

2.24B

The Insolvency Act 1986

Administrator's progress report

Name of Company 5 Star Windows & Conservatories Limited

Company number 04472514

In 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 9XQ

Simon 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

(b) Insert date

From	To
(b) 23 January 2013	

(b) 21 June 2013

Signed


 Joint / Administrator(s)

Dated

28/6/13

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

WEDNESDAY



A2CSNS0H

A19

17/07/2013

#75

COMPANIES HOUSE

Strictly Private and Confidential

5 Star Windows & Conservatories Limited (In Administration)

Progress Report to Creditors

Simon Franklin Plant
MIPA FABRP

Daniel Plant
MIPA FABRP

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

Tel: +44 (207) 5382222
Fax: +44 (207) 5383322
Email: simonp@sfpgroup.com
danielp@sfpgroup.com

This report has been written and presented for the sole purpose of complying with the relevant provisions of the Insolvency Act 1986 and the Enterprise Act 2002. It may not be disclosed, disseminated or copied without our prior written permission, other than to those entitled under statute or otherwise as ordered by the Court, and no liability will be accepted to any other person or party who acts or refrains from acting on its contents.

CONTENTS

- 1 Introduction
- 2 Asset Realisations
- 3 Investigations
- 4 Dividend Prospects
- 5 The Joint Administrators' Costs
- 6 Additional Points and Conclusion

APPENDICES

- I Income and Expenditure Account / Comparison to Estimated Statement of Affairs
 - II Breakdown of Joint Administrators' Fees / Activity Codes
 - III Breakdown of SFP Forensic Limited Fees
 - IV Breakdown of SFP Recoveries Limited Fees
 - V Breakdown of SFP Property Limited Fees
 - VI Breakdown of SFP Datastore Limited Fees
 - VII SFP and Associated Entity Charge Out Rates
 - VIII Guide to Administrators' Fees
 - IX Category 2 Disbursement Summary Charge Sheet
-

1. Introduction

- 1.1 This Report is prepared pursuant to Rule 2.112 of the Insolvency Rules 1986 (as amended) ("the Rules") in relation to 5 Star Windows & Conservatories Limited (in Administration) (Co Number 04472514) ("the Company") in the Birmingham District Registry case number 8372 of 2012. This provides that when the Joint Administrators of a company request an extension of the period of the Administration by consent of creditors, their request shall be accompanied by a progress report for the period since the last progress report.
- 1.2 To date, creditors have received the Joint Administrators' Report and Proposals circulated to creditors on 2 August 2012 ("the First Report") and a six monthly update on 11 February 2013 ("the Second Report"). In the light of the information contained in these previous reports, this Report simply provides an additional update.
- 1.3 In accordance with the Insolvency Act 1986, where an Administrator has made a statement under paragraph 52(1)(b), consent must be obtained from each of the secured creditors to extend the Administration.
- 1.4 Following the First Report, the Joint Administrators' proposals were approved. The Joint Administrators are now seeking consent from each of the Company's secured creditors to extend the period of the Administration to 23 January 2014. The purpose of the extension is to provide sufficient time for the Company's freehold to be sold, administer surplus funds and to conclude investigations into the Company's affairs.

2 Asset Realisations / Miscellaneous

Sale of Business and Assets

- 2.1 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 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.
- 2.2 In the light of this, discussions took place with the Company's director, Richard Manser ("Mr Manser") who advised that he may be interested in making an offer for the business and assets.
- 2.3 Following receipt of Winterhill's valuation, discussions were entered into with Mr Manser, who advised that an associated company, 5 Star Construction Services Limited ("SCS") could be used as a purchasing vehicle.
- 2.4 Following protracted negotiations with SCS, the Joint Administrators elicited a final offer of £40,000, payable on a deferred basis. Security was provided over the deferred payments by way of a personal guarantee from Mr Manser.
-

- 2.5 The offer was discussed with Winterhill who advised that it was at an endorsable level and recommended its acceptance
- 2.6 The offer was subsequently accepted and solicitors, Clarke Willmott LLP ("Clarke Willmott") were instructed to draft a sale and purchase agreement. The sale completed on 25 July 2012 and the sale consideration of £40,000 has been received in full

