

The Insolvency (Northern Ireland) Order 1989

2.24B**Administrator's Progress Report**

Name of Company

Bio-Kinetic Europe Limited

Company number

NI031415

In the High Court of Justice in Northern
Ireland Chancery Division (Company
Insolvency)

22253 of 2017

(a) Insert full name(s) and
address(es) of administratorsI (a) James Derek Neill
of HNH Partners Limited, Jefferson House, 42 Queen Street, Belfast, Co. Antrim,
BT1 6HL, United Kingdom

Administrator of the above Company attach a progress report for the period

From

To

(b) Insert date

(b) 19 October 2021

(b) 18 April 2022

Signed



Dated 12 May 2022

Contact Details:

You do not have to give any contact information in the box opposite but if you do, it will help Companies Registry to contact you if there is a query on the form. The contact information that you give will be visible to searches of the public record

HNH Partners Limited
Jefferson House
42 Queen Street
Belfast
Co. Antrim
BT1 6HL

Tel: +44 2890 278 100

When you have completed and signed this form please send it to the Registrar of Companies at the Company Registry for Northern Ireland

Bio-Kinetic Europe Limited (NI031415) - In Administration (“the Company”)

Case Number: 22253 of 2017

High Court of Justice in Northern Ireland, Chancery Division (Company Insolvency)

Administrator’s Progress Report for the period 19 October 2021 to 18 April 2022

Issued on: 12 May 2022

Names of Administrator: James Neill

Date of appointment: 19 October 2017

Date report issued: 12 May 2022

Appointed by: The Directors of the Company pursuant to Paragraph 23 of Schedule B1 to the Insolvency (Northern Ireland) Order 1989

CONTENTS

1. Introduction
2. Statutory Information
3. Background
4. Administrators Actions Since Appointment
5. Receipts and Payments Account
6. Asset Realisations
7. Liabilities
8. Dividend Prospects
9. Administrators' Remuneration
10. Administrators' Expenses
11. Further Information
12. Summary

APPENDICES

1. Receipts and Payments Account
2. Analysis of Time Costs
3. HNH Partners Limited Fees and Disbursements Policy

1. INTRODUCTION

I write further to the Report and Statement of Proposals ('Proposals') issued to all creditors on 01 December 2017 and my previous progress reports issued on 15 May 2018, 12 November 2018, 10 May 2019, 15 November 2019, 12 May 2020, 10 November 2020, 12 May 2021 and 12 November 2021.

A Court Order made on 31 March 2022, extended the Administration of the Company for a period of 12 months, such that the Administration will now automatically end on 18 April 2023.

2. STATUTORY INFORMATION

Company Information

Company name:	Bio-Kinetic Europe Limited
Previous name:	Mullaghbawn Limited
Trading name:	Bio-Kinetic Europe Limited
Company number:	NI031415
Date of incorporation:	10 November 1996
Trading address:	14 Great Victoria Street, Belfast, BT2 7BA
Current registered office:	Jefferson House, 42 Queen Street, Belfast, BT1 6HL
Former registered office:	14 Great Victoria Street, Belfast, BT2 7BA
Principal trading activity:	Clinical Research

Appointment Details

Administrators	James Neill Rachel Foster (Resigned 05/05/2020)
Administrators' address	Jefferson House, 42 Queen Street, Belfast, BT1 6HL
Date of appointment	19 October 2017
Court name and reference	22253 of 2017
Appointment made by:	Directors

Officers of the Company:

<i>Directors:</i>	<i>Name:</i>	<i>Shareholding</i>
	David Bell	33.33%
	Crawford McLean	33.33%

Company secretary: Crawford McLean

<i>Shareholders:</i>	<i>Name:</i>	<i>Shareholding</i>
	David Bell	33.33%
	Crawford Moira Burke	33.33%

Share capital

<i>Authorised</i>	<i>Allotted, called up and fully paid</i>
37,500 ordinary shares £1 each	37,500 ordinary shares £1 each

Charges

The Company granted two charges in respect of its assets:

1. Mortgage debenture, created 19 November 2014 - The Governor and Company of the Bank of Ireland
2. Mortgage debenture, created 21 April 2017 - Invest Northern Ireland

3. BACKGROUND

The background to the Administration appointment is as outlined in my Proposals to creditors.

