

Rule 2.47

Form 2.24B (CH)

The Insolvency Act 1986

**Administrator's progress report**

Name of Company  
Abacus Trading Co Limited

Company number  
2546333

In the  
High Court of Justice, Chancery Division,  
Companies Court

[full name of court]

Court case number  
21846 of 2009

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

We (a) Kirstie Jane Provan and Mark Robert Fry, both of Begbies Traynor (Central) LLP, 32 Cornhill, London, EC3V 3BT,

Joint Administrators of the above Company attach a progress report for the period

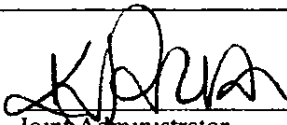
from 11 December 2009 to 10 June 2010

(b) Insert dates

(b) 11 December 2009

(b) 10 June 2010

Signed

  
Joint Administrator

Dated

8/7/10

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

Begbies Traynor (Central) LLP

32 Cornhill, London, EC3V 3BT

Tel Number 020 7398 3800

Fax Number 020 7398 3799

DX Number

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



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10/07/2010

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COMPANIES HOUSE

Kirstie Jane Provan and Mark Robert Fry were appointed Joint Administrators on 11 December 2009

The affairs, business and property of the Company are being managed by the Joint Administrators, who act as the Company's agents and without personal liability

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## **ABACUS TRADING CO. LIMITED (IN ADMINISTRATION)**

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Progress report of the Joint Administrators pursuant to Rule 2.47 of The Insolvency Rules 1986

Period: 11 December 2009 to 10 June 2010

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## 1. INTERPRETATION

<u>Expression</u>	<u>Meaning</u>
"the Company"	Abacus Trading Co Limited (in Administration)
"the Administration"	The appointment of Joint Administrators under Schedule B1 to the Insolvency Act 1986 on 11 December 2009
"the Joint Administrators"	Kirstie Jane Provan and Mark Robert Fry, both of Begbies Traynor (Central) LLP, 32 Cornhill, London, EC3V 3BT
"the Act"	The Insolvency Act 1986
"the Rules"	The Insolvency Rules 1986
"Secured creditor" and "Unsecured creditor"	Secured creditor, in relation to a company, means a creditor of the company who holds in respect of his debt a security over property of the company, and "Unsecured creditor" is to be read accordingly (Section 248(a), Insolvency Act 1986)
"security"	(i) In relation to England and Wales, any mortgage, charge, lien or other security and  (ii) in relation to Scotland, any security (whether heritable or moveable), any floating charge and any right of lien or preference and any right of retention (other than a right of compensation or set off) (Section 248(b), Insolvency Act 1986)
"Preferential creditor"	Any creditor of the Company whose claim is preferential within Sections 386, 387 and Schedule 6 to the Insolvency Act 1986

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## 2. STATUTORY INFORMATION

Name of Company	Abacus Trading Co Limited (in Administration)
Trading name(s)	Abacus Trading Co Limited
Date of Incorporation	05/10/1990
Company registered number	025463333
Company registered office	32 Cornhill, London, EC3V 3BT

## 3. DETAILS OF APPOINTMENT OF JOINT ADMINISTRATORS

Names of Joint Administrators	Kirstie Jane Provan and Mark Robert Fry, both Licensed Insolvency Practitioners and both of Begbies Traynor (Central) LLP, 32 Cornhill, London, EC3V 3BT
Date of Joint Administrators' appointment	11 December 2009
Date of Joint Administrators' resignation	N/A
Court	High Court of Justice, Chancery Division, Companies Court
Court Case Number	21846 of 2009
Person making appointment / application	Barclays Bank PLC
Acts of the Joint Administrators	The Joint Administrators act as officers of the court and as agents of the Company without personal liability. Any act required or authorised under any enactment to be done by an Administrator may be done by any one or more persons holding the office of Administrator from time to time.
EC Regulation on Insolvency	The EC Regulation on Insolvency Proceedings (Council Regulation (EC) No 1346/2000) applies to these proceedings which are 'main' proceedings' within the meaning of Article 3 of the Regulation.

## 4. PROGRESS DURING THE PERIOD

This report should be read in conjunction with the Joint Administrators' proposals, dated 2 February 2010

### Receipts and Payments

Attached at Appendix 1 is our abstract of receipts and payments for the period from 11 December 2009 to 10 June 2010

### RECEIPTS

#### Pre-packaged Sale of Business and Assets

As previously reported, immediately prior to our appointment, the merits of a 'pre-pack' sale of the Company's business and assets was considered as an option to enhance the potential overall return to the Company's creditors. However, such a sale was not possible to achieve in the timeframe available. Prior to our appointment, trading had ceased and the whole of the Company's staff including importantly, the financial controller, 'walked out', presumably in anticipation of the Company's imminent insolvency. Furthermore, we were unable from the information made available to us, to establish the Company's true asset position, to accurately identify the extent of the business and assets available to sell.