Debtors

- 2.7 As detailed in the First Report, as at the date of the placing of the Company into Administration, its sales ledger was circa £47,000
- 2.8 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
- 2.9 SFP Recoveries has advised that to date, £35,128 has been collected for the benefit of the estate. The remaining sales ledger has been written off due to valid disputes, insolvency regimes, deficient books and records and payments made pre-appointment. Accordingly, SFP Recoveries has closed its files in this matter

The Company's Trading Premises

- 2.10 As detailed in the First Report, 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
- 2.11 The Company also traded from Summerfield House Post Office, Stanklyn Lane, Summerfield, Kidderminster, DY11 1JR ("the Summerfield Premises"), where it owned the freehold interest subject to outstanding mortgages
- 2.12 An entity associated with the Joint Administrators' firm, SFP Property Limited ("SFP Property") was instructed to provide assistance in dealing with both properties
- 2.13 SFP Property established that the lease held no value and has since received written confirmation from the landlord of the Trading Premises that the Company has no further interest
- 2.14 In relation to the freehold, SFP Property has concluded that there is no realisable value for the benefit of the Administration. Subsequently, Dudley Building Society ("DBS") became mortgagee in possession
- 2.15 Confirmation of the order of payment for the applicable charge holders is in the process of being established, and further information concerning the impact of the order is detailed at **section 4.2**

3 Investigations

- 3.1 In accordance with the Joint Administrators' duties, investigations are being made into the conduct of the Company's current directors by 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.

- 3.2 SFP Forensic's investigations are ongoing and a further update in respect of this matter will be provided in the Joint Administrators' final report.

4. Dividend Prospects / Payments

Fixed Charge Payments

- 4.1 The Joint Administrators have been advised by Winterhill that from the sale of business and asset proceeds, an apportionment should be made for the intangible assets (including goodwill).
- 4.2 Depending upon the fixed charge holders' order of priority, the amount received following a sale of the Summerfield Premises freehold and the level of any additional costs incurred, it is anticipated that a fixed charge distribution will be undertaken.

Preferential Creditors

- 4.3 It is anticipated that there would not be any preferential claims in respect of outstanding arrears of wages or holiday pay, given that all employees of the Company transferred to SCS pursuant to the Transfer of Undertakings (Protection of Employment) Regulations 2006.
- 4.4 The Joint Administrators have not received any preferential claims.

Non-Preferential Claims

- 4.5 The non-preferential creditors' claims are summarised below:

Creditor	Estimated Statement of Affairs £	Claims Received as at 21 June 2013 £
HM Revenue and Customs – VAT	Combined	77,079
HM Revenue and Customs – PAYE / NIC	450,000	94,083
Conservatories Outlet Limited	51,072	91,645
Trade and Expense	191,972	103,724

- 4.6 The quantum of any dividend distribution to unsecured creditors is dependent upon realisations achieved from any recoveries made from SFP Forensic's investigations. These would also be subject to any further associated costs.

5. The Joint Administrators' Costs

- 5.1 At **Appendix I** is the Company's Income and Expenditure Account as at 21 June 2013. This is in the main self-explanatory.

- 5.2 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, charged by reference to the time properly given by the Joint Administrators and their staff in attending to matters arising in the Administration, have previously been authorised. Time costs during the period since the Second Report total £8,930 and for the Administration as a whole total £57,220, of which £42,820 has been drawn from the insolvency estate. In addition, as explained in the First Report, pre-Administration costs of £4,490 were incurred and the Joint Administrators received approval to draw these costs in full on 14 August 2012. However, these remain unrecovered.
- 5.3 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.
- 5.4 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.
- 5.5 At **Appendix III** is a breakdown of the time that has been incurred by SFP Forensic to date.
- 5.6 At **Appendix IV** is a breakdown of the time that has been incurred by SFP Recoveries to date.
- 5.7 At **Appendix V** is a breakdown of the time that has been incurred by SFP Property to date.
- 5.8 At **Appendix VI** is a breakdown of the time that has been incurred by SFP Datastore Limited ("SFP Datastore") to date. Details concerning SFP Datastore can be found at **paragraph 5.14**.
- 5.9 At **Appendix VII** is a breakdown of SFP and its associated entities' charge out rates.
- 5.10 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.
- 5.11 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 Administrators' fees, at **Appendix VIII**. The following Category 1 Disbursements have been incurred to date, of which £1,162.58 have been recovered:

Company Search	£	29.00
Land Registry Search	£	48.00
Bordereau	£	180.00

Expenses £ 926 58

- 5.12 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 Administrators' fees, at **Appendix VIII**. The following Category 2 Disbursements have been incurred to date, of which £144 24 have been recovered:

Postage £ 187 36

As detailed in the First Report, SFP Forensic, SFP Recoveries, SFP Property and SFP Datastore's 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 Property and SFP Datastore have incurred disbursements amounting to £27 and £1,602, respectively. SFP Property has recovered disbursements of £27 30. Creditors have previously provided sanction to recover disbursements of this type.

