

NOTICE FOR THE READER: DEVELOPMENTS IN THE PAST REPORTING PERIOD ARE INDICATED **IN BOLD**.

## BANKRUPTCY REPORT

number: 8

date: 1 November 2016

Company data	:	Oad Touringcarbedrijf B.V. Also acting under the names: Oad Schiphol Oad Zeeland Oad-Van Dam Oad Nightliner
Bankruptcy number	:	C/08/13/819 F
Date of bankruptcy order	:	25 September 2013
Trustees	:	<u>Up to 15 January 2014</u> : mr. J.A.D.M. Daniels and mr. J.T. Stekelenburg <u>As from 15 January 2014</u> : mr. D. Meulenberg and mr. J.T. Stekelenburg
Staff members in bankruptcy matters	:	<u>Up to 15 January 2014</u> : M. Samsen; M.L. Wijlens; A.K. de Beurs; G.J. Bramer; A.C. Vroom <u>As from 15 January 2014</u> : J. Brinks (up to 30 June 2015); S. Kriekaart (up to 31 December 2014), E. Touwen (until 1 August 2014), G.F. Zoer (until 31 December 2014), Mr. M.A.A. Spekhorst (as from 21 August 2014 up to and including 17 February 2015), E. Nooteboom (as from 21 August 2014. Dikkeschei (as from 2 March 2015) <u>Up to 15 January 2014</u> : drs. A.B. Terpstra <u>As from 15 January 2014</u> : mr. G.W. Luesink and M.M.S. Feenstra
Financial	:	
Bankruptcy judge	:	mr. M.L.J. Koopmans
Activities of the company	:	Operation of a touring car, taxi and bus rental company. source: extract of the Trade Register of the Chamber of Commerce
Sales data	:	The management provided the trustees with the consolidated (draft) annual accounts of Oad Groep Holding B.V. for the financial year from 1 November 2011 through 31 October 2012. The annual accounts are not signed and have not been published. The consolidated annual accounts incorporate the financial data of the companies belonging to Oad Groep Holding B.V., including Oad Groep B.V., as well as group companies over which Oad Groep Holding B.V. has control. The net sales in the financial year 2011/2012 amounted to €575,901,000. The net sales in the financial year 2010/2011 amounted to €617,070,000
Average number of staff	:	228

Reporting period	: 19 April 2016 up to and including 18 October 2016
Hours spent in the reporting period	: 52 hours
Total hours spent	: 1622 hours and 39 minutes
Balance as at 18 October 2016	: €5,762,825.47 (this is a provisional balance; the proceeds still need to be allocated to the various estates).

## 1. Survey

1.1 Board of directors and organisation	: Sole shareholder of Oad Touringcarbedrijf B.V. is Oad Busbedrijf B.V., of which Oad B.V. is the sole shareholder, of which Oad Groep B.V. is the sole shareholder, of which Oad Groep Holding B.V. is in turn the sole shareholder. The managers of OAD Touringcarbedrijf B.V. are Mr. J.G. ter Haar, Mrs. Q.F. ter Haar, Mr. F.W. Schuitemaker and Oad Groep Holding B.V. The managers are jointly authorised (with other managers). The legal group structure (organisation chart) as at 1 September 2013 is shown in the annex to bankruptcy report 2.
1.2 Profit and loss	: Consolidated Loss of €3,006,000 in the financial year 2011/2012 Loss of €21,576,000 in the financial year 2010/2011
1.3 Balance sheet total	: Consolidated €74,293,000 as at 31 October 2012 €81,602,000 as at 31 October 2011
1.4 Legal proceedings	: There are no current legal proceedings.
1.5 Insurance	: All insurance policies are in the name of Oad Groep Holding B.V., which is also bankrupt, or in the name of Oad Groep B.V. Policies covering the present bankruptcy have been or will be cancelled. Any return of premium will go to the estate.
1.6 Lease	: <ul style="list-style-type: none"><li>• Lease of business premises at Udenseweg 45 in Zeeland. Part of the premises was sub-leased. In consultation with the lessor, the restarter and the sub-lessor the lease contract will be cancelled because of the bankruptcy, or the restarter will take the bankrupt's place. Consultations are still going on. In <b>reporting period 2</b>, the restarter came to an agreement with the lessor about the continuation of the lease.</li><li>• Lease of the business premises at Hoofdweg 329 in Lijnden. In consultation with the lessor and the restarter, the lease contract will be cancelled because of the bankruptcy, or the restarter will take the bankrupt's place.</li><li>• In <b>reporting period 2</b>, the restarter came to an agreement with the lessor about the continuation of the lease.</li></ul>
1.7 Bankruptcy cause	: According to the managers, the bad economic conditions

and the consequent decline in sales are the main causes of the bankruptcy. The immediate cause of the bankruptcy is the cancellation of the credit agreement by the bank. The bank requested an extra capital injection under a number of conditions. The shareholders were unable to meet this request (in time). According to the managers, the funds for this capital injection were available but they could not be used to also meet the sudden demand from a creditor for a bank guarantee. When the bank cancelled the credit agreement, the managers had no option other than to file a petition for bankruptcy of Oad Groep B.V. and its subsidiaries.

