

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

03640632

Name of Company

Beech Holdings Limited t/a Fireplace Megastore

I / ~~We~~

Martin Halligan, City Mills, Peel Street, Morley, Leeds, LS27 8QL

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 03/06/2014 to 02/06/2015

Signed



Date

30/7/15

MPH Recovery
City Mills
Peel Street
Morley
Leeds
LS27 8QL

Ref 0210/MH/TC/RB

MONDAY



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COMPANIES HOUSE

**Beech Holdings Limited t/a Fireplace Megastore
(In Liquidation)
Liquidator's Abstract of Receipts & Payments**

Statement of Affairs		From 03/06/2014 To 02/06/2015
	SECURED ASSETS	
360,000 00	Freehold Land & Property	380,000 00
		<u>380,000 00</u>
	COSTS OF REALISATION	
	Legal Fees	5,667 51
	Legal Disbursement	824 00
	Agents/Valuers Fees	5,000 00
	Agents/Valuers Disbursements	297 00
	Insurance of Assets	2,641 85
		<u>(14,430 36)</u>
	SECURED CREDITORS	
(362,864 00)	Lloyds Banking Group	361,001 42
(20,001 00)	Mr D J Beaumont	<u>NIL</u>
		<u>(361,001 42)</u>
	ASSET REALISATIONS	
2,000 00	Fixtures & Fittings	20,200 00
9,000 00	Stock	9,500 00
1,020 00	Cash with Agents	1,020 00
	Bank Interest Gross	42 11
		<u>30,762 11</u>
	COST OF REALISATIONS	
	Specific Bond	360 00
	Pre Appointment Disbursements	2,235 50
	Section 98 Fee	6,000 00
	Statement of Affairs Fee	6,000 00
	Agents/Valuers Fees	2,500 00
	Agents/Valuers Disbursements	300 00
	Legal Fees	1,402 50
		<u>(18,798 00)</u>
	PREFERENTIAL CREDITORS	
(6,166 50)	Employee Arrears/Hol Pay	<u>NIL</u>
		<u>NIL</u>
	UNSECURED CREDITORS	
(358,927 55)	Trade & Expense Creditors	NIL
(44,712 34)	Employees	NIL
(1,772 00)	HM Revenue & Customs - PAYE / NIC	NIL
(13,599 00)	HM Revenue & Customs - VAT	<u>NIL</u>
		<u>NIL</u>
	DISTRIBUTIONS	
(1,000 00)	Ordinary Shareholders	<u>NIL</u>
		<u>NIL</u>
(437,022.39)		<u>16,532.33</u>

REPRESENTED BY

Vat Receivable
Svenska Handelsbanken AB (publ)

1,647 10
14,885 23

16,532.33



Martin Halligan
Liquidator



City Mills
Peel Street
Morley, Leeds
LS27 8QL

BEECH HOLDINGS LIMITED T/A FIREPLACE MEGASTORE – IN LIQUIDATION
Company Number: 03640632
Registered Office: City Mills, Peel Street, Morley, Leeds, LS27 8QL

Liquidator's First Progress Report
Pursuant to Section 104A of the Insolvency Act 1986 and Rule 4.49 of the Insolvency Rules 1986

Report Dated: 30 July 2015

Bradford • Leeds • Llandudno

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Martin Halligan is licensed in the United Kingdom to act as an Insolvency Practitioner by the Association of Chartered Certified Accountants
Insolvency Practitioners acting as Administrators or Administrative Receivers contract as agents without personal liability
MPH Recovery is a trading style of MPH (GB) Limited registered in England No 5143886
2nd Floor Unit 3 Killingbeck Court York Road, Leeds, LS14 6FD

Beech Holdings Limited t/a Fireplace Megastore ("the Company") – In Liquidation
Company Number: 03640632
Registered Office: City Mills, Peel Street, Morley, Leeds, LS27 8QL

Introduction

In accordance with the provisions of Section 98 of the Insolvency Act, 1986, statutory meetings of shareholders and creditors were duly held at The Village Hotel, Ewloe, Nr Chester, Flintshire, CH5 3YB on 3 June 2014. Darren John Beaumont, a director, acted as chairman for the purposes of the meetings.