#### Book Debts

The Company entered into a sales ledger finance agreement with Barclays Sale Finance ("BSF"), on 24 May 2004. The outstanding indebtedness to BSF secured over the ledger, amounts to £10,233,000.

Upon the request of BSF, we instructed specialist debt collection agents Atlantic Risk Management Services Ltd ("Atlantic") to assist BSF and the Joint Administrators in the collection of the Company's debtor ledger. A summary of the ledger extracted by Atlantic from the Company's sage accounting system at 17 December 2009 was as follows -

Total - £	Current - £	Period 1 - £	Period 2 - £	Period 3 - £	Older - £
15,413,000	853,000	6,299,000	1,684,000	1,516,000	5,063,000

Total collections by Atlantic in the Administration amount to £145,420. In addition, we received a total amount of £21,946 through the re-directed mail. Atlantic has informed the Joint Administrators that they expect no further realisations, and have been instructed by BSF to discontinue collections. BSF will suffer a significant shortfall.

Investigations into the sales ledger are being undertaken on behalf of BSF by Hammonds LLP and Atlantic to establish the reasons behind the significant ledger write off and to investigate the conduct of the operation of the BSF facility by the Company pre-appointment.

#### Stock

The realisation of the Company's only other known significant asset, being its stocks of nuts and dried fruits stored across five main warehousing sites, was frustrated by multiple retention of title claims ("ROT") both in respect of the raw material stocks and packaging, and liens exercised by all of the respective warehouses for unpaid charges.

Immediately following our appointment, we instructed Edward Symmons LLP ("ES") to assist in carrying out a physical verification and valuation of the stocks at all 5 warehousing sites of which we were aware. The process was delayed due to the severe weather conditions experienced in December 2009, resulting in some warehouses not opening, and the Christmas and new-year holiday breaks.

We instructed solicitors, Lawrence Graham LLP ("LG") to review the validity of the warehouse liens and the ROT claims and to provide advice as regards the relevant ranking and priorities of Barclays Bank PLC, Barclays Trade Finance and BSF (collectively termed as "the Bank"), Bank de Commerce et de Placements ("BCP"), ROT and warehouse claims over the proceeds of any stock realisations. This was quite a complex issue given the voluminous competing claims.

Whilst the priorities over the stocks were investigated, ES immediately commenced the marshalling of offers received from interested parties (circa five including one of the Company Directors) of whom we were aware, plus other potential buyers whom ES considered may be interested in purchasing the assets.

#### **a. Stocks Specifically Pledged to the Bank**

Stocks situated at one of the warehouse locations, namely Fanpak, were either subject to the Bank's security under a trade finance facility ("the Financed Stocks") or pledged to the Bank by the Company ("the Pledged Stocks"). The Pledged Stocks were subject to an ROT claim by one supplier which proved to be invalid and unenforceable.

The Joint Administrators received three offers in respect of these stocks which ES advised had a market value of between £77,500 and £65,500. On 20 January 2010, a sale was completed for the sum of £82,000 less storage costs, which were required to be settled under a warehouse lien amounting to £11,891. An equitable apportionment of the realisations based upon ES's valuation is as follows:

<b>Stock realisations at Fanpak</b>	<b>Amount £'000</b>
Financed Stocks	22.9
Pledged Stocks	47.2
<b>TOTAL</b>	<b>70.1</b>

BCP has priority to the proceeds of the Pledged Stocks subject to the "prescribed part", and the Bank has priority to the proceeds of the Financed Stocks.

