

The Insolvency Act 1986

**R2.25****Statement of administrator's proposals**

Pursuant to paragraph 49 of Schedule B1 to the Insolvency Act 1986  
and Rule 2.25 of the Insolvency (Scotland) Rules 1986

Name of Company
A & K Guest House Limited

Company number
SC261082

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

I/We (a)  
Brian William Milne  
Deloitte LLP  
Lomond House  
9 George Square  
Glasgow  
G2 1QQ

John Charles Reid  
Deloitte LLP  
Lomond House  
9 George Square  
Glasgow  
G2 1QQ

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) 16 June 2009

Signed

*B. W. Milne*  
Joint / Administrator(s)

Dated

*16 June 2009*

**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

Michael Ferguson  
Deloitte LLP  
Lomond House  
9 George Square  
G2 1QQ

DX Number DX: GW 223

Tel: 0141 314 5819  
DX Exchange

WEDNESDAY



SCT

17/06/2009

1493

COMPANIES HOUSE

When you have completed and signed this form, please send it to the Registrar of Companies at:-  
Companies House, 37 Castle Terrace, Edinburgh EH1 2EB  
DX 235 Edinburgh / LP4 Edinburgh-2

**A & K Guest House Limited**

**- In Administration ("the Company")**

**Case Number: P515 of 2009**

**ADMINISTRATORS' STATEMENT OF PROPOSALS PURSUANT TO  
PARAGRAPH 49 OF SCHEDULE B1 OF THE INSOLVENCY ACT 1986 (AS  
AMENDED)**

**16 June 2009**

**John Charles Reid and Brian William Milne  
Administrators of the Company - In Administration  
Deloitte LLP  
Lomond House  
9 George Square  
Glasgow  
G2 1QQ**

**Disclaimer Notice**

- This Statement of Proposals has been prepared by John Charles Reid and Brian William Milne, the Administrators of A & K Guest House Limited, solely to comply with their statutory duty under paragraph 49, Schedule B1 of the Insolvency Act 1986 (as amended) to lay before creditors a statement of their proposals for achieving the purposes of the Administration, and for no other purpose. It is not suitable to be relied upon by any other person, or for any other purpose, or in any other context.
- This Proposal has not been prepared in contemplation of it being used, and is not suitable to be used, to inform any investment decision in relation to the debt of or any financial interest of the Company listed above.
- Any estimated outcome for creditors included in this Proposal are illustrative only and cannot be relied upon as guidance as to the actual outcome for creditors.
- Any person that chooses to rely on this Proposal for any purpose or in any context other than under paragraph 49, Schedule B1 of the Insolvency Act 1986 (as amended) does so at their own risk. To the fullest extent permitted by law, the Administrators do not assume any responsibility and will not accept any liability in respect of this Proposal.
- The Administrators act as agents for A & K Guest House Limited and contract without personal liability. The appointments of the Administrators are personal to them and, to the fullest extent permitted by law, Deloitte LLP does not assume any responsibility and will not accept any liability to any person in respect of this Proposal or the conduct of the Administration.

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## ABBREVIATIONS

For the purpose of this report the following abbreviations shall be used:

“the Proposals”	Statement of Proposals Pursuant to Paragraph 49 of Schedule B1 of the Insolvency Act 1986 (as amended)
“Act”	The Insolvency Act 1986 (as amended)
“Rules”	The Insolvency (Scotland) Rules 1986 (as amended)
“the Administrators”	John Charles Reid and Brian William Milne of Deloitte LLP
“the Company”	A & K Guest House Limited (in Administration)
“the Director”	Ameet Singh
“the Bank” / “the Secured Creditor”	The Clydesdale Bank Plc
“PP”	The Prescribed Part of the Company’s net property subject to s176A of the Insolvency Act 1986 (as amended)
“QFCH”	Qualifying Floating Charge Holder

## **1. BACKGROUND**

### **1.1. Introduction**

This report is prepared pursuant to Paragraph 49 of Schedule B1 of the Act, which requires the Administrators to provide creditors with details of their proposals to achieve the purposes of the Administrations:

To assist the creditors and enable them to decide on whether or not to vote for the adoption of the proposals, the following information is included in the report:

- Background of the Company; and
- The circumstances giving rise to the appointment of the Administrators.