- 5.13 At **Appendix IX**, is a summary of Category 1 and Category 2 Disbursements, detailing the rates of the latter.
- 5.14 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.

6. Additional Points and Conclusion

- 6.1 Should any creditor have any questions or queries in relation to the above, please contact the Senior Administrator dealing with this matter, Michael Ginty on 020 7538 2222.

Dated this 28th day of June 2013


Daniel Plant
Joint Administrator

5 Star Windows and 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 £	From 24/01/2013 To 21/06/2013 £	From 24/07/2012 To 21/06/2013 £
RECEIPTS				
Sale of Business & Assets	40,000 00	27,500 00	12,500 00	40,000 00
Book Debts	30,000 00	34,727 76	400 00	35,127 76
Insurance Refund		712 84	600 10	1,312 94
Petty Cash		5 44	-	5 44
Rent		3,840 00	-	3,840 00
Bank Interest Gross		1 13	2 47	3 60
TOTAL RECEIPTS		<u>66,787 17</u>	<u>13,502 57</u>	<u>80,289 74</u>
PAYMENTS				
SFP Forensic Limited Fees		3,000 00	-	3,000 00
Joint Administrators' Remuneration		42,820 00	-	42,820 00
Joint Administrators' CAT 1 Disbursements		1,162 58	-	1,162 58
Joint Administrators' CAT 2 Disbursements		144 24	-	144 24
SFP Property Limited Fees		-	4,970 20	4,970 20
SFP Property Limited Disbursements		-	27 30	27 30
Agents/Valuers Fees		5,500 00	-	5,500 00
Agents/Valuers Disbursements		116 01	-	116 01
Legal Fees		3,070 00	-	3,070 00
Legal Disbursements		35 00	-	35 00
Statutory Advertising		176 62	-	176 62
Other Property Expenses		232 00	-	232 00
Insurance of Assets		1,046 75	760 55	1,807 30
TOTAL PAYMENTS		<u>57,303 20</u>	<u>5,758 05</u>	<u>63,061 25</u>
BALANCE AT HAND				17,228 49
Estate Account				17,228 49
BALANCE AT HAND				17,228 49

5 Star Windows and 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 JANUARY 2013 TO 21 JUNE 2013

CLASSIFICATION OF WORK FUNCTION	Director	Senior Manager	Manager	Senior Administrator	Administrator	Assistant	Total
Administration and Planning	0 00	0 00	2 10	24 70	3 20	1 10	40 20
Investigation	0 00	0 00	0 00	0 00	0 00	0 00	0 00
Realisation of assets	0 00	0 00	0 00	1 10	0 00	0 00	1 80
Trading	0 00	0 00	0 00	0 00	0 00	0 00	0 00
Creditors	0 00	0 00	0 00	1 00	0 00	0 60	1 70
Total	0 00	0 00	2 10	26 80	3 20	1 20	43 70
Average rate £ per hour	0 00	0 00	300 00	225 00	175 00	150 00	204 35
Total Costs £	0 00	0 00	630 00	6,030 00	560 00	180 00	8,930 00
Total costs from 24/07/2012 to 23/01/2013							48,290 00
Total costs from 24/07/2012 to 21/06/2013							57,220 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 and 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 JANUARY 2013 TO 21 JUNE 2013

CLASSIFICATION OF WORK FUNCTION	Managing Director	Director	Senior Manager	Manager	Senior Administrator	Administrator	Assistant	Total
Administration and Planning	0.30	0.00	0.00	0.00	0.00	0.00	1.10	1.70
Investigation	2.50	0.00	0.00	0.00	0.00	0.00	6.30	12.00
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	0.00
Creditors	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Total	2.80	0.00	0.00	0.00	0.50	0.00	7.40	13.70
Average rate £ per hour	500.00	0.00	0.00	0.00	250.00	0.00	150.00	214.23
Total Costs £	1,400.00	0.00	0.00	0.00	125.00	0.00	1,110.00	2,935.00
Total costs from 24/07/2012 to 23/01/2013								17,767.50
Total costs from 24/07/2012 to 21/06/2013								20,702.50
Remuneration drawn on account								3,000.00

