

2.24B

The Insolvency Act 1986

Administrator's progress report

Name of Company Sensible Transport Limited	Company number 02716713
In the Bristol District Registry <small>(full name of court)</small>	Court case number 105 of 2012

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

We (a)
Simon Franklin Plant
S F P
9 Ensign House
Admirals Way
Marsh Wall
London
E14 9XQ

Daniel Plant
S F P
9 Ensign House
Admirals Way
Marsh Wall
London
E14 9XQ

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

(b) Insert date

From (b) 26 January 2012	To (b) 25 July 2012
------------------------------------	-------------------------------

Signed

Joint / Administrator(s)

Dated

23 18 112

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

SFP
9 Ensign House
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DX Number

020 7538 2222
DX Exchange

ave completed and signed this form, please send it to the
Companies at -
House, Crown Way, Cardiff CF14 3UZ DX 33050 Cardiff

Compan

FRIDAY



A11

24/08/2012

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COMPANIES HOUSE

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Sensible Transport Limited (In Administration)

Report to Creditors

Simon Franklin Plant
MIPA FABRP

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1. Introduction

- 1.1 This report is prepared pursuant to Rule 2.47 of the Insolvency Rules 1986 ("the Rules") in relation to Sensible Transport Limited (in Administration) (Co Number 02716713) ("the Company"). The Rules provide that a progress report is drafted every six months, commencing on the date that the company entered into Administration. Further, that the appointed Joint Administrators should send a copy of the report to, inter alia all creditors within one month of the end of the period covered by the report.
- 1.2 A report was previously circulated on 14 February 2012, enclosing the Joint Administrators' Report and Proposals ("the First Report"). This detailed progress up to 3 February 2012 and set out the Joint Administrators' proposals to creditors. A subsequent letter was circulated to creditors on 28 February 2012 providing Form 2.18, Notice of Deemed Approval of Proposals confirming that the Joint Administrators' Proposals were approved without modifications.
- 1.3 In view of the information that has already been imparted to the creditors, this Report simply provides an update as to the general progress of the Company's Administration since the First Report, to 25 July 2012. This Report also sets out certain additional information which must be provided to creditors, pursuant to the Rules.

2. General Background

- 2.1 On 20 January 2012, solicitors acting for the Company, Osborne Clarke, served a Notice of Intention to Appoint an Administrator by Company or Director(s) upon Leumi ABL Limited ("Leumi") and The Governor and Company of the Bank of Scotland ("BOS"). Upon receipt, Leumi exercised its right to seek the appointment of an alternative Administrator and accordingly, instructed solicitors Addleshaw Goddard ("Addleshaw") to assist.
- 2.2 Addleshaw established that there was a deed of priority entered into between Leumi and BOS which provided that both charges ranked *par passu*. Accordingly, Leumi was not required to serve a Notice of Intention to Appoint an Administrator by Holder of a Qualifying Floating Charge upon BOS.
- 2.3 Instead, Leumi wrote to BOS on 23 January 2012 explaining that there had been a breach of the factoring facility and further, that it intended to appoint Administrators. BOS was provided two business days to outline any objections, but none were forthcoming.
- 2.4 Accordingly, on 26 January 2012 a Notice of Appointment of an Administrator by Holder of a Qualifying Floating Charge ("the Notice of Appointment") was presented to the Bristol District Registry by Leumi. This was endorsed with the No. 105 of 2012. Both Simon Franklin Plant and Daniel Plant were appointed Joint Administrators ("the Joint Administrators"). Pursuant to Schedule B1, Paragraph 100(2) of the Act, the Joint Administrators act jointly and severally.
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3. Asset Realisations / Miscellaneous

