

# LIQ03

## Notice of progress report in voluntary winding up



Companies House

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[www.gov.uk/companieshouse](http://www.gov.uk/companieshouse)

### 1 Company details

Company number 0 4 4 7 6 9 1 2

Company name in full B E Martin & Sons Limited

#### → Filling in this form

Please complete in typescript or in  
bold black capitals.

### 2 Liquidator's name

Full forename(s) Danny

Surname Allen

### 3 Liquidator's address

Building name/number 1 Castle Hill Court

Street Castle Hill

Post town Rochester

County/Region Kent

Postcode M E 1 1 L F

Country

### 4 Liquidator's name ①

Full forename(s)

Surname

#### ① Other liquidator

Use this section to tell us about  
another liquidator.

### 5 Liquidator's address ②

Building name/number

Street

Post town

County/Region

Postcode

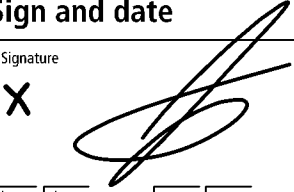

Country

#### ② Other liquidator

Use this section to tell us about  
another liquidator.

# LIQ03

## Notice of progress report in voluntary winding up

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|---|--|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|--|
| <b>6</b>  | <b>Period of progress report</b>   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |  |
| From date   | d  | 0 | d | 3 | m | 0 | m | 8 | y | 2 | y | 0 | y   | 2 | y | 2 |  |
| To date   | d  | 0 | d | 2 | m | 0 | m | 8 | y | 2 | y | 0 | y   | 2 | y | 3 |  |
|   |  |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |  |
| <b>7</b>  | <b>Progress report</b>   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |  |
| <input checked="" type="checkbox"/> The progress report is attached |  |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |  |
| <b>8</b>  | <b>Sign and date</b>   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |  |
| Liquidator's signature  | Signature<br> |   |   |   |   |   |   |   |   |   |   |   |  |   |   |   |  |
| Signature date  | d  | 3 | d | 0 | m | 0 | m | 9 | y | 2 | y | 0 | y   | 2 | y | 3 |  |

**Presenter information**

You do not have to give any contact information, but if you do it will help Companies House if there is a query on the form. The contact information you give will be visible to searchers of the public record.

Contact name

Danny Allen

Company name

360 Insolvency Limited

Address

1 Castle Hill Court

Castle Hill

Post town

Rochester

County/Region

Kent

Postcode

M E 1 1 L F

Country

DX

Telephone

01634 475546

**Checklist**

**We may return forms completed incorrectly or with information missing.**

**Please make sure you have remembered the following:**

- ☐ The company name and number match the information held on the public Register.
- ☐ You have attached the required documents.
- ☐ You have signed the form.

**Important information**

**All information on this form will appear on the public record.**

**Where to send**

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The Registrar of Companies, Companies House,  
Crown Way, Cardiff, Wales, CF14 3UZ.  
DX 33050 Cardiff.

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# B E Martin & Sons Limited

## In Liquidation

### Liquidator's Summary of Receipts and Payments (Accruals Basis)

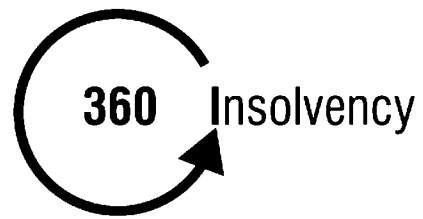
| Statement<br>of Affairs<br>£                  | From 03 August<br>2022<br>To 02 August 2023<br>£ | From 03 August<br>2022<br>To 02 August 2023<br>£ |
|---|--|--|
| <b>ASSET REALISATIONS</b>                     |  |  |
| 36,000.00 Book debts                          | 0.00   | 0.00   |
| 17,000.00 Cash at Bank                        | 0.00   | 0.00   |
| Uncertain Director's loan - Darren Martin     | 0.00   | 0.00   |
|   | 0.00   | 0.00   |
| <b>SECONDARY PREFERENTIAL CREDITORS</b>       |  |  |
| (106,000.00) HM Revenue & Customs - PAYE/CIS  | 0.00   | 0.00   |
| (50,000.00) HM Revenue & Customs - VAT        | 0.00   | 0.00   |
|   | 0.00   | 0.00   |
| <b>UNSECURED CREDITORS</b>                    |  |  |
| (62,934.00) Trade & Expense Creditors         | 0.00   | 0.00   |
| (50,000.00) Bounce back loan - Co-op Bank plc | 0.00   | 0.00   |
| (87,000.00) HM Revenue & Customs - CT         | 0.00   | 0.00   |
| (70,000.00) Loan - Funding Circle             | 0.00   | 0.00   |
|   | 0.00   | 0.00   |
| <b>DISTRIBUTIONS</b>                          |  |  |
| (100.00) Ordinary Shareholders                | 0.00   | 0.00   |
|   | 0.00   | 0.00   |
| <b>(373,034.00)</b>                           | <b>0.00</b>                                      | <b>0.00</b>                                      |

REPRESENTED BY

NIL



Danny Allen  
Liquidator



## **BE Martin & Sons Limited – in liquidation (“Company”)**

Liquidator’s progress report  
to creditors pursuant to Rule 18.7  
of the Insolvency Rules (England & Wales) 2016

Incorporating additional information to creditors in connection with notice of a decision procedure to  
approve the basis of the Liquidator’s remuneration

For the 12-month period  
3 August 2022 to 2 August 2023  
and additionally covering 3 August 2022 to 2 August 2023

Issued on 27 September 2023  
Delivered 29 September 2023

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9. Further information

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- iii. Summary of Liquidator's time costs for the annual period 3 August 2022 to 2 August 2023 and for the additional period 3 August 2023 to 27 September 2023
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- v. Liquidator's practice fee and expense policy
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  - b. Approval of the Liquidator's remuneration
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References in this report to sections, paragraphs or rules are to parts of the Insolvency Act 1986 ("the Act") and the Insolvency Rules (England and Wales) 2016 ("the Rules") unless otherwise stated.

## **1. Introduction**

- 1.1. I, Danny Allen of 360 Insolvency Limited, was appointed Liquidator of the Company on 3 August 2022 by resolution of the members and by creditors by the deemed consent procedure.
- 1.2. This document, including its appendices, constitutes my annual progress report to creditors covering the first 12 months of the liquidation from 3 August 2022 to 2 August 2023.
- 1.3. This report also includes notice of a decision procedure to approve the basis of my remuneration for acting as Liquidator and includes some additional information covering the period from 3 August 2023 up to the date of issuing of this report, which is not usually included in a progress report but appears here to provide creditors with sufficient information to assist with voting on the decisions sought.

## **2. Executive summary**

- 2.1. My duties and functions as Liquidator are the realisation of the Company's assets, the agreement of the claims of creditors, investigation of the director's conduct and the Company's affairs generally and the eventual distribution of the funds between the creditors in accordance with their legal entitlements.
- 2.2. It has not been possible to make any realisations in respect of book debts or the tangible assets referred to in the director's statement of affairs. The loan account of £250,000 which had an uncertain to realise value has not been repaid. I have opened dialogue with the director in relation to settlement proposals. Future realisations are dependent on the outcome of on-going enquiries, as referred to herein.
- 2.3. At this stage, it is difficult to accurately estimate the outcome of the liquidation for creditors in terms of dividend prospects, as further recoveries are reliant on the level of settlement offered in respect of the director's loan account or may become subject to Court proceedings which will incur further costs. I have therefore prepared a summary outcome statement based on an estimate of potential recovery, with costs presented at maximum levels. As it is difficult to gauge the outcome, the dividend might be more or less than stated.

|  | Recovery in full<br>£ | 50% recovery<br>£ | No recovery<br>£ |
|--|-----------------------|-------------------|------------------|
| Realisations to date   | 0                     | 0                 | 0                |
| Additional recoveries – currently under review *                           | 314,859               | 157,430           | 0                |
| Total estimated costs **   | (142,375)             | (98,017)          | 0                |
| <b>Available to primary preferential creditors</b>                         | <b>172,484</b>        | <b>59,412</b>     | <b>0</b>         |
| Primary preferential claims (subject to confirmation)                      | 0                     | 0                 | 0                |
| <b>Estimated dividend to primary preferential creditors (p in the £)</b>   | <b>0</b>              | <b>0</b>          | <b>0</b>         |
| <b>Available to secondary preferential creditors</b>                       | <b>172,484</b>        | <b>59,412</b>     | <b>0</b>         |
| Secondary preferential claims (est)  | (156,000)             | (156,000)         | (156,000)        |
| <b>Estimated dividend to secondary preferential creditors (p in the £)</b> | <b>100.00</b>         | <b>38.08</b>      | <b>0.00</b>      |
| <b>Available to unsecured creditors</b>                                    | <b>16,484</b>         | <b>(96,588)</b>   | <b>(156,000)</b> |
| Unsecured non-preferential creditor claims                                 | (269,934)             | (269,934)         | (269,934)        |
| <b>Estimated distribution to unsecured creditors (p in the £)</b>          | <b>6.11</b>           | <b>0.00</b>       | <b>0.00</b>      |
| <b>Total estimated deficiency to creditors</b>                             | <b>(253,450)</b>      | <b>(366,522)</b>  | <b>(425,934)</b> |

\* Recoveries may be made in respect of matters currently under review. It is not possible to give an accurate indication of the level of such realisations or the associated costs, since they will may be subject to legal proceedings and/or negotiation.