As there are unlikely to be sufficient funds for a distribution to the unsecured creditors other than the PP (see section 4.4) in accordance with Paragraph 52(1)(b) of Schedule B1 of the Act, the Administrators will not be convening a meeting of creditors, unless required to do so (see Section 4.6).

In the event that no request, in the prescribed manner, is received within 12 days of the issue of this statement, the proposals are deemed to have been approved.

For the purposes of this report, the Administrators will refer to the Company by the abbreviations set out on the previous page.

### **1.2. Background**

The Company was incorporated on 18 December 2003.

The Company's principal activity is detailed at Companies House as that of "Hotels & Motels with or without Restaurant". However, from the information collated to date it is apparent that the Company did not trade any of the businesses from the three properties which it owned, but rather received rental income from a Management Company (Paulplas Limited, also in Administration) and from a tenant. The following provides more information on the properties owned by the Company and the businesses trading from them:

- **The Relax Guest House, 11 Eyre Place, Edinburgh, EH3 5ES** – Trading as a bed and breakfast guest house, with 10 rooms available for occupancy. As disclosed above, the Company receives a monthly rental from a Management Company named Paulplas Limited, which was responsible for the trade of the business. Paulplas Limited has also been placed into Administration.
- **16 / 18 Stirling Street, Airdrie, ML6 0AH** – Trading as a bookmakers, this property has a tenant in situ from which the Company receives rental income.

- **Fairfield Garage, 34 Bellfield Street, Dundee, DD1 5JA** – Trading as a car dealership, the Company was to receive rental income from the tenant which was in-situ at the time of purchase in December 2006. However, the officers of the Company have advised that the tenant vacated the premises shortly after purchase, due to the tenant entering insolvency proceedings. The Company has been unable to find a suitable replacement tenant since then.

The Director has advised that the Company commenced trading in 2004 with the initial purchase of the Relax Guest House at 11 Eyre Place, Edinburgh. In 2005 the Company purchased the property at 16/18 Stirling Street, Airdrie and finally in 2006 the property at 34 Bellfield Street, Dundee.

The Director attributes the failure of the Company to the purchase of 34 Bellfield Street, Dundee. As stated above, the purchase of this property was done with an in-situ tenant with a lengthy tenancy agreement in place. However, the failure of the tenant business left the Company with a vacant property and the associated difficulties in sourcing a replacement tenant. The Director has advised that with no revenue from this property, the Company found it extremely difficult to service the Bank's indebtedness from the income available from the two other properties. Ultimately the Director placed each of the properties on the open market with a view to repaying the Bank in full.

In March / April 2009 the Bank became increasingly concerned with the Company's ability to either service or repay the sums due across the three properties, in particular as a result of the significant period of time in which the property in Dundee had been vacant. The Bank were also concerned at the apparent lack of progress with regard to the sales of each of the properties, particularly in the current climate.

In light of the Bank's concerns the decision was taken to withdraw support to the Company and in April 2009 a demand for payment of all sums due was issued. The Bank subsequently, under its qualifying floating charge, filed a notice of intention to appoint Administrators at the Court of Session, Edinburgh pursuant to paragraph 14 of Schedule B1 of the Act.

### **1.3. Management and Employees**

As at 23 April 2009, the Company did not have any employees, the staff of the Relax Guest House were employed by the Management Company, Paulplas Limited.

Statutory information on the Company, including details of the Director and Company Secretary and Bankers is provided at Appendix 1.

## 2. THE CIRCUMSTANCES GIVING RISE TO THE APPOINTMENT OF THE ADMINISTRATORS

### 2.1. Events prior to the Administration

Extracts from the unaudited Company accounts for the 12 months to 17 June 2006, 12 months to 17 June 2007 and 12 months to 17 June 2008 are shown below. The accounts presented have been extracted from Companies House and represent the latest accounts recorded by the Company.

It has only been possible to provide an extract of the Company's Balance Sheet as the accounts filed are in the Abbreviated Form. Full accounts have been requested from the Company's Accountant, however the Accountant is also a significant creditor of the Company and has advised that they are exercising a lien over the financial records.

The Company is entitled to exemption from audit under Section 249A(1) of the Companies Act 1985 for each of the financial years presented.

Please note that this information has not been verified by the Administrators or by Deloitte LLP.