Other parties involved in the bankruptcy mention other causes for the bankruptcy. After the investigations to be carried out by the trustees, an analysis will be made of the causes of the bankruptcy.

The trustees have asked a lawyer from another office than the offices of the trustees to assess Rabobank's conduct before and at the time of the cancellation of the credit agreement, and to give the trustees in-depth advice on this matter. Together with the internationally operating firm referred to in 7.1, a draft plan has been made for an investigation into the causes of the bankruptcies. As is usual in a case like this, the investigation will extend beyond the conduct of the bank.

As regards the developments in **reporting period 5** regarding the investigation into the conduct of Rabobank and the other investigations, the trustees refer to the general notes compiled by them and affixed to this report as Annex 1. By means of a writ of summons dated 17 December 2014, Stichting Administratiekantoor Oad Groep Holding instituted proceedings against Rabobank seeking payment of €80,000,000. This does not include the Oad company estates. The trustees are carrying out their own investigations into the conduct of Rabobank (see the general notes in Annex 1 to this report).

Various investigations were launched in **reporting period 6**, including one into the conduct of Rabobank. See the general notes compiled by the trustees and affixed to the sixth report as Annex 1.

These investigations were continued in **reporting period 7**.

**In reporting period 8, the trustees informed the bankruptcy judge in confidence of their findings thus far. The investigations are to be continued.**

**The Midden Nederland District Court dismissed the claims of the Stichting Administratiekantoor OAD Groep Holding. This Stichting has lodged an appeal. The appeal proceedings are still pending; no ruling has yet been given.**

## **2. Staff**

2.1 Number at the date of the bankruptcy : 228

2.2 Number in the year before the bankruptcy : 228

2.3 Date of notice of dismissal : 26 September 2013

By order of the trustees, all (former) employees have been provided with annual (income) statements.

The trustees have learned that a number of (former) employees reside abroad and a number of (former) trainees are not covered by the Dutch social insurance system/wage guarantee scheme, meaning that they cannot assert claims with the UWV. Some of them have already asked the trustees to consider their claim. The trustees are currently investigating how such claims should be dealt with, which includes the question of what status these claims should be given. Establishing this is important because depending on the status of the claims, there is a (small) chance of receiving payment or none at all.

After conducting an investigation during **reporting period 4**, the trustees have concluded that the claims from these creditors, which largely relate to the period after the bankruptcy date, should be treated as “extraordinary bankruptcy expenses”, or at least as costs that have been incurred at the trustees' behest. During this investigation, the trustees consulted with the bankruptcy judge and (decision-makers at) the UWV. Both indicated that they agree with the trustees' conclusion (in this situation). Provided the claims are legitimate and relate to the period after the bankruptcy date, the creditors in question will be paid, with their claims taking precedence (over those of the UWV), for example.

The majority of the aforementioned creditors have since presented documents to prove and substantiate that they have a legitimate claim (concerning the period after the bankruptcy date). Those creditors have since been paid. There are still several creditors (comprising part of this group) that still need to present documents (before payment can proceed). With the aid of statements received from them, the trustees have established that the difficulties described above do not play a role – so it would seem – in

relation to the bankruptcy of Touringcarbedrijf B.V. (none of the employees who have filed a claim with the trustees have been employed by Oad Touringcarbedrijf B.V.).

None.

Activities during the reporting period

**3. Assets**

Immovable assets

This company had no immovable assets.

3.1 Description : Not applicable

3.2 Sale proceeds : Not applicable

3.3 Mortgage amount : Not applicable

3.4 Contribution to the estate : Not applicable

Activities during the reporting period None

Operating assets

3.5 Description : 

- touring cars
- (small) buses and cars
- one Volkswagen Transporter

Other operating assets of Oad c.s.

In **reporting period 2** the trustees investigated the possibilities of selling the as yet unsold operating assets on the premises of Oad c.s. in Holten. The items involved were predominantly office furniture, computer equipment, travel cards, domain names, foreign currency and (classic) vehicles. It was decided to work towards an online auction. The relevant order has been given to Troostwijk Veilingen B.V. (hereinafter 'Troostwijk'). The auction is scheduled for the end of April/beginning of May and is being prepared.

The auction was held in reporting period 3. 7,039 bids were made on the 676 lots in the auction by 820 international bidders.

Most of the 271 buyers (250) were from the Netherlands. The other buyers were from Belgium (8), Germany (7), Romania (3), Spain (1), France (1) and Luxembourg (1). The proceeds from the auction, excluding auction fees, totalled €353,672. This amount is still to be received in the estate account.

Almost at the exact same time, two other auctions were held, one for the domain names and one for the travel cards and currency that had not been sold at previous auctions.

459 bids were made on the 336 lots in these auctions by 51 international bidders. The proceeds from these auctions, excluding auction fees, totalled €22,200 and €22,316. These amounts are also still to be received in the estate account.

In **reporting period 4**, an amount of €433,378.99 was received in the estate account of Oad Groep B.V. This amount concerns the proceeds from the various auctions.

