# Public liquidation report regarding a legal entity (pursuant to Art. 73A Bankruptcy Act)

**Number: 4** **Dat:**11/30/2017

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| **Insolvency number:** | F.10/16/675 |
| **Supervisory case number:** | NL:TZ:0000010131:F001 |
| **Date of ruling:** | 27/12/2 |
| **Bankruptcy judge**: | M. Windt LLM |
| **Trustee:** | de Winkel LLM |

## General

### Company details

The private limited company Fontijne Grotnes B.V., having its registered seat in Vlaardingen and (previously) having its office address at Industrieweg 21 in (3133 EE) Vlaardingen.

### Company activities

According to the Chamber of Commerce statement: Manufacturing of other machines, appliances and tools for specific purposes

In the Netherlands, the Fontijne Grotnes Group consists of four linked entities, i.e. FG Worldwide B.V., Fontijne Ghyselinck B.V., Fontijne Grotnes Asia B.V. and Fontijne Grotnes B.V. Except for Fontijne Grotnes Asia B.V. all entities have been declared bankrupt. Fontijne Grotnes Asia B.V. is also likely to be declared bankrupt within the short term. The sole shareholder in Fontijne Grotnes B.V. (FG Worldwide B.V.) is also the holder of shares (indirectly in part) in entities in the United States, where a similar business is run at a smaller scale than in Vlaardingen. These entities have not been declared bankrupt and continue to be operational.

The business operations of the Group are aimed at the design, development, manufacture/composing and worldwide supply of various advanced machines for metal processing. Within Fontijne Grotnes Group there are/were 5 different business units, i.e. (i) Pipe Industry, (ii) Wheel production lines, (iii) Tire & wheel assembly line, (iv) Plate presses and (v) Canning cell & spinning.

The main actual / operational activities of these five business units performed from the Netherlands, were performed within Fontijne Grotnes B.V. This is confirmed by the fact that (nearly) all employees active in the Netherlands were employed by Fontijne Grotnes B.V.

### Turnover data

2016 (up to the bankruptcy date): EUR 16,074,830;
2015: EUR 22,338,491;
2014: EUR 19,819,337.

### Average number of employees

75 in the Netherlands and 4 abroad.

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**Balance at the end of the reporting period** €
543,428.64

€ 727.951,60

*€ 1,020,600.59*

€ 783.934,61

**Reporting period**
December 27. 2016 through January 31, 2017

February 1, 2017 through May 5, 2017

*May 6, 2017 through August 28, 2017*

*August 29 through 28 November 2017*

**Hours spent in the reporting period** 842 hours and 45 minutes

Correction hours spent report 1: 849 hours and 40 minutes 948 hours and 54 minutes

***288 hours and 12 minutes***

**Total of hours spent**
842 hours and 45 minutes

Correction total # hours spent report 1: 849 hours and 40 minutes Report 1,798 hours and 34 minutes

2,078 hours and 40 minutes

2,176 hours and 42 minutes

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**Explanation**

The receiver underpins the fact that the information in this report, particularly the financial information, is subject to further investigation. At a later stage, it may prove necessary to amend this information (to a considerable extent). The receiver does not vouch for the correctness of the data in this report, and the report mainly serves as a rough outline of the bankruptcies in question. The receiver rules out any liability for damages resulting from any incorrect or incomplete statements, particularly pointing to the fact that no rights may be derived from this information and that this information is not suited or meant for (the backing out of) any transaction or investment decision to be based on it, including a decision to procure or sell.

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## 1 Inventory

### 1.1 Management and organization

Fontijne Grotnes B.V. was established on 19 December 1986 and registered in the Trade Register of the Chamber of Commerce on 30 December 1986. The sole shareholder and director of Fontijne Grotnes B.V. is the private limited company FG Worldwide B.V. which was also declared bankrupt as of 27 December 2016.

The sole director of FG Worldwide B.V. is the private limited company Bestap B.V., its directors being Renne-Industries B.V., Frohn Management IJsselstein B.V., Hatra Capital B.V. and G.J. Hubers Holding B.V. Renne-Industries B.V. has as its sole director Mr M.M. Renne, Frohn Management IJsselstein B.V. has as its sole director P.G. Frohn, Hatra Capital B.V. is managed by Doura Industries B.V. the sole director of which is E.T. van Dijk and G.J. Hubers Holding B.V., finally, is managed by Hubers-De Bilt-Holding B.V. the sole director of which is Mr G. J. Hubers.

### 1.2 Profit and loss

2016: EUR 18,249,868 loss
2015: EUR 3,103,145 loss
2014: EUR 1,169,193 loss
2013: EUR 1,621,170 profits

### 1.3 Balance sheet total

2015: EUR 9,728,269,
2014: EUR 12,946,227
2013: EUR 14,434,187
2012: EUR 20,189,949

### 1.4 Pending proceedings

The receiver is not aware of any pending proceedings.

### 1.5 Insurance policies

The receiver has left the insurance policies unchanged that were necessary in view of the (possible) temporary continuation of the business operations.

The receiver contacted the (indirect) directors of Fontijne Worldwide B.V. to discuss the continuation of the BusinessGuard D&O insurance (with a claims-made character) and to make arrangements regarding the acceptance of the offer of some continued cover after the bankruptcy and the payment of relevant insurance premiums. In this context, the receiver proposed to the (indirect) directors to provide the receiver with the financial means necessary for the owed insurance premiums, which they consented to.

The other insurance policies were terminated by the receiver.

By the end of March 2016, the then current insurance policies — except for the BusinessGuard D&O insurance — proved no longer necessary. The insurance brokers were therefore asked to terminate these insurances. The policies were terminated per 1 April 2017. This concerns a termination of the policies of the collective accident insurance policy, the corporate liability insurance policy, the fire insurance policy, the transportation insurance policy, the insurance policy for machinery and equipment insurance and the multi trip business travel insurance policy.

