

**The Insolvency Act 1986****Liquidator's Progress  
Report****S. 192**

**Pursuant to section 192 of the  
Insolvency Act 1986  
To the Registrar of Companies**

For official use

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Company Number

03686170

Name of Company

(a) Insert full  
name of company

(a) ABERDALE PROPERTIES LIMITED

(b) Insert full  
name(s) and  
address(es)

I/We (b)  
Richard Frank Simms and Steven Peter Ford of F A Simms & Partners  
Limited, Insol House  
39 Station Road  
Lutterworth  
Leicestershire  
LE17 4AP  
United Kingdom

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

Signed

Date 06/11/2012

Presenter's name,  
address and  
reference  
(if any)

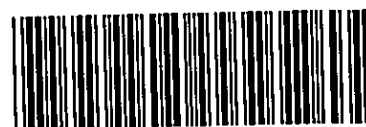
Richard Frank Simms  
F A Simms & Partners Limited  
Insol House  
39 Station Road  
Lutterworth  
Leicestershire  
LE17 4AP  
United Kingdom

For Official Use

Liquidation Section

Post Room

SATURDAY



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A37

10/11/2012

#25

COMPANIES HOUSE

**Liquidator's statement of account  
under section 192 of the Insolvency Act 1986**

Richard Frank Strams  
Insol House  
39 Station Road  
Lutterworth  
Leicestershire  
LE17 4AP  
United Kingdom

Realisations			
Date	Of whom received	Nature of assets realised	Amount
		Brought forward	4,000 00
07/09/2010	Barclays Bank Plc	Bank Interest Gross	0 57
04/10/2010	Barclays Bank Plc	Transfer To BM	41 47
06/12/2010	Barclays Bank Plc	Bank Interest Gross	0 26
28/06/2011	Hackney London Borough Council	Rates Refund	293 85
05/09/2011	Barclays Bank Plc	Bank Interest Gross	0 02
05/12/2011	Barclays Bank Plc	Bank Interest Gross	0 03
05/03/2012	Barclays Bank Plc	Bank Interest Gross	0 03
06/06/2012	Barclays Bank Plc	Bank Interest Gross	0 03
03/09/2012	Barclays Bank Plc	Bank Interest Gross	0 03
		Carried forward	4,336 29

Note No balance should be shown on this account but only the total realisations and

Disbursements			
Date	To whom paid	Nature of disbursements	Amount
		Brought forward	0 00
07/09/2010	Courts Advertising Limited	VAT Receivable	26 46
07/09/2010	Courts Advertising Limited	Statutory Advertising	151 20
17/09/2010	F A Simms & Partners Limited	Statement of Affairs Fee	3,000 00
17/09/2010	F A Simms & Partners Limited	VAT Receivable	563 11
17/09/2010	F A Simms & Partners Limited	Statement of Affairs Disbursements	217 76
04/10/2010	Barclays Bank Plc	Transfer To BM	41 47
02/12/2010	C & V Data Management Services Limited	VAT Receivable	2 56
02/12/2010	C & V Data Management Services Limited	Storage Costs	14 61
17/06/2011	C & V Data Management Services Limited	Storage Costs	1 23
17/06/2011	C & V Data Management Services Limited	VAT Receivable	0 25
04/07/2011	C & V Data Management Services Limited	VAT Receivable	12 55
04/07/2011	C & V Data Management Services Limited	Storage Costs	62 73
07/09/2011	C & V Data Management Services Limited	VAT Receivable	0 24
07/09/2011	C & V Data Management Services Limited	Storage Costs	1 21
05/12/2011	C & V Data Management Services Limited	VAT Receivable	0 24
05/12/2011	C & V Data Management Services Limited	Storage Costs	1 21
05/03/2012	C & V Data Management Services Limited	Storage Costs	4 73
05/03/2012	C & V Data Management Services Limited	VAT Receivable	0 95
22/06/2012	C & V Data Management Ltd	Storage Costs	1 23
22/06/2012	C & V Data Management Ltd	VAT Receivable	0 25
26/07/2012	Harvey Ingram LLP	Solicitors fees	22 00
26/07/2012	Harvey Ingram LLP	VAT Receivable	2 00
		Carried forward	4,127 99

disbursements which should be carried forward to the next account

**Analysis of balance**

Total Realisations		£	4,336 29
Total Disbursements			4,127 99
	Balance £		208 30
This balance is made up as follows			
1 Cash in hands of liquidator			0 00
2 Balance at Bank			208 30
3 Amount in Insolvency Services Account			0 00
4 Amounts invested by liquidator	£	0 00	
Less the cost of investments realised		0 00	
Balance			0 00
5 Accrued Items			0 00
Total Balance as shown above			208 30

