

The Insolvency Act 1986

Administrators' progress report

Name of Company BGC Limited	Company number 04476739
In the High Court of Justice, Chancery Division, Manchester District Registry [full name of court]	Court case number 1263 of 2012


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

I/We (a) Tracey Lee Pye and Dermot Justin Power of BDO LLP, 3 Hardman Street,
Spinningfields, Manchester, M3 3AT

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

	From	to
(b) Insert date	(b) 7 February 2012	(b) 6 August 2012

Signed


Joint/Administrator(s)

Dated

3 September 2012

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.

BDO LLP, 3 Hardman Street, Spinningfields, Manchester, M3 3AT	
Our Ref	DJP/RG/B3112/A6
Tel 0161 817 7500	
DX Number	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



Tel +44 (0)161 817 7500
Fax +44 (0)161 817 7683
DX 710256 Manchester 3
www.bdo.co.uk

3 Hardman Street
Manchester M3 3AT

TO ALL KNOWN CREDITORS & MEMBERS

4 September 2012

Your Ref
Our Ref DJP/RG/B3112/A6

Please ask for Richard Groves

Direct dial 0161 833 8325

Dear Sirs

BGC Limited - In Administration ("the Company")

It is now six months since my appointment in respect of the Company. In accordance with Rule 2.47 of the Insolvency Rules 1986 I am now reporting the progress made in implementing the approved proposals and achieving the statutory purpose of the Administration.

1 Statutory Information

The Joint Administrators are Tracey Lee Pye and Dermot Justin Power of BDO LLP, 3 Hardman Street, Spinningfields, Manchester, M3 3AT and were appointed in respect of the Company on 7 February 2012. Under the provisions of Paragraph 100(2) of Schedule B1 of the Insolvency Act 1986, the Joint Administrators carry out their functions jointly and severally and neither Administrator has exclusive power to exercise any function.

The Administrators were appointed following an application to the High Court of Justice by Mr Mark Sims, being a Director of the Company, pursuant to Paragraph 12 of Schedule B1 of the Insolvency Act 1986. The Administration proceedings are dealt with in the High Court of Justice, Chancery Division, Manchester District Registry and the Court case number is 1263 of 2012.

The Company's registered office is situated at BDO LLP, 3 Hardman Street, Spinningfields, Manchester, M3 3AT and the registered number is 04476739.

I enclose, for your information, a summary of my receipts and payments to date showing a balance in hand of £22,516, together with a copy of my abstract account covering the last six month period, and report as follows.

2 Receipts

The receipts shown are largely self-explanatory, although I would comment specifically on the following:

PAL/RG/B3112
g:\mbrscases\3100 - 3199\3112 (bgc limited)\reports\6 month report\adm932 - progress report.docx



2.1 *Sale of the Business*

As previously reported, a sale of the business and its assets to BGC Group (UK) Limited ("the Purchaser") was completed shortly after the Joint Administrators' appointment, for consideration totalling £70k.

The consideration was apportioned as follows:

	Consideration
	£
Goodwill	40,000
Unencumbered Plant & Equipment	7,000
Unencumbered Motor Vehicles	20,000
Residual Stock	3,000
	<hr/>
	70,000

The Purchaser paid £30k on completion, which is shown in the Company's receipts under the headings Plant & Machinery, Motor Vehicles and Stock. The additional £40k is due to be paid in eight quarterly instalments, the first being due on 7 May 2012. This is detailed below (Section 4 1)

2 2 *Debtors*

The Statement of Affairs showed a book debt ledger amounting to £693k, with HSBC Invoice Finance (UK) Limited ("HIF") being owed circa £493k under their invoice discounting facility.

On appointment, HIF factored the debts which had the implication of the debtor ledger being transferred to HIF. This allowed them to pursue the debt in-house in their name rather than the Company's, with monies being paid directly to them. Following this, the account was reconciled (and after applying credit notes and making various adjustments) the ledger totalled £564k

At this time HIF confirmed their debt was in fact £384k (before collect out fees and various other charges being applied to the account). This reduction from £493k followed significant collections pre- appointment.

