

# 2.24B

The Insolvency Act 1986

## Administrator's progress report

Name of Company Perpetual Energy Limited
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Company number 05156627
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In the High Court of Justice Chancery Division, Manchester District Registry <small>(full name of court)</small>
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Court case number 492 of 2010
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(a) Insert full name(s) and address(es) of administrator(s)

I/We (a)  
Mark Terence Getliffe  
CLB Coopers  
Century House  
11 St Peter's Square  
Manchester  
M2 3DN

Diane Elizabeth Hill  
CLB Coopers  
Century House  
11 St Peter's Square  
Manchester  
M2 3DN

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

(b) Insert date

From (b) 26 February 2010
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To (b) 25 August 2010
--------------------------

Signed

*Getliffe*  
Joint / Administrator(s)

Dated

*23 September 2010.*

### 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

Mark Terence Getliffe  
CLB Coopers  
Century House  
11 St Peter's Square  
Manchester  
M2 3DN

DX Number

0161 245 1000  
DX Exchange

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**

SATURDAY



A44 \*A3MYSNP1\* 194  
25/09/2010  
COMPANIES HOUSE

**Joint Administrators' Progress Report**  
**For the period**  
**26 February 2010 to 25 August 2010**

**Perpetual Energy Limited**  
**- In Administration**

## **Perpetual Energy Limited - In Administration**

### **CONTENTS**

- 1 Statutory Information
- 2 Progress of the Administration
- 3 Assets still to be realised
- 4 Joint Administrators' Remuneration
- 5 Estimated outcome for creditors
- 6 Ending the Administration
- 7 Next Report

### **APPENDICES**

- A Receipts and Payments Account from 26 February 2010 to 25 August 2010
- B Time Analysis for the period from 26 February 2010 to 25 August 2010
- C Additional Information in relation to Administrators' fees pursuant to Statement of Insolvency Practice No 9
- D Additional Information in relation to Activities Undertaken pursuant to Statement of Insolvency Practice No 9

## THE JOINT ADMINISTRATORS' PROGRESS REPORT

### 1 Statutory information

- 1.1 I was appointed as Joint Administrator of the Company on 26 February 2010 together with my partner, Diane Hill. The application for the appointment of the Administrators was made by the Director, Mr David Coyne.
- 1.2 This Administration is being handled by Mark Getliffe and Diane Hill of CLB Coopers, Century House, 11 St Peter's Square, Manchester, M2 3DN. The Administration is registered in the High Court of Justice Chancery Division, Manchester District Registry under reference number 492 of 2010.
- 1.3 The trading address of the Company was Booths Hall, Chelford Road, Knutsford, WA16 8GS. The Company also operated from Leasehold premises at Y Plas, Aberyswyth Road, Machynlleth, Powys, SY20 8ER. The business traded under the name Perpetual Energy Limited.
- 1.4 The registered office of the Company has been changed from Booth Hall, Chelford Road, Knutsford, WA16 8GS to c/o CLB Coopers, Century House, 11 St Peter's Square, Manchester, M2 3DN and its registered number is 05156627.

### 2 Progress of the Administration

- 2.1 Attached at **Appendix A** is a Receipts and Payments Account for the period from 26 February 2010 to 25 August 2010.
- Since my last report on 22 April 2010, I have received £9,082.80 from Debtors and £2.49 interest from placement of funds in interest bearing account.

### 3 Assets still to be realised

#### Contracts and Debtors

- 3.1 On appointment, the book value of the Company's debts (excluding monies owed by its associated company, Higher Perpetual Energy LLC ("HPE")) was shown in its accounts as £659,014. This included a substantial value attributed to invoices raised in respect of contracts with key customers, primarily with IKEA and Tesco Stores Limited ("Tesco") and British Sky Broadcasting Limited ("BSkyB"). I can report in respect of the current position with regard to contracts and debts as follows:

## Perpetual Energy Limited - In Administration

### **IKEA**

- 3 2 Balances shown on the Company's records as debts due to IKEA at appointment were as follows,

	<u>£</u>
IKEA Sweden	8,823 93
IKEA Belgium NV	47,786 65
IKEA Verwalbrgs GmbH	62,892 82
IKEA Spain	3,356 96
IKEA USA	81,505 21
IKEA USA	123,595 46
<b>Total</b>	<b><u>£327,961.03</u></b>

