

# HARLEQUIN BOUTIQUE HOTEL LIMITED (A BANKRUPT)

Report and  
Accounts of  
the Bankruptcy  
Trustee to the  
Supreme  
Court of  
Barbados

30 August 2024

IN THE SUPREME COURT  
CIVIL DIVISION

IN THE MATTER OF  
THE BANKRUPTCY AND INSOLVENCY ACT, 2001  
Cap.303 of the Laws of Barbados

AND IN THE MATTER OF  
HARLEQUIN BOUTIQUE HOTEL LIMITED.

REPORT AND ACCOUNTS OF THE BANKRUPTCY TRUSTEE

TO

THE SUPREME COURT OF BARBADOS IN THE HIGH COURT OF JUSTICE

Dated this 30<sup>th</sup> day of August, A.D., 2024

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# 1. Abbreviations and Definitions

The following table shows the abbreviations and insolvency terms that may be used in this report:

Abbreviation or Definition	Meaning
<b>BBD\$</b>	Barbados Dollar
<b>BIA, the Act</b>	Barbados Bankruptcy and Insolvency Act 2001 Cap 303
<b>BWA</b>	Barbados Water Authority
<b>Date of Bankruptcy</b>	12 January 2018
<b>DoA</b>	Deed of Assignment
<b>Estate</b>	The Estate of Harlequin Boutique Hotel Limited, a Bankrupt
<b>FSCS</b>	Financial Services Compensation Scheme
<b>GBP</b>	British Pound Sterling
<b>HBHL, the Company</b>	Harlequin Boutique Hotel Limited
<b>HHR Cayman</b>	Harlequin Hotels and Resorts (Cayman) Limited
<b>HMSSE</b>	Harlequin Management Services (South East) Limited
<b>Hotel, Property, H Hotel</b>	The site of the previous Allamanda Beach Hotel, which had been marketed under multiple names by Harlequin including 'H Hotel', 'Quin One' and 'Quin Two'
<b>HPSVG</b>	Harlequin Property (SVG) Limited
<b>Ministry Of Finance</b>	Ministry Of Finance, Economic Affairs And Investment
<b>MoH</b>	Ministry of Health
<b>Preconco</b>	Preconco Limited
<b>RBC</b>	Royal Bank of Canada
<b>Supervisor, SOI</b>	Office of the Supervisor of Insolvency
<b>Trustee or Bankruptcy Trustee</b>	Mr. Oliver Gregory Jordan of PricewaterhouseCoopers EC Inc. to 31 October 2018. Dr. Grenville Winslow Phillips from 31 October 2018
<b>USD or US\$</b>	United States Dollar

## 2. Foreword

### Appointment

1. By Order of the Honourable Sir Marston Gibson K.A., Chief Justice, of the Supreme Court of Barbados (**“the Court”**; **“this Court”**) dated the 12<sup>th</sup> day of January, 2018, and entered and perfected on the 23<sup>rd</sup> day of January, 2018, (**“the Order for Appointment”**) Mr. Oliver Gregory Jordan of PricewaterhouseCoopers EC Inc, The Financial Services Centre, Bishop's Court Hill, St Michael, BB14004, Barbados, was appointed Trustee of the property of the bankrupt entity Harlequin Boutique Hotel Limited, with registration number 34927 (the **“Company”**, or **“HBHL”**) pursuant to Section 4 (13) of the Act, for the purpose of, inter alia, supervising the compulsory winding-up of HBHL (the **“Estate”**) pursuant to The Bankruptcy and Insolvency Act, Cap. 303, of the Laws of Barbados.
2. Pursuant to a resolution of the creditors made on the 23<sup>rd</sup> day of October 2018, Mr. Oliver Gregory Jordan was replaced as Trustee by Dr. Grenville Winslow Phillips, effective the 31<sup>st</sup> day of October 2018. The minutes of the Second Meeting of Creditors of 23<sup>rd</sup> October 2018 which contained the resolution substituting the Trustee was duly filed with the Court. Additionally, the former trustee's statement of fees and disbursements was approved by the Inspectors and subsequently shared with the Supervisor of Insolvency. There have been no objections to the substitution of the Trustee.
3. Staff members from PricewaterhouseCoopers EC Inc and other PwC member firms were retained by Dr. Grenville Phillips to assist him in the discharge of his duties as Trustee.
4. The legal firm Hamel-Smith Caribbean was also retained by the Trustee to act as his general legal counsel to assist in the various legal matters of this assignment.
5. This is the Trustee's Report and Statement of Accounts to the Court filed pursuant to The Bankruptcy and Insolvency Act Cap.303.
6. This report is intended to provide the Court with information concerning the affairs and accounts of the Company since commencement of the assignment and seeks approval of this Court for the scheme of distribution of the Company's assets.
7. A copy of the Order of Appointment of the Trustee is available to view and download in the Document Library on the website portal:
  - 7.1. <https://www.pwc.com/bb/en/services/harlequin-boutique-hotel-limited.html>

8. All figures referenced herein are presented in Barbados Dollars (“B\$”, “BBD”) unless otherwise stated.

## Disclaimer

9. The report is prepared and submitted by the Trustee to the Supreme Court for the purpose of providing information to the Supreme Court regarding the work undertaken by the Trustees since the date of first appointment to 30 August 2024. Neither the Trustees, Hamel-Smith Caribbean, any member firm of PricewaterhouseCoopers International Limited (“PwC”) (each member firm of which is a separate legal entity), nor any of their employees, professional advisers, servants or agents (“Professional Parties”) will be responsible for any loss, damages, liabilities or claims arising from the use and/or reliance on this report. None of the Professional Parties accept any liability or assume any duty of care to any third party (whether it is an assignee or successor of another third party or otherwise) in respect of this report. The Trustee is acting as agent of the Company and servant of the Honourable Court, and without personal liability. In preparing this report, the Trustee has relied upon the limited available information from the Company’s former management and directors, the Company’s books and records, such as they were, the Company’s former professional service advisors, legal counsel, bankers and other service providers from which information was gleaned. Except where specifically stated, the Trustee has not sought to establish the reliability of the sources of information presented to them by reference to independent evidence. The analyses presented in this report is therefore based on the limited information available. Where the Trustee has made observations and drawn conclusions from the information and analyses, unless specifically stated, these observations and conclusions have not been confirmed with the Company’s management or service providers. Any prospective financial analyses presented in this report are based on estimates and assumptions, and projections of uncertain future events, including judgements made by the Trustee, based on the limited information available at the time. The Trustee’s work in relation to the bankrupt may be extended and accordingly, actual results may vary, potentially significantly, from the information provided in this report, including but not limited to the impact of unknown variables and the Trustee therefore reserve the right to amend or supplement this report in due course. No representation of any kind (whether expressed or implied) can be given by the Trustee as to the accuracy or completeness of the information. The Trustee has not performed an audit, review, or other assurance work and consequently no such assurance is expressed.

## Privacy statement

10. In providing bankruptcy services, The Trustee, Hamel-Smith Caribbean, and PwC may collect or obtain personal data about persons associated with the Bankruptcy for the purposes of undertaking certain activities relevant to the task undertaken, such as compliance with applicable laws and regulations (e.g., AML, FATCA, CRS, etc.) and distributions to stakeholders. We encourage stakeholders to periodically review the privacy statements on the aforementioned website to learn more.

# 3. The operations and bankruptcy of HBHL

## Background to HBHL

11. Harlequin Boutique Hotel Limited (“HBHL”, “the Company”), is a company incorporated under the laws of Barbados with company number 34927.
12. HBHL is part of a group of entities (“the Harlequin Group”, or “Group”) situated across the Caribbean including Barbados, Cayman Islands, St Lucia, St Vincent and the Dominican Republic, and the United Kingdom, most of which have been subject to insolvency proceedings since approximately 2017.
13. Whilst the Harlequin Group entities did not appear to have a known strict and well-defined parent and subsidiary structure, the many entities are or were under the ultimate beneficial ownership of Mr. David Ames.
14. The Company’s primary activity was to own the previous Allamanda Beach Hotel and redevelop the site to construct a 69-room hotel on Hastings Beach in Christ Church on the southwest coast of Barbados. It was set to be the debut of Harlequin’s lifestyle H brand, and had previously been referred to as the Quin One, Quin Two and H Hotel.
15. The Trustee understands that the majority of the construction work was carried out during 2012, with construction ceasing on or around January 2013. Since this time there has been minimal work carried out on the site and as a result the overall condition of the partially completed structure had deteriorated at the time of appointment of the Trustee.