After dealing with all valid ROT claims, final realisations are summarised below:

<b>Locations</b>	<b>Realisations</b>	<b>Less Storage Costs</b>	<b>Total</b>
	<b>£'000</b>	<b>£'000</b>	<b>£'000</b>
Fanpak	82	(11.9)	70.1
Murcotts	21	(13.5)	7.5
Tazcopak	6.5	(3.9)	2.6
<b>TOTAL</b>			<b>80.2</b>

These amounts do not account for the directly attributable costs of realisation including, the Joint Administrators' fees, agents' and legal fees yet to be agreed with the Bank and BCP. Our agents' costs to date are as follows -

Directly attributable costs of realisation	Amount £'000
Edward Symmons LLP – site inspections, valuations, liaising with ROT claimants and negotiating sale and settlement of storage costs	26.5
Lawrence Graham LLP – advising on ROT claims and other sale issues	14.8
<b>TOTAL</b>	<b>41.3</b>

The majority of the Joint Administrators' time was spent in dealing with the realisation of the stocks and is detailed later in the report

#### **Other Assets (Fixtures, Furniture & Computer Equipment)**

We instructed ES to carry out a valuation and assist in a disposal of the fixtures, furniture and computer equipment located at the Company's office at 2<sup>nd</sup> Floor, 1138 High Road, London. Their valuation was £4,300 on an in-situ market value basis and £1,000 on an ex-situ market value basis.

After inviting tenders from known trade dealers regrettably, the best offer we received was from the Company's director Mr Nicholas Marcou, for an amount of £500, which has been accepted. These funds have not yet been paid by Mr Marcou and we continue to chase in this regard.

#### **Refunds**

The sums of £42 and £813 have been received in relation to insurance and rates refunds respectively.

#### **Other Sundry Asset Sales**

We received the amount of £20 in respect of the sale of a Blackberry phone unit.

#### **Bank Interest**

Bank Interest received gross during the period, amounted to £2.

#### **PAYMENTS**

##### **Accountant's Fee**

The sum of £100 has been paid to Philips Accountants for their assistance with the preparation of the former employees' P45 forms.

##### **Joint Administrators' Time Costs**

As previously reported the Joint Administrators' remuneration is fixed by reference to the time properly given by the Joint Administrators (as Administrators) and the various grades of their staff calculated at the prevailing hourly charge out rates of Begbies Traynor (Central) LLP for attending to matters arising in the Administration and they are authorised to draw disbursements, including disbursements for services provided by their firm (defined as Category 2 disbursements in Statement of Insolvency Practice 9), in accordance with their firm's policy, details of which accompanied the *Statement of Proposals of the Joint Administrators for Achieving the Purpose of the Administration pursuant to Paragraph 49 of Schedule B1 to the Insolvency Act 1986 and Rule 2.33 of the Insolvency Rules 1986*.

The relevant resolutions were approved by a resolution of the Secured creditor, Barclays Bank PLC, on 9 February 2010 pursuant to Rule 2.106 of the Insolvency Rules 1986.

No remuneration has been drawn to date in accordance with the approved resolution in respect of remuneration. Total time spent to 2 July 2010 on this assignment amounts to 368 hours at an average composite rate of £254 per hour resulting in total time costs to date of £93,458. The following further information as regards time costs and expenses is set out at Appendix 2

- ☐ Begbies Traynor (Central) LLP's policy for re-charging expenses/disbursements
- ☐ Begbies Traynor (Central) LLP's charge-out rates
- ☐ Narrative summary of time costs incurred
- ☐ Table of time spent and charge-out value

## 5. ASSETS THAT REMAIN TO BE REALISED

### Trade Marks

The Company owns the trademarks "The Mutts Nuts", "Golden Grove" and "Autumn Gold". The realisable value of these trademarks is as yet uncertain. ES have been instructed to market these for sale, however we do not anticipate significant realisations to be achieved.

### Motor Vehicles

Following our appointment, we became aware of a number of vehicles which were subject to finance agreements with the Company. A summary of the position as regards each vehicle is detailed below -

Finance Company	Vehicle	Comments
Paragon Car Finance ("Paragon")	2007 Bentley Continental, registration OYM 8898	Paragon state that the account has been paid in full, settled on or about March 2010. Location of vehicle as yet unknown.
Blackhorse (formerly with Bank of Scotland ("BOS"))	1997 Bentley Turbo, registration P31 SYE	BOS confirmed that there was a residual amount outstanding of c £4.8k. We understand that the vehicle is in an unknown location in Italy.
Blackhorse (formerly with BOS)	Bentley T2 Saloon, registration BYR 187T	BOS confirmed that there was a residual amount outstanding of c £3.9k. We understand that the vehicle is also in an unknown location in Italy.
Blackhorse	2007 Land Rover Discovery, registration LT57 HSE	Blackhorse confirmed that there was a residual balance outstanding and that it was repossessed in February 2010.
Blackhorse	2000 Bentley Continental Mulliner, registration 4439 FD	Blackhorse confirmed that there was a residual balance outstanding. The location of the vehicle is unknown.

