



**Thayer Properties Limited**

**– In Creditors' Voluntary Liquidation**

**Liquidators' progress report to members and  
creditors for the period 1 November 2012 to 31  
October 2013**

**13 December 2013**

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# **1. Liquidators' progress report to members and creditors for the period 1 November 2012 to 31 October 2013**

## **Introduction**

On 1 November 2012, Thayer Properties Limited ("the Company") moved into Creditors' Voluntary Liquidation following the conclusion of the Administration on the same day. DA Howell, MJA Jervis and AV Lomas were appointed as Joint Liquidators ("the Liquidators").

In accordance with Rule 4.49C of the Insolvency Rules 1986 ("IR86"), this is the Liquidators' progress report to members and all known creditors.

Attached at Appendix A is a summary of the financial information relating to the Liquidation.

## **Change of Liquidator**

Upon an application to the High Court of Justice ("the Court"), an order was made on 22 March 2013 that GE Bruce and JG Parr be appointed Joint Liquidators and that DA Howell and MJA Jervis cease to be Joint Liquidators of the Company.

The Court also ordered that the former Joint Administrators shall be released from all liability pursuant to the relevant sections in the Insolvency Act 1986 in respect of their acts and omissions and otherwise in respect of their conduct as administrators of the Company and that such release would take effect 56 days after the date of the interim report previously sent to creditors.

The Liquidators circulated an interim report on 20 May 2013, in respect of the application for GE Bruce and JG Parr to be appointed as Joint Liquidators and that DA Howell and MJA Jervis cease to be Joint Liquidators of the Company.

## **Asset realisations**

During the Liquidation, the following assets have been realised:-

- Cash balances:

On completion of the Administration, surplus funds of approximately £3.2m were released to the Liquidators.

- Sale of tax losses:

Total realisations from the sale of tax losses to group companies during the period are £525k.

- Distribution from Lehman Brothers International (Europe) (in Administration) ("LBIE"):

On 31 January 2013, the Company entered into a claims determination deed with LBIE, whereby LBIE admitted the Company's claim for c.£18K. The Company agreed with LBIE to receive a one-off dividend from LBIE's estate. £16k has been received in settlement of the Company's claim against LBIE.

- Distribution from Eldon Street Holdings Limited ("ESH"):

The Company's claim against ESH was admitted for dividend purposes at £204,769,129. A first interim dividend of £24,572,295, representing a dividend of 12p in the £, was paid by ESH to the Company on 28 October 2013. The quantum and timing of future dividends from ESH is currently uncertain.

- Distribution from Lehman Commercial Paper Inc ("LCPI"):

As advised during the Administration, Thayer's claim against LCPI has been admitted at \$13,360. During the reporting period, the Company received a third and fourth distribution from LCPI of approximately £1.7k and £1.2k, respectively.

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- Assets still to be realised:

The Company's remaining assets include inter-company debts, principally from ESH, and an investment in a subsidiary company.

### **Receipts and payments account**

An account of the Liquidators' receipts and payments for the period from 1 November 2012 to 31 October 2013 is shown in Section 2.

The receipts and payments account details expenses met from funds in the Liquidation for the period to 31 October 2013.

The IT costs incurred during the period are Thayer's contribution to the production and running of the Entity Prioritisation Model ("EPM"), the cost of which has been incurred by Lehman Brothers International (Europe) and reapportioned accordingly. The EPM has been used for considering options in respect of the pensions issue.

### **Outcome for Creditors**

- Unsecured creditors:

The Statement of Affairs prepared by the directors estimated that the claims of unsecured creditors would be \$400,920,907. Following receipt of the interim dividend from Eldon Street Holdings Limited ("ESH"), the Liquidators now consider that there are sufficient funds in the Liquidation to enable a dividend to be paid. The process to pay a dividend will be commenced shortly.

As advised in the Liquidators' interim report, the Upper Tribunal's decision not to grant the strike-out application that was brought by Thayer and 36 other entities was being appealed. The Court of Appeal issued its judgment on 21 June 2013, dismissing the appeal. Accordingly, the risk of a Financial Support Direction ("FSD") being imposed on Thayer remains.

During the period covered by this report, Thayer joined with the other 36 entities to establish a collective reserve for a possible FSD liability. However, it was not possible to reach agreement with the pension scheme trustees on the operation of this reserve, and it was therefore not brought into full effect. Following this, Thayer is participating in a court process which may assist in determining whether the entities could make a collective reserve or whether they will need to reserve separately.