Since then, HIF have been collecting the book debt ledger and have recovered sufficient realisations (totalling £474k) to satisfy their debt. This has generated a surplus of £42k. This surplus is being held by HIF for the benefit of HSBC Bank plc, who have a legal assignment in relation to the book debts and who currently have a contingent liability as detailed in Section 4 2 of the report.

3 *Payments*

The payments shown are also largely self-explanatory, although I would comment specifically on the following

3.1 *Legal Fees & Disbursements*

Since appointment, it has been necessary to seek clarification on a number of legal issues, including points surrounding the sale and purchase agreement. To date, fees of £2.5k have been incurred and paid.

4 *Future of the Administration*

As I have previously reported, once all outstanding matters have been dealt with in the Administration, it is the Joint Administrators' proposal to dissolve the Company. The remaining matters in this Administration are detailed below.

4.1 *Deferred Consideration*

As mentioned above, a sale of the business and its assets was completed to the Purchaser shortly following the Joint Administrators' appointment.

The Purchaser paid £30k on completion of the sale and the additional £40k is due to be repaid in eight quarterly instalments, commencing on 7 May 2012.

To date, I haven't received either of the first two quarterly instalments, despite chasing the Purchaser on this point a number of times.

As such, it has been necessary to instruct our solicitors to formally demand this money from the Purchaser. Depending upon the response received from the Purchaser, it may be necessary to go to Court to ensure the repayment of this money to the Company.

It should be noted that Mr Sims has provided a personal guarantee to support the deferred consideration and this will be called upon if necessary.

4.2 *Performance Bond*

HSBC Bank plc ("the Bank") has the benefit of a £50k cash deposit supporting obligations of a £100k performance bond, in relation to one of the Company's contracts (see Section 5.1.2) which creates a contingent liability of £50k. Under the sale and purchase agreement, the Purchaser provided an undertaking (subject to the agreement of the customer) to complete the contract, which may reduce the liability under the bond. The Purchaser has provided the customer with a new performance bond in respect of this contract, but the customer is yet to release the Bank's performance bond.

With the help of the Purchaser, I am pursuing the release of the performance bond by the customer. The initial feedback from the customer is that they will not release the Bank's performance bond. If they continue to resist its release, it may be necessary to instruct our solicitors to pursue the release of it.

Once the Bank's performance bond is released, and subject to no claims being made against it prior to its release, the Company should be entitled to the £50k that the Bank is currently holding in support of its obligations under the performance bond.

4.3 *Debtors*

Now that HIF have been fully repaid, the remaining book debt ledger of £91k has been assigned to the Company and will be collected by our specialist debt recovery team. At this time, it is not known what further realisations are possible from this source.

It should be noted that £8k will be retained for the benefit of the Bank (under their fixed charge), until the performance bond is released. This is in addition to the £42k already collected, and held in respect of the Bank's contingent liability of £50k (as detailed in Section 4.2)

4.4 *Inter Company Balance*

The Company's parent company, Environ Group (Investments) Plc ("Environ"), owed the Company an amount of £1.5m at the date of appointment. This was due in relation to an inter company loan.

Environ was placed into Administration on 8 February 2012 and as such, I do not anticipate realising any monies from this source. However, a claim will be submitted to Environ's Administrators, to ensure that the Company benefits from any distribution that may be made.

4.5 *Other Debtors*

At the date of appointment an amount of £124k was due to the Company, the majority of which related to prepayments. It is likely that minimal recovery will be made in this regard.

4.6 *Lease*

The Company held a lease to occupy parts of the property at 5 Furlong Parade, Burslem. At the time of my last report, I advised that the Joint Administrators had granted a six month licence to occupy the premises to the Purchaser, to help facilitate the agreement of a new lease between the Purchaser and the landlord.

The licence to occupy has come to an end and I understand a new lease is currently being agreed between the landlord and Purchaser. If the new lease is not agreed shortly I will seek to surrender the lease in order to reduce the Company's liability to the landlord.