\*\* Includes all known costs to date, estimated legal costs and liquidator's fees at maximum fee estimate per this report

- 2.4. Creditors will note that, due to the level of the secondary preferential creditors, it is unlikely that there will be a return to unsecured creditors unless realisations are made in full.

### 3. Overview of fees and expenses

- 3.1. It is my firm's policy to seek agreement for my remuneration at a stage in the case when I am able to form a reasonably accurate overview of the case, the value of assets, the work required to complete the case and ultimately the likely outcome for creditors. Whilst the outcome is dependent on the level of realisations achievable, I consider it appropriate now to fix the basis of my costs.
- 3.2. I am now seeking approval for the basis of my remuneration for acting as Liquidator which is summarised below. Creditors' attention is drawn specifically to paragraph 9 of this report and to associated appendices referred to therein, as well as the notices of decisions by correspondence also appended.

| Work to which fee relates    | Fee basis                            | Time estimate<br>(hours) | Fee estimate<br>(£) | Average<br>hourly rate (£) |
|------------------------------|--------------------------------------|--------------------------|---------------------|----------------------------|
| Administration and planning  | Time costs subject to a fee estimate | 87.00                    | 18,860.00           | 216.78                     |
| Realisation of assets        | % of realisations                    | -                        | -                   | -                          |
| Investigations               | Time costs subject to a fee estimate | 37.30                    | 5,214.00            | 139.79                     |
| Creditors including dividend | Time costs subject to a fee estimate | 16.80                    | 4,586.00            | 272.98                     |
| <b>Totals</b>                |                                      | <b>141.10</b>            | <b>28,660.00</b>    | <b>203.12</b>              |

- 3.3. When agreeing the basis of my remuneration, I must first seek approval from a Liquidation Committee. If no committee is formed, then I must give creditors an opportunity to form one. If no committee is formed at that point, it will be for creditors to approve the basis of my remuneration and category 2 expenses. Documents to enable creditors to vote on the decisions by correspondence are attached. The Decision Date is **23:59 on 26 October 2023**.



## **4. Progress of the liquidation**

- 4.1. During the period covered by this report, I have undertaken various statutory and administrative tasks related to the liquidation as set out in more detail below and I continue to do so in order to wind down the affairs of the Company.
- 4.2. I attempted to recover tangible assets, contacting the Company's pre-appointment bankers to request the cash held in the account and I made enquiries of the Company's debtors.
- 4.3. I reconciled drawings made by the director and sums paid to his wife, who was employed by the Company. The work undertaken resulted in demands being issued for sums greater than disclosed in the director's statement of affairs.
- 4.4. My routine enquiries into the Company's affairs in accordance with Statement of Insolvency Practice 2 have been completed and I made submissions on the director's conduct. My initial enquiries led to further work being undertaken in respect of the director and his wife's drawings.

## **5. Receipts and payments**

- 5.1. My receipts and payments account for the reporting period stated and including the comparison to the director's statement of affairs values, is attached at Appendix II.
- 5.2. There were no receipts or payments during the period and I have, therefore, not yet opened a designated bank account to save on administrative costs.

## **6. Assets**

- 6.1. Book debts
  - 6.1.1. Prior to the liquidation, the Company was engaged in finishing works on 4 contracts which was purported to release approximately £48,000. A provision of 25% was been applied to the outstanding balance for reasons of prudence, giving an estimated recoverable value of £36,000.
  - 6.1.2. Following my appointment, I sought further information from the Director in relation to the outstanding balances, which has not been forthcoming. I am aware of one of the contracts in the sum of £12,000 including VAT being received into the Company's bank account prior to my appointment and those funds were retained by the bank, applying its right of set off. My enquiries remain ongoing.
- 6.2. Cash at bank
  - 6.2.1. The Company's bank account held with the Cooperative Bank plc was in credit by £17,000. However, the account was frozen following the advertisement of a winding up petition and the bank applied the credit against its outstanding liability of £50,000.
- 6.3. Director's loan – Darren Martin
  - 6.3.1. As per the director's statement of affairs, the director's loan account was overdrawn by an estimated £250,000. Following a reconciliation of the account, I identified further

payments that would be attributed to the director's loan account, with the final balance being £282,814. Further, the director's wife had also received payments of £32,045 above declared wages.

6.3.2. At the outset the director had expressed a willingness to settle the outstanding position and I sought repayment proposals. However, after protracted correspondence with the director, it became apparent that he was unable to settle any of the debt.

6.3.3. I have instructed solicitors, RSW Law, to make demand for the outstanding amount and if necessary to petition for the director's bankruptcy. The director has again intimated a willingness to reach a settlement agreement and has been cooperative with us and RSW Law. However, no resolution has yet been reached and my position is reserved in the event that the matter cannot be resolved consensually.

## **7. Investigations**

- 7.1. The insolvency legislation gives me certain powers as Liquidator to take recovery action in respect of what are known as antecedent transactions (for example where assets have been disposed of prior to the commencement of the insolvency procedure) and also in respect of matters such as misfeasance and wrongful trading.
- 7.2. I am required by the Statements of Insolvency Practice to undertake an initial investigation in all cases to determine whether there are potential recovery actions for the benefit of creditors. If potential recoveries or matters for further investigation are identified, then I would need to spend additional time to investigate them in detail and to bring recovery actions where necessary.
- 7.3. I am also required by legislation to report to the Department for Business, Energy & Industrial Strategy on the conduct of the directors. The work required to comply with this statutory obligation may be said to be of no direct benefit to the creditors, although it may assist with identifying potential recovery actions.
- 7.4. In this case I have undertaken an initial review and have identified further areas for investigation, such as the director's drawings, which remain ongoing.
- 7.5. I have complied with my statutory obligations in this regard and I am not aware of any disqualification proceedings in this matter.

## **8. Liabilities and estimated outcome for creditors**

### **8.1. Secured creditors**

8.1.1. There are provisions of the insolvency legislation that require a Liquidator to set aside a percentage of a Company's assets for the benefit of the unsecured creditors in cases where the Company gave a "floating charge" over some or all of its assets to a lender on or after 15 September 2003. This is known as the "prescribed part of the net property".

8.1.2. A Company's net property is that left after paying the preferential creditors but before paying the lender, who holds a floating charge. A Liquidator has to set aside:

- 50% of the first £10,000 of the net property; and
- 20% of the remaining net property up to a maximum of £600,000 (£800,000 for charges created after 5 April 2020).

8.1.3. In this case, there are no creditors with relevant security and the prescribed part provisions do not apply.

### **8.2. Preferential creditors – employees' primary preferential claims**

8.2.1. I am not aware of any primary preferential creditors.

### **8.3. HM Revenue & Customs ('HMRC') – secondary preferential claims**

8.3.1. Since 1 December 2020, HMRC have been ranked as a secondary preferential creditor in respect of claims for VAT, PAYE and NIC.

8.3.2. In this case, HMRC's claim for PAYE and NIC was estimated to be £106,000 and VAT £50,000. I have not yet received a formal proof of debt from HMRC.

8.3.3. A dividend to secondary preferential creditors will be dependent on the level of realisations arising from the matters mentioned herein.

### **8.4. Unsecured non-preferential creditors**

Trade and expense creditors

8.4.1. The director's Statement of Affairs reflected 11 trade and expense creditors (excluding any specifically noted separately below) with claims totalling £197,809.

Bounce back loan – Cooperative Bank plc

8.4.2. The Company had use of a bounce back loan ('BBL') advanced by its bankers, The Cooperative Bank plc, in the sum of £50,000. As mentioned above, the bank retained the cash held in the bank account against this amount and I have received a proof of debt in the sum of £27,312.

Loan – Funding Circle

8.4.3. The Company obtained a loan from Funding Circle of which the director had initially estimated £70,000 is outstanding. I have received a proof of debt totalling £108,008 from Funding Circle, which is personally guaranteed by the director.

HM Revenue & Customs – corporation tax

8.4.4. HM Revenue & Customs are owed £87,000 for corporation tax which has arisen on profits made in previous years.

#### 8.5. **Dividend prospects**

A dividend to secondary preferential creditors is dependent on the level of recoveries in respect of the director's drawings. However, assuming the loan accounts are not recoverable in full, I consider it is unlikely that there will be sufficient funds available after settling the costs and expenses of the Liquidation to enable a return to unsecured creditors.

