

## Section 106

Return of Final Meeting in a  
Creditors' Voluntary Winding UpPursuant to Section 106 of the  
Insolvency Act 1986

To the Registrar of Companies

**S.106**

Company Number

05071799

Name of Company

ABL International (UK) Limited

I / ~~the~~

Philip John Gorman, Windsor House, Barnett Way, Barnwood, Gloucester, GL4 3RT

Note The copy account must be  
authenticated by the written  
signature(s) of the Liquidator(s)

1 give notice that a general meeting of the company was duly ~~held on~~/summoned for 01 December 2014 pursuant to section 106 of the Insolvency Act 1986, for the purpose of having an account (of which a copy is attached) laid before it showing how the winding up of the company has been conducted, and the property of the company has been disposed of, and that ~~the same was done accordingly~~ no quorum was present at the meeting,

2 give notice that a meeting of the creditors of the company was duly ~~held on~~/summoned for 01 December 2014 pursuant to Section 106 of the Insolvency Act 1986, for the purpose of having the said account laid before it showing how the winding up the company has been conducted and the property of the company has been disposed of and that ~~the same was done accordingly~~ no quorum was present at the meeting

The meeting was held at Hazlewoods LLP, Barnett Way, Barnwood, Gloucester, GL4 3RT

The winding up covers the period from 19 November 2010 (opening of winding up) to the final meeting (close of winding up)

The outcome of any meeting (including any resolutions passed) was as follows

There was no attendance or representation at the meeting, therefore, the Liquidator was automatically released in accordance with the Insolvency Rules 1986

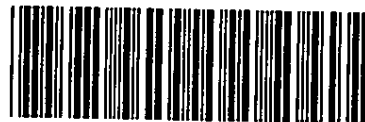
Signed \_\_\_\_\_

Date 02 December 2014

Hazlewoods LLP  
Windsor House  
Barnett Way  
Barnwood  
Gloucester  
GL4 3RT

Ref 819/PJG/PRJF

WEDNESDAY



A24

\*A3LYEETN\*

03/12/2014

#130

COMPANIES HOUSE

**ABL International (UK) Limited**  
**(In Liquidation)**  
**Liquidator's Abstract of Receipts & Payments**  
**From 19 November 2010 To 1 December 2014**

| <b>S of A £</b>     |                                  | <b>£</b> | <b>£</b>   |
|---------------------|----------------------------------|----------|------------|
|                     | <b>ASSET REALISATIONS</b>        |          |            |
| 7,000 00            | Stock                            | NIL      |            |
| 2,500 00            | Cash held by factor              | NIL      |            |
|                     |                                  |          | NIL        |
|                     | <b>FLOATING CHARGE CREDITORS</b> |          |            |
| (189,789 00)        | Natwest Bank plc                 | NIL      |            |
|                     |                                  |          | NIL        |
|                     | <b>UNSECURED CREDITORS</b>       |          |            |
| (55,595 00)         | Trade & Expense Creditors        | NIL      |            |
| (24,826 00)         | Directors                        | NIL      |            |
| (368,283 00)        | ABL International Ltd            | NIL      |            |
| (2,628 00)          | Inland Revenue - PAYE/NI         | NIL      |            |
| (99,825 00)         | Customs & Excise                 | NIL      |            |
|                     |                                  |          | NIL        |
|                     | <b>DISTRIBUTIONS</b>             |          |            |
| (1,000 00)          | Ordinary Shareholders            | NIL      |            |
|                     |                                  |          | NIL        |
| <b>(732,446.00)</b> |                                  |          | <b>NIL</b> |

