

The Insolvency Act 1986

**Statement of administrator's proposals**

Name of Company <b>Kirkhollow Limited</b>	Company number <b>06579331</b>
In the <b>High Court of Justice, Chancery Division</b> <small>[full name of court]</small>	Court case number <b>8289 of 2011</b>

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

I/We (a) Shay Bannon and Antony David Nygate of BDO LLP, 55 Baker Street, London, W1U 7EU

\*Delete as applicable

attach a copy of ~~my~~ / our proposals in respect of the administration of the above company

A copy of these proposals was sent to all known creditors on

(b) Insert date

(b) 14 November 2011

Signed

Joint Administrator

Dated

14/11/2011

**Contact details:**

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

BDO LLP, 55 Baker Street, London,

W1U 7EU, ,

Our Ref 7/ADR/ADM751 Kirkhollow/C15

Tel

DX Number

DX Exchange

When you have completed and signed this form please send it to the Registrar of Companies at,  
Companies House, Crown Way, Cardiff, CF14 3UZ

DX 33050 Cardiff

THURSDAY



A02

\*AHCWTZPG\*

01/12/2011

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COMPANIES HOUSE



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55 Baker Street  
London W1U 7EU

Private and Confidential

14 November 2011

Our Ref 7/NZL/000022/C6

Please ask for  
Adam Roseby  
020 7893 2862  
[adam.roseby@bdo.co.uk](mailto:adam.roseby@bdo.co.uk)

Dear Sir(s)

**Kirkhollow Limited  
Keybank Limited  
Kenplaid Limited (together "the Companies") - All in Administration**

I refer to the appointment of Antony David Nygate and myself as Joint Administrators of the company on 22 September 2011.

Pursuant to Paragraph 52(1)(b) of Schedule B1 of the Insolvency Act 1986, I do not propose to call a formal meeting of creditors because there will be insufficient assets to enable me to make any distribution to unsecured creditors.

However, further to Paragraph 52(2) of the same Act, if at least 10% of creditors require me to call a meeting they must notify me using the appropriate form 2.21B (attached at Appendix 6 of the report) by 28 November 2011. Please note that before such a meeting can be held I will require a deposit towards the cost of convening the meeting.

I attach a statement to creditors pursuant to Rule 2.33 of the Insolvency Rules 1986, which incorporates a statement of proposals under Paragraph 49 of Schedule B1 of the Insolvency Act 1986.

Additionally, I provide a report setting out the work undertaken by the Joint Administrators to date, incorporating details of my firm's policies regarding fees and disbursements and a summary recording the time spent on the Administrations, together with a Creditors' Guide to Administrator's fees.

Yours faithfully  
For and on behalf of  
The companies

S Bannon  
Joint Administrator  
Licensed to act as an insolvency practitioner by the Association of Chartered Certified Accountants  
Enc

7/NZL/000022  
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**Kirkhollow Limited  
Keybank Limited  
Kenplaid Limited (together “the  
Companies”)  
All in Administration**

Statement to Creditors pursuant to Rule 2.33  
of the Insolvency Rules 1986 and Statement of  
Proposals under Paragraph 49 of Schedule B1  
of the Insolvency Act 1986

7/ADR/ADM661 Cover Sheet/C6



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**TABLE OF CONTENTS**

<b>Section</b>	<b>Page</b>
<b>1 INTRODUCTION</b>	<b>1</b>
<b>2 EVENTS LEADING UP TO THE APPOINTMENT OF THE JOINT ADMINISTRATORS</b>	<b>1</b>
<b>3 STATEMENT OF AFFAIRS AND STATUTORY INFORMATION</b>	<b>2</b>
<b>4 ACHIEVING THE PURPOSE OF THE ADMINISTRATIONS</b>	<b>2</b>
<b>5 MANAGEMENT OF THE COMPANY'S AFFAIRS SINCE THE JOINT ADMINISTRATORS' APPOINTMENT</b>	<b>2</b>
<b>6 CREDITORS' CLAIMS</b>	<b>3</b>
<b>7 PRESCRIBED PART</b>	<b>3</b>
<b>8 EC REGULATIONS ON INSOLVENCY PROCEEDINGS</b>	<b>3</b>
<b>9 PRE-ADMINISTRATION COSTS</b>	<b>3</b>
<b>10 JOINT ADMINISTRATORS' REMUNERATION</b>	<b>4</b>
<b>11 POSSIBLE OUTCOMES FOR THE COMPANIES AND CREDITORS</b>	<b>4</b>
<b>12 STATEMENT OF PROPOSALS UNDER PARAGRAPH 49 OF SCHEDULE B1 OF THE INSOLVENCY ACT 1986</b>	<b>4</b>
<b>Appendix 1</b>	<b>Statutory Information</b>
<b>Appendix 2</b>	<b>Joint Administrators' Summary of Estimated Financial Position</b>
<b>Appendix 3</b>	<b>Summaries of Joint Administrators' time costs</b>
<b>Appendix 4</b>	<b>A Creditor's Guide to Joint Administrators' fees, BDO LLP policy on fees</b>
<b>Appendix 5</b>	<b>Proof of Debt forms</b>
<b>Appendix 6</b>	<b>Form 2.21B; Creditor's request for a meeting</b>
<b>Appendix 7</b>	<b>Summary of Proposals</b>