- 3 3 Since my last report I have been in contact with representatives from IKEA and discussions are ongoing

### ***Tesco Stores Limited (Tesco)***

- 3 4 According to the Company's records, £188,886 was owed from Tesco in respect of the supply of a wind turbine
- 3 5 At the date of Administration, the turbine was held in Port Tesco had delayed acceptance of the delivery of the turbine and the Company had incurred storage charges, which stood at £97,520 at the date of Administration and which continue to accrue
- 3 6 The turbine was subject to import duty due to HM Revenue & Customs (HMRC) of approximately £500,000 to procure its release from port The Company had insufficient cash to be able to pay this Duty prior to Administration
- 3 7 I instigated negotiation with Tesco with a view to securing settlement of the debt due to the Company, settling agreed storing costs and obtaining a net benefit for the Administration I offered to assist with completion of all relevant paperwork on behalf of the Company to be able to secure the release of the turbine from the Port Authorities and to assist in facilitating settlement in respect of the duty imposed by HMRC

## **Perpetual Energy Limited - In Administration**

3 8 However, Tesco have not agreed to the terms above and are not willing to make the payment of the net benefit to the Company. The sum offered by Tesco to undertake the work required by the Port Authorities and associated risk is not cost effective for Administrators and I have rejected the offer. Unless there is a material change in Tesco's stance, I do not anticipate that there will be any realisation on account of this potential asset.

### ***B Sky B***

3 9 At Administration, there was a debt from BSkyB according to the Company's records of £70,418.47. I received a payment of £11,668 during the first 6 months of the Administration on account of this debt.

3 10 I have commenced negotiation with BSkyB for the balance of £58,570 to be paid on the provision of information which to complete the Company's report on the project. Costs of completion of the information will be deducted from the realisation of the debt. Negotiation is ongoing and I am not able to comment on the likely level of realisation.

### ***Intercompany Debts***

3 11 The Company owns 80% of the shares of Higher Perpetual Energy LLC ("HPE"), a company registered in the United States of America ("USA"). HPE operated in Texas.

3 12 The minority shareholding is held by an American citizen. Prior to Administration, the Company's directors had unsuccessfully attempted to sell HPE in order to generate funds for the Company.

3 13 HPE had entered into a joint project in the USA to provide the sites, reports and wind turbines for a major corporate entity operating in the USA.

3 14 The Company's account shows a debt due from HPE of £738,247. At this time, my investigation in respect of the intercompany transactions and the likelihood of recovery of this debt is ongoing. Its recoverable value is not yet known.

3 15 The Company was owed £449.15 by Biomass Solutions Limited (Biomass), an associated company by way of a common director. Biomass settled this debt on 4 August 2010.

### ***Other Debtors***

3 16 The Company paid a deposit of £68,689 for a wind turbine during the course of an ongoing project.

## **Perpetual Energy Limited - In Administration**

3 17 Subsequently, the project did not proceed and Mr David Coyne and Mr David Tatton have undertaken to assist me to negotiate for return of the deposit. It is not yet possible to estimate a value to be recovered.

3 18 In addition, the Company is owed £12,492 on account of an insurance claim in respect of its project at Father Collins Park in Dublin. The insurance claim is proceeding, but it is not yet possible to determine whether this debt will be recovered. I will continue to monitor progress in respect of the claim.

### ***Father Collins Park final commissioning***

3 19 According to the Company's records, on completion of the Father Collins Park project, the Company were due to receive a final agreed payment of £90,909. An insurance claim has been triggered by the insolvency of the manufacturer of the wind turbines used by the Company as part of the project. Once this insurance claim has been completed, the Company may be able to make demand in respect of this final payment. I will pursue this matter at the appropriate time and continue to monitor progress in respect of the insurance claim.

### ***Directors Loan Account***

3 20 The Company paid £13,052 to Mr David Tatton to purchase a car by way of loan to him. I will continue to pursue settlement of this loan.

### ***German VAT Claim***

3 21 The Company paid German VAT of £33,938 in respect of work undertaken on its German IKEA contract. The Company had submitted what it believed to be a valid claim for recovery. However, the claim was rejected because of a technical error in the application. I liaised with the Company's former advisor, Baker Tilly GMBH, to determine the likelihood of the repayment and they confirmed that the deadline for late submission for correcting the error was not met by the Company prior to the Administration. Therefore, I was not able to proceed to appeal against the decision made by the German Tax Authorities and will not recover any funds.

