

# Liquidator's Progress Report

# S.192

Pursuant to Sections 92A and 104A and 192  
of the Insolvency Act 1986

To the Registrar of Companies

Company Number

09168539

Name of Company

Burger Shack Limited

→ We

Simon Thomas Barriball, 10 St Helen's Road, Swansea, SA1 4AW

Helen Whitehouse, 10 St Helen's Road, Swansea, SA1 4AW

the liquidator(s) of the company attach a copy of my/our Progress Report  
under section 192 of the Insolvency Act 1986.

The Progress Report covers the period from 04/03/2016 to 03/03/2017

Signed



Date

9/5/17

McAlister & Co  
10 St Helen's Road  
Swansea  
SA1 4AW

Ref: B100812/STB/HW/LT/TAF

WEDNESDAY



\*A6643WTK\*

A28

10/05/2017

#102

COMPANIES HOUSE

**Burger Shack Limited**  
**(In Liquidation)**  
**s' Abstract of Receipts & Payments**

Statement of Affairs	From 04/03/2016 To 03/03/2017	From 04/03/2015 To 03/03/2017	
	<b>ASSET REALISATIONS</b>		
Uncertain			
NIL	Furniture & Equipment	NIL	4,450.97
	Stock	NIL	NIL
	Cash at Bank	NIL	1,315.75
	Director Contributions	NIL	1,980.18
5.00	Petty Cash/Float	NIL	NIL
	Bank Interest Gross	0.59	1.53
	Refund of Water Rates	NIL	48.58
		0.59	7,797.01
	<b>COST OF REALISATIONS</b>		
	Specific Bond	36.00	36.00
	Preparation of S. of A.	NIL	3,500.00
	Liquidators Fees	75.00	75.00
	Liquidators Disbursements	7.25	7.25
	Agents Commission	NIL	445.10
	Agents Disbursements	NIL	1,275.00
	Legal Fees (1)	NIL	500.00
	Legal Disbursements	NIL	332.00
	Irrecoverable VAT	82.05	1,226.07
	Stationery & Postage	5.55	5.55
	Statutory Advertising	286.44	286.44
		(492.29)	(7,688.41)
	<b>PREFERENTIAL CREDITORS</b>		
(3,375.87)	Employee - Wage Arrears/Holiday Pay	NIL	NIL
		NIL	NIL
	<b>UNSECURED CREDITORS</b>		
(21,716.38)	Trade & Expense Creditors	NIL	NIL
(1,559.30)	Employees	NIL	NIL
	Directors	NIL	NIL
(1,000.00)	H M Revenue & Customs	NIL	NIL
		NIL	NIL
	<b>DISTRIBUTIONS</b>		
(1.00)	Ordinary Shareholders	NIL	NIL
		NIL	NIL
(27,647.55)		(491.70)	108.60
	<b>REPRESENTED BY</b>		
	Bank 1 Current		108.60
			108.60
			108.60

Note:

**Burger Shack Limited**  
**(In Creditors Voluntary Liquidation)**

**Joint Liquidators' Report for the second year of the liquidation, from 4 March 2016 to 3 March 2017**

1. Introduction

We were appointed Joint Liquidators on the 04 March 2015 by members and creditors of the company.

The company's former registered office was 36 Castle Street, Swansea, SA1 1HZ and the company's registration number is 09168539.

2. Realisation of Assets

This report covers assets realised in this period only. For information regarding assets realised since liquidation please see my previous report.

Bank Interest

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

A sum of £0.59 has been received, gross of tax, for bank interest.

A total amount of £7,797.01 has been realised and no further recoveries are expected to be forthcoming. A receipts and payments account is attached to this report. VAT is not recoverable.

3. Costs in the Liquidation

The receipts and payments account sets out the details of all payments made to the date of this report.

At the creditors meeting held on 04 March 2015 a resolution was passed that the Liquidator's be remunerated on a time cost basis according to the time properly spent by them and their staff in their duties in relation to the liquidation, this remuneration being drawn from time to time at the Liquidator's discretion.

A copy of the Liquidators time and costs is attached to this report (SIP 9) which shows that to date £7,711.00 of time costs have been incurred of which £1,100.00 was in the period covered by this report.

A sum of £75.00 has been recovered to date.

A description of the typical routine work (where applicable to the fees estimate) undertaken in the liquidation to date is as follows:-

1. Administration and Planning

- Preparing the documentation and dealing with the formalities of appointment.
- Statutory notifications and advertising.
- Preparing documentation provided.
- Dealing with all routine correspondence.
- Maintaining physical case files and electronic case details on IPS.
- Storage arrangements for records.
- Case bordereau.

- Case planning and administration.
- Maintaining and managing the liquidator's cashbook and bank account.
- Ensuring statutory lodgements and tax lodgement obligations are met.