**Table 2.1 Summary Company Balance Sheet**

	Unaudited Accounts for year to 17 June 2008 £	Unaudited Accounts for year to 17 June 2007 £	Unaudited Accounts for year to 17 June 2006 £
Tangible assets	1,938,542	1,944,464	1,274,107
Total Fixed assets	1,938,542	1,944,464	1,274,107
Current Assets			
Debtors	-	-	4,074
Stocks	468	537	995
Cash in hand	789	1,044	-
Total assets	1,939,799	1,946,045	1,279,176
Liabilities			
Creditors < 1 year	(352,800)	(347,942)	(235,447)
Creditors > 1 year	(1,374,328)	(1,382,203)	(808,772)
Total Liabilities	(1,727,128)	(1,730,145)	(1,044,219)
Net Assets / (Liabilities)	212,671	215,900	234,957

*Source: Company accounts lodged at Companies House*

## **2.2. Details of the Appointment of Administrators**

John Charles Reid and Brian William Milne of Deloitte LLP were appointed as Joint Administrators of the Company by the Court of Session, Edinburgh on 23 April 2009, following the filing of a Notice of Appointment of Administrators by the QFCH of the Company.

For the purposes of Paragraph 100(2) of Schedule B1 of the Act the Administrators are each authorised to carry out all functions, duties and powers either jointly or severally.

## **2.3. Purpose of the Administration**

The purpose of an Administration under The Enterprise Act 2002 is split into three parts:

1. To rescue a company as a going concern (in other words a restructuring which keeps the actual entity intact).
2. If the first purpose is not reasonably practicable (or the second purpose would clearly be better for the creditors as a whole), then the Administrators must perform their functions with the objective of achieving a better result for creditors than would be obtained through an immediate liquidation of the company. This would normally envisage a sale of the business and assets as a going concern (or a more orderly sales process than in liquidation).
3. If neither of the first two parts of the purpose are reasonably practicable, the Administrators must perform their functions with the objective of realising property in order to make a distribution to secured and/or preferential creditors as applicable.

The Company had significant secured creditor liabilities and therefore a restructuring of this debt would have been required to meet the first objective. It was apparent that there was insufficient value (ascribed) by third parties in order to effect the restructuring of the Company's significant liabilities and the Administrators concluded that the first option was not possible to achieve.

The Relax Guest House continues to trade under a Management Agreement, with a view to affecting a going concern sale. In addition the Company has other property assets and it is considered that the second objective may be achievable in this instance.



**3. THE MANNER IN WHICH THE AFFAIRS OF THE COMPANY HAS BEEN MANAGED AND FINANCED AND WILL CONTINUE TO BE MANAGED AND FINANCED IF THE ADMINISTRATORS' PROPOSALS ARE APPROVED**

**3.1. Post appointment strategy**

Following their appointment, the Administrators took immediate control of the business and the assets of the Company. In particular, the Administrators undertook the following actions:

- Met with the Director and reviewed the financial position of the Company;
- Ascertained the trading position of the Company and performed an initial assessment of the continuing trade of the business;
- Arranged open cover insurance in respect of each of the properties;
- Instructed agents to inspect and value each of the properties;
- Instructed agents to review the trade of the Guest House and in particular whether the prospects of a sale were affected by the continued trade of the business against that of closure and sale;
- The advice received in respect of continued trade was that a higher price could be achieved on a going concern basis;
- The Director had previously intimated his interest in trading and managing the Guest House and paying a rental to the Administration, whilst assuming the associated trading liabilities. Following professional advice sought from our agents with regards to the costs of an external Management Company running the business, the decision was reached to proceed with the Director's proposal;
- Instruction of solicitors and drafting of Management Agreement;
- Finalising and signing of Management Agreement;
- Following receipt of agents advice, proceeded to market the Guest House on a going concern basis;
- Instructed marketing of remaining two properties;
- Following appointment, instructed the Bank to continue to sweep across funds received into the pre-administration bank account in respect of rental income received for the let property and income received in respect of the Guest House, to the Administration bank account;
- Contacted the Company's pre appointment Accountants, to advise of the Administrators' appointment and request all outstanding information regarding the Company;
- Notified the appointment of Administrators to creditors and carried out all statutory duties; and

## **4. DIRECTORS' STATEMENT OF AFFAIRS**

### **4.1. Introduction**

A Statement of Affairs in respect of the Company has been submitted by the Director as at 23 April 2009. However, due to the limited information contained within the Statement of Affairs, which could be deemed misleading, the Administrators are providing instead, in accordance with the Rules, the most up to date information available from publicly available records of the Company.

