

The Insolvency Act 1986

2.24B

Administrator's progress report

Name of Company
Durham Investments Six Limited

Company number
03104360

In the High Court of Justice Chancery Division, Leeds District Registry
--

Court case number
468 of 2010

We
 Mark Granville Firmin
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The Administrators of the above Company attach a progress report for the period

from
5 July 2012

to
4 January 2013

Signed


 Joint Administrator

Dated

28 January 2013

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.

Kevin Flatley KPMG LLP 1 The Embankment Neville Street Leeds LS1 4DW DX Number DX 724440 Leeds	Tel 0113 231 3155 DX Exchange
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When you have completed and signed this form please send it to the Registrar of Companies at -

Companies House, Crown Way, Cardiff CF14 3UZ

DX 33050 Cardiff





**Durham Investments Six Limited in
administration**

**Report to Creditors pursuant
to Rule 2.47 of the
Insolvency Rules 1986**

KPMG LLP
28 January 2013

MGF/CH/HA/KF



Notice: About this Report

This Report has been prepared by Mark Granville Firmin, Brian Green and Howard Smith, the Joint Administrators of Durham Investments Six 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 Durham Investments Six 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.

Mark Granville Firmin and Brian Green are authorised to act as insolvency practitioners by the Institute of Chartered Accountants in England and Wales.

Howard Smith is authorised to act as an insolvency practitioner by the Insolvency Practitioners Association.

The Joint Administrators act as agents for Durham Investments Six 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.

In accordance with Paragraph 100(2) of Schedule B1 the functions of the Joint Administrators may be exercised by any or all of them.



Glossary

Joint Administrators	Mark Granville Firmin, Brian Green and Howard Smith of KPMG LLP, 1 The Embankment, Neville Street, Leeds LS1 4DW
Administration Order	The administration order granted by the High Court of Justice, Chancery Division, Leeds District Registry regarding Durham Investments Six Limited on 22 February 2010 Court administration number 468 of 2010
Aviva	Aviva Commercial Finance Limited, whose ultimate parent is Aviva Plc
the Company	Durham Investments Six Limited (in administration)
the Court	High Court of Justice, Chancery Division, Leeds District Registry
the Directors	David Schreiber Jacob Schreiber
the Group	Entities in the Group are Durham Investments Four Limited, Durham Investments Six Limited, Britonwood Properties Limited, BBL Estates (Britonwood) Limited and Waterbridge Capital Partners Property Fund 1 LLP (which is the parent entity) (all in administration)
Jones Lang LaSalle	Jones Lang LaSalle Limited
Proposals	Report to Creditors pursuant to Paragraph 49 of Schedule B1 to the Insolvency Act 1986 dated 14 April 2010 containing the Joint Administrators' proposals
the Purchasers	DMS Estates (One) Limited and DMS Estates (Two) Limited
the Purchasing Group	DMS Estates (One) Limited, DMS Estates (Two) Limited and DMS 3 (Group 1) Limited
Savills	Savills Commercial Limited



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the Subsidiaries	Durham Investments Four Limited, Durham Investments Six Limited and Britonwood Properties Limited (all in administration) whose shareholder is Waterbridge Capital Partners Property Fund 1 LLP (in administration)
VAT	Value Added Tax
Waterbridge Capital Partners	Waterbridge Capital Partners Property Fund 1 LLP (in administration)



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1 Introduction

Following my report dated 1 August 2012, which covered the period from 5 January 2012 to 4 July 2012, I set out below my progress report as per Rule 2.47 of the Insolvency Rules 1986. This report covers the period 5 July 2012 to 4 January 2013, and should be considered in conjunction with my previous reports.

The purpose of this report is to provide an update as to the progress of the administration.

A copy of my proposals is included for ease of reference at Appendix 6.

The appropriate statutory information is set out in Appendix 1. A receipts and payments account for the reporting period in Form 2.24 is attached at Appendix 4.

Please note that, unless stated otherwise, all amounts referred to in this report and its appendices are net of VAT.