In accordance with the arrangements made with the (indirect) directors of Fontijne Grotnes B.V. the BusinessGuard D&O insurance policy will be continues, with observance of a discovery period of one year (starting 1 January 2018).

***Except for the D&O insurance, all insurance policies have been terminated.***

**1.6 Lease**

Fontijne Grotnes B.V. leases commercial property at Industriestraat 21, in (3133 EE) Vlaardingen from A. Fontijne Beheer B.V. the annual lease amounts to EUR 520,000. The receiver, being authorized to do so by the bankruptcy judge, terminated the lease agreement(s) on 16 January 2017 as per the legally earliest possible date.

Due to the earlier termination of the lease agreement, it ended at the end of April. Now that the estate still needs (a significant part of) the leased property during the month of May, the receiver has made further arrangements with the landlord. The estate will pay the landlord a usage fee for the use of the leased property in the month of May, equivalent to the normal monthly rent.

***During the reporting period, the items in the leased property that were part of the effects of Fontijne Grotnes B.V. were sold and removed from the premises, if necessary. Next, the premises were transferred to the landlord.***

**1.7 Cause of the bankruptcy**

The receiver is investigating the cause/causes of the bankruptcy and will discuss the results of the investigation in a further report.

This quarter, the receiver's team has mainly been working on the sale of the business units. In this context, however, data has been secured and information has been gathered to allows for the main causes/reason for the losses to be established.

***The receiver continued his investigation in this context during the reporting period, taking further steps in terms of the analysis of the financial data as read. The receiver will continue his investigation in the upcoming period.***

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## 2 Personnel

### 2.1 Number at the time of the bankruptcy

75 in the Netherlands and 4 abroad

### 2.2 Number in the year before the bankruptcy

Unknown

### 2.3 Date notice of dismissal

The personnel working in the Netherlands were given notice on 4 January 2017. The personnel working abroad with the foreign establishments of Fontijne Grotnes B.V. were given a notice in writing on 12 January 2017.

### 2.4 Activities

Contacts with the Employee Insurance Agency (Uitvoeringsinstituut Werknemersverzekeringen, UWV), the HR staff and the individual employees.

## 3 Assets

### 3.1 Property: Specification

Not applicable.

### 3.2 Property: Proceeds of sale

Not applicable.

### 3.3 Property: Mortgage amount

Not applicable.

### 3.4 Property: percentage or amount paid to the receiver in his capacity as estate administrator for work done

Not applicable.

### 3.5 Property: Activities

Not applicable.

### 3.6 Business assets: Description

At the office location of Fontijne Grotnes B.V. there are various (office) supplies, machines, (handheld) tools and works of art. These have been listed and appraised by the NTAB.

In addition to the earlier, more general appraisal of the assets, the receiver (notably in the context of the intended sale of assets linked to the business units of the insolvent company) has ordered the valuation/appraisal of the movable goods per (business) unit by the NTAB. Insofar as these items were not specifically related to a business entity and were included in the sale of assets of a business entity, the sale of these items took place through in auction organized by Troostwijk. The auction has now been closed, but the invoicing, payment and delivery are yet to take place, for the most part. Another part of the business assets was sold to parties who bought the assets specifically related to business units prior to the auction.

Further to the auction of the business assets these were invoiced, paid and delivered. Thus, this item has been completed.

The data on the remaining computers and laptops have been removed by a certified company, after which these computers and laptops were sold at auction.

**3.7 Business assets: Sale proceeds**

As yet unknown.

The limited assets related to the "Plate Presses" component were sold by the receiver in the context of the broader sale of assets associated with the "Plate Presses" component. The proceeds from the sales of these assets were not specifically determined in the context of this sale, yet they were discounted in determining the percentage or amount paid to the receiver in his capacity as estate administrator for work done.

The limited assets related to the "Wheel Production Presses" component were sold by the receiver in the context of the broader sale of assets associated with the "Wheel Production Presses" component. The sales proceeds from these assets related to this sale at set € 50,000.

***During the reporting period, the receiver received the proceeds (minus the costs) of the business assets included in the auction that qualified as office effects in the amount of € 8,016.***

**3.8 Business assets: percentage or amount paid to the receiver in his capacity as estate administrator for work done**

As yet unknown.

The estate did not reach any specific agreements regarding the estate contribution for the sale of the assets related to the components "Plate Presses" and "Wheel Production Lines". The amount paid to the receiver in his capacity as estate administrator for work done will be justified in 5.5 and 6.7. of this report.

***For the proceeds of the auctions this is - naturally - not relevant.***

**3.9 Business assets: Right of seizure by the tax authorities of property found on the premises**

The receiver represents the interests of the tax authorities.

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## 3.10 Business assets: Activities

Handling contacts with interested parties, drawing up a confidentiality statement, setting up a digital data room (http://bid-book.nl/fontijne) in which further information about the Fontijne Grotnes Group can be found, arranging talks with interested parties, drawing up a sales contract and an appraisal report per business unit.

During the reporting period, the receiver maintained contact with interested parties and set up an auction together with Troostwijk for the assets not specifically related to business units. The receiver has arranged the private sale of assets that were specifically linked to business units. In the context of these sales, the receiver has been in close contact with interested parties, Troostwijk, Rabobank and the bankruptcy judge. In addition, the receiver has drawn up and negotiated various purchase agreements.

***Final activities; contact with stakeholders like Troostwijk, Rabobank and the bankruptcy judge.***

***Settlement sale at auction, contacts with Troostwijk.***

## 3.11 Stock / work in progress: Description

At the office location of Fontijne Grotnes B.V. there are various stock items, e.g. mounting hardware, cylinders and electric motors. Forty-four creditors have invoked a retention of title. The receiver will check per case whether retention of titles has been lawfully invoked and whether the items in question are still present (as an independent item).

