

The Insolvency Act 1986

2.24B**Administrator's progress report**

Name of Company Abrapower Limited

Company number 01159277

In the Birmingham District Registry (full name of court)

Court case number 8516 of 2012
--

(a) Insert full name(s) and address(es) of administrator(s)

I/We (a)
 Daniel Plant
 S F P
 9 Ensign House
 Admirals Way
 Marsh Wall
 London
 E14 9XQ

Simon Franklin Plant
 S F P
 9 Ensign House
 Admirals Way
 Marsh Wall
 London

(b) Insert date

From (b) 2 October 2013

To (b) 7 February 2014

Signed


 Joint / Administrator(s)

Dated

13/02/14**Contact Details:**

You do not have to give any contact information in the box opposite but if you do, it will help Companies House to contact you if there is a query on the form

SFP 9 Ensign House Admirals Way Marsh Wall Docklands E14 9XQ	DX Number 020 7538 2222 DX Exchange
---	---

The contact information that you give will be visible to searchers of the public record

When you have completed and signed this form, please send it to the Registrar of Companies at -
Companies House, Crown Way, Cardiff CF14 3UZ DX 33050 Cardiff

SATURDAY



A31REIFV

15/02/2014

COMPANIES HOUSE

A20

#300

**Abrapower Limited (In Administration)
Final Progress Report
To 7 February 2014**

Strictly Private and Confidential

Abrapower Limited (In Administration)

Final Progress Report to Creditors

**Simon Franklin Plant
MIPA FABRP**

**Daniel Plant
MIPA FABRP**

**SFP
9 Ensign House
Admirals Way
Marsh Wall
London
E14 9XQ**

**Tel +44 (207) 5382222
Fax. +44 (207) 5383322
Email simonp@sfpgroup.com
 danielp@sfpgroup.com**

This report has been written and presented for the sole purpose of complying with the relevant provisions of the Insolvency Act 1986 and the Enterprise Act 2002. It may not be disclosed, disseminated or copied without our prior written permission, other than to those entitled under statute or otherwise as ordered by the Court, and no liability will be accepted to any other person or party who acts or refrains from acting on its contents.

CONTENTS

- 1 Introduction
- 2 Asset Realisations / Miscellaneous
- 3 Investigations
- 4 Dividend Prospects
- 5 The Joint Administrators' Costs
- 6 Additional Points and Conclusion

APPENDICES

- I Income and Expenditure Account / Comparison to Estimated Statement of Affairs / Estimated Outcome Statement
- II Schedule of Agreed Proposals
- III Breakdown of Joint Administrators' Fees / Activity Codes
- IV Breakdown of SFP Corporate Solutions Limited (formerly SFP Forensic Limited) Fees
- V Breakdown of SFP Recoveries Limited Fees
- VI Breakdown of SFP Property Limited Fees
- VII Breakdown of SFP Datastore Limited Fees
- VIII SFP and Associated Entity Charge Out Rates
- IX Guide to Administrators' Fees

1 Introduction

- 1.1 This Report is prepared pursuant to Rule 2 117A of the Insolvency Rules 1986 (as amended) ("the Rules") in relation to Abrapower Limited (in Administration) (Co Number 01159277) ("the Company"). This provides that when the Joint Administrators of a company have sent notice of moving from Administration to a Creditors' Voluntary Liquidation, they shall send a final progress report as soon as reasonably practicable once it has been registered at the Registrar of Companies
- 1.2 To date, creditors have received the Joint Administrators' Report and Proposals circulated to creditors on 23 November 2012 ("the First Report"), a six monthly update on 22 May 2013 ("the Second Report") and an annual update on 4 October 2013 ("the Third Report"). In the light of the information contained in these previous reports, this Report simply provides an additional update
- 1.3 Following the First Report, the Joint Administrators' proposals were approved. The Joint Administrators have moved the Company from Administration to Liquidation as they are now of the view that the outstanding issues in relation to this matter can be better dealt within that regime

2 Asset Realisations / Miscellaneous

The Sale of the Company's Assets

- 2.1 As detailed in the First Report, continued trading of the business whilst in Administration was not possible given that the Company had ceased to trade prior to the Administration
- 2.2 Accordingly, the on-going strategy was discussed with chattel asset valuers Winterhill Asset Limited ("Winterhill") and it was decided that notwithstanding the cessation of trade, there would be a small window of opportunity to seek a buyer for the business on a going concern basis. In the event that this was not achievable, the Company's tangible assets and freehold premises would be sold on a break-up basis
- 2.3 In order to establish the level of interest, Winterhill was instructed to undertake a valuation of the business and assets of the Company. Following completion of this, it undertook a marketing campaign which consisted of an email shot to appropriate contacts within its database as well as placing an advertisement on its website
- 2.4 As a result of the marketing campaign, a number of third parties contacted Winterhill to confirm their interest. Accordingly, Non-Disclosure Agreements ("NDA") were provided to each of the interested parties. Upon receipt of a signed NDA, Winterhill released additional information about the Company
- 2.5 Despite the initial interest received, no acceptable offers were received for the Company's business and assets. Accordingly, Winterhill were instructed to sell the Company's tangible assets on a piecemeal basis. A total of £49,100 was realised as a result

Sale of the Company's Freehold Premises

- 2.6 As detailed in the first report, the Company owned the freehold to its trading premises based at Romford Road, Astonfields Industrial Estate, Stafford, Staffordshire ST16 3DZ ("the Trading Premises")
- 2.7 An entity associated with the Joint Administrators firm SFP Property Limited ("SFP Property") was instructed to value and sell the freehold to the Trading Premises Further, to obtain a redemption figure from the charge holder, Lloyds TSB Bank Plc ("Lloyds")
- 2.8 SFP Property was provided with details of certain third parties whom had previously shown an interest in the site Accordingly, upon completion of the valuation, SFP Property entered into discussions with these parties as well as additional potential buyers
- 2.9 SFP Property received an offer of £675,000 from an interested party, on the understanding that various health and safety issues were attended to and various pieces of equipment were removed from the Trading Premises
- 2.10 This offer was broadly accepted and the solicitors instructed in this matter, Clarke Willmott LLP ("Clarke Willmott") were instructed to draft the relevant agreement Further, works were commenced to clean the Trading Premises and attend to all of the health and safety issues
- 2.11 Following this exercise, the interested party reduced its original offer to £650,000 No reason was given for this deduction Further, it became apparent that the party was in no urgency to complete on the agreement
- 2.12 It was subsequently decided that the agreement was unlikely to complete in its current form
- 2.13 Accordingly, SFP Property remarkedeted the Trading Premises An offer was received from the Unusual Furnishing Company Limited ("UFCL") in the sum of £610,000 This offer was accepted on the grounds that this was in line with previous valuations and UFCL demonstrated a willingness to complete on the agreement expediently
- 2.14 Clarke Willmott were instructed to draft a new agreement and a requisite TR1 form for the transfer of the freehold Final drafts were agreed upon and the sale completed on 2 August 2013 These funds were received in full and an amount of £537,312 was paid to Lloyds to discharge its liability