REPRESENTED BY

**NIL**



Philip John Gorman  
Liquidator

**ABL INTERNATIONAL LIMITED – IN LIQUIDATION  
("THE COMPANY")**

**FINAL PROGRESS REPORT IN ACCORDANCE WITH RULE 4.49D OF THE INSOLVENCY  
RULES 1986**

|                               |  |
|-------------------------------|--|
| Registered in England & Wales | 05071799   |
| Registered office             | Windsor House<br>Barnett Way<br>Barnwood<br>Gloucester<br>GL4 3RT  |
| Trading address               | Unit 7, Springvale Road<br>Park Springs<br>Barnsley<br>S72 7BQ   |
| Date of winding up            | 19 November 2010   |
| Liquidator name(s)            | Philip John Gorman (Licensed to act as an Insolvency Practitioner in the UK by the Insolvency Practitioners Association No 8069) |
| Liquidator(s) address         | Hazlewoods LLP<br>Windsor House<br>Barnett Way<br>Barnwood<br>Gloucester<br>GL4 3RT  |

## **Contents**

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- 2 Liquidator's receipts and payments
- 3 Assets
- 4 Investigations and statutory reporting
- 5 Costs of liquidation
- 6 Outcome to creditors

## **Appendices**

- A Statement of Liquidator's receipts and payments
- B Hazlewoods LLP hourly rates and disbursement policy
- C A creditors guide to liquidator's fees published by the Association of Business Recovery Professionals

### **1. Introduction**

I consider that for practicable purposes I have dealt with all matters in relation to this liquidation and am in a position to bring the case to a close. I am required to present this draft final report to be presented at the final meetings of members and creditors. Final meetings of members and creditors have been convened for 1 December 2014. There was no attendance at either meeting and therefore I was released in accordance with the Insolvency Rules 1986.

Creditors and members should note that if I obtain my release as Liquidator at the final meeting of creditors, my case files are placed in storage thereafter. If creditors or members have any queries they are asked to contact Denise Godding on 01452 634800 before the meetings are held.

### **2 Liquidator's receipts and Payments**

I append, at A, a summary of receipts and payments for the period since my last progress report and for the period of the liquidation.

### **3. Assets**

#### **Stock**

At the date of liquidation the company held stock estimated by the directors to realise £7,000. I was advised by professional agents, Asset Management Services (UK) Limited of Cheltenham, that if the stock was removed to sell, it would have little value after the cost of sale.

The directors made attempts to find a purchaser and whilst offers were received, there have been no realisations.

#### **Debtors**

The company's debts were subject to an Invoice Finance agreement and the directors estimated there would be a surplus of £2,500 following repayment of the outstanding indebtedness. There was no surplus.

### **4 Investigations and statutory reporting**

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

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

Within six months of my appointment, I was required to submit a confidential report to the Secretary of State to include any matters which have come to my attention during the course of my work which may indicate that the conduct of any past or present Director would make him unfit to be concerned with the management of the Company. I would confirm that my report has been submitted.

## **5. Costs of Liquidation**

### **Pre-Appointment Remuneration**

The creditors authorised the payment of a fee of £5,000 for my assistance with preparing the statement of affairs and convening and holding the meeting of creditors at a meeting held on 19 November 2010. This is unpaid as insufficient realisations were made.

### **Liquidator's remuneration**

My remuneration was authorised by creditors at a meeting held on 19 November 2010 to be drawn on a time cost basis. My total time costs to 22 September 2014 amount to £5,212.10, representing 37 of hours work at an average charge out rate of £140.87 per hour, of which £444.80, representing 3.7 of hours work, was charged in the period between 19 November 2013 and 22 September 2014, at an average charge out rate of £120.22 per hour.

I have not been able to draw any remuneration in this matter.

A description of the routine work undertaken in the Liquidation to date is as follows:

#### **Administration and Planning**

- Preparing the documentation and dealing with the formalities of appointment
- Statutory notifications and advertising
- Statutory reporting to creditors, members and Registrar of Companies
- Preparing documentation required
- Dealing with all routine correspondence
- Maintaining physical case files and electronic case details on IPS
- Review and storage
- Case bordereau
- Case planning and administration
- Preparing reports to members and creditors
- Convening and holding meetings of members and creditors
- Maintaining and managing the Liquidator's cashbook and bank account
- Ensuring statutory lodgements and tax lodgement obligations are met

#### **Creditors**

- Dealing with creditor correspondence and telephone conversations
- Preparing reports to creditors
- Maintaining creditor information on IPS
- Reviewing and adjudicating on proofs of debt received from creditors
- Payment of dividends where appropriate

