

# Notice of move from administration to dissolution

Name of Company <b>A W. Rail and Civil Engineering Limited</b>	Company number <b>05618797</b>
In the <b>High Court of Justice, Chancery Division, Birmingham District Registry</b>	Court case number <b>8434 of 2009</b>

We (a) Joanne Marie Wright and C K Rayment of BDO LLP, 125 Colmore Row, Birmingham, B3 3SD

having been appointed administrator(s) of (b) A W Rail and Civil Engineering Limited c/o BDO LLP, 125 Colmore Row, Birmingham, B3 3SD

On (c) 3 July 2009 by (d) a Director of the Company

hereby give notice that the provisions of paragraph 84(1) of Schedule B1 to the Insolvency Act 1986 apply

We attach a copy of the final progress report

Signed \_\_\_\_\_  
Joint Administrator

Dated 22/12/11

**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.

BDO LLP, 125 Colmore Row, Birmingham, B3 3SD	
Our Ref     012576/JC/adm981/C15	Tel 0121 352 6200
DX Number	DX Exchange

When completed and signed this form please send it to the Registrar of Companies at  
Companies House, Crown Way, Cardiff, CF14 3UZ      DA 33050 Cardiff



A19 24/12/2011 #197  
COMPANIES HOUSE

SATURDAY

22 December 2011

Our Ref 012576/JC/ADM965/A6

Please ask for Mr J Chand  
0121 325 6201

## TO ALL CREDITORS

Dear Sirs

### A. W. Rail and Civil Engineering Limited - In Administration ("the Company")

I refer to my appointment as Joint Administrator of the Company on 3 July 2009. I am now in a position to conclude the Administration and provide my final report to creditors. In accordance with my proposals dated 25 August 2009, a summary of which is attached to this report, the Administration will now end, and the Company deemed to be dissolved shortly thereafter.

I enclose a summary of my receipts and payments to date showing a balance in hand of nil and report on the conduct of the Administration as follows:

#### 1 Statutory Information

The Joint Administrators are J M Wright and C K Rayment of BDO LLP, 125 Colmore Row, Birmingham, B3 3SD and they were appointed in respect of the Company on 3 July 2009. Under the provisions of Paragraph 100(2) of Schedule B1 of the Insolvency Act 1986 the Joint Administrators carry out their functions jointly and severally and neither Administrator has exclusive power to exercise any function.

The Joint Administrators were appointed by Mr Paul Goodwin, being a Director of the Company, pursuant to Paragraph 22 of Schedule B1 of the Insolvency Act 1986. The Administration proceedings are dealt with in the High Court of Justice, Chancery Division and the Court case number is 8434 of 2009.

The Company's former registered office was situated at Old House, Gorsley Lane, Coleshill, Birmingham, B46 1SW. However, following my appointment it was changed to c/o 125 Colmore Row, Birmingham, B3 3SD. The registered number is 05618797.

I attach at Appendix 1, for your information, a summary of the Joint Administrators' proposals ("proposals") that were approved by creditors on 5 September 2009. There was no deviation from these proposals.

#### 2 Conduct of the Administration

The Company specialised in large rail and civil engineering projects, however the only live contract was determined by the relevant customer as a result of the Administration. Accordingly, the Company ceased to trade immediately upon appointment.



### Customers and Contractual Matters

As previously reported, the Company had contractual debtors totalling £367k in respect of five contracts upon my appointment. The sum of £27,129 has been realised in respect of these debts. Following the expiry of the relevant defect liability periods, and the rectification of the works identified by the relevant customers, it has now been confirmed that there will be no further realisations in respect of contract debts and retentions.

As reported previously, Euler Hermes Guarantee Plc ("Euler") paid the sum of £378k pursuant to a performance bond guarantee in respect of the largest contract, which was determined on appointment as detailed above

Creditors will recall that the Joint Administrators have been assisting Euler (at their cost) to facilitate the return of any surplus performance guarantee monies paid to the customer. It was considered that the Joint Administrators' may have had a vested interest in Euler's pursuit of the guarantee monies because Euler considered that the building contract was actually nearly complete. Whilst any surplus funds up to the amount paid under the bond which are refundable by the customer following the completion of the contract will be due to Euler and not the Company, any retention which is due for works previously undertaken by the Company would have been payable to the Company.

