

**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

00967104

Name of Company

Marthon Limited (formerly Cosalt Holiday Homes Limited)

**I/ We**Paul Andrew Whitwam  
8 Park Place  
Leeds  
LS1 2RUGary Edgar Blackburn  
8 Park Place  
Leeds  
LS1 2RUthe 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 06/04/2012 to 05/04/2013

Signed



S.A. Whitwam

Date

5 4.13

BWC Business Solutions LLP  
8 Park Place  
Leeds  
LS1 2RU

Ref M059/PAW/GEB/PRS/RM/MM

SATURDAY



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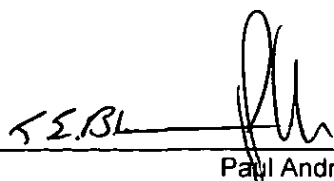
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COMPANIES HOUSE

**Marthon Limited (formerly Cosalt Holiday Homes Limited)**  
**(In Liquidation)**  
**Joint Liquidators' Abstract of Receipts & Payments**

Statement of Affairs		From 06/04/2012 To 05/04/2013	From 06/04/2010 To 05/04/2013
	<b>ASSET REALISATIONS</b>		
	Rates Refund	NIL	376 66
Uncertain	Book Debts	NIL	52,143 88
59,712 00	Cash at Bank	NIL	59,689 34
Uncertain	Inter Company - Inhoco 3485 Limited	NIL	3,000 00
	Sundry refund	NIL	1,400 00
	Bank Interest Gross	14 71	79 83
	Miscellaneous	NIL	13 16
		<u>14 71</u>	<u>116,702 87</u>
	<b>COST OF REALISATIONS</b>		
	Specific Bond	NIL	613 50
	Preparation of S of A	1,000 00	3,500 00
	Office Holders Fees	NIL	60,000 00
	Creditors' Meeting Costs	1,000 00	3,500 00
	Legal Fees	NIL	19,608 03
	Legal Disbursements	NIL	172 00
	Corporation Tax	7 72	13 02
	Stationery & Postage & Printing	NIL	72 82
	Storage Costs	NIL	240 00
	Statutory Advertising	NIL	279 00
		<u>(2,007 72)</u>	<u>(87,998 37)</u>
	<b>UNSECURED CREDITORS</b>		
(175,452 00)	Trade & Expense Creditors	NIL	NIL
(100,000 00)	Cosalt plc	NIL	NIL
(1 00)	HMRC - VAT	NIL	NIL
(1 00)	HMRC - CT	NIL	NIL
(1 00)	HMRC - PAYE	NIL	NIL
		<u>NIL</u>	<u>NIL</u>
	<b>DISTRIBUTIONS</b>		
(19,715,995 00)	Ordinary Shareholders	<u>NIL</u>	<u>NIL</u>
		NIL	NIL
<b>(19,931,738.00)</b>		<b><u>(1,993.01)</u></b>	<b><u>28,704.50</u></b>
	<b>REPRESENTED BY</b>		
	Vat Receivable		400 00
	Bank 2 Current		28,304 50
			<u><b>28,704.50</b></u>

  
 Paul Andrew Whitwam  
 Joint Liquidator

Our Ref PAW/PRS/RM/M059/7  
Your Ref  
When Calling Please Ask For Richard Marchinton

Registrar of Companies  
Companies House  
Crown Way  
Mandy  
Cardiff  
CF14 3UZ

25 April 2013

Dear Sirs

**MARTHON LIMITED (FORMERLY COSALT HOLIDAY HOMES LIMITED)**  
**("the Company") - IN LIQUIDATION**  
**COMPANY REGISTRATION NUMBER: 00967104**

I refer to my appointment as Joint Liquidator of the Company on 6 April 2010 and have pleasure in submitting a copy of my annual progress report.

The Company's registered office was changed to 8 Park Place, Leeds, LS1 2RU following the appointment of the Joint Liquidator

#### **RECEIPTS AND PAYMENTS ACCOUNT**

A copy of the Liquidators' receipts and payments account for the period 6 April 2012 to 5 April 2013 is attached at Appendix I.

The Liquidator banked company funds with an authorised clearing bank and therefore on this occasion there is no account held by the Secretary of State to reconcile his account with.