COMPANY	REGISTERED NO.	IN THE HIGH COURT OF JUSTICE	DATE OF INCORPORATION
KIRKHOLLOW LIMITED	06579331	8289 of 2011	29 APRIL 2008
KEYBANK LIMITED	06668395	8278 of 2011	8 AUGUST 2008
KENPLAID LIMITED	06640623	8279 of 2011	8 JULY 2008

**(TOGETHER "THE COMPANIES") - ALL IN ADMINISTRATION**

Registered offices situated at c/o BDO LLP, 55 Baker Street, London W1U 7EU

## **1 Introduction**

- 1.1 This report is addressed to the creditors of the Companies and incorporates the joint administrators' proposals. The Companies' affairs are interlinked to the extent that a single report is sufficient for all of the Companies. We do not propose to call a meeting of creditors to consider these proposals because there will be insufficient assets to enable us to make any distribution to unsecured creditors. Under Paragraph 52 of Schedule B1 of the Insolvency Act 1986 if at least 10% of creditors require us to call a meeting they must notify us using form 2.21B (attached) by 28 November 2011. Please note that before such a meeting can be held we will require a deposit towards the cost of convening the meeting. Such deposit may be repaid subject to approval of the other creditors. Where no creditors' meeting is held to consider the joint administrators' proposals, the proposals will have been deemed to be approved on 28 November 2011.
- 1.2 If a meeting of creditors is held, the creditors may approve the proposals with or without modifications subject to the joint administrators' agreement to any such modifications. If the creditors reject the joint administrators' proposals a report will be sent to the High Court of Justice, Chancery Division confirming that the creditors have rejected the proposals. The Court may then discharge the administrations and make consequential directions. Alternatively, it may adjourn the hearing or make some other order as it thinks fit.
- 1.3 If the joint administrators' proposals are deemed to be agreed, or agreed at the meeting of creditors, the joint administrators will continue to control the business of the Companies to the extent that it has not been transferred. The joint administrators would at some later date arrange for the Companies to exit from the Administration, by a route agreed by the creditors. Based on the information presently available and the current situation the joint administrators' proposal is that the Companies will be dissolved once the administrations are complete.

## **2 Events Leading up to the Appointment of the Joint Administrators**

- 2.1 The incorporation dates of the Companies are listed at the top of this page. Each of the Companies operated a care home based in three separate locations across the UK. The events leading up to the appointment of the joint administrators were detailed in my letter to creditors of 13 October 2011, but I provide a further summary below for the purpose of this report.
- 2.2 The care homes were leased to Southern Cross Opco Limited ("SX"). We understand that the well reported financial difficulties of SX led to the Companies being asked to accept a significant rent reduction until the end of September 2011 (with no rent being paid thereafter), together with a return of the lease and a transition of the underlying operating businesses back to the Companies by 31 October 2011 at the latest.
- 2.3 The Companies had refused to participate in the SX restructuring, and there was limited dialogue with the secured creditor, National Westminster Bank PLC ("NatWest"), in respect of the future of the business. The Companies instead issued a winding-up

petition against SX which was adjourned until 31 October. This was subsequently dismissed by the Court with no order as to costs.

- 2.4 The secured creditor was concerned that the stance taken by the Companies would damage the value in the business and underlying property assets. As there was no agreement between NatWest and the Companies as to the way forward, our firm was engaged to provide advice and plan for an event in which NatWest would have to take enforcement action to take control of the Companies and protect the value in the business and assets.

- 2.5 On 22 September 2011, Shay Bannon and Antony David Nygate were appointed joint administrators over the Companies by NatWest in its capacity as a qualifying floating charge holder pursuant to Paragraph 14 of Schedule B1 of the Insolvency Act 1986. Under the provisions of paragraph 100(2) of schedule B1 of the Insolvency Act 1986 the joint administrators carry out their functions jointly and severally and neither joint administrator has exclusive power to exercise any function

### **3 Statements of Affairs and Statutory Information**

- 3.1 Attached at Appendix 1 is a record of the names of the Companies' directors and secretaries, together with shareholders' details and other statutory information
- 3.2 The director has not submitted statements of affairs to us at the time of writing this report. The joint administrators have therefore produced a summary of the estimated financial position of the Companies, which is attached at Appendix 2.

### **4 Achieving the purpose of the Administrations**

- 4.1 The statutory purpose of an administration consists of three objectives, and we now address the progress that has been made in this respect.
- (a) The first objective is the rescuing the Companies as a going concern (i.e. restructuring the Companies' business, resulting in the survival of the Companies). We would comment that this objective has not been achieved.
- (b) The second objective of achieving a better result for the Companies' creditors as a whole than would be likely if the Companies were wound up (without first being in administration) has been achieved. The secured creditor will benefit from an enhanced return arising from a sale in excess of market value. We have not been advised of claims by any unsecured creditors to date.
- (c) The final objective is realising property in order to make a distribution to one or more secured or preferential creditors. The secured creditor's debt should be repaid in full from the sale of the Companies' assets, so this objective will also be achieved.