## 9. Remuneration and expenses

### 9.1. Pre-appointment fees

- 9.1.1. Prior to my appointment, the Board approved 360 Insolvency Limited's pre-appointment fee of £7,500 plus VAT and expenses for assisting with the preparation of the statement of affairs and seeking the appointment of liquidators.
- 9.1.2. This work involved obtaining information about the Company's affairs from the director, extracting information about the Company assets and liabilities from accounting records, creating and maintaining the case our management system, preparing documents relating to the meeting of creditors and circulating notices to relevant parties, assisting the director in the preparation of their report to this meeting, instructing agents to value the Company's assets and assisting the director in the preparation of the Statement of Affairs.
- 9.1.3. The pre-appointment fee remains outstanding and I am entitled to pay it from asset realisations but, in order to do so, I am required to seek a decision from creditors. As such, attached at appendix VI of this report is notice of the decision sought from creditors to approve the payment to 360 Insolvency Limited of £7,500 plus expenses and VAT. If a Committee is appointed by the creditors as part of this decision procedure then it will fall to the Committee to approve such fees.
- 9.1.4. It was necessary to undertake this work in order to comply with statutory requirements and required practice when placing the Company into Liquidation.
- 9.1.5. I am seeking a fixed fee for this work and the amount sought derives from both the time costs of similar work that 360 Insolvency Limited has done in the past in dealing with previous cases of this nature and complexity, and informal comparisons with the sort of fee charged for similar work by other insolvency practitioners. I consider that this represents a fair and reasonable reflection of the work which has been undertaken and reflects the complexity of the case at the time it was quoted.
- 9.1.6. The following statement sets out pre-appointment fees and expenses incurred and the basis on which they were charged, and discloses any payments received on account of those costs prior to my appointment, where applicable.

| Firm                   | Fee basis | Fee<br>£ | Expenses<br>£ | Paid<br>£ | Balance<br>£ |
|------------------------|-----------|----------|---------------|-----------|--------------|
| 360 Insolvency Limited | Fixed fee | 7,500    | 0             | 0         | 7,500        |

## 9.2. Post appointment fees

9.2.1. Attached at Appendix III are summaries of my time costs which provide a breakdown of the activity costs incurred by staff grade during the liquidation in respect of the costs fixed by reference to time properly spent in managing the liquidation. An overview of this time is provided below.

| Work to which fee relates     | 3 August 2022 to 2 August 2023 |                  |                     | 3 August 2023 to 27 September 2023 |               |                     |
|-------------------------------|--------------------------------|------------------|---------------------|------------------------------------|---------------|---------------------|
|                               | Time spent in period           | Time costs       | Average hourly rate | Time spent in period               | Time costs    | Average hourly rate |
|                               | Hours                          | £                | £                   | Hours                              | £             | £                   |
| Administration and planning   | 13.70                          | 2,705.00         | 197.45              | -                                  | -             | -                   |
| Realisation of assets         | 14.10                          | 3,556.00         | 252.20              | 0.7                                | 185.50        | 265.00              |
| Investigations                | 23.90                          | 5,210.50         | 218.01              | 0.9                                | 273.50        | 303.89              |
| Creditors including dividends | 1.80                           | 406.00           | 225.56              | -                                  | -             | -                   |
| <b>Total for case</b>         | <b>53.5</b>                    | <b>11,877.50</b> | <b>222.01</b>       | <b>1.6</b>                         | <b>459.00</b> | <b>286.88</b>       |

9.2.2. Please note that the above may not include time spent drafting this report, which is yet to be posted, though the position is not expected to alter materially.

9.2.3. To date, I have spent 55.1 hours on the case at a cost of £12,336.50 giving an average charge out rate across all grades of staff of £223.89 per hour.

9.2.4. Creditors will note that I did not seek approval of my remuneration at the outset of the liquidation as it is my firm's general policy to seek approval at a juncture where I am able to provide sufficient information on the case and the work that will need to be undertaken such that creditors are able to make a more informed decision when voting than at the outset.

9.2.5. I now consider it appropriate to provide creditors with my initial fee proposal, since we have accrued unpaid costs, have dealt with initial aspects of the liquidation and have ascertained with some certainty the work we expect will be needed and can therefore provide outcome estimates.

9.2.6. Notice of the decisions to be considered by correspondence is enclosed within the letter circulated to creditors and appended to this report. Included within this report is information on the work I anticipate will need to be done in order to wind-up the Company's affairs, together with my fees estimate and a statement of expenses I consider are likely to be incurred including details of this firm's policy on the recovery of expenses.

9.2.7. Insolvency legislation permits a liquidator's remuneration to be based on either a fixed fee, a percentage of realisations or time costs or a combination of these bases for different areas of work. In this case, I am proposing a combination of both a time cost and a percentage basis for the following areas of work:

| Nature of work                          | Fee basis         |
|---|-------------------|
| Administration and planning             | Time costs        |
| Realisation of assets                   | % of realisations |
| Investigations                          | Time costs        |
| Dealing with creditors and their claims | Time costs        |

9.2.8. I attach a detailed fee estimate at Appendix IV that explains the work that I have undertaken, or which I intend to undertake, the hourly rates charged for each part of the work and the time that each part of the work has taken or will take. The estimate includes a summary of that information in an average rate for all of the work being carried out within the estimate.

9.2.9. Work to date is logged on my time recording system, which means that I can present costs to date and estimate future costs by reference to time estimates. Given the circumstances of the case, I am of the opinion that the other fee bases are neither more nor less appropriate than a time cost basis specifically for a case of this size and type.

9.2.10. Time costs are charged by reference to time properly spent by me and members of my staff at our standard charge out rates. When I seek approval for my fees on a time cost basis, I must provide a fee estimate. That estimate acts as a cap on my remuneration so that I cannot draw fees of more than the total estimated time costs without further approval from those who approved the fees.

9.2.11. The following table shows time costs incurred during the liquidation against the fee estimate proposed:

| Work to which fee relates     | Proposed time estimate | Proposed fee estimate | Time spent | Time costs incurred | Time costs paid | Chargeable against fee estimate | Average hourly rate |
|-------------------------------|------------------------|-----------------------|------------|---------------------|-----------------|---------------------------------|---------------------|
| Time costs                    | Hours                  | £                     | Hours      | £                   | Hours           | £                               | £                   |
| Administration and planning   | 87.0                   | 18,860.0              | 13.7       | 2,705.00            | -               | 2,705.00                        | 197.45              |
| Investigations                | 37.30                  | 5,214.00              | 24.8       | 5,484.00            | -               | 5,484.00                        | 221.13              |
| Creditors including dividends | 16.80                  | 4,586.00              | 1.8        | 406.00              | -               | 406.00                          | 225.56              |
| Total time costs              | 141.10                 | 28,660.00             | 40.3       | 8,595.00            | -               | 8,595.00                        | 644.13              |

| Percentage of realisations      | %                   | Realisations | % chargeable | Paid | Balance | N/a |
|---------------------------------|---------------------|--------------|--------------|------|---------|-----|
| Realisation of assets (to date) | 25% of realisations | -            | -            | -    | -       | -   |
| Realisation of assets (future)* | 25% of realisations | 157,429.50   | 39,357.38    | -    | -       | -   |
| Total percentage fee            |                     | 157,429.50   | 39,357.38    | -    | -       | -   |

|  |              |                  |   |   |   |                  |   |
|--|--------------|------------------|---|---|---|------------------|---|
| <b>Total potential combined fee for case</b> | <b>141.1</b> | <b>68,017.38</b> | - | - | - | <b>47,952.38</b> | - |
|--|--------------|------------------|---|---|---|------------------|---|

\*based on the 50% recovery scenario for illustrative purposes only.

9.2.12. Your attention is drawn to the fee estimate workings at Appendix IV which is summarised in the executive summary at the beginning of this report.

9.2.13. Whilst efforts have been made to ensure the basis and proposed fee is appropriate, it is based on my current knowledge of the case and my knowledge and experience of acting in cases of this nature and complexity. If the case becomes more complex and/or time consuming for other reasons and either the value or the basis become inappropriate or insufficient for the case, I may seek to revise the fee or change the basis of remuneration. If that happens I will require creditors' approval and will report in detail at that juncture. I cannot draw remuneration in excess of the stated fee estimate without approval of creditors.

9.2.14. I would comment that this fee proposal is being issued at a stage in the case where I am aware of matters that may lead to more complex and time consuming work required. It is conceivable that a revision may be needed in the event the matter becomes more contentious. If that happens and it is necessary to revise the fee estimate or basis of

remuneration, I will report to creditors explaining why. However, I am of the view that the percentage fee basis for asset recoveries should ensure that it is not necessary to revise the fee basis.

