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# ***Cherry Tree Mortgages Limited – In Administration***

Joint Administrators' progress  
report for the period 13 April to  
12 October 2012

6 November 2012

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# **Section 1 Purpose of the Joint Administrators' progress report**

## **Introduction**

This is the eighth progress report prepared by the Joint Administrators (the "Administrators") of Cherry Tree Mortgages Limited (the "Company" or "Cherry Tree").

This report provides an update on the work the Administrators have undertaken and the progress made since our appointment, with particular focus on the progress made in the six months to 12 October 2012.

## **Objectives of the Administration**

The Administrators are pursuing the objective of achieving a better result for the creditors of the Company as a whole, than would be likely if the Company were wound up (without first being in Administration).

The specific aims of the Administration were to:

- Protect and control the Company's portfolios of assets; and
- Realise these assets, including mortgage portfolios, on a managed basis.

These specific aims have been achieved and the Administrators have been considering the most beneficial exit route from the administration which is discussed in more detail below.

## **Outcome for creditors**

The Administrators expect a distribution to be made to unsecured creditors in due course, however the quantum and timing of this distribution remains uncertain, principally due to uncertainty around a potential pension liability.

As noted in previous reports, the Pensions Regulator ("the Regulator") listed Cherry Tree as one of the Lehman companies from which it was seeking a Financial Support Direction ("FSD") in relation to the Lehman Brothers Pension Scheme.

In September 2010 the Pensions Regulator's Determinations Panel (the "Panel") decided that an FSD should be issued against six Lehman group entities. Cherry Tree was among 38 companies that the Panel decided should not be issued with an FSD.

The Panel's decision has been referred to the Upper Tribunal, with the Scheme Trustees asking the Upper Tribunal to overturn the Panel's decision and rule that the 38 companies (including Cherry Tree) should also be subject to an FSD. This means that Cherry Tree is still at risk from this potential liability.

Cherry Tree (together with 36 other affected entities) applied to the Upper Tribunal, seeking an order that the Trustees' referral to the Upper Tribunal relating to a FSD should be struck out on the grounds that it is now no longer possible for the Regulator to impose a FSD against the Company. The Trustees and the Regulator opposed the strike-out application, and the hearing took place from 12 to 15 March 2012. Judgment was handed down on 14 June 2012 with the Upper Tribunal declining to strike out the Trustees' referral, meaning that Cherry Tree is still at risk of a FSD. The Upper Tribunal's decision has been appealed to the Court of Appeal, and the hearing in the Court of Appeal has now been listed to begin on 29 April 2013.

The Administrators continue to keep the pensions issues under close review and are working to find an interim resolution that may allow dividends to be paid soon. Once an interim resolution has been determined, the Administrators propose to apply to Court to request an Order to convert the administration of Cherry Tree into a distributing administration in order to allow them to pay a dividend to unsecured creditors.

## **Exit route from administration**

On the application of the Administrators, the High Court made an Order to further extend the period of the Administration to 30 November 2012.

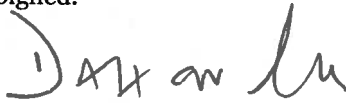
In light of the outstanding pension issue, the Administrators intend to apply to Court for a further extension to the Administration in November.

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### ***Future reports***

The Administrators will next report to creditors in approximately six months, or at the conclusion of the Administration, whichever is sooner.

Signed:



DA Howell  
Joint Administrator  
Cherry Tree Mortgages Limited

*AV Lomas, SA Pearson, DY Schwarzmann, MJA Jervis and DA Howell were appointed as Joint Administrators of Cherry Tree Mortgages Limited to manage its affairs, business and property as agents without personal liability. AV Lomas, SA Pearson, DY Schwarzmann, MJA Jervis and DA Howell are licensed in the United Kingdom to act as insolvency practitioners by the Institute of Chartered Accountants in England and Wales.*

*The Joint Administrators are Data Controllers of personal data as defined by the Data Protection Act 1998. PricewaterhouseCoopers LLP will act as Data Processor on their instructions. Personal data will be kept secure and processed only for matters relating to the Administration.*

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## ***Section 2 Joint Administrators' actions to date***

### ***Overview***

The principal activity of Cherry Tree was investment in the equity release mortgage portfolio of More 2 Life Limited with funding that was procured from LB SF No.1.

### ***Administrators' actions to date***

As previously reported, the sale of Cherry Tree's entire mortgage portfolio was completed on 30 July 2009 for total consideration of £14.2m.

