

Harlequin Boutique Hotel Limited, a Bankrupt

(“HBHL”)

Update to Claimants

25 May 2021

Dear Claimants,

Shortly after my previous update of 5 February 2020 we all experienced the onset of COVID-19, which aside from the significant health hazard has also caused disruption to economies and businesses worldwide, including Barbados.

As a result, I have experienced delays in resolving case matters throughout 2020, but I am pleased to update you that significant progress has been made, as I set out within this update.

Key work streams over the period include:

- Discussions with the Trustee of Harlequin Property (SVG) Limited leading to a resolution of the Section 57 Claim asserting ownership of the sole asset of HBHL.
- Progressing and completing the sale of the property.
- Investigations into assets.
- Commencing the adjudication of claims against the HBHL estate.

I present below an update on the various matters of the estate including those set out above.

Discussions with the HPSVG Trustee

As previously reported in both the first and second reports to creditors, the Joint Trustees of the estate of Harlequin Property (SVG) Limited (“**HPSVG**”) (the “**HPSVG Trustee**”) attempted to enforce their assertion of a claim under Section 57 of the Barbados Bankruptcy and Insolvency Act, Cap 303 (“**BIA**”) (“**Section 57 Claim**”) and claim ownership of the sole known asset of HBHL. The HBHL Trustee (the “Trustee”) formally disputed this claim under Section 57 (2) of the BIA on 30 April 2018, and subsequently received a notice of appeal from HPSVG on 15 May 2018.

Given this represented the sole asset of the HBHL estate and in order to protect the interests of all creditors, the Trustee filed affidavits contesting the claim. The case was originally to be held before a Judge during September 2018 but was since adjourned on multiple occasions.

In the second report to creditors, it was noted that The Trustee's legal counsel had established contact with the legal counsel for the HPSVG Trustee to determine whether there was scope for the dispute to be resolved consensually, given that a trial to determine the outcome of the Section 57 Claim would cause significant additional costs to both the HBHL and HPSVG estates, diminishing the value of these estates for the benefit of the respective creditors.

This was especially pertinent given the provisional position of the Trustee at that time that the HPSVG unsecured claim had prima facie validity and could potentially be the largest creditor of the HBHL estate meaning that the level of distribution the HPSVG estate could ultimately receive in the ordinary course of HBHL's winding up would likely be higher than what would be received following the outcome of the Section 57 Case even if HPSVG were ultimately successful.

In light of this, the Trustee analysed the unsecured claim of HPSVG in more detail, taking into account both the evidence provided by HPSVG to support its claim, and other information the Trustee had obtained during the course of his trusteeship, including bank records and payment information in respect of the acquisition of the former Allamanda hotel that formed the sole asset of the HBHL estate.

Following further discussions between the HBHL and HPSVG trustees in November 2019 and March 2020, a Deed of Agreement was entered into between the two trustees, whereby the HPSVG Trustee agreed to discontinue the Section 57 Claim upon receipt of a notice of formal adjudication by the Trustee, that is in line with the analysis performed by the Trustee that determined a partial disallowance of claim as informally communicated to the HPSVG Trustee. As part of this agreement at the request of the HPSVG Trustee, the Trustee agreed to a cap on future fees and expenses related to the remaining work streams in the ordinary course of the winding up.

The Deed of Agreement was entered into on 7 August 2020, following which the Trustee provided a formal notice of partial disallowance of claim to HPSVG on 24 August 2020, and subsequently the HPSVG Trustee provided a Notice of Discontinuance in respect of the Section 57 Claim dated 7 September 2020.

The cessation of the Section 57 Claim is a key milestone for the HBHL estate, securing value for the creditors of the estate and removing a sizable obstacle to the administration of the winding up, allowing the Trustee to now focus on the remaining adjudication of claims.

Sale of the Property

The Trustee is pleased to update claimants that the sale of the property has now been completed. The property was sold for BBD\$5,611,998 with net proceeds of BBD\$4,985,481 after taxes, levies and legal fees.

The sale of the property was finalised in May 2021 to a nominee of Preconco Limited (“**Preconco**”), an entity that held an option contract to acquire the property at fair market value as detailed in the previous reports to creditors and updates to claimants.

After seeking an independent valuation and reviewing another private offer, the Trustee negotiated a gross sale price of BBD\$5.61m with Preconco, representing a positive outcome for creditors and avoided the significant costs and delays in the marketing of the asset. Furthermore, as part of the sales agreement, Preconco agreed to waive their secured interest in the estate and prove entirely as an unsecured creditor, thus increasing the recovery for all unsecured creditors.

There have been some delays in completing the sale, predominantly due to agreeing the amount of outstanding land taxes and property transfer taxes payable upon sale, the significant disruption caused by the COVID-19 pandemic, and the necessity to resolve the Section 57 Claim.

Following the sale, the Trustee has commenced a challenge to the level of property transfer taxes he was required to pay to complete the sale which, if successful, would ultimately lead to a partial refund of taxes paid, thereby providing an additional amount in the vicinity of BBD\$200,000 for distribution by the Trustee.