#### **ASSET REALISATIONS**

The Company's assets have been realised as set out in the table overleaf

8 Park Place, Leeds, LS1 2RU  
t 0113 243 3434 f 0113 243 5049 [www.bwc-solutions.com](http://www.bwc-solutions.com) e [bwc@bwc-solutions.com](mailto:bwc@bwc-solutions.com)

BWC is the trading name of BWC Business Solutions LLP, ('the Partnership') and BWC Business Solutions (Yorkshire) Limited, ('the Company'). The Partnership and the Company are registered in England and Wales and the registered numbers are OC345372 and 5007904 respectively. The registered office of the Partnership and Company is 8 Park Place, Leeds, LS1 2RU. The VAT Registration Numbers of the Partnership and the Company are GB 971 0156 36 and GB 836 5118 25 respectively. The Members of the Partnership are licensed as Insolvency Practitioners by the Insolvency Practitioners Association and by the Association of Chartered Certified Accountants. The Directors of the Company are licensed as Insolvency Practitioners by the Insolvency Practitioners Association. Members and Directors acting as Administrators contract as agents of the company over which they are appointed and without personal liability.

Offices also at: Dakota House, 25 Falcon Court, Preston Farm Business Park, Stockton on Tees, TS18 3TX t 01642 608588 f 01642 688063 and Copthall Bridge House, Station Bridge, Harrogate, HG1 1SP t 01423 790152 f 01423 790296

<i>Asset Realisations</i>	<i>Estimated to Realise</i>	<i>Realised</i>
	£	£
Book Debts	Uncertain	52,144
Cash at Bank	59,712	59,689
Inhoco 3485 Limited	Uncertain	3,000
Bank Interest	-	80
Miscellaneous	-	13
Rates Refund	-	377
Sundry Refund	-	1,400
<b>Totals</b>	<b>59,712</b>	<b>116,703</b>

With the exception of accruing Bank Interest, no assets have been realised during the reporting period. All asset realisations to date are disclosed in the attached receipts and payments account and are self explanatory or have been explained in previous progress reports.

## INVESTIGATIONS

The Liquidators' investigations into the Company's affairs have not revealed any potential recoveries that would be of benefit to creditors.

The Liquidators are currently assisting the Company's insurers with a number of injury claims from former employees. These investigations are currently ongoing and are preventing the closure of this case.

The Liquidators are required to submit a 'Report on the Conduct of Directors' to the Department of Trade and Industry covering all directors who have served in the three years prior to their appointment. This report has been duly submitted. The contents of the report cannot be disclosed to creditors.

## SHARE OF ASSETS FOR UNSECURED CREDITORS ("PRESCRIBED PART")

In accordance with Section 176A of the Insolvency Act 1986 where the Company has granted a floating charge after 15 September 2003, a proportion of the funds subject to the floating charge are set aside for the benefit of the unsecured creditors.

This is calculated as being 50% of the first £10,000 of net property and 20% of net property thereafter subject to a maximum fund of £600,000. Net property is defined as being the realisations from assets subject to the floating charge after costs and after settlement of the preferential creditors' claims.

As reported previously, there is no debt due to the holder of the floating charge over the Company's assets and accordingly there will be no "Prescribed Part" payable to unsecured creditors pursuant to Section 176A (2) Insolvency Act 1986.

## DIVIDEND DISTRIBUTION

### Summary

A summary of creditors' claims received in this matter is set out in the table below.

<i>Creditor Claims</i>	<i>Per Statement Of Affairs</i>	<i>Claims Received</i>
	£	£
H M Revenue & Customs - VAT	1	200,860
H M Revenue & Customs - PAYE/NIC	1	-
H M Revenue & Customs - Corporation Tax	1	-
Cosalt PLC	100,000	100,000
Trade Creditors	175,452	109,106
<b>Total</b>	<b>275,455</b>	<b>409,966</b>

### Preferential Creditors

There are no preferential claims in the liquidation.

### Unsecured Creditors

The Liquidators write to advise creditors that no distribution will be paid to the Company's unsecured creditors. No time costs have been incurred by the Joint Liquidators in agreeing the unsecured creditors' claims.