The Liquidators continue to monitor the pensions issues closely.

### **Investigations**

The Liquidators have reviewed the affairs of the Company prior to Liquidation and have also considered the points raised by creditors, if any, in discharging their duties under the Company Directors' Disqualification Act 1986.

Creditors are reminded that the Liquidators have a statutory obligation to consider the directors' conduct and to submit a return/report to the Insolvency Service. The Liquidators can confirm that they have complied with this requirement.

### **Professional advisers**

For ongoing matters, the Liquidators have retained the professional advisers that were engaged in the Administration as shown below.

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Name of firm / organisation	Service provided	Reason selected	Basis of fees
Linklaters LLP	Legal advice	Specialist insolvency and industry knowledge	Time costs

The Liquidators' choice is based upon their perception of the advisers' experience and ability to perform this type of work, their knowledge of the complexity and nature of the assignment and the basis of the fee arrangement with them. The Liquidators continue to review the fees charged and remain satisfied that they are reasonable in the circumstances of this case.

### Former Administrators' and Liquidators' remuneration

In accordance with resolutions passed in the Administration at the initial creditors meeting held on 18 October 2010, the former Administrators' fees were fixed under Rule 2.106 IR86 by reference to time properly given by the Administrators' and their staff in attending to matters arising. In accordance with Rule 4.127 IR86, the remuneration basis agreed in the Administration will continue in the Liquidation.

Remuneration relating to the Administration period of £55,250 plus VAT has been paid from funds held in the Liquidation.

For the period 1 November 2012 to 31 October 2013, the Liquidators have incurred time costs of £49,967. This represents 155 hours at an average hourly rate of £322. No remuneration has been drawn to-date, but will be drawn in due course.

### Liquidators' disbursements

#### Category 1 disbursements

The Liquidators' have not incurred any category 1 disbursements during the period from the date of appointment to 31 October 2013.

#### Category 2 disbursements

The Liquidators have not incurred any category 2 disbursements during the period to 31 October 2013.

The Liquidators' current disbursements policy, as approved by the creditors, is as follows:

1. Photocopying for circulars or any other bulk copying is charged at 5p per sheet;
2. Mileage – this is reimbursed at a maximum of 67p per mile (up to 2,000cc) and 80p per mile (over 2,000cc).

All other disbursements are reimbursed at cost.

### Statement of expenses

The following expenses have been incurred and paid during the period of the report:

Expense	Incurred (£)	Amount Paid (£)
Legal fees – Linklaters LLP	18,766	17,923

## **1. Liquidators' progress report to members and creditors for the period 1 November 2012 to 31 October 2013**

### **Additional information**

If any creditor requires further explanations on any aspect of the Liquidators' progress report, then please telephone or write to Claire Taylor who will be pleased to deal with such enquiries, however, any request for further information regarding the Liquidators' remuneration or disbursements should be made in writing, in accordance with Rule 4.49E.

In addition, should any creditor consider the Liquidators' remuneration and disbursements to be excessive or inappropriate, they have the right to challenge the amounts in accordance with Rule 4.131 IR86.

In accordance with the requirements of Statement of Insolvency Practice No.9 (payments to insolvency office holders and their associates) ("SIP9"), which was revised on 1 November 2011, an analysis of the Joint Liquidators' time costs for the period 1 November 2012 to 31 October 2013 is provided at Section 3. An analysis of the former Administrators' timecosts for the period 1 October 2012 to 31 October 2012 is also included.

### **Creditors' rights**

A statement of creditors' rights in relation to the Liquidators' remuneration and expenses pursuant to IR86 is set out at Section 4.

### **Next report and enquiries**

The Liquidators will circulate their next report approximately 12 months' time. If any creditor has any queries in the meantime, please contact Claire Taylor on +44 (0)20 7804 6289.

Signed.....

