



Harlequin Property (SVG) Limited - in Bankruptcy

Second report to creditors

PRIVATE and CONFIDENTIAL

16 November 2017

Introduction

This pack provides you with a summary of the information provided to creditors in the UK on 13 November 2017 and reflects the presentation that will be delivered to creditors in St. Vincent and the Grenadines at a meeting on 23 November 2017.

This report highlights the progress made by the Bankruptcy Trustee (the “**BT**”) to date and answers a number of frequently asked questions that have been asked on the creditor hotline. The report also includes a summary of the fees of the Proposal Trustee and the BT (including his colleagues from KPMG) from 3 October 2016 to 30 September 2017.

This pack includes a resolution which will be put before the creditors at a meeting on 23 November 2017 at 4 pm GMT. This meeting is solely for the purpose of considering a resolution with respect of those fees.

Creditors are invited to vote using a postal voting form, which can be returned via email or post to KPMG’s London, Barbados or SVG offices. Further, those Creditors may attend at KPMG, 15 Canada Square, London from 2 pm until 4 pm on the day of the meeting to cast their votes. We will also issue a dial in for those who want to listen to the formal announcements at that meeting, which will open at 4 pm on that day. The call will be on a ‘listen only basis’ as it is formally convened solely for the consideration of the fee resolution. The telephone number to call is 0800 3891688 and then use the access code 437 006 98 #. The result of the ballot will be posted on the website as soon as we are able to do so following the meeting.

The BT has agreed with the Judge in the criminal proceedings that we will, where appropriate, consult with the Serious Fraud Office (the “SFO”) in advance of circulating creditor communications, as we have done in relation to the contents of this report.

We propose to hold a further meeting of creditors in March/April 2018 to provide a further update on the sale strategy of the resort assets and our investigations into other possible assets and claims.

The principal assets of this estate are the Buccament Bay and the Merricks properties and the condition of these resorts is highlighted later in this pack.

As you know, we are working closely with the appointed Inspectors on this matter. The BT has recently posted on the website www.kpmg.com/harlequin a statement from the Inspectors confirming their ongoing involvement and the support and guidance that they are providing to the BT.

Key Statistics



Proposal trustee



Unpaid creditors filed a winding up petition against the Company in St. Vincent on March 16 2016. In response, the Company pursued an alternative to liquidation known as a 'Proposal' process, which allowed it a period of relief from legal actions from unpaid creditors.

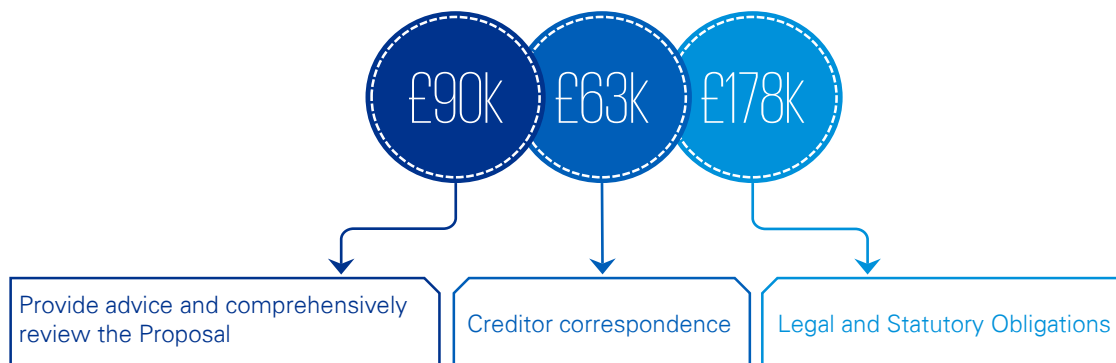
Our work in this phase included comprehensive analysis of the Proposal, corresponding with creditors in relation to the Proposal and complying with our legal and statutory obligations, which were principally to report to Court. These three work streams over five months working across three jurisdictions led to fees being incurred of approximately £331,000. In this period the Company put together a statement of its intended plan but ultimately the Trustee and the Court in St Vincent determined that the plan was not implementable.

