

# LIQ03

## Notice of progress report in voluntary winding up



Companies House

THURSDAY



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A10

03/10/2019

#348

COMPANIES HOUSE

### 1 Company details

Company number 0 6 9 5 7 8 5 4

Company name in full Encarta Fine Wines Ltd

→ Filling in this form  
Please complete in typescript or in  
bold black capitals.

### 2 Liquidator's name

Full forename(s) Nedim

Surname Ailyan

### 3 Liquidator's address

Building name/number 142-148 Main Road

Street Sidcup

Post town Kent

County/Region

Postcode D A 1 4 6 N Z

Country

### 4 Liquidator's name ①

Full forename(s)

Surname

① Other liquidator  
Use this section to tell us about  
another liquidator.

### 5 Liquidator's address ②

Building name/number

Street

Post town

County/Region

Postcode

Country

② Other liquidator  
Use this section to tell us about  
another liquidator.

LIQ03

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**6** Period of progress report

From date	<sup>d</sup> 1	<sup>d</sup> 2	<sup>m</sup> 0	<sup>m</sup> 8	<sup>y</sup> 2	<sup>y</sup> 0	<sup>y</sup> 1	<sup>y</sup> 8	
To date	<sup>d</sup> 1	<sup>d</sup> 1	<sup>m</sup> 0	<sup>m</sup> 8	<sup>y</sup> 2	<sup>y</sup> 0	<sup>y</sup> 1	<sup>y</sup> 9	

**7** Progress report

☒ The progress report is attached

**8** Sign and date

Liquidator's signature	<div>Signature</div> <div>X</div> <div></div> <div>X</div>								
Signature date	<sup>d</sup> 2	<sup>d</sup> 8	<sup>m</sup> 0	<sup>m</sup> 8	<sup>y</sup> 2	<sup>y</sup> 0	<sup>y</sup> 1	<sup>y</sup> 9	

LIQ03

## Notice of progress report in voluntary winding up

**Presenter information**

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

Contact name **Carol Hooper**Company name **Abbott Fielding Limited**Address **142-148 Main Road****Sidcup**Post town **Kent**

County/Region

Postcode **D A 1 4 6 N Z**

Country

DX

Telephone **020 8302 4344****Checklist**

**We may return forms completed incorrectly or with information missing.**

**Please make sure you have remembered the following:**

- ☐ The company name and number match the information held on the public Register.
- ☐ You have attached the required documents.
- ☐ You have signed the form.

**Important information**

**All information on this form will appear on the public record.**

**Where to send**

**You may return this form to any Companies House address, however for expediency we advise you to return it to the address below:**

The Registrar of Companies, Companies House,  
Crown Way, Cardiff, Wales, CF14 3UZ.  
DX 33050 Cardiff.

**Further information**

For further information please see the guidance notes on the website at [www.gov.uk/companieshouse](http://www.gov.uk/companieshouse) or email [enquiries@companieshouse.gov.uk](mailto:enquiries@companieshouse.gov.uk)

**This form is available in an alternative format. Please visit the forms page on the website at [www.gov.uk/companieshouse](http://www.gov.uk/companieshouse)**

TO ALL KNOWN MEMBERS AND CREDITORS

1 October 2019

Our Ref: npa/chm/ch.enca001.cvl.12  
Your Ref:

Dear Sirs

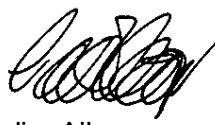

**ENCARTA FINE WINES LTD - IN LIQUIDATION**

I refer to my appointment as Liquidator on 12 August 2014. This is my report on the progress made in the liquidation for the period 12 August 2018 to 11 August 2019. It should be read in conjunction with my previous annual progress reports.

Abbott Fielding uses personal information in order to fulfil the legal obligations of our Insolvency Practitioners under the Insolvency Act and other relevant legislation, and also to fulfil the legitimate interests of keeping creditors and others informed about the insolvency proceedings. You can find more information on how Abbott Fielding uses your personal information on our website at [www.abbottfielding.co.uk/privacy-policy/](http://www.abbottfielding.co.uk/privacy-policy/).

If creditors have any queries relating to the conduct of the liquidation, or if they want hard copies of any of the documents, they should contact Carol Hooper by email at [carol@abbottfielding.co.uk](mailto:carol@abbottfielding.co.uk), or by phone on 020 8302 4344.

