

The Insolvency Act 1986

## Administrator's progress report

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

Name of Company  Horizon (Lochend) LLP	Company number  SQ301119
--	--------------------------------

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

I / We (a) Blair Carnegie Nimmo and Gary Steven Fraser  
c/o KPMG LLP, Saltire Court, 20 Castle Terrace, Edinburgh, EH1 2EG

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

(b) Insert dates

from	to
(b) 22 March 2013	(b) 21 September 2013

Signed   
Joint Administrator

Dated 18/10/13

### Contact Details:

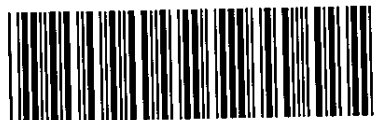
You do not have to give any contact information in the box opposite but if you do, it will help Companies House to contact you if there is a query on the form. The contact information that you give will be visible to searchers of the public record

	Tel
DX Number	DX Exchange

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

Companies House, 37 Castle Terrace, Edinburgh EH1 2EB  
135 Edinburgh / LP 4 Edinburgh-2

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\*S2JBAM54\*

19/10/2013

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COMPANIES HOUSE



**Horizon (Lochend) LLP  
(in administration)**

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

**18 October 2013**

**KPMG LLP**

**18 October 2013**

***This report contains 13 Pages***

**gsf/gp/lf**



*Horizon (Lochend) LLP  
(in administration)*

*Joint Administrators' progress report to creditors pursuant to Rule 2.38 of  
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KPMG LLP*

*18 October 2013*

## **Notice: About this Report**

This Report has been prepared by Blair Carnegie Nimmo and Gary Steven Fraser, the Joint Administrators of Horizon (Lochend) LLP, solely to comply with their statutory duty under Rule 2.38 of the Insolvency (Scotland) Rules 1986 to provide the creditors an update 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 Horizon (Lochend) LLP.

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 Rule 2.38 of the Insolvency (Scotland) Rules 1986 does so at their 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. Blair Carnegie Nimmo and Gary Steven Fraser are authorised to act as insolvency practitioners by the Institute of Chartered Accountants of Scotland. The Joint Administrators act as agents for Horizon (Lochend) LLP 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 Horizon (Lochend) LLP ("Horizon" or "the LLP") on 22 September 2009.

We were appointed by the members of the LLP.

In accordance with Rule 2.38 of the Insolvency (Scotland) Rules 1986 we set out below our latest six monthly progress report.

The receipts and payments account for the period 22 March 2013 to 21 September 2013 is attached at Appendix 2. This shows funds in hand totalling £551.37.

## **2 Progress to date including realisation of assets**

### **2.1 Sale of the properties**

As previously reported, at the time of our appointment Horizon owned the following property assets at Lochend Park, Hawkhill Avenue, Edinburgh, EH7 6BY:

- a Phase 1 development of 52 flats at blocks 13, 15 and 17 Lochend Park View, Edinburgh. 19 of the flats were sold prior to our appointment leaving 33 owned by the LLP which were unoccupied;
- an adjacent Phase 2 site which the LLP planned to develop on completion of the Phase 1 site. The Phase 2 site had some of the foundations in place and was hoarded off.

Following a tender process we appointed Rettie & Co to market and sell all 33 flats owned by the LLP and the Phase 2 site.

#### **2.1.1 Phase 1**

All remedial works were completed at the 33 flats and building warrants and guarantees subsequently obtained. Trinity Factors were appointed as factors to all 3 blocks at the development.

We revised our sales strategy in March 2012 when 14 flats remained to be sold. Lindsays were appointed to market the properties as individual flats. All flats have now been sold realising £4,584,766.



#### **2.1.2 Phase 2**

An acceptable offer for the Phase 2 development site was received and the sale concluded on 15 March 2013 for £500,000.

#### **2.2 Other assets**

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

#### **2.3 Investigation matters**

In accordance with our statutory obligations we have submitted our report to the Insolvency Service following our investigation of the LLP's affairs prior to our appointment. The content of this report is confidential and cannot be disclosed to creditors or to any other third parties.

### **3 Amounts payable to secured creditors, preferential creditors and the floating charge holder**

#### **3.1 Secured lenders**

Bank of Scotland plc ("the Bank") has a secured claim against the LLP totalling £8,311,600. It should be noted that interest continues to accrue on this balance.

Mathon plc ("Mathon") has a secured claim against the LLP totalling £1,549,294. Mathon's standard security and floating charge were created and registered prior to the Banks, however when the Bank's securities were created and registered there was a ranking agreement entered into whereby:

- The Bank's fixed charge ranks first to the extent of their "Priority debt" – up to £8 million;
- The Bank's floating charge ranks second to the extent of the balance of the Priority debt; and
- Then Mathon's debt ranks.