On 24 October 2011, the Administrators entered into a settlement agreement with Lehman Brothers Holdings Inc ("LBHI") and certain other affiliates previously subject to Chapter 11 proceedings in the USA in conjunction with other UK affiliates. The Plans of Reorganisation became effective on 6 March 2012. Pursuant to this agreement the Administrators agreed in principle the claim of LBHI against Cherry Tree at \$1.2m.

The Administrators have received £227,754 in respect of the sale of tax losses to other group companies.

## Section 3 Statutory and other Information

<i>Court details for the Administration:</i>	High Court of Justice, Chancery Division, Companies Court - case 8953 of 2008
<i>Full name:</i>	Cherry Tree Mortgages Limited
<i>Trading name:</i>	Cherry Tree Mortgages Limited
<i>Registered number:</i>	05529374
<i>Registered address:</i>	Level 23, 25 Canada Square, London E14 5LQ, United Kingdom
<i>Company directors:</i>	CJ Patrick (resigned 28/11/08), EW Marley Shaw (resigned 28/11/08)
<i>Company secretary:</i>	Clifford Chance Secretaries (CCA) Limited (resigned 01/12/08)
<i>Shareholdings held by the directors and secretary:</i>	None of the directors own shares in the Company
<i>Date of the Administration appointment:</i>	13 October 2008
<i>Administrators' names and addresses:</i>	DA Howell, DY Schwarzmenn, SA Pearson, MJA Jervis and AV Lomas of PricewaterhouseCoopers LLP, 7 More London Riverside, London, SE1 2RT.
<i>Appointer's name and address:</i>	The directors of the Company, 25 Bank Street, London E14 5LE
<i>Objective being pursued by the Administrators:</i>	Achieving a better result for creditors as a whole than would be likely if the Company was wound up (without first being in Administration).
<i>Division of the Administrators' responsibilities:</i>	The current joint administrators are DA Howell, AV Lomas, MJA Jervis, SA Pearson and DY Schwarzmenn of PricewaterhouseCoopers LLP, 7 More London Riverside, London, SE1 2RT. In relation to paragraph 100(2) Sch.B1 IA86, during the period for which the Administration is in force, any act required or authorised under any enactment to be done by either or all of the Joint Administrators, may be done by any or one or more of the persons for the time being holding that office.
<i>Details of any extensions of the initial period of appointment:</i>	The Court has granted a third extension of the Administration to 30 November 2012.
<i>Proposed end of the Administration:</i>	The Administrators wish to retain various exit options available to them however the most likely exit route from the Administration is to seek permission to distribute from the administration and proceed to dissolve the Company.
<i>Estimated dividend for unsecured creditors:</i>	Based on current information, it is anticipated that there will be a dividend to unsecured creditors.
<i>Estimated values of the prescribed part and Cherry Tree's net property:</i>	Not applicable as there is no qualifying floating charge.
<i>Whether and why the Administrators intend to apply to court under Section 176A(5) IA86:</i>	Not applicable as there is no prescribed part
<i>The European Regulation on Insolvency Proceedings (Council Regulation (EC) No. 1346/2000 of 29 May 2000):</i>	The European Regulation on Insolvency Proceedings applies to this Administration and these are the main proceedings.

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## ***Section 4 Financial Information***

### ***Administrators' remuneration***

At the initial meeting of creditors which was held by correspondence on 22 May 2009, creditors resolved that the Administrators' remuneration be fixed by reference to the time properly given by them and the various grades of their staff. The Administrators were also authorised to draw their remuneration from time to time.

Time cost information to 29 February 2012 was provided in our previous report. Enclosed at Section 6 of this report is a summary of the Administrators' time costs for the period 1 March to 30 September 2012, presented in accordance with the Statement of Insolvency Practice 9, together with a narrative of the work performed.

Time costs for the period 1 March to 30 September 2012 total £41,959, which represents 149.70 hours at an average hourly rate of £280.30.

To date, remuneration of £513,037 plus VAT, in respect of the time costs to 30 June 2012 has been drawn.

### ***Receipts and payments account***

An account of the receipts and payments in the Administration showing movements for the six months to 12 October 2012 is set out overleaf.

Receipts in the period, as discussed in Section 2, were:

- £227,754 in respect of the sale of tax losses; and
- £23,112 earned in interest from the investment of funds on the money markets.



