

2.24B

The Insolvency Act 1986

Administrator's progress report

Name of Company

5 Star Windows & Conservatories Limited

Company number

04472514In the
Birmingham District Registry

(full name of court)

Court case number
8372 of 2012(a) Insert full
name(s) and
address(es) of
administrator(s)I/We (a)
Daniel Plant
S F P
9 Ensign House
Admirals Way
Marsh Wall
London
E14 9XQSimon Franklin Plant
S F P
9 Ensign House
Admirals Way
Marsh Wall
London
E14 9XQ

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

From

(b) 24 July 2012

To

(b) 23 January 2013

(b) Insert date

Signed


Joint / Administrator(s)

Dated

11/02/13**Contact Details.**

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

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

SFP
9 Ensign House
Admirals Way
Marsh Wall
Docklands
E14 9XQ

DX Number

020 7538 2222
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

TUESDAY



A28

12/02/2013

#59

COMPANIES HOUSE

Strictly Private and Confidential

5 Star Windows & Conservatories Limited (In Administration)

Report to Creditors

Simon Franklin Plant
MIPA FABRP

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1 Introduction

- 1.1** This report is prepared pursuant to Rule 2.47 of the Insolvency Rules 1986 ("the Rules") in relation to 5 Star Windows & Conservatories Limited (in Administration) (Co Number 04472415) ("the Company"). The Rules provide that a progress report is drafted every six months, commencing on the date that the company entered into Administration. Further, that the appointed Joint Administrators should send a copy of the report to, inter alia all creditors within one month of the end of the period covered by the report.
- 1.2** A report was previously circulated on 2 August 2012, enclosing the Joint Administrators' Report and Proposals ("the First Report"). This detailed progress up to 27 July 2012 and set out the Joint Administrators' proposals to creditors. A subsequent letter was circulated to creditors on 16 August 2012 providing Form 2.18, Notice of Deemed Approval of Proposals confirming that the Joint Administrators' Proposals were approved without modifications.
- 1.3** In view of the information that has already been imparted to the creditors, this Report simply provides an update as to the general progress of the Company's Administration since the First Report, to 23 January 2013. This Report also sets out certain additional information which must be provided to creditors, pursuant to the Rules.

2 General Background

- 2.1** On 20 July 2012, the Company held a board meeting at SFP's offices. At the meeting it was resolved that the Company could no longer meet its liabilities as and when they fell due. As a result the Company's director, Richard Manser ("Mr Manser") sought the appointment of Joint Administrators as soon as possible.
- 2.2** Mr Manser filed a Notice of Intention to Appoint an Administrator ("the Notice of Intention") at the Birmingham District Registry ("the Court") and subsequently served this upon the Company's qualifying floating charge holder, Lloyds TSB Bank Plc ("Lloyds"). The Notice of Intention was endorsed with the case number 8372 of 2012.
- 2.3** The prescribed notice period of five business days, within which the charge holders may take their own steps to appoint an administrator was waived by Lloyds who consented to the appointment on 23 July 2012.
- 2.4** Accordingly, on 24 July 2012, a Notice of Appointment of an Administrator by Directors of the Company was presented to the Court. Both Simon Franklin Plant and Daniel Plant were appointed Joint Administrators ("the Joint Administrators"). Pursuant to Schedule B1, Paragraph 100(2) of the Act, the Joint Administrators act jointly and severally.

3. Asset Realisations / Miscellaneous

Sale of Business and Assets

- 3.1** As detailed in the First Report, the possibility of continued trading whilst in Administration was determined not to be a viable option given the lack of available funding. Further, chattel asset valuers, Winterhill Asset Limited ("Winterhill") advised that given the need to conduct a sale of the
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Company's business and assets as expediently as possible in order to maintain goodwill, that a sale to existing management or a known third party represented the best opportunity to maximise realisations

