

Liquidator's Annual Progress Report to Creditors



05753845 Limited
- In Compulsory Liquidation
4 October 2013

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1 Introduction and Statutory Information

1.1 I, Ian Mark Defty of Kingston Smith & Partners LLP, 105 St Peters Street, St Albans, Herts, AL1 3EJ was appointed as Liquidator of 05753845 Limited (the Company) formerly known as Adaptive Designs Limited on 6 September 2012 following the presentation of a petition for the compulsory winding up of the Company made on 20 May 2011 in the Newcastle Upon Tyne County Court under court reference number 729 of 2011. This report provides an update on the progress in the liquidation for the year ended 5 September 2013.

1.2 The trading address of the Company was 80 South View, East Denton, Newcastle Upon Tyne, NE5 2BQ.

1.3 The registered office of the Company has been changed to 105 St Peters Street, St Albans, Herts, AL1 3EJ and its registered number is 05753845.

2 Realisation of Assets

2.1 There are no known assets in the liquidation.

3 Investigations

3.1 As you may be aware, in a compulsory liquidation the duty to investigate the Company's affairs is the responsibility of the Official Receiver. There is no requirement on the liquidator to submit a report or return on the directors' conduct to the Department for Business Innovation and Skills, however where matters are brought to the liquidator's attention these are reported as appropriate to the Official Receiver for further consideration.

3.2 Since my last annual report to creditors dated 31 October 2013 I have been in close contact with my solicitor in respect of claims identified against the director and his wife in the running of the Company.

3.3 Following my initial investigations I discovered that the director used Company funds to assist in the purchase of his matrimonial home in the sum of £300,000.

3.4 I applied to HM Land Registry to place a restriction on the property. This was granted in February 2013.

3.5 In conjunction with the above, in January 2013, a letter before action was issued to the director for the repayment of funds wrongly received in the line of trade.

3 6 The director failed to satisfy my requests for repayment or provide a sufficient argument as to why he believed these funds were not due. As such, proceedings were issued against him in May 2013.

3 7 A directions hearing was held on 25 July 2013 at which time the Judge agreed that proceedings be adjourned for a period of 3 months to allow for negotiations between parties.

3 8 Negotiations are on going however at this stage I do not believe that a resolution will be found. As such, I anticipate that legal action will be required.

4 Creditors

Secured Creditors

4 1 There are no secured creditors in the liquidation.

Preferential Creditors

4 2 There are no preferential creditors in the liquidation.

Unsecured Creditors

4 3 I have received claims totalling £400,964.80 from 2 creditors.

4 4 At present, a distribution to creditors is not known but any distribution would only be made from successful legal action.

5 Liquidator's Remuneration

5 1 The Creditors approved that the basis of the Liquidator's remuneration be fixed by reference to the time properly spent by him and his staff in managing the Liquidation.

5 2 My time costs for the period from 6 September 2012 to 5 September 2013 are £41,503.37. This represents 112.50 hours at an average rate of £368.92 per hour. Attached as Appendix B is a Time Analysis which provides details of the activity costs incurred by staff grade during this period in respect of the costs fixed by reference to time properly spent by me in managing the Liquidation.

5 3 As you will see from Appendix B the majority of time on this case has been recorded in the investigations section. Since my last annual report to creditors I have been in close contact with my solicitor, entering into litigation proceedings against the director.

- 5 4 My staff have spent a significant amount of time formulating and reviewing litigation documentation in respect of the proceedings referred to at 3 6 above. Time has also been spent in collecting additional documentation to assist in my claims including liaising with HM Revenue & Customs and Company bankers.
- 5 5 A significant amount of time has also been recorded in the administration and planning sections. This has included the preparation of reports and liaison with solicitors and counsel to progress claims against the director.
- 5 6 The remaining time has been recorded in the creditors and realisation of assets categories depending on the task completed.
- 5 7 Also attached as Appendix C is a cumulative Time Analysis for the period from 6 September 2011 to 5 September 2013 which provides details of my time costs since appointment. My total costs to date amount to £61,620.76 which represents 207.50 hours at an average rate of £296.97.
- 5 7 To date, no fees have been drawn.
- 5 8 Attached as Appendix D is additional information in relation to this firm's policy on staffing, the use of subcontractors, disbursements and details of our current charge-out rates by staff grade.
- 5 9 Since the 6 September 2013 no Category 2 disbursements have been drawn.