## Section 5 Receipts and Payments Account

	As at 12 October 2012 GBP (£)	As at 12 April 2012 GBP (£)	Movements GBP (£)
<b>Receipts</b>			
Sale of mortgage portfolio	14,201,068	14,201,068	-
Sale of tax losses	227,754	-	227,754
Tax function costs recharged	29,710	29,710	-
Interest recieved gross	154,806	131,694	23,112
<b>Total Receipts</b>	<b>14,613,338</b>	<b>14,362,472</b>	<b>250,866</b>
<b>Payments</b>			
Legal fees	42,936	42,936	-
Employee costs	1,763	1,468	295
Joint Administrators' remuneration	513,037	479,594	33,443
Joint Administrators' Category 1 disbursements	2,370	-	2,370
Statutory advertising	1,374	1,374	-
VAT Paid	89,984	82,822	7,162
<b>Total Payments</b>	<b>651,464</b>	<b>608,194</b>	<b>43,270</b>
<b>Net Position</b>	<b>13,961,874</b>	<b>13,754,278</b>	<b>207,596</b>
<b>Cash Balances</b>			
HSBC (non-interest bearing)	291,828	107,345	184,483
Money Market	13,670,046	13,646,933	23,113
<b>Total Cash</b>	<b>13,961,874</b>	<b>13,754,278</b>	<b>207,596</b>



## Section 6 Joint Administrators' time costs for the period 1 March to 30 September 2012

Classification of work	Partner/Director		Senior Manager/Manager		Senior Associate		Associate/Support Staff		Total hours	
	Hours	£	Hours	£	Hours	£	Hours	£	Hours	£
Accounting and Treasury	-	-	15.25	6,325	34.00	9,225	19.15	4,213	68.40	19,763
Administration and Planning	1.80	1,508	15.10	6,322	0.80	212	8.50	1,870	26.20	9,912
Creditors	-	-	2.00	984	1.60	479	0.30	66	3.90	1,529
Statutory and Compliance	-	-	4.20	1,786	0.40	138	13.60	2,992	18.20	4,916
Tax and VAT	0.80	822	1.60	942	26.40	3,012	2.80	616	31.60	5,392
LEL Recharges	0.02	12	0.55	229	0.59	154	0.24	52	1.40	447
<b>Grand Total</b>	<b>2.62</b>	<b>2,342</b>	<b>38.70</b>	<b>16,588</b>	<b>63.79</b>	<b>13,220</b>	<b>44.59</b>	<b>9,809</b>	<b>149.70</b>	<b>41,959</b>

Current charge out rates Grade	Business Recovery		Specialist	
	Services	Max £/hr	Max £/hr	
Partner	838		1,027	
Director	639		932	
Senior manager	492		869	
Manager	414		634	
Senior Associate	346		389	
Associate/Support Staff	220		204	

The Administrators' remuneration has been fixed by reference to the time properly given by the Joint Administrators and their staff in attending to matters arising in the administration. The maximum unit for time charged by the Joint Administrators and their staff is 0.1 of an hour.

\* Specialist departments within PricewaterhouseCoopers LLP, such as Tax, VAT and Pensions, do sometimes charge a small number of hours, should we require their expert advice. Their rates do vary, however, the figures shown give an indication of the maximum rate per hour. In common with all professional firms, the scale rates used by the Joint Administrators from PricewaterhouseCoopers LLP may periodically rise (for example to cover annual inflation cost increase) over the period of the Administration. Any material amendments to these rates will be advised to the creditors in the next statutory report.

## ***Narrative of the Joint Administrators' time costs for the period 1 March to 30 September 2012***

### ***Accounting and Treasury - £19,763***

- Reconciliation of bank accounts;
- Arranging receipts and payments of funds and coding of movements;
- Monitoring flow of funds into bank accounts;
- Managing funds in various institutions in order to mitigate risk; and
- Dealing funds on the money markets and inputting deals.

### ***Strategy and planning - £9,912***

- Preparations for and attending the Upper Tribunal pensions hearing;
- Participating in discussions to try and resolve the pension issue;
- Reviewing financial information; and
- Updating strategy documents.

### ***Creditors - £1,529***

- Updating list of creditor claims; and
- Reviewing creditor claim submissions

### ***Tax and VAT - £5,392***

- Preparation of Corporation Tax returns; and
- VAT reconciliation and preparation of VAT returns.

### ***Statutory and Compliance - £4,916***

- Manage Cherry Tree Administration database;
- Preparation of Administrators' seventh progress report;
- Circulate progress report to creditors;
- Statutory filings at Companies House and Court;
- Prepare receipts and payments account;
- Prepare detailed remuneration summary;
- Undertaking six monthly review of administration; and
- Review of time costs in preparation for billing.

### ***LBL recharges - £447***

- This is an apportionment of the costs incurred by Lehman Brothers Limited associated with the administration companies.