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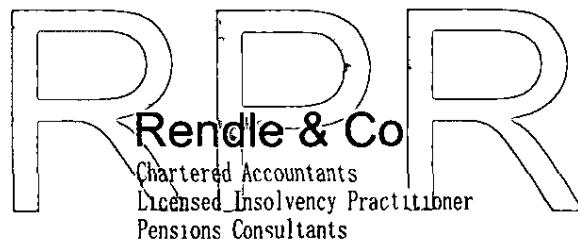
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Liquidator's  
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Report.

19.6.13 - 18.6.14.

**ARCK LIMITED LIABILITY PARTNERSHIP  
IN LIQUIDATION**

**LIQUIDATORS' ANNUAL PROGRESS REPORT**

**PURSUANT TO SECTION 104A OF THE INSOLVENCY ACT 1986 (AS AMENDED)  
AND RULE 4.49B OF THE INSOLVENCY RULES 1986 (AS AMENDED)**



MONDAY



QIQ 18/08/2014 #32  
COMPANIES HOUSE

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**ARCK LIMITED LIABILITY PARTNERSHIP  
IN LIQUIDATION**

**LIQUIDATORS' ANNUAL REPORT**

**1. PURPOSE OF THE REPORT**

We are now in a position to provide you with a report on the conduct of the liquidation for the preceding year as required by Section 104A of the Insolvency Act 1986 (as amended) (“the Act”) and Rule 4.49B of the Insolvency Rules 1986 (as amended) (“the Rules”). Certain important statutory disclosure requirements regarding the rights of creditors are set out in Appendix A.

The report is private and confidential and may not be relied upon, referred to, reproduced or quoted from, in whole or part, by creditors for any purpose other than advising them, or by any other person for any purpose whatsoever.

**2. BACKGROUND AND PROGRESS OF THE LIQUIDATION**

**Background to the Appointments**

On 8 February 2012, Roderick Graham Butcher of Butcher Woods was appointed as the Provisional Liquidator of Arck LLP (“the LLP” or “Arck”) by an Order of Court following the issue of a winding up petition on 7 February 2012 by a creditor. The Provisional Liquidator’s appointment ceased on the making of the winding up Order.

On 11 April 2012 the LLP was subject to a winding up Order issued by the High Court. The Official Receiver (“OR”) was appointed as the Liquidator on the making of the Order following which the OR convened a meeting of creditors on 19 June 2012 at which Richard Paul Rendle of Rendle & Co and Roderick Graham Butcher of Butcher Woods were appointed as Joint Liquidators (“the Liquidators”).

**The roles of the Appointees**

The OR is formally responsible for the investigation into the reasons for the failure of the LLP and the conduct of the directors. The OR is obliged to report details of his findings, inter alia, under the Company Directors Disqualification Act 1986. The Liquidators’ role is to report those matters which come to their attention to the OR for consideration. In certain circumstances, the role of the Liquidators extends to submitting confidential reports direct to the relevant authorities.

The role of the Liquidators is to realise the assets, agree the claims of creditors and to distribute so much of the assets so realised to the creditors, in their ranking, as they are able after taking into account and paying the costs and expenses of realisation and the liquidation.

The Liquidators’ duties also require them to deal with any outstanding matters such as the submission of outstanding returns and queries from employees and creditors as well as the more general duties of case set up and planning. Compliance, statutory reporting, cashing and accounting are also matters that have been dealt with during the period together with the agreement of creditors’ claims.

As is usual in the circumstances the Liquidators have agreed between themselves the respective tasks that they will undertake in respect of the liquidation. Broadly speaking, Butcher Woods are responsible for the realisation of the assets whilst Rendle & Co are responsible for dealing with the claims of creditors and reporting matters.

It is not proposed to repeat the comments made in previous reports since creditors will largely be aware of the circumstances. The report concentrates on the matters that have arisen and taken place during the past year and these matters are set out below.

### **Background to the LLP and its failure**

Creditors will recall that Arck was incorporated on 28 July 2006. It was controlled since that date by its two members Richard Clay (“Clay”) and Kathryn Clark (“Clark”).

Arck appears to have been established to capitalise on a successful venture in Bulgaria owned by Clay and which traded as Euro-Balkan Properties Limited. Arck traded for most of its life from offices in Nottingham, which it owned, offering non-regulated financial investments principally in overseas property schemes in Cape Verde and Canada.

Sums totalling in excess of £63 million passed through Arck’s main bank account however there was little to show in the way of assets.

Various proceedings were subsequently issued against both Clay and Clark by the relevant Authorities and these are continuing. Further comment regarding the proceedings is set out below.

### **Statement of Affairs**

The members were not requested to submit a Statement of Affairs since it was believed that this would have little value even if the members had complied with the request and in the event of non-compliance the Liquidators would have been unable to enforce compliance because of the legal proceedings commenced by the Authorities.

### **3. REALISATION OF ASSETS**

Set out below is a brief summary for the current reporting period of the various assets which have been uncovered and/or payments made which may lead to the recovery of monies for the benefit of creditors.

#### **Subsidiary – Arck Resorts BC Limited (“Arck Resorts BC”)**

It was reported in the previous year’s annual report that an amount of £1,121,221 had been received into the estate from Arck’s interest in Arck Resorts BC and this was duly received during the year. The realisation related to land owned by Arck Resorts BC in Fernie, British Columbia.

The monies were received following the appointment of a partner in KPMG Inc in Canada as Receiver of all the assets, undertakings and properties of Arck Resorts BC by the Liquidators. No further monies are expected to be received from this source.

#### **Motor Vehicle**

As previously reported, Arck made a payment of £77,500 in respect of a Range Rover Vogue that Clay registered in his name personally. Proceedings were issued by the Liquidators for recovery of the vehicle which Clay defended. The Court was satisfied that the vehicle was owned by Arck and made an Order that the vehicle was not subject to Clay’s Restraint Order and that the vehicle should be returned to Arck as the transaction was considered to be at an undervalue.

Subsequently Messrs MGR Appraisals were instructed to collect and sell the vehicle which was sold at auction for £38,700. After auction charges of £1,426 were deducted, £37,274 was received.