GE Bruce  
Joint Liquidator

*AV Lomas, GE Bruce and JG Parr were appointed as Joint Liquidators of Thayer Properties Limited to manage its affairs, business and property as agents without personal liability. AV Lomas, GE Bruce and JG Parr are licensed in the United Kingdom to act as insolvency practitioners by the Institute of Chartered Accountants in England and Wales.*

*The Joint Liquidators are Data Controllers of personal data as defined by the Data Protection Act 1998. PricewaterhouseCoopers LLP will act as Data Processor on their instructions. Personal data will be kept secure and processed only for matters relating to the Liquidation.*

## 2. Receipts and payments account

	As at 31 October 2013	
	GBP (£)	USD (\$)
<b>Receipts</b>		
Administration surplus	3,236,792	2,703
Dividend from ESH	24,572,296	-
Dividend from LBIE	16,182	-
Dividend from LCPI	-	3,030
Sale of tax losses	525,653	-
<b>Total Receipts</b>	<b>28,350,923</b>	<b>5,733</b>
<b>Payments</b>		
Legal fees	17,923	-
Employee costs	4,368	-
IT Costs	5,741	-
Statutory Advertising	74	-
Bank charges	-	-
Former Joint Administrators' remuneration	55,250	-
Input VAT	13,887	-
<b>Total Payments</b>	<b>97,243</b>	<b>-</b>
<b>Net Position</b>	<b>28,253,680</b>	<b>5,733</b>
<b>Cash Balances</b>		
HSBC - Non-interest bearing account	28,253,680	5,733
<b>Total Cash</b>	<b>28,253,680</b>	<b>5,733</b>

### 3. Information in support of the former Administrators' time costs from 1 October 2012 to 31 October 2012 and the Liquidators' time costs from 1 November 2012 to 31 October 2013

#### Charging and disbursements policy

The time charged to the Liquidation is by reference to the time properly given by the Liquidators and their staff in attending to matters arising.

It is the Liquidators' policy to delegate tasks in the Liquidation to appropriate members of staff considering their level of experience and any requisite specialist knowledge, supervised accordingly, so as to maximise the cost effectiveness of the work performed. Matters of particular complexity or significance requiring more exceptional responsibility are dealt with by senior staff or the Liquidators themselves.

Set out below are the relevant maximum charge-out rates per hour worked for the Liquidators' staff actually or likely to be involved on the assignments from 1 July 2013. Time is charged by reference to actual work carried out. There has been no allocation of any general costs or overhead costs.

Grade	£
Partner	838
Director	665
Senior manager	512
Manager	431
Senior associate	360
Associate	229

Specialist departments within the Liquidators' firm such as Tax and VAT are also used where their expert advice is required. The figures below provide an indication of the maximum rate per hour from 1 July 2013.

Partner	1,027
Director	932
Senior manager	869
Manager	634
Senior Associate	389
Associate / support staff	253

In common with many professional firms, the scale rates used by the Liquidators may increase to cover annual inflationary cost increases.

There is no statutory requirement for the Liquidators to seek approval to draw expenses or disbursements. However, professional guidance issued to insolvency practitioners requires that, where the Liquidators propose to recover costs which, whilst being in the nature of expenses or disbursements, may include an element of shared or allocated costs (such as room hire, document storage or communication facilities provided by the Liquidators' own firm), they must be disclosed and be authorised by those responsible for approving their remuneration. Such expenses are known as "Category 2" disbursements and they must be directly incurred on the case and subject to a reasonable method of calculation and allocation.

The Joint Liquidators' expenses policy allows for all properly incurred expenses to be recharged to the case. Category 2 disbursements are approved by the Creditors. There were no Category 2 disbursements during the period.



### 3. Information in support of the former Administrators' time costs from 1 October 2012 to 31 October 2012 and the Liquidators' time costs from 1 November 2012 to 31 October 2013

#### Analysis of the former Administrators' time costs for the period from 1 October 2012 to 31 October 2012

Classification of work	Partner/Director		Senior Manager/Manager		Senior Associate		Associate/Support Staff		Total hours	
	Hours	£	Hours	£	Hours	£	Hours	£	Hours	£
Accounting and Treasury	-	-	-	-	1.90	481	1.70	374	3.60	855
Administration and Planning	0.90	754	2.40	994	0.50	127	-	-	3.80	1,875
Asset Realisation	-	-	-	-	1.10	278	-	-	1.10	278
Statutory and Compliance	-	-	4.60	1,951	9.70	2,454	-	-	14.30	4,405
Tax and VAT	2.40	2,237	4.20	2,082	-	-	0.10	22	6.70	4,341
LBL Recharges	0.01	3	0.06	26	0.06	14	0.08	17	0.21	60
<b>Grand Total</b>	<b>3.31</b>	<b>2,994</b>	<b>11.26</b>	<b>5,053</b>	<b>13.26</b>	<b>3,354</b>	<b>1.88</b>	<b>413</b>	<b>29.71</b>	<b>11,814</b>
<b>Average Hourly Rate</b>		<b>905</b>		<b>449</b>		<b>253</b>		<b>220</b>		<b>398</b>