#### **Investigations**

- Review and storage of books and records
- Preparing a return pursuant to the Company Directors Disqualification Act
- Conducting investigations into suspicious transactions
- Review books and records to identify any transactions or actions a Liquidator may take against a third party in order to recover funds for the benefit of creditors

#### **Realisation of Assets**

- Correspondence in an attempt to collect outstanding book debts
- Sale of company's chattels

A copy of 'A Creditors Guide to Liquidators' Fees' published by the Association of Business Recovery Professionals, together with an explanatory note which shows Hazlewoods fee policy are appended, at B and C

### **Liquidator's disbursements**

My disbursements to 22 September 2014 amount to £320 of which £nil was incurred in the period between 19 November 2013 and 22 September 2014 I have not been able to draw any disbursements in this matter

### **Professional advisors**

I have used the following professional advisors

| Name                               | Nature of work  | Fee basis | Total fees paid<br>£ |
|------------------------------------|-----------------|-----------|----------------------|
| Asset Management Services (UK) Ltd | Chattels advice | As agreed | nil                  |

The choice of professionals 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. The fees charged have been reviewed and I am satisfied that they are reasonable in the circumstances of this case

### **6. Outcome to creditors**

There will be no payment to any creditor

### **Preferential creditors**

There are no preferential creditors

### **Secured creditor**

National Westminster Bank Plc has a debenture over the Company's assets, created on 14 September 2004. As the result of the date the debenture was created, a prescribed part of the funds, after payment of the claims of preferential creditors, the net property, is ordinarily set aside for the benefit of unsecured creditors. The prescribed part is calculated as a percentage of the net property, as follows

|                                |  |
|--------------------------------|--|
| Net property less than £10,000 | 50% of that property   |
| Net property exceeding £10,000 | 50% of the first £10,000, plus 20% of the Property which exceeds £10,000, up to a maximum fund of £600,000 |

There are two exceptions to the funds being set aside. They are

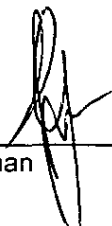
- (i) The amount of the net property is less than £10,000 and I consider that the cost of distributing the prescribed part is disproportionate to the benefit, or
- (ii) An Order is made by the Court that the cost of distributing the prescribed part would be disproportionate to the benefit

The company had no net property

### Unsecured creditors

I received the following claims from unsecured creditors

|                                     |                |
|-------------------------------------|----------------|
|                                     | £              |
| Trade & expense                     | 24,685         |
| Associated companies &<br>Directors | 417,935        |
| HM Revenue & Customs                | 17,806         |
|                                     | <u>460,426</u> |

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Philip J Gorman  
Liquidator

22 September 2014

**ABL International (UK) Limited  
(In Liquidation)  
Liquidator's Abstract of Receipts & Payments**

| Statement of Affairs |                                  | From 19/11/2013<br>To 22/09/2014 | From 19/11/2010<br>To 22/09/2014 |
|----------------------|----------------------------------|----------------------------------|----------------------------------|
|                      | <b>ASSET REALISATIONS</b>        |                                  |                                  |
| 7,000 00             | Stock                            | NIL                              | NIL                              |
| 2,500 00             | Cash held by factor              | NIL                              | NIL                              |
|                      |                                  | NIL                              | NIL                              |
|                      | <b>FLOATING CHARGE CREDITORS</b> |                                  |                                  |
| (189,789 00)         | Natwest Bank plc                 | NIL                              | NIL                              |
|                      |                                  | NIL                              | NIL                              |
|                      | <b>UNSECURED CREDITORS</b>       |                                  |                                  |
| (55,595 00)          | Trade & Expense Creditors        | NIL                              | NIL                              |
| (24,826 00)          | Directors                        | NIL                              | NIL                              |
| (368,283 00)         | ABL International Ltd            | NIL                              | NIL                              |
| (2,628 00)           | Inland Revenue - PAYE/NI         | NIL                              | NIL                              |
| (99,825 00)          | Customs & Excise                 | NIL                              | NIL                              |
|                      |                                  | NIL                              | NIL                              |
|                      | <b>DISTRIBUTIONS</b>             |                                  |                                  |
| (1,000 00)           | Ordinary Shareholders            | NIL                              | NIL                              |
|                      |                                  | NIL                              | NIL                              |
| <b>(732,446.00)</b>  |                                  | <b>NIL</b>                       | <b>NIL</b>                       |
|                      | <b>REPRESENTED BY</b>            |                                  |                                  |
|                      |                                  |                                  | <b>NIL</b>                       |