### **5 Management of the Companies' Affairs since the Joint Administrators' Appointment**

#### **5.1 Initial Actions**

- 5.1.1 As previously reported, immediately upon our appointment on 22 September 2011, the joint administrators entered into a sale of the Companies' properties to Bondcare Willington Limited ("Willington"), for a consideration of £15.166m (i.e. the value of the secured creditor's debt) plus an assignment of the existing swaps attached to the Bank debt. The consideration should be sufficient to repay the debt due to the secured creditor, and is payable upon Willington agreeing new banking facilities. There is a longstop date by which the consideration must be paid which has been extended, with



the agreement of NatWest, to 16 November 2011. The joint administrators have the option to take back the properties if the consideration is not paid by the longstop date.

- 5.1.2 As previously advised, the joint administrators received professional valuation advice from GVA which valued the properties at £12.65m. The joint administrators therefore consider that the terms of the sale agreement to Willington provide a materially better outcome to the Companies and the secured creditor, than would likely be achieved in the event that the properties were marketed for sale.

## 5.2 Rescue of the Companies

- 5.2.1 As previously reported, it was not possible to rescue the Companies as a going concern as there was no agreement with the sole shareholder regarding the way forward following the failure of the SX tenants.

## 5.3 Receipts & Payments

- 5.3.1 There have been no receipts and payments in the administrations to date. The Companies' only assets are the freehold properties and, as advised above, the deferred consideration from the sale of these properties is due by 16 November 2011.

## 6 Creditors' Claims

- 6.1 As noted above, we anticipate that the sale consideration should be sufficient to repay the secured creditor in full. The sole director of the Companies has advised that there are no preferential or unsecured creditors, and the joint administrators have not received any claims to date.
- 6.2 Any creditor wanting to submit a claim in the administrations should complete and return to my office the relevant proof of debt forms attached at Appendix 5.

## 7 Prescribed Part

- 7.1 Under the provisions of Section 176A of the Insolvency Act 1986 the joint administrators must state the amount of funds available to unsecured creditors in respect of the prescribed part. This provision only applies where the Companies have granted a floating charge to a creditor after 15 September 2003.
- 7.2 In this particular case there are no realisations attributable to the floating charge security, so there will be no prescribed part in the administrations.

## 8 EC Regulations on Insolvency Proceedings

- 8.1 We are required under the Insolvency Rules 1986 to state whether and if so the extent to which the above regulations apply to these administrations. In this particular case the EC Regulation will apply and these proceedings will be main proceedings as provided by Article 3 of the aforesaid Regulation.

## 9 Pre Administration Costs

- 9.1 As previously advised, BDO LLP was engaged by NatWest prior to the joint administrators' appointment to provide advice and plan for an enforcement event. BDO was not engaged by the Companies. Under the terms of the sale agreement, in addition to the purchase price the purchaser is due to pay "purchase fees". These fees include amounts due to BDO LLP for their work in the pre-appointment period and also those fees due to the joint administrators' solicitors, Cameron McKenna LLP. BDO's fees for this period total £52,317.20 plus VAT, and include all work necessary for the acceptance of the appointments, the discussions and negotiations with Willington and NatWest in respect of

the sale of the properties, liaising with Cameron McKenna and GVA and negotiating and reviewing the legal contracts and documents necessary to record the sale.

- 9.2 It is the joint administrators' intention to draw these pre-appointment fees once the purchase fees have been received from Willington. NatWest, in its capacity as secured creditor, has confirmed that those fees can be drawn from the purchase fees.

## 10 Joint Administrators' Remuneration

- 10.1 Kindly note that under the terms of the Insolvency Rules 1986 the joint administrators are obliged to fix their remuneration in accordance with Rule 2.106(2) of the Insolvency Rules 1986. This permits remuneration to be fixed either as a percentage of the value of the property with which the joint administrators have to deal, by reference to the time the joint administrators and their staff spend in attending to matters in this administration, or a fixed amount. Remuneration may be fixed on one or a combination of any of the foregoing bases.

- 10.2 In respect of these administrations we are seeking approval of our remuneration on a time costs basis. Attached at Appendix 3 are schedules that summarise the time that has been spent in administering the administrations up to the date of this report. An outline of this schedule is shown below

	No. of hours	Total remuneration (£)	Average Rate (£/hr)
Kirkhollow Limited	24.30	6,856.50	282.16
Keybank Limited	14.05	5,256.25	374.11
Kenplaid Limited	14.05	5,256.26	374.11

- 10.3 Where no meeting of creditors is being convened because there will be insufficient property to enable a distribution to be made to unsecured creditors other than by reason of prescribed part (which is mentioned above), our remuneration will be subject to the approval of the secured creditor as set out in Rule 2.106(5A)(a) of the Insolvency Rules 1986. This is the case in these administrations. However, for your information, we attach at Appendix 4 a Creditors' Guide to Administrators' Fees together with a document that outlines the policy of BDO LLP in respect of fees and disbursements

## 11 Possible Outcomes for the Companies and Creditors

- 11.1 The Insolvency Act 1986 and Insolvency Rules 1986 provide a variety of options regarding the possible exit routes for the Companies from the administrations, being primarily a company voluntary arrangement, liquidation or dissolution of the Companies. It is the joint administrators' recommendation and proposal, as detailed below, that once all assets have been realised and distributed in the administrations that the joint administrators arrange for the Companies to be dissolved.

