

# 2.24B

The Insolvency Act 1986

## Administrator's progress report

Name of Company Domain Dynamics Limited	Company number 02454759
In the Stoke on Trent Combined Court (full name of court)	Court case number 45

(a) Insert full name(s) and address(es) of administrator(s)

I/We (a)  
Robert Michael Young  
Poppleton & Appleby  
The Old Barn  
Caverswall Lane  
Stoke on Trent  
Staffordshire, ST3 6HP

Ian Michael Rose  
Poppleton & Appleby  
The Old Barn  
Caverswall Lane  
Stoke on Trent  
Staffordshire, ST3 6HP

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

From (b) 7 April 2004	To (b) 07 October 2004
--------------------------	---------------------------

Signed

Joint / Administrator(s)

Dated

29 October 2004

### Contact Details:

You do not have to give any contact information in the box opposite but if you do, it will help Companies House to contact you if there is a query on the form.

The contact information that you give will be visible to searchers of the public record

Robert Michael Young  
Poppleton & Appleby  
The Old Barn  
Caverswall Lane  
Stoke on Trent  
Staffordshire, ST3 6HP

DX Number

01782 382930  
DX Exchange



When you have completed and signed this form, please send it to the Registrar of Companies at:-  
**Companies House, Crown Way, Cardiff CF14 3UZ DX 33050 Cardiff**

TO ALL KNOWN CREDITORS



ESTABLISHED 1885

POPPLETON  
& APPLEBY

Brampton House Mews, 10 Queen Street  
Newcastle under Lyme, Staffordshire ST5 1ED

Telephone: 01782 382930

Fax: 01782 382931

Email: [info@pandastoke.co.uk](mailto:info@pandastoke.co.uk)

Website: [www.pandastoke.co.uk](http://www.pandastoke.co.uk)

Our Ref: JO/D1A/040871

Your Ref:

Date: 25 August 2004

Dear Sirs

**DOMAIN DYNAMICS LIMITED**

**In Liquidation**

Further to my letter dated 4 May 2004, I can now confirm that we have concluded the Administration proceedings. A notice to appoint my partner Mr R M Young and myself as Joint Liquidators has been filed at Court and with the Registrar of Companies, a copy of the notice is enclosed for your reference. Our final report is as follows:

**Trading**

The Company ceased to trade on the date of appointment of the Joint Administrators.

**Cash at Bank**

The sum of £61,400.58 has been received in respect of the funds held by the Company with National Westminster Bank Plc.

**Intellectual Property**

The intellectual property of the Company was sold to Intellect Limited and Equivox Limited on 7 October 2003. Concerns have been raised over the amount of consideration paid for the intellectual property and this issue has been investigated by the Joint Administrators and will continue to be investigated by the Joint Liquidators. Both Intellect Limited and Equivox Limited were placed into Creditors Voluntary Liquidation on 23 July 2004 and Mr R M Young and myself were appointed Joint Liquidators.

A sale of the intellectual property is being sought by the Joint Liquidators of Equivox Limited and Intellect Limited, and should any question of apportionment of the monies realised become an issue the Joint liquidators will apply to Court for directions as to how the monies should be apportioned between the companies concerned.

A breakdown of the time costs of the Joint Administrators incurred to date are attached, they show total time costs incurred to date of £48,438.10 and are in respect of 523.27 chargeable hours and average charge out rate of £92.57 per hour. Also attached are details of the charge out rates and details of the disbursements charged by the Joint Administrators.

### Liquidation

As previously explained, as from today the Company is in Liquidation. The Joint Liquidators' details are as follows:

Mr R M Young and Mr I M Rose  
Poppleton & Appleby  
Brampton House Mews  
10 Queen Street  
Newcastle under Lyme  
Staffordshire, ST5 1ED

It is anticipated that the claims of the preferential creditors will be paid in full and that a dividend will be paid to the debenture holder, a proof of debt form is enclosed to enable creditors to lodge their claims with the Joint Liquidators.

The Joint Liquidators enclose a notice of a Creditors meeting to be held on 21 September 2004 at 11.00am at Poppleton & Appleby, The Old Barn, Caverswall Park, Caverswall Lane, Stoke on Trent, ST3 6HP. The purpose of the meeting is the forming of a Creditors' Committee and to approve the basis of the Joint Liquidators' remuneration, guidance notes in respect of the Liquidators remuneration are enclosed. A proxy form is enclosed, which should be returned to the above address together with any relevant documentation in support of your claim.

