

The Insolvency Act 1986

**Administrator's progress report**


|  |                                   |
|--|-----------------------------------|
| Name of Company<br>Abacus Employment Limited             | Company number<br>06901941        |
| In the<br>Royal Court of Justice<br>(full name of court) | Court case number<br>6556 of 2011 |

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

I/We (a)  
Paul Boyle  
Harrisons Business Recovery and Insolvency  
Limited  
4 St Giles Court  
Southampton Street  
Reading  
RG1 2QL

John Sallabank  
Harrisons Business Recovery and Insolvency  
Limited  
4 St Giles Court  
Southampton Street  
Reading  
RG1 2QL

administrator(s) of the above company attach a progress report for the period

|                 |   |                        |
|-----------------|---|------------------------|
| (b) Insert date | From<br>(b) 29 January 2012   | To<br>(b) 28 July 2012 |
|                 | Signed<br><br>Joint Administrators |                        |
|                 | Dated<br>28/8/12  |                        |

**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

Paul Boyle  
Harrisons Business Recovery and Insolvency Limited  
4 St Giles Court  
Southampton Street  
Reading  
RG1 2QL  
DX Number

0118 951 0798  
DX Exchange

WEDNESDAY



A41 29/08/2012 #142  
COMPANIES HOUSE

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**

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**Abacus Employment Limited  
In Administration**

**Progress Report to Creditors  
pursuant to Rule 2.47  
of the Insolvency Rules 1986**

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## **Abacus Employment Limited – In Administration**

### **Progress Report to Creditors**

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## **Abacus Employment Limited – In Administration**

### **Progress Report to Creditors**

#### **1. GLOSSARY**

|                            |   |
|----------------------------|---|
| Administrators             | Paul Boyle and John Sallabank of Harrisons Business Recovery and Insolvency Limited, 4 St Giles Court, Southampton Street, Reading, RG1 2QL                         |
| Appointor                  | SME Invoice Finance Limited, Chertsey House, 56-58 Chertsey Street, Guildford, Surrey GU1 4HL   |
| Administration Application | The administration documentation was filed at the Royal Court of Justice on 29 July 2011 and allocated Court Number 6556 of 2011                                    |
| Company                    | Abacus Employment Limited (Company Registered Number 06901941) whose registered office is at 4 St Giles Court, Southampton Street, Reading, RG1 2QL ('the Company') |

The references in this report to Sections, Paragraphs or Rules are to the Insolvency Act 1986

#### **2. INTRODUCTION**

Paul Boyle and John Sallabank of Harrisons were appointed as Joint Administrators of Abacus Employment Limited on 29 July 2011 upon SME Invoice Finance Limited filing a notice of appointment of an administrator at the Royal Court of Justice in accordance with Paragraph 14 of Schedule B1 of the Insolvency Act 1986

As required under the provisions of the Insolvency Act 1986 the consent of the Qualifying Floating Chargeholder, SME, was sought and granted to extend the proceedings a further 6 months to 29 January 2013 in order to facilitate the orderly conclusion of the proceedings

In accordance with Paragraph 100(2) of Schedule B1 Insolvency Act 1986 the functions of the Administrators are being exercised by either or both of us

In accordance with Rule 2.47 we now provide our progress report to creditors on the administration of the proceedings. This should be read in conjunction with our previous reports

#### **3. PURPOSE AND PROGRESS OF THE ADMINISTRATION**

##### **3.1 Purpose of the Administration**

The Company could not be saved as a going concern in accordance with Paragraph 3(1)(a), since there were insufficient funds available to finance trading the Company. Paragraph 3(1)(b) does not apply as the Administration was not entered into to achieve a better result for the Company's creditors as a whole than would be likely if it were wound up (without first being in Administration). The purpose of the Administration, in accordance with Paragraph 3(1)(c) is to realise property in order to make a distribution to one or more secured or preferential creditor

