

The Insolvency Act 1986

## Administrator's progress report

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

Name of Company

Rutherford Property Developments Limited

Company number

SC255121

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

I / We (a) Blair Carnegie Nimmo and Gary Steven Fraser of KPMG LLP 20  
Castle Terrace Edinburgh EH1 2EG

administrator(s) of the above company attach a progress report for the period

from

(b) 7 December 2009

to

(b) 6 June 2010

(b) Insert dates

Signed

Joint / Administrator(s)

Dated

13 / 7 / 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 visible to searchers of the public record

	Tel
DX Number	DX Exchange

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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COMPANIES HOUSE

THURSDAY



Rutherford Property  
Developments Limited  
(in administration)

Joint Administrators'  
progress report to creditors  
pursuant to Rule 2.38 of the  
Insolvency Rules (Scotland)  
1986

KPMG LLP

13 July 2010

*This report contains 8 pages*

bcn/gsf/dcm/dmb



## 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.

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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 ("RPDL") or ("the Company") pursuant to the lodging of a notice of appointment of administrators by the holder of a qualifying floating charge at the Court of Session in Edinburgh on 7 December 2009.

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 Rule 2.38 of the Insolvency (Scotland) Rules 1986 we set out our first six monthly progress report.

Additional statutory information is set out in Appendix 1.

## 2 Progress of the administration to 6 June 2010

### 2.1 Sale of properties

At the date of our appointment as Joint Administrators, RPDL held three residential properties which it had developed from a disused farm steading at Blackerstone Steadings, Abbey St Bathans, Duns ("the Development"). The Development comprises four units (units 1-4), one of which (unit 2) was sold prior to the appointment of the Joint Administrators.

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.

We also appointed Strutt and Parker LLP ("SP") as selling agent to market and oversee the sales process.

GJA successfully completed all remedial works necessary at the Development and as at 6 June 2010 SP have been able to complete the sale of units 3 and 4. The final unit, unit 1, has been sold in the period since 6 June 2010. Details of the sales are included at appendix 5. Total realisations of £818,000 are in line with estimated realisations included in Appendix 2 of our previous report to creditors, which predicted sales income of £817,500.

Total costs of realisations are yet to be finalised, but are likely to be slightly lower than previously expected due to cost savings achieved. The return to creditors will therefore be slightly better than previously projected.

## 2.2 Statutory investigations

In accordance with the Joint Administrators' statutory duties, an investigation into the conduct of the directors has been undertaken. Our report has been submitted to the Dti.

## 3 Estimated outcome for creditors

### 3.1 Secured creditors

National Westminster Bank plc ("the Bank") had 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.

The dividend available to the Bank under its security will depend upon the exact costs incurred in the administration period. It is likely that the return will be in the region £740,000 to £760,000. This will leave a shortfall to the Bank of £676,000 to £696,000.

### 3.2 Preferential creditors

The Company had no employees. No preferential claims have come to light and none are anticipated.

### 3.3 Unsecured creditors

As a result of the significant shortfall to the secured creditor, it is unlikely that a dividend will be available to the unsecured creditors. As detailed below, there will be no prescribed part.

## 4 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.

## 5 Administrators' remuneration

In the period from the Joint Administrators' appointment to 6 June 2010, time costs of £36,944.25 have been incurred. This is made up of 86.3 hours at an average of £427.84 per hour. This includes costs from all KPMG LLP in-house specialists used on this case. A full analysis of these costs, prepared in accordance with the provisions of SIP 9, is

attached at Appendix 2 and 3. The Joint Administrators have not drawn any remuneration or expenses to date.

Please note that all staff who have worked on this assignment, including cashiers and secretarial staff have charged time directly to the assignment and are included in the analysis of time spent. The cost of staff employed in central administration functions is not charged directly to this assignment but is reflected in the general level of charge out rates.

## 6 Future conduct of the administration

The Joint Administrators will continue to manage the business and affairs of the Company.

The key remaining issues to be dealt with are:

- finalise all remaining costs of the administration and settle administration accounts
- finalise all accounting issues
- deal with case completion and closure
- any other matters arising.

Upon completion of these remaining issues, we will take the necessary steps to end the administration.

## 7 End of the administration

The administration automatically ends on 6 December 2010, although it can be extended by application to the Court or creditors. It is unlikely that we will require to extend the period of the administration, however, should this become necessary, we will write to all known creditors of the Company advising of the situation.

It is likely that the Company will be dissolved following the conclusion of the administration.