## 12 Statement of Proposals under Paragraph 49 of Schedule B1 of the Insolvency Act 1986

- 12.1 In accordance with Paragraph 49 of Schedule B1 of the Insolvency Act 1986 the joint administrators make the following proposals for achieving the purpose of administrations. In the absence of a creditors' meeting, the proposals will be deemed to be approved on 28 November 2011.

### Formal Proposals - the Joint Administrators Propose that:

- (a) they continue to realise assets in accordance with objective 3 of the statutory purpose of the administrations;
- (b) they make distributions to the secured creditor;

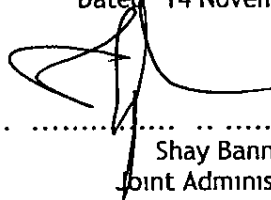


- (c) they exit the administrations by way of dissolving the Companies under paragraph 84 of Schedule B1 of the Insolvency Act 1986;
- (d) the remuneration of the joint administrators is to be approved by the secured creditor in accordance with Rule 2.106(5A)(a) of the Insolvency Rules 1986, on the basis of the time properly spent attending to the matters arising in the administrations;

A further resolution is put to the creditors:

- (e) That the joint administrators be discharged from liability under the administrations per Paragraph 98 of Schedule B1 of the Insolvency Act 1986, 28 days after the joint administrators' filing their final report and sending it to creditors.

Dated 14 November 2011



.....  
Shay Bannon  
Joint Administrator

**Kirkhollow Limited  
In Administration**

**Statutory Information**

<b>Company Number:</b>	06579331
<b>Date of Incorporation:</b>	29/04/2008
<b>Address of Registered Office:</b>	55 Baker Street, London, W1U 7EU  Formerly Parkside House, 41 Walsingham Road, Enfield, Middlesex, EN2 6EY
<b>Director:</b>	Clifford Donald Wing
<b>Company Secretary:</b>	David Neuwirth (resigned 25/05/2011)
<b>Nominal Share Capital:</b>	£1 - divided into 1 ordinary shares of £1 each
<b>Registered Shareholders:</b> Barrat Holdings Limited	<b>No of £1 ordinary shares held</b> 1

**Trading Results:**

The accounts filed at Companies House are that of a dormant company; consequently there are no trading results to provide here.

**Keybank Limited  
In Administration**

**Statutory Information**

<b>Company Number:</b>	06668395
<b>Date of Incorporation:</b>	08/08/2008
<b>Address of Registered Office:</b>	55 Baker Street, London, W1U 7EU  Formerly Parkside House, 41 Walsingham Road, Enfield, Middlesex, EN2 6EY
<b>Director:</b>	Clifford Donald Wing
<b>Company Secretary:</b>	David Neuwirth (resigned 25/05/2011)
<b>Nominal Share Capital:</b>	£1 - divided into 1 ordinary shares of £1 each
<b>Registered Shareholders:</b> Baratt Holdings Limited	<b>No of £1 ordinary shares held</b> 1

**Trading Results:**

The accounts filed at Companies House are that of a dormant company, consequently there are no trading results to provide here.

**Kenplaid Limited  
In Administration**

**Statutory Information**

<b>Company Number:</b>	06640623
<b>Date of Incorporation:</b>	08/07/2008
<b>Address of Registered Office:</b>	55 Baker Street, London, W1U 7EU  Formerly Parkside House, 41 Walsingham Road, Enfield, Middlesex, EN2 6EY
<b>Director:</b>	Clifford Donald Wing
<b>Company Secretary:</b>	David Neuwirth (resigned on 25/05/2011)
<b>Nominal Share Capital:</b>	£1 - divided into 1 ordinary shares of £1 each
<b>Registered Shareholders:</b>	<b>No of £1 ordinary shares held</b>
Barrat Holding Limited	1

**Trading Results:**

The accounts filed at Companies House are that of a dormant company; consequently there are no trading results to provide here.

## Joint Administrators' Summary of Estimated Financial Position

**Kirkhollow Limited**  
**Keybank Limited**  
**Kenplaid Limited - All in Administration**

**Joint Administrators' Summary of Estimated Statement of Financial Position as at 22 September 2011**

	<b>Estimated Value</b>	<b>Realisable Value</b>
	<b>£m</b>	<b>£m</b>
<b>Assets subject to fixed charge</b>		
Properties	12.65	15.17
	<u>12.65</u>	<u>15.17</u>
Less funds due to the secured creditor		(15.17)
<b>Estimated deficiency as regards the secured creditor</b>		<u>-</u>
<b>Liabilities</b>		
Preferential creditors		Nil
Unsecured non-preferential creditors		Nil
<b>Estimated deficiency as regards unsecured creditors</b>		<u>-</u>
Issued and called up share capital*		3
<b>Estimated deficiency as regards members</b>		<u>3</u>

Note the summary has been prepared on a consolidated basis, as the secured creditor is expected to be repaid in full and there will not be a surplus available to any preferential or unsecured creditors or the members.