Although a number of creditors had hoped that the Proposal would succeed, ultimately it failed. The reasons it failed can be summarised as follows:

- 1) No hotel operator was identified,
- 2) There was no source of funds to conduct essential infrastructure repairs required at Buccament Bay,
- 3) The future reliability of management was questioned and insufficient records were provided,
- 4) The Company's assets did not meet the hurdle required under the local legislation which requires a Company maintaining a proposal to prove that the value of the Company's assets exceeds 33.3% of its liabilities, or to provide cash security of 25% of its liabilities. In light of the fact that the Company's liabilities amounted to approximately £270m, it fell far short of that hurdle.

The failure of the proposal led to the Bankruptcy of the Company.

Fees incurred by the Proposal Trustee



Key questions

A. What is an **insolvency**?

- In basic terms, insolvency or bankruptcy is when a company/person is unable to pay their debts as they become due.
- In this instance, Harlequin Property (SVG) Limited itself confirmed its insolvency in October 2016 by filing its Notice of Intention to make a proposal under the St Vincent Bankruptcy and Insolvency act. This started the statutory insolvency process under St. Vincent law.

B. Who is the **Bankruptcy Trustee** and what is his role?

Brian Glasgow is the BT. It is a personal appointment but Mr. Glasgow is supported by KPMG teams where the company has assets (namely in SVG, Barbados and the UK). His duties are to the court and to creditors and his aim is to maximize returns for creditors.

The role of the bankruptcy trustee is to:

1. Collect in the Company's books and records and understand and, if necessary, investigate its affairs;
2. Collect in and realise its assets, if necessary bring proceedings against, say, debtors who do not pay or parties that have caused the company loss;
3. Ascertain who the company's creditors are and then distribute the realised assets between those creditors in accordance with St. Vincent law. Subject to the claims of certain creditors who have priority interests, the assets are shared between the general body of unsecured creditors in proportion to the size of their claim.

Events following the Bankruptcy in March 2017

1 *Court hearings in four jurisdictions*

2 *Bankruptcy confirmed by the Court of Appeal*

3 *Foreign recognition in the UK*

4 *Protection of assets*

5 *Recovery from UK litigation*

6 *Asset investigation*

The bullets above summarise the detailed work conducted by the BT over the seven months since his appointment.

- Detailed analysis of our costs in dealing with this matter is attached. Please note that the costs reflect time spent. The time spent has been affected by a number of factors, including:
 - KPMG has actively sought the recovery of assets, including the WK Judgment Sum.
 - The complex nature of the Harlequin Group's corporate structure and the geographic locations of assets, which has necessitated a multi-jurisdictional approach.
 - Ongoing requests to obtain information and financial records from the Company.
- A creditors' meeting will be held on 23 November 2017 at 4pm GMT for the purpose of considering a resolution with regards to the fees incurred to 30 September 2017.
- Creditors will have the opportunity to vote using a postal voting form, which can be returned via email or post to KPMG's London, Barbados or SVG offices.
- Going forward we would suggest that the Inspectors are best placed to monitor and agree the costs of the BT:
 - (i) We meet with them regularly and detail our actions and can talk to them more openly as they have signed non-disclosure and confidentiality arrangements. This also means we can share with them commercially sensitive information.
 - (ii) We report in detail to the Inspectors on the BT's fees and the fees of his lawyers and other expenses. These are monitored closely by the Inspectors.
 - (iii) Fee approval by the Inspectors is cheaper and more efficient as it does not require a voting process involving 2,700 individuals.
 - (iv) Finally, a number of the inspectors have experience of international insolvency and fee approval processes.
- Please note that, following discussions with the inspectors, the BT agreed to discount the BT's fees by 15% from 15 April 2017.

