

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

# S106

To the Registrar of Companies

For Official Use

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Company Number

05550867

Name of Company

APS Commercial &amp; Plant Limited

†† We

Geoffrey Stuart Kinlan  
Prospect Place  
85 Great North Road  
Hatfield  
Herts AL9 5BS

William John Turner  
Prospect Place  
85 Great North Road  
Hatfield  
Herts AL9 5BS

give notice

- 1 that a general meeting of the company was held on/summoned for 31 January 2013 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 that a meeting of the creditors of the company was duly held on / summoned for 31 January 2013 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 of the company has been conducted and the property of the company disposed of and that the same was done accordingly / no quorum was present at the meeting

Signed

Date 31 January 2013

BDO LLP  
Prospect Place  
85 Great North Road  
Hatfield  
Herts AL9 5BS

Ref 00151896/GSK/WJT/RJD/AMF

For Official Use

Insolvency Sect 1 Post Room

WEDNESDAY



A17

\*A21MAPY3\*

06/02/2013

#132

COMPANIES HOUSE

Liquidator's statement of account Creditors' voluntary winding up

APS Commercial &amp; Plant Limited

From 29 April 2010 To 31 January 2013

S of A

## ASSET REALISATIONS

Book Debts	11,328 09	
VAT Refund	1,209 48	
Administration Surplus	<u>37,309 68</u>	49,847 25

## COST OF REALISATIONS

Administrators' Fees	32,669 05	
Administrators' Disbursements	140 46	
Liquidator's Fees	16,201 95	
Liquidators Disbursements	752 09	
VAT	13 95	
Statutory Advertising	<u>69 75</u>	
		<u>(49,847 25)</u>
		<u>0 00</u>

## Dividend information

Preferential debts	£nil preferential creditors
Unsecured debts	81 creditors 0p in £ on £482,472
Returns to contributories	£nil

## Fee information

Fees agreed on a timecosts basis

- (1) Assets, including £nil  
shown in the statement of assets and liabilities  
and estimated to be of the value of £nil  
have proved unrealisable
- 
- (2) Amount paid into the Insolvency Services account in respect of
- (a) Unclaimed dividends payable to creditors in the winding up £nil
  - (b) Other unclaimed dividends £nil
  - (c) moneys held by the company in trust in respect of dividends or  
other sums due before the commencement of the winding up to any  
person as a member of the company £nil
- (3) Other comment

Dated

4/2/13

Signed by the liquidator

Name &amp; Address

Geoffrey Stuart Kinlan  
BDO LLP  
Prospect Place  
85 Great North Road  
Hatfield  
Herts AL9 5BS



Tel +44 (0)1707 255888  
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Prospect Place  
85 Great North Road  
Hatfield  
Hertfordshire AL9 5BS

Private and Confidential

31 January 2013

Our Ref 000132/AMF/ cvl 860/A6

Please ask for  
Alastair Fish

01707 255838

## TO ALL KNOWN CREDITORS AND CONTRIBUTORIES

Dear Sirs

### APS Commercial & Plant Limited - In Creditors' Voluntary Liquidation ('the Company')

I am now in a position to conclude this liquidation and advise you that general meetings of the Company and its creditors have been convened pursuant to Section 106 of the Insolvency Act 1986, formal notice of which is given below. I enclose a copy of the receipts and payments account to 28 November 2012 showing a balance in hand of £550.

### Receipts and Payments

The only receipt consists of a receipt from a debtor

At the time of my last report, there was one outstanding book debt which was subject to dispute and counter claim. Unfortunately, I was unable to realise any monies in respect of this debt.

Payments are considered to be largely self-explanatory although Administrators' fees (totalling £2,669) and Administrators' disbursements (totalling £132) have been drawn. The Company was previously in Administration and the Administrators' outstanding time costs were drawn from the liquidation estate. I comment specifically on my remuneration as Joint Liquidator below.

The balance in hand will be utilised to defray the remaining expenses of the liquidation including storage, statutory advertising and my remuneration as Joint Liquidator.

### Prescribed Part

Under the provisions of Section 176A of the Insolvency Act 1986 the liquidator must report on the amount of funds distributed to unsecured creditors in respect of the prescribed part. This provision only applies where the Company has granted a floating charge to a creditor after 15 September 2003. Asset realisations were insufficient to allow for a distribution under the prescribed part.

000132/SE/final report to creditors cvl 860  
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**Joint Liquidators' Remuneration and Disbursements**

The attached account reflects the Liquidators' fees and expenses drawn during the liquidation. The creditors have already approved the Joint Liquidators' remuneration on a time costs basis and I attach a schedule analysing the time costs incurred. All remuneration is subject to VAT at the prevailing rate. Since our appointment £17,651 has accrued in respect of remuneration and, to date, the Liquidators have drawn £16,202 in this regard. Creditors should note that the balance of our time costs will be written off.