5 *Prospects for Creditors*

5.1 *Secured Creditors*

5.1.1 *HSBC Invoice Finance (UK) Limited ("HIF")*

HIF have a floating charge covering all assets, dated 25 January 2011.

In addition, HIF have an invoice discounting facility and a fixed charge on purchased debts which fail to vest.

The Statement of Affairs showed HIF being owed circa £493k. After subsequent reconciliation of the account, HIF have confirmed they were owed £384k at appointment. Further charges of £47k have subsequently been applied against this account including a £43k collect out fee, bringing HIF's total debt to £431k.

As mentioned in the report, through the collection of the Company's book debt ledger, this debt has now been repaid in full

5.1.2 *HSBC Bank plc ("the Bank")*

The Bank holds a debenture dated 10 March 2011 and has the benefit of a £50k cash deposit supporting obligations of a £100k performance bond, in relation to one of the Company's contracts.

In addition, the Bank has a legal assignment in relation to the book debts, should they need to rely on this.

As detailed in Section 4.2, the Bank has a contingent liability generated from the performance bond. HIF have retained the current surplus of £42k, from their book debt collection, against this contingent liability for the benefit of the Bank. I will continue to pursue the release of this performance bond in order to release the Bank of this contingent liability and realise funds for the benefit of the Administration

5.2 *Preferential Creditors*

All the Company's employees were transferred to the Purchaser under TUPE regulations and as such, I do not anticipate that there will be any preferential creditors in this matter.

5.3 *Unsecured Creditors*

According to the Statement of Affairs, the level of unsecured creditors at appointment was circa £1.6m and to date I have received claims totalling £1.62m.

Based upon current information, there will be insufficient funds to enable any distribution to unsecured creditors, even by way of the prescribed part (see Section 6).

6 *Prescribed Part*

Under Section 176A of the Insolvency Act 1986 where, after 15 September 2003, a company has granted to a creditor a floating charge, a proportion of the net property of the company must be made available purely for the unsecured creditors

Although the Company did grant a floating charge after 15 September 2003, based upon current realisations there are currently no funds available under the floating charge after costs. Therefore, as stated in Section 176A(3) of the Insolvency Act 1986, the prescribed part provisions do not currently apply in this Administration

However, as detailed above, should sufficient monies be realised from the debtor ledger and the performance bond, it is possible that Section 176A of the Insolvency Act 1986 will apply in this Administration and monies would be available to unsecured creditors under the prescribed part. The quantum and timing of that is currently unknown

7 Achieving the Purpose of the Administration

The statutory purpose of an Administration consists of three objectives, and I now address the progress that has been made in this respect.

- a) The first objective is the rescuing of the Company as a going concern (i.e. restructuring the Company's business, resulting in the survival of the Company). I would comment that it was not possible to achieve this objective, due to the Company's financial predicament following a winding-up petition being issued against the Company.
- b) With regard to the second objective of achieving a better result for the Company's creditors as a whole than would be likely if the Company were wound up (without first being in Administration), I would comment that this objective has been achieved on the basis that the "pre-packaged" sale strategy resulted in a better return for the Company's creditors than would have been achieved had the business been closed in a Liquidation scenario.
- c) The final objective is realising property in order to make a distribution to one or more secured or preferential creditors and I can advise that this objective has also been achieved, on the basis that a fixed charge distribution has been made to HIF.

8 Joint Administrators' Remuneration & Expenses

8.1 Pre-Appointment Fees

In my previous report, I advised that I would be seeking the approval of the secured creditors (HIF and the Bank) for a number of costs incurred in the period preceding my appointment.

I have now received the sanction of the secured creditors to draw the following pre-appointment fees and expenses

8.1.1 Joint Administrators' Fees & Expenses

I previously reported that my office had incurred time costs in the sum of £49,508 in dealing with the pre-appointment matters of the Company

The secured creditors have sanctioned that I may draw remuneration of £30k plus VAT and disbursements against these time costs. The remaining £19,508 has been written off and I can confirm that no further fees will be drawn above the agreed level.

