



## To All Know Creditors

# The Bankrupt Estate of Harlequin Property (SVG) Limited

## Bankruptcy Trustee

Brian Glasgow

November 6, 2018

This report (“**the Report**”) to creditors of the Estate of Harlequin Property (SVG) Limited (in Bankruptcy) (“**the Estate**”) has been prepared by the Bankruptcy Trustee (“**Trustee**”) pursuant to Section 209 the Bankruptcy and Insolvency Act of Saint Vincent and the Grenadines (“**BIA**”) for the purposes of providing information on the Estate’s financial position and the progress of the Bankruptcy to date.

At this stage there are no formal resolutions required to be passed by the general body of creditors and therefore the Bankruptcy Trustee will not be holding a meeting. If there are any individual queries from creditors the Bankruptcy Trustee and his team are available to advise as appropriate and where the Trustee is required to reach out to specific groups of investors this will be done also.

The Report should be read in conjunction with the Trustee’s ‘First report to the creditors’ dated May 19, 2017, ‘[Creditor briefing memo](#)’ dated November 13, 2017 and ‘[Creditor presentation](#)’ dated November 16, 2017 all of which are available on the Harlequin website at [www.kpmg.com/harlequin](http://www.kpmg.com/harlequin).

## Disclaimer

This report has been provided as an overview of the Bankruptcy Trustee progress in dealing with the estate of Harlequin Property (SVG) Limited 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.

The particulars contained in this report are based on information provided to Mr. Brian Glasgow and/or KPMG by Harlequin Property (SVG) Limited and its advisors. Whilst the particulars in this report have been presented with all due care, Mr. Brian Glasgow and/or KPMG do not warrant or represent that information provided is free from errors or omissions. Mr. Brian Glasgow and KPMG make no warranty as to the content, accuracy or completeness of the information provided to them.



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



## Contents

Section	
0	Contents / Glossary
1	Communication
2	Background
3	Assets of the Estate
4	Claims against the Estate
5	Estimated Outcome
6	Investigations
7	Further Information

## Glossary

“Bankruptcy Trustee / Trustee”	Brian Glasgow of KPMG Barbados and Eastern Caribbean
“Barbados Trustees”	Craig Waterman and Lisa Taylor of KPMG Barbados and Eastern Caribbean
“BBRL”	Buccament Bay Resorts Limited
“BIA”	Bankruptcy and Insolvency Act of Saint Vincent and the Grenadines
“Court”	High Court of Justice St. Vincent
“Harlequin Group”	All companies under the ultimate control of Mr. David Ames
“Terra”	Terra Caribbean
“US\$”	United States Dollars



## Section 1: Communication

The Trustee is cognisant of the large number of creditors impacted by this insolvency, and that it impacts a number of different jurisdictions with the majority of creditors based in the UK. The Trustee has established many lines of communication to enable a flow of information to the investors at the appropriate time. To date the Trustee has received in excess of 10,000 emails and over 1,000 telephone calls from investors.

### Inspectors

Following the initial creditor meeting held on April 11, 2017 Inspectors were appointed in accordance with the BIA to assist the Bankruptcy Trustee with carrying out his functions. We have continued to involve the Inspectors in all major decisions in accordance with the BIA. The Inspectors have provided oversight to the Bankruptcy process and the Trustee expects this to continue in the future.

Information regarding the appointment of Inspectors can be found on the Harlequin website at:

[https://home.kpmg.com/content/dam/kpmg/bb/pdf/2017/04/Harlequin-Property-\(SVG\)-Limited-Appointment-of-Inspectors-RESULT.pdf](https://home.kpmg.com/content/dam/kpmg/bb/pdf/2017/04/Harlequin-Property-(SVG)-Limited-Appointment-of-Inspectors-RESULT.pdf)

### Unsecured creditors

There are over 2,500 creditors in the Estate. The Trustee held a briefing in November 2017 in both the UK and Saint Vincent. Of the 2,500 people who were invited approximately 200 were present. This presentation provided a background on the general concept of Bankruptcy as well as the major aspects of this case. This presentation is available to view on the website at:

<https://home.kpmg.com/content/dam/kpmg/bb/pdf/2017/12/Creditor-Summary-Presentation.pdf>

The Bankruptcy Trustee has maintained the dedicated email address [harlequin\\_trustee@kpmg.bb](mailto:harlequin_trustee@kpmg.bb) to enable all creditors to contact the trustee. This continues to be monitored and all queries answered by the Trustee's team. There is also a creditor hotline (+44 (0)207 311 3465) situated in the UK which is monitored and responded to by colleagues in the KPMG London office.