Post appointment, the following expenses have been accrued and drawn:-

Disbursement	£
Travel to client premises (mileage)	10
Companies House searches	2
Statutory advertising	274

**NOTICE IS HEREBY GIVEN** pursuant to Section 106 of the Insolvency Act, 1986, that meetings of the contributories and creditors of APS Commercial & Plant Limited will be held at the offices of BDO LLP, Prospect Place, 85 Great North Road, Hatfield, Herts, AL9 5BS on 31 January 2013 at 11 00 hrs and 11:15 hrs respectively for the purpose of having an account laid before the meetings and showing the manner in which the winding-up of the Company has been conducted and the property of the Company disposed of and hearing any explanation that may be given by us.

A proxy form is enclosed which must be lodged at the offices of BDO LLP, Prospect Place, 85 Great North Road, Hatfield, Herts, AL9 5BS, no later than 12 noon on 30 January 2013 to entitle you to vote by proxy at the meeting, if you are unable to attend. This meeting is purely formal and this report will be presented.

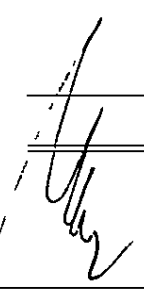
Kindly contact my office if you propose to attend.

Yours faithfully  
for and on behalf of  
APS Commercial & Plant Limited

  
G S Kinlan  
Joint Liquidator  
Authorised by the Insolvency Practitioners Association

Enc

**APS Commercial & Plant Limited**  
**(In Liquidation)**  
**Liquidators' Abstract of Receipts & Payments**

Statement of Affairs	From 29/04/2012 To 28/11/2012	From 29/04/2010 To 28/11/2012
<b>ASSET REALISATIONS</b>		
Book Debts	3,006.23	11,328.09
VAT Refund	NIL	1,209.48
Administration Surplus	NIL	37,309.68
	<u>3,006.23</u>	<u>49,847.25</u>
<b>COST OF REALISATIONS</b>		
Administrators' Fees	2,669.05	32,669.05
Administrators' Disbursements	132.00	140.46
Liquidator's Fees	16,201.95	16,201.95
Liquidators Disbursements	285.79	285.79
	<u>(19,288.79)</u>	<u>(49,297.25)</u>
	<u><b>(16,282.56)</b></u>	<u><b>550.00</b></u>
<b>REPRESENTED BY</b>		
Bank 1 Current		550.00
		<u><b>550.00</b></u>
		
		Geoffrey Stuart Kinlan Liquidator

Name of Assignment      APS Commercial & Plant Limited      00151896

Summary of Time Charged and Rates Applicable for the Period From 17/04/2010 to 28/11/2012

Description	PARTNER		MANAGER		ASSISTANT MANAGER		SENIOR ADMINISTRATOR		ADMINISTRATOR		OTHER STAFF		GRAND TOTAL		AV RT
	Hours	Total £	Hours	Total £	Hours	Total £	Hours	Total £	Hours	Total £	Hours	Total £	Hours	Total £	
B Steps on Appointment			0 25	87.50	2.20	479.60							2.45	567.10	231.47
C Planning and Strategy			0 50	178.50	0 40	87.20							0 90	265.70	295.22
D General Administration			2 80	998.90	18.10	4,144.80			15.30	2,334.15			36.20	7,477.85	206.57
E Assets Realisation/Dealing			2 45	873.25	16 05	3,674.50							18 50	4,547.75	245.82
H Creditor Claims					0.50	109.00			0.50	62.50			1 00	171.50	171.50
I Reporting			2 55	905.45	9 60	2,195.60			1 50	229.50			13 65	3,330.55	244.00
J Distribution and Closure			2.25	803.25	1.30	319.80			1 00	167.00			4.55	1,290.05	283.53
	0 00	0 00	10 80	3,846.85	48 15	11,010.50	18.30	2,793.15			0 00	0 00			
Net Total															
Secretarial Expense															
Other Disbursements															
Billed															
Grand Total															
77.25 17,650.50															
0 00															
285.79															
-16,487.74															
1,448.55															

**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 and explains the basis on which fees are fixed.

**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 a member of The Insolvency Service, an executive agency within the Department of Business Innovation & Skills. 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 Secretary of State for Business Innovation & Skills. 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.

**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 3 months 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 Fees**

- 4.1 The basis for fixing the liquidator's remuneration is set out in Rule 4.127 - 4.127B of the Insolvency Rules 1986. The Rule states that the remuneration shall be fixed either
- as a percentage of the value of the assets which are realised or distributed or both, or
  - by reference to the time properly given by the liquidator and his staff in attending to matters arising in the insolvency, or
  - As a set amount



It is for the liquidation committee (if there is one) to determine or a set amount which of these bases the remuneration is to be fixed, and if it is to be fixed as a percentage, to fix the amount 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 the committee would. A resolution specifying the terms on which the liquidator is to be remunerated may be taken at the meeting which appoints the liquidator. If the remuneration is not fixed in any of these ways, it will be in accordance with the scale laid down for official receivers. Unless it's a CVL in which case if it is not fixed within 18 months of the liquidator's appointment, the liquidator may apply to court for his/her fees to be fixed.