Philip John Gorman  
Liquidator



## **Appendix B**

### **HAZLEWOODS LLP**

#### **FEES AND DISBURSEMENTS POLICY STATEMENT**

##### **Fees and Charging Policy**

- Partners, directors, managers, administrators, cashiers, and support staff are allocated an hourly charge-out rate which is subject to review periodically. The current rates are attached
- Work undertaken by cashiers and support staff relating to specific tasks on a case is charged for separately
- Time spent by partners and all staff in relation to the insolvency estate is charged to the estate
- Time is recorded in 6 minute units
- Time billed is subject to Value Added Tax (VAT) at the applicable rate

##### **Expenses**

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

##### **Category 1 (Creditor approval not required)**

These expenses are where Hazlewoods 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, bonding etc. In each case the recharge will be reimbursement of a specific expense incurred.

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

##### **Category 2 (Creditor approval required)**

These comprise of expenses and disbursements not capable of precise identification and allocation, eg. expenses which include an element of shared or allocated costs. These expenses are shown as Category 2 disbursements and require the approval of creditors prior to being drawn from the estate.

The 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 at HM Revenue & Customs approved rate, presently 45p per mile, will be made.

## **Hazlewoods LLP published hourly rates and expenses policy**

### **Time**

Time properly incurred in connection with the administration of all insolvency cases is charged at the following rates

| <b>Grade</b>              | <b>Hourly rate<br/>As at<br/>1 May 2014<br/>£</b> | <b>Hourly rate<br/>As at 1 May &amp; 1<br/>November 2013<br/>£</b> |
|---------------------------|---|--|
| Partner/Appointment Taker | 235-240   | 230-235  |
| Director                  | 185-188   | 185  |
| Manager                   | 117-153   | 115-150  |
| Supervisor                | 91-104  | 89-102   |
| Administrator             | 40-82   | 40-81  |

Hourly rates are reviewed on 1 May and 1 November each year. Support staff time is charged to the case and the rates are within the Administrator grade banding.

### **Expenses**

Expenses incurred in connection with the administration of all insolvency cases are charged at the following rates

| <b>Expense</b>   | <b>Charge policy</b>  | <b>Category of<br/>disbursement</b> |
|--|---|-------------------------------------|
| Business mileage   | HM Revenue & Customs<br>approved rate (currently 45p<br>per mile) | 2                                   |
| Postage  | At cost   | 1                                   |
| Storage  | Offsite storage at cost   | 1                                   |
| Company searches   | At cost   | 1                                   |
| Individual/Directors searches  | At cost   | 1                                   |
| Other third party expenses<br>incurred directly in connection<br>with the case | At cost   | 1                                   |

The above charges and policies are subject to periodic review

Effective 1 May 2014

**A CREDITORS' GUIDE TO LIQUIDATORS' FEES****ENGLAND AND WALES****1 Introduction**

- 1.1 When a company goes into liquidation the costs of the proceedings are paid out of its assets. The creditors, who hope to recover some of their debts out of the assets, therefore have a direct interest in the level of costs, and in particular the remuneration of the insolvency practitioner appointed to act as liquidator. The insolvency legislation recognises this interest by providing mechanisms for creditors to fix the basis of the liquidator's fees. This guide is intended to help creditors be aware of their rights to approve and monitor fees, explains the basis on which fees are fixed and how creditors can seek information about expenses incurred by the liquidator and challenge those they consider to be excessive.