Should you have any queries concerning the contents of this report please contact my assistant John-Paul O'Hara.

Yours faithfully



I M Rose  
Joint Liquidator  
and former Joint Administrator

The Insolvency Act 1986

# Notice of move from administration to creditors' voluntary liquidation

# 2.34B

Name of Company

Domain Dynamics Limited

Company number

02454759

In the

Stoke on Trent

(full name of court)

Court case number

45 of 2003

(a) Insert full  
name(s) and  
address(es) of  
administrator(s)

I/We (a) Ian Michael Rose  
Poppleton & Appleby  
Brampton House Mews  
10 Queen Street  
Newcastle, Staffordshire, ST5 1ED

Robert Michael Young  
Poppleton & Appleby  
Brampton House Mews  
10 Queen Street  
Newcastle, Staffordshire, ST5 1ED

(b) Insert name and  
address of the  
registered office of  
company

having been appointed administrator(s) of (b) Domain Dynamics Limited  
c/o Poppleton & Appleby Brampton House Mews 10 Queen Street Newcastle, Staffordshire, ST5  
1ED

(c) Insert date of  
appointment

on (c) 8 October 2003

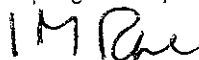
(d) Insert name of  
appointor/applicant  
(e) Insert name(s)  
and address(es) of  
liquidator(s)

by (d) Stoke on Trent  
hereby give notice that:

the provisions of paragraph 83(1) of Schedule B1 to the Insolvency Act 1986 apply, and it is  
proposed that (e) Robert Michael Young and Ian Michael Rose  
of Poppleton & Appleby, Brampton House Mews, 10 Queen Street,  
Newcastle under Lyme, Staffordshire, ST5 1ED  
will be the liquidator(s) of the company (IP No(s) 7875 and 9144 )

We attach a copy of the final progress report

Signed



Joint / Administrator(s)

Dated

25 August 2004

## Contact Details:

You do not have to give any contact information in the box opposite but if you do, it will help Companies House to contact you if there is a query on the form.

The contact information that you give will be visible to searchers of the public record

Ian Michael Rose  
Poppleton & Appleby, Brampton House Mews, 10 Queen Street  
Newcastle under Lyme, Staffordshire, ST5 1ED

DX Number

DX Exchange

Companies House receipt date barcode

When you have completed and signed this form, please send it to the  
Registrar of Companies at:-  
Companies House, Crown Way, Cardiff CF14 3UZ DX 33050 Cardiff

Domain Dynamics Limited  
(In Administration)  
Joint Administrator's Abstract of Receipts And Payments  
To 25/08/2004

	Total
	£
<b>RECEIPTS</b>	
Book Debts non Factored	149,079.51
Cash at Bank	61,400.58
Office Furniture & Equip	13,134.00
Tax Refund	350,402.34
Interest Gross	890.29
Sundry Refunds	69.52
Rates Refund	1,085.36
	<hr/> 576,061.60 <hr/>
 <b>PAYMENTS</b>	
Michael Eric Moors	360,000.00
Accountancy Fees	12,000.00
Solicitors Fees	160.00
Ex Gratia Payments	10,736.00
Agents Costs	1,600.00
Solicitors Fees	3,430.00
Statutory Advertising	123.16
Joint Administrators Expenses	615.00
Specific Bond	680.00
Bank Charges & Interest	48.04
Accountancy Fees	3,000.00
Wages	150.00
Stationery & Postage	43.20
Motor Expenses	546.80
Company Search	45.00
Room Hire	150.00
Joint Administrators Fees	40,000.00
Agents/Solicitors Expenses	95.00
VAT Input	10,808.86
	<hr/> 444,231.06 <hr/>
Balances In Hand	131,830.54
	<hr/> 576,061.60 <hr/>