The settlement of these auctions is as follows:

• proceeds	€	400,613
• commission	-/- €	30,045.98
• other expenses	-/- €	<u>9,560.28</u>
subtotal	€	361,006.75
VAT (0% on €16,377)	€	0
VAT (21% on €344,629.75)	€	<u>72,372.25</u>
total	€	433,378.99

The trustees note that the total (gross) proceeds from the various auctions of €400,613 are somewhat higher than the sum total of the amounts referred to in the **third bankruptcy report**. The sum total of those amounts came to €397,988. The difference between the two amounts concerns the proceeds from a subsequent auction of a number of movables.

The trustees also note that no VAT was charged on the proceeds of €16,377, as these are the proceeds from the sale of foreign currency.

The trustees note that, where necessary, the income from the auctions still needs to be allocated to the various Oad estates.

Parallel to the preparation of the auction of the movables, the trustees have been busy securing the digital and physical records in **reporting period 2**. Further information under item 7.1. of this report. It has been agreed with Troostwijk that they will make sure that all data on digital systems is deleted in a certified manner before the systems are offered for sale. By order of the trustees, Troostwijk have deleted all data on digital systems before offering them for sale at the auction. The trustees have received proof of this.

- 3.6 Sale proceeds :
  - Touring cars, €8,850,000
  - Buses and cars €267,650.
  - Volkswagen Transporter: not yet known. In its capacity as the party which has restarted the bus-related operations, Oad Bus B.V. is interested in this vehicle. Oad Bus B.V. has made an offer for this vehicle and also for a number of other items of movable property. In **reporting period 4**, the trustees reached agreement with Oad Bus B.V. about the sale of a number of movables, including the Volkswagen Transporter This car fetched €4,950. As regards the further (financial) recognition of this sale, please see item 3 of the bankruptcy report of Oad Busbedrijf B.V.
  - Auction proceeds: € 400,613 (see item 3.5 above). The trustees note that these proceeds still have to be allocated to the various estates of Oad. See item 3.5 above.
- 3.7 Contribution to the estate : Depending on the outcome of the issue referred to in 5.1, (further) arrangements will be made about a contribution to the estate.
- 3.8 Seizure by the tax authorities : It is not clear whether this preferential right of seizure is applicable (see discussion referred to in 5.1). Depending on whether the tax claim can be paid by selling the unencumbered assets in the estate, the tax authorities will have this preferential right of seizure of property found on the tax debtor's premises.
- Activities during the reporting period : None.
- Stocks/work in progress : No stocks/work in progress were found in this company.
- 3.9 Description : Not applicable
- 3.10 Sale proceeds : Not applicable
- 3.11 Contribution to the estate : Not applicable
- Activities during the reporting period : None

Other assets

In **reporting period 3**, an amount of €76,241.42 was received. This concerns a payment by a motor vehicle liability insurer for damage to one of the vehicles.

3.12 Description : Not applicable

3.13 Sale proceeds : Not applicable

Activities during the reporting period None

**4. Accounts receivable**

4.1 Amount in accounts receivable : Nominal: €3,800,000, together with the claims the Oad Busbedrijf B.V. has on third parties. This amount includes debtors who are at the same time creditor (so they can offset) and intercompany claims. The adjusted portfolio will be considerably lower.  
Arrangements have been made with the restarter Oad Bus B.V. about the debt collection by Oad Bus B.V. The proceeds will accrue to the estate.  
During **reporting period 2**, Oad Bus B.V. collected a considerable amount of debts. In total more than €1,100,000 has been received, which amount was partly paid into the estate account and partly into the old Rabobank accounts of the bankrupt companies. Oad Bus B.V. will continue its collection activities in the coming reporting period.

During **reporting period 4** the trustees sent a letter to the business partners known to them in which the trustees notified them that they were claiming a customer fee (in so far as there was any question of there being an agency) as the case may be, and have precluded any other entitlements or claims. All this has been done for the purpose of reserving rights.

The debt collection work continued during **reporting period 5**. A comprehensive overview of payments for the claims is not yet available.

Debt collection work continued during **reporting period 6**. A number of airlines were summoned in this period. It is not inconceivable that one or more Oad companies have a claim against one or more airlines in connection with the reservation of seats. Such a claim could pertain to a bonus, commission, marketing contribution, cumulative occupancy or segment compensation.

The writs of summons have been served to prevent the lapsing of rights; they have been served well ahead of time.



Debt collection work continued during **reporting period 7**.

Additionally, in reporting period 7 various talks took place with air carriers in order to create clarity concerning whether or not one or more of the estates has a claim (on balance) against one or more air carriers.

**In reporting period 8, it was found with regard to some airlines that the estates have no claims against these airlines. The relationship with the remaining airlines is under review.**

**In reporting period 8, the activities related to the collection of accounts receivable were also continued.**

4.2 Proceeds

: Not yet known

4.3 Contribution to the estate

: Depending on the outcome of the issue referred to in 5.1, (further) arrangements will be made about a contribution to the estate.