## 2. Creditors

- Dealing with creditor correspondence and telephone enquiries.
- Preparing and issuing reports to creditors and members.
- Maintaining creditor information on IPS.
- Reviewing, acknowledging and adjudicating on proofs of debts received from creditors.

## 3. Investigations

- Collect in books and records and conduct relevant searches.
- Prepare a return pursuant to the Company Directors Disqualification Act
- Conduct investigations into suspicious transactions.
- Review books and records to identify any transactions or actions a liquidator may take against a third party in order to recover funds for the benefit of creditors.

## 4. Employees

- Dealing with employee claims/queries.
- Liaising with Redundancy Payments Office.
- Completion and submission of RP14's and RP14A.

## 5. Realisation of Assets

- Liaising with the company's bank regarding the closure of the accounts.
- Liaising with agents regarding the sale of assets.
- Liaising with solicitors regarding the recovery of assets.

Costs which have been incurred to date and have been recovered from the Liquidation estate are as follows:

	£
Searches	5.00
Bonding	36.00
Statutory Advertising	286.44
Postage	5.55
Photocopying	2.25
Total	<u>335.24</u>

Details of the professional advisors utilised in this matter are contained in my previous report.

At the meeting held 04 March 2015 it was also resolved that payment shall be made, as an expense of the liquidation, of the necessary expense of preparing the Statement of Affairs in the sum of £3,500 plus VAT.

## 4. Dividends

Unfortunately it is not anticipated that any dividend will become payable to any class of creditors in this liquidation.

## 5. Conclusion

The liquidation remains open at this time to prepare closing paperwork. It is anticipated that the liquidation will be closed within the next 3-6 months.

I attach a copy of Rule "4.49E Creditors' and members' request for further information" and Rule "4.131 Creditors' claim that remuneration is or other expenses are excessive" of the Insolvency Rules (as amended) 1986 for your reference.



---

**Simon Barriball**  
Joint Liquidator



---

**Helen Whitehouse**  
Joint Liquidator

**09 May 2017**

**McAlister & Co**  
10 St Helens Road  
Swansea  
SA1 4AW

Should you have any queries regarding this report, or the Liquidation in general, please contact Simon Barriball on 01792 459600.

At McAlister & Co, we always strive to provide a professional and efficient service. However, we recognise that it is in the nature of insolvency proceedings for disputes to arise from time to time. As such, should you have any comments or complaints regarding the administration of this case, then in the first instance you should contact me at the address given in this letter

If you consider that I have not dealt with your comments or complaint appropriately you, then put details of your concerns in writing to our complaints officer Mrs Sandra McAlister, McAlister & Co, 10 St Helens Road, Swansea, SA1 4AW. This will formally invoke our complaints procedure and we will endeavor to deal with your complaint under the supervision of an Insolvency Practitioner/Director unconnected with the appointment.

Most disputes can be resolved amicably either through the provision of further information or following negotiations. However, in the event that you have exhausted our complaints procedure and you are not satisfied that your complaint has been resolved or dealt with appropriately, you may complain to the regulatory body that licences the insolvency practitioner concerned. Any such complaints should be addressed to The Insolvency Service, IP Complaints, 3rd Floor, 1 City Walk, Leeds, LS11 9DA, and you can make a submission using an on-line form available at [www.gov.uk/complain-about-insolvency-practitioner](http://www.gov.uk/complain-about-insolvency-practitioner), or you can email [insolvency.enquiryline@insolvency.gsi.gov.uk](mailto:insolvency.enquiryline@insolvency.gsi.gov.uk); or you may phone 0300 678 0015 - calls are charged at up to 9p per minute from a land line, or for mobiles, between 8p and 40p per minute if you're calling from the UK.]

## Appendix

### Suggested format for the provision of information

Professional guidance issued to insolvency practitioners sets out the following suggested format for the provision of information when seeking approval of remuneration. However, the level of disclosure suggested below may not be appropriate in all cases, and will be subject to considerations of proportionality. In larger or more complex cases the circumstances of each case may dictate the information provided and its format.

#### Narrative overview of the case

In all cases, reports on remuneration should provide a narrative overview of the case. Matters relevant to an overview are:

- the complexity of the case;
- any exceptional responsibility falling on the liquidator;
- the liquidator's effectiveness;
- the value and nature of the property in question.

The information provided will depend upon the basis or bases being sought or reported upon, and the stage at which it is being provided. An overview might include:

- an explanation of the nature, and the liquidator's own initial assessment, of the assignment (including the anticipated return to creditors) and the outcome (if known);
- initial views on how the assignment was to be handled, including decisions on staffing or subcontracting and the appointment of advisers;
- any significant aspects of the case, particularly those that affect the remuneration and cost expended;
- the reasons for subsequent changes in strategy;
- the steps taken to establish the views of creditors, particularly in relation to agreeing the strategy for the assignment, budgeting, and fee drawing;
- any existing agreement about remuneration;
- 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;
- in a larger case, particularly if it involved trading, considerations about staffing and managing the assignment and how strategy was set and reviewed;
- details of work undertaken during the period;
- any additional value brought to the estate during the period, for which the liquidator wishes to claim increased remuneration.