- 3.2 In the light of this, discussions took place with the Company's sole director, Mr Manser who advised that he may be interested in making an offer for the business and assets
- 3.3 Following receipt of Winterhill's valuation during the afternoon of Tuesday, 24 July 2012, discussions were entered into with Mr Manser, together with his business advisor, on behalf of 5 Star Construction Services Limited ("SCS")
- 3.4 Negotiations commenced and SCS made an offer of £10,000 for the Company's business and assets. The offer was rejected as it was too low and SCS was encouraged to make an improved offer
- 3.5 After lengthy negotiations, the Joint Administrators elicited a final offer of £40,000, payable on a deferred basis. The deferred terms permitted payment of £5,000 upon completion, £10,000 to be paid on or before 31 August 2012 followed by 8 monthly payments of £3,125 from 30 September 2012 to 30 April 2013. Security was provided over the deferred payments by way of a personal guarantee from Mr Manser
- 3.6 The offer was discussed with Winterhill who advised that it was at an endorsable level and recommended its acceptance
- 3.7 The offer was subsequently accepted and solicitors, Clarke Willmott LLP ("Clarke Willmott") were instructed to draft a sale and purchase agreement. Following some minor amendments, the sale completed on 25 July 2012
- 3.8 To date, SCS is paying in line with the agreed terms and the Joint Administrators have received sale consideration of £27,500

Debtors

- 3.9 As previously stated, as at the date of the placing of the Company into Administration, its sales ledger was circa £47,000
 - 3.10 It was agreed that SCS would collect the outstanding debts on behalf of the Joint Administrators. An entity associated with the Joint Administrators' firm, SFP Recoveries Limited ("SFP Recoveries") was instructed to monitor the position on a weekly basis and to assist if necessary
 - 3.11 SFP Recoveries has advised that to date, £34,727.76 has been collected for the benefit of the estate. Further, that a final £400 is anticipated to be collected shortly following which the ledger will have been exhausted
 - 3.12 A further update will be provided in the Joint Administrators' final report
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The Company's Trading Premises

- 3.13 As previously detailed, it is understood that the Company traded from premises at Units 1&2 Tenants Work, Worcester Road, Worcestershire, DY10 1HY ("the Trading Premises) pursuant to a lease agreement which had terminated prior to the Joint Administrators' appointment. Further, that it owned the freehold to its showroom at Summerfield House Post Office, Stanklyn Lane, Summerfield, Kidderminster, DY11 1JR ("the Summerfield Premises")
- 3.14 An entity associated with the Joint Administrators' firm, SFP Property Limited ("SFP Property") was instructed to confirm the terms of the Company's occupancy at the Trading Premises and to deal with any formal agreement in place. Further, to value the freehold to the Summerfield Premises and to deal with the property accordingly
- 3.15 SFP Property has received written confirmation from the landlord of the Trading Premises that the Company has no interest in the property
- 3.16 SFP Property was unable to conduct a sale of the Summerfield Premises. Given that the property had no realisable equity, it subsequently provided Dudley Building Society and Lloyds, being chargeholders over the property, with an opportunity to appoint a Law of Property Act Receiver ("LPA Receiver") to deal with the property on their behalf
- 3.17 Given that the chargeholders failed to appoint an LPA Receiver, the Joint Administrators are currently considering their options in relation to the Summerfield Premises. A further update will be provided in the Joint Administrators' final report

4. Investigations

In accordance with the Joint Administrators' duties, investigations were made into the conduct of the Company's current and former directors by a company associated to the Joint Administrators, SFP Forensic Limited ("SFP Forensic"). The requisite D Form was submitted to the Insolvency Practitioners Compliance Unit ("IPCU") on 23 January 2013. All information contained in the D form is strictly confidential and the Joint Administrators are not permitted to divulge details of their recommendations to the IPCU.

5. Dividend Prospects

Preferential Creditors

- 5.1 As stated in the previous report, due to the sale of the business and assets as a going concern to SCS, all employees were transferred under the Transfer of Undertaking and Protection of Employment regulations. Therefore, it was anticipated that there would be no preferential claims in the Administration.
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Non-Preferential Claims

5.2 The non-preferential creditors' claims are summarised below

Creditor	Estimated Statement of Affairs £	Claims Received as at 23 January 2013 £
HM Revenue and Customs – VAT/PAYE/NIC	450,000 00	166,125 00
Conservatories Outlet Limited	51,072 00	91,645 00
Trade and Expense	191,972 00	298,872 00

5.3 Any potential dividend distribution to unsecured creditors is dependent upon realisations achieved from further recovery of the sale consideration and recoveries made from SFP Forensic's investigations. These would also be subject to any further associated costs. Based upon current realisations, it is uncertain whether or not there will be sufficient funds to pay a dividend to unsecured creditors.