The Bank is therefore the first ranking chargeholder.

Bryan Jackson and Anne Buchanan of PKF LLP were appointed Joint Administrators of Mathon on 17 February 2010. Prior to this, Mathon's loan book was assigned to Heather Capital Limited ("Heather").



Paul Duffy of Ernst & Young LLP was appointed Provisional Liquidator of Heather on 2 March 2010. Heather discharged its standard security held over the properties owned by the LLP in July 2010 to allow the flat sales to take place.

### **3.2 Preferential creditors**

The LLP has no preferential creditors that we are aware of.

### **3.3 Floating charges**

As noted above, the Bank and Mathon both hold bond and floating charges over all of the business and assets of the LLP.

## **4 Prescribed part of the LLP's net property pursuant to Section 176A of the Insolvency Act 1986**

The floating charges held by the funders were granted after 15 September 2003 and therefore s.176A is applicable and, should realisations allow, there would be a Prescribed Part of the LLP's net property available for unsecured creditors.

However, the availability of a distribution via a Prescribed Part is directly dependent on the floating charge realisations. In this case, all assets are subject to a fixed charge security and a Prescribed Part will not be available to unsecured creditors.



## 5 Dividend prospects for creditors of the LLP

Given the level of the secured lenders' debt and the sales value of the properties, there will be no distribution to unsecured creditors.

It is also estimated that no recovery will be made by Mathon/Heather.

## 6 Creditors' meeting

In accordance with Paragraph 52 (1) (b) of Schedule B1 to the Insolvency Act 1986, the Joint Administrators elected not to hold an initial meeting of the creditors of the LLP on the basis that insufficient funds will be realised to enable a distribution to be made to unsecured creditors.

I can confirm that we did not receive any requests from creditors of the LLP to summon an initial meeting of creditors.

## 7 Joint Administrators' fees

I enclose, at Appendix 3, an analysis of our time and costs properly incurred in the period from 22 March 2013 to 21 September 2013 in attending to the significant amount of work required in this case. In this period, a total of 92 hours were spent by our firm's staff in relation to the activities listed below at a total cost of £13,140.

Key areas where costs have been incurred are, *inter alia*, as follows:-

- liaising with Lindsays and the secured lender regarding offers received for the residential properties and correspondence, thereafter, with the solicitors acting on behalf of the Joint Administrators to sell the flats;
- liaising with Rettie & Co regarding the sale of phase 2;
- liaising with the open cover insurers acting on behalf of the Joint Administrators to ensure that appropriate cover remained in place at all times;
- seeking advice, as appropriate, from our specialist tax and VAT advisers in relation to the financial position of the LLP;
- undertaking all statutory and administrative matters as required;
- corresponding with the secured lenders;
- dealing with creditor correspondence and queries; and





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KPMG LLP  
18 October 2013*

- undertaking all cashiering requirements including reconciling the administration bank accounts.

I would advise that the Joint Administrators' fees and disbursements are subject to approval by the secured lenders, as appropriate.

For your information, I would advise that a creditors' guide to fees can be found at:-

[http://www.r3.org.uk/uploads/sip/SIP9%20 Scotland %20%201-4-2007.pdf](http://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 Lianne Fraser on 0131 527 6620.

## **8 Extension to the initial period of appointment**

Pursuant to Paragraph 76 (1) of Schedule B1 to the Insolvency Act 1986, the Administration was scheduled to automatically end on 21 September 2010, one year after the granting of the Administration order. An extension of six months to 21 March 2011 was granted by the secured lender. Further extensions of twelve months to 21 March 2012, 21 March 2013 and 21 March 2014 were subsequently granted by the Court.

As all the properties have been sold, it is the Joint Administrators' intention for the Administration to automatically end on 21 March 2014 once the remaining matters, detailed below, have been dealt with.



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## 9 Other matters

The remaining matters requires to be dealt with in the Administration include:-

- attending to all statutory aspects of the Administration process, and
- distributing remaining funds to the secured lender, as appropriate, once all statutory aspects have been dealt with.

We will endeavour to finalise the remaining outstanding matters in the Administration as quickly as possible.

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

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

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## Appendix 1

### Statutory and other information



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## **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 LLP 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 the members was lodged at the Court of Session in Edinburgh on 22 September 2009.

### **Incorporation**

The LLP was established on 7 November 2006. The LLP number is SO301119.

### **Extensions to initial period of appointment**

An extension of six months to 21 March 2011 was granted by the secured lenders. Further extensions of twelve months to 21 March 2012, 21 March 2013 and 21 March 2014 were subsequently granted by the Court.