Yours faithfully

Nedim Ailyan  
Liquidator

Nedim Ailyan is licensed in the United Kingdom to act as an insolvency practitioner by The Insolvency Practitioners Association

**:abbott:fielding:**

142/148 Main Road : Sidcup : Kent : DA14 6NZ  
Tel: 020 8302 4344 : Fax: 020 8309 9178  
[info@abbottfielding.co.uk](mailto:info@abbottfielding.co.uk) : [www.abbottfielding.co.uk](http://www.abbottfielding.co.uk)

Insolvency Practitioners act as agents only and without personal liability

Abbott Fielding Limited registered in England No: 05588036 Registered Office: Lynwood House, Crofton Road, Orpington, BR6 8QE

Abbott Fielding Limited's privacy policy is available at [www.abbottfielding.co.uk](http://www.abbottfielding.co.uk)

## **ENCARTA FINE WINES LTD - IN LIQUIDATION**

### **LIQUIDATOR'S PROGRESS REPORT TO MEMBERS AND CREDITORS FOR THE YEAR ENDED 11 AUGUST 2019**

I enclose for your information:

1. A receipts and payments account for the period from 12 August 2014 to 11 August 2019 and for the period from 12 August 2018 to 11 August 2019,
2. A summary of my firm's time costs from 12 August 2014 to 11 August 2019. A summary of my firm's time costs for the period from 12 August 2018 to 11 August 2019 is also shown,
3. A description of the routine work undertaken since my last progress report,
4. Details of my firm's practice fee recovery policy.

#### **STATUTORY INFORMATION**

Company Name:	Encarta Fine Wines Ltd
Company Number:	06957854
Current Registered Office:	142/148 Main Road, Sidcup, Kent, DA14 6NZ
Former Registered Office:	3rd Floor, 207 Regent Street, London, W1B 3HE
Trading Address:	St Georges House, 2 Bromley Road, Beckenham, Kent, BR3 5JE
Office Holder(s) / Numbers:	Nedim Ailyan (9072)
Liquidator's Date of Appointment:	12 August 2014

#### **LIQUIDATOR'S ACTIONS SINCE LAST REPORT**

The purpose of this report is to provide details of progress of the liquidation during the reporting period.

Within the period I have ensured that my statutory requirements have been adhered to and other duties in relation to the management of the case have been completed.

I have also realised further Company's assets, as detailed under assets below and made a final distribution to creditors.

There is certain work that I am required by the insolvency legislation to undertake in connection with the liquidation that provides no financial benefit for the creditors. A description of the routine work undertaken since my last progress report is attached.

**:abbott:fielding:**

## RECEIPTS AND PAYMENTS ACCOUNT

My receipts and payments account for the period from 12 August 2018 to 11 August 2019 is attached.

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

## ASSETS

### Office Furniture

As previously advised the Company held fixtures, fittings & equipment which included a quantity of TV's, computers, printers, computer screens, tables and chairs, telephone headsets and servers. The desks were of limited value and were therefore abandoned to the landlord. My agent Lambert Smith Hampton ("LSH"), Chartered Surveyors & Valuers, uplifted the chairs and boardroom table for sale and the proceeds of £200 were remitted into the liquidation.

### Stock In Bond, In Transit and Part Paid

As previously advised the Company held wine with an estimated purchase price of £1,773,183.33 which LSH estimated had a value of £1,300,000. LSH liaised directly with London City Bond ("LCB") and confirmed that the wine was held in the Company's account at the Vinothèque bonded warehouse in Burton on Trent.

The directors had also advised that further cases were in transit or not yet delivered as only partially paid, with estimated book values of £40,000 and £58,975 respectively. However following LSH's enquiries it was established that the majority of the wine had already been delivered or had not been paid for and therefore the orders had been cancelled. One supplier did advise that they were holding two and a half cases and these were transferred into the Company's LCB account detailed above.

As you are aware Edwin Coe LLP, Solicitors, were instructed to obtain counsels opinion in regard to the ownership of the wine. Subsequently, having been advised by counsel that unless wine was held in a designated client account, the wine was a Company asset, it was agreed with the solicitor acting on behalf of the major creditor that I need not obtain court directions, in order to avoid further costs. Confirmation was also sought from the Committee before LSH were instructed to sell the wine. The wine was sold by private treaty in various batches for a total of £1,382,402.11 and no further sums are anticipated.

