
Digital Satellite Warranty Cover Ltd (in Compulsory Liquidation)

Joint Liquidators' fourth progress report

25 March 2015

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1. Overview

1.1. Introduction

In accordance with Rule 4.49B of the Insolvency Rules 1986 (“IR86”), this is the fourth progress report by the Joint Liquidators (the “Liquidators”) of Digital Satellite Warranty Cover Limited (“DSWC” or the “Company”).

Creditors should have received the Liquidators’ previous three progress reports. If any creditor requires copies of these reports, please contact Luke Hoare at PricewaterhouseCoopers LLP, 7 More London Riverside, London, SE1 2RT. Alternatively, they are also available on the Liquidators’ website below:

<http://www.pwc.co.uk/business-recovery/administrations/digital-satellite-warranty-cover.jhtml>

This report provides an update on the work that the Liquidators have undertaken and the progress made since our appointment, with particular focus on the twelve months to 31 January 2015 (the “Period”).

1.2. Business activities

The Company’s principal activity was the sale of warranty cover plans for the replacement or repair of BSkyB television digital satellite boxes. The warranties were sold to members of the public.

As a result of customer complaints, the Financial Service Authority (“FSA”) began to investigate the business of DSWC in 2010. The FSA concluded that DSWC was effecting and/or carrying on an insurance business without authorisation in contravention of s.19 Financial Services and Markets Act 2000 (“FSMA”).

The FSA warned the Company that its business activity constituted a regulated insurance business for which it was not authorised to trade. As no authorisation to carry such a regulated activity had been granted to DSWC, the FSA concluded that the Company was in breach of the general prohibition in s.19 of the FSMA and lodged a public interest petition to wind up the Company in the High Court.

The Company entered provisional liquidation on 17 November 2010 and at this time had approximately seven million consumers on its database, 260,000 “live” customer accounts and 100,000 lapsed policies.

1.3. Joint Liquidators

Dan Schwarzmann of 7 More London Riverside, London, SE1 2RT and Toby Underwood of 101 Barbirolli Square, Lower Mosley Street, Manchester, M2 3PW were appointed as Joint Liquidators of DSWC on 31 January 2011.

1.4. Future reports

The Liquidators will next report to creditors in approximately twelve months.



Toby Underwood
Joint Liquidator

Dan Schwarzmann and Toby Underwood have been appointed as Joint Liquidators of Digital Satellite Warranty Cover Limited to manage its affairs, business and property as its agents. Dan Schwarzmann and Toby Underwood are licenced in the United Kingdom to act as an insolvency practitioner by the Institute of Chartered Accountant in England & Wales.

The Joint Liquidators 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 liquidation.

2. Joint Liquidators' actions to date

2.1. Asset Realisation

Realisations achieved by the Joint Liquidators to date are as follows:

	As per prior report (£)	Movement in the Period (£)	Total as at 30 Jan 15
Cash at Bank	1,512,136	-	1,512,136
Investment Realisation	117,409	-	117,409
Interest	9,692	4,352	14,044
Sky Recharge	5,248	-	5,248
Legal Settlements	204,977	130,671	335,648
Plant & Equipment	13,800	-	13,800
Miscellaneous receipt	655	-	655
Petition Deposit	1,000	-	1,000
	1,864,917	135,024	1,999,940

Increase in period



As detailed in prior reports, no statement of affairs was prepared by the former directors or secretary of DSWC.

2.1.1. Shareholders

In prior reports, the Provisional Liquidators stated how payments from DSWC's bank accounts, described as "dividend" or "part-div", totaling £3.7 million, had been made to Mr Bernard Freeman, Mr Michael Sullivan, Mr John Sullivan and Mr Paul Marrow - all shareholders of DSWC (the "Shareholders"). Investigations showed that DSWC never had relevant accounts showing profits by reference to which a dividend could lawfully be paid under the Companies Act 1985 or the Companies Act 2006.

Of the £3.7 million, £620,000 was paid out after the petition against DSWC had been presented. Each of the Shareholders received £155,000 and since no validation order was made, the payments were void and due for repayment to DSWC pursuant to s.127 of the Companies Act 2006 (the "Post-Petition Unlawful Dividend Claims").

Following an application to the Court for permission to amend the Company's Particulars of Claim in respect of its ongoing unlawful dividend proceedings against the Shareholders to incorporate the Post-Petition Unlawful Dividend Claims, on 14 November 2013, the Liquidators were granted a Summary Judgment against Mr Michael Sullivan, Mr Bernard Freeman and Mr John Sullivan. As a result, the Shareholders were each ordered to pay £155,000 to the Company plus accrued interest and costs.