### Communications with a group of property owners

The Trustee is aware of a group of 28 property owners that were the legal owners of units at the Buccament Bay resort prior to our appointment. In order to communicate with this group of people the Trustee requested that authority be given by the owners to one individual to allow a streamlined communication channel.

All owners gave authority for the Trustee to discuss the progress of the sale of the Buccament Bay Resort with one individual. The Trustee and his team have a monthly call diarized with the individual and provide further feedback on an ad hoc basis as required.

### Emails and website

The Trustee has maintained the website [www.kpmg.com/harlequin](http://www.kpmg.com/harlequin) so that all parties are able to access information in relation to the insolvency as well as periodically providing updates via an email blast to all creditors.

**Please note due to certain restrictions placed on the Trustee certain information is not available to be shared with the general body of creditors.**



## Section 2: Background

Harlequin Property (SVG) Limited was incorporated under the Laws of Saint Vincent and the Grenadines. The Company's registered office is First Floor, Saint Vincent Building & Loan Association Building, 108 Halifax Street, Kingstown, Saint Vincent and the Grenadines.

Harlequin Property (SVG) Limited is one of the companies which comprise the Harlequin Group of Companies ("the Harlequin Group"). The Harlequin Group is made up of several entities throughout the Caribbean and elsewhere (Saint Vincent, Saint Lucia, Barbados, Dominican Republic and the Cayman Islands) which are beneficially owned and controlled by David Ames.

Prior to being placed in bankruptcy, Harlequin Property (SVG) operated as a property developer. As well as other assets Harlequin Property (SVG) Limited purchased a property situated on the West Coast of Saint Vincent of approximately 37 acres (Buccament Bay) as well as a property situated on the East Coast of Barbados of approximately 70 acres (Merricks).

Harlequin Property (SVG) Limited planned to sell either land with fully constructed cabanas or fully furnished hotel rooms in a resort-style setting to individuals who were largely based in the United Kingdom. These were frequently sold as long-term investments and held in Self-Invested Pension Plans (SIPPs). Harlequin entered into sale and purchase agreements with investors who went on to make payments towards their property. Sale and purchase agreements were executed and stage payments were made. The sale and purchase agreement included that upon transfer of title of the cabana or hotel room, the owner would be required to enter into an agreement with the resort's management company; Buccament Bay Resorts Limited ("BBRL").

By the terms of the management contract, an owner would be entitled to have use of that property for a period of up to four weeks each year.

Approximately 2,900 persons entered into agreements to purchase cabanas or rooms. Although some people sought to purchase these properties directly from Harlequin Property (SVG), many sought to purchase them through a self-invested personal pension provider which was regulated by the Financial Conduct Authority in the United Kingdom.

The Buccament Bay and Merricks developments were never completed and on March 3, 2017 the entity was declared bankrupt and Brian Glasgow was confirmed as the trustee in bankruptcy. By virtue of the Trustee's appointment, all the property and assets of Harlequin Property (SVG) Limited including any interest in property which it had or possessed at the time of bankruptcy appointment, were vested in the Trustee.

A copy of the deed of assignment is available on the Harlequin website at [www.kpmg.com/harlequin](http://www.kpmg.com/harlequin):

[https://home.kpmg.com/content/dam/kpmg/bb/pdf/2018/10/Certificate\\_of\\_Assignment.pdf](https://home.kpmg.com/content/dam/kpmg/bb/pdf/2018/10/Certificate_of_Assignment.pdf)



### Section 3: Assets of the Estate

The Trustee has reviewed the records of Harlequin Property (SVG) Limited and made enquiries into the assets within the Estate. A summary of each asset and the recovery status is included below.

