

The Insolvency Act 1986

Liquidator's Progress
Report

S. 192

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

To the Registrar of Companies

For official use

Company Number

04218531

Name of Company

(a) Insert full
name of company

(a) Above The Rest Cleaning Services

Limited

(b) Insert full
name(s) and
address(es)I/we (b) Philip Anthony Brooks of Blades Insolvency
Services, Charlotte House, 19b Market Place,
Bingham, Nottingham NG13 8APthe liquidator(s) of the company attach a copy of my/our Progress Report
under section 192 of the Insolvency Act 1986

Signed



Date 18 November 2011

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

For Official Use

Lic

WEDNESDAY



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23/11/2011

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COMPANIES HOUSE

Our ref PAB/2434/A
18 November 2011

**ABOVE THE REST CLEANING SERVICES LIMITED
IN LIQUIDATION**

LIQUIDATORS' REPORT PURSUANT TO SECTION 104A INSOLVENCY ACT 1986

Introduction

This report covers the period from 21 September 2010, being the date of liquidation, to 20 September 2011 and should be read in conjunction with my initial report

Liquidators' receipts and payments account

A summary of my receipts and payments is attached which I consider is self-explanatory

Realisation of assets

- Trade debts with a book value of £11,760 were included in the statement of affairs with an estimated realisable value of £3,400. To date £2,622 has been recovered. No further recoveries are anticipated due to a complete absence of supporting documentation and I do not intend to take any further action to attempt to recover the remaining debts.
- The company's plant, machinery and stocks were sold on 23 November 2010 to Above The Rest Cleaning Services Midlands Limited, a company controlled by Neil Stennett, the director of this company. The sales price was based on the estimated value reported in the director's statement of affairs and took into account the fact that these assets are situated in the premises of a number of third parties.

Creditors' claims and dividends

- **Preferential**

No preferential claims have been received and none identified

- **Non-preferential**

Claims have been received from four non-preferential creditors totalling £141,710. One further creditor recorded in the director's statement of affairs with a debt totalling £10,000 has not submitted a claim. The statement of affairs disclosed five non-preferential creditors with claims totalling £107,735.

- **Dividend prospects**

There will be no funds available to pay a dividend to non-preferential creditors

Liquidators' fees and disbursements

I have incurred disbursements of £309 made up as follows

	£
Insolvency bond	104
Statutory advertising	180
Company search	20
Swear fee	5
	309
	====

At the meeting of creditors held on 21 September 2010 the following resolutions were passed by creditors

- "Payment of £5,000 plus disbursements and VAT be made to Blades Insolvency Services as an expense of the liquidation in respect of fees for convening the meeting and the preparation of the statement of affairs"
- "The joint liquidators be authorised to draw their remuneration on a time cost basis as and when required"

To date I have drawn no amount in respect of the agreed fee for convening the initial meeting of creditors and preparation of the statement of affairs

To reduce the level of professional costs certain work has been conducted by staff under my supervision. The level of staff has been selected based upon the nature and complexity of the assignment.

The current hourly charge-out rate for each grade of staff is detailed on the attached summary of fees and disbursements charged by this firm. There has been an increase in hourly rates effect from 1 November 2011 as indicated on the summary. All staff involved in the assignment have been charged directly to the case and there has been no general overhead allocation in respect of support staff.

A copy of "A Creditors' Guide to Liquidators' Fees" which forms part of Statement of Insolvency Practice number 9, a statement of best practice agreed by the various insolvency regulatory authorities, is also enclosed for your information.

My time costs amount to £3,879 in respect of work undertaken since the date of liquidation. At 20 September 2011 my time costs were £3,324, which represents a total of 19 40 hours spent at an average hourly rate of £171.34. To date I have drawn no fees on account of these time costs due to an absence of funds.

Investigation into the affairs of the company

I undertook an initial investigation into the company's affairs to establish whether there were any potential asset recoveries or conduct matters that justified further investigation, taking account of the public interest, potential recoveries, the amount of funds likely to be available to pay the costs of an investigation and the relevant costs involved.

There were no matters that justified further investigation in the circumstances of this appointment

Company Directors Disqualification Act 1986

In accordance with the provisions of the Company Directors Disqualification Act 1986, I confirm that I have fulfilled my statutory obligation and submitted a report on the conduct of the director of the company to the Secretary of State

Outstanding matter

The liquidation is substantially complete and I expect to be in a position to issue my report and to call final meetings of members and creditors within three months

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 liquidators' remuneration and expenses, within twenty one days of receipt of this report. Any secured creditor may request the same details within 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 liquidators' fees and the amount of any proposed expenses or expenses already incurred, within eight weeks of receipt of this report. Any secured creditor may make a similar application to court within the same time limit.

