

The Insolvency Act 1986

**Administrator's progress report**

Name of Company

Mattucci Limited

Company number

03196090

In the  
Leeds District Registry

(full name of court)

Court case number  
3242 of 2009(a) Insert full  
name(s) and  
address(es) of  
administrator(s)I/We (a)  
P R Boyle  
Harrisons Business Recovery and Insolvency  
Limited  
4 St Giles Court  
Southampton Street  
Reading  
RG1 2QLDavid Clements  
Harrisons4 St Giles Court  
Southampton Street  
Reading  
RG1 2QL

administrator(s) of the above company attach a progress report for the period

(b) Insert date

From

(b) 4 June 2013

To

(b) 3 December 2013

Signed

Joint Administrators

Dated

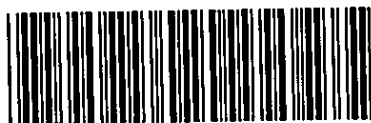
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**Contact Details:**

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

p



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27/12/2013

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COMPANIES HOUSE

P R Boyle  
Harrisons Business Recovery and Insolvency Limited  
4 St Giles Court  
Southampton Street  
Reading  
RG1 2QL

DX Number

0118 951 0798  
DX Exchange

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

**Mattucci Limited  
In Administration**

**Progress Report to Creditors  
pursuant to Rule 2.47  
of the Insolvency Rules 1986**



COMPANIES HOUSE

## **Mattucci Limited – In Administration**

### **Progress Report to Creditors**

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## **Mattucci Limited – In Administration**

### **Progress Report to Creditors**

#### **1. GLOSSARY**

Administrators	Paul Boyle and David Clements of Harrisons Business Recovery and Insolvency Limited, 4 St Giles Court, Southampton Street, Reading, RG1 2QL.
Appointor	The High Court of Justice, Leeds District Registry following an application by Baljinder Mattu ("BM"), Director of the Company.
Administration Application	The administration documentation was filed at the Leeds District Registry on 4 December 2009 and allocated Court Number 3242 of 2009.
Company	Mattucci Limited (Company Registered Number 03196090) whose registered office is at 4 St Giles Court, Southampton Street, Reading, RG1 2QL ("the Company")

The references in this report to Sections, Paragraphs or Rules are to the Insolvency Act 1986

#### **2. INTRODUCTION**

Paul Boyle and John Sallabank of Harrisons Business Recovery and Insolvency Limited ("Harrisons") were appointed as Joint Administrators of the Company on 4 December 2009 upon the making of an order by the High Court of Justice, Leeds District Registry following an application made by BM in accordance with Paragraph 12 of Schedule B1 of the Insolvency Act 1986.

Following a Block Transfer Order dated 12 September 2013, John Sallabank was replaced as Joint Administrator of the Company by David Clements, an Insolvency Practitioner, based in our Reading office

We can advise that pursuant to Paragraph 100(2) of Schedule B1 Insolvency Act 1986 the functions of the Joint Administrators are being exercised by either or both of the Administrators

The original end date of the Administration was 3 December 2010. This was extended by 6 months to 3 June 2011 with the consent of HSBC Bank plc, the secured creditor. After this time, we applied and were granted court orders to extend the Administration. Therefore, the second and third extensions were for six months each, the latter ending on 3 June 2012. The fourth extension was granted by court to extend to 3 June 2013.

In accordance with Paragraph 77(1)(a) of Schedule B1 of the Insolvency Act 1986, a fifth extension of the Administration to 3 June 2014 was granted by Order of the Court. The reason for the extensions is to facilitate the legal process to obtain payment of the deferred consideration in respect of the SPA. The prospect of realisations in the Administration are dependent on the outcome of the bankruptcy estate of BM, which is discussed in further in this report.

We now report to creditors on the progress of the Administration. This should be read in conjunction with our previous reports.

## **Mattucci Limited – In Administration**

### **Progress Report to Creditors**

#### **3. PURPOSE AND PROGRESS OF THE ADMINISTRATION**

##### **3.1 Purpose of the Administration**

The Company could not be saved as a going concern in accordance with Paragraph 3(1)(a), since there were insufficient funds available to finance the continued trading of the Company or to enable a contribution based voluntary arrangement.