As previously advised in this report the Company's former Accountant is exercising a lien over the financial records of the Company. The Administrators are in discussions to ensure the release of this information in due course.

### **4.2. Secured creditors**

The amount due to the Bank at the date of our appointment totalled approximately £1,530,062 and was secured by standard securities (detailed below) and a qualifying floating charge over all property and undertakings of the Company:

- Fairfield Garage, 34 Bellfield Street, Dundee – standard security registered 14 December 2006.
- Relax Guest House, 11 Eyre Place, Edinburgh – standard security registered 23 April 2009.

The Administrators are still awaiting formal receipt of the claim from the Bank. The final amounts available for distribution to the creditors of the Company will be dependent on the future costs and expenses of the Administration.

### **4.3. Preferential Claims**

There are no Preferential Creditors of the Company.

### **4.4. The Prescribed Part**

The Administrators have written to all known creditors advising them of the appointment.

The secured creditor will not recover its lending in full and therefore, there will be no dividend to unsecured creditors other than possibly under the floating charge, by way of the PP.

The PP applies where there are floating charge realisations, net of costs, to be set aside for unsecured creditors. This equates to:

- 50% of net property up to £10,000;
- 20% of net property in excess of £10,000; and is
- Subject to a maximum amount of £600,000.

The estimated PP remains uncertain and is dependant upon future recoveries and costs in the Administration, including the cost of agreeing the claims of, and making distributions to, unsecured creditors.

As disclosed in Section 4.7 of this report the Administrators have determined that the disclosure of an estimate of the value of the Company's net property would seriously prejudice the commercial interests of the Company. Accordingly, no estimate of the PP is provided.

The quantum of unsecured claims will also impact any dividend available to unsecured creditors and the quantum of unsecured claims remains uncertain at this stage.

#### **4.5. Unsecured Claims**

The unsecured creditors' position as at 23 April 2009 as disclosed by the Director (excluding any shortfall to floating charge holders) is detailed in Appendix 3.

After discharging the costs of the Administration, it is forecast that there may be insufficient realisations from floating charge assets to repay the Bank in full.

Accordingly, we do not expect that any funds will be available to pay a dividend to the unsecured creditors of the Company, other than perhaps by virtue of the PP (as detailed in Para 4.4).

#### **4.6. Creditors Meeting**

There are expected to be insufficient funds for a distribution to the unsecured creditors of the Company other than possibly by virtue of the PP and in accordance with Paragraph 52(1)(b) of Schedule B1 of the Act, the Administrators will not be convening a meeting of creditors, unless required to do so.

Creditors, either individually or jointly, representing 10% of the total unsecured claims in the Administration of the Company have the power to request that the Administrators hold a meeting of creditors.

In the event that no requests (in the prescribed manner) are received within 12 days of issue of this statement, the proposals will be deemed to be approved.

#### **4.7. Estimated Outcome**

In light of the ongoing discussions over the sale of the Company's assets, the Administrators have determined that the disclosure of an estimate of the value of the Company's net property would seriously prejudice the commercial interests of the Company. Accordingly, pursuant to Rule 2.25(k)(i)(bb) of the Rules, this information is not disclosed as part of the Administrators' Proposals. The net property realisations will arise from the sale of the Company's property portfolio.

The estimated outcome remains uncertain and is dependant upon future recoveries and costs in the Administration.

## **5. ADMINISTRATORS' FEES AND EXPENSES**

### **5.1. General**

As confirmed in this report there will be no funds available to the unsecured creditors, other than possibly by virtue of the PP. Therefore fixing of Administrators' remuneration will be approved in accordance with the Rule 2.39 of the Rules, which states that, where the Administrators have made a statement under Paragraph 52(1)(b) of the Act, which they have in this report, and in the absence of a creditors' committee, the Administrators' remuneration may be fixed by approval of:

- Each secured creditor; or
- Although unlikely, if the Administrators intend to make a distribution to preferential creditors, with the approval of each secured creditor and 50% by value of preferential creditors who respond to an invitation to consider approval.

