

Number: 12

Date: 5 October 2020

## **BANKRUPTCY REPORT**

Company details	Unlimited Sports Group B.V. (' <b>USG</b> ') and its bankrupt Dutch subsidiaries, for a list see section 1.7. This bankruptcy report is a consolidated report covering all the listed entities.
Bankruptcy number	C/13/16/87 F
Date of bankruptcy order	23 February 2016
Bankruptcy trustees	<i>mr. A. van Hees</i> and <i>mr. J.E.P.A. van Hooff</i>
Supervisory judge	<i>mr. I.M. Bilderbeek</i>
Company activities	Retail/wholesale in sporting goods articles, see below.
Consolidated turnover	Approximately €250 million in 2014
Personnel	2,145
Reporting period	29 June 2020 through 4 October 2020
Hours spent in the reporting period	17.60 hours
Total hours spent	4,575.90 hours

## **1. INVENTORY**

### **1.1. Management board and organization**

Report 1:

Unlimited Sports Group B.V. ('USG') is the parent company and financial holding of the group of entities that together make up the Unlimited Sports Group ('USG Group'). According to the information found in the trade register of the Chamber of Commerce, USG has existed since 31 July 2006.

The USG Group's principal activities are in the wholesaling and retailing of sports, lifestyle and outdoor-related articles. It has multiple subsidiaries in multiple countries, and is known for a number of different brands including Perry Sport and Aktiesport.

The USG Group operated around 350 shops, some in the shop-in-shop formula, and was active in the wholesaling and commercial exploitation of its own brands (including Tenson and Wildebeast) and various other known brands under license (including Fila, Le Coq Sportif, INQ and Ellesse). The USG Group was active in several countries, including Belgium and Luxembourg (Primo shops, Sweden, Denmark (Tenson), Germany (wholesale) and Hong Kong (sourcing office).

As per the date of bankruptcy, the official management of USG according to its articles of association is composed as follows:

- Jos Gillebaard (managing director, independently authorized, CEO);
- Jerry George (jointly authorized, CFO);
- Pascal Kouwenhoven (jointly authorized, Head of USG Brands).

### **1.2. Profit and loss**

Report 1:

The consolidated annual accounts over the years 2006 through 2014 have been filed with the Chamber of Commerce. For financial year 2013, the result was €1,169,000 positive and over 2014 the result was €659,000 negative.

### **1.3. Balance-sheet total**

Report 1:

At the end of 2013, USG's balance sheet total was €188,478,000, and at the end of 2014 it

was €186,942,000 (both consolidated).

#### 1.4. **Pending legal proceedings**

Report 1:

A list of pending legal proceedings will follow in the next report.

Report 2:

At the time of the bankruptcy, there was an ongoing lawsuit against the franchisees of TOS.

Report 3:

The claims against franchisees of TOS fall under the Banks' pledges. As explained in paragraph 4.1 of the previous bankruptcy reports, the banks engaged Mirus for the collection of the claims, this including the claims against franchisees of TOS. The bankruptcy trustees are in consultation with Mirus on whether or not to continue these proceedings.

Report 4:

In the last reporting period there were meetings between Mirus (for the banks) and the attorneys of the franchisees discussing at a possible settlement. With the authorization of the supervisory judge, the bankruptcy trustees have given Mirus approval to make certain arrangements with the franchisees.

#### 1.5. **Insurances**

Report 1:

The bankruptcy trustees have taken an inventory of the insurances contracted by the USG Group through Aon. A significant portion of these insurances have been continued by the bankruptcy trustees with a view to the temporary continuity of the enterprise through a portion of the reporting period.

Report 2:

Recently, a large number of insurances were terminated because they were no longer necessary after the transfer of the enterprise to the relaunched company Sports Unlimited Retail (hereinafter also referred to as "SUR"). The other insurances are expected to be terminated in the upcoming period.

Report 3:

In the most recent reporting period, all still running insurances were cancelled.

#### 1.6. **Lease**

Report 1:

As per the date of bankruptcy, the USG Group was party to some 200 leases, of which approximately 190 were for the rental of shops, with the rest pertaining to the rental of a few warehouses, offices and showrooms.

Prior to the date of bankruptcy, the USG Group had already cancelled some 15 leases. As of the bankruptcy date, the notice period of these cancelled leases had not yet passed.

After the bankruptcy date, the bankruptcy trustees cancelled 55 leases in observance of a notice period of three months, these being primarily shops designated by the management of the USG group as shops making a negative contribution. No interest in the takeover of these shops was to be expected.

After the bankruptcy, approximately 50 tenants cancelled their leases with a notice period of three months. The bankruptcy trustees informed these tenants that they intended to transfer the leased shop, and in the event of a takeover the cancellation would be contested.

The total lease costs of all the leases referred to above were, as of the date of bankruptcy, approximately €2.2 million per month. On that date there was already an outstanding amount of rent in arrears of approximately €2.8 million. The total lease costs as from the date of the bankruptcy until 20 March 2016 was a total of approximately €2.3 million.

Report 2:

In the most recent part of the reporting period, the bankruptcy trustees have been forced to spend a great deal of time on contacts with tenants. In view of the extreme urgency with which the transaction with SUR had to be completed, a transition period was unavoidable. From a bankruptcy situation, the only way to transfer the enterprise as such to SUR was to give SUR the actual power over the shops, and by doing so, enable SUR to continue the shops. The time prior to the transaction was too short to allow SUR to conduct anything resembling a standard due diligence investigation. As a result, SUR could only assess which shops it wished to continue after the transaction. Of course, there was also no time prior to the transaction to allow SUR to reach a consensus with the tenants of the approximately 190 locations on a continuation of the tenancy relationship. The bankruptcy trustees and SUR agreed that after signing the purchase agreement, SUR would enter into

consultations with the lessors of the shops that SUR wished to continue in an effort to come to an arrangement with those lessors. If no arrangement could be reached, then the bankruptcy trustees would either seek the substitution of SUR (at SUR's request) or cancel the tenancy. In the event that substitution were to be forced by court order, arrangements were made in respect of a number of shops crucial to SUR on an additional fee to be paid by SUR to the estate in the event that the substitution sought by the bankruptcy trustees was awarded. Additionally, an arrangement was made with SUR that it would pay a fee to the estate for (in part) the use of the locations. A further agreement reached with SUR was that failing a new agreement or substitution, the shops would be cleared and that SUR would return them in a clean and swept state at the end of its use.

Since that time, SUR has contracted new leases or taken over the existing leases with the tenants of 157 shops. That number is higher than the bankruptcy trustees had expected immediately following the bankruptcy date. As indicated in the previous report, in the first few weeks following the bankruptcy the bankruptcy trustees cancelled 55 leases, for the most part because the management had identified the shops in question as shops with a negative contribution for which no interest could be expected. Despite this, SUR ultimately proved interested in continuing a large number of these shops (in some cases temporarily, and in others permanently).

The lessors of a number of shops were initially unwilling to enter into a new lease with SUR. Preliminary relief proceedings were filed by one lessor seeking the clearing of a shop. Another suit was filed in which the bankruptcy trustees, in anticipation of a decision on the substitution request, sought a court order for another lessor to permit and tolerate SUR continuing the operation of the shop. And of course, the requisite threats of lawsuits were raised from all corners. In all of these cases, the parties were ultimately able to reach a settlement and the lawsuits were either settled or not filed. As such, in the end there was no need to force substitution of SUR as tenant in court.

SUR requested the bankruptcy trustees to consent to SUR entering into new leases retroactive to 1 May 2016. The bankruptcy trustees granted this consent under the condition that the leases in question be entered into no later than 31 May 2016 and that by no later date the bankruptcy trustees were to be provided with statements from the lessors in question discharging the estate from all obligations (including the obligation to clear the locations, the obligation to restore the leased objects to their original state and any obligations of lost rental income as a result of the lower rent agreed with SUR), the exception being the obligation to pay rent back to 1 May 2016. At the end of May 2016, it became clear that SUR had signed a large number of leases, but for a number of others signing prior to the deadline was not realistic. Consequently, SUR requested the bankruptcy trustees to extend the deadline. The bankruptcy trustees were not particularly inclined to do so, for at least two reasons. In the first place, the bankruptcy trustees wanted

to give SUR incentive to agree on new leases with all lessors with all due haste, so that the transition period would not last longer than necessary. Secondly, the estate has a financial interest: with the retroactive effect, SUR owes the estate a use fee over a shorter period. This is why the bankruptcy trustees agreed with SUR on a fee of €250,000 to be paid for the extension of the deadline up to and including 30 June 2016. This amount is based on an estimate of the use fee that SUR would have had to pay over the month of June without the retroactive effect. SUR has since paid the fee.

SUR has now cleared 43 shops.

The expectation is that in the coming weeks, SUR will reach an arrangement with the remaining lessors on either vacating their locations or continuing the tenancy relationship with SUR.

Report 3:

In the most recent reporting period, the bankruptcy trustees put pressure on SUR to make progress in winding up the last leases. This pressure ultimately led to the desired result. At present, there is one lease still running, which the bankruptcy trustees cancelled on 18 November 2016; that cancellation goes into effect on 18 February 2017. It was only recently discovered that there may still be a running lease on a small storage space (with an annual rent of approximately €2000); SUR would be willing to take this over. The bankruptcy trustees are looking into this. With regard to all other stores, SUR has either signed a new lease for the store or taken over the existing lease, or in all other cases has cleared the properties. At present SUR is continuing 150 Aktiesport and Perry Sport stores (some on a temporary basis).

Report 4:

Most of the stores that SUR had continued on a temporary basis, have at this point been closed. Present, over 14 months after the bankruptcy, there are still 100 stores open. Primarily SUR continues to keep open the larger Aktiesport and Perry Sport stores.

Report 6:

SUR is now also opening new Aktiesport and Perry Sport stores.

## 1.7. **Cause of the bankruptcy**

Report 1:

On 22 February 2016, USG submitted an application to the District Court of Amsterdam for suspension of payments under Section 214, Dutch Bankruptcy Act, because at that

moment it expected that it would not be able to continue payment of its exigible debts. On the same date, the District Court of Amsterdam granted provisional suspension of payments, appointing *mr.* I.M. Bilderbeek as supervisory judge and *mr.* A. van Hees as administrator.

On 23 February 2016, the administrator observed that it would be undesirable to continue the suspension of payments, and requested the District Court of Amsterdam to revoke the suspension of payments and simultaneously declare USG bankrupt, pursuant to Section 242(1) opening lines under 5, Dutch Bankruptcy Act. The administrator observed that the company was lossmaking and that it neither had the means to meet its running obligations nor any plan or realistic option of attracting financing or engineering a takeover of USG. No other solution appeared to be a realistic possibility. The administrator explained his intention to USG, and they supported this.

