

The Insolvency Act 1986

Liquidator's Progress Report

S. 192

Pursuant to section 92A and 104A of the Insolvency Act 1986

To the Registrar of Companies

For official use

Three empty boxes for official use.

Company Number

05241654

Name of Company

(a) Insert full name of company

(a) ADD HIRE LIMITED

(b) Insert full name(s) and address(es)

I (b) Raymond Stuart Claughton

Rushtons Insolvency Limited, 3 Merchant's Quay, Ashley Lane, Shipley, BD17 7DB

the liquidator of the company attach a copy of my Progress Report under section 192 of the Insolvency Act 1986

Signed [Signature] Date 30th January 2015

Presenter's name, address and reference (if any)

Raymond Stuart Claughton
Rushtons Insolvency Limited, 3 Merchant's Quay, Ashley Lane, Shipley, BD17 7DB

RSC/RJ/LB

Barcode area containing 'Liqui...', 'THURSDAY', 'A04', '05/02/2015', '#97', and 'COMPANIES HOUSE'.

ADD HIRE LTD

**3 MERCHANT'S QUAY
ASHLEY LANE
SHIPLEY
WEST YORKSHIRE
BD17 7DB**

**PREVIOUS TRADING ADDRESS: CRIGGLESTONE INDUSTRIAL
ESTATE, CRIGGLESTONE, WAKEFIELD, WF4 3HT**

(IN CREDITORS VOLUNTARY LIQUIDATION)

COMPANY NO. 05241657

PROGRESS REPORT

**PURSUANT TO RULE 4.49C OF THE INSOLVENCY RULES 1986
AND S.104A OF THE INSOLVENCY ACT 1986**

30TH JANUARY 2014 – 29TH JANUARY 2015

**RAYMOND STUART CLAUGHTON (IP NO. 119)
RUSHTONS ACCOUNTANTS
3 MERCHANT'S QUAY
ASHLEY LANE
SHIPLEY
WEST YORKSHIRE
BD17 7DB**

PROGRESS DURING THE PERIOD

Attached at Appendix 1 is an abstract of the Receipts and Payments during the period from 30th January 2012 – 29th January 2015, which encompasses both the members and Creditors transactions

RECEIPTS

The position with regard to the assets realised to date and any assets still to receive is as follows.-

Plant & Machinery

The Plant and Machinery, Motor Vehicles etc are the subject of an ongoing claim made for recovery as explained below

Book Debts

The Statement of Affairs indicated that there were book debts outstanding of £250,000 due from Carillion. Unfortunately, after extensive investigation led by both the Liquidator and his legal team, the evidence put forward by the Company as to the outstanding sum was deemed to be flawed, resulting in a much reduced balance allegedly due to the Company. Solicitors have advised that the costs in pursuing any resultant balance would be prohibitive and as a result it was decided not to push for settlement at this time

Investigations

Investigations have been undertaken by the Liquidator, his staff and more recently by his Solicitors into the trading activities of the Company and in particular the roles of the Director and a Shadow Director into the management thereof and its reliance upon a further Company of which the Shadow Director of Add Hire Limited is a Director and Shareholder

A vast amount of time has been spent in formulating potential claims and in acquiring information to substantiate the facts contained therein

Subsequent meetings held between all parties and more recently involving Counsel confirmed that there was a very strong case for the pursuit and recovery of funds paid by the Company during the course of its trading

In view of the lack of funds with which to bring a claim of this magnitude, both Solicitors and Counsel have agreed to act under a Conditional Fee Arrangement, the Insurers will be providing adverse costs insurance

Papers have now been served on the Shadow Director of the Company whom I understand is currently obtaining his own legal advice.

PAYMENTS

The payments made to date are briefly summarised as follows -

Gazetting Charges

Gazetting charges relate to statutory requirements

Outstanding Costs

The Statement of Affairs Fee, agreed at the Meeting of Creditors on 7th September 2012 has not yet been drawn.