2 Progress of the administration

2.1 Sale of Property

Following lengthy and detailed negotiations, a sale of the Group's entire property portfolio was completed on 15 October 2012.

As noted in the Administrators' Proposals, the primary secured lender to the Group is Aviva. Aviva had advanced funds to the Group through Waterbridge Capital Partners totalling circa £66 million, in the form of secured debt over 20 of the Group's 22 properties.

Following their appointment in 2010, the Joint Administrators supported by Aviva entered into negotiations with the Purchasing Group, which is backed by David Schreiber a director of the Company, seeking to complete a sale of the Group's property portfolio.

The Joint Administrators instructed agents Savills and JLL to carry out valuations of all properties owned by the Group. Both Savills and JLL advised that the value of the portfolio was significantly below the level of debts owed to Aviva. It was clear that Aviva would suffer a significant shortfall under its security should the properties be sold on the open market.

Following lengthy negotiations the Purchasing Group agreed to assume debts owed to Aviva by the Group as consideration for the Group's property portfolio.

As such, total consideration across the Group was £59.7 million of which £31,133,900 was attributable to the Company. The sale completed on 15 October 2012.

3 Receipts and payments

I enclose at Appendix 4 an abstract of receipts and payments for the period of 5 July 2012 to 4 January 2013.

3.1 Receipts

3.1.1 Service charge retention

A sum of £5,938 was retained by the Joint Administrators from service charge funds to settle outstanding service charge invoices incurred up to 15 October 2012.

3.1.2 Freehold property

As mentioned above, a sale of the Company's freehold property was completed on 15 October 2012. Crawley Way, Bristol and 171 Basingstoke Road, Reading were sold to DMS Estates (Two) Limited for total consideration of £1,130,000. The remaining properties were sold to DMS Estates (One) Limited for total consideration of £21,513,209.

3.1.3 Leasehold property

The sale of the Company's leasehold property was also completed on 15 October 2012 to DMS Estates (One) Limited. A total of £8,490,691 was received in respect of this sale.

3.1.4 Book debts

Book debts of £6,293 have been collected in the period in respect of rent arrears at the date of appointment of the Joint Administrators.

Book debt receipts since the date of the Joint Administrators' appointment to 4 January 2013 total £211,709.

3.1.5 Rent

In the period, the Joint Administrators have received £521,542 of rental income.

Rent receipts since the date of the Joint Administrators' appointment to 4 January 2013 total £5,463,677.

3.1.6 Loan from service charge

As a result of VAT accounting, in the period VAT receivable of £1,782 has been recognised on behalf of the service charge.

3 1 7 **VAT debtor**

The receipts and payments account details a VAT debtor receipt of £46,171 in the period. This receipt is an effect of the VAT accounting in place to control payments to HM Revenue & Customs.

3 1 8 **Other receipts**

Bank interest of £2,481 has been received in the period on funds held in the Joint Administrators' account.

3.2 **Payments**

3 2 1 **Landlord voids**

An amount of £3,522 has been paid in the period in respect of the Joint Administrators' liability to the service charge arising on units that have been vacant during the administration.

3 2 2 **Agents' fees**

Jones Lang LaSalle was instructed to invoice and collect rental income, and fees of £120,483 have been paid in the period. In addition, Jones Lang LaSalle was instructed to commence dilapidations claims against former tenants. Fees of £3,600 have been paid in the period.

Furthermore, Savills was engaged to provide an updated valuation of the Group's property portfolio. Fees of £2,750 have been paid in the period.

In addition, fees of £3,764 have been paid in the period to local agents in respect of marketing void units.

Eddisons manage the service charge. Fees for this management are paid out of the service charge and as such, are not included in the Joint Administrators' receipts and payments account at Appendix 4.

3 2 3 **Legal fees**

Legal fees of £318,810 have been paid in the period to DLA Piper in respect of the following:

- the disposal of the freehold and leasehold property and overall restructuring of the Group,
- dealing with new leases and lease renewals,
- general property advice during the administration, and
- other general advice in the administration.

Legal costs of £371,281 have been paid to date.