## Causes of Bankruptcy

16. The cause of Bankruptcy of HBHL appears to be primarily due to the effects of fraud by the Chairman of the Harlequin Group, Mr. David Ames.



17. On 17 February 2017, the Serious Fraud Office (“SFO”) of the United Kingdom (“UK”) charged Mr. Ames with three counts of Fraud by Abuse of Position, contrary to sections 1 and 4 of the Fraud Act 2006 of the laws of the UK. The charges related to the activity of various Harlequin Group entities between January 2010 and June 2015. Two of the counts were predicated in the alternative, meaning Mr. Ames could only be found guilty of either Count 1 or Count 2.
18. Following a 12-week trial at Southwark Crown Court, London, UK, a jury returned a unanimous verdict, finding Mr. Ames guilty of two counts of fraud by abuse of position, for criminality spanning 1 January 2010 to 11 June 2015. Mr. Ames was later sentenced on 30 September 2022 to 12 years of imprisonment, and disqualified as a company director for 15 years, the maximum available.
19. A statement released by the SFO provides insight into the fraud committed by Mr. Ames that led to the bankruptcy of the Harlequin Group including HBHL:
  - 19.1. *“The business model relied upon investors paying a 30 percent deposit to purchase an unbuilt villa or hotel room, half of which went toward fees for Harlequin and relevant salespeople, while Harlequin put the remaining 15 percent toward construction. Investors were fraudulently told that the building of the properties would be further funded by external financial backing.*
  - 19.2. *“With no additional source of funding, three properties needed to be purchased to finance just one of the luxury accommodation units. This led to the exponential expansion of the scheme, the diversion of investor money between resorts and ultimately a funding shortfall of over £1.2 billion by 2012 – seven years after [Mr.] Ames launched the scheme. By this point, an expert accountant told Southwark Crown Court that investors were exposed to a near 100 percent risk of loss, which [Mr.] Ames did not contest.*
  - 19.3. *“The SFO investigation revealed that by the time it went into administration in 2013, [The Harlequin Group] had sold around 9,000 property units to investors, with less than 200 ever actually being constructed. Throughout the entire eight-year project, only 28 of over 8,000 investors ever completed on a purchase, leaving well over 99 percent with no return on their investment. The Harlequin Group ultimately lost a total of £398 million of investor funds.*
  - 19.4. *“Several thousand victims lost pensions and life savings to the fraud, while Ames enriched himself and his family by £6.2 million. The Harlequin companies were family businesses, employing at certain times both David Ames’ wife and his son, who was paid £10,000 per month. “*

# 4. Administration of the Estate

## Communications

### Public announcements

20. The Trustee advertised his appointment on 19 January 2018 and launched a website ([www.pwc.com/bb/en/services/harlequin-boutique-hotel-limited.html](http://www.pwc.com/bb/en/services/harlequin-boutique-hotel-limited.html)) in order to post updates and information.
21. The Trustee advertised for claims from creditors on 11 May 2018 and advertised a final call for claims on 4 October 2021.

### Communications with creditors

22. The primary method of providing updates to creditors is through the Trustee's designated website. In addition, an email inbox was also established to receive and respond to creditor enquiries.
23. The first meeting of creditors was held on 12 June 2018 at the Office of the Supervisor of Insolvency for the purposes of affirming the appointment of the Trustee, presentation of the Trustee's preliminary report, and to elect a committee of Inspectors. An extension to the period to call the first meetings of creditors pursuant to Section 203 of the Act was obtained from this Court due to the limited financial and company records that were initially obtained.
24. The second meeting of creditors was held on 12 October 2018 at the Savannah Hotel, Hastings, for the purposes of presentation of the Trustees second report and approval to the Trustees remuneration and expenses to 15 September 2018.
25. The Trustee has posted periodic updates to creditors and claimants on his website as material milestones were achieved.

### Communications with former management

26. During the period of March 2018 to May 2018, the Trustee met virtually with the following members of Harlequin management:
  - 26.1. Mr. David Ames (Company Director and Shareholder) and his Solicitor
  - 26.2. The Harlequin Group Accounts Manager

### 26.3. The Harlequin Group Accounts Supervisor

27. As a result of these meetings, Harlequin Management provided certain electronic company documents, including basic financial information, company information and investor records.

## Communication with the Supervisor of Insolvency

28. The Trustee has met with the Supervisor of Insolvency periodically over the course of the bankruptcy administration, providing case updates and seeking guidance where needed. Most recently a representative of the Trustee met with the Supervisor on 13 April 2023.
29. As part of the investigations into the affairs of HBHL, the Supervisor performed an examination of former HBHL Director, Mr. David Campion on 14 September 2018, pursuant to Section 135 of the Act. The results of the Examination were shared with the Trustee.

## Inspectors Committee

30. Pursuant to Section 93 of the Act, the Inspectors Committee of HBHL was appointed by a resolution of creditors at the first meeting of creditors.
31. Three Inspectors were appointed at this first meeting of creditors, being Mr. David Collins (nominated by Harlequin Property (SVG) Limited ("HPSVG")), Mr. James Darbyshire (nominated by The Financial Services Compensation Scheme ("FSCS") of the UK), and Mr. David Hollely.
32. 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 by the Trustee, including approving the Trustees fees and expenses. The Inspectors Committee is consulted on all significant matters associated with the Trustee's administration of HBHL, and where appropriate specific approvals have also been sought.
33. On 3 March 2021, after serving as an Inspector for a period of almost three years, Mr. Darbyshire provided the Trustee with notice of resignation following the Trustee's disallowance of the FSCS claim resulting in the FSCS no longer having an interest in the HBHL Estate.
34. Due to the advanced state of the administration of the HBHL estate at that point in time, the Trustee and remaining Inspectors unanimously agreed not to seek a replacement for Mr. Darbyshire and continue with the two Inspectors for the duration of the administration.

## Management of Conflicts of Interest

35. The Trustee became aware that the Joint Trustees of HPSVG appointed in Barbados to administer the Barbados Estate of the St Vincent incorporated entity; Mr. Craig Waterman and Ms. Lisa Taylor joined the PwC Eastern Caribbean firm from KPMG Barbados between February 2021 and March 2021, and that the HPSVG nominee on the Inspectors Committee; Mr. David Collins, joined the PwC Eastern Caribbean firm from KPMG Barbados on a fixed term contract between 1 April 2021 and 31 January 2022, whilst retaining their roles in respect of HPSVG.
36. As a result, an ethical wall was established within PwC to ensure the HPSVG estate and the advisory team to the Trustee of the HBHL Estate continue to be independently managed by separate teams, as is the standard practice in this type of situation.
37. The Trustee together with the other two Inspectors, considered that Mr. Collins' role on the Inspectors committee representing the interests of all creditors of the HBHL Estate could continue. Mr. Collins subsequently left his position within the PwC Eastern Caribbean firm during January 2022.
38. During the period in which Mr. Collins was employed by the PwC Eastern Caribbean firm, the Trustee did not seek approval from the Inspectors for any accrued fees and expenses.

## Other Matters

### Section 187 Conservatory and Protective measures

39. The Trustee has not found it necessary to undertake any conservatory or protective measures under Section 187 of the Act.

### Section 75 Reviewable Transactions and Preference Payments

40. The Trustee does not consider there to be any known reviewable transactions in the 12 months preceding the Date of Bankruptcy, as set out within Section 75 of the Act.

### Legal counsel

41. The Trustee engaged the services of Christopher Hamel-Smith S.C. and David Hamel-Smith of Hamel-Smith Caribbean to act as legal counsel regarding the various issues concerning the Estate of HBHL.

## Statement in relation to S. 169

42. In respect of Section 169 of the BIA, save as may be disclosed, the Trustee did not act or intend to act for or assist a secured creditor of the estate to assert any claim against the estate or to realise or otherwise deal with the security that the secured creditor holds.