Further to the above and as per prior reports, BskyB successfully found the Shareholders liable for infringement of intellectual property rights and continue to await quantification of the liability by the Court. Both BskyB and the Liquidators hold freezing orders over assets of the Shareholders.

Given the competing nature of the BskyB and Liquidators claims, the Liquidators continue to be unable to estimate what further recoveries the Company will make from the Shareholders.

2.1.1.1. Michael Sullivan

To date, Michael Sullivan has paid a total of £177,901 to the Company in respect of the £155,000 dividends plus interest and a proportion of the total costs.

An up-to-date affidavit of means was received on 19 February 2015 and is currently being reviewed and discussed with his legal representatives together with BSKyB.

2.1.1.2. John Sullivan

As John Sullivan did not pay the required amount of £199,434 ordered by the Court, the Liquidators sought an Interim Third Party Debt Order against him in respect of funds held in his bank account. A Final Third Party Debt Order was granted on 5 February 2014 and the bank subsequently paid the balance in John Sullivan's account, being £130,671, to the Company. In addition, on 15 January 2014, the Company was granted an Interim Charging Order in respect of John Sullivan's sole property located in Merseyside. The Charging Order was subsequently made final at a hearing on 20 February 2014 and has since been registered against the property title.

2.1.1.3. Bernard Freeman

Mr Bernard Freeman filed for bankruptcy on 16 January 2014 and Matthew Chadwick of BDO LLP was subsequently appointed as Trustee in Bankruptcy of his bankrupt estate. The Company has lodged a proof of debt with the Trustee for the full unlawful dividend claim, however the Trustee has advised there are no assets to facilitate a return to creditors.

2.1.1.4. Paul Marrow

Mr Paul Marrow filed for bankruptcy on 2 July 2013 and therefore the Court did not grant any Post-Petition Unlawful Dividend Claim against this individual. Matthew Chadwick and Susan Berry of BDO LLP were subsequently appointed as Joint Trustees in Bankruptcy of his bankrupt estate. The Company has lodged a proof of debt with the Trustees, however have been advised that whilst there is a sole property asset, there is a minimal chance of a return to creditors.

2.1.2. Other assets

The key assets of the Company identified by the Liquidators were funds in a variety of bank accounts and these are included as 'Cash at Bank' in Section 2.1.

Subsequent investigations have identified potential others assets which the Liquidators are currently pursuing and these are detailed below.

2.1.2.1. Antecedent transactions

As previously disclosed, on 17 November 2010, Dan Schwarzmann and Toby Underwood were appointed as Joint Provisional Liquidators of DSWC following a petition presented by the Financial Conduct Authority (formerly the Financial Services Authority) on 8 June 2010 (the "Petition date").

Section 127 of the Insolvency Act 1986 ("IA") states that:

"127. Avoidance of property dispositions, etc.

(1) In a winding up by the court, any disposition of the company's property, and any transfer of shares, or alteration in the status of the company's members, made after the commencement of the winding up is, unless the court otherwise orders, void."

The winding up of the Company is deemed to have commenced on the Petition date (S 129(2) IA).

The Liquidators have conducted a detailed analysis of transactions completed by the Company during the period from the Petition date to 9 November 2010 and as a result of this review the Joint Liquidators have identified payments totaling £1.6 million as being paid after the petition date which were not sanctioned by the Court.

Of this total £197,000 has been identified as being received by Nationwide Digital Satellite Warranty Services Limited (“NDSWS”) and £401,470 by Bernard Freeman & Michael Sullivan trading as Satellite Services (“Satellite Services”).

Dan Schwarzmann and Toby Underwood are also Joint Liquidators of both NDSWS and Satellite Services. A proof of debt has been lodged within each estate.

Steps are being taken to discuss the remaining transactions totaling £1 million with the relevant parties, however it is too early for the Liquidators to estimate the likelihood of any of these sums being repaid to the Company.

2.1.2.2. Cheques made payable to “Cash”

As a result of the detailed review of the Company’s bank statements completed as part of the antecedent investigations, the Liquidators identified cash cheque payments totaling £191,000 being paid between the petition period and 9 November 2010.

Discussions are ongoing with the former account signatories to ascertain the recipients of these funds and whether they can be recovered.

2.1.2.3. Bentley Arnage

The Liquidators are in possession of a Bentley Arnage, however ownership is being disputed between the Company and one of the Shareholders. The Liquidators continue to contest ownership and discussions are ongoing with the relevant parties.

