

Liquidator's Progress Report

S.192

Pursuant to Sections 92A and 104A and 192
of the Insolvency Act 1986

To the Registrar of Companies

Company Number

00298792

Name of Company

Arthur Holgate & Son Limited

I / We

Ian Michael Rose, 1st Floor, Consort House, Waterdale, Doncaster, DN1 3HR

the liquidator(s) of the company attach a copy of my/our Progress Report
under section 192 of the Insolvency Act 1986

The Progress Report covers the period from 07/06/2013 to 06/06/2014

Signed



Date

9 July 2014

Silke & Co Limited
1st Floor
Consort House
Waterdale
Doncaster
DN1 3HR

Ref A1NC/IMR/CLB/KR/JCE

WEDNESDAY



Q3C85ABU

QIQ

16/07/2014

#122

COMPANIES HOUSE

Arthur Holgate & Son Limited
(In Liquidation)
Liquidator's Abstract of Receipts & Payments

Statement of Affairs		From 07/06/2013 To 06/06/2014
	ASSET REALISATIONS	
Uncertain	Book Debts	NIL
	Cash at bank	14,702 87
		<u>14,702 87</u>
	OTHER REALISATIONS	
	Sundry refunds	71 00
Uncertain	Bank Claim	NIL
		<u>71 00</u>
	COST OF REALISATIONS	
	Specific bond	60 00
	Preparation of Statement of affairs	5,000 00
	Liquidator's fees	7,000 00
	Telephone/Telex/Fax	15 42
	Companies House Search	9 00
		<u>(12,084 42)</u>
	FLOATING CHARGE CREDITORS	
(904,816 00)	Barclays Bank plc	NIL
		<u>NIL</u>
	UNSECURED CREDITORS	
(319,675 11)	Trade & Expense	NIL
(1,259,382 00)	Directors	NIL
(5,745 78)	HM Revenue & Customs (PAYE/CT)	NIL
(60,820 46)	HM Revenue & Customs (VAT)	NIL
		<u>NIL</u>
	DISTRIBUTIONS	
(750,000 00)	Ordinary shareholders	NIL
		<u>NIL</u>
<u>(3,300,439.35)</u>		<u><u>2,689.45</u></u>
	REPRESENTED BY	
	VAT receivable	2,403 08
	Estate Account (Non-Interest Bearing)	286 37
		<u>2,689.45</u>
		<u><u>2,689.45</u></u>

Arthur Holgate & Son Limited
(In Liquidation)
Supplementary Information

Registered Office / Home Address

c/o Silke & Co Ltd
 1st Floor Consort House
 Waterdale
 Doncaster
 DN1 3HR

Registered Number

00298792

Appointment Details

First Partner - Ian Michael Rose
 1st Floor, Consort House, Waterdale, Doncaster, DN1 3HR
 Appointment Date - 07/06/2013

Changes to Office Holders

None

Additional Information

Dividends / Distributions / Consigned Funds

Dividend Type	Date	Admitted	Number	Paid	p in £
---------------	------	----------	--------	------	--------

No Dividends Paid

Unrealisable Assets

IRHP Mis-sell
 Book Debts
 VW Passatt

Details of Basis of Remuneration

Time Costs

Statement of Remuneration / Expenses
For period 07/06/2013 to 06/06/2014

Account	Incurred In Period	Accrued In Period For Last Period	Accrued In Period	Total In Period
Specific bond	60 00	0 00	0 00	60 00
Preparation of Statement of affairs	5,000 00	0 00	0 00	5,000 00
Liquidator's fees	7,000 00	0 00	0 00	7,000 00
Telephone/Telex/Fax	15 42	0 00	0 00	15 42
Companies House Search	9 00	0 00	0 00	9 00
	12,084 42	0 00	0 00	12,084 42

SILKE & CO LTD

1st Floor – Consort House – Waterdale – Doncaster – DN1 3HR

Tel 01302 342875 - Fax 01302 342986

Email admin@silkeandco.co.uk - Web www.silkeandco.co.uk

TO ALL CREDITORS AND MEMBERS

Our Ref A1NC/IMR/CLB/KR

Date 14 July 2014

When calling please ask for Kelly Rouane

Email kelly.rouane@silkeandco.co.uk

Dear Sir/Madam

ARTHUR HOLGATE & SON LIMITED – IN LIQUIDATION

The Liquidator presents his first annual report upon this matter. This report should be read in conjunction with the report of the initial meeting of creditors.

1. RECEIPTS AND PAYMENTS ACCOUNT

I attach an account of receipts and payments from the commencement of the winding up to the end of the anniversary and comment as follows.

2. REALISATIONS

Assets

The assets of the Company as per the Statement of Affairs were book debts, which had a book value of £88,893.95 and an uncertain estimated to realise value. The book debts have been listed as uncertain as a proportion of the debts may have already been collected by the previous Administrator. The Liquidator is reviewing all information provided to enable him to pursue any potential debts outstanding.

Also listed on the Statement of Affairs is a claim against Barclays Bank plc ("Barclays") for the mis-selling of a Interest Rate Hedging Product ("IRHP"). A redress offer has been received from Barclays, which is being reviewed by the Liquidator and his advisors and further information has been requested from the bank in order to consider the offer in more detail. The Liquidator is also working closely with the directors, solicitors that have been instructed, and other parties recommended to him, to put together a claim for consequential losses suffered by the Company due to the IRHP sold to the Company by Barclays. The Company has also lodged a claim in respect of a IRHP allegedly mis-sold by Yorkshire Bank. No further information can be provided to creditors at this time, but will be reported upon at the conclusion of the action(s).