# 5. Financial Position

## Access to Books and Records

43. As detailed in paragraphs 26 and 27 the Trustee met with members of Harlequin Group management, including the Chairman Mr. Ames during March 2018 to May 2018.
44. Whilst a significant volume of investor files, including contracts and correspondence was received, The Trustee has not been able to obtain or recreate sufficient financial records as at the Date of Bankruptcy.
45. The Trustee considers this is largely a result of operations at the Company ceasing in January 2013, the resulting loss of staff, and ultimately as the license of the Company's accounting record system expired in March 2016 and was not renewed.
46. The financial information received for HBHL was complex, unclear and upon review appeared to be mixed with other legal entities.
47. Further, the allegations made by the SFO and subsequent conviction of Mr. Ames for two counts of fraud, caused the Trustee to be unable to place any reliance on financial information purported to be that of HBHL.

## Statement of Affairs

48. The Trustee could not place reliance on the financial information received without extensive further examination and cost with no guarantee of obtaining any comfort over the financial position, and as a result, has not been able to provide a Statement of Affairs as at the Date of Bankruptcy.

# 6. Assets of the Estate

## Identification of Assets

49. The Trustee was not able to obtain a definitive listing of assets as at the Date of Bankruptcy. Multiple lines of enquiry were pursued to identify potential assets of the Company. The results are summarised below.

### H Hotel Site

50. The single property asset of the Estate was the site of the previous Allamanda Beach Hotel situated in Hastings, Christ Church, Barbados which had been marketed under multiple names by Harlequin including 'H Hotel' and 'Quin Two'.
51. The site consisted of a partially constructed two storey structure and a separate, partially constructed five storey structure. Construction on the site had ceased in January 2013, thereafter the structures deteriorated into a poor state and the site became overgrown with vegetation.

### Bank Account

52. Initially, enquiries of Harlequin Management resulted in an understanding that the Company did not have any bank accounts in Barbados. Instead, it was understood that all monies received from investors (and any other source) were pooled into a single account previously held by Harlequin Management Services (South East) Limited, a UK entity, and later by Harlequin Hotels and Resorts (Cayman) Ltd, a company registered in the Cayman Islands, entities which acted as a de facto group treasurer.
53. Investigations by the Trustee identified that a Royal Bank of Canada ("RBC") account in the name of HBHL was opened on or around 6 October 2011, but was subsequently closed on 2 May 2014.
54. Whilst the account is now closed and no further assets were recovered, the Trustee obtained an accounting of the bank records which were useful in assisting the Trustee in the adjudication of claims against the HBHL Estate.

## Intercompany Receivables

55. Due to the comingling of funds within the Harlequin Group and the insolvencies of the Group's entities, it is highly unlikely that a recovery of any funds would be obtained from HMSSE and as such the Trustee has not sought to incur additional expense to pursue any such potential claim.
56. As a result of the complex integrated operations of the Harlequin Group, there may be amounts due from other Harlequin entities, including cash balances relating to HBHL. However, given the current financial position of other Harlequin entities, recovery of any such amounts is likely to be protracted and costly with no certainty of meaningful recovery, if any.

## Key Issues Concerning the Property Asset

### Secured interest in the property

57. The Trustee initially received secured claims totalling BBD\$467,739 from two third parties, both of which obtained a secured interest through final charging orders granted by the Supreme Court of Barbados.
58. The Trustee sought legal advice on the validity of the two charging orders which was incorporated into the adjudication of these claims as detailed later in this report.

### Dispute in respect of the ownership of the Property

59. On or around 17 April 2018, the Trustee received a claim from Mr. Craig Waterman and Ms. Lisa Taylor, then of KPMG, together the joint trustees of the Barbados estate of Harlequin Property (SVG) Limited ("HPSVG"), a company incorporated in St Vincent. The claim was filed pursuant to Section 57 of the BIA and asserted ownership of the sole asset of HBHL.
60. 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.
61. This became a significant and protracted aspect of the bankruptcy process. Further information of the dispute and eventual resolution is detailed in Section 8 of this report.



## Contractual option to acquire the Property

62. On 27 January 2018, Preconco Limited (“Preconco”) provided a letter to the Trustee asserting possession of a contractual option to purchase the asset at fair market value, pursuant to an agreement dated 24 December 2015.
63. On 5 June 2018 the Trustee received notice that Preconco was exercising this option based upon a valuation that had been obtained from quantity surveyors BCQS International.
64. The Trustee, via legal counsel, informed Preconco that it was not possible to respond substantively to the purported option agreement until the Section 57 claim was resolved.
65. Further consideration of the option agreement is detailed in section 9 of this report.

## Environmental and Security Issues

66. During early 2018 a leakage of sewage significantly impacted the south coast of Barbados, an area popular with tourists. Raw sewage had been observed rising out of the drainage systems and pooling on the sides of the roads along the south coast, affecting many hotels, restaurants, and other businesses in the area.
67. In late February 2018, the Trustee was alerted to the fact that the Barbados Water Authority (“BWA”) were in the general vicinity of the Hotel to investigate the source of the accumulation of sewage in this area.
68. The site of the Hotel contained two depressed sections of land, which became filled with a mixture of sewage and rainwater. It was not immediately clear whether the sewage ran onto the site from elsewhere or a sewerage pipe had burst beneath the site.
69. Upon being made aware, the Trustee reached out to the BWA to investigate the issue and seek remediation. At the request of the BWA, the Trustee obtained several quotations for ‘backfilling’ the site, whereby the depressed land would be filled using a mixture of specific rocks and stones.
70. The Trustee has facilitated access to the site for the BWA on several occasions, to pump away the sewage that had accumulated on the site.
71. During a site visit by the Ministry of Health (“MoH”) in April 2018, a representative advised that an uncapped sewage line was identified and rectified, that backfilling was no longer required and that the MoH would dispatch representatives every 21 days to treat the area.

72. On 28 May 2018 the Trustee received a letter from the BWA stating that the site had been monitored since the above mentioned site visit, and that pooling of sewage had not reoccurred.
73. Over the following months, the Trustee remained in regular contact with both the BWA and the MoH to monitor the situation and ultimately the issues were resolved later in 2018.
74. During April 2018, owing to the sewerage issues highlighted, the Trustee received notice from the legal representatives of a local restaurant that shares a boundary with the site, detailing a nuisance complaint resulting from the ponding of sewage on the Hotel site, and later a complaint concerning rodents and insects.
75. The Trustee through his legal counsel responded to the complaints and following the remedial actions undertaken and resolution of issues generally in the area, the Trustee has not received any further correspondence from the complainant.
76. As part of the ongoing maintenance of the site, the Trustee had put in place arrangements for regular pest control to occur on the site, which was actively monitored and maintained.
77. Further steps were taken by the Trustee in respect of the site, including the vegetation being cut back and removed from the site and increased security on the site, through engaging a local security firm to perform random patrols, and place new signage on the site to discourage vagrancy and trespassers that had been reported.

# 7. Identification of Liabilities

## Introduction

- 78. In the absence of information received from the Company, the Trustee's assessment of potential creditors was therefore limited to Proof of Claims which were lodged against the Estate.
- 79. The Trustee advertised for claims from creditors on 11 May 2018 and advertised a final call for claims on 4 October 2021.

## Summary of claims received against the Estate

- 80. Over the course of the administration of the Estate, 39 parties submitted Proofs of Claim against the Estate. During the review and analysis of these claims, several parties revised their claims based on initial feedback from and discussions with the Trustee. In aggregate the claims that were formally adjudicated on by the Trustee totaled BBD \$44,605,712, of which:
  - 80.1. BBD \$338,961.25 was in respect of Secured claims (the initial secured claims totaled BBD \$467,739, see Adjudication of claims section for more detail)
  - 80.2. BBD \$771,729.58 was in respect of Preferred claims with a right to priority under Section 113 of the Act; and
  - 80.3. BBD \$43,495,020.86 was in relation to Unsecured claims.

## Duplication of Claims for Investor Contracts

- 81. The Trustee observed multiple instances where there was a duplication of claims in respect of individual investors contracts. This was a significant issue of the Estate, with claims of approximately BBD \$37.5 million being affected by such duplication.
- 82. This duplication arose due to competing claims from Harlequin Property (SVG) Limited, The Financial Services Compensation Scheme of the United Kingdom, and Individual Investors as counterparties to the contracts, as detailed below.