OTHER RELEVANT INFORMATION

Change of Legal Entity

At the date of my appointment Rushtons ("the Partnership") consisted of 2 partners, namely myself and Mr Terry Snow. On 6th April 2014 the Partnership ceased trading. On 6th April 2014 Rushtons Insolvency Limited commenced trading having acquired the business, goodwill and all ongoing cases over which I am appointed officeholder

I am now a Director of Rushtons Insolvency Limited, I remain the office holder and Liquidator of Add Hire Limited, in Liquidation

The change of legal entity will not affect the conduct of this case or Creditors rights. If you have any questions regarding this transfer, please do not hesitate to contact me.

Investigations and reporting on Directors Conduct

You may be aware that the Liquidator has a duty to enquire into the affairs of an insolvent Company to determine its property and liabilities and to identify any actions, which could lead to the recovery of funds. A Liquidator is also required to consider the conduct of the Company's Directors and to make an appropriate submission to the Department for Business Innovation and Skills. I can confirm that I have discharged my duties in these respects

LIQUIDATOR'S REMUNERATION

With regard to the Liquidator's Remuneration, I can advise you that during the course of my administration members of this firm have incurred 171 18 hours time costs, which is categorised on the attached schedule at Appendix 2. The total average hourly charge-out rate equates to approximately £180.93, therefore the Liquidator's Remuneration amounts to £30,994.00 plus VAT. A Creditors Guide to Insolvency Practitioners Fees in Liquidation is attached for your information

In accordance with a Resolution passed at the initial Meeting of Members held on 30th January 2012 and the Meeting of Creditors held on 7th September 2013, the Liquidator's Remuneration be fixed by the time properly spent by the Liquidator and his staff in attending to matters arising during the course of the Winding-Up, Insolvency Rules 4 127(2)(b), with the authority to draw fees on account

You will note that the sum of £5,318 has been taken on account of work undertaken during the Members Winding-up process

CREDITORS' RIGHTS

Right to request further information

Pursuant to Rule 4.49E of the Rules, within twenty-one days of the receipt of this Report a Secured Creditor, or an Unsecured Creditor with the concurrence of at least 5% in value of the Unsecured Creditors, including that Creditor, (or an Unsecured Creditor with less than 5% in value of the Unsecured Creditors, but with the permission of the Court) may request in writing that I provide further information about my remuneration or expenses which have been detailed in this progress Report

Right to make an application to Court

Pursuant to Rule 4 131 of the Rules, any Secured Creditor or any Unsecured Creditor with the concurrence of at least 10% in value of the unsecured Creditors, including that Creditor, (or any Unsecured Creditors with less than 10% in value of the Unsecured Creditors, but with the permission of the Court) may within eight weeks of receipt of this progress Report make an application to Court on the grounds that the remuneration charged or the expenses incurred as sent out in this progress Report are excessive or, in relation to the basis fixed for my remuneration, inappropriate

ESTIMATED OUTCOME FOR CREDITORS

Details of the sums owed to each class of the Company's Creditors were provided in the Directors Statement of Affairs included with the Report sent to Creditors following my appointment as Liquidator

On the basis of realisations to date and estimated future realisations, I estimate an outcome for each class of Creditor as follows -

Secured Creditor(s)

The Company did not have any Secured Creditor(s)

Preferential Creditors

The Company has one Preferential Creditor being the Redundancy Payments Office who has lodged a claim, being payment of outstanding wages, in the sum of £2,861.