#### 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 purchaser is found. The Trustee also continues to insure the property.

Prior to any sale of the Buccament Bay Resort the Trustee sought permission from the inspectors to engage BCQS, a local firm of professional surveyors, to provide an updated valuation which the Trustee has had receipt of.

In order for the Trustee to move to 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 of the BIA.

Given the progress made on the Section 70 process (see Section 4), the Trustee has been able to progress the sale of the 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 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 to US\$5 million to reopen the resort – the Estate does 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 heads of terms with the chosen party.

The process has been delayed as there are a number of issues surrounding the legal title to the various plots of land that comprise the resort. . In order to sell the resort the Trustee and his legal counsel had to devise various strategies to resolve the issues.

The Trustee and the purchaser have had detailed discussions with the Government of Saint Vincent and the Grenadines as they are a major stakeholder in the opening of the resort as well as legal owner to critical plots of resort land. The Trustee entered into a heads of terms agreement with the prospective purchaser on, October 16, 2018. This is an important step with respect to realising the Buccament Bay Resort. The Trustee will now continue to work with the purchaser and his legal advisers and hopes to be in a position to complete a sale with the purchaser before December 31, 2018.

The terms within the heads of terms 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 and agreed with the Inspectors of the Estate.



## **Merricks Resort, Barbados**

The Merricks Resort is a further valuable 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 Trustee's over the assets situated in Barbados ("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 only one offer was received. This offer was not accepted by the Inspectors and the Barbados Trustees will shortly begin a focused sales process where closed bids will be requested ahead of a final bid deadline. The Barbados Trustees received advice from the property agent to wait to launch this further campaign until the winter season (November – April).

## **Inter-company Debtors**

Investor monies were collected by an agent, Harlequin Management Services (South East) Limited and later Harlequin Hotels and Resorts Limited, on behalf of the development companies.

These monies were then utilised by the Group for any development and as such a complex web of intercompany receivables and payables were established. The Bankruptcy Trustee has not been provided with up to date accounts. The Bankruptcy Trustee is continuing his investigation into the financial affairs of the Group.

The Bankruptcy Trustee believes that there are a number of Harlequin entities who owe substantial funds to Harlequin Property (SVG) as there are creditors who have claimed amounts owing within the Harlequin estate but their actual intent was to purchase a property owned by another entity within the Group.

### ***a) Harlequin Resorts (St. Lucia) Limited (in Liquidation) – (owner of the Marquis Estate, St. Lucia)***

According to the records provided Harlequin Resorts (St. Lucia) Limited ("HRSLU") is a debtor to Harlequin Property (SVG) for approximately £8 million. The Bankruptcy Trustee successfully petitioned for its liquidation in July 2017.

The sole asset in this estate is a 500 acre piece of agricultural land to the north east of Saint Lucia. The Liquidators have completed a valuation of the land and are in correspondence with an interested party who have expressed an interest in acquiring the land.

It is expected that the interested party will provide an offer to purchase the land to the liquidators shortly. Should this offer be acceptable to the Liquidators steps will be taken to convey the land.

Further information on the progress of the Liquidators over Harlequin Resorts (St. Lucia) Limited can be found at the Harlequin website at:

<https://home.kpmg.com/bb/en/home/insights/2017/07/bb-harlequin-resorts-slu.html>

### ***b) Harlequin Hotel and Resorts Limited (in Official Liquidation)***



Harlequin Hotels and Resorts Limited is a debtor to Estate for approximately £21 million. The Trustee on behalf of the Estate successfully petitioned for its liquidation in September 2018.

The Trustee is currently in communication with the Official Liquidators of Harlequin Hotel and Resorts Limited with respect to recoveries being made on behalf of the Estate.

***c) Harlequin Boutique Hotel Limited (in Bankruptcy) – ( legal owner of H Hotel, Barbados)***

Harlequin Boutique Hotel Limited entered Bankruptcy in January 2018. The Trustee has received information indicating that investors in the H Hotel in Barbados contracted with Harlequin Property (SVG) Limited and it was these monies that funded the purchase of the property.