The liquidator should also state –

- (1) The amount of the estimated assets and liabilities at the date of the commencement of the winding up

	£
Assets (after deducting amounts charged to secured creditors –including the holders of floating charges)	86,250 00
Liabilities-Fixed charge creditors	0 00
Floating charge holders	0 00
Preferential creditors	0 00
Unsecured creditors	293 75

- (2) The total amount of the capital paid up at the date of the commencement of the winding up-

Paid up in cash	0 00
Issued as paid up otherwise than for cash	

- (3) The general description and estimated value of any outstanding assets (if there is insufficient space here, attach a separate sheet)

86,250

- (4) Why the winding up cannot yet be concluded

Book Debts

- (5) The period within which the winding up is expected to be completed

Not known

**Aberdale Properties Limited  
In Creditors' Voluntary Liquidation**

**Annual Progress Report**

**27 September 2012**

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- 9 Conclusion

**APPENDICES**

- 1 Receipts and payments account
- 2 Analysis of time costs

**1 INTRODUCTION**

The purpose of this report is to detail my acts and dealing as Liquidator and it should be read in conjunction with my previous correspondence to Creditors

**2 BACKGROUND**

**REGISTERED NAME, ADDRESS AND NUMBER**

Aberdale Properties Limited (In Liquidation), ("the Company")

Registered office Insol House, 39 Station Road, Lutterworth, Leicestershire, LE17AP

Registered Number 03686170

Other trading names None

**APPOINTMENT DETAILS**

Richard Frank Simms and Steven Peter Ford were appointed Joint Liquidators of Aberdale Properties Limited on the 7 September 2010

The members' and creditors' meetings were held on 07 September 2010, when I was appointed Liquidator of the company

The company's principal activity was letting of own property

The main causes of failure were the Bank of Cyprus appointed LPA receivers over all the properties held by the group of Companies

**3. ASSET REALISATIONS**

**The Joint Liquidators Receipts and Payment account for the period from 7 September 2011 to 6 September 2012 is attached at appendix 1.**

**Assets**

Since the date of my last report there have been no further realisations other than bank interest detailed below

**Bank Interest**

Since the appointment all funds have been held in interest bearing accounts and interest totalling £0 97 has been received of which £0 12 relates to the period 7 September 2011 to 6 September 2012

**4. INVESTIGATION**

The directors conduct report was submitted to the Insolvency Service on 3 March 2011 The contents of this report are confidential

**Potential Antecedent Transactions**

No antecedent transactions were identified

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**5. CREDITORS CLAIMS**

The trade and expense creditors, as per the statement of affairs totalled £294 00. Please be advised that I am still receiving proof of debts and therefore I am unable to agree the total value of non preferential claims at present.

**6. DIVIDEND PROSPECTS**

**Secured Creditors**

Bank of Cyprus hold a first legal charge over 9 properties owned by the above named Company. This has not been validated by solicitors.

As previously reported, prior to appointment the bank instructed Allsops LLP as LPA Receivers over the properties of the Company.

The Company also provided a guarantee for an associated Company, Rohinmax Holdings Limited for in excess of £6,000,000 00.

The indebtedness to the Bank at the date of appointment, stood at £9,595,203 00 with interest accruing.

The only funds that will be received by the bank will be in respect of funds received from the sale of the properties by the LPA Receiver.

**Preferential creditors**

The preferential creditors claims amounted to £8,725 00 and were in respect of 2 of the Company's employees for wage arrears and/or holiday pay. There was not a claim for contributions to the occupational pension scheme and state scheme premiums.

No dividend has been paid to the Preferential Creditors.

**Unsecured creditors**

Creditors' claims, as per the statement of affairs totalled £6,258,449 00 and the agreed creditors' claims amounted to £84,171 53. Unfortunately, there are insufficient funds to pay a dividend to any class of creditor.