Unsecured Creditors

The Company had estimated Unsecured Creditors in the sum of £405,825 To date I have agreed claims in the sum of £279,309 I estimate that a further sum of approximately £15,000 is outstanding from Creditors who have yet to lodge a claim in the proceedings a further reminder will be sent in due course

CONCLUSION

I will report again in approximately twelve months or at the conclusion of the Liquidation, whichever is the sooner

APPENDIX 1

THE INSOLVENCY ACT 1986

ADD HIRE LIMITED

IN VOLUNTARY LIQUIDATION

LIQUIDATOR'S ABSTRACT RECEIPTS AND PAYMENTS ACCOUNT

<u>Estimated to Produce Per Statement of Affairs</u>	<u>ASSETS</u>	<u>Period from 30/01/14 to 29/01/15</u>	<u>Accumulated</u>
--	Cash at Bank	--	6,867
250,000	Book Debts	--	--
5,000	Plant & Machinery	--	--
--	Bank Interest	2	6
--	VAT Refund	--	1,272
--	Service Charge Refund	71	71
-----		-----	-----
255,000		73	8,216
-----		-----	-----
	<u>PAYMENTS</u>		
	Gazetting Fees	--	340
	Law Costs to Liquidator	--	702
	Accountancy Work	--	504
	Liquidator's Remuneration	--	5,318
	VAT Incurred	--	1,272

		--	
	Balance at Bank	-----	80

			8,216

CASE NAME: ADD HIRE LIMITED**TIME AND CHARGE OUT SUMMARY FOR THE PERIOD FROM 30TH JANUARY 2012 TO 29TH JANUARY 2015****Hours**

Classification of Work	Director/ Partner	Manager	Administrator and Support Staff	Total Hours	Time Cost £	Average Hourly Rate £
Administration and planning	1 36	117 24		119.00	21580.00	181.34
Realisation of assets		10 00		10.00	1800 00	180 00
Trading						
Investigations		27 18		27 18	4914 00	180 00
Creditors		10 30		10 30	1890.00	180 00
Reporting to Creditors		4 30		4 30	810 00	180 00
Unanalysed Time						
Total Hours	1 36	169 42		171.18	30994 00	180 93

I am required to provide a breakdown of my time costs by activity and grade of staff under guidelines as a result of revision of Statement of Insolvency Practice 9.

In accordance with a Resolution passed at the initial Meeting of Members held on 31st January 2012 the Liquidator's Remuneration be fixed by the time properly spent by the Liquidator and his staff in attending to matters arising during the course of the Winding-Up, Insolvency Rules 4 127(2)(b), with the authority to draw fees on account

Rushtons Accountants hourly charge out rates with effect from 1st November 2010 are as follows.-

Partner	£280	Senior Manager	£180	Support Staff	£100
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Rushtons Insolvency Limited hourly charge out rates with effect from 6th April 2014 are as follows -

Director	£200-280	Manager	£180	Support Staff	£100
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STATEMENT OF INSOLVENCY PRACTICE 9 (E & W)

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 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.

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

- 4.2 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 a meeting of 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.
- 4.3 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.
- 4.4 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 When seeking remuneration approval

- 6.1.1 When seeking agreement to his fees the liquidator should provide sufficient supporting information to enable the committee or the creditors to form a judgement as to whether the proposed fee is reasonable having regard to all the circumstances of the case. The nature and extent of the supporting information which should be provided will depend on

- the nature of the approval being sought,
- the stage during the administration of the case at which it is being sought and
- the size and complexity of the case

- 6.1.2 Where, at any creditors' or committee meeting, the liquidator 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.

- 6.1.3 Where the liquidator seeks agreement to his fees during the course of the liquidation, he should always provide an up to date receipts and payments account. Where the proposed fee is based on time costs the liquidator should disclose to the committee or the creditors the time spent and the charge-out value in the particular case, together with, where appropriate, such additional information as may reasonably be required having regard to the size and complexity of the case. The additional information should comprise a sufficient explanation of what the liquidator has achieved and how it was achieved to enable the value of the exercise to be assessed (whilst recognising that the liquidator 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 liquidator 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/Director
- 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 liquidator'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 liquidator wishes to make
- The steps taken to establish the views of creditors, particularly in relation to agreeing the strategy for the assignment, budgeting, time recording, fee drawing or fee agreement
- Any existing agreement about fees
- Details of how other professionals, including subcontractors, were chosen, how they were contracted to be paid and what steps have been taken to review their fees

It should be borne in mind that the degree of analysis and form of presentation should be proportionate to the size and complexity of the case. In smaller cases not all categories of activity will always be relevant, whilst further analysis may be necessary in larger cases.