Activities during the reporting period

Correspondence and discussions with Oad Bus B.V. concerning the collection of debts (and progress made in this respect). Correspondence with business partners; negotiations with business partners; correspondence with the deputy bankruptcy judge; drawing up writs of summons. Examination of detailed documentation.  
**Consultation with a number of airlines and consultation with the accountant called in by the trustees.**

## 5. Bank/securities

5.1 Claims from bank(s)

: Rabobank (group financing), €11,912,089 as at date of bankruptcy order. The claim mainly consists of drawn bank guarantees. At the date of the bankruptcy order there was a positive bank balance of over €4,000,000.

The trustees repaid the bank from the proceeds from the restarted units of the Oad Groep. Other proceeds will be released. At a later time the obligation to contribute of the individual Oad companies and possible rights of recourse will be considered.

The legal validity of the claims and securities of Rabobank will be examined. The latter investigation is still going on. There are still a number of issues concerning securities that have to be clarified/resolved. This means that the trustees so far have not been able to recognise any securities.

Rabobank and the trustees still have to agree on how and if these obscurities can be solved or eliminated.

There have been extensive discussions with Rabobank in **reporting period 3**. We have found that the claim submitted by the bank exclusively concerns bank guarantees provided by the bank for the benefit of the creditors of the Oad companies and a loss made on an interest rate derivative. Two bank guarantees with substantial amounts have been drawn. Not all the bank guarantees have been drawn by the relevant creditors. As some of the bank guarantees have not been drawn, the bank's claim could be slightly smaller. An investigation has shown that the bank has secured much more than what is needed for the payment of the claim of €11,912,089. Partly thanks to the payment of a large number of receivables, a surplus of at least €5,319,628.06 has been accrued. In addition, Rabobank has been asked to transfer €2,000,000 to Oad B.V.'s estate account. This concerns the proceeds from the sale of the property in Goor, which was owned by Oad B.V. and had initially been claimed by the bank, as the mortgagee of this property. In **reporting period 3**, the bank did indeed pay €2,000,000 into the designated estate account.

When requested to do so, the bank paid the remaining €5,319,628.06 into the estate account of Oad Touringcar Bedrijf B.V. The proceeds from the sale of the buses owned by Oad Touringcar Bedrijf B.V. of € 8,060,000 have been transferred to Rabobank without prejudice to any of its rights. The transfer of these amounts will lower any recourse claims. Please note that the proceeds are still to be allocated.

In reporting period 4, in anticipation of the final allocation of the proceeds to the various estates, the trustees transferred an amount of €275,368.94 from the estate account of Oad Touringcar Bedrijf B.V. to the estate account of Oad Busbedrijf B.V. The reason for this is the fact that, in addition to Oad Touringcar Bedrijf B.V., Rabobank had also demanded that Oad Busbedrijf B.V. repay its debts to the bank. Apart from the amount that Oad Touringcar Bedrijf B.V. paid the bank in that context (being the previously referred to amount of €8,060,000), Oad Busbedrijf B.V. also paid the bank an amount of €440,000, bringing the total amount paid to the bank to €8,500,000. At the trustees' insistence, as stated before, the bank eventually repaid an amount of € 5,319,628.06. This amount was received in the estate account of Oad

Touringcar Bedrijf B.V. As this amount includes an amount that Oad Busbedrijf B.V. is considered to be entitled to, the trustees calculated, pro rata to everyone's share in the payment to the bank, that Oad Busbedrijf B.V. is entitled to €275,368.94 of the amount repaid. None of the creditors can invoke any rights to the various estate accounts. The external lawyer engaged by the trustees who will investigate the conduct of the bank in relation to the cancellation of the credit agreement will also advise the trustees on the legal validity of the bank's alleged rights to securities. In **reporting period 3**, the trustees issued this instruction to the external lawyer.

**This investigation is still underway.** Rabobank is aware of the fact that this investigation takes time and that new claims and/or complaints may follow. This investigation has not yet been completed, in part due to the reasons mentioned in the general notes affixed to this report as Annex 1.

5.2 Lease contracts

: Not applicable

5.3 Description of the securities

: Please note: the securities listed below comprise all securities furnished to Rabobank by the companies in the Oad Groep at the time of the bankruptcy order. Not all securities relate to the present bankruptcy.

The securities of Rabobank include:

a right of pledge on:

- all present and future equipment;
- all present and future stocks;
- all present and future intellectual property rights;

- all present and future rights/claims against Stichting Internet Domein Registratie Nederland (SIDN) pursuant to domain names registered with SIDN;
- all rights/claims against third parties existing on the date of registration of the deed of pledge and all rights/claims obtained from the legal relationships existing at the time of registration of the deed of pledge;

a right of mortgage in respect of:

- the building right, i.e. the right to have a roofed stop for passengers and buses on the parcel of land situated at Sint Jansgildestraat in Beek (municipality of Montferland), recorded in the land register as municipality of Bergh, section L, number 813;
- the dwelling with the land and all appurtenances, situated at 7671 HA Neede, 36a and 38 Borculoseweg,

recorded in the land register as municipality of Neede, section C number 8474;