**2 Liquidation procedure**

- 2.1 Liquidation (or 'winding up') is the most common type of corporate insolvency procedure. Liquidation is the formal winding up of a company's affairs entailing the realisation of its assets and the distribution of the proceeds in a prescribed order of priority. Liquidation may be either voluntary, when it is instituted by resolution of the shareholders, or compulsory, when it is instituted by order of the court.
- 2.2 Voluntary liquidation is the more common of the two. An insolvent voluntary liquidation is called a creditors' voluntary liquidation (often abbreviated to 'CVL'). In this type of liquidation an insolvency practitioner acts as liquidator throughout and the creditors can vote on the appointment of the liquidator at the first meeting of creditors.
- 2.3 In a compulsory liquidation on the other hand, the function of liquidator is, in most cases, initially performed not by an insolvency practitioner but by an official called the official receiver. The official receiver is an officer of the court and an official belonging to The Insolvency Service. In most compulsory liquidations, the official receiver becomes liquidator immediately on the making of the winding-up order. Where there are significant assets an insolvency practitioner will usually be appointed to act as liquidator in place of the official receiver, either at a meeting of creditors convened for the purpose or directly by The Insolvency Service on behalf of the Secretary of State. Where an insolvency practitioner is not appointed the official receiver remains liquidator.
- 2.4 Where a compulsory liquidation follows immediately on an administration the court may appoint the former administrator to act as liquidator. In such cases the official receiver does not become liquidator. An administrator may also subsequently act as liquidator in a CVL.

**3 The liquidation committee**

- 3.1 In a liquidation (whether voluntary or compulsory) the creditors have the right to appoint a committee called the liquidation committee, with a minimum of 3 and a maximum of 5 members, to monitor the conduct of the liquidation and approve the liquidator's fees. The committee is usually established at the creditors' meeting which appoints the liquidator, but in cases where a liquidation follows immediately on an administration any committee established for the purposes of the administration will continue in being as the liquidation committee.
- 3.2 The liquidator must call the first meeting of the committee within 6 weeks of its establishment (or his appointment if that is later), and subsequent meetings must be held either at specified dates agreed by the committee, or when requested by a member of the committee, or when the liquidator decides he needs to hold one. The liquidator is required to report to the committee at least every 6 months on the

progress of the liquidation, unless the committee directs otherwise. This provides an opportunity for the committee to monitor and discuss the progress of the insolvency and the level of the liquidator's fees.

#### **4 Fixing the liquidator's remuneration**

4.1 The basis for fixing the liquidator's remuneration is set out in Rules 4.127 – 4.127B of the Insolvency Rules 1986. The Rules state that the remuneration shall be fixed

- as a percentage of the value of the assets which are realised or distributed or both,
- by reference to the time properly given by the liquidator and his staff in attending to matters arising in the liquidation, or
- as a set amount.

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

It is for the liquidation committee (if there is one) to determine on which of these bases, or combination of bases, the remuneration is to be fixed. Where it is fixed as a percentage, it is for the committee to determine the percentage or percentages to be applied. Rule 4.127 says that in arriving at its decision the committee shall have regard to the following matters:

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

4.2 If there is no liquidation committee, or the committee does not make the requisite determination, the liquidator's remuneration may be fixed by a resolution of a meeting of creditors. The creditors take account of the same matters as apply in the case of the committee. A resolution specifying the terms on which the liquidator is to be remunerated may be taken at the meeting which appoints the liquidator.

4.3 If the remuneration is not fixed as above, it will be fixed in one of the following ways. In a CVL, it will be fixed by the court on application by the liquidator, but the liquidator may not make such an application unless he has first tried to get his remuneration fixed by the committee or creditors as described above, and in any case not later than 18 months after his appointment. In a compulsory liquidation, it will be in accordance with a scale set out in the Rules.

4.4 Where the liquidation follows directly on from an administration in which the liquidator had acted as administrator, the basis of remuneration fixed in the administration continues to apply in the liquidation (subject to paragraph 8 below).