##### **3.2 Progress of the Administration**

###### **3.2.1 Receipts and Payments Account**

Attached at Appendix I for your reference is a summary of our receipts and payments since the commencement of the proceedings on 29 July 2011 to 28 July 2012

## **Abacus Employment Limited – In Administration**

### **Progress Report to Creditors**

#### *3.2.2 Asset Realisation*

The following matters have been progressed since our last report -

#### *3.2.3 Sale of Business*

As you will recall Abacus Personnel Limited (APL) made an offer for the business and assets of the Company as detailed below -

|                    |               |
|--------------------|---------------|
|                    | <b>£</b>      |
| Computer Equipment | 1,000         |
| Goodwill           | 4,000         |
|                    | <u>£5,000</u> |

The sale consideration was payable by way of 12 monthly contributions of £416 67, to be paid by the last business day of the month, with the first payment due on 31 August 2011

All payments due have now been received

We would advise that in our previous report, the receipts and payments account incorrectly stated that £1,667 had been received in respect of computer equipment. The corrected position is shown in the receipts and payments account attached to this report.

#### *3.2.4 Book Debts*

The Company's outstanding sales ledger was subject to an Invoice Discounting agreement with SME which has advised that the ledger totaled £67,320 and a sum due to SME of £54,639.

Following collection of the outstanding ledger, and the application of final contractual charges, SME has confirmed that its liability has been settled in full. A surplus of £1,836 has now been received. Please be advised that the anticipated surplus of £3,920 quoted in our previous report did not take account of all contractual charges and that the

No further realisations will be made from this source.

#### *3.2.5 Investment in Associated Company*

As stated in our initial report to creditors dated 8 August 2011, the Company's books and records showed that it had invested a total of £7,000 in an associated restaurant business, RNR. As reported earlier RNR did not prove successful and has subsequently ceased trading. Our investigations have concluded that there is no prospect of recovery of funds into these proceedings, and consequently no further action will be taken.

#### *3.2.6 Secured Creditor*

As reported previously a first legal charge was granted to SME on 26 June 2011, which was registered on 1 July 2011 and provided fixed and floating charges over all tangible and intangible assets of the Company.

As stated above SME's liability has been discharged in full.

## **Abacus Employment Limited – In Administration**

### **Progress Report to Creditors**

#### **3.3 Other Matters**

##### *3.3.1 Joint Administrators' Remuneration & Disbursements*

In accordance with Rule 2.106(5A) our remuneration has been agreed with SME, the fixed and floating chargeholder

Attached at Appendix II for your information is a schedule of our time costs to date, in accordance with SIP 9

At the same time approval was granted for us to recover the costs of all disbursements extending to Category 2 disbursements as defined by Statement of Insolvency Practice Number 9. These are detailed by the receipts and payments account attached at Appendix I

##### *3.3.2 Pre-Administration Costs*

We would advise that the pre-Administration costs detailed in our last report of £1,347.50 in respect to remuneration and expenses respectively have been agreed by the fixed and floating chargeholder, SME

##### *3.3.3 Statement of Affairs*

In accordance with Paragraph 47(1) of Schedule B1 of the Insolvency Act 1986 the Directors were asked to provide us with a Statement of Affairs as at 29 July 2011. This has not yet been received, despite being a statutory requirement, and no explanation has been given in respect of this non-compliance. We do not, however, consider it to be in the interests of creditors for further action to be taken in this regard.