### **Registered office and trading address**

The LLP's former registered office was situated at:-

7-11 Melville Street  
Edinburgh  
EH3 7PE

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

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

The LLP traded from premises at:

Lochend Park  
Hawkhill Avenue  
Edinburgh  
EH7 6BY



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## Appendix 2

**Administrators' receipts and payments accounts for the period from  
22 March 2013 to 21 September 2013**

Horizon (Lochend) LLP  
(In Administration)  
Administrators' Abstract of Receipts & Payments

Statement of Affairs	From 22/03/2013 To 22/09/2013	From 22/09/2009 To 22/09/2013
<b>FIXED CHARGE ASSETS</b>		
Freehold property	335,310.00	5,084,766.00
Reservation Fees	NIL	5,250.00
	<u>335,310.00</u>	<u>5,090,016.00</u>
<b>FIXED CHARGE COSTS</b>		
Administrators' fees	75,000.00	200,000.00
Administrators' expenses	86.34	260.23
	<u>(75,086.34)</u>	<u>(200,260.23)</u>
<b>FIXED CHARGE CREDITORS</b>		
Fixed charge creditor	1,108,000.00	4,408,000.00
	<u>(1,108,000.00)</u>	<u>(4,408,000.00)</u>
<b>ASSET REALISATIONS</b>		
279.00 Cash at bank	NIL	279.34
	<u>NIL</u>	<u>279.34</u>
<b>OTHER REALISATIONS</b>		
Bank interest, gross	49.48	1,036.04
Bank interest, net of tax	85.22	(54.62)
Sundry refunds	126.79	126.79
Trading Surplus/(Deficit)	(9.54)	(9.54)
	<u>251.95</u>	<u>1,098.67</u>
<b>COST OF REALISATIONS</b>		
Administrators' expenses	86.34	NIL
Agent Fees - viewings	NIL	(1,755.00)
Agents'/Valuers' fees	(7,150.60)	(126,728.87)
Agents'/Valuers' fees (2)	(1,412.50)	(3,293.94)
Legal fees	(34,875.55)	(56,889.68)
Legal fees (2)	(3,176.28)	(4,972.70)
Security Costs	NIL	(27,550.20)
Telephone/Telex/Fax	NIL	(63.02)
Heat & light	(3,994.60)	(13,879.79)
Storage costs	(4.90)	(78.55)
Statutory advertising	NIL	(299.45)
Factor Charges	NIL	(34,355.21)
Rates	NIL	(719.00)
Other property expenses	NIL	(163,422.92)
Insurance of assets	NIL	(21,181.21)
Bank charges	(20.00)	(694.76)
	<u>(50,548.09)</u>	<u>(455,884.30)</u>
<b>FLOATING CHARGE CREDITORS</b>		
(8,000,000.00) Floating charge	NIL	NIL
	<u>NIL</u>	<u>NIL</u>
<b>UNSECURED CREDITORS</b>		
(1,020,334.00) Trade & expense	NIL	NIL
	<u>NIL</u>	<u>NIL</u>
<u>(9,020,055.00)</u>	<u>(898,072.48)</u>	<u>27,249.48</u>

REPRESENTED BY

Floating ch. VAT rec'able	7,889.88
Floating charge current	551.37
Floating ch. VAT control	18,808.23
	<hr/>
	27,249.48
	<hr/>



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## **Appendix 3**

**Joint Administrators' time costs for the period from  
22 March 2013 to 21 September 2013**



Horizon (Lochend) LLP (in administration)  
Joint Administrators' time costs  
22/03/2013 to 21/09/2013

	Partner / Director	Manager	Administrator	Support	Total hours	Time cost	Average hourly rate
<b>Administration &amp; planning</b>							
Cashiering							
General (Cashiering)			4.20	2.50	6.70	£835.50	£124.70
General							
Books and records			0.30		0.30	£31.50	£105.00
Fees and WIP		1.00	2.10		3.10	£424.50	£136.94
Statutory and compliance							
Checklist & reviews		2.00	0.60		2.60	£487.00	£187.31
Closure and related formalities	2.30	3.00			5.30	£1,347.50	£254.25
Reports to debenture holders	0.20	9.00			9.20	£1,865.00	£202.72
Tax							
Post appointment VAT			1.00		1.00	£105.00	£105.00
<b>Creditors</b>							
Creditors and claims							
General correspondence			1.40		1.40	£195.00	£139.29
Secured creditors			5.00		5.00	£525.00	£105.00
Statutory reports		2.00	6.00		8.00	£1,030.00	£128.75
<b>Realisation of assets</b>							
Asset Realisation							
Cash and investments			5.00		5.00	£525.00	£105.00
Freehold property	1.90	3.00	38.80		43.70	£5,663.50	£129.60
Open cover insurance			1.00		1.00	£105.00	£105.00
<b>Total in period</b>					<b>92.30</b>	<b>£13,139.50</b>	<b>£142.36</b>