#### **5 Review of remuneration**

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

## **6 What information should be provided by the liquidator?**

### **6.1 When fixing bases of remuneration**

- 6.1.1 When seeking agreement for the basis or bases of remuneration, the liquidator should provide sufficient supporting information to enable the committee or the creditors to make an informed judgement as to whether the basis sought is appropriate having regard to all the circumstances of the case. The nature and extent of the information provided will depend on the stage during the conduct of the case at which approval is being sought. The appendix to this guide sets out a suggested format for the provision of information.
- 6.1.2 If any part of the remuneration is sought on a time costs basis, the liquidator should provide details of the minimum time units used and current charge-out rates, split by grades of staff, of those people who have been or who are likely to be involved in the time costs aspects of the case.
- 6.1.3 The liquidator should also provide details and the cost of any work that has been or is intended to be sub-contracted out that could otherwise be carried out by the liquidator or his or her staff.
- 6.1.4 If work has already been carried out, the liquidator should state the proposed charge for the period to date and provide an explanation of what has been achieved in the period and how it was achieved, sufficient to enable the progress of the case to be assessed and whether the proposed charge is reasonable in the circumstances of the case. Where the proposed charge is calculated on a time costs basis, the liquidator should disclose the time spent and the average charge-out rates, in larger cases split by grades of staff and analysed by appropriate activity. The liquidator should also provide details and the cost of any work that has been sub-contracted out that could otherwise be carried out by the liquidator or his or her staff.

### **6.2 After the bases of remuneration have been fixed**

The liquidator is required to send progress reports to creditors at specified intervals (see paragraph 7.1 below). When reporting periodically to creditors, in addition to the matters specified in paragraph 7.1, the liquidator should provide an explanation of what has been achieved in the period under review and how it was achieved, sufficient to enable the progress of the case to be assessed. Creditors should be able to understand whether the remuneration charged is reasonable in the circumstances of the case (whilst recognising that the liquidator must fulfil certain statutory obligations and regulatory requirements that might be perceived as bringing no added value for the estate). Where any remuneration is on a time costs basis, the liquidator should disclose the charge in respect of the period, the time spent and the average charge-out rates, in larger cases split by grades of staff and analysed by appropriate activity. If there have been any changes to the charge-out rates during the period under review, rates should be disclosed by grades of staff, split by the periods applicable. The liquidator should also provide details and the cost of any work that has been sub-contracted out that could otherwise be carried out by the liquidator or his or her staff.

### **6.3 Disbursements and other expenses**

- 6.3.1 Costs met by and reimbursed to the liquidator in connection with the liquidation should be appropriate and reasonable. Such costs will fall into two categories
- **Category 1 disbursements** These are costs where there is specific expenditure directly referable both to the liquidation and a payment to an independent third party. These may include, for example, advertising, room hire, storage, postage, telephone charges, travel expenses, and equivalent costs reimbursed to the liquidator or his or her staff.

- **Category 2 disbursements** These are costs that are directly referable to the liquidation but not to a payment to an independent third party. They may include shared or allocated costs that can be allocated to the liquidation on a proper and reasonable basis, for example, business mileage.

Category 1 disbursements can be drawn without prior approval, although the liquidator should be prepared to disclose information about them in the same way as any other expenses. Category 2 disbursements may be drawn if they have been approved in the same manner as the liquidator's remuneration. When seeking approval, the liquidator should explain, for each category of expense, the basis on which the charge is being made.

**6.3.2** The following are not permissible:

- a charge calculated as a percentage of remuneration,
- an administration fee or charge additional to the liquidator's remuneration,
- recovery of basic overhead costs such as office and equipment rental, depreciation and finance charges.

**6.4 Realisations for secured creditors**

Where the liquidator realises an asset on behalf of a secured creditor and receives remuneration out of the proceeds (see paragraph 11.1 below), he should disclose the amount of that remuneration to the committee (if there is one), to any meeting of creditors convened for the purpose of determining his fees, and in any reports he sends to creditors.