As per the receiver's request a stay period of 2 months was ordered on 5 January 2017.

At the time of the bankruptcy there were approx.. ten current/ongoing projects. These are projects for clients all over the world, e.g. from Iran, India,
Russia and Indonesia. As regards these contracts/projects, the receiver investigated what the actual and financial status of the work in progress/ongoing projects was.

The receiver stays in contact with the different clients to investigate whether they are willing to agree on a (limited) completion of the work in progress/ongoing projects. In addition, the receiver will check whether it is possible, in the event of a real interest, to include the work in progress/ongoing projects in a restart.

As regards part of the work in progress/ ongoing projects the receiver has already reached an agreement concerning their settlement.
Among other things, this concerns the delivery of a machine to a client in India and work yet to be performed for a client in Italy. The receiver expects more clarity about the possibilities to reach an agreement about the other projects in the short term either with the clients of Fontijne Grotnes B.V. or with a (partially) restarting party.
For further information, see below under the header "restart".

At the office of the insolvent company more general and project or client specific stock items were present. The general stock items were sold at the above mentioned auction. The client specific stock items are still present in part and are expected to be realized in the next reporting period.

In addition to the aforementioned (smaller) stock items, two (not yet completed) machines that were designed and built by the insolvent company were also present at its offices: a "Tire Wheel Assembly Line" and a "Canning & Spinning Line". After the receiver found that the party who had commissioned the insolvent company to manufacture the Tire Wheel Assembly line was not interested in purchasing it (anymore), the assembly line was sold by the receiver privately.

***It appeared that there was hardly any interest in the client-specific stock items, among other reasons because these were incomplete orders. Given that the costs of further sales efforts did not weigh up against the expected return, the receiver did not make any further efforts to sell and completed this item.***

***During the reporting period, the so called Canning & Spinning line was sold. This is the standalone machine, not the assets linked to the Canning & Spinning business unit. After a private selling process, the receiver included the Canning & Spinning line in the auction performed by Troostwijk. During the auction term the receiver got a better offer than the expected sales proceeds. To allow the highest bidder to top this offer, he informed the highest bidder of this fact, inviting the bidder to match or top it. When the bidder decided against this, the receiver sold the Canning & Spinning line in a private sale after all.***

### 3.12 Stock / work in progress: Sales proceeds

The proceeds from the completion of the work in progress for the client in Italy currently amount to € 129,783.20. A further € 40,000 will be added to this amount if the performance of the completion is correct/takes place in time.

The proceeds regarding the delivery manufactured by the company in liquidation to an Indian party amount to 1,400,000 Euro. Part of the arrangements made with the Indian party was that they were to also waive a bank guarantee made out in their name to an amount of 689,332.80 Euro.

The proceeds from the sale of the Tire Wheel Assembly line amount to € 150,000. The sales proceeds realized by Troostwijk through the auction can only be accounted for by Troostwijk after its (financial) settlement.

***The proceeds from the sale of the Canning & Spinning line is € 225,000 (which proceeds only fall to the assets in part).***

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**3.13 Stock / work in progress: percentage or amount paid to the receiver in his capacity as estate administrator for work done**

As regards the project for the client in Italy, the amount paid to the receiver for work in his capacity as estate administrator for work done currently amounts to € 58,555.64. A further € 8,000 will be added to this amount if the performance of the completion is correct/takes place in time. As in respect of the amount to be paid to the receiver for work done as estate administrator direct costs have been incurred as well, this will be itemized under the header "continuation".

In view of the delivery of the machine manufactured by the bankrupted party to an Indian party, the the amount paid to the receiver for work in his capacity as estate administrator for work done amounts to €294,473.06

The amount paid to the receiver in his capacity as estate administrator for work done in view of the sale of the Tire Wheel Assembly line is € 40,135.

***The proceeds towards the assets of the sale of the Canning & Spinning line is € 33,249.***

**3.14 Stock / work in progress: Activities**

Further inventory of various ongoing projects (both the actual and financial situation), contacts with various clients (and their advisers), contacts with Rabobank (pledgee), etcetera.

Contacts with Troostwijk, NTAB, various clients, Rabobank and the bankruptcy judge. Negotiations and agreements with respect to sales and purchase agreement(s) and contact(s) regarding delivery.

***Contacts with Troostwijk, interested parties, Rabobank and the bankruptcy judge. Negotiations and agreements with respect to sales and purchase agreement(s) and contacts regarding the delivery.***

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**3.15 Other assets: Description**

The goodwill related to the businesses operated by Fontijne Grotnes B.V. and Fontijne Worldwide B.V. consisting of, among other things, the right to use the trade name, the internet domain names, email addresses and phone numbers.
In addition, miscellaneous intellectual property has been found, consisting of, among other things, 17 patent rights and many technical drawings and designs.

Patent rights
The (17) patent rights pertain to three patent families.
To prevent the lapse of patent rights, the renewal fees must be paid for the patents in the next few month. The receiver will investigate which patent rights must be kept in view of the continuation of the business operations and the sales of the assets.

Technical drawings
Fontijne Grotnes B.V. is is the party entitled to many technical drawings that qualify as know-how and that, in certain cases, may be subject to copyrights. Where certain drawings are concerned, it is not clear yet whether these belong to the bankrupted party or to Fontijne Grotnes North America Inc. and/or its American subsidiaries.