## Harlequin Property (SVG) Limited (“HPSVG”)

- 83. The majority of Investor contracts for the H Hotel / Quin One / Quin Two were with HPSVG and not HBHL.
- 84. HPSVG made a claim against the Estate in relation to an indemnity clause within a Deed of Assignment (“DoA”) dated 19 September 2012, between HPSVG and the HBHL.
- 85. The claim is in relation to all investor contracts with HPSVG that are included within the Schedule of Contracts appended to the DoA.

## Financial Services Compensation Scheme (“FSCS”)

- 86. FSCS protects consumers when financial services firms fail. It is the compensation scheme for customers of UK financial services firms authorised by the Financial Conduct Authority (FCA) and the Prudential Regulation Authority (PRA).
- 87. FSCS has paid out compensation to numerous Harlequin investors, many of which are investors that had contracts with HPSVG.
- 88. On payment of compensation, the FSCS takes an assignment of the investor’s rights to claim against the company that they originally arranged their investment through and any relevant third parties (including a relevant Harlequin entity). The FSCS stands ‘in the shoes’ of the original investor, and as a result has lodged a claim in relation to FSCS compensated investors.

## Individual Investors

- 89. Many investors also individually claimed against the HBHL Estate in respect of their contracts with Harlequin relating to the H Hotel project.
- 90. Those investors who either have a contract with HPSVG or have been FSCS compensated were advised that they were likely to be in duplication to those claims received from HPSVG or the FSCS.

91. Those investors of H Hotel (or Quin Two) that held a contract with an entity other than HPSVG, and had not been FSCS compensated, were advised they were unlikely to be affected by the duplication of claims.

## Resolving Duplication and Deferral of Adjudication

92. The Trustee can only admit one party as a valid creditor in respect of a given contract in order to participate in any future dividend to unsecured creditors.
93. There was significant complexity in determining whether a party had a valid claim against HBHL in relation to a given contract due to the existence of the DoA and FSCS compensation.
94. The Trustee became aware that investors had previously been informed by Harlequin management that the DoA effectively transferred their contract from HPSVG to HBHL. The terms of the DoA do not support this assertion.
95. Analysis of these claims was not performed initially due to the Section 57 claim asserting property interest in the single property asset of the Estate, which needed to be resolved to determine whether there would be any assets of the Company to liquidate and make available for distribution,
96. Information on the adjudication of claims is detailed later in this report.

# 8. HPSVG's Proprietary Interest Claim

## Details of Claim and Deed of Agreement

97. On or around 17 April 2018, the Trustee received a claim from Mr. Craig Waterman and Ms. Lisa Taylor, of KPMG, together the joint trustees of the estate of Harlequin Property (SVG) Limited ("HPSVG").
98. The Joint Trustees of 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.
99. Given that this represented a claim for 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 heard before a Judge during September 2018 but ultimately was adjourned by the court and / or mutual consent of HPSVG and HBHL on multiple occasions.
100. During February 2019 The Trustee's legal counsel 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 and diminish the value of these estates to the detriment of their respective creditors, negotiations ensued.
101. This was especially pertinent given the provisional view of the Trustee at that time was that the HPSVG unsecured claim had prima facie validity and could potentially be by some margin 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 administration would likely be higher than what would be received following the outcome of the Section 57 Case even if HPSVG were ultimately successful.

102. In light of this, the Trustee performed a detailed analysis of the unsecured claim of HPSVG, 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 work, 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.
103. Following further discussions between the HBHL and HPSVG trustees between November 2019 and March 2020, an agreement was reached 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 would crystallize the position of the Trustee that was informally communicated to HPSVG during the discussions, based on the analysis performed by the Trustee that concluded a partial disallowance of claim.
104. 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 expected remaining work streams in the ordinary course of the administration of the estate, with provisions that fees in excess of this agreed amount would be subject to review and approval by the Inspectors based on specific conditions.
105. The agreement was formalized into a Deed of Agreement which was discussed with the Inspectors committee and by resolution of the Inspectors dated 14 July 2020 the Trustee was authorized to enter into the Deed of Agreement with HPSVG.
106. The Deed of Agreement was executed on 7 August 2020, delayed by the onset of the COVID-19 pandemic. Following the execution of the Deed of Agreement 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.
107. The cessation of the Section 57 Claim was a key milestone for the HBHL Estate, securing significant value for the creditors of the Estate, removing a sizable obstacle to the administration of the estate, and allowed the Trustee to focus on the sale of the property in a challenging market during the COVID-19 pandemic and enabling adjudication of the remaining claims.

## Further Deed of Agreement

108. Pursuant to the provisions of the Deed of Agreement dated 7 August 2020 outlined in paragraph 104 above, the Trustee sought approval from the Inspectors for additional fees necessarily incurred that were in excess of the fee cap.

109. Upon review of the fees, the Inspectors ultimately approved to an increase in the fee cap of BBD \$240,306, representing 49% of the additional fees sought to 30 June 2023, with BBD \$38,309 of this contingent upon the Trustee recovering a property tax refund due from Government, as detailed in Section 9.
110. As a condition of approval, the Inspectors required that the Trustee sought to confirm this approval with HPSVG, as the largest creditor and counterparty to the Deed of Agreement that effected the fee cap, by entering into a further Deed of Agreement with HPSVG.
111. As such a further Deed of Agreement on the matter was executed by the Trustee and HPSVG on or around 17 May 2024.
112. The Trustee notes that on 31 January 2024, the Trustees of HPSVG, who are responsible for the property of HPSVG situated in Barbados, assigned all legal interests that they had in the Deed of Agreement dated 7 August 2020 and HPSVG's claim into the Estate of HBHL, to Mr. Brian Glasgow, in his capacity as Trustee in Bankruptcy of HPSVG administering the main (non-Barbados) estate of HPSVG in St. Vincent. As a result, the further Deed of Agreement dated 17 May 2024 was executed by Mr. Glasgow.



# 9. Sale of the Property

## Introduction

113. Initially the ability to sell the asset was restricted by the Section 57 claim brought by the HPSVG Trustee, as the claim presented a challenge to the ownership of the asset.
114. The Trustee was however, able to advance other key aspects in relation to the property; namely consideration of the Preconco option and obtaining a current valuation of the property.

## Preconco Option

115. On 27 January 2018, Preconco Limited ("Preconco") provided a letter to the Trustee asserting possession of a contractual option to purchase the asset at fair market value, pursuant to an agreement dated 24 December 2015.
116. On 5 June 2018 the Trustee received notice that Preconco was exercising this option based upon a valuation that had been obtained from quantity surveyors BCQS International dated 2 February 2017.
117. The Trustee, via legal counsel, informed Preconco by letter of 17 July 2018 that it was not possible to respond substantively to the purported option agreement until the Section 57 claim was resolved.
118. The Trustee was, however, able to undertake a detailed assessment of the option agreement, and based on this analysis, together with an opinion obtained from legal counsel, determined that it was in the best interests of the Estate not to challenge the validity of the option contract for the following reasons:
- 118.1. The costs of challenging the option agreement through the court would be costly to the Estate and the likelihood of success was not immediately clear.
- 118.2. The option agreement stated that the purchase of the property would be at fair market value, which is defined by the Royal Institution of Chartered Surveyors as "*the estimated amount for which an asset or liability should exchange on the valuation date between a willing buyer and willing seller in an arm's length transaction after proper marketing and where the parties had each acted knowledgeable, prudently and without compulsion*".
- 118.3. The stipulation to acquire at fair market value, inherently means that the option agreement does not contain any right to discount.

118.4. The Trustee considered that if he could reasonably determine the current market value of the property then a sale to Preconco would be advantageous given that there would be no real estate commission which can amount to as much as 5% of the gross sales price.

## Determination of Fair Market Value

### Valuation of the Property

119. An independent valuation of the property completed by BCQS for HBHL dated 2 February 2017 was obtained by the Trustee which presented a range of fair market value of the property at that time between USD \$2,600,000 and USD \$3,000,000.
120. Due to the passage of time since the valuation and in order to have another independent reference point for value, the Trustee engaged Property Consultancy Services Inc ("PCS") to perform an independent assessment of market value. PCS's report was dated 5 October 2018 and valued the property at \$4,770,000 (USD \$2,385,000).
121. At the time of the PCS valuation the sewerage issues continued within the Hastings area, which provided uncertainty over the current and future value of the property as the issues had not been resolved for some time despite the efforts of the BWA and MoH.