**7 Progress reports and requests for further information**

**7.1** The liquidator is required to send annual progress reports to creditors. The reports must include:

- details of the basis fixed for the remuneration of the liquidator (or if not fixed at the date of the report, the steps taken during the period of the report to fix it),
- if the basis has been fixed, the remuneration charged during the period of the report, irrespective of whether it was actually paid during that period (except where it is fixed as a set amount, in which case it may be shown as that amount without any apportionment for the period of the report),
- if the report is the first to be made after the basis has been fixed, the remuneration charged during the periods covered by the previous reports, together with a description of the work done during those periods, irrespective of whether payment was actually made during the period of the report,
- a statement of the expenses incurred by the liquidator during the period of the report, irrespective of whether payment was actually made during that period,
- a statement of the creditors' rights to request further information, as explained in paragraph 7.2, and their right to challenge the liquidator's remuneration and expenses.

**7.2** Within 21 days of receipt of a progress report (or 7 business days where the report has been prepared for the purposes of a meeting to receive the liquidator's resignation) a creditor may request the liquidator to provide further information about the remuneration and expenses set out in the report. A request must be in writing, and may be made either by a secured creditor, or by an unsecured creditor with the concurrence of at least 5% in value of unsecured creditors (including himself) or the permission of the court.

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

- the time and cost involved in preparing the information would be excessive, or

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

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

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

## **8. Provision of information – additional requirements**

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

The information which must be provided is –

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

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

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

## **9 What if a creditor is dissatisfied?**

- 9.1 Except in cases where there is a liquidation committee it is the creditors as a body who have authority to approve the liquidator's fees. To enable them to carry out this function they may require the liquidator to call a creditors' meeting. In order to do this at least ten per cent in value of the creditors must concur with the request, which must be made to the liquidator in writing
- 9.2 If a creditor believes that the liquidator's remuneration is too high, the basis is inappropriate, or the expenses incurred by the liquidator are in all the circumstances excessive he may, provided certain conditions are met, apply to the court
- 9.3 Application may be made to the court by any secured creditor, or by any unsecured creditor provided at least 10 per cent in value of unsecured creditors (including himself) agree, or he has the permission of the court. Any such application must be made within 8 weeks of the applicant receiving the liquidator's progress report in which the charging of the remuneration or incurring of the expenses in question is first reported (see paragraph 7.1 above). If the court does not dismiss the application (which it may if it considers that insufficient cause is shown) the applicant must give the liquidator a copy of the application and supporting evidence at least 14 days before the hearing
- 9.4 If the court considers the application well founded, it may order that the remuneration be reduced, the basis be changed, or the expenses be disallowed or repaid. Unless the court orders otherwise, the costs of the application must be paid by the applicant and not out of the assets of the insolvent company

**10 What if the liquidator is dissatisfied?**

If the liquidator considers that the remuneration fixed by the liquidation committee, or in the preceding administration, is insufficient or that the basis used to fix it is inappropriate he may request that the amount or rate be increased, or the basis changed, by resolution of the creditors. If he considers that the remuneration fixed by the liquidation committee, the creditors, in the preceding administration or in accordance with the statutory scale is insufficient, or that the basis used to fix it is inappropriate, he may apply to the court for the amount or rate to be increased or the basis changed. If he decides to apply to the court he must give at least 14 days' notice to the members of the committee and the committee may nominate one or more of its members to appear or be represented at the court hearing. If there is no committee, the liquidator's notice of his application must be sent to such of the creditors as the court may direct, and they may nominate one or more of their number to appear or be represented. The court may order the costs to be paid out of the assets.