- 9.2.15. I estimate that the total time I will spend in undertaking these tasks in the post appointment period will be 141.10 hours at a cost of £28,660 giving a “blended” rate of £203.12 per hour across all grades of staff.
- 9.2.16. Whilst fee estimates have been broken down by category of work, creditors should note that the resolution is an overall fee estimate for the case, so if, for example, time costs in one category are more than estimated, costs incurred may still be drawn against the estimate applied to another category so long as fees drawn remain within the overall fee estimate cap.
- 9.2.17. It may be that in some areas I have overestimated the costs I might incur, so that if a task proves to be less time consuming than thought, costs will be less. Creditors should therefore note that the fee estimate is only an interim cap on the level of fees that may be drawn and not a statement of fees that will be drawn; if time costs are less than the fee estimate, I am only able to charge for the time costs that have actually been incurred.
- 9.2.18. Since I cannot draw remuneration in excess of this estimate without first obtaining approval to do so, then where it is considered appropriate in the context of the case, I will seek a resolution to increase the fee estimate to draw additional remuneration.
- 9.2.19. At present, I have provided fee estimates that reflect the work done to date and the work that I can estimate will need to be undertaken to perform the tasks and investigations mentioned herein.
- 9.2.20. I am also thereafter seeking to be remunerated on the basis of a percentage of assets realised. I have selected percentage charges for each asset that relate to the type of asset being realised and the work involved in realising that type of asset, as follows:

|   |     |
|---|-----|
| Equity in freehold/ leasehold property  | 25% |
| Plant & machinery/ fixtures & fittings/ stock   | 25% |
| Goodwill/ intellectual property rights/ investments   | 25% |
| Director's and associate loan accounts  | 25% |
| Book debts/ work in progress/ rent deposit  | 20% |
| Equity in motor vehicles  | 20% |
| HM Revenue & Customs tax and any other refunds  | 15% |
| In relation to any other asset recovery (e.g. including those not disclosed, antecedent transaction recoveries etc) | 30% |

and thereafter as a percentage of the value of total distributions to creditors (excluding fixed charge creditors) (to be deducted from the total distribution) plus VAT as set out below:-

|                   |     |
|-------------------|-----|
| The first £20,000 | 15% |
| The next £80,000  | 10% |
| Over £100,000     | 5%  |



9.2.21. It is uncertain at this time how much remuneration will be charged on the above basis as this will depend on the outcome of the matters detailed herein.

9.2.22. Further information about creditors' rights can be obtained by visiting the creditors' information micro-site published by the Association of Business Recovery Professionals (R3) at <http://www.creditorinsolvencyguide.co.uk/>. Details about how an office holder's fees may be approved for each case type are available in a series of Guidance Notes issued with Statement of Insolvency Practice 9, and they can be accessed at <https://www.360insolvency.co.uk/links>. There are different versions of these Guidance Notes, and in this case please refer to the most recent version. Copies of these guides have also been made available at the creditor portal from which this report may have been downloaded and hard copies can be sent to you upon request to this office by post or by email.

9.2.23. Please note that we have also provided further information about an office holder's remuneration and expenses in our practice fee recovery policy which is attached at appendix v.

### 9.3. **Expected work involved - administration and planning**

9.3.1. This heading refers to work involved in complying with statutory obligations and routine administrative functions of the case. While it may be said this work does not give direct financial benefit to the creditors, it has to be undertaken to meet requirements under insolvency legislation and the Statements of Insolvency Practice, which set out required practice that office holders must follow.

9.3.2. The following summarises the work that I have undertaken or expect to undertake in this matter under this category. The list is not exhaustive, nor does it detail the discreet tasks involved in each example:

- Case planning – devising an appropriate strategy for dealing with the case and giving instructions to staff to undertake the work on the case.
- Setting up physical and electronic case files.
- Setting up the case on the practice's electronic case management and time recording system and entering data.
- Issuing statutory notifications to creditors and other parties that are required on appointment, including advertising my appointment in the London Gazette.
- Obtaining a specific penalty bond (this is insurance required by statute that every insolvency office holder has to obtain for the protection of each estate) and conducting periodic reviews to ensure it is adequate throughout the case.
- Preparing, reviewing and issuing annual reports to creditors.
- Convening this decision procedure and preparing a record of decisions.
- Dealing with all routine correspondence and emails relating to the case.
- Opening, maintaining and managing the estate bank account.
- Creating, maintaining and managing the estate cashbook.
- Undertaking periodic reviews of the progress of the case.
- Overseeing and controlling the work done on the case by staff.
- Seeking closure clearance from HM Revenue & Customs and other relevant parties.
- Preparing, reviewing and issuing my final report to creditors.
- Filing the final return with Companies House and other bodies, as appropriate.

#### 9.4. Expected work involved - realisation of assets

9.4.1. In realising the Company's assets, the following work is required. The list is not exhaustive, nor does it detail the discreet tasks involved in each example.

- Collating relevant accounting data.
- Corresponding with third party debtors in relation to sums due.
- Considering disputed debts and gathering information and liaising with relevant parties.
- Corresponding with the company's bankers, considering their responses and providing further information.
- Instructing and liaising with legal advisers in relation to pursuit of the loan accounts and settlement proposals (where appropriate)
- Seeking settlement of the overdrawn director's loan account
- Seeking recovery of assets not previously disclosed including inter alia the antecedent transaction claims.

#### 9.5. Expected work involved - Investigations

9.5.1. The following sets out more about the work that I have undertaken under this category. The list is not exhaustive, nor does it detail the discreet tasks involved in each example:

- Ensuring books and records were secured and scheduled.
- Conducting an initial investigation with a view to identifying potential asset recoveries by seeking and obtaining information from relevant third parties, such as the bank and accountants.
- Reviewing books and records to identify any transactions and/or potential actions against third parties in order to recover funds for the benefit of the estate.
- Reviewing the Company bank statements and making additional enquiries where appropriate.
- Undertaking further enquiries into matters for focused review, such as a reconciliation of the director's drawings.
- Preparing and making submission on director's conduct and liaising with the Insolvency Service.

#### 9.6. Expected work involved – Creditors

9.6.1. The following sets out more about the work that I have undertaken under the category of creditors. The list is not exhaustive, nor does it detail the discreet tasks involved in each example:

- Dealing with contact from creditors by correspondence, email and telephone calls regarding queries and their claims.
- Maintaining up to date creditor information on the case management system.
- Requesting further information from creditors to support their claims.
- Paying a dividend to secondary preferential creditors, if applicable.

## 9.7. Liquidator's expenses

9.7.1. Expenses are any payments from an insolvent estate which are neither an office holder's remuneration nor a distribution to a creditor or a member. The term also includes disbursements, which are payments that are first met by the office holder and then reimbursed to the office holder from the estate. Expenses are split into:

- Category 1 expenses, which are payments to persons providing the service to which the expense relates who are not an associate of the office holder; and
- Category 2 expenses, which are payments to associates or which have an element of shared costs. Before being paid, category 2 expenses require approval in the same manner as an office holder's remuneration.

### Category 1 expenses

9.7.2. The following category 1 expenses have been incurred and initially paid by 360 Insolvency Limited. These expenses remain outstanding and will be reimbursed once funds become available:

| Service provider   | Nature of expense incurred | Amount incurred in reporting Period<br>£ | Paid<br>£   | Balance<br>£    | Future estimate<br>£ |
|--------------------|----------------------------|--|-------------|-----------------|----------------------|
| Courts Advertising | Statutory advertising      | 188.20                                   | 0.00        | 188.20          | 0.00                 |
| Marsh Limited      | Statutory bond             | 520.00                                   | 0.00        | 520.00          | 0.00                 |
| RSW Law            | Legal advice               | 1,500.00                                 | 0.00        | 1,500.00        | uncertain            |
| <b>Total</b>       |                            | <b>2,208.20</b>                          | <b>0.00</b> | <b>2,208.20</b> | <b>0.00</b>          |

9.7.3. Category 1 expenses incurred are within expectations for a case of this size and nature.

### Category 2 expenses

9.7.4. As referred to above, category 2 expenses are those that include an element of overhead recharge or profit charged by my practice or are incurred by associates. I have not incurred any category 2 expenses.

### Professional advisers

9.7.5. Included in the expenses mentioned above I have utilised the following agents and professional advisors since my appointment as Liquidator:

| Professional adviser | Nature of work | Cost basis       | Costs incurred to 2 August 2023<br>£ | Estimate of future costs<br>£ |
|----------------------|----------------|------------------|--------------------------------------|-------------------------------|
| RSW Law Limited      | Legal advice   | Time costs (CFA) | 1,500.00                             | Uncertain                     |

9.7.6. The choice of professionals used was based on my perception of their experience and ability to perform this type of work, the complexity and nature of the assignment and the basis of my fee arrangement with them. I also confirmed that they hold appropriate regulatory authorisations and insurances. I have reviewed the fees they have charged and I am satisfied that they are reasonable in the circumstances of this case.

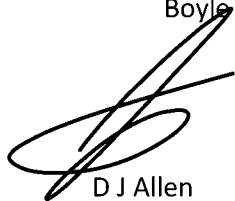
9.7.7. RSW Law Limited are solicitors instructed to assist in legal matters pertaining to the liquidation. RSW Law are experienced solicitors, specialising in business recovery, restructuring and insolvency. They are instructed based on my perception of their ability to perform this type of work arising from my experience of them on other assignments, the complexity and nature of the assignment and the basis of my fee arrangement with them. RSW Law have also confirmed that they hold appropriate regulatory authorisations and insurances and that they are not aware of any conflict of interest.