#### Time cost basis

Where any part of the remuneration is or is proposed to be calculated on a time costs basis, requests for and reports on remuneration should provide:

- An explanation of the liquidator's time charging policy, clearly stating the units of time that have been used, the grades of staff and rates that have been charged to the assignment, and the policy for recovering the cost of support staff. There is an expectation that time will be recorded in units of not greater than 6 minutes.
- A description of work carried out, which might include:
  - details of work undertaken during the period, related to the table of time spent for the period;
  - an explanation of the grades of staff used to undertake the different tasks carried out and the reasons why it was appropriate for those grades to be used;
  - any comments on any figures in the summary of time spent accompanying the request the liquidator wishes to make.
- Time spent and charge-out summaries, in an appropriate format.

It is useful to provide time spent and charge-out value information in a tabular form for each of the time periods reported upon, with work classified (and sub-divided) in a way relevant to the circumstances of the case

The following areas of activity are suggested 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 level of disclosure suggested above will not be appropriate in all cases, and considerations of proportionality will apply:

- where cumulative time costs are, and are expected to be, less than £10,000 the liquidator should, as a minimum, state the number of hours and average rate per hour and explain any unusual features of the case;
- where cumulative time costs are, or are expected to be, between £10,000 and £50,000, a time and charge-out summary similar to that shown above will usually provide the appropriate level of detail (subject to the explanation of any unusual features);
- where cumulative time costs exceed, or are expected to exceed, £50,000, further and more detailed analysis or explanation will be warranted.

**Burger Shack Limited  
(In Liquidation)**

**Summary of Receipts & Payments**

<b>RECEIPTS</b>	<b>Statement of Affairs (£)</b>	<b>From 04/03/2015 To 03/03/2016 (£)</b>	<b>From 04/03/2016 To 03/03/2017 (£)</b>	<b>Total (£)</b>
Furniture & Equipment	Uncertain	4,450.97	0.00	4,450.97
Cash at Bank		1,315.75	0.00	1,315.75
Director Contributions		1,980.18	0.00	1,980.18
Bank Interest Gross		0.94	0.59	1.53
Refund of Water Rates		48.58	0.00	48.58
		<b>7,796.42</b>	<b>0.59</b>	<b>7,797.01</b>
<b>PAYMENTS</b>				
Specific Bond		0.00	36.00	36.00
Preparation of S. of A.		3,500.00	0.00	3,500.00
Liquidators Fees		0.00	75.00	75.00
Liquidators Disbursements		0.00	7.25	7.25
Agents Commission		445.10	0.00	445.10
Agents Disbursements		1,275.00	0.00	1,275.00
Legal Fees (1)		500.00	0.00	500.00
Legal Disbursements		332.00	0.00	332.00
Irrecoverable VAT		1,144.02	82.05	1,226.07
Stationery & Postage		0.00	5.55	5.55
Statutory Advertising		0.00	286.44	286.44
		<b>7,196.12</b>	<b>492.29</b>	<b>7,688.41</b>
<b>Net Receipts/(Payments)</b>		<b>600.30</b>	<b>(491.70)</b>	<b>108.60</b>
<b>MADE UP AS FOLLOWS</b>				
<b>Bank 1 Current</b>		<b>600.30</b>	<b>(491.70)</b>	<b>108.60</b>
		<b>600.30</b>	<b>(491.70)</b>	<b>108.60</b>

Note:



## A CREDITORS' GUIDE TO LIQUIDATORS' FEES

### ENGLAND AND WALES

- 1 **Introduction**
- 1.1 When a company goes into liquidation the costs of the proceedings are paid out of its assets. The creditors, who hope 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 liquidator. The insolvency legislation recognises this interest by providing mechanisms for creditors to fix the basis of the liquidator's fees. This guide is intended to help creditors be aware of their rights to approve and monitor fees, explains the basis on which fees are fixed and how creditors can seek information about expenses incurred by the liquidator and challenge those they consider to be excessive.
- 2 **Liquidation procedure**
- 2.1 Liquidation (or 'winding up') is the most common type of corporate insolvency procedure. Liquidation is the formal winding up of a company's affairs entailing the realisation of its assets and the distribution of the proceeds in a prescribed order of priority. Liquidation may be either voluntary, when it is instituted by resolution of the shareholders, or compulsory, when it is instituted by order of the court.
- 2.2 Voluntary liquidation is the more common of the two. An insolvent voluntary liquidation is called a creditors' voluntary liquidation (often abbreviated to 'CVL'). In this type of liquidation an insolvency practitioner acts as liquidator throughout and the creditors can vote on the appointment of the liquidator at the first meeting of creditors.
- 2.3 In a compulsory liquidation on the other hand, the function of liquidator is, in most cases, initially performed not by an insolvency practitioner but by an official called the official receiver. The official receiver is an officer of the court and an official belonging to The Insolvency Service. In most compulsory liquidations, the official receiver becomes liquidator immediately on the making of the winding-up order. Where there are significant assets an insolvency practitioner will usually be appointed to act as liquidator in place of the official receiver, either at a meeting of creditors convened for the purpose or directly by The Insolvency Service on behalf of the Secretary of State. Where an insolvency practitioner is not appointed the official receiver remains liquidator.
- 2.4 Where a compulsory liquidation follows immediately on an administration the court may appoint the former administrator to act as liquidator. In such cases the official receiver does not become liquidator. An administrator may also subsequently act as liquidator in a CVL.
- 3 **The liquidation committee**
- 3.1 In a liquidation (whether voluntary or compulsory) the creditors have the right to appoint a committee called the liquidation committee, with a minimum of 3 and a maximum of 5 members, to monitor the conduct of the liquidation and approve the liquidator's fees. The committee is usually established at the creditors' meeting which appoints the liquidator, but in cases where a liquidation follows immediately on an administration any committee established for the purposes of the administration will continue in being as the liquidation committee.
- 3.2 The liquidator must call the first meeting of the committee within 6 weeks of its establishment (or his appointment if that is later), and subsequent meetings must be held either at specified dates agreed by the committee, or when requested by a member of the committee, or when the liquidator decides he needs to hold one. The liquidator is required to report to the committee at least every 6 months on the

progress of the liquidation, unless the committee directs otherwise. This provides an opportunity for the committee to monitor and discuss the progress of the insolvency and the level of the liquidator's fees.

#### **4 Fixing the liquidator's remuneration**

##### **4.1 Basis**

The basis for fixing the liquidator's remuneration is set out in Rules 4.127 – 4.127B of the Insolvency Rules 1986. The Rules state that the remuneration shall be fixed:

- as a percentage of the value of the assets which are realised or distributed or both,
- by reference to the time properly given by the liquidator and his staff in attending to matters arising in the liquidation, or
- as a set amount.

Any combination of these bases may be used to fix the remuneration, and different bases may be used for different things done by the liquidator. Where the remuneration is fixed as a percentage, different percentages may be used for different things done by the liquidator.

##### **4.2 Advance information where remuneration not based on time costs**

Prior to the determination of the basis of remuneration, the liquidator must give the creditors details of the work the liquidator proposes to undertake, and the expenses he considers will be, or are likely to be, incurred. However, where the liquidator proposes to take any part or all of his remuneration on a time cost basis, he must provide more detailed information in the form of a 'fees estimate', as explained below.

##### **4.3 Fees estimates where remuneration to be based on time costs**

Where the liquidator proposes to take remuneration based on time costs, he must first provide the creditors with detailed information in the form of a 'fees estimate'. A fees estimate is a written estimate that specifies –

- details of the work the liquidator and his staff propose to undertake;
- the hourly rate or rates the liquidator and his staff propose to charge for each part of that work;
- the time the liquidator anticipates each part of that work will take;
- whether the liquidator anticipates it will be necessary to seek approval or further approval under the Rules; and
- the reasons it will be necessary to seek such approval.

In addition, the liquidator must give the creditors details of the expenses he considers will be, or are likely to be, incurred.

##### **4.4 Who fixes the remuneration**

It is for the liquidation committee (if there is one) to determine on which of these bases, or combination of bases, the remuneration is to be fixed. Where it is fixed as a percentage, it is for the committee to determine the percentage or percentages to be applied. Rule 4.127 says that in arriving at its decision the committee shall have regard to the following matters:

- the complexity (or otherwise) of the case;
- any responsibility of an exceptional kind or degree which falls on the liquidator in connection with the insolvency;
- the effectiveness with which the liquidator appears to be carrying out, or to have carried out, his duties;

- the value and nature of the assets which the liquidator has to deal with.
- 4.5 If there is no liquidation committee, or the committee does not make the requisite determination, the liquidator's remuneration may be fixed by a resolution of the creditors. The creditors take account of the same matters as apply in the case of the committee. A resolution specifying the terms on which the liquidator is to be remunerated may be taken at the meeting which appoints the liquidator.
- 4.6 If the remuneration is not fixed as above, it will be fixed in one of the following ways. In a CVL, it will be fixed by the court on application by the liquidator, but the liquidator may not make such an application unless he has first tried to get his remuneration fixed by the committee or creditors as described above, and in any case not later than 18 months after his appointment. In a compulsory liquidation, it will be in accordance with a scale set out in the Rules.
- 4.7 Where the liquidation follows directly on from an administration in which the liquidator had acted as administrator, the basis of remuneration fixed in the administration continues to apply in the liquidation (subject to paragraph 8 below).