- the dwelling with land and all appurtenances, situated 6881 SM Velp, 7 Emmastraat, recorded in the land register as municipality of Velp, section H, number 2131;
- a parcel of land at Enterseweg in Goor, recorded in the land register as municipality of Goor, section A number 2463;
- the business property with the land and all appurtenances, situated 7471 ST Goor, 2 Breukersweg, recorded in the land register as municipality of Goor, section A number 3171;
- the dwelling with land and all appurtenances, situated at 7471 BR Goor, 72 and 72b Grotestraat, recorded in the land register as municipality of Goor, section C number 3431;
- the dwelling with the land and appurtenances, situated at 7451 CM Holten, 5 Oude Deventerweg, recorded in the land register as municipality of Holten, section E number 3374;
- a parcel of land situated at Burgemeester van der Borchstraat in Holten, recorded in the land register, municipality of Holten, section E number 3575;
- the dwelling with the land and appurtenances, situated at 7451 CM Holten, 1 Oude Deventerweg, recorded in the land register as municipality of Holten, section E number 3476;
  
- the business premises with dwelling, land and appurtenances, situated at 7451 CH Holten, 2, 4 and 6 Burgemeester Borchstraat, recorded in the land register as municipality of Holten, section E number 3492;
- a parcel of land situated at Oude Deventerweg in Holten, recorded in the land register as municipality of Holten, section F number 5748;
- the building right, i.e. the right to have and maintain buildings (business premises with dwelling) on the parcel of land situated at 7462 BA Rijssen, Walstraat 1, 5 and 9, recorded in the land register as municipality of Rijssen, section F number 3799;
- the business premises with land and all appurtenances, situated at 1381 BA Weesp, Slijkstraat 20, recorded in the land register as municipality of Weesp, section A number 5359.

5.4 Separatists position : See item 5.1 above.

- 5.5 Contributions to the estate : Depending on the outcome of the issue referred to in 5.1, (further) arrangements will be made about a contribution to the estate.
- 5.6 Retention of title : No information
- 5.7 Right of recovery : No information
- 5.8 Right of retention : No information

Activities during the reporting period

In the past reporting period, there has been frequent consultation with the lawyer engaged by the trustees.

**6. Restart/continuation**

Oad Bus B.V. (a new company incorporated by the purchasing investment company, hence not belonging to the companies within the concern) restarted the activities of Oad Touringcarbedrijf B.V.

Regarding the manner in which the bus related activities are to be sold and the associated purchase prices paid by Oad Bus B.V., the trustees have the following remarks, in addition to the general information provided in the first reports of Oad Groep B.V. c.s. Considering the circumstances stated in the aforementioned explanation the trustees acted according to the findings and chose to approach a limited number of parties about the sale of bus-related activities. Finally the trustees succeeded in reaching agreement with Oad Bus B.V. in respect of the sale of a number specified assets/activities, with the aim of continuing the bus-related activities. As regards the price, the trustees note that when the (final) offer of Oad Bus B.V. was accepted, which offer was higher than the assessed values, there was certainty about both the proceeds and the retention of many jobs, which would not have been the case if the trustees had rejected the (final) offer of Oad Bus B.V. and continued negotiations with other parties. An important extra aspect was that the aforementioned (final) offer of Oad Bus B.V. not only was higher than the assessed value but also higher than the amounts offered for the same assets/activities before the bankruptcy, whereas normally a bankruptcy has a value decreasing effect.

A final consideration for accepting the (final) offer of Oad Bus B.V. was that the regional transporter with whom Oad Busbedrijf B.V. had an agreement for the maintenance of the buses, had informed the trustees that if no certainty were obtained within short about the continuation of that agreement, maintenance would be given to someone else, which decision would have had a negative effect on the sale proceeds to be realised.

Apart from all this, the trustees note that in **reporting**

**period 2 and 3** they have talked to Oad Bus B.V. about a number of issues connected with the restart, such as the cost of the continued temporary use of rooms in the Oad head office in Holten by Oad Bus B.V., in anticipation of moving to the premises in Goor. Apart from that, Oad Bus B.V. informed the trustees about a number of matters which in the first instance were not involved in the restart (such as skis, hardware, office equipment and a vehicle), but which Oad Bus B.V. still wanted to buy from the trustees. At the time this report was made, negotiations had been partly finished and were partly still going on. In the next report the trustees will give further information.

The negotiations concerning previous parts were entering their final stage at the time when the **third report** was drawn up. It is anticipated that the next report will give notice that the final obstacles have been overcome and that it will be possible for it to present the final result. In **reporting period 4**, agreement was reached with Oad Bus B.V. on the contribution to be made by Oad Bus B.V. towards the costs associated with continuing the temporary use of rooms in the head office and on the sale of a number of movables. The parties also reached agreement on the settlement of various out-of-pocket expenses relating to the period from the bankruptcy order until the moment Oad Bus B.V.'s activities were taken over. This concerns costs charged by third parties to Oad Bus B.V., whereas these costs relate to the aforementioned period and the associated sales revenue has accrued to the estate. This includes fuel costs, toll and parking expenses. These out-of-pocket expenses amount to €53,641.72, including VAT, for fuel costs and €16,189, including VAT, for other out-of-pocket expenses. It has been agreed that the trustees will pay Oad Bus B.V. the above amounts. The trustees, on the other hand, are entitled to compensation for costs associated with continuing the temporary use of the rooms in the Oad head office by Oad Bus B.V. These amount to €15,815.46, including VAT. This amount is the Oad Bus B.V.'s contribution towards the costs of utilities. The trustees have financially accounted for the aforementioned sales and mutual settlements in the bankruptcy report of Oad Busbedrijf B.V. under item 3, stating the purchase prices of the various movables. It should be noted that the proceeds and costs referred to have yet to be allocated to the various estates.