# Poppleton & Appleby

## TIME & CHARGEOUT SUMMARIES

Domain Dynamics Limited

From 8 Oct 2003 to 25 Aug 2004

HOURS							
Classification Of work Function	Partner	Manager	Other Senior Professional	Assistants & Support Staff	Total Hours	Time Cost £	Average Hourly Rate £
Employees	14.00	4.50	121.50	0.00	140.00	11,735.83	83.83
Investigations	15.25	0.00	7.83	0.00	23.08	3,280.83	142.13
Realisation of Assets	14.50	2.00	24.52	0.00	41.02	4,424.09	107.86
Creditors	15.00	3.00	34.92	0.00	52.92	5,435.41	102.72
Administration & Planning	43.25	43.00	124.17	55.83	266.25	23,561.94	88.50
Total Time Cost £	17,070.00	5,775.00	22,637.00	2,956.10		48,438.10	
Total Hours	102.00	52.50	312.93	55.83	523.27		
Average Rate	167.35	110.00	72.97	52.95			92.57

## CATEGORY 2 DISBURSEMENTS

Type & Purpose			Amount £
09/10/2003	Car Parking (162)	parking close to Co premises	9.20
09/10/2003	Mileage (162)	Travel to company premises	90.00
13/10/2003	Mileage (162)	Travel from Co premises	90.00
13/10/2003	Car Parking (162)	Parking close to Co premises	9.20
12/11/2003	Bond (141)		680.00
09/10/2003	Mileage (162)	Initial visit to premises	90.00
09/10/2003	Car Parking (162)	Initial visit to premises	9.20
13/10/2003	Mileage (162)	Last visit to premises for books & records.	90.00
13/10/2003	Car Parking (162)	Last visit to premises for books & records.	9.20
24/11/2003	Mileage (162)	Visit to Shrivenham premises for books & rcds	150.00
07/05/2004	Set Up Charge (140)		615.00
07/05/2004	Company Search (164)		45.00
07/05/2004	Room Hire (P&A) (166)		150.00
			2,036.80

Rule 4.54, 4.108  
4.113, 4.114-  
CVL, 4.125,  
4.126-CVL

Form 4.22

## Notice to Creditors of Meeting of Creditors

Domain Dynamics Limited

A meeting of creditors of the above-named company has been summoned by the

(a) ~~[official receiver]~~ [liquidator]

(a) Delete as  
applicable

(b) Insert relevant  
section

(a) ~~[at the request of a creditor]~~, under section (b) 141 of the Insolvency Act 1986  
for the purpose of:-

forming a creditors committee and approving the basis of the Joint Liquidators'  
fees

The meeting will be held as follows:-

Date 21 September 2004

Time 11:00 am

Place Poppleton & Appleby, The Old Barn, Caverswall Park, Caverswall Lane,  
Stoke on Trent, ST3 6HP

(c) Insert date and  
time by which proxy  
is to be lodged which  
should be not more  
than 4 days before  
the date fixed for the  
meeting

A proxy form is enclosed which must be lodged with me not later than

20 September 2004

to entitle you to vote by proxy at the meeting (a) [together with a completed proof  
of debt form if you have not already lodged one].

Dated

25 August 2004

Signed

I M Rose

I M ROSE  
JOINT LIQUIDATOR  
Poppleton & Appleby  
Brampton House Mews  
10 Queen Street  
Newcastle under Lyme  
Staffordshire ST5 1ED

**NOTE:** Insert any further details which by the nature of the meeting need to be  
stated.

# **A CREDITORS' GUIDE TO ADMINISTRATORS' FEES**

## **ENGLAND AND WALES**

### **1 Introduction**

- 1.1 When a company goes into administration the costs of the proceedings are paid out of its assets. The creditors, who hope eventually to recover some of their debts out of the assets, therefore have a direct interest in the level of costs, and in particular the remuneration of the insolvency practitioner appointed to act as administrator. The insolvency legislation recognises this interest by providing mechanisms for creditors to determine the basis of the administrator's fees. This guide is intended to help creditors be aware of their rights under the legislation to approve and monitor fees and explains the basis on which fees are fixed.

### **2 The nature of administration**

- 2.1 Administration is a procedure which places a company under the control of an insolvency practitioner and the protection of the court with the following objective:

- rescuing the company as a going concern, or
- achieving a better result for the creditors as a whole than would be likely if the company were wound up without first being in administration,

or, if the administrator thinks neither of these objectives is reasonably practicable

- realising property in order to make a distribution to secured or preferential creditors.