The purpose of the Administration, in accordance with Paragraph 3(1)(b) is achieving a better result for the Company's creditors as a whole than would be likely if the Company were wound up (without first being in Administration)

##### **3.2 Progress of the Administration**

###### **3.2.1 Receipts and Payments Account**

Attached at Appendix I for your reference is a summary of our receipts and payments from the date of the last report on 4 June 2013 to 3 December 2013 and also from the commencement of the proceedings on 4 December 2009 to 3 December 2013

Detailed below are the expenses incurred in the proceedings which have yet to be disbursed and which will be addressed in due course.

<b>Nature of Expense</b>	<b>Creditor</b>	<b>Net £</b>
Bonding	Harrisons	72 00
Postage & Stationery	Harrisons	2,050.92
Printing	Harrisons	1,564 09
Search Fees	Harrisons	12 00
		<b>£3,699.01</b>

The unpaid expenses incurred in the previous report remains outstanding. The only expense incurred in the reporting period relates to £36.00 of bond charges, which are included in the table above. These expenses have been borne by Harrisons and will be reimbursed when funds permit.

###### **3.2.2 Asset Realisations**

The following matters have been progressed since our last report: -

###### **3.2.3 Sale of Business**

As previously reported the Company's assets were sold subject to the terms of a Sale and Purchase Agreement ("SPA") on 4 December 2009 to Sapphire Furnishing Corporation Limited ("Sapphire") for the total sum of £93,540, which was payable in monthly instalments with full payment due by the 30 April 2010. To date we have received only £26,128 and there is therefore an outstanding payment of £67,412.

The SPA was secured by way of a debenture over the assets which were sold to Sapphire and a personal guarantee given by BM. As a result of non-payment of the sale consideration a Statutory Demand was issued against BM, who filed an application to set aside the Statutory Demand. This application was

## **Mattucci Limited – In Administration**

### **Progress Report to Creditors**

dismissed and we were granted leave to issue a bankruptcy petition. On 19 March 2012 BM was adjudged bankrupt.

As previously reported the administration period has been extended by Court order until 3 June 2014 to allow us to ascertain the possibility of there being any realisations for the benefit of the Company from the Bankruptcy of BM. A Trustee in Bankruptcy has been appointed to oversee the realisations of BM's assets.

We are in ongoing discussions with the Trustee with regard to the progress on asset realisations in the bankruptcy. The Trustee has advised us that BM owns a residential leasehold property in Canary Wharf, which has been repossessed by his mortgage company. The Trustee is investigating other potential assets that may be vested in BM's bankruptcy estate.

Based on the information available, it is likely that a distribution will be made to the creditors of BM's bankruptcy estate. I confirm that the Company is listed as a creditor of BM's bankruptcy and a formal claim will be submitted when it is confirmed that a dividend will be payable from the bankruptcy estate.

At present, the Trustee is unable to estimate the size and timing of any payment into the Administration proceedings from this source; we will provide a further update in our next report.

#### **3.2.4 Secured Creditor**

As reported previously, a first legal charge was granted to HSBC Bank PLC ("the Bank") on 24 April 2008 which was registered on 7 May 2008 and provided fixed and floating charges over all tangible and intangible assets of the Company.

The sum outstanding to the Bank at the date of appointment was £89,000, which was made up of an overdraft and chargeback facility. We understand that the total of the facilities was limited to £172,000.

No payments have been made to the Bank to date.

### **3.3 Other Matters**

#### **3.3.1 Joint Administrators' Remuneration & Disbursements**

In accordance with Rule 2.106(5A) our remuneration has been agreed with the Bank as the fixed and floating chargeholder. Attached at Appendix II for your information is a schedule of our time costs to date, in accordance with Statement of Insolvency Practice 9.

#### **3.3.2 Dividend Prospects**

It is apparent from the information available at this time that there is little possibility of there being sufficient funds available to enable a distribution to the unsecured creditors, other than that which may arise as a result of the Prescribed Part.