Not listed on the Statement of Affairs was a balance held by Merchant Services, which had been held back. The Liquidator made contact with the bank who released the funds, which totalled £14,702.87.

During the course of the liquidation, a sundry refund totalling £71.00 has been received by the Liquidator from Pinsent Masons LLP, a firm of Solicitors who had been instructed by the previous Administrators.

The Liquidator has been informed that a creditor has a vehicle in their possession, namely a Volkswagen Passat, which is believed to belong to the Company. The Liquidator is investigating the claim and has been in contact with the creditor, but has been informed that monies are outstanding to the creditor. This matter is ongoing.

SILKE & CO LTD

1st Floor – Consort House – Waterdale – Doncaster – DN1 3HR

Tel 01302 342875 - Fax 01302 342986

Email admin@silkeandco.co.uk - Web www.silkeandco.co.uk

Once the above matters have been finalised the Liquidator will look to conclude the Liquidation, and will report to creditors and members further with regards to this in due course

3. LIQUIDATORS' REMUNERATION

A Statement of Affairs fee of £5,000 was approved at the initial meeting of creditors held on 28 June 2013, which has been drawn by the Liquidator

The Liquidator's remuneration is based on hourly costs at scale rates calculated on the time properly spent in the course of the liquidation and was approved at the initial meeting of creditors held on 28 June 2013. Total time spent to date on this assignment amounts to 342.86 hours at an average composite rate of £274.77 per hour resulting in total time costs to date of £94,190. Liquidator's fees of £7,000 plus VAT have been drawn leaving outstanding time costs of £87,190.

The time costs in relation to the administration of the Liquidation are higher than would normally be anticipated due to the continuous monitoring of the ongoing claims. This has resulted in the Liquidator and his senior staff members being directly involved with the case and its day to day administration. The Liquidator has been responsible for the correspondence, namely telephone calls, emails and letters, to the bank(s) and the directors and their appointed agents on an almost daily basis, in addition to regular meetings with the aforementioned parties to review the progress of the claim and to agree workable strategies going forward.

The Liquidator has instructed solicitors, accountants and consultants in respect of the ongoing claim(s), and has spent a number of hours liaising with each party to agree on the responsibilities of each throughout the course of the redress process.

The senior case administrator has been responsible for the statutory duties throughout the liquidation, along with dealing with creditor's claims and queries when they have arisen, and processing the employee's redundancy payments forms and dealing with the employment tribunals in respect of the employee claims.

The investigation into the Company and its directors has been undertaken by the Investigations Officer, who has worked closely with the Liquidator throughout the course of the liquidation to ensure that a thorough investigation has been completed.

Disbursements of £2,215.22 have been allocated to the case up to the anniversary of which £84.42 have been drawn by the Liquidators leaving unbilled disbursements of £2,130.80.

The following further information as regards time costs is enclosed

- ☐ Silke and Co policy for re-charging expenses
- ☐ Silke and Co charge-out rates

All other payments have been made in accordance with the rules and regulations generally as to the payment of costs and expenses in the liquidation.

A Creditors' Guide to Liquidators' Fees is also enclosed, which includes creditors' rights to further information and to challenge.

4. CREDITORS' CLAIMS AND DIVIDEND PROSPECTS

After providing for costs of the Liquidation to date, including Liquidators fees, and VAT, there are insufficient funds available to pay a dividend to creditors. However, enclosed is a schedule of creditors claims received to date. If your claim has not been submitted please

SILKE & CO LTD

1st Floor – Consort House – Waterdale – Doncaster – DN1 3HR

Tel 01302 342875 - Fax 01302 342986

Email admin@silkeandco.co.uk - Web www.silkeandco.co.uk

complete the enclosed proof of debt form and provide documentary evidence to this office as soon as possible, to enable us to lodge your claim in readiness for when a dividend becomes payable.

5. OTHER RELEVANT INFORMATION

Investigation

You may be aware that the Liquidator has a duty to enquire into the affairs of an insolvent Company to determine its property and liabilities and to identify any actions which could lead to the recovery of funds. In addition, the Liquidator is also required to consider the conduct of the Company's directors and to make an appropriate submission to the department for Business, Innovation & Skills. I can confirm that I have complied with these requirements.

6. CONCLUSION

I will report again following the second anniversary of the liquidation or at the conclusion of the winding up, whichever is the sooner.

Yours faithfully



Ian Michael Rose
Liquidator
Enc

Arthur Holgate & Son Limited
(In Liquidation)