### **3 The creditors' committee**

- 3.1 The creditors have the right to appoint a committee with a minimum of 3 and a maximum of 5 members. One of the functions of the committee is to determine the basis of the administrator's remuneration. The committee is normally established at the meeting of creditors which the administrator is required to hold within a maximum of 10 weeks from the beginning of the administration to consider his proposals. The administrator must call the first meeting of the committee within 6 weeks of its establishment, and subsequent meetings must be held either at specified dates agreed by the committee, or when a member of the committee asks for one, or when the administrator decides he needs to hold one. The committee has power to summon the administrator to attend before it and provide information about the exercise of his functions.

### **4 Fixing the administrator's fees**

- 4.1 The basis for fixing the administrator's remuneration is set out in Rule 2.106 of the Insolvency Rules 1986, which states that it shall be fixed either:

- as a percentage of the value of the property which the administrator has to deal with, or
- by reference to the time properly given by the administrator and his staff in attending to matters arising in the administration.

It is for the creditors' committee (if there is one) to determine on which of these bases the remuneration is to be fixed and, if it is fixed as a percentage fix the percentage to be applied. Rule 2.106 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 administrator;
- the effectiveness with which the administrator appears to be carrying out, or to have carried out, his duties;
- the value and nature of the property which the administrator has to deal with.

- 4.2 If there is no creditors' committee, or the committee does not make the requisite determination, the administrator's remuneration may be fixed by a resolution of a meeting of creditors having regard to the same matters as the committee would. If the remuneration is not fixed in any of these ways, it will be fixed by the court on application by the administrator.



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 administrator'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 administrator 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 sub-contractors, 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.

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

## **5.2 After fee approval**

Where a resolution fixing the basis of fees is passed at any creditors' meeting held before he has substantially completed his functions, the administrator should notify the creditors of the details of the resolution in his next report or circular to them. In all subsequent reports to creditors the administrator should specify the amount of remuneration he has drawn in accordance with the resolution. 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 5.1.3. Where the fee is charged on a percentage basis the administrator should provide the details set out in paragraph 5.1.4 above regarding work which has been sub-contracted out.

## **5.3 Expenses and disbursements**

There is no statutory requirement for the committee or the creditors to approve the drawing of expenses or disbursements. However, professional guidance issued to insolvency practitioners requires that, where the administrator 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 administrator'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 What if a creditor is dissatisfied?**

- 6.1 If a creditor believes that the administrator's remuneration is too high he may, if at least 25 per cent in value of the creditors (including himself) agree, apply to the court for an order that it be reduced. If the court does not dismiss the application (which it may if it considers that insufficient cause is shown) the applicant must give the administrator a copy of the application and supporting evidence at least 14 days before the hearing. Unless the court orders otherwise, the costs must be paid by the applicant and not as an expense of the administration.

**7 What if the administrator is dissatisfied?**

- 7.1 If the administrator considers that the remuneration fixed by the creditors' committee is insufficient he may request that it be increased by resolution of the creditors. If he considers that the remuneration fixed by the committee or the creditors is insufficient, he may apply to the court for it to be increased. If he decides to apply to the court he must give at least 14 days' notice to the members of the creditors' committee and the committee may nominate one or more of its members to appear or be represented on the application. If there is no committee, the administrator's notice of his application must be sent to such of the company's creditors as the court may direct, and they may nominate one or more of their number to appear or be represented. The court may order the costs to be paid as an expense of the administration.

**8 Other matters relating to fees**

- 8.1 Where there are joint administrators it is for them to agree between themselves how the remuneration payable should be apportioned. Any dispute arising between them may be referred to the court, the creditors' committee or a meeting of creditors.
- 8.2 If the administrator is a solicitor and employs his own firm to act on behalf of the company, profit costs may not be paid unless authorised by the creditors' committee, the creditors or the court.