Clay was ordered to pay the costs of the proceedings totalling £7,142. When he failed to do so the Liquidators petitioned for his Bankruptcy and he was subsequently made bankrupt on 28 May 2013.

#### **Arck Estrela Limited in Liquidation (“Arck Estrela”)**

Arck has a claim for a sum in excess of £24 million to Arck Estrela, a company based in Jersey in which Clay together with others had an interest in the share capital. It appears that no security was provided in respect of these transfers. The liquidators of Arck Estrela, two partners in BDO, have been unable to locate where this money was subsequently transferred to and/or for what it was used. Nor have they been able to locate any books and records or indeed any security over assets that would give rise to realisations.

The liquidators of Arck Estrela have recently stated that significant expense and litigation would be required to pursue the matter, with no guarantee of success. As there are no funds in the estate, they are not prepared to incur further costs or expense to investigate further and will be closing the liquidation in due course.

#### **Aston Leslie Developments in Liquidation (“Aston”)**

Arck has a claim for £610,876 in respect of Aston which has entered into liquidation. Two partners in Cooper Parry were appointed as the liquidators on 13 March 2013. A claim was lodged in that liquidation.

A recent progress report shows a balance in hand of £884. The report advises that an additional asset realisation of £6,480 is anticipated however it is likely these funds will be used to defray the costs of the liquidation. As such there is no prospect of a distribution to Arck.

#### **Cambridge Guarantee (“CG”)**

Arck had advanced significant sums both directly to CG as well as to third parties on behalf of CG to the sum of £1.8 million. Arck was a shareholder of CG’s holding company, being Cambridge Guarantee Holdings. It is also apparent that CG and Arck entered into a loan agreement prior to liquidation.

Repayment of the total sums advanced were demanded. CG disputed that they were due to be returned and the terms of the loan agreement. Legal advice was sought in respect of monies advanced prior to the date of the loan agreement and we were advised that should the matter go to court the prospects of successful recovery were uncertain. It was also likely that CG did not have the reserves to repay the total amounts paid. A review of the financial position of Cambridge Guarantee showed a negative balance sheet of £2.7 million.

The monies advanced after the date of the loan agreement total £75k. CG disputed that the monies were due to Arck on the basis that the terms of the agreement stated that CG must have generated profits from the venture, which it appears not to have done. Whilst the terms of the loan agreement were disputed by both sides CG did make a settlement offer of £25,000 for Arck’s shares in the holding company plus £15,000, which was rejected.

Negotiations continued and various further offers were received. Finally, an offer of £25,000 for the shares together with £50,000 in settlement of the loan agreement was received. Following advice regarding the costs and uncertain prospects of recovery through legal action the offer was accepted and eventually received by the Liquidators. No further funds are expected from this source.

### **Integrity Financial Solutions Limited in Liquidation (“Integrity”)**

Arck has a claim for £585,856 in respect of Integrity which has entered into liquidation. Two partners in Grant Thornton were appointed as the liquidators on 7 June 2011. A claim was lodged in that liquidation.

We are advised that the prospect of a distribution to unsecured creditors is dependent upon an intercompany account recovery of c£360,000 together with a claim against the former liquidator’s insurance bond to the sum of c£222,000. The amount that may be made available to us as liquidators of Arck remains uncertain.

### **Nottingham Helicopters (2008) Limited in Liquidation (“Helicopters”)**

It was previously reported that Arck had a claim for £307,896 in respect of Helicopters, which had entered into liquidation. A partner in Cooper Parry was appointed as the liquidator on 21 August 2012. A claim was lodged in that liquidation and we were advised that there was a prospect of a dividend to unsecured creditors.

A further review of the LLP’s records indicated that additional funds had been transferred to Helicopters via the Mina accounts as previously reported and therefore a revised claim was submitted in the estate in the sum of £506,168.

Clay also submitted a claim in Helicopters’ estate, asserting that £175,188 of the funds transferred by Arck to Helicopters related to funds which had been applied to his loan account with Arck and as such should be treated as a loan personally provided by him.

Clay’s position was disputed for the following reasons:

- Arck advanced all the monies directly to Helicopters
- Statutory accounts show monies due from Helicopters
- That a similar argument was put forward by Clay regarding the Range Rover motor vehicle which was rejected by the Court
- That Clay did not disclose this indebtedness to himself in the Freezing Order Application proceedings

Lengthy correspondence was exchanged with the liquidator of Helicopters, his instructed solicitors and Clay. We subsequently requested that the liquidator bring the matter to a close and proceed with the adjudication. The adjudication has now been finalised and Arck’s claim has been accepted in full. We were also advised that a dividend payment of c39p in the £ would be declared in respect of the claims of creditors and that Arck would receive a payment of c£197,000. Subsequent to the reporting date a dividend of c£197,000 has been received.

### **Nottingham Rugby Limited**

Arck had a claim for £20,000 in respect of Nottingham Rugby Limited in respect of a loan agreement. Repayment of this sum was requested and was initially rejected on basis that there was no loan agreement. However further evidence was provided and repayment was agreed. £20,000 has now been received into the estate.

### **Santiago Golf Resort, S.A. (“Santiago Golf”)**

Arck transferred £1.8 million to solicitors in Madrid together £1.7 million which was paid to a bank account in Portugal by the name of Santiago Golf.

We were subsequently advised by the Santiago Golf that these payments were in respect of an instalment relating to the purchase of the Santiago Golf and a fraction of the infrastructure costs. The contract for this venture was between Santiago Golf and Arck Estrela. A review of a contract for Zone 1 of the resort indicates infrastructure costs of €9 million together with purchasing costs in excess of €6 million. There are 14 Zones in total, each with separate terms and costs similar to that of Zone 1. We have been advised that the contracts were terminated due to Arck Estrela not meeting its responsibilities and as such there is no prospect of recovery of these funds.

#### **Westgate Construction Limited in Liquidation (“Westgate”)**

Arck has a claim for £769,127 in respect of Westgate, which is also in liquidation. A partner in Begbies Traynor was appointed as the liquidator on 13 April 2012.