In April 2018 the Barbados Trustees submitted a claim against Harlequin Boutique Hotel Limited to recover the property under Section 57 of the Barbados Bankruptcy and Insolvency Act (equivalent to Section 70 under the Bankruptcy and Insolvency Act of Saint Vincent). This has been disputed by the Trustee of Harlequin Boutique Hotel Limited and is set down for Court in December.

If the claim pursuant to Section 57 is unsuccessful the Barbados Trustees, on behalf of the Estate have also filed a proof of claim for approximately £7 million, making them the major creditor, and so a recovery from this asset is likely.

David Collins of KPMG has been appointed a member of the inspector committee of this estate on behalf of the estate of Harlequin Property (SVG).

**Foreign Judgment Sums**

***a) Wilkins Kennedy (UK Courts)***

On December 12, 2016, Harlequin Property (SVG) Limited received judgment in its favour for £10.5 million. These monies were subsequently paid into the UK Court due to the cautiousness of the presiding judge that these monies must be utilized for the benefit of the creditors of the Company.

In his then role as Proposal Trustee, Brian Glasgow applied to the Court on an urgent basis to become interim receiver of all of the property of the Company, this order was granted on December 17, 2016. Subsequently this order was recognised in the UK, upon which, the statutory stay on UK proceedings came into effect.

Prior to the judgment being received the Company, due to its poor financial position, had already entered into 17 separate agreements with creditors and professionals to assign the benefit of the judgment proceeds, these claims totaled £11.0 million (£0.5 million more than the judgment proceeds).

Following the appointment of the Bankruptcy Trustee each of the 17 claims were reviewed and the Bankruptcy Trustee successfully defended several claims resulting in £5 million being recovered to the benefit of the Estate.

These funds have since been reduced by paying the professional costs in defending the actions above and administering the Estate. Without any involvement the Estate would not have received any of these funds.

Wilkins Kennedy attempted to appeal the decision but their appeal has now been refused by the UK Courts.

***b) Padraig O'Halloran (Irish Courts)***

A claim was brought against Padraig O'Halloran and Donal O'Halloran in the Irish Court by Harlequin Property (SVG) Limited and Harlequin Hotel and Resorts Limited (Cayman) in 2010 (the "Claimants"). A&L Goodbody represented the Claimants in these proceedings.

The primary allegation was that Padraig O'Halloran had wrongly taken in excess of US\$13.3 million of monies paid to the construction company ICE Group by the Claimants that should have been used to build Buccament





Bay Resort. The allegations were that he spent the money on a private jet, renting holiday homes, buying a race track and expensive gifts.

In 2013 the Claimants were successful in establishing the Mr O'Halloran had misappropriated funds and were awarded approximately €1,575,500 (plus 90% of their costs). The judgment was confined to the money that Mr O'Halloran had transferred into Irish accounts. The judgment is secured against a property in Ireland.

Mr O'Halloran appealed the decision but did not pursue the appeal for several years until, in mid-2018 the Irish Court of Appeal directed the parties to exchange submissions or the appeal would have been struck out. Comprehensive submissions listing the basis of appeal were delivered by counsel for Padraig O'Halloran on 7 August 2018. After seeking advice from independent Irish counsel the Trustee engaged A&L Goodbody and Irish counsel to draft a response to the submissions.

These are currently being drafted with the aim of being filed on November 8, 2018. A full appeal is then anticipated. Our current aim is ask the Court to expedite the hearing of the appeal, so that the matter might hopefully be resolved in 2019, although there are long delays in the Irish Court of Appeal and so an expedited hearing cannot be guaranteed. While the appeal submissions were comprehensive, this is a complicated matter and there is never certainty in litigation, as such the Trustee intends to pursue recovery of this asset in full. It is the intention of the Trustee that when responding to the submissions to request a trial date as soon as possible.

#### **Other Developments**

For the avoidance of doubt the following developments and their associated assets do not form part of the estate of Harlequin Property (SVG).