Trading

- 3.1** As detailed in the First Report, it was the collective view of the Joint Administrators and chattel asset valuers, Winterhill Asset Limited ("Winterhill") that long term trading of the business during the Administration was not viable due to the lack of available funding
- 3.2** Instead, Winterhill advised that an expedient sale of the Company's business and assets to existing management or to a third party would generate the most effective recovery. Further, that in order to maintain goodwill whilst Winterhill generated interest for the business and assets, the Joint Administrators would be required to continue trading the business for a short period of time
- 3.3** Following a detailed review of the Company's finances, it was ascertained that there were certain expenses which would be required to be paid within a short period of time in order for the business to continue trading
- 3.4** Firstly, the Company's employees were due to be paid that following Friday, on 27 January 2012. Following discussions with the Company's directors, it was clear that there was a genuine risk of employees/management leaving their positions in the event of non-payment. This could ultimately cause the business to cease to trade
- 3.5** Accordingly, Leumi agreed to settle that week's payroll, in order to assist with continuity. The Company prepared details of the payroll which the Joint Administrators undertook a review of in order to verify the position, before forwarding to Leumi. A CHAPS transfer was subsequently effected that day to ensure employees received their payments on time.
- 3.6** Secondly, it was determined that a number of the Company's vehicles required fuel in order to continue servicing customers' orders by way of deliveries and collections. Given it was key that service to customers was maintained, these were deemed to be necessary payments
- 3.7** At around this time, a third party, Autologic UK Limited ("Autologic") explained that it had previously been interested in purchasing the business and that as it had now heard about the Administration, it wished to register its interest in the business and assets
- 3.8** Following initial discussions with Autologic and having experienced difficulties in setting up a new account for a fuel card facility during the Administration, it was established that Autologic would be able to provide the Company short term use of its fuel credit facilities. This was on the basis that the Joint Administrators agreed any expenditure would rank as an expense of the Administration or for it to be taken into account if and when negotiations were entered into with Autologic concerning a sale of the business and assets. A short form agreement was subsequently drawn up permitting the Company temporary use of Autologic's fuel credit line
- 3.9** Lastly, the Joint Administrators were advised that there was a significant cost involved in maintaining insurance cover over the Company's assets
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- 3.10 Accordingly, enquires were undertaken by the Joint Administrators' insurance broker, Willis Limited ("Willis"), with the Company's pre-appointment insurance broker to establish the nature and cost of cover in place. Given that the provider of the pre-appointment policy was seeking the payment of all arrears, the decision was taken to source a new policy via Willis, providing the same cover but on a daily cost basis instead.
- 3.11 Having dealt with these initial issues, the Joint Administrators were able to continue trading the business for a small period to 1 February 2012. This allowed Winterhill sufficient time to market the business and assets in order to elicit any offer.
- 3.12 During this time, additional costs were incurred by the Joint Administrators to ensure continuation of the business. Details concerning these costs, together with the invoicing raised during the trading period are at Appendix I.

Sale of Business and Assets

- 3.13 As detailed in the First Report, following the Joint Administrators' appointment, the Company's directors provided Winterhill with details of various parties potentially interested in making an offer for the Company's business and assets.
- 3.14 Accordingly, once Winterhill had completed its valuation of the Company's business and assets, it contacted these parties and sent non-disclosure agreements ("NDA") to each of them, prior to releasing sensitive financial information.
- 3.15 Winterhill received signed NDA's from two of the interested parties. These parties were subsequently provided with financial information over the course of the weekend. Given that the Joint Administrators were not in a position to continue trading the business for a long period of time, the interested parties were provided with a deadline of midday on Monday, 30 January 2012 for best and final offers.
- 3.16 Following the passing of the deadline, one offer was received from Autologic of £125,000. Accordingly, negotiations were entered into with it to elicit an improved offer and following protracted discussions, a final offer of £185,000 was obtained.
- 3.17 As part of the overall agreement, it was arranged that Autologic would assist with collection of the sales ledger going forward, given that the existing accounts staff were to continue operating for them. Further, that it would not seek any recompense for their fuel related expenses and finally, that it would provide the Joint Administrators with a contribution of £2,500 to trading expenses.
- 3.18 Winterhill advised that the offer represented an excellent realisation in the circumstances and should be accepted.
- 3.19 Accordingly, solicitors Francis Wilks and Jones ("FWJ") were instructed to draft a sale and purchase agreement ("SPA"), which completed on 1 February 2012, at 6.59 p.m. for £185,000. These funds have been received in full.
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- 3.20 Following advice from Winterhill, an apportionment of £50,000 was agreed to fixed charge recoveries for the benefit of BOS. The Joint Administrators subsequently forwarded £50,000 to BOS on 3 February 2012.

