

The Insolvency Act 1986

Administrator's progress report**R2.38**

Pursuant to Rule 2.38 of the Insolvency (Scotland) Rules 1986

Name of Company

ACC Builders Limited

Company number

SC302263

(a) Insert full
name(s) and
address(es) of
administrator(s)I/We (a)
Kenneth Wilson Pattullo
Begbies Traynor
2nd Floor, Finlay House
10 14 West Nile Street
Glasgow
G1 2PPI Scott McGregor
Begbies Traynor
2nd Floor, Finlay House
10 14 West Nile Street
Glasgow
G1 2PP

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

from

to

(b) Insert date(s)

(b) 3 March 2008

(b) 2 September 2008

Signed

Joint / Administrator(s)

Dated

13/09/2008

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

Begbies Traynor
2nd Floor, Finlay House
10 14 West Nile Street
Glasgow
G1 2PP

DX Number

0141 222 2230
DX Exchange

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 / LP 4 Edinburgh 2

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TUESDAY



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21/10/2008

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COMPANIES HOUSE

Kenneth Wilson Pattullo & I Scott McGregor appointed Joint Administrators on 3 September 2007

The affairs, business and property of the Company are being managed by the Joint Administrators, who act as the Company's agents

ACC Builders Limited (In Administration)

Interim Report of the Administrator pursuant to Rule 2.38 of The Insolvency (Scotland) Rules 1986 (as amended)

Period: 3 March 2008 to 2 September 2008

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- Progress during the period
- Assets that remain to be realised
- Other relevant information
- Appendices
 - 1 Administrator's account of receipts and payments
 - 2 Administrator's time costs and expenses

1. COMPANY AND JOINT ADMINISTRATORS' DETAILS

Name of court	Glasgow Sheriff Court
Court reference number	L233/07
Company registered number	SC302263
Registered office address	c/o Begbies Traynor, 2 nd Floor, Finlay House, 10-14 West Nile Street, Glasgow, G1 2PP
Names of Joint Administrators	Kenneth Wilson Pattullo & I Scott McGregor
Date of administrator's appointment	3 September 2007
Person(s) making appointment / application	Adam Cwynar Director
Changes in office-holder (if any)	N/a
Acts of the Joint Administrators	The Joint Administrators act as officers of the court and as agents of the Company and without personal liability Any act required or authorised under any enactment to be done by an administrator may be done by any one or more persons holding the office of administrator from time to time

2. PROGRESS DURING THE PERIOD

Attached at Appendix 1 is my abstract of receipts and payments for the period from 3rd March 2008 to 2nd September 2008

As I advised in my previous report, a balancing payment of £2,000 plus VAT has still to be received in respect of the sale of the company's plant & equipment. The joint administrators expect to receive the balancing payment within the next 7 days.

It would appear that £10,200 is still due from a contract debtor, however this amount has been disputed. Grant McGregor Associates are dealing with the matter on our behalf. They are currently awaiting back up to substantiate additional completion costs allegedly incurred by the debtor. We anticipate having this matter concluded within the next 6 months.

In order to allow sufficient time to conclude these matters, I applied to Glasgow Sheriff Court to have the administration period extended. On 1st October 2008, the Court granted a six month extension, therefore extending the period of the administration to 2nd March 2009.

The Joint Administrator's remuneration is based on hourly costs at scale rates calculated on the time properly spent in the course of the administration. To date the joint administrators have drawn fees of £22,500.00.

Total post appointment time spent to 2nd September 2008 on this assignment amounts to 383 70 hours, at an average composite rate of £130 42 per hour, resulting in total time costs to date of £50,040 50 and disbursements of £127 51. The following further information as regards time costs and expenses is set out at Appendix [2]

- Begbies Traynor policy for re-charging expenses
- Begbies Traynor charge-out rates
- Summary of time costs incurred and summary by staff grade and work activity
- Appendix B to SIP 9, "A Creditors Guide to Administrators Fees in Scotland"

3. ASSETS TO BE REALISED

Other than the balancing payment due in respect of the purchase of the assets and the disputed contract debt detailed above, the company has no remaining assets

4. DISTRIBUTIONS

After administration and realisation expenses, there will be insufficient funds available to make a distribution to any class of creditor

5. OTHER RELEVANT INFORMATION

The joint administrators have concluded their investigations into the directors' conduct and have submitted their final report to the Secretary of State for Trade and Industry

I will report again in approximately six months time or at the conclusion of the administration, whichever is the sooner

Ken Pattullo

Kenneth W Pattullo
Joint Administrator

Dated 13 October 2008

ACC Builders Limited
(In Administration)
Joint Administrators' Abstract of Receipts & Payments

Statement of Affairs		From 03/03/2008 To 02/09/2008	From 03/09/2007 To 02/09/2008
	ASSET REALISATIONS		
5,000 00	Tools, equipment, materials & vehicles	NIL	3,000 00
33,000 00	Book Debts	NIL	21,000 00
	Bank Interest Net of Tax	204 57	359 23
		<u>204 57</u>	<u>24,359 23</u>
	COST OF REALISATIONS		
	Specific Bond	NIL	100 00
	Office Holders Fees	NIL	NIL
	Agents/Valuers Fees (1)	NIL	NIL
	Legal Fees (1)	NIL	227 00
	Storage Costs	NIL	15 00
	Re Direction of Mail	NIL	143 70
	Statutory Advertising	NIL	270 43
		<u>NIL</u>	<u>(756 13)</u>
	PREFERENTIAL CREDITORS		
(36,699 88)	Employees Wage Arrears	NIL	NIL
(21,788 00)	Employees Holiday Pay	NIL	NIL
		<u>NIL</u>	<u>NIL</u>
	UNSECURED CREDITORS		
(555,088 36)	Trade & Expense Creditors	NIL	NIL
		<u>NIL</u>	<u>NIL</u>
	DISTRIBUTIONS		
(1,000 00)	Ordinary Shareholders	NIL	NIL
		<u>NIL</u>	<u>NIL</u>
<u>(576,576 24)</u>		<u>204 57</u>	<u>23,603 10</u>

