



To All Known Creditors

The Bankrupt Estate of Harlequin Property (SVG) Limited

Bankruptcy Trustee

Brian Glasgow

October 17, 2019

This update to creditors of the Estate of Harlequin Property (SVG) Limited (the “**Bankrupt**”) (in Bankruptcy) (“**the Estate**”) has been prepared by Brian Glasgow, in his capacity as Bankruptcy Trustee of the Estate (the “**Bankruptcy Trustee**” or the “**Trustee**”), for the purposes of providing information on the progress of the Bankruptcy to date.

There is no statutory requirement to provide an update to creditors at this time however, following a number of developments, the Bankruptcy Trustee recently held a meeting of the Inspectors’ Committee (the “**Inspectors**”) and provided a detailed report. This report is an updated, summarised version of that document.

Disclaimer

This update has been provided as an overview of the Bankruptcy Trustee’s progress in dealing with the Estate and to detail the current status of the Estate. This document has been released to the creditors on the basis that it shall not be copied, referred to or disclosed, in whole or in part, without the prior written consent of the Bankruptcy Trustee.

KPMG and the Bankruptcy Trustee do not make any representation or warranty, express or implied, or accept any responsibility or liability for the accuracy and completeness of this document or any other written or oral information made available to the recipient of this document.

If this document contains projections, forecasts or other forward-looking statements, KPMG and the Bankruptcy Trustee assume that they were prepared based on the best available estimates of the future events underlying such statements. This document speaks only as of its date and KPMG and the Bankruptcy Trustee assume no duty to update it or to advise any person that its conclusions or advice has changed

This document is solely for your information purposes. Consider it along with all other facts, advice and your own insights before making your own independent decisions.

In this document KPMG and the Bankruptcy Trustee do not offer tax, accounting or legal advice. Nothing in this document constitutes a valuation or legal advice. This document does not contain any guarantee or certainty that the transactions summarised herein can or will be executed. Any estimated outcomes for creditors included in this document are illustrative only and cannot be relied upon as guidance as to the actual outcomes for the



creditors. Any person that chooses to rely on this document for any purpose or in any context other than as described above does so at its own risk.

All currencies in this update are expressed in United States Dollars unless specifically expressed otherwise.

Executive Summary

The key updates which are provided in further detail below are as follows:

- The Section 70 process, which involved the Trustee adjudicating 480 proprietary claims to an ownership right of properties at the Buccament Bay resort, has been concluded. 25 appeals were filed against the Trustee's adjudication, however after considerable litigation, and corresponding expenses and delays, the appeals were all discontinued or dismissed.
- The Trustee entered a legally binding Sale and Purchase Agreement with respect to the Buccament Bay resort in January 2019. Considerable issues with the title over the land have complicated and delayed the sale's completion. The Trustee continues to progress a sale as quickly as possible however as the sale requires the cooperation of third parties as such, we are unable to confirm a closing date at this time.
- An offer has been accepted for the Merricks resort in Barbados and a sale is expected to complete in early 2020.
- The Trustee's claim into the estate of Harlequin Boutique Hotel Limited (Barbados) is being evaluated by the company's bankruptcy trustee.
- Pdraig O'Halloran's appeal against the award made against him was heard on June 24/25, 2019. The Trustee is awaiting the judgment of the Irish Supreme Court.
- The Trustee is continuing with efforts to realise the Marquis Estate in St Lucia.
- David Ames' trial is due to begin on April 20, 2020.
- At this stage the timing and quantum of any distribution to creditors is uncertain. In order to provide creditors with a view based on current information at section 5 of this update the Trustee has provided an illustrative estimated outcome statement which highlights that any distribution is likely to be between 1 cent and 2 cents of each dollar per claim.

1. Buccament Bay, St. Vincent and the Grenadines

This is the main asset within the Estate.

Buccament Bay Resort Limited operated the Buccament Bay property until December 15, 2016. Since the closure of the resort, the Trustee has retained private security to keep the premises secure and has hired a small team of staff to maintain the premises in order to protect and preserve this asset.

Given the location of the resort it is inevitable that the property will quickly deteriorate given the climate, however, the work carried out on the site post-appointment has minimised any deterioration of the resort thus preserving value whilst a sale of the resort is completed.



