

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 B.V.

Bankruptcy number : C/08/13/817 F

Date of bankruptcy order : 25 September 2013

Trustees : Up to 15 January 2014: mr. J.A.D.M. Daniels and mr. J.T. Stekelenburg  
As from 15 January 2014: mr. D. Meulenberg and mr. J.T. Stekelenburg

Staff members in bankruptcy matters : Up to 15 January 2014: M. Samsen; M.L. Wijlens; A.K. de Beurs; G.J. Bramer; A.C. Vroom  
As from 15 January 2014: 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)  
Up to 15 January 2014: drs. A.B. Terpstra  
As from 15 January 2014: mr. G.W. Luesink and M.M.S. Feenstra

Financial : As from 15 January 2014: mr. G.W. Luesink and M.M.S. Feenstra

Bankruptcy judge : mr. M.L.J. Koopmans

Activities of the company : Investment and management 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 : 4

Reporting period : **19 April 2016 up to and including 18 October 2016**

Hours spent in the reporting period : **62 hours and 26 minutes**

Total hours spent : **892 hours and 11 minutes**

Balance as at 18 October 2016 : **€3,161,463.41 (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 B.V. is Oad Groep B.V., of which Oad Groep Holding B.V. is sole shareholder. Managers of Oad B.V. are Mr. J.G. ter Haar, Mrs. Q.F. ter Haar and Oad Groep B.V. The managers are jointly authorised (with other managers). The legal group structure (organisation chart) as at 1 September 2013, provided by the bankrupt companies, 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. Insurance policies of which cover is still required (buildings insurance) will be maintained.
- 1.6 Lease : Not applicable
- 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 means for this capital injection were available but failed to provide the possibility 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 the fifth 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 : 4

2.2 Number in the year before the bankruptcy : 4

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. Following an investigation, the trustees have reached the conclusion that the claims from these creditors, which (mostly) relate to the period after the bankruptcy date, should be regarded as "exceptional bankruptcy costs", or at least as costs that have been incurred on the instructions (on behalf) of the trustees. 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. 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 Oad B.V. (none of the employees who have filed a claim with the trustees have been employed by Oad B.V.).

Activities during the reporting period

None

### 3. Assets

#### Immovable assets

- 3.1 Description :
- 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 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.
  - Shop/dwelling and grounds including the parcel of land on which they are situated at Slijkstraat 20 in

(1381 BA) Weesp, recorded in the land register as WEESP A 5359.

3.2 Proceeds from sale of immovable property

: Goor

the business premises at 2 Breukersweg in Goor: €2,000,000. The deed of transfer is expected to be fulfilled on 2 December 2013. The transfer of the business premises in Goor took place in **reporting period 2**.

Neede

The dwelling including garage in Neede has been sold. The sale was split into two, with the parcel of land with the dwelling sold separately from the parcel of land with the shed/garage. The transfer was recently effected. The (total) purchase price amounts to €197,000. The usual costs and charges have yet to be deducted from this amount, including the estate agent's fee. After deducting all costs and charges, the proceeds total €191,224.35.

Holten head office

After having obtained the consent of the bankruptcy judge, the trustees engaged an external expert to assist with (reviewing the option of) the sale of Oad's head office in Holten, in the hope and expectation that a good use will be found for this building and a good sales price will be achieved with the help of this expert.

In **reporting period 3**, the trustees were contacted by two parties interested in obtaining the building. We will have further discussions with them in the coming reporting period.

In **reporting period 4**, apart from the parties that had indicated an interest in the building in previous reporting periods, there were viewings with a number of parties. The trustees expect to obtain more certainty about the sale of the building in the coming months.

In addition, there will be property control on the premises in Holten. This means that the interior and exterior of the premises will be regularly inspected.

Pending the sale, the alarm systems have been left in place and a provision has been made for a new alarm system.

Pending the sale, miscellaneous maintenance work was carried out (where necessary) on the business premises (in particular) in Holten during **reporting period 5**. Finally, immovable property located at Burgemeester van der Borchstraat 2, 4 and 6 in Holten and the residential

dwellings situated at Oude Deventerweg 1 and 5 were sold at the end of reporting period 5. The proceeds from all of the immovable property taken together amounted to €820,000. This income accrued to the estate of Oad B.V.