6 Liquidator's Expenses

- 6 1 The following expenses have been incurred since my appointment as Liquidator

Supplier / Service Provider	Nature of Expense Incurred	Amount Incurred to date	Rate to date	Amount Outstanding
Marsh	Specific Bond	10.00	0	10.00
Companies House	Company searches	13.00	0	13.00
HM Land Registry	Land Searches	71.00	0	95.00
Rowlands	Postage of accounts records	9.05	0	9.05
Kingston Smith & Partners LLP	Photocopies	22.20	0	22.20
Royal Mail	Postage	8.69	0	8.69
TMP Reynell	Statutory Advertising	65.87	0	65.87
1 st Class	Transcription costs	90.85	0	90.85

Various	Travel	340 06	0	340 06
Housemans Solicitors	Legal costs	48,054	0	48,054

7 Creditors' rights

7 1 Within 21 days of the receipt of this report, a secured creditor, or an unsecured creditor (with the concurrence of at least 5% in value of the unsecured creditors) may request in writing that the Liquidator provide further information about his remuneration or expenses which have been itemised in this progress report

7 2 Any secured creditor, or an unsecured creditor (with the concurrence of at least 10% in value of the unsecured creditors) may within 8 weeks of receipt of this progress report make an application to court on the grounds that, in all the circumstances, the basis fixed for the Liquidator's remuneration is inappropriate and/or the remuneration charged or the expenses incurred by the Liquidator, as set out in this progress report, are excessive

8 Next Report

8 1 I am required to provide a further report on the progress of the liquidation within two months of the end of the next anniversary of the liquidation, unless I have concluded matters prior to this, in which case I will write to all creditors with my final progress report ahead of convening the final meeting of creditors

Yours faithfully



IAN M DEFTY
Liquidator

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Appendix A

Receipts and Payments Account from 6 September 2012 to 5 September 2013 and Cumulative from 6 September 2011 to 5 September 2013

**05753845 Limited - Formerly Known As Adaptive Designs
(In Liquidation)**

LIQUIDATOR'S RECEIPTS AND PAYMENTS ACCOUNT

	Statement of affairs £	From 06/09/2012 To 05/09/2013 £	From 06/09/2011 To 05/09/2013 £
RECEIPTS			
Petitioners Deposit		0 00	1,000 00
		<u>0 00</u>	<u>1,000 00</u>
PAYMENTS			
O R Remuneration		0 00	2,235 00
Bank Charges		88 00	160 00
Judgement Debts (2)	(72,431 00)	0 00	0 00
Ordinary Shareholders	(2 00)	0 00	0 00
		<u>88 00</u>	<u>2,395 00</u>
BALANCE - 05 September 2013			<u><u>(1,395.00)</u></u>



Ian Defty
Liquidator

05753845 Limited

Summary of Fees and Expenses

From 06/09/2012 to 05/09/2013

Time Costs

The following is a summary of the time costs incurred by the Office Holder and his staff in the administration of this matter. It should be read in conjunction with the Office Holder's Report for the period referred to above.

Work Activity	Partner Hrs	Manager / Supervisor Hrs	Administrator Hrs	Other Hrs	Total Hrs	Time Costs (£)	Average Costs (£)
Administration & Planning	11 33	2 08	8 33	1 00	22 75	11,155 29	490 34
Case Planning/Information	10 00		3 50		13 50	7,859 99	582 22
General Admin/Billing/Filing	0 08	0 67	2 67	0 50	3 92	1,078 44	275 35
Post Appointment VAT & CTax	0 08		0 08	0 50	0 67	163 09	244 64
Strategy reviews/Checklists/Diary	1 17	1 42	2 08		4 67	2,053 77	440 09
Investigations	2 08	25 83	60 58		88 50	29,866 41	337 47
Strategy, planning, meetings and	2 08	5 42	5 33		12 83	5,515 84	429 81
Information capture/initial		6 58	9 33		15 92	5,564 74	349 62
Litigation - document review		12 83	38 50		51 33	16,362 50	318 75
Retrieval, review & analysis of debtors		1 00	7 42		8 42	2,423 33	287 92
Creditors		0 67	0 50		1 17	460 00	394 29
Correspondence/Preparation of		0 67	0 50		1 17	460 00	394 29
Realisation of Assets			0 08		0 08	21 67	260 04
Identification, securing, insuring &			0 08		0 08	21 67	260 04
Grand Total	13 42	28 58	69 50	1 00	112 50	41,503 37	

Notes

1 All costs are shown excluding VAT and include an element of undrawn work in progress. It should also be noted that the office holder's fees and other expenses included in his Abstract Receipts and Payments, will include irrecoverable VAT, where the insolvent was not formerly registered for VAT.

2 The time accounting system utilised by Kingston Smith & Partners LLP does not allow for analysis of time, by task, prior to 30 November 2002.

Disbursements

Category 1 Disbursements

151 66

These are out of pocket expenses which are directly attributable to the case. These are charged to the case and billed as funds allow.

Category 2 Disbursements

These are costs which are allocated to the case, where no direct costs are applicable. In this case, category 2 disbursements have been charged to the case as follows:

Photocopies	16 20
Postage	5 94
	<u>22 14</u>

Summary of Fees and Expenses

From 06/09/2011 to 05/09/2013

Time Costs

The following is a summary of the time costs incurred by the Office Holder and his staff in the administration of this matter. It should be read in conjunction with the Office Holder's Report for the period referred to above.