## 10. Further information

- 10.1. An unsecured creditor may, with the permission of the Court, or with the concurrence of 5% in value of the unsecured creditors (including the creditor in question), request further details of the Joint Liquidators' remuneration and expenses within 21 days of their receipt of this report. Any secured creditor may request the same details in the same time limit.
- 10.2. An unsecured creditor may, with the permission of the Court, or with the concurrence of 10% in value of the unsecured creditors (including the creditor in question), apply to Court to challenge the amount of remuneration charged by the Liquidator as being excessive, and/or the basis of the Liquidators remuneration, and/or the amount of the expenses incurred as being excessive, within 8 weeks of their receipt of this report. Any secured creditor may make a similar application to Court within the same time limit.
- 10.3. To comply with the Provision of Services Regulations, some general information about 360 Insolvency Limited can be found at <https://www.360insolvency.co.uk/>

## 11. Summary

- 11.1. Your attention is drawn to the appendices to this report which include formal notice of decision procedures to form a committee or (in the absence of a committee) to approve the basis of my remuneration for acting as liquidator.
- 11.2. I intend to proceed with the liquidation as set out in this report.
- 11.3. If you have any queries, please do not hesitate to contact either myself or my colleague Adam Boyle at [adamboyle@360insolvency.co.uk](mailto:adamboyle@360insolvency.co.uk) or by telephone on 01634 475546.



D J Allen  
Liquidator

## Appendix i

### Statutory information

Company name: BE Martin & Sons Limited

Company number: 04476912

Date of incorporation: 3 July 2002

Registered office: 1 Castle Hill Court, Castle Hill, Rochester, Kent ME1 1LF

Former registered office: 38 Bredhurst Road, Wigmore, Gillingham, Kent ME8 0PE

Former trading address: 38 Bredhurst Road, Wigmore, Gillingham, Kent ME8 0PE

Nature of business: 43290 – Other construction installation

Company director(s):  
(Previous 3 years)

| Name          | Date of Appointment | Date of Resignation |
|---------------|---------------------|---------------------|
| Darren Martin | 3 July 2002         | -                   |
| Barry Martin  | 3 July 2002         | 8 January 2020      |

Shareholders:

| Name          | Shareholding | %   |
|---------------|--------------|-----|
| Darren Martin | 100 Ordinary | 100 |

Charges: No charges registered

### Other Information

Company bankers: The Cooperative Bank plc

Company accountants: Phipps Anthony, Station Road, Gillingham

## **Appendix ii**

**Receipts and payments account  
for the period 2 August 2022 to 3 August 2023  
and an account covering the additional period  
2 August 2023 to 27 September 2023**

**B E Martin & Sons Limited****In Liquidation****Liquidator's Summary of Receipts and Payments (Accruals Basis)**

| Statement<br>of Affairs<br>£                  | From 03 August 2022<br>To 02 August 2023<br>£ | From 03 August 2022<br>To 02 August 2023<br>£ |
|---|---|---|
| <b>ASSET REALISATIONS</b>                     |   |   |
| 36,000.00 Book debts                          | 0.00  | 0.00  |
| 17,000.00 Cash at Bank                        | 0.00  | 0.00  |
| Uncertain Director's loan - Darren Martin     | 0.00  | 0.00  |
|   | 0.00  | 0.00  |
| <b>SECONDARY PREFERENTIAL CREDITORS</b>       |   |   |
| (106,000.00) HM Revenue & Customs - PAYE/CIS  | 0.00  | 0.00  |
| (50,000.00) HM Revenue & Customs - VAT        | 0.00  | 0.00  |
|   | 0.00  | 0.00  |
| <b>UNSECURED CREDITORS</b>                    |   |   |
| (62,934.00) Trade & Expense Creditors         | 0.00  | 0.00  |
| (50,000.00) Bounce back loan - Co-op Bank plc | 0.00  | 0.00  |
| (87,000.00) HM Revenue & Customs - CT         | 0.00  | 0.00  |
| (70,000.00) Loan - Funding Circle             | 0.00  | 0.00  |
|   | 0.00  | 0.00  |
| <b>DISTRIBUTIONS</b>                          |   |   |
| (100.00) Ordinary Shareholders                | 0.00  | 0.00  |
|   | 0.00  | 0.00  |
| <b>(373,034.00)</b>                           | <b>0.00</b>                                   | <b>0.00</b>                                   |
| <b>REPRESENTED BY</b>                         |   |   |
|   |   | <b>NIL</b>                                    |

Danny Allen  
Liquidator

## **Appendix iii**

**Summary of Liquidator's time costs  
for the period 3 August 2022 to 2 July 2023  
and an account covering the additional period  
3 August 2023 to 27 September 2023**



**SIP9 Time & Cost Summary**  
**B E Martin & Sons Limited - in liquidation**  
**3 August 2022 to 2 August 2023**

[illegible]

**SIP9 Time & Cost Summary**  
**B E Martin & Sons Limited - in liquidation**  
**3 August 2023 to 27 September 2023**

[illegible]

## **Appendix iv**

### **Liquidator's detailed fee estimate**

**Fee estimate and description of work to be undertaken in each category**  
**BE Martin & Sons Limited - in liquidation**

| <b>Administration, planning and statutory - description of work to be undertaken</b> | <b>Time est<br/>Hours</b> | <b>Cost<br/>£</b> |
|--|---------------------------|-------------------|
| Case planning and management   | 14.00                     | 3,130.00          |
| Reporting to creditors & statutory filings   | 30.00                     | 6,790.00          |
| Case progression and review  | 22.00                     | 4,530.00          |
| Cashiering, including VAT and CT returns   | 7.00                      | 1,280.00          |
| Case closure, including final report, VAT etc  | 14.00                     | 3,130.00          |
| <b>Total</b>   | <b>87.00</b>              | <b>18,860.00</b>  |
| <b>Average hourly rate</b>   |                           | <b>216.78</b>     |

| <b>Investigation - description of work to be undertaken</b>  | <b>Time est<br/>Hours</b> | <b>Cost<br/>£</b> |
|--|---------------------------|-------------------|
| Recovering and reviewing physical and electronic books and records from company and third parties  | 2.50                      | 602.00            |
| Initial review - SIP2 - review data for specific purposes to determine whether further enquiries are required  | 5.50                      | 1,190.00          |
| Further reviews - financial analysis: including detailed bank transaction analysis, director and shareholder drawings, payments to third parties, financial control management | 29.30                     | 3,422.00          |
| <b>Total</b>   | <b>37.30</b>              | <b>5,214.00</b>   |
| <b>Average hourly rate</b>   |                           | <b>139.79</b>     |

| <b>Creditors - description of work to be undertaken</b>  | <b>Time est<br/>Hours</b> | <b>Cost<br/>£</b> |
|--|---------------------------|-------------------|
| Dealing with general enquiries   | 1.30                      | 271.00            |
| Reviewing, posting creditor proofs, request supporting docs where necessary  | 0.50                      | 135.00            |
| Secondary Preferential dividend - Liaising with HMRC to determine their claim, review, adjudicate and pay dividend | 15.00                     | 4,180.00          |
| <b>Total</b>   | <b>16.80</b>              | <b>4,586.00</b>   |
| <b>Average hourly rate</b>   |                           | <b>272.98</b>     |

|  |          |                  |
|--|----------|------------------|
| <b>Total fee estimate for the case</b> | <b>£</b> | <b>28,660.00</b> |
|--|----------|------------------|

## **Appendix v**

### **Liquidator's practice fee and expense recharge policy**

## 360 Insolvency's fee and expenses recovery policy

### 1. Introduction

- 1.1. Legislation allows different fee bases to be used for different tasks within the same appointment. The fee basis, or combination of bases, set for a particular appointment is/are subject to approval, generally by a committee if one is appointed, failing which the creditors in general meeting, or by the Court.
- 1.2. This sheet explains how we intend to apply the alternative fee bases allowed by the legislation when acting as office holder in insolvency appointments.
- 1.3. Further information about creditors' rights can be obtained by visiting the creditors' information micro-site published by the Association of Business Recovery Professionals (R3) at <http://www.creditorinsolvencyguide.co.uk/>. Details about how an office holder's fees may be approved for each case type are available in a series of guides issued with Statement of Insolvency Practice 9 (SIP 9) and can be accessed at [www.icaew.com/en/technical/insolvency/creditors-guides](http://www.icaew.com/en/technical/insolvency/creditors-guides). Alternatively, copies by post or email will be sent to you on request.
- 1.4. An office holder is required to provide periodic reports to committees and to creditors generally after each anniversary of a case and that report will provide a breakdown of the remuneration drawn. If approval has been obtained for remuneration on a time costs basis, i.e. by reference to time properly spent by members of staff of the practice at our standard charge out rates, the time incurred will also be disclosed, whether drawn or not, together with the average, or "blended" rates of such costs. Under the legislation, any such report must disclose how creditors can seek further information and challenge the basis on which the fees are calculated and the level of fees drawn in the period of the report. Once the time to challenge the office holder's remuneration for the period reported on has elapsed, then that remuneration cannot subsequently be challenged.
- 1.5. Under some old legislation, which still applies for insolvency appointments commenced before 6 April 2010, there is no equivalent mechanism for fees to be challenged.