## Summary of Joint Administrators' time costs

### Summary of Time Charged and Rates Applicable for the Period From 22 September 2011 to 10 November 2011

[illegible]



### Summary of Time Charged and Rates Applicable for the Period From 22 September 2011 to 10 November 2011

[illegible]

### Summary of Time Charged and Rates Applicable for the Period From 22 September 2011 to 10 November 2011

[illegible]



A Creditors' Guide to Joint Administrators' Fees, BDO LLP Policy on Fees

**1 Introduction**

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

**2 The nature of administration**

- 2.1 Administration is a procedure which places a company under the control of an insolvency practitioner and the protection of the court with the following objective:

- rescuing the company as a going concern, or
- achieving a better result for the creditors as a whole than would be likely if the company were wound up without first being in administration,

or, if the administrator thinks neither of these objectives is reasonably practicable

- realising property in order to make a distribution to secured or preferential creditors

**3 The creditors' committee**

- 3.1 The creditors have the right to appoint a committee with a minimum of 3 and a maximum of 5 members. One of the functions of the committee is to determine the basis of the administrator's remuneration. The committee is normally established at the meeting of creditors which the administrator is required to hold within a maximum of 10 weeks from the beginning of the administration to consider his proposals. The administrator must call the first meeting of the committee within 6 weeks of its establishment, and subsequent meetings must be held either at specified dates agreed by the committee, or when a member of the committee asks for one, or when the administrator decides he needs to hold one. The committee has power to summon the administrator to attend before it and provide information about the exercise of his functions.

**4 Fixing the administrator's remuneration**

- 4.1 The basis for fixing the administrator's remuneration is set out in Rule 2.106 of the Insolvency Rules 1986, which states that it shall be fixed

- as a percentage of the value of the property which the administrator has to deal with,
- by reference to the time properly given by the administrator and his staff in attending to matters arising in the administration, 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 administrator. Where the remuneration is fixed as a percentage, different percentages may be used for different things done by the administrator.

It is for the creditors' 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, and where it is a set amount, to determine that amount. Rule 2.106 says that in arriving at its decision the committee shall have regard to the following matters:

- the complexity (or otherwise) of the case,
- any responsibility of an exceptional kind or degree which falls on the administrator,

- the effectiveness with which the administrator appears to be carrying out, or to have carried out, his duties,
- the value and nature of the property which the administrator has to deal with

4.2 If there is no creditors' committee, or the committee does not make the requisite determination (and provided the circumstances described in paragraph 4.3 do not apply), the administrator's remuneration may be fixed by a resolution of a meeting of creditors having regard to the same matters as apply in the case of the committee. If the remuneration is not fixed in any of these ways, it will be fixed by the court on application by the administrator, but the administrator 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.

4.3 There are special rules about creditors' resolutions in cases where the administrator has stated in his proposals that the company has insufficient property to enable a distribution to be made to unsecured creditors except out of the reserved fund which may have to be set aside out of floating charge assets. In this case, if there is no creditors' committee, or the committee does not make the requisite determination, the remuneration may be fixed by the approval of -

- each secured creditor of the company, or
- if the administrator has made or intends to make a distribution to preferential creditors -
  - each secured creditor of the company, and
  - preferential creditors whose debts amount to more than 50% of the preferential debts of the company, disregarding debts of any creditor who does not respond to an invitation to give or withhold approval,

having regard to the same matters as the committee would

Note that there is no requirement to hold a creditors' meeting in such cases unless a meeting is requisitioned by creditors whose debts amount to at least 10 per cent of the total debts of the company

4.4 A resolution of creditors may be obtained by correspondence.

## **5. Review of remuneration**

5.1 Where there has been a material and substantial change in circumstances since the basis of the administrator's remuneration was fixed, the administrator 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. Approval of pre-administration costs**

6.1 Sometimes the administrator may need to seek approval for the payment of costs in connection with preparatory work incurred before the company went into administration but which remain unpaid. Such costs may relate to work done either by the administrator or by another insolvency practitioner. Details of such costs must be included in the administrator's proposals.

6.2 Where there is a creditors' committee, it is for the committee to determine whether, and to what extent, such costs should be approved for payment. If there is no committee or the committee does not make the necessary determination, or if it does but the administrator, or other insolvency practitioner who has incurred pre-administration costs, considers the amount agreed to be insufficient, approval may be given by a meeting of creditors. Where the circumstances described in paragraph 4.3 apply, the determination may be made by the same creditors as approve the administrator's remuneration.

6.3 The administrator must convene a meeting of the committee or the creditors for the purposes of approving the payment of pre-administration costs if requested to do so by another insolvency practitioner who has incurred such costs. If there is no determination under these provisions, or if there is but the administrator or other insolvency practitioner considers the amount agreed to be insufficient, the administrator may apply to the court for a determination.