On 23 February 2016, the District Court of Amsterdam declared USG bankrupt, appointing *mr.* I.M. Bilderbeek as supervisory judge and *mr.* A. van Hees as bankruptcy trustee. In the bankruptcy declaration the District Court of Amsterdam also ordered a cooling-off period to continue up to and including 23 April 2016.

In conjunction with the bankruptcy of USG, the District Court of Amsterdam also declared the following companies making up part of the USG Group bankrupt, in each case appointing *mr.* I.M. Bilderbeek as supervisory judge and *mr.* A. van Hees as bankruptcy trustee.

- i. 525 Victories B.V. (C/13/16/96 F);
- ii. Aktiesport B.V. (C/13/16/78 F);
- iii. Aktiesport Holding B.V. (C/09/16/115 F);
- iv. Aktiesport Retail B.V. (C/09/16/118 F);
- v. Aktiesport Trading B.V. (C/09/16/116 F);
- vi. AT Sportswear Distribution B.V. (C/13/16/109 F);
- vii. Cars Footwear International B.V. (C/13/16/108 F);
- viii. DB Licensing B.V. (C/13/16/111 F);
- ix. Eredita Sports B.V. (C/13/16/106 F);
- x. FL Sports B.V. (C/13/16/104 F);

- xi. FL Sport Scandinavia B.V. (C/13/16/105 F);
- xii. Footwear International Distribution B.V. (C/13/16/110 F);
- xiii. High Tide B.V. (C/13/16/93 F);
- xiv. Norsk Sport B.V. (C/13/16/91 F);
- xv. Perry Sport B.V. (C/13/16/77 F);
- xvi. Retail Ventures B.V. (C/13/16/184 F)
- xvii. Ruby Point Real Estate B.V. (C/13/16/90 F);
- xviii. SC Sport B.V. (C/13/16/99 F);
- xix. SL Services B.V. (C/13/16/95 F);
- xx. SL Services Holding B.V. (C/13/16/94 F);
- xxi. SL Services Loyalty B.V. (C/09/16/117 F);
- xxii. Sport Illimitato Gruppo B.V. (C/13/16/98 F);
- xxiii. Sports & Teamwear Benelux B.V. (C/13/16/101 F);
- xxiv. Sportsgear Unlimited B.V. (C/13/16/97 F);
- xxv. Squadra Italia B.V. (C/13/16/100 F);
- xxvi. Studio 23 B.V. (C/09/16/119 F);
- xxvii. Teamsport B.V. (C13/16/76 F);
- xxviii. Teamsport Holding B.V. (C/13/16/92 F);
- xxix. Time Out Footwear B.V. (C/13/16/88 F);
- xxx. Time Out Sport Licenties B.V. (C/08/16/102 F);
- xxxi. Time Out Sport Winkels B.V. (C/08/16/103 F);
- xxxii. Time Out Unlimited B.V. (C/13/16/89 F);



- xxxiii. USG Sourcing B.V. (C/13/16/102 F);
- xxxiv. Valsport International B.V. (C/13/16/112 F);
- xxxv. Venn B.V. (C/13/16/107 F); and
- xxxvi. Ven III B.V. (C13/16/103 F).

By decision of 18 March 2016, *mr.* J.E.P.A. van Hooff was appointed as second bankruptcy trustee alongside the aforesaid *mr.* A. van Hees in these bankruptcies.

It emerged from the discussions with the management and third parties concerning the possible cause of the bankruptcy that the cause of the bankruptcy lay in a combination of circumstances, the first being the poor retail market. Although the USG Group was doing relatively well, it did suffer from the poor market conditions of recent years. Additionally, the USG Group had a total of 139 shop-in-shop locations in V&D department shops and Scapino shops. As is common knowledge, Dutch department shop chain V&D went bankrupt at the end of December, and the bankruptcy trustees in that bankruptcy were forced to close all V&D shops. This cost the USG Group 11 shop-in-shop locations. At almost the same time, the Macintosh Retail Group also went bankrupt, bringing down a number of shop formulas including Scapino. The Macintosh Retail Group had provided the USG Group with 128 Aktiesport shop-in-shop locations in Scapino shops. In addition to this, the Macintosh Retail Group was a major customer of the USG Group. The Scapino shops were bought out of bankruptcy by Mr H. Ziengs, a retailer active in the shoe industry, who purchased them from the bankruptcy of Scapino. On Thursday, 18 February 2016, Ziengs informed the USG Group that he did not wish to continue the 128 Aktiesport shop-in-shop locations. The next day, the group was forced to report this to its consortium of financing banks (Rabobank U.A. (**'Rabobank'**) as leader of the consortium, and also ING N.V. (**'ING'**), Deutsche Bank AG (**'Deutsche Bank'**) and Bank of America Merrill Lynch Limited (**'BoAML'**) (referred to jointly hereinafter as the **'Banks'**). This consortium then announced, on Sunday, 21 February 2016, that it was discontinuing the extension of credit and freezing all the group's accounts.

The investigation into the cause of the bankruptcy is expected to commence in the second half of 2016.

### Report 3:

In the most recent reporting period, the bankruptcy trustees commissioned a quick scan of the administration of USG et al. This quick scan is almost complete. In the next reporting period, the bankruptcy trustees will follow up on the cause investigation.

Report 4:

The quick scan was completed in the last reporting period. Based on the results of the scan, the bankruptcy trustees will begin interviews with a number of persons involved in the coming reporting period.

Report 5:

In the coming period the bankruptcy trustees will continue the investigation into the cause of the bankruptcy.

Report 6:

In the coming period the bankruptcy trustees will continue the investigation into the cause of the bankruptcy.

Report 7:

In the coming period the bankruptcy trustees will continue the investigation into the cause of the bankruptcy.

Report 8:

The investigation conducted by the bankruptcy trustees into the cause of the bankruptcy has led to the conclusion that the cause of the bankruptcy was the aforementioned combination of circumstances, i.e. the poor retail market, the bankruptcy of V&D soon followed by the bankruptcy of Scapino, as a result of which 139 shop-in-shops of USG Group were lost. USG's working capital had been under pressure for a longer period of time, again because of the poor retail market and the resulting disappointing sales, and because of the changing demand. In their investigation, the bankruptcy trustees did not find any indications of material irregularities, so that no further investigation is warranted.

## **2. PERSONNEL**

### **2.1. Number at time of bankruptcy**

Report 1:

At the time of the bankruptcy there were 2,145 people employed by the USG Group.

### **2.2. Number in year prior to bankruptcy**

Report 1:

At the end of 2015, there were 2,125 employees employed by the USG Group.

### 2.3. **Date of dismissal notice**

#### Report 1:

After having obtained the permission of the supervisory judge, the bankruptcy trustees cancelled all employment contracts of the employees of the bankrupt companies in observance of the statutory notice period of six weeks (in accordance with Section 40, Dutch Bankruptcy Act), by letter of 1 March 2016. In most cases, the last day of the employees of the bankrupt companies was 12 April 2016.

The bankruptcy trustees terminated all fixed-term employment contracts with an originally agreed end date in the months of February and March by operation of law (in some cases following a brief extension). For these contracts, no notice of cancellation was necessary.

Additionally, the employment contracts of six Belgian employees of SL Services B.V. and two Swedish employees of Teamsport B.V. were terminated in observance of the applicable local employment laws. On these the bankruptcy trustees were advised by Belgian and Swedish attorneys.

#### Report 2:

In the recent past, the bankruptcy trustees continued the labour relationship with seven employees. In regard to one of them, the notice period was extended and the six others were given temporary contracts. These employees (hereinafter also to be referred to as the “estate team”) supported the bankruptcy trustees in the settlement of the estate, conducting the estate administration, verifying registered claims and answering the questions of former employees.

Since then, the contracts of six of the seven employees have been terminated. The seventh’s employment contract is to end in mid-August. The bankruptcy trustees offered one of the six terminated employees (the USG tax manager) a new temporary contract because in the upcoming phase the bankruptcy trustees will still require further support on aspects such as filing the second quarter VAT tax return.

#### Report 3:

USG’s tax manager has been offered a new temporary contract on an on-call basis. On certain elements, in particular concerning the VAT tax filing and the winding up of various foreign entities, the bankruptcy trustees still require her support.

#### Report 4:

In the closing reporting period, the member of the estate team involved with personnel affairs was offered a new temporary contract on an on-call basis. The bankruptcy trustees still require some support on certain points, in particular concerning employees who had a salary higher than the maximum UWV benefit (for more information, see the rest of this chapter).

Report 5:

The bankruptcy trustees refer to the information provided in reports 3 and 4. Both former employees continue to perform work for the bankruptcy trustees on an on-call basis.

Report 6:

The bankruptcy trustees refer to the information provided in reports 3 and 4. Both former employees continue to perform work for the bankruptcy trustees on an on-call basis.

Report 7:

The bankruptcy trustees refer to the information provided in reports 3 and 4. Both former employees continue to perform work for the bankruptcy trustees on an on-call basis. Further, the bankruptcy trustees have performed other work, including work relating to claims of several Belgian employees.

Report 8:

In the reporting period, the bankruptcy trustees performed services in respect of, *inter alia*, the assessment of claims submitted on behalf of a number of Belgian employees.

Report 9:

In the reporting period, the bankruptcy trustees performed services in respect of, *inter alia*, the assessment of claims submitted on behalf of a number of Belgian employees.

Report 11:

In the bankruptcies of USG, the UWV has taken over payment of the employees' wages on the grounds of the wage guarantee scheme under the Unemployment Act. The wage that qualifies for payment by the UWV was maximised at 150% of the maximum daily wage. Employees who earned more than this maximum therefore have (residual) claims, which have been submitted to the bankruptcy trustees. The bankruptcy trustees have assessed what part of their (residual) claim qualifies as a claim against the estate.

2.4. **Pensions**

Report 2:

There are two outstanding issues on pensions.

In regard to the guarantee facility:

USG introduced a guarantee facility (also referred to as the catch-up pension) when it eliminated the early retirement plan. Under the guarantee facility, certain employees are offered the prospect of extra pension claims. These claims are conditional; only employees who up to their retirement dates remain employed by USG are actually entitled to these extra claims. The accrual of the guarantee facility only happens at the moment that and to the extent to which the promised claims are funded (i.e., purchased by USG as employer). The applicable statutory system apparently allows purchase of claims within a period of 15 years after the date of commitment of the claims, but no later than on the retirement date. USG's policy was to wait until the last possible moment to purchase the claims.

Unfortunately, the bankruptcy trustees have observed that for six employees who had already left the employment of USG prior to the bankruptcy date because they had reached retirement (including, in some cases, early retirement), the guarantee facility was not purchased; this is both wrongful and in violation of the applicable regulations. The claims of these six former employees based on the guarantee facility are *pari passu* claims in the bankruptcy (cf. Supreme Court, 24 January 2003, JOR 2003/72 (Niehe/Heidinga)). These employees have been informed of this. With a number of employees, explanatory meetings have been held. There have been intensive discussions with the UWV (employee insurance schemes implementing body), but the claims of these former employees for the guarantee facility are not covered by the wage guarantee scheme.