REPRESENTED BY

VAT Receivable	77 08
Bank 2 Current	66 51
Trade Creditors	23,984 51
VAT Payable	(525 00)
	<u>23,603 10</u>

Kenneth Wilson Pattullo
Joint Administrator

ADMINISTRATOR'S TIME COSTS AND EXPENSES

- a Begbies Traynor policy for re charging expenses,
- b Begbies Traynor charge-out rates,
- c Summary of time costs incurred and summary by staff grade and work activity
- d Appendix B to SIP 9, "A Creditors Guide to Administrators Fees in Scotland"

POLICY FOR RE-CHARGING EXPENSES INCURRED BY OFFICE HOLDERS IN RESPECT OF THE ADMINISTRATION OF INSOLVENT ESTATES

INTRODUCTION

This note applies where a licensed insolvency practitioner in the firm is acting as an office holder of an insolvent estate and seeks creditor approval to make a separate charge by way of expenses or disbursements to recover the cost of facilities provided by the firm. Standard professional practice¹ requires that such charges should be disclosed to those who are responsible for approving his remuneration, together with an explanation of how those charges are made up and the basis on which they are arrived at.

DEFINITIONS

Required professional practice classifies expenses into two broad categories:

- **Category 1 expenses (approval not required)** – specific expenditure that is directly related to a particular insolvency case, where the cost of the expense incurred is referable against an independent external supplier's invoice or published tariff of charges,
- **Category 2 expenses (approval required)** – all other items of expenditure
 - Which cannot, or cannot easily, be directly related to a particular insolvency case because there is an element of shared or allocated cost, and/or
 - Where the cost of the expense incurred is an estimated, unitised cost with the estimate based on external costs or opportunity cost

CHARGING POLICY

- **Category 1 expenses (approval not required)** – with the exception of any items referred to below, all such items are re-charged to the case as they are incurred
- **Category 2 expenses (approval required)**
 - (A) The following items of expenditure are re-charged as described
 - Internal meeting room usage for the purpose of statutory meetings of creditors is re-charged at the rate of £100 (London £150) per meeting,
 - Car mileage is re-charged at the rate of 40 pence per mile,
 - Storage of books and records (when not rechargeable as a *Category 1 expense*) is recharged on the basis that the number of standard archive boxes held in storage for a particular case bears to the total of all archive boxes for all cases in respect of the period for which the storage charge relates,
 - (B) The following items of expenditure will normally be treated as general office overheads not subject to a re-charge
 - Telephone and facsimile
 - Printing and photocopying
 - Stationery

A re-charge may be made, however, where the precise cost to the case can be determined because the item satisfies the test of a *Category 1 expense*

¹ Statement of Insolvency Practice 9 (SIP 9) effective from April 2007

BEGBIES TRAYNOR CHARGE-OUT RATES

Begbies Traynor is a national firm. The rates charged by the various grades of staff that may work on a case are set nationally, but vary to suit local market conditions.

The rates applying to the office as at the date of this report are as follows:

Grade of staff	Charge-out Rate (£ per hour)
Partner	305
Director	270
Manager	180
Assistant Manager	145
Senior Administrator	115
Administrator	100

Prior to 1st May 2007, the following rates applied:

Grade of staff	Charge-out Rate (£ per hour)
Partner	295
Director	260
Manager	175
Assistant Manager	140
Senior Administrator	110
Administrator	95

Time spent by support staff for carrying out shorter tasks, such as typing or dealing with post, is not charged to cases but is carried as an overhead. Only where a significant amount of time is spent at one time on a case is a charge made for support staff.

Time is recorded in units of 0.10 of an hour (i.e. 6 minute units).

Time costs analysis as at 2 September 2008

[illegible]

A Creditors Guide to Administrators Fees in Scotland

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 fees. This guide is intended to help creditors be aware of their rights under the legislation to approve and monitor fees and explain the basis on which fees 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 in order to achieve one or more of the following statutory purposes:
- the survival of the company or its business in whole or in part;
 - the approval of a company voluntary arrangement,
 - the sanctioning of a scheme under section 425 of the Companies Act 1985,
 - a better realisation of assets than would be possible in a liquidation.

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 3 months of the administration order 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 2.16 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 2.16 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, 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 the outlays reasonably incurred by him and for his remuneration
- 5 3 When seeking agreement to his fees the administrator should provide sufficient supporting information to enable the committee to form a judgement as to whether the proposed fee is reasonable having regard to all circumstances of the case. The administrator should always make available an up to date receipts and payments account. The administrator should be prepared to disclose the amount of time spent, together with such additional information as may reasonably be required having regard to the size and complexity of the case. Where the fee 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 4 Where an administrator makes, or proposes to make, a separate charge by way of expenses and disbursements to recover the cost of facilities provided by his own firm, he should disclose those charges to the committee or the court when seeking approval of his fees, together with an explanation of how those charges are made up and the basis on which they are arrived at

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 2.16. 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