**7 What information should be provided by the administrator?****7.1 When seeking remuneration approval**

**7.1 1** When seeking agreement to his fees the administrator should provide sufficient supporting information to enable the committee or the creditors to form a judgement as to whether the proposed fee is reasonable having regard to all the circumstances of the case. The nature and extent of the supporting information which should be provided will depend on:

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

**7.1 2** Where, at any creditors' or committee meeting, the administrator seeks agreement to the terms on which he is to be remunerated, he should provide the meeting with details of the charge-out rates of all grades of staff, including principals, which are likely to be involved on the case

**7.1 3** Where the administrator seeks agreement to his fees during the course of the administration, he should always provide an up to date receipts and payments account. Where the proposed fee is based on time costs the administrator should disclose to the committee or the creditors the time spent and the charge-out value in the particular case, together with, where appropriate, such additional information as may reasonably be required having regard to the size and complexity of the case. The additional information should comprise a sufficient explanation of what the administrator has achieved and how it was achieved to enable the value of the exercise to be assessed (whilst recognising that the administrator must fulfil certain statutory obligations that might be seen to bring no added value for creditors) and to establish that the time has been properly spent on the case. That assessment will need to be made having regard to the time spent and the rates at which that time was charged, bearing in mind the factors set out in paragraph 4.1 above. To enable this assessment to be carried out it may be necessary for the administrator to provide an analysis of the time spent on the case by type of activity and grade of staff. The degree of detail will depend on the circumstances of the case, but it will be helpful to be aware of the professional guidance which has been given to insolvency practitioners on this subject. The degree of detail will depend on the circumstances of the case, and professional guidance has been provided setting out a minimum of 6 category headings under which the work done by the officeholder and his staff should be analysed. As a firm BDO LLP operates a computerised time recording system which analyses work done under the following categories:-

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

Professional guidance suggests the following categories as a basis for analysis by grade of staff

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

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

- Any significant aspects of the case, particularly those that affect the amount of time spent
- The reasons for subsequent changes in strategy.
- Any comments on any figures in the summary of time spent accompanying the request the administrator wishes to make
- The steps taken to establish the views of creditors, particularly in relation to agreeing the strategy for the assignment, budgeting, time recording, fee drawing or fee agreement
- Any existing agreement about fees.
- Details of how other professionals, including 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

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

#### **7.2 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 administrator should notify the creditors of the details of the resolution in his next report or circular to them. In all subsequent reports to creditors the administrator should specify the amount of remuneration he has drawn in accordance with the resolution (see further paragraph 8.1 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

- 7.1.3. Where the fee is charged on a percentage basis the administrator should provide the details set out in paragraph 7.1.4 above regarding work which has been sub-contracted out

#### **7.3 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 administrator proposes to recover costs which, whilst being in the nature of expenses or disbursements, may include an element of shared or allocated costs (such as room hire, document storage or communication facilities provided by the administrator's own firm), they must be disclosed and be authorised by those responsible for approving his remuneration. Such expenses must be directly incurred on the case and subject to a reasonable method of calculation and allocation.

### **8 Progress reports and requests for further information**

- 8.1 The administrator is required to send a progress report to creditors at 6-monthly intervals. The report must include:

- details of the basis fixed for the remuneration of the administrator (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 administrator during the period of the report, irrespective of whether payment was actually made during that period,
- the date of approval of any pre-administration costs and the amount approved,
- a statement of the creditors' rights to request further information, as explained in paragraph 8 2, and their right to challenge the administrator's remuneration and expenses

**8 2** Within 21 days of receipt of a progress report a creditor may request the administrator to provide further information about the remuneration and expenses (other than pre-administration costs) 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

**8 3** The administrator 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 administration or might be expected to lead to violence against any person, or
- the administrator 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 administrator's refusal to provide the requested information, or the expiry of the 14 days time limit for the provision of the information

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

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

The information which must be provided is -

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

The period for which the information must be provided is the period from appointment to the end of the most recent period of six months reckoned from the date of the administrator's appointment, or where he has vacated office, the date that he vacated office. The information must be provided within 28 days of receipt of the request by the administrator, and requests must be made within two years from vacation of office.

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

**10 1** If a creditor believes that the administrator's remuneration is too high, the basis is inappropriate, or the expenses incurred by the administrator are in all the circumstances excessive he may, provided certain conditions are met, apply to the court.

**10 2** 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 administrator's progress report in which the charging of the remuneration or incurring of the expenses in question is first reported (see paragraph 8 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 administrator a copy of the application and supporting evidence at least 14 days before the hearing



- 10.3 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 as an expense of the administration.

**11 What if the administrator is dissatisfied?**

- 11.1 If the administrator considers that the remuneration fixed by the creditors' committee 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 committee or the creditors 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 creditors' committee and the committee may nominate one or more of its members to appear or be represented on the application. If there is no committee, the administrator's notice of his application must be sent to such of the company's creditors as the court may direct, and they may nominate one or more of their number to appear or be represented. The court may order the costs to be paid as an expense of the administration.