In addition, we discovered that the following vehicles may have either been financed or owned by the Company at some time but for which to date, we have been unable to obtain further information -

- 2004 Land Rover Range Rover, registration LA53 EXU,
- A vehicle with the registration EO57 LUJ, which we believe to be a 2007 Ford Transit Conn T200 L75 (Panel Van)

Our investigations are still on-going although we consider it unlikely that there will be any realisable benefit either in respect of the vehicles or the private registration plates (highlighted above), for the Company and its creditors.



## 6. OTHER RELEVANT INFORMATION

### ANTICIPATED RETURN TO CREDITORS

#### Secured Creditors - Barclays Bank PLC

As previously reported in the Joint Administrators' proposals which were distributed to creditors on 2 February 2010, we understand that the whole of the Company's assets are charged to BSF and the Bank. The Company also provided additional security to a Guarantor of the Company's indebtedness to the Bank namely, BCP.

The Bank holds the following security -

- Debenture dated 24 May 2004 conferring fixed and floating charges over purchased debts which fail to vest and on other debts and floating charge on proceeds of other debts
- Debenture dated 31 May 2006 conferring fixed and floating charges over the whole of the Company's assets ("the Debenture")
- Bank Guarantee dated 14 September 2007 from Bank de Commerce et de Placements ("BCP") in favour of the Bank limited to £300,000 ("the BCP Guarantee")
- Deed of Charge over Credit Balances by a Chargor for Own Liabilities dated 8 September 2006 between the Company and the Bank ("the Charge over Credit Balances")
- Unlimited unsecured Cross Guarantee dated 18 August 2009 between The Company and Abacus International Commodities Limited and the Bank ("the Cross Guarantee")
- We also understand that the Bank holds additional security in the form of personal guarantees from Messrs Nicholas and Dimitrios Marcou

We understand that the indebtedness to the Bank as at the date of our appointment, net of the BCP guarantee and deposits recovered of £400,000, was as follows -

	Amount £'000
Barclays Sales Finance	10,233
Barclays Bank PLC	607

The Bank's Debenture was created after 15 September 2003 and therefore a prescribed part is applicable in respect of the net realisations of property subject to the Bank's floating charge pursuant to section 176A of the Insolvency Act 1986 ("the Act")

Based on current information, it is estimated that there will be a shortfall to the Bank of £10,087,580

#### Other Secured Creditors

BCP hold an 'all monies' Debenture dated 12 March 2001 conferring fixed and floating charges over the whole of the Company's assets subject to a Deed of Priorities dated 10 January 2007. As at 6 January 2010, the Company's indebtedness to BCP amounted to £192,000.

Based on current information, it is estimated that there will be a shortfall to BCP of £192,000.

## Section 176A Fund for Unsecured Creditors

Section 176A of the Act provides that, where the company has created a floating charge after 15 September 2003, the Administrator must make a *prescribed part* of the Company's *net property* available for the Unsecured creditors and not distribute it to the floating charge holder except in so far as it exceeds the amount required for the satisfaction of unsecured claims. *Net property* means the amount which would, were it not for this provision, be available to floating charge holders out of floating charge assets (i.e. after accounting for preferential debts and the costs of realising the floating charge assets). After accounting for the costs of the realisations, there is no net property available to Unsecured creditors.

### Preferential creditors

Preferential creditors comprise claims from former employees for arrears of wages up to £800 and accrued holiday pay. To the extent that an employee's contractual arrears of wages are not covered by the statutory limit of £800, the remainder of the claim would rank as an unsecured claim against the Company.

The Redundancy Payments Office ("RPO") processes employee payments for arrears of wages, holiday pay, statutory redundancy pay and statutory notice pay. Where the RPO has advanced funds in respect of employee preferential claims, it will have a subrogated claim for these sums in the liquidation.

The Company made thirteen employees redundant on 30 November 2009, prior to the Company entering into Administration.

Based upon information to date, our estimates of the preferential claims are as follows -

	£
Employees' arrears of wages & holiday pay	11,177
Redundancy payments office – subrogated claim	41,174
Total	52,351

The RPO has paid the employees all statutory entitlements. On present information, there is no prospect of a distribution to the employees in respect of the claims over and above that paid by the RPO.

### Unsecured creditors

Based upon present information, Unsecured creditors' claims amount to £9,742,938. This does not include the sums owed to the Bank and to BCP.

As stated above, after accounting for the costs of the realisations, there is no net property available to Unsecured creditors and no likelihood of any other surplus funds available to Unsecured creditors.

Creditors should consult their own professional advisors as regards VAT bad debt relief.