Two employees reached their retirement date or early retirement date after the date of the bankruptcy, but before the end of the notice period of their employment contracts. These employees therefore meet the condition attached to the claims under the guarantee facility. The bankruptcy trustees will further investigate the status of these claims in the bankruptcy, specifically whether these are or are not debts of the bankruptcy estate. After initially taking a different position, the UWV has now shifted to the position that the claims of these two employees do fall under the wage guarantee scheme. The bankruptcy trustees are consulting with the UWV on possible ways to set up the financing of the relevant pension claims with the structure of the wage guarantee scheme.

Additionally, a number of employees lost their jobs as a result of the bankruptcy. As a result, through no fault of their own they will not be able to meet the condition of having been working for USG on the retirement date or early retirement date. This means that they will not be entitled to any claim in connection with the guarantee facility.

In regard to unbundling the Retail Network pension/buyout buffer deposit:

Up until the takeover by USG, Perry Sport was, alongside chains like Kijkshop, Scapino and Siebel, part of the Retail Network group. The pension contract that these chains had with Aegon turn out to have never been fully unbundled. Perry Sport had contact with Aegon about this before the bankruptcy date. An agreement was ready to be signed, under which Perry Sport (partly for the purposes of unbundling) would waive a buffer deposit and would purchase a one-time indexation for the participants. The bankruptcy trustees have collected recommendations on this agreement and will announce a decision shortly.

Report 3:

In regard to the guarantee facility:

In the most recent reporting period, capital insurances were purchased from Allianz through Aon for the two employees to reached retirement age/the early retirement date after the bankruptcy date but before the end of the notice period. The UWV has paid the single premiums for these products directly to Aon.

In regard to unbundling the Retail Network pension:

In the most recent reporting period, the bankruptcy trustees obtained advice concerning the utility, necessity and risks of granting the requested cooperation with the unbundling of the Retail Network pension. This gave rise to a number of questions on the part of Aegon. The bankruptcy trustees are now in discussions with Aegon and in the coming reporting period expect to be able to take a definitive position.

Report 4:

The bankruptcy trustees received Aegon's responses to their questions, and collected further advice regarding them. This advice is expected to become available shortly, after which the bankruptcy trustees will be expected to take a definitive position.

Report 5:

The bankruptcy trustees are in negotiations with Aegon on an adjustment of the conditions proposed by Aegon for an unbundling of the Retail Networks pension.

Report 6:

The bankruptcy trustees have reached an agreement with Aegon regarding an unbundling of the Retail Networks pension.

Report 8:

In the reporting period, the bankruptcy trustees performed services in respect of the existing pension scheme taken out by Perry Sport with ASR.

Report 9:

In the reporting period, the bankruptcy trustees performed services in respect of the existing pension scheme taken out by Perry Sport with ASR, at which it is possible to make a one-off indexation for the benefit of the participants. The bankruptcy trustees obtained advice on this matter and have informed ASR that they are positive about the proposal made by ASR. The bankruptcy trustees are currently awaiting a response from ASR.

Report 10:

In the past reporting period, a settlement agreement was concluded between the bankruptcy trustees and ASR in respect of Perry Sport's existing pension scheme with ASR. In this settlement agreement, a one-off indexation was made for the benefit of the participants.

## 2.5. **Work**

Report 1:

Various discussions in regard to the cancellation of the employment contracts, discussions with the UWV (social insurance schemes implementing body), document review, drafting dismissal letters and organizing and coordinating various meetings to inform the personnel.

Report 2:

Drafting temporary employment contracts with estate team. Correspondence and consultation with UWV. Meetings with former employees. Answering questions of employees and former employees in writing and by phone. Drafting information bulletins for employees and former employees. Reviewing documents in connection with the specified pension issues, meetings with relevant persons and collecting recommendations.

Report 3:

Drafting employment contract with remaining member of estate team. Correspondence and consultation with affected employees, Aon and SUR on pension guarantee scheme. Correspondence in consultation with SUR, pension attorney and Aegon on Retail Network pension. Evaluation of wage claims of Belgian employees.

Report 4:

Drafting employment contract with member of the estate team involved in personnel affairs. Correspondence and meetings with SUR (the pension attorney advising the estate) and Aegon on Retail Network pension. Evaluation of salary claims of Belgian employees and consultations with Belgian attorney on the subject. Additionally, a number of employees of USG et al. received a salary above the maximum benefit under the UWV wage guarantee scheme. The bankruptcy trustees are currently working out how high these claims are.

Report 5:

Studying the recommendations presented by the pension attorney, and correspondence and telephone conversations with Aegon.

Report 6:

Correspondence with Aegon and Sport Unlimited Retail B.V.

Report 7:

Correspondence and review of various documents pertaining to Belgian employees. Review of documents pertaining to disability benefit payments (WIA).

Report 8:

Correspondence and review of various documents pertaining to Belgian employees. Review of documents pertaining to pensions.

Report 9:

Correspondence and review of various documents pertaining to Belgian employees. Review of documents pertaining to pensions.

Report 10:

Correspondence with ASR and the pension advisor; study of the draft settlement agreement with ASR. Finalisation of the settlement agreement.

Report 11

Assessing and establishing the amount of the claim against the estate of employees whose wage was higher than the amount taken over by the UWV on the basis of the wage guarantee scheme. Correspondence on regarding this subject with the relevant employees.



Also correspondence with one of the Belgian employees and the relevant Belgian government agency (in brief: the Belgian UWV).

### **3. ASSETS**

#### **Immovable property**

##### **3.1. Description**

Report 1:

Insofar as known to the bankruptcy trustees, there is one building owned by the bankrupt companies, a building at Ambachtenstraat 10 in Ouderkerk aan de Amstel. The building consists of a warehouse and an office. In 2015, the value of the building for the purposes of the WOZ (Valuation of Immoveable Property Act) was €1,124,000.

Report 2:

The banks have reached an agreement in principle on the sale of this building.

Report 3:

The property was sold and transferred in the most recent reporting period.

##### **3.2. Sales proceeds**

Report 1:

The building is encumbered by a first right of mortgage in favour of the Banks. The bankruptcy trustees have asked the Banks to levy foreclosure on the property, and the Banks have already committed to start the foreclosure sale proceedings.

Report 3:

The sales revenue from the property at Ambachtenstraat 10 in Ouderkerk aan de Amstel is €835,000. This revenue accrued to the Banks under the right of mortgage vested on the property.

##### **3.3. Amount of mortgage**

Report 1:

The amount of the mortgage registration is €88,000,000 in principal.

#### 3.4. **Estate contribution**

Report 2:

€2,000 (the bankruptcy trustees have made no material efforts for a sale), but the bankruptcy trustees and the banks are as yet not in agreement on the scope of the indemnification to be extended to the bankruptcy trustees by the banks.

Report 3:

€2,000. The bankruptcy trustees reached an agreement with the Banks on indemnification with regard to any claims of the buyer of the property.

#### 3.5. **Work**

Report 2:

Evaluation of the sales contract presented by the banks in consultation with the banks on the contribution to the estate and the scope of the indemnification to be extended by them to the bankruptcy trustees.

Report 3:

In regard to this the bankruptcy trustees had multiple meetings, telephone calls and correspondence with the relevant civil-law notary, the banks and their attorney. The bankruptcy trustees ultimately received the indemnification they sought, and the property was sold and transferred.

#### **Operating assets**

#### 3.6. **Description**

Report 1:

##### *Fixtures & fittings*

The business assets of the USG group consist primarily of shop fixtures & fittings and office fixtures & fittings.

##### *Cash and cash equivalents*

The USG Group held bank accounts with Rabobank, ING and ABN AMRO N.V. ('**ABN AMRO**'). The total balance as at the bankruptcy date (23 February 2016) was approximately €5 million negative.

### 3.7. **Sales proceeds**

Report 1:

The shop inventory of the Aktiesport shop-in-shop locations in the Scapino shops was sold to Scapino Retail B.V. for a sum of €500,000.

The inventory of the Aktiesport and Perry Sport shops was sold to Sport Unlimited Retail B.V. (SUR) together with all other assets including goodwill and intellectual property rights. For the sales proceeds, see section 6.7.

The office fixtures & fittings of the headquarters will be sold in the near future.

Report 2:

The bankruptcy trustees sold a portion of the fixtures and fittings of the headquarters to SUR for a sum of €277,100 excluding VAT. Another portion of the fixtures and fittings were sold at an auction by BVA Auctions for €96,567 (a portion of this revenue pertains to property not found on the premises, such as laptops and mobile phones; these are still to be split up). The rest of the fixtures and fittings will be sold on a post-auction.

Report 3:

The total revenue of the auction of the property on the premises (including the items sold in post-auction) was €108,397.08, including VAT.

### 3.8. **Estate administrations fee**

n/a

### 3.9. **Right of seizure by the tax authorities of property found on the premises**

Report 1:

The tax authorities have right of seizure of revenue from sales of property found on the premises.

### 3.10. **Work**

Report 1:

The Netherlands Valuation and Advisory Agency ('**NTAB**') was engaged to provide support services in the area of inventory and valuation of the estate, as well as the provisional continuation and practical winding-up of the business.

Studying documents, various discussions with NTAB on valuation of fixtures & fittings and other business assets, sale of inventory to Scapino Retail, sale of inventory to Sports Unlimited Retail.

Report 2:

Contact with NTAB and BVA Auctions, Sale of fixtures & fittings to SUR.

### **Stock/work on hand**

#### **3.11. Description**

Report 1:

##### *Stock*

The stock of the USG Group on the date of the bankruptcy consisted of significant amounts of clothing, accessories and sports-related articles. Some of the stock was sold during the (temporary) continuation of the operation of the USG Group from the shops, and the rest was sold to Sport Unlimited Retail. See section 6, relaunch.

#### **3.12. Sales proceeds**

Report 1:

During the reporting period, the bankruptcy trustees continued the business with the authorization of the supervisory judge. As a result of these activities, the bankruptcy trustees took in €14.1 million (including VAT) in payments from shop sales.

The stock of the USG Group was sold as of 20 March 2016 to Sport Unlimited Retail for a sum of approximately €21 million; see also section 6.7.

The shop inventory of the Aktiesport shop-in-shop locations in the Scapino shops was sold as of 5 March 2016 to Scapino Retail B.V. for a sum of €2.6 million.

#### **3.13. Estate administrations fee**

n/a

3.14. **Work**

Report 1:

Various discussions with stakeholder parties, discussions with potential buyers of the USG Group, inventory of stock on hand, discussions and correspondence with NTAB, discussions surrounding sales of stocks and various activities relating to the continuation of business operations.