## Consent to Sell the Property

122. Satisfied that the Preconco option was beneficial to the Estate in terms of price achieved and reduced costs to sell, the Trustee sought agreement from the HPSVG Trustee to sell the property whilst the S.57 claim was still in progress.
123. During a meeting between the Trustees of HBHL and HPSVG on 19 February 2019, together with respective counsel, it was agreed in principle that the most value would be preserved if the HBHL Trustee were able to liquidate the asset sooner and place proceeds in escrow pending the outcome of the Section 57 case, thus avoiding the ongoing holding costs associated with the asset and further environmental risks .
124. It was further agreed that the option held by Preconco would provide the most efficient method of sale, assuming a price could be achieved comparable to recent valuations undertaken.

## Sale to Preconco

125. In recognition of the Section 57 claim, a tripartite meeting was held on 6 March 2019 between the HBHL and HPSVG trustees with respective counsel, and counsel for Preconco to discuss the Preconco option agreement.
126. Following an offer of \$2,600,000 tabled at the meeting by Preconco based on an updated BCQS valuation report, a counteroffer proposed by the Trustee was ultimately accepted in principle, to sell the Property to Preconco or its assigns with the following terms:
  - 126.1. A sales price of USD \$2,800,000.
  - 126.2. Preconco would use best efforts to pay in USD currency, with a 1% surcharge being applicable for a payment in Barbados currency.
  - 126.3. Preconco would waive its secured interest in the Estate and claim as an unsecured creditor.
127. The Trustee considered this was the best possible outcome for creditors, and the purchase price provided by Preconco was higher than the more recent valuation obtained and the agreement by Preconco to waive their secured interest would make available a further BBD \$117,789 to unsecured creditors.
128. At the time of the Preconco negotiations, discussions were also held with another third party who expressed interest in purchasing the property, and later provided a formal offer to purchase the property for US\$2,000,000. After providing feedback to the interested party the offer was increased to a maximum of USD \$2,500,000, which still remained below the price ultimately achieved with Preconco.
129. The HPSVG confirmed on 23 May 2019 that the Inspectors of the HPSVG had approved a resolution to approve the sale of to Preconco, provided that the net proceeds of the sale were held in escrow until the Section 57 matter was determined and / or settled.
130. The Trustee subsequently engaged the legal firm LEX Caribbean to perform the conveyancing of the sale. An agreement for sale was executed on or around 9 January 2020.
131. Pursuant to a condition within the agreement for sale, the HBHL Inspectors passed a resolution on 1 April 2020 approving the sale of the property to Preconco.

132. Due to extensive delays in obtaining a tax clearance certificate from the Barbados Revenue Authority ("**BRA**") and the impact of restrictions enforced throughout 2020 due to the COVID-19 pandemic, the transaction was ultimately completed on 27 April 2021, for gross consideration of BBD\$5,611,998, and net proceeds of BBD\$4,985,481 after taxes, levies and legal fees, which was deposited to a segregated client account at PwC.

## Other aspects relevant to the sale

### Preferred Distribution to obtain Tax Clearance Certificate.

133. In order to complete the transaction one of the requirements was to obtain a tax clearance certificate in relation to the property. Typically, the full balance of outstanding taxes would be payable to receive such clearance, however as the asset was the property of a bankrupt estate and the BRA had lodged a claim against the Estate in respect of the outstanding taxes, the Trustee considered that the BRA was entitled to payment only of the preferred amount of its claim against the Estate with the balance of outstanding taxes considered as an unsecured claim pursuant to Section (113) (1) (f) of the Act.
134. After initially writing to the BRA on 23 August 2019 on this matter, the Trustee received a substantive response dated 27 October 2020 that agreed with the position of the Trustee and therefore cleared the way to obtain the required clearance in order to complete the sale.
135. In accordance with the provisions of Section (113) (1) (f) of the Act, the preferred entitlement of the BRAs claim totaled BBD\$123,598.24, which was paid to the BRA net of the 5% Supervisor's Levy.
136. The Trustee recognizes this payment was effectively a distribution to a preferred creditor and effectively elevated this creditor's status above that of a secured creditor. The Trustee has since raised this issue to the Ministry of Finance with a view to future legislative reform.

### Property Transfer Tax Refund

137. During the transaction the Trustee challenged the assessed value of the property (BBD \$16,200,000) used for the calculation of PTT which represented almost three times that of the sales price (BBD \$5,600,000).

138. The Trustee, through his conveyancing counsel sought to have this assessment reconsidered given the sales price was an arm's length transaction, and the existence of two independent valuation reports that attest to a significantly lower value that is being adopted by the Government.
139. Ultimately the request was rejected and the Trustee had no option but to pay the PTT based on the higher assessment value, in order complete the transaction that was at risk due to the delay in obtaining the tax clearance certificate.
140. The Conveyance was presented for adjudication and payment of stamp duty and property transfer tax on April 21, 2021. The Trustee calculated stamp duty and property transfer tax based on the purchase price of the equivalent of BBD \$5,600,000.00, but property transfer tax was assessed based on the aggregate land tax value of the property of BBD\$16,220,200.00.
141. On or about April 21, 2021, a copy of a Notice of Valuation dated April 20, 2021 was issued by the Revenue Commissioner to the Registrar of Titles which was then delivered to Lex Caribbean, who acted for the Trustee in relation to the Conveyance. Based on this Notice, the fair market value of the property was determined as the aggregate sum of BBD\$5,854,500.00.
142. Based on the Trustee's calculations, the property transfer tax payable, if calculated on the aggregate site value stated of BBD\$5,854,500.00, will be BBD\$146,362.50, a difference of BBD\$255,392.50 to that paid the previous day
143. On 30 September 2021, counsel wrote to the Registrar of Titles, pursuant to section 3 of the Duties, Taxes and Other Payments (Exemption) Act, Cap. 67B, requesting a refund of payment made as property taxes and/or stamp duty on the Conveyance based on a value which was in excess of the fair market value determined on the date before the adjudication.
144. On 25 October 2021, the Registrar of Titles responded directing the Trustee to instead direct the matter to the Ministry of Finance, which was actioned by a subsequent letter issued to the Minister of Finance dated 12 April 2022.
145. The Trustee continued to follow up with the Ministry of Finance, and during a meeting between representatives of the Trustee and the Supervisor on 13 April 2023, the Supervisor offered assistance in raising this issue with the Ministry of Finance and any other relevant authorities.
146. The Trustee continued to liaise with the Supervisor over the following months, and as a result of limited engagement with Government, the Supervisor assisted the Trustee by providing the Ministry of Finance with a memorandum numbered SOI 100/10/12 dated 13 November 2023.
147. On 14 December 2023, the Trustee received a letter from the Ministry of Finance, stating that the Ministry had granted approval for a refund of Property Transfer Tax in the amount of \$255,392.50. The refund was received by the Trustee on or around 15 December 2023.

# 10. Adjudication of Claims

## Adjudication is Complete

148. The Deed of Agreement with HPSVG executed on 7 August 2020 facilitated the discontinuance of the Section 57 Claim against the property, which confirmed that there was value in the HBHL Estate for the benefit of creditors. Therefore, the Trustee began a detailed formal adjudication process leading to the first round of adjudication notices being issued in late August 2020.
149. During the adjudication process, several of the more complex claims required further correspondence between the Trustee and claimants and the Trustee received several further new enquiries and claims, one of which, received in October 2021 was material to the Estate.
150. Adjudication notices were issued throughout the period 24 August 2020 and 31 March 2023 as the Trustee completed his analysis in respect of individual claims.
151. Pursuant to Section 112 (5) of the Act, a period of at least 30 days has passed since service of the Notice of Adjudication to all claimants. The Trustee has not been made aware of any applications made to the court within this 30 day period by any persons to whom the notice was provided, therefore the determination of claims is final and conclusive pursuant to the Act.
152. Furthermore, as of the date of this report, it has been over a year since the 30 day window to appeal has closed, and the Trustee confirms that to date, he has not been made aware of any intent to appeal or applications made to court seeking to appeal the determination of claims.

