

Private & Confidential

14 June 2016

Mr Jonathan Wright
 Business, Innovation & Skills Committee
 Chamber and Committees Team
 House of Commons
 London
 SW1H 9NB

Dear Mr Wright

Administration of BHS

Thank you for your letter of 10 June. I set out my comments below.

My first involvement in the affairs of BHS was when I received a phone call from Sir Philip Green "SPG" at approximately 4pm on Monday 18 April 2016 asking if I could come to a meeting the following day in London. He stated he wanted to discuss a matter but did not give me any further details. We arranged to meet at the offices of Arcadia at 10.30am on 19 April 2016 and I asked one of my partners – Ben Wiles – to attend with me.

At that meeting SPG informed us that the board of BHS had come to the conclusion that it did not have sufficient cashflow to survive the short to medium term and that the BHS board had been advised by its lawyers that it need to protect the business and assets of the group and enter into administration. The BHS board was coming to the offices of Arcadia and wanted to meet with me to discuss putting the company into administration.

At approximately noon a meeting was held and the following attendees were present:-

- SPG
- Dominic Chappell "DC1" – RAL/BHS board member
- Dominic Chandler "DC2" – RAL/BHS board member
- Darren Top "DT" – BHS Board Member
- Eddie Parladario "EP" – RAL board member
- Aidan Treacy "AT" – RAL board member
- David Roberts "DR" – Olswang – Corporate lawyer acting for RAL & BHS
- Adam Plainer "AP" – Weil Gotshal & Manges – Restructuring lawyer advising the board of BHS
- Linton Bloomberg "LB" – Weil Gotshal & Manges – Restructuring lawyer advising the board of BHS
- Philip Duffy "PD"
- Ben Wiles "BW"

Discussions at that meeting related to the fact that on the previous day the RAL/BHS board had confirmed to Arcadia that it did not have sufficient cashflow to survive the short to medium term and that the proposed Gordon Brothers facility did not provide sufficient funds. The RAL/BHS board stated that they wanted to put the Company into administration and that Friday 22 April 2016 was a date they were aiming for. There was some discussion between DC1 and SPG regarding the administration and the choice of Duff & Phelps and at the end of those discussions DC1 confirmed that he would be looking to appoint Duff & Phelps on Friday 22 April 2016.

The Committee should be aware that under the Insolvency Act 1986 the ultimate decision as to who is appointed administrator lies with a floating chargeholder, in this case Arcadia, because its consent was required to meet the timetable set by the board.

The majority of the meeting was then discussing the detail regarding the Administration. Key points were:-

- HMRC had made demand and threatened to issue a winding up petition in the following week;
- Property transactions had not materialised in value or number;
- Trading had been poor; and
- Cashflow forecasts showed that there were insufficient funds to pay wages on Friday 29 April 2016.

My team then spent the following two days gathering information from the RAL/BHS board and key senior management of BHS to assist the proposed administrators in performing our duties once appointed.

Either on evening of the Tuesday 19 April 2016 or Wednesday 20 April 2016 I received a call from Neville Khan "NK" of Deloitte who said that he had recommended me to Arcadia as potential joint administrator given the large number of other firms that were conflicted (including KPMG, Deloitte, PwC and Grant Thornton). NK said that he would be speaking to the Pension Protection Fund "PPF" as the major unsecured creditor to advise what the likely events would be over the coming days.

Board meetings were held at the offices of BHS on Thursday 21 April 2016 for BHS Ltd, BHS Group Ltd, BHS Properties Ltd, Davenbush Ltd, BHS Services Ltd and Lowland Homes Ltd which resolved to appoint myself and BW as joint administrators of those companies on 22 April 2016. Minutes of those meetings were prepared by Weil Gotshal & Manges.

At 9am on 22 April 2016 I was asked to attend the offices of Olswang where the board of RAL was in attendance along with DT, AP and LB. DC1 stated that they had been working on a last minute bid to save the business and would be doing so over the weekend. I said that DC1 should give this every effort but that he needed to be mindful of his duties as a director and that he should be taking advice from Weil regarding any insolvency risks.

It was also at that meeting that DT told me that £1.5m had been transferred out of BHS Ltd to BHS Sweden which gave me a serious concern as BHS Sweden was not part of the BHS Group. I told DC1 that that money should be returned.

Later that morning Arcadia, via its lawyers Linklaters, issued demand for repayment of monies due to it. This was a protective measure and the boards of RAL and BHS were aware this would be sent.

I understand that the RAL board then continued with negotiations over the weekend with a potential buyer (my firm was not involved in this and indeed was not told who that buyer was). However, late on the evening of Sunday 24 April 2016 I received a call from DC1 stating that negotiations had failed and that the board of BHS would be appointing myself and BW as administrators on Monday 25 April 2016.

In terms of specific points raised by Mr Field and DC1 my comments are as follows:-

Q1398 – the Board of BHS appointed the administrators although, as mentioned above, statute provides that the consent of the floating charge holder was required to meet the board's desired timetable.

Q1399 – the business has not closed and continues to trade.

Q1400 – see Q1398

Q1401 – As mentioned above, I understand that Neville Khan recommended using Duff & Phelps. However, there is no "very close relationship" as alleged by DC1. Duff & Phelps itself has not undertaken any previous work for Arcadia or SPG. I was appointed administrator of 3 small non trading property companies within the Arcadia Group between 2008 & 2011 whilst a partner at MCR, which firm was subsequently purchased by Duff & Phelps at the end of 2011.

Q1402 – It is not for me to say what could have happened - by the time I was involved the decision had already been taken by the board of BHS to appoint administrators.

Q1403 – It is correct that Arcadia has a floating charge over the BHS group and as such is statutorily entitled to either appoint administrators itself, or consent to the choice of the administrators proposed by the board.

Q1404 – unable to comment.

Q1405 – unable to comment.

Q1406 – I am uncertain what point is being made here or what the "record" referred to is about. The administrators explored every possible avenue to save the business as a going concern, updating all key creditors along the way (see below). We will also explain to all creditors the steps taken at the forthcoming creditors meeting.

Q1407 – Neither PD or BW are conflicted from acting as administrators pursuant to the relevant ethical codes of the Insolvency Practitioners Association. As administrators we are officers of the court and do not take instructions from Arcadia or SPG. However, post appointment, we have updated Arcadia on the progress being made and offers received for the business. We have also updated the other secured creditors (being HSBC, Gordon Brothers and Grovepoint) in the same way and, indeed, the PPF. This is because they are all key stakeholders and/or have a proprietary interest in the assets and is something we would do, and be expected to do, in any administration.

Yours sincerely


Philip Duffy
for and on behalf of the Administrators