LIQUIDATOR'S RECEIPTS AND PAYMENTS ACCOUNT

	Statement of affairs £	From 07/06/2013 To 06/06/2014 £	From 07/06/2013 To 06/06/2014 £
RECEIPTS			
Book Debts	Uncertain	0 00	0 00
Cash at bank		14,702 87	14,702 87
Sundry refunds		71 00	71 00
Bank Claim	Uncertain	0 00	0 00
		<u>14,773 87</u>	<u>14,773 87</u>
PAYMENTS			
Specific bond		60 00	60 00
Preparation of Statement of affairs		5,000 00	5,000 00
Liquidator's fees		7,000 00	7,000 00
Telephone/Telex/Fax		15 42	15 42
Companies House Search		9 00	9 00
Barclays Bank plc	(904,816 00)	0 00	0 00
Trade & Expense	(319,675 11)	0 00	0 00
Directors	(1,259,382 00)	0 00	0 00
HM Revenue & Customs (PAYE/CT)	(5,745 78)	0 00	0 00
HM Revenue & Customs (VAT)	(60,820 46)	0 00	0 00
Ordinary shareholders	(750,000 00)	0 00	0 00
		<u>12,084 42</u>	<u>12,084 42</u>
Net Receipts/(Payments)		<u>2,689 45</u>	<u>2,689 45</u>
MADE UP AS FOLLOWS			
Estate Account (Non-Interest Bearing)		286 37	286 37
VAT Receivable / (Payable)		2,403 08	2,403 08
		<u>2,689 45</u>	<u>2,689 45</u>

Time Entry - Detailed SIP9 Time & Cost Summary

A1NC - Arthur Holgate & Son Limited
To 06/06/2014
Project Code POST

Classification of Work Function	Partner	Manager	Other Senior Professionals	Assistants & Support Staff	Total Hours	Time Cost (£)	Average Hourly Rate (£)
AP-ADMIN Administration & Planning	6.75	43.00	28.50	14.30	92.55	19,235.00	207.83
CR-CRED Creditors & Distributions	0.00	5.50	4.00	7.40	16.90	2,777.50	164.35
IN-INV Investigations	5.25	1.00	15.00	1.00	22.25	4,837.50	217.42
RA-FLTG Floating Charge Assets/Contributions	141.00	2.50	1.50	0.10	145.10	50,227.50	346.16
S1-EMP Employees	15.75	2.00	2.50	0.00	20.25	6,462.50	319.14
S3-STAT Statutory & Compliance	8.75	7.50	29.50	0.00	45.75	10,650.00	232.79
Productive Time	177.50	61.50	81.00	22.80	342.80	94,190.00	274.77
Total Hours	177.50	61.50	81.00	22.80	342.80	94,190.00	274.77
Total Fees Claimed						0.00	

Time Entry - SLP9 Time & Cost Summary

Category 2 Disbursments

A1NC - Arthur Holgate & Son Limited
Project Code POST
To 06/06/2014

Other amounts paid or payable to the office holders firm or to party in which the office holder or his firm or any associate has an interest

Transaction Date	Type and Purpose	Amount
01/07/2013	Storage	504.00
05/07/2013	Postage	29.37
05/07/2013	Postage	0.33
05/07/2013	Postage	2.32
18/07/2013	Postage	0.33
26/07/2013	Postage	1.42
26/07/2013	Postage	1.41
01/07/2013	Printing	45.15
14/06/2013	Companies House	4.00
25/06/2013	Companies House	3.00
19/06/2013	Faxes	1.00
20/06/2013	Faxes	0.50
27/06/2013	Faxes	1.50
19/06/2013	Printing	83.70
21/06/2013	Printing	41.85
19/06/2013	Postage	20.46
20/06/2013	Postage	0.47
21/06/2013	Postage	10.23
21/06/2013	Postage	1.41
26/06/2013	Postage	6.00
27/06/2013	Postage	0.33
11/08/2013	Postage	2.13
14/08/2013	Postage	0.33
21/08/2013	Companies House	1.00
27/08/2013	Faxes	1.50
29/08/2013	Postage	1.47
02/09/2013	Postage	0.33
21/10/2013	Postage	0.33
21/10/2013	Companies House	1.00
31/10/2013	Postage	1.65
08/11/2013	Postage	0.66
11/11/2013	Companies House search	2.00
11/11/2013	Companies House search	2.00
22/11/2013	Postage	0.47
28/11/2013	Postage	0.70
29/11/2013	Postage	0.33
18/12/2013	POSTAGE	0.33
02/01/2014	POSTAGE	0.33
22/01/2014	POSTAGE	0.33
25/01/2014	POSTAGE	0.33
31/01/2014	POSTAGE	0.33
01/01/2014	Storage	0.33
27/02/2014	POSTAGE	1.008.00
10/07/2013	Companies House	0.47
14/07/2013	Companies House	1.00
03/08/2013	Faxes	1.00
11/09/2013	FAX	7.00
11/09/2013	Gazette	8.50
25/09/2013	Gazette	181.29
25/08/2013	Gazette	80.65
07/08/2013	Parking	80.65
17/11/2013	TRAVEL	17.00
		13.33

Time Entry - SIP9 Time & Cost Summary

Category 2 Disbursements

A1NC - Arthur Holgate & Son Limited
Project Code POST
To 06/06/2014

Other amounts paid or payable to the office holders firm or to party in which the office holder or his firm or any associate has an interest