### Road Tax Refund

As previously advised I recovered £57.50 from the DVLA. This was in respect of a privately owned vehicle taxed by the Company.

### Cash at Bank

As previously advised a sum of £95,428 was held by Barclays Bank Plc ("Barclays") and I instructed my solicitor Edwin Coe to seek the release of the funds into the liquidation. I subsequently instructed Edwin Coe to make an application to Court for an order, directing the Bank to release these monies.

As previously advised funds of £90,675.00 were recovered by Edwin Coe and remitted into the liquidation bank account. The difference is a result of a refund made prior to the liquidation.

### Compensation

As previously advised the Company was due a compensation payment under the fraud by false representation (Fraud Act 2008) from a former trader of which the outstanding balance as advised by the Court was £3,837.09. I can advise that since 12 August 2018 I have received £2,864.07 from the Court making a total of £3,837.09. No further monies are therefore anticipated.

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## **LIABILITIES**

### Secured Creditors

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

### Prescribed Part

The legislation requires that if the Company has created a floating charge after 15 September 2003, a prescribed part of the Company's net property (i.e. the money that would otherwise be available to the charge holder) should be ring-fenced for distribution to unsecured creditors. In this case there were no creditors secured by a floating charge such that the prescribed part provisions do not apply.

### Non-Preferential Unsecured Creditors

The director's ESoA included non-preferential unsecured creditors' claims with an estimated total of £4,106,938.98, of which £40,755.05 was attributable to HM Revenue & Customs ("HMRC"). I have received claims totalling £5,062,619.96, which includes a final claim of £66,702.65 from HMRC. I have not received claims from creditors with original estimated claims in the statement of affairs of £95,251.98.

## **DIVIDEND PROSPECTS**

### Non-preferential unsecured Creditors

I can advise that of the claims detailed above £4,902,484.46 were admitted for dividend and £160,135.50 were rejected.

As previously advised on 21 December 2015 a dividend of £577,416.31 being 14.7p in the £ was declared and paid on creditors' claims totaling £3,928,001.67. Additional or revised claims were received totaling £764,015.80 and as such equalising dividends were paid on these additional claims on 3 February 2016, 8 December 2016 and 23 March 2017 totaling £113,768.43, net of a withdrawn claim.

In the period since 12 August 2018 further claims were received and additional equalizing dividends were paid on 25 September 2018 of £1,021.36 and on 18 December 2018 of £28,459.20.

On 18 December 2018 a final dividend totaling £228,460.72 being of 4.66p in the £ was declared and paid on agreed creditors' claims amounting to £4,902,484.46.

As such total dividends of £949,126.02 being 19.36p in the £ were paid to non-preferential creditors. No further dividends will be paid.

I can advise that uncashed dividends of £1,677.31 will shortly be paid to the Insolvency Service unclaimed dividend account.

## **INVESTIGATION INTO THE AFFAIRS OF THE COMPANY**

As previously advised I have held discussions with solicitors in regard to other potential claims that may be pursued for the benefit of creditors. It was considered that any action would be extremely difficult to prove with no guarantee that any realisations could be achieved. Following discussions with the committee it was agreed that it would be more beneficial to distribute the remaining funds to creditors and bring the liquidation to a close rather than incurring further costs with uncertain prospects of recovery.

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## PRE-APPOINTMENT REMUNERATION

The liquidation committee previously authorised the payment of a fee of £10,000, plus VAT, plus disbursements, for assistance with preparing the statement of affairs and convening and holding the meeting of creditors at a meeting held on 12 August 2014.

A proportion of this fee, £2,000, for preparing the statement of affairs and convening and holding the meeting of creditors was paid pre-appointment by Able Data Services Limited t/a ADS Accountants, the Company's former advisors. The balance of £8,000 was paid from first realisations on appointment and is shown in the attached receipts and payments account.

## LIQUIDATOR'S REMUNERATION

My remuneration was approved on a time cost basis. My total costs to 11 August 2019, amount to £199,505.50 representing 693.30 hours at an average charge out rate of £287.76 per hour, of which £16,591.00, representing 62.80 hours work has been incurred in the period since 12 August 2018 at an average charge rate of £264.19 per hour.

I have drawn £193,122.50 to 11 August 2019, of which £16,200 was drawn since 12 August 2018.

Schedules of my time costs incurred to date and in the period since 12 August 2018 are attached.