Current charge out rates Grade	Business Recovery Services		Specialist	
	Max £/hr	Max £/hr	Max £/hr	Max £/hr
Partner	838	1,027		
Director	639	932		
Senior manager	492	869		
Manager	414	634		
Senior Associate	346	389		
Associate/Support Staff	220	204		

The former Administrators' remuneration has been fixed by reference to the time properly given by the Administrators and their staff in attending to matters arising in the Administration. The maximum unit for time charged by the Administrators and their staff is 0.05 of an hour.

\* Specialist departments within PricewaterhouseCoopers LLP, such as Tax, VAT and Pensions, do sometimes charge a small number of hours, should we require their expert advice. Their rates do vary, however, the figures shown given an indication of the maximum rate per hour. In common with all professional firms, the scale rates used by the Administrators from PricewaterhouseCoopers LLP may periodically rise (for example to cover annual inflation cost increase) over the period of the Administration. Any material amendments to these rates will be advised to the creditors in the next statutory report.

### 3. Information in support of the former Administrators' time costs from 1 October 2012 to 31 October 2012 and the Liquidators' time costs from 1 November 2012 to 31 October 2013

#### Analysis of the Liquidators' time costs for the period from 1 November 2012 to 31 October 2013

Classification of work	Partner/Director		Senior Manager/Manager		Senior Associate		Associate/Support Staff		Total hours	
	Hours	£	Hours	£	Hours	£	Hours	£	Hours	£
Accounting and Treasury	1.10	922	2.50	1,037	13.00	3,297	25.00	5,545	41.60	10,801
Administration and Planning	3.35	2,288	10.90	4,613	12.35	3,155	0.70	156	27.30	10,212
Asset Realisation	-	-	3.40	1,408	-	-	-	-	3.40	1,408
Creditors	-	-	0.80	345	-	-	3.74	856	4.54	1,201
Statutory and Compliance	2.05	1,668	7.20	3,099	38.90	9,854	7.80	1,542	55.95	16,163
Tax and VAT	0.30	308	9.30	5,348	3.15	1,079	4.00	652	16.75	7,387
LBIE Recharges	0.03	20	0.60	263	0.57	153	0.94	198	2.14	634
Pensions	2.41	1,686	1.10	475	-	-	-	-	3.51	2,161
<b>Grand Total</b>	<b>9.24</b>	<b>6,892</b>	<b>35.80</b>	<b>16,588</b>	<b>67.97</b>	<b>17,538</b>	<b>42.18</b>	<b>8,949</b>	<b>155.19</b>	<b>49,967</b>
<b>Average Hourly Rate</b>		<b>746</b>		<b>463</b>		<b>258</b>		<b>212</b>		<b>322</b>

Current charge out rates Grade	Business Recovery Services		Specialist	
	Max £/hr		Max £/hr	
Partner	838		1,027	
Director	665		932	
Senior manager	512		869	
Manager	431		634	
Senior Associate	360		389	
Associate/Support Staff	229		253	

The Liquidators' remuneration has been fixed by reference to the time properly given by the Liquidators and their staff in attending to matters arising in the Liquidation. The maximum unit for time charged by the Liquidators and their staff is 0.05 of an hour.

\* Specialist departments within PricewaterhouseCoopers LLP, such as Tax, VAT and Pensions, do sometimes charge a small number of hours, should we require their expert advice. Their rates do vary, however, the figures shown given an indication of the maximum rate per hour. In common with all professional firms, the scale rates used by the Liquidators from PricewaterhouseCoopers LLP may periodically rise (for example to cover annual inflation cost increase) over the period of the Liquidation. Any material amendments to these rates will be advised to the creditors in the next statutory report.

### **3. Information in support of the former Administrators' time costs from 1 October 2012 to 31 October 2012 and the Liquidators' time costs from 1 November 2012 to 31 October 2013**

#### **Tasks performed by the former Administrators and their team for the period 1 October 2012 to 31 October 2012:-**

##### *Accounting and treasury - £855*

- Closing Administration bank accounts and opening Liquidation bank accounts;
- Undertaking receipts and payments;
- Processing payroll; and
- Preparing bank reconciliations.