#### **3.3.3 Statement of Affairs**

In accordance with Paragraph 47(1) of Schedule B1 of the Insolvency Act 1986 the Directors have been asked to provide us with a Statement of Affairs as at 4 December 2009, a copy of which is attached at Appendix III.

## **Mattucci Limited – In Administration**

### **Progress Report to Creditors**

#### **3.3.4 Customers with Deposits**

As previously reported, Sapphire had agreed to fulfill the orders placed with the Company prior to the commencement of the proceedings

Those customers whose orders remain unfulfilled are advised to contact Sapphire directly for the latest information in this regard.

We are unable to provide any details regarding delivery

**As previously advised, no further information can be provided by us in respect of deposits or delivery items. We are therefore unable to deal with deposit customers' telephone enquiries.**

**Please refer all enquiries to Sapphire at Eagle Way, Stonebridge Road, Northfleet, Gravesend, Kent, DA11 9BJ.**

**If you are unable to contact Sapphire, please contact the Citizen's Advice Bureau on 08454 04 05 06 or through their website at [www.adviceguide.org.uk](http://www.adviceguide.org.uk).**

Those customers who have warranty claims will be treated as unsecured creditors in this matter since Sapphire are not under any obligation to deal with these claims. Regrettably there will not be sufficient funds to pay unsecured creditors.

#### **4. JOINT ADMINISTRATORS' PROPOSALS**

The following proposals were approved by creditors. -

1. Should the Joint Administrators believe that it is appropriate to do so and or beneficial to realisations and or in satisfaction of the sums due to the secured creditor, they be authorised to extend the term of office for 6 months from the automatic end date of 3 December 2010, in accordance with Paragraph 76(2) of Schedule B1 of the Insolvency Act 1986
2. Since there are insufficient assets available to enable a distribution to the unsecured creditors the Joint Administrators shall conclude the Administration pursuant to Paragraph 84 of Schedule B1 of the Insolvency Act 1986, moving from Administration to dissolution. This will be carried out once all matters have been finalised.
3. In accordance with Paragraph 98 of Schedule B1 of the Insolvency Act 1986 the Joint Administrators' are discharged from any liability with regards to the Company and granted their release from office when the proceedings come to an end and upon the filing of the appropriate documentation at Companies House.
4. In the event that it is appropriate the Joint Administrators may apply to Court to make a distribution to unsecured creditors from the Administration proceedings.

#### **5. VARIATION TO JOINT ADMINISTRATORS' PROPOSALS**

As stated earlier in the report, an application was granted by the Court, for a further extension of the Administration for a period of 12 months, expiring on 3 June 2014.

## **Mattucci Limited – In Administration**

### **Progress Report to Creditors**

To minimise future costs in this matter, the following variation to the proposals dated 23 December 2009 was made.

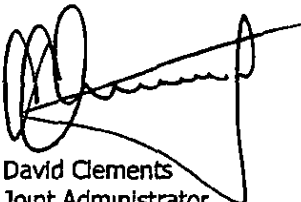
"Although it is unlikely that there will be sufficient assets available to enable a distribution to the unsecured creditors the Joint Administrators reserve their position in this regard and propose that in the event that it appears likely that sufficient funds will be realised to enable a distribution to be made to unsecured creditors they shall be permitted to conclude the Administration and place the Company into Creditors' Voluntary Liquidation in accordance with Paragraph 83(1) of Schedule B1 of the Insolvency Act 1986 and that Paul Boyle and John Sallabank be appointed Joint Liquidators. On appointment, any act required or authorised to be done by the Liquidators can be done by either one of the proposed Joint Liquidators. In accordance with Paragraph 83(7)(a) and Rule 2.117A(2)(b), creditors may nominate a different person as the proposed Liquidator, provided that the nomination is made after the receipt of the variation of the proposals and before the variation of the proposals is accepted."

Following a Block Transfer Order dated 12 September 2013, John Sallabank was replaced as Joint Administrator of the Company by David Clements, an Insolvency Practitioner based in our Reading office. Since Mr Sallabank has retired and Mr Clements was appointed in his place, Paragraph 83(7)(b) of the Insolvency Act 1986 states that Mr Boyle and Mr Clements will be appointed Joint Liquidators should no nomination be received from creditors for a separate liquidator. The conversion to a Creditors Voluntary Liquidation will only be made should there be sufficient funds for a dividend to be paid to unsecured creditors.

### **6. CONCLUSION OF ADMINISTRATION**

We will continue to realise the remaining assets as detailed in this report and shall contact creditors further once matters have either been concluded or in six months' time

Pursuant to Rule 2.48A creditors are entitled to request further information or to take action as defined by Rule 2.109 within 21 days of receipt of this report.



David Clements  
Joint Administrator  
23 December 2013



**Mattucci Limited**  
**(In Administration)**  
**Joint Administrators' Abstract of Receipts & Payments**

Statement of Affairs		From 04/06/2013 To 03/12/2013	From 04/12/2009 To 03/12/2013
5,000.00	SECURED ASSETS Intellectual Property	<u>NIL</u> NIL	<u>5,000.00</u> 5,000.00
(89,000.00)	SECURED CREDITORS HSBC Bank Plc	<u>NIL</u> NIL	<u>NIL</u> NIL
26,500.00	HIRE PURCHASE Rent Deposit Deed	NIL	NIL
(26,500.00)	Black and Decker International	<u>NIL</u> NIL	<u>NIL</u> NIL
1.00	ASSET REALISATIONS Contracts	NIL	1.00
1.00	Leases	NIL	1.00
538.00	Chattel Assets	NIL	538.00
88,000.00	Stock	NIL	20,588.00
	Bank Interest Gross	<u>0.07</u> 0.07	<u>21.08</u> 21,149.08
	COST OF REALISATIONS		
	Bordereaux	NIL	180.00
	Administrators Fees	185.74	10,685.74
	Copying costs	NIL	654.50
	Search costs	NIL	8.00
	Agents Fees	NIL	7,000.00
	Registered Office fee	NIL	60.00
	Stationery & Postage	NIL	6,803.50
	Travel Expenses	NIL	483.80
	Statutory Advertising	<u>NIL</u>	<u>173.52</u>
		(185.74)	(26,049.06)
(850,000.00)	UNSECURED CREDITORS Deposit Creditors	NIL	NIL
(1,200,000.00)	JP (chinese Supplier)	NIL	NIL
(1,109,000.00)	Trade & Expense creditors	NIL	NIL
(957,000.00)	Directors	NIL	NIL
(434,000.00)	HM Revenue & Customs	<u>NIL</u> NIL	<u>NIL</u> NIL
(2.00)	DISTRIBUTIONS Ordinary Shareholders	<u>NIL</u> NIL	<u>NIL</u> NIL
<b>(4,545,462.00)</b>		<b><u>(185.67)</u></b>	<b><u>100.02</u></b>
	REPRESENTED BY		
	Bank 2 - Current		0.02
	Trade Creditors		(37.15)
	Vat Control Account		137.15
			<b><u>100.02</u></b>

**APPENDIX II**

**SCHEDULE OF TIME COSTS  
AND  
GUIDE TO ADMINISTRATORS' FEES**

# SIP9 Detailed

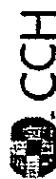
04/06/2013 to 03/12/2013

Assignment Code

SIP9 SubCategory Task Code

MATTU001/POST

Administration and planning



	Director	Manager	Senior	Administrator	Assistant & Support Staff	Total Hours	Charge	AvgRate
Administration & Planning	0.00	0.00	0.20	0.00	0.70	0.80	126.00	140.00
Appointment notification	0.00	0.10	0.00	0.00	0.00	0.10	27.50	275.00
Appt Holder VAT and Tax Returns	0.00	0.00	0.00	0.00	0.60	0.60	84.00	140.00
Case planning	0.00	0.10	0.10	0.00	0.00	0.20	47.50	237.50
Case Review / Diary	0.00	0.50	2.47	0.00	0.00	2.97	618.33	208.19
Cashiering	0.00	0.00	0.00	0.00	1.60	1.60	224.00	140.00
Maintenance of records	0.00	0.00	0.00	0.00	0.50	0.50	50.00	100.00
Statutory reporting	0.00	0.50	0.00	0.00	1.50	2.00	275.00	137.50
	0.00	1.20	2.77	0.00	4.90	8.87	1,452.33	
Creditors	0.00	0.00	0.00	0.00	0.90	0.90	90.00	100.00
	0.00	0.00	0.00	0.00	0.90	0.90	90.00	
	0.00	1.20	2.77	0.00	5.80	9.77	1,542.33	
						9.77	1,542.33	

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# SIP9 Detailed

04/12/2009 to 03/12/2013

Assignment Code

SIP9 SubCategory Task Code

MATTU001/POST

Administration and planning



	Director	Manager	Senior	Administrator	Assistant & Support Staff	Total Hours	Charge	AvgRate
Administration & Planning	4.70	0.40	66.80	0.00	52.95	124.85	17,415.00	139.49
Appointment notification	0.00	0.80	0.00	0.00	0.00	0.80	202.50	253.13
Appt Holder VAT and Tax Returns	0.00	0.00	0.00	0.00	2.00	2.00	254.00	127.00
Bordereau	0.00	0.00	0.00	0.00	1.50	1.50	112.50	75.00
Case planning	22.50	0.60	0.10	0.00	0.00	23.20	6,922.50	298.38
Case Review / Diary	0.00	18.90	3.47	0.00	0.00	22.37	5,790.83	258.87
Cashiering	0.00	0.00	0.00	0.00	1.60	1.60	224.00	140.00
Dealing with Debtor / Directors	0.40	0.00	2.90	0.00	0.00	3.30	700.00	212.12
General Correspondence	0.10	1.20	4.55	0.00	0.00	5.85	847.25	144.83
Maintenance of records	0.00	0.00	2.50	0.00	3.30	5.80	645.75	111.34
Ptnt Review and Signing	11.05	0.00	0.00	0.00	0.00	11.05	4,350.00	393.67
Statutory reporting	6.00	6.90	94.70	0.00	14.00	121.60	21,770.00	179.03
	<b>44.75</b>	<b>28.80</b>	<b>175.02</b>	<b>0.00</b>	<b>75.35</b>	<b>323.92</b>	<b>59,234.33</b>	
Case specific matters								
Case Specific	0.00	0.00	2.50	0.00	0.00	2.50	400.00	160.00
	<b>0.00</b>	<b>0.00</b>	<b>2.50</b>	<b>0.00</b>	<b>0.00</b>	<b>2.50</b>	<b>400.00</b>	
Creditors								
Claims HP and Leasing	0.00	0.50	0.00	0.00	0.00	0.50	125.00	250.00
Claims Trade and Expense	0.00	0.00	5.10	0.00	0.00	5.10	852.50	167.16
Communication with creditors	0.60	2.10	217.40	0.00	20.80	240.90	39,893.00	165.60
Creditors	0.20	0.80	0.00	0.00	0.90	1.90	380.00	189.47

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Assignment Code  
SIP9 SubCategory

Task Code	Director	Manager	Senior	Administrator	Assistant & Support Staff	Total Hours	Charge	AvgRate
Employee Claims	0 00	0 00	1 50	0 00	0 00	1 50	300 00	200 00
Preferential Creditors	0 30	0 00	0 00	0 00	0 00	0 30	90 00	300 00
Secured Creditors	0 00	1 70	2 80	0 00	0 00	4 50	985 00	218 89
	1 10	5 10	226 80	0 00	21 70	254 70	42,605 50	
<b>Investigations</b>								
CDDA reports	0 00	0 60	0 00	0 00	0 00	0 60	150 00	250 00
Investigations	0 00	0 00	7 00	0 00	0 00	7 00	1,400 00	200 00
	0 00	0 60	7 00	0 00	0 00	7 60	1,550 00	
<b>Realisation of assets</b>								
Realisation of assets	0 00	1 10	4 50	0 00	0 00	5 60	1,168 00	208 57
Sale of business and assets	0 00	0 30	0 00	0 00	0 00	0 30	75 00	250 00
	0 00	1 40	4 50	0 00	0 00	5 90	1,243 00	
	45 85	35 90	415 82	0 00	97 05	594 62	105,032 83	
						594 62	105,032 83	

## **Harrisons Business Recovery and Insolvency Limited Fee Policy**

### **1. Charge out rates and policy regarding staff allocation, support staff, the use of subcontractors and the recharge of disbursements**

The following information relating to the policy of Harrisons Business Recovery and Insolvency Limited is considered to be relevant:-

### **2. Charge out rates**

The following hourly charge out rates apply to all assignments undertaken by Harrisons Business Recovery and Insolvency Limited:-

	<b>2012/2013</b>	<b>2013/2014</b>
	<b>£</b>	<b>£</b>
Directors	300 – 500	305 – 550
Managers	250 – 350	250 – 350
Senior Case Supervisors	175 – 250	175 – 250
Case Supervisors	100 – 200	125 – 205
Assistants/Trainee Case Supervisors	75 – 150	100 – 150

### **3. Staff allocation, support staff & the use of subcontractors**

We take an objective and practical approach to each assignment which includes active director involvement from the outset. Other members of staff will be assigned on the basis of experience and specific skills to match the needs of the case. Time spent by secretarial and other support staff on specific case related matters, e.g. report despatching, is charged. Details of any subcontractor(s) used are given in the attached report.

### **4. Professional advisors**

Details of any professional advisor(s) used are given in the attached report. Unless otherwise indicated the fee arrangement for each will be based on hourly charge out rates, which are reviewed on a regular basis, together with the recovery of relevant disbursements.

The choice of professional advisors will be based around a number of factors including, but not restricted to, their expertise in a particular field, the complexity or otherwise of the assignment and their geographical location.

### **5. Disbursements**

Specific expenditure relating to the administration of a particular case is recoverable without approval and is referred to as "category 1 disbursements". Category 1 disbursements will generally comprise supplies of incidental services specifically identifiable to the case, typically for items such as identifiable telephone calls, postage, case advertising, invoiced travel and properly reimbursed expenses. Included will be services specific to the case where these cannot practically be provided internally such as printing, room hire and document storage.

Where we propose 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 us) they must be disclosed and be authorised by those responsible for approving the insolvency practitioners' remuneration. Such expenditure is referred to as a "category 2 disbursement". The following items of expenditure are recharged on this basis and are believed to be in line with the cost of external provision:-

Photocopying	15p a sheet
Letterhead	12p a sheet
Fax	40p a sheet
Mileage	65p per mile
Meeting Room	£50
Registered Office Fee	£60 per annum
Document Storage	Storage charge of £3 per box per quarter

## 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 out of the assets, therefore have a direct interest in the level of costs, and in particular the remuneration of the insolvency practitioner appointed to act as administrator. The insolvency legislation recognises this interest by 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, explains 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 to consider his proposals. The administrator must call the first meeting of the committee within 6 weeks of its establishment, and subsequent meetings must be held either at specified dates agreed by the committee, or when 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

- 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 matters 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 proposals 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. Disclosure of such costs must be included in the administrator's proposals and should follow the principles and standards set out in section 7.

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 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 fixing bases of remuneration

7.1.1 When seeking agreement for the basis or bases of remuneration, the administrator should provide sufficient supporting information to enable the committee or the creditors to make an informed judgement as to whether the basis sought is appropriate having regard to all the circumstances of the case. The nature and extent of the information provided will depend on the stage during the conduct of the case at which approval is being sought. The appendix to this guide sets out a suggested format for the provision of information.

7.1.2 If any part of the remuneration is sought on a time costs basis, the administrator should provide details of the minimum time units used and current charge-out rates,

split by grades of staff, of those people who have been or who are likely to be involved in the time costs aspects of the case.

7.1.3 The administrator should also provide details and the cost of any work that has been or is intended to be sub-contracted out that could otherwise be carried out by the administrator or his or her staff.

7.1.4 If work has already been carried out, the administrator should state the proposed charge for the period to date and provide an explanation of what has been achieved in the period and how it was achieved, sufficient to enable the progress of the case to be assessed and whether the proposed charge is reasonable in the circumstances of the case. Where the proposed charge is calculated on a time costs basis, the administrator should disclose the time spent and the average charge-out rates, in larger cases split by grades of staff and analysed by appropriate activity. The administrator should also provide details and the cost of any work that has been subcontracted out that could otherwise be carried out by the administrator or his or her staff.

## **7.2 After the bases of remuneration have been fixed**

The administrator is required to send progress reports to creditors at specified intervals (see paragraph 8.1 below). When reporting periodically to creditors, in addition to the matters specified in paragraph 8.1, the administrator should provide an explanation of what has been achieved in the period under review and how it was achieved, sufficient to enable the progress of the case to be assessed. Creditors should be able to understand whether the remuneration charged is reasonable in the circumstances of the case (whilst recognising that the administrator must fulfil certain statutory obligations and regulatory requirements that might be perceived as bringing no added value for the estate). Where any remuneration is on a time costs basis, the administrator should disclose the charge in respect of the period, the time spent and the average charge-out rates, in larger cases split by grades of staff and analysed by appropriate activity. If there have been any changes to the charge-out rates during the period under review, rates should be disclosed by grades of staff, split by the periods applicable. The administrator should also provide details and the cost of any work that has been sub-contracted out that could otherwise be carried out by the administrator or his or her staff.

## **7.3 Disbursements and other expenses**

7.3.1 Costs met by and reimbursed to the administrator in connection with the administration should be appropriate and reasonable. Such costs will fall into two categories:

- Category 1 disbursements. These are costs where there is specific expenditure directly referable both to the administration and a payment to an independent third party. These may include, for example, advertising, room hire, storage, postage, telephone charges, travel expenses, and equivalent costs reimbursed to the administrator or his or her staff.
- Category 2 disbursements. These are costs that are directly referable to the administration but not to a payment to an independent third party. They may include shared or allocated costs that can be allocated to the administration on a proper and reasonable basis, for example, business mileage.

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

7.3.2 The following are not permissible:

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

## **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;
- 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, provided 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.



### 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 1 November 2011.

## Appendix

### Suggested format for the provision of information

Professional guidance issued to insolvency practitioners sets out the following suggested format for the provision of information when seeking approval of remuneration. However, the level of disclosure suggested below may not be appropriate in all cases, and will be subject to considerations of proportionality. In larger or more complex cases the circumstances of each case may dictate the information provided and its format.

#### Narrative overview of the case

- In all cases, reports on remuneration should provide a narrative overview of the case. Matters relevant to an overview are:
  - the complexity of the case,
  - any exceptional responsibility falling on the administrator,
  - the administrator's effectiveness,
  - the value and nature of the property in question.

The information provided will depend upon the basis or bases being sought or reported upon, and the stage at which it is being provided. An overview might include:

- an explanation of the nature, and the administrator's own initial assessment, of the assignment (including the anticipated return to creditors) and the outcome (if known),
- initial views on how the assignment was to be handled, including decisions on staffing or subcontracting and the appointment of advisers;
- any significant aspects of the case, particularly those that affect the remuneration and cost expended;
- the reasons for subsequent changes in strategy,
- the steps taken to establish the views of creditors, particularly in relation to agreeing the strategy for the assignment, budgeting, and fee drawing,
- any existing agreement about remuneration,
- 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,
- in a larger case, particularly if it involved trading, considerations about staffing and managing the assignment and how strategy was set and reviewed,
- details of work undertaken during the period,
- any additional value brought to the estate during the period, for which the administrator wishes to claim increased remuneration.

#### Time cost basis

Where any part of the remuneration is or is proposed to be calculated on a time costs basis, requests for and reports on remuneration should provide:

- An explanation of the administrator's time charging policy, clearly stating the units of time that have been used, the grades of staff and rates that have been charged to the assignment, and the policy for recovering the cost of support staff. There is an expectation that time will be recorded in units of not greater than 6 minutes.
- A description of work carried out, which might include:
  - details of work undertaken during the period, related to the table of time spent for the period,
  - an explanation of the grades of staff used to undertake the different tasks carried out and the reasons why it was appropriate for those grades to be used,
  - any comments on any figures in the summary of time spent accompanying the request the administrator wishes to make.
- Time spent and charge-out summaries, in an appropriate format.

It is useful to provide time spent and charge-out value information in a tabular form for each of the time periods reported upon, with work classified (and subdivided) in a way relevant to the circumstances of the case.

The following areas of activity are suggested 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:

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

The level of disclosure suggested above will not be appropriate in all cases, and considerations of proportionality will apply.

- where cumulative time costs are, and are expected to be, less than £10,000 the administrator should, as a minimum, state the number of hours and average rate per hour and explain any unusual features of the case,
- where cumulative time costs are, or are expected to be, between £10,000 and £50,000, a time and charge-out summary similar to that shown above will usually provide the appropriate level of detail (subject to the explanation of any unusual features),
- where cumulative time costs exceed, or are expected to exceed, £50,000, further and more detailed analysis or explanation will be warranted.

Insolvency Act 1986

Mattucci Limited  
Estimated Statement Of Affairs as at 4 December 2009

	Book Value £	Estimated to Realise £	£
<b>ASSETS</b>			
Intellectual Property		5,000 00	
HSBC Bank Plc		(89,000 00)	
Deficiency c/d		(84,000 00)	
Rent Deposit Deed	26,500 00	26,500 00	
Black and Decker International		(26,500 00)	
		NIL	NIL
Contracts	1 00		1 00
Leases	1 00		1 00
Chattel Assets	538 00		538 00
Stock	579,634 00		88,000 00
			88,540 00
<b>LIABILITIES</b>			
<b>PREFERENTIAL CREDITORS -</b>			
			NIL
			88,540 00
<b>DEBTS SECURED BY FLOATING CHARGE PRE 15 SEPTEMBER 2003</b>			
<b>OTHER PRE 15 SEPTEMBER 2003 FLOATING CHARGE CREDITORS</b>			
			NIL
			88,540 00
Estimated prescribed part of net property where applicable (to carry forward)			20,708 00
			67,832 00
<b>DEBTS SECURED BY FLOATING CHARGE POST 15 SEPTEMBER 2003</b>			
Deficiency b/d		84,000 00	
			84,000 00
			(16,168 00)
Estimated prescribed part of net property where applicable (brought down)			20,708 00
			20,708 00
<b>Unsecured non-preferential claims (excluding any shortfall to floating charge holders)</b>			
Deposit Creditors		850,000 00	
JP (chinese Supplier)		1,200,000 00	
Trade & Expense creditors		1,109,000 00	
Directors		957,000 00	
HM Revenue & Customs		434,000 00	
			4,550,000 00

Insolvency Act 1986

Mattucci Limited  
Estimated Statement Of Affairs as at 4 December 2009

	Book Value £	Estimated to Realise £
Estimated deficiency/surplus as regards non-preferential creditors (excluding any shortfall in respect of F C's post 14 September 2003)		(4,529,292 00)
Shortfall in respect of F.C's post 14 September 2003 (brought down)		<u>16,168 00</u> (4,545,460 00)
Issued and called up capital Ordinary Shareholders		2 00
<b>TOTAL SURPLUS/(DEFICIENCY)</b>		<u>2 00</u> <u>(4,545,462 00)</u>

The Insolvency Act 1986

**Administrators' progress report**

Name of Company Mattucci Limited	Company number 03196090
In the Leeds District Registry (full name of court)	Court case number 3242 of 2009

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

I/We (a)  
David Clements  
Harrisons Business Recovery and Insolvency  
Limited  
4 St Giles Court  
Southampton Street  
Reading  
RG1 2QL

P R Boyle  
Harrisons Business Recovery and Insolvency  
Limited  
102 Sunlight House  
Quay Street  
Manchester  
M3 3JZ

administrator(s) of the above company attach a progress report for the period

(b) Insert date	From (b) 4 June 2013	To (b) 3 December 2013
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Signed

  
Joint Administrator

Dated

23 December 2013