Debtors

- 3.21 As at the date of the placing of the Company into Administration, its sales ledger was £724,686.
- 3.22 Following confirmation of the appointment, the Joint Administrators instructed two representatives from an entity associated with their firm, SFP Recoveries Limited ("SFP Recoveries") to attend the Company's trading premises at Henstridge Airfield, Henstridge, Somerset, BA8 0TN ("the Trading Premises").
- 3.23 SFP Recoveries held an initial meeting with the Company's accounts staff in order to understand the invoicing process. Following this, it identified a significant amount of work which had been carried out but not yet been invoiced. Accordingly, it raised additional invoicing totaling £192,576. Further, SFP Recoveries identified non-factored invoicing of £77,465.
- 3.24 During the Administration trading period, a representative of SFP Recoveries worked closely with the Company's accounts staff in order to raise invoicing and ensure that supporting documentation was collected to verify the debt.
- 3.25 Following completion of the SPA, it was agreed that SFP Recoveries and the purchasing entity, Autologic would assist Leumi with the collection of the sales ledger.
- 3.26 Accordingly, SFP Recoveries arranged for weekly meetings to take place with Autologic at the Trading Premises to discuss the progress of debtor collections and in order to update the ledger for debtor payments. Further, to address any queries and disputes raised by customers. The majority of the disputes raised related to customers which appeared to also be a creditor of the Company and therefore, made contra claims against the amount owed by them.
- 3.27 In order to establish the validity of these claims, SFP Recoveries was required to undertake a review of the paperwork provided to verify it against the Company's records. A number of these queries remain ongoing.
- 3.28 Following these meetings, SFP Recoveries would report to Leumi and the Joint Administrators in order to provide general updates, agree ongoing strategy concerning collections and advise Leumi of any bad / disputed debt in order to discuss settlements / discounts where appropriate. In addition, these reports provided confirmation of debtor payments, together with details of promises to pay outstanding amounts made by debtors.
- 3.29 SFP Recoveries has advised that to date, £846,102 of the sales ledger has been collected. The balance is subject to on-going collections however, it should be noted that a large proportion of the remaining balance, circa £131,000 is presently subject to contra claims. A further update will be provided in the Joint Administrators' final report.
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The Company's Trading Premises

- 3.30 Aside from the Trading Premises, the Company also traded from premises at Plots 1-3, Henstridge Airfield, Henstridge, Templecombe, Somerset, BA8 0TN ("the Secondary Premises")
- 3.31 The landlord of the Trading Premises, Fleet Warehouse Limited ("the Landlord") had forfeited the lease prior to the Administration due to non-payment of rent. Accordingly, the Joint Administrators' property division, SFP Property Limited ("SFP Property") was instructed to review the forfeiture in order to determine whether or not it was valid
- 3.32 SFP Property was unable to obtain a copy of the documents purporting to affect the forfeiture. Notwithstanding this, the Joint Administrators were able to negotiate with the landlord to accept forfeiture on the date of completion of the sale to Autologic. This was on the basis that the Landlord confirmed that it had no claim against the Joint Administrators personally and that any amounts owed to them in relation to rent would rank as an unsecured claim in the Administration
- 3.33 Accordingly, the Joint Administrators instructed FWJ to draft a letter confirming the agreement reached between the Landlord and the Joint Administrators. This was subsequently signed by the Landlord on 1 February 2012, bringing an end to the Company's interest in the Trading Premises
- 3.34 It is understood that the Secondary Premises was used as an overspill yard for vehicles and occupied pursuant to an informal arrangement. SFP Property has confirmed that the Joint Administrators have no further interest in the Secondary Premises
- 3.35 Accordingly, SFP Property has confirmed that all property related matters have been dealt with

Contribution Towards Costs

- 3.36 Given the amount of work involved, the costs relating to the Administration have been significant. It was clear from the outset that there would be insufficient funds available to settle these and discussions were therefore entered into with Leumi to see if it would be prepared to make a contribution to these
- 3.37 Leumi subsequently agreed to pay a proportion of the Administration liabilities to settle certain of the Administration and associated entities costs, together with those of the agents that were utilised in the matter. In doing so, Leumi paid a percentage of the funds that it had been entitled to claim as its charges, pursuant to its facility agreement with the Company. To date, Leumi has made a contribution of circa £230,000

4. Investigations

In accordance with the Joint Administrators' duties, investigations were made into the conduct of the Company's current and former directors by a company associated to the Joint Administrators, SFP Forensic Limited ("SFP Forensic"). The requisite D Form was submitted to the Insolvency Practitioners Compliance Unit ("IPCU") on 9 July 2012. All information contained in the D form is strictly confidential and the Joint Administrators are not permitted to divulge details of their recommendations to the IPCU

5. Dividend Prospects

Preferential Creditors

- 5.1 As stated in the previous report, due to the sale of the business and assets as a going concern to Autologic, all employees of the Company as at the date of the Administration were transferred to Autologic under the Transfer of Undertaking and Protection of Employment regulations
- 5.2 A number of employees were made redundant prior to the Joint Administrators' appointment and submitted claims to the Redundancy Payments Office ("RPO") The preferential element of the RPO's claim amounts to £884 The preferential element of employee claims to date total £747