##### *Administration and planning - £1,875*

- Planning exit strategy;
- Review of intercompany relationships; and
- Liaising with subsidiary company regarding realisation strategy.

##### *Asset Realisations - £278*

- Reviewing the small claims agreement deed with LBIE.

##### *Statutory and other compliance – £4,405*

- Reviewing and finalisation of the Administrators' final progress report
- Preparing receipts and payments account; and
- Preparing detailed remuneration summary.

##### *Tax and VAT - £4,341*

- Tax compliance and finalising matters for the Administration.

##### *LBL recharges - £60*

- This is an apportionment of the costs incurred by Lehman Brothers Limited associated with the administration companies.

### **3. Information in support of the former Administrators' time costs from 1 October 2012 to 31 October 2012 and the Liquidators' time costs from 1 November 2012 to 31 October 2013**

#### **Tasks performed by the Joint Liquidators and their team for the period 1 November 2012 to 1 October 2013:-**

##### *Accounting and treasury - £10,801*

- Preparing bank mandate for the Liquidation;
- Undertaking receipts and payments;
- Processing payroll; and
- Preparing bank reconciliations.

##### *Administration and planning - £10,212*

- Discussing and implementing Liquidation strategy;
- Review of intercompany relationships; and
- Liaising with subsidiary company regarding realisation strategy.

##### *Asset Realisations - £1,408*

- Liaising with LBIE in respect of their claims agreement process; and
- Finalising the small claims agreement deed with LBIE.

##### *Creditors - £1,201*

- Correspondence with creditors;
- Updating list of creditor claims; and
- Review of creditor claims received.

##### *Statutory and other compliance – £16,163*

- Preparing progress report to creditors;
- Circulate progress report to creditors;
- Statutory filings at Companies House and Court;
- Prepare receipts and payments account;
- Prepare detailed remuneration summary;
- Manage the Thayer database; and
- Liaise with Liquidators on statutory issues.

##### *Tax and VAT - £7,387*

- Tax compliance on moving to Liquidation; and
- VAT recovery review.

##### *LBL recharges - £634*

- This is an apportionment of the costs incurred by Lehman Brothers Limited associated with the administration companies.

##### *Pensions - £2,161*

- Preparations for and attending the Court of Appeal pensions hearing; and
- Participating in discussions to try and resolve the pension issue.

## 4. Statement of creditors' rights

### Rule 4.49E - Creditors' and members' request for further information

4.49E(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 (iii) members of the company in a members' voluntary winding up with at least 5% of the total voting rights of all the members having the right to vote at general meetings of the company, or (b) with the permission of the court upon an application made within the period mentioned in paragraph (2) (i) any unsecured creditor, or (ii) any member of the company in a members' voluntary winding up, makes a request in writing to the liquidator for further information about remuneration or expenses set out in a progress report in accordance with Rule 4.49B(1)(e) or (f) (including by virtue of Rule 4.49C(5)) or in a draft report under Rule 4.49D, 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 matter in a draft report under Rule 4.49D or a progress report required by Rule 4.108 which (in either case) was previously included in a progress report not required by Rule 4.108.

4.49E(2) The period referred to in paragraph (1)(a) and (b) is (a) 7 business days of receipt (by the last of them in the case of an application by more than one member) of the progress report where it is required by Rule 4.108, and (b) 21 days of receipt (by the last of them in the case of an application by more than one member) of the report or draft report in any other case.

4.49E(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.

4.49E(4) Any creditor, and any member of the company in a members' voluntary winding up, who need not be the same as the creditors or members who asked for the 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.

4.49E(5) Without prejudice to the generality of paragraph (4), the order of the court under that paragraph may extend the period of 8 weeks or, as the case may be, 4 weeks provided for in Rule 4.131(1B) or 4.148C(2) by such further period as the court thinks just.

4.49E(6) This Rule does not apply where the liquidator is the official receiver.

### Rule 4.131 - Creditors' claim that remuneration is or other expenses are excessive

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).

4.131(1A) Application 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.

4.131(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").

4.131(2) The court may, if it thinks that no sufficient 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.

4.131(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.

4.131(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.

4.131(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.