Patent rights

As the receiver does not yet have sufficient information to be able to judge which patent rights are required for the continuation of the business activities, the receiver has not yet paid any renewal fees. There are two instalments to be paid for the renewal fees. At the end of the first term, there is still the possibility to pay the renewal fees within six months to prevent the lapse thereof. To date, the first payment terms relating to several patent rights (i.e. the Japanese, Chinese, German, Spanish, French, Italian, English, Turkish, Russian and Dutch patent rights for the invention "intelligent welding") have expired. Since the second terms have not yet expired, the above-mentioned patent rights are presumably still valid. Note that these patent rights have been sold (see below under 3.16), where the buyer was notified in an information memorandum that the renewal fees must be paid before the applicable terms.

For the invention "intelligent welding" (applied for on behalf of the business unit Wheel industry) an application was filed with the Indian Patient Office at the time, in the period before Fontijne Grotnes B.V. was declared bankrupt. The application procedure was not yet completed when the company was declared bankrupt. The patent attorney informed us that a considerable amount was to be incurred for the continuation of the application procedure. The receiver took the option to suspend the application procedure. Because the receiver did not have sufficient information at the end of the suspension period to be able to assess whether an Indian patent right is of interest to interested parties, it has been decided not to incur additional costs on behalf of the estate for the continuation of the application procedure.

Furthermore, the patent attorney had to be informed whether the international patent application for the invention "Fitting TWA" (requested within the PMC TWA business unit) would be converted into national and / or regional patent rights before 24 April 2017. The aforementioned international patent application is not an independent patent right, but an application through which could be obtained national and / or regional patent rights, against payment. However, it was not possible to assess in advance whether national and / or regional patent rights for the Fitting TWA invention had any added value and, if so, in which countries and / or regions a patent right had to be applied for. In addition, it was highly likely that the costs of converting the international patent application would not outweigh its benefits, as the conversion would most likely **not have been completed before any sales of the PMC TWA business unit. In view of the above reasons, it was decided not to incur additional costs on behalf of the estate for a conversion of the international patent application. Thus, the international patent application expired. Currently there is still a valid Dutch patent right for the same invention.**

The assets associated with the "Pipe Industry" business were sold to the Swiss Haeusler AG Duggingen during the reporting period for an amount of € 600,000. These assets consist of intellectual property (drawings, customer data and financial data), goodwill and contracts. Insofar as these assets concerned data, it has been migrated / extracted from the insolvent company's systems to an external hard drive. The receiver then delivered this external hard drive to the buyer. The paper drawings / instructions for use that belong to the business unit "Pipe Industry" will be delivered to the buyer shortly.

The assets associated with the company "Wheel Production Lines" have been sold to a Chinese buyer for a total of € 1,290,000 during the reporting period. These assets consist of intellectual property (i.e. drawings, schemes, patents and software), goodwill and movable property (business assets). The (sales proceeds of the) operating assets are/have already been justified under 3.7. Insofar as the intellectual property consisted of data and patents, these have already been delivered. The legal delivery of movable assets and paper drawings / instructions / other documentation has already taken place. The actual delivery will take place shortly.

***Patent rights***
***The receiver has been in regular contact about the patents still registered in the name of Fontijne Grotnes B.V. Part of the contacts concerned discussions with the patent office about whether (inter)national and/or regional patients should be lapsed. Also, there have been contacts with the buyer of the assets related to the business unit Wheel Production Lines, concerning the transfer of the related patents.***

***Technical drawings***
***Further to the sales made, the receiver has transferred to the buyers the technical drawing and further IP/data in connection with the business units Plate Presses, Pipe Expanders and Wheel Production Line.***

***The intellectual property related to Tire Wheel Assembly has not been sold yet because no (sufficiently) good offers were made. The receiver is still talking to several interested parties and is considering the possibilities of a sale. The receiver expects that in the upcoming reporting period it will become clear whether the sale can be realised.***

***The intellectual property of business unit Canning & Spinning (largely) belonged / belongs to Fontijne Grotnes North America. In view of the possible infringement of rights of FG NA and in view of the sale of shares (in the bankruptcy of FG Worldwide B.V.), the intellectual property was left /transferred to FGNA.***

***The intellectual property of Domestic Appliances, insofar as it pertains to machines delivered to (Bosch), were sold to BSH (Bosch). The receiver expects that the transfer can take place in the short term. The receiver did not encounter any concrete interest in the intellectual property related to the business unit Domestic Appliances that does not pertain to the machines delivered to BSH (Bosch).***

***During the reporting period, the buyer of the assets linked to the business unit “Wheel Production Line” owed the amount payable of € 150,000. The buyer initially deferred payment, among other things invoking the incorrect/incomplete performance of the sales agreement by the receiver. After the receivers, in this context, took a clear position, the amount was paid after all.***

***As stated earlier, the intellectual property related to the business unit Domestic Appliances, insofar as it pertains to machines supplied to BSH (Bosch), was sold to BSH (Bosch). During the reporting period the delivery (and receipt of the sales/purchase price took place.***

### 3.16 Other assets: Proceeds from sales

As yet unknown.

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Part of the intellectual property rights and know how (hereinafter jointly: "IP rights") have already been sold. These are IP rights related to the business units Plate Presses, Pipe Expanders and Wheel Industry:

- On February 3, 2017, the business unit Plate Presses was sold to Fontijne Presses Services B.V. In addition, all IP rights related to the above-mentioned business unit have been sold. This concerns, among other things, the related drawings (in AutoCad), trade names, domain names, the (IP rights related to) brochures, videos sales lists, client lists, software, agency and distribution agreements, service agreements and data. The business unit sold in its entirety for an amount of EUR 287,500.
- On 22 February 2017, the business unit Pipe Expanders was sold to Hauesler Holding AG. All IP rights related to the abovementioned business unit were sold as well. The IP rights include the related drawings, copyrights, domain names and email addresses, the (IE rights related to) software, manuals, PowerPoint presentations and data. The FONTIJNE GROTNES logo has also been sold, exclusively for the use of the aforementioned logo with the additions "pipe" and/or "pipes" and/or "pipes & services" and/or "pipe & services" and/or "pipes & service" and/or "pipe & service". The business unit, together with IP rights, has been sold as a whole for EUR 750,000, excluding sales tax. Moreover, it has been agreed in the purchase agreement that if the the purchase enters into an agreement regarding a "Full Body Pipe Expander" in the SeAH project before 30 June, a further amount of EUR 150,000 must be paid to the estate.
- On 27 April 2017, the business unit Wheel Industry was sold to Zhejiang Jingu Company Limited. All IP rights related to the abovementioned business unit were sold as well. Among other things, this concerns all patents rights and patent applications for the invention "intelligent welding" and the related data. The business unit has been sold as a whole for EUR 1,290,000, excluding sales tax. The abovementioned sales price can be broken down as follows:

  - EUR 50,000 is paid for all movable business assets and hardcopy drawings;
  - EUR 150,000 is paid for the patent rights;
  - EUR 1,090,000 is paid for the digital data.

The buyer must settle the purchase price within six months of the conclusion of the purchase agreement.

The estate is yet to receive part of the sales proceeds.

The sales proceeds of the sold assets in relation to the business unit "Pipe Industry" amounts to € 750,000, of which amount € 600,000 has been received to date.

The sales proceeds of the sold assets in relation to the business unit "Wheel Production Line" amounts to € 1,290,000, of which amount € 1,140,000 has been received to date, and an amount of € 150,000 must be received after the transferred patients have been made out in the name of the purchaser.

*The proceeds of the intellectual property sold in relation to Domestic Appliances, insofar as it pertains to machines delivered to BHS (Bosch) amount to € 25,000.*

*The part of 150,000 of the sales proceeds of the business uit "Wheels Production Line" yet to be received was paid to the bankruptcy account during the reporting period.*

### 3.17 Other assets: Activities

Handling contacts with interested parties, drawing up a confidentiality statement, setting up a digital data room (http://bid-book.nl/fontijne) in which further information about the Fontijne Grotnes Group can be found, arranging talks with interested parties, drawing up sales contracts and an appraisal report per business unit. An investigation into all patent rights in the international, European, foreign and national patent registers, an inventory of the drawing and other know-how, the handling of contacts with a number of people within Fontijne Grotnes B.V. who have knowledge of (the background of) the intellectual property rights, handling contacts with patent agents, making an inventory per business unit of the intellectual property rights to enable their sale and transfer.

During the reporting period, the receiver started a global Closed Tender Sale in close collaboration with Troostwijk to achieve a (timely) sale of assets related to the different business units. This seemed appropriate because the interested parties did not make sufficient progress after the acquisition of these assets. Among other things, the work involved the (support of) the dispatch of a global mailing, the co-production of further information / documentation for a Troostwijk data room, the guidance of various discussions, the negotiation of various parties, the preparation of agreements, etc.

***Contacts with Troostwijk, the chairing of various meetings, the negotiations with various parties, the drawing up of agreements, etc.***

***Contacts with Troostwijk, (the lawyer of) the buyer of the assets linked to the business unit "Wheel Production Line", BSH, parties that may be interested in the assets linked to the business unit Tire Wheel Assembly".***

## 4 Receivables

### 4.1 Scope of receivables

Per 28 December 2016 the receivables amounted to € 2,725,483.55. The bulk of this amount consists of claims the bankrupted party has on clients in view of ongoing projects (see above, under 3.11).

The actual (recoverable) accounts receivable is closely related to the question as to whether and to what extent current projects have been completed. The receiver has already started collecting some of the outstanding amounts, but finds that the claims are often disputed.

***The total balance of accounts receivable at the end of the reporting period is approx. € 300,000, consisting of claims on approx. 35 debtors all over the world. The amount is considerably lower than the amount mentioned earlier is mainly the result of 1) the fact that the bankrupted company made different arrangements with a number of clients (e.g., the client in India who paid the machine that was delivered after all, in the amount of € 1,400,000 to the bankrupted company, see, for example, 3.12); and 2) the fact that in view of the sale of shares in the American entities intercompany claims were waived that had been included in the amount mentioned earlier (in the amount of approx. € 1,050,000).***

***In consultation with Rabobank the receiver started to summon the debtors.***

***The total outstanding accounts receivable by the end of the reporting period amount to approximately € 126,000.***

**4.2 Proceeds**

As yet unknown.

***So far, of the outstanding balance of accounts receivable, € 32.072,55 has been received on the bankruptcy account. It also proved that some debtors were paid after the bankruptcy date to the Rabobank account. This concerns an amount thus fas known to the receiver of € 8,012.69. One debtor asked for an amount of € 18,718.76 to set off against a counterclaim. One debtor of € 187.20 was written off in view of the fact that the received was unable to find an invoice in the books.***

***So far, an amount of outstanding receivables of € 44,849.09 were received on the bankruptcy account and € 76,933.97 on the Rabobank account.***

**4.3 Percentage or amount paid to the receiver in his capacity as estate administrator for work done**

The receiver will reach[3] "tailored" agreements with the pledgee per client (see above in points 3.11 and 4.1).

In the context of the “normal” collection of receivables it was agreed with Rabobank that for the sending of the first two warning letters a percentage of 10% of the collected amount would be received. For the possible follow-up tailored arrangements will be made.

**4.4 Activities**

Inventory outstanding amounts, making arrangements with the bank.

Contacts with (former) clients / creditors of the insolvent company.