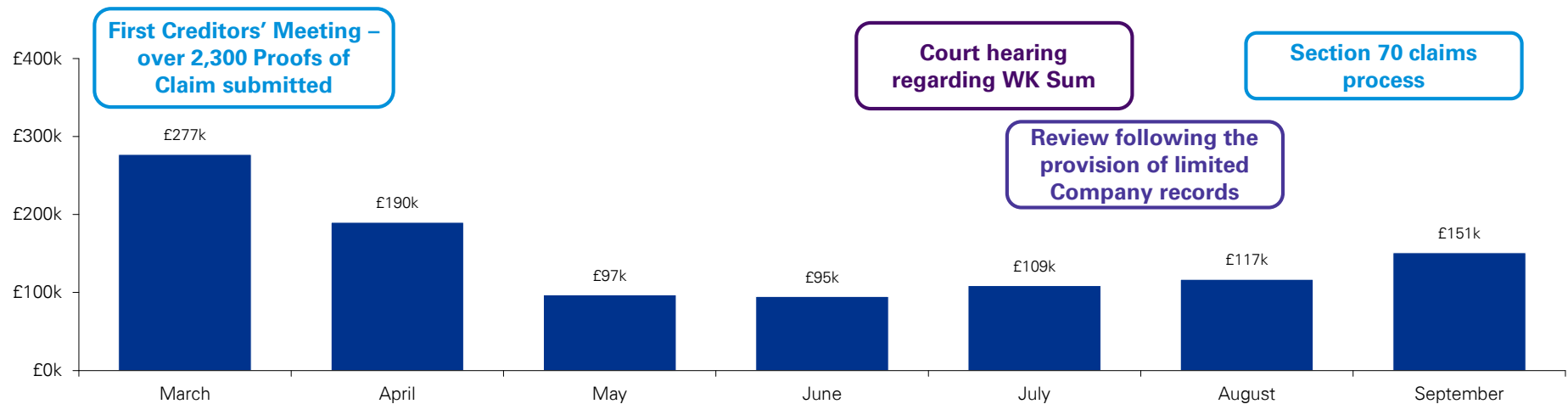
Remuneration - Bankruptcy Trustee

In seven months, the Bankruptcy Trustee's fees have totalled £1.036 million



5 Key Workstreams

1. Administration of the matter
2. Asset Realisation
3. Creditors and Claims
4. Investigations
5. Strategy and Legal



Harlequin related proceedings

The following proceedings are described on pages 9 to 13.

A

Harlequin versus Padraig O'Halloran (ICE Group) (Ireland)

B

Harlequin versus Wilkins Kennedy (UK)

C

Bankruptcy proceedings (SVG/UK)

D

Criminal proceedings – SFO (UK)

E

Wilkins Kennedy Judgment dispute (UK)

F

Future civil claims?

A. Irish proceedings

- This was a claim brought by the Company and a Harlequin company in the Cayman Islands (HHR) in 2010 (prior to the appointment of the BT) against Padraig O'Halloran of ICE Group, and his father, Donal O'Halloran.
- The primary allegation was that Padraig O'Halloran had wrongly taken in excess of US\$13.5 million of monies paid to ICE Group by Harlequin that should have been used to build Buccament Bay. The allegations were that he spent the money on a private jet, renting holiday homes, buying a racetrack and expensive gifts etc.
- Ultimately, in 2013, Harlequin was successful in establishing that Mr O'Halloran had misappropriated funds, but was only awarded approximately US\$ 2 million in respect of monies transferred to Ireland.
- All material historic and future judgments related to this case are available on the KPMG Harlequin website: www.kpmg.com/harlequin
- The US\$ 2 million awarded has never been paid, nor enforced. One of the future tasks of the BT is to try to realise value from that judgment.

B. Harlequin versus Wilkins Kennedy

- These proceedings commenced in 2014. The claim was made against the Company's former accountants and advisers for negligent advice and conflicts of interest in relation to the Company's interaction with ICE Group, the construction company that was hired to build Buccament Bay.
- Mr. Justice Coulson handed down his judgment on 12 December 2016 awarding Harlequin a total of approximately £7.4 million in damages plus interest and costs, leading to a total award of £10.5 million.
- The original amount claimed was a much larger sum, but a number of claims were not successful and Harlequin's damages were reduced by half.