### 2. Time cost basis

- 2.1. When charging fees on a time costs basis we use charge out rates appropriate to the skills and experience of a member of staff and the work that they perform. This is combined with the amount of time that they work on each case, recorded in 6 minute units with supporting narrative to explain the work undertaken.

#### Charge out rates

- 2.2. The table below sets out charge out rates applicable to this assignment. 360 is a growing practice and has recruited at relatively senior level. To ensure proportionality of cost, but to avoid complications arising from staff members having multiple charge out rates applied to cases according to the type of work being undertaken, that a single blended charge out rate for each staff member is more appropriate. The blended rate is calculated using an estimated weighting of the type of work being carried out by each grade, leading to an overall reduced rate per hour in each case against the base grade rate that we considered reasonable, having compared rates against those charged by other practices.
- 2.3. Charge out rates are reviewed periodically and where an assignment covers more than one period the rates for each period relevant to that assignment are provided.

|  | Effective from<br>October 2019<br>£ per hour | Effective from<br>01/02/2022<br>£ per hour | Effective from<br>13/02/2023<br>£ per hour |
|--|--|--|--|
| Insolvency practitioner (office holder)          | £270   | £270                                       | £335                                       |
| Senior manager                                   | -  | £180                                       | £265                                       |
| Assistant manager/senior administrator           | -  | -  | £220                                       |
| Trainee administrator                            | £50  | £50  | £50  |
| <b>Average rate per hour by number of grades</b> | <b>£160</b>                                  | <b>£167</b>                                | <b>£218</b>                                |

- 2.4. These charge-out rates charged are reviewed each year and may be adjusted to take account of inflation and the firm's overheads. We will communicate any change in charge out rate in the next periodic report for any assignment.

- 2.5. Time is charged in 6 minute units and recorded using a time recording system which is integrated into our case management software (IPS).
- 2.6. The work is generally recorded under the following categories:
- Administration and planning
  - Creditors
  - Realisation of assets
  - Investigations
  - Trading
- 2.7. Where appropriate or necessary in the context of the circumstance of a case, we may propose a charge out rate that differs from the standard rate(s) set out herein. Where we do that, we will provide a full explanation and set out our standard rate(s) so that comparisons may be made.
- 2.8. When we seek time costs approval, we have to set out a fee estimate. That estimate acts as a cap on our time costs so that we cannot draw fees of more than the estimated time costs without further approval from those who approved them. When seeking approval for our fees, we will disclose the work that we have done to that point, the work we intend to undertake, the time that we think each part of the work will take and the charge out rates we intend to apply. We will summarise that information in an average or “blended” rate for all of the work being carried out within the estimate. We will also say whether we anticipate needing to seek approval to exceed the estimate and, if so, the reasons that we think that may be necessary.
- 2.9. The disclosure that we make should include sufficient information about the insolvency appointment to enable you to understand how the proposed fee reflects the complexity (or otherwise) of the case, any responsibility of an exceptional kind falling on the office holder, the effectiveness with which the office holder has carried out their functions, and the value and nature of the property with which the office holder has to deal.
- 2.10. If we subsequently need to seek authority to draw fees in excess of the estimate, we will say why we have exceeded, or are likely to exceed the estimate; any additional work undertaken, or proposed to be undertaken; the hourly rates proposed for each part of the work; and the time that the additional work is expected to take. As with the original estimate, we will say whether we anticipate needing further approval and, if so, why we think it may be necessary to seek further approval.

### **3. Percentage basis**

- 3.1. Legislation changes in 2015 now allows fees to be charged as a percentage of the value of the property with which the office holder has to deal (realisations and/or distributions). Different percentages can be used for different assets or types of assets. We usually reserve this type of fee structure where we are having to deal with contingent assets or matters such as litigation where recovery is uncertain and/or we are required to conduct work at risk and gives creditor a measurable outcome where perhaps recovery action would not be possible.
- 3.2. When seeking fee approval, a report will accompany any fee request setting out the potential assets in the case, the remuneration percentage proposed and the work covered by that remuneration, as well as the expenses that will be, or are likely to be, incurred. Expenses can be incurred without approval but must be disclosed to help put the remuneration request into context.
- 3.3. The percentage approved in respect of realisations will be charged against the assets realised, and where approval is obtained on a mixture of bases, any fixed fee and time costs will then be charged against the funds remaining in the liquidation after the realisation percentage has been deducted.
- 3.4. The disclosure that we make should include sufficient information about the insolvency appointment to enable you to understand how the proposed fee reflects the complexity (or otherwise) of the case, any responsibility of an exceptional kind falling on the office holder, the effectiveness with which the office holder has carried out their functions, and the value and nature of the property with which the office holder has to deal.

- 3.5. If the basis of remuneration has been approved on a percentage basis then an increase in the amount of the percentage applied can only be approved by the committee or creditors (depending upon who approved the basis of remuneration) in cases where there has been a material and substantial change in the circumstances that were not taken into account when fixing the level of the percentage applied. If there has not been a material and substantial change in the circumstances then an increase can only be approved by the Court.

#### **4. Fixed fee**

- 4.1. The legislation also allows fees to be charged at a set amount. Different set amounts can be used for different tasks. A report accompanying any fee approval request will set out the set fee that we propose to charge and the work covered within that fee, as well as the expenses that will be, or are likely to be, incurred. Expenses can be incurred without approval but must be disclosed to help put the remuneration request into context.
- 4.2. The disclosure that we make should include sufficient information about the insolvency appointment to enable you to understand how the proposed fee reflects the complexity (or otherwise) of the case, any responsibility of an exceptional kind falling on the office holder, the effectiveness with which the office holder has carried out their functions, and the value and nature of the property with which the office holder has to deal.
- 4.3. If the basis of remuneration has been approved on a fixed fee basis then an increase in the amount of the fixed fee can only be approved by the committee or creditors (depending upon who approved the basis of remuneration) in cases where there has been a material and substantial change in the circumstances that were taken into account when fixing the original level of the fixed fee. If there has not been a material and substantial change in circumstance then an increase can only be approved by the Court.

#### **5. Members' voluntary liquidations and voluntary arrangements**

- 5.1. The legislation is different for members' voluntary liquidations (MVL), Company Voluntary Arrangements (CVA) and Individual Voluntary Arrangements (IVA). In MVLs, the company's members set the fee basis, often as a fixed fee, and SIP 9 does not apply unless the members specifically request it. In CVAs and IVAs, the fee basis is set out in the proposals and creditors approve the fee basis when they approve the arrangement.

#### **6. All fee bases**

- 6.1. With the exception of IVAs and CVAs, which are usually VAT exempt, the office holder's remuneration invoiced to the insolvent estate will be subject to VAT at the prevailing rate.

#### **7. Professional agents and advisers**

- 7.1. Professional advisors may be instructed to assist the office holder on the case where they consider that such assistance is necessary to enable them to appropriately administer the case. The fees charged by any professional advisor used will be recharged at cost to the case, regardless of whether it is a category 1 or category 2 expense. We do not have and will not entertain fee sharing or commission arrangements with any supplier on an insolvency assignment. Where the professional advisor is not an associate of the office holder it will be for the office holder to agree the basis of their fees. Where the professional advisor is an associate of the office holder it will be for those responsible for fixing the basis of the office holder's remuneration to approve charging of payments to them to the case, or where costs are first paid by 360, approval will be sought to recharge the expense to the case. The fees of any professional advisors are subject to the rights of creditors to seek further information about them or challenge them as summarised below. Professional advisors that may be instructed on a case include solicitors/legal advisors, auctioneers/valuers, accountants, quantity surveyors, estate agents, employment rights advisers, pension specialists.
- 7.2. We will provide details of expenses to be incurred, or likely to be incurred, when seeking fee approval and if the agent is deemed to be an associate, creditor approval of their costs will be required. When reporting to the committee and creditors during the course of the insolvency appointment the actual expenses incurred will be compared with the original estimate provided.