Section 70 process

In order for the Trustee to seek a sale of the resort he was required to understand the ownership structure of the 166 individual cabanas/hotel style rooms. To accomplish this the Trustee gave notice to all investors under Section 70(4) of the Bankruptcy and Insolvency Act of St Vincent and the Grenadines (the “BIA”) to prove any claim or interest they may have to or in the Property by filing a proof of claim with the Trustee. Per Section 70 of the BIA any person has the right to claim an ownership interest in the property of a bankrupt by submitting to the Trustee a proof of claim containing the grounds on which the claim is based. Once in receipt of the claim the Trustee must either admit the claim and deliver possession of the property to the claimant or give notice that the claim is disputed with the Trustee’s reasons for the dispute.

The Trustee received over 480 claims pursuant to Section 70 and these have been adjudicated pursuant to the BIA as well as in accordance with the order of the High Court of Saint Vincent and the Grenadines [dated November 22, 2017](#) and amended on [December 14, 2017](#).

Over 400 of the claims received were disputed for varying reasons, resulting in the property claimed thereunder remaining vested in the Trustee to be realised for the benefit of the general body of unsecured creditors.

Section 70 process appeals

As per the BIA, claimants who were issued a dispute notice had the right to lodge an appeal if they did not agree with the Bankruptcy Trustee’s adjudication.

There were 25 formal appeals filed against the Bankruptcy Trustee. Each formal appeal involved extensive litigation, approved by the Inspectors on July 24, 2018, with the majority of the appeals requiring 12 months of hearings and submissions for the Court to reach a decision.

Subsequent to written submissions prepared by counsel for the Bankruptcy Trustee being filed in the Court and served on the appellants, seven of the 25 appellants made the decision to discontinue their appeals.

The Court found that the Bankruptcy Trustee correctly adjudicated the remaining 18 appellants’ claims and, accordingly, ultimately dismissed all 18 appeals.

The Bankruptcy Trustee’s action in defending the appeals has ensured that 25 units remain within the Bankrupt Estate to be realised for the benefit of the general body of unsecured creditors.

Sale of the Resort

Prior to entering the Sale and Purchase Agreement for Buccament Bay Resort the Trustee collated a list of interested parties in both operating the resort as well as purchasing the resort from the Estate.

Given the history of the Buccament Bay Resort and the lack of historical financial information it was the preferred option of the Trustee to operate the resort prior to a sale. However, the Trustee was unable to find appropriate funding and was unable to mitigate the financial risks associated with operating the resort.

Given the current state of the resort it was in the Trustee’s opinion that the resort would need funding in the range of approximately US\$3 million to US\$5 million to reopen the resort – the Estate did not have the financial resources available to fund this.

After considering the alternative options available the Trustee commenced negotiations with the most likely purchasers. This led to two viable offers from parties who had expressed an interest in purchasing the resort. These offers were provided to the Inspectors who sanctioned the Trustee to enter into a legally binding sale and purchase agreement.

The terms of the Sale and Purchase Agreement are governed by a confidentiality agreement between the Trustee and the purchaser so cannot be shared with the general body of creditors. However, please note that the terms have been disclosed to the Inspectors.



Following the agreement to purchase the Resort, and during a phase of due diligence undertaken by the purchaser and the Trustee, a title report was commissioned to review the legal ownership structure at the 47.3 acre Resort. From this title report it was noted that Harlequin Property (SVG) Limited (“**HPSVG**”) only held the legal title to approximately 17.7 acres of the 47 acre Resort.

Title to the remaining approximately 30 acres was legally owned by a number of other parties including the Government of St. Vincent and the Grenadines (“**SVG**”), an affiliated company in the Harlequin Group and private third parties.

The Trustee and his legal counsel have invested significant time in attempting to rectify the title issues in order to progress the sale. If the legal title was not rectified the Trustee believes that no parties would be interested in purchasing a partial resort.

Although progress has been made with respect to the title issues identified a number of the solutions require the co-operation of a number of third parties over which the Trustee has no control, therefore at this stage the Trustee cannot state a closing date for the sale.

The Trustee and his advisors will continue to push this matter forward and provide updates as they become available.

2. Merricks, Barbados

The Merricks Resort is an asset of the Estate situated on the east coast of the island of Barbados which comprises approximately 70 acres.

No substantive construction has taken place at this property aside from a show villa, site office, services hub and a gatehouse. These structures are now dilapidated because they have not been maintained.

Following a petition by the Trustee, Craig Waterman and Lisa Taylor of KPMG were appointed as Bankruptcy Trustees over the assets situated in Barbados (the “**Barbados Trustees**”), this appointment was undertaken in December 2017.

Subsequent to their appointment the Barbados Trustees have been liaising with the Inspectors and local property agents with respect to realising the asset.

The Barbados Trustees have engaged Terra to market the property. The marketing strategy was to invite bids during an open-ended process from November 2017 to May 2018 to gauge the level of interest in the land.