Non-Preferential Claims

- 5.3 The non-preferential creditors' claims are summarised below

Creditor	Estimated Statement of Affairs £	Claims Received as at 25 July 2012 £
HM Revenue and Customs – VAT/PAYE/NIC	330,000	637,934
RPO / Employee claims	Uncertain	80,549
Trade and Expense	870,143	1,294,353

- 5.4 Any potential dividend distribution to unsecured creditors is dependent upon realisations achieved from collection of remaining book debts and recoveries made from SFP Forensic's investigations These would also be subject to any further associated costs Based upon current realisations, it is uncertain whether or not there will be sufficient funds to pay a dividend to unsecured creditors

6. The Joint Administrators' Costs

- 6.1 At **Appendix I** is the Company's Income and Expenditure Account as at 25 July 2012 compared to the estimated statement of affairs figures as at the date of the Joint Administrators' appointment, together with a trading statement to 25 July 2012 These are in the main self explanatory
- 6.2 At **Appendix II** is a breakdown of the time that has been incurred by the Joint Administrators' firm to date, together with details of charge out rates / activity summaries At **Appendix VIII** is a Guide to Administrator's Fees, being set out in Statement of Insolvency Practice 9 The Joint Administrators' fees have previously been authorised by the Company's secured creditors, being Leumi and BOS
- 6.3 Within 21 days of receipt of a progress report a creditor may request the Administrator to provide further information about the remuneration and expenses set out in the report A request must be in writing and may be made by either a secured creditor, or by an unsecured creditor with the concurrence of at least 5% in value of unsecured creditors or the permission of the court
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- 6.4 In accordance with Rule 2.109 of the Rules, any secured creditor, or any unsecured creditor with the concurrence of at least 10% in value of the unsecured creditors, or with the permission of the Court, may apply to the Court on the grounds that the remuneration or other expenses are excessive. Any such application must be made no later than 8 weeks after receipt of this report.
- 6.5 The First Report detailed the position in relation to disbursements and certain types of expenditure. To ensure that creditors are aware of how this operates, this Report reiterates the position. Disbursements and specific expenditure relating to the administration of an insolvent estate and payable to an independent third party are recoverable without creditor approval. Such expenditure is made, if funds are available from the insolvent estate. If funds are not available the payment is made from the Joint Administrators' firm's office account which is reimbursed from the insolvent estate if and when funds become available.
- 6.6 Payments made out of a firm's office account and re-charged to an insolvent estate are defined as 'Category 1 Disbursements'. This disbursement is explained further under the Expenses and Disbursements heading in the Guide to Administrator's fees, at **Appendix VIII**. The Joint Administrators have incurred the following Category 1 Disbursements to date:

Expenses	£	2,155.01
Miscellaneous	£	869.20
Bordereau	£	680.00
Company Search	£	31.00

The following Category 1 Disbursements have been incurred by the Joint Administrators but not yet re-charged to the estate:

Expenses	£	119.40
Company Search	£	1.00

- 6.7 Expenditure incidental to the administration of the insolvent case, which by its nature includes an element of shared or allocated costs, are recoverable with creditor approval. These payments are defined as 'Category 2 Disbursements' and, once again, this disbursement is explained further in the Guide to Administrator's fees, at **Appendix VIII**. The Joint Administrators have incurred the following Category 2 Disbursements to date:

Postage	£	458.14
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As detailed in the First Report, SFP Recovenes, SFP Property, SFP Forensic and SFP Datastore Limited's ("SFP Datastore") remuneration will be treated as a Category 2 Disbursement. Creditors have previously provided sanction to recover disbursements of this type.

- 6.8 At **Appendix III** is a breakdown of the time that has been incurred by SFP Forensic to date.
- 6.9 At **Appendix IV** is a breakdown of the time that has been incurred by SFP Recovenes to date.
- 6.10 At **Appendix V** is a breakdown of the time that has been incurred by SFP Property to date.
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- 6.11 At **Appendix VI** is a breakdown of the time that has been incurred by SFP Datastore to date, together with details of disbursements. Details concerning SFP Datastore are set out in paragraph 6.13
- 6.12 At **Appendix VII** is a breakdown of SFP and its associated entities' charge out rates
- 6.13 The fees incurred by Winterhill, SFP Recoveries, SFP Forensic, SFP Property and FWJ are calculated on a time cost basis. SFP Datastore has been employed by the Joint Administrators to store the Company's books and records as well as providing security services (where appropriate). Its fees for storage and security services are both on a fixed fee basis and on a time cost basis for any additional work carried out
7. **Additional Points and Conclusion**
- 7.1 Should any creditor have any questions or queries in relation to the above, please contact either the Senior Administrator dealing with this matter, Richard Hunt or the Joint Administrator on 020 7538 2222