Debtors

- 2.15 As at the date of the placing of the Company into Administration, its sales ledger was £235,659 with Lloyds TSB Commercial Finance Limited ("LTSBCF") having an outstanding commitment of £161,224, excluding charges
 - 2.16 An entity associated with the Joint Administrators' firm, SFP Recoveries Limited ("SFP Recoveries") was instructed to monitor the progress of debtor collections and provide assistance to LTSBCF, if required
-

- 2.17 SFP Recoveries undertook a review of the sales ledger and recovered and collated supporting documentation in order to assist LTSBCF with collection of the ledger
- 2.18 LTSBCF subsequently explained that it had instructed collection agent, Cerberus Receivables Management ("Cerberus") to carry out collections on its behalf. Accordingly, in order to assist, SFP Recoveries liaised with Cerberus directly to provide the documentation recovered
- 2.19 SFP Recoveries subsequently advised that LTSBCF recovered its core commitment in full, however its fee entitlement remained uncollected. The remaining sales ledger was re-assigned to the Company
- 2.20 It was confirmed that the remaining ledger comprised of uncollectable debts and accordingly, SFP Recoveries has closed its file in this matter

The Company's Trading Premises

- 2.21 In addition to the sale of the Company's freehold to the Trading Premises, SFP Property was also instructed to attend the Company's second premises located at Part of Unit 3, Astonfields Industrial Estate, Drummond Road, Stafford ST16 3EL ("the Warehouse Premises"). It subsequently contacted the landlord of the site in order to confirm the terms of occupation and established that the Company occupied the unit pursuant to a lease agreement
- 2.22 The Joint Administrators vacated the Warehouse Premises on 20 November 2012 and entered into a compromise agreement with the landlord. A sum of £4,000 was paid for the Joint Administrators' period of occupation
- 2.23 SFP Property has confirmed that the lease holds no value and has attempted to agree a surrender of it with the landlord of the Warehouse Premises
- 2.24 Despite this, it has not yet been possible to complete a surrender of the lease of the Warehouse Premises and accordingly, the lease will be disclaimed once the Company has moved to Liquidation

Estate Account Balance and VAT

- 2.25 The balance held on the Administration estate account of £3,809.05 shall be transferred to the Liquidation estate account once the Company has moved to Liquidation
- 2.26 A VAT refund of £7,567.01 is presently being awaited. Once the refund is received from HM Revenue and Customs it shall be banked in the Liquidation estate account

3. Investigations

- 3.1 In accordance with the Joint Administrators' duties, investigations are being made into the conduct of the Company's current directors by SFP Corporate Solutions Limited ("SFP Corporate Solutions"). The requisite D Form was submitted to the Insolvency Practitioners Compliance Unit ("IPCU") on 8 March 2013. All information contained in the D form is strictly confidential and the Joint Administrators are not permitted to divulge details of their recommendations to the IPCU.

3.2 SFP Corporate Solutions' investigations are now complete and it has reached an agreement in relation to an inter-company loan account which will result in a realisation of circa £92,000 To date, the Joint Administrators have received funds of £36,811

3.3 The remaining consideration of £55,189 will be collected in the Company's Liquidation

4. Dividend Prospects

Preferential Creditors

4.1 The Company had ceased trading prior to the Joint Administrators' appointment Given that a sale of the business and assets as a going concern has not completed it was anticipated that there would be claims for arrears of wages and outstanding holiday pay

4.2 The Joint Administrators have received preferential claims from the Redundancy Payments Office ("RPO") and the Company's employees of £32,095 and £427, respectively

4.3 It is anticipated that there will be sufficient funds to pay a dividend to preferential creditors This will be progressed in the Liquidation

Non-Preferential Claims

4.4 The non-preferential creditors' claims are summarised below

Creditor	Estimated Statement of Affairs £	Claims Received as at 7 February 2014 £
HM Revenue and Customs – VAT/PAYE/NIC	Uncertain	31,115
RPO / Employee Claims	186,275	164,040
Trade and Expense	598,820	614,851

4.5 It appears unlikely that there will be sufficient funds to pay a dividend to non-preferential unsecured creditors

5. The Joint Administrators' Costs

5.1 At Appendix I is the Company's Final Income and Expenditure Account as at 7 February 2014 This is in the main self explanatory

5.2 At Appendix II is the Company's Schedule of Agreed Proposals

5.3 At Appendix III is a breakdown of the time that has been incurred by the Joint Administrators' firm from 2 October 2013 to date, together with details of charge out rates / activity summaries At Appendix IX is a Guide to Administrators' Fees, being set out in Statement of Insolvency Practice 9 The Joint Administrators' fees, charged by reference to the time properly given by the Joint Administrators and their staff in attending to matters arising in the Administration, have previously

Abrapower Limited (In Administration)
Final Progress Report
To 7 February 2014

been authorised Time costs during the period since the Third Report total £10,907.50 and for the Administration as a whole total £123,280. Fees of £50,966.12 have been recovered. In addition, as explained in the First Report, pre-Administration costs of £8,683 were incurred and the Joint Administrators received approval to draw these costs in full on 12 December 2012.