Transaction Date	Type and Purpose	Amount
01/02/2014	Bonds	60 00
Total		2,215 22

Silke & Co Limited
Arthur Holgate & Son Limited
Creditor Claims Summary Report

Key	Name	Rep. By	S of A £	Claim £	Agreed Claim £
CA00	Acorn Landscaping		930 00	0 00	0 00
CA01	Armstrong Watson		6,500.00	0.00	0.00
CA02	Agility Resourcing		11,384 00	0 00	0 00
CA03	Alarm Systems		138 21	0 00	0.00
CA04	Andrew Martin		0 00	0 00	0 00
CA05	Andrew Ross Limited		1,000 00	3,650 00	0 00
CA06	Armstrong Waste Management Limited		745 91	0 00	0 00
CA07	A & H Floor Covering Specialists Limited		429 60	0 00	0 00
CB00	Bellhaven		1,200 00	0 00	0 00
CB01	Bay Business Consultancy Limited		17,000.00	17,770.00	0.00
CB02	Business Stream		3,655.34	0 00	0.00
CB03	Builders Supply Co Kenal		3,248 74	3,248 74	0 00
CB04	Braidwood Solicitors		587 50	0 00	0 00
CB05	Brazenall & Orr		841 93	841 93	0 00
CB06	BT		1,827 09	0 00	0 00
CB07	Bateman BMW Garage		947 00	0 00	0 00
CB08	Big Storage		3,339 77	0 00	0 00
CB09	Barclays Bank plc		904,816 00	0 00	0 00
CC00	Chadwicks Chartered Accountants		2,871 08	0 00	0 00
CC01	Chalmers Construction Limited		851 06	1,000 00	0 00
CC02	County Online		900 00	0 00	0 00
CC03	Carlisle Glass Limited		429 82	429 82	0 00
CC04	Colin Peacock		211 20	211 20	0 00
CD00	Dumfries and Galloway Council		24,819 10	25,676 12	0 00
CD01	David Carr Removals		0 00	0 00	0 00
CE00	EDR Financial Limited		12,050 00	12,680 00	0 00
CE01	Edwards and Partners		13,218 75	0 00	0 00
CE02	Eon		12,500 00	0 00	0 00
CE03	Eden Valley Oils		42 00	0 00	0 00
CG00	Galloway Drainage Supplies		4,500 00	4,500 00	0 00
CG01	Galloway Foodservice Wholesale		2,337 86	0 00	0 00
CG02	Gowans of Castle Douglas		1,452 00	0 00	0 00
CG04	Gibsons of Kendal		627 00	627 00	0 00
CG05	GDA Limited		1,987 00	0 00	0 00
CH00	Hallgate Electrical		1,922 95	2,307 54	0 00
CH01	Harmony Business & Technology Limited		955 95	955 95	0 00
CH02	HMRC - PAYE & CT		5,745 78	0 00	0 00
CH03	HMRC - VAT		60,820 46	5,254 72	0 00
CI00	Ibex Internet Ltd		72 00	0 00	0 00
CI01	Inland Revenue		0 00	58,675 25	0 00
CJ00	James Haugh Limited		414 40	0 00	0 00
CJ01	John Graves & Son		0 00	0 00	0 00
CK00	KPMG LLP		9,635 00	9,635 00	0 00
CL00	Lombard		29,000 00	0 00	0 00
CL01	LPG Park Services		3,700 00	0 00	0 00
CL02	Longhorn		201 00	0 00	0 00
CL03	Ladds		864 00	0 00	0 00
CL04	Lanbro Developments Limited		249 98	299 64	0 00
CL05	Lime Tree Garage		827 77	0 00	0 00
CM02	Mr Martin Holgate		784,382 00	0 00	0 00
CM05	Mrs Margaret Holgate		21,000 00	0 00	0 00

Silke & Co Limited
Arthur Holgate & Son Limited
Creditor Claims Summary Report

Key	Name	Rep. By	S of A £	Claim £	Agreed Claim £
CM06	MTE Contracting		2,500 00	2,500 00	0 00
CM08	Miele Co Limited		453 00	0 00	0 00
CN00	Neopost		64 00	0 00	0 00
CO00	Oglethorpe Sturton & Gillibrand LLP		2,042 30	0 00	0 00
CO01	Ormerods Solicitors		2,000 00	0 00	0 00
CO03	Orange Payment Processing		500 00	0 00	0 00
CP01	Mr Paul Holgate		454,000 00	0 00	0 00
CP02	Pemberton Leisure		598 24	0 00	0 00
CP03	Premier Autogas Limited		7,940 78	0 00	0 00
CP04	PV Dobson & Sons		458 07	0 00	0 00
CP05	PHS		998 72	0 00	0 00
CP06	PPL		288 00	0 00	0 00
CP08	PRS for Music		96 00	0 00	0 00
CP09	Pumptrack Limited		2,948 00	0 00	0 00
CQ00	Quay Fabrications		4,340 73	0 00	0 00
CR00	Rentokil		444 22	0 00	0 00
CR01	Richard P Taylor		840 00	0 00	0 00
CR02	RJ Lowe		0 00	0 00	0 00
CR03	Rickerby Ltd		423 00	423 00	0 00
CS00	S & D Carr		900 00	1,600 00	0 00
CS01	Mrs S Smith		2,250 00	0 00	0 00
CS02	Saint & Co		8,100 10	0 00	0 00
CS03	Shortridge Laundry		380 52	0 00	0 00
CS04	Solway Heaters Limited		344 88	344 88	0 00
CS05	South Lakeland District Council		8,090 89	0 00	0 00
CS06	Southern Electric		1,300 00	0 00	0 00
CS07	Stewarty Tyres		56 00	0 00	0 00
CS08	Scottish & Southern Electric		11,710 06	0 00	0 00
CT00	Thain Commercial Limited		392 00	0 00	0 00
CT01	Thornber & Walker		2,500 00	3,364 33	0 00
CT02	Terry Allen (Electrical) Limited		1,059 74	0 00	0 00
CT03	Tozers Solicitors		1,649 00	1,150 00	0 00
CT04	Textron Financial Limited		33,442 83	0 00	0 00
CT05	TAS Building Supplies		708 89	0 00	0 00
CT06	TV Distribution Limited		1,465 23	0 00	0 00
CW00	Whitecain Transport		33,658 01	0 00	0 00
CW01	Willacy (Contractors) Limited		0 00	0 00	0 00
CW02	WC in Fields		1,250 00	0 00	0 00
CW03	William Waugh & Sons		1,333 33	0 00	0 00
CW04	Woodbridge And Mounsey		0 00	0 00	0 00
CW05	W Johnston & Son		498 73	0 00	0 00
CW06	Willerby Holiday Homes Limited		1,234 83	2,034 89	0 00
EH00	Mr Martin Edmund Holgate		0 00	1,158 88	0 00
EH01	Mrs Margaret Holgate		0 00	1,158 88	0 00
EH02	Mr Paul Holgate		0 00	2,252 70	0 00
96 Entries Totalling			2,550,439 35	163,750.47	0.00