### Statutory investigations

You may be aware that the Joint Administrators have a duty to enquire into the affairs of an insolvent company to determine its property and liabilities, together with identifying any actions, which could lead to the recovery of funds. In addition, the Joint Administrators are also required to consider the conduct of a company's directors and to make an appropriate submission to the Department for Business, Innovation and Skills.

We can confirm that we have discharged our duties in this regard, although the content of such reports are confidential

#### **Actions taken by Barclays Bank PLC**

On 2 February 2010, the Bank obtained freezing orders against Mr Nick Marcou, Mr Dimitrios Marcou and Abacus International Commodities Limited in respect of an alleged manipulation of the invoice discounting/factoring facility provided by the Bank to the Company

## **7. CONCLUSION**

Finally, we are seeking the consent of the Secured and Preferential creditors to our future discharge as Joint Administrators by a resolution passed pursuant to Paragraph 98 of Schedule B1 to the Act. We seek the date of our discharge to coincide with the date on which our appointment as Joint Administrators ultimately ceases to have effect.

To all intents and purposes asset realisations are complete, save for a sale of one or more of the trademarks, and further investigations as regards the motor vehicles, and the purpose of Administration has been sufficiently achieved. Accordingly, we intend to proceed to close the Administration within the next 3-months. We will report again to provide our final report before ceasing to act.



**Kirstie Jane Provan**  
Joint Administrator

Dated 8/7/10

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**JOINT ADMINISTRATORS' ACCOUNT OF RECEIPTS  
AND PAYMENTS, INCORPORATING ESTIMATED  
OUTCOME FOR CREDITORS**

Period 11 December 2009 to 10 June 2010

# JOINT ADMINISTRATORS' ACCOUNT OF RECEIPTS AND PAYMENTS, INCORPORATING ESTIMATED OUTCOME FOR CREDITORS

Period 11 December 2009 to 10 June 2010

	Estimated financial position of Company Book Value £ 000	Receipts & Payments to date £	Anticipated Receipts & Payments £	Projected Outcome £
<b>ASSETS SPECIFICALLY PLEDGED</b>				
Book debts	15 413	167 366	Nil	145,420
Less Agents Costs	-	-	Uncertain	Uncertain
Less Legal Fees	-	-	Uncertain	Uncertain
Less Administrators Fees & Disbursements	-	-	Uncertain	Uncertain
<b>Net Realisations</b>		167 366	-	-
Less Paid to/ due to BSF	(10 233)	145 420	(10 233 000)	(10 087 580)
<b>Estimated surplus/(deficit) to BSF under fixed charge c/d</b>	<b>5 180</b>	<b>21 946</b>	<b>(10 233 000)</b>	<b>(10 087 580)</b>
Stock subject to Barclays Trade Facility fixed charge and Pledged Stocks	77	82 000	-	82 000
Less warehouse lien	-	(11 900)	-	(11 900)
Less Agents Costs	-	-	(5 250)	(5 250)
Less Legal Fees	-	-	(750)	(750)
Less Administrators Fees & Disbursements	-	-	Uncertain	Uncertain
<b>Net Realisations</b>		70 100	(6 000)	64 100
Less Paid/ due to Barclays re stock facility & overdraft	(607)	-	(607,000)	(607 000)
<b>Estimated surplus/(deficit) to Barclays Bank under fixed charge c/d</b>	<b>4 650</b>	<b>70 100</b>	<b>(613 000)</b>	<b>(542 900)</b>
<b>ASSETS NOT SPECIFICALLY PLEDGED</b>				
Stocks - unencumbered	1 500	27 500	-	27,500
Less Warehouse Lien	-	(17 400)	-	(17 400)
		10 100	-	10 100
Insurance Refund	-	42	-	42
Rates Refund	-	813	-	813
Sundries	-	20	-	20
Bank interest	-	2	5	7
Trademarks	-	-	Uncertain	Uncertain
Motor Vehicles	-	-	Uncertain	Uncertain
Office furniture and equipment	80	-	500	500
	6 230	10 977	505	11 483
<b>Payments</b>				
Administrator's fees and disbursements	-	-	Uncertain	Uncertain
Agents fees & expenses	-	-	(21 250)	(21 250)
Legal fees	-	-	(22 835)	(22 835)
Accountant's fees	-	(100)	-	(100)
Insurance	-	-	(1 593)	(1 593)
Statutory advertising (Est )	-	-	(500)	(500)
<b>Available for preferential creditors</b>	<b>6 230</b>	<b>10 877</b>	<b>(45 673)</b>	<b>(34,796)</b>
Arrears of wages and holiday pay	Uncertain	-	Uncertain	Uncertain
<b>Net property</b>	<b>6 230</b>	<b>10 877</b>	<b>(45,673)</b>	<b>(34 796)</b>
Prescribed part of net property set aside for unsecured creditors	uncertain	-	Uncertain	Uncertain
<b>Available for floating charge creditor - BCP</b>	<b>6 230</b>	<b>10 877</b>	<b>(45,673)</b>	<b>(34 796)</b>
Banque de Commerce et de Placements ("BCP") - see Note	(192)	-	(191 623)	(191 623)
<b>Available for floating charge creditor - Barclays Bank PLC</b>	<b>6 038</b>	<b>10 877</b>	<b>(237 296)</b>	<b>(226 419)</b>
Barclays Bank PLC - surplus/(deficiency) b/d	-	-	(613 000)	(542 900)
BSF- surplus/(deficiency) b/d	-	-	(10 233 000)	(10 087,580)
<b>Surplus/(Deficiency) available to unsecured creditors</b>	<b>6 038</b>	<b>10,877</b>	<b>(11,083,296)</b>	<b>(10,856,899)</b>
<b>Summary of balances held</b>				
Fixed charge	-	-	-	-
Floating charge	-	-	-	-
<b>Held as</b>				
Funds in hand	-	102 905	-	-
VAT Receivable	-	18	-	-
		<b>102 923</b>		