### **5.2. Other Professional Costs**

To advise on the marketing and sale of the Company's assets, the Administrators have instructed independent marketing agents. Each of these firms has appropriate expertise in dealing with this type of engagement. Their fees are to be based upon a percentage of the sales proceeds received.

## **6. OTHER INFORMATION TO ASSIST CREDITORS**

### **6.1. Directors' conduct**

As part of their statutory duties, the Administrators will consider the conduct of the Director and any person they consider a shadow or de facto director in relation to their management of the affairs of the Company and the causes of failure and will submit a confidential report to The Department for Business, Enterprise and Regulatory Reform.

As part of their investigations the Administrators will consider, among other matters, the following:

- statutory compliance issues;
- misfeasance or breach of duty; and
- antecedent transactions (including transactions at an under value and preferences).

Creditors who wish to draw any matters to the attention of the Administrators should write to the Administrators at the address given on the front of this report.

### **6.2. Connected Party Transactions**

The Administrators are not aware of any connected party transactions which have not been carried out on an arm's length basis. Should creditors have information regarding any such transactions they should forward details in writing to the Administrators.

As previously disclosed, the Administrators have entered into a Management Agreement with regard to the ongoing trade of the Relax Guest House. One of the parties involved in the Management Agreement is the Director of the Company.

### **6.3. Exit Routes from Administration**

In accordance with the provisions of the Act incorporated by the Enterprise Act 2002, all Administrations automatically come to an end after one year, unless an extension is granted by the Court or with consent of the creditors.

There are several exit routes which are available to the Administrators such as;

- an application to Court (in the event of a Court appointment);
- filing a notice in Court and with the Registrar of Companies confirming that the purpose of Administration has been sufficiently achieved; or
- in the event that the Company has no property the Administrators may notify the Registrar of Companies to that effect at which time the appointment of the Administrators ceases and three months following that date the Company is deemed to be dissolved.

In addition the Administrators could propose to place the Company into Creditors' Voluntary Liquidation, a Compulsory Liquidation or a Company Voluntary Arrangement. Reference will be made in the resolutions within this report as to the exit route most suitable to the circumstances of this Administration.

The exit route chosen in relation to the Company will largely depend on the circumstances of the Administration. At this stage the Administrators continue to manage the affairs and business of the Company as outlined earlier in this report and therefore do not consider that the purpose has yet been achieved. The Administrators continue to foresee a reasonable prospect of such fulfilment.

If there is a distribution to unsecured creditors, the Administrators are discharged from liability in respect of any action of theirs as Administrators pursuant to Paragraph 98(1) of Schedule B1 of the Act upon registration of the notice given pursuant to Paragraph 84 of Schedule B1 of the Act. Where there will be no distribution to unsecured creditors, the Administrators will seek their discharge from the secured creditor.

#### **6.4. EC Regulations**

As stated in the appointment documentation, in relation to the Companies Council Regulation (EU), No 1346/2000 applies and these are the main proceedings as defined in Article 3(1) of that Regulation.

#### **6.5 Third Party Assets**

Should you believe that you own items that may have been in the possession of the Company at the date of appointment please contact the Administrators as soon as possible.

**7. STATEMENT OF PROPOSALS PURSUANT TO PARAGRAPH 49 OF  
SCHEDULE B1 OF THE INSOLVENCY ACT 1986 (AS AMENDED)**

**A & K Guest House Limited (In Administration)**

The Administrators' proposals are as follows:

1. the Administrators continue to manage the affairs and any remaining assets of the Company and the settlement of all Administration expenses;
2. the Administrators continue with their enquiries into the conduct of the Director of the Company and continue to assist any regulatory authorities with their investigation into the affairs of the Company;
3. the Administrators be authorised to agree the claims of the secured, preferential, if any and unsecured creditors against the Company unless the Administrators conclude, in their reasonable opinion, that the Company will have no assets available for distribution;
4. the Administrators be authorised to distribute funds to the secured and any preferential creditors as and when claims are agreed and funds permit and, in relation to distributions to unsecured creditors, if the Court gives permission following an appropriate application;
5. that, in the event the creditors of the Company so determine, at a meeting of creditors, a Creditors Committee be appointed in respect of the Company comprising of not more than five and not less than three creditors of the Company;
6. that, in respect of the Company, the Creditors' Committee, if one is appointed, shall be asked to agree that the Administrators' fees be fixed by reference to the time given in attending to matters arising in the Administration and asked to agree the Administrators' expenses;
7. that, if a Creditors' Committee is not appointed at a meeting of creditors, the meeting of creditors' shall be asked to agree the Administrators' fees as well as the Administrators' expenses to be drawn from the Company's assets and that the Administrators' expenses for mileage be calculated by reference to mileage properly incurred by the Administrators and their staff in attending to matters arising in the Administration, at the prevailing standard mileage rate used by Deloitte LLP at the time when the mileage is incurred (presently up to 40p per mile);
8. that, following the realisation of assets and resolution of all matters in the Administration, and as quickly and efficiently as is reasonably practicable, the Administrators implement the most cost effective steps to formally conclude the Administration. This may include the distribution of funds to unsecured creditors (provided Court permission is obtained) and then the dissolution of the Company or alternatively, seeking to put the Company into Creditors' Voluntary Liquidation ("CVL") or Compulsory Liquidation, depending on which option will result in a better realisation for creditors;
9. that, if the Company were to be placed into CVL, the Administrators propose to be appointed Liquidators and any Creditor Committee appointed will become the Liquidation Committee. As per Paragraph 83(7) of Schedule B1 of the Act and Rule 2.47 of the Rules, the creditors may nominate a different person to be Liquidator(s) provided the

nomination is made before the proposals are approved by creditors. For the purposes of Section 231 of the Act the Liquidators will each be authorised to carry out all functions, duties and powers either jointly or severally.

10. in the absence of a Creditors Committee, the secured and preferential creditors (to the extent that they exist) of the Company shall be asked to agree that the Administrators be discharged from liability per Paragraphs 98 and 99 of Schedule B1 of the Act immediately upon the Administrators' filing their final report to creditors.

Yours faithfully

For and on behalf of A & K Guest House Limited (In Administration)

John Charles Reid and Brian W Milne  
Joint Administrators of the Company  
Deloitte LLP  
Lomond House  
9 George Square  
Glasgow  
G2 1QQ

THE AFFAIRS, BUSINESS AND PROPERTY OF THE COMPANY ARE BEING MANAGED BY THE JOINT ADMINISTRATORS  
THE JOINT ADMINISTRATORS CONTRACT AS AGENTS OF THE COMPANY ONLY AND WITHOUT PERSONAL LIABILITY

John C Reid is licensed to act as an Insolvency Practitioner by the Institute of Chartered Accountants of England & Wales

Brian W Milne is licensed to act as an Insolvency Practitioner by the Institute of Chartered Accountants of Scotland



## **Appendix 1 – Statutory Information**

<b>Company Name:</b>	A & K Guest House Limited (In Administration)
<b>Court Reference:</b>	P515/09 Court of Session, Edinburgh
<b>Date of Appointment of Joint Administrators:</b>	23 April 2009
<b>Joint Administrators:</b>	John Charles Reid & Brian William Milne Deloitte LLP Lomond House 9 George Square Glasgow G2 1QQ
<b>Registered Office Address:</b>	c/o Deloitte LLP Lomond House 9 George Square Glasgow G2 1QQ
<b>Former Registered Office Address:</b>	11 Eyre Place Edinburgh EH3 5ES
<b>Company Number:</b>	SC261082
<b>Company Secretary:</b>	Kalash Kaur Singh
<b>Bankers:</b>	Clydesdale Bank PLC
<b>Appointment by:</b>	Clydesdale Bank PLC – under Paragraph 14 of Schedule B1 of the Insolvency Act 1986 (as amended)
<b>Directors at the date of Appointment:</b>	Ameet Singh
<b>Shareholdings (all at £1 nominal value):</b>	Ameet Singh – 50 ordinary shares Kirpal Singh – 50 ordinary shares

**A & K Guest House Limited  
(In Administration)**

**Joint Administrators' Abstract Of Receipts And Payments  
To 16 June 2009**

<b>RECEIPTS</b>	<b>Total (£)</b>
Due to Deloitte	341.03
	<hr/>
	341.03
	<hr/>
<b>PAYMENTS</b>	
Reg of Scotland	15.00
Statutory Advertising	326.03
	<hr/>
	341.03
Balances in Hand	0.00
	<hr/>
	341.03
	<hr/>