**12 Other matters relating to remuneration**

- 12.1 Where there are joint administrators it is for them to agree between themselves how the remuneration payable should be apportioned. Any dispute arising between them may be referred to the court, the creditors' committee or a meeting of creditors.
- 12.2 If the administrator is a solicitor and employs his own firm to act on behalf of the company, profit costs may not be paid unless authorised by the creditors' committee, the creditors or the court.
- 12.3 If a new administrator 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 administrator until a further determination, resolution or court order is made.
- 12.4 Where the basis of the remuneration is a set amount, and the administrator 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 administrator. The application must be made to the same body as approved the remuneration. Where the outgoing administrator and the incoming administrator are from the same firm, they will usually agree the apportionment between them.

**13. Effective date**

This guide applies where a company enters administration on or after 6 April 2010, except where:

- the application for an administration order was made before that date, or
- where the administration was preceded by a liquidation which commenced before that date



Kirkhollow Limited  
Keybank Limited  
Kenplaid Limited (together "the Companies") - All in Administration

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

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

GRADE	£
Partner1	645
Partner2	520
Director	446
Senior Manager	379-413
Manager	284-322
Assistant Manager	257
Senior Executive	240
Executive	175-193
Junior Executive	139
Trainee	88
Support staff/Secretary	88

The rates charged by BDO LLP, 55 Baker Street, London, W1U 7EU are reviewed in December and July each year and are adjusted to take account of inflation and the firm's overheads.

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

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

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

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

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



### **1) Other Costs**

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

### **2) Category 1**

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

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

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

### **3) Category 2**

Additionally some firms recharge expenses for example postage, stationery, photocopying charges, telephone and fax costs, which cannot economically be recorded in respect of 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  
14 November 2011

## PROOF OF DEBT

In The High Court of Justice  
Chancery Division  
Companies Court

No 8289 of 2011

Kirkhollow Limited  
- In Administration -

Date of Administration 22 September 2011

- 1a Name of creditor
- 1b If Company - registered number
- 2 Address of creditor
- 3 Total claim including VAT and interest as at the date of the appointment of administrators £  
(see overleaf)
- 4 Details of documents by which debt can be substantiated (please attach copy documents)
- 5 Amount of any interest included in claim £
- 6 Is the whole or part of the debt preferential? Yes / No  
If so, state amount, and details £  
See notes overleaf
- 7 Particulars of how and when debt incurred
- 8 Particulars and value of any security held and the date it was given
- 9 Details of any reservation of title in respect of goods to which the debt refer
- 10 Signature of creditor  
or other authorised person ... ..  
Name in BLOCK LETTERS . . . . .  
Creditor's reference: . . . . .
- 11 Position or Relationship with Creditor . . . . .
- 12 Address (if person signing is not the Creditor)

**For Use of Administrator Only**

13    Admitted to vote for £

      Date

      Joint Administrator

14    Admitted preferentially  
      for £

      Date

      Joint Administrator

Admitted non-preferentially  
for £

      Date

      Joint Administrator

**Guidance Notes re Preferential Debts:**

The categories of preferential debts under S 386(1) of the Insolvency Act 1986 are as follows:

- pension scheme contributions
- remuneration etc of employees
- Levies on Coal & Steel Productions.

**VAT Bad Debt Relief**

The provisions of the Finance Act, 1990, came into effect on 26 July, 1990, and introduced changes in the way that VAT on Bad Debts is recovered

Your claim overleaf must be quoted inclusive of VAT. You may claim relief on your VAT return when the debt is at least six months old and has been written off. Any dividend you receive in respect of this claim will include payment in respect of the VAT element of your debt and you will be responsible for declaring such VAT to HM Revenue & Customs.

## PROOF OF DEBT

In The High Court of Justice  
Chancery Division  
Companies Court

No 8278 of 2011

Keybank Limited  
- In Administration -

Date of Administration 22 September 2011

- 1a Name of creditor
- 1b If Company - registered number
- 2 Address of creditor
- 3 Total claim including VAT and interest as at the date of the appointment of administrators £  
(see overleaf)
- 4 Details of documents by which debt can be substantiated (please attach copy documents)
- 5 Amount of any interest included in claim £
- 6 Is the whole or part of the debt preferential? Yes / No  
If so, state amount, and details £  
See notes overleaf
- 7 Particulars of how and when debt incurred
- 8 Particulars and value of any security held and the date it was given
- 9 Details of any reservation of title in respect of goods to which the debt refer
- 10 Signature of creditor or other authorised person .....  
Name in BLOCK LETTERS .....  
Creditor's reference .....
- 11 Position or Relationship with Creditor .....
- 12 Address (if person signing is not the Creditor) .....