- 5.4 Within 21 days of receipt of a progress report a creditor may request the Administrator to provide further information about the remuneration and expenses set out in the report. A request must be in writing and may be made by either a secured creditor, or by an unsecured creditor with the concurrence of at least 5% in value of unsecured creditors or the permission of the court.
- 5.5 In accordance with Rule 2.109 of the Rules, any secured creditor, or any unsecured creditor with the concurrence of at least 10% in value of the unsecured creditors, or with the permission of the Court, may apply to the Court on the grounds that the remuneration or other expenses are excessive. Any such application must be made no later than 8 weeks after receipt of this report.
- 5.6 At Appendix IV is a breakdown of the time that has been incurred by SFP Corporate Solutions from 2 October 2013 to date.
- 5.7 At Appendix V is a breakdown of the time that has been incurred by SFP Recoveries from 2 October 2013 to date.
- 5.8 At Appendix VI is a breakdown of the time that has been incurred by SFP Property from 2 October 2013 to date.
- 5.9 At Appendix VII is a breakdown of the time that has been incurred by SFP Datastore Limited ("SFP Datastore") from 2 October 2013 to date. Details concerning SFP Datastore can be found at paragraph 5.15.
- 5.10 At Appendix VIII is a breakdown of SFP and its associated entities' charge out rates.
- 5.11 The First Report detailed the position in relation to disbursements and certain types of expenditure. To ensure that creditors are aware of how this operates, this Report reiterates the position. Disbursements and specific expenditure relating to the administration of an insolvent estate and payable to an independent third party are recoverable without creditor approval. Such expenditure is made, if funds are available from the insolvent estate. If funds are not available the payment is made from the Joint Administrators' firm's office account which is reimbursed from the insolvent estate if and when funds become available.
- 5.12 Payments made out of a firms office account and re-charged to an insolvent estate are defined as 'Category 1 Disbursements'. This disbursement is explained further under the Expenses and Disbursements heading in the Guide to Administrators' fees, at Appendix IX. There have been Category 1 Disbursements incurred to date in respect of the following:

Expenses	£	5,484.32
Legal Fees	£	1,312.77
Bordereau	£	680.00
Mail Redirect	£	350.00
Statutory Advertising	£	156.51

Arapower Limited (In Administration)
Final Progress Report
To 7 February 2014

Companies House £ 15 00

- 5.13 Expenditure incidental to the administration of the insolvent case, which by its nature includes an element of shared or allocated costs are recoverable with creditor approval. These payments are defined as 'Category 2 Disbursements' and, once again, this disbursement is explained further in the Guide to Administrators' fees, at **Appendix IX**. There have been Category 2 Disbursements incurred to date in respect of the following

Mileage	£	481 80
Postage	£	477 21

As detailed in the First Report, SFP Corporate Solutions, SFP Recoveries, SFP Property and SFP Datastore's remuneration will be treated as a Category 2 Disbursement. Each of the associated entities may incur disbursements in carrying out its function. To date, the following expenses have been incurred by the entities associated with the Joint Administrators' firm

<u>Party</u>	<u>Expenses incurred (£)</u>	<u>Amount outstanding (£)</u>
SFP Datastore	1,800 71	262 90
SFP Property	165 50	-
SFP Corporate Solutions	64 15	-
SFP Recoveries	314 36	314 36

- 5.14 At **Appendix VIII**, is a summary of Category 1 and Category 2 Disbursements, detailing the rates of the latter

- 5.15 The fees incurred by Winterhill, SFP Recoveries, SFP Corporate Solutions, SFP Property and the solicitors assisting in this matter, Clarke Willmott are calculated on a time cost basis. SFP Datastore has been employed by the Joint Administrators to store the Company's books and records as well as providing security services (where appropriate). Its fees for storage and security services are both on a fixed fee basis and on a time cost basis for any additional work carried out

6 Additional Points and Conclusion

- 6.1 Creditors will recall that the Joint Administrators' approved proposals were to place the Company into creditors' voluntary liquidation. Further, for the Joint Administrators to take the appointment as Joint Liquidators without recourse to the creditors
- 6.2 The requisite form was filed at Companies House on 13 February 2014 and Simon Plant and Daniel Plant were appointed Joint Liquidators. The Joint Liquidators will continue investigations into the Company's affairs
- 6.3 Creditors should note that the fee basis and charge out rates applicable in the Liquidation will be the same as applied in the Administration

Abrapower Limited (In Administration)
Final Progress Report
To 7 February 2014

- 6.4 Should any creditor have any questions or queries in relation to the above, please contact the Manager dealing with this matter, Richard Hunt on 020 7538 2222

Dated this 10th day of February 2014



Daniel Plant
Joint Administrator

Abrapower Limited (in Administration)

Report to Creditors

APPENDIX I

- **Income and Expenditure Account / Comparison to Estimated Statement of Affairs / Estimated Outcome Statement**

**Abrapower Limited
(In Administration)**

INCOME AND EXPENDITURE ACCOUNT

Statement of affairs	From 31/10/2012	From 01/05/2013	From 02/10/2013	From 31/10/2012
	£	£	£	£
RECEIPTS				
Book Debts Secured by Factoring Agreement	756 00	-	-	756 00
Other debtors	Unknown	-	36,810 82	36,810 82
Freehold Land & Property	675,000 00	610,000 00	-	610,000 00
Business and Assets	10,000 00	44,100 00	-	44,100 00
Plant and Machinery	5,000 00	-	-	5,000 00
Book Debts	-	-	1,409 62	1,409 62
VAT Refund	1,793 65	-1,793 65	667 01	667 01
Bank Interest Gross	3 94	0 09	6 83	10 86
Miscellaneous income	-	111 31	-	111 31
Contribution to costs	3,270 00	-	-	3,270 00
TOTAL RECEIPTS	54,923 59	608,317 75	38,894 28	702,135 62
PAYMENTS				
Utilities	-	-	984 75	984 75
Hire of Equipment	1,062 00	-	-	1,062 00
Monies sent to Factor	756 00	-	-	756 00
Lloyds TSB Bank PLC	-	537,311 89	-	537,311 89
Pension Advice	950 00	1,145 00	-	2,095 00
SFP Datastore Fees	1,500 00	-	-	1,500 00
SFP Datastore Disbursements	1,537 81	-	-	1,537 81
SFP Corporate Solutions Fees	10,000 00	-	6,500 00	16,500 00
SFP Corporate Solutions Disbursements	64 15	-	-	64 15
SFP Property Fees	-	4,834 50	2,000 00	6,834 50
SFP Property Disbursements	-	165 50	-	165 50
Office Holders Remuneration	3,500 00	27,572 71	19,893 41	50,966 12
Office Holders Disbursement - Cat 1	1,282 65	6,715 95	-	7,998 60
Office Holders Disbursement - Cat 2	141 08	711 34	106 59	959 01
Agents' Fees	750 00	6,100 00	-	6,850 00
Agents Disbursements	7,622 53	70 00	-	7,692 53
Legal Fees	-	6,968 53	9,149 66	16,118 19
Legal Disbursements	-	-	46 00	46 00
Re-Direction of Mail	-	-	120 00	120 00
Other Property Expenses	25,753 50	5,419 82	-	31,173 32
Bank Charges	-	-	24 19	24 19
TOTAL PAYMENTS	54,919 72	597,015 24	38,824 60	690,759 56
BALANCE AT HAND				11,376 06
REPRESENTED BY				
Cash At Bank	-	-	3,809 05	3,809 05
VAT Control Account	-	-	7,567 01	7,567 01
BALANCE AT HAND	-	-	11,376 06	11,376 06