We were advised that there was a prospect of a dividend to unsecured creditors of c 2p in £ and subsequent to the anniversary of the liquidation we received a payment of c £21,000.

#### **Clark**

Clark has received payments from Arck in excess of £580,000 and she has not been able to provide an adequate explanation for receipt of those monies. Clark is subject to Restraint and Freezing Orders and as such any funds or assets Clark may have available would be subject to those Orders. Whilst the Liquidators may be able to make a claim against the assets which have been restrained/frozen the outcome is unknown at present.

#### **Clay**

Clay has received payments from Arck in excess of £3.6 million and has not been able to provide an adequate explanation for receipt of those monies.

Clay was made bankrupt on 28 May 2013 following the petition of the Liquidators for unpaid legal costs following an application in respect of a Range Rover Vogue, which was previously reported. Clay is also subject to Restraint and Freezing Orders. Whilst the Liquidators may be able to make a claim against the assets which have been restrained/frozen the outcome is unknown at present.

As creditors may be aware the criminal proceedings against Clay and Clark are continuing. Creditors may also be aware that Clark recently pleaded guilty to two of the offences with which she was charged whilst Clay pleaded not guilty to all of the charges. The trial is now listed for 12 January 2015 at Southwark Crown Court and bail conditions mean that both defendants have been tagged and are subject to curfew.

#### **Seamus O’Mahony Consultancy Limited (“Seamus O’Mahony”)**

Arck transferred £2.95m to Seamus O’Mahony. We wrote to Seamus O’Mahony to ascertain the reason for the transfer and the purpose for the use of the funds. They have subsequently advised that the payments received were in respect of funds raised through Sale and Redemption Contracts relating to a development on the island of Sal in Cape Verde. The monies were subsequently advanced to accounts held by Paradise Beach ATA SA (“PB”), as well as McGuire Desmond Solicitors and PB service providers. There does not appear to be any prospect of recovery of these funds.

### **McGuire Desmond Solicitors**

Arck transferred £211,200 to McGuire Desmond Solicitors. We wrote to them to ascertain the reason for the transfer and the purpose for the use of the funds. They subsequently advised that they never received instructions from Arck but rather from Clay and Clark. They have advised that the monies received were from Arck Marketing Limited (now dissolved) although Arck's records show they were paid from an account controlled by Arck. The funds were apparently advanced to PB and used in development of the development of the resort. There does not appear to be a prospect of recovery of these funds.

### **Bird & Co Solicitors LLP (“Bird & Co”)**

Arck transferred £655,739 to Bird & Co. We wrote to them to ascertain the reason for the transfer and the purpose for the use of the funds.

They subsequently advised that £630,000 was used in respect of the purchase of Arck's former registered office and trading address at 3 The Triangle, Nottingham. The remaining funds were used to purchase a flat in Nottingham from Brockhole Developments Limited. This flat was held in the names of Clay and Clark. Both properties have been repossessed by Yorkshire Bank plc and there are no surplus funds available to the estate.

### **Mina Express Limited and Mina Forex Limited (collectively “Mina”)**

Funds in excess of £25 million were transferred to Mina, two connected foreign exchange houses based in Nottingham. The monies were subsequently transferred or provided to various third parties as previously reported. The only monies recoverable in respect of monies handled by Mina have been dealt with above. There is no prospect of recovery of any further funds from this source.

### **Claims against Third Parties**

Investigations have been made and Counsel's opinion sought in respect of claims against the LLP's former accountants, and the FCA in respect of any duty of care they may have had to Arck. As you may recall the FCA had been advised of a potential breach of regulations prior to Arck entering into liquidation. Following advice from specialist Counsel on both claims there is no prospect of successful action without a change in the law. This is due to the legal principle *ex turpi causa*, which may be summarised as follows, the members of the LLP (Clay and Clark) were engaged in or had knowledge of the unlawful activity and accordingly that knowledge is imputed to the LLP on whose behalf the Liquidators act. Accordingly, the LLP and by corollary the Liquidators cannot claim damages arising out of the activity about which they had imputed knowledge.

Regrettably, Clay and Clark were the sole members of the LLP. If an innocent third party had also been a member of the LLP then it may have been possible to seek recovery of damages.

### **Third Party Debtor**

As previously reported, a third party had been identified as having received amounts in excess of £1.3 million in respect of transfers from Arck's bank accounts together with further significant payments to other third parties that appear to have been on behalf of the Arck. The matter is still under investigation and being considered.



#### **4. RECEIPTS & PAYMENTS**

Attached as Appendix B is a receipts and payments summary for the period of the liquidation from 19 June 2012 to the anniversary. The amounts are stated net of VAT as the LLP is registered for VAT.

In a compulsory liquidation the Liquidators are obliged to open a bank account with Bank of England and to pay into that account all monies received in respect of the liquidation. The account is generally referred to as the Insolvency Services Account (“ISA”). The operation of the ISA and the OR’s office is funded by charges levied on monies lodged in the ISA.

To date, ISA quarterly bank charges of £172 and cheque charges of £24 have been incurred. The fee levied by the Secretary of State currently total £72,994.

The OR incurred costs of £2,262. A deposit of £1,650 was lodged on the issue of the petition against the LLP. In accordance with the usual undertaking given by the Liquidators, these costs were paid from funds realised in the liquidation.

The summary when read in conjunction with this report is self explanatory and no further explanation is considered to be necessary. The balance of funds in hand, together with any accruing interest, represents monies which will be available to creditors after the payment of the costs and expenses of the OR and the liquidation.

#### **Prescribed Part**

The Liquidators are required in certain circumstances to detail those monies to be paid to unsecured creditors in respect of the Prescribed Part.

The Enterprise Act 2002 amended the Insolvency Act 1986 (“the Act”) by inserting inter alia section 176A into the Act. The effect of inserting section 176A is to provide, in certain circumstances, a limited fund for unsecured creditors from the assets of the LLP, which would otherwise be available to a floating charge holder. This fund is known as the “Prescribed Part” and is only relevant where the floating charge holder obtained the benefit of its security on or after the implementation of the relevant provisions of the Enterprise Act 2002 on 15 September 2003.