### ***German Tax Deduction Claim (Withholding Tax)***

3 22 As part of ongoing payment of the Company's invoices in respect of its contract with IKEA in Germany, IKEA deducted and paid over £16,755 to the German Tax Authority which the Company may be entitled to recover. I am in correspondence with the German Tax Authority in order to be able to recover this asset.

***Republic of Ireland VAT Claim***

3 23 I have received confirmation that €2,552 33 is due from the Republic of Ireland VAT Authority and I am in correspondence with them to recover this refund

**4 Joint Administrators' Remuneration**

4 1 The Creditors approved the basis of the Joint Administrators' remuneration as being fixed by reference to the time properly spent by them and their staff in managing the Administration on 11 May 2010

4 2 The Joint Administrators' time cost at 25 August 2010 is £68,496 65 This represents 368 30 hours at an average rate of £185 98 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 the Joint Administrators and their staff in managing the Administration To date, £35,977 20 plus disbursements of £20 24 have been drawn on account

4 3 The present position is that there is a significant shortfall in respect of the Joint Administrators' costs. The Joint Administrators will continue to conclude all matters in respect of pursuing the Company's potential assets for the benefit of the Company's creditors but at risk of an increased exposure in respect of their costs shortfall At such time that the outcome regarding the assets realisation is more certain, the Joint Administrators may take a commercial decision to conclude the Administration or may consider approaching key creditors to determine their view on funding action to recover monies potentially due to the Company

4 4 Also attached as **Appendix C** is additional information in relation to our policy on staffing, the use of sub-contractors, disbursements and details of our current charge-out rates by staff grade

4 5 Attached as **Appendix D** is information in relation to Administrator's fees pursuant to Statement of Insolvency Practice 9

***Administration and Planning***

4 6 As at 25 August 2010 the Joint Administrators and their staff have incurred time costs of £9,515 15 on account of Administration and Planning, which represents 73 25 hours at an average rate of £129 9 per hour The majority of this time was incurred by the case administrator i e 44 9 hours at £132 per hour



## **Perpetual Energy Limited - In Administration**

- 4 7 Time posted to Administration and Planning includes work such as case planning, administrative set-up, appointment notification, maintenance of records including the case cashbook and statutory issues associated with the Administration
- 4 8 The production and statutory filing of all forms necessary for appointment notification were produced and filed in accordance with statute This includes such things as advertising in relevant press and notifying the Registrar of Companies
- 4 9 The Joint Administrators and their staff assisted the directors in producing and filing a statement of the Company's affairs as at the date of appointment, which was incorporated into the Joint Administrators' Report and Statement of Proposals

### ***Realisation of Assets***

- 4 10 As at 25 August 2010 the Joint Administrators and their staff have incurred time costs of £24,089 70 on account of Realisation of Assets, which represents 111 60 hours at an average rate of £215 86 per hour
- 4 11 Time costs posted to Realisation of Assets includes work such as identifying, securing and insuring assets, dealing with retention of title claims, realising the Company's trade debts, debt collection with regard to the analysed and collectable debt from the Directors, negotiation with IKEA, BSKyB, Tesco and working and meeting with Directors with regard to realisation of debts as well as chasing refund, deposits and insurance claims
- 4 12 The Company's assets, comprising various debts, contracts, tax refund and insurance claims are complex and the Administrators and their staff have had to undertake considerable work to compile information available from the Company's records In addition a considerable amount of time has been spent in liaising with the Company's former Directors and in negotiation with representatives of IKEA and Tesco
- 4 13 Because the complicated nature of the assets, a greater than usual proportion of time has been incurred at manager and partner level The collection of general trade debts has been undertaken by the case administrator

### ***Creditors***

- 4 14 As at 25 August 2010 the Joint Administrators and their staff have incurred time costs of £30,487 20 categorised under the heading Creditors, which represents 155 85 hours at an average rate of £195 62 per hour

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## Perpetual Energy Limited - In Administration