- Marquis Estate, St Lucia
- Blu Hotel, St Lucia
- H Hotel, Barbados (there is currently a section 57 claim against this asset. If successful this asset will form part of the estate of Harlequin Property (SVG).
- Las Canas, Dominican Republic
- Two Rivers, Dominican Republic

However, should a sales contract in relation to one of the above developments with Harlequin Property (SVG) then it is possible that you will have an unsecured claim against the estate of Harlequin Property (SVG) and your details will be kept on the Bankruptcy Trustee's communications database and be sent all further correspondence.



## Section 4: Claims against the Estate

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 has received over 480 claims pursuant to Section 70 and these have been adjudicated pursuant to the BIA as well as in accordance with the [court order dated November 22, 2017](#) and amended by the [court order dated December 14, 2017](#).

Over 400 of the claims received were disputed for varying reasons and the property claimed from the Estate remains to be realised for the benefit of the general body of unsecured creditors. Currently, there are 23 ongoing appeals which have been filed by the claimants in the High Court of St. Vincent and the Grenadines against dispute notices issued by the Trustee pursuant to section 70 of the BIA.

The Court has since set deadlines for the filing of submissions in relation to these appeals. Once filed we will await the decision of the Court.

The Trustee has 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.



## Section 5: Estimated Outcome

The financial position of the Estate is set out above in **Section 3: Assets of the Estate** and **Section 4: Claims against the Estate**.

The Trustee is not in a position 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 to the Estate and as such any distribution to investors will be at a significant deficit to their original investment.**

The 2014 unaudited accounts state the land, buildings and property for sale (i.e. cabanas and hotel) to have a carry 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 Resort. The stated market value in the valuations for the two resorts was substantially less than the carrying amount in the 2014 unaudited accounts. In addition to the reduced independent valuations received, the valuation also presumed Harlequin Property (SVG) Limited had legal title to the entire resort – which the Trustee now understands not to be the case. Any issue relating to the legal ownership is likely to have a negative impact on the realisable value. As stated in Section 3 the Trustee entered into heads of terms with a party for the purchase of Buccament Bay and will be re-launching the sales process for Merricks Resort in Barbados and will continue to maximize realizations for the creditors of the Estate.

### Illustrative example

However, 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\$)	5,000,000	15,000,000
Current claims against the Estate	300,000,000	250,000,000
Distribution c in the \$	1.7	6.0

As an illustrative example, if the net recoveries to the Estate are between US\$5 – US\$15 million and unsecured liabilities are between US\$250 - US\$300 million, creditors would receive a distribution in the region of 1.7 – 6.0%. This equates to a dividend of \$1,666 to \$6,000 if a creditor makes a claim for \$100,000.



## Section 6: Investigations

### Company Books and Records

We have continued an open dialogue with the formal management and their counsel to recover the books and records of the Estate including the electronic records. The collection of these records has been made more complicated as the records were not kept separately but mixed with both personal and privileged information belonging to entities which are not controlled by the Bankruptcy Trustee.

Our Lawyers have prepared a draft information management agreement and shared this with Mr. Ames' lawyers in August to facilitate the transfer of further information. Until recently we have been in correspondence on this with Mr. Ames and his legal counsel, more recently however they have not responded to our follow up requests. We are exploring our options with our lawyers.

### Other ongoing investigations

The Bankruptcy Trustee is continuing to pursue recoveries of the Company's assets and continues to investigate the affairs of the Company, and other avenues for the possible recovery of investor funds. However in view of the dissipation of investor monies it is clear that there is not a direct immediate route to other recoveries.

We are continuing to pursue recovery of the books and records of the Company from its former officers as noted above and other sources, as well as cooperating with governmental departments and others investigating the activities of the Company and associated entities.

The trial of Mr Ames (R v David Ames) is still noted as expected to commence on 7 January 2019 at Southwark Crown Court we will carefully follow the proceedings.



## Section 7: Further Information

If you have any questions regarding this report or the bankruptcy process in general please contact the KPMG Harlequin inbox ([harlequin\\_trustee@kpmg.bb](mailto: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](http://www.kpmg.com/harlequin).

Yours faithfully,

A handwritten signature in black ink, appearing to read 'B Glasgow', with a horizontal line extending to the right.

**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.