**Other assets**

3.15. **Description**

Report 1:

*Intellectual property rights*

The USG Group holds various intellectual property rights including trademark rights. The intellectual property rights of the USG Group were all sold to Sport Unlimited Retail, with the exceptions of those of Tenson Holding B.V., Tenson B.V., Retail Ventures B.V. and Studio 23 B.V.

The intellectual property rights of Tenson Holding B.V. and Tenson B.V. were sold to BDM B.V.; see below under '*shares in companies*'.

Any rights of intellectual property not yet sold will be monetized by the bankruptcy trustees in the upcoming period.

*Goodwill*

The goodwill of the USG Group was sold to Sport Unlimited Retail. See section 6, relaunch.

*Shares in companies*

USG held all shares in Tenson Holding B.V., which in turn held all shares in Tenson B.V. The shares that USG held in Tenson Holding B.V. were pledged to the Banks. The shares in Tenson Holding B.V. were sold to BDM B.V.

Report 2:

On the date of the bankruptcy, USG had 18 foreign subsidiaries across 11 countries: Belgium, Denmark, Germany, Finland, France, Hong Kong, Italy, Luxembourg, Norway, the UK and Sweden. Insofar as possible and necessary, the bankruptcy trustees have effected the bankruptcy or the voluntary liquidation of these companies. From the estate, contact is being maintained with the various bankruptcy trustees and liquidators abroad for the purposes of resolving issues of various natures (tax, administrative, assets and their attribution, personnel, etc.), this in part to assist those bankruptcy trustees and liquidators.

### 3.16. **Sales proceeds**

Report 1:

The shares in Tenson Holding B.V. were sold for a sum of approximately €6.1 million.

For the revenues from the sale of the other assets of the USG Group, see section 6, relaunch.

### 3.17. **Work**

Report 1:

Review of documents, various discussions with Deloitte and Banks, sale of intellectual property rights, goodwill and shares in Tenson Holding B.V. to BDM B.V., as well as sale of other assets of the USG Group.

Report 2:

Contacts with bankruptcy trustees and liquidators of foreign subsidiaries on a large number of issues of various natures.

Report 3:

The bankruptcy trustees are still in contact with the bankruptcy trustees and liquidators of the various entities. With regard to all entities excepting the Italian one, the necessary applications and filings for the bankruptcy/liquidation have been submitted. The bankruptcy trustees are still being advised on the most efficient method of winding up the Italian entity, and will be making a decision on this shortly.

Report 4:

The bankruptcy trustees still have to make a decision on the winding-up of the Italian entity.

Report 9:

The work relating to the Italian entity was completed in 2018. The bankruptcy trustees obtained advice regarding the winding up of the Italian entity. Even though the entity is an 'empty' company, the only option is to follow a normal liquidation procedure for which a liquidator will have to be appointed. The costs of managing such a liquidation procedure would be around €10,000, plus the costs of the Italian liquidator, plus the bankruptcy trustee's salary. No estate interest is involved in the liquidation that would justify such a procedure and incurring these costs. The bankruptcy trustees therefore decided not to take any further action regarding the Italian entity. The director of the entity is now taking care of the liquidation of the entity.

#### **4. DEBTORS**

##### **4.1. Amount of debtors**

Report 1:

A list of the total amount of debtors will follow in the next report. Debtors collection has been taken on by Mirus International B.V., at the commission of the Banks, which have a pledge on these claims.

Report 2:

The scope of the accounts receivable is not as yet relevant to the estate. The accounts receivable have been pledged to the banks and collection for the banks is being handled by Mirus.

Report 3:

In the coming reporting period, the bankruptcy trustees will be talking with Mirus on progress and the approach to the accounts receivable collection going forward.

Support

Aktiesport and Perry Sport offered intermediate vocational education work placement positions. These work placement positions are being subsidized by the RON (Netherlands Enterprise Agency) under the practical learning grant scheme. Grant applications were filed in mid-September 2016. The grants were awarded in December 2016 (total received: €229,567.50).

Report 7:

The trustees informed Mirus that they dispute/annul the pledging of claims against debtors, and therefore claim the revenues from the collection of these claims.

The trustees have received a draft of the proposed final settlement from the trustee in the bankruptcy of SL Services België BVBA (in that bankruptcy, the trustees submitted a claim based on the subletting). This proposed final settlement is currently being reviewed.

#### Report 8:

In the past period, the bankruptcy trustees set a term for Rabobank, as the alleged pledgee, pursuant to Section 58 of the Dutch Bankruptcy Act, to exercise their alleged rights. Rabobank requested the supervisory judge to extend such term. Based thereon, consultation took place between the pledgee, the banks, the bankruptcy trustees and the supervisory judge. During that consultation the parties reached an agreement that involves that the term pursuant to Section 58 DBA was revoked by the bankruptcy trustees, that Rabobank (or at least Mirus on Rabobank's instructions) will continue the debt collection, and that the bankruptcy trustees will cooperate in concluding settlements against payment of an estate administrations fee.

The bankruptcy trustees have received a draft of the proposed final settlement from the trustee in the bankruptcy of SL Services België BVBA (in which bankruptcy the bankruptcy trustees submitted a claim on account of subletting). This proposed final settlement was reviewed, whereupon (after obtaining the approval of Rabobank and the supervisory judge), a settlement agreement was entered into with the trustee in the bankruptcy of SL Services België BVBA and the lessor of the building in Antwerp in respect of the allocation of the distribution.

#### Report 9:

Following from the settlement agreement (see report 8), the trustee in the bankruptcy of SL Services België BVBA transferred an amount of €29,902.28 to the trust account of the firm of bankruptcy trustees. This amount will be transferred to the banks.

The bankruptcy trustees were then informed by the bankruptcy trustee of SL Services België BVBA that after the final settlement and payment to the creditors in this bankruptcy there are still assets that accrue to the shareholder of SL Services België BVBA (that is: Unlimited Sports Group B.V.). The bankruptcy trustee of SL Services België BVBA has made it known that he is not authorised to transfer this amount to the shareholder. The bankruptcy trustees have asked what needs to be done in order for the funds to be transferred to the shareholder.

According to the Belgian bankruptcy trustee, the court will appoint an administrator who



will distribute the surplus. The Belgian bankruptcy trustee has stated that he could ask the court to appoint him as the administrator. The bankruptcy trustees have asked him to do so.

On 19 November 2019, a hearing took place in Antwerp to discuss progress regarding the settlement of the bankruptcy of SL Services BVBA. During the hearing, the court postponed the completion of the liquidation and appointed the Belgian bankruptcy trustee as administrator. The Belgian bankruptcy trustee is expected to proceed to pay out the surplus available in the estate of SL Services BVBA during the coming reporting period.

Report 10:

With regard to the settlement of the bankruptcy of SL Service België BVBA as reported in report 9, the bankruptcy trustees are in contact with the Belgian administrator.

Report 11:

With regard to the settlement of the bankruptcy of SL Services België BVBA as reported in report 9, the Belgian administrator reported that the surplus in the estate of SL Services BVBA is held in a deposit account with the Belgian State. Taxes have yet to be paid in respect of this surplus. The administrator is in contact with the Belgian tax authorities on this matter and expects it to be settled in the coming reporting period, after which the amount (after deduction of costs incurred by the Belgian administrator) can be transferred to the Dutch estate.

*Report 12*

*During the last report period, the settlement of the bankruptcy of SL Services België BVBA was completed. The estate of SL Services B.V., in its capacity of shareholder of SL Services België BVBA, received a net sum of €28,573.18 from the Belgian State (after deduction of taxes payable). Subsequently, the costs incurred by the Belgian administrator were paid out of the estate.*

#### 4.2. **Proceeds**

Report 1:

Not yet known.

Report 3:

Support: €229,567.50. The grant claim was not pledged to the bank because it only arose after the bankruptcy date.

4.3. **Estate administrations fee**

Report 1:

n/a

4.4. **Work**

Report 1:

Review of documents, various discussions with stakeholder persons, consultation with Banks.

Report 3:

Correspondence and meetings with grant agency and Mirus on grants.

Report 4:

Correspondence and meetings with Mirus on grants. Meeting with Mirus and the supervisory judge on an arrangement with the former franchisees of TOS (see further Chapter 1.4 of this report).

Report 7:

Review of documents and correspondence with Mirus. Review of the draft proposed final settlement regarding the bankruptcy of SL Services België BVBA.

Report 8:

Review of documents and correspondence with Mirus. Correspondence with Rabobank and the supervisory judge about the term pursuant to Section 58 DBA. Consultation with Rabobank, the other banks involved and the supervisory judge as stated above. Review of final settlement of SL Services België BVBA, preparation of the settlement agreement and correspondence with the bankruptcy trustee and the lessor's legal counsel.

Report 9:

Review of documents and correspondence with the bankruptcy trustee of SL Services België BVBA.

Report 10:

Correspondence with the administrator of SL Services Belgium BVBA. In addition, the bankruptcy trustees have carried out work with regard to the lifting of attachments that have been levied by Time Out Sport Licenses BV under franchisees in the past.

Report 11:

Correspondence with the administrator of SL Services België BVBA. The bankruptcy trustees have also carried out work concerning the lifting of attachments levied in the past by Time Out Sport Licenties BV on franchisees. The bankruptcy trustees lifted all known attachments levied by Time Out Sport Licenties BV.

*Report 12*

*Correspondence and other actions in relation to the liquidation of SL Services België BVBA.*

## **5. BANK/SECURITY RIGHTS**

### **5.1. Claim of bank(s)**

Report 1:

The USG Group was financed by means of a senior bank loan extended by a syndicate of Banks (listed at section 1.7). Under the credit agreement that the USG Group entered into with these banks, USG and a number of its subsidiaries acted as borrower and was also jointly and severally liable for the obligations of its subsidiaries under the credit agreement. Additionally, all entities of the USG Group were jointly and severally liable for each other's obligations under the credit agreement.

Under the credit agreement, the Banks extended various different instalment loans and a current account credit. The outstanding debt to the banks under the credit agreement was, on the date of the bankruptcy, approximately €63 million. As security for the bank loan, the Banks held the mortgage right referred to in the foregoing, a pledge on all stock and fixtures & fittings, and all claims of the USG Group and on the shares of USG in (among others) the Dutch bankrupt subsidiaries.

### **5.2. Lease agreements**

Report 1:

The USG Group has in the past signed leases for cars that were provided to personnel. Upon termination of any given employee's contract, any car lease for that employee will also be terminated. In effect, this means that the bankruptcy trustees will terminate all

leases as of 12 April 2016.

### 5.3. **Description of security rights**

Report 1:

The Banks have reported the following pledges to the bankruptcy trustees:

- Shares in the companies making up the USG Group
- Accounts receivable of the USG Group
- Movables (stock on hand, fixtures & fittings) of the USG Group
- Intellectual property rights of the of the USG Group

The bankruptcy trustees have been in discussions with Banks on the claimed right of pledge on the USG Group's stock on hand. The bankruptcy trustees wished to make an arrangement with the Banks that would have allowed them to earn sales revenue during the provisional continuation of the business, with the purchase costs of the stock pledged being transferred to the Banks. The Banks did not wish to consent to this, and claimed a portion of the sales margin plus a portion of the VAT.