**Abrapower Limited (in Administration)****Liquidation Estimated Outcome Statement as at 7 February 2014**

	Notes	Realised/paid as at 07/02/2014 £	Estimated Future £	Final outcome £
<u>Estimated Realisations in the Liquidation</u>				
Balance transferred from Joint Administrators	1	11 376	-	11 376
Other assets - SFP Corporate Solutions Recovery	2	-	55 189	55 189
Estimated total realisations (net of fixed charges)		11,376	55,189	66,565
<u>Estimated Costs</u>				
Outstanding fees and expenses of Joint Administrators	3	-	(170 020)	(170 020)
<u>Liquidation Costs</u>				
Joint Liquidators' remuneration (excluding costs attributable to Prescribed Part)	4	-	(10 000)	(10 000)
Joint Liquidators' disbursements	4	-	(500)	(500)
SFP Datastore fees and expenses	5	-	(100)	(100)
SFP Property fees and expenses	6	-	(1,000)	(1,000)
SFP Corporate Solutions fees and expenses	7	-	(1 000)	(1 000)
Statutory advertising	8	-	(250)	(250)
Insurance	9	-	(100)	(100)
Estimated total costs		-	(182 970)	(182 970)
Estimated surplus/deficit to preferential unsecured creditors		11,376	(127,781)	(116,405)
Estimated preferential claims	10	-	(32 522)	(32 522)
Estimated surplus/deficit to non-preferential unsecured creditors		11,376	(160,303)	(148,927)
Estimated non-preferential unsecured claims	11	-	(810 006)	(810 006)
Estimated deficiency as regards non preferential unsecured creditors		11,376	(970,309)	(958,933)
Shareholders	12	-	(100)	(100)
Estimated deficiency as regards shareholders		11,376	(970,409)	(959,033)

NB All figures are subject to change The figures are excluding VAT

Assumptions

- 1 This reflects the balance at bank as per the Joint Administrators final receipts and payments account. However it is subject to adjustments due to final bank interest or charges and in relation to any final VAT refund/payment due.
- 2 It is anticipated that funds of £55 189 will be realised from SFP Corporate Solutions' investigations.
- 3 As provided by statute any unpaid remuneration and expenses of the Joint Administrators including any outstanding costs to parties who acted on the Joint Administrators' instructions are charged on and payable out of the funds and assets transferred to the Joint Liquidators' control.
- 4 The Joint Liquidators' remuneration and disbursements will be drawn on the same bases as those approved by the relevant creditors for the Joint Administrators.
- 5 SFP Datastore will continue to store the Company's books and records on the terms as agreed by the Joint Administrators and relevant creditors.
- 6 SFP Property will assist with disclaiming the lease at the Warehouse Premises.
- 7 SFP Corporate Solutions will continue to assist the office holders in investigating the Company's affairs and complying with their statutory duties on the terms as agreed by the Joint Administrators and relevant creditors.
- 8 This is likely to be incurred by the Joint Liquidators as expenses of the winding up.
- 9 Insurance cover is being provided by Willis Limited in relation to the Warehouse Premises until the lease has been disclaimed.
- 10 This reflects the preferential claims received to date. Please note that on the basis the funds detailed in Note 2 are collected funds will be set aside to pay to preferential creditors.
- 11 This reflects the non-preferential unsecured claims received to date.
- 12 This reflects the shareholder claims according to Companies House records.

SFP



**Schedule of Agreed Proposals of
Abrapower Limited Limited (in Administration) ("the Company")
in accordance with the Insolvency Act 1986 and the Insolvency Rules 1986**

- 1 the Administration of the Company continue in order to effect outstanding realisations of the Company's business and assets and finalise any additional matters which require the assistance of the moratorium,
- 2 the Joint Administrators' time costs associated with the pre-appointment period of £8,682.50 be paid in full in accordance with Rule 2.67A(3), from funds held in the insolvent estate,
- 3 the Joint Administrators' remuneration be fixed by the time properly spent by them and their staff in attending to matters arising out of the Administration in accordance with Statement of Insolvency Practice 9 and that the Joint Administrators be authorised to draw remuneration as and when funds become available,
- 4 the Joint Administrators be authorised to recover all disbursements including category 2 disbursements as defined by the Statement of Insolvency Practice 9,
- 5 the Joint Administrators be authorised to make a distribution to any secured or preferential creditor in accordance with Schedule B1, Paragraph 65. Further, to make a distribution to unsecured creditors following court approval, in accordance with Schedule B1 Paragraph 65 (3),
6. SFP Datastore will charge upfront for the minimum period of two years storage and destruction of the records / permanent box removal of £20.80 and £9 per box respectively, shortly following appointment,
7. In the event that the Joint Administrators think that the Company has no property which might permit a distribution to its creditors, they shall be authorised to file a notice of dissolution of the Company pursuant to paragraph 84 of Schedule B1 to the Act,
8. In the event that there are or may be further realisations that result in a dividend to unsecured creditors the Joint Administrators shall seek to place the Company into Creditors' Voluntary Liquidation in order to effect a distribution. In such circumstances they will be looking to take the appointment as Liquidators. In accordance with Schedule B1, Paragraph 83(7) of the Act and Rule 2.117(3), creditors are able to nominate a different person or persons as proposed Liquidator or Liquidators, provided that the nomination is made after the receipt of the proposals and before they are approved,
9. as an alternative to paragraphs 7 and 8 the Joint Administrators be able to seek to place the Company into Compulsory Liquidation in order to pursue such actions and bring proceedings that only a Liquidator is permitted to bring pursuant to the Act,
10. upon the placing of the Company into Liquidation under paragraph 8 or 9 or the necessary form being filed for the Company to be dissolved, the Joint Administrators be discharged from liability in respect of any action undertaken by them pursuant to Schedule B1, paragraph 98 of the Act,
11. upon the placing of the Company into Liquidation, the Joint Liquidators' remuneration be fixed on the same basis as that of the Joint Administrators' remuneration, in accordance with Rule 4.127(5A) and that the Joint Liquidators be authorised to draw remuneration as and when funds become available, and
12. upon the placing of the Company into Liquidation, the Joint Liquidators be authorised to act in a joint and several capacity

Abrapower Limited (in Administration)