##### *3.3.4 Dividend Prospects*

There are insufficient realisations in the proceedings to make a distribution to the preferential or unsecured creditors

#### **4. JOINT ADMINISTRATORS' PROPOSALS**

The following proposals were approved by creditors by Postal Resolution. -

1. Should the Joint Administrators believe that it is appropriate to do so and/or beneficial to realisations and/or in satisfaction of the sums due to the secured creditor, they be authorised to extend the term of office for 6 months from the automatic end date of 28 July 2012, in accordance with Paragraph 76(2) of Schedule B1 of the Insolvency Act 1986
2. Since there are insufficient assets available to enable a distribution to the unsecured creditors the Joint Administrators shall conclude the Administration pursuant to Paragraph 84 of Schedule B1 of the Insolvency Act 1986, moving from Administration to dissolution. This will be carried out once all matters have been finalised
3. If there are insufficient funds available to make a distribution to unsecured creditors and a creditor indicates its written intention to petition for the winding up of the Company or provides a written request that the Company be placed into compulsory winding up for the purpose of the Official Receiver conducting an investigation, the Joint Administrators are granted authority to exit the Administration under Paragraph 80 of Schedule B1 of the Insolvency Act 1986 thereby creating the opportunity for a creditor to petition for a compulsory winding up order

**Abacus Employment Limited – In Administration**

**Progress Report to Creditors**

**4. JOINT ADMINISTRATORS' PROPOSALS CONTINUED...**

- 4 In accordance with Paragraph 98 of Schedule B1 of the Insolvency Act 1986 the Joint Administrators are discharged from any liability with regards to the Company and granted their release from office when the proceedings come to an end and upon the filing of the appropriate documentation at Companies House

**5. CONCLUSION OF ADMINISTRATION**

We will now take steps to conclude these proceedings and will contact creditors further in this regard in due course

If you have any questions in relation to this report please do not hesitate to contact our Reading office



Paul Boyle  
Joint Administrator  
24 August 2012

**Abacus Employment Limited**  
**(In Administration)**  
**Joint Administrators' Abstract of Receipts & Payments**

| <b>Statement of Affairs</b> |  | <b>From 29/01/2012<br/>To 28/07/2012</b> | <b>From 29/07/2011<br/>To 28/07/2012</b> |
|-----------------------------|--|--|--|
| 67,320 00                   | SECURED ASSETS<br>Book Debts                     | <u>1,835 67</u><br>1,835 67              | <u>1,835 67</u><br>1,835 67              |
| (62,639 00)                 | SECURED CREDITORS<br>SME Invoice Finance Limited | <u>NIL</u><br>NIL                        | <u>NIL</u><br>NIL                        |
| 1,000 00                    | ASSET REALISATIONS<br>Computer Equipment         | NIL                                      | 1,000 00                                 |
| 250 00                      | Cash at Bank                                     | NIL                                      | 283 81                                   |
| 4,000 00                    | Goodwill   | 4,000 00                                 | 4,000 00                                 |
| Uncertain                   | Investment in Associated Company                 | NIL                                      | NIL                                      |
|                             | Bank Interest Gross                              | <u>1 76</u>                              | <u>2 25</u>                              |
|                             |  | 4,001 76                                 | 5,286 06                                 |
|                             | COST OF REALISATIONS                             |  |  |
|                             | Bordereaux                                       | NIL                                      | 30 00                                    |
|                             | Administrators Fees                              | 5,000 00                                 | 5,000 00                                 |
|                             | Search Costs                                     | NIL                                      | 7 00                                     |
|                             | Agents/Valuers Fees (1)                          | NIL                                      | 1,125 00                                 |
|                             | Stationery & Postage                             | NIL                                      | 47 52                                    |
|                             | Travel Expenses                                  | NIL                                      | 107 25                                   |
|                             | Storage Costs                                    | <u>NIL</u>                               | <u>4 17</u>                              |
|                             |  | (5,000 00)                               | (6,320 94)                               |
| (85 00)                     | UNSECURED CREDITORS<br>Trade & Expense Creditors | NIL                                      | NIL                                      |
| (21,692 00)                 | HM Revenue & Customs - PAYE                      | NIL                                      | NIL                                      |
| (18,394 00)                 | HM Revenue & Customs - VAT                       | <u>NIL</u>                               | <u>NIL</u>                               |
|                             |  | NIL                                      | NIL                                      |
| (1 00)                      | DISTRIBUTIONS<br>Ordinary Shareholders           | <u>NIL</u><br>NIL                        | <u>NIL</u><br>NIL                        |
| <b>(30,241.00)</b>          |  | <b><u>837.43</u></b>                     | <b><u>800.79</u></b>                     |
|                             | REPRESENTED BY                                   |  |  |
|                             | VAT Receivable                                   |  | 1,264 19                                 |
|                             | Bank 2 - Current                                 |  | 119 98                                   |
|                             | VAT Payable                                      |  | (583 38)                                 |
|                             |  |  | <b><u>800.79</u></b>                     |