This arrangement was not acceptable to the bankruptcy trustees. Their position on this was, in essence, that the value of the shop stock (no longer in packaging, and spread out over more than 300 locations) was certainly no longer worth more to the Banks (and in reality, considerably less) than the wholesale value. The additional value earned on that stock through sale in the shops (the shop value) was achieved by the bankruptcy estate, and so, in the bankruptcy trustees' view, should accrue to the estate. If the bankruptcy trustees were to give up any portion of these earnings they would be disadvantaging the other creditors. Likewise, transfer of a portion of the VAT was also unacceptable to the bankruptcy trustees, since the bankruptcy estate as a whole was still subject to the bankrupt company's obligation to transfer this VAT to the tax authorities.

The Banks then forbid the bankruptcy trustees to sell the pledged stock. This would have effectively forced all shops to close. The bankruptcy trustees refused, as closing the shops would have resulted in significant damages, not least of which on the employment front, and further in the interests of the estate because there was still a relevant margin to be earned on the goods up until the sale of the enterprise. The bankruptcy trustees also informed the Banks that they would oppose any injunction. In their view, continuation of the sale in the shops was not in any way wrongful towards the banks, and even if that was not the case, any injunction on the part of the Banks would fail based on Section 168, Book 6, Dutch Civil Code. The bankruptcy trustees also maintained to the Banks that if they did not manage to reach an agreement amongst each other, the bankruptcy trustees would pay

damages to the Banks (in accordance with Section 168, Book 6, Dutch Civil Code), noting that these would most likely come out considerably lower than the purchase value as previously offered.

The Banks then held the bankruptcy trustees personally liable, ordered the bankruptcy trustees to inform customers in the shops that the goods they purchased were encumbered by pledge to the Banks, and threatened to place the various advertisements concerning the matter. Further, the Banks refused to transfer the estate funds that they had received on their accounts to the bankruptcy trustees. At that point all revenues of the group still went through the bank accounts held with the Banks. The bankruptcy trustees demanded that the Banks release this money. The banks maintained their position, which led to the bankruptcy trustees bringing preliminary relief proceedings in order to seek relief. Those preliminary relief proceedings were to be heard in court on 11 March 16. On 10 March 2016, the bankruptcy trustees and the Banks nonetheless reached an agreement, with the Banks consenting to the retail margin earned on the continuation of the sales in the shops accruing to the estate. For this reason, the bankruptcy trustees withdrew their preliminary relief proceedings.

#### Report 7:

A dispute has arisen between the trustees and the Banks on the interpretation of the arrangement as concluded on 10 March 2016. The banks have summoned the bankruptcy trustees to appear before the District Court of Amsterdam (see 6, below). Furthermore, it has come to the trustees' attention that in the period prior to the bankruptcy the Banks settled a number of sums. In the trustees' view, the Banks were not at all time acting in good faith within the definition of section 54, Bankruptcy Act. Under reference to the Supreme Court's 23 November 2018 decision (Rabobank/Schepel and Miedema q.q.), the trustees made a claim for transfer of these payments. So far, the Banks have refused to do so.

#### Report 8:

With respect to the proceedings, the bankruptcy trustees refer to the statements made under 6.7 below.

In respect of the settlement discussion, the bankruptcy trustees have set a term for the banks pursuant to Section 58 DBA.

#### Report 9:

A settlement has been reached with the banks, which is further discussed below in paragraph 6.7.

5.4. **Position as a secured creditor**

Report 1:

Several creditors referred to security rights in the filing of their claims.

5.5. **Estate administrations fee**

n/a

5.6. **Retention of title and/or right of reclamation**

Report 1:

A large number of creditors reported with an appeal to some form of extended or limited retention of title and/or right of reclamation. The bankruptcy trustees made an offer to these creditors to (in short) settle the purchase value of the stock sold in the shops by the bankruptcy trustees with them. Most creditors with a retention of title then consented to this offer. The stock of the USG Group, including the portion of the stock on which a retention of title and/or right of reclamation is vested, was sold to Sport Unlimited Retail. All risks and liabilities relating to this stock with a retention of title and/or right of reclamation were undertaken by Sport Unlimited Retail. Sport Unlimited Retail will handle the further resolution of these retentions of title and rights of reclamation.

A list of the parties that invoked a retention of title and/or right of reclamation will be provided in the following report.

Report 2:

Because this type of detailed information is less appropriate to a public report such as this one, contrary to what was stated in the previous report no list of parties invoking a retention of title and/or right of reclamation will be given here. Insofar as the bankruptcy trustees sold goods under a retention of title for the transfer to SUR, this has been settled with the holders of the retention of title. They have invoiced the goods in question to the estate and have credited the invoices for those goods previously sent to the bankrupt companies in question.

5.7. **Concession and consignment holders**

Report 1:

Approximately 19 parties registered with an appeal to a consignment agreement. A list of the parties that invoked a consignment agreement will be provided in the following report.

Report 2:

Because this type of detailed information is less appropriate to a public report such as this one, contrary to what was stated in the previous report no list of parties invoking a consignment agreement will be given here.

5.8. **Rights of retention**

Report 2:

A list of the parties that invoked a retention of title and/or right of reclamation will be provided in the following report.

Report 2:

Because this type of detailed information is less appropriate to a public report such as this one, contrary to what was stated in the previous report no list of parties invoking a right of retention will be given here.

In the previous reporting period, one creditor that had previously waived its right of retention against SUR did actually invoke its right of retention. The bankruptcy trustees spoke with this creditor's attorney and provided SUR with the correspondence conducted with that creditor. SUR filed preliminary relief proceedings seeking a court order for this creditor to surrender the goods, and that claim was granted by the preliminary relief judge.

5.9. **Work**

Report 1:

Review of various documents, multiple meetings with stakeholder parties, consultation with banks, various discussions with NTAB, various correspondence with and about vendors (with and without retention of title), discussions with the Banks, preparation of preliminary relief proceedings in order to obtain provisional measure.

Report 3:

Some creditors who appealed to a retention of title informed the bankruptcy trustees that in their opinion SUR wrongfully did not recognize or respect their retention of title claims. The bankruptcy trustees mediated in this and urged SUR to come to an arrangement with these creditors that would do justice to their position.

Report 4:

In the last reporting period the bankruptcy trustees had further contacts with SUR and with creditors that had invoked their retention of title. SUR has now made arrangements with virtually all such creditors.

Report 5:

In the last reporting period, there have been discussions with a vendor under retention of title on the amount of the compensation being claimed by that vendor. This discussion followed on it from a discussion between USG and the vendor in question on credit notes in the amount of €8,068.31 that dated back to 2014, and thus far before the bankruptcy date. With the permission of the supervisory judge, this discussion was concluded with a settlement for an amount of €4,034.16.

Report 7:

During the last reporting period, Rabobank changed its business banking systems. As a result, various administrative activities had to be carried out to ensure the trustees have access to the bank accounts. Furthermore, correspondence with the banks was conducted with regard to the amounts the trustees consider to have been settled in bad faith (see above under 5.3). The trustees also have conducted research on the correspondence between the Banks and USG et al. in the period leading up to the bankruptcy.

Report 8:

Review of documents and correspondence with the banks in respect of the banks' right of setoff.

Activities relating to (re)granting NTAB access to USG's Rabobank accounts.

Report 10:

Assessment of the settlement concluded between Rabobank and one of the suppliers of sports articles concerning (pledged) claims from and against this supplier.

*Report 12:*

*Assessment of the final version of the settlement concluded between Rabobank and one of the suppliers of sports articles concerning (pledged) claims from and against this supplier.*

## **6. RELAUNCH/CONTINUATION**

### **Continuation**



6.1. **Commercial operations/security tights**

Report 1:

In consultation with the supervisory judge and the Banks, after the bankruptcy date of 23 February 2016 the shops of Perry Sport B.V. and Aktiesport B.V. were continued on 23 February 2016 in consultation with the supervisory judge and the Banks, excepting where a sale to a third party could be achieved earlier.

6.2. **Financial reporting**

Report 1:

The financial reporting of the USG Group was continued through the reporting period. As part of this, the bankruptcy trustees were supported by employees of the NTAB who made a start on the inventory of the stock on hand, the number of creditors invoking a retention of title and the inventory of the various creditors which necessarily had to be paid in order to guarantee the continuity of the enterprise.

6.3. **Work**

The bankruptcy trustees kept the shops open from 23 February 2016 through 22 March 2016.

Report 3:

In the most recent reporting period, NTAB produced a draft proposal for a settlement. The bankruptcy trustees gave their commentary on this proposal and expect that the settlement can become definitive in the immediate future.

Report 4:

NTAB has produced a new draft proposal for a settlement. The bankruptcy trustees expect that this document can be finalised in the coming reporting period.

Report 5:

The bankruptcy trustees provided commentary on the settlement, and NTAB shared this commentary with the banks. There is still no consensus on the final settlement.

In addition, since the date of the relaunch by SUR, a number of payments have been

received on accounts of the estate, because SUR has not yet signed new contracts with credit card companies and other relevant parties. Since the last report, the bankruptcy trustees have once again made a partial payment in relation to SUR. There is still a relatively modest amount being withheld for the purposes of the final settlement of local taxes that must be borne by SUR and the exact amount of which is still unknown.

#### Report 6:

Since the last report, no consensus was reached with the banks concerning the final settlement. The banks have summoned the bankruptcy trustees to appear before the District Court of Amsterdam. (see par. 6.7).

The bankruptcy trustees expect that the final settlement between SUR and the bankruptcy trustees can be completed before the next report.

#### Report 7:

In the reporting period there have been further discussions between SUR and the trustees, and between the trustees, NTAB and representatives of the banks, with regard to the final settlement between SUR and the trustees, especially on the allocation of costs (including the allocation of the bank guarantees paid to the lessors) between the estate, SUR and the banks ("tripartite settlement"). In anticipation of the definitive settlement, the banks paid a final provisional advance to SUR. The expectation is that in the next reporting period, the final financial settlement with SUR can be completed.

### **Relaunch**

#### **6.4. Description**

##### Report 1:

The bankruptcy trustees engaged Deloitte to oversee the sale and possible relaunch of all business activities of the USG Group. A few days after the bankruptcy, a large number of serious parties registered interest in a possible takeover.