At present, there are insufficient funds to enable me to draw these fees, so these will be drawn when realisations permit

8.1.2 Legal Fees

Our solicitors, Addleshaw Goddard LLP, had incurred costs amounting to £13.5k plus VAT and disbursements for their work in dealing with pre-appointment matters. The secured creditors sanctioned these fees.

The Directors had made a contribution of £6k towards these fees which has already been paid to our solicitors. The balance of £7.5k will be paid following the issue of this report.

8.1.3 *Agent's Fees*

Prior to my appointment, Sanderson Weatherall LLP were instructed to value the Company's assets and provide recommendations on the acceptance of any offers received

Fees of £1 25k plus VAT were sanctioned by the secured creditor and have been paid accordingly.

8 2 *Post-Appointment Fees*

Kindly note that under the terms of the Insolvency Rules 1986, the Joint Administrators are obliged to fix their remuneration in accordance with Rule 2.106(2) of the Insolvency Rules 1986. This permits remuneration to be fixed either as a percentage of the value of the property with which the Joint Administrators have to deal or, alternatively, by reference to the time the Joint Administrators and their staff have spent attending to matters in the Administration.

In a case where the Joint Administrators have made a statement under Paragraph 52(1)(b), the Joint Administrators' remuneration may be fixed by the approval of the secured creditors, which in this case is HIF and the Bank.

I attach a schedule which summarises the time costs to date and indicates the work undertaken in that respect. This shows time costs in the sum of £37,733, made up of a total of 217 hours at an average charge out rate of £174 per hour.

The secured creditors have approved the Joint Administrators' remuneration on a time cost basis but, to date, no fees have been drawn.

For your guidance, please find attached a Creditors' Guide to Administrators' Fees, together with a document that outlines the policy of BDO LLP in respect of fees and disbursements.

9 *Disbursements*

Where disbursements are recovered in respect of precise sums expended to third parties, there is no necessity for these costs to be authorised. These are known as category 1 disbursements.

Since my appointment, category 1 disbursements of £2,406 have accrued. These disbursements include my staff's attendance at the Company's premises, the issue of a press release, bonding, statutory advertising and issuing of previous reports to creditors. £990 has been drawn during the period, which relates to the cost of issuing the previous reports to creditors and statutory advertising.

Some Administrators recharge expenses, which cannot economically be recorded in respect of each specific case, for example postage, stationery, photocopying charges, telephone and fax costs. Such expenses, which are apportioned to cases, require the

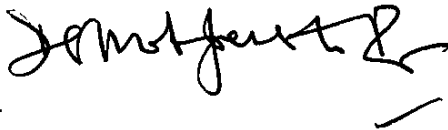
approval of the creditors before they can be drawn, and these are known as category 2 disbursements. The policy of BDO LLP is not to charge any category 2 disbursements.

10 Creditors' Rights

I provide at the end of this report an extract from the Insolvency Rules 1986 setting out the rights of creditors to request further information and/or challenge the remuneration or fees within the Administration

If you have any queries regarding this report, please contact this office

Yours faithfully
for and on behalf of
BGC Limited



D J Power
Joint Administrator
Authorised by the Institute of Chartered Accountants in England & Wales

Enc

The Insolvency Act 1986

Administrators' progress report

Name of Company

BGC Limited

Company number

04476739

In the

**High Court of Justice, Chancery Division, Manchester
District Registry**

[full name of court]

Court case number

1263 of 2012(a) Insert full name(s) and
address(es) of administrator(s)I/We (a) Tracey Lee Pye and Dermot Justin Power of BDO LLP, 3 Hardman Street,
Spinningfields, Manchester, M3 3AT

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

(b) Insert date

from

(b)

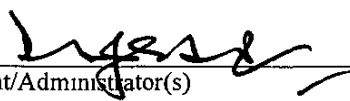
7 February 2012

to

(b)

6 August 2012

Signed


Joint/Administrator(s)

Dated

3 September 2012

BGC Limited
(In Administration)