4. ADMINISTRATOR'S ACTIONS SINCE LAST REPORT

I continue to work with legal advisors and sponsor companies to establish a legal and regulatory compliant process for the repatriation of the data to parties instructed on behalf of study sponsors.

As previously advised, due to the complexities of the interaction of clinical trial and data protection legislation, I had made an application to Court seeking directions in relation to the correct process to be adopted in respect of the transfer of the data to study sponsors. The initial review of the case had been heard before the Chancery Judge in Belfast High Court. Following the initial review, it had been necessary to obtain submissions from both the Medicines and Healthcare products Regulatory Agency (MHRA) and the Information Commissioners Office (ICO) in relation to the correct treatment of certain aspects of the study data. During the period of this report, my legal advisors and I have continued to have extensive correspondence with both parties. I received a legal opinion in relation to the correct process to be adopted in respect of the transfer of the data to study sponsors on foot of the submissions obtained from the MHRA and the ICO. I subsequently withdrew the application to Court seeking directions in relation to this matter on the basis that they are satisfied with the legal opinion received.

Whilst the realisation of assets and routine statutory tasks are now completed the Administration remains open whilst we proceed with the transfer of data to study sponsors. There are 60 sponsors and 159 studies and to date we have transferred data in relation to 31 studies for 13 sponsors and are currently in the process of transferring data in relation to 46 studies for 3 sponsors (of these studies, the sponsor has confirmed that the data relating to 32 of the studies is securely and confidentially destroyed). 7 additional sponsors have confirmed that they do not wish to transfer any of their data in respect of 9 studies and have requested the safe and confidential destruction of same.

On 02 November 2021 I issued a final call for action from those sponsors that had not responded to previous correspondence relating to their study data. Following this correspondence, a further 7 sponsors, relating to 27 studies, have since come forward over the last number of months to begin discussions with respect to the data transfer / destruction process. As such, it is envisaged that the finalisation of the data transfer will continue into this year and to the end of 2022.

Where no engagement is reached with the remaining sponsors (i.e. 30 sponsors relating to 46 studies), the MHRA has outlined guidance with respect to destroying the study data once the legally prescribed retention periods have passed. Given the last of the legally prescribed retention periods was 01 October 2021, I can now take steps to destroy the data of those sponsors not engaged.

As outlined in my last progress report, I also placed a further advertisement in the Belfast Telegraph, giving a final notice to all volunteers who took part in medical trials that any data that is not repatriated to sponsors will be destroyed. The notice outlined that this data may have been held for a period less than the period as may have been expected by participants. I have not received a response from any former volunteers to date.

It is acknowledged that any work undertaken directly on behalf of the study sponsors is outside the scope of the Administration proceedings and time incurred for this work, specifically on behalf of the study sponsors, should not be to the detriment of the estate. I am engaging with third parties directly and remuneration received for these activities will be disclosed within the 'Administrators' Remuneration' section of my reports.

In addition, we have undertaken routine statutory and compliance work, such as submission of VAT and CT returns, circulation of my progress reports and various filings at Companies House. These are tasks that we are required by statute or regulatory guidance, or are necessary for the orderly conduct of the Administration, and whilst they do not produce any direct benefit for creditors, they still have to be carried out.

5. RECEIPTS AND PAYMENTS ACCOUNT

My Receipts & Payments Account for the period from 19 October 2021 to 18 April 2022 is attached at Appendix 1.

All amounts are shown net of VAT. I have reconciled the account against the financial records that I am required to maintain.

6. ASSET REALISATIONS

Asset realisations are as outlined in my previous report to creditors.