## 5. Review of remuneration

Where there has been a material and substantial change in circumstances since the basis of the liquidator's remuneration was fixed, the liquidator may request that it be changed. The request must be made to the same body as initially approved the remuneration, and the same rules apply as to the original approval.

## 6 What information should be provided by the liquidator?

### 6.1 General principles

- 6.1.1 The liquidator should provide those responsible for approving his remuneration with sufficient information to enable them to make an informed judgement about the reasonableness of the liquidator's request. The information should be presented in a manner which is transparent, consistent throughout the life of the case and useful to creditors, while being proportionate to the circumstances of the case.
- 6.1.2 The liquidator should disclose:
- payments, remuneration and expenses arising from the administration paid to the liquidator or his or her associates;
  - any business or personal relationships with parties responsible for approving the liquidator's remuneration or who provide services to the liquidator in respect of the insolvency appointment where the relationship could give rise to a conflict of interest.

The liquidator should inform creditors of their rights under insolvency legislation, and should advise them how they may access suitable information setting out their rights within the first communication with them and in each subsequent report.

- 6.1.3 Where the liquidator sub-contracts out work that could otherwise be carried out by the liquidator or his or her staff, this should be drawn to the attention of creditors with an explanation of why it is being done.

### 6.2 Key Issues

- 6.2.1 The key issues of concern to those with a financial interest in the level of payments from the insolvency estate will commonly be:
- the work the liquidator anticipates will be done, and why that work is necessary;

- the anticipated cost of that work, including any expenses expected to be incurred in connection with it;
- whether it is anticipated that the work will provide a financial benefit to creditors, and if so what benefit (or if the work provided no direct financial benefit, but was required by statute);
- the work actually done and why that work was necessary;
- the actual costs of the work, including any expenses incurred in connection with it, as against any estimate provided;
- whether the work has provided a financial benefit to creditors, and if so what benefit (or if the work provided no direct financial benefit, but was required by statute).

When providing information about payments, fees and expenses, the liquidator should do so in a way which facilitates clarity of understanding of these key issues. Narrative explanations should be provided to support any numerical information supplied. Where it is practical to do so, the liquidator should provide an indication of the likely return to creditors when seeking approval for the basis of his remuneration.

- 6.2.2 When approval for a fixed amount or a percentage basis is sought, the liquidator should explain why the basis requested is expected to produce a fair and reasonable reflection of the work that the liquidator anticipates will be undertaken.

### 6.3 Fee estimates and subsequent reports

- 6.3.1 When providing a fee estimate, the liquidator should supply that information in sufficient time to facilitate that body making an informed judgement about the reasonableness of the liquidator's requests. The estimate should clearly describe what activities are anticipated to be conducted in respect of the estimated fee. When subsequently reporting to creditors, the actual hours and average rate (or rates) of the costs charged for each activity should be provided for comparison.

### 6.4 Disbursements

- 6.4.1 Costs met by and reimbursed to the liquidator in connection with the liquidation will fall into two categories:

- **Category 1 disbursements:** These are payments to independent third parties where there is specific expenditure directly referable to the liquidation. Category 1 disbursements can be drawn without prior approval, although the liquidator should be prepared to disclose information about them in the same way as any other expenses. **Category 2 disbursements:** These are costs that are directly referable to the liquidation but not to a payment to an independent third party. They may include shared or allocated costs that may be incurred by the liquidator or their firm, and that can be allocated to the liquidation on a proper and reasonable basis.

When seeking approval, the liquidator should explain, for each category of cost, the basis on which the charge is being made. If the liquidator has obtained approval for the basis of Category 2 disbursements, that basis may continue to be used in a sequential appointment where further approval of the basis of remuneration is not required, or where the liquidator is replaced.

- 6.4.2 The following are not permissible as disbursements:

- a charge calculated as a percentage of remuneration;
- an administration fee or charge additional to the liquidator's remuneration;
- recovery of basic overhead costs such as office and equipment rental, depreciation and finance charges.

## 6.5 Realisations for secured creditors

Where the liquidator realises an asset on behalf of a secured creditor and receives remuneration out of the proceeds (see paragraph 11.1 below), he should disclose the amount of that remuneration to the committee (if there is one), to any meeting of creditors convened for the purpose of determining his fees, and in any reports he sends to creditors.