Dated this 23rd day of August 2012


Simon Plant
Joint Administrator

Sensible Transport Limited (in Administration)

Report to Creditors

APPENDIX I

- **Income and Expenditure Account / Trading Statement / Comparison to Estimated Statement of Affairs**

Sensible Transport Limited
(In Administration)

INCOME AND EXPENDITURE ACCOUNT

	Statement of affairs £	From 26/01/2012 To 25/07/2012 £
RECEIPTS		
Contribution from Purchaser Towards Trading Costs		2,500 00
Payment from Factor towards PAYE & National Insurance		8,662 84
Sale of Business & Assets	185,000 00	185,000 00
Book Debts	38,717 00	0 00
Leumi contribution towards costs		230,554 86
Debt recovery monies to be verified		10,150 19
VAT Refund		34,032 61
Rates Refund		5,092 50
Misc refund		1,128 60
Bank Interest Gross		5 70
TOTAL RECEIPTS		477,127 30
PAYMENTS		
Motor Vehicle Costs		156 03
Repairs & Maintenance		1,486 20
Security Costs		1,209 60
VAT paid *		23,416 63
Bank of Scotland (Lloyds)		50,000 00
Pension Advice		300 00
SFP Datastore Fees		6,506 05
SFP Datastore Disbursements		5,028 10
SFP Forensic Fees		3,000 00
SFP Forensic Disbursements		51 90
SFP Property Fees		11,360 00
SFP Property Disbursements		142 51
SFP Recovery Fees		93,000 00
Joint Administrator's Remuneration		132,985 00
Joint Administrator's CAT 1 Disb		3,735 21
Joint Administrator's CAT 2 Disb		458 14
Agents/Valuers Fees		25,750 00
Agents/Valuers Disbursements		3,161 67
Legal Fees		35,138 50
Legal Disbursements		228 50
Re-Direction of Mail		110 00
Statutory Advertising		162 22
Other Property Expenses		2,000 00
Insurance of Assets		5,073 79
PAYE & NI		8,662 84
Bank Charges		15 73
TOTAL PAYMENTS		413,138 62
BALANCE AT HAND		63,988 68
REPRESENTED BY		
Cash at Bank		20,730 63
VAT Control Account		43,258 05
BALANCE AT HAND		63,988 68

*VAT has been paid on sales to Her Majesty's Revenue & Customs, but not received into the Estate account from the Invoice Discounter, Leumi ABL Limited

Sensible Transport Limited
(in Administration)

TRADING STATEMENT TO 25 JULY 2012

	£	£
INCOME:		
Sales		142,492
EXPENDITURE:		
Motor Vehicle Costs / Repairs	2,317	
Fuel Costs	70	
Security Costs	1,210	
Insurance	5,074	
		<u>(8,671)</u>
PROFIT		<u><u>133,821</u></u>

NB/

- Fuel expenses up to £35,000 were satisfied by Autologic UK Limited
- Wages of £25,734 were satisfied by Leumi ABL Limited
- PAYE/NIC of £8,662 was satisfied by Leumi ABL Limited

Sensible Transport Limited (in Administration)

Report to Creditors

APPENDIX II

- **Breakdown of Joint Administrators' Fees / Activity Codes**

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SENSIBLE TRANSPORT LIMITED (IN ADMINISTRATION)

SUMMARY OF TIME AND CHARGE OUT RATES FOR THE PERIOD 26 JANUARY 2012 TO 25 JULY 2012

CLASSIFICATION OF WORK FUNCTION	Managing Partner	Partner	Senior Manager	Manager	Senior Administrator	Administrator	Assistant	Total				
Administration and Planning	18 20	-	-	85 60	7 10	6 00	137 70	26 10	42 30	90 90	413 90	
Investigation	-	-	-	-	-	-	-	-	-	-	0 00	
Realisation of assets	24 00	3 40	-	24 60	0 10	-	10 90	0 40	-	-	63 40	
Trading	14 50	-	-	2 90	11 60	-	9 90	0 50	0 30	-	39 70	
Creditors	4 00	3 00	-	1 20	3 10	6 20	23 90	10 90	0 80	10 20	49 90	113 20
Total hours	60 70	8 40	-	4 10	124 90	13 40	39 80	160 00	27 60	52 50	140 80	630 20
Average rate £ per hour	500 00	450 00	-	325 00	300 00	275 00	250 00	225 00	175 00	150 00	100 00	235 56
Total costs £	30 350 00	2 880 00	-	1 332 50	37 470 00	3 685 00	9 950 00	36 000 00	4 830 00	7 875 00	14 080 00	148 452 50