After receipt of offers from various parties, the bankruptcy trustees made a shortlist of the most interesting offers. The main factors in the bankruptcy trustees' selection were:

- employment; the more shops that could be sold in a single deal, the more people would be able to keep their jobs;
- financial (Banks and other creditors): in consideration of the very considerable amount of stock on hand, a buyer for this stock had to be found. Given that Perry

Sport and Aktiesport together represented some 35-40% of the Dutch market, the bankruptcy trustees could only sell this stock at normal conditions to a party that would have continued as many Perry Sport and Aktiesport shops as possible. A sale to third parties would have most likely devolved into a price per kilo;

- retail market: following on from this last point, if the stock were to be sold at fire sale prices, this would have presumably resulted in severe disruption of the market, with potentially severe consequences on other companies in the same industry. In consideration of the situation in the entire retail market, this could potentially even have been fatal to a number of other companies; and
- practical: continuing the shops on a temporary basis proved increasingly difficult; vendors no longer delivered, warehouses and transport companies held onto their goods, personnel left, tenants of buildings cancelled their leases, etc. This is why the bankruptcy trustees had a limited amount of time in which to transfer the shops. A sale to a single (and financially robust) party would have been quicker to complete than a partial sale to multiple different parties, and moreover entailed fewer inherent risks.

Only a limited number of the tenders met these requirements. In consultation with the supervisory judge, the Banks, and Deloitte, JD Sports Fashion PLC (**‘JD Sports’**) was designated as the most suitable party. In its bid, JD Sports showed an interest for all good to reasonably running shops of both Perry Sport B.V. and Aktiesport B.V. Additionally, JD is a strategic, rather than a financial party. The shops to be sold by the bankruptcy trustees were an excellent fit for the JD Sports organization. Moreover, JD Sports was a financially solid company that needed no third-party financing and as a result could also move quickly.

Sport Unlimited Retail B.V. (hereinafter also referred to as “SUR”) is the Dutch company founded by JD sports for the takeover of the assets of the USG Group.

## 6.5. **Accountability**

Report 1:

The business operations of all Perry Sport B.V. and Aktiesport B.V. shops to be transferred to Sport Unlimited Retail B.V. were transferred, and as of 21 March 2016 are at the expense and risk of Sport Unlimited Retail B.V.

## 6.6 **Employment**

Report 4:

As per the bankruptcy date, Perry Sport B.V. and Aktiesport B.V. employed a total of 2,145 employees. Some of these worked in the 128 shop-in-shop outlets in Scapino and the 11 shop-in-shop outlets in V&D, with the rest in the approximately 190 stand-alone stores and in the Amsterdam headquarters. After the bankruptcy of V&D, the closure of the V&D stores resulted in the closure of the 11 Perry Sport B.V. shop-in-shop outlets there, and the employees working in them who could not be transferred lost their jobs. After the bankruptcy of Scapino, the bankruptcy trustees transferred the 120 Aktiesport shop-in-shop outlets in those stores to Scapino Retail B.V. (a company held by Mr H. Ziengs), the party that had acquired said stores following the bankruptcy of Scapino. A significant portion of the employees of Aktiesport B.V. who were employed in these shop-in-shop outlets are employed by Scapino Retail B.V.

The approximately 190 stand-alone stores of Aktiesport B.V. and Perry Sport B.V., were transferred to SUR by the bankruptcy trustees. SUR continued these stores, some of them on a temporary basis. The stores that were continued temporarily have since been closed. At present there remain the most important 100 stores (generally speaking, also the largest) of Perry Sport B.V. (about 40) and Aktiesport B.V. (about 60). SUR employs a total of 1,117 employees in and for these stores, 106 of which at its headquarters.

#### 6.7. **Proceeds**

Report 1:

The total purchase price based on the relaunch of the USG Group:

- €5,500,000 for the intellectual property rights, various business equipment and the goodwill of the USG Group.
- €21,034,000 for the stocks of the USG Group.

The bankruptcy trustees made arrangements with the Banks on the distribution of these revenues. In the agreed apportionment system, the estate receives a fixed amount of the estate from the net revenue for goodwill (particularly the leases to be taken over) and fixtures & fittings. The ultimate division will be based in part on the results of the proceedings (Rabobank/Reuser) currently before the Supreme Court.

Report 2:

The Supreme Court has now rendered a decision in Rabobank/Reuser. On the basis of that decision, the bankruptcy trustees have requested the Banks to commence distribution of the revenue on the assets. In the coming period, the bankruptcy trustees will be continuing to speak with the Banks on the distribution of this revenue.

Report 3:

It is not in dispute that in regard to the sale to SUR, at least a sum of €1,600,000 accrues to the estate.

The bankruptcy trustees and banks are as yet not in agreement on the division of the revenue from SUR's payment in regard to inventory delivered to the USG Group under retention of title. The bankruptcy trustees are of the opinion that they are entitled to that revenue, while the banks take the position that this revenue should accrue to them. The amount in question is €7,225,000. At this point the bankruptcy trustees have had multiple meetings and telephone calls with the banks and their representatives on the issue.

This discussion is currently one of the primary outstanding issues in the bankruptcy.

#### Report 4:

The discussion on the division of the revenues paid by SUR in relation to the inventory delivered under retention of title is not yet complete. This remains one of the primary outstanding issues in this bankruptcy.

#### Report 5:

The discussion on the division of the revenues paid by SUR in relation to the inventory held under retention of title is not yet complete. This remains one of the primary points of attention in this bankruptcy.

#### Report 6:

Since the last report, the banks have summoned the bankruptcy trustees to appear before the District Court of Amsterdam. The dispute concerns the interpretation of the arrangements made between the banks and the bankruptcy trustees and questions such as what the bank's legal position is concerning the inventory held under retention of title delivered to USG et al. The bankruptcy trustees consider that the revenues from the sale of the inventory held under retention of title belong to the estate. The banks take the view that they are entitled to these revenues. The bankruptcy trustees have proposed to settle the dispute amicably by mediation, in order to prevent legal proceedings and thus costs. The banks have declined this proposal. With permission from the supervisory judge, the law firm Houthoff has been asked to defend the bankruptcy trustees in this procedure.

#### Report 7:

In the reporting period, Houthoff filed a Statement of Defence, also including a counterclaim, in the proceedings brought by the banks against the trustees. The trustees seek a declaratory judgment stating that: (i) there is no legally valid right of pledge vested

on the movables, (ii) there is no legally valid right of pledge vested on the provisional rights of ownership, and (iii) there is no legally valid right of pledge vested on claims, or at least claims (with a few exceptions) arising after 31 December 2015 and not directly derived from a legal relationship existing before that date, or that any such pledge is fraudulent. On 5 December 2018 the banks filed their Statement of Defence with regard to the counterclaim. A hearing is scheduled on 7 February 2019.

#### Report 8:

On 7 February 2019, a personal appearance of parties was held. In its decision dated 27 March 2019, the court ruled in Rabobank's favour and rejected the claim(s) of the bankruptcy trustees. The bankruptcy trustees have sought advice on the chances of appeal. The outcome of that advice is that there are grounds for an appeal. After a request to that extend, and after consultation with counsel for the bankruptcy trustees in the proceedings and the supervisory judge, the bankruptcy trustees obtained approval to file for an appeal. Meanwhile, Rabobank has received summons.

In the context of the consultation in response to the granting of a term pursuant to Section 58 DBA as referred to in the chapter on debtors above, the bankruptcy trustees have had exploratory talks with Rabobank and the banks about the possibility of a settlement.

#### Report 9:

Recently the bankruptcy trustees, with the consent of the supervisory judge, have reached a settlement with Rabobank as agent and the banks. It has been agreed that Rabobank as agent (on behalf of the banks) will pay an amount of €1,950,000 to the estate, in order to end the dispute about (in short) the winding-up arrangement and its interpretation, the validity of the security interests and the validity of the right of setoff. In addition, Rabobank as agent (on behalf of the banks) will pay an amount of €8,248,764 to settle the final account of the continuation of the business during the winding-up period and the winding-up arrangement. For the remainder, Rabobank as agent, the banks and the liquidation assets grant each other full and final discharge and remission, provided that the “ongoing collection of the pledged receivables, the handling and settlement of the outstanding guarantees and the filing of the Agent’s per-insolvency claim” will not be affected. The ongoing legal proceedings will be terminated. The bankruptcy trustees believe this settlement to be in the interests of the joint creditors of USG, clearing the way for a swift settlement of the bankruptcy.

### 6.8. **Estate administrations fee**

#### Report 1:

For the purposes of the relaunch, the estate temporarily provides various business assets not taken over to Sport Unlimited Retail and provides transitional services. As a result of this, the estate receives a reimbursement of €250,000, while all related costs are covered.

## 6.9. **Work**

### Report 1:

Reviewing documents, various discussions with the buyer on a relaunch, discussions with NTAB on the documentation of the stock on hand. Correspondence with interested parties, reviewing bids. Negotiations with selected interested party.

### Report 2:

Correspondence and telephone calls with NTAB and the banks on the revenue and the distribution thereof.

### Report 3:

Multiple meetings and telephone calls with NTAB and the banks on the revenue and the distribution thereof, as well as on the “retention of title inventory”.

### Report 4:

Evaluation of the documents concerning the final settlement and analysis of the correct distribution.

### Report 5:

Evaluation of the documents concerning the final settlement and analysis of the distribution, correspondence with the banks and NTAB.

### Report 6:

Evaluation of documents concerning the final settlement and analysis of the distribution, correspondence with the banks, SUR and NTAB. Consultation with the supervisory judge and Houthoff concerning the proceedings started by the banks.

### Report 7:

Evaluation of documents concerning the final settlement and analysis of the distribution, correspondence with the banks, SUR and NTAB (in particular with regard to the division of the allocation concerning the bank guarantees drawn upon).

Review, assessment and provision of additional information relating to the Statement of Defence; consultation and discussions with Houthoff. Consultation with and provision of information to the examining judge. Review and assessment of the Statement of Defence in the counterclaim proceedings, further review of the administration of USG, further consultation and discussions with Houthoff.

Report 8:

Preparation of the personal appearance of the parties. Consultation with Houthoff and review of documents in that respect. Review and assessment of the decision of the court, consultation and meetings with Houthoff in that respect. Consultation with the supervisory judge. Consultation with Rabobank and the other banks involved.

Report 9:

Consultation with the supervisory judge. Consultation with Rabobank as the agent and the other banks involved, all in order to reach a settlement concerning the disputes with Rabobank as the agent and the banks. Consultation with Houthoff and assessment of draft settlement agreement. Conclusion of the settlement agreement.

## **7. REGULARITY**

### **7.1. Accounting obligation**

Report 1:

At this time the bankruptcy trustees have no indications that the accounting obligation has not been complied with. However, further review will follow.

### **7.2. Filing of financial statements**

Report 1:

In the years 2006 through 2014, USG published its annual accounts by filing them with the office of the trade register. The consolidated annual accounts over financial year 2015 have not yet been definitively completed, and have not yet been filed.

### **7.3. Unqualified auditor's opinion**

Report 1:

The consolidated annual accounts over financial year 2014 have been filed without an approved going concern declaration on the part of the accountant.