## LIQUIDATION COSTS

### Basis of Liquidators' Remuneration

A Creditors' Guide to Liquidator's remuneration, together with a Statement of Creditors Rights, was sent to all creditors with the papers giving notice of the meetings to place the Company into liquidation.

The first meeting of creditors held on 6 April 2010 resolved that the Joint Liquidators be authorised to draw fees on account on a time cost basis according to the complexity of the work undertaken, at BWC's standard charging rates, in accordance with Statement of Insolvency Practice No 9.

In common with all professional firms, our scale rates increase from time to time over the period of the administration of each insolvency case. Our scale rates were increased with effect from 1 May 2012. Full details of the increases are detailed at Section 6.1.5 in the Creditors Guide to Fees and Statement of Creditors Rights attached at Appendix III of this report.

The Liquidators' total time costs to 31 March 2013 in dealing with the liquidation amount to £102,221.25, which equates to 398 hours at an average charge out rate of £256.84.

Liquidators' fees of £60,000 have been drawn in respect of time spent in accordance with the resolution passed at the first meeting of creditors. No fees have been drawn since the Liquidators' previous progress report. The average recovery rate to 5 April 2013 has been £150.75 per hour

A detailed time summary is attached at Appendix II to this report.

#### **Statement of Expenses Incurred by the Convening Accountant**

Fees on account of £3,500 and £3,500 have been drawn in respect of assisting the directors in the preparation of the Statement of Affairs and the report presented to the first meeting of creditors, and in convening the meeting of members and creditors respectively following approval of the same by the first meeting of creditors also on 6 April 2011

#### **Statement of Expenses Incurred by the Liquidator**

Liquidators' disbursements in respect of statutory advertising and insurance have been paid and are reflected in the Receipts & Payments Account attached at Appendix I. Additionally, transport and storage charges of £240 incurred by the Liquidators by moving & storing the Company's records have been paid.

No 'Category 2' disbursements have been drawn by the Joint Liquidator.

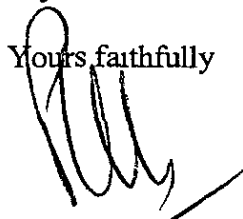
As previously reported, the Liquidators have been assisted by Clarion Solicitors Limited ("the Solicitors"), who have been paid £19,608 for their assistance in collecting the Company's outstanding book debts since the appointment of the Liquidators.

Significant work was anticipated to substantiate one particular debtor for £56,077, and as the prospects of recovering this balance were uncertain, it was agreed that the Solicitors would be paid 25% of any realisation made on this account. The Solicitors eventually agreed a settlement of £50,687 and were paid £12,671.75 plus VAT accordingly. This payment is included in the £19,608 referred to above. The Solicitors were paid on a time costs basis for the remaining work undertaken.

#### **CONCLUSION**

I trust that this report is sufficient for your present purposes; however, should you require any further information, please do not hesitate to contact Richard Marchunton.

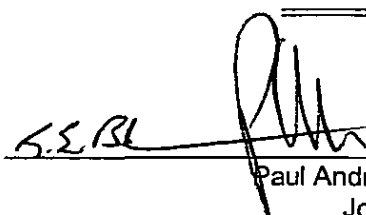
Yours faithfully



**PAUL A WHITWAM**  
Joint Liquidator

**Marthon Limited (formerly Cosalt Holiday Homes Limited)**  
**(In Liquidation)**  
**Joint Liquidators' Abstract of Receipts & Payments**

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<b>REPRESENTED BY</b>			
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	Bank 2 Current		28,304 50
			<u>28,704.50</u>