C. Bankruptcy Proceedings

- The St. Vincent court has primary conduct of the bankruptcy but the BT's appointment has been formally recognized in the UK. This means that the BT can apply to the English court for guidance, directions and certain orders, including to require persons with information about the Company's affairs to deliver up that information.
- In response to a circular sent by or on behalf of Mr Ames, the BT previously notified creditors that Mr Ames had not cooperated fully with the BT with respect to the provision of information relating to the Company. Mr Ames disputes that assertion and the BT is in correspondence with his legal representatives in relation to the nature and scope of his duties. If such issues cannot be resolved by agreement, the BT anticipates that he will make an application to the English court in order to determine those issues.

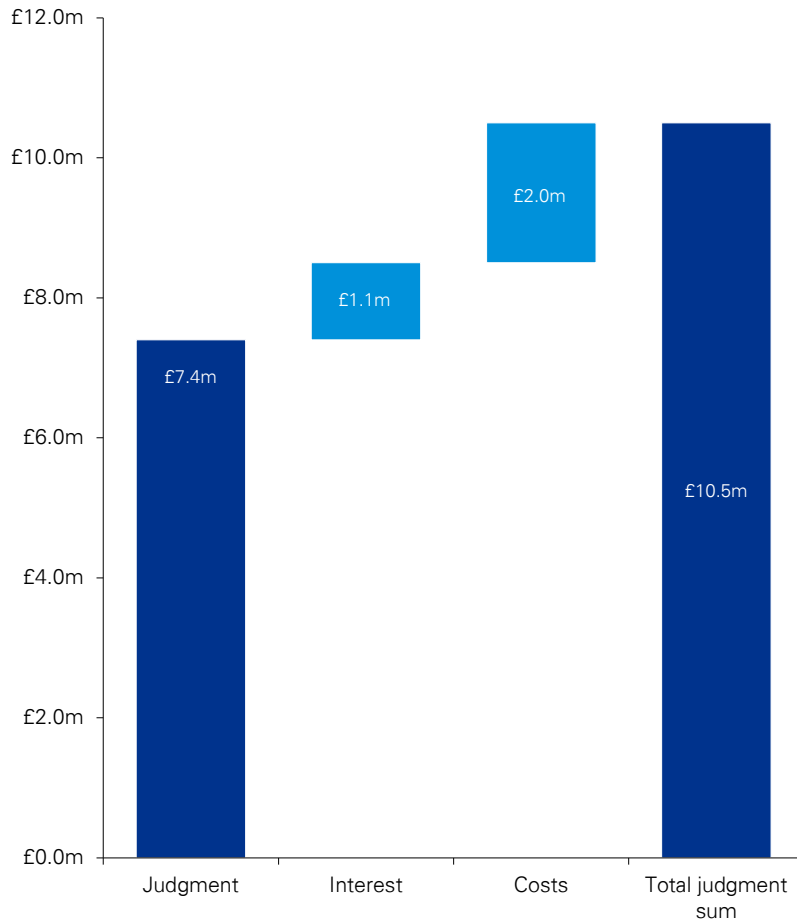
D. Criminal proceedings

- On 17 February 2017, the SFO charged David Ames, chairman of the Harlequin Group of companies, with three counts of Fraud by Abuse of Position, contrary to Section 1 of the Fraud Act 2006.
- Mr Ames is currently on bail and has pleaded not guilty to the charges made against him. His trial is due to commence on 7 January 2019 at Southwark Crown Court.
- As there are active criminal proceedings, all parties including creditors have a duty to avoid prejudicing them. Please keep information you receive in relation to this matter confidential and to avoid publishing allegations or information that may prejudice the fairness of his trial.

Although Mr. Ames is charged with criminal offences, nothing has been proved against him and he is entitled to the presumption of innocence. The criminal proceedings are ongoing so it is inappropriate for the BT to comment on them in any detail.