**7. COSTS AND EXPENSES**

The payments shown on the summary of the Receipts and Payments at Appendix I are in the main self-explanatory.

**Pre-Appointment Remuneration**

The members and creditors previously authorised the payment of a fee of £3,461 00 and disbursements of £322 76 for assistance with the statement of affairs and producing and circulating the notices for the meetings of members and creditors prior to my appointment at a meeting held on 7 September 2010. An amount of £3,000 00 has been drawn of fee and £217 76 on account of these costs and these have been paid from first realisations on appointment and is shown in the enclosed receipts and payments account.

**Joint Liquidators' Remuneration**

The Joint Liquidators remuneration was drawn in accordance with Insolvency Rules 1986 S4 127(2)(b) on a time cost basis in relation to this assignment, as authorised by creditors at the S98 Meeting in accordance with the following resolution

"That the Joint Liquidators are authorised to draw their remuneration on the basis of time properly spent by them and their staff, such time costs to be drawn on account from time to time as funds permit"

### Summary of Costs

The Joint Liquidators total time costs for the period 7 September 2010 to 6 September 2012 amount to £5,660 50, which have been charged at an average charge out rate of £134 14 per hour, of which £2,319 00 at an average charge out rate of £146 77 was charged in the period 7 September 2011 to 6 September 2012. A schedule of time recorded for the period of this report and the total period of this assignment is attached at appendix 2

To date no remuneration has been drawn by the Joint Liquidators.

A description of the routine work undertaken in the Liquidation to date is as follows

#### 1 Administration and Planning

- Preparing the documentation and dealing with the formalities of appointment
- Statutory notifications and advertising
- Preparing documentation required
- Dealing with all routine correspondence
- Maintaining physical case files and electronic case details on case management software
- Review and storage
- Case bordereau
- Case planning and administration
- Preparing reports to members and creditors
- Convening and holding meetings of members and creditors

#### 2 Cashiering

- Maintaining and managing the administrator's cashbook and bank account
- Ensuring statutory lodgements and tax lodgement obligations are met

#### 3 Creditors

- Dealing with Creditor correspondence and telephone conversations
- Preparing reports to Creditors
- Maintaining Creditor information on case management software
- Reviewing, and adjudicating on if necessary, proofs of debt received from Creditors

#### 4 Investigations

- Review and storage of books and records
- Prepare a return pursuant to the Company Directors Disqualification Act
- Conduct Investigations into suspicious transactions
- Review books and records to identify any transactions or actions an administrator may take against a third party in order to recover funds for the benefit of Creditors

#### 5 Realisation of Assets

- Corresponding with debtors and attempting to collect outstanding book debts
- Liaising with the Company's bank regarding the closure of the account

A copy of "A Creditors' Guide to Administrators' Fees" together with an explanatory note which shows our fee policy are also attached



### Joint Liquidators' Disbursements

The Joint Liquidators category 1 disbursements for the period 7 September 2011 to 6 September 2012 are listed below and represent the simple reimbursement of actual out of pocket payments made on behalf of the assignment. They are as follows:

Storage Cost	£ 8.38
<b>TOTAL</b>	<b><u>8.38</u></b>

The Joint Liquidators category 2 disbursements for the period 7 September 2010 to 6 September 2012 amount to £216.62 of which £46.10 was incurred in the period 7 September 2011 to 6 September 2012. The Joint Liquidators have drawn no funds in relation to these disbursements during the course of this assignment. Details of the expenses incurred are enclosed at Appendix 2.

### Other professional Costs

#### Solicitors

Harvey Ingram Solicitors LLP were instructed as legal advisors in relation to the recovery of the associated company loan. Their costs have been agreed on a CFA basis plus disbursements and VAT. The solicitor's disbursements for the period 7 September 2011 to 6 September 2012 amount to £22.00 and have been paid in full.

### 8. FURTHER INFORMATION

An unsecured creditor may, with the permission of the court or with the concurrence of 5% in value of the unsecured creditors (including the creditor in question) request further details of the Liquidator's remuneration and expenses, within 21 days of receipt of this report. Any secured creditor may request the same details in the same time limit.