Report to Creditors

APPENDIX III

- **Breakdown of Joint Administrators' Fees / Activity Codes**



SUMMARY OF TIME AND CHARGE OUT RATES FOR THE PERIOD 02 OCTOBER 2013 TO 07 FEBRUARY 2014



SFP
卷四

ABRAPOWER LIMITED (IN ADMINISTRATION)

SUMMARY OF TIME AND CHARGE OUT RATES FOR THE PERIOD 02 OCTOBER 2013 TO 07 FEBRUARY 2014

ABRAPOWER LIMITED (IN ADMINISTRATION)

SUMMARY OF TIME AND CHARGE OUT RATES FOR THE PERIOD 02 OCTOBER 2013 TO 07 FEBRUARY 2014

CLASSIFICATION OF WORK FUNCTION	Director	Senior Manager	Manager	Senior Administrator	Administrator	Assistant	Total	Average rate £	Total Costs £
Creditors									
Communication with Unsecured Creditors	0.00	0.00	0.00	0.20	0.50	0.00	0.00	0.70	178.57
Creditor Claims	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	225.00
ERA	0.00	0.00	0.00	0.20	0.00	0.50	0.10	6.80	217.35
Property - Negotiations	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.90	8.50
Property - Professional Advice	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	1,847.50
Communication with Secured Creditors	0.00	0.00	0.00	0.00	0.00	0.60	0.00	0.00	0.00
Corporate Taxation	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Other	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Total Creditors	0.00	0.00	0.00	0.20	0.70	1.20	0.30	1.60	12.00
Total	0.00	0.00	0.00	0.90	2.60	11.20	12.00	9.60	48.80
Average rate £ per hour									
Total Costs £	0.00	0.00	0.00	325.00	300.00	275.00	250.00	225.00	223.51
Total costs from 31/10/2012 to 01/10/2013									
Total costs from 31/10/2012 to 07/02/2014	0.00	0.00	292.50	780.00	3,080.00	3,000.00	2,160.00	805.00	10,907.50
Remuneration drawn on account									
									112,372.50
									123,280.00
									50,986.12

See Appendix for Summary Charge Out Rates for staff

SIP 9 STANDARD ACTIVITY SUMMARIES

Standard Activity	Examples of Work
Administration and Planning	Case Planning Administrative set up Appointment and notification Maintenance of records Statutory reporting Estate accounting Schedule company books and records
Investigation	SIP 2 CDDA report Investigating antecedent transactions
Realisation of assets	Identifying, securing, insuring assets Retention of title Debt collection – pre and post appointment Property, business and asset sales Communication and negotiations with secured creditors
Trading	Planning Management of operation Communication/negotiation with suppliers Communication/negotiation with landlord Communication/negotiation with third parties Monitor goods outward/inwards Stock take On-going employee issues Travel
Creditors	Communication with creditors Creditor claims (including employees and other preferential creditors)

Abrapower Limited (in Administration)

Report to Creditors

APPENDIX IV

- **Breakdown of SFP Corporate Solutions Limited (formerly SFP Forensic Limited) Fees**



SUMMARY OF TIME AND CHARGE OUT RATES FOR THE PERIOD 02 OCTOBER 2013 TO 07 FEBRUARY 2014



SUMMARY OF TIME AND CHARGE OUT RATES FOR THE PERIOD 02 OCTOBER 2013 TO 07 FEBRUARY 2014

ABRAPOWER LIMITED (IN ADMINISTRATION)

SUMMARY OF TIME AND CHARGE OUT RATES FOR THE PERIOD 02 OCTOBER 2013 TO 07 FEBRUARY 2014

CLASSIFICATION OF WORK FUNCTION	Director	Senior Manager	Manager	Senior Administrator	Administrator	Assistant	Total	Average rate £	Total Costs £
Creditors									
Communication with Unsecured Creditors	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Creditor Claims	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
ERA	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Property - Negotiations	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Property - Professional Advice	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Communication with Secured Creditors	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Corporate Taxation	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Other	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Total Creditors	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Total	15.10	0.00	0.00	0.00	12.90	0.00	0.00	2.40	30.40
Average rate £ per hour									
Total Costs £	387.42	0.00	0.00	0.00	275.00	0.00	0.00	100.00	317.02
Total costs from 31/10/2012 to 01/10/2013	5,850.00				3,547.50	0.00	0.00	240.00	9,637.50
Total costs from 31/10/2012 to 07/02/2014									38,697.50
Remuneration drawn on account									46,335.00
									16,500.00

See Appendix for Summary Charge Out Rates for staff

Abrapower Limited (in Administration)

Report to Creditors

APPENDIX V

- Breakdown of SFP Recoveries Limited Fees



SFP
RECOVERIES

ABRAPOWER LIMITED (IN ADMINISTRATION)

SUMMARY OF TIME AND CHARGE OUT RATES FOR THE PERIOD 02 OCTOBER 2013 TO 07 FEBRUARY 2014



SFP
RECOVERIES

ABRAPOWER LIMITED (IN ADMINISTRATION)

SUMMARY OF TIME AND CHARGE OUT RATES FOR THE PERIOD 02 OCTOBER 2013 TO 07 FEBRUARY 2014

SUMMARY OF TIME AND CHARGE OUT RATES FOR THE PERIOD 02 OCTOBER 2013 TO 07 FEBRUARY 2014

CLASSIFICATION OF WORK FUNCTION	Director	Senior Manager	Manager	Senior Administrator	Administrator	Assistant	Total	Average Rate £	Total Costs £
Creditors									
Communication with Unsecured Creditors	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Creditor Claims	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
ERA	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Property - Negotiations	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Property - Professional Advice	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Communication with Secured Creditors	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Corporate Taxation	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Other	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Total Creditors	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Total	0.00	0.00	0.00	2.30	0.00	0.00	0.00	0.00	2.50
Average rate £ per hour									
Total Costs £	0.00	0.00	0.00	300.00	0.00	225.00	0.00	0.00	294.00
Total costs from 31/10/2012 to 01/10/2013									
Total costs from 31/10/2012 to 07/02/2014	0.00	0.00	0.00	690.00	0.00	45.00	0.00	0.00	735.00
Remuneration drawn on account									
									23,312.50
									24,047.50
									0.00

See Appendix for Summary Charge Out Rates for staff

Abrapower Limited (in Administration)

Report to Creditors

APPENDIX VI

- **Breakdown of SFP Property Limited Fees**



SUMMARY OF TIME AND CHARGE OUT RATES FOR THE PERIOD 02 OCTOBER 2013 TO 07 FEBRUARY 2014



SUMMARY OF TIME AND CHARGE OUT RATES FOR THE PERIOD 02 OCTOBER 2013 TO 07 FEBRUARY 2014



ABRAPOWER LIMITED (IN ADMINISTRATION)