Unfortunately, despite Euler's continued interrogation of the information provided by the customer, it remains unlikely that there will be any return of the guarantee monies. I therefore consider the realisation of the retention highly unlikely and I do not believe there is merit in keeping the Administration open and incurring the cost of doing so. However, if the Joint Administrators conclude the Administration and vacate office, Euler would no longer be able to pursue the return of any surplus guarantee funds. Accordingly, the Company's interest in the guarantee funds has been assigned to Euler in order that they can continue pursuit of them in their own name and the Administration be finalised.

### Other Realisations

The sum of £1,673.90 has been realised in respect of the furniture and office equipment which was owned by the Company.

As asset realisations have not been sufficient to discharge the costs of the Administration in full, the sum of £14,864 has been received from an associated company in order to settle the outstanding amounts due.

All other realisations are self explanatory.

### **3 Administration Costs**

The liabilities of the Administration have been finalised and the amounts paid are set out in the receipts and payments account attached at Appendix 2.

### **4 Achieving the Purpose of the Administration**

As detailed in my proposals, the third objective of Administration, being realising property in order to make a distribution to one or more secured or preferential creditors, was being pursued. As there will not be any further realisations, there will not be a distribution to any class of creditor.



Accordingly, the Company will exit the Administration by way of dissolution. The Registrar of Companies will file the appropriate notice sent to him on receipt, at which point the Joint Administrators will cease to hold office. The Company will be deemed to be dissolved three months later.

## **5 Extension of Administration**

Under insolvency legislation, the normal duration of an Administration is one year. As previously reported, however, in accordance with Paragraph 108(3)(b) of Schedule B1 of the Insolvency Act 1986, the secured creditor granted an initial six month extension to 2 January 2011. I then applied to Court for, and was successful in obtaining, a further extension of the Administration for a period of 12 months until 2 January 2012.

I now give notice of the exit of the Administration by means of dissolution of the Company, and confirm I will not be seeking a further extension of this Administration.

## **6 Outcome for Creditors**

### Secured Creditors

As previously advised, the Company granted fixed and floating charges to Barclays Bank Plc ("Barclays") on 2 November 2007 under a Deed of Accession. The Company had no indebtedness to the Bank on appointment, however Barclays have paid the sum of £189k to Euler in respect of their indemnity of 50% of the performance bond which was issued.

The Company is also subject to cross guarantees between Barclays and various other companies with common directors and shareholders, resulting in a contingent liability of approximately £7 million.

There has not been a distribution to the Bank in this matter.

### Preferential Creditors

The preferential creditor claims total approximately £5k. There has not been a distribution to the preferential creditors in this matter.

### Prescribed Part and Unsecured Creditors

The Unsecured Creditor claims total approximately £362,000 as per the Company's books and records. Under Section 176A of the Insolvency Act 1986 where, after 15 September 2003, a company has granted to a creditor a floating charge, a proportion of the net property of that company must be made available purely for unsecured creditors.

Whilst the Company has granted such a charge, there will be insufficient net property for the Prescribed Part to apply and, as a result, there will be no distribution to unsecured creditors.

## **7 Administrators' Remuneration**

In my proposals, I requested that my remuneration be based on the time spent attending to matters in the Administration. No creditor sought to requisition a meeting of creditors to consider my proposals so they were deemed to be approved in accordance with Rule 2.33(5) of the Insolvency Rules 1986. Where such a proposal is deemed approved an Administrator's

remuneration is subject to the agreement of the preferential and secured creditors. As detailed above, there has not been a dividend to preferential creditors in this Administration and therefore the approval of the Bank was sought and fees totalling £30,000 have been drawn, as shown on the receipts and payments account.

I attach a schedule which summarises the total time costs accrued to 16 December 2011, being the most practicable date, and indicates the work undertaken in that respect. Creditors will note that total time costs are £39,021.20, representing 201.40 hours at an average rate of £193.75. Time costs at the time of my last report were £32,752, and therefore there has been an increase of £6,269.20 in the period.