**Deloitte LLP**  
**A & K Guest House Limited**  
**Creditor Claims Summary Report**

Key	Name	Rep. By	S of A £	Claim £	Agreed Claim £
CB00	British Gas Business FAO Lynn Taylor C/O KPMG LLP, National Client Service Centre, 12 Cornwall Street, Birmingham, B3 2DL		0.00	0.00	0.00
CB01	BT Insolvency Dept W TVTE Newcastle-upon-Tyne NE83 7ZF		0.00	0.00	0.00
CD00	Department of Trade & Industry Redundancy Payments Office Ladywell House Ladywell Road Edinburgh EH12 7UR		0.00	0.00	0.00
CE00	Edinburgh Council P O Box 463 Edinburgh EH11 3YJ		6,228.95	0.00	0.00
CH00	HM Revenue & Customs Insolvency Operations 3rd Floor North West Queens Dock Liverpool L74 4AA		0.00	0.00	0.00
CH01	HM Revenue & Customs Room BP3202, Benton Park View, Longbenton, Newcastle-upon-Tyne NE98 1ZZ		0.00	0.00	0.00
CH03	HM Revenue & Customs Barrington Road Durrington Bridge House Worthing West Sussex BN12 4SE		0.00	0.00	0.00
CH04	HM Revenue & Customs Elgin House 20 Haymarket Yards Edinburgh EH12 5WU		0.00	0.00	0.00
CH05	HM Customs & Excise INS 865 3703 09 Portcullis House 21 India Street Glasgow G2 4PZ		0.00	777.00	0.00
CN00	The National Insurance Fund Finan.Redun.Pay.Team, 6th Floor East, Ladywood House, 45-46 Stephenson Street, Birmingham B2 4IJZ		0.00	0.00	0.00
CR00	Ryden		476.79	0.00	0.00
CS00	Scottish Hydro Electric		1,643.97	0.00	0.00
CS01	Sign on Scotland Ltd		176.25	0.00	0.00
CS02	Scottish Power FAO Denise Owens Wrexham Road, Pentre Bychan, Wrexham, LL14 4DU		0.00	0.00	0.00
CW00	Whitelaw Wells Chartered Accountants 9 Ainslie Place Edinburgh EH3 6AT		8,671.15	0.00	0.00
<b>15 Entries Totalling</b>			<b>17,197.11</b>	<b>777.00</b>	<b>0.00</b>

## **APPENDIX B**

### **A CREDITORS' GUIDE TO ADMINISTRATORS' REMUNERATION SCOTLAND**

This guide applies to all appointments on or after 15 September 2003. Any creditor requiring guidance on a case where the Insolvency Practitioner was appointed prior to 15 September 2003 should refer to the previous guide, which should have been issued to all creditors at the time of appointment.

#### **1 Introduction**

- 1.1 When a company goes into administration the costs of the proceedings are paid out of the company's assets in priority to creditors' claims. 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 remuneration. This guide is intended to help creditors be aware of their rights under the legislation to approve and monitor remuneration and outlays and explain the basis on which remuneration and outlays are fixed.

#### **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 objective of:
- (a) rescuing the company as a going concern, or
  - (b) achieving a better result for the company's creditors as a whole than would be likely if the company were wound up (without first being in administration), or
  - (c) realising property in order to make a distribution to one or more secured or preferential creditors

Administration may be followed by a company voluntary arrangement or liquidation.

#### **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 established at the meeting of creditors which the administrator is required to hold within 10 weeks of the administration order (or longer with the consent of the court) to consider his proposals. The administrator must call the first meeting of the committee within 3 months 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 such information as it may require.

#### **4 Fixing the Administrator's Fees**

- 4.1 The basis for fixing the administrator's remuneration is set out in Rule 2.39 of the Insolvency (Scotland) Rules 1986 which states that it may be a commission calculated by reference to the value of the company's property with which he has to deal.

It is for the creditors' committee (if there is one) to fix the remuneration and Rule 2.39 says that in arriving at its decision the committee shall take into account:

- the work which, having regard to the value of the company's property, was reasonably undertaken by the administrator; and
- the extent of his responsibilities in administering the company's assets.

Although not specifically stated in the rules, the normal basis for determining the remuneration will be that of the time costs properly incurred by the administrator and his staff.