CREDITOR CLAIM FORM – CREDITORS VOLUNTARY LIQUIDATION

NAME OF COMPANY IN LIQUIDATION	ARTHUR HOLGATE & SON LIMITED
TRADING ADDRESS	THE PARK OF BRANDEDLEYS, CROCKETFORD, DUMFRIES, DG2 8RG
RELEVANT DATE	7 JUNE 2013

CREDITOR'S STATEMENT OF CLAIM IN THE ABOVE LIQUIDATION

NAME OF CREDITOR	
ADDRESS OF CREDITOR	
Total amount of claim	<u>Inclusive of VAT at the relevant date - see above</u> £ _____
If amount above includes outstanding uncapitalised interest please state amount	£ _____
Particulars of any security held Value of security	£ _____
Particulars of any reservation of title claimed in respect of goods supplied to which the claim relates	
Signature of, or on behalf of, creditor	
Name in block capitals	
Position or relationship with creditor	
PLEASE ATTACH A DETAILED STATEMENT OF ACCOUNT or other particulars of how the debt arose	

ACKNOWLEDGEMENT OF CLAIM (for Liquidators' Use only)

<p>I acknowledge receipt of a claim in the Liquidation of £ _____ including VAT, as detailed above</p> <p>This acknowledgement does not necessarily admit the claim to rank for dividend</p>	<p>Signed _____ for Ian Michael Rose, liquidator</p>
<p>Date _____</p>	<p>Silke & Co Limited 1st Floor Consort House Waterdale Doncaster DN1 3HR</p>

A CREDITORS' GUIDE TO LIQUIDATORS' FEES

ENGLAND AND WALES

1 Introduction

- 1 1 When a company goes into liquidation the costs of the proceedings are paid out of its assets. The creditors, who hope to recover some of their debts out of the assets, therefore have a direct interest in the level of costs, and in particular the remuneration of the insolvency practitioner appointed to act as liquidator. The insolvency legislation recognises this interest by providing mechanisms for creditors to fix the basis of the liquidator's fees. This guide is intended to help creditors be aware of their rights to approve and monitor fees, explains the basis on which fees are fixed and how creditors can seek information about expenses incurred by the liquidator and challenge those they consider to be excessive.

2 Liquidation procedure

- 2 1 Liquidation (or 'winding up') is the most common type of corporate insolvency procedure. Liquidation is the formal winding up of a company's affairs entailing the realisation of its assets and the distribution of the proceeds in a prescribed order of priority. Liquidation may be either voluntary, when it is instituted by resolution of the shareholders, or compulsory, when it is instituted by order of the court.
- 2 2 Voluntary liquidation is the more common of the two. An insolvent voluntary liquidation is called a creditors' voluntary liquidation (often abbreviated to 'CVL'). In this type of liquidation an insolvency practitioner acts as liquidator throughout and the creditors can vote on the appointment of the liquidator at the first meeting of creditors.
- 2 3 In a compulsory liquidation on the other hand, the function of liquidator is, in most cases, initially performed not by an insolvency practitioner but by an official called the official receiver. The official receiver is an officer of the court and an official belonging to The Insolvency Service. In most compulsory liquidations, the official receiver becomes liquidator immediately on the making of the winding-up order. Where there are significant assets an insolvency practitioner will usually be appointed to act as liquidator in place of the official receiver, either at a meeting of creditors convened for the purpose or directly by The Insolvency Service on behalf of the Secretary of State. Where an insolvency practitioner is not appointed the official receiver remains liquidator.
- 2 4 Where a compulsory liquidation follows immediately on an administration the court may appoint the former administrator to act as liquidator. In such cases the official receiver does not become liquidator. An administrator may also subsequently act as liquidator in a CVL.

3 The liquidation committee

- 3 1 In a liquidation (whether voluntary or compulsory) the creditors have the right to appoint a committee called the liquidation committee, with a minimum of 3 and a maximum of 5 members, to monitor the conduct of the liquidation and approve the liquidator's fees. The committee is usually established at the creditors' meeting which appoints the liquidator, but in cases where a liquidation follows immediately on an administration any committee established for the purposes of the administration will continue in being as the liquidation committee.
- 3 2 The liquidator must call the first meeting of the committee within 6 weeks of its establishment (or his appointment if that is later), and subsequent meetings must be held either at specified dates agreed by the committee, or when requested by a member of the committee, or when the liquidator decides he needs to hold one. The liquidator is required to report to the committee at least every 6 months on the

progress of the liquidation, unless the committee directs otherwise. This provides an opportunity for the committee to monitor and discuss the progress of the insolvency and the level of the liquidator's fees.