**For Use of Administrator Only**

13    Admitted to vote for £

Date

Joint Administrator

14    Admitted preferentially  
for £

Date

Joint Administrator

Admitted non-preferentially  
for £

Date

Joint Administrator

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**PROOF OF DEBT**

In The High Court of Justice  
Chancery Division  
Companies Court

No 8279 of 2011

**Kenplaid Limited**  
- In Administration -

Date of Administration 22 September 2011

- 1a Name of creditor
- 1b If Company - registered number
- 2 Address of creditor
- 3 Total claim including VAT and interest as at the date of the appointment of administrators £  
(see overleaf)
- 4 Details of documents by which debt can be substantiated (please attach copy documents)
- 5 Amount of any interest included in claim £
- 6 Is the whole or part of the debt preferential? Yes / No  
If so, state amount, and details £  
See notes overleaf
- 7 Particulars of how and when debt incurred
- 8 Particulars and value of any security held and the date it was given
- 9 Details of any reservation of title in respect of goods to which the debt refer
- 10 Signature of creditor or other authorised person .....
- Name in BLOCK LETTERS . . . . .
- Creditor's reference. . . . .
- 11 Position or Relationship with Creditor .. . . .
- 12 Address (if person signing is not the Creditor)



### For Use of Administrator Only

13 Admitted to vote for £

Date

Joint Administrator

14 Admitted preferentially  
for £

Date

Joint Administrator

Admitted non-preferentially  
for £

Date

Joint Administrator

### Guidance Notes re Preferential Debts:

The categories of preferential debts under S 386(1) of the Insolvency Act 1986 are as follows

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Form 2.21B; Creditor's Request for a Meeting

## Rule 2.37

## Creditor's request for a meeting

Name of Company

Kirkhollow Limited

Company number

06579331

In the  
High Court of Justice, Chancery Division  
(full name of court)Court case number  
8289 of 2011(a) Insert full name and  
address of the creditor  
making the request

I (a)

(b) Insert full name and  
address of registered  
office of the companyrequest a meeting of the creditors of (b)  
Kirkhollow LimitedC/o BDO LLP  
55 Baker Street  
London  
W1U 7EU

(c) Insert amount of claim

My claim in the administration is (c)

(d) Insert full name(s) and  
address(es) of creditors  
concurring with the  
request (if any) and their  
claims in the  
administration if the  
requesting creditor's  
claim  
is below the required 10%

(d)

concur with the above request, and I attach copies of their written confirmation of  
concurrence(e) Insert details of the  
purpose of the meeting

The purpose of the meeting is (e)

Signed

Dated

TH

A02

\*AHCWSZPF\*  
01/12/2011  
COMPANIES HOUSE

338

## Rule 2.37

## Creditor's request for a meeting

Name of Company

Keybank Limited

Company number

06668395

In the  
High Court of Justice, Chancery Division  
(full name of court)Court case number  
8278 of 2011(a) Insert full name and  
address of the creditor  
making the request

I (a)

(b) Insert full name and  
address of registered  
office of the companyrequest a meeting of the creditors of (b)  
Keybank LimitedC/o BDO LLP  
55 Baker Street  
London  
W1U 7EU

(c) Insert amount of claim

My claim in the administration is (c)

(d) Insert full name(s) and  
address(es) of creditors  
concurring with the  
request (if any) and their  
claims in the  
administration if the  
requesting creditor's  
claim  
is below the required 10%

(d)

concur with the above request, and I attach copies of their written confirmation of  
concurrence(e) Insert details of the  
purpose of the meeting

The purpose of the meeting is (e)

Signed

Dated

## Rule 2.37

## Creditor's request for a meeting

Name of Company

Kenplaid Limited

Company number

06640623

In the  
High Court of Justice, Chancery Division  
(full name of court)Court case number  
8279 of 2011(a) Insert full name and  
address of the creditor  
making the request

I (a)

(b) Insert full name and  
address of registered  
office of the companyrequest a meeting of the creditors of (b)  
Kenplaid LimitedC/o BDO LLP  
55 Baker Street  
London  
W1U 7EU

(c) Insert amount of claim

My claim in the administration is (c)

(d) Insert full name(s) and  
address(es) of creditors  
concurring with the  
request (if any) and their  
claims in the  
administration if the  
requesting creditor's  
claim  
is below the required 10%

(d)

concur with the above request, and I attach copies of their written confirmation of  
concurrence(e) Insert details of the  
purpose of the meeting

The purpose of the meeting is (e)

Signed

Dated

TH

A02

\*AHCWRZPE\*  
01/12/2011  
COMPANIES HOUSE

339

Kirkhollow Limited  
Keybank Limited  
Kenplaid Limited (together "the Companies")

**SUMMARY OF JOINT ADMINISTRATORS' PROPOSALS (TO BE DEEMED APPROVED ON 28 NOVEMBER 2011 IN THE ABSENCE OF A CREDITORS' MEETING)**

The Joint Administrators propose that:

- (a) they continue to realise assets in accordance with objective 3 of the statutory purpose of the administrations,
- (b) they make distributions to the secured creditor,
- (c) they exit the administrations by way of dissolving the Companies under paragraph 84 of Schedule B1 of the Insolvency Act 1986;
- (d) the remuneration of the joint administrators is to be approved by the secured creditor in accordance with Rule 2.106(5A)(a) of the Insolvency Rules 1986, on the basis of the time properly spent attending to the matters arising in the administrations,

A further resolution is put to the creditors:

- (e) That the joint administrators be discharged from liability under the administrations per Paragraph 98 of Schedule B1 of the Insolvency Act 1986, 28 days after the joint administrators' filing their final report and sending it to creditors