The Liquidators are required to provide estimates of both the LLP’s net property and the Prescribed Part however as the floating charge holder was paid in full during the reporting period the calculation of the net property and the Prescribed Part are irrelevant as the unsecured creditors are entitled to the whole of the remaining funds subject to payment of the costs and expenses of the liquidation.

#### **5. ASSETS REMAINING TO BE REALISED**

An amount is due to the LLP from HM Revenue & Customs in respect of a VAT refund on the costs of the liquidation.

Monies have been received in respect of realisations subsequent to the reporting date as mentioned above. Furthermore, as is evident from the information provided elsewhere in this report whilst significant progress has been made in the realisation of the assets the Liquidators’ investigations are not yet complete and as such they are unable to state whether these will lead to the recovery of other monies that may be due to the LLP. Furthermore, various claims which have been lodged may lead to recoveries as outlined above in section 3.

Accordingly, the Liquidators are unable to state with any certainty what assets remain to be realised at this time other than those stated above.

## **6. INVESTIGATION**

The appointment of the Liquidators was as a direct result of the allegations from investors and others in relation to the activities of Clay and Clark together with indications that funds had been misappropriated. As a result of these allegations, a detailed investigation into the financial affairs of the LLP has been carried out. It is evident from comments made elsewhere in this report that the investigation has been extensive and is not yet complete. Accordingly, as significant investigations are on-going it would be inappropriate to provide a detailed report on matters at this time.

Many creditors will be aware that Clay and Clark are the subject of investigation by the relevant regulatory authorities and have been charged with various offences by the Police in relation to the LLP's affairs. The Liquidators are unable to comment further in this respect as the authorities' investigations and proceedings are on-going.

Creditors are requested to make known to the Liquidators any assets or possible voidable transactions which may not have been disclosed to the Liquidators or any other matters which require further investigation or consideration.

## **7. CREDITORS' CLAIMS**

A summary of creditors' claims showing the position as at the date of the report is attached as Appendix C.

### **Secured creditors**

Arck owned the freehold to its trading premises in Nottingham. The premises were charged to Yorkshire Bank Plc ("the Bank"), the LLP's bankers, by way of a debenture conferring fixed and floating charges over the assets of the LLP and the building in particular.

On 9 March 2012, after the issue of the petition and the appointment of the Provisional Liquidator, the Bank appointed two partners in Begbies Traynor (Central) LLP as LPA Receivers. The Receivers subsequently sold the property and the Bank has submitted a residual claim in the liquidation which has been agreed in the sum of £131,139.42, to include accrued and accruing interest.

The amount outstanding to the Bank was paid in full during the year.

### **Preferential creditors**

There have been no preferential claims lodged to date.

### **Unsecured creditors**

Unsecured creditors' claims comprise numerous claims from investors who advanced money to the LLP to invest in various overseas property investments, monies received from various entities associated or connected with Clay and Clark, the Bank and a small number of trade creditors.

The LLP's book and records are not complete and in particular there does not appear to be a reliable central record of monies received from or returned to investors. Accordingly, the situation regarding claims submitted by investors is not clear and a substantial amount of time and effort had to be put into gathering the information regarding claims from the investors and their agents.

The process was initiated by the OR in order to convene and hold the meeting of creditors at which the Liquidators were appointed. That information has been reviewed, amended and corrected where necessary. In addition, investors' claims have been checked against the LLP's records where they are available, the records provided by those instructed on behalf of the investors and the marketing material issued when the products were sold.

Where the LLP acted as agent in the sale of products on behalf of third parties efforts were also made to ascertain whether those monies had been passed over to the investment vehicle.

Initially, the OR thought that there were 537 unsecured creditors who could be expected to prove in the liquidation for £64,816,950. The summary in Appendix C shows that approximately 932 claims have been submitted in the sum of £72,703,738 although the number of claims may be overstated as some investors have submitted more than one claim. 610 claims (approximately 65% by number) have been dealt with by either having been admitted or rejected and 226 (approximately 24% by number) are currently under consideration. Theoretically, 95 claims remain to be lodged by investors with a value of £142,021 however many of these claims were recorded as nil value potential claims by the OR. Nevertheless, it is apparent that there are various outstanding claims and creditors/investors are requested to submit any claim they may have **that has not already been lodged** as soon as possible.

The adjudication process is complex. The procedure has been made infinitely more difficult because of the state of the LLP's records and the numerous amendments made to the terms of individual and groups of investor's claims by circulars, letters and emails issued by the LLP, its officers and employees. This has meant that each and every individual claim has had to be considered and adjudicated upon separately which has significantly increased the costs of dealing with claims. It has also been necessary to seek legal advice in dealing with certain claims.

The sheer number of claims and volume of paperwork required to substantiate claims has also been problematic and the Liquidators would like to thank investors for their patience and co-operation in providing information when requested.

The adjudication process is ongoing as requested by the Liquidation Committee. The vast majority of the work in adjudicating upon the claims has been completed although it is difficult to provide a reliable estimate of the time that it will take to complete the exercise because of the nature of the task. It will however be completed as soon as possible in order to enable a dividend to be declared to creditors.

## **8. ESTIMATED OUTCOME**

It is not possible to confirm the date or quantum of the dividend likely to be available to unsecured creditors as a significant number of claims remain outstanding and to be adjudicated upon. Creditors who have not yet submitted a claim are requested to do so as soon as possible. Should any creditor require a further claim form or require assistance in completing the form please contact us.

### **Disclosure requirements**

No payments were made to creditors in respect of statutory interest and no amounts were paid into the Insolvency Services Account in respect of unclaimed dividends as no dividends have been declared as yet.

There is no prospect of a return to the members of the LLP.