3.2.4 Rent apportioned to the Purchasers

As part of the sale of the Properties, a total of £306,671 of rent for the period from 15 October to 24 December 2012 was collected prior to completion of the sale and subsequently paid to the Purchasers following completion

3.2.5 Insurance broker costs

A total of £24,242 was paid in the period, in respect of insurance of the Company's property up until completion of the sale

3.2.6 Landlord property costs

In the period, £16,676 has been paid in respect of general landlord costs. This principally includes costs of repair and maintenance works to properties, security costs and the costs of obtaining energy performance certificates

3.2.7 Void unit costs

A total of £3,075 has been paid in the period relating to utility costs incurred at void units

3.2.8 Loan to service charge

As a result of VAT accounting, in the period VAT payable of £417 has been recognised on behalf of the service charge

3.2.9 Transfer of rent deposits

Rent deposits, together with interest, totalling £9,594 were transferred to the Purchasers following completion of the sale of the Company's property

4 Cost of realisations

4.1 Joint Administrators' time costs

From appointment on 22 February 2010 to 4 January 2013, time costs of £727,702 have been incurred, representing 2,805 hours at an average rate of £259 per hour

Within these costs is time spent by other departments within KPMG LLP, including Climate Change and Sustainability, who have reviewed the health and safety and environmental position of the Company's properties

The statutory provisions relating to remuneration are set out in Rule 2.106 of the Insolvency Rules 1986. Further information is given in the Association of Business Recovery Professionals' publication, A Creditors' Guide to Administrators' Fees, a copy of which can be found at

http://www.r3.org.uk/media/documents/technical_library/Guides_to/Guide_to_Joint_Administrators_Fees_Nov2011.pdf



If you are unable to access the above and would like a copy, please contact Kevin Flatley on 0113 231 3155

The Joint Administrators' remuneration has been agreed by the secured creditors, in this case Aviva

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

To date, the Joint Administrators have drawn fees totalling £352,389, all of which were drawn in the period

5 Estimated outcome for creditors

5.1 Secured creditors

As noted above, Aviva had advanced funds to the Group through Waterbridge Capital Partners totalling circa £66 million, in the form of secured debt over 20 of the Group's 22 properties

Each of the entities within the Group are bound by the legal charge in favour of Aviva dated 18 March 1998

An amount of £31,925,840 has been distributed to Aviva by the Company from fixed charge realisations in the period

5.2 Preferential creditors

According to the Directors' statement of affairs, there are no preferential creditors in the administration. No preferential claims have been received by the Joint Administrators to date

5.3 Unsecured creditors

The Directors' statement of affairs showed unsecured creditors of £1,185,195. There will be insufficient funds available to make a distribution to the Company's unsecured creditors

6 **Future conduct of the administration**

The Joint Administrators will continue to manage the affairs, business and property of the Company in order to achieve the purpose of the Administration. This will include, but not be limited to,

- final distributions to Aviva,
- agreement of final tax returns,
- finalising the Administration including payment of all Administration liabilities; and
- completing any necessary statutory requirements

7 **End of the administration**

As previously reported, the administration will automatically end on 20 February 2013

It is likely that following the resolution of the outstanding matters detailed in Section 8, the Joint Administrators will send a final report to creditors and file a notice at Companies House that the Company be dissolved. At this point, the Joint Administrators will cease to act and will be discharged of all liabilities as detailed in Paragraph 98 of Schedule B1 of the IA86

8 **Statement concerning the EC Regulations**

EC Regulations will apply to the administration and the proceedings will be the main proceedings as defined in Article 3 of the EC Regulations on Insolvency Proceedings 2000. The Company's registered office and centre of main interest is in England, the United Kingdom

This means that the administration will be conducted according to UK Insolvency legislation and is not governed by the insolvency law of any other European Union Member State



