency Act 1986 and Rule 2.47 of the Insolvency (Scotland) Amendment Rules 2003, creditors may nominate a different person as the proposed Liquidator, provided that the nomination is made after the receipt of the Proposals and before the Proposals are approved;

- that the Joint Administrators be discharged at the end of the Administration from liability in respect of any action of theirs as Joint Administrators pursuant to paragraph 98 (1) of schedule B1 of the Insolvency Act 1986 immediately following the registration of the notice given pursuant to paragraph 83 of schedule B1 of the Insolvency Act 1986.

11 Directors' conduct

We are required by Rules 3 and 4 of the Insolvent Companies (Reports on Conduct of Directors) (Scotland) Rules 1996 to submit a report or a return to the Department of Trade and Industry on the conduct of any person who has been a director or shadow director of the Company at any time in the three years immediately preceding our appointment.

We would be grateful to receive any comments that unsecured creditors or any other party may wish to make in order to assist in our investigations into the Company's affairs and in our preparation of comments for submission to the DTi. Such comments, if required, can be treated in the strictest confidence.

Gary S Fraser
KPMG LLP
Saltire court
20 Castle Terrace
Edinburgh
EH1 2EG

Blair C Nimmo
KPMG
Saltire Court
20 Castle Terrace
Edinburgh
EH1 2EG

1 February 2010

Appendix 1

Statutory and other information

EC Regulation

This Administration is a main proceeding under the EC Regulation on Insolvency Proceedings. Article 3 of the EC Regulation defines main proceedings and the Company is registered in Scotland, has its main centre of interest in Scotland and does not fall within one of the excepted categories. Consequently, the Administration is governed by the Insolvency Act 1986 and not any other European Union Member State's insolvency law.

Relevant court

Notice of the appointment by directors was lodged at the Court of Session on 7 December 2009.

Secured lenders

The table below details the fixed and floating charge securities.

Figure 1: Security details

Charge and debenture holder	Fixed/Floating Charge	Charge/ debenture dated	Charge/ debenture registered
National Westminster Bank plc	Floating	6 December 2004	11 December 2004
National Westminster Bank plc	Fixed	7 December 2005	19 December 2005

Incorporation

The Company was incorporated on 1 September 2003.

Registered office and trading address

The Company's former registered office was situated at:

Chestnut Lodge
Chirnside Station
Duns
TD11 3LJ



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As part of the Administration process, the registered office has been changed to:-

c/o KPMG LLP
Saltire Court
20 Castle Terrace
Edinburgh
EH1 2EG

Company number

The company number is SC255121.

Directors

The directors at the date of our appointment were:

Deborah Lynsey Rutherford	Appointed 9 September 2003
Simon Gray Rutherford	Appointed 9 September 2003

Accountant

The accountants were:

Rennie Welch LLP
27-29 Shedden Park Road
Kelso
TD5 7AL

Associated companies

We do not believe that there are any associated companies.

Financial information

A summary of the Company's most recent available financial information is set out at Figure 2 below.

Figure 2 : Balance sheet

	As at 30 September 2007 £ (Unaudited)
Fixed assets	
Tangible assets	10,340
Current assets	
Stocks	1,122,133
Debtors	37,598
Cash at bank and in hand	4,847
	<hr/>
	1,164,578
Creditors amounts falling due within one year	(1,126,917)
	<hr/>
Net current assets	37,661
	<hr/>
Total assets less current liabilities	48,001
Creditors amounts falling due after more than one year	(155,648)
	<hr/>
Deficiency of assets	(107,647)
	<hr/>
Represented by	
Loans and other debts due to members	
Other amounts	(107,647)
	<hr/>
Total members' interests	(107,647)
	<hr/>
Source: Companies House	

Appendix 2

Estimated Statement of Affairs

Estimated Statement of Affairs as at 7 December 2009

	Notes	Book value £	Estimated to realise £
Assets specifically secured			
Heritable property	1	1,122,133	817,500
Less: amount due to secured creditor	2	(1,444,020)	(1,444,020)
			<u>(626,520)</u>
Total assets available to preferential creditors			-
Preferential creditors	3		-
Available to the floating charge holder			-
Floating charge creditor	4		(626,520)
Available to the unsecured creditor			(626,520)
Unsecured creditors	5		(203,502)
Deficit as regards creditors			<u>(830,022)</u>

Appendix 2 (continued)

Notes to the Estimated Statement of Affairs as at 7 December 2009

1. Heritable property

The directors have estimated that £817,500 will be realised from the three remaining properties and Blackerstone Steadings. We have a valuation from Strutt & Parker, but due to the commercially sensitive nature of this information, cannot disclose the values whilst the properties are marketed for sale.

2. Secured lender

National Westminster Bank plc hold standard securities over the heritable property.

3. Preferential creditors

No preferential claims have been received by the Company.

4. Floating charge holders

National Westminster Bank Plc ("the Bank") has a floating charge, granted by the Company on 6 December 2004 and registered 11 December 2004, in respect of all sums due to the Bank. The outstanding balance of £626,520 is the estimated short fall to National Westminster Bank plc under its standard securities over the Development properties.

5. Trade creditors

The directors estimate that trade creditors of the Company amount to £3,502.63. We have asked all known creditors to submit a Statement of Claim to enable us to correctly determine the level of unsecured creditors at the date of administration.

A loan of £200,000 was made to the company, which we understand is unsecured.

6. Costs of administration

The Estimated Statement of Affairs does not make any provision for the costs of the administration.

7. Other assets

We are not aware of any other assets.



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(in administration)*

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the Insolvency Act 1986

KPMG LLP

Appendix 3

Administrators' time costs and disbursements

Rutherford Property Developments Limited (in administration)

SIP 9 Analysis for the period 07/12/09 to 01/02/2010

Grade of staff	Partner / Director	Manager	Administrator	Support	Total hours	Time cost	Average hourly rate
Charging rate £ per hour	440 - 515	320 - 405	165 - 225	105			
General							
Books and records			0.20		0.20	£45.00	£225.00
					0.20	£45.00	
Shareholders/Bankrupt							
General correspondence			1.00		1.00	£225.00	£225.00
					1.00	£225.00	
Statutory and compliance							
Appointment and related formalities		1.00	2.00		3.00	£855.00	£285.00
Bonding and bordereau			0.25		0.25	£56.25	£225.00
Checklist & reviews			0.40		0.40	£90.00	£225.00
Strategy documents			0.20		0.20	£45.00	£225.00
					3.85	£1,046.25	
Creditors and claims							
General correspondence			0.50		0.50	£112.50	£225.00
Statutory reports		0.40	2.00		2.40	£512.00	£255.00
					2.90	£724.50	
Directors							
Correspondence with directors		0.10	0.25		0.35	£96.75	£276.43
					0.35	£96.75	
Asset Realisation							
Freehold Property		4.00	1.20		5.20	£1,890.00	£363.46
					5.20	£1,890.00	
Trading							
Cash & profit projections & strategy		0.50			0.50	£202.50	£405.00
					0.50	£202.50	£405.00
Total in period					14.00	£4,230.00	£266.81



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Appendix 4

A creditors' guide to administrators' fees – Scotland

A creditors' guide to fees can be found at:

https://www.r3.org.uk/uploads/sip/SIP9%20_Scotland_%20%201-4-2007.pdf,

If you are unable to access this guide and would like a copy, please contact David Begley
on 0131 527 6954.