***A further inventory of outstanding amounts, summoning debtors, further contacts with debtors and alignment with the bank.***

***Updating accounts receivable, substantive correspondence with debtors and resummoning debtors.***

# Public liquidation report regarding a legal entity (pursuant to Art. 73A Bankruptcy Act)

**Number:**4 **Date:**11/30/2017

## 5 Bank / Collateral

### 5.1 Bank claims

Rabobank is involved in the bankruptcy as principal banker. It has submitted claims to a total amount of € 6,319,706.80, which it has specified as follows:

- € 2,282,299.23 resulting from a revolving credit facility;
- € 99,379.86 resulting from an overdraft;
- € 3,938,027,71 resulting from bank guarantees to the lessor and to client, in view of advance payments on orders and warranty obligations, among other things.

The receiver aims to prevent the invoking of bank guarantees as much as possible by making arrangements with the beneficiaries thereof.

So far, the invoking of warranty has been prevented to a total amount of € 689,332.80.

During the reporting period, the receiver has found that a client of the insolvent company has let the the term expire within which a bank guarantee in the amount of € 436,250 made out for the benefit of this client. This amount will be deducted from Rabobank's claim.

***As a result of the receiver's sales efforts regarding the pledged property, Rabobank's claim was significantly reduced (on balance). At present, Rabobank's claim is € 1,381,094.76.***

### 5.2 Lease contracts

Prior to the bankruptcy the lease cars were repossessed by the lease company. The receiver made an inventory of the lease agreements regarding tangible assets like Xerox machines and ICT equipment. Barring the contracts required or the continuation of the work, the contracts have been terminated by the receiver.

In the meantime, all lease agreements known have been terminated.

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**5.3 Specification of collateral**

As Rabobank demanded a right of pledge on the furniture and equipment, stock, claims on debtors, domain names and intellectual property rights and the shares in Fontijne Grotnes B.V., FG Worldwide B.V. and Fontijne Ghyselink B.V. and in the American subsidiary Fontijne Grotnes Inc. as collateral for its claims.

Furthermore, the group companies of the group Fontijne Grotnes B.V. is part of (both the Dutch and the US ones) have committed as joint and several debtors for the claims of Rabobank under the loan agreement.

Sech B.V., LIMIRe B.V. and MarcAnn Management B.V. have also entered into a joint and severally liability towards Rabobank.
The companies are linked to the former directors of the insolvent company.

**5.4 Secured creditor position**

To the best of our knowledge there are no creditors, apart from Rabobank, that will claim a position of secured creditor.

**5.5 Percentage or amount paid to the receiver in his capacity as estate administrator for work done**

If there is reason to do so, the receiver will ask the bank for a percentage in view of work performed for the enforcement of security interests.

In view of the recent delivery of the Indian party referred to in 3.11, where the receiver, for the benefit of Rabobank, among other things, negotiated with the buyer and handles the inspection and packaging of the machine into 12 sea containers, the haulage and financing documents, the withdrawal of bank guarantees and the shipment and insurance, if necessary by contracting third parties, the receiver expects to receive an amount of €294.473,06 for work performed.

The work performed by the receiver in view of the bank's claim is focused on the selling of parts of the company and the finishing of current orders / collecting from debtors. For this, the receiver is in close contact with the bank. Insofar as this concerns the bank's own securities, a contribution for work performed is agreed on per individual case.

For the necessary expenditures, Rabobank provided a short-term preferential loan to the bankrupt estate in the amount of € 35,000, on condition that the loan will be repaid immediately after payment of the receiver's fee, or will be marked as a claim with top preference.

The pledgee and the receiver have agreed that the proceeds from the sale of the assets associated with the business unit "Pipe Industry" (after deduction / reimbursement of the estate of the directly linked external costs of approximately € 19,000) is split on the basis of a 2 3 - 1/3 distribution, with 2/3 being assigned to Rabobank as pledgee with a pledge on a significant portion of the assets and 1/3 of the estate as a percentage paid to the receiver in his capacity as estate administrator for work and the value, including, the unpledgable goodwill.

The pledgee and the receiver have agreed that the proceeds from the sale of the assets associated with the business unit "Wheel Production Line" (after deduction of the property found on the premises (€ 50,000) and a reimbursement of the external costs of € 66,667 directly linked to this sale) is split on the basis of a 2 3 - 1/3 distribution, with 2/3 being assigned to Rabobank as pledgee with a pledge on a significant portion of the assets and 1/3 of the estate as a percentage paid to the receiver in his capacity as estate administrator for work and the value, including, the unpledgable goodwill.

***The percentage or amount paid to the receiver in his capacity as estate administrator for work done received from Rabobank have been justified hereinabove.***

### 5.6 Retention of title

In all, approximately 45 suppliers invoked retention of title. The receiver is investigating whether the goods in question have become a component part of other goods, or, are no longer kept on the premises of Fontijne Grotnes B.V. or whether they are still present on the premises of Fontijne B.V. Next, the receiver will investigate whether the suppliers have made a legally valid retention of title. Currently, a stay period has been announced pursuant to Article 63a Bankruptcy Act, that will last until 4 March 2017.

As mentioned in the previous report, a total of 45 creditors have called for retention of ownership. The receiver has assessed whether the items were still present at the location of the insolvent company and / or were already processed in a project on a case-by-case basis. If the goods were still present at the insolvent company's premises and there was no ownership acquired by specifation, (improper) confusion of property and / or component formation, the receiver has examined whether an appeal made by the supplier in question was valid. In nearly all cases in which the appeal on retention of title was valid the good have already been collected.

With one of the suppliers who invoked a retention of title, the right to claim back unpaid goods as well as intellectual property rights, the receiver reached a settlement implying that this supplier waives its claims in the event of the sale of the aforementioned "Tire Wheel Assembly Line" and "Canning & Spinning Line" in exchange of part of the proceeds from the sale.