See Appendix for Summary Charge Out Rates for staff

5 Star Windows and 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 JANUARY 2013 TO 21 JUNE 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 00	0 00	0 00	0 00	0 00	0 00
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	1 00	0 00	0 00	0 00	0 00	1 00
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	1 00	0 00	0 00	0 00	0 00	1 00
Average rate £ per hour	0 00	0 00	0 00	0 00	0 00	0 00	250.00	0 00	0 00	0 00	0 00	250 00
Total Costs £	0 00	0 00	0 00	0 00	0 00	0 00	250 00	0 00	0 00	0 00	0 00	250.00
Total costs from 24/07/2012 to 23/01/2013												15,222 50
Total costs from 24/07/2012 to 21/06/2013												15,472 50
Remuneration drawn on account												0 00

See Appendix for Summary Charge Out Rates for staff

5 Star Windows and 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 JANUARY 2013 TO 21 JUNE 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 40	0 40
Investigation	0 00	0 00	0 00	0 00	0 00	0 00	0 00	0 00
Realisation of assets	7 50	0 00	0 00	0 00	0 00	0 00	4 80	18 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	7 50	0 00	0 00	0 00	0 00	0 00	5 20	18 90
Average rate £ per hour	350 00	0 00	0 00	0 00	0 00	0 00	100 00	217 62
Total Costs £	2,625 00	0 00	0 00	0 00	0 00	0 00	520 00	4,113 00
Total costs from 24/07/2012 to 23/01/2013								20,760 50
Total costs from 24/07/2012 to 21/06/2013								24,873 50
Remuneration drawn on account								4,970.20

See Appendix for Summary Charge Out Rates for staff

5 Star Windows and 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 JANUARY 2013 TO 21 JUNE 2013

CLASSIFICATION OF WORK FUNCTION	Managing Director	Director	Senior Manager	Manager	Senior Administrator	Administrator	Assistant	Total
Administration and Planning	0 10	0 00	0 00	0 00	0 00	0 00	0 00	0 10
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	0 00
Creditors	0 00	0 00	0 00	0 00	0 00	0 00	0 00	0 00
Total	0 10	0 00	0 00	0 00	0 00	0 00	0 00	0 10
Average rate £ per hour	75 00	0 00	0 00	0 00	0 00	0 00	0 00	75 00
Total Costs £	7 50	0 00	0 00	0 00	0 00	0 00	0 00	7 50
Total costs from 24/07/2012 to 23/01/2013								1,410 70
Total costs from 24/07/2012 to 21/06/2013								1,418 20
Remuneration drawn on account								0 00

See Appendix for Summary Charge Out Rates for staff

5 Star Windows and Conservatories Limited (in Administration)

Report to Creditors

APPENDIX VII

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

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	
Director 2	500		Managing Director	500		Managing Director	350		Managing Director	500	
Director 1	450		Senior Manager 2	350		Senior Manager 2	275		Senior Manager 2	350	
Senior Manager 2	350		Senior Manager 1	325		Senior Manager 1	250		Senior Manager 1	325	
Senior Manager 1	325		Manager 2	300		Manager 2	225		Manager 2	300	
Manager 2	300		Manager 1	275		Manager 1	200		Manager 1	275	
Manager 1	275		Senior Administrator 2	250		Senior Administrator 2	175		Senior Administrator 2	250	
Senior Administrator 2	250		Senior Administrator 1	225		Senior Administrator 1	155		Senior Administrator 1	225	
Senior Administrator 1	225		Administrator 2	175		Administrator 2	135		Administrator 2	175	
Administrator 2	175		Administrator 1	150		Administrator 1	115		Administrator 1	150	
Administrator 1	150		Assistant	100		Assistant	100		Assistant	100	
Assistant	100										

SFP Datastore Limited			Supporting Services		
Grade	Rate p/hr				
Storage Tasks (Retrieval and collection)	25		Hire of Security Personnel	£18 50 per hour	
Staff costs			Mileage	£1 10 per mile	
Inventorising and Additional	75		Chauffeur Services	£1 35 per mile (£50 minimum)	
Staff Costs					

SFP



A minimum period of 2 years' storage is charged up front in respect of all Administration appointments at a rate of £20.80 per box held. In addition, a destruction charge of £9 per box is also charged up front.