An unsecured creditor may, with the permission of the court or with the concurrence of 10% in value of the creditors (including the creditor in question), apply to court to challenge the amount and/or basis of the Liquidator's fees and the amount of any proposed expenses or expenses already incurred, within 8 weeks of receipt of this report. Any secured creditor may make a similar application to court within the same time limit.

### 9. CONCLUSION

I shall be continuing my administration of the liquidation and hope to finalise the following outstanding matters that are preventing this case from being closed. We have instructed Solicitors to act in relation to the recovery of the associated company loan and recovery action is still underway.

If you require any further information please contact Charlene Haycock of this office.

Yours faithfully

Richard Frank Simms  
Joint Liquidator  
For and on behalf of  
Aberdale Properties Limited  
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**Aberdale Properties Limited - In Creditors Voluntary Liquidation**  
**Joint Liquidators' Abstract of Receipts & Payments**

**From 07 September 2011 To 06 September 2012**

S of A £		As Previously Reported	07/09/11 to 06/09/12	Total £
<b>RECEIPTS</b>				
NIL	Bank Interest Gross	0 85	0 12	0 97
NIL	Rates Refund	293 85	NIL	293 85
86,250	EMILYANT INVESTMENT LIMITED	NIL	NIL	NIL
NIL	CH - CASH IN HAND	4,000 00	NIL	4,000 00
<u>86,250</u>		<u>4,294 70</u>	<u>0 12</u>	<u>4,294 82</u>
<b>PAYMENTS</b>				
	Statement of Affairs Fee	3,000 00	NIL	3,000 00
	Storage Costs	78 57	8 38	86 95
	Statutory Advertising	151 20	NIL	151 20
	Statement of Affairs Disbursements	217 76	NIL	217 76
	Solicitors fees	NIL	22 00	22 00
	VAT Receivable	604 93	3 68	608 61
		<u>4 052 46</u>	<u>34 06</u>	<u>4,086 52</u>
<b>CASH IN HAND</b>		<u>242 24</u>	<u>(33 94)</u>	<u>208 30</u>

**Joint Liquidator's Remuneration Schedule**  
**Aberdale Properties Limited**  
**Between 07 September 2011 and 06 September 2012**

Classification of work function	Partner/Director	Manager	Other Senior Professionals	Assistants & Support Staff	Total Hours	Time Cost	Average Hourly Rate
Administration & Planning	2 70	0 00	4 40	2 40	9 50	1,414 00	148 84
Investigations	0 00	0 00	2 00	0 00	2 00	270 00	135 00
Realisation of Assets	0 60	0 00	2 30	0 00	2 90	460 50	158 79
Trading	0 00	0 00	0 00	0 00	0 00	0 00	0 00
Creditors	0 00	0 00	1 30	0 10	1 40	174 50	124 64
Case Specific Matters	0 00	0 00	0 00	0 00	0 00	0 00	0 00
<b>Total hours</b>	<b>3 30</b>	<b>0 00</b>	<b>10 00</b>	<b>2 50</b>	<b>15 80</b>		
<b>Time costs</b>	<b>825 00</b>	<b>0 00</b>	<b>1,344 50</b>	<b>149 50</b>	<b>2,319 00</b>		
<b>Average hourly rate</b>	<b>250 00</b>	<b>0 00</b>	<b>134 45</b>	<b>59 80</b>	<b>146 77</b>		

Description	Total Incurred £
Postage	0 31
Photocopying	21 10
Telephone	2 31
General Correspondence	2 68
Company Search	4 00
Annual Report	7 70
Land Registry	8 00
<b>Totals</b>	<b>46 10</b>

Total time spent in administering the Assignment	Hours	15 80
Total value of time spent	£	2,319 00
Total Joint Liquidator's fees charged to date	£	0 00

Joint Liquidator's Remuneration Schedule  
Aberdale Properties Limited  
Between 07 September 2010 and 06 September 2012