E. Wilkins Kennedy judgment sum

Judgment Sum



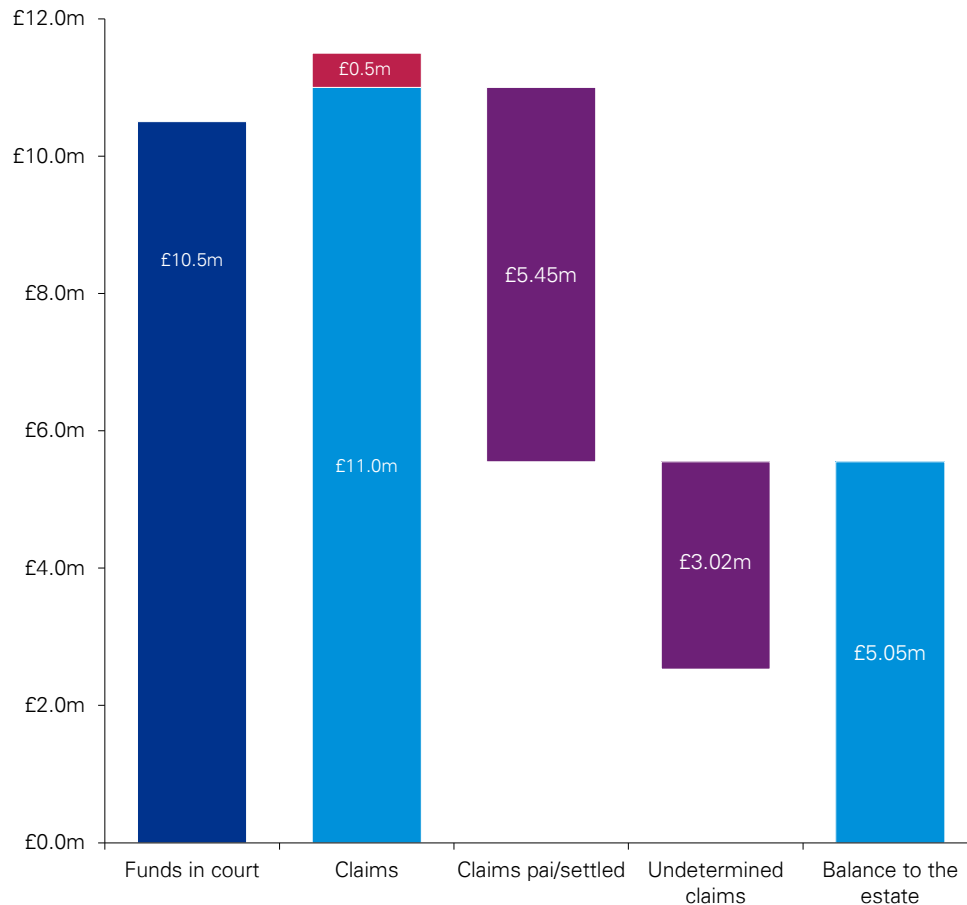
17
Number of
proprietary
claimants

£11m
Total claims by
proprietary
claimants

Without intervention there would have been a **loss to the estate of £0.5 million.**

E continued. Payments from Wilkins Kennedy judgment sum

Proprietary Claimants



Broadly speaking the WK Judgment Sum has been dealt with as follows:

- The legal team who worked on the WK proceedings claimed £3.9 million
- The parties that funded that claim and insured the company in case it lost claimed £4.84 million
- Other former professional advisers claimed £1.93 million
- And former employees claimed £410,000
- There were claims totalling £11 million against the £10.5m fund.

The BT either paid or reached settlements of claims in the sum of £5.45 million

- He also disputed the insurers' claim of £3.02 million and is expecting judgment on that claim shortly.
- By reason of the action taken by the BT, we are expecting that the estate will receive either £2.03 million from the WK judgment monies (if we lose against the insurers) or £5.05 million (if we win).
- These proceedings were complex and expensive, given that we were litigating against so many sophisticated parties, but they were resolved quickly with a return to the estate of, we hope, £5 million.

