

Liquidator's Progress Report**Pursuant to Sections 92A, 104A and 192 of the
Insolvency Act 1986****S.192**

To the Registrar of Companies

Company Number

05875316

Name of Company

(a) Insert full name of
company

(a) A & D FABRICATIONS UK

Limited

(b) Insert full name(s)
and address(es)

1/11/16 (b) JONATHAN AMOR
A.M. INSOLVENCY LIMITED
THE PORTERGATE
ECLESALL ROAD
SHEFFIELD
S11 8NX

the liquidator(s) of the company attach a copy of my/our Progress Report
under section 192 of the Insolvency Act 1986.The Progress Report covers the period from 31/12/2015
to 30/12/2016.

Signed



Date

27/2/2017

Presenter's name,
address and
reference
(if any)

WEDNESDAY



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01/03/2017

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COMPANIES HOUSE

A & D Fabrications UK Limited – In Creditors' Voluntary Liquidation
LIQUIDATOR'S PROGRESS REPORT TO CREDITORS AND MEMBERS

For the period ending 30 December 2016

STATUTORY INFORMATION

Company name.	A & D Fabrications UK Limited
Registered office	Enterprise Business Centre, Enterprise House, Carlton Road, Worksop, S81 7QF
Former registered office	Crabtree Lane, Manchester, M11 4GU
Registered number	05875316
Liquidator's name	Jonathan Amor
Liquidator's address	The Portergate, Ecclesall Road, Sheffield, S11 8NX
Liquidator's date of appointment	31 December 2015
Former Liquidator's name	Philip Malachy Daly
Former Liquidator's address	The Portergate, Ecclesall Road, Sheffield, S11 8NX
Former Liquidator's date of appointment	14 September 2011

LIQUIDATORS' ACTIONS SINCE APPOINTMENT

Since my appointment I have met with the Former Liquidator to review all matters in the case, review the work carried out to date and what matters are still outstanding reviewed the case to ensure I am up to speed on the actions taken out by the former Liquidator

There is certain work that I am required by the insolvency legislation to undertake work in connection with the liquidation that provides no financial benefit for the creditors A description of the routine work undertaken since my appointment as Liquidator is contained in Appendix 1

RECEIPTS AND PAYMENTS

My Receipts & Payments Account for the period from 14 September 2011 to 30 December 2016 is attached at Appendix 2.

The balance of funds are held in an interest bearing estate bank account

ASSETS

All the assets had been realised by the Former Liquidator prior to my appointment as Liquidator

I have been in contact with HMRC since my appointment and have been asked that I keep the liquidation open Although I am under no obligation to do so, I have complied with HMRC's request for the time being As detailed in previous reports to creditors, HMRC are taking action against EBT schemes as well as other tax avoidance schemes and so depending upon the outcome of this litigation will depend upon whether there is a potential claim for recoveries which would benefit the creditors of the Company HMRC have issued proceedings against the Company to ensure the debt is not statute-barred I will provide further information in future reports as the situation progresses

LIABILITIES

Secured Creditors

An examination of the Company's mortgage register held by the Registrar of Companies, showed that the Company has no current charges over its assets

The legislation requires that if the Company has created a floating charge after 15 September 2003, a prescribed part of the Company's net property (i.e. the money that would otherwise be available to the charge holder) should

be ring-fenced for distribution to unsecured creditors. In this case, there were no creditors secured by a floating charge such that the prescribed part provisions do not apply.

Preferential Creditors

The statement of affairs anticipated no amounts owing to preferential creditors but a claim has been received by the Redundancy Payments Office in the sum of £3,189.50 in respect of arrears of wages and holiday pay claims paid to former employees.

Crown Creditors

The statement of affairs anticipated no amounts owing to HMRC. However, HMRC has since submitted a final claim of £852,306.70. This relates to an EBT scheme that the Company had in place whereby payments were made to the employees of the Company without incurring Corporation Tax or PAYE/NIC liability. HMRC has rejected the scheme as a legally justifiable tax avoidance mechanism and are therefore claiming for the lost tax revenues.