4 Fixing the liquidator's remuneration

4.1 The basis for fixing the liquidator's remuneration is set out in Rules 4.127 – 4.127B of the Insolvency Rules 1986. The Rules state that the remuneration shall be fixed

- as a percentage of the value of the assets which are realised or distributed or both,
- by reference to the time properly given by the liquidator and his staff in attending to matters arising in the liquidation, or
- as a set amount.

Any combination of these bases may be used to fix the remuneration, and different bases may be used for different things done by the liquidator. Where the remuneration is fixed as a percentage, different percentages may be used for different things done by the liquidator.

It is for the liquidation committee (if there is one) to determine on which of these bases, or combination of bases, the remuneration is to be fixed. Where it is fixed as a percentage, it is for the committee to determine the percentage or percentages to be applied. Rule 4.127 says that in arriving at its decision the committee shall have regard to the following matters:

- the complexity (or otherwise) of the case,
- any responsibility of an exceptional kind or degree which falls on the liquidator in connection with the insolvency,
- the effectiveness with which the liquidator appears to be carrying out, or to have carried out, his duties,
- the value and nature of the assets which the liquidator has to deal with.

4.2 If there is no liquidation committee, or the committee does not make the requisite determination, the liquidator's remuneration may be fixed by a resolution of a meeting of creditors. The creditors take account of the same matters as apply in the case of the committee. A resolution specifying the terms on which the liquidator is to be remunerated may be taken at the meeting which appoints the liquidator.

4.3 If the remuneration is not fixed as above, it will be fixed in one of the following ways. In a CVL, it will be fixed by the court on application by the liquidator, but the liquidator may not make such an application unless he has first tried to get his remuneration fixed by the committee or creditors as described above, and in any case not later than 18 months after his appointment. In a compulsory liquidation, it will be in accordance with a scale set out in the Rules.

4.4 Where the liquidation follows directly on from an administration in which the liquidator had acted as administrator, the basis of remuneration fixed in the administration continues to apply in the liquidation (subject to paragraph 8 below).

5. Review of remuneration

Where there has been a material and substantial change in circumstances since the basis of the liquidator's remuneration was fixed, the liquidator may request that it be changed. The request must be made to the same body as initially approved the remuneration, and the same rules apply as to the original approval.

6 What information should be provided by the liquidator?

6.1 When fixing bases of remuneration

- 6 1 1 When seeking agreement for the basis or bases of remuneration, the liquidator should provide sufficient supporting information to enable the committee or the creditors to make an informed judgement as to whether the basis sought is appropriate having regard to all the circumstances of the case. The nature and extent of the information provided will depend on the stage during the conduct of the case at which approval is being sought. The appendix to this guide sets out a suggested format for the provision of information.
- 6 1 2 If any part of the remuneration is sought on a time costs basis, the liquidator should provide details of the minimum time units used and current charge-out rates, split by grades of staff, of those people who have been or who are likely to be involved in the time costs aspects of the case.
- 6 1 3 The liquidator should also provide details and the cost of any work that has been or is intended to be sub-contracted out that could otherwise be carried out by the liquidator or his or her staff.
- 6 1 4 If work has already been carried out, the liquidator should state the proposed charge for the period to date and provide an explanation of what has been achieved in the period and how it was achieved, sufficient to enable the progress of the case to be assessed and whether the proposed charge is reasonable in the circumstances of the case. Where the proposed charge is calculated on a time costs basis, the liquidator should disclose the time spent and the average charge-out rates, in larger cases split by grades of staff and analysed by appropriate activity. The liquidator should also provide details and the cost of any work that has been sub-contracted out that could otherwise be carried out by the liquidator or his or her staff.

6.2 After the bases of remuneration have been fixed

The liquidator is required to send progress reports to creditors at specified intervals (see paragraph 7 1 below). When reporting periodically to creditors, in addition to the matters specified in paragraph 7 1, the liquidator should provide an explanation of what has been achieved in the period under review and how it was achieved, sufficient to enable the progress of the case to be assessed. Creditors should be able to understand whether the remuneration charged is reasonable in the circumstances of the case (whilst recognising that the liquidator must fulfil certain statutory obligations and regulatory requirements that might be perceived as bringing no added value for the estate). Where any remuneration is on a time costs basis, the liquidator should disclose the charge in respect of the period, the time spent and the average charge-out rates, in larger cases split by grades of staff and analysed by appropriate activity. If there have been any changes to the charge-out rates during the period under review, rates should be disclosed by grades of staff, split by the periods applicable. The liquidator should also provide details and the cost of any work that has been sub-contracted out that could otherwise be carried out by the liquidator or his or her staff.

6.3 Disbursements and other expenses

- 6 3 1 Costs met by and reimbursed to the liquidator in connection with the liquidation should be appropriate and reasonable. Such costs will fall into two categories
- Category 1 disbursements. These are costs where there is specific expenditure directly referable both to the liquidation and a payment to an independent third party. These may include, for example, advertising, room hire, storage, postage, telephone charges, travel expenses, and equivalent costs reimbursed to the liquidator or his or her staff.