Further information about creditors' rights can be obtained by visiting the creditors' information micro-site published by the Association of Business Recovery Professionals (R3) at <http://www.creditorinsolvencyguide.co.uk/>. A copy of 'A Creditors' Guide to Liquidators' fees' also published by R3 can be obtained from our website at <http://www.abbottfielding.co.uk/information-for-creditors/>. Please note that there are different versions of the guidance notes, and in this case you should refer to the November 2011 version. Please note that further details are also included in the practice fee recovery sheet enclosed.

## LIQUIDATOR'S EXPENSES

I have incurred expenses to 11 August 2019 of £238,085.42, of which £373.12 was incurred in the period since 12 August 2018.

I have drawn £4,650.60 to date of which £369.68 was drawn in the period since 12 August 2018. Agent's fees were deducted directly from sale proceeds and other costs have been paid from case funds as detailed in the attached receipts and payments account.

I have incurred the following expenses in the period since my last progress report:

Type of expense	Amount Incurred/Accrued in reporting period
Postage	343.68
Storage	29.44
<b>Total</b>	<b>373.12</b>

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### Agents' Fees

I have used the following agents or professional advisors:

Professional Advisor	Nature of Work	Fee Arrangement
Lambert Smith Hampton ("LSH")	Agents	Time costs and % of realisation
Edwin Coe LLP	Solicitors	Time costs
Kennedys Law	Solicitors	Time costs

As previously advised, I instructed LSH to identify, undertake a valuation and sell the Company's stock of wine. Their fees totalling £152,193.33 were charged on the basis of a fixed fee for the valuation report, time costs relating to various matters including retention of title matters plus disbursements and commission at a rate of 10% of realisations and were deducted from the proceeds of sale.

I also instructed Edwin Coe LLP to assist me in various matters including dealing with the instructions to counsel and liaising with the creditor's solicitor in regard to proprietary claims, corresponding with Barclays Bank Plc and their solicitor in regard to the recovery of funds held by them and dealing with other creditor correspondence including claims. Fees totalling £49,000 plus £330 disbursements relating to court fees have been paid. This figure included costs in connection with counsel's opinion which although £7,000 was incurred were capped at £5,000.

I also instructed Kennedys Law in regard to considering other potential claims, and their fees of £6,072.50 were paid from case funds.

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

### **FURTHER INFORMATION**

An unsecured creditor may, with the permission of the court or with the concurrence of 5% in value of the unsecured creditors (including the creditor in question) request further details of the Liquidator's remuneration and expenses, within 21 days of receipt of this report. Any secured creditor may request the same details in the same time limit.

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

To comply with the Provision of Services Regulations, some general information about Abbott Fielding Limited can be found at <http://www.abbottfielding.co.uk/information-for-creditors/>

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## SUMMARY

The liquidation will remain open until closing procedures have been fully resolved. I estimate that this will take approximately 3-6 months and once resolved the liquidation will be finalised and my files closed.

If creditors have any queries relating to the conduct of the liquidation, or if they want hard copies of any of the documents, they should contact Carol Hooper by email at [carol@abbottfielding.co.uk](mailto:carol@abbottfielding.co.uk), or by phone on 020 8302 4344.

Yours faithfully



Nedim Ailyan  
Liquidator

Nedim Ailyan is licensed in the United Kingdom to act as an insolvency practitioner by The Insolvency Practitioners Association

:abbott:fielding:

**Encarta Fine Wines Ltd**  
**(In Liquidation)**  
**Liquidator's Summary of Receipts and Payments**

	Statement of affairs £	From 12/08/2018 To 11/08/2019 £	From 12/08/2014 To 11/08/2019 £
<b>RECEIPTS</b>			
Furniture & Equipment	Uncertain	0.00	200.00
Stock In Bond	1,300,000.00	0.00	1,382,402.11
Stock In Transit	40,000.00	0.00	0.00
Stock Partly Paid	58,975.00	0.00	0.00
Road Tax Refund		0.00	57.50
Cash at Bank	NIL	0.00	90,675.00
Compensation	4,112.00	2,864.07	3,837.09
Bank Interest Gross		487.84	1,145.48
		<u>3,351.91</u>	<u>1,478,317.18</u>
<b>PAYMENTS</b>			
Preparation of S. of A.		0.00	8,000.00
Office Holders Fees		16,200.00	193,122.50
Office Holders Expenses		369.68	4,650.60
Agents/Valuers Fees		0.00	152,193.33
Legal Fees		0.00	55,072.50
Legal disbursements inc court fees		0.00	330.00
Corporation Tax		0.00	13.35
Irrecoverable VAT		3,246.38	82,337.46
Wine Storage Costs		0.00	18,157.29
Statutory Advertising		0.00	84.60
Insurance of Assets		0.00	7,574.06
Customers	(4,059,223.75)	254,832.87	936,212.32
Trade Creditors	(6,960.18)	0.00	0.00
HM Revenue and Customs - PAYE and NIC	(1,520.01)	0.00	0.00
HM Revenue and Customs - Corp Tax	(39,235.04)	3,108.41	12,913.70
Ordinary Shareholders	(1,000.00)	0.00	0.00
		<u>277,757.34</u>	<u>1,470,661.71</u>
<b>BALANCE - 11 August 2019</b>		<u><b>(274,405.43)</b></u>	<u><b>7,655.47</b></u>
<b>MADE UP AS FOLLOWS</b>			
Interest Bearing Estate Account		(274,405.43)	7,655.47
		<u>(274,405.43)</u>	<u>7,655.47</u>

Note:

## SIP 9 - Time & Cost Summary

Period: 12/08/14..11/08/19

## Time Summary

[illegible]

Accounting for trading	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 Meetings	0.00	0.00	0.00	0.00	0.00	0.00	0.00
On-going employee issues	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Creditors	152.40	46.40	0.00	53.00	251.80	76,711.00	304.65
Communication	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Claims inc emp, prefs	0.00	32.20	0.00	1.20	33.40	8,770.00	262.57
Report/secured creditor	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Validity of security	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Committee Reporting	0.00	14.50	0.00	6.40	20.90	5,505.00	263.40
Committee meetings	5.30	3.90	0.00	0.90	10.10	3,224.50	319.26
Payment of dividends	0.00	22.30	0.00	26.10	48.40	12,146.00	250.95
Creditors	157.70	119.30	0.00	87.60	364.60	106,356.50	291.71
Case Specific (e.g Joint Office Hol	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Case Specific 1	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Case Specific 2	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Case specific matters	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Total Hours	324.90	160.90	0.00	207.50	693.30	199,505.50	287.76
Total Fees Claimed						193,122.50	

## SIP 9 - Time & Cost Summary

Period: 12/08/18..11/08/19

### Time Summary

[illegible]

Accounting for trading	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 Meetings	0.00	0.00	0.00	0.00	0.00	0.00	0.00
On-going employee issues	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Creditors	0.00	6.40	0.00	0.00	6.40	1,820.00	284.38
Communication	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Claims inc. emp. prefs	0.00	5.20	0.00	0.00	5.20	1,456.00	280.00
Report/secured creditor	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Validity of security	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Committee Reporting	0.00	3.90	0.00	0.00	3.90	1,102.00	282.56
Committee meetings	0.00	1.00	0.00	0.00	1.00	280.00	280.00
Payment of dividends	0.00	13.90	0.00	19.50	33.40	8,364.00	250.42
Creditors	0.00	30.40	0.00	19.50	49.90	13,022.00	260.96
Case Specific (e.g Joint Office Hdl	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Case Specific 1	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Case Specific 2	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Case specific matters	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Total Hours	1.40	35.80	0.00	25.60	62.80	16,591.00	264.19
Total Fees Claimed						16,200.00	

## **A description of the routine work undertaken since my last progress report**

### **1. Administration**

This represents the work involved in the routine administrative functions of the case by the office holder and their staff, together with the control and supervision of the work done on the case by the office holder and their managers. It does not give direct financial benefit to the creditors, but has to be undertaken by the office holder to meet their requirements under the insolvency legislation and the Statements of Insolvency Practice, which set out required practice that office holders must follow.

- Dealing with all routine correspondence and emails relating to the case.
- Maintaining and managing the office holder's estate bank account.
- Maintaining and managing the office holder's cashbook.
- Undertaking regular bank reconciliations of the bank account containing estate funds.
- Reviewing the adequacy of the specific penalty bond on a quarterly basis.
- Undertaking periodic reviews of the progress of the case.
- Overseeing and controlling the work done on the case by case administrators.
- Preparing, reviewing and issuing annual progress reports to creditors and members.
- Filing returns at Companies House.
- Preparing and filing Corporation Tax returns.