It is not possible at present to predict whether DSWC will make any further recoveries in respect of the Company’s other assets.

2.2. Tax and VAT

On 16 November 2010 (which by coincidence was the day on which the FSA applied for the appointment of Provisional Liquidators of DSWC), HM Revenue and Customs (“HMRC”) Local Compliance unit wrote to DSWC confirming that DSWC is liable to pay Insurance Premium Tax (“IPT”).

DSWC sought a refund of VAT paid to HMRC on the basis that DSWC had been selling insurance products subject to IPT rather than VAT and discussions and meetings between the Liquidators and HMRC have taken place to discuss this. As a result, HMRC stated that any VAT refund due to the Company will be set off against other Crown debts such as social security taxes due, and no refund will be payable by HMRC.

Corporation tax returns for the Company have been completed for the period to 30 January 2014 and a refund of £1,823 claimed, however this is yet to be received from HMRC.

2.3. Outcome for creditors

2.3.1. Preferential creditors

The Liquidators are not aware of any preferential creditors. Should any such claims be received, there may be sufficient funds to allow payment in relation to such claims.

2.3.2. Unsecured creditors

The Supreme Court’s dismissal of DSWC’s appeals confirmed that the Company was carrying out unauthorised insurance business. The Liquidators are advised that subject to the detailed provisions of FSMA, the Company may have incurred a contingent liability to repay every customer with whom it transacted, except where the customer received property (for example, a replacement Sky box).

On the basis that DSWC had between 150,000 to 200,000 customers, the FSA in support of the DSWC petition anticipate a contingent liability of DSWC to customers of approximately £10 million.

A number of factors will impact the final outcome to unsecured creditors, including:

- Asset realisations;

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- Further recoveries from legal proceedings against the Shareholders;
 - A legal analysis of the rights of customers in respect of unauthorised business conducted;
 - Quantifying the level of customer claims;
 - Quantifying damages due to BSKYB in relation to the unlawful use of BSKYB's intellectual property rights by the Company (and any other BSKYB claims); and
 - Quantifying creditor claims not yet known.

Whilst the Liquidators are unable to determine the final outcome at this stage, they do consider an interim dividend payable.

2.3.2.1. Claim submission

The Liquidators therefore request that you complete and return the enclosed proof of debt form with details of your claim in the estate, if you have not already done so, by **30 April 2015**. At the end of this period, if we have not received a claim from you, we will assume that you do not have a claim and will proceed to calculate and pay a dividend to the other creditors. You will then not be entitled to disturb the payment of this dividend.

The Liquidators request that all claimants use this forms for consistency and evaluation. All claims should be submitted with full supporting documentation. Please execute your Statement of Claim and upload as a PDF and email to the following address digital.satellite@uk.pwc.com. Alternatively, please send this to Luke Hoare at PricewaterhouseCoopers LLP, 7 More London Riverside, London, SE1 2RT.

3. Statutory and other information

<i>Court details for the Liquidations:</i>	High Court of Justice, Chancery Division, Companies Court case 4762 of 2010
<i>Company:</i>	Digital Satellite Warranty Cover Limited (in Compulsory Liquidation)
<i>Registered number:</i>	05986843
<i>Registered address:</i>	7 More London Riverside, London, SE1 2RT
<i>Date of the Liquidation appointment:</i>	31 January 2011
<i>Appointees:</i>	Toby Underwood and Dan Schwarzmann
<i>Address:</i>	PricewaterhouseCoopers LLP, 7 More London Riverside, London, SE1 2RT
<i>Estimated dividend for preferential creditors:</i>	N/A
<i>Estimated dividend for unsecured creditors:</i>	Unknown

Please note that the guidance on dividend prospects is indicative only. It should not be used as the sole or principal basis of any bad debt provision decision.

4. Financial information

4.1. Liquidators' remuneration

The manner in which Liquidators' remuneration is determined and approved is set out in the IR86 Sections 2.106 to 2.109.

On 25 July 2012, a resolution seeking the approval of the Liquidators to draw remuneration by reference to the time properly given by them and their staff in attending to the matters arising in the winding up was approved at the first meeting of creditors.

Total time costs incurred from the Liquidators' appointment to 30 January 2015 are £512,713, with £151,789 incurred in the Period, being 441.6 hours at an average hourly rate of £344. Fees paid to date are £401,010 including VAT.

An analysis of the costs for the Period is shown in Section 6 along with an explanation of the work carried out by work category.