Non-preferential unsecured Creditors

The statement of affairs included 3 non-preferential unsecured creditors with an estimated total liability of £310,428.35. 2 of these creditors have submitted claims in the sum of £130,558.45. A further 9 claims from creditors not on the Statement of Affairs have also since been submitted totalling £84,081.31 bringing total non-preferential unsecured claims to £169,606.13 (excluding HMRC).

DIVIDEND PROSPECTS

Secured creditors – there are no secured creditors.

Preferential creditors – on current information no dividend is anticipated but this may change in the future pending the outcome of the HMRC litigation.

Floating charge creditors - there are no floating charge creditors.

Non-preferential unsecured creditors – on current information no dividend is anticipated but this may change in the future pending the outcome of the HMRC litigation.

INVESTIGATION INTO THE AFFAIRS OF THE COMPANY

The Former Liquidator 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. Details have been provided in previous annual reports.

Within six months of appointment, a Liquidator is required to submit a confidential report to the Secretary of State to include any matters which have come to his or her attention during the course of his or her work which may indicate

that the conduct of any past or present Director would make them unfit to be concerned with the management of the Company. I would confirm that this report has been submitted by the Former Liquidator

PRE-APPOINTMENT REMUNERATION

The Board members and creditors previously authorised the payment of a fee of £3,000 for the Former Liquidator's assistance with preparing the statement of affairs and convening and holding the meeting of creditors at a meeting held on 14 September 2011. This fee has been paid from first realisations on appointment.

LIQUIDATOR'S REMUNERATION

My remuneration was previously authorised by creditors at a meeting held on 14 September 2011 to be drawn on a time cost basis. My total time costs to 30 December 2016 amount to £1,350, representing 5.4 of hours work at an average charge out rate of £250 per hour.

I have not drawn any remuneration in this matter.

A schedule of my time costs incurred to date is attached as Appendix 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/>. A copy of 'A Creditors Guide to Liquidators' Fees' also published by R3, together with an explanatory note which shows A.M. Insolvency Limited's fee policy are available on the portal where this report is available. Please note that there are different versions of the Guidance Notes and in this case you should refer to the April 2010 version.

LIQUIDATORS' EXPENSES

I have incurred expenses to 30 December 2016 of £1,180 and I have drawn £1,180 to date.

I have incurred the following expenses in the period since my appointment as Liquidator:

Type of expense	Amount incurred/ accrued in the reporting period
Legal Fees	£1,100
Insolvency Bordereau	£80

I have used the following agents or professional advisors in the reporting period:

Professional Advisor	Nature of Work	Basis of Fees
Harrison Clark Rickerbys Ltd	Solicitors	Time costs

The choice of professionals was based on my perception of their experience and ability to perform this type of work and the complexity and nature of the assignment. I also considered that the basis on which they will charge their fees represented value for money. I have reviewed the charges they have made and am satisfied that they are reasonable in the circumstances of this case.

FURTHER INFORMATION

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 Liquidator's remuneration and expenses within 21 days of receipt of this report. Any secured creditor may request the same details in the same time limit.

An unsecured creditor may, with the permission of the court or with the concurrence of 10% in value of the creditors (including the creditor in question), apply to court to challenge the amount and/or basis of the Liquidator's fees and the amount of any proposed expenses or expenses already incurred within 8 weeks of receipt of this report. Any secured creditor may make a similar application to court within the same time limit.

To comply with the Provision of Services Regulations, some general information about A M Insolvency Limited can be found in the attached summary sheet.

SUMMARY

The Liquidation will remain open until the matters relating to HMRC and the EBT scheme have been fully resolved. It is likely this will take a number of years, still, however, once resolved, the Liquidation will be finalised and our files will be closed.

If creditors have any queries regarding the conduct of the Liquidation, or if they want hard copies of any of the documents made available on-line, they should contact Jonathan Amor on the above telephone number, or by email at jonathan@aminsolvency.co.uk.



