

**Return of Final Meeting in a Creditors'
Voluntary Winding Up****S.106**

Pursuant to Section 106 of the Insolvency Act 1986

To the Registrar of Companies

Company Number

03284494

Name of Company

(a) Insert full name of
company

(a) Charmrace (MOT) Limited

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

I/We (b)

Stephen Franklin of Panos Eliades Franklin & Co, Olympia House, Armitage Road, London,
NW11 8RQ

(c) Delete as applicable

(d) Insert date

(e) The copy account
must be authenticated by
the written signature(s) of
the liquidator(s)(f) Insert venue of the
meeting

1 give notice that a general meeting of the company was duly (c) ~~held-on~~ / [summoned for] (d) 15 September 2016 pursuant to Section 106 of the Insolvency Act 1986, for the purpose of having an account (of which a copy is attached (e)) laid before it showing how the winding up of the company has been disposed of and (c) ~~[that the same was done accordingly]~~ / [no quorum was present at the meeting],

2 give notice that a meeting of the creditors of the company was duly (c) ~~held-on~~ / [summoned for] 15 September 2016 pursuant to Section 106 of the Insolvency Act 1986, for the purpose of having the said account laid before it showing how the winding up of the company has been conducted and the property of the company has been disposed of and (c) ~~[that the same was done accordingly]~~ [no quorum was present at the meeting]

The meeting was held at (f) Olympia House, Armitage Road, London, NW11 8RQ

The report covers the period from (d) 19 November 2013 (opening of winding up) to (d) 15 September 2016 (close of winding up)

The outcome of the meeting (including any resolutions passed at the meeting) was as follows

There being no vote against the Liquidator having his release, the Liquidator be released

Signed

Date 15 September 2016

Presenter's name,
address and reference
(if any)Stephen Franklin
Panos Eliades Franklin & Co
Olympia House
Armitage Road
London
NW11 8RQ

ORIGINAL



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17/09/2016

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COMPANIES HOUSE

CHARMRACE (MOT) LIMITED - IN LIQUIDATION

FINAL REPORT

15 September 2016

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1. INTRODUCTION

This is my final report to Creditors which details my acts and dealings and it should be read in conjunction with my previous reports to Creditors

2. COMPANY INFORMATION

Registered Name	Charmrace (MOT) Limited
Registered Office	Olympia House Armitage Road London NW11 8RQ
Former Registered Office	Everlast House 1 Cranbrook Lane London N11 1PF
Registered Number	03284494
Principal Activity	Vehicle Repairs

3. BACKGROUND

I was appointed Liquidator on 19 November 2013 by meetings of the Members and Creditors of the Company

4. ASSET REALISATIONS

My Receipts and Payments account for the period from 19 November 2015 to 15 September 2016 is attached at Appendix 1 My final Receipts and Payments account for the period 19 November 2013 to 15 September 2016 is attached at Appendix 2

According to the Statement of Affairs, the assets of the company had an estimated value of £9,100, which comprised the following

Asset Name	Est. To Realise £	Realised To Date £
Motor Vehicles (subject to HP)	3,000	3,500
Plant & Machinery	500	500
Fixtures & Fittings	1,000	1,000
Motor Vehicles	4,000	5,000
Book Debts	600	0

CHARMRACE (MOT) LIMITED
FINAL REPORT
15 SEPTEMBER 2016

Cash at Bank	0	1,439
Totals	9,100	11,439

Plant and Machinery and Fixtures and Fittings

The Director had estimated a realisable value of £500 and £1,000 in respect of Plant and Machinery and Fixtures and Fittings for the purposes of the Statement of Affairs Agreement as to price was reached at the commencement of the Liquidation and the Purchaser was Charmrace com Limited, a company connected by the common directorship of Mark Michaelides. Disposal was effected without the involvement of an Agent in order to avoid costs. As far as I am aware, Charmrace com Limited was not independently advised in relation to the transaction.

Motor Vehicles

Motor Vehicles comprised three vehicles. Two vehicles were subject to hire purchase liabilities of £7,000. The Director estimated a realisable value of £3,000 for the purposes of the Statement of Affairs. I instructed an Agent, James Owen & Co Limited, to provide a valuation for both vehicles and they were valued collectively at £5,155. Despite the prospective shortfall, Charmrace com Limited agreed to pay a consideration of £3,000 in order to retain the vehicles, at the same time assuming responsibility for the hire purchase liabilities. I agreed to accept £4,000 for the third vehicle. Agreement as to payment on an instalment basis was reached. However, it was necessary to extend the timeframe of repayment due to Charmrace com Limited initially experiencing cash flow problems and it was therefore agreed that an additional sum of £1,500 would be paid.

Book Debts

The Statement of Affairs reflected Book Debts with a book value of £91,535. In arriving at the estimated realisable value of £600, provision had been made in respect of a bad debt of £90,935 due from an associated company, Finchley Park Motors Limited, which is subject to insolvency proceedings. Attempts to collect the remaining balance proved unsuccessful and I concluded that given the small amount involved, it would be uneconomical to pursue the balance.

Cash at Bank

Although not reflected on the Statement of Affairs, it transpired that a balance had remained on the Company's bank account.

5. COSTS AND EXPENSES

The payments shown on the summary of Receipts and Payments at Appendix I are in the main self-explanatory. However, I would comment on the following -

Costs re. Meeting of Creditors

One of the resolutions passed at the meeting of Creditors held on 19 November 2013 was that