A report was presented together with a summary of the statement of affairs signed as a statement of truth by the director on 3 June 2014. At a meeting of shareholders held on 3 June 2014, resolutions were passed for the voluntary winding-up of the Company and for my appointment as Liquidator. At a subsequent meeting of the Company's creditors the shareholders' resolution was confirmed. A liquidation committee was not formed.

The EC Regulation on Insolvency Proceedings 2000 does apply and these proceedings are the main proceedings as defined by Article 3 of the EC Regulation. The Company's registered office and centre of main interests are in the United Kingdom.

This first progress report for the period 3 June 2014 to 2 June 2015 is to be read in conjunction with my report dated 6 June 2014.

Receipts and Payments

A summary of receipts and payments to 2 June 2015, together with fixed and floating account is attached at Appendix I. This shows a balance in hand of £14,885.23. The contents therein are self-explanatory. In accordance with the provisions of Statement of Insolvency Practice 7, the receipts and payments are shown net of VAT. An interest bearing bank account has been opened for the purposes of the Liquidation. Gross bank interest received for the reporting period totals £42.11.

Assets Specifically Pledged

The Director's Estimated Statement of Affairs disclosed Lloyds Bank PLC ("Lloyds") as a secured creditor. Lloyds held a mortgage created on 1 February 2008 and registered on 2 February 2008 which created a fixed charge over the Company's freehold property at Unit 5, Deeside Point, Tenth Avenue, Deeside Industrial Park, Deeside CH5 2UA ("the Property").

The Property was sold on 5 December 2014 to an unconnected party for £380,000 plus VAT.

Lloyds were owed £273,200.95 by the Company in relation to the mortgage and a business loan, together with £87,800.47 in relation to Cardnet services.

I received and agreed a final claim from Lloyds in the sum of £361,001.42. The validity of Lloyds mortgage was confirmed by Knox Insolvency Solicitors.

A distribution of £361,001.42 was made to Lloyds on 12 December 2014 from the proceeds of the Property sale, in full settlement of Lloyds claim against the Company.

The surplus funds were transferred into the Liquidation bank account on 12 December 2014.

Assets Not Specifically Pledged

In addition to the property sale detailed above, there was also a sale of fixtures and fittings, consisting of a mezzanine flooring structure contained within the Property. This was sold to the purchaser of the Property for £20,000 plus VAT, this purchase was completed together with the sale of the Property.

The Director's Estimated Statement of Affairs disclosed cash held by agents of £1,020, this related to a pre-appointment sale of the Company's website and domain names to connected party Oyster Clay Limited. Michael Steel & Co, agents and valuers ("the Agents") based in Leeds were instructed by the Director to value these assets and complete the sale prior to Liquidation.

In addition the Director's Estimated Statement of Affairs also disclosed additional fixtures and fittings with an estimated to realise value of £2,000. These assets were professionally valued by the Agents. An offer of £200 was received from the connected party Oyster Clay Limited and accepted on the advice of the Agents.

In accordance with the provisions of Statement of Insolvency Practice 13, as the sale of the Company's assets involved a connected party, I am required to provide the following information

Date of the transaction	17 June 2014
Details of assets sold	Office furniture and business equipment
Nature of the transaction	Sale by private treaty
Consideration	£200 plus VAT
Name of the counterparty	Oyster Clay Limited, Alison Beaumont is the sole director and shareholder
Counterparty's relationship to vendor	Alison Beaumont was an employee of the Company, the former company secretary and wife of the director and shareholder Darren John Beaumont

I am not aware whether Oyster Clay Limited was independently advised

The Director's Estimated Statement of Affairs also disclosed stock with an estimated to realise value of £9,000. The stock was professionally valued by the Agents and sold to an unconnected party for £9,500 plus VAT.

Funds were received from the Agent in relation to the above assets on 24 July 2014

Preferential Creditors

The Director stated that the Company had estimated preferential claims in respect of potential employees' claims for arrears of wages and holiday pay in the sum of £6,167. To date, the Liquidator has not received any preferential claims.

Prescribed Part

The prescribed part is a proportion of floating charge assets set aside for non-preferential creditors pursuant to Section 176A of the Act. The prescribed part applies to floating charges created on or after 15 September 2003.

The Company's secured creditor Lloyds has been repaid in full under its fixed charge security. There are no other outstanding valid registered charges, as such the Prescribed Part, pursuant to Section 176A of the Insolvency Act 1986, does not apply.