SUMMARY OF TIME AND CHARGE OUT RATES FOR THE PERIOD 02 OCTOBER 2013 TO 07 FEBRUARY 2014

CLASSIFICATION OF WORK FUNCTION	Director	Senior Manager	Manager	Senior Administrator	Administrator	Assistant	Total	Average rate £	Total Costs £
Creditors									
Communication with Unsecured Creditors	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Creditor Claims	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
ERA	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Property - Negotiations	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Property - Professional Advice	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Communication with Secured Creditors	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Corporate Taxation	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Other	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Total Creditors	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Total	0.60	0.00	0.00	0.00	1.10	0.00	0.00	3.40	5.10
Average rate £ per hour									
Total Costs £	350.00	0.00	0.00	0.00	200.00	0.00	0.00	100.00	150.98
Total costs from 31/10/2012 to 01/10/2013	210.00	0.00	0.00	0.00	220.00	0.00	0.00	340.00	770.00
Total costs from 31/10/2012 to 07/02/2014									38,857.50
Remuneration drawn on account									39,627.50
									6,834.50

See Appendix for Summary Charge Out Rates for staff

Abrapower Limited (in Administration)

Report to Creditors

APPENDIX VII

- **Breakdown of SFP Datastore Limited Fees**



SFP
DATASTORE

ABRAPOWER LIMITED (IN ADMINISTRATION)

SUMMARY OF TIME AND CHARGE OUT RATES FOR THE PERIOD 02 OCTOBER 2013 TO 07 FEBRUARY 2014



SFP
DATASTORE

ABRAPOWER LIMITED (IN ADMINISTRATION)

SUMMARY OF TIME AND CHARGE OUT RATES FOR THE PERIOD 02 OCTOBER 2013 TO 07 FEBRUARY 2014

SUMMARY OF TIME AND CHARGE OUT RATES FOR THE PERIOD 02 OCTOBER 2013 TO 07 FEBRUARY 2014

CLASSIFICATION OF WORK FUNCTION	Director	Senior Manager	Manager	Senior Administrator	Administrator	Assistant	Total	Average rate £	Total Costs £
Creditors									
Communication with Unsecured Creditors	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Creditor Claims	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
ERA	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Property - Negotiations	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Property - Professional Advice	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Communication with Secured Creditors	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Corporate Taxation	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Other	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Total Creditors	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Total	0.50	0.00	0.00	0.00	0.00	0.00	0.60	1.10	-
Average rate £ per hour	75.00	0.00	0.00	0.00	0.00	0.00	75.00	75.00	-
Total Costs £	37.50	0.00	0.00	0.00	0.00	0.00	45.00	82.50	-
Total costs from 31/10/2012 to 01/10/2013									3,187.50
Total costs from 31/10/2012 to 07/02/2014									3,270.00
Remuneration drawn on account									1,500.00

See Appendix for Summary Charge Out Rates for staff

Abrapower Limited (in Administration)

Report to Creditors

APPENDIX VIII

- **SFP and Associated Entity Charge Out Rates**

SFP

Charge out Rates for SFP main practice and associated entities and Schedule of Expenses

SFP and the Associated Entities remuneration is calculated on an hourly time cost basis, divided into 6 minute units calculated as follows:

Main Practice		SFP Corporate Solutions Limited		SFP Property Limited		SFP Recoveries Limited	
<u>Grade</u>	<u>Rate p/hr</u>	<u>Grade</u>	<u>Rate p/hr</u>	<u>Grade</u>	<u>Rate p/hr</u>	<u>Grade</u>	<u>Rate p/hr</u>
Director 2	500	Director	500	Director	350	Director	500
Director 1	450	Senior Manager 2	350	Senior Manager 2	275	Senior Manager 2	350
Senior Manager 2	350	Senior Manager 1	325	Senior Manager 1	250	Senior Manager 1	325
Senior Manager 1	325	Manager 2	300	Manager 2	225	Manager 2	300
Manager 2	300	Manager 1	275	Manager 1	200	Manager 1	275
Manager 1	275	Senior Administrator 2	250	Senior Administrator 2	175	Senior Administrator 2	250
Senior Administrator 2	250	Senior Administrator 1	225	Senior Administrator 1	155	Senior Administrator 1	225
Senior Administrator 1	225	Administrator 2	175	Administrator 2	135	Administrator 2	175
Administrator 2	175	Administrator 2	150	Administrator 1	115	Administrator 1	150
Administrator 1	150	Assistant	100	Assistant	100	Assistant	100

SFP Datastore Limited		Supporting Services	
<u>Grade</u>	<u>Rate p/hr</u>	<u>Retrieval Rates Guide</u>	
Storage Tasks (Retrieval and collection)	25	Box Storage A4 A3 Transit Cases	18p / box / week 21p / box / week 6p / box / week
Staff costs			Mileage £110 per mile
Inventorising and Additional	75	Retrieval costs from site Same Day Delivery (up to 10 items / £150 per item thereafter) Next Day Delivery (up to 10 items / £150 per item thereafter) Delivery to third party offices (up to 10 items / £150 per item thereafter) Provision of archive boxes	£135 per mile (£50 minimum) £25.00 £5 per box
Staff Costs			

A minimum period of 2 years' storage is charged up front in respect of all Administration appointments at a rate of £20.80 per box held. In addition, a destruction charge of £9 per box is also charged up front.

The minimum charge is based on the assumption that the Administration will continue for a period of one year, plus the requirement to then hold records for a further period of one year once the Company has been dissolved. In the event that the Administration is concluded early, the Company is dissolved early and the records are held for less than the anticipated two year period, any fees billed and paid in advance will be credit noted and the funds repaid to the estate as necessary. In the event that the Administration is extended, any additional charges incurred by SFP Datastore Limited will be paid as they are incurred.

Direct Expenses (Category 1 Disbursements)

Category 1 Disbursements as defined by SIP 9, which can be specifically identified as relating to the administration of the case will be charged to the estate at cost, with no uplift. These include, but are not limited, to such items as advertising, bonding and other insurance premiums and property reimbursed expenses.

