

RESTRICTED: POLICY

From: [REDACTED]
Date: 22 April 2008
Extn: 5962
Room: 3/23

To: ECONOMIC SECRETARY

cc: Nick Macpherson
Tom Scholar
Paul Rankin
Sue Lewis

[REDACTED]

[REDACTED]

Barlow Clowes: Henwood settlement offer

Issue:

Since we last updated you on the litigation against Mr Henwood, for £8.4m plus interest for his role in the Barlow Clowes case, the insolvency officeholders have been very successful in applying pressure against Mr Henwood through a number of actions in the UK, Isle of Man and French Courts. This has resulted in a serious settlement offer being made by Mr Henwood. We now need to decide whether to accept this settlement offer.

Recommendation:

We recommend that you accept the officeholders' advice that a staged payment settlement offer of [REDACTED] represents the maximum amount we are likely to achieve. Provided the first payment is paid promptly and appropriate security is given for future instalments; that the current actions against Henwood can cease.

Timing:

We need to revert to the officeholders this week in view of the scheduled auction in May, so a decision in the next day or so is important.

Background:

My submission of 15 November 2007 provides detailed background to the Henwood litigation.

RESTRICTED: POLICY

RESTRICTED: POLICY

Advice

You agreed, in principle, last November to the officeholders being given discretion to advise on when there was nothing further that could sensibly be done to enforce the judgment debt against Mr Henwood.

2. Since then the officeholders have made very significant progress in pursuing Mr Henwood's assets in the following actions:

a)

[REDACTED]

b)

[REDACTED]

c)

[REDACTED]

d)

[REDACTED]

e)

[REDACTED]

3. The combination of these actions [REDACTED] have forced Mr Henwood into making a serious settlement offer for the first time.

Offer

4. After much discussion between the Officeholders and Mr Henwood's representatives the following overall settlement [REDACTED] has been agreed subject to ministerial approval:

RESTRICTED: POLICY

RESTRICTED: POLICY

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

[REDACTED]

5. [REDACTED]

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

6. [REDACTED]

7. It is the view of the Officeholders and our legal advisers that the settlement offer represents a satisfactory outcome [REDACTED]

8. The alternative of pursuing the individual actions would take a number of years, would involve costly legal actions in the UK, France and the IOM, the outcome of which is not certain and would also be subject to the risk that we may

RESTRICTED: POLICY

in fact recover less than [REDACTED] offered. [REDACTED]

Recommendation

8. We recommend you accept the Officeholders' and our legal advisers' advice that this offer of [REDACTED] represents the best achievable outcome in the circumstances. While it does not cover the full judgement debt, to say nothing of the interest on the outstanding amount or the legal costs incurred it does represent a very substantial improvement over the position we reported at the end of last year and now satisfies the public interest objective for pursuing Mr Henwood for the maximum possible, where previously Ministers considered that offers below [REDACTED] did not meet this public interest threshold. A settlement will enable the officeholders to close down the remaining liquidations and avoid the risk of adverse costs and future calls on the Treasury indemnities.

Presentation of settlement and next steps

~~10.9.~~ We have previously undertaken to let Parliament know how much we receive in total from the Barlow Clowes' recovery actions. The total will depend on the outcome of the settlement offer and one or two other minor actions being finalised by the Officeholders. [REDACTED]

Timing

~~11.10.~~ An early decision is needed to allow the Officeholders to complete the terms of the settlement offer ahead of the planned auction in IOM and will limit the costs incurred.

[REDACTED]