Floating Charge Creditors

In the Director's Estimated Statement of Affairs the Director was shown as a secured creditor for £20,001 in relation to the Director's claims as an employee of the Company. A debenture was created on 16 July 2013 and registered on 29 July 2013 which created fixed and floating charges over the Company's assets.

I instructed Foreman & Co Solicitors to review the validity of this debenture. I have been advised that the debenture is invalid due to the timing of the debenture, being only 11 months prior to the Liquidation and that the purpose of the debenture was to provide security for monies loaned to the Company which had been repaid prior to the Liquidation, as such the Directors' claims as an employee of the Company are unsecured.

Non - Preferential Creditors

Non - preferential claims received to date total [£xxx], detailed as follows -

	No.	£ Per 'S of A'	No	£ Claims
Trade Creditors	200	358,978	56	279,323
Employees – Pay in Lieu of Notice and Redundancy	6	44,712	6	17,530
HM Revenue & Customs - VAT	1	13,599	1	21,549
HM Revenue & Customs – PAYE	1	1,722	1	8,376
TOTAL		419,011		326,778

Remuneration

A fee of £6,000 plus Vat and disbursements plus VAT was approved by the first meeting of creditors in respect of assisting in the preparation of the Statement of Affairs and preparing the report presented to the first meeting of creditors. The Liquidator has drawn this fee in full.

A fee of £6,000 plus Vat and disbursements plus VAT was approved by the first meeting of creditors in respect of convening the meeting of members and creditors. The Liquidator has drawn this fee in full.

At the first meeting of creditors, the creditors, having considered the explanatory note, "A Creditors' Guide to Liquidators Fees", resolved that, the Liquidator's fees be agreed on a time cost basis and that such remuneration be drawn on account as and when appropriate and that the Liquidator be reimbursed for any necessary disbursements incurred during the administration of the winding up, in accordance with MPH Recovery's "Fees and Disbursements in Liquidations" schedule, and in accordance with the provisions of SIP9 Category 1 and 2 disbursements, and that such disbursements be drawn on account as and when appropriate

A summary of my Liquidator's time costs for the period 3 June 2014 to 2 June 2015 is attached at Appendix II

A total of 82 70 hours have been spent on this assignment, for the above period, totalling £28,386 00, at an average hourly rate of £343 24. No remuneration has been drawn in this regard to the date of this report

A summary of the work carried out from the date of my appointment has included

- Preparation of standard documents in accordance with the Insolvency Act 1986 and in accordance with recommended best practice,
- Dealing with all statutory matters associated with my appointment,
- Realisation of the Company's assets,
- Agreeing the claims of the secured creditor and distributing funds,
- Investigations into the Company's dealings and that of its officers,
- Preparation of statutory Progress Reports and other administrative matters,
- Circularising Reports and corresponding with creditors to ascertain claims,
- Office holder file reviews,
- Taxation and VAT issues

Liquidator's Disbursements

A summary of MPH Recovery's disbursements, Category 1 and Category 2, both pre and post appointment, for the period to 2 June 2015, is detailed below -

Disbursement	Payee	Amount incurred (£)	
		Pre	Post
Statutory Advertising		85 00	
Creditor Circulars		1,608 00	1,608 00
Travel and Accommodation		362 50	360 00
Meeting Room Hire		180 00	150 00
Specific Bond			450 00
Subsistence			10 96
Specific Postage			6 40
Total		2,235.50	2,585.36

To the date of this report, I have drawn £2,235 50 in relation to pre-appointment disbursements. No post appointment disbursements have been drawn.

A schedule of MPH Recovery's fees and disbursements in Liquidations for 2015 is attached at Appendix III. Scale rates are reviewed periodically and may increase from time to time over the period of administration on each insolvency case. There has been no increase during the Liquidation.

A creditors' guide to fees is attached at Appendix IV.

In accordance with Rule 4.49E of the Insolvency Rules 1986 as amended, creditors and members have the right to request that the liquidator provides further information about his remuneration and expenses incurred during the period of the administration of the liquidation. The request must be made in writing, within 21 days of receipt of this report, and can be made by, a secured creditor, an unsecured creditor with the concurrence of at least 5% in value of the unsecured creditors or with permission of the Court. Furthermore, in accordance with Rule 4.131 of the Insolvency Rules 1986 as amended, creditors have the right to challenge the Liquidator's remuneration and expenses by application to the Court within 8 weeks of receiving this report.