Indirect Expenses (Category 2 Disbursements)

Stationery / Photocopying	Postage	Postage rate (£)	Other
			Mileage incurred as a result of necessary travel is charged at the HM Revenue & Customs approved rate of 45p per mile
1 page of headed paper	0.12	0.47	
1 page of continuation paper	0.10	0.71	
1 page of photocopying paper	0.02	0.33	
Envelopes (all sizes)	0.10	0.58	Searches and downloads of documents filed at Companies House are charged at £10 per appointment.

The Associated Entities may also incur direct expenses, such as courier charges and Land Registry fees, which will be charged to the insolvent estate.

Abrapower Limited (in Administration)

Report to Creditors

APPENDIX IX

- **Guide to Administrators' Fees**

STATEMENT OF INSOLVENCY PRACTICE 9 (E & W)

A CREDITORS' GUIDE TO ADMINISTRATORS' FEES

ENGLAND AND WALES

1 Introduction

1.1 When a company goes into administration the costs of the proceedings are paid out of its assets. The creditors who hope eventually to recover some of their debts from the assets therefore have a direct interest in the level of costs and in particular the remuneration of the insolvency practitioner appointed to act on behalf of the creditor. The insolvency legislation recognises the importance of providing mechanisms for creditors to determine the basis of the administrator's fees. This guide is intended to help creditors be aware of their rights under the legislation to approve and monitor fees, explain the basis on which fees are fixed and how creditors can seek information about expenses incurred by the administrator and challenge those they consider to be excessive.

2 The nature of administration

2.1 Administration is a procedure which places a company under the control of an insolvency practitioner and the protection of the court with the following objective:

- rescuing the company as a going concern or
 - achieving a better result for the creditors as a whole than would be likely if the company were wound up without first being in administration
- or if the administrator thinks neither of these objectives is reasonably practicable
- realising property in order to make a distribution to secured or preferential creditors

3 The creditors' committee

3.1 The creditors have the right to appoint a committee with a minimum of 3 and a maximum of 5 members. One of the functions of the committee is to determine the basis of the administrator's remuneration. The committee is normally established at the meeting of creditors which the administrator is required to hold within a maximum of 10 weeks from the beginning of the administration. The committee may also be established at the first meeting of creditors or within 6 weeks of its establishment, and subsequent meetings may be held either at specified dates agreed by the committee or where a member of the committee asks for one, or when the administrator decides he needs to hold one. The committee has power to summon the administrator to attend before it and provide information about the exercise of his functions.

4 Fixing the administrator's remuneration

4.1 The basis for fixing the administrator's remuneration is set out in Rule 2.106 of the Insolvency Rules 1986 which states that it shall be fixed:

- as a percentage of the value of the property which the administrator has to deal with
- by reference to the time properly given by the administrator and his staff in attending to matters arising in the administration, 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 administrator. Where the remuneration is fixed as a percentage different percentages may be used for different things done by the administrator.

It is for the creditors' 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 and where it is a set amount, to determine that amount. Rule 2.106 says that in arriving at its decision the committee shall have regard to the following matters:

April 2010

9 of 35

STATEMENT OF INSOLVENCY PRACTICE 9 (E & W)

ADMINISTRATOR'S REMUNERATION

the complexity (or otherwise) of the case

- any responsibility of an exceptional kind or degree which falls on the administrator
- the effectiveness with which the administrator appears to be carrying out, or to have carried out, his duties
- the value and nature of the property which the administrator has to deal with

4.2 If there is no creditors' committee or the committee does not make the requisite determination (and provided the circumstances described in paragraph 4.3 do not apply), the administrator's remuneration may be fixed by a resolution of a meeting of creditors having regard to the same factors as apply in the case of the committee. If the remuneration is not fixed in any of these ways it will be fixed by the court on application by the administrator, but the administrator 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.

4.3 There are special rules about creditors' resolutions in cases where the administrator has stated in his proposal that the company has insufficient property to enable a distribution to be made to unsecured creditors except out of the reserved fund which may have to be set aside out of floating charge assets.

In this case if there is no creditors' committee or the committee does not make the requisite determination the remuneration may be fixed by the approval of –

- each secured creditor of the company or
- if the administrator has made or intends to make a distribution to preferential creditors –
- each secured creditor of the company and
- preferential creditors whose debts amount to more than 50% of the preferential debts of the company disregarding debts of any creditor who does not respond to an invitation to give or withhold approval

having regard to the same matters as the committee would.

Note that there is no requirement to hold a creditors' meeting in such cases unless a meeting is requisitioned by creditors whose debts amount to at least 10 per cent of the total debts of the company.

4.4 A resolution of creditors may be obtained by correspondence.

5 Review of remuneration

5.1 Where there has been a material and substantial change in circumstances since the basis of the administrator's remuneration was fixed, the administrator 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 Approval of pre-administration costs

6.1 Sometimes the administrator may need to seek approval for the payment of costs in connection with preparatory work incurred before the company went into administration but which remain unpaid. Such costs may relate to work done either by the administrator or by another insolvency practitioner. Details of such costs must be included in the administrator's proposals.

6.2 Where there is a creditors' committee it is for the committee to determine whether and to what extent such costs should be approved for payment. If there is no committee or the committee does not make the necessary determination or if it does but the administrator or other insolvency practitioner who has incurred pre-administration costs considers the amount agreed to be insufficient, approval may be given by a meeting of creditors. Where the circumstances described in

April 2010

10 of 35

STATEMENT OF INSOLVENCY PRACTICE 9 (E & W)

ADMINISTRATOR'S REMUNERATION

paragraph 4.3 apply the determination may be made by the same creditors as approve the administrator's remuneration.

6.3 The administrator must convene a meeting of the committee or the creditors for the purposes of approving the payment of pre-administration costs if requested to do so by another insolvency practitioner who has incurred such costs. If there is no determination under these provisions, or if there is but the administrator or other insolvency practitioner considers the amount agreed to be insufficient, the administrator may apply to the court for a determination.

7 What information should be provided by the administrator?

7.1 When seeking remuneration approval

7.1.1 When seeking agreement to his fees the administrator should provide sufficient supporting information to enable the committee or the creditors to form a judgement as to whether the proposed fee is reasonable having regard to all the circumstances of the case. The nature and extent of the supporting information which should be provided will depend on:

- the nature of the approval being sought,
- the stage during the administration of the case at which it is being sought, and
- the size and complexity of the case.

7.1.2 Where at any creditors' or committee meeting, the administrator seeks agreement to the terms on which he is to be remunerated, he should provide the meeting with details of the charge-out rates of all grades of staff including principals which are likely to be involved on the case.