Blair Carnegie Nimmo  
Joint Administrator  
KPMG LLP  
Saltire Court  
20 Castle Terrace  
Edinburgh  
EH1 2EG

Gary Steven Fraser  
Joint Administrator  
KPMG LLP  
Saltire Court  
20 Castle Terrace  
Edinburgh  
EH1 2EG

## Appendix 1 – Statutory information

Company Name	Rutherford Property Developments Limited
Date of Incorporation	1 September 2003
Company number	SC255121
Previous registered office	Chestnut Lodge Chirnside Station Duns TD11 3LJ
Present registered office	Saltire Court 20 Castle Terrace Edinburgh EH1 2EG
Authorised share capital	50 ordinary A redeemable shares of £1 each 50 ordinary B shares of £1 each
Called up share capital	50 ordinary A redeemable shares of £1 each 50 ordinary B shares of £1 each
Shareholders	<div style="text-align: right;">Detail</div> Deborah L Rutherford                      25 ordinary B shares Alan G Rutherford                      25 A redeemable ordinary shares Simon G Rutherford                      25 ordinary B shares Roslyn AM Rutherford                      25 A redeemable ordinary shares
Directors	Deborah L Rutherford Simon G Rutherford  Other directors during the three year period to the date of our appointment:  Alan G Rutherford Roslyn AM Rutherford
Company secretary	Deborah L Rutheford





## Appendix 2 - Joint Administrators' time costs from 25 June to 12 January 2010

07/12/2009 to 06/06/2010

	Partner/ Director	Manager	Admin- istrator	Support	Total hours	Time cost	Average hourly rate
Administration & planning							
Cashiering							
General (Cashiering)			1.20	2.70	3.90	£700.50	£179.62
Reconciliations (& IPS accounting reviews)			0.20		0.20	£65.00	£325.00
General							
Books and records			0.30	1.20	1.50	£235.50	£157.00
Fees and WIP			0.30		0.30	£124.50	£415.00
Statutory and compliance							
Appointment and related formalities			21.00		21.00	£8,715.00	£415.00
Checklist & reviews			9.60		9.60	£3,984.00	£415.00
Tax							
Initial reviews - CT and VAT		0.25	1.70		1.95	£726.25	£372.44
Creditors							
Committees							
Reports	1.00				1.00	£825.00	£825.00
Creditors and claims							
General correspondence			5.00		5.00	£2,075.00	£415.00
Secured creditors			4.00		4.00	£1,660.00	£415.00
Statutory reports			19.50	1.90	21.40	£8,311.00	£388.36
Investigation							
Directors							
Statement of affairs			3.00		3.00	£1,245.00	£415.00
Realisation of assets							
Asset Realisation							
Freehold property		13.50			13.50	£8,277.50	£613.15
Total in period					86.35	£36,944.25	£427.84



Appendix 3 – Charge Out Rates and Joint Administrators' expenses  
KPMG charge out rates as at 6 June 2010

Rutherford Property Developments Limited (in administration)

Grade	Hourly rate from 1 October 2008 onwards £
Partner / Director	400 to 465
Managers	290 to 365
Administrators	150 to 205
Support	95



## Appendix 4 – A creditor's guide to administrator's 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](https://www.r3.org.uk/uploads/sip/SIP9%20Scotland%20%201-4-2007.pdf),  
however, if you are unable to access this guide and would like a copy please  
contact Steven Morton on 0131 527 6937.



*Rutherford Property Developments Limited (in administration)*  
*Joint Administrators' progress report to creditors pursuant to Rule 2.38 of the Insolvency*  
*Rules (Scotland) 1986*  
*KPMG LLP*  
*13 July 2010*

## Appendix 5 – Receipts and Payments account as at 6 June 2010

**Rutherford Property Developments  
(In Administration)**

**Administrators' Abstract Of Receipts And Payments  
To 06 June 2010**

<b>RECEIPTS</b>	<b>Total (£)</b>
Miscellaneous income	102.51
Freehold property	544,150.00
Bank interest, gross	0.02
Floating ch. VAT rec'able	808.99
	<hr/>
	545,061.52
	<hr/>
<b>PAYMENTS</b>	
Sub contractors	6,262.00
Heat & light	258.49
Insurance	2,381.40
Repairs and maintenance	1,930.95
Sundry expenses	15.00
Commission on sales	6,812.50
Advertising	820.00
Bank interest, gross	0.01
Specific bonds	10.00
Floating ch. VAT rec'able	2,778.75
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	21,269.10
Balances in Hand	523,792.42
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	545,061.52
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