It has been the Liquidators' policy to delegate the routine administration of the liquidation to more junior staff in order to maximise the cost effectiveness of the work performed. These staff have been supervised by senior staff and the Liquidators. Any matter of particular complexity or significance has also been dealt with by senior staff and the Joint Liquidators.

All staff who work on this assignment (including cashiers, support and secretarial staff) charge time directly to the assignment and are included within any analysis of time charged. Each grade of staff is allocated an hourly charge out rate which is reviewed from time to time. Work undertaken by cashiers, support and secretarial staff is charged for separately and is not included in the hourly rates charged by partners or other members of staff. Time is charged by reference to actual work carried out on the assignment in six minute units. The minimum time chargeable is three minutes (i.e. 0.5 units).

4.1.1. Liquidators' disbursements

4.1.1.1. Category 1 disbursements

Category 1 disbursements totaling £64.35 have been incurred in the Period of this report.

4.1.1.2. Category 2 disbursements

The Liquidators' current disbursements policy is as follows:

- Photocopying for circulars or any other bulk copying is charged at 4p per sheet; and
- Mileage – this is reimbursed at a maximum of 67p per mile (up to 2,000cc) and 80p per mile (over 2,000cc).

All other disbursements (Category 1) are reimbursed at cost. No category 2 disbursements have been incurred in the Period of this report.

4.1.2. Scale rates for the Liquidators and their team

Hourly rates applicable from 1 July 2013 to 30 January 2015 are as follows. Rates differ between staff operating in London and the regional offices. The following table shows both rates:

Grade	Rate per hour Jul 13 to June 14 £/hr	Rate per hour Jul 14 to Jan 15 £/hr
Partner	775 / 555	795 / 575
Director	680 / 465	695 / 480
Senior Manager	525 / 405	540 / 415
Manager	444 / 320	460 / 330
Senior Associate	370 / 240	380 / 250
Associate	230 / 152	240 / 160

In line with all professional firms, scale rates increase from time to time over the period of the administration of each insolvency case. PricewaterhouseCoopers LLP, or any successor firm, reserves the right to change the rates and grade structure. Specialist departments within PricewaterhouseCoopers LLP, such as tax, VAT, property and pensions, sometimes charge a small number of hours should the Joint Liquidators require their expert advice. Their rates vary, however the figures given provide an indication of the maximum rate per hour.

4.2. Professional advisors

On this assignment, the Liquidators have used the professional advisors listed below:

Name of professional advisor	Nature of work	Basis of fee arrangement
Berwin Leighton Paisner LLP	Legal advice	Time costs

4.3. Investigations

As DSWC is subject to a compulsory winding up order, the Official Receiver has the responsibility for reporting on the conduct of its officers.

In October 2013, all the former directors were formally disqualified from being a director or involved in the management of any company for a period of 12 years, expiring in August 2025.

4.4. Additional information

If any creditor requires further explanations on any aspect of the Liquidators' progress report, then please write to Luke Hoare at PricewaterhouseCoopers LLP, 7 More London Riverside, London, SE1 2RT, who will be pleased to deal with such enquiries. Please note however, that any request for further information regarding the Liquidators' remuneration or disbursements should be made in writing (Rule 4.49E IR86).

In addition, should any creditor consider the Joint Liquidators' remuneration (once taken) and disbursements to be excessive or inappropriate, they have the right to challenge the amounts in accordance with Rule 4.131 IR86.

4.5. Statement of Liquidators' expenses

The enclosed receipts and payments account details those expenses incurred in the Period which have been met from realisations to date.

4.5.1. Receipts and payments account

An account of the receipts and payments in the Liquidation for the Period and a cumulative total since commencement of the Liquidation is set out in Section 5 to this report.

4.5.1.1. Receipts

Receipts in the Period include the following:

- Post-Petition Unlawful Dividend Claim from John Sullivan for £130,671; and
- Interest totaling £4,352.

4.5.1.2. Payments

Significant payments in the Period were as follows:

- Legal fees of £53,695; and
- Provisional Liquidators' fees of £146,700 as approved by the Court.

All balances include VAT.

Total cash held as at 30 January 2014 is £849,690.