## POPPLETON & APPLEBY POTTERIES

### Remuneration and Disbursement Schedule

#### Remuneration

A resolution will or has been proposed or approved authorising remuneration to be drawn on a time cost basis. Remuneration is fixed by reference to time properly spent by the Insolvency Practitioner(s) appointed and their staff in attending to all matters arising in the case. Time is charged to the case in actual hours and minutes and not in units. Charge out rates with effect from 1 November 2003 are as follows:

Senior Partner	£180 per hour	Case Administrator	£75 per hour
Partner	£150 per hour	Case Assistant	£45 per hour
Manager	£110 per hour	Cashier	£65 per hour
Assistant Manager	£95 per hour	Secretary	£45 per hour

#### Disbursements

Disbursements are charged as follows:

- Expenses cover all stationery, printing, postage and telephone charges, including notices to creditors and contributories of the first meeting of creditors and contributories, they are charged at £175 for a number of creditors and contributories not exceeding 25, £40 for every additional 10 creditors and contributories or part thereof. Where any subsequent or annual meeting of creditors and contributories is held the charge is £155 for a number of creditors and contributories not exceeding 25 and £20 for every additional 10 creditors and contributories or part thereof.
- Room hire, for each statutory meeting of creditors a charge of £150 per meeting is made. Should the meeting not be held at the offices of Poppleton & Appleby the actual cost of the room hire is charged.
- Mileage/motor expenses are charged at the rate of 75p per mile.
- Company search costs are charged at £45 per search.
- Travel and accommodation is charged as a simple reimbursement of the actual cost.
- Storage of books and records is charged at the rate of £5 per box per quarter.
- Statutory advertising is charged as a simple reimbursement of the actual cost.
- Specific Bond is charged as a simple reimbursement of the actual cost.
- All other disbursements are charge at cost.

#### Further Information

Should you require further clarification in respect of remuneration or disbursements, then please contact either Ian Rose or Bob Young.

Poppleton & Appleby, Brampton House Mews  
10 Queen Street, Newcastle under Lyme  
Staffordshire, ST5 1ED

Tel: 01782 382930  
Fax: 01782 382931  
Email: [info@pandastoke.co.uk](mailto:info@pandastoke.co.uk)

#### Note

Please note that charge out rates and disbursements are subject to periodic review and may be amended if considered appropriate.

# **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 and explains the basis on which fees are fixed.

### **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 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 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 3 months 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 fees**

- 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 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 liquidation.

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. If the remuneration is not fixed in any of these ways, it will be in accordance with a scale set out in the Rules.

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

### 5.1 When seeking fee approval

- 5.1.1 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.

- 5.1.2 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.

- 5.1.3 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.

- 5.1.4 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.

## 5.2 After fee 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. 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 5.1.3. Where the fee is charged on a percentage basis the liquidator should provide the details set out in paragraph 5.1.4 above regarding work which has been sub-contracted out.

## 5.3 Expenses and disbursements

There is no statutory requirement for the committee or the creditors to approve the drawing of expenses or disbursements. However, 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.

4.3 There are special rules about creditors' resolutions in cases where the administrator has stated in his proposals that the company has insufficient property to enable a distribution to be made to unsecured creditors except out of the reserved fund which may have to be set aside out of floating charge assets. In this case a resolution of the creditors shall be taken as passed if, and only if, passed with the approval of –

- each secured creditor of the company; or
- if the administrator has made or intends to make a distribution to preferential creditors –
  - each secured creditor of the company; and
  - preferential creditors whose debts amount to more than 50% of the preferential debts of the company, disregarding debts of any creditor who does not respond to an invitation to give or withhold approval.

Note that there is no requirement to hold a creditors' meeting in such cases unless a meeting is requisitioned by creditors whose debts amount to at least 10 per cent of the total debts of the company.

4.4 A resolution of creditors may be obtained by correspondence.

## 5 What information should be provided by the administrator?

### 5.1 When seeking fee approval

5.1.1 When seeking agreement to his fees the administrator 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.

5.1.2 Where, at any creditors' or committee meeting, the administrator 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.

5.1.3 Where the administrator seeks agreement to his fees during the course of the administration, he should always provide an up to date receipts and payments account. Where the proposed fee is based on time costs the administrator 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 administrator has achieved and how it was achieved to enable the value of the exercise to be assessed (whilst recognising that the administrator 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 administrator 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

#### **5.4 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 8.1 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.