6. The Joint Administrators' Costs

6.1 At Appendix I is the Company's Income and Expenditure Account as at 23 January 2013 compared to the estimated statement of affairs figures as at the date of the Joint Administrators' appointment. These are in the main self explanatory.

6.2 At Appendix II is a breakdown of the time that has been incurred by the Joint Administrators' firm to date, together with details of charge out rates / activity summaries. At Appendix VIII is a Guide to Administrator's Fees, being set out in Statement of Insolvency Practice 9. The Joint Administrators' fees have previously been authorised by the creditors.

6.3 Within 21 days of receipt of a progress report a creditor may request the Administrator to provide further information about the remuneration and expenses set out in the report. A request must be in writing and may be made by either a secured creditor, or by an unsecured creditor with the concurrence of at least 5% in value of unsecured creditors or the permission of the court.

6.4 In accordance with Rule 2.109 of the Rules, any secured creditor, or any unsecured creditor with the concurrence of at least 10% in value of the unsecured creditors, or with the permission of the Court, may apply to the Court on the grounds that the remuneration or other expenses are excessive. Any such application must be made no later than 8 weeks after receipt of this report.

6.5 The First Report detailed the position in relation to disbursements and certain types of expenditure. To ensure that creditors are aware of how this operates, this Report reiterates the position. Disbursements and specific expenditure relating to the administration of an insolvent estate and payable to an independent third party are recoverable without creditor approval. Such expenditure is made, if funds are available from the insolvent estate. If funds are not available the payment is made from the Joint Administrators' firm's office account which is reimbursed from the insolvent estate if and when funds become available.

- 6.6** Payments made out of a firm's office account and re-charged to an insolvent estate are defined as 'Category 1 Disbursements'. This disbursement is explained further under the Expenses and Disbursements heading in the Guide to Administrator's fees, at **Appendix VIII**. The Joint Administrators have incurred the following Category 1 Disbursements to date:

Expenses	£	921 58
Bordereau	£	180 00
Land Registry Search	£	28 00
Company Search	£	28 00
Miscellaneous	£	5 00

The Joint Administrators have incurred, but not recharged the following Category 1 Disbursements to date:

Company Search	£	1 00
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- 6.7** Expenditure incidental to the administration of the insolvent case, which by its nature includes an element of shared or allocated costs, are recoverable with creditor approval. These payments are defined as 'Category 2 Disbursements' and, once again, this disbursement is explained further in the Guide to Administrator's fees, at **Appendix VIII**. The Joint Administrators have incurred the following Category 2 Disbursements to date:

Postage	£	144 24
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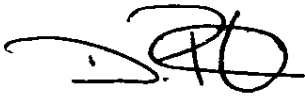
As detailed in the First Report, SFP Recoveries, SFP Property, SFP Forensic and SFP Datastore Limited's ("SFP Datastore") remuneration will be treated as a Category 2 Disbursement. Each of the associated entities may incur disbursements in carrying out its function. To date, SFP Datastore and SFP Property have incurred disbursements amounting to £1,595 69 and £27 30, respectively. These disbursements have not been recovered. Creditors have previously provided sanction to recover disbursements of this type.