## Notes

Where costs are as yet unknown or we consider it in the best interests of the creditors not to disclose certain information at this juncture, amounts are stated as Uncertain

Under a Deed of Priorities in respect of stock purchased with funds not advanced by Barclays Bank PLC, BCP is entitled to payment in priority to the Bank to the extent that it has paid out under a bankers' guarantee in favour of the Bank. We understand this is limited to £300k

## JOINT ADMINISTRATORS' TIME COSTS AND EXPENSES

- a Begbies Traynor (Central) LLP's policy for re-charging expenses/disbursements,
- b Begbies Traynor (Central) LLP's charge-out rates,
- c Narrative summary of time costs incurred, and
- d Table of time spent and charge-out value

## POLICY FOR RE-CHARGING EXPENSES INCURRED BY OFFICE HOLDERS IN RESPECT OF THE ADMINISTRATION OF INSOLVENT ESTATES

### INTRODUCTION

This note applies where a licensed insolvency practitioner in the firm is acting as an office holder of an insolvent estate and seeks creditor approval to make a separate charge by way of expenses or disbursements to recover the cost of facilities provided by the firm. Standard professional practice<sup>1</sup> requires that such charges should be disclosed to those who are responsible for approving his remuneration, together with an explanation of how those charges are made up and the basis on which they are arrived at.

### DEFINITIONS

Required professional practice classifies expenses into two broad categories

- *Category 1 expenses (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 expenses (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, unitised cost with the estimate based on external costs or opportunity cost

### CHARGING POLICY

- *Category 1 expenses (approval not required)* – with the exception of any items referred to below, all such items are re-charged to the case as they are incurred
- *Category 2 expenses (approval required)*
  - (A) The following items of expenditure are re-charged as described
    - Internal meeting room usage for the purpose of statutory meetings of creditors is re-charged at the rate of £100 (London £150) per meeting,
    - Car mileage is re-charged at the rate of 40 pence per mile,
    - Storage of books and records (when not rechargeable as a *Category 1 expense*) is recharged on the basis that the number of standard archive boxes held in storage for a particular case bears to the total of all archive boxes for all cases in respect of the period for which the storage charge relates,
  - (B) The following items of expenditure will normally be treated as general office overheads not subject to a re-charge
    - Telephone and facsimile
    - Printing and photocopying
    - Stationery

A re-charge may be made, however, where the precise cost to the case can be determined because the item satisfies the test of a *Category 1 expense*

<sup>1</sup> Statement of Insolvency Practice 9 (SIP 9) effective from April 2007

## BEGBIES TRAYNOR CHARGE-OUT RATES

Begbies Traynor is a national firm. The rates charged by the various grades of staff that may work on a case are set nationally, but vary to suit local market conditions.