### **2. Creditors**

Claims of creditors - the office holder needs to maintain up to date records of the names and addresses of creditors, together with the amounts of their claims as part of the management of the case, and to ensure that notices and reports can be issued to the creditors. The office holder also needs to deal with correspondence and queries received from creditors regarding their claims and dividend prospects as they are received. The office holder is required to undertake this work as part of his statutory functions.

Dividends - the office holder has to undertake certain statutory formalities in order to enable him to pay a dividend to creditors. This include writing to all creditors who have not lodged proofs of debt and reviewing the claims and supporting documentation lodged by creditors in order to formally agree their claims, which may involve requesting additional information and documentation from the creditors.

- Dealing with creditor correspondence, emails and telephone conversations regarding their claims.
- Maintaining up to date creditor information on the case management system.
- Issuing a notice of intended dividend.
- Reviewing proofs of debt received from creditors, adjudicating on them and formally admitting them for the payment of a dividend.
- Requesting additional information from creditors in support of their proofs of debt in order to adjudicate on their claims.
- Calculating and paying a dividend to creditors, and issuing the notice of declaration of dividend.

**:abbott:fielding:**

# PRACTICE FEE RECOVERY POLICY FOR ABBOTT FIELDING LIMITED

## Introduction

The insolvency legislation was changed in October 2015, with one or two exceptions, for insolvency appointments made from that time. This sheet explains how we intend to apply the alternative fee bases allowed by the legislation when acting as office holder in insolvency appointments. The legislation allows different fee bases to be used for different tasks within the same appointment. The fee basis, or combination of bases, set for a particular appointment is/are subject to approval, generally by a committee if one is appointed by the creditors, failing which the creditors in general meeting, or the Court.

Further information about creditors' rights can be obtained by visiting the creditors' information micro-site published by the Association of Business Recovery Professionals (R3) at <http://www.creditorinsolvencyguide.co.uk/>. Details about how an office holder's fees may be approved for each case type are available in a series of guides issued with Statement of Insolvency Practice 9 (SIP 9) and can be accessed at <http://www.abbottfielding.co.uk/information-for-creditors/>. Alternatively a hard copy is available on request. Please note that we have provided further details in this policy document.

Once the basis of the office holder's remuneration has been approved, a periodic report will be provided to any committee and also to each creditor. The report will provide a breakdown of the remuneration drawn. If approval has been obtained for remuneration on a time costs basis, i.e. by reference to time properly spent by members of staff of the practice at our standard charge out rates, the time incurred will also be disclosed, whether drawn or not, together with the average, or "blended" rates of such costs. Under the legislation, any such report must disclose how creditors can seek further information and challenge the basis on which the fees are calculated and the level of fees drawn in the period of the report. Once the time to challenge the office holder's remuneration for the period reported on has elapsed, then that remuneration cannot subsequently be challenged.

Under some old legislation, which still applies for insolvency appointments commenced before 6 April 2010, there is no equivalent mechanism for fees to be challenged.

## Time cost basis

When charging fees on a time costs basis we use charge out rates appropriate to the skills and experience of a member of staff and the work that they perform. This is combined with the amount of time that they work on each case, recorded in 6 minute units with supporting narrative to explain the work undertaken.

## Chargeout Rates

Grade of staff	Current charge-out rate per hour, effective from 1 February 2019 £	Previous charge-out rate per hour, effective from 1 February 2016 £
Partner – appointment taker	375-540	365-520
Managers	300-390	280-370
Administrators	200-290	190-280
Support Staff	200-240	190-220

These charge-out rates charged are reviewed on an annual basis and are adjusted to take account of inflation and the firm's overheads.

Time spent on casework is recorded directly to the relevant case using a computerised time recording system and the nature of the work undertaken is recorded at that time. The work is generally recorded under the following categories:

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

In cases where we were appointed prior to 1 October 2015, most of our fees were recovered on a time costs basis and appropriate authority was obtained from the creditors or the committee as set down in the legislation. The legislation changed on 1 October 2015 and on new appointments although we will generally continue to seek fees on a time cost basis in some circumstances we may seek time costs for the following categories:

- Investigations

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When we seek time costs approval we have to set out a fees estimate. That estimate acts as a cap on our time costs so that we cannot draw fees of more than the estimated time costs without further approval from those who approved our fees. When seeking approval for our fees, we will disclose the work that we intend to undertake, the hourly rates we intend to charge for each part of the work, and the time that we think each part of the work will take. We will summarise that information in an average or "blended" rate for all of the work being carried out within the estimate. We will also say whether we anticipate needing to seek approval to exceed the estimate and, if so, the reasons that we think that may be necessary.