Classification of work function	Partner/Director	Manager	Other Senior Professionals	Assistants & Support Staff	Total Hours	Time Cost	Average Hourly Rate
Administration & Planning	7 90	0 70	8 30	7 00	23 90	3,316 50	138 77
Investigations	0 80	0 00	3 00	0 00	3 80	590 00	155 26
Realisation of Assets	2 30	0 00	4 30	0 00	6 60	1,019 00	154 39
Trading	0 00	0 00	0 00	0 00	0 00	0 00	0 00
Creditors	0 20	0 40	4 20	3 10	7 90	735 00	93 04
Case Specific Matters	0 00	0 00	0 00	0 00	0 00	0 00	0 00
<b>Total hours</b>	<b>11 20</b>	<b>1 10</b>	<b>19 80</b>	<b>10 10</b>	<b>42 20</b>		
<b>Time costs</b>	<b>2,612 50</b>	<b>60 00</b>	<b>2,466 50</b>	<b>521 50</b>	<b>5,660 50</b>		
<b>Average hourly rate</b>	<b>233 26</b>	<b>54 55</b>	<b>124 57</b>	<b>51 63</b>	<b>134 14</b>		

Description	Total Incurred £
Postage	0 31
Photocopying	47 20
Telephone	6 27
General Correspondence	10 64
Report of Meeting	9 00
Insolvency Bond	180 00
Company Search	5 00
Annual Report	7 70
Land Registry	20 00
Confidential Waste	10 50
IT Charge	100 00
<b>Totals</b>	<b>396 62</b>

Total time spent in administering the Assignment	Hours	42 20
Total value of time spent	£	5,660 50
Total Joint Liquidator's fees charged to date	£	0 00

## **SIP9 Guide to Liquidators' Fees (E & W)**

### **A CREDITORS' GUIDE TO LIQUIDATORS' FEES ENGLAND AND WALES**

#### **1 Introduction**

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

#### **2 Liquidation procedure**

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

#### **3 The liquidation committee**

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

#### **4 Fixing the liquidator's remuneration**

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

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

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

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

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

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

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

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

#### **5 Review of remuneration**

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

#### **6 What information should be provided by the liquidator?**

##### **6.1 When seeking remuneration approval**

6.1.1 When seeking agreement to his fees the liquidator 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

6.1.2 Where, at any creditors' or committee meeting, the liquidator 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

6.1.3 Where the liquidator seeks agreement to his fees during the course of the liquidation, he should always provide an up to date receipts and payments account. Where the proposed fee is based on time costs the liquidator 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 additional information should comprise a sufficient explanation of what the liquidator has achieved and how it was achieved to enable the value of the exercise to be assessed (whilst recognising that the liquidator must fulfil certain statutory obligations that might be seen to bring no 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 liquidator 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 liquidator's own initial assessment, including the anticipated return to creditors. To the extent applicable it should also explain

- 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 liquidator 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 agreement 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 proportionate 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

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

## **6.2 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 liquidator should notify the creditors of the details of the resolution in his next report or circular to them. When subsequently reporting to creditors on the progress of the liquidation, or submitting his final report, he 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 6.1.3. Where the fee is charged on a percentage basis the liquidator should provide the details set out in paragraph 6.1.4 above regarding work which has been sub-contracted out.

## **6.3 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 provision for the creditors to challenge them, as described below. Professional guidance issued to insolvency practitioners requires that, where the liquidator 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 liquidator'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.

## **6.4 Realisations for secured creditors**

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

## **7. Progress reports and requests for further information**

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

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

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



- 7.3 The liquidator must provide the requested information within 14 days, unless he considers that
- the time and cost involved in preparing the information would be excessive, or
  - disclosure would be prejudicial to the conduct of the liquidation or might be expected to lead to violence against any person, or
  - the liquidator is subject to an obligation of confidentiality in relation to the information requested,

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

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

## **8 Provision of information – additional requirements**

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

The information which must be provided is –

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

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

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

## **9 What if a creditor is dissatisfied?**

- 9.1 Except in cases where there is a liquidation committee it is the creditors as a body who have authority to approve the liquidator's fees. To enable them to carry out this function they may require the liquidator to call a creditors' meeting. In order to do this at least ten per cent in value of the creditors must concur with the request, which must be made to the liquidator in writing
- 9.2 If a creditor believes that the liquidator's remuneration is too high, the basis is inappropriate, or the expenses incurred by the liquidator are in all the circumstances excessive he may, provided certain conditions are met, apply to the court
- 9.3 Application may be made to the court by any secured creditor, or by any unsecured creditor provided at least 10 per cent in value of unsecured creditors (including himself) agree, or he has the permission of the court. Any such application must be made within 8 weeks of the applicant receiving the liquidator's progress report in which the charging of the remuneration or incurring of the expenses in question is first reported (see paragraph 7.1 above). If the court does not dismiss the application (which it may if it considers that insufficient cause is shown) the applicant must give the liquidator a copy of the application and supporting evidence at least 14 days before the hearing
- 9.4 If the court considers the application well founded, it may order that the remuneration be reduced, the basis be changed, or the expenses be disallowed or repaid. Unless the court orders otherwise, the costs of the application must be paid by the applicant and not out of the assets of the insolvent company

## **10 What if the liquidator is dissatisfied?**

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

## **11 Other matters relating to remuneration**

11.1 Where the liquidator realises assets on behalf of a secured creditor he is entitled to be remunerated out of the proceeds of sale in accordance with a scale set out in the Rules. Usually, however, the liquidator will agree the basis of his fee for dealing with charged assets with the secured creditor concerned.

11.2 Where two (or more) joint liquidators are appointed it is for them to agree between themselves how the remuneration payable should be apportioned. Any dispute between them may be referred to the court, the committee or a meeting of creditors.

11.3 If the appointed liquidator is a solicitor and employs his own firm to act in the insolvency, profit costs may not be paid unless authorised to act as an Insolvency Practitioner in the UK by the committee, the creditors or the court.

11.4 If a new liquidator is appointed in place of another, any determination, resolution or court order which was in effect immediately before the replacement continues to have effect in relation to the remuneration of the new liquidator until a further determination, resolution or court order is made.

11.5 Where the basis of the remuneration is a set amount, and the liquidator ceases to act before the time has elapsed or the work has been completed for which the amount was set, application may be made for a determination of the amount that should be paid to the outgoing liquidator. The application must be made to the same body as approved the remuneration. Where the outgoing liquidator and the incoming liquidator are from the same firm, they will usually agree the apportionment between them.

11.6 There may also be occasions when creditors will agree to make funds available themselves to pay for the liquidator to carry out tasks which cannot be paid for out of the assets, either because they are deficient or because it is uncertain whether the work undertaken will result in any benefit to creditors. Arrangements of this kind are sometimes made to fund litigation or investigations into the affairs of the insolvent company. Any arrangements of this nature will be a matter for agreement between the liquidator and the creditors concerned and will not be subject to the statutory rules relating to remuneration.

## **12 Effective date**

This guide applies where a company –

- goes into liquidation on a winding-up resolution passed on or after 6 April 2010,
- goes into voluntary liquidation immediately following an administration on or after 6 April 2010, except where the preceding administration began before that date,
- goes into compulsory liquidation as the result of a petition presented on or after 6 April 2010, except where the liquidation was preceded by
  - an administration which began before that date,
  - a voluntary liquidation in which the winding-up resolution was passed before that date.

## F A SIMMS & PARTNERS LIMITED

### CREDITORS' GUIDE TO FEES

Charge-out rates (from 1 July 2011)

Grade	Charge-out rate (£ per hour)
Insolvency Practitioner	200-250
Senior Manager	120-150
Managers	75-100
Assistants & support staff	45 - 110

Time costs are calculated at 6 minute units

#### Agent costs

These are charged at cost based upon the charge(s) made by the Agent instructed. The term "Agent" includes

- Solicitors/legal fees
- Auctioneers/valuers
- Accountants
- Quantity Surveyors
- Estate agents
- Other specialist advisors

#### Storage costs

Charged at actual cost incurred for storage (and retrieval, when appropriate) of records

#### Other disbursements (from 1 July 2011)

Category	Basis of charge
Indemnity Bond	At cost of mandatory cover required in accordance with the Insolvency Act 1986 for each appointment
Insurance of assets	At cost in relation to asset coverage requirement
Company searches	At cost incurred
Travel	Motor vehicle at 45p per mile All other forms at actual cost
Room hire	Initial meeting of creditors - £100 All other meetings of creditors - £50 Any other venue - at actual cost
Photocopying	15p per sheet of A4 30p per sheet of A3
Postage	At actual cost incurred
Facsimiles/Telephone	Charged at the following rate during connection Local Calls – 5p per minute National Calls – 10p per minute International Calls – 30p per minute Landline to Mobile Calls (telephone only) 20p per minute
Confidential Waste	£10.50 per case
IT Charge	£100.00
Other	At actual cost charged