***The receiver has completed this item in the reporting period.***

### 5.7 Rights of retention

The receiver is not aware of any creditors exercising a right of retention. Should this happen after all, the receiver will lay claim to the relevant item, invoking Article 60 Bankruptcy Act.

### 5.8 Rights of recovery

No party has contacted the receiver to invoke a right of recovery- whether in combination with a retention of title claim or not. The receiver is examining whether the right of recovery has been invoked and to which items this pertains. The receiver is currently discussing matters with the relevant party/parties.

No party has contacted the receiver to invoke a right of recovery- whether in combination with a retention of title claim or not. The goods in relation to which
a right to claim unpaid goods was considered valid have already been collected.

### 5.9 Activities

The work performed by the receiver in view of the bank's claim is focused on:
1. the sale of parts of the company;
2. the completion of current orders.

For this, the receiver is in close contact with the bank.

Miscellaneous contacts with Rabobank, property creditors (also in relation to the identification and transfer of goods). In the context of the relationship with the supplier referred to in the second paragraph of 5.6, a substantive examination of the contract history between the two parties took place among other things, and the receiver conducted a substantive discussion and negotiations with this supplier.

***Investigation documents and the actual situation, contacts with a limited number of creditors who made retention of title claims, contacts with Rabobank.***

## 6 Restart / continuation of the enterprise

### 6.1 Continuation: Operations / securities

The activities of the bankrupted party are currently being continued by a core team of employees on a limited scale, particularly if needed in view of the completion of the work in progress and in view of the sales process. As stated above, the usual insurance policies have been continued. Also, arrangements were made with the pledgee that means that the costs of the limited continuation are covered at least.

During the reporting period, the limited continuation of activities was terminated. The essence of the limited continuation was to preserve value in ongoing projects / orders and to collect and present relevant information for interested parties. At the time of the bankruptcy, there were actually ten ongoing and / or almost completed projects. As part of the completion of one of these projects, employees of the insolvent company were employed in Switzerland for some time. With regard to four projects, the receiver has sold a (separate) sale of the machine(s) manufactured that were present at the insolvent company's premises on the bankruptcy date whether to the original client(s) or to others. The relevant sales have been specified in the report. In the case of three projects, the receiver has sought to arrange for the completion of the work (which was largely completed on the bankruptcy date), but after multiple contacts, the client appeared not to agree with this. A project that was not really started on the bankruptcy date was not continued, also in view of the sale of assets associated with the "Pipe Industry" business unit. A project that was actually carried out by the former US subsidiary/ies of the insolvent company has been continued by these subsidiary/ies in consultation with the receiver.

***As already proved from the previous reports this item was settled in the previous reporting period.***

## 6.2 Continuation: Financial reporting

The costs and proceeds related to the limited continuation are developing continuously, and a report on this will be presented at a later stage.

The financial reporting for the costs and revenues associated with the limited continuation is constantly evolving. For the current state of affairs we refer to the interim financial report.

## 6.3 Continuation: Activities

Contacts with various necessary suppliers (e.g. for utilities, PCs, etc.), management and (other) employees, agents, clients, Rabobank (pledgee), etc.

Similar work as in the previous reporting period.

***During the reporting period, some final work was yet to be performed.***

### 6.4 Restart: Description

The receiver has written more than 50 parties that may be interested in taking over the assets and/or business activities of Fontijne Grotnes B.V. For this, the receiver, in addition to the activities in the US and the Netherlands, made a distinction into the aforementioned business unit, i.e.: (i) Pipe Industry, (ii) Wheel production lines, (iii) Tire & wheel assembly line, (iv) Plate presses and (v) Canning cell & spinning. In the meantime, the receiver has set up a digital data room for interested parties, who first signed a confidentiality statement, via which information about Fontijne Grotnes Group has been made available. Based on the information present in the data room, the receiver invited interest parties to issue an indicative bid. Based on the 15 indicative bids, the receiver invited several parties for a (further) introduction to the company, its assets and part of its employees. These parties are then allowed to submit their final bid, after which the receiver will enter into negotiations concerning a possible (partial) restart.

On 31 January 2017, the Plate Presses unit was sold to the Belgian company Aptco for EUR 287,500, which amount has been paid, after which the related IP rights will be handed over on a hard disk. All five employees have entered the service of the buyer. For the Piping unit exclusive negotiations are ongoing. The other units will be discussed in the next report.

Since the agreements relating to the sale of assets linked to the various business units do not include any obligations regarding (former) employees of the insolvent company (and moreover, it is not yet clear whether and to what extent the relevant purchasers will continue the activities of the insolvent company in the Netherlands), these sales are already accounted for in this report.

***As already proved from the previous reports this item was settled in the previous reporting period.***

### 6.5 Restart: justification

See above.

### 6.6 Restart: Proceeds

As yet unknown.

The proceedings of the relaunch of the business unit "Plates Presses" amounts to € 287,500. The other p(sales) proceeds have been justified elsewhere in this report.

### 6.7 Restart: Percentage/amount to be paid to the receiver for work performed

As yet unknown.

The bank and the receiver have agreed that as regard the proceeds from the sale of the business unit "Plate Presses" 1/3 part will fall to the estate.26

### 6.8 Restart: Activities

Handling contacts with various parties, e.g. employees, directors, drafting a confidentiality agreement, drafting relevant documents (i.e. bid books, bidding protocol, bidding form, confidentiality agreement) and in this context, setting up a digital data room (http://bid-book.nl/fontijne) in which further details about Fontijne Grotnes Group can be found, handling contacts with the various interested parties, drafting and negotiating sales agreement(s) and ordering appraisals reports per business unit. Per business unit a bid book has been prepared, plus a presentation with the key data of the relevant activity. Also, a hard disk was prepared per branch, with all the technical data. Copying alone costs 18 hours on average.