Investigations into assets

The Trustee became aware of a bank account that existed in the name of the HBHL. Whilst the account is now closed, the banking records obtained were useful in assisting the Trustee in his adjudication process of claims against the HBHL estate. Unfortunately, no further assets were identified, and the proceeds of the property situated at Hastings, Barbados remains the sole asset of the estate.

Adjudication of Claims

The discontinuance of the Section 57 Claim against the property confirmed that there would be value in the HBHL estate for the benefit of creditors, therefore the Trustee began a formal adjudication process leading to the first round of adjudication notices being issued in late August 2020.

As detailed in previous reports to creditors, the Trustee had observed multiple instances where there is a duplication of claim in respect of an individual investor contract. This duplication arises due to claims from two or more of HPSVG, The Financial Services Compensation Scheme (“FSCS”) and individual investors themselves.

The Trustee can only admit a maximum of one party as a valid creditor in respect of a given contract in order to participate in any future distribution(s). As such, the focus of the Trustee in the initial adjudication was to resolve the significant level of duplicated claims that existed in respect of individual investor contracts.

The table in Appendix 1 provides an updated claims listing showing the adjudication status of each claim.

Now that the sale of the property has been completed, the Trustee will commence the analysis and adjudication of the remaining claims against the HBHL estate. Please ensure that we have your most up to date contact details as notice for overseas claimants will continue to be sent via email in the first instance. Contact details for the Trustee are shown at the end of this update.

Inspectors

The HBHL Inspectors Committee was appointed by a resolution of creditors at the first meeting of creditors. Three Inspectors were appointed at this first meeting of creditors, being Mr. David Collins (nominee for HPSVG), Mr. James Darbyshire (nominee for FSCS), and Mr. David Hollely.

At the time of appointment, these Inspectors all had represented certain claims outstanding against the estate of HBHL and were appointed for the purpose of overseeing the administration of the estate. The Inspectors Committee is consulted in connection with all significant matters associated with the winding up of HBHL, and where appropriate specific approvals have also been sought. To date the specific approvals sought from the Inspectors include inter-alia in respect of the terms of the sale of the asset to Preconco, the Deed of Agreement with HPSVG, and the remuneration of the Trustee and his staff.

Following the Trustee’s recent adjudication, the FSCS no longer had an interest in the HBHL estate, and subsequently the FSCS’s nominee Mr. Darbyshire provided a notice of resignation from the Inspectors Committee on 3 March 2021. I use this opportunity to thank him for his attendances.

At the next meeting of Inspectors, the Trustee will discuss with the remaining Inspectors whether it is warranted to seek appointment of a new Inspector to replace Mr. Darbyshire given the advanced state of the winding up following the sale of the property and discontinuance of the Section 57 Claim.

Furthermore, the Trustee became aware that the Joint Trustees of HPSVG; Mr. Craig Waterman and Ms. Lisa Taylor, along with the HPSVG nominee on the Inspectors Committee; Mr. David Collins, joined the PwC Eastern Caribbean firm from KPMG Barbados whilst retaining their roles in respect of HPSVG.

As a result, an ethical wall has been established within PwC to ensure the HPSVG and HBHL estates continue to be independently managed by separate teams, as is standard practice in this type of situation.

The Trustee considers that Mr. Collins' role on the Inspectors committee representing the interests of all creditors of the HBHL estate can continue, however the Trustee will not seek approval for his current and future fees and costs from Mr. Collins. An alternative mechanism will be discussed at the next meeting of Inspectors, following consideration of the requirements under the Barbados Bankruptcy and Insolvency Act.

Estimated Future Distributions

A distribution was made to the Barbados Revenue Authority (“**BRA**”) in respect of their preferred claim against the estate, representing the outstanding land taxes due in the year immediately prior to the date of bankruptcy. The timing of this distribution was necessary in order to obtain the certificate of tax clearance as a prerequisite to completion of the sale. The remaining balance of the BRA’s claim against the HBHL estate is that of an unsecured claim and will be adjudicated along with all other remaining unsecured claims.

Following the sale of the asset, and assuming that no further claims are received, the Trustee expects to be in a position to make a distribution to remaining secured and preferred creditors of 100 cents on the dollar.

Unsecured creditors are also expected to receive a distribution; the anticipated cents on the dollar amount will be communicated in a following update once the analysis and adjudication of all remaining unsecured claims has been completed.

Next Steps

Set out below are the priorities of the Trustee over the coming months:

- Meet with the remaining inspectors of the HBHL estate to discuss material case matters and the Inspectors Committee members.
- Complete the analysis and adjudication of all remaining claims against the estate of HBHL.
- Advertise for final claims against the estate.
- Provide an update to creditors once adjudication is complete highlighting the estimated future distribution for unsecured creditors to be made.
- Commence a distribution process to remaining secured and preferred creditors, following which a distribution process will be commenced for unsecured creditors.

Yours faithfully,

Dr. Grenville Phillips

As Trustee of the Estate of Harlequin Boutique Hotel Limited, a Bankrupt, and not in his personal capacity.