6.1.4 Where the fee is charged on a percentage basis the liquidator should provide details of any work which has been or is intended to be sub-contracted out which would normally be undertaken directly by a liquidator or his staff.

6.2 After remuneration approval

Where a resolution fixing the basis of fees is passed at any creditors' meeting held before he has substantially completed his functions, the liquidator should notify the creditors of the details of the resolution in his next report or circular to them. When subsequently reporting to creditors on the progress of the liquidation, or submitting his final report, he should specify the amount of remuneration he has drawn in accordance with the resolution (see further paragraph 7.1 below). Where the fee is based on time costs he should also provide details of the time spent and charge-out value to date and any material changes in the rates charged for the various grades since the resolution was first passed. He should also provide such additional information as may be required in accordance with the principles set out in paragraph 6.1.3. Where the fee is charged on a percentage basis the liquidator should provide the details set out in paragraph 6.1.4 above regarding work, which has been sub-contracted out.

6.3 Disbursements and other expenses

There is no statutory requirement for the committee or the creditors to approve the drawing of expenses or disbursements, but there is provision for the creditors to challenge them, as described below. Professional guidance issued to insolvency practitioners requires that, where the liquidator proposes to recover costs which, whilst being in the nature of expenses or disbursements, may include an element of shared or allocated costs (such as room hire, document storage or communication facilities provided by the liquidator's own firm), they must be disclosed and be authorised by those responsible for approving his remuneration. Such expenses must be directly incurred on the case and subject to a reasonable method of calculation and allocation.

- 6.3.1 Approval is not required for the drawing of necessary disbursements. However, not all costs properly charged in connection with insolvency assignments may necessarily be regarded as disbursements. The precise demarcation line between disbursements and remuneration is not defined by statute and has not been specifically determined by the courts. Particular difficulties arise in connection with charges that involve calculations of shared and overhead costs, as these may include an element of remuneration.
- 6.3.2 In the absence of a clear statutory definition only those costs that clearly meets the definition of disbursements, where there is specific expenditure relating to the administration of the insolvent's affairs and referable to payment to an independent third party, are treated as disbursements recoverable without approval. In this statement these are referred to as 'category 1 disbursements' (approval not required). Category 1 disbursements will generally comprise external supplies of incidental services specifically identifiable to the case, typically for items such as identifiable telephone calls, postage, case advertising, invoiced travel and properly reimbursed expenses incurred by personnel in connection with the case. Also included will be services specific to the case where these cannot practically be provided internally such as printing, room hire and document storage. Practitioners should be prepared to disclose information about specific category 1 disbursements where reasonably requested in all cases.
- 6.3.3 Where it is proposed to recover costs which, whilst being in the nature of expenses or disbursements, include elements of shared or allocated costs, they should be identified and subject to approval by those responsible for approving remuneration. If the office holder wishes to make a separate charge for expenses in this second category, he may do so provided that
- such expenses are of an incidental nature and are directly incurred on the case and there is a reasonable method of calculation and allocation, it will be persuasive evidence of reasonableness, if the resultant charge to creditors is in line with the cost of external provision,
- and
- the basis of the proposed charge is disclosed and is authorised by those responsible for approving his remuneration.

These are defined as category 2 disbursements (approving required). Category 2 disbursements will comprise cost allocations, which may arise on some of the category 1 expense where supplied internally. Typically, items such as room hire and document storage. Also typically included will be routine or more specialist copying and printing and allocated communication costs provided by the practitioner or his firm.