7.1.3 Where the administrator seeks agreement to his fees during the course of the administration he should always provide an up-to-date receipts and payments account. Where the proposed fee is based on time costs the administrator should disclose to the committee or the creditors the time spent and the charge-out value in the particular case, together with, where appropriate, such additional information as may reasonably be required having regard to the size and complexity of the case. The administrator should also provide a sufficient explanation of what the administrator has achieved and how it was achieved to enable the value of the exercise to be assessed (without recognising that the administrator must fulfil certain statutory obligations that might be relevant to bring an added value for creditors) and to establish that the time has been properly spent on the case. That assessment will need to be made having regard to the time spent and the rates at which that time was charged, bearing in mind the factors set out in paragraph 4.1 above. To enable this assessment to be carried out it may be necessary for the administrator to provide an analysis of the time spent on the case by type of activity and grade of staff. The degree of detail will depend on the circumstances of the case, but it will be helpful to be aware of the professional guidance which has been given to insolvency practitioners on this subject. The guidance suggests the following areas of activity as a basis for the analysis of time spent:

- Administration and planning
- Investigations
- Realisation of assets
- Trading
- Creditors
- Any other case-specific matters

The following categories are suggested as a basis for analysis by grade of staff:

- Partner
- Manager
- Other senior professionals
- Assistants and support staff

The explanation of what has been done can be expected to include an outline of the nature of the assignment and the administrator's own initial assessment, including the anticipated return to creditors. To the extent applicable it should also explain:

April 2010

11 of 35

STATEMENT OF INSOLVENCY PRACTICE 9 (E & W)

ADMINISTRATOR'S REMUNERATION

Any significant aspects of the case, particularly those that affect the amount of time spent.

- The reasons for subsequent changes in strategy
- Any comments on any figures in the summary of time spent accompanying the request the administrator wishes to make
- The steps taken to establish the views of creditors, particularly in relation to agreeing the strategy for the assignment, budgeting, time recording, fee drawing or fee agreement.
- Any existing agreements about fees.
- Details of how other professionals, including subcontractors, were chosen, how they were contracted to be paid, and what steps have been taken to review their fees.

It should be borne in mind that the degree of analysis and form of presentation should be proportional to the size and complexity of the case. In smaller cases not all categories of activity will always be relevant, whilst further analysis may be necessary in larger cases.

7.1.4 Where the fee is charged on a percentage basis the administrator should provide details of any work which has been or is intended to be sub-contracted out which would normally be undertaken directly by an administrator or his staff.

7.2 After remuneration approval

Where a resolution fixing the basis of fees is passed at any creditors' meeting held before he has substantially completed his functions the administrator should notify the creditors of the details of the resolution in his next report or circular to them. In all subsequent reports to creditors the administrator should specify the amount of remuneration he has drawn in accordance with the resolution (see further paragraph 7.1 below). Where the fee is based on time costs he should also provide details of the time spent and charge-out value to date and any material changes in the rates charged for the various grades since the resolution was first passed. He should also provide such additional information as may be required in accordance with the principles set out in paragraph 7.1.3. Where the fee is charged on a percentage basis the administrator should provide the details set out in paragraph 7.1.4 above regarding work which has been sub-contracted out.

7.3 Disbursements and other expenses

There is no statutory requirement for the committee or the creditors to approve the drawing of expenses or disbursements, but there is a provision for creditors to challenge them as described below. Professional guidance issued to insolvency practitioners requires that, where the administrator proposes to recover costs which whilst being in the nature of expenses or disbursements may include an element of shared or allocated costs (such as room hire, document storage or communication facilities provided by the administrator's own firm), they must be disclosed and be authorised by those responsible for approving his remuneration. Such expenses must be directly incurred on the case and subject to a reasonable method of calculation and allocation.

8 Progress reports and requests for further information

8.1 The administrator is required to send a progress report to creditors at 6-monthly intervals. The report must include:

- details of the basis fixed for the remuneration of the administrator (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 administrator during the period of the report, irrespective of whether payment was actually made during that period.

12 of 35

April 2010

STATEMENT OF INSOLVENCY PRACTICE 9 (E & W)

(PART 1) REMUNERATION AND EXPENSES

- the date of approval of any pre-administration costs and the amount approved;
 - a statement of the creditors' rights to request further information, as explained in paragraph 8.2 and their right to challenge the administrator's remuneration and expenses
- 8.2 Within 21 days of receipt of a progress report a creditor may request the administrator to provide further information about the remuneration and expenses (other than pre-administration costs) 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.
- 8.3 The administrator 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 administration or might be expected to lead to violence against any person, or
 - the administrator 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 administrator's refusal to provide the requested information or the expiry of the 14 days time limit for the provision of the information.
- 9 Provision of Information – additional requirements
- The administrator must provide certain information about time spent on a 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 administrator 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 administrator'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 administrator and requests must be made within two years from vacation of office.
- 10 What if a creditor is dissatisfied?
- 10.1 If a creditor believes that the administrator's remuneration is too high, the basis is inappropriate, or the expenses incurred by the administrator are in all the circumstances excessive he may provide certain conditions are met apply to the court.
- 10.2 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 administrator's progress report in which the charging of the remuneration or incurring of the expenses in question is first reported (see paragraph 8.1 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 administrator a copy of the application and supporting evidence at least 14 days before the hearing.
- 10.3 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 as an expense of the administration.

STATEMENT OF INSOLVENCY PRACTICE 9 (E & W)

11 What if the administrator is dissatisfied?

- 11.1 If the administrator considers that the remuneration fixed by the creditors' committee 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 committee or the creditors 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 creditors' committee and the committee may nominate one or more of its members to appear or be represented on the application. If there is no committee the administrator's notice of his application must be sent to such of the company's 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 as an expense of the administration.

12 Other matters relating to remuneration

- 12.1 Where there are joint administrators it is for them to agree between themselves how the remuneration payable should be apportioned. Any dispute arising between them may be referred to the court, the creditors' committee or a meeting of creditors.
- 12.2 If the administrator is a solicitor and employs his own firm to act on behalf of the company profit costs may not be paid unless authorised by the creditors' committee, the creditors or the court.
- 12.3 If a new administrator 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 administrator until a further determination, resolution or court order is made.
- 12.4 Where the basis of the remuneration is a set amount, and the administrator 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 administrator. The application must be made to the same body as approved the remuneration. Where the outgoing administrator and the incoming administrator are from the same firm, they will usually agree the apportionment between them.

13 Effective date

This guide applies where a company enters administration on or after 6 April 2010 except where:

- the application for an administration order was made before that date or
- where the administration was preceded by a liquidation which commenced before that date.