- **Category 2 disbursements** These are costs that are directly referable to the liquidation but not to a payment to an independent third party. They may include shared or allocated costs that can be allocated to the liquidation on a proper and reasonable basis, for example, business mileage.

Category 1 disbursements can be drawn without prior approval, although the liquidator should be prepared to disclose information about them in the same way as any other expenses. Category 2 disbursements may be drawn if they have been approved in the same manner as the liquidator's remuneration. When seeking approval, the liquidator should explain, for each category of expense, the basis on which the charge is being made.

6.3.2 The following are not permissible

- a charge calculated as a percentage of remuneration,
- an administration fee or charge additional to the liquidator's remuneration,
- recovery of basic overhead costs such as office and equipment rental, depreciation and finance charges.

6.4 Realisations for secured creditors

Where the liquidator realises an asset on behalf of a secured creditor and receives remuneration out of the proceeds (see paragraph 11.1 below), he should disclose the amount of that remuneration to the committee (if there is one), to any meeting of creditors convened for the purpose of determining his fees, and in any reports he sends to creditors.

7. Progress reports and requests for further information

7.1 The liquidator is required to send annual progress reports to creditors. The reports must include

- details of the basis fixed for the remuneration of the liquidator (or if not fixed at the date of the report, the steps taken during the period of the report to fix it),
- if the basis has been fixed, the remuneration charged during the period of the report, irrespective of whether it was actually paid during that period (except where it is fixed as a set amount, in which case it may be shown as that amount without any apportionment for the period of the report),
- if the report is the first to be made after the basis has been fixed, the remuneration charged during the periods covered by the previous reports, together with a description of the work done during those periods, irrespective of whether payment was actually made during the period of the report,
- a statement of the expenses incurred by the liquidator during the period of the report, irrespective of whether payment was actually made during that period,
- a statement of the creditors' rights to request further information, as explained in paragraph 7.2, and their right to challenge the liquidator's remuneration and expenses.

7.2 Within 21 days of receipt of a progress report (or 7 business days where the report has been prepared for the purposes of a meeting to receive the liquidator's resignation) a creditor may request the liquidator to provide further information about the remuneration and expenses set out in the report. A request must be in writing, and may be made either by a secured creditor, or by an unsecured creditor with the concurrence of at least 5% in value of unsecured creditors (including himself) or the permission of the court.

7.3 The liquidator must provide the requested information within 14 days, unless he considers that

- the time and cost involved in preparing the information would be excessive, or

- disclosure would be prejudicial to the conduct of the liquidation or might be expected to lead to violence against any person, or
- the liquidator is subject to an obligation of confidentiality in relation to the information requested,

in which case he must give the reasons for not providing the information

Any creditor may apply to the court within 21 days of the liquidator's refusal to provide the requested information, or the expiry of the 14 days time limit for the provision of the information

8. Provision of information – additional requirements

The liquidator must provide certain information about the time spent on the case, free of charge, upon request by any creditor, director or shareholder of the company

The information which must be provided is –

- the total number of hours spent on the case by the liquidator or staff assigned to the case,
- for each grade of staff, the average hourly rate at which they are charged out,
- the number of hours spent by each grade of staff in the relevant period

The period for which the information must be provided is the period from appointment to the end of the most recent period of six months reckoned from the date of the liquidator's appointment, or where he has vacated office, the date that he vacated office

The information must be provided within 28 days of receipt of the request by the liquidator, and requests must be made within two years from vacation of office

9 What if a creditor is dissatisfied?

- 9 1 Except in cases where there is a liquidation committee it is the creditors as a body who have authority to approve the liquidator's fees. To enable them to carry out this function they may require the liquidator to call a creditors' meeting. In order to do this at least ten per cent in value of the creditors must concur with the request, which must be made to the liquidator in writing
- 9 2 If a creditor believes that the liquidator's remuneration is too high, the basis is inappropriate, or the expenses incurred by the liquidator are in all the circumstances excessive he may, provided certain conditions are met, apply to the court
- 9 3 Application may be made to the court by any secured creditor, or by any unsecured creditor provided at least 10 per cent in value of unsecured creditors (including himself) agree, or he has the permission of the court. Any such application must be made within 8 weeks of the applicant receiving the liquidator's progress report in which the charging of the remuneration or incurring of the expenses in question is first reported (see paragraph 7 1 above). If the court does not dismiss the application (which it may if it considers that insufficient cause is shown) the applicant must give the liquidator a copy of the application and supporting evidence at least 14 days before the hearing
- 9 4 If the court considers the application well founded, it may order that the remuneration be reduced, the basis be changed, or the expenses be disallowed or repaid. Unless the court orders otherwise, the costs of the application must be paid by the applicant and not out of the assets of the insolvent company

10 What if the liquidator is dissatisfied?

If the liquidator considers that the remuneration fixed by the liquidation committee, or in the preceding administration, is insufficient or that the basis used to fix it is inappropriate he may request that the amount or rate be increased, or the basis changed, by resolution of the creditors. If he considers that the remuneration fixed by the liquidation committee, the creditors, in the preceding administration or in accordance with the statutory scale is insufficient, or that the basis used to fix it is inappropriate, he may apply to the court for the amount or rate to be increased or the basis changed. If he decides to apply to the court he must give at least 14 days' notice to the members of the committee and the committee may nominate one or more of its members to appear or be represented at the court hearing. If there is no committee, the liquidator's notice of his application must be sent to such of the creditors as the court may direct, and they may nominate one or more of their number to appear or be represented. The court may order the costs to be paid out of the assets.