F. Future civil claims?



- The BT has the power to bring claims against any party or person that owes money to the estate, may have misappropriated assets from the estate, or may otherwise have caused it loss. Those could be brought in the UK or in SVG or any other jurisdiction. They will be civil claims – i.e. claims designed to recover money or property; as distinct from criminal proceedings.
- Future claims are in effect an unrealised asset of the estate.
- Please note the following about future proceedings:
 1. Since the BT's duty is to maximise recoveries, he will only bring claims if he believes the benefits outweigh the costs. There will be no 'aggressive litigation strategy' designed to leave investors with nothing.
 2. Like the directions proceedings, the BT will (and can) only bring claims with the Inspectors' approval.
 3. Claims, if brought, will take time to resolve. The litigation that the BT started to resolve the various claims to the WK judgment sum was unusually quick. Civil litigation frequently takes years to pursue and obtain recoveries.

Future strategy - Merricks



The BT has appointed a real estate broker, Terra Caribbean, to formally represent the Estate's interest in the sale of Merricks. Terra Caribbean are the foremost real estate agent in the region dealing with commercial real estate.

— Background:

- The site is comprised of land that is outside of the traditional established development areas in Barbados.
- Merricks has previously received permission for development into a resort property, offering apartments, villas, restaurants, a spa and the usual amenities associated with a large-scale resort.
- However, the development of the site was halted approximately four years ago and since that date the property has generally been abandoned and contains only a few small, incomplete structures.

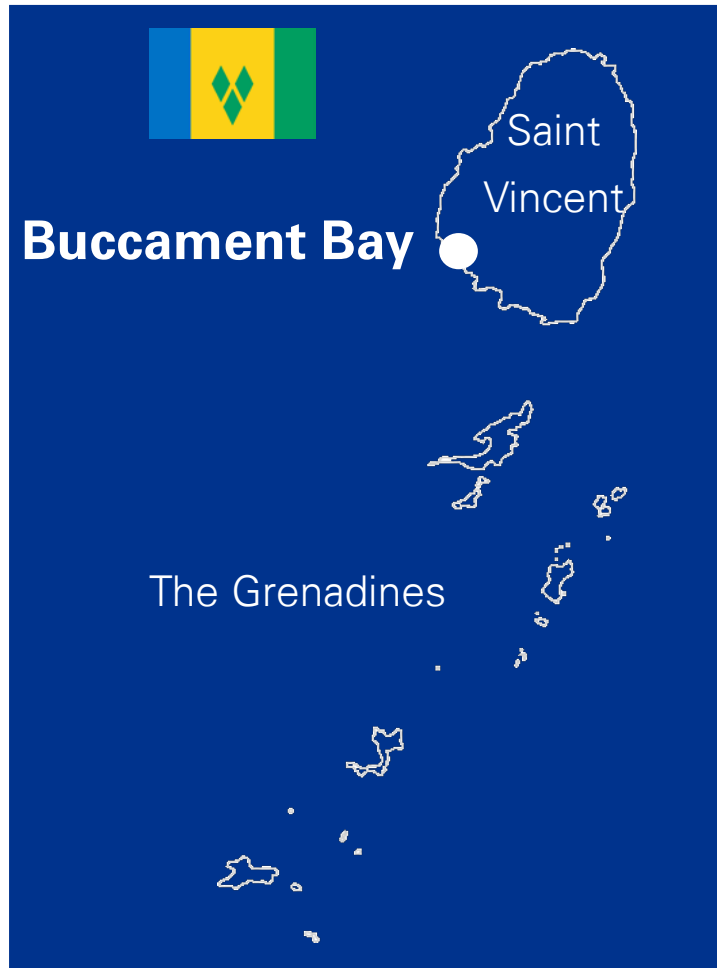
— Likely timescale of a sale:

- It is the BT's view that in order to achieve the best sale price, resources should be made available to conduct a sale over a reasonable exposure period and we expect that a sale will take more than six months and perhaps as long as 24-36 months.

— Sales and marketing

- Terra Caribbean have commenced a comprehensive marketing campaign the results of which will be discussed with the inspectors.