Income and Expenditure Account
07 February 2012 to 31 August 2012

INCOME	Total (£)
Plant & Machinery	7,000 00
Motor Vehicles	20,000.00
Stock	3,000.00
Contribution to Application Costs	6,000.00
Interest Gross	5.99
	<hr/>
	36,005.99
	<hr/>
EXPENDITURE	
Petitioning Creditor Costs	2,745.80
Agents' Fees & Disbs	1,250 00
Legal Fees & Disbs	2,505 00
Legal Fees & Disbs - Pre-app't	6,000.00
Stationery & Postage	821.37
Statutory Advertising	168.28
	<hr/>
	13,490.45
	<hr/>
Balance	22,515.54
	<hr/>
MADE UP AS FOLLOWS	
Input VAT	132 49
Current Account	22,515 54
Output VAT	(132.49)
	<hr/>
	22,515.54
	<hr/>

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

Statement of Affairs	From 07/02/2012 To 06/08/2012	From 07/02/2012 To 06/08/2012
ASSET REALISATIONS		
7,000.00 Plant & Machinery	7,000 00	7,000.00
20,000 00 Motor Vehicles	20,000.00	20,000.00
3,000 00 Stock	3,000.00	3,000.00
600,000 00 Debtors	NIL	NIL
2 00 Cash at Bank	NIL	NIL
Rent	662 47	662 47
Contribution to Application Costs	6,000 00	6,000.00
40,000 00 Goodwill	NIL	NIL
Interest Gross	5 99	5 99
500 00 Other Debtors	NIL	NIL
	<u>36,668 46</u>	<u>36,668.46</u>
COST OF REALISATIONS		
Petitioning Creditor Costs	2,745.80	2,745 80
Agents' Fees & Disbs	1,250 00	1,250.00
Legal Fees & Disbs	2,505 00	2,505.00
Legal Fees & Disbs - Pre-app't	6,000.00	6,000.00
Stationery & Postage	821.37	821 37
Statutory Advertising	168 28	168 28
	<u>(13,490.45)</u>	<u>(13,490 45)</u>
PREFERENTIAL CREDITORS		
(540.00) Preferential Wages	<u>NIL</u>	<u>NIL</u>
	NIL	NIL
FLOATING CHARGE CREDS		
(493,247.00) Floating Charge (1)	<u>NIL</u>	<u>NIL</u>
	NIL	NIL
UNSECURED CREDITORS		
(1,372,662.00) Trade & Expense Creditors	NIL	NIL
(155,211 00) Unsecured N I.C /P.A Y.E	NIL	NIL
(78,626.00) Unsecured V A T	<u>NIL</u>	<u>NIL</u>
	NIL	NIL
DISTRIBUTIONS		
(152 00) Ordinary Shareholders	<u>NIL</u>	<u>NIL</u>
	NIL	NIL
<u>(1,429,936.00)</u>	<u><u>23,178.01</u></u>	<u><u>23,178.01</u></u>
REPRESENTED BY		
Current Account		23,310.50
Output VAT		(132 49)
		<u><u>23,178.01</u></u>

Note.

HSBC Invoice Finance (UK) Limited (HIF) have provided an invoice discounting facility to the Company and subsequently factored the debts. The ledger at appointment, after taking account of credit notes and adjustments, totalled £564k. To date £474k has been collected, of which £432k has been retained by HIF to satisfy their debt. The surplus of £42k has been held by HIF for the benefit of HSBC Bank plc (the Bank) (who have a legal assignment in relation to the debts), in respect of their contingent liability in this Administration.

04 September 2012 10 23

The Company has granted debentures in favour of HIF and the Bank

Summary of Time Charged and Rates Applicable for the Period From 07/01/2012 to 07/02/2012

