

**CITY OF LONDON LAW SOCIETY**

**INSOLVENCY LAW COMMITTEE**

(the **Committee**)

Minutes of a meeting of the Committee held at Herbert Smith LLP, Exchange House, Primrose Street, London, on 6 September 2007 at 12.45 pm

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**Present:** Hamish Anderson, Norton Rose LLP (Chairman)  
Stephen Gale, Herbert Smith LLP (Deputy Chairman)  
Mark Andrews, Denton Wilde Sapte LLP  
Ken Baird, Freshfields Bruckhaus Deringer  
Tony Bugg for Robert Elliott, Linklaters LLP  
Peter Fidler, CMS Cameron McKenna LLP  
Mark Hyde, Clifford Chance LLP  
Helen Pattinson for Gordon Stewart, Allen & Overy LLP

**Apologies:** Ian Fletcher, Stephenson Harwood  
Stephen Foster, Lovells LLP  
Ian Hodgson, Slaughter and May  
Christopher Mallon, Weil, Gotshal & Manges LLP  
James Roome, Bingham McCutchen LLP

**In attendance:** Susan McFetrich, Norton Rose LLP

**1 Minutes of the meeting held on 16 May 2007**

The draft minutes of the previous meeting were approved.

**2 The Insolvency Service's consultation on pre-appointment administration expenses**

The Chairman reported that the Committee's response to this consultation had been submitted to the Insolvency Service on 31 August 2007.

**3 The European Commission's consultation on the reorganisation and winding up of credit institutions**

The Committee is to submit a joint response with the Financial Law Committee of the City of London Law Society. The members involved in the working party reported that a draft response will shortly be circulated.

**4 Draft regulations to implement new section 176ZA of the Insolvency Act 1986**

The Insolvency Service's consultation is open until 12 October 2007. Two members of the Committee volunteered to form a working party to produce a draft response.

**5 R3 report on pre-packs**

Dr Sandra Frisby's preliminary report to R3 (the Association of Business Recovery Professionals) on pre-packaged administrations had been published the previous evening, and some of those present had attended the launch presentation. There was a brief discussion about the key findings.

**6 European High Yield Association's submission to HM Treasury on insolvency law reform (held over from the last meeting)**

There was some discussion about the letter sent in April 2007 by the European High Yield Association to HM Treasury advocating further insolvency law reform. The Committee will write to the Insolvency Service to offer its comments on the suggestions made. Members are to submit their individual views to the Chairman, who will then circulate a draft letter.

## **7 The Insolvency (Amendment) Rules 2007**

It was noted that these rules came into force on 6 August 2007 to address the problems caused by the Court of Appeal decision in *Churchill v First Independent Factors and Finance Limited* regarding the use of prohibited names. There had been no external consultation on the text of the rules.

## **8 Consolidation of Insolvency Rules (kept under review)**

It was noted that the new Rules are not expected to come into force until 1 October 2008. A revised draft is awaited.

## **9 Rating (Empty Properties) Act 2007**

It was reported that the Bill, which was noted at the last meeting, had been enacted. It reforms relief from business rates in respect of empty property but makes no provision for companies in administration.

## **10 Request from Sandy Shandro for continuing involvement with the Committee**

It was reported that Sandy Shandro had taken up his new post as Dean of the Faculty of Laws at University College London. Support was expressed for the Committee maintaining a link with the academic community, and Sandy's membership of the Committee was approved.

## **11 Review of Committee membership generally**

Robert Elliott of Linklaters LLP will be replaced by Tony Bugg. Otherwise, with the addition of Sandy Shandro, the Committee has a sufficient number of members, although membership will be reviewed periodically.

## **12 Any other business**

A number of developments were noted, including:

- that Stephen Speed had been appointed new Chief Executive of the Insolvency Service - he replaces Desmond Flynn who retires at the end of September 2007;
- the *Leeds United* decision on administration expenses ([2007] EWHC 1761 (Ch));
- a US bankruptcy judge's decision not to protect two Bear Stearns Cayman Islands-registered hedge funds under Chapter 15 of the US Bankruptcy Code - this will be discussed at the next meeting.

## **13 Next meeting**

The next meeting will be held at 8.15 am on Thursday, 15 November 2007, at the offices of Allen & Overy LLP in London.