## 7. Exceeding the amount set out in the fees estimate

Remuneration must not exceed the fees estimate without approval by the body which fixed the original basis of the remuneration. The request for approval must specify –

- the reason why the liquidator has exceeded, or is likely to exceed, the fees estimate;
- the additional work the liquidator has undertaken or proposes to undertake;
- the hourly rate or rates the liquidator proposes to charge for each part of that additional work;
- the time that additional work has taken or the liquidator anticipates that work will take;
- whether the liquidator anticipates that it will be necessary to seek further approval; and
- the reasons it will be necessary to seek further approval.

## 8. Progress reports and requests for further information

### 8.1 The liquidator is required to send annual progress reports to creditors. The reports must include:

- details of the basis fixed for the remuneration of the liquidator (or if not fixed at the date of the report, the steps taken during the period of the report to fix it);
- if the basis has been fixed, the remuneration charged during the period of the report, irrespective of whether it was actually paid during that period (except where it is fixed as a set amount, in which case it may be shown as that amount without any apportionment for the period of the report);
- if the report is the first to be made after the basis has been fixed, the remuneration charged during the periods covered by the previous reports, together with a description of the work done during those periods, irrespective of whether payment was actually made during the period of the report;
- a statement of the expenses incurred by the liquidator during the period of the report, irrespective of whether payment was actually made during that period;
- where appropriate, a statement –

that the remuneration anticipated to be charged is likely to exceed the fees estimate or any approval given for remuneration exceeding the estimate; that expenses incurred or anticipated to be incurred are likely to exceed, or have exceeded, the details given to the creditors prior to the determination of the basis of remuneration; and the reason for that excess.

- a statement of the creditors' rights to request further information, as explained in paragraph 8.2, and their right to challenge the liquidator's remuneration and expenses.

### 8.2 Within 21 days of receipt of a progress report (or 7 business days where the report has been prepared for the purposes of a meeting to receive the liquidator's resignation) a creditor may request the liquidator to provide further information about the remuneration and expenses set out in the report. A request must be in writing, and may be made either by a secured creditor, or by an unsecured creditor with the

concurrence of at least 5% in value of unsecured creditors (including himself) or the permission of the court.

8.3 The liquidator must provide the requested information within 14 days, unless he considers that:

- the time and cost involved in preparing the information would be excessive, or
- disclosure would be prejudicial to the conduct of the liquidation or might be expected to lead to violence against any person, or
- the liquidator is subject to an obligation of confidentiality in relation to the information requested,

in which case he must give the reasons for not providing the information.

Any creditor may apply to the court within 21 days of the liquidator's refusal to provide the requested information, or the expiry of the 14 days time limit for the provision of the information.

## 9. Provision of information – additional requirements

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

The information which must be provided is –

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

The period for which the information must be provided is the period from appointment to the end of the most recent period of six months reckoned from the date of the liquidator's appointment, or where he has vacated office, the date that he vacated office.

The information must be provided within 28 days of receipt of the request by the liquidator, and requests must be made within two years from vacation of office.

## 10 What if a creditor is dissatisfied?

- 10.1 Except in cases where there is a liquidation committee it is the creditors as a body who have authority to approve the liquidator's fees. To enable them to carry out this function they may require the liquidator to call a creditors' meeting. In order to do this at least ten per cent in value of the creditors must concur with the request, which must be made to the liquidator in writing.
- 10.2 If a creditor believes that the liquidator's remuneration is too high, the basis is inappropriate, or the expenses incurred by the liquidator are in all the circumstances excessive he may, provided certain conditions are met, apply to the court.
- 10.3 Application may be made to the court by any secured creditor, or by any unsecured creditor provided at least 10 per cent in value of unsecured creditors (including himself) agree, or he has the permission of the court. Any such application must be made within 8 weeks of the applicant receiving the liquidator's progress report in which the charging of the remuneration or incurring of the expenses in question is first reported (see paragraph 8.1 above). If the court does not dismiss the application (which it may if it considers that insufficient cause is shown) the applicant must give the liquidator a copy of the application and supporting evidence at least 14 days before the hearing.

- 10.4 If the court considers the application well founded, it may order that the remuneration be reduced, the basis be changed, or the expenses be disallowed or repaid. Unless the court orders otherwise, the costs of the application must be paid by the applicant and not out of the assets of the insolvent company.

**11. What if the liquidator is dissatisfied?**

If the liquidator considers that the remuneration fixed by the liquidation committee, or in the preceding administration, is insufficient or that the basis used to fix it is inappropriate he may request that the amount or rate be increased, or the basis changed, by resolution of the creditors. If he considers that the remuneration fixed by the liquidation committee, the creditors, in the preceding administration or in accordance with the statutory scale is insufficient, or that the basis used to fix it is inappropriate, he may apply to the court for the amount or rate to be increased or the basis changed. If he decides to apply to the court he must give at least 14 days' notice to the members of the committee and the committee may nominate one or more of its members to appear or be represented at the court hearing. If there is no committee, the liquidator's notice of his application must be sent to such of the 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 out of the assets.