## **5 What Information should be Provided by the Liquidator?**

### **5.1 When seeking fee approval**

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

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

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

5.1.2 Where the liquidator seeks agreement to his fees during the course of the liquidation, he should always provide an up to date receipts and payments account. Where the proposed fee is based on time costs the liquidator should disclose to the committee or the creditors the time spent and the charge-out value in the particular case, together with, where appropriate, such additional information as may reasonably be required having regard to the size and complexity of the case. The additional information should comprise a sufficient explanation of what the liquidator has achieved and how it was achieved to enable the value of the exercise to be assessed (whilst recognising that the liquidator must fulfil certain statutory obligations that might be seen to bring no added value for creditors) and to establish that the time has been properly spent on the case. That assessment will need to be made having regard to the time spent and the rates at which that time was charged, bearing in mind the factors set out in paragraph 4.1 above. To enable this assessment to be carried out it may be necessary for the liquidator to provide an analysis of the time spent on the case by type of activity and grade of staff. The degree of detail will depend on the circumstances of the case, and professional guidance has been provided setting out a minimum of 6 category headings under which the work done by the officeholder and his staff should be analysed. As a firm BDO LLP operates a computerised time recording system which analyses work done under the following categories:-

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

- Reporting
- Distribution and Closure
- Other Issues

Professional guidance suggests the following categories as a basis for analysis by grade of staff, but this will be subject to whether each grade is engaged in working on the liquidation

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

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

- Any significant aspects of the case, particularly those that affect the amount of time spent
- The reasons for subsequent changes in strategy
- Any comments on any figures in the summary of time spent accompanying the request the liquidator wishes to make
- The steps taken to establish the views of creditors, particularly in relation to agreeing the strategy for the assignment, budgeting, time recording, fee drawing or fee agreement
- Any existing agreement about fees
- Details of how other professionals, including subcontractors, were chosen, how they were contracted to be paid, and what steps have been taken to review their fees.

It should be borne in mind that the degree of analysis and form of presentation should be proportionate to the size and complexity of the case. In smaller cases not all categories of activity will always be relevant, whilst further analysis may be necessary in larger cases.

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

## **5.2 After fee approval**

Where a resolution fixing the basis of fees is passed at any creditors' meeting held before he has substantially completed his functions, the liquidator should notify the creditors of the details of the resolution in his next report or circular to them. When subsequently reporting to creditors on the progress of the liquidation, or submitting his final report, he should specify the amount of remuneration he has drawn in accordance with the resolution. Where the fee is based on time costs he should also provide details of the time spent and charge-out value to date and any material changes in the rates charged for the various grades since the resolution was first passed. He should also provide such additional information as may be required in accordance with the principles set out in paragraph 5.1.3. Where the fee is charged on a percentage basis the liquidator should provide the details set out in paragraph 5.1.3 above regarding work which has been sub-contracted out.

## **5.3 Expenses and disbursements**

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

## **5.4 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 8.1 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.

## **5.5 Progress reports**

In compulsory liquidations there is now a statutory requirement for the liquidator to send a progress report annually.

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

6.1 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.

6.2 If a creditor believes that the liquidator's remuneration is too high he may, if at least 25 per cent in value of the creditors (including himself) agree, apply to the court for an order that it be reduced. If the court does not dismiss the application (which it may if it considers that insufficient cause is shown) the applicant must give the liquidator a copy of the application and supporting evidence at least 14 days before the hearing. Unless the court orders otherwise, the costs must be paid by the applicant and not out of the assets of the insolvent company.

## **7 What if the Liquidator is dissatisfied?**

If the liquidator considers that the remuneration fixed by the committee is insufficient he may request that it be increased by resolution of the creditors. If he considers that the remuneration fixed by the committee or the creditors or in accordance with the official receiver's scale is insufficient, he may apply to the court for it to be increased. If he decides to apply to the court he must give at least 14 days' notice to the members of the 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.

## **8 Other matters relating to fees**

8.1 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 the scale laid down for the official receivers. Usually, however, the liquidator will agree the basis of his fee for dealing with charged assets with the secured creditor concerned.

8.2 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.

8.3 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.

8.4 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.

## **9 Provision of information - additional requirements**

In any case where the liquidator is appointed on or after 1 April 2005 he must provide certain information about time spent on a case, free of charge, upon request by any creditor, director or shareholder of the company. The information which must be provided is -

- the total number of hours spent on the case by the 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

132/AMF/CVL831/C11



## **APS Commercial & Plant Limited - In Liquidation**

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

The current charge out rates per hour of staff within my firm who may be involved in working on the insolvency, follows: This in no way implies that staff at all such grades will work on the case.

<b>GRADE</b>	<b>£</b>
Partner	548-559
Senior Manager	322-357
Manager	241-271
Assistant Manager	218-222
Senior Executive	205
Executive	150-189
Support staff/Secretary	73-74

The rates charged by BDO LLP, Prospect Place, 85 Great North Road, Hatfield, Herts, AL9 5BS are reviewed in December and July each year and are adjusted to take account of inflation and the firm's overheads.

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

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

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

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

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

### **Other Costs**

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



#### **Category 1**

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

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

#### **Category 2**

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

BDO LLP  
28 November 2012