## 8. Expenses

- 8.1. As already indicated, a report will accompany the request to fix the basis of remuneration and that will include details of expenses to be incurred, or likely to be incurred. When reporting to the committee and creditors during the course of the insolvency appointment the actual expenses incurred will be compared with the original estimate provided.
- 8.2. Expenses are any payments from the insolvent estate that are neither an office holder's remuneration nor a distribution to a creditor, or a member. Expenses also include disbursements. Disbursements are payments that are first paid by the office holder and then reimbursed from the insolvent estate. Expenses are divided into those that do not need approval before they are charged to the estate (Category 1) and those that do (Category 2).
- 8.3. **Category 1** expenses are payments to persons providing the service to which the expense relates who are not an associate of the office holder. They can be paid by the office holder without obtaining prior approval. Examples of costs that may amount to Category 1 expenses are professional advisors (who are not associates), statutory advertising, external meeting room hire (where the room is only hired for that meeting), external storage, specific penalty bond insurance, insolvency case management software fees charged on a per case basis, large item postage or courier services and company search fees.
- 8.4. These expenses are recoverable in full from the estate without the prior approval of creditors either by a direct payment from the estate or, where 360 has made payment on behalf of the estate, by a recharge of the amount.
- 8.5. If the payee is deemed to be an associate of the liquidator, prior approval must be obtained.
- 8.6. **Category 2** expenses are either payments to associates, or payments in respect of expenses that have an element of shared costs or overhead contribution, such as photocopying and mileage. Category 2 expenses require approval in the same manner as an office holder's remuneration before they can be paid. Although we may seek authorisation for recovery of category 2 expenses, we may not ultimately charge them to the case. We may also reserve recharge of some category 2 expenses to larger cases where the cost represents a significant outlay.

- 8.6.1. **Postage and stationery** – for most cases we do not recharge postage and copying costs, however, we reserve the right to do so in larger cases where the cost outlay for a single circular to creditors exceeds £250. This is likely only charged when sending multi-page circulars by post to creditors. Routine and ad hoc letters/communications are not recharged and cost is absorbed by 360. Where we seek approval on this basis, the following costs will be applied

| Expense – postage and stationery                                   | £              |
|--|----------------|
| Postage 1 <sup>st</sup> class – standard / large letter per item * | 95p to £3.30   |
| Postage 2 <sup>nd</sup> class – standard / large letter per item * | 68p to £2.70   |
| Printing and copying *   | 5p per page    |
| Stationery (envelopes) *   | 10p per letter |

- 8.6.2. **Other expenses** – we may seek to recover mileage charges where an assignment involves significant travel. In most cases we will not look to recover such costs

| Other expenses | £            |
|----------------|--------------|
| Mileage        | 45p per mile |

- 8.6.3. **Professional support deemed to be associates** – SIP9 provides that payments to service providers that are deemed to be 'associates' require authorisation as category 2 expenses. The definition of 'associate' is open to some interpretation and guidance suggests that it is likely to apply to a service provider that is regularly utilised by a practice. We do not necessarily agree with this interpretation and dislike the suggestion that we may instruct a professional purely out of convention or because of a connection or relationship rather than because they are skilled, capable, trustworthy and/or represent or add value. Notwithstanding, we aim to abide by best practice guidance and have identified the following service providers that could be considered to fall within the definition:

| Expense – professional advisers deemed to be associates | £        |
|---|----------|
| ERA Solutions – employee claim support                  | Per case |
| SP Insolvency Limited – pension advisory and support    | Per case |

## 9. Reporting and rights to challenge

- 9.1. Once the basis of the office holder's remuneration has been approved, periodic reports will provide a breakdown of the remuneration charged in the period covered by the report, i.e., the amount that the office holder is entitled to draw, together with the amount of remuneration drawn. If approval has been obtained for remuneration on a time costs basis, the time costs incurred will also be disclosed, whether drawn or not, together with the "blended" rates of such costs. The report will also compare the actual time costs incurred with those included in the fees estimate prepared when fixing the basis of the remuneration and indicate whether the fees estimate is likely to be exceeded. If the fees estimate has been exceeded, or is likely to be exceeded, the report will explain why that is the case.
- 9.2. The report will also provide information about expenses incurred in the period covered by the report, together with those actually paid, together with a comparison with the estimated expenses. If the expenses incurred, or anticipated to be incurred, have exceeded the estimate provided the report will explain why that is the case.
- 9.3. Under the insolvency legislation the report must also include a statement of the legislative rights of creditors to request further information about the remuneration charged and expenses incurred in the period covered by the report, or to challenge them on the grounds that they are excessive. Extracts of the relevant insolvency rules dealing with these rights are set out below. Once the time period to seek further information about the office holder's remuneration and/or expenses for the period covered by the report has elapsed, then a Court Order is required to compel the office holder to provide further information about the remuneration and expenses. A Court order is required to challenge the office holder's remuneration and/or expenses for the period covered by the report. Once that period has elapsed, then a separate Court Order is required to allow an application out of time.
- 9.4. Under rule 18.9 of the Insolvency (England and Wales) Rules 2006, an unsecured creditor may, with the permission of the court or with the concurrence of 5% in value of the unsecured creditors (including the creditor in question) request further details of the office holder's remuneration and expenses, within 21 days of receipt of any report for the period. Any secured creditor may request the same details in the same time limit.
- 9.5. Under rule 18.34, an unsecured creditor may, with the permission of the court or with the concurrence of 10% in value of the unsecured creditors (including the creditor in question), apply to court to challenge the amount and/or basis of the office holder's fees and the amount of any proposed expenses or expenses already incurred, within 8 weeks of receipt of any report for the period. Any secured creditor may make a similar application to court within the same time limit.
- 9.6. Under some old legislation, which still applies for insolvency appointments commenced before 6 April 2010, there is no equivalent mechanism for fees to be challenged.

## **Appendix vi**

### **Decision procedure documents**

**Notice of decision to appoint a liquidation committee**

**Notice of a decision to approve the basis of the Liquidator's remuneration**

**Proof of debt**

## **Notice of invitation to form a liquidation committee**

**Decision Date: 26 October 2023**

### **BE Martin & Sons Ltd – in Liquidation (“Company”)**

**Company number: 04476912**

**NOTICE IS GIVEN** by Danny Allen, Liquidator, to the creditors of the Company of an invitation to establish a Liquidation Committee under rule 6.19 of The Insolvency (England and Wales) Rules 2016.

1. In addition to seeking a decision on the matters set out in the accompanying notice, creditors are also invited to determine by correspondence, at the same time, whether a liquidation committee should be established.
2. A committee may be formed if a minimum of 3 and a maximum of 5 creditors are willing to become members.
3. Nominations can only be accepted for a creditor to become a member of the committee if they are an unsecured creditor and have lodged a proof of their debt that has not been disallowed for voting or dividend purposes.
4. The specified date for receipt of nominations for creditors to act as a member of the committee under rule 6.19 of The Insolvency (England and Wales) Rules 2016 is 23:59 hours on 26 October 2023, the decision date.
5. Please complete the form sent with this notice and include the name and address of any person you wish to nominate to act as a member of the Committee. The completed document should be returned to me either by email to [info@360insolvency.co.uk](mailto:info@360insolvency.co.uk) or by post to 360 Insolvency Limited, 1 Castle Hill Court, Castle Hill, Rochester, Kent ME1 1LF so that it is received by no later than 23.59 hours on 26 October 2023, the decision date.

Note: Further information on the rights, duties and the functions of a Committee is available in a booklet published by the Association of Business Recovery Professionals (R3). This booklet can be accessed at <https://www.360insolvency.co.uk/links>. If you require a hard or email format copy of the booklet please contact me either by email to [info@360insolvency.co.uk](mailto:info@360insolvency.co.uk) or by post to 360 Insolvency Limited, 1 Castle Hill Court, Castle Hill, Rochester, Kent ME1 1LF or telephone 01634 475546 to request one.

**The final date for votes to establish a committee is 26 October 2023, the decision date.**

1. In order for their votes to be counted creditors must submit to me their completed voting form so that it is received either by email to [info@360insolvency.co.uk](mailto:info@360insolvency.co.uk) or by post to 360 Insolvency Limited, 1 Castle Hill Court, Castle Hill, Rochester, Kent ME1 1LF no later than 23.59 hours on 26 October 2023, the decision date. It must be accompanied by proof of their debt, (if not already lodged). Failure to do so will lead to their vote being disregarded.
2. Creditors must lodge proof of their debt (if not already lodged) at the offices of 360 Insolvency Limited either by email to [info@360insolvency.co.uk](mailto:info@360insolvency.co.uk) or by post to 360 Insolvency Limited, 1 Castle Hill Court, Castle Hill, Rochester, Kent ME1 1LF so that it is received by no later than 23.59 hours on 26 October 2023, the decision date, without which their vote will be invalid.
3. Creditors with small debts, that is claims of £1,000 or less, must have lodged proof of their debt for their vote to be valid.

4. Any creditors who have previously opted out from receiving documents in respect of the insolvency proceedings are entitled to vote on the decision provided they have lodged proof of their debt.
5. Creditors may, within 5 business days of delivery of this notice to them, request a physical meeting of creditors be held to determine the outcome of the decision above. Any request for a physical meeting must be accompanied by valid proof of their debt (if not already lodged). A meeting will be convened if creditors requesting a meeting represent a minimum of 10% in value or 10% in number of creditors or simply 10 creditors, where "creditors" means "all creditors."
6. Creditors have the right to appeal a decision of the convener made under Chapter 8 of Part 15 of The Insolvency (England and Wales) Rules 2016 about creditors' voting rights and majorities, by applying to court under Rule 15.35 of The Insolvency (England and Wales) Rules 2016 within 21 days of 26 October 2023, the decision date.