Mark Firmin
Joint Administrator



Appendix 1 - Statutory information

Company Name	Durham Investments Six Limited (in administration)
Date of Incorporation	20 September 1995
Company number	03104360
Present Registered office	c/o KPMG LLP 1 The Embankment Neville Street Leeds LS1 4DW
Previous registered office	147 Stamford Hill London N16 5LG
Called up share capital	Ordinary Shares 1 £1 share
Shareholders	Waterbridge Capital Partners Property Fund 1 LLP (in administration) 100%
Directors	David Schreiber Jacob Schreiber
Company Secretary	Rivky Niederman
Employees	None
Previous names	None



Appendix 2 - Joint Administrators' time costs for the period 5 July 2012 to 4 January 2013

	Partner / Director	Manager	Administrator	Total hours	Time cost	Average hourly rate
Trading						
Cashiering						
General (Cashiering)	2 40		8 10	10 50	£2 712 50	£258 33
Reconciliations (& IPS accounting reviews)			3 40	3 40	£774 00	£227 65
Tax						
Post appointment corporation tax		4 40		4 40	£1,596 00	£362 73
Post appointment VAT		6 70	27 85	34 55	£7,760 00	£224 60
Trading						
Purchases and trading costs		12 10	135 70	147 80	£33,881 00	£229 24
Sales		1 60	17 40	19 00	£3,684 00	£193 89
Administration & planning						
General						
Fees and WIP		0 40	1 00	1 40	£331 00	£236 43
Statutory and compliance						
Checklist & reviews		0 80	1 90	2 70	£608 50	£225 37
Closure and related formalities		0 90	0 10	1 00	£423 50	£423 50
Statutory receipts and payments accounts			0 40	0 40	£96 00	£240 00
Strategy documents	0 20			0 20	£113 00	£565 00
Creditors						
Creditors and claims						
General correspondence			0 40	0 40	£70 00	£175 00
Payment of dividends			2 20	2 20	£407 00	£185 00
Secured creditors		1 10		1 10	£462 00	£420 00
Statutory reports	0 50	4 50	7 50	12 50	£3 257 50	£260 60
Realisation of assets						
Asset Realisation						
Freehold property		15 20	3 60	18 80	£5,976 00	£317 87
Leasehold property	0 60			0 60	£321 00	£535 00
Rent		0 60		0 60	£255 00	£425 00
Sale of business	6 15	92 10	62 85	161 10	£53,215 75	£330 33
Total in period				422 65	£115,943 75	£274 33
Brought forward time (22 February 2010 to 4 July 2012)				2,382 64	£611,758 10	£256 76
Total time (22 February 2010 to 4 January 2013)				2,805 29	£727 701 85	£259 40



Appendix 3 – Joint Administrators' charge out rates

KPMG LLP			
Restructuring Team			
Grade	From 1 April 2009	From 1 October 2010	From 1 October 2012
	£/hr	£/hr	£/hr
Partner	515	535	565
Associate Partner	440	460	485
Director	440	460	485
Senior Manager	405	425	450
Manager	320	345	365
Senior Administrator	225	240	250
Administrator	165	175	185
Support	105	110	115
Work Experience	35	40	45



Appendix 4 – Abstract of Administrators’ Receipts & Payments Account Form 2.24B for the period 5 July 2012 to 4 January 2013

ABSTRACT OF RECEIPTS AND PAYMENTS - 05/07/2012 to 04/01/2013 Appendix to Form 2.24
Durham Investments Six Limited Page 1

	£
RECEIPTS	
Brought forward from previous Abstract (if Any)	6,352,806.06
Service charge retention	5,937.57
Freehold property	22,643,209.03
Leasehold property	8,490,600.85
Book debts	6,292.80
Interest received on Third party income	155.30
Assignment fee	4.00
Rent	521,542.42
Loan from service charge	1,781.60
Bank interest, gross	2,436.03
Rent deposit interest	17.13
Bank interest, gross	45.36
Fixed charge VAT payable	122,097.01
Floating ch. VAT control	22,847.66
VAT debtor	46,170.70
Carried forward to * continuation sheet / next abstract	38,216,033.53
PAYMENTS	£
Brought forward from previous Abstract (if Any)	4,631,958.01
Landlord voids	3,521.72
Administrators' fees	238,150.69
Legal fees	318,810.45
Agents fees	130,596.72
Rent apportioned to the purchaser	306,671.27
Bank charges	70.00
Landlord Property Costs	16,675.58
Void Unit costs	3,075.38
Insurance Broker Costs	24,241.69
Loan to service charge	416.60
Transfer of rent deposits	9,594.10
Aviva Pic	31,925,840.09
Administrators' fees	114,238.31
Floating ch. VAT receivable	22,847.66
Fixed charge VAT receivable	175,909.93
Fixed charge VAT control	97,187.95
Carried forward to * continuation sheet / next abstract	38,019,806.15