**12 Other matters relating to remuneration**

- 12.1 Where the liquidator realises assets on behalf of a secured creditor he is entitled to be remunerated out of the proceeds of sale in accordance with a scale set out in the Rules. Usually, however, the liquidator will agree the basis of his fee for dealing with charged assets with the secured creditor concerned.
- 12.2 Where two (or more) joint liquidators are appointed it is for them to agree between themselves how the remuneration payable should be apportioned. Any dispute between them may be referred to the court, the committee or a meeting of creditors.
- 12.3 If the appointed liquidator is a solicitor and employs his own firm to act in the insolvency, profit costs may not be paid unless authorised by the committee, the creditors or the court.
- 12.4 If a new liquidator is appointed in place of another, any determination, resolution or court order which was in effect immediately before the replacement continues to have effect in relation to the remuneration of the new liquidator until a further determination, resolution or court order is made.
- 12.5 Where the basis of the remuneration is a set amount, and the liquidator ceases to act before the time has elapsed or the work has been completed for which the amount was set, application may be made for a determination of the amount that should be paid to the outgoing liquidator. The application must be made to the same body as approved the remuneration. Where the outgoing liquidator and the incoming liquidator are from the same firm, they will usually agree the apportionment between them.
- 12.6 There may also be occasions when creditors will agree to make funds available themselves to pay for the liquidator to carry out tasks which cannot be paid for out of the assets, either because they are deficient or because it is uncertain whether the work undertaken will result in any benefit to creditors. Arrangements of this kind are sometimes made to fund litigation or investigations into the affairs of the insolvent company. Any arrangements of this nature will be a matter for agreement between the liquidator and the creditors concerned and will not be subject to the statutory rules relating to remuneration.

# Time Entry - SIP9 Time & Cost Summary

B100812 - Burger Shack Limited  
 All Post Appointment Project Codes  
 From: 04/03/2015 To: 03/03/2017

Classification of Work Function	Partner	Manager	Other Senior Professionals	Assistants & Support Staff	Total Hours	Time Cost (£)	Average Hourly Rate (£)
Admin & Planning	1.85	0.70	0.00	11.00	13.55	2,847.00	217.49
Case Specific Matters	0.00	0.50	0.00	2.35	2.85	570.00	200.00
Creditors	3.00	0.00	0.00	4.75	7.75	1,910.00	246.45
Investigations	1.50	0.00	0.00	0.00	1.50	480.00	320.00
Realisation of Assets	5.45	0.00	0.00	0.30	5.75	1,804.00	313.74
Trading	0.00	0.00	0.00	0.00	0.00	0.00	0.00
<b>Total Hours</b>	<b>11.80</b>	<b>1.20</b>	<b>0.00</b>	<b>18.40</b>	<b>31.40</b>	<b>7,711.00</b>	<b>246.57</b>
<b>Total Fees Claimed</b>						<b>75.00</b>	
<b>Total Disbursements Claimed</b>						<b>335.24</b>	

Summary of chargeout rates for staff members involved with this case.

Grade Category	Minimum Rate	Maximum Rate
Partner	320	320
Manager	225	225
Assistants & Support Staff	200	200



## MCALISTER & CO INSOLVENCY PRACTITIONERS LIMITED

### MCALISTER & CO CHARGE OUT RATES

POSITION	HOURLY CHARGE OUT RATE (£)
Director & Licensed Insolvency Practitioner	250 - 320
Manager	160 - 225
Case Administrator	110 - 205
Assistant	75 - 140
Secretarial and cashing	50 - 75

*Please note that our system records time in units of 6 minutes, with a minimum of 1 unit per entry.*

### MCALISTER & CO DISBURSEMENT CHARGES

*Category 2 disbursement rates (as defined in SIP 9 – requiring prior approval of creditors)*

Photocopying/Printing	15p per sheet
Mileage	45p mile

#### Standard Activity

#### Example of Work

<i>Administration and Planning</i>	Statutory reporting and compliance. Compliance with other regulatory requirements. Case planning. Administrative set up. Appointment notification. Maintenance of records and progress reviews
<i>Investigation</i>	SIP 2 review CDDA report Review of questionnaires Investigation of antecedence transactions Liaising with committee
<i>Realisation of Assets</i>	Identification, secure and insure assets Retention of property Debt collection Property, business and asset sales
<i>Trading</i>	Management of operation Accounting for trading On-going employee issues
<i>Creditors</i>	Communication with creditors Creditors' claim and queries Reservation of title claims Employee claims an Redundancy Payments claims Preferential Claims Reviewing and evaluating claims

*Rates quoted are correct as at 5 November 2014. All rates are subject to review annually. There may be a number of promotions throughout the various grades during the administration of cases. We reserve the right to change the rates without prior notice. Any change will be reported in the next statutory report to creditors. Should you require clarification on any of the above, do not hesitate to contact McAllister & Co on 01792 459600.*