Jonathan Amor
Liquidator

Appendix 1

1 Administration

- Case planning - devising an appropriate strategy for dealing with the case
- Setting up electronic case files
- Issuing the statutory notifications to creditors and other required on appointment as office holder, including gazetting the office holder's appointment
- Obtaining a specific penalty bond
- Dealing with all routine correspondence and emails relating to the case
- Opening, maintaining and managing the office holder's estate bank account.
- Creating, maintaining and managing the office holder's cashbook
- Undertaking regular bank reconciliations of the bank account containing estate funds
- Reviewing the adequacy of the specific penalty bond on a quarterly basis
- Undertaking periodic reviews of the progress of the case.
- Preparing, reviewing and issuing annual progress reports to creditors and members

2. Creditors

- Dealing with creditor correspondence.

A & D Fabrications UK Limited - In Liquidation
Liquidator's Receipts and Payments
14 September 2011 to 30 December 2016

Appendix 2

	14/09/2011 to 30/12/2015 £	31/12/2015 to 30/12/2016 £	Cumulative £	Statement of Affairs £
Receipts				
Out of Court settlement	150,000 00		150,000 00	0 00
Plant and machinery	9,000 00		9,000 00	0 00
Rent deposit refund	3,103 88		3,103 88	0 00
Funds introduced by director towards liquidation costs	4,800 00		4,800 00	0 00
Bank interest (gross)	69 77	1 78	71 55	0 00
<i>Total receipts</i>	<u>166,973 65</u>	<u>1 78</u>	<u>166,975 43</u>	<u>0 00</u>
Payments				
Solicitors' Fees	(68,478 67)	(1,100 00)	(69,578 67)	
Barrister's fees	(1,140 00)		(1,140 00)	
Court fees	(260 00)		(260 00)	
ATE insurance premium	(26,235 00)		(26,235 00)	
Statement of affairs fees	(3,000 00)		(3,000 00)	
Liquidator's fees	(57,847 75)		(57,847 75)	
Bordereau insolvency insurance bond	(679 20)	(80 00)	(759 20)	
Chattel asset agents' fees	(3,000 00)		(3,000 00)	
Legal notices	(229 50)		(229 50)	
Meeting expenses	(196 93)		(196 93)	
Rax advisory fees	(937 50)		(937 50)	
Other professional fees (investigator)	(250 00)		(250 00)	
Postage	(31 20)		(31 20)	
Motor and travel	(363 60)		(363 60)	
Company searches	(9 00)		(9 00)	
Creditor Gateway - document uploads	(28 00)		(28 00)	
Recoverable input VAT		(220 00)	(220 00)	
<i>Total payments</i>	<u>(162,686 35)</u>	<u>(1,400 00)</u>	<u>(164,086 35)</u>	
Balance in hand			<u>2,889 08</u>	

Time Incurred for the Period 31 December 2015 to 30 December 2016

	Insolvency Practitioner	Total Hours	Total Time Costs
ADMINISTRATION	2 2	2 2	550 00
CREDITORS	3 2	3 2	800 00
INVESTIGATIONS	-	-	-
REALISATION OF ASSETS	-	-	-
TRADING	-	-	-
CASE SPECIFIC MATTERS	-	-	-
	5.4	5.4	1,350.00

PRACTICE FEE RECOVERY POLICY FOR A M INSOLVENCY LIMITED

Introduction

The insolvency legislation was changed in October 2015, with one or two exceptions, for insolvency appointments made from that time. This sheet explains how we intend to apply the alternative fee bases allowed by the legislation when acting as office holder in insolvency appointments. The 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 by the creditors, failing which the creditors in general meeting, or the Court.

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 <https://www.r3.org.uk/what-we-do/publications/professional/statements-of-insolvency-practice/e-and-w/sip-9-list>. Alternatively a hard copy may be requested from Jonathan Amor of A M Insolvency Limited. Please note that we have provided further details in this policy document.

Once the basis of the office holder's remuneration has been approved, a periodic report will be provided to any committee and also to each creditor. The 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.

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.

Time cost basis

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.