6.1 Commercial  
operations/securities

: Not applicable

6.2 Financial recording : Not applicable

Activities during the reporting period : None.

## 7. Lawfulness

7.1 Accounting : Art 2:10 of the Civil Code. The management is obliged to keep accounts showing the rights and obligations of the legal entity at any time. Whether this obligation was met will be investigated by the trustees.  
In **reporting period 2** an internationally operating firm with forensic accountants was ordered to carry out a “quick scan” of the way in which the accounting records were kept. Before this “quick scan” can be carried out the physical and digital records have to be secured.

The physical and digital records were secured in reporting period 3. This will allow us to start with the “quick scan” in the coming reporting period. As different investigations are being conducted in parallel, the trustees feel that it would be advisable to make arrangements with the investigators on the coordination of the various investigations to avoid the duplication of work on certain aspects. In addition, the various investigators will have to consult on the (simultaneous) use of the available sources, including the physical and digital records. We are currently still reviewing what would be the most effective format for this consultation.

As regards the developments in this respect, the trustees refer to the general information affixed to this report as annex 1.

### Physical records

A significant amount of administrative records has been found in various locations within the building in Holten. Amongst other things they include financial administration records, management information, annual reports, minutes and also detailed administration records (pertaining to projects or otherwise) of various departments within Oad et al. like Group Travel, Sports & Incentives, Disney, etc. Apart from that there is a large quantity of records stored on the premises in Holten (e.g. “Oad files” and management files). As the trustees are currently unable to ascertain precisely which records are or may become relevant to the settlement of the bankruptcy, they have decided to keep the majority of the books. In doing so, it is imperative to ensure that the records in question can be retrieved effectively, quickly and easily. It has been

established that there is a large quantity of material to be archived, which makes storage and indexing a complex task resulting in high costs. The trustees asked three parties to give a quotation for securing, indexing and storage of the records. Finally, Vada Archieven B.V. in Nijverdal was given the order to carry out these activities. As regards the indexation, the trustees will receive a list stating the file and location (file spine/file name).

Photographs will be taken of the arrangement of the records as it was so as to be able to reconstruct the location of the records (which room/ where in the room/cabinet). In this way the trustees try to ensure that relevant records can be traced back in as many ways as possible. Furthermore the trustees made arrangements with Vada Archieven B.V. about consulting the archived information either at Vada's or by (digital/physical) forwarding the relevant documents.

At the time of reporting in relation to the **third report**, Vada Archieven B.V.'s inventory and classification had covered two-thirds of the total records, meaning that these records, comprising over 15,000 items (folders and files) can be retrieved at any time at the request of the trustees and the investigators acting on behalf of the trustees. The aim is to complete this inventory and classification in the coming weeks. Ultimately, over 22,000 items will have been classified and inventoried.

In **reporting period 4**, Vada Archieven B.V. completed the activities assigned to it. All the records were classified and inventoried. Based on the inventories drawn up by Vada, it is fairly easy to retrieve various items from the records.

With the aid of selection criteria relevant parts of those administrative records were selected during **reporting period 5**. As such, approximately 1600 lever arch files have been designated as relevant and have been separated from the rest. The contents of those files needed to be scanned, so as to be able to place them in the data room. The scanning process has recently been completed. While preparing this report the electronic contents of those 1600 files have been placed in the data room (see the general notes in Annex 1 to this report).

In **reporting period 6**, designing and populating the data



room was completed. The contents of the data room include a large number of scans of the relevant documents from the physical records. The trustees and third parties engaged by them have secure remote access to the information in the data room (including the scans of documents from the physical records).

#### Digital records

In **reporting period 2**, the trustees have worked on securing the digital records of Oad. This is important for collecting receivables, invoicing work in progress (where that has not been done yet) and for the regular examination of the records.

In order to map the ICT infrastructure a session was convened with 1) a representative of the trustees, 2) 3 former Oad ICT employees and 3) forensic accountants who will make a back-up of the digital records for the trustees. During those discussions it appeared that the ICT structure and infrastructure is rather extensive and complex which is, among other things, due to the fact that different systems (partly self-made, partly packages available on the market) were/are used and linked. Another aspect is that the server park is partly located on the premises in Holten and partly with an external party in Enschede.