Work Activity	Partner Hrs	Manager / Supervisor Hrs	Administrator Hrs	Other Hrs	Total Hrs	Time Costs (£)	Average Costs (£)
Administration & Planning	18 50	3 08	21 42	1.00	44 00	17,510 35	397 96
Case Planning/information	15 25		8 67		23 92	11,339 26	474 12
General Admin/Billing/Filing	1 25	0 83	6 83	0 50	9 42	2,676 30	284 21
Post Appointment VAT & CTax	0 08		0 08	0 50	0 67	163 09	244 64
Set-up Administration/IPS/Initial	0 33	0 75	3 50		4 58	930 08	202 93
Statutory filing with Court, Companies	0 08		0 17		0 25	61 51	246 04
Strategy reviews/Checklists/Diary	1 50	1 50	2 08		5 08	2,326 69	457 71
Dealing with company/Debtor re			0 08		0 08	13 42	161 04
Investigations	2.25	40 58	116 75		159 58	43,066 39	269 87
Information capture/initial	0 17	9 58	11 67		21 42	7,250 78	338 56
Strategy, planning, meetings and	2 08	15 17	22 83		40 08	12,637 85	315 29
Litigation - document review		12 83	38 92		51 75	16,470 84	318 28
Retrieval, review & analysis of debtors		3 00	43 33		46 33	6,706 92	144 75
Realisation of Assets		0 08	0 08		0 17	46 84	281 04
Identification, securing, insuring &		0 08	0 08		0 17	46 84	281 04
Creditors		1 00	2 75		3 75	997 18	265 91
Correspondence/Preparation of		1 00	2 58		3 58	970 34	270 79
Claims/Proofs			0 17		0 17	26 84	161 04
Grand Total	20 75	44 75	141 00	1 00	207 50	61,620 76	

- Notes
- All costs are shown excluding VAT and include an element of undrawn work in progress. It should also be noted that the office holder's fees and other expenses included in his Abstract Receipts and Payments, will include irrecoverable VAT, where the insolvent was not formerly registered for VAT.
 - The time accounting system utilised by Kingston Smith & Partners LLP does not allow for analysis of time, by task, prior to 30 November 2002.

Disbursements

Category 1 Disbursements

614 53

These are out of pocket expenses which are directly attributable to the case. These are charged to the case and billed as funds allow.

Category 2 Disbursements

These are costs which are allocated to the case, where no direct costs are applicable. In this case, category 2 disbursements have been charged to the case as follows:

Photocopies	22 20
Postage	8 69
	30 89

Appendix D

ADDITIONAL INFORMATION IN RELATION TO LIQUIDATOR'S FEES PURSUANT TO STATEMENT OF INSOLVENCY PRACTICE 9 (SIP9)

1 Policy

Detailed below is Kingston Smith & Partners LLP's policy in relation to

- Staff allocation and the use of subcontractors
- Professional advisors
- Disbursements

1.1 *Staff allocation and the use of subcontractors*

Our general approach to resourcing our assignments is to allocate staff with the skills and experience to meet the specific requirements of the case

The constitution of the case team will usually consist of a Partner, Manager, Administrator and/or an Assistant. The exact constitution of the case team will depend on the anticipated size and complexity of the assignment and additional staff may be allocated to meet the demands of the case.

We are not proposing to utilise the services of any sub-contractors in this case.

1.2 *Professional advisors*

On this assignment we have used the professional advisors listed below. We have also indicated alongside, the basis of our fee arrangement with them, which is subject to review on a regular basis.

Name of Professional Advisor	Basis of Fee Arrangement
Housemans (legal advice)	CFA basis
Marsh (insurance)	Scale rate

Our choice was based on our perception of their experience and ability to perform this type of work, the complexity and nature of the assignment and the basis of our fee arrangement with them.

1.3 *Disbursements*

Category 1 disbursements do not require approval by creditors. The type of disbursements that may be charged as a Category 1 disbursement to a case generally comprise of external supplies of incidental services specifically identifiable to the case, such as postage, case advertising, invoiced travel and external printing, room hire and document storage. Also chargeable will be any properly reimbursed expenses incurred by personnel in connection with the case.

Category 2 disbursements do require approval from creditors. These are costs which are directly referable to the appointment in question but are not payments which are made to an independent third party and may include shared or allocated costs that can be allocated to the

appointment on a proper and reasonable basis such as internal room hire, document storage or business mileage

On this case the following Category 2 disbursements have been incurred since 6 September 2011

Type and purpose	£
Postage	8 69
Photocopies	22 20

2 Charge-out rates

A schedule of Kingston Smith & Partners LLP charge-out rates was issued to creditors at the time the basis of the Liquidator's remuneration was approved. Below are details of this firm's charge out rates which have been applied with effect from 1 May 2013

	Per Hour £
Partner	433-695
Senior Manager	314-550
Manager	260-495
Other Senior Professionals	
Supervisor	238-350
Senior Administrator	222-260
Administrator	167-260
Junior Administrator	140
Support Staff	
Experienced Cashier	238
Cashier	167
Support	105

Please note that this firm records its time in minimum units of 5 minutes