Buccament Bay, Saint Vincent and the Grenadines



Buccament Bay in SVG attracted approximately 2,500 investors, who invested in excess of £94 million. To date, approximately 116 cabanas have been built and 1 Hotel Block with approximately 50 rooms. There are a number of issues regarding Buccament Bay that are key to its value and determining next steps these include:

- Government-owned land,
 - Stamp duty issues re. Lots 18 and 20, and
 - Proprietary/Section 70 claims.
- To date the BT has done the following:
- Secured the resorts, including through security patrols
 - Maintained and preserved the resort and its buildings with a limited budget
 - Engaged a valuer who will report before the end of this month
 - Obtained an engineering report to understand the key issues and the likely investment required to open the resort.
 - Commenced a limited marketing process – approaching those whom we anticipate may have an interest
 - Commenced the Section 70 process – which is necessary to determine what is available to any purchaser. This process needs to be concluded before any sale or operator can be put in place.

Potential purchasers/operators.

- The BT has had numerous enquiries and provided information and given access to the resort to more than 10 interested parties. We are in ongoing talks with a number of parties who are looking to open/operate the resort.

Buccament Bay, Saint Vincent and the Grenadines (cont.)

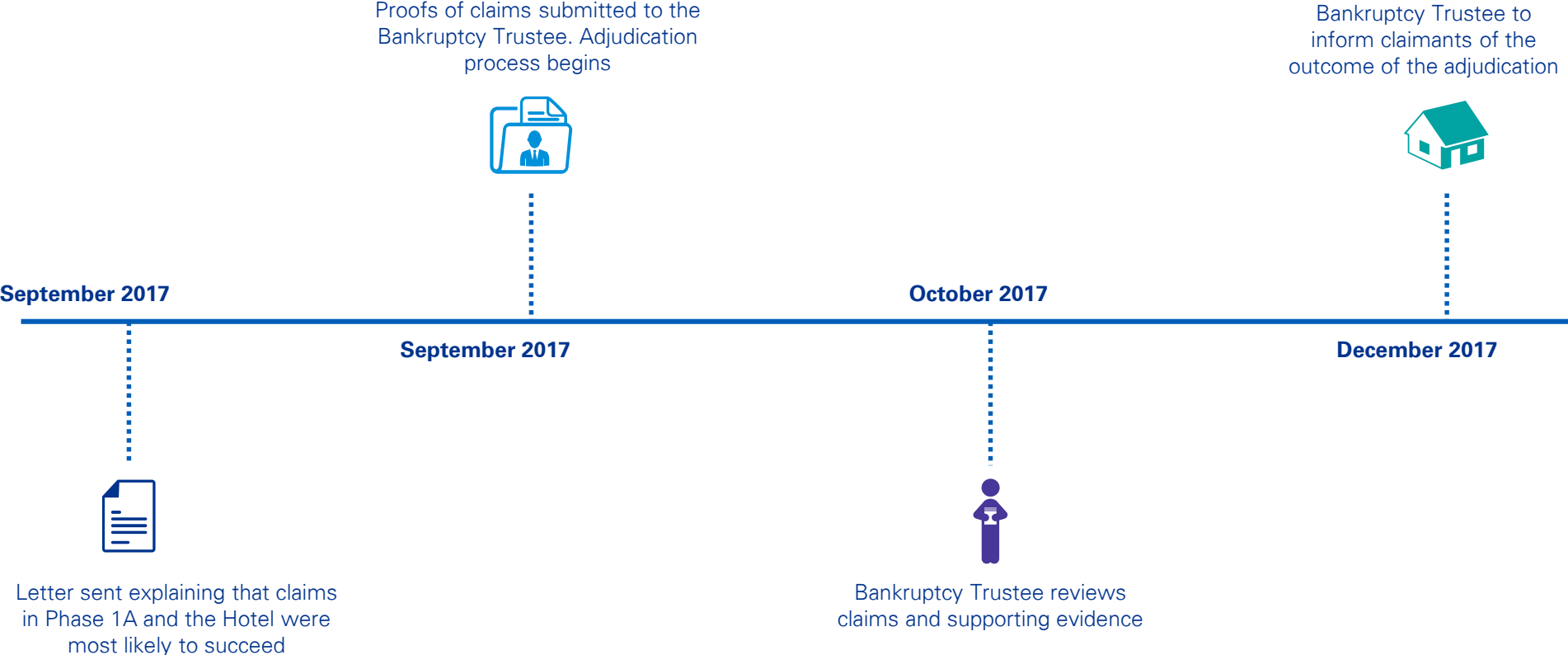


- To determine whether operating the resort is an option or whether an immediate 'as is' sale will result in the best outcome for creditors we are undertaking a full valuation and working with interested parties to determine the key terms of their offers.
- Once we have more detailed terms we will work closely with the Inspectors to assess the possible operators proposals or determine that we should commence an immediate 'as is' sales process.
- We are aware of statements made by politicians in St. Vincent regarding opening the resort in early 2018, however the BT has decided not to make any public statement in response to these statements. We are unable to make a statement on this until we have completed our assessments, and obtained all necessary approvals from the Inspectors and the Court, we are not in a position to confirm when it will be possible to sell or operate the resort.



Section 70 claims process

The below timeline provides a general indication of the likely timescale for the acceptance/rejection of Section 70 claims.



Ongoing investigations

1 *Inter-company debtors*

2 *Other resorts: Dominican Republic and St. Lucia*

3 *Former management*

4 *Shareholders*

5 *Irish Judgment*

6 *Former professional advisors*