- 6.8** At **Appendix III** is a breakdown of the time that has been incurred by SFP Forensic to date.
- 6.9** At **Appendix IV** is a breakdown of the time that has been incurred by SFP Recoveries to date.
- 6.10** At **Appendix V** is a breakdown of the time that has been incurred by SFP Property to date.
- 6.11** At **Appendix VI** is a breakdown of the time that has been incurred by SFP Datastore to date, together with details of disbursements. Details concerning SFP Datastore are set out in paragraph **6.13**.
- 6.12** At **Appendix VII** is a breakdown of SFP and its associated entities' charge out rates.
- 6.13** The fees incurred by Winterhill, SFP Recoveries, SFP Forensic, SFP Property and Clarke Willmott are calculated on a time cost basis. SFP Datastore has been employed by the Joint Administrators to store the Company's books and records as well as providing security services (where appropriate). Its fees for storage and security services are both on a fixed fee basis and on a time cost basis for any additional work carried out.
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7. Additional Points and Conclusion

- 7.1 Should any creditor have any questions or queries in relation to the above, please contact either the Senior Administrator dealing with this matter, Richard Hunt or the Joint Administrator on 020 7538 2222

Dated this 11th day of February 2013

A handwritten signature in black ink, appearing to be 'D. Plant', with a stylized flourish at the end.

**Daniel Plant
Joint Administrator**

5 Star Windows & Conservatories Limited (in Administration)

Report to Creditors

APPENDIX I

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

5 Star Windows & Conservatories Limited
(In Administration)

INCOME AND EXPENDITURE ACCOUNT

	Statement of affairs £	From 24/07/2012 To 23/01/2013 £
RECEIPTS		
Sale of Business & Assets	40,000 00	27,500 00
Book Debts	30,000 00	34,727 76
Insurance Refund		712 84
Petty Cash		5 44
Rent		3,840 00
Bank Interest Gross		1 13
TOTAL RECEIPTS		66,787 17
PAYMENTS		
SFP Forensic Fees		3,000 00
Joint Administrator's Remuneration		42,820 00
Joint Administrator's CAT 1 Disb		1,162 58
Joint Administrator's CAT 2 Disb		144 24
Agents/Valuers Fees		5,500 00
Agents/Valuers Disbursements		116 01
Legal Fees		3,070 00
Legal Disbursements		35 00
Statutory Advertising		176 62
Other Property Expenses		232 00
Insurance of Assets		1,046 75
TOTAL PAYMENTS		57,303 20
BALANCE AT HAND		9,483 97
Cash at Bank		8,883 96
VAT Control Account		600 01
BALANCE AT HAND		9,483.97

5 Star Windows & Conservatories Limited (in Administration)

Report to Creditors

APPENDIX II

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

SFP



5 STAR WINDOWS & CONSERVATORIES LIMITED (IN ADMINISTRATION)

SUMMARY OF TIME AND CHARGE OUT RATES FOR THE PERIOD 24 JULY 2012 TO 23 JANUARY 2013

CLASSIFICATION OF WORK FUNCTION	Managing Partner	Partner		Senior Manager		Manager	Senior Administrator		Administrator	Assistant	Total	
Administration and Planning	0 00	5 30	0 00	0 00	51 80	6 80	0 00	28 70	2 40	57 70	34 10	186 80
Investigation	0 00	0 00	0 00	0 00	0 00	0 00	0 00	0 00	0 00	0 00	0 00	0 00
Realisation of assets	0 00	3 70	0 00	0 00	2 80	1 00	0 00	0 80	0 00	0 20	0 00	8 50
Trading	0 00	2 80	0 00	0 00	0 00	0 00	0 00	0 00	0 00	0 00	0 00	2 80
Creditors	0 00	0 00	0 00	0 00	0 60	4 10	7 30	1 60	0 00	5 20	10 30	29 10
Total	0 00	11 80	0 00	0 00	55 20	11 90	7 30	31 10	2 40	63 10	44 40	227 20
Average rate £ per hour	0 00	450 00	0 00	0 00	300 00	275 00	250 00	225 00	175 00	150 00	100 00	212 54
Total Costs £	0 00	5,310 00	0 00	0 00	16,560 00	3,272 50	1,825 00	6,997 50	420 00	9,465 00	4,440 00	48,290 00
Remuneration drawn on account												42,820 00