- 4.2 If there is no creditors' committee, or the committee does not make the requisite determination, the administrator's remuneration will be fixed by the court on application by the administrator.

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

- 5.1 Claims by the administrator for the outlays reasonably incurred by him and for his remuneration shall be made in accordance with section 53 of the Bankruptcy (Scotland) Act 1985 as applied by rule 4.68 which provides that within two weeks after the end of an accounting period, the administrator shall submit to the creditors' committee or if there is no creditors' committee, to the court:

- his accounts of intromissions for audit;
- a claim for the outlays reasonably incurred by him and for his remuneration, broken down into category 1 disbursements, being those costs where there is specific expenditure relating to the administration of the insolvent's affairs and referable to payment to an independent third party, and category 2 disbursements, which are costs which include elements of shared or allocated costs, and are supplied internally by the administrator's own firm and

where the documents are submitted to the creditors' committee, he shall send a copy of them to the court.

- 5.2 The administrator may at any time before the end of an accounting period submit to the creditors' committee (if any) an interim claim for category 1 and 2 disbursements reasonably incurred by him and for his remuneration.

- 5.3 When seeking agreement to his fees and disbursements, the administrator should provide sufficient supporting information to enable the committee to form a judgement as to whether the proposed fee and disbursements are reasonable having regard to all 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.
- 5.4 Where, at any creditors' 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.
- 5.5 Where the administrator seeks agreement to his remuneration during the course of the administration, he should always provide an up to date receipts and payments account. Where the proposed remuneration is based on time costs the administrator should disclose to the committee or the court 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:

- 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, or the drawing, or agreement of remuneration.
- Any existing agreement about remuneration.
- In cases where there are distributable funds available to unsecured creditors by means of the creditors' prescribed part, how the administrator has allocated remuneration and costs with regard to dealing with the administration of and agreeing of unsecured creditors' claims. Remuneration in respect of time spent dealing with issues specific to the funds for ordinary creditors will be applied against the creditors prescribed part, prior to the funds being distributed, and will not be applied against the total funds available to all creditors, including those available to the floating charge holder.
- 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 be relevant, whilst further analysis may be necessary in larger cases.

- 5.6 Where the remuneration is charged as a commission based on the value of the company's property with which the administrator has had to deal, the administrator should provide details of any work which has been or is intended to be contracted out which would normally be undertaken directly by the administrator or his staff.
- 5.7 As noted in 5.1, any claim for outlays must be approved in the same way as remuneration. 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) they must be approved as if they were remuneration. Such disbursements must be directly incurred on the case and subject to a reasonable method of calculation and allocation. A charge for disbursements calculated as a percentage of the amount charged for remuneration is not allowed.
- 5.8 Payments to outside parties in which the office holder or his firm or any associate has an interest should be disclosed to the body approving remuneration and should be treated in the same way as payments to himself. They therefore require specific approval as remuneration prior to being paid.

## **6 What If a Creditor is Dissatisfied?**

- 6.1 If a creditor believes the administrator's remuneration is too high, he may appeal against the determination by virtue of Section 53(6) of the Bankruptcy Act, applied

by Rule 4.32 of the Insolvency Rules, which is in turn applied by Rule 2.39. Creditors have a right of appeal against the determination of an administrator's remuneration by virtue of the application of Section 53(6) of the Bankruptcy (Scotland) Act.

- 6.2 The right of appeal is either to the court (if the determination is by the creditors committee) or to a higher court (if the determination is by a court). Notwithstanding the fact that the statutory time limit for appealing expires eight weeks from the end of the accounting period concerned, it is normal practice to advise the creditors that they may appeal within 14 days of being notified of the determination in cases where this extends beyond the statutory appeal period.

## **7 What if the Administrator is Dissatisfied?**

- 7.1 If the administrator considers that the remuneration fixed by the creditors' committee is insufficient he may request that it be increased by resolution of the creditors. If he considers that the remuneration fixed by the committee or the creditors is insufficient, he may apply to the court for an order increasing its amount or rate. 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.

## **8 Other Matters Relating to Fees**

- 8.1 Where there are joint administrators it is for them to agree between themselves how remuneration payable should be apportioned. Any dispute arising between them may be referred to the court, the creditors' committee or a meeting of creditors.