Description	PARTNER		MANAGER		ASSISTANT MANAGER		SENIOR ADMINISTRATOR		ADMINISTRATOR		OTHER STAFF		GRAND TOTAL		AV RT
	Hours	Total £	Hours	Total £	Hours	Total £	Hours	Total £	Hours	Total £	Hours	Total £	Hours	Total £	
A Pre Appointment Matters	20 50	7,605 50	76 50	24,019 50					35 50	4,934 50			132 50	36,559 50	275 92
B Steps on Appointment									7 50	1,042 50			7 50	1,042 50	139 00
C Planning and Strategy	7 00	2,597 00	2 75	877 25									9 75	3,474 25	356.33
D General Administration			1 00	319 00					10 00	1,390 00			11 00	1,709 00	155.36
E Assets Realisation/Dealing	9 00	3,339 00	12 75	2,897 25					3 50	486 50			25 25	6,722 75	266 25
	36 50	13,541 50	93 00	28,113 00	0 00	0 00	0 00	0 00	56 50	7,853 50	0 00	0 00			

Net Total

186 00

49,508 00

Secretarial Expense

0 00

Other Disbursements

50.33

Billed

0 00

Grand Total

49,558.33

Name of Assignment Project Oak 00176581

Summary of Time Charged and Rates Applicable for the Period From 08/02/2012 to 31/08/2012

Description	PARTNER		MANAGER		ASSISTANT MANAGER		SENIOR ADMINISTRATOR		ADMINISTRATOR		OTHER STAFF		GRAND TOTAL		AVRT
	Hours	Total £	Hours	Total £	Hours	Total £	Hours	Total £	Hours	Total £	Hours	Total £	Hours	Total £	
A Pre Appointment Matters	1 00	371 00											1 00	371 00	371 00
B Steps on Appointment									7 50	1,042 50			7 50	1,042 50	139 00
C Planning and Strategy	6 00	2,226 00											15 50	5,112 50	329 84
D General Administration			9 50	2,886 50					98 50	13,738 00			132 55	19,491 00	147 05
E Assets Realisation/Dealing			10 75	2,949 25	11 05	2,044 25			2 00	309 00	12 25	759 50	17 50	3,957 50	226 14
G Employee Matters			15 50	3,648 50					1 50	208 50			1 50	208 50	139 00
I Reporting	1 00	371 00	11 50	3,116 50					29 00	4,062 00			41 50	7,549 50	181 92
	8 00	2,968 00	47 25	12,600 75	11 05	2,044 25	0 00	0 00	138 50	19,360 00	12 25	759 50			
													217 05	37,732 50	
														0 00	
														1,416.36	
														0 00	
														39,148 86	

Net Total

Secretarial Expense

Other Disbursements

Billed

Grand Total

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 and explains the basis on which fees are fixed

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 Fees

- 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 either

- as a percentage of the value of the property which the Administrator has to deal with, or
- by reference to the time properly given by the Administrator and his staff in attending to matters arising in the Administration

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

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

- 4.2 If there is no creditors' committee, or the committee does not make the requisite determination, the Administrator's remuneration may be fixed by a resolution of a meeting of creditors having regard to the same matters as the committee would. If the remuneration is not fixed in any of these ways, it will be fixed by the court on application by the Administrator.

- 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 a resolution of the creditors shall be taken as passed if, and only if, passed with 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

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 What Information Should be Provided by the Administrator?

5.1 When seeking fee approval

- 5.1.1 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.

- 5.1.2 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

- 5.1.3 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, and professional guidance has been provided setting out a minimum of 6 category headings under which the work done by the officeholder and his staff should be analysed. As a firm BDO LLP operates a computerised time recording system which analyses work done under the following categories -

- Pre Appointment Matters
- Steps upon Appointment
- Planning and Strategy
- General Administration
- Asset Realisation/Management
- Trading Related Matters
- Employee Matters
- Creditor Claims
- Reporting
- Distribution and Closure

- Other Issues

Professional guidance suggests the following categories 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

- 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 sub-contractors, 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.

- 5.1.4 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.

5.2 After fee 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. 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 5.1.3. Where the fee is charged on a percentage basis the Administrator should provide the details set out in paragraph 5.1.4 above regarding work which has been sub-contracted out.

5.3 Expenses and Disbursements

There is no statutory requirement for the committee or the creditors to approve the drawing of expenses or disbursements. However, 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.