  
 Paul Andrew Whitwam  
 Joint Liquidator

# APPENDIX II

## MARTHON LIMITED – IN LIQUIDATION

### LIQUIDATORS' TIME COSTS AS AT 31<sup>ST</sup> MARCH 2013

Notes		Partner Hours £340 - £310	Senior Manager / Manager Hours £275 - £200	Admin / Clerical Hours £190 - £75	Total Hours	Average Cost Per Hour £	Total Cost B/F from 31/3/12 £	Costs Incurred 1/4/12 - 31-3-13 £
1	Admin & Compliance	78 00	12 75	39 00	129 75	259 97	24,596 25	9,135 00
2	Planning & Control	81 00	-	-	81 00	317.04	19,220 00	6,460 00
3	Fixed Charge Assets	2 00	-	-	2 00	310 00	620 00	-
4	Floating Charge Assets	20 00	2 00	-	22 00	303 41	6,400 00	-
5	Trading	-	-	-	-	-	-	-
6	Debt Collection	20 00	3 50	9 75	33 25	253 76	8,437 50	-
7	Creditors	-	1 00	52 75	53 75	153 95	6,887 50	1,387 50
8	Employees	-	-	-	-	-	-	-
9	Meetings & Statutory Duties	-	-	4 75	4 75	150 00	712 50	-
10	Reports & Statutory Returns	16 00	-	7 50	23 50	266 91	4,960 00	1,312 50
11	Investigations	28 00	0 50	19 50	48 00	246 20	11,030 00	-
	Total Post Appointment Time	245.00	19.75	133 25	398.00	256.84	82,863.75	19,357.50



## APPENDIX II (Cont)

### Explanation of Work Classifications

Notes		
1	Admin & Compliance	Includes Maintenance of cash and estate records, general correspondence, compliance, review of case files
2	Planning & Control	Includes Case planning/strategy/trading strategy
3	Fixed Charge Assets	Includes Dealing with various actions affecting the disposal of charged assets including sales pack, meetings with potential purchasers
4	Floating Charge Assets	Includes Dealing with various actions affecting the motor vehicles, plant, machinery and office equipment
5	Trading	Includes Disposal of work in progress/ stock and general continuation of the business
6	Debt Collection	Includes Correspondence with debtors, collection of outstanding debts, maintaining debtor records
7	Creditors	Includes Dealing with preferential and unsecured creditors claims
8	Employees	Includes Employee claims (preferential and unsecured), pension matters
9	Meetings & Statutory Duties	Includes Appointment formalities, meetings of creditors
10	Reports & Statutory Returns	Preparation of creditors reports, directors conduct reports, statutory returns submitted to Companies House.
11	Investigations	Includes Investigation work.



CORPORATE RECOVERY AND INSOLVENCY

## **LIQUIDATION - A CREDITORS' GUIDE TO FEES AND STATEMENT OF CREDITORS' RIGHTS**

### **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 and 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 a member of The Insolvency Service, an executive agency within the Department of Trade and Industry. 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 for Trade and Industry. 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 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 six 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 Rule 4.127 - 4.127B of the Insolvency Rules 1986. The Rule states that the remuneration shall be fixed either:
- as a percentage of the value of the assets which are realised or distributed or both, or

- by reference to the time properly given by the liquidator and his staff in attending to matters arising in the insolvency, or
- as a set amount.

Any combination of these bases may be used to fix remuneration, and different bases may be used for different things done by the liquidator. Where 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 the remuneration is to be fixed, and if it is to be fixed as a percentage, to fix the percentage 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 the committee would. 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 make an informed judgement as to whether the basis sought is appropriate, having regard to all the circumstances of the case. The nature and extent of the information provided will depend on the stage during the conduct of the case at which approval is being sought. Section 12 of this guide sets out a suggested format for the provision of information.

6.1.2 If any part of the remuneration is sought on a time costs basis, the liquidator should provide details of the minimum time units used and current charge out rates, split by grades of staff, of those people who have been or are likely to be involved in the time costs aspects of the case.

6.1.3 The liquidator should also provide details and the cost of any work that has been or is intended to be sub-contracted out that could otherwise be carried out by the liquidator or his staff.

6.1.4 If work has already been carried out, the liquidator should state the proposed charge for the period to date and provide an explanation of what has been achieved in the period and how it was achieved, sufficient to enable the progress of the case to be assessed and whether the proposed charge is reasonable in the circumstance so the case. Where the proposed charge is calculated on a time costs basis, the liquidator should disclose the time spent and the average charge out rates, in larger cases split by grades of staff and analysed by appropriate activity. The liquidator should also provide details and the cost of any work that has been sub-contracted out that could otherwise be carried out by the liquidator or his staff.