Other Professionals / Agents Employed

As Liquidator I have employed the following professionals, a summary of their fees for the duration of the Liquidation, is detailed below -

Professionals		Basis of fee	Paid (£)
Edward Hughes Solicitors	Legal Fees	Time Costs	800 01
Edward Hughes Solicitors	Legal Disbursements	Incurred	824 00
Knox Insolvency Solicitors	Legal Fees	Time Costs	6,270 00
Legat Owen	Agents/Valuers Fees	1 25% of realisations	5,000 00
Legat Owen	Agents/Valuers Disbursements	Incurred	297 00
Michael Steel & Co	Agents/Valuers Fees	Time Costs	2,500 00
Michael Steel & Co	Agents/Valuers Disbursements	Incurred	300 00
Foreman & Co Solicitors	Legal Fees	Time cost	Nil
Total			15,991 01

Edward Hughes Solicitors were instructed to complete the sale of the Property

Knox Insolvency Solicitors were instructed to review the security held by Lloyds and to advise on general matters, their time costs are split £4,867 50 and £1,402 50 respectively

Legat Owen were instructed to assist in the sale of the Property, their fees were based on a percentage of the realisation, this included the realisation of the mezzanine flooring structure contained within the Property

Michael Steel & Co were instructed to assist in the sale of the Company's fixtures and fittings and stock

Foreman & Co Solicitors were instructed to review the validity of the Director's debenture

I consider the above to be firms of repute with the appropriate expertise in their respective fields. My experience of working with them indicates that their charge out rates and internal delegation results in charges which are cost effective for this kind of work.

Dividend Prospects

I regret to advise, that there has been insufficient asset realisations to enable a dividend payment to preferential or unsecured creditors.

Notice of No Dividend or Notice of No Further, dividend

--- In accordance with Rule 11.7(b) of the Insolvency Rules 1986 as amended, Notice is hereby given that the funds realised have already been distributed or used or allocated for defraying the expenses of administration and that no --- dividend will be declared in this liquidation.

Company Directors Disqualification Act 1986

As Liquidator, I have a duty to investigate generally the affairs of an insolvent company and to consider the conduct of the Company's directors and to make an appropriate submission to the Department for Business Innovation & Skills. I confirm that I have discharged my duties in these respects.

Yours faithfully



Martin P. Halligan
Liquidator

**Beech Holdings Limited t/a Fireplace Megastore
(In Liquidation)**

**Liquidator's Abstract Of Receipts And Payments
To 02 June 2015**

RECEIPTS	Statement of Affairs (£)	Total (£)
Freehold Land & Property	360,000 00	380,000 00
Fixtures & Fittings	2,000 00	20,200 00
Stock	9,000 00	9,500 00
Cash with Agents	1,020 00	1,020 00
Bank Interest Gross		42 11
		<hr/>
		410,762 11
		<hr/>
PAYMENTS		
Legal Fees		5,667 51
Legal Disbursement		824 00
Agents/Valuers Fees		5,000 00
Agents/Valuers Disbursements		297 00
Insurance of Assets		2,641 85
Lloyds Banking Group	(362,864 00)	361,001 42
Mr D J Beaumont	(20,001 00)	0 00
Specific Bond		360 00
Pre Appointment Disbursements		2,235 50
Section 98 Fee		6,000 00
Statement of Affairs Fee		6,000 00
Agents/Valuers Fees		2,500 00
Agents/Valuers Disbursements		300 00
Legal Fees		1,402 50
Employee Arrears/Hol Pay	(6,166 50)	0 00
Trade & Expense Creditors	(358,927 55)	0 00
Employees	(44,712 34)	0 00
HM Revenue & Customs - PAYE / NIC	(1,772 00)	0 00
HM Revenue & Customs - VAT	(13,599 00)	0 00
Ordinary Shareholders	(1,000 00)	0 00
		<hr/>
		394,229 78
		<hr/>
Net Receipts/(Payments)		16,532 33
		<hr/>

MADE UP AS FOLLOWS

Svenska Handelsbanken AB (publ)	14,885 23
VAT Receivable / (Payable)	1,647 10
	<hr/>
	16,532 33
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Martin Halligan
Liquidator