**11 Other matters relating to remuneration**

- 11.1 Where the liquidator realises assets on behalf of a secured creditor he is entitled to be remunerated out of the proceeds of sale in accordance with a scale set out in the Rules. Usually, however, the liquidator will agree the basis of his fee for dealing with charged assets with the secured creditor concerned.
- 11.2 Where two (or more) joint liquidators are appointed it is for them to agree between themselves how the remuneration payable should be apportioned. Any dispute between them may be referred to the court, the committee or a meeting of creditors.
- 11.3 If the appointed liquidator is a solicitor and employs his own firm to act in the insolvency, profit costs may not be paid unless authorised by the committee, the creditors or the court.
- 11.4 If a new liquidator is appointed in place of another, any determination, resolution or court order which was in effect immediately before the replacement continues to have effect in relation to the remuneration of the new liquidator until a further determination, resolution or court order is made.
- 11.5 Where the basis of the remuneration is a set amount, and the liquidator ceases to act before the time has elapsed or the work has been completed for which the amount was set, application may be made for a determination of the amount that should be paid to the outgoing liquidator. The application must be made to the same body as approved the remuneration. Where the outgoing liquidator and the incoming liquidator are from the same firm, they will usually agree the apportionment between them.
- 11.6 There may also be occasions when creditors will agree to make funds available themselves to pay for the liquidator to carry out tasks which cannot be paid for out of the assets, either because they are deficient or because it is uncertain whether the work undertaken will result in any benefit to creditors. Arrangements of this kind are sometimes made to fund litigation or investigations into the affairs of the insolvent company. Any arrangements of this nature will be a matter for agreement between the liquidator and the creditors concerned and will not be subject to the statutory rules relating to remuneration.

**12 Effective date**

This guide applies where a company goes into liquidation on or after 1 November 2011.



## **Appendix**

### **Suggested format for the provision of information**

Professional guidance issued to insolvency practitioners sets out the following suggested format for the provision of information when seeking approval of remuneration. However, the level of disclosure suggested below may not be appropriate in all cases, and will be subject to considerations of proportionality. In larger or more complex cases the circumstances of each case may dictate the information provided and its format.

#### **Narrative overview of the case**

In all cases, reports on remuneration should provide a narrative overview of the case. Matters relevant to an overview are:

- the complexity of the case,
- any exceptional responsibility falling on the liquidator,
- the liquidator's effectiveness,
- the value and nature of the property in question.

The information provided will depend upon the basis or bases being sought or reported upon, and the stage at which it is being provided. An overview might include:

- an explanation of the nature, and the liquidator's own initial assessment, of the assignment (including the anticipated return to creditors) and the outcome (if known),
- initial views on how the assignment was to be handled, including decisions on staffing or subcontracting and the appointment of advisers,
- any significant aspects of the case, particularly those that affect the remuneration and cost expended,
- the reasons for subsequent changes in strategy,
- the steps taken to establish the views of creditors, particularly in relation to agreeing the strategy for the assignment, budgeting, and fee drawing,
- any existing agreement about remuneration,
- details of how other professionals, including subcontractors, were chosen, how they were contracted to be paid, and what steps have been taken to review their fees,
- in a larger case, particularly if it involved trading, considerations about staffing and managing the assignment and how strategy was set and reviewed,
- details of work undertaken during the period,
- any additional value brought to the estate during the period, for which the liquidator wishes to claim increased remuneration.

#### **Time cost basis**

Where any part of the remuneration is or is proposed to be calculated on a time costs basis, requests for and reports on remuneration should provide:

- An explanation of the liquidator's time charging policy, clearly stating the units of time that have been used, the grades of staff and rates that have been charged to the assignment, and the policy for recovering the cost of support staff. There is an expectation that time will be recorded in units of not greater than 6 minutes.
- A description of work carried out, which might include:
  - details of work undertaken during the period, related to the table of time spent for the period,
  - an explanation of the grades of staff used to undertake the different tasks carried out and the reasons why it was appropriate for those grades to be used,
  - any comments on any figures in the summary of time spent accompanying the request the liquidator wishes to make.
- Time spent and charge-out summaries, in an appropriate format.

It is useful to provide time spent and charge-out value information in a tabular form for each of the time periods reported upon, with work classified (and sub-divided) in a way relevant to the circumstances of the case

The following areas of activity are suggested as a basis for the analysis of time spent

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

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

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

The level of disclosure suggested above will not be appropriate in all cases, and considerations of proportionality will apply

- where cumulative time costs are, and are expected to be, less than £10,000 the liquidator should, as a minimum, state the number of hours and average rate per hour and explain any unusual features of the case,
- where cumulative time costs are, or are expected to be, between £10,000 and £50,000, a time and charge-out summary similar to that shown above will usually provide the appropriate level of detail (subject to the explanation of any unusual features),
- where cumulative time costs exceed, or are expected to exceed, £50,000, further and more detailed analysis or explanation will be warranted