Chargeout Rates

Grade of staff	Current charge-out rate per hour, effective from 1 January 2015 to date £
Insolvency Practitioner	250
Manager	175
Case Administrator	100
Support Staff	50

These charge-out rates charged are reviewed on 1 January 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. The work is generally recorded under the following categories

- Administration and Planning
- Investigations
- Realisation of Assets
- Creditors
- Trading
- Case specific matters

In cases where we were appointed prior to 1 October 2015, most of our fees were recovered on a time costs basis and appropriate authority was obtained from the creditors or the committee as set down in the legislation. Although the legislation changed on 1 October 2015, on new appointments we still seek time costs for the following categories

- Administration and Planning
- Investigations
- Realisation of Assets
- Creditors
- Distributions
- Trading
- Case specific matters

When we seek time costs approval we have to set out a fees 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 our fees. When seeking approval for our fees, we will disclose the work that we intend to undertake, the hourly rates we intend to charge for each part of the work, and the time that we think each part of the work will take. 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.

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.

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.

Percentage basis

The legislation allows fees to be charged on 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. In cases where we were appointed prior to 1 October 2015, most of our fees were recovered on a time costs basis and appropriate authority was obtained from the creditors or the committee as set down in the legislation. The legislation changed on 1 October 2015 and we now seek remuneration on a percentage basis more often. A report accompanying any fee request will set out the potential assets in the case, the remuneration percentage proposed for any realisations 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

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

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

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 taken into account when fixing the original 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

Fixed fee

The legislation allows fees to be charged at a set amount Different set amounts can be used for different tasks In cases where we were appointed prior to 1 October 2015, most of our fees were recovered on a time costs basis and appropriate authority was obtained from the creditors or the committee as set down in the legislation The legislation changed on 1 October 2015 and we now seek remuneration on a fixed fee basis more often A report accompanying any fee request will set out the set fee that we proposed to charge 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

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

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 the circumstances then an increase can only be approved by the Court

Members' voluntary liquidations and Voluntary Arrangements

The legislation changes that took effect from 1 October 2015 did not apply to members' voluntary liquidations (MVL), Company Voluntary Arrangements (CVA) or Individual Voluntary Arrangements (IVA) In MVLs, the company's members set the fee basis, often as a fixed fee In CVAs and IVAs, the fee basis is set out in the proposals and creditors approve the fee basis when they approve the arrangement

All bases

With the exception of Individual Voluntary Arrangements and Company Voluntary Arrangements which are VAT exempt, the officeholder's remuneration invoiced to the insolvent estate will be subject to VAT at the prevailing rate

Agent's Costs

Charged at cost based upon the charge made by the Agent instructed, the term Agent includes

- Solicitors/Legal Advisors
- Auctioneers/Valuers
- Accountants
- Quantity Surveyors
- Estate Agents
- Other Specialist Advisors

In new appointments made after 1 October 2015, the office holder will provide details of expenses to be incurred, or likely to be incurred, when seeking fee approval. 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

Disbursements

In accordance with SIP 9 the basis of disbursement allocation in respect of disbursements incurred by the Office Holder in connection with the administration of the estate must be fully disclosed to creditors. Disbursements are categorised as either Category 1 or Category 2

Category 1 expenses are directly referable to an invoice from a third party, which is either in the name of the estate or A M Insolvency Limited, in the case of the latter, the invoice makes reference to, and therefore can be directly attributed to, the estate. These disbursements are recoverable in full from the estate without the prior approval of creditors either by a direct payment from the estate or, where the firm has made payment on behalf of the estate, by a recharge of the amount invoiced by the third party. Examples of category 1 disbursements are statutory advertising, external meeting room hire, external storage, specific bond insurance and Company search fees

Category 2 expenses are incurred by the firm and recharged to the estate, they are not attributed to the estate by a third party invoice and/or they may include a profit element. These disbursements are recoverable in full from the estate, subject to the basis of the disbursement charge being approved by creditors in advance. Examples of category 2 disbursements are photocopying, internal room hire, internal storage and mileage

It is proposed that the following Category 2 disbursements are recovered

Room Hire	£50
Mileage	65p per mile
Storage	£5 per box per annum
Photocopying	15p per sheet

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 seeking remuneration approval

6 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.

6 1 2 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.