Given that it was not entirely clear at the time of the second report which data is relevant to the settlement of the bankruptcy, it has been decided to divide the process into stages. During stage 1 only the data is secured. In stage 2 essential business information, such as the financial records, will be made accessible for consultation. During the following stages, the relevant data can where necessary be accessed and consulted.

Securing the data (and viewing the data during the next stage) will lead to high costs considering the complexity and size of the system and data. However, since a proper settlement of the bankruptcies is important, such investment will be necessary.

During **reporting period 3** the first stage (securing the electronic administrative records) was completed and the company which secured those administrative records at the trustees' behest started on the second stage: retrieving part of the secured data (in particular, the administrative records) by exporting it in a usable form. By order of the trustees, this company is also investigating the option of bringing the old systems live so as to be able to safely

access the secured data (stage 3). This investigation was still ongoing at the time of the third report.

In reporting period 4, the principal digital systems were brought live and (partly as a result thereof) a large part of the digital records was made accessible. This is essential for the further investigations and discussion with certain parties (debtors and business partners) about the obligation to pay.

Those parts of the electronic administrative records deemed to be relevant for the purposes of the audits were selected during reporting period 5. This process had been virtually completed by the time this report was drawn up. Once completed, it will be possible to start the audits.

In **reporting period 6**, designing and populating the data room was completed. The trustees and third parties engaged by them have secure remote access to the information in the data room for the purpose of their investigations.

In **reporting period 7** the data room was frequently used.

In reporting period 8, the data room was also used frequently.

## 7.2 Filing of the annual accounts

: The financial year of Oad runs from 1 November to 31 October. From the online trade register of the Chamber of Commerce it appears that the consolidated accounts for the Financial year 2010-2011 were filed by the Oad Groep Holding B.V. on 6 December 2012. That means the statutory deadline was exceeded by 6 days.

Under Dutch case law, exceeding the deadline by such a margin is not deemed mismanagement that is to be regarded as an important cause of the bankruptcy. The annual accounts of the financial year 2011-2012 had not been published at the time of the bankruptcy order.

The trustees are examining whether the statutory publication deadline for the annual accounts 2011-2012 has been exceeded and if so what would be the consequences.

- 7.3 Unqualified auditor's report : An independent auditor's report has been issued regarding the annual accounts for the financial year 2010-2011. At the time of the bankruptcy order, no independent auditor's report had been issued regarding the annual accounts for the financial year 2011-2012.
- 7.4 Compulsory payment on shares : The trustees will investigate if the obligation to fully pay up the share capital has been complied with.
- 7.5 Mismanagement : The trustees will investigate whether the managers failed to properly fulfil their duties and, if so, whether it may be assumed that this was an important cause of the bankruptcy (as referred to in article 2:248 of the Civil Code), or whether the managers may be considered responsible otherwise. The trustees will carry out the usual investigations within the framework of the bankruptcy. In view of the size of the company and the interests involved in the bankruptcy, the trustees will engage forensic accountants and external lawyers in their investigations. It is to be expected that the investigations will take quite some time. As mentioned above in 7.1, an external office has been ordered to make a "quick scan" of the way in which the records were kept. At the same time, an external firm of lawyers has been engaged to carry out an investigation into the causes of the bankruptcies. Together with the internationally operating firm referred to in 7.1, a draft plan was made in **reporting period 3** for an investigation into the causes of the bankruptcies and into the conduct of management and supervisory directors during the period prior to the bankruptcy. It is expected that more information on this will be provided in the next report.

As regards the developments in **reporting period 5** regarding the investigation into the causes of the bankruptcies and into the conduct of management and regulators during the period prior to the bankruptcy, please see the general information which has been affixed to this report as annex 1.

With regard to the developments during **reporting period 6** concerning the investigation into the causes of the bankruptcy and into the conduct of the management board and supervisory directors during the period prior to the bankruptcy, please see the general notes affixed to this report as Annex 1.

With regard to the developments during **reporting period 7** concerning the investigation into the causes of the bankruptcy and into the conduct of the management board and supervisory directors during the period prior to the bankruptcy, please see the general notes affixed to this

report as Annex 1.

**With regard to the developments during reporting period 8 concerning the investigation into the causes of the bankruptcy and into the conduct of the management board and supervisory directors during the period prior to the bankruptcy, please see the general notes affixed to this report as Annex 1.**

7.6 Fraudulent acting in respect of creditors : The trustees will investigate any juridical acts that may have been detrimental to one or more of the creditors; these juridical acts will be annulled by an out-of-court declaration if necessary. This aspect will be incorporated in the examination of the records.

Activities during the reporting period

Correspondence with archiving company and forensic accountants (regarding making the secured data accessible). Discussions with representatives of the internationally operating firm (regarding the examination of the records).

## 8. Creditors

8.1 Claims against the estate : Up to and including **reporting period 8**, the UWV has submitted preferential claims in respect of assumed payroll liabilities totalling €915,343.01.  
The exact amounts of the various other claims against the estate in relation to rent, energy costs, insurance costs, fuel costs, etc. are not yet known.