Unfortunately, there was minimal interest in the land and whilst the highest offer received by the Trustee was shared with the Inspectors the Trustee recommended that it should not be accepted.

Following the initial marketing period, the Trustee re-engaged Terra Caribbean to undertake a second more structured bidding process which began in May 2019. The property was marketed for three months, with a bid deadline of August 15, 2019. Advertisements were redesigned and placed in similar publications.

At the end of the bidding period a serious offer was received. The Barbados Trustees, along with their real estate agents, believed this to be a good offer and have recommended it to the Inspectors for approval.

Acceptance of this offer was unanimously approved by the Inspectors. Approval was also received to engage legal counsel to conduct the legal aspects required to close this sale. The terms of the sale are commercially sensitive until completion and therefore the Trustee is unable to share any further details with the general body of creditors.

Completion of the sale of Merricks is expected to occur in January 2020.



3. Other recoveries for the Estate of HPSVG

Harlequin Resorts (St. Lucia) Limited (“HRSLU”)

On June 30, 2017 the Court of St. Lucia made a winding up order against HRSLU, the owner of the Marquis Estate, following the intervention of HPSVG as a inter-group creditor of the company.

Craig Waterman and Brian Glasgow were appointed joint liquidators of HRSLU and have taken steps to realise the sole asset – the 500 acre Marquis Estate.

The 500 acre site is currently unsuitable for a tourist resort because none of the basic infrastructure for such a resort is in place and we understand that the Government of St. Lucia has no plans to have the infrastructure installed.

Upon inspection, we discovered that the land has a number of squatters currently farming vast areas of it.

Given the limited funding available to the Joint Liquidators no formal marketing campaign has been undertaken, however, the Government of St Lucia has expressed serious interest in the property.

The Government of St Lucia is currently considering the level of their offer to be made to the Joint Liquidators for the land and have recently requested a meeting to discuss the matter.

Harlequin Boutique Hotel Limited (Barbados) (“HBHL”)

During the Bankruptcy Trustee’s review of HPSVG’s books and records it was established that funds from HPSVG were diverted for the purchase of the property known as H Barbados situated on the south coast of Barbados.

The legal title of H Barbados is held by a separate Harlequin entity, Harlequin Boutique Hotel Limited. HBHL was placed into Bankruptcy in January 2018. Dr. Grenville Phillips is the current bankruptcy trustee.

As approved by the Inspectors, the Bankruptcy Trustee has filed two claims against the estate of HBHL.

Claim 1: Proprietary Interest Claim

The Trustee believes that HPSVG funded the purchase of the H Barbados property and is the beneficial owner.

This claim has been disputed by the bankruptcy trustee for HBHL and it is currently subject to appeal in the Supreme Court of Barbados. The matter has been adjourned until December 2019.

Claim 2: Unsecured Property Claim

In addition to the claim above the Trustee has also made an unsecured creditor claim of approximately US\$9 million for funds collected by HBHL under contracts with HPSVG investors.

From the information available regarding creditors this represents approximately 50% of the proven creditor amounts, however we believe that within the creditor base there are duplicate claims and the Estate would represent in excess of 75% of the unsecured creditors.

Potential recoveries to HPSVG

In light of the two claims filed on behalf of HPSVG and in order to progress any potential recoveries for the Estate the HPSVG Trustee continued to monitor the sale of HBHL’s principal asset, H Barbados.



Following notification that a party was in a position to purchase H Barbados, the Inspectors agreed that the sale could proceed on the basis that the sale proceeds from the H Barbados property will be held in escrow until both of the claims of the Estate have been settled.

The Trustee continues to be in communication with the bankruptcy trustee of HBHL to progress this matter.

Padraig O'Halloran, ICE Group

In 2013 HPSVG and Harlequin Hotels and Resorts Limited (Cayman) ("**HHR**") were awarded approximately €1.6 million (the "**Judgment Sum**") by the Irish Court after it was held that Padraig O'Halloran of ICE Group, a contracting firm which worked on the Buccament Bay resort, had misappropriated funds.

The Judgment Sum remains unpaid but is secured against a property in Ireland. The Trustee has instructed Irish counsel, A&L Goodbody ("**ALG**"), to assist in this matter. Mr O'Halloran has made various adjournment applications and appeals against the Judgment since 2014, all of which have delayed the Judgment being enforced.

Mr O'Halloran's appeal was heard before the Supreme Court in Ireland on 24 and 25 June 2019.

The Trustee is advised that Judgment may take some considerable time to be handed down but does not expect that the outcome could be appealed further. Provided the appeal is dismissed, steps will be taken to realise the value in the Irish Property and consider other assets available to satisfy the Judgment Sum.