Creditors requiring further information regarding the above, should either contact me either by email to [info@360insolvency.co.uk](mailto:info@360insolvency.co.uk) or by post to 360 Insolvency Limited, 1 Castle Hill Court, Castle Hill, Rochester, Kent ME1 1LF or by calling 01634 475546.

27 September 2023



D.J. Allen  
Liquidator

## Voting form - decision on invitation to form a liquidation committee

**BE Martin & Sons Ltd – in Liquidation (“Company”)**

**Company number: 04476912**

### Decision

1. That a Liquidation Committee should be established. For/Against

Please note that if creditors vote to establish a committee, then unless at least 3 nominations for creditors to act as committee members are received at the same time, it will be necessary to convene a further decision procedure to decide which creditors are to act as committee members. That will involve incurring additional costs, so if you intend to vote to establish a committee, please also nominate either yourself or another creditor to act as a committee member.

I wish to nominate the following creditor to act as a member of the committee:

Name of nominated creditor \_\_\_\_\_

### To be completed by creditor when returning form:

Name of creditor \_\_\_\_\_

Signature of creditor \_\_\_\_\_

(Complete the following if signing on behalf of creditor, e.g. director/solicitor)

Capacity in which signing \_\_\_\_\_

Dated: \_\_\_\_\_

Note: The completed form should be delivered to me either by email to [info@360insolvency.co.uk](mailto:info@360insolvency.co.uk) or by post to 360 Insolvency Limited, 1 Castle Hill Court, Castle Hill, Rochester, Kent ME1 1LF so that it is received by no later than 23.59 hours on 26 October 2023 the decision date.

## **Notice of decisions by correspondence to agree the Liquidator's remuneration and expenses**

### **BE Martin & Sons Ltd – in Liquidation ("Company") Company number: 04476912**

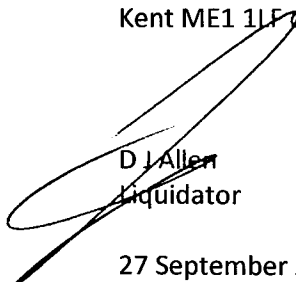
**NOTICE IS GIVEN** by Danny Allen of 360 Insolvency Limited, the Liquidator, to the creditors of the Company that set out below are resolutions for your consideration under rule 18.16 of The Insolvency (England and Wales) Rules 2016. Please complete the voting section below indicating whether you are in favour or against the following decision(s):

- i. That the fees and expenses of 360 Insolvency Limited in respect of assisting the Company in preparing a Statement of Affairs and seeking a decision from creditors on the nomination of a liquidator amounting to £7,500 plus VAT be paid from realisations as an expense of the liquidation;
- ii. That the Liquidator's fees will be charged by reference to the time properly spent by him and his staff in dealing with the matters relating to the Liquidation, such time to be charged at the hourly charge out rate of the grade of staff undertaking the work at the time the work is undertaken and subject to the fees estimate set out in the Liquidator's remuneration report and associated documents issued with the notice of this decision procedure and that it be also fixed on a basis calculated as a percentage of realisations as set out in the Liquidator's report and associated documents issued with the notice of this decision procedure; and
- iii. That the Liquidator be authorised to charge and draw Category 2 expenses

**The final date for votes to be received is 26 October 2023, the decision date.**

1. In order for their votes to be counted creditors must submit to me their completed voting form either by email to [info@360insolvency.co.uk](mailto:info@360insolvency.co.uk) or by post to 360 Insolvency Limited, 1 Castle Hill Court, Castle Hill, Rochester, Kent ME1 1LF so that it is received by no later than 23.59 hours on 26 October 2023, the decision date.
2. Votes on decisions must be accompanied by proof of their debt, (if not already lodged). Failure to do so will lead to their vote(s) being disregarded.
3. Creditors must lodge proof of their debt (if not already lodged) at the offices of 360 Insolvency Limited either by email to [info@360insolvency.co.uk](mailto:info@360insolvency.co.uk) or by post to 360 Insolvency Limited, 1 Castle Hill Court, Castle Hill, Rochester, Kent ME1 1LF so that it is received by no later than 23.59 hours on 26 October 2023, the decision date, without which their vote will be invalid.
4. Creditors with claims of £1,000 or less must have lodged proof of their debt for their vote to be valid.
5. Any creditors who have previously opted out from receiving documents in respect of the insolvency proceedings are entitled to vote on the decision(s) provided they have lodged proof of their debt.
6. Creditors may, within 5 business days of delivery of this notice to them, request a physical meeting of creditors be held to determine the outcome of the decision(s) above. Any request for a physical meeting must be accompanied by valid proof of their debt (if not already lodged). A meeting will be convened if creditors requesting a meeting represent a minimum of 10% in value or 10% in number of creditors or simply 10 creditors, where "creditors" means "all creditors."
7. Creditors have the right to appeal a decision of the convener made under Chapter 8 of Part 15 of The Insolvency (England and Wales) Rules 2016 about creditors' voting rights and majorities, by applying to court under Rule 15.35 of The Insolvency (England and Wales) Rules 2016 within 21 days of 26 October 2023 the decision date.

Creditors requiring further information regarding the above, should either contact me either by email to [info@360insolvency.co.uk](mailto:info@360insolvency.co.uk) or by post to 360 Insolvency Limited, 1 Castle Hill Court, Castle Hill, Rochester, Kent ME1 1LF or by telephone 01634 475546.



D J Allen  
Liquidator

27 September 2023



## Voting on decisions by correspondence on remuneration and expenses

Decision date: 26 October 2023

**BE Martin & Sons Ltd – in Liquidation (“Company”)**

**Company number: 04476912**

### Voting on decisions

- i. That the fees and expenses of 360 Insolvency Limited in respect of assisting the Company in preparing a Statement of Affairs and seeking a decision from creditors on the nomination of a liquidator amounting to £7,500 plus VAT be paid from realisations as an expense of the liquidation;

\* For / Against

- ii. That the Liquidator’s fees will be charged by reference to the time properly spent by him and his staff in dealing with the matters relating to the Liquidation, such time to be charged at the hourly charge out rate of the grade of staff undertaking the work at the time the work is undertaken and subject to the fees estimate set out in the Liquidator’s remuneration report and associated documents issued with the notice of this decision procedure and that it be also fixed on a basis calculated as a percentage of realisations as set out in the Liquidator’s report and associated documents issued with the notice of this decision procedure.

\* For / Against

- iii. That the Liquidator be authorised to charge and draw Category 2 expenses.

\* For / Against

\* Delete as applicable

### To be completed by creditor when returning form:

Name of creditor: \_\_\_\_\_

Signature of creditor: \_\_\_\_\_  
(Complete the following if signing on behalf of creditor, e.g. director/solicitor)

Capacity in which signing \_\_\_\_\_

Date \_\_\_\_\_

Please send this form with proof of your debt (unless already lodged) to [info@360insolvency.co.uk](mailto:info@360insolvency.co.uk) or by post to 360 Insolvency Limited, 1 Castle Hill Court, Castle Hill, Rochester, Kent ME1 1LF so that it is received by 23:59 hours on 26 October 2023, otherwise your vote will not be valid.

# PROOF OF DEBT - GENERAL FORM

**B E Martin & Sons Limited – in liquidation (the “Company”)**

**Company number 04476912**

This proof must be made out by or under the direction of the creditor and authorised by the creditor or a person with relevant authorisation as at the date of the winding up.

Date of winding-up Order/resolution for voluntary winding up: 3 August 2022

|                      |  |                           |
|----------------------|--|---------------------------|
| 1.                   | Name of creditor<br>(If a company please also give company name and registration number)   |                           |
| 2.                   | Address of creditor for correspondence (principal place of business)   |                           |
| 3.                   | Total amount of claim, including any value added tax and outstanding uncapitalised interest as at the date the company went into liquidation   | £                         |
| 4.                   | If amount in 3 above includes outstanding uncapitalised interest please state amount   | £                         |
| 5.                   | Particulars of how and when debt incurred (If you need more space append a continuation sheet to this form)  |                           |
| 6.                   | Particulars of any security held, the value of the security, and the date it was given.  |                           |
| 7.                   | Particulars of any reservation of title claimed in respect of goods supplied to which the claim relates.   |                           |
| 8.                   | Details of any documents by reference to which the debt can be substantiated. [Note there is no need to attach them now but the liquidator may call for any document or evidence to substantiate the claim at his discretion as may the chair or convenor of any meeting]. |                           |
| 9.                   | Signature of creditor or person authorised to act on his behalf  |                           |
|                      | Name in BLOCK LETTERS  | DATE                      |
|                      | Position with or in relation to creditor   |                           |
|                      | <hr/> Address of person signing (if different from 2 above)  |                           |
| Admitted to vote for |  | Admitted for dividend for |
| £                    |  | £                         |
| Date                 |  | Date                      |
| Liquidator           |  | Liquidator                |