6 What if a Creditor is Dissatisfied?

- 6.1 If a creditor believes that the Administrator's remuneration is too high he may, if at least 25 per cent in value of the creditors (including himself) agree, apply to the court for an order that it be reduced. 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. Unless the court orders otherwise, the costs must be paid by the applicant and not as an expense of the Administration.

7 What if the Administrator is Dissatisfied?

- 7.1 If the Administrator considers that the remuneration fixed by the creditors' committee is insufficient he may request that it be increased by resolution of the creditors. If he considers that the remuneration fixed by the committee or the creditors is insufficient, he may apply to the court for it to be increased. If he decides to apply to the court he must give at least 14 days' notice to the members of the creditors' committee and the committee may nominate one or more of its members to appear or be represented on the application. If there is no committee, the Administrator's notice of his application must be sent to such of the company's creditors as the court may direct, and they may nominate one or more of their number to appear or be represented. The court may order the costs to be paid as an expense of the Administration.

8 Other Matters Relating to Fees

- 8.1 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.
- 8.2 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.

9 Provision of Information - Additional Requirements

In any case where the Administrator is appointed on or after 1 April 2005 he 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.



BGC Limited - In Administration

In accordance with best practice I provide below details of policies of BDO LLP in respect of fees and expenses for work in relation to the above insolvency.

The current charge out rates per hour of staff within my firm who may be involved in working on the insolvency, follows:

GRADE	£
Partner 1	460
Partner 2	371
Director	319
Senior Manager	271-295
Manager	202-232
Assistant Manager	185
Senior Executive	170
Executive	124-139
Junior Executive	97
Cashier	170
Trainee	62
Support staff/Secretary	62

This in no way implies that staff at all such grades will work on the case

The rates charged by BDO LLP, 3 Hardman Street, Manchester, M3 3AT are reviewed in December and July each year and are adjusted to take account of inflation and the firm's overheads.

Time spent on casework is recorded directly to the relevant case using a computerised time recording system and the nature of the work undertaken is recorded at that time. Units of time can be as small as 3 minutes BDO LLP records work in respect of insolvency work under the following categories:-

- Pre Appointment
- Steps upon Appointment
- Planning and Strategy
- General Administration
- Asset Realisation/Management
- Trading Related Matters
- Employee Matters
- Creditor Claims
- Reporting
- Distribution and Closure
- Other Issues

Under each of the above categories the work is recorded in greater detail in sub categories. Please note that the 11 categories provide greater detail than the six categories recommended by the Recognised Professional Bodies who are responsible for licensing and monitoring insolvency practitioners.

Where an officeholder's remuneration is approved on a time cost basis the time invoiced to the case will be subject to VAT at the prevailing rate.

Where remuneration has been approved on a time costs basis a periodic report will be provided to any committee appointed by the creditors or in the absence of a committee to the creditors. The report will provide a breakdown of the remuneration drawn and will enable the recipients to see the average rates of such costs.



1) Other Costs

Where expenses are incurred in respect of the insolvent estate they will be recharged. Such expenses can be divided into two categories.

2) Category 1

This heading covers expenses where BDO LLP has met a specific cost in respect of the insolvent estate where payment has been made to a third party. Such expenses may include items such as advertising, couriers, travel (by public transport), searches at Companies House, land registry searches, fees in respect of swearing legal documents, external printing costs etc. In each case the recharge will be reimbursement of a specific expense incurred.

A further disbursement under this heading is the cost of travel where staff use either their own vehicles or company cars in travelling connected with the insolvency. In these cases a charge of 40p per mile is raised which is in line with the Inland Revenue Approved Mileage Rates (median - less than 10,000 miles per annum) which is the amount the firm pays to staff.

Where applicable, disbursements will be subject to VAT at the prevailing rate.

3) Category 2

Additionally some firms recharge expenses for example postage, stationery, photocopying charges, telephone and fax costs, which cannot economically be recorded in respect of each specific case. Such expenses, which are apportioned to cases, require the approval of the creditors, before they can be drawn, and these are known as category 2 disbursements. The policy of BDO LLP, effective from 1 July 2003, is not to recharge any expense which is not a specific cost to the case, therefore there will be no category 2 disbursements charged. Category 2 disbursements, because they are imprecise, require approval by the creditors before they can be drawn.