11 Other matters relating to remuneration

- 11.1 Where the liquidator realises assets on behalf of a secured creditor he is entitled to be remunerated out of the proceeds of sale in accordance with a scale set out in the Rules. Usually, however, the liquidator will agree the basis of his fee for dealing with charged assets with the secured creditor concerned.
- 11.2 Where two (or more) joint liquidators are appointed it is for them to agree between themselves how the remuneration payable should be apportioned. Any dispute between them may be referred to the court, the committee or a meeting of creditors.
- 11.3 If the appointed liquidator is a solicitor and employs his own firm to act in the insolvency, profit costs may not be paid unless authorised by the committee, the creditors or the court.
- 11.4 If a new liquidator is appointed in place of another, any determination, resolution or court order which was in effect immediately before the replacement continues to have effect in relation to the remuneration of the new liquidator until a further determination, resolution or court order is made.
- 11.5 Where the basis of the remuneration is a set amount, and the liquidator ceases to act before the time has elapsed or the work has been completed for which the amount was set, application may be made for a determination of the amount that should be paid to the outgoing liquidator. The application must be made to the same body as approved the remuneration. Where the outgoing liquidator and the incoming liquidator are from the same firm, they will usually agree the apportionment between them.
- 11.6 There may also be occasions when creditors will agree to make funds available themselves to pay for the liquidator to carry out tasks which cannot be paid for out of the assets, either because they are deficient or because it is uncertain whether the work undertaken will result in any benefit to creditors. Arrangements of this kind are sometimes made to fund litigation or investigations into the affairs of the insolvent company. Any arrangements of this nature will be a matter for agreement between the liquidator and the creditors concerned and will not be subject to the statutory rules relating to remuneration.

12 Effective date

This guide applies where a company goes into liquidation on or after 1 November 2011.

SILKE & CO LIMITED DISBURSEMENT AND CHARGEOUT RATES

EFFECTIVE FROM 1 OCTOBER 2012

Disbursements

Definitions

Category 1 - approval not required - specific expenditure that is directly related to a particular insolvency case, where the cost of the expense incurred is referable against an independent external supplier's invoice or published tariff of charges.

Category 2 - approval required - all other items of expenditure. Which cannot, or cannot easily, be directly related to a particular insolvency case because there is an element of shared or allocated cost, and/or where the cost of the expense incurred is an estimated, utilised cost with the estimate based on external costs or opportunity costs.

Charging Policy of Silke & Co Limited

Category 1 expenses are recharged to the particular insolvency case at the rate incurred by Silke & Co Limited and as they are incurred

Category 2 expenses, the following items are recharged at the following rates

- Where meeting rooms of Silke & Co Limited are used for the purpose of statutory meetings of creditors the room hire is recharged to the individual insolvency case at £150 per meeting.
- Car mileage is recharged to the individual insolvency case at the rate of 40p per mile
- The storage of books and records (when not charged as a Category 1 expense) is recharged at the rate of £1 50 per box per month
- Printing and photocopying is charged at 15p per sheet
- Faxes are charged at 50p per sheet
- Postage is charged at the relevant prevailing rate
- IPS computer charge £6 25 per Month (maximum £200 per case)

Chargeout Rates

The hourly rates for the different levels of staff are shown below:

Insolvency Practitioner	£350
Manager	£275
Assistant Manager	£225
Senior Administrator	£200
Administrator	£150
Cashier	£150
Assistants and Support Staff	£100

Time is charged to the individual insolvency case in 6 minute units.

SILKE & CO LIMITED DISBURSEMENT AND CHARGEOUT RATES

EFFECTIVE FROM 1 OCTOBER 2013

Disbursements

Definitions

Category 1 - approval not required - specific expenditure that is directly related to a particular insolvency case, where the cost of the expense incurred is referable against an independent external supplier's invoice or published tariff of charges

Category 2 - approval required - all other items of expenditure. Which cannot, or cannot easily, be directly related to a particular insolvency case because there is an element of shared or allocated cost, and/or where the cost of the expense incurred is an estimated, utilised cost with the estimate based on external costs or opportunity costs

Charging Policy of Silke & Co Limited

Category 1 expenses are recharged to the particular insolvency case at the rate incurred by Silke & Co Limited and as they are incurred

Category 2 expenses, the following items are recharged at the following rates.

- Where meeting rooms of Silke & Co Limited are used for the purpose of statutory meetings of creditors the room hire is recharged to the individual insolvency case at £150 per meeting.
- Car mileage is recharged to the individual insolvency case at the rate of 45p per mile.
- The storage of books and records (when not charged as a Category 1 expense) is recharged at the rate of £1.50 per box per month
- Printing and photocopying is charged at 15p per sheet
- Faxes are charged at 50p per sheet
- Postage is charged at the relevant prevailing rate
- IPS computer charge £6 25 per Month (maximum £200 per case)
- Stationery charged at £5.00 per file.

Chargeout Rates

The hourly rates for the different levels of staff are shown below:

Insolvency Practitioner	£350
Manager	£275
Assistant Manager	£225
Senior Administrator	£200
Administrator	£175
Cashier	£150
Assistants and Support Staff	£100

Time is charged to the individual insolvency case in 6 minute units