6 1 3 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, but it will be helpful to be aware of the professional guidance which has been given to insolvency practitioners on this subject. The guidance suggests the following areas of activity as a basis for the analysis of time spent:

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

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

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

The explanation of what has been done can be expected to include an outline of the nature of the assignment and the 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

- 6 1 4 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

6 2 After remuneration approval

Where a resolution fixing the basis of fees is passed at any creditors' meeting held before he has substantially completed his functions, the 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 (see further paragraph 7 1 below). Where the fee is based on time costs he should also provide details of the time spent and charge-out value to date and any material changes in the rates charged for the various grades since the resolution was first passed. He should also provide such additional information as may be required in accordance with the principles set out in paragraph 6 1 3. Where the fee is charged on a percentage basis the liquidator should provide the details set out in paragraph 6 1 4 above regarding work which has been sub-contracted out.

6 3 Disbursements and other expenses

There is no statutory requirement for the committee or the creditors to approve the drawing of expenses or disbursements, but there is provision for the creditors to challenge them, as described below. Professional guidance issued to insolvency practitioners requires that, where the 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.

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

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- 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 a winding-up resolution passed on or after 6 April 2010,
- goes into voluntary liquidation immediately following an administration on or after 6 April 2010, except where the preceding administration began before that date,
- goes into compulsory liquidation as the result of a petition presented on or after 6 April 2010, except where the liquidation was preceded by
 - an administration which began before that date,
 - a voluntary liquidation in which the winding-up resolution was passed before that date

PROVISION OF SERVICES REGULATIONS SUMMARY SHEET FOR A.M. INSOLVENCY LIMITED

The following information is designed to draw the attention of interested parties to the information required to be disclosed by the Provision of Services Regulations 2009

Licensing Body

Jonathan Amor is licensed to act as Insolvency Practitioners in the United Kingdom by the Association of Chartered Certified Accountants (ACCA)

Jonathan Amor is a member of ACCA

Rules Governing Actions

All IPs are bound by the rules of their professional body, including any that relate specifically to insolvency. The rules of the professional body that licences Jonathan Amor can be found at <http://www.accaglobal.com>. In addition, IPs are bound by the Statements of Insolvency Practice (SIPs), details of which can be found at <https://www.r3.org.uk/what-we-do/publications/professional/statements-of-insolvency-practice>

Ethics

All IPs are required to comply with the Insolvency Code of Ethics and a copy of the Code can be found at http://www.accaglobal.com/content/dam/acca/global/PDF-members/2012/2012e/ethical_code.pdf

Complaints

At A M Insolvency Limited we always strive to provide a professional and efficient service. However, we recognise that it is in the nature of insolvency proceedings for disputes to arise from time to time. As such, should you have any comments or complaints regarding the administration of a particular case then in the first instance you should contact the IP acting as office holder.

If you consider that the IP has not dealt with your comments or complaint appropriately you should then put details of your concerns in writing to our complaints officer, Thomas Morgan of A M Insolvency Limited, The Portergate, Ecclesall Road, Sheffield, S11 8NX. This will formally invoke our complaints procedure and we will endeavour to deal with your complaint under the supervision of a senior partner unconnected with the appointment.

Most disputes can be resolved amicably either through the provision of further information or following negotiations. However, in the event that you have exhausted our complaints procedure and you are not satisfied that your complaint has been resolved or dealt with appropriately, you may complain to the regulatory body that licences the insolvency practitioner concerned. Any such complaints should be addressed to The Insolvency Service, IP Complaints, 3rd Floor, 1 City Walk, Leeds, LS11 9DA, and you can make a submission using an on-line form available at www.gov.uk/complain-about-insolvency-practitioner, or you can email insolvency.enquiryline@insolvency.gsi.gov.uk, or you may phone 0300 678 0015 - calls are charged at up to 12p per minute from a land line, or for mobiles, between 3p and 45p per minute if you're calling from the UK.

Professional Indemnity Insurance

A M Insolvency Limited's Professional Indemnity Insurance is provided by PI Protect Legal Services, of King's House, 42 King Street West, Manchester, M3 2NU. This professional indemnity insurance provides worldwide coverage excluding professional business carried out from an office in the United States of America or Canada, and any action for a claim brought in any court in the United States of America or Canada.

VAT

A M Insolvency Limited is registered for VAT under registration no. 228 8414 91