7. LIABILITIES

Secured Creditors

An examination of the Company's mortgage register held by the Registrar of Companies, showed that the Company granted a mortgage debenture to The Governor and Company of Bank of Ireland on 19 November 2014. No money was due to The Governor and Company of Bank of Ireland at the time the Company entered Administration.

The Company also granted a mortgage debenture to Invest NI on 21 April 2017 in respect of borrowing totalling £275,000.

Preferential Creditors

The Statement of Affairs anticipated £86,017 in preferential creditors. The Redundancy Payments Service has submitted a claim of £77,780.

Crown Creditors

The Statement of Affairs included £140,227 owed to HMRC. HMRC have not yet submitted a claim.

Non-Preferential Unsecured Creditors

The Statement of Affairs included 83 unsecured creditors with an estimated total liability of £1,535,114. To date we have received claims from 61 unsecured creditors at a total of £3,035,366. We have not received claims from 46 creditors with original estimated claims in the Statement of Affairs of £546,740.

8. DIVIDEND PROSPECTS

A dividend will not be declared to any class of creditors in the Administration as the funds realised will be used to make payments to partially meet the expenses of the Administration.

9. ADMINISTRATOR'S REMUNERATION

My remuneration was previously authorised by secured and preferential creditors to be drawn on a time cost basis. My time costs to 18 April 2022 amount to £148,504.00 representing 1,130.0 hours work at an average charge out rate of £131.42 per hour, of which £8,860 was charged in the period covered by this report representing 58 hours work at an average charge out rate of £152.76 per hour. To date I have drawn £50,000.

A schedule of the time costs incurred to date is attached at Appendix 2. A description of the routine work undertaken in the period covered by this report is as follows:

Administration and Planning

This represents the work that is involved in the routine administrative functions of the case by the Administrator and his staff, together with the control and supervision of the work done on the case by Administrator and his managers. In the period covered by this report this has involved;

- Case planning and administration;
- Dealing with all routine correspondence and emails relating to the case;
- Maintaining physical case files and electronic case details on Insolv case management software;
- Reviewing the level of the specific penalty bond (this is insurance required by statute that every insolvency office holder has to obtain for the protection of each estate);
- Maintaining and managing the officeholder's estate bank account;
- Overseeing and controlling the work done on the case by case administrators;
- Preparing, reviewing and issuing reports to creditors and members;
- Preparing and filing of VAT and Corporation Tax returns;
- Statutory filings at Companies House;
- Liasing with legals in relation to the extension application for court; and
- Preparing progress reports to members and creditors.

Study Specific work

As stated in section 4, I acknowledge that any work undertaken on behalf of specific sponsors will not be charged to the estate. Total time incurred in this regard totals £369,083 of which £36,024 was incurred in the period covered by this report. To date the Administrator has received £320,048 plus VAT (where applicable) in total from sponsor companies for both this work and in addition any associated disbursements.

A copy of 'A Creditors Guide to Administrators' Fees' published by the Association of Business Recovery Professionals is available at <http://www.hnhgroup.co.uk/>. A hard copy can be provided upon request. HNH Group's fee policy can be found at Appendix 3.

10. ADMINISTRATOR'S EXPENSES

Expenses are any payments from the estate which are neither an office holder's remuneration nor a distribution to a creditor or a member. Expenses also includes disbursements. Disbursements are payments which are first met by the office holder and then reimbursed to the office holder from the estate. Expenses are split into:

- Category 1 expenses, which are payments to persons providing the service to which the expense relates who are not an associate of the office holder; and
- Category 2 expenses, which are payments to associates or which have an element of shared costs. Before being paid category 2 expenses require approval in the same manner as an office holder's remuneration.

My expenses and disbursements to 18 April 2022 amount to £4,306.01 of which £535.29 was incurred in the period covered by this report. To date, I have drawn £1,833.12.