#### Building in Weesp

This building was sold and transferred during **reporting period 5**. The selling price was €165,000. The usual costs and charges have yet to be deducted from this amount, including the estate agent's fee. After deducting all costs and charges, the proceeds total €159,865.45.

#### Building in Goor (Grotestraat 72 and 72b)

The top floor of this building has been occupied (let) for some time already (even before the bankruptcy date). The rental amounts to €257.75 per month and the tenant pays it into the bankruptcy account every month. The top floor of the building was recently damaged by a storm or heavy downpour. In consultation with the tenant of the relevant building and the insurer, we are examining whether the loss is to be charged to the estate or whether it is covered by the relevant insurance policy.

In **reporting period 6**, it became clear that the loss is not covered by Oad's insurance. In reporting period 7, the trustees will consider how to deal with this issue. Meanwhile, the trustees are still in the process of selling this building.

In **reporting period 7** the trustees, on the advice of the property agent charged with selling the property, reduced the price asked for the property, expecting that this would lead to a sale within the foreseeable future.

**In spite of the reduction in the asking price in reporting period 7, the trustees did not manage to sell the property in reporting period 8. The trustees will await the developments in the coming reporting period.**

#### Building in Velp

In **reporting period 6**, one party showed interest in the building in Velp. However, there is discussion with this candidate about the exact plot boundaries. After having obtained permission from the bankruptcy judge, the trustees are having a plot boundary reconstruction carried out by the land registry. The negotiations with the candidate



will not be continued/finalised until the plot boundaries are clear.

In **reporting period 7** the trustees have managed to sell the property, with due observance of the result of the plot boundary reconstruction. The sale took place under the resolute condition that the purchaser obtains financing. At the time of compilation of the seventh report the period agreed for that purpose is still running, so that it is not (yet) clear if the sale is successful.

**In reporting period 8, the sale of the property was finalised, with an amount of €126,563.60 being received in the bankruptcy account.**

#### Vacancy management

The trustees are currently undertaking efforts to arrange temporary occupants/users for the premises that have not yet been sold, so as to limit the risk of (for example) burglary, decay and/or vandalism. Besides, the marketability of the properties will increase when they are used or occupied. There have been negotiations with a number of reputable parties offering services in the field of vacancy management.

In **reporting period 3**, we ordered the property care manager, after having obtained the consent of the bankruptcy judge, to take over the management of a number of the above-mentioned buildings. All premises, with the exception of Neede, which building has been sold, are now under (vacancy) management. Following the sale of the buildings in Holten, vacancies are currently still managed at the branches in Velp and Goor.

Partly in connection with the insurance policy conditions, the central heating boilers in the buildings will shortly be inspected/serviced, and the fire-resisting facilities will be subjected to an inspection/test. This inspection and verification has occurred in the meantime. Where it has turned out to be necessary, parts and items have been replaced and/or repaired.

#### Building right in Beek

With regard to the right of superficies, discussions are currently being held with the owner of the plot of land over which a roof has been placed. These discussions revolve around the question as to whether the right of superficies had already ceased to apply, with the result that the roof has become the property of the latter party through accession. The trustees contest that the building right has

ended. The discussion on whether or not the building right has ended is ongoing.

In **reporting period 5**, the parties consulted one another to examine whether an amicable settlement was an option. The possibility of such an arrangement is being explored further.

In **reporting period 6**, the owner of the plot that is subject to the building right held by Oad and the trustees came to an arrangement with the permission of the bankruptcy judge. Based on that, the owner has paid the trustees an amount of €10,000, in return for which the trustees waived their claims.

#### (Former) building right in Rijssen

It recently transpired that in the past arrangements were made between (one of) the bankrupt companies and the local council of Rijssen-Holten regarding the building right relating to a (former) bus station. The trustees are currently consulting with the local council about the contents of the arrangements made at the time, as well as the question of whether all agreed arrangements were adhered to by the parties.

In **reporting period 5**, a discussion with the municipality took place. With regard to this matter, the possibilities for an arrangement between the parties are also being explored in an attempt to avoid legal proceedings.