During this reporting period, the receiver has performed further work, which in part corresponds to the activities during the previous reporting period.

***During the reporting period some final work was yet to be performed.***

## 7 Regularity

### 7.1 Accounting obligation

The accounts were taken in a digital format. The receiver will investigate if and to what extent and the accounting obligations were met.

The receiver has started his investigation and in this context makes use of the services of PWC, among others. The receiver expects to be able to share his first findings after the upcoming reporting period.

***The receiver continued his investigation and will continue it in the upcoming period. For his investigation, the receiver has named a number of items to be addressed, especially following talks with the parties involved. The receiver will inform the bankruptcy judge about these items and about the course of the investigation.***

### 7.2 Filing of annual accounts

The annual accounts for 2011, 2012, 2013 and 2014 were filed in a timely manner. The annual accounts for 2015 have not been filed anymore.

**7.3** Cert. of approval from the Accountant:

The receiver is currently looking into this.

*In view of the total value of the assets on the balance sheet, the net turnover and the number of employees of the bankrupted company, it is obliged pursuant to Art. 2:396 para. 1 DCC to submit its annual accounts with an unqualified audit opinion. The 2014 annual accounts comprise an unqualified audit opinion from Grant Thornton.*

*The auditor has also provided an unqualified opinion in relation to the financial statements for 2012 and 2013.*

**7.4 Obligation to pay on shares**

As the term for filing a claim in view of not complying with the obligation to pay share has already expired, the receiver will not look into to this any further.

**7.5 Mismanagement**

The receiver will look into this.

**7.6 Fraudulent acts in respect of creditors**

The receiver will look into this.

**7.7 Activities**

Starting up a regularity audit

Continuation of regularity audit.

During the reporting period the receiver continued his investigation. He will do the same in the coming period and inform the bankruptcy judge accordingly. In view of the external reports/justification the results of the investigation will be discussed first after these have been shared and discussed with stakeholders.

## 8 Creditors

**8.1 Claims against the insolvent company**

It is expected that apart from the regular costs of settling the bankruptcy, i.e. the debts to the Employee Insurance Agency (UWV) and the receiver's fee, there will also be claims related to the continuation of operations, e.g. the claims of the utility company and the costs related to the upkeep of the internet connection and the server.

The landlord has stated his claim on the estate in the amount of € 209,8798.40 before the notice period. Furthermore, 5 foreign former employees have claimed wages in a total amount of € 66,278.15 before the notice period.

Berendse Textielservice submitted a claim against the insolvent company of € 761.86.

***UWV has submitted a total claim against the insolvent company of € 748,076.07.***

**8.2 Preferential claim tax department**

So far, the Tax Department has filed a total preferential claim of € 566,644.

***The preferential claims submitted by the Tax Department and the Customs Department currently amounts to € 568,799.73.***

**8.3 Pref. claim of the Employee Insurance Agency (UWV)**

So far, the Employee Insurance Agency (UWV) has not filed a claim yet.

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***The total preferential claims submitted by Employee Insurance Agency (UWV) amounts to € 457,394.75.***

**8.4 Other pref. creditors**

So far, 5 employees have filed a preferential claim pursuant to Article 3:288 sub e Netherlands Civil Code in a total amount of € 97,418.76. The Pension Fund Metalelektro filed a preferential claim in the amount of € 61,139.70 for the employees' part.

So far, 7 employees have filed a preferential claim pursuant to Article 3:288 sub e Netherlands Civil Code in a total amount of € 146,264.19.

***Ten employees have filed a preferential claim pursuant to Article 3:288 sub e Netherlands Civil Code in a total amount of € 166,714.98.***

***The Pension Fund Metalelektro filed a preferential claim in the amount of € 61,139.70 for the employees' part.***

**8.5 Number of ordinary creditors**

117

173

189

190

**8.6 Amount of ordinary creditors**

€ 7,743,374.44

€ 8,437.327.35

€ 3,977,898.23

€ 3,998,506.50

**8.7 Expected manner of settlement**

As yet no conclusion can be drawn as to what can and what cannot be paid to the creditors.

### 8.8. Activities

The further inventory of the debts and the assessment of the claims submitted by employees abroad, whose claim is not covered by the wage guarantee scheme.

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## 9 Proceedings

### 9.1 Names other party/parties

Not applicable.

### 9.2 Nature of the proceedings

Not applicable.

### 9.3 Status of the proceedings

Not applicable.

### 9.4 Activities

None.

## 10 Miscellaneous

### 10.1 Settlement term bankruptcy

The term within which the bankruptcy will be settled will depend on how soon the different business units can be sold, as well as the outcome of the regularity audit, among other things.

The term within which the bankruptcy will be settled will depend on how soon the last business units can be sold, among other things, as well as the outcome of the regularity audit, among other things.

***The term within which the bankruptcy will be settled will depend on the finding of the receiver in view of the regularity audit, which the receiver cannot anticipate on.***

### 10.2 Action plan

***The receiver has largely completed the sale of assets (related to the different business units) and will, in the upcoming period, particularly focus on the regularity audit. The receiver will inform the bankruptcy judge about the items to be addressed and about the course of the investigation.***

### 10.3 Submission next report

The second report will be submitted approximately 3 months from now.

The third report will be submitted approximately 3 months from now.

The fifth report will be submitted approximately 5 months from now.

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## 10.4 Activities

- Further inventory and delivery of items that are property of third parties
- Sale of various business unit;
- Completion of work in progress/ongoing projects;
- Regularity audit;
- Inventory of the debt burden.

E.g., sale of final assets, regularity audit, inventory of debt burden.

- contacts with buyer of the assets linked to the business unit “Wheel Production Line” in relation to the data/assets possibly to be provided.

- continuation of the causes and regularity audit