We have incurred the following category 1 expense in the period since my last progress report:

Type of category 1 expense	Amount incurred/ accrued in the reporting period
Swearing fee	£5.00

We have incurred the following category 2 expenses in the period since my last progress report:

Type of category 2 expense	Amount incurred/ accrued in the reporting period
Printing & Postage	£524.79
Mileage	£4.50

The following agents or professional advisors have been utilised:

<u>Professional Advisor</u>	<u>Nature of Work</u>	<u>Fee Arrangement</u>	<u>Amount incurred to date (Excl VAT)</u>	<u>Amount still to be paid (Excl VAT)</u>
DWF	Solicitors	Time costs	£20,833	£750
Peter Hopkins BL	Barrister	Fixed fee / Time costs	£5,560	NIL
HNH Tax	Tax Advice	Time Costs	£150	NIL

The choice of professionals was based on my perception of their experience and ability to perform this type of work and the complexity and nature of the assignment. I also considered that the basis on which they will charge their fees represented value for money. I have reviewed the charges they have made and am satisfied that they are reasonable in the circumstances of this case. Certain legal fees paid in relation to the data repatriation have been drawn directly from sponsor fees received and outside of the Administration.

11. FURTHER INFORMATION

An unsecured creditor may, with the permission of the court or with the concurrence of 25% in value of the unsecured creditors (including the creditor in question) request further details of the Administrator's remuneration and expenses. Any secured creditor may request the same details in the same time limit.

As Insolvency Practitioners, when carrying out all professional work relating to an insolvency appointment, I am bound by the Insolvency Code of Ethics, as well as by the regulations of my professional body and I can confirm that I have not identified any threats to the ethical fundamental principles in respect of this case.

To comply with the Provision of Services Regulations, some general information about HNH Partners Ltd, including about our complaints policy and Professional Indemnity Insurance, can be found at <http://hnhgroup.co.uk/>.

HNH Partners Limited uses personal information in order to fulfil the legal obligations of our Insolvency Practitioners under the Insolvency Act and other relevant legislation, and also to fulfil the legitimate interests of keeping creditors and others informed about the insolvency proceedings. You can find more information on how HNH Partners Limited uses your personal information on our website at <http://hnhgroup.co.uk/>.

12. SUMMARY

The Administration will remain open until the matters in respect of the transfer of the data, on the remaining clinical trial studies to sponsors or their representatives, has been finalised. In the meantime we will continue to file monthly VAT returns, complete corporation tax returns and all other statutory filings. Once the outstanding matters have been finalised the Administration will cease and my files will be closed.

If you have any queries regarding this matter, or the conduct of the Administration in general, they should contact Jamie Callaghan on 028 9027 8100.

A handwritten signature in black ink, appearing to read 'James Neill', written in a cursive style.

James Neill
Administrator

The Administrator acts as agent of the Company and acts at all times without personal liability.

James Neill is licensed to act as an Insolvency Practitioner in Great Britain and Northern Ireland by Chartered Accountants Ireland.

The Administrator is a Data Controller of personal data as defined by the Data Protection Act 2018. Personal data will be kept secure and processed only for matters relating to the Administration