In **reporting period 6**, the trustees have not yet managed to come to an arrangement with the municipality. The trustees consider it likely that the matter will go to court.

In **reporting period 7** the trustees, having been granted permission from the deputy bankruptcy judge, were able to agree on an amicable settlement with the municipal authorities. In connection with this the municipal authorities paid the estate a one-off amount of €27,500. This matter has therefore been dealt with.

Following consultations with Rabobank, we learned that the funds and proceeds held by the bank exceeded the amount of its claim. We have therefore asked Rabobank to pay the proceeds from the sale of the property in Goor into the estate account of Oad B.V. This payment has since been made (see also 5.1)

### 3.3 Mortgage amount

: A right of mortgage has been granted to Rabohypotheekbank N.V. and Coöperatieve Rabobank Enschede-Haaksbergen U.A. to an amount of €32,500,000.

The trustees repaid the bank from the proceeds from the restarted units of the Oad Groep. As a result of this repayment the proceeds from the immovable property will go to the estate.

3.4 Contribution to the estate : Depending on the result of the discussions with the bank about securities, discussions will have to be held with the bank about a contribution to the estate.

Activities during the reporting period

Consultations and correspondence with estate agents regarding the premises in Velp and Goor, and staff of the energy suppliers and Dé Vastgoedbeschermer.

Operating assets

3.5 Description :

- Audi A8
- Jeep Grand Cherokee
- Volkswagen Passat
- Volvo XC90
- Audi A4 with
- Volkswagen Golf (2x)
- Volkswagen Passat
- Volkswagen Bora
- Volkswagen Polo

Other operating assets of Oad c.s.

In **reporting period 2**, the trustees investigated the possibilities of selling the 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

- :
- The Volvo XC90, Volkswagen Golf (2x), Volkswagen Passat and Volkswagen Bora are part of the purchase agreement with the restarter Oad

Bus B.V.; the proceeds from these cars amount to €39,050 plus VAT.

- With the exception of the Audi A8, which was sold and for which the trustees have received an amount of €50,000 the proceeds from the other cars and other operating assets are not yet known.
- 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 : No other assets found in this company.

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 : In **reporting period 2**, an investigation into the possibilities of collecting outstanding receivables was started. As such, the data required for a proper collection of the (digital and physical) records is secured (see item 7.1 of this report).

As regards the aforementioned investigation and any related/ensuing actions, there is as yet no further news, apart from the fact that in **reporting period 4** the trustees sent a letter to all business partners known to them, notifying the parties involved, where applicable, that they

claim a customer fee (in cases where there was an agency) and that otherwise they have stayed all claims/receivables. All this has been done for the purpose of reserving rights.

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 or will not be made about a contribution to the estate.

Activities during the reporting period

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 stage, 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 yet 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.** Please see the relevant account 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 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 : Not applicable
- 5.7 Right of recovery : Not applicable
- 5.8 Right of retention : Not applicable
- 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** No activities of Oad B.V. were restarted or continued.

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 notes (under 3) 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 secure that relevant records can be traced back. 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 the fifth 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 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 (publication requirement) : 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 regulators 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 that 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 and bringing it live). 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 €31,052. The 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. (€ 230,000.00), 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.

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 totalling €€ 462,417,-. This amount includes a claim against the tax entity OAD Groep Holding 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 €19,870.87.
- 8.4 Other preferential creditors : Up to and including **reporting period 8**, one other creditor has submitted a preferential claim.  
Regarding the developments on the claims of former employees and trainees, please see item 2 above.
- 8.5 Number of ordinary creditors : The books of Oad B.V. do not show any ordinary creditors. Up to and including **reporting period 8**, creditors have submitted 8 ordinary claims totalling €78,695.39.
- 8.6 Amount in 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.

Up to and including **reporting period 8**, ordinary claims totalling €78,695.39 have been submitted (see 8.5). The lists of submitted claims are annexed to this report.

- 8.7 Will it be a closure : No
- 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

Correspondence with the tax authorities. A lot of

period 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 : Selling the immovable assets, carrying 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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