5. Receipts and payments account

RECEIPTS	31 January 2011	31 January 2012	31 January 2013	31 January 2014	Total
	31 January 2012	30 January 2013	30 January 2014	30 January 2015	to date
	£	£	£	£	£
Cash at Bank	695,089	817,047	-	-	1,512,136
Investment realisation	-	117,409	-	-	117,409
Interest	-	4,917	4,775	4,352	14,044
Sky Recharge	5,248	-	-	-	5,248
Legal Settlement	27,075	-	177,902	130,671	335,648
Plant & Equipment	13,800	-	-	-	13,800
Miscellaneous receipt	33	-	622	-	655
Petition Deposit	1,000	-	-	-	1,000
	742,245	939,373	183,298	135,024	1,999,940
PAYMENTS	£	£	£	£	£
Telephone & fax	2,023	-	-	-	2,023
Rent	468	-	-	-	468
Advertising	96	-	-	-	96
Storage Costs	295	720	638	816	2,469
Agent's fees	9,111	-	-	-	9,111
Legal fees	111,034	65,749	274,305	53,695	504,784
Joint Liquidators' fees	-	200,376	200,634	-	401,010
Joint Liquidators' disbursements	-	2,961	1,024	-	3,985
Provisional Liquidation fees	-	-	-	146,700	146,700
Postage costs	82	-	-	668	750
Bank Charges/Admin fee	88	83	88	371	630
Statutory Secretary of State fees payable on asset realisations	65,529	9,486	1,861	1,347	78,224
	188,727	279,375	478,552	203,597	1,150,250
Cash at bank	553,519	659,998	(295,253)	(68,574)	849,690
Please note all costs are shown inclusive of VAT where payable. As no Statement of Affairs has ever been provided by the former Directors, no comparison can be made. All funds are held in an Insolvency Service Account which is interest bearing. No realisations are subject to a form of security.					

6. Joint Liquidators' time costs



Digital Satellite Warranty Cover Ltd (In Liquidation)

Analysis of time costs for the period from 1 Feb 2014 to 30 Jan 2015

Aspect of assignment	Partner	Director	Senior Manager	Manager	Senior Associate	Associate	Total hours	Time cost £	Average hourly rate £
Accounting and treasury	-	-	-	9.4	8.1	18.2	35.7	9,970	280
Assets	-	-	-	21.3	1.8	2.7	25.8	10,772	418
Creditors	-	-	-	27.5	19.3	-	46.8	17,950	384
Investigations	-	-	-	43.0	45.2	54.5	142.7	44,706	313
Statutory and compliance	0.5	-	0.1	13.0	16.3	40.5	70.4	20,702	294
Strategy & Planning	-	8.3	4.0	52.7	3.0	3.1	71.1	32,985	464
Tax & VAT	-	-	0.5	9.7	33.0	6.1	49.3	14,705	298
Total for the period	0.5	8.3	4.6	176.6	126.7	125.0	441.6	151,789	344
Brought forward at 30 Jan 2014							1,138.3	360,924	
Total							1,579.9	512,713	

6.1. Summary of workstreams

Accounting and Treasury

Payments and receipts logging and banking (processing and approval of various professional fees, adverts, archive, insurance, performing bank reconciliations).

Assets

Pursuing recoveries from shareholders / directors and liaising with Trustees of shareholders in bankruptcy. Pursuit of antecedent recoveries.

Creditors

Liaising with various creditors. Handling claims and review of position prior to interim dividend.

Investigations

S 127 unlawful dividends, liaising with banks to investigate affairs of Company. Extensive review of historical transactions between associated companies.

Statutory and compliance

Preparation of 2014 progress report and circulation to creditors. Completing 6 monthly case reviews as per statutory requirements.

Strategy & Planning

Considering asset pooling, review and sign off of progress status meetings, team supervision and briefings, strategy to be adopted for the recovery of assets and establishment of liabilities. General project management.

Tax / VAT

Preparation and submission of tax returns, liaising with HM Revenue and Customs.

Appendix A. - Notice of Intended Dividend

Digital Satellite Warranty Cover Ltd (In Liquidation)

NOTICE IS HEREBY GIVEN, pursuant to Rule 11.2 of the Insolvency Rules 1986, that it is my intention to declare a first and final dividend to unsecured creditors of the above named company no later than 30 July 2015. If you have not yet submitted a formal claim in the liquidation and should you wish to do so, you are required on or before 30 April 2015, the last date for proving, to provide a proof of debt to the joint liquidators of the company, at the offices of PricewaterhouseCoopers LLP, 7 More London Riverside, London, SE1 2RT, and, if so requested, to provide such further details or produce such documentary or other evidence as may appear to the Joint Liquidators to be necessary.

A creditor who has not proved his debt by the last date for proving will be excluded from the dividend.

Dated 31 March 2015



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Toby Underwood

Joint Liquidator