Please do not hesitate to contact me should you require any further information



P A Brooks
Joint Liquidator

Joint Liquidator

**ABOVE THE REST CLEANING SERVICES LIMITED
IN LIQUIDATION**

**LIQUIDATORS' RECEIPTS AND PAYMENTS ACCOUNT
FOR THE PERIOD 21 SEPTEMBER 2010 to 20 SEPTEMBER 2011**

	Statement of Affairs £	Actual £
RECEIPTS		
Trade debts	3,400	2,624
Plant, machinery and stock	890	890
VAT	-	156
	4,290	3,670
	=====	=====
 PAYMENTS		
		NIL
		=====
 Balance at 20 September 2011		£3,670
		=====

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

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

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

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

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

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

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

8 Provision of information – additional requirements

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

The information which must be provided is –

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

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

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

9 What if a creditor is dissatisfied?

9.1 Except in cases where there is a liquidation committee it is the creditors as a body who have authority to approve the liquidator's fees. To enable them to carry out this function they may require the liquidator to call a creditors' meeting. In order to do this at least ten per cent in value of the creditors must concur with the request, which must be made to the liquidator in writing

9.2 If a creditor believes that the liquidator's remuneration is too high, the basis is inappropriate, or the expenses incurred by the liquidator are in all the circumstances excessive he may provided certain conditions are met, apply to the court

9.3 Application may be made to the court by any secured creditor, or by any unsecured creditor provided at least 10 per cent in value of unsecured creditors (including himself) agree, or he has the permission of the court. Any such application must be made within 8 weeks of the applicant receiving the liquidator's progress report in which the charging of the remuneration or incurring of the expenses in question is first reported (see paragraph 7.1 above). If the court does not dismiss the application (which it may if it considers that insufficient cause is shown) the applicant must give the liquidator a copy of the application and supporting evidence at least 14 days before the hearing

9.4 If the court considers the application well founded, it may order that the remuneration be reduced the basis be changed, or the expenses be disallowed or repaid. Unless the court orders otherwise, the costs of the application must be paid by the applicant and not out of the assets of the insolvent company

10 What if the liquidator is dissatisfied?

If the liquidator considers that the remuneration fixed by the liquidation committee, or in the preceding administration, is insufficient or that the basis used to fix it is inappropriate he may request that the amount or rate be increased, or the basis changed, by resolution of the creditors. If he considers that the remuneration fixed by the liquidation committee, the creditors in the preceding administration or in accordance with the statutory scale is insufficient, or that the basis used to fix it is inappropriate, he may apply to the court for the amount or rate to be increased or the basis

changed. If he decides to apply to the court he must give at least 14 days' notice to the members of the committee and the committee may nominate one or more of its members to appear or be represented at the court hearing. If there is no committee, the liquidator's notice of his application must be sent to such of the creditors as the court may direct, and they may nominate one or more of their number to appear or be represented. The court may order the costs to be paid out of the assets

11 Other matters relating to remuneration

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

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

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

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

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

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

12 Effective date

This guide applies where a company –

- goes into liquidation on 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

Summary of the fees and disbursements charged by Blades Insolvency Services

In accordance with best practice, we are required to disclose to you our policy for recovering non-specific disbursements, and the charge-out rates for the various grades of staff who may be involved in this case

• Fees

Where a resolution is passed by the creditors, or the creditors' committee, that remuneration will be calculated by reference to time properly incurred by the Insolvency Practitioners and their staff in the administration of the insolvent estate, then time will be charged to the estate in units of 6 minutes at the following hourly rates -

Grade of Staff	Rate per Hour effective from 1 November 2011 £	Rate per Hour prior to 1 November 2011 £
Partner	260 00	240 00
Administrators	80 00 - 120 00	80 00 - 120 00
Assistants/Support Staff	70 00	60 00

These hourly rates are exclusive of Value Added Tax and subject to annual review

For reference the rate of remuneration chargeable by the Official Receiver calculated on the basis of 4 127(2)(a) Insolvency Rules 1986 is as follows -

The realisation scale:-

On the first £5,000 or fraction thereof	20	%
On the next £5,000 or fraction thereof	15	%
On the next £90,000 or fraction thereof	10	%
On all further sums realised	5	%

The distribution scale:-

On the first £5,000 or fraction thereof	10	%
On the next £5,000 or fraction thereof	7.5	%
On the next £90,000 or fraction thereof	5	%
On all further sums distributed	2.5	%

• Disbursements

Category 1 disbursements will be charged to the estate to recover the cost of the actual disbursement. Such disbursements will include insolvency bonds, swear fees, company searches, postal redirection, postage, statutory advertising and external room hire

It is proposed that Category 2 disbursements will be separately charged to the insolvent estate as an expense to recover the cost of the following disbursements incurred by our firm

Document Storage	Documents will be stored in banker's boxes and storage will be charged at the rate of £10 00 per box per annum. This rate includes the cost of transport and the eventual destruction of the records
Travel	Travel by car will be charged to the insolvent estate at the rate of 45 pence per mile
Room Hire	The charge for the use of a meeting room provided by the firm will be at a fixed rate of £75 00
Circulars	Circular letters will be charged at the rate of five pence per sheet to reflect the cost of stationery, photocopying and printing. The actual cost of postage will be separately charged to the estate. (No charge is made for individual letters relating to the administration of the insolvent estate)