Remuneration drawn on account

132,985 00

See Appendix for Summary Charge Out Rates for staff

SIP 9 STANDARD ACTIVITY SUMMARIES

Standard Activity	Examples of Work
Administration and Planning	Case Planning Administrative set up Appointment and notification Maintenance of records Statutory reporting Estate accounting Schedule company books and records
Investigation	SIP 2 CDDA report Investigating antecedent transactions
Realisation of assets	Identifying, securing, insuring assets Retention of title Debt collection – pre and post appointment Property, business and asset sales Communication and negotiations with secured creditors
Trading	Planning Management of operation Communication/negotiation with suppliers Communication/negotiation with landlord Communication/negotiation with third parties Monitor goods outward/inwards Stock take On-going employee issues Travel
Creditors	Communication with creditors Creditor claims (including employees and other preferential creditors)

SFP



FORENSIC



SENSIBLE TRANSPORT LIMITED (IN ADMINISTRATION)

SUMMARY OF TIME AND CHARGE OUT RATES FOR THE PERIOD 26 JANUARY 2012 TO 25 JULY 2012

CLASSIFICATION OF WORK FUNCTION

CLASSIFICATION OF WORK FUNCTION											
	Managing Director	Senior Manager	Manager	Senior Administrator	Administrator	Assistant	Total				
Investigation	28 40	-	2 70	-	4 70	0 60	31 50	25 30	0 40	12 20	105 80
<hr/>											
Total hours	28 40	-	2 70	-	4 70	0 60	31 50	25 30	0 40	12 20	105 80
Average rate £ per hour	500 00	-	325 00	-	275 00	250 00	225 00	175 00	150 00	100 00	277 08
Total costs £	14,200 00	-	877 50	-	1,292 50	150 00	7,087 50	4,427 50	60 00	1,220 00	29,315 00

Remuneration drawn on account

3,000 00

See Appendix for Summary Charge Out Rates for staff

Sensible Transport Limited (in Administration)

Report to Creditors

APPENDIX IV

- **Breakdown of SFP Recoveries Limited Fees**

SFP



RECOVERIES



SENSIBLE TRANSPORT LIMITED (IN ADMINISTRATION)

SUMMARY OF TIME AND CHARGE OUT RATES FOR THE PERIOD 26 JANUARY 2012 TO 25 JULY 2012

CLASSIFICATION OF WORK FUNCTION

	Managing Director	Senior Manager	Manager	Senior Administrator	Administrator	Assistant	Total
Debt Collection	-	-	-	39 10	423 70	37 90	561 40
Total hours	-	-	-	39 10	423 70	37 90	561 40
Average rate £ per hour	-	-	-	250 00	175 00	150 00	189 35
Total costs £	-	-	-	9,775 00	74,147 50	5 685 00	106,300 00

Remuneration drawn on account

93,000 00

See Appendix for Summary Charge Out Rates for staff

SENSIBLE TRANSPORT LIMITED (IN ADMINISTRATION)

SUMMARY OF TIME AND CHARGE OUT RATES FOR THE PERIOD 26 JANUARY 2012 TO 25 JULY 2012

CLASSIFICATION OF WORK FUNCTION

	Managing Director	Senior Manager	Manager	Senior Administrator	Administrator	Assistant	Total
Property Issues	18 50	-	-	24 40	-	11 10	8 80
							62 80
Total hours	18 50	-	-	24 40	-	11 10	8 80
Average rate £ per hour	350 00	-	-	200 00	-	115 00	100 00
							215 15
Total costs £	6,475 00	-	-	4,880 00	-	1,276 50	880 00
							13,511 50
Remuneration drawn on account							11,360 00

See Appendix for Summary Charge Out Rates for staff

Sensible Transport Limited (in Administration)

Report to Creditors

APPENDIX VI

- **Breakdown of SFP Datastore Limited Fees / Disbursements**

SFP



DATASTORE

SENSIBLE TRANSPORT LIMITED (IN ADMINISTRATION)

SUMMARY OF TIME AND CHARGE OUT RATES FOR THE PERIOD 26 JANUARY 2012 TO 26 JULY 2012

CLASSIFICATION OF WORK FUNCTION

	Storage Tasks Staff Costs	Hire of Security Personnel	Inventorising Staff Costs	Total
Boxing Up / Collection / Inventorising of Records	19 80	-	68 80	88 60
Security Services	-	59 60	-	59 60
Total hours	19 80	59 60	68 80	148 20
Average rate £ per hour	25 00	18 50	75 00	45 60
Total costs £	495 00	1102 60	5160 00	6,757 60
Remuneration drawn on account				6,506 05