#### **5.5 Reporting in compulsory liquidations**

It should be borne in mind that in compulsory liquidations there is no statutory requirement for the liquidator to report to creditors until the conclusion of the assignment. In most such cases, therefore, creditors will receive no information during the course of the liquidation unless they specifically request it.

### **6 What if a creditor is dissatisfied?**

6.1 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

6.2 If a creditor believes that the liquidator's remuneration is too high he may, if at least 25 per cent in value of the creditors (including himself) agree, apply to the court for an order that it be reduced. 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. Unless the court orders otherwise, the costs must be paid by the applicant and not out of the assets of the insolvent company.

### **7 What if the liquidator is dissatisfied?**

If the liquidator considers that the remuneration fixed by the committee is insufficient he may request that it be increased by resolution of the creditors. If he considers that the remuneration fixed by the committee or the creditors or in accordance with the statutory scale is insufficient, he may apply to the court for it to be increased. 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.

### **8 Other matters relating to fees**

8.1 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.

8.2 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.

8.3 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.

8.4 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.



## POPPLETON & APPLEBY POTTERIES

### Remuneration and Disbursement Schedule

#### Remuneration

A resolution will or has been proposed or approved authorising remuneration to be drawn on a time cost basis. Remuneration is fixed by reference to time properly spent by the Insolvency Practitioner(s) appointed and their staff in attending to all matters arising in the case. Time is charged to the case in actual hours and minutes and not in units. Charge out rates with effect from 1 November 2003 are as follows:

Senior Partner	£180 per hour	Case Administrator	£75 per hour
Partner	£150 per hour	Case Assistant	£45 per hour
Manager	£110 per hour	Cashier	£65 per hour
Assistant Manager	£95 per hour	Secretary	£45 per hour

#### Disbursements

Disbursements are charged as follows:

- Expenses cover all stationery, printing, postage and telephone charges, including notices to creditors and contributories of the first meeting of creditors and contributories, they are charged at £175 for a number of creditors and contributories not exceeding 25, £40 for every additional 10 creditors and contributories or part thereof. Where any subsequent or annual meeting of creditors and contributories is held the charge is £155 for a number of creditors and contributories not exceeding 25 and £20 for every additional 10 creditors and contributories or part thereof.
- Room hire, for each statutory meeting of creditors a charge of £150 per meeting is made. Should the meeting not be held at the offices of Poppleton & Appleby the actual cost of the room hire is charged.
- Mileage/motor expenses are charged at the rate of 75p per mile.
- Company search costs are charged at £45 per search.
- Travel and accommodation is charged as a simple reimbursement of the actual cost.
- Storage of books and records is charged at the rate of £5 per box per quarter.
- Statutory advertising is charged as a simple reimbursement of the actual cost.
- Specific Bond is charged as a simple reimbursement of the actual cost.
- All other disbursements are charge at cost.

#### Further Information

Should you require further clarification in respect of remuneration or disbursements, then please contact either Ian Rose or Bob Young.

Poppleton & Appleby, Brampton House Mews  
10 Queen Street, Newcastle under Lyme  
Staffordshire, ST5 1ED

Tel: 01782 382930  
Fax: 01782 382931  
Email: [info@pandastoke.co.uk](mailto:info@pandastoke.co.uk)

#### Note

Please note that charge out rates and disbursements are subject to periodic review and may be amended if considered appropriate.

Notes to help completion of this form.

Please give full name and address for communication.

**Domain Dynamics Limited**

Name of Creditor/Member: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Name of Proxy-holder:

1. \_\_\_\_\_

2. \_\_\_\_\_

3. \_\_\_\_\_  
\_\_\_\_\_

Please insert name of person (who must be 18 or over) or the "Chairman of the meeting" (See note below). If you wish to provide for alternative proxy-holders in the circumstances that your first choice is unable to attend please state the name(s) of the alternative as well.

Please delete words in brackets if the proxy-holder is only to vote as directed i.e., he has no discretion.

I appoint the above person to be my/the creditor's/member's proxy holder at the meeting of creditors/ members to be held on 21 September 2004 or at any adjournment of that meeting. The proxy-holder is to propose or vote as instructed below (and in respect of any resolution for which no specific instruction is given, may vote or abstain at his/her discretion).