I have not recovered my time costs in full in this Administration. I can also confirm that there has been no work that is usually carried out by the Administrator which has been sub contracted outside my firm.

## **8 Disbursements**

Where disbursements are recovered in respect of precise sums expended to third parties there is no necessity for these costs to be authorised. These are known as category 1 disbursements. All payments which have been made in this Administration are clearly detailed on the receipts and payments account. There are no disbursements which have been accrued but have not yet been paid.

Some Administrators recharge expenses for example postage, stationery, photocopying charges, telephone and fax costs, which cannot economically be recorded in respect of each specific case. Such expenses, which are apportioned to cases, require the approval of the creditors, before they can be drawn, and these are known as category 2 disbursements. The policy of BDO LLP is not to charge any category 2 disbursements.

Should you have any queries in relation to this report, please contact my colleague Jon Chand.

Yours faithfully  
for and on behalf of  
A. W Rail and Civil Engineering Limited



CK Rayment  
Joint Administrator

*Christopher Kim Rayment is authorised by the Institute of Chartered Accountants in England & Wales to act as an Insolvency Practitioner. The affairs, business and property of the company are being managed by the Joint Administrators who act as agents and without personal liability.*

### Summary of the Joint Administrators' proposals

*The Joint Administrators' propose that.*

- a) they continue to realise assets, principally the contract debtors and retentions, in accordance with objective 3 of the statutory purpose of the Administration,*
- b) they exercise discretion in determining the cost versus benefit of keeping the case open compared to likely realisation levels and, if deemed appropriate, proceed to exit the Administration at the earliest practicable opportunity;*
- c) they make payments to the secured and preferential creditors and to make available the value of the Prescribed Part to any subsequent Liquidators,*
- d) in the event that there are funds to distribute to the unsecured creditors they exit the Administration by way of a Creditors' Voluntary Liquidation and that J M Wright & C K Rayment will be Joint Liquidators and will act jointly and severally,*
- e) if there are no funds available to distribute to unsecured creditors it is proposed that they exit the Administration by way of dissolving the Company under Paragraph 84 of Schedule B1 of the Insolvency Act,*
- f) that the Joint Administrators' remuneration is approved on the basis of time properly spent to attending to matter in the Administration to be taken when the Joint Administrators deem it appropriate subject to the approval of the secured creditor and, if appropriate, the preferential creditors of the Company, as funds permit;*
- g) that the Joint Administrators be discharged from liability under the Administration per Paragraph 98 of Schedule B1 of the Insolvency Act 1986, 28 days after the Joint Administrators' filing their final report and sending it to creditors.*

**A W Rail and Civil Engineering Limited**  
**(In Administration)**  
**Summary of Joint Administrators' Final Receipts & Payments**  
**For the Period From 3 July 2009 to 22 December 2011**

	Notes	Statement of Affairs £	Total Receipts and Payments £	£
<b>FLOATING CHARGE ASSET REALISATIONS</b>				
Contract Debts		53,500 00	27,129 00	
Monies received from associated Company		-	14,863 92	
Furniture and Equipment		-	1,673 90	
Bank Interest Gross		-	0 28	
VAT Payable			4,025 00	
VAT Reclaim			3,448 48	
		53,500 00		51,140 58
<b>COST OF REALISATION</b>				
Joint Administrators Fees			30,000 00	
Specific Bond			98 00	
Professional Fees for Assistance with Employee Matters			875 00	
Agents' Fees for Assistance with Debt Collection			3,534 68	
Legal Fees			7,272 00	
Statutory Advertising			445 35	
Printing & Postage			446 83	
Storage Costs			995 24	
VAT Receivable			7,473 48	
				51,140 58
<b>REPRESENTED BY</b>				
Current account	2			-

**Notes**

- 1 The Company was registered for VAT and the above receipts and payments are shown net of VAT
- 2 All funds were held on an interest bearing bank account

**BDO LLP**  
**125 Colmore Row**  
**Birmingham**  
**B3 3SD**

**CK Rayment**  
**Joint Administrator**

### Summary of Time Charged and Rates Applicable for the Period From 3 July 2009 to 16 December 2011

**Total Fees Drawn\*** 30,000 00