- Inter-company position:
 - Although the Harlequin Group's head office was based in Essex, this office acted as the sales agent for the group.
 - In relation to the Company, the majority of the monies were collected in relation to the Merricks resort in Barbados and Buccament Bay situated in Saint Vincent.
 - From the BT's investigations into the affairs of the Company, it has become apparent that the Harlequin group and each of the entities were effectively operated on a 'pooled basis'.
 - Our investigation of the Company's records thus far have indicated that there may be large debts due to Harlequin SVG from the Marquis Estate in Saint Lucia, Three Rivers resorts in the Dominican Republic and a GBP 21M balance owing from Harlequin in Cayman.
- To this end the BT has been successful in pursuing the winding up of Harlequin Property (St Lucia) Limited. Harlequin St Lucia has a large plot of land in St. Lucia which will be sold for the benefit of Harlequin St Lucia's creditors, including Harlequin SVG.

Strategy moving forward



- Based on the assets of which the BT is aware, there is a considerable shortfall between the amount invested by investors and the Company's assets. To this end the BT is investigating the cause of the Company's losses and all potential sources of recovery.
- As with all bankruptcies, the BT will investigate the activities of former management to assess whether claims can be brought to recover further assets. The BT will work closely with the inspectors on any strategy in this respect.
- The bankruptcy process will necessarily takes some time to complete and some assets can be difficult to recover. The BT will work with the inspectors to consider the costs and benefits of pursuing claims to assets for the estate.
- The BT will hold a further meeting of creditors in March/April 2018 to discuss our progress.

What's next?

SVG Creditor Presentation – 23 November 2017

1

Sale and marketing of Caribbean resorts

2

Investigations into, and actions to reduce, Harlequin Property (SVG) Limited's deficit

3

Glossary of terms

Trustee or BT	Bankruptcy Trustee
SFO	Serious Fraud Office
BIA	Bankruptcy and Insolvency Act (Cop.136 of the Law of St Vincent and the Grenadines Revised edition 2009)
ICE Group	ICVE (SVG) Limited , Cellate Caribbean (SVG) Ltd, Cellate Caribbean Ltd
WK	Wilkins Kennedy
Harlequin or HPSVG or the Company	Harlequin Property (SVG) Limited
Inspectors	The Inspectors appointed by the creditors on 11 April 2016
SIPP	Self Interest Pension Plan
FSCS	Financial Services Compensation Scheme
SVG	St Vincent and the Grenadines



Harlequin Property (SVG) Limited – in Bankruptcy

Second report to creditors

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