See Appendix for Summary Charge Out Rates for staff

SIP 9 STANDARD ACTIVITY SUMMARIES

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

5 Star Windows & Conservatories Limited (in Administration)

Report to Creditors

APPENDIX III

- **Breakdown of SFP Forensic Limited Fees**

SFP



FORENSIC



5 STAR WINDOWS & CONSERVATORIES LIMITED (IN ADMINISTRATION)

SUMMARY OF TIME AND CHARGE OUT RATES FOR THE PERIOD 24 JULY 2012 TO 23 JANUARY 2013

CLASSIFICATION OF WORK FUNCTION	Managing Director	Director	Senior Manager	Manager	Senior Administrator	Administrator	Assistant	Total
Administration and Planning	0 00	0 00	0 00	0 00	0 00	0 00	0 10	1 10
Investigation	21 50	0 00	0 00	0 00	0 50	29 20	16 30	70 30
Realisation of assets	0 00	0 00	0 00	0 00	0 00	0 00	0 00	0 00
Trading	0 00	0 00	0 00	0 00	0 00	0 00	0 00	0 00
Creditors	0 00	0 00	0 00	0 00	0 00	0 00	0 00	0 00
Total	21 50	0 00	0 00	0 00	0 50	30 10	16 40	71 40
Average rate £ per hour	500 00	0 00	0 00	0 00	275 00	150 00	100 00	248 84
Total Costs £	10,750 00	0 00	0 00	0 00	137 50	4,515 00	1,640 00	17,767 50
Remuneration drawn on account								3,000 00

See Appendix for Summary Charge Out Rates for staff

5 Star Windows & Conservatories Limited (in Administration)

Report to Creditors

APPENDIX IV

- **Breakdown of SFP Recoveries Limited Fees**

SFP



RECOVERIES

5 STAR WINDOWS & CONSERVATORIES LIMITED (IN ADMINISTRATION)

SUMMARY OF TIME AND CHARGE OUT RATES FOR THE PERIOD 24 JULY 2012 TO 23 JANUARY 2013

CLASSIFICATION OF WORK FUNCTION	Managing Director	Director	Senior Manager		Manager		Senior Administrator		Administrator		Assistant	Total
Administration and Planning	0 00	0 00	0 00	0 00	0 00	0 00	0 60	0 80	0 00	0 00	0 00	1 40
Investigation	0 00	0 00	0 00	0 00	0 00	0 00	0 00	0 00	0 00	0 00	0 00	0 00
Realisation of assets	0 00	0 00	0 00	0 00	0 00	0 00	8 10	4 40	59 70	4 40	0 00	79 40
Trading	0 00	0 00	0 00	0 00	0 00	0 00	0 00	0 00	0 00	0 00	0 00	0 00
Creditors	0 00	0 00	0 00	0 00	0 00	0 00	0 00	0 00	0 00	0 00	0 00	0 00
Total	0 00	0 00	0 00	0 00	0 00	0 00	8 70	5 20	59 70	4 40	0 00	80 80
Average rate £ per hour	0 00	0 00	0 00	0 00	0 00	0 00	250 00	225 00	175 00	150 00	0 00	188 40
Total Costs £	0 00	0 00	0 00	0 00	0 00	0 00	2,175 00	1,170 00	10,447 50	660 00	0 00	15,222 50
Remuneration drawn on account												0 00

See Appendix for Summary Charge Out Rates for staff

5 Star Windows & Conservatories Limited (in Administration)

Report to Creditors

APPENDIX V

- **Breakdown of SFP Property Limited Fees**

SFP



PROPERTY



5 STAR WINDOWS & CONSERVATORIES LIMITED (IN ADMINISTRATION)

SUMMARY OF TIME AND CHARGE OUT RATES FOR THE PERIOD 24 JULY 2012 TO 23 JANUARY 2013

CLASSIFICATION OF WORK FUNCTION	Managing Director	Director	Senior Manager	Manager	Senior Administrator	Administrator	Assistant	Total
Administration and Planning	0 00	0 00	0 00	0 00	0 10	0 00	14 10	14 20
Investigation	0 00	0 00	0 00	0 00	0 00	0 00	0 00	0 00
Realisation of assets	30 90	0 00	0 00	0 00	13 70	0 00	5 20	95 50
Trading	0 00	0 00	0 00	0 00	0 00	0 00	0 00	0 00
Creditors	0 00	0 00	0 00	0 00	0 00	0 00	0 00	0 00
Total	30 90	0 00	0 00	0 00	13 80	0 00	19 30	109 70
Average rate £ per hour	350 00	0 00	0 00	0 00	200 00	0 00	100 00	189 25
Total Costs £	10,815 00	0 00	0 00	0 00	2,760 00	0 00	1,930 00	20,760 50
Remuneration drawn on account								0 00