Statement from the Insolvency Rules 1986 (as amended) regarding the rights of creditors in respect of the Joint Administrators' fees and expenses:-

Rule 2.48A Creditors' request for further information

(1) If—

- (a) within 21 days of receipt of a progress report under Rule 2.47—
 - (i) a secured creditor, or
 - (ii) an unsecured creditor with the concurrence of at least 5% in value of the unsecured creditors (including the creditor in question), or
- (b) with the permission of the court upon an application made within that period of 21 days, any unsecured creditor, makes a request in writing to the administrator for further information about remuneration or expenses (other than pre administration costs) set out in a statement required by Rule 2.47(1)(db) or (dc), the administrator must, within 14 days of receipt of the request, comply with paragraph (2)

(2) The administrator complies with this paragraph by either—

- (a) providing all of the information asked for, or
- (b) so far as the administrator considers that—
 - (i) the time or cost of preparation of the information would be excessive, or
 - (ii) disclosure of the information would be prejudicial to the conduct of the administration or might reasonably be expected to lead to violence against any person, or
 - (iii) the administrator is subject to an obligation of confidentiality in respect of the information, giving reasons for not providing all of the information

(3) Any creditor, who need not be the same as the creditor who requested further information under paragraph (1), may apply to the court within 21 days of—

- (a) the giving by the administrator of reasons for not providing all of the information asked for, or
- (b) the expiry of the 14 days provided for in paragraph (1),
and the court may make such order as it thinks just

(4) Without prejudice to the generality of paragraph (3), the order of the court under that paragraph may extend the period of 8 weeks provided for in Rule 2.109(1B) by such further period as the court thinks just

Rule 2.109 Creditors' claim that remuneration is or other expenses are excessive

(1) Any secured creditor, or any unsecured creditor with either the concurrence of at least 10% in value of the unsecured creditors (including that creditor) or the permission of the court, may apply to the court for one or more of the orders in paragraph (4)

(1A) Application may be made on the grounds that—

- (a) the remuneration charged by the administrator,
- (b) the basis fixed for the administrator's remuneration under Rule 2.106, or
- (c) expenses incurred by the administrator,
is or are, in all the circumstances, excessive or, in the case of an application under sub-paragraph (b), inappropriate

(1B) The application must, subject to any order of the court under Rule 2.48A(4), be made no later than 8 weeks after receipt by the applicant of the progress report which first reports the charging of the remuneration or the incurring of the expenses in question ("the relevant report")

(2) The court may, if it thinks that no sufficient cause is shown for a reduction, dismiss it without a hearing but it shall not do so without giving the applicant at least 5 business days' notice, upon receipt of which the applicant may require the court to list the application for a without notice hearing. If the application is not dismissed, the court shall fix a venue for it to be heard, and give notice to the applicant accordingly

Statement from the Insolvency Rules 1986 (as amended) regarding the rights of creditors in respect of the Joint Administrators' fees and expenses (continued):-**Rule 2.109 (continued)**

(3) The applicant shall, at least 14 days before the hearing, send to the administrator a notice stating the venue and accompanied by a copy of the application, and of any evidence which the applicant intends to adduce in support of it

(4) If the court considers the application to be well-founded, it must make one or more of the following orders—

(a) an order reducing the amount of remuneration which the administrator was entitled to charge,

(b) an order fixing the basis of remuneration at a reduced rate or amount,

(c) an order changing the basis of remuneration,

(d) an order that some or all of the remuneration or expenses in question be treated as not being expenses of the administration,

(e) an order that the administrator or the administrator's personal representative pay to the company the amount of the excess of remuneration or expenses or such part of the excess as the court may specify,

and may make any other order that it thinks just, but an order under sub-paragraph (b) or (c) may be made only in respect of periods after the period covered by the relevant report

(5) Unless the court orders otherwise, the costs of the application shall be paid by the applicant, and are not payable as an expense of the administration