- 6.3.4 A charge for disbursements calculated as a percentage of the amount charged remuneration is not permissible
- 6.3.5 Basic non-incident costs, including such items as time costs, office and equipment rental, depreciation, standing charges, finance charges, accounting and administration costs, may not be the subject of separate charges
- 6.3.6 Payments to outside parties in which the office holder or his firm or any associate (as defined by section 435 of the Insolvency Act 1986) has an interest should be treated as category 2 disbursements
- 6.3.7 Where, in a liquidation or a bankruptcy, remuneration is being taken on the statutory scale and there is no committee and it has not been possible to obtain a resolution of the creditors, category 2 disbursements may only be recovered if authorised by the creditors
- 6.3.8 It is the office holder's obligation to satisfy himself of the appropriateness of disbursements and the office holder should bear in mind the matters referred to in paragraph 4.2 above

6.4 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 Progress reports and requests for further information

- 7.1 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,
 - a statement of the creditors' rights to request further information, as explained in paragraph 7.2 and their right to challenge the liquidator's remuneration and expenses
- 7.2 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
- 7.3 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

8 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

9. What if a creditor is dissatisfied?

- 9.1 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.
- 9.2 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.
- 9.3 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 7.1 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.
- 9.4 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.

10. What if the liquidator is dissatisfied?

If the liquidator considers that the remuneration fixed by the 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.

11. Other matters relating to remuneration

- 11.1 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 the 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.
- 11.2 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.
- 11.3 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 creditor or the court.
- 11.4 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.
- 11.5 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.
- 11.6 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.

12. Effective Date

This guide applies where a company –

- goes into liquidation on a winding-up resolution passed on or after 6 April 2010,
- goes into voluntary liquidation immediately following an administration on or after 6 April 2010, except where the preceding administration began before that date,
- goes into compulsory liquidation as the result of a petition presented on or after 6 April 2010, except where the liquidation was preceded by
 - an administration which began before that date,
 - a voluntary liquidation in which the winding-up resolution was passed before that date

13 Summary of Charge Out Rates and Disbursement Charges with Effect from 6th April 2014

Rushtons Insolvency Limited Current Hourly Charge Out Rates

Director	200-280
Manager	180
Support Staff	100

Time cost analysis & explanation of work undertaken with effect from 6th April 2014

<u>Category</u>	<u>Examples of Work</u>
Administration & Planning	Case planning, reviewing, administrative set up, appointment notification, maintenance of statutory records, statutory reporting and compliance
Realisation of Assets	Identify, locating, realising and insuring Company assets Dealing with charged and past secured assets and verifying security documentation
Trading	Employee issues, instructing experts and agents, accounting, management operations
Investigations	Statutory duties, SIP 2 review, SIP 4 & CDDA reports, antecedent transactions and viable matters brought to our attention
Creditors	Communicating with creditors, (secured, preferential and unsecured) creditor claims, adjudication on claims, dealing with preferential creditors (employees) and dividends
Reporting	Reports and circulars to Creditors
Case specific matters	The nature of insolvency work means not every case is the same and may produce unique work requirements not covered above

Rushtons Insolvency Limited – Disbursements recovery policy – SIP 9

Category 1 disbursements

Bordereau/insurance	Charged at cost
Case advertising	As per advertisers/agents invoice
Courier	Charged at cost
DTI IVA registration fee	Charged at cost (in relevant cases)
Land Registry/Searches	As per Land Registry, agents or Companies House invoice
Post re-direction	Charged at cost
Subsistence	Charged at cost

Category 2 disbursements

Travel	Charged at cost for public transport and taxis Mileage is recharged at 45p per mile
Postage	Communication costs based on a charge of £6.25 per creditor/debtor/shareholder/employee/company officer. Communication costs includes postage, photocopying/printing and fax
Room Hire	£100 room hire made available in-house for case specific meetings. Charges only to be made when attendance of debtor/director and/or creditors is likely and a meeting room has been set aside. Where appropriate, external room hire at cost (Category 1)
Storage	Document storage at a rate of £7.50 per box per year