Thailand

Following investigations into HPSVG's purported ownership of land at the Siam Royal View Resort in Thailand, the Trustee has determined that there are no readily available assets which could be realised for the benefit of the Estate.

Bankruptcy of David Ames

On 7 December 2018, Mr Ames and his wife, Mrs Carol Ames, were made bankrupt in the United Kingdom.

The Trustee has met with Mr Ames' Bankruptcy Trustee and is awaiting an update on whether any funds will be returned to HPSVG's creditors from his estate.

4. Ongoing investigations

The Bankruptcy Trustee is continuing to pursue recoveries of HPSVG's assets and continues to investigate its affairs, as well as other avenues for the possible recovery of investor funds.

The Trustee is continuing to pursue recovery of HPSVG's complete books and records from various sources, as well as cooperating as required with those investigating HPSVG's activities and those of its associated entities and directors.

Retrieval of records HPSVG

In connection with the ongoing investigations being undertaken by the Trustee, the Trustee (via Jones Day) is engaged in continuing negotiations with Cartwright King, solicitors for Mr Ames, with regard to the delivery up and retrieval of certain books and records pertaining to HPSVG on a consensual basis.



R v David Ames

The trial of Mr Ames (R v David Ames) is still noted as expected to commence on 20 April 2020 at Southwark Crown Court.

5. Returns to investors

As noted in the Bankruptcy Trustee's report dated November 6, 2018, the Trustee continues to be unable to present an estimated outcome statement at this time due to continuing material uncertainty around potential recoveries and as no formal call for creditor claims has yet been made. Please note that when the claims exercise is undertaken those creditors who have already submitted claims with sufficient supporting information will not be required to resubmit claims.

However, based on the information currently available the Trustee believes the realisable value of the Estate's assets to be significant less than the value of the creditors of the Estate and as such any distribution to investors will be at a significant deficit to their original investment.

The 2014 accounts state that the land, buildings and property for sale (i.e. cabanas and hotel) that a carrying amount of approximately £180 million. It should be noted that the Trustee does not believe these accounts have been audited.

Following the Trustee's appointment, he reviewed valuations for both the Merricks and Buccament Bay Resorts. The stated market value in the valuations for the two resorts was substantially less than the carrying amount in the 2014 accounts.

In addition to the reduced independent valuations received, the valuation also presumed that HPSVG had legal title to the entire resort – which the Trustee now understands not to be the case. Any issues relating to the legal ownership is likely to have a negative impact on the realisable value.

As stated above the Trustee entered into a legally binding Sale and Purchase Agreement for the sale of Buccament Bay and has accepted an offer for the sale and purchase of the Merricks Resort. The Bankruptcy Trustee will continue to maximize realizations for the creditors of the Estate.

With respect to the indebtedness of the Estate, the Trustee also sent proof of claim forms to all known creditors to lodge their claims against the Estate and these were considered for voting purposes ahead of the First Meeting of Creditors. To date the Trustee has received over 2,400 claims totaling in excess of US\$250 million of unsecured claims. The value of claims against the Estate is subject to increase as additional unsecured claims are received.



Illustrative example

For illustrative purposes, the table below details the approximate return to unsecured creditors based on the potential future quantum of the Estate's total net asset realisations when compared with total unsecured claims received to date.

Potential distribution to unsecured creditors		
Total net asset realisations (US\$)	3,000,000	5,000,000
Current claims against the Estate	300,000,000	250,000,000
Distribution c in the \$	1.0	2.0

As an illustrative example, if the net recoveries to the Estate are US\$3 – US\$5 million and unsecured liabilities are US\$250 - US\$300 million, creditors would receive a distribution in the region of 1.0 – 2.0%. This equates to a dividend of \$1,000 – \$2,000 if a creditor makes a claim for \$100,000.

6. Further Information

If you have any questions regarding this update or the bankruptcy process in general please contact the KPMG Harlequin inbox (harlequin_trustee@kpmg.bb) or the KPMG Harlequin hotline (+44 (0)207 311 3465).

In addition, for further information please visit our website at: www.kpmg.com/harlequin.

Yours faithfully,

Brian Glasgow
Bankruptcy Trustee of the Estate of Harlequin Property (SVG) Limited*

* Brian Glasgow was appointed as Bankruptcy Trustee pursuant to the Laws of Saint Vincent and the Grenadines on March 3, 2017. He nor KPMG, its partners, employees or agents shall incur any personal liability pursuant to his appointment or the performance of his duties as Bankruptcy Trustee.