## 9. LIQUIDATION COMMITTEE

A Liquidation Committee was appointed at a meeting of creditors convened by the Liquidators and held on 7 August 2012. The Committee comprises the following members:

Bob Massey representing Bay Trust International Limited  
J Colvin Rae representing himself  
James Morley-Cotterell representing DMS International Limited  
Paul Millar representing David Williams  
Nick Dean representing Gerard Purdy

The Committee met on an ad hoc basis both formally and informally as often as was considered necessary in the circumstances. The support of the Committee was essential in dealing with certain aspects of the liquidation and the Liquidators would like to formally record their thanks to the Committee for their assistance during the period.

## 10. LIQUIDATORS' FEES AND EXPENSES

### Provisional Liquidator's Fees and Expenses

The costs of the Provisional Liquidator were approved by the Birmingham District Registry, High Court of Justice on 25 June 2013 in the following amounts:

Provisional Liquidator's Fees	£33,632 50
Provisional Liquidator's Expenses	£11,475 45
Higgs and Sons – legal costs	£18,456 67

The costs and expenses of the provisional liquidator to extent that they relate to both the provisional liquidation and the liquidation have not been apportioned or recharged to the liquidation. They have been included as costs of the provisional liquidation.

### Time costs and fees drawn to date

One of the roles of the Liquidation Committee is to consider and agree the Liquidators' time costs. The Committee agreed that the Liquidators should be remunerated fixed on a time cost basis and agreed periodically from time to time by the Committee.

During the current period 665.40 hours have been recorded as having been spent by Rendle & Co at a cost of £80,340 as shown in Appendix D. During the same period a total of 207.25 hours at a cost of £52,425 had been spent by Butcher Woods in the administration of the estate as shown in Appendix E.

As at the anniversary a total of 1388.57 hours at a cost of £177,070 had been recorded as having been spent by Rendle & Co in the administration of the estate from the date of appointment to 18 June 2014 as shown in the summary attached as Appendix F. As at the same date a total of 513.33 hours at a cost of £123,911 had been spent by Butcher Woods in the administration of the estate for the same period as shown in the summary attached as Appendix G.

During November 2013 the Rendle & Co insolvency case management and time recording system was upgraded with the result that it was necessary to re-categorise certain members of staff. One effect of the upgrade to the time recording system was to change the category under which time was recorded. Principally, this has affected the analysis of time spent by "Other senior professionals" and "Assistants & support staff". There has been no change to the time costs incurred simply the category under which the time has been analysed.

No time has been charged to the case purely as a result of the upgrade and charge out rates remained unchanged during the changeover. This disclosure is purely for the sake of transparency.

A copy of the Charging Policy, incorporating details of current charging rates for Rendle & Co, is attached as Appendix H. A copy of the charge out and disbursement rates for Butcher Woods is available at [www.butcher-woods.co.uk/creditors-information.php](http://www.butcher-woods.co.uk/creditors-information.php). A hard copy is available on request from Butcher Woods.

Rendle & Co have drawn fees as authorised by the Committee totalling £143,723.50 and Butcher Woods have similarly drawn fees totalling £104,086.66 as authorised by the Committee. The total amount drawn in respect of Liquidators' fees was £247,810.16.

### **Liquidators' Disbursements**

The basis of the Joint Liquidators' drawing disbursements was approved by the Committee at a meeting held on 7 August 2012 on the usual basis. A copy of the Charging Policy, incorporating details of current charging rates for Rendle & Co, is attached as Appendix H. A copy of the charge out and disbursement rates for Butcher Woods is available at [www.butcher-woods.co.uk/creditors-information.php](http://www.butcher-woods.co.uk/creditors-information.php). A hard copy is available on request from Butcher Woods.

Disbursements chargeable to and drawn from the estate in accordance with the charging and disbursement policy are attached Appendix I.

### **Other professional costs**

Higgs and Sons solicitors have been retained as legal advisors in view of their experience and expertise in these matters, and they have been and are remunerated on the basis of their standard hourly charge out rates, plus disbursements and VAT. As at the anniversary they had been remunerated in the sum of £103,513 for their services including fees and disbursements and in respect of their work on behalf of the Provisional Liquidator.

The Wilkes Partnership solicitors have been retained as legal advisors in view of their experience and expertise in these matters, and they have been and are remunerated on the basis of their standard hourly charge out rates, plus disbursements and VAT. As at the anniversary they had been remunerated in the sum of £4,066 for their services.

MGR Appraisals were retained as agents and valuers. They were remunerated on the basis of their standard sales commission rates, plus disbursements and VAT. As at the anniversary they had been remunerated for their services in the sum of £4,405.

A summary of professional costs is attached as part of Appendix I.

### **Requests for further information regarding fees and costs**

In accordance with Rule 4.49 of the Rules, a secured creditor or an unsecured creditor with the concurrence of at least 5% in value of the unsecured creditors or a member with the concurrence of at least 5% in value of the total voting rights may request such further information regarding the costs and expenses of the Liquidation which is considered reasonable and not prejudicial to the Liquidation or subject to any confidentiality obligation. Furthermore, a secured creditor, an unsecured creditor with the concurrence of at least 10% of the unsecured creditors or a member with the concurrence of at least 10% in value of the total voting rights, or the permission of the Court, may apply to the Court for one or more orders set out in Rule 4.131 of the Rules.

Further information regarding fees can be found in the creditors' guides produced by R3 which are available from the public information area of our website at [www.rrendle.com](http://www.rrendle.com) or inter alia, from the website of the Institute of Chartered Accountants in England & Wales at [www.icaew.com/en/technical/insolvency/creditors-guides](http://www.icaew.com/en/technical/insolvency/creditors-guides).

## 11. COMPLETION OF THE LIQUIDATION

Various matters remain outstanding and it is at too early a stage to contemplate the closure of the liquidation or a likely date for closure

A number of potential creditors have still not submitted claims in the liquidation and the Liquidators would be obliged if any outstanding claims could be submitted as soon as possible.