The rates applying to the London office as at the date of this report are as follows:

<b>Grade of staff</b>	<b>Charge-out Rate (£ per hour)</b>
Partner 1	495
Partner 2	450
Director	375
Senior Manager	350
Manager	300
Assistant Manager	250
Senior Administrator	220
Administrator	180

Begbies Traynor has an agreement with Barclays Bank PLC whereby charge-out rates for cases where the Bank has an exposure are set at a standard rate as follows:

<b>Grade of staff</b>	<b>Charge-out Rate (£ per hour)</b>
Partner	190
Senior Manager	190
Manager	190
Assistant Manager	190
Senior Administrator	190
Administrator	190

Time spent on this case in relation to specifically the recovery of the Bank's indebtedness will therefore be charged out at such rates. All other time spent in this matter will be charged out at the Begbies Traynor London standard rates, as detailed above.

Time spent by support staff for carrying out shorter tasks, such as typing or dealing with post, is not charged to cases but is carried as an overhead. Only where a significant amount of time is spent at one time on a case is a charge made for support staff.

Time is recorded in units of 0.10 of an hour (i.e. 6 minute units).



## SUMMARY OF OFFICE HOLDERS' TIME COSTS

CASE NAME Abacus Trading Co Limited  
CASE TYPE ADMINISTRATION  
OFFICE HOLDERS Kirstie Jane Provan and Mark Robert Fry  
DATE OF APPOINTMENT 11 December 2009

### 1 CASE OVERVIEW

1.1 This overview and the time costs analysis attached is intended to provide sufficient information to enable the body responsible for the approval of the office holders' fees to consider the level of those fees in the context of the case

#### 1.2 Complexity of the case

Complexities of this case include the realisation of the Company's significant asset, stocks, which was frustrated by the initial lack of co-operation of the warehouse facilities as regards access, multiple retention of title claims ("ROT") both in respect of the raw material stocks and packaging and liens exercised by all of the respective warehouses for unpaid charges. In addition, the acute lack of information available as a result of the sudden departure prior to our appointment of the former financial controller and the Director's lack of detailed knowledge of the operations of the Company, the financials and the debtor ledger

#### 1.3 Exceptional responsibilities

As mentioned above, the case involved multiple retention of title claims ("ROT") by domestic and foreign creditors, both in respect of the raw material stocks, mixed stocks and packaging. Furthermore, dealing with liens exercised by all of the respective warehouses for unpaid charges. In addition, because of the perishable nature of the Company stocks, it was necessary to expedite realisations as far as possible, before the expiry of its shelf life and /or saleability

#### 1.4 The office holders' effectiveness

The Joint Administrators achieved total realisations to date of circa £103k. To all intents and purposes asset realisations are complete, save for a sale of one or more of the trademarks, and further investigations as regards the motor vehicles, and the purpose of Administration has been sufficiently achieved. Accordingly, we intend to proceed to close the Administration within the next 3-months

#### 1.5 Nature and value of property dealt with by the office holders'

The Company's principal assets other than book debts, were stocks of mixed nuts and dried fruits which were to be packaged for sale to Lidl, Aldi and others. The book value of these stocks on appointment was circa £1.5m. Total realisations net of warehouse liens amount to £80.2k

#### 1.6 Anticipated return to creditors

##### **Secured Creditors**

The indebtedness to Barclays Bank PLC, Barclays Trade Finance and BSF (collectively termed as "the Bank") as at the date of our appointment, net of the Bank de Commerce et de Placements ("BCP") guarantee and deposits recovered of £400,000, was as follows -

	Amount £'000
Barclays Sales Finance	10,233
Barclays Bank PLC	607

BCP hold an 'all monies' Debenture dated 12 March 2001 conferring fixed and floating charges over the whole of the Company's assets subject to a Deed of Priorities dated 10 January 2007. As at 6 January 2010, the Company's indebtedness to BCP amounted to £192,000.

The recovery to the Bank is on present information, likely to be limited to book debt collections achieved to date of circa £145k.

**Preferential Creditors**

Based upon information to date, our estimates of the preferential claims are as follows -

	£
Employees' arrears of wages & holiday pay	11,177
Redundancy payments office – subrogated claim	41,174
Total	52,351

The Redundancy Payments Office ("RPO") has paid the employees all statutory entitlements. On present information, there is no prospect of a distribution to the employees in respect of the claims over and above that paid by the RPO.

**Unsecured Creditors - Section 176A Fund for Unsecured Creditors**

Section 176A of the Act provides that, where the company has created a floating charge after 15 September 2003, the Administrator must make a *prescribed part* of the Company's net property available for the Unsecured creditors and not distribute it to the floating charge holder except in so far as it exceeds the amount required for the satisfaction of Unsecured claims. *Net property* means the amount which would, were it not for this provision, be available to floating charge holders out of floating charge assets (i.e. after accounting for preferential debts and the costs of realising the floating charge assets). After accounting for the costs of the realisations, there is no net property available to Unsecured creditors.