Paul Boyle  
Joint Administrator

## Period 29/07/11 28/07/12

| Hours                           |             |             |                            |                            |              | Time Cost (£)    | Average hourly rate (£) |
|---------------------------------|-------------|-------------|----------------------------|----------------------------|--------------|------------------|-------------------------|
| Classification of work function | Director    | Manager     | Other Senior Professionals | Assistants & Support Staff | Total Hours  |                  |                         |
| Administration & planning       | 2 50        | 1 20        | 29 00                      | 10 20                      | 42 90        | 7,511 50         | 175 09                  |
| Investigations                  | 2 30        | 0 00        | 8 70                       | 0 00                       | 11 00        | 2 512 00         | 228 36                  |
| Realisations of assets          | 1 10        | 0 00        | 0 50                       | 0 00                       | 1 60         | 527 50           | 329 69                  |
| Trading                         | 0 00        | 0 00        | 0 00                       | 0 00                       | 0 00         | 0 00             | 0 00                    |
| Creditors                       | 0 60        | 0 00        | 0 50                       | 0 00                       | 1 10         | 327 50           | 297 73                  |
| Case specific matters           | 0 00        | 0 00        | 4 50                       | 0 00                       | 4 50         | 720 00           | 160 00                  |
| Brought forward time            | 0 00        | 0 00        | 0 00                       | 0 00                       | 0 00         | 0 00             | 0 00                    |
| In House Legal                  | 0 00        | 0 00        | 0 00                       | 0 00                       | 0 00         | 0 00             | 0 00                    |
| <b>Total Hours</b>              | <b>6 50</b> | <b>1 20</b> | <b>43 20</b>               | <b>10 20</b>               | <b>61 10</b> | <b>11,588 50</b> | <b>189 83</b>           |
| <b>Total Fees Claimed</b>       |             |             |                            |                            |              | <b>5 000 00</b>  |                         |

## Period 29/01/12 28/07/12

### Time Summary

| Hours                           |             |             |                            |                            |              | Time Cost (£)   | Average hourly rate (£) |
|---------------------------------|-------------|-------------|----------------------------|----------------------------|--------------|-----------------|-------------------------|
| Classification of work function | Director    | Manager     | Other Senior Professionals | Assistants & Support Staff | Total Hours  |                 |                         |
| Administration & planning       | 0 00        | 1 20        | 11 40                      | 7 10                       | 19 70        | 3 158 00        | 160 30                  |
| Investigations                  | 0 00        | 0 00        | 0 00                       | 0 00                       | 0 00         | 0 00            | 0 00                    |
| Realisations of assets          | 0 00        | 0 00        | 0 00                       | 0 00                       | 0 00         | 0 00            | 0 00                    |
| Trading                         | 0 00        | 0 00        | 0 00                       | 0 00                       | 0 00         | 0 00            | 0 00                    |
| Creditors                       | 0 60        | 0 00        | 0 00                       | 0 00                       | 0 60         | 240 00          | 400 00                  |
| Case specific matters           | 0 00        | 0 00        | 0 00                       | 0 00                       | 0 00         | 0 00            | 0 00                    |
| Brought forward time            | 0 00        | 0 00        | 0 00                       | 0 00                       | 0 00         | 0 00            | 0 00                    |
| In House Legal                  | 0 00        | 0 00        | 0 00                       | 0 00                       | 0 00         | 0 00            | 0 00                    |
| <b>Total Hours</b>              | <b>0 60</b> | <b>1 20</b> | <b>11 40</b>               | <b>7 10</b>                | <b>20 30</b> | <b>3 398 00</b> | <b>167 39</b>           |
| <b>Total Fees Claimed</b>       |             |             |                            |                            |              | <b>5 000 00</b> |                         |