#### **4.49E Creditors' and members' request for further information**

(1) If—

- (a) within the period mentioned in paragraph (2)—
  - (i) a secured creditor, or
  - (ii) an unsecured creditor with the concurrence of at least 5% in value of the unsecured creditors (including the creditor in question), or
  - (iii) members of the company in a members' voluntary winding up with at least 5% of the total voting rights of all the members having the right to vote at general meetings of the company, or
- (b) with the permission of the court upon an application made within the period mentioned in paragraph (2)—
  - (i) any unsecured creditor, or
  - (ii) any member of the company in a members' voluntary winding up,

makes a request in writing to the liquidator for further information about remuneration or expenses set out in a progress report in accordance with Rule 4.49B(1)(e) or (f) (including by virtue of Rule 4.49C(5)) or in a draft report under Rule 4.49D, the liquidator must, within 14 days of receipt of the request, comply with paragraph (3) except to the extent that the request is in respect of matter in a draft report under Rule 4.49D or a progress report required by Rule 4.108 which (in either case) was previously included in a progress report not required by Rule 4.108.

(2) The period referred to in paragraph (1)(a) and (b) is—

- (a) 7 business days of receipt (by the last of them in the case of an application by more than one member) of the progress report where it is required by Rule 4.108, and
- (b) 21 days of receipt (by the last of them in the case of an application by more than one member) of the report or draft report in any other case.

(3) The liquidator complies with this paragraph by either—

- (a) providing all of the information asked for, or
- (b) so far as the liquidator considers that—
  - (i) the time or cost of preparation of the information would be excessive, or
  - (ii) disclosure of the information would be prejudicial to the conduct of the liquidation or might reasonably be expected to lead to violence against any person, or
  - (iii) the liquidator is subject to an obligation of confidentiality in respect of the information, giving reasons for not providing all of the information.

(4) Any creditor, and any member of the company in a members' voluntary winding up, who need not be the same as the creditors or members who asked for the information, may apply to the court within 21 days of—

- (a) the giving by the liquidator of reasons for not providing all of the information asked for, or
- (b) the expiry of the 14 days provided for in paragraph (1), and the court may make such order as it thinks just.

(5) Without prejudice to the generality of paragraph (4), the order of the court under that paragraph may extend the period of 8 weeks or, as the case may be, 4 weeks provided for in Rule 4.131(1B) or 4.148C(2) by such further period as the court thinks just.

(6) This Rule does not apply where the liquidator is the official receiver.

#### **4.131. Creditors' claim that remuneration is or other expenses are excessive**

(1) Any secured creditor, or any unsecured creditor with either the concurrence of at least 10% in value of the creditors (including that creditor) or the permission of the court, may apply to the court for one or more of the orders in paragraph (4).

(1A) Application may be made on the grounds that—

- (a) the remuneration charged by the liquidator,
- (b) the basis fixed for the liquidator's remuneration under Rule 4.127, or
- (c) expenses incurred by the liquidator, is or are, in all the circumstances, excessive or, in the case of an application under sub-paragraph (b), inappropriate.

(1B) The application must, subject to any order of the court under Rule 4.49E(5), be made no later than 8 weeks (or, in a case falling within Rule 4.108, 4 weeks) after receipt by the applicant of the progress report, or the draft report under Rule 4.49D, which first reports the charging of the remuneration or the incurring of the expenses in question ("the relevant report").

(2) The court may, if it thinks that no sufficient cause is shown for a reduction, dismiss the application; but it shall not do so unless the applicant has had an opportunity to attend the court for a hearing, of which he has been given at least 5 business but which is without notice to any other party. If the application is not dismissed under this paragraph, the court shall fix a venue for it to be heard, and give notice to the applicant accordingly.

(3) The applicant shall, at least 14 days before the hearing, send to the liquidator a notice stating the venue and accompanied by a copy of the application, and of any evidence which the applicant intends to adduce in support of it.

(4) If the court considers the application to be well-founded, it must make one or more of the following orders—

- (a) an order reducing the amount of remuneration which the liquidator was entitled to charge;
- (b) an order fixing the basis of remuneration at a reduced rate or amount;
- (c) an order changing the basis of remuneration;
- (d) an order that some or all of the remuneration or expenses in question be treated as not being expenses of the liquidation;
- (e) an order that the liquidator or the liquidator's personal representative pay to the company the amount of the excess of remuneration or expenses or such part of the excess as the court may specify;

and may make any other order that it thinks just; but an order under sub-paragraph (b) or (c) may be made only in respect of periods after the period covered by the relevant report.

**(5) Unless the court orders otherwise, the costs of the application shall be paid by the applicant, and are not payable as an expense of the liquidation.**