6.1.5 Details of the charge out rates of staff employed by BWC Business Solutions LLP with effect from 1 May 2012 and previous periods are as detailed over the page.

<i>Staff Grade</i>	<i>1st November 2006 - 31st March 2009</i>	<i>1st April 2009 - 30th April 2012</i>	<i>1st May 2012 Onwards</i>
	<i>£/hr</i>	<i>£/hr</i>	<i>£/hr</i>
Partner	285	310	340
Senior Manager	N/A	250	275
Manager	175	200	220
Assistant Manager	150	175	190
Senior Administrator	110	150	175
Case Administrator	110	150	165
Cashiering	110	150	175
Clerical	50	75	80

## 6.2 After the bases of Remuneration have been Fixed

The liquidator is required to send progress reports to creditors at specified intervals (see paragraph 7.1 below). When reporting periodically to creditors, in addition to the matters specified in paragraph 7.1, the liquidator should provide an explanation of what has been achieved in the period under review and how it was achieved, sufficient to enable the progress of the case to be assessed. Creditors should be able to understand whether the remuneration charged is reasonable in the circumstances of the case (whilst recognising that the liquidator must fulfil certain statutory obligations and regulatory requirements that might be perceived as bringing no added value for the estate). Where any remuneration is on a time costs basis, the liquidator should disclose the charge in respect of the period, the time spent and the average charge out rates, in larger cases split by grades of staff and analysed by appropriate activity. If there have been any changes to the charge out rates during the period under review, rates should be disclosed by grades of staff, split by the period applicable. The liquidator should also provide details and the cost of any work that has been sub-contracted out that could otherwise be carried out by the liquidator or his staff.

## 6.3 Disbursements and Other Expenses

6.3.1 Costs met by and reimbursed to the liquidator in connection with the liquidation should be appropriate and reasonable. Such costs will fall into two categories -

- **Category 1 disbursements** These are costs where there is specific expenditure directly referable both to the liquidation and a payment to an independent third party. These may include, for example, advertising, room hire, storage, postage, telephone charges, travel expenses and equivalent costs reimbursed to the liquidator or his staff.
- **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 can be allocated to the liquidation on a proper and reasonable basis, for example, business mileage.

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 may be drawn if they have been approved in the same manner as the Liquidator's remuneration. The following items of expenditure may be charged to the case (subject to creditors' approval)

- Internal meeting room usage for the purpose of statutory meetings is charged at the rate of £100 per meeting.
- Car mileage is charged at the rate of 45 pence per mile.
- Printing/Photocopying is charged at the rate of 10 pence per page.
- Storage of books and records (when not chargeable as a Category 1 expense) is charged at the rate of £5 per storage box per annum.
- Destruction of books and records (when not chargeable as a Category 1 expense) is charged at the rate of £3 per box.
- Postage will be charged at the rate of 50 pence for small envelopes and £1.00 for large envelopes (to cover the costs of postage and envelopes).

6.3.2 The following are not permissible -

- A charge calculated as a percentage of remuneration.
- An administration fee or charge additional to the liquidator's remuneration.

- Recovery of basis overhead costs such as office and equipment rental, depreciation and finance charges

#### 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), and 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 Pursuant to Rule 4.49E Insolvency Rules 1986, 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 expense 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 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 Pursuant to Rule 4.131 Insolvency Rules 1986, application may be made to the court by any secured creditor, or by any unsecured creditor, provided at least 10% 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 application 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 the scale laid down for the official receivers. 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 or 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 Provision of Information

12.1 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.

12.2 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 liquidators 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 sub-contracting 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 sub-contractors, 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

12.3 Where any part of the remuneration is or is proposed to be calculated on a time costs basis, request 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. It is the firm's policy to record time in units of not greater than 15 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 | • Trading                         |
| • Investigations              | • Creditors                       |
| • Realisation of assets       | • Any other case-specific matters |

The following categories are suggested as a basis for analysis by grade of staff

- |           |                                |
|-----------|--------------------------------|
| • Partner | • Other senior professionals   |
| • Manager | • 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, and are expected to be, between £10,000 and £50,000, a time and charge out summary similar to that show 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

### **13 Effective Date**

This guide applies where a company goes into liquidation on or after 1 November 2011