ADMINISTRATOR'S RECEIPTS AND PAYMENTS ACCOUNT
 FOR PERIOD 19 OCTOBER 2021 TO 18 APRIL 2022

Statement of Affairs (£)	19.10.21 to 18.04.22 (£)	Total (£)
RECEIPTS		
75,000	Fixed Assets	NIL 34,960
20,000	Investment in Subsidiary	NIL 59,950
13,500	Book Debts	NIL 13,591
22,418	Cash at Bank	NIL 43,761
NIL	Cash on Hand	NIL 408
NIL	Bank Interest Gross	1 336
NIL	Pre-Appointment Insurance refund	206 1,729
NIL	Pre-Appointment interest refund	NIL 1,798
NIL	Study data storage costs recovered	NIL 175
NIL	Vat Payable	NIL 7,027
NIL	Vat refunds	561 10,219
130,918		768 173,955
PAYMENTS		
	Office Holders Fees	NIL 50,000
	Office Holders Expenses	NIL 1,833
	Storage Costs (Company B&R)	NIL 1,376
	Storage Costs (Study data)	622 11,769
	Set off of Credit Card	NIL 919
	Case Management Fee	NIL 185
	Insurance	168 675
	Bonding	NIL 510
	Agents/Valuers Fees	NIL 4,000
	Legal Fees and Disbursements	NIL 21,212
	Other Property Expenses	NIL 1,778
	Professional Fees	NIL 450
	Sub Contractor Payment	NIL 864
	Bank Charges	18 214
	Report Mailing	NIL 523
	Vat Receivable	124 18,432
		933 114,739
	BALANCE	(165) 59,213
	Current Account	19,213
	Interest Bearing Deposit Account	40,000

All amounts are shown net of VAT. I have reconciled the account against the financial records that I am required to maintain.”

A COPY OF THE COMPLETED STATEMENT OF AFFAIRS IS AVAILABLE FROM COMPANIES HOUSE

ANALYSIS OF ADMINISTRATORS TIME COSTS

FOR THE PERIOD 19 OCTOBER 2021 TO 18 APRIL 2022 (6 MONTHS)

Classification of work function	Partner/ Director	Manager	Other Senior Professionals	Assistants & Support Staff	Total Hours	Time Cost (£)	Average Hourly Rate (£)
Administration & Planning	3.0	0.0	41.6	7.5	52.1	7,464.00	143.26
- Books and records	0.0	0.0	0.0	0.0	0.0	0.00	0.00
Investigations	0.0	0.0	0.0	0.0	0.0	0.00	0.00
Realisation of Assets	0.0	0.0	0.0	0.0	0.0	0.00	0.00
Trading	0.0	0.0	0.0	0.0	0.0	0.00	0.00
Creditors	0.0	0.0	0.0	0.0	0.0	0.00	0.00
Any other case specific matters	4.9	0.0	0.0	1.0	5.9	1,396.00	236.61
Tax	0.0	0.0	0.0	0.0	0.0	0.00	0.00
Total hours	7.9	0.0	41.6	8.5	58.0		
Time costs (£)	2,196.00	0.00	5,824.00	3,420.00		8,860.00	
Average hourly rate (£)	277.97	0.00	140.00	402.35			152.76

FOR THE PERIOD 19 OCTOBER 2017 TO 18 APRIL 2022 (54 MONTHS)

Classification of work function	Partner/ Director	Manager	Other Senior Professionals	Assistants & Support Staff	Total Hours	Time Cost (£)	Average Hourly Rate (£)
Administration & Planning	73.4	77.4	126.7	305.5	583.0	74,603.05	127.96
- Books and records	0.0	12.1	0.0	151.2	163.3	13,039.80	79.85
Investigations	13.6	4.5	0.0	22.0	40.1	6,193.32	154.45
Realisation of Assets	56.9	34.4	0.4	8.3	100.0	21,920.01	219.20
Trading	0.0	0.0	0.0	0.0	0.0	0.00	0.00
Creditors	32.9	11.2	4.0	70.9	119.0	16,987.53	142.75
Any other case specific matters	14.1	20.8	12.0	74.0	120.9	14,650.29	121.18
TAX	3.7	0.0	0.0	0.0	3.7	1,110.00	300.00
Total hours	194.6	160.4	143.1	631.9	1,130.0		
Time costs (£)	51,899.00	27,405.40	19,982.00	53,093.60		148,504.00	
Average hourly rate (£)	266.70	170.86	139.64	84.02			131.42

Expenses / Disbursement Description	Total Incurred (£)	Total Recovered (£)
Advertising	398.14	398.14
Mileage	67.00	62.50
Mail Redirection	204.00	204.00
Postage	1,602.68	643.18
Printing	1,504.40	525.30
Postage / Printing (postworks)	524.79	NIL
Swearing fee	5.00	NIL
Totals	4,306.01	1,833.12