The consolidated annual accounts over financial year 2013 include an unqualified audit statement by accounting firm KPMG.

**7.4. Obligation to make payments on shares**

Report 1:

The information filed with the trade register of the Chamber of Commerce indicates that the subscribed capital of €567,900 has been fully paid up.

**7.5. Mismanagement**

Report 1:

The bankruptcy trustees have yet to investigate whether mismanagement may have been a factor in the bankruptcy.

Report 8:

In their investigation, the bankruptcy trustees did not come across any indications of material irregularities and therefore do not consider further investigation justified.

**7.6. Fraudulent acts**

Report 1:

Up to this point the bankruptcy trustees have seen no indications that in the period prior to the bankruptcy there were any fraudulent acts. In the context of the investigation into the causes of the bankruptcy, there will be a further investigation of whether any fraudulent acts may have contributed.

Report 9:

No fraudulent acts have been established.

**7.7. Work**

Report 1:

Consultation with relevant parties on the securing of the administration.

Report 2:

Further consultation with relevant parties. Archiving of physical administration. Securing of electronic administration.

Report 3:

As noted above, the bankruptcy trustees have made a start with the cause investigation, in which the legitimacy will also be investigated. In the next reporting period, the bankruptcy trustees will continue this investigation.

Report 4:

The quick scan of the administration was completed in the last reporting period. The bankruptcy trustees will use the results to further structure their causes investigation in the coming reporting period.

Report 5:

The bankruptcy trustees will continue to pursue the investigation of the causes in the coming reporting period.

Report 6:

The bankruptcy trustees will continue to pursue the investigation of the causes in the coming reporting period.

Report 7:

The bankruptcy trustees will continue to pursue the investigation of the causes in the coming reporting period.

Report 8:

The bankruptcy trustees have completed their investigation.

Report 9:

As stated in Report eight under 1.8, the bankruptcy trustees did not find any indications of material irregularities during their investigations, so that no further investigation is warranted.

## **8. CREDITORS**

### **8.1. Claims against the estate**

#### Report 3:

The bankruptcy trustees are currently assessing the claims against the estate, including in particular the claims of the lessees.

Up to this point the UWV has filed claims against the estate totalling €5,431,651.28.

#### Report 4:

Significant progress has been made on the verification of the rent claims and the claims of local authorities in regard to local taxes. The expectation is that this verification can be completed in the coming reporting period.

The UWV has, up to this point, filed claims against the estate totalling €6,307,248.32.

#### Report 5:

The verification of the claims of local authorities in regard to local taxes is at an advanced stage. However, for a number of municipalities and water boards, obtaining a statement of the outstanding claims over the year 2016 up to the moment of the termination of the leases has proven no easy task for the bankruptcy receivers. They do expect to be able to complete this verification in the coming reporting period.

Up to now the UWV has submitted a total of €6,543,990.68 in claims against the estate.

#### Report 6:

Up to now the UWV has submitted a total of €6,543,990.68 in claims against the estate.

The evaluation of the claims against the estate submitted by various lessors is not yet complete. Several lessors have been paid under the bank guarantees delivered and assigned to them; this will affect the amount of the claim of these lessors. The vast majority of the lessors did not adjust their claim accordingly. The bankruptcy trustees are looking into this matter.

#### Report 7:

Up to now the UWV has submitted a total of €6,543,990.68 in claims against the estate.

The evaluation of the claims against the estate submitted by various lessors based on the leasing agreements is now complete. Several lessors have been paid under the bank guarantees delivered and assigned to them; this will affect the amount of the claim of these lessors. In a number of cases, the lessor received more under the bank guarantee than the

lessor was entitled to according to the calculations of the receivers. It also appears that a significant part of the lessors did not adjust their claim accordingly to the payment they received. The trustees will contact these lessors about this directly.

#### Report 8:

In the coming period, the bankruptcy trustees will review in further detail whether it is appropriate to pay claims against the estate at this stage.

#### Report 9:

In the coming period, the bankruptcy trustees will review in further detail whether it is appropriate to pay claims against the estate at this stage.

#### Report 10:

To date, the UWV has filed claims against the estate totalling € 6,543,990.68.

In the past reporting period, the bankruptcy trustees informed the lessors with a claim against the estate about the amount of the claims that were made against the estate, in accordance with the information available to the bankruptcy trustees. All notified lessors have been requested to respond to this; the lessors have until 31 March 2020 to do so. Subsequently, the bankruptcy trustees will assess the reactions.

After assessing the reactions. the intention of the bankruptcy trustees is to proceed with payment of the claims against the estate as soon as possible . It is not yet possible to specify a more specific period in which a possible payment will be made.

#### Report 11

During the previous reporting period the bankruptcy trustees corresponded with the lessors on the amount of their claim against the estate. The claims against the estate, the amount of which has been agreed between the lessors and the bankruptcy trustees, were then paid. The bankruptcy trustees are still waiting for a reply from a small number of lessors.

To date, the UWV has submitted claims against the estate totalling €6,543,990.68.

Seventeen former employees have a claim against the estate in respect of salary components not paid by the UWV, amounting to a total of €151,845.71. In addition, one of the Belgian employees of SL Services BV and the relevant Belgian government agency has a claim against the estate.

The bankruptcy trustees intend to pay the remaining claims against the estate in the coming

reporting period.

*Report 12:*

*The bankruptcy trustees are waiting for a reply from a small number of lessors with a claim against the estate.*

*The bankruptcy trustees intend to pay the remaining claims against the estate in the coming reporting period.*

## 8.2. **Preferential claims of the Tax Authorities**

The tax authorities have filed preferential claims totalling approximately €19.8 million. It should be noted that virtually all bankrupt entities were part of a tax entity for turnover tax purposes and corporation tax purposes.

## 8.3. **Preferential claims of UWV**

UWV has not as yet submitted any claims.

Report 3:

Up to this point the UWV has filed preferential claims totalling €3,762,357.98.

Report 4:

Up to this point the UWV has filed preferential claims totalling €4,256,038.90.

Report 5:

Up to this point the UWV has filed preferential claims totalling €4,256,468.53.

Report 6:

Up to this point the UWV has filed preferential claims totalling €4,256,468.53.

Report 7:

Up to this point the UWV has filed preferential claims totalling €4,256,468.53.

Report 9:

Up to this point the UWV has filed preferential claims totalling €4,486,934.48.

Report 10:

Up to this point the UWV has filed preferential claims totalling €4,256,607.38. (The amount stated in report 9 is based on an error).

Report 11

Up to this point the UWV has filed preferential claims totalling €4,256,607.38.

**8.4. Other preferential creditors**

A number of creditors referred to security rights in the filing of their claims. The bankruptcy trustees investigate whether the creditors in question rightly invoke priority or a preferential right.

**8.5. Number of ordinary creditors**

A list with the number of ordinary creditors will follow in the next report.

Report 2: Up to 5 August 2016, a total of 928 creditors registered in the various bankruptcies. These include both creditors with a registered preference and creditors with a pari passu claim. For further information, the bankruptcy trustees refer to the annex: List of submitted claims.

Report 3:

Up to 20 January 2017, a total of 1,084 creditors registered in the various bankruptcies. These include both creditors with a registered preference and creditors with a pari passu claim. For further information, the bankruptcy trustees refer to the annex: List of submitted claims.

Report 4:

Up to 11 May 2017, a total of 1,106 creditors had registered in the various bankruptcy proceedings. This total includes both creditors with a reported preferential claim and creditors with a pari passu claim. For further information, the bankruptcy trustees refer to the attached list of submitted claims.

Report 5:

Up to 20 November 2017, a total of 1,136 creditors had registered in the various bankruptcy proceedings. This includes both creditors with a reported preferential claim and creditors with a pari passu claim.

Report 6:

Up to 30 June 2018, a total of 1,137 creditors had registered in the various bankruptcy proceedings. This includes both creditors with a reported preferential claim and creditors with a pari passu claim.

Report 7:

Up to 20 January 2019 a total of 1,141 creditors had registered in the various bankruptcy proceedings. This includes both creditors with a reported preferential claim and creditors with a pari passu claim.

Report 8:

Up to 15 June 2019, a total of 1,141 creditors had registered in the various bankruptcy proceedings. This includes both creditors with a reported preferential claim and creditors with a pari passu claim.

Report 9:

Up to the date of this report, a total of 1,141 creditors had registered in the various bankruptcy proceedings. This includes both creditors with a reported preferential claim and creditors with a pari passu claim.

Report 10:

Up to the date of this report, a total of 1,141 creditors had registered in the various bankruptcy proceedings. This includes both creditors with a reported preferential claim and creditors with a pari passu claim.

Report 11:

Up to the date of this report, a total of 1,141 creditors had registered in the various bankruptcy proceedings. This includes both creditors with a reported preferential claim and creditors with a pari passu claim.

## 8.6. **Amount of ordinary creditors**

A list with the expected amount of ordinary claims will follow in the next report.

Report 2:

Up to 5 August 2016, a total amount of approximately €159,660,000 in claims was

submitted in the various bankruptcies. This includes both preferential claims and pari passu claims. For further information, the bankruptcy trustees refer to the annex: List of submitted claims.

Report 3:

Up to 20 January 2017, a total amount of approximately €165,670,175 in claims were submitted in the various bankruptcies. This includes both preferential claims and pari passu claims. For further information, the bankruptcy trustees refer to the annex: List of submitted claims.

Report 4:

Up to 11 May 2017, a total of approximately €171,389,875 in claims had been submitted to the various bankruptcy proceedings. This includes both preferential claims and pari passu claims. For further information, the bankruptcy trustees refer to the attached list of submitted claims.

Report 5:

Up to 20 November 2017, a total of approximately €170,836,330.67 in claims had been submitted to the various bankruptcy proceedings. This includes both preferential claims and pari passu claims.

Report 6:

Up to 30 June 2018, a total of approximately €170,845,126.14 in claims had been submitted to the various bankruptcy proceedings. This includes both preferential claims and pari passu claims.

Report 7:

Up to 20 January 2019 a total of approximately €170,968,888.18 in claims had been submitted to the various bankruptcy proceedings. This includes both preferential claims and pari passu claims.

Report 8:

Up to 15 June 2019, a total of approximately € 170,932,681.81 in claims had been submitted to the various bankruptcy proceedings. This includes both preferential claims and pari passu claims.

Report 9:



Up to the date of this report, a total of approximately € 170,932,681.81 in claims had been submitted to the various bankruptcy proceedings. This includes both preferential claims and pari passu claims.

Report 10:

Up to the date of this report, a total of approximately € 170,932,681.81 in claims had been submitted to the various bankruptcy proceedings. This includes both preferential claims and pari passu claims.

Report 11:

Up to the date of this report, a total of approximately € 170,932,793.25 in claims had been submitted to the various bankruptcy proceedings. This includes both preferential claims and pari passu claims.