The disclosure that we make should include sufficient information about the insolvency appointment to enable you to understand how the proposed fee reflects the complexity (or otherwise) of the case, any responsibility of an exceptional kind falling on the office holder, the effectiveness with which the office holder has carried out their functions, and the value and nature of the property with which the office holder has to deal.

If we subsequently need to seek authority to draw fees in excess of the estimate, we will say why we have exceeded, or are likely to exceed the estimate; any additional work undertaken, or proposed to be undertaken; the hourly rates proposed for each part of the work; and the time that the additional work is expected to take. As with the original estimate, we will say whether we anticipate needing further approval and, if so, why we think it may be necessary to seek further approval.

### **Percentage basis**

The legislation allows fees to be charged on a percentage of the value of the property with which the office holder has to deal (realisations and/or distributions). Different percentages can be used for different assets or types of assets. In cases where we were appointed prior to 1 October 2015, most of our fees were recovered on a time costs basis and appropriate authority was obtained from the creditors or the committee as set down in the legislation. The legislation changed on 1 October 2015 and we now seek remuneration on a percentage basis more often. A report accompanying any fee request will set out the potential assets in the case, the remuneration percentage proposed for any realisations and the work covered by that remuneration, as well as the expenses that will be, or are likely to be, incurred. Expenses can be incurred without approval, but must be disclosed to help put the remuneration request into context.

The percentage approved in respect of realisations will be charged against the assets realised, and where approval is obtained on a mixture of bases, any fixed fee and time costs will then be charged against the funds remaining in the liquidation after the realisation percentage has been deducted.

The disclosure that we make should include sufficient information about the insolvency appointment to enable you to understand how the proposed fee reflects the complexity (or otherwise) of the case, any responsibility of an exceptional kind falling on the office holder, the effectiveness with which the office holder has carried out their functions, and the value and nature of the property with which the office holder has to deal.

If the basis of remuneration has been approved on a percentage basis then an increase in the amount of the percentage applied can only be approved by the committee or creditors (depending upon who approved the basis of remuneration) in cases where there has been a material and substantial change in the circumstances that were taken into account when fixing the original level of the percentage applied. If there has not been a material and substantial change in the circumstances then an increase can only be approved by the Court.

### **Fixed fee**

The legislation allows fees to be charged at a set amount. Different set amounts can be used for different tasks. In cases where we were appointed prior to 1 October 2015, most of our fees were recovered on a time costs basis and appropriate authority was obtained from the creditors or the committee as set down in the legislation. The legislation changed on 1 October 2015 and we now seek remuneration on a fixed fee basis more often. A report accompanying any fee request will set out the set fee that we proposed to charge and the work covered by that remuneration, as well as the expenses that will be, or are likely to be, incurred. Expenses can be incurred without approval, but must be disclosed to help put the remuneration request into context.

The disclosure that we make should include sufficient information about the insolvency appointment to enable you to understand how the proposed fee reflects the complexity (or otherwise) of the case, any responsibility of an exceptional kind falling on the office holder, the effectiveness with which the office holder has carried out their functions, and the value and nature of the property with which the office holder has to deal.

If the basis of remuneration has been approved on a fixed fee basis then an increase in the amount of the fixed fee can only be approved by the committee or creditors (depending upon who approved the basis of remuneration) in cases where there has been a material and substantial change in the circumstances that were taken into account when fixing the original level of the fixed fee. If there has not been a material and substantial change in the circumstances then an increase can only be approved by the Court.

## **Members' voluntary liquidations and Voluntary Arrangements**

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

### **All bases**

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

### **Agent's Costs**

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

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

In new appointments made after 1 October 2015, the office holder will provide details of expenses to be incurred, or likely to be incurred, when seeking fee approval. When reporting to the committee and creditors during the course of the insolvency appointment the actual expenses incurred will be compared with the original estimate provided.

### **Disbursements**

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

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

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

It is proposed that the following Category 2 disbursements are recovered:

Mileage	50p per mile
Photocopying	10p per sheet