Contact Details:

Website: <https://www.pwc.com/bb/en/services/harlequin-boutique-hotel-limited.html>

Website: (Shortlink): <https://pwc.to/2sopxr1>

Email: bb_hbhltrustee@pwc.com

Dr. Grenville Phillips was substituted as Trustee effective 31 October 2018, pursuant to the Laws of Barbados. He nor PwC, its partners, employees or agents shall incur any personal liability in relation to his appointment or performance as Trustee.

Appendix 1

Harlequin Boutique Hotel Limited, in Bankruptcy

Listing of Claims and Adjudication Status

as at 25 May 2021

Name of Claimant	Claim Currency	Claim Amount (Foreign)	Claim Amount (BBD\$) (Note A)	Class	Adjudication status
Harlequin Property (SVG) Limited	GBP	7,371,500.00	19,920,373	Unsecured	Complete - Notice sent 24 August 2020
Financial Services Compensation Scheme (FSCS)	GBP	4,000,267.28	10,810,122	Unsecured	Complete - Notice sent 24 August 2020
Harlequin Hotels & Resorts (Cayman)	GBP	835,493.38	2,257,796	Unsecured	Complete - Notice sent 4 September 2020
Do Lobo Management Limited	GBP	255,000.00	689,099	Unsecured	Complete - Notice sent 24 September 2020
Barbados Revenue Authority	BBD		652,968	Unsecured	In Progress
Joseph Licata	GBP	231,000.00	624,243	Unsecured	Complete - Notice sent 24 September 2020
John Licata	GBP	180,000.00	486,423	Unsecured	Complete - Notice sent 24 September 2020
NF Holding Inc.	BBD		433,853	Unsecured	In Progress
Rodney Davis	GBP	156,000.00	421,567	Unsecured	Complete - Notice sent 24 September 2020
Robert Sheldrick	GBP	153,000.00	413,460	Unsecured	In Progress
Versatile Construction Inc.	BBD		362,851	Unsecured	In Progress
Versatile Construction Inc.	BBD		349,950	Secured	In Progress
John and Susan Small	GBP	105,000.00	283,747	Unsecured	Complete - Notice sent 24 September 2020
Preconco Limited	BBD		278,712	Unsecured	In Progress
J. Jackson, C Bedford and N Sesum	GBP	98,460.00	266,073	Unsecured	Complete - Notice sent 24 September 2020
Carolyn Goodman	GBP	84,000.00	226,997	Unsecured	Complete - Notice sent 24 September 2020
Judith Ash	GBP	81,000.00	218,890	Unsecured	Complete - Notice sent 24 September 2020
Tim Sonnex	GBP	81,000.00	218,890	Unsecured	Complete - Notice sent 24 September 2020
Simon Williams	GBP	78,000.00	210,783	Unsecured	Complete - Notice sent 24 September 2020
William Rogers	GBP	78,000.00	210,783	Unsecured	Complete - Notice sent 24 September 2020
Peter and Helen Brabner	GBP	78,000.00	210,783	Unsecured	Complete - Notice sent 24 September 2020
Ketan Shah	GBP	78,000.00	210,783	Unsecured	Complete - Notice sent 24 September 2020
Steve Shergold	GBP	76,500.00	206,730	Unsecured	Complete - Notice sent 24 September 2020
Jacquiline Hollely	GBP	75,000.00	202,676	Unsecured	In Progress
Black Pearl Associates Ltd	GBP	75,000.00	202,676	Unsecured	In Progress
Carlton Family Pension Trust	GBP	75,000.00	202,676	Unsecured	In Progress
June Meadows & Alan Meadows	GBP	75,000.00	202,676	Unsecured	Complete - Notice sent 24 September 2020
Rita Omar	GBP	75,000.00	202,676	Unsecured	In Progress
Michael Coombs	GBP	71,000.00	191,867	Unsecured	Complete - Notice sent 24 September 2020
Winston Hanson	GBP	57,752.06	156,066	Unsecured	Complete - Notice sent 24 September 2020
Allan Simmons, Simmons Electrical	BBD		136,000	Unsecured	In Progress
David Hollely and Jacqueline Hollely	GBP	45,000.00	121,606	Unsecured	In Progress
Preconco Limited	BBD		117,789	Unsecured (Note B)	In Progress
Barbados Revenue Authority	BBD		114,762	Preferred	Complete
Penny Hanson	GBP	41,247.94	111,466	Unsecured	Complete - Notice sent 24 September 2020
Adrian Inniss	BBD		36,923	Unsecured	In Progress
Cheryl Branch	BBD		27,463	Unsecured	In Progress
Keila Campbell	BBD		15,542	Unsecured	In Progress
Ready Mix Limited	BBD		8,031	Unsecured	In Progress
Keisha Cordieu	BBD		7,036	Unsecured	In Progress
Total			42,023,810		

Note A: Foreign Exchange rate used per OANDA as at the date of Bankruptcy (BBD2.70235 : 1GBP) and is for indicative purposes only. The Trustee will determine the official FX rate ahead of the first Distribution.

Note B: Secured claim changed to unsecured claim as part of the sale agreement with Preconco.

Important Notice:

Any questions in relation to the adjudication status of your claim shown above should be directed to the HBHL Email Inbox at **bb_hbhltrustee@pwc.com**