See Appendix for Summary Charge Out Rates for staff

Disbursements Incurred	£
585 3 miles @ £1 10 per mile	643 83
Expenses	133 39
129 boxes @ £5 per box	645 00
Storage costs	2414 88
Destruction costs	1161 00
Retrieval costs	343 00
Disbursements Incurred	6,338 10
Disbursements drawn on account	5,028 10

Sensible Transport Limited (in Administration)

Report to Creditors

APPENDIX VII

- **SFP and Associated Entity Charge Out Rates**



Charge out Rates for SFP main practice and associated entities

SFP and the Associated Entities remuneration is calculated on an hourly time cost basis, divided into 6 minute units calculated as follows.

Main Practice			SFP Forensic Limited			SFP Property Limited			SFP Recoveries Limited		
Grade		Rate p/hr	Grade		Rate p/hr	Grade		Rate p/hr	Grade		Rate p/hr
Managing Partner		500	Managing Director		500	Managing Director		350	Managing Director		500
Partner 2		450	Senior Manager 2		350	Senior Manager 2		275	Senior Manager 2		350
Partner 1		400	Senior Manager 1		325	Senior Manager 1		250	Senior Manager 1		325
Senior Manager 2		350	Manager 2		300	Manager 2		225	Manager 2		300
Senior Manager 1		325	Manager 1		275	Manager 1		200	Manager 1		275
Manager 2		300	Senior Administrator 2		250	Senior Administrator 2		175	Senior Administrator 2		250
Manager 1		275	Senior Administrator 1		225	Senior Administrator 1		155	Senior Administrator 1		225
Senior Administrator 2		250	Administrator 2		175	Administrator 2		135	Administrator 2		175
Senior Administrator 1		225	Administrator 1		150	Administrator 1		115	Administrator 1		150
Administrator 2		175	Assistant		100	Assistant		100	Administrator 1		150
Administrator 1		150							Assistant		100
Assistant		100									

SFP Datastore Limited			Supporting Services		
Grade		Rate p/hr			
Storage Tasks (Retrieval and collection)			Hire of Security Personnel		£18.50 per hour
Staff costs	25		Mileage		£1.10 per mile
Inventorising and Additional			Chauffeur Services		£1.35 per mile (£50 minimum)
Staff costs	75				



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, explain the basis on which fees are fixed and how creditors can seek information about expenses incurred by the administrator and challenge those they consider to be excessive.

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 remuneration

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:

- as a percentage of the value of the property which the administrator has to deal with;
- by reference to the time properly given by the administrator and his staff in attending to matters arising in the administration; 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 administrator. Where the remuneration is fixed as a percentage different percentages may be used for different things done by the administrator.

It is for the creditors' 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 and where it is a set amount, to determine that amount. Rule 2.106 says that in arriving at its decision the committee shall have regard to the following matters:

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paragraph 4.3 apply the determination may be made by the same creditors as approve the administrator's remuneration.

6.3 The administrator must convene a meeting of the committee or the creditors for the purposes of approving the payment of pre-administration costs if requested to do so by another insolvency practitioner who has incurred such costs. If there is no determination under these provisions or if there is but the administrator or other insolvency practitioner considers the amount agreed to be insufficient, the administrator may apply to the court for a determination.

7 What information should be provided by the administrator?

7.1 When seeking remuneration approval

7.1.1 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.

7.1.2 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.

7.1.3 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 (what 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

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:

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- 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 (and provided the circumstances described in paragraph 4.3 do not apply) the administrator's remuneration may be fixed by a resolution of a meeting of creditors having regard to the same matters as apply in the case of the committee. If the remuneration is not fixed in any of these ways, it will be fixed by the court on application by the administrator, but the administrator 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.

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 if there is no creditors' committee or the committee does not make the requisite determination the remuneration may be fixed by 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.

having regard to the same matters as the committee would.

Note that there is no requirement to hold a creditors' meeting in such cases unless a meeting is requested 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 Review of remuneration

5.1 Where there has been a material and substantial change in circumstances since the basis of the administrator's remuneration was fixed, the administrator 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 Approval of pre-administration costs

6.1 Sometimes the administrator may need to seek approval for the payment of costs in connection with preparatory work incurred before the company went into administration but which remain unpaid. Such costs may relate to work done either by the administrator or by another insolvency practitioner. Details of such costs must be included in the administrator's proposals.