**Beech Holdings Limited t/a Fireplace Megastore
(In Liquidation)**

**Liquidator's Abstract Of Receipts And Payments
To 02 June 2015**

	Fixed Charge £	Floating Charge £	Total £
RECEIPTS			
Freehold Land & Property	380,000 00		380,000 00
Fixtures & Fittings		20,200 00	20,200 00
Stock		9,500 00	9,500 00
Cash with Agents		1,020 00	1,020 00
Bank Interest Gross		42 11	42 11
	380,000.00	30,762.11	410,762.11
PAYMENTS			
Legal Fees	5,667 51		5,667 51
Legal Disbursement	824 00		824 00
Agents/Valuers Fees	5,000 00		5,000 00
Agents/Valuers Disbursements	297 00		297 00
Insurance of Assets	2,641 85		2,641 85
Lloyds Banking Group	361,001 42		361,001 42
Specific Bond		360 00	360 00
Pre Appointment Disbursements		2,235 50	2,235 50
Section 98 Fee		6,000 00	6,000 00
Statement of Affairs Fee		6,000 00	6,000 00
Agents/Valuers Fees		2,500 00	2,500 00
Agents/Valuers Disbursements		300 00	300 00
Legal Fees		1,402 50	1,402 50
Vat Receivable		1,647 10	1,647 10
	375,431 78	20,445.10	395,876.88
Balances in Hand	4,568.22	10,317.01	14,885.23
	380,000.00	30,762.11	410,762.11

Time Entry - SIP9 Time & Cost Summary

0210 - Beech Holdings Limited t/a Fireplace Megastore
All Post Appointment Project Codes
From 03/06/2014 To 02/06/2015

Classification of Work Function	Partner	Manager	Other Senior Professionals	Assistants & Support Staff	Total Hours	Time Cost (£)	Average Hourly Rate (£)
Admin & Planning	3 10	4 30	12 00	0 50	19 90	6 375 00	320 35
Creditors	0 20	14 40	3 80	0 00	18 40	6 241 00	339 18
Investigations	1 40	4 20	2 00	0 00	7 60	2 620 00	344 74
Meeting Reports & Reviews	2 30	2 30	0 00	0 00	4 60	1 725 00	375 00
Pre Appointment	0 00	0 00	0 00	0 00	0 00	0 00	0 00
Realisation of Assets	8 60	18 60	1 40	0 00	28 60	10 363 00	362 34
Taxation	0 00	0 00	3 60	0 00	3 60	1 062 00	295 00
Total Hours	15 60	43 80	22 80	0 50	82 70	28,366 00	343 24
Total Fees Claimed						0 00	
Total Disbursements Claimed						0 00	

FEES AND DISBURSEMENTS IN LIQUIDATIONS 2015**Fees**

The fees of the Liquidator are fixed by reference to time properly spent by the Liquidator and his staff in attending to all matters arising in the liquidation unless otherwise agreed with the creditors. The liquidator and his staff charge time to all insolvency cases in units of 6 minutes. Charge Out Rates are subject to annual review.

Charge Out Rates (Per Hour)

Staff Grade	Rate Per Hour
	£
Director	400
Manager	350
Administrator	295
Assistant	180

Standard Activity (Examples of Work)

Investigations/ Realisations/Taxation/Reports /Admin/Planning/Creditors/Claims

Disbursements

In dealing with the liquidation, the Liquidator will incur specific expenses and disbursements that are recoverable from the assets available in the liquidation in accordance with Rule 4.218 of the Insolvency Rules. These are referred to as Category 1 disbursements (Creditor approval not required). In addition to specific out of pocket expenditure, the Liquidator will also recover shared or allocated costs of an incidental nature directly incurred on the case. These are referred to as Category 2 disbursements (Creditor approval required).

Where no specific provision is made, other expenses and disbursements, Category 1 and 2, are recovered as follows:

Expense Type	Basis of Charge
Internal Room Hire (for each statutory meeting of creditors)	£175 per meeting
Mileage	75p per mile
Search costs	At Cost
Storage of books and records	At Cost
Creditor circulars/notification (incl stationery, printing, postage and telephone charges)	£8 for every creditor and contributory (per circular/notification)

Where funds permit, a charge for storage of boxes for 12 months after closure of the liquidation is made to cover storage costs until such time as destruction of the records is permitted.

Should any creditor require further information in respect of fees or expenses, then please contact the Liquidator, at the above address.

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
- 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.

6.4 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 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.

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 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.

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 creditors 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