## 12. E C REGULATIONS

Council Regulation (EU) No 1346/2000 applies and these are the main proceedings as defined in Article 3(1) of that Regulation

If you have any queries in relation to the liquidation, please contact Liz West

Dated 15 August 2014



**R P Rendle & R G Butcher**  
Joint Liquidators

**Richard Paul Rendle is licensed in the UK to act as an Insolvency Practitioner by the Institute of Chartered Accountants in England & Wales**

**Roderick Graham Butcher is licensed in the UK to act as an Insolvency Practitioner by the Insolvency Practitioners Association**

**ARCK LLP  
IN LIQUIDATION**

**STATUTORY INFORMATION**

**NAME:** Arck LLP

**REGISTERED NUMBER:** OC321235

**DATE OF INCORPORATION:** 28 July 2006

**FORMER TRADING ADDRESS:** Westgate House, 3 The Triangle Enterprise Way NG2 Business Park, Nottingham NG2 1AE

**REGISTERED OFFICE:** Westgate House, 3 The Triangle Enterprise Way NG2 Business Park, Nottingham NG2 1AE

**PETITION ISSUED BY:** Mark Edward Allbrook & Others c/o Regulatory Legal Solicitors, of Brindley House, Engine Lane, West Midlands DY9 7AQ

**WINDING UP ORDER MADE:** 11 April 2012

**COURT IN WHICH ORDER MADE:** Birmingham District Registry

**COURT CASE NUMBER:** 6088 of 2012

**NAME OF LIQUIDATORS:** Richard Paul Rendle & Roderick Graham Butcher

**ADDRESSES OF LIQUIDATORS:** Rendle & Co No 9 Hockley Court, Hockley Heath Solihull B94 6NW  
**and**  
Butcher Woods 79 Caroline Street, Birmingham B3 1UP

**DATE OF APPOINTMENT:** 19 June 2012

**CHANGES IN LIQUIDATOR:** None

**ARCK LLP  
IN LIQUIDATION  
LIQUIDATOR'S RECEIPTS & PAYMENTS  
FROM THE DATE OF APPOINTMENT TO 18 JUNE 2014**

	£	£	£
	Previous period	Current period	Appointment to date
<b>ASSET REALISATIONS</b>			
Cash at Bank	37 14	0 00	37 14
Petitioners deposit	1,165 00	0 00	1,165 00
Bank interest net	0 00	725 94	725 94
Motor Vehicles	0 00	37,274.00	37,274 00
Arck Resorts BC Ltd	0 00	1,122,793 91	1,122,793 91
Monies from Richard Clay re Data	0 00	50 00	50 00
Nottingham Rugby Club	0 00	20,000 00	20,000 00
Cambridge Guarantee Loan Repay	0 00	50,000 00	50,000.00
Cambridge Guarantee Shares & Invest	0 00	25,000 00	25,000 00
	<u>1,202 14</u>	<u>1,255,843 85</u>	<u>1,257,045 99</u>
<b>COST OF REALISATIONS</b>			
ISA Cheque Fees	0 00	24 20	24 20
Secretary of state fees	2,235 00	70,759 05	72,994 05
Specific Bond	0 00	1,356 25	1,356 25
Provisional liquidators fees & costs	0 00	45,107 95	45,107 95
Office holders fees	0 00	247,810 16	247,810 16
Meeting room	0 00	180 00	180 00
Photocopying	0 00	272 54	272 54
Agents fees	0 00	4,405 00	4,405 00
Legal fees	0 00	106,114 65	106,114 65
Legal disbursements	0 00	1,464 90	1,464 90
Telephone & fax	0 00	91 20	91 20
Stationery & postage	0 00	1,711 15	1,711 15
Storage costs	0 00	1,950 00	1,950 00
Travel & subsistence	0 00	1,179 26	1,179 26
Advertisements	27 00	64 72	91 72
Insurance	0 00	453 24	453 24
Bank charges	84 00	88 00	172 00
Company searches	0 00	4 00	4 00
	<u>2,346 00</u>	<u>483,813 31</u>	<u>486,159 31</u>
Distribution to floating charge holder Clydesdale Bank Plc (Yorkshire Bank)	0 00	131,139 42	131,139 42
	<u>2,346.00</u>	<u>614,952 73</u>	<u>617,298 73</u>
<b>BALANCE</b>	<b>(1,143.86)</b>	<b>640,891.12</b>	<b>639,747.26</b>
<b>REPRESENTED BY</b>			
Insolvency Services Account	(1,143 86)	558,880 00	557,736.14
VAT recoverable/payable	0 00	82,011 12	82,011 12
	<u>(1,143.86)</u>	<u>640,891.12</u>	<u>639,747.26</u>



**ARCK LLP - IN LIQUIDATION  
CREDITORS' CLAIMS SUMMARY**

	SOA		Admitted		Rejected		Under Consideration		Not Claimed		Distributed	
	No	Value	No	Value	No	Value	No	Value	No	Value	No	Value
<b>Secured creditors</b>												
Secured (Fixed charge)	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Secured (Floating Charge)	1	260,000	1	131,139	0	0.00	0	0.00	0	0.00	0	131,139
<b>Total secured creditors</b>	<b>1</b>	<b>260,000</b>	<b>1</b>	<b>131,139</b>	<b>0</b>	<b>0.00</b>	<b>0</b>	<b>0.00</b>	<b>0</b>	<b>0.00</b>	<b>0</b>	<b>131,139</b>
<b>Preferential creditors</b>												
Employees	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Department of Employment	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
<b>Total preferential creditors</b>	<b>0</b>	<b>0.00</b>	<b>0</b>	<b>0.00</b>	<b>0</b>	<b>0.00</b>	<b>0</b>	<b>0.00</b>	<b>0</b>	<b>0.00</b>	<b>0</b>	<b>0.00</b>
<b>Unsecured creditors</b>												
Associated Companies	4	23,027,520	0	0.00	1	6,585,441	2	14,794,256	1	1,647,823	0	0
HM Revenue & Customs	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Investors	531	41,523,393	404	25,277,735	205	5,950,211	221	18,300,077	95	142,021	0	0
Trade and Expense	2	6,037	0	0.00	0	0.00	3	6,174	0	0.00	0	0.00
<b>Total Unsecured creditors</b>	<b>537</b>	<b>64,816,950</b>	<b>404</b>	<b>25,277,735</b>	<b>206</b>	<b>12,535,652</b>	<b>226</b>	<b>33,100,507</b>	<b>96</b>	<b>1,789,844</b>	<b>0</b>	<b>0</b>