Summary of Fees

Time spent in administering the Assignment	Hours	1,130.0
Total value of time spent to 18 April 2022	£	148,504.00
Total Administrator's fees charged to 18 April 2022	£	50,000.00

Summary of Fees in relation to study specific work

Total value of time spent to 18 April 2022	£	369,083.00
Total fees & disbursements received from sponsors to 18 April 2022	£	320,048.20
Total fees paid to Administrator to 18 April 2022	£	188,938.25

**HNH PARTNERS LIMITED CORPORATE RESTRUCTURING
PROFESSIONAL FEES AND DISBURSEMENTS – SIP 9**

This guide to our fees has been produced to provide creditors with information required by best practice guidance. We recommend that this guidance is read in conjunction with the note entitled “A Creditors Guide to Administrators Fees Northern Ireland” which can be found at <http://www.hnhgroup.co.uk/restructuring>. A hard can also be provided upon request.

At HNH Partners Limited we seek to recover fees on time cost basis with time recorded in 6 minute intervals. Set out below are our firm’s hourly rates, with effect from 1 January 2020 excluding VAT:

Insolvency Practitioner/Director	300
Associate Director	240
Senior Manager	195
Manager	195
BR Senior Administrator / Assistant Manager	140
BR Administrator	100
Support Staff	40-80

Set out below are our firm’s hourly rates, which were in effect from 1 January 2018 to 31 December 2019 excluding VAT:

Insolvency Practitioner/Director	300
Associate Director	240
Senior Manager	192
Manager	168
BR Senior Administrator / Assistant Manager	120
BR Administrator	84
Support Staff	24-68

Set out below are our firm’s hourly rates, which were in effect from 1 January 2016 to 31 December 2017 excluding VAT:

	£
Insolvency Practitioner/Partner	250
Director	200
Senior Manager	160
Manager	140
BR Senior Administrator / Assistant Manager	100
BR Administrator	70
Support Staff	20-60

As previously stated, HNH Partners Limited prides itself on the quality of work undertaken. With that in mind, we would invite creditors to consider the following points:

1. Our own standards mean that we undertake an investigation into the affairs of all companies in Administration irrespective of the level of realisations that will be achieved.
2. Time costs are not fully recovered in all cases undertaken. The practice has to meet its own overheads and those associated with an insolvent state irrespective of when fees are available from a particular case. We endeavour to allocate tasks to staff with the appropriate skills and at an appropriate charge-out rate.
3. Expenses and disbursements incurred by HNH Partners Limited in dealing with the administration of insolvent estates are generally discharged as a practice overhead out of fee income. The Administrators firm’s policy allows for certain disbursements for services provided by the Administrators own firm (Category 2 Disbursements) to be charged to the case:
 - Postage – At cost;
 - Photocopying – At 5 pence per sheet copied, only charged for circulars to creditors and other bulk copying;
 - Mileage – Charged at 45 pence per mile; and
 - Where a room is booked at a HNH Partners Limited office for a meeting of creditors or of a creditors’ committee – Charged at £50 per meeting.
4. Where taxation services are required, HNH Group taxation department will charge for their services on a time cost basis.
5. From time to time this firm may engage the services of legal firms to which the owners of HNH Partner Limited may have a personal relationship. Such firms are chosen for the services they offer and not due to this relationship, however, this disclosure has been made for purposes of full transparency.

6. For the avoidance of doubt, direct costs relating to the administration of an estate are recovered if funds permit. These include, where applicable, advertising, travel expenses and expense claims by HNH Partners Limited staff where they are obliged to work away from the office. HNH Partners Limited only seeks to recover the costs of third party printing, room hire and document storage provided by external suppliers.
7. In common with all professional firms, the rates used by the Administrator may periodically rise (for example to cover annual inflationary cost increases) over the period of the Administration. Any material amendments to these rates will be advised to the creditors and/or the creditors' committee in the next statutory report (if any).