6.2 Where there is a creditors' committee it is for the committee to determine whether and to what extent, such costs should be approved for payment. If there is no committee or the committee does not make the necessary determination or if it does but the administrator or other insolvency practitioner who has incurred pre-administration costs considers the amount agreed to be insufficient, approval may be given by a meeting of creditors. Where the circumstances described in

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- 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 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.

7.1.4 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.

7.2 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 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 (see further paragraph 8.1 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 7.1.3. Where the fee is charged on a percentage basis the administrator should provide the details set out in paragraph 7.1.4 above regarding work which has been sub-contracted out.

7.3 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 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.

8 Progress reports and requests for further information

8.1 The administrator is required to send a progress report to creditors at 6-monthly intervals. The report must include:

- details of the basis fixed for the remuneration of the administrator (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 administrator during the period of the report, irrespective of whether payment was actually made during that period.

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- the date of approval of any pre-administration costs and the amount approved
 - a statement of the creditors' rights to request further information as explained in paragraph 8.2, and their right to challenge the administrator's remuneration and expenses
- 8.2 Within 21 days of receipt of a progress report a creditor may request the administrator to provide further information about the remuneration and expenses (other than pre-administration costs) set out in the report. A request must be in writing, and may be made either by a secured creditor or by an unsecured creditor with the concurrence of at least 5% in value of unsecured creditors (including himself) or the permission of the court.
- 8.3 The administrator 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 administration or might be expected to lead to violence against any person or
 - the administrator 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 administrator's refusal to provide the requested information, or the expiry of the 14 days time limit for the provision of the information.
- 9 Provision of information – additional requirements
- The administrator must provide certain information about time spent on a 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 administrator 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 administrator'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 administrator and requests must be made within two years from vacation of office.
- 10 What if a creditor is dissatisfied?
- 10.1 If a creditor believes that the administrator's remuneration is too high, the basis is inappropriate or the expenses incurred by the administrator are in all the circumstances excessive he may provide certain conditions are met, apply to the court.
- 10.2 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 administrator's progress report in which the charging of the remuneration or incurring of the expenses in question is first reported (see paragraph 8.1 above). If the court does not dismiss the application (which it may if it considers that insufficient cause is shown) the applicant must give the administrator a copy of the application and supporting evidence at least 14 days before the hearing.
- 10.3 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 as an expense of the administration.



- 11 What if the administrator is dissatisfied?
- 11.1 If the administrator considers that the remuneration fixed by the creditors' committee 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 committee or the creditors 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 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.
- 12 Other matters relating to remuneration
- 12.1 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.
- 12.2 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.
- 12.3 If a new administrator 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 administrator until a further determination, resolution or court order is made.
- 12.4 Where the basis of the remuneration is a set amount, and the administrator 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 administrator. The application must be made to the same body as approved the remuneration. Where the outgoing administrator and the incoming administrator are from the same firm they will usually agree the apportionment between them.
- 13 Effective date
- This guide applies where a company enters administration on or after 6 April 2010 except where the application for an administration order was made before that date or where the administration was preceded by a liquidation which commenced before that date.

Sensible Transport Limited (in Administration)

Report to Creditors

APPENDIX IX

- **Category 2 Disbursement Summary Charge Sheet**

DIRECT EXPENSES (Category 1 Disbursements)

Category 1 disbursements as defined by SIP 9, which can be specifically identified as relating to the administration of the case, will be charged to the estate as cost, with no uplift. These include, but are not limited, to such items as advertising, bonding and other insurance premiums and properly reimbursed expenses.

INDIRECT EXPENSES (Category 2 Disbursements)

It is normal practice to also charge the following indirect disbursements (Category 2 Disbursements, as defined by SIP 9) to the case, where appropriate. These costs are as follows:

Stationery / Photocopying	Cost Per Page / Envelope
* 1 page of headed paper	0 12
* 1 page of continuation paper	0 10
* 1 page of photocopying paper	0 02
* Envelopes (all sizes)	0 10
 Postage	 Postage Rate
Postage – 1 st class (small)	0 32
Postage – 1 st class (large)	0 44
Postage – 2 nd class (small)	0 22
Postage – 2 nd class (large)	0 36

Travel

Mileage incurred as a result of necessary travel is charged at the Inland Revenue approved rate of 40p per mile.

Please note that sanction has been obtained to treat the fees of SFP Forensic Limited, SFP Property Limited, SFP Recoveries Limited and SFP Datastore Limited as Category 2 disbursements.