#### 8.7. **Expected manner of settlement**

Report 3:

As is demonstrated by the content of this chapter, the preferential claims, particularly that of the tax authorities, are very large. Based on the revenues as currently known, the bankruptcy trustees therefore expect that only the estate debts and a subset of the preferential debts will be able to be paid within the foreseeable future. The expectation is therefore that no payment will be able to be made on the competing claims.

It should be noted here, however, that the cause investigation must still be completed, as discussed in chapter 7.

Report 7:

The claims against the estate of the UWV are higher than expected. The question of whether all estate creditors can be fully paid is therefore dependent on the result of the proceedings against the Banks and the discussion on the issue of the transfer by the Banks of the amounts that the Trustees claim were deducted without authorisation.

Report 9

The bankruptcy trustees expect that the bankruptcy can be finalized in a simplified manner, so that the claims against the estate and a (small) number of the preferential claims can be paid. It will not be possible to pay pari passu claims. The bankruptcy trustees expect to be able to provide more information on this in the next report.

Report 10:

The bankruptcy trustees expect that the bankruptcy can be finalized in a simplified manner, so that the claims against the estate and a (small) number of the preferential claims can be paid. It will not be possible to pay pari passu claims. The bankruptcy trustees expect to be able to provide more information on this in the next report.

Report 11

In view of the available assets, the bankruptcy of USG et al. will be finalized in a simplified manner. This means that all claims against the estate and a (small) number of the preferential claims (in this case the Tax and Customs Administration and UWV) can be paid. Pari passu claims will not be paid.

## 8.8. **Work**

Report 1:

Inventory of creditors, correspondence and telephone contact with creditors, various discussions with NTAB in relation to creditors who have invoked a preferential right.

Report 2:

The bankruptcy trustees wrote to all known creditors requesting that they submit their claims before 1 May 2016 via [www.crediteurenlijst.nl](http://www.crediteurenlijst.nl). Many creditors responded by doing so. For the sake of completeness, the bankruptcy trustees sent out a second mailing to creditors requesting that those that had not submitted any claims via [www.crediteurenlijst.nl](http://www.crediteurenlijst.nl) do so before 15 July 2016. Creditors who had not yet registered on [www.crediteurenlijst.nl](http://www.crediteurenlijst.nl) were also requested to do so. Because of the scope of the bankruptcies and the large number of creditors, communication with creditors will as a rule only be conducted via [www.crediteurenlijst.nl](http://www.crediteurenlijst.nl).

Recently, with the support of the claims submitted, a start has been made on the evaluation of the claims submitted.

Report 3:

The bankruptcy trustees followed up the evaluation of the submitted claims and spoke with and corresponded with numerous creditors on specific aspects of their claims. At present in the evaluation is focused primarily on the submitted rent claims and local taxes over the estate period. This is a labour-intensive process because it involves a large number of properties and most of the lessees called on bank guarantees that were partially applied towards the payment of claims against the estate.

Report 4:

As already noted, there has been significant progress in evaluating the rent claims and claims in regard to local taxes. This remains a labour-intensive process, being that it involves over 200 leases and there are many things unclear about the arrangements made with the tenants and expenses and other costs that may be deductible.

Additionally, there has been work performed in regard to the verification of claims of Belgian employees and in regard to employees with salaries higher than the UWV's maximum benefit.

Report 5:

The work in the past reporting period has been concentrated on the verification of rent claims and claims in regard to local taxes. This process is virtually complete.

Report 6:

The work in the past reporting period has primarily been focused on the assessment of rent claims and claims in regard to local taxes.

Report 7:

The receivers continued their work.

Report 10

In the past reporting period, the bankruptcy trustees have concentrated mainly on assessing the rent claims for the winding-up period, subsequently writing to the lessors and processing the subsequent responses of the lessors.

Report 11

In the past reporting period, the bankruptcy trustee have concentrated mainly on assessing and processing the responses from the lessors with regard to the rent claims for the winding-up period, and paying out the claims against the estate to the lessors.

*Report 12:*

*In the past reporting period, the bankruptcy trustees have concentrated mainly on corresponding with the estate creditors.*

**9. OTHER**

## 9.1. **Term for settlement of bankruptcies**

### Report 1:

At present the time frame that the settlement of the bankruptcy will require is not yet clear. In view of the size and complexity of the bankruptcies, what is clear is that this will involve a considerable amount of time.

## 9.2. **Plan of approach**

### Report 1:

The upcoming reporting period will be primarily focused on the further inventory of the status of the estate as well as the inventory of the various creditors. Furthermore, work will involve the sale of any stock not yet monetized, operating assets, and the handover of shops the rent of which is not being taken over by Sport Unlimited Retail. The bankruptcy trustees will also have to take stock of the debt burden and begin investigating the causes of the bankruptcy, as well as a regularity audit and an investigation of the validity of any security interests or other rights claimed by third parties.

### Report 2:

The winding up of USG is coming to its end, in the sense that virtually all assets have been monetized and a significant portion of the submitted claims have been evaluated. In the coming period, the bankruptcy trustees will continue to speak with the banks on the distribution of the revenues, and will attempt to arrive at a final settlement with SUR. The verification of the claims by employees of the bankruptcy trustees will also continue in the upcoming period. Additionally, the bankruptcy trustees will be starting the investigation into the causes of the bankruptcy.

### Report 3:

The winding up of USG is to a large extent complete. There is an essentially final draft of a final settlement with SUR, with only a number of pro forma items still outstanding. In the coming reporting period, the bankruptcy trustees will finalize this final settlement to the extent possible in consultation with SUR and the banks in question.

The bankruptcy trustees are currently focusing their efforts on a number of issues, including evaluating the claims against the estate and specifically the claims relating to rent payments. Another significant issue is the discussion with the banks on the division of the revenue from SUR's payment in regard to inventory delivered to the USG Group under retention of title. This represents a financial interest of €7,225,000.

Further, in the coming reporting period the bankruptcy trustees will be continuing their cause investigation.

Finally, in the coming reporting period the bankruptcy trustees will be devoting the requisite attention to a number of outstanding issues of varying natures, such as the further winding-up of foreign subsidiaries and the pension scheme placed with Aegon. To all appearances, none of this will have a material influence on the financial status of the estate.

#### Report 4:

The final settlement is virtually complete and will be discussed with the banks and SUR in the coming reporting period.

The bankruptcy trustees will continue to devote their efforts in the coming reporting period to the evaluation of claims against the estate, and specifically the rent-related claims. Another significant outstanding issue remains the discussion with the banks on the division of the revenues paid by SUR in regard to the inventory delivered to USG Group under retention of title. This represents a financial interest of €7,225,000.

Additionally, in the coming reporting period the bankruptcy trustees will continue to pursue their causes investigation based on the results of the now-completed quick scan.

Finally, in the coming reporting period the bankruptcy trustees will devote the requisite attention to a few further outstanding issues of varying natures, such as the continued winding up of foreign subsidiaries and the pension scheme placed with Aegon. As far as it appears at this point, these will not have a material impact on the financial situation of the estate.

#### Report 5:

In the coming reporting period, the bankruptcy trustees are expecting a response from the banks to the proposal made by the bankruptcy trustees on the division, on the basis of which the further policy in regard to the division can be determined. Also in the coming period, the bankruptcy trustees are expecting to be able to complete the verification of rent claims and local taxes.

#### Report 6:

In the coming reporting period, the bankruptcy trustees are expecting to reach a final financial settlement with SUR.

The final settlement will be determined by the course and outcome of the proceedings initiated by the banks.

The bankruptcy trustees also expect to be able to complete the verification of rent claims in the coming reporting period.

Report 7:

In the coming reporting period, the bankruptcy trustees are expecting to reach a final financial settlement with SUR.

The final settlement with the banks will be determined by the course and outcome of the proceedings initiated by the Banks. The trustees will have to continue to devote the requisite amount of attention to this in the coming reporting period.

The bankruptcy trustees also expect to continue the discussion with the Banks on the amounts that the trustees claim were settled without authorisation.

Report 8:

In the coming reporting period, the bankruptcy trustees expect to reach a final financial settlement with SUR.

The final settlement with the banks will be determined by the course and outcome of the proceedings initiated by the banks. The bankruptcy trustees will have to continue to devote the requisite amount of attention to this in the coming reporting period. In the coming reporting period, the bankruptcy trustees will try to finalise the final settlement with the banks, to the extent not the subject of the mentioned proceedings.

The bankruptcy trustees will also continue the discussion with the banks on the amounts that the bankruptcy trustees claim were settled without authorisation.

Report 9:

The bankruptcy trustees dispute the amount of the claim of a number of estate creditors, in particular claims of lessors. Once the discussions on this matter have been finalized, the bankruptcy trustees expect to be able to proceed to pay the claims against the estate.

Report 10:

In the coming reporting period, the bankruptcy trustees will collect and assess the reactions of the lessors. The bankruptcy trustees expect to be able to proceed with the payment of the claims against the estate once any discussions on this subject have been completed.

Report 11:

In the coming reporting period, the bankruptcy trustees expect to pay the outstanding claims against the estate.

*Report 12:*

*In the coming reporting period, the bankruptcy trustees expect to pay the outstanding claims against the estate.*

**9.3. Submission of next report**

Report 2:

3 months from this date

Report 3:

3 months from this date.

Report 4:

6 months from this date.

Report 5:

3 months from this date.

Report 6:

3 months from this date.

Report 7:

3 months from this date.

Report 8:

Approximately 3 months from this date.

Report 9:

Approximately 3 months from this date.

Report 10:

Approximately 3 months from this date.

Report 11:

Approximately 3 months from this date.

*Report 12:*

*Approximately 3 months from this date.*

9.4. **Work**

Report 2:

Drafting of this report.

Report 3:

Drafting of this report.

Report 4:

Drafting of this report.

Report 5:

Drafting of this report.

Report 6:

Drafting of this report.

Report 7:

Drafting of this report.

Report 8:

Drafting of this report.

Report 9:

Drafting of this report.



Report 10:

Drafting of this report.

Report 10:

Drafting of this report.

*Report 12:*

*Drafting of this report.*

### **Status of the report**

This report is based on information that the bankruptcy trustees became aware of in the reporting period. The bankruptcy trustees emphasize that the information in this report is the subject of further investigation. At a later stage, it may become clear that this information must be adjusted. No conclusions can as yet be drawn concerning the completeness and accuracy of the information set out in this report.

The report is not intended to serve as an accounting of the status of the estate or provide full transparency thereon. Individual creditors can derive no rights from this report. Of course, it is possible that certain information is not yet available, cannot yet be disclosed, or must be adjusted retroactively at a later stage. This can have an impact on the information set out in this report. Consequently, no rights can be derived from this report.

Amsterdam, 5 October 2020

*mr. A. van Hees*  
bankruptcy trustee

*mr. J.E.P.A. van Hooff*  
bankruptcy trustee