## **1. HARRISONS BUSINESS RECOVERY AND INSOLVENCY LIMITED FEE POLICY**

Charge out rates and policy regarding staff allocation, support staff, the use of subcontractors and the recharge of disbursements

The following information relating to the policy of Harrisons is considered to be relevant -

## **2. CHARGE OUT RATES**

With effect from 1 April 2009 the following hourly charge out rates apply to all assignments undertaken by Harrisons -

|                         | <b>£</b> |
|-------------------------|----------|
| Directors               | 300-400  |
| Managers                | 200-275  |
| Senior Case Supervisors | 175-200  |
| Case Supervisors        | 100-160  |
| Assistants              | 75-100   |

## **3. STAFF ALLOCATION, SUPPORT STAFF & THE USE OF SUBCONTRACTORS**

We take an objective and practical approach to each assignment which includes active director involvement from the outset. Other members of staff will be assigned on the basis of experience and specific skills to match the needs of the case. Time spent by secretarial and other support staff on specific case related matters, e.g. report despatching, is charged. Details of any subcontractor(s) used are given in the attached report.

## **4. PROFESSIONAL ADVISORS**

Details of any professional advisor(s) used are given in the attached report. Unless otherwise indicated the fee arrangement for each will be based on hourly charge out rates, which are reviewed on a regular basis, together with the recovery of relevant disbursements.

The choice of professional advisors will be based around a number of factors including, but not restricted to, their expertise in a particular field, the complexity or otherwise of the assignment and their geographical location.

## **5. DISBURSEMENTS**

Specific expenditure relating to the administration of a particular case is recoverable without approval and is referred to as a "category 1 disbursements". Category 1 disbursements will generally comprise supplies of incidental services specifically identifiable to the case, typical for items such as identifiable telephone calls, postage, case advertising, invoiced travel and properly reimbursed expenses. Included will be services specific to the case where these cannot practically be provided internally such as printing, room hire and document storage.

Where we propose 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 us) they must be disclosed and be authorised by those responsible for approving the insolvency practitioners' remuneration. Such expenditure is referred to as a "category 2 disbursement". The following items of expenditure are recharged on this basis and are believed to be in line with the cost of external provision -

|                       |  |
|-----------------------|--|
| Photocopying          | 15p a sheet                              |
| Letterhead            | 12p a sheet                              |
| Fax                   | 40p a sheet                              |
| Mileage               | 65p per mile                             |
| Meeting Room          | £50                                      |
| Registered Office Fee | £60 per annum                            |
| Document Storage      | Storage charge of £3 per box per quarter |

## **A CREDITORS' GUIDE TO ADMINISTRATORS' FEES ENGLAND AND WALES**

### **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, explain 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 principles, 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 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:

- Manager
- 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 him) 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.

The Insolvency Act 1986

**Administrator's progress report**

Name of Company

Abacus Employment Limited

Company number

06901941

In the

Royal Court of Justice

(full name of court)

Court case number

6556 of 2011

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

I/We (a)

Paul Boyle

Harrisons Business Recovery and Insolvency  
Limited

4 St Giles Court

Southampton Street

Reading

RG1 2QL

John Sallabank

Harrisons Business Recovery and Insolvency  
Limited

4 St Giles Court

Southampton Street

Reading

RG1 2QL

administrator(s) of the above company attach a progress report for the period

From


(b) 29 July 2011

To

(b) 28 July 2012

(b) Insert date

Signed

  
Joint Administrator

Dated

24/8/12