- 4 15 Immediately on appointment the Joint Administrators dealt with the Company's 21 employees to make them aware of their position in relation to the Administration Assistance was provided in relation to completing the employees' claims against the Company in respect of arrears of wages, holiday pay, notice pay and redundancy pay These claims were then forwarded to the Redundancy Payments Service ("RPS") for processing and the Administrators and their staff have continued to provide assistance to employees and the RPS as required during the course of the Administration included organising the preparation and submission of Form P45 and P35
- 4 16 The Joint Administrators and their staff have corresponded with the Company's creditors in and outside the UK and dealt with their queries in relation to the Administration The Company have 135 creditors and 30 were based outside the UK
- 4 17 As far as possible, work in relation to dealing with the Company's creditors including employees was conducted at case administrator level

### ***Staff Responsibilities***

- 4 18 The majority of case work is carried out at administrator level, which falls under the heading "Other Senior Professional" and "Assistants & Support Staff" in the time analysis provided at **Appendix B**
- 4 19 Case administrators are supervised by the case manager, who assists with higher technical requirements
- 4 20 Partners have overall responsibility for the conduct of the Administration

## **5 Estimated outcome for creditors**

- 5 1 On the basis of current information, there will be insufficient funds to enable a dividend to be paid to the preferential and unsecured creditors of the Company other than Prescribed Part realisation (set out below)
- 5 2 As the security post dated the introduction of the Enterprise Act 2002 on 15 September 2003, there is a requirement to set aside an 'Unsecured Creditors' Fund' as outlined in s176A of the Act The Report and Statement of Proposals dated 22 April 2010 estimated the value of the unsecured creditors' fund to be £29,148 (the estimated Prescribed Part) However, realisations on account of the Company's assets have proved more difficult than expected Please note paragraph 4 3 above

## Perpetual Energy Limited - In Administration

### 6 Ending the Administration

- 6 1 Exit strategy remains in line with the Joint Administrators' proposals circulated in our report of 22 April 2010
- 6 2 If having realised the assets of the Company, the Joint Administrators think that a distribution will be made to the unsecured creditors they propose filing a notice with the Registrar of Companies which will have the effect of bringing the appointment of the Administrators to an end and will move the Company automatically into Creditors' Voluntary Liquidation (CVL) in order that the distribution can be made. In these circumstances, the creditors have approved that the Joint Administrators will become the Joint Liquidators of the CVL.
- 6 3 If, as appears more likely at the present time, the Joint Administrators think that the Company has no property which might permit a distribution to its creditors, they will file a notice with the Court and Registrar of Companies for the dissolution of the Company.
- 6 4 The Joint Administrators will be discharged from liability under Paragraph 98(3) of Schedule B1 to the Insolvency Act 1986 immediately upon their appointment as Administrators ceasing to have effect.

### 7 Next report

- 7 1 The Joint Administrators are required to provide a progress report within one month of the end of the next six months of the Administration or earlier if the Administration has been finalised.

For and on behalf of  
Perpetual Energy Limited – In Administration



Mark Getliffe  
Joint Administrator

Appendix A

**Perpetual Energy Limited  
(In Administration)  
Joint Administrators' Abstract of Receipts & Payments**

**Statement  
of Affairs**

**From 26/02/2010  
To 25/08/2010**

	<b>FLOATING CHARGE ASSETS</b>	
	Debtors	NIL
13,052 00	Directors Loan Account	NIL
16,755 00	German Tax Deduction Claim	NIL
		<u>NIL</u>
	<b>ASSET REALISATIONS</b>	
	Biomass Solutions Limited	449 15
126,214 00	Debtors	37,250 57
	Higher Perpetual Energy LLC	6,510 54
	Other Debtor	1,014 22
	Bank Interest Net of Tax	2 49
		<u>45,226 97</u>
	<b>COST OF REALISATIONS</b>	
	Joint Administrators' Remuneration	35,977 20
	Joint Administrators' Expenses	20 24
	Legal Fees	1,700 00
	Legal Disbursements	80 00
	Completion of P35s and P14s	445 00
	Collection Costs	100 00
	Re-direction of Mail	25 96
	Statutory Advertising	199 74
	Bank Charges	7 00
		<u>(38,555 14)</u>
<b>156,021.00</b>		<u><b>6,671.83</b></u>
	<b>REPRESENTED BY</b>	
	VAT Receivable	1,670 18
	Current Account	4,999 16
	Interest Bearing Account	2 49
		<u><b>6,671.83</b></u>