See Appendix for Summary Charge Out Rates for staff

5 Star Windows & Conservatories Limited (in Administration)

Report to Creditors

APPENDIX VI

- **Breakdown of SFP Datastore Limited Fees**

SFP



DATASTORE

5 STAR WINDOWS & CONSERVATORIES LIMITED (IN ADMINISTRATION)

SUMMARY OF TIME AND CHARGE OUT RATES FOR THE PERIOD 24 JULY 2012 TO 23 JANUARY 2013

CLASSIFICATION OF WORK/FUNCTION		Managing Director	Director	Senior Manager	Manager	Senior Administrator	Administrator	Assistant	Total
Administration and Planning		13 40	0 00	0 00	0 00	0 00	0 00	14 60	28 00
Investigation		0 00	0 00	0 00	0 00	0 00	0 00	0 00	0 00
Realisation of assets		0 00	0 00	0 00	0 00	0 00	0 00	0 00	0 00
Trading		0 00	0 00	0 00	0 00	0 00	0 00	0 00	2 20
Creditors		0 00	0 00	0 00	0 00	0 00	0 00	0 00	0 00
Total		13 40	0 00	0 00	0 00	0 00	0 00	14 60	30 20
Average rate £ per hour		75 00	0 00	0 00	0 00	0 00	0 00	25 00	46 71
Total Costs £		1,005 00	0 00	0 00	0 00	0 00	0 00	365 00	1,410 70
Remuneration drawn on account									0 00

See Appendix for Summary Charge Out Rates for staff

5 Star Windows & Conservatories Limited (in Administration)

Report to Creditors

APPENDIX VII

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

SFP



Charge out Rates for SFP main practice and associated entities

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

Main Practice			SFP Forensic Limited			SFP Property Limited			SFP Recoveries Limited		
Grade		Rate p/hr	Grade		Rate p/hr	Grade		Rate p/hr	Grade		Rate p/hr
Managing Partner		500	Managing Director		500	Managing Director		350	Managing Director		500
Partner 2		450	Senior Manager 2		350	Senior Manager 2		275	Senior Manager 2		350
Partner 1		400	Senior Manager 1		325	Senior Manager 1		250	Senior Manager 1		325
Senior Manager 2		350	Manager 2		300	Manager 2		225	Manager 2		300
Senior Manager 1		325	Manager 1		275	Manager 1		200	Manager 1		275
Manager 2		300	Senior Administrator 2		250	Senior Administrator 2		175	Senior Administrator 2		250
Manager 1		275	Senior Administrator 1		225	Senior Administrator 1		155	Senior Administrator 1		225
Senior Administrator 2		250	Administrator 2		175	Administrator 2		135	Administrator 2		175
Senior Administrator 1		225	Administrator 1		150	Administrator 1		115	Administrator 1		150
Administrator 2		175	Assistant		100	Assistant		100	Assistant		100
Administrator 1		150									
Assistant		100									

SFP Datastore Limited			Supporting Services		
Grade		Rate p/hr			
Storage Tasks (Retrieval and collection)			Hire of Security Personnel		£18.50 per hour
Staff costs	25		Mileage		£1.10 per mile
			Chauffeur Services		£1.35 per mile (£50 minimum)
Inventorying and Additional					
Staff Costs	75				

5 Star Windows & Conservatories Limited (in Administration)

Report to Creditors

APPENDIX VIII

- **Guide to Administrators Fees**

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, explain the basis on which fees are fixed and how creditors can seek information about expenses incurred by the administrator and challenge those they consider to be excessive.