**RENDELE & CO**  
**JOINT LIQUIDATOR'S REMUNERATION SCHEDULE**  
**Between 19 June 2013 and 18 June 2014**

Classification of work function	Hours					Time Cost	Average Hourly Rate
	Partner	Manager	Other senior professionals	Assistants & support staff	Total Hours		
Administration & Planning	8 60	15 90	22 70	7 85	55 05	9,629 10	174 92
Creditors	29 60	79 10	165 10	296 15	569 95	60,764 95	106 61
Case Specific Matters	17 10	6 30	11 80	1 30	36 50	8,895 60	243 72
Investigations	0 00	1 70	0 00	0 00	1 70	415 50	244 41
Realisation of Assets	0 90	1 00	0 00	0 30	2 20	635 50	288 86
Trading	0 00	0 00	0 00	0 00	0 00	0 00	0 00
<b>Total hours</b>	<b>56.20</b>	<b>104.00</b>	<b>199.60</b>	<b>305.60</b>	<b>665.40</b>		
<b>Time costs</b>						<b>80,340.65</b>	
<b>Average hourly rate</b>							<b>120.74</b>
<b>Total fees paid to date</b>						<b>143,723.50</b>	

**Administration and Planning** - includes such tasks as case planning and set-up, appointment notification, statutory reporting, compliance, cashing, accounting, dealing with the Statement of Affairs, where appropriate, and administrative functions

**Investigation** - includes such tasks as investigating the members' conduct and the reasons for the failure of the Partnership, where appropriate, investigating antecedent transactions and any other investigations that may be deemed appropriate. An officeholder is obliged to report his findings, as appropriate, to the Disqualification Unit of the DBERR (formerly the DTI) in respect of certain insolvencies

**Realisation of Assets** - realising the assets is considered to be the key aspect of any insolvency. It includes such tasks as identifying and securing assets, sale of business, property issues, and activities in relation to other fixed assets, stock, debtors, investments and any related legal issues

**Trading** - includes such tasks as planning strategy, preparing and monitoring cash flow and trading forecasts, managing operations, corresponding with suppliers and customers, landlord issues and employee matters including payroll

**Creditors** - Queries from and correspondence with creditors and employees have been necessary aspects of the insolvency process. A report on the outcome of the creditors' meeting has been prepared, as well as this report. A significant amount of time has been spent in dealing with the claims of creditors, including the submission of the various outstanding returns to the statutory authorities. Generally, this category includes such tasks as creditors set up, communication and meetings, reviewing and agreeing secured, preferential and unsecured creditors claims, retention of title issues, corresponding with secured creditors, reviewing and obtaining advice in relation to security granted by the Partnership

**Case specific matters** - are those matters which cannot be appropriately categorised elsewhere or relate to the specific nature and circumstances of the case

**BUTCHER WOODS**  
**JOINT LIQUIDATOR'S REMUNERATION SCHEDULE**  
**Between 19 June 2013 and 18 June 2014**

Classification of work function	Hours						Time Cost	Average Hourly Rate
	Partner	Manager	Other senior professionals	Assistants & support staff	Total Hours			
Administration & Planning	51.50	0.00	11.25	0.00	62.75	16,175.00	257.77	
Creditors	12.50	0.00	11.50	0.00	24.00	4,900.00	204.17	
Case Specific Matters	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
Investigations	64.00	0.00	19.00	0.00	83.00	21,100.00	254.22	
Realisation of Assets	32.50	0.00	5.00	0.00	37.50	10,250.00	273.33	
Trading	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
<b>Total hours</b>	<b>160.50</b>	<b>0.00</b>	<b>46.75</b>	<b>0.00</b>	<b>207.25</b>			
<b>Time costs</b>						<b>52,425.00</b>		
<b>Average hourly rate</b>							<b>252.96</b>	
<b>Total fees paid to date</b>						<b>104,086.66</b>		

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**RENDELE & CO**  
**JOINT LIQUIDATOR'S REMUNERATION SCHEDULE**  
**Between 19 June 2012 and 18 June 2014**

Classification of work function	Hours					Time Cost	Average Hourly Rate
	Partner	Manager	Other senior professionals	Assistants & support staff	Total Hours		
Administration & Planning	30 50	28 30	41 30	11 77	111 87	22,960 10	205 25
Creditors	83 00	140 70	337 15	622 35	1,183 20	132,114 95	111 66
Case Specific Matters	32 40	10 80	35 20	1 30	79 70	17,859 10	224 08
Investigations	2 90	1 70	0 00	0 00	4 60	1,517 50	329 89
Realisation of Assets	5 30	1 50	0 80	0 60	8 20	2,559 00	312 07
Trading	0 00	0 00	0 00	0 00	0 00	0 00	0 00
<b>Total hours</b>	<b>154.10</b>	<b>183.00</b>	<b>414.45</b>	<b>637.02</b>	<b>1,381.57</b>		
<b>Time costs</b>						<b>177,070.65</b>	
<b>Average hourly rate</b>							<b>127.52</b>
<b>Total fees paid to date</b>						<b>143,723.50</b>	

**Administration and Planning** - includes such tasks as case planning and set-up, appointment notification, statutory reporting, compliance, cashing, accounting, dealing with the Statement of Affairs, where appropriate, and administrative functions

**Investigation** - includes such tasks as investigating the members' conduct and the reasons for the failure of the Partnership, where appropriate, investigating antecedent transactions and any other investigations that may be deemed appropriate. An officeholder is obliged to report his findings, as appropriate, to the Disqualification Unit of the DBERR (formerly the DTI) in respect of certain insolvencies

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**BUTCHER WOODS**  
**JOINT LIQUIDATOR'S REMUNERATION SCHEDULE**  
 Between 19 June 2012 and 18 June 2014