## Time costs analysis

From 26 February 2010 to 25 August 2010

HOURS							
Classification of work function	Partner	Manager	Other Senior Professional	Assistants & Support Staff	Total Hours	Time cost £	Average Hourly Rate £
Administration & Planning	2 00	11 10	44 90	15 25	73 25	9,515 15	129 90
Investigations	2 00	1 95	19 40	-	23 35	3,710 50	158 91
Realisation of Assets	23 70	50 95	33 75	3 20	111 60	24,089 70	215 86
Creditors	18 10	78 20	59 55	-	155 85	30,487 20	195 62
Other case matters	-	-	1 00	-	1 00	132 00	132 00
VAT/Tax Compliance	0 55	-	2 70	-	3 25	562 10	172 95
Trading	-	-	-	-	-	-	-
Total Fees Claimed £	16,956 90	29,293 20	21,291 60	954 95		68,496 65	
Total Hours	46 35	142 20	161 30	18 45	368 30		185 98
Average Rate	365 84	206 00	132 00	51 76			

**CLB COOPERS  
ADDITIONAL INFORMATION IN RELATION TO FEES AND DISBURSEMENTS  
PURSUANT TO STATEMENT OF INSOLVENCY PRACTICE 9**

**Policy**

Detailed below is CLB Cooper's policy in relation to

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

**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 Assistant. The exact constitution of the case team will depend on the anticipated size and complexity of the assignment and on larger, more complex cases, several Seniors/Assistants may be allocated to meet the demands of the case

With regard to support staff, time spent by cashiers in relation to specific tasks on an assignment is charged. Only if there is a large block of time incurred by a member of the secretarial team, e.g. report compilation and distribution, do we seek to charge and recover this time

We have not utilised the services of any subcontractors in this case

**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

<b>Name of Professional Advisor</b>	<b>Basis of Fee Arrangement</b>
Addleshaw Goddard (legal advice)	Hourly rate & disbursements
AUA Insolvency Risk Services (insurance)	Scale rate & disbursements
Bury Office Furniture (Removal agents & disposal advice)	Agreed fee for collection and removal of Company records

**Disbursements**

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

Disbursements are charged as follows -

- Mileage / Motor expenses are currently charged at the rate of 40p per mile
- Company and other Search costs are charged at cost
- Travel and accommodation is charged as a reimbursement of the actual cost incurred
- Statutory Advertising is charged as a reimbursement of the actual cost incurred
- All other disbursements are charged at cost

#### Charge-out rates

A schedule of CLB Coopers charge-out rates effective from 1 May 2009 is shown below

<b>Grade of Staff</b>	<b>Rate per hour £</b>
Partner 1	374 00
Partner 2	311 00
Manager	206 00
Administrator	132 00
Assistants and Support Staff	86 00

## Appendix D

### ADDITIONAL INFORMATION IN RELATION TO ADMINISTRATORS' FEES PURSUANT TO STATEMENT OF INSOLVENCY PRACTICE 9

#### 1 Policy

Set out in Appendix C is CLB Cooper's policy in relation to

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

#### 2 Activities Undertaken

The standard activities – administration and planning, Investigations, realisation of assets, trading, creditors and other case matters which make up the classification of work function provide creditors with a summary of the work carried out by the Joint Administrators and their staff Full details of the time and charge out summary are set out in the attached table The classification of work with further examples of work carried out is as follows -

Standard Activity	Examples of Work	
Administration & Planning	Case strategy	Periodic reviews
	Case planning	Reconciliations
	Administrative set up	General cashiering
	Appointment notification and formalities	Statutory reporting & meetings
	Maintenance of records	Fees and WIP
	General accounting	Bonding and bordereau
Investigations	CDDA reports	Antecedent transactions
	Questionnaires and checklists	
Realisation of Assets	Identifying, securing, insuring assets	Property, business and assets sales
	Retention of Title	Leasehold property issues
	Debt collection	Stock and WIP issues
	Sale of Goodwill / business	Health and safety
Trading	Management of operations	Accounting for trading
	On-going Employee issues	
Other Case Matters	Non specific items not included in other categories	



Standard Activity	Examples of Work	
Creditors	Creditor queries	Employees
	Creditor correspondence	Reporting
	Legal claims	
	Creditor claims (all categories)	Pre Appointment VAT/PAYE/CT
VAT & Tax Compliance	Post appointment VAT, PAYE and Tax issues	