* Delete as appropriate

* Delete as appropriate

Note - The receipts and payments must severally be added up at the foot of each sheet and the totals carried forward from one abstract to another without any intermediate balance so that the gross totals shall represent the total amounts received and paid by the administrator since he was appointed.



Appendix 5 – Joint Administrators' receipts and payments account for the period 5 July 2012 to 4 January 2013

Durham Investments Six Limited (In Administration) Administrators' Abstract of Receipts & Payments

Statement of Affairs	From 05/07/2012 To 04/01/2013	From 22/02/2010 To 04/01/2013
FIXED CHARGE ASSETS		
	5,937.57	5,937.57
22,810,036.56	22,643,209.03	22,643,209.03
	8,490,690.86	8,490,690.86
1,633,330.00	NIL	NIL
230,000.00	NIL	NIL
	NIL	10,195.63
221,628.75	6,292.80	211,709.37
	NIL	3,148.07
	NIL	6,614.20
	155.30	1,050.66
	NIL	16,524.12
	4.00	4.00
	521,542.42	5,463,677.47
	1,781.60	7,509.59
	2,436.03	8,813.27
	17.13	66.63
	<u>31,672,066.74</u>	<u>36,869,150.47</u>
FIXED CHARGE COSTS		
	3,521.72	16,144.39
	238,150.69	238,150.69
	318,810.45	371,281.46
	NIL	NIL
	130,596.72	501,071.29
	306,671.27	306,671.27
	NIL	127,037.25
	70.00	330.00
	NIL	2,327.42
	16,675.58	126,552.88
	3,075.38	41,239.45
	24,241.69	59,138.13
	416.60	17,326.37
	9,594.10	9,594.10
	<u>(1,051,824.20)</u>	<u>(1,816,864.70)</u>
FIXED CHARGE CREDITORS		
(23,031,665.31)	31,925,840.09	34,809,308.80
(2,730,697.94)	NIL	NIL
(300,000.00)	NIL	NIL
	<u>(31,925,840.09)</u>	<u>(34,809,308.80)</u>
ASSET REALISATIONS		
	NIL	625.20
	NIL	146,765.13
	NIL	147,390.33
OTHER REALISATIONS		
	45.36	852.89
	<u>45.36</u>	<u>852.89</u>
COST OF REALISATIONS		
	114,238.31	114,238.31



Durham Investments Six Limited in administration
Report to Creditors pursuant to Rule 2 47 of the Insolvency Rules 1986
KPMG LLP
28 January 2013

Statement of Affairs	From 05/07/2012 To 04/01/2013	From 22/02/2010 To 04/01/2013
	Storage costs	NIL
	Statutory advertising	1,160.93
	Bank charges	141.12
		<u>4.00</u>
		(115,544.36)
	UNSECURED CREDITORS	
(410,675.46)	Trade & expense	NIL
(61,616.44)	Sales Ledger Credits	NIL
(6,732.00)	Inland Revenue - CIS	NIL
(593,184.00)	Non-preferential VAT	NIL
(112,986.98)	Rent Deposits	<u>NIL</u>
		NIL
	DISTRIBUTIONS	
(1.00)	Ordinary shareholders	<u>NIL</u>
		NIL
<u>(2,352,563.88)</u>	<u>(1,419,790.50)</u>	<u>275,675.83</u>
	REPRESENTED BY	
	Floating ch. VAT rec'able	23,082.16
	Fixed charge current	46,224.69
	Trust Account	1,644.13
	Fixed charge current 2	138,182.35
	Floating charge current	7.50
	Floating charge current 2	10,168.71
	Fixed charge VAT rec'able	290,512.30
	Fixed charge VAT payable	(1,121,426.59)
	Floating ch. VAT control	(22,904.67)
	Fixed charge VAT control	915,823.02
	VAT debtor	(5,637.77)
		<u>275,675.83</u>