2 The nature of administration

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

- 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 2.108 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 2.109 says that in arriving at its decision the committee shall have regard to the following matters:

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

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

7 What information should be provided by the administrator?

7.1 When seeking remuneration approval

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

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

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

- 7.1.3 Where the administrator seeks agreement to his fees during the course of the administration, he should always provide an up to date receipts and payments account. Where the proposed fee is based on time costs the administrator should disclose to the committee or the creditors the time spent and the charge-out value in the particular case together with, where appropriate, such additional information as may reasonably be required having regard to the size and complexity of the case. The additional information should comprise a sufficient explanation of what the administrator has achieved and how it was achieved to enable the value of the exercise to be assessed (whilst recognising that the administrator 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 administrator to provide an analysis of the time spent on the case by type of activity and grade of staff. The degree of detail will depend on the circumstances of the case but it will be helpful to be aware of the professional guidance which has been given to insolvency practitioners on the subject. The guidance suggests the following areas of activity as a basis for the analysis of time spent:

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

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

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

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

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- 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.

8 Approval of pre-administration costs

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

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

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- Any significant aspects of the case, particularly those that affect the amount of time spent.
- The reasons for subsequent changes in strategy.
- Any comments on any figures in the summary of time spent accompanying the request the administrator wishes to make.
- The steps taken to establish the views of creditors, particularly in relation to agreeing the strategy for the assignment, budgeting, time recording, fee drawing or fee agreement.
- Any existing 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 renew 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.

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

7.2 After remuneration approval

Where a resolution fixing the basis of fee is passed at any creditors' meeting held before he has substantially completed his functions, the administrator should notify the creditors of the details of the resolution in his next report or circular to them. In all subsequent reports to creditors the administrator should specify the amount of remuneration he has drawn in accordance with the resolution (see further paragraph 8.1 below). Where the fee is based on time costs he should also provide details of the time spent and charge-out value to date and any material changes in the rates charged for the various grades since the resolution was first passed. He should also provide such additional information as may be required in accordance with the principles set out in paragraph 7.1.3. Where the fee is charged on a percentage basis the administrator should provide the details set out in paragraph 7.1.4 above regarding work which has been sub-contracted out.

7.3 Disbursements and other expenses

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

8 Progress reports and requests for further information

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

- details of the basis fixed for the remuneration of the administrator (or if not fixed at the date of the report, the steps taken during the period of the report to fix it);
- if the basis has been fixed, the remuneration charged during the period of the report, irrespective of whether it was actually paid during that period (except where it is fixed as a set amount, in which case it may be shown as that amount without any apportionment for the period of the report);
- if the report is the first to be made after the basis has been fixed, the remuneration charged during the period 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.

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- 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 each of the company's creditors as the court may direct, and they may nominate one or more of their number to appear or be represented. The court may order the costs to be paid as an expense of the administration

12 Other matters relating to remuneration

12.1 Where there are joint administrators it is for them to agree between themselves how the remuneration payable should be apportioned. Any dispute arising between them may be referred to the court, the creditors' committee or a meeting of creditors

12.2 If the administrator is a solicitor and employs his own firm to act on behalf of the company profit costs may not be paid unless authorised by the creditors' committee, the creditors or the court.

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

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

13 Effective date

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

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

5 Star Windows & Conservatories Limited (in Administration)

Report to Creditors

APPENDIX IX

- **Category 2 Disbursement Summary Charge Sheet**



DIRECT EXPENSES (Category 1 Disbursements)

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

INDIRECT EXPENSES (Category 2 Disbursements)

It is normal practice to also charge the following indirect disbursements (Category 2 Disbursements, as defined by SIP 9) to the case, where appropriate. These costs are as follows:

Stationery / Photocopying	Cost Per Page / Envelope
* 1 page of headed paper	0.12
* 1 page of continuation paper	0.10
* 1 page of photocopying paper	0.02
* Envelopes (all sizes)	0.10

Postage	Postage Rate
Postage – 1 st class (small)	0.32
Postage – 1 st class (large)	0.44
Postage – 2 nd class (small)	0.22
Postage – 2 nd class (large)	0.36

Travel

Mileage incurred as a result of necessary travel is charged at the H M Revenue & Customs approved rate of 45p per mile.

Please note that sanction has been obtained to treat the fees of SFP Forensic Limited, SFP Property Limited, SFP Recoveries Limited and SFP Datastore Limited as Category 2 Disbursements.