8.2 Preferential claim from tax authorities : A tax consultant, practising in the office of one of the trustees, mr. G.W. Luesink, is busy establishing the fiscal position of the companies in consultation with the tax authorities. There is a dispute about the question as to whether one or more of the bankrupt companies enjoyed tax deductible training.

In **reporting period 4**, after obtaining permission from the bankruptcy judge, the trustees engaged KPMG Meijburg & Co to assist them in the discussion with the tax authorities concerning the tax benefits relating to tax deductible training enjoyed by Oad. The tax authorities take the position that this deduction was unjustified and, as such, have levied a wage tax assessment against various companies forming part of the Oad group to a total amount of more than €2,400,000. To date, these wage tax and social security contributions assessments have been levied against other bankrupt companies, viz.: Globe Reisburo B.V. (€2,118,000), Brooks Reisburo B.V. (€230,000), Reisburo Van Staalduinen B.V. (€91,659) and Oad Reizen B.V. (€3,104).

During **reporting period 5** consultations were held between an official from Meijburg & Co. and the Tax and Customs Administration office. Those consultations have not yet yielded any results.

During reporting period 5, the trustees also notified those individuals who played a role (advisory or otherwise) at the time in relation to tax deductible training that they are liable for any loss which the various estates may suffer should it appear that the tax deduction was unjustified. This also involves parties that are themselves insolvent. The trustees have done nothing other than register their claim to have it verified.

In **reporting period 6**, KPMG Meijburg & Co sent information to the tax authorities corroborating the manner in which Oad had organised its training programmes and the manner in which Oad dealt with them in terms of tax law. The documents confirm that in the opinion of KPMG Meijburg & Co, Oad dealt seriously with the education and the associated conditions, that the training programmes were relevant and that, accordingly, the tax authorities wrongly state that the pertinent education requirements are not met in order to be eligible for a deduction. It remains to be seen whether and to what extent the tax authorities accept the explanation provided on behalf of the trustees.

In **reporting period 7** the talks with the Tax and Customs Administration concerning the training credit continued. This did not result in a solution. On the basis of the current state of affairs the trustees expect that legal proceedings will be conducted concerning this matter.

**In reporting period 8, the discussion with the Tax and Customs Administration concerning the training credit was also continued but so far without success. This discussion will be continued in the coming reporting period.**

Moreover, the question of whether turnover tax is due abroad must be examined. In addition, aspects regarding corporation tax still have to be examined. **This tax investigation is still ongoing.**

Up to and including **reporting period 8**, the tax authorities have submitted preferential claims amounting to **€594,105,-**. This amount includes a claim against the tax entity OAD Groep B.V. et al. in the amount of €452,706,-.

8.3 Preferential claim from the UWV : Up to and including **reporting period 8**, the UWV has submitted preferential claims in respect of assumed payroll liabilities totalling €488,449.46.

- 8.4 Other preferential creditors : Five other creditors have submitted preferential claims. Regarding the developments on the claims of former employees and trainees, please see item 2 above.
- 8.5 Number of ordinary creditors : So far there is no list of claims from creditors of this company. The claims submitted in all Oad companies, over 10,000, are sorted and listed. Moreover, the claims are summarily checked to see if they are claims against a company in which a payment can be expected. The trustees expect they can give a preliminary overview of all claims submitted and the respective amounts in the next report. The trustees consider it too early to make an interim list because, considering the fact that many claims still have to be assessed, this would give a wrong picture of the number and amount of the claims submitted.

For activities connected with creditors, two employees have been engaged for a period of 6 months.

- 8.6 Amount in ordinary creditors : Up to and including reporting period 8, creditors have submitted 259 ordinary claims totalling €835,607.50. According to the list of creditors from the accounting system of the bankrupt companies, the outstanding balance amounts to approximately €465,000. The creditors have been notified and requested to submit their claims. Up to and including reporting period 8, ordinary claims totalling €835,607.50 have been submitted (see 8.5). The lists of submitted claims are annexed to this report.

- 8.7 Will it be a closure : probably not.

- 8.8 Simplified settlement : Probably not

- 8.9 Will there be a distribution to ordinary creditors : At this stage it is not yet known whether a distribution to ordinary creditors is possible. Based on the currently known information, the trustees come to the conclusion that a distribution to the ordinary creditors is not excluded.

Activities during the reporting period

Correspondence with the tax authorities. A lot of correspondence and telephone discussions took place with the creditors. Consultations have been held with an official from Meijburg & Co.

**9. Other issues**

- 9.1 Time needed to settle the bankruptcies : The settlement of the Oad bankruptcies is expected to take several years.
- 9.2 Action plan : Debt collection, carry out the usual investigations in bankruptcy matters.
- 9.3 Next report : **1 May 2017**

The following annexes are attached to this report.

Public:

1. General notes on the investigational approaches
2. Interim financial report
3. Overview of time recording per time recording group
4. Lists of creditors

Confidential:

5. Statement of changes to the estate account in the reporting period
6. Timesheets

Zwolle/Holten, 1 May 2016

mr. D. Meulenberg  
(Trustee)

mr. J.T. Stekelenburg  
(Trustee)

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A handwritten signature in black ink, appearing to be a stylized 'S' or similar character.