## VOTING INSTRUCTIONS FOR RESOLUTIONS.

## Resolution 1.

For/Against - The appointment of a Creditors Committee and the nomination for \_\_\_\_\_ to act as a member of the Creditors Committee.

## Resolution 2.

For/Against - That the Joint Liquidators receive remuneration by reference to the time properly given by them and their staff in attending to matters arising in the Liquidation and the approval of the Joint Liquidators' drawing such remuneration and disbursements incurred as detailed in the attached schedule of remuneration and disbursements.

SIGNATURE: \_\_\_\_\_

## THIS FORM MUST BE SIGNED

Name (IN CAPITAL LETTERS) \_\_\_\_\_

Position with creditor/member or relationship to creditor/member or other authority

for signature \_\_\_\_\_  
\_\_\_\_\_

Only to be completed if the creditor/member has not signed in person.

Please note that if you nominate the chairman of the meeting to be your proxy-holder he will be the current Liquidator.  
Remember, there may be resolutions on the other side of this form.

PROOF OF DEBT AGAINST A COMPANY IN LIQUIDATION

Name of Company : DOMAIN DYNAMICS LIMITED

PLEASE RETURN TO:

Poppleton & Appleby  
Brampton House Mews  
10 Queen Street  
Newcastle under Lyme  
Staffordshire  
ST5 1ED

Creditor's Name, Address and Telephone Number:

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IMPORTANT NOTE

The VAT element of any debt you have outstanding may be reclaimed on your normal VAT return after a period of six months from the relevant invoice date.

AMOUNT OF CLAIM (including VAT, if applicable)

£

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Signed on behalf of Creditor:

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Name (please print):

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Position held:

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Date:

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Please attach a detailed statement of your account

Domain Dynamics Limited  
(In Administration)  
Joint Administrator's Abstract of Receipts & Payments  
To 07 October 2004

S of A	£	£	£
	FIXED CHARGE ASSETS		
5,666.00	Int Property & Goodwill	NIL	
229,685.00	Book Debts non Factored	169,079.51	
			169,079.51
	FIXED CHARGE COSTS		
(8,503,860.00)	Michael Eric Moors	360,000.00	
NIL	Accountancy Fees	12,000.00	
NIL	Solicitors Fees	160.00	
NIL	Ex Gratia Payments	10,736.00	
			(382,896.00)
	ASSETS NOT PLEDGED		
NIL	Cash at Bank	61,400.58	
1,000.00	Office Furniture & Equip	13,134.00	
16,744.00	VAT Refund	NIL	
308,857.00	Tax Refund	350,402.34	
NIL	Interest Gross	2,140.86	
(50,421.00)	Crown Set Off - Inland Revenue	NIL	
NIL	Sundry Refunds	69.52	
NIL	Rates Refund	1,085.36	
			428,232.66
	COST OF REALISATIONS		
NIL	Agents Costs	1,600.00	
NIL	Solicitors Fees	3,430.00	
NIL	Statutory Advertising	123.16	
NIL	Joint Administrators Expenses	615.00	
NIL	Specific Bond	680.00	
NIL	Corporation Tax	2.50	
NIL	Bank Charges & Interest	48.04	
NIL	Accountancy Fees	3,000.00	
NIL	Wages	150.00	
NIL	Stationery & Postage	43.20	
NIL	Transfer to Liquidation	147,203.61	
NIL	Motor Expenses	546.80	
NIL	Company Search	45.00	
NIL	Room Hire	150.00	
NIL	VAT Recoverable in Liquidation	11,683.86	
NIL	Joint Administrators Fees	45,000.00	
NIL	Agents/Solicitors Expenses	95.00	
			(214,416.17)
	PREFERENTIAL CREDITORS		
(19,957.00)	Employees - Holiday Pay	NIL	
			NIL
	UNSECURED CREDITORS		
(462,938.00)	Trade & Expense Creditors	NIL	
(332,958.00)	Employees	NIL	

Domain Dynamics Limited  
(In Administration)  
Joint Administrator's Abstract of Receipts & Payments  
To 07 October 2004

S of A	£	£	£
			NIL
	DISTRIBUTIONS		
(1,745,001.00)	Ordinary Shareholders	NIL	
			NIL
(10,553,183.00)			NIL
	REPRESENTED BY		
			NIL