As stated above, after accounting for the costs of the realisations, there is no net property available to Unsecured creditors and no likelihood of any other surplus funds available to Unsecured creditors.

**17 Time costs analysis**

An analysis of time costs incurred between 11 December 2009 and 2 July 2010 prepared in accordance with Statement of Insolvency Practice 9 is attached showing the number of hours spent by each grade of staff on the different types of work involved in the case, and giving the average hourly rate charged for each work type.

The time costs analysis provides details of work undertaken by the office holders and their staff following their appointment only.

**18 The views of the creditors**

The Joint Administrators have a duty to investigate the affairs of the insolvent Company, and to consider the conduct of the directors. We have welcomed any correspondence or information from creditors to assist with our investigations into the affairs of the Company. Our report must be submitted to the Department for Business, Innovation and Skills within 6 months of our appointment. We confirm that we have satisfied our duties in this regard. The Secured creditors have been kept fully apprised of developments during the Administration.

**19 Approval of fees**

The Joint Administrators requested the consent of the Secured and Preferential creditors to draw fees on a time-cost basis. The relevant resolutions were approved by a resolution of the Secured

creditor, Barclays Bank PLC, on 9 February 2010 pursuant to Rule 2.106 of the Insolvency Rules 1986

**1.10 Approval of Expenses and Disbursements**

The Joint Administrators requested the consent of the Secured and Preferential creditors to draw costs in respect of expenses and disbursements. The relevant resolutions were approved by a resolution of the Secured creditor, Barclays Bank PLC, on 9 February 2010 pursuant to Rule 2.106 of the Insolvency Rules 1986.

**1.11 Other professionals employed & their costs**

Agents, Edward Symmons LLP ("ES"), were instructed to deal with all matters relating to the realisation of the stocks and office equipment. Their remuneration is based upon a combination of a commission on gross realisations achieved, and time cost basis at their hourly scale rates for dealing with other matters. Their fees and disbursements to date which have yet to be agreed and are unpaid, amount to £26.5k plus VAT.

Our solicitors, LG, provided advice in relation to but not limited to, dealing with all retention of title claims, review and validity of security and appointment, sale and other sundry issues. They are remunerated on a time cost basis at the firm's hourly scale rates. To date, their fees and disbursements which have yet to be agreed and are unpaid, amount to £23.6k plus VAT.

Upon the request of the Secured creditor, Barclays Sales Finance ("BSF"), we instructed specialist debt collection agents Atlantic Risk Management Services Ltd to assist the Joint Administrators and BSF in the collection of the Company's debtor ledger. Atlantic is remunerated by the BSF direct.

**1.12 Staffing and management**

Appropriately experienced staff undertook the various tasks arising, to ensure matters were properly dealt with at the least cost to the Administration. It is the policy of Begbies Traynor (Central) LLP that all grades of staff charge time which solely relates to the case. The analysis in the report seeks to give some indication of the various tasks undertaken by the Joint Administrators and their staff but is not intended to be, nor should be viewed as, an exhaustive list.

**2 EXPLANATION OF OFFICE HOLDERS' CHARGING AND DISBURSEMENT RECOVERY POLICIES**

- 2.1 Begbies Traynor (Central) LLP's policy for charging fees and expenses incurred by office holders, and the rates charged by the various grades of staff who may work on a case, are attached at Appendix 2.

**3 SUMMARY OF WORK CARRIED OUT**

- 3.1 Since the date of our last report, the Joint Administrators' proposals, dated 2 February 2010, the following work has been carried out:

- Ensuring compliance with all statutory obligations in the Administration,
- Dealing with residual asset realisations,
- Dealing with all necessary statutory matters,
- Dealing with all payments receipts and banking in the Administration,
- Enquiring into the affairs of the Company to determine its property and liabilities and to identify any actions which could lead to the recovery of funds. In addition, considering the conduct of the Company's directors and making the appropriate submissions to the Department for Business Innovation and Skills,
- Reporting to the Bank and BCP on the recovery of the assets subject to its respective security,

- Liaising with LG, who were instructed to provide advice in relation to all retention of title claims, review and validity of security and appointment, sale and other sundry issues,
- Liaising with ES, who were instructed to deal with all matters relating to the realisation of the stocks and office equipment,
- Liaising with Atlantic, who were instructed to deal with the collection of the Company's debtor ledger,
- Investigation of motor vehicles subject to finance purportedly belonging to the Company,
- Preparing the interim report to creditors,
- Dealing with voluminous enquiries from creditors