Classification of work function	Hours						Time Cost	Average Hourly Rate
	Partner	Manager	Other senior professionals	Assistants & support staff	Total Hours			
Administration & Planning	60 50	0 00	26 25	19 58	106 33	21,286 66	200 19	
Creditors	24 50	0 00	21 50	0 00	46 00	9,250 00	201 09	
Case Specific Matters	0 00	0 00	0 00	0 00	0 00	0 00	0 00	
Investigations	201 00	0 00	64 00	0 00	265 00	65,575 00	247 45	
Realisation of Assets	91 00	0 00	5 00	0 00	96 00	27,800 00	289 58	
Trading	0 00	0 00	0 00	0 00	0 00	0 00	0 00	
<b>Total hours</b>	<b>377.00</b>	<b>0.00</b>	<b>116.75</b>	<b>19.58</b>	<b>513.33</b>			
<b>Time costs</b>						<b>123,911.66</b>		
<b>Average hourly rate</b>							<b>241.39</b>	
<b>Total fees paid to date</b>						<b>104,086.66</b>		

**Administration and Planning** - includes such tasks as case planning and set-up, appointment notification, statutory reporting, compliance, cashiening, accounting, dealing with the Statement of Affairs, where appropriate, and administrative functions

**Investigation** - includes such tasks as investigating the members' conduct and the reasons for the failure of the Partnership, where appropriate, investigating antecedent transactions and any other investigations that may be deemed appropriate. An officeholder is obliged to report his findings, as appropriate, to the Disqualification Unit of the DBERR (formerly the DTI) in respect of certain insolvencies

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## Appendix H

### R P RENDLE & CO LIMITED INSOLVENCY CHARGE OUT RATES AND CHARGING AND DISBURSEMENT POLICY AS AT 1 MAY 2014

#### Charging policy

- Directors, partners, managers, administrators, cashiers, secretarial and support staff are allocated an hourly charge out rate which is reviewed from time to time
- Work undertaken by cashiers, secretarial and support staff will be or has been charged for separately and such work will not or has not also been charged for as part of the hourly rates charged by partners, directors, managers and administrators
- Time spent by directors and all staff in relation to the insolvency estate is charged to the estate
- Time is recorded in 6-minute units
- Time billed is subject to Value Added Tax (VAT) at the applicable rate

#### Expenses and disbursements policy

- Only expenses and disbursements properly incurred in relation to an insolvency estate are re-charged to the insolvency estate
- Expenses and disbursements which comprise external supplies of incidental services specifically identifiable to the insolvency estate require disclosure to creditors, but do not require the approval of creditors prior to being drawn from the insolvency estate These are known as "Category 1" disbursements
- Expenses and disbursements which are not capable of precise identification and calculation (for example any which include an element of shared or allocated costs) require the approval of creditors prior to being drawn from the insolvency estate These are known as "Category 2" disbursements
- General office overheads are not re-charged to the insolvency estate as a disbursement
- Any payments to outside parties in which the office holder or his firm or any associate has an interest will only be made with the approval of creditors
- Where applicable, expenses and disbursements re-charged to or incurred directly by an insolvency estate are subject to VAT at the applicable rate

#### CHARGE OUT RATE BANDS

	Charge out band as at date of appointment	Charge out band as at date of current report
Directors/Partners	£270 - £380	£270 - £380
Managers	£155 - £260	£165 - £280
Other senior professionals	£65 - £180	£120 - £165
Assistants & Support Staff	£45 - £110	£50 - £110

In accordance with Statement of Insolvency Practice 9, copies of Creditors Guides to fees can be obtained from the website of the Institute of Chartered Accountants in England & Wales ([www.icaew.co.uk >members>practice>regulated areas>insolvency>"four guides"](http://www.icaew.co.uk/members/practice/regulated_areas/insolvency/four_guides)) or by contacting us

It is our policy to ensure that work undertaken is carried out by the appropriate grade of staff required for each task, having regard to the complexity, skill and experience required to perform it

Category 1 disbursements are charged at cost or estimated cost and at the rates shown below for category 2 disbursements

Faxes	50p per page
Photocopying	10p per page
Internal room hire	£80
Subsistence	£50 per night
Travel (car)	45p per mile
Storage of records	£7 20 per box per annum
Insolvency accounting system	£100 per annum (max £200 per client)
Website	£50 per annum (max of £100 per client)

Charge out and disbursement recovery rates are reviewed and amended periodically

The authorising body for Richard Paul Rendle when engaged in insolvency work is the Institute of Chartered Accountants in England & Wales

**RENDLE & CO**  
**Disbursements & Expenses Summary as at 18 June 2014**

Nature of the expense	Cat	Estimated Chargeable £	Paid previously £	Paid this period £	Paid Total £
Advertisements	1	64 72	0 00	64.72	64 72
Meeting Room Hire	1	180 00	0 00	180 00	180 00
Photocopying	2	572 54	0.00	272 54	272 54
Printing, Postage & Stationery	2	2,319.78	0.00	1,619 78	1,619 78
Searches	1	10 00	0 00	4.00	4 00
Specific Bond	1	1,356.25	0.00	1,356 25	1,356.25
Telephone, Fax & Internet	2	291 20	0 00	91 20	91 20
Travel & Subsistence	2	538 71	0 00	538 71	538 71
		<u>5,333 20</u>	<u>0 00</u>	<u>4,127.20</u>	<u>4,127 20</u>

**BUTCHER WOODS**  
**Disbursements & Expenses Summary as at 18 June 2014**

Nature of the expense	Cat	Estimated Chargeable £	Paid previously £	Paid this period £	Paid Total £
Printing, Postage & Stationery	2	100 00	0 00	91.37	91.37
Travel & Subsistence	2	640 55	0 00	640.55	640 55
		<u>740 55</u>	<u>0 00</u>	<u>731.92</u>	<u>731 92</u>

**SOLICITORS, AGENTS & SUBCONTRACTORS**

Solicitors fees and costs	110,000 00	0 00	107,579 55	107,579.55
Agent's fees and costs	4,405.00	0 00	4,405.00	4,405.00
Subcontractor's fees and costs	140.00	0 00	140 00	140.00
	<u>114,545 00</u>	<u>0 00</u>	<u>112,124 55</u>	<u>112,124.55</u>