The minimum charge is based on the assumption that the Administration will continue for a period of one year, plus the requirement to then hold records for a further period of one year once the Company has been dissolved. In the event that the Administration is concluded early, the Company is dissolved early and the records are held for less than the anticipated two year period, any fees billed and paid in advance will be credit noted and the funds repaid to the estate as necessary. In the event that the Administration is extended, any additional charges incurred by SFP Datastore Limited will be paid as they are incurred.

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 at 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)

<u>Stationery / Photocopying</u>	<u>Per page / envelope (£)</u>	<u>Postage</u>	<u>Postage rate (£)</u>	<u>Travel</u>
1 page of headed paper	0.12	Postage – 1 st class (small)	0.47	Mileage incurred as a result of necessary travel is charged at the HM Revenue & Customs approved rate of 45p per mile
1 page of continuation paper	0.10	Postage – 1 st class (large)	0.71	
1 page of photocopying paper	0.02	Postage – 2 nd class (small)	0.33	
Envelopes (all sizes)	0.10	Postage – 2 nd class (large)	0.58	

5 Star Windows and 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. The 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 objective

- rescuing the company as a going concern or
- achieving a better result for the creditors as a whole than would be likely if the company were wound up without first being in administration,

or if the administrator thinks neither of these objectives is reasonably practicable

- realising property in order to make a distribution to secured or preferential creditors

3 The creditors' committee

3.1 The creditors have the right to appoint a committee with a minimum of 3 and a maximum of 5 members. One of the functions of the committee is to determine the basis of the administrator's remuneration. The committee is normally established at the meeting of creditors which the administrator is required to hold within a maximum of 10 weeks from the beginning of the administration to consider his proposals. The administrator must call the first meeting of the committee within 6 weeks of its establishment and subsequent meetings must be held either at specified dates agreed by the committee or when a member of the committee asks for one or when the administrator decides he needs to hold one. The committee has power to summon the administrator to attend before it and provide information about the exercise of his functions.

4 Fixing the administrator's remuneration

4.1 The basis for fixing the administrator's remuneration is set out in Rule 2.106 of the Insolvency Rules 1986 which states that it shall be fixed

- as a percentage of the value of the property which the administrator has to deal with,
- by reference to the time properly given by the administrator and his staff in attending to matters arising in the administration, or
- as a set amount.

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

It is for the creditors' committee (if there is one) to determine on which of these bases or combination of bases the remuneration is to be fixed. Where it is fixed as a percentage it is for the committee to determine the percentage or percentages to be applied, and where it is a set amount, to determine that amount. Rule 2.106 says that in arriving at its decision the committee shall have regard to the following matters

April 2010

9 of 35



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 services 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 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 administrator's own initial assessment, including the anticipated return to creditors. To the extent applicable it should also explain

April 2010

11 of 35



- 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 sufficient 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 requested by creditors whose debts amount to at least 10 per cent of the total debts of the company.

4.4 A resolution of creditors may be obtained by correspondence.

5 Review of remuneration

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

6 Approval of pre-administration costs

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

10 of 35

April 2010



- 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 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.

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 fees 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 periods covered by the previous reports, together with a description of the work done during those periods, irrespective of whether payment was actually made during the period of the report.
- a statement of the expenses incurred by the administrator during the period of the report, irrespective of whether payment was actually made during that period.

12 of 35

April 2010



- 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 bases 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 bases 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 bases used to fix it is inappropriate he may request that the amount or rate be increased, or the bases changed by resolution of the creditors. If he considers that the remuneration fixed by the committee or the creditors is insufficient or that the bases used to fix it is inappropriate he may apply to the court for the amount or rate to be increased or the bases 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 profits 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 base 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 8 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 and Conservatories Limited (in Administration)

Report to Creditors

APPENDIX IX

- **Category 2 Disbursement Summary Charge Sheet**

SFP



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
* 1page of photocopying paper	0 02
* Envelopes (all sizes)	0 10
 Postage	 Postage Rate
Postage – 1 st class (small)	0 47
Postage – 1 st class (large)	0 71
Postage – 2 nd class (small)	0 33
Postage – 2 nd class (large)	0 58

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.