Appendix 6 – Joint Administrators’ Proposals

The Joint Administrators proposed the following two resolutions which were deemed accepted following the Joint Administrators’ Paragraph 49 report dated 14 April 2010

Resolution 1:

- to continue to do all such things reasonably expedient and generally exercise all their powers as contained in Schedule B1 to the Insolvency Act 1986 as Joint Administrators as they, in their absolute discretion, consider desirable in order to maximise realisations from the assets of Durham Investments Six Limited,
- to investigate and, if appropriate, pursue any claims that Durham Investments Six Limited may have,
- to seek an extension to the Administration period if deemed necessary by the Joint Administrators pursuant to Paragraph 76 of Schedule B1 to the Insolvency Act 1986,
- to allow the Administration to cease to have effect following its 12 month period or any extension thereof,
- to seek if appropriate, permission of the Court to make a distribution to unsecured creditors of Durham Investments Six Limited pursuant to Paragraph 65 of Schedule B1 to the Insolvency Act 1986 and to seek, if appropriate, any other directions from the Court,
- when it is considered that no further distributions to creditors will be made and that the Joint Administrators have concluded their duties, to take the necessary steps to move Durham Investments Six Limited from Administration to Dissolution, pursuant to Paragraph 84 of Schedule B1 to the Insolvency Act 1986,
- if the Joint Administrators consider that a distribution will be made to unsecured creditors of Durham Investments Six Limited, and if deemed appropriate by the Joint Administrators, to take the necessary steps to move Durham Investments Six Limited into Creditors’ Voluntary Liquidation pursuant to Paragraph 83 of Schedule B1 to the Insolvency Act 1986,
- if Creditors’ Voluntary Liquidation is deemed appropriate, the Joint Administrators will seek the appointment of Mark Granville Firmin, Howard Smith and Brian Green of KPMG LLP as Joint Liquidators of Durham Investments Six Limited, without any further recourse to creditors. In accordance with Paragraph 83(7) of Schedule B1 to the Insolvency Act 1986 and Rule 2.117(3) of the Insolvency Rules 1986, 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,
- if one of the criteria set out in Paragraph 79(2) of Schedule B1 to the Insolvency Act 1986 applies to Durham Investments Six Limited, the Joint Administrators can make an application to court to end the Administration and, if deemed appropriate, to petition the Court for the winding up of Durham Investments Six Limited. If



appropriate, the Joint Administrators will, at the same time, apply to be appointed as Joint Liquidators under Section 140(1) of the Insolvency Act 1986, and the Joint Administrators will seek a resolution from creditors to be discharged from liability 14 days after the cessation of their appointment as Joint Administrators, in respect of any action of The Joint Administrators pursuant to Paragraph 98(1) of Schedule B1 to the Insolvency Act 1986,

- in the event that Mark Granville Firmin, Howard Smith and Brian Green are appointed Joint Liquidators then they will be allowed to act jointly and severally, and
- the Joint Administrators will be discharged from liability under Paragraph 98 of Schedule B1 to the Insolvency Act 1986 immediately upon their appointment as Joint Administrators ceasing to have effect

Resolution 2:

- that in the event that no creditors' committee is formed, the Joint Administrators will be authorised to draw fees on account from the assets of Durham Investments Six Limited from time to time during the period of Administration based on time properly spent at KPMG LLP charge out rates that reflect the complexity of the assignment. Also, the Joint Administrators will be authorised to draw disbursements from time to time to include category 2 disbursements, and
- that the costs of KPMG LLP in respect of other KPMG LLP specialists advice provided to the Joint Administrators be based upon time costs and shall be paid out of the assets of Durham Investments Six Limited