## Creditors of the Estate

153. The table on the following page summarizes the total population of claims against the HBHL Estate that was adjudicated on, the adjustments made to the claims as part of the adjudication and confirms the total creditors of the Estate that are eligible to participate in a distribution, segregated by class and type
154. Claims that were received in foreign currency, have been converted to Barbados currency using the applicable mid-point rate of exchange published by the Central Bank of Barbados for Telegraphic Transfers at the date of the Bankruptcy, as follows:

154.1. Pound Sterling (GBP) to BBD: 2.719605

154.2. East Caribbean Dollar (XCD) to BBD: 0.740745

		Claims	Adjudication Adjustment	Accepted as Proven Claims
Summary of Adjudication		BBD \$	BBD \$	BBD \$
Secured	Trade Creditors	338,961	(117,789)	221,172
Total Secured		338,961	(117,789)	221,172
Preferred	Employees	4,000	(4,000)	-
	Government	767,730	(644,131)	123,598
Total Preferred		771,730	(648,131)	123,598
Unsecured	Employees	82,965	(82,965)	-
	Government	-	644,131	644,131
	Investors	6,535,102	(6,195,151)	339,951
	Trade Creditors	1,111,879	(51,989)	1,059,890
	Related Party	35,765,075	(19,117,277)	16,647,798
Total Unsecured		43,495,021	(24,803,251)	18,691,770
Total: All Creditors		44,605,712	(25,569,171)	19,036,540

## A) Secured Creditors

155. The Trustee initially received secured claims totaling BBD\$467,739 from two third parties, both of which obtained a secured interest through final charging orders granted by the Supreme Court of Barbados.

156. The Trustee sought legal advice to satisfy himself on the validity of the two charging orders.

157. The level of claims ultimately presented for adjudication as secured creditors, and the outcome of such adjudication, was impacted by:

157.1. Preconco's waiving its right to security of BBD \$117,789 in respect of the charging order obtained against the property, as such the Trustee made an adjustment to the secured claim to admit this amount instead as an unsecured creditor.

157.2. The Trustee performed detailed analysis of the second claimants provisional and final charging orders, which led to the successful challenge of the calculation of security and resulted in the claimant revising their proof of claim downwards by the sum of BBD \$128,778 to \$221,172 in respect to the secured element of their claim. This resulted in the total amount of secured claims being adjudicated upon to reduce from BBD \$467,739 to BBD \$338,961.

## B) Preferred Creditors

### Government

158. The Barbados Revenue Authority (“BRA”) had claimed a right of priority in respect of its entire claim, however Section 113 (1) (f) of the Act limits the extent of the priority to all taxes including the land tax or income tax assessed on the bankrupt and not exceeding in total one year’s assessment.
159. In order to obtain the tax clearance certificate for the sale of the property asset as detailed in Section 9 of this report, the Trustee calculated the amount of the claim that would be subject a right of priority under Section 113 of the Act (BBD \$123,598.24) and made a distribution of this amount net of the Supervisor’s Levy to the BRA. The remaining balance of the claim was subsequently adjusted and proven to be an unsecured creditor.

### Employees

160. The Trustee received claims totaling BBD\$86,965 from four employees of the Harlequin Group.
161. Upon review of the evidence submitted by the claimants, including employment contracts, it became evident that the employer of these individuals was Harlequin Developments, whose stated registered office was at Harlequin Hotels & Resorts Limited, PO Box 32322, 4th floor, Century Yard, Cricket Square, Elgin Avenue, Grand Cayman KY1–1209, Cayman Islands.
162. Whilst Harlequin Developments appears to be an entity within the overall Harlequin ‘group’, it is a distinct and separate legal entity to HBHL. As such, individuals having contracts with Harlequin Developments were employees of Harlequin Developments and not HBHL.
163. This position was further supported by additional evidence submitted by claimants, including payslips and letters from Harlequin Developments. The Trustee observed several payments made from the RBC bank account held by HBHL to an employee, but upon analysis of management records determined that the limited number of payments made by HBHL to employee claimants were made on behalf of another Harlequin entity and were to be reimbursed to HBHL.



## C) Unsecured Creditors - Investors and Duplicated Claims

164. As referenced in earlier in this report, 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, FSCS and individual investors themselves.
165. The Trustee cannot admit multiple competing claims in respect of a given investor contract, and therefore was required to perform investigations into the respective claims to resolve the significant level of duplicated claims that existed in respect of individual investor contracts.
166. The basis for the Trustee's adjudication in respect of the duplicated claims is summarized over the following paragraphs.

### Contracts with HPSVG

167. The Trustee obtained a copy of a Deed of Assignment between HPSVG and HBHL executed on 19 September 2012, and from company documents obtained found letters form Harlequin management to investors on or around 24 September 2012 stating that there had been an administrative error in drawing up the contract with HPSVG as the counterparty, and that the letter served as amendment of the counterparty to the contract into the name of HBHL.
168. As part of the investigations into the affairs of the Company, the Trustee carefully considered the contracts entered into between investors and HPSVG (the "HPSVG Contracts"), the Deed of Assignment including its Appendix which listed the HPSVG Contracts subject to the agreement, and the letters of 24 September 2012 (or thereabouts) and made the following determination:
- 168.1. By the Deed of Assignment, HPSVG assigned the 'benefit' of the HPSVG Contracts listed in the Appendix to the Deed of Assignment to HBHL, which would primarily be both the right to the deposits already received under the HSPVG Contracts at that date, and the right to any future payments that might subsequently be received under the HSPVG Contracts.
- 168.2. By the Deed of Assignment, HPSVG did not, and could not, assign the 'burden' of the HPSVG Contracts to HBHL, which would primarily have been the obligation that HPSVG owed to investors to complete and deliver the units sold. Accordingly, the Deed of Assignment did not, and could not, transfer or impose any of the duties or obligations owed by HPSVG to investors under the HPSVG Contracts on to HBHL. Nor did, or could, the Deed of Assignment release HPSVG from any of its duties or obligations owed to investors under the HPSVG Contracts.

- 168.3. Instead, by the Deed of Assignment, HBHL provided an indemnity to HPSVG such that, in the event of HBHL not fulfilling the 'seller function' as defined in the HPSVG Contracts, it would be required to indemnify HPSVG against any claims which might result from that failure.
- 168.4. Consequently, any liability of the Estate of HBHL for any non-performance of the 'seller function' is to HPSVG alone and not to the counterparties of the HPSVG Contracts.
- 168.5. A small number of investor claims provided contracts as evidence of claim that were between the claimant and HPSVG but were not listed in the Appendix of the Deed of Assignment. These claims were rejected on the basis that the contract was with a distinct and separate legal entity to HBHL.

## Contracts with Harlequin Luxury Hotel Limited

169. A small number of investor claims provided contracts as evidence of claim that were between the claimant and Harlequin Luxury Hotel Limited ("HLHL"), a company registered in Barbados. Whilst this appears to be a related entity within the overall Harlequin 'group', it is a distinct and separate legal entity to HBHL, and as such these claims were not admitted, with claimants advised to direct their claims towards HLHL and not HBHL.

## Related Party Claims

### HPSVG

170. As detailed earlier in this section, the Trustee determined that any liability of the Estate of HBHL for any non-performance of the 'seller function' under the HPSVG Contracts was to HPSVG alone and not to investors.
171. The Trustee determined the level of liability that HBHL owes to HPSVG is limited to the extent that the 'benefit' of the HPSVG contracts was transferred to HBHL under the Deed of Assignment, which has been determined based on the information obtained as follows:
- 171.1. The purchase price for the former Allamanda hotel, totaling BBD \$9,200,000; and
- 171.2. The aggregate receipts received by the bank account of HBHL from group entities Harlequin Management Services (South East) Limited ("**HMSSE**"), Harlequin Hotels and Resorts (Cayman) Limited ("**HHR Cayman**"), and Harlequin Property S.A, on the basis that the sole

source of funds for HBHL was the investor deposit funds under the HPSVG Contracts and the Deed of Assignment. Such aggregate receipts totaled BBD \$7,447,798.

172. Therefore the Trustee admitted the claim of HPSVG to the extent of BBD \$16,647,798 and disallowed the remaining \$3,272,575 of the claim.

## HMSSE and HHR Cayman

173. The Trustee received claims from HMSSE and HHR Cayman of GBP 835,493.38 (BBD\$2,566,148.30) and GBP 943,573.90 (BBD\$ 2,272,211.97) respectively, representing two of the four largest claims against the Estate.
174. Representatives of the liquidators of HHR Cayman asserted that HHR fulfilled the central treasury function for the Harlequin group of companies for a period of time. The Trustee agrees with this assertion and further considers that HMSSE also fulfilled the central treasury function for the Harlequin group as the predecessor to HHR and later in conjunction with HHR.
175. Records from the bank account held by HBHL show funds received from HHR Cayman of approximately BBD\$4.8m between July 2012 and March 2013, from HMSSE of approximately BBD\$2.2m between October 2011 and February 2013,
176. The Trustee considers that these funds were paid by HHR and HMSSE in their effective capacity as a central treasury for the Harlequin group to HBHL on behalf of HPSVG to partially settle the obligations under the Deed of Assignment.
177. HBHL did not receive the full benefit due to it from HPSVG (pursuant to the Deed of Assignment), and HBHL's liability to other group entities in relation to the development of H Hotel (Quin 1 / Quin 2) is limited only to HPSVG under the indemnity contained in the Deed of Assignment.
178. Pursuant to the Deed of Assignment, the Trustee accepted liability of HBHL to HPSVG in respect of HBHL's failure to perform the 'Seller' function as defined in the HPSVG Contracts. Neither HHR Cayman nor HMSSE were aware of the Deed of Assignment at the time their respective claims were lodged.
179. In furtherance of the Trustee's position, the evidence supporting the claims consisted of various trial balance receivable balances and / or journal entries dated between 2011 and 2015 extracted from the internal Harlequin accounting records of each entity that appeared to reference one or more of Allamanda, Quin 1, Quin 2, or H Hotel Barbados.

180. Considering Mr. Ames was found guilty on two counts of Fraud by Abuse of Position on 3 August 2022, for criminality spanning 1 January 2010 to 11 June 2015, the Trustee was unable to place any reliance of financial records alone as supporting evidence of claim against the Estate of HBHL.
181. As a result of these considerations and in the absence of any other supporting evidence that demonstrated a liability of HBHL to either HMSSE or HHR Cayman, the Trustee rejected these claims in full.

# 11. Outcome for Creditors

182. As the Trustee has now realised all the property of the bankrupt and determined the claims of all creditors to rank against the estate, the Trustee sets out in the table below the outcome for creditors of the HBHL Estate, which in summary provides the following distributions to creditors:

182.1. Secured Creditors to receive 100 cents in the dollar of their claim

182.2. Preferred Creditors to receive 100 cents in the dollar of their claim; and

182.3. Unsecured Creditors to receive approximately 16.02 cents in the dollar of their claim.

## IN THE MATTER OF THE BANKRUPTCY OF HARLEQUIN BOUTIQUE HOTEL LIMITED ESTIMATED OUTCOME STATEMENT

Estimated Outcome Statement		\$ BBD
<b>Actual Realisations</b>		
Proceeds from Sale of Property		5,109,064
Property Transfer Tax refund		255,393
Insurance Premium refund		1,027
<b>Total Realisations</b>		<b>5,365,484</b>
<b>Administration Expenses</b>		
Trustee's Professional Fees	(1,328,466)	
Legal Fees	(236,505)	
Statutory Filings	(940)	
Statutory Publications	(5,082)	
Insurance	(3,003)	
Asset Maintenance: Ongoing & Remedial	(118,705)	
Administrative Expenses	(6,141)	
VAT on Actual Administration Expenses	(297,234)	
<b>Estimated Further Administration Expenses</b>		
Trustee's Professional Fees	-	
Legal Fees	(20,000)	
Statutory Filings	-	
Statutory Publications	(1,000)	
Insurance	-	
Asset Maintenance: Ongoing & Remedial	-	
Administrative Expenses	(5,000)	
VAT on Estimated Administration Expenses	(4,550)	
<b>Total Administration Expenses</b>	<b>(2,026,625)</b>	
<b>Total funds available for Distribution</b>		<b>3,338,859</b>
<b>Planned Distribution</b>		<b>\$ BBD</b>
<b>Amount Available for Secured, Preferred and Unsecured Creditors</b>		
Secured Creditors	(221,172)	
<b>Amount Available for Preferred and Unsecured Creditors</b>	<b>3,117,687</b>	
Preferred Creditors	(123,598)	
<b>Amount Available for Unsecured Creditors</b>	<b>2,994,089</b>	
Unsecured Creditors	(18,691,770)	
<b>Surplus / (Shortfall) for Unsecured Creditors</b>	<b>(15,697,681)</b>	
<b>Estimated Dividend to Unsecured Creditors</b>	<b>0.1602</b>	
		<i>cents in the dollar</i>

## Dividend Sheet

183. The Trustee intends to issue a first and final dividend to the creditors of HBHL and, subject to the Act, will divide the property of the bankrupt among the creditors who have proved their claims in accordance with the Dividend Sheet set out below, which has been approved by the Inspectors and provided to the Supervisor of Insolvency for comment:

### IN THE MATTER OF THE BANKRUPTCY OF HARLEQUIN BOUTIQUE HOTEL LIMITED TRUSTEE'S FIRST AND FINAL DIVIDEND SHEET

	Accepted as Proven Claim	First and Final Dividend	Supervisor's Levy	Net Payment
	BBD\$	BBD\$	BBD\$	BBD\$
<b>Secured Creditors</b>				
Versatile Construction Inc.	221,172.19	221,172.19	(11,058.61)	210,113.58
<b>Total</b>	<b>221,172.19</b>	<b>221,172.19</b>	<b>(11,058.61)</b>	<b>210,113.58</b>
<b>Preferred Creditors</b>	<b>BBD\$</b>	<b>BBD\$</b>	<b>BBD\$</b>	<b>BBD\$</b>
Barbados Revenue Authority*	123,598.24	123,598.24	(6,179.91)	117,418.33
<b>Total</b>	<b>123,598.24</b>	<b>123,598.24</b>	<b>(6,179.91)</b>	<b>117,418.33</b>
<b>Unsecured Creditors</b>	<b>BBD\$</b>	<b>BBD\$</b>	<b>BBD\$</b>	<b>BBD\$</b>
Harlequin Property (SVG ) Limited	16,647,798.00	2,666,680.99	(133,334.05)	2,533,346.94
Barbados Revenue Authority	644,131.34	103,178.38	(5,158.92)	98,019.46
NFHolding Inc.	376,329.98	60,281.37	(3,014.07)	57,267.30
Robert Sheldrick and Alison Sheldrick	135,980.25	21,781.62	(1,089.08)	20,692.54
Versatile Construction Inc.	253,060.83	40,535.84	(2,026.79)	38,509.05
Preconco Limited	336,392.86	53,884.15	(2,694.21)	51,189.94
Black Pearl Associates Ltd	203,970.38	32,672.43	(1,633.62)	31,038.80
Allan Simmons, Simmons Electrical	86,075.69	13,787.79	(689.39)	13,098.40
Ready Mix Limited	8,030.58	1,286.36	(64.32)	1,222.04
<b>Total</b>	<b>18,691,769.91</b>	<b>2,994,088.92</b>	<b>(149,704.45)</b>	<b>2,844,384.47</b>
<b>Grand Total</b>	<b>19,036,540.34</b>	<b>3,338,859.35</b>	<b>(166,942.97)</b>	<b>3,171,916.38</b>

**\* Note:** The dividend due to the single Preferred Creditor has already been paid by the Trustee upon the sale of the property asset in order to obtain the tax clearance certificate.

## 12. Next Steps

184. The administration of the Estate matters is now complete. The Trustee in accordance with Section 127 of the Act has prepared a final statement of Receipts and Disbursements, and Dividend Sheet which has been approved by the Inspectors and reflects comments provided by the Supervisor of Insolvency. The Trustee now intends to divide the property of the bankrupt among the creditors who have proved their claims.
185. The Trustee's Final Statement of Receipts and Disbursements and Dividend Sheet, duly approved by the Inspectors, is shown in Appendix A.
186. Upon submission of this report, the Trustee will make an application to this Court in respect of the residual matters outstanding and seek to commence the scheme of distribution as set out within the Dividend Sheet.
187. The Trustee will also make an application to be discharged once the Distributions have been made.

# 13. Appendix A: Trustees Final Statement of Receipts and Disbursements and Dividend Sheet



**BARBADOS**

**BRI 2017, No. 4**  
**Estate No. SOI 100/10/12**

**IN THE SUPREME COURT**  
**CIVIL DIVISION**

**IN THE MATTER OF**  
**THE BANKRUPTCY AND INSOLVENCY ACT, 2001**  
**Cap.303 of the Laws of Barbados**

**AND IN THE MATTER OF**  
**HARLEQUIN BOUTIQUE HOTEL LIMITED.**

**TRUSTEE'S FINAL STATEMENT OF RECEIPTS AND DISBURSEMENTS**

**AND**

**DIVIDEND SHEET**

**IN THE MATTER OF THE BANKRUPTCY OF  
HARLEQUIN BOUTIQUE HOTEL LIMITED  
TRUSTEE'S FINAL STATEMENT OF RECEIPTS AND DISBURSEMENTS**

As at 10 Jul 2024

<b>Receipts and Disbursements</b>			<b>\$ BBD</b>
<b>Asset Recoveries</b>			
Funds Received from Sale of Property			5,109,064
<b>Other receipts</b>			
Refund of Property Transfer Tax			255,393
Refund of Insurance Policy			1,027
<b>Total Receipts</b>			<b>5,365,484</b>
<b>Disbursements</b>			
On Account of Trustee's Professional Fees approved by the Inspectors			(391,338)
On Account of Legal Fees			(134,158)
Statutory Filings			(940)
Statutory Publications			(5,082)
Insurance			(3,003)
Asset Maintenance: Ongoing & Remedial			(50,492)
Administrative Expenses			(5,448)
VAT on Disbursements			(103,268)
<b>Total Disbursements to Date</b>			<b>(693,728)</b>
<b>Accrued and Estimated Disbursements</b>			
Balance of Trustee's Professional Fees approved by the Inspectors			(937,128)
Balance of Legal Fees			(122,347)
Statutory Filings			(1,000)
Statutory Publications			-
Insurance			-
Balance of Asset Maintenance Costs			(68,212)
Administrative Expenses			(5,693)
VAT on Disbursements			(198,516)
<b>Total Accrued and Estimated Disbursements to Date</b>			<b>(1,332,896)</b>
<b>Net Receipts / (Disbursements): Amount Available for Distribution</b>			<b>3,338,859</b>
<b>Distribution to Creditors</b>			
	<b>Dividend</b>	<b>Less Levy</b>	<b>\$ BBD</b>
Secured Creditors: Dividend	221,172	(11,059)	210,114
Preferred Creditors: Dividend *	123,598	(6,180)	117,418
Unsecured Creditors: Dividend	2,994,089	(149,704)	2,844,384
<b>Total Dividends</b>	<b>3,338,859</b>	<b>(166,943)</b>	<b>3,171,916</b>
<b>Net Cash Available after Dividends</b>			<b>-</b>

**Note:** Figures in the table above are rounded for presentation. The Final Dividend sheet shows exact amounts.

\*The dividend due to the single Preferred Creditor has already been by the Trustee upon the sale of the property asset in order to obtain the tax clearance certificate.

**IN THE MATTER OF THE BANKRUPTCY OF  
HARLEQUIN BOUTIQUE HOTEL LIMITED  
TRUSTEE'S FIRST AND FINAL DIVIDEND SHEET**

	Accepted as Proven Claim	First and Final Dividend	Supervisor's Levy	Net Payment
	BBD\$	BBD\$	BBD\$	BBD\$
<b>Secured Creditors</b>				
Versatile Construction Inc.	221,172.19	221,172.19	(11,058.61)	210,113.58
<b>Total</b>	<b>221,172.19</b>	<b>221,172.19</b>	<b>(11,058.61)</b>	<b>210,113.58</b>
<b>Preferred Creditors</b>	<b>BBD\$</b>	<b>BBD\$</b>	<b>BBD\$</b>	<b>BBD\$</b>
Barbados Revenue Authority*	123,598.24	123,598.24	(6,179.91)	117,418.33
<b>Total</b>	<b>123,598.24</b>	<b>123,598.24</b>	<b>(6,179.91)</b>	<b>117,418.33</b>
<b>Unsecured Creditors</b>	<b>BBD\$</b>	<b>BBD\$</b>	<b>BBD\$</b>	<b>BBD\$</b>
Harlequin Property (SVG ) Limited	16,647,798.00	2,666,680.99	(133,334.05)	2,533,346.94
Barbados Revenue Authority	644,131.34	103,178.38	(5,158.92)	98,019.46
NF Holding Inc.	376,329.98	60,281.37	(3,014.07)	57,267.30
Robert Sheldrick and Alison Sheldrick	135,980.25	21,781.62	(1,089.08)	20,692.54
Versatile Construction Inc.	253,060.83	40,535.84	(2,026.79)	38,509.05
Preconco Limited	336,392.86	53,884.15	(2,694.21)	51,189.94
Black Pearl Associates Ltd	203,970.38	32,672.43	(1,633.62)	31,038.80
Allan Simmons, Simmons Electrical	86,075.69	13,787.79	(689.39)	13,098.40
Ready Mix Limited	8,030.58	1,286.36	(64.32)	1,222.04
<b>Total</b>	<b>18,691,769.91</b>	<b>2,994,088.92</b>	<b>(149,704.45)</b>	<b>2,844,384.47</b>
<b>Grand Total</b>	<b>19,036,540.34</b>	<b>3,338,859.35</b>	<b>(166,942.97)</b>	<b>3,171,916.38</b>

\* **Note:** The dividend due to the single Preferred Creditor has already been by the Trustee upon the sale of the property asset in order to obtain the tax clearance certificate.

10 July 2024

Grenville Phillips



Date

Trustee Name

Signed

**Approved by the following Inspectors:**

July 12, 2024

David Collins



Date

Inspector Name

Signed

David Hollely

Date

Inspector Name

Signed

**IN THE MATTER OF THE BANKRUPTCY OF  
HARLEQUIN BOUTIQUE HOTEL LIMITED  
TRUSTEE'S FIRST AND FINAL DIVIDEND SHEET**

	Accepted as Proven Claim	First and Final Dividend	Supervisor's Levy	Net Payment
	BBD\$	BBD\$	BBD\$	BBD\$
<b>Secured Creditors</b>				
Versatile Construction Inc.	221,172.19	221,172.19	(11,058.61)	210,113.58
<b>Total</b>	<b>221,172.19</b>	<b>221,172.19</b>	<b>(11,058.61)</b>	<b>210,113.58</b>
<b>Preferred Creditors</b>				
Barbados Revenue Authority*	123,598.24	123,598.24	(6,179.91)	117,418.33
<b>Total</b>	<b>123,598.24</b>	<b>123,598.24</b>	<b>(6,179.91)</b>	<b>117,418.33</b>
<b>Unsecured Creditors</b>				
Harlequin Property (SVG ) Limited	16,647,798.00	2,666,680.99	(133,334.05)	2,533,346.94
Barbados Revenue Authority	644,131.34	103,178.38	(5,158.92)	98,019.46
NH Holding Inc.	376,329.98	60,281.37	(3,014.07)	57,267.30
Robert Sheldrick and Alison Sheldrick	135,980.25	21,781.62	(1,089.08)	20,692.54
Versatile Construction Inc.	253,060.83	40,535.84	(2,026.79)	38,509.05
Preconco Limited	336,392.86	53,884.15	(2,694.21)	51,189.94
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<b>Grand Total</b>	<b>19,036,540.34</b>	<b>3,338,859.35</b>	<b>(166,942.97)</b>	<b>3,171,916.38</b>

\* Note: The dividend due to the single Preferred Creditor has already been by the Trustee upon the sale of the property asset in order to obtain the tax clearance certificate.

10 July 2024

Grenville Phillips

Date

Trustee Name

Signed

Approved by the following Inspectors:

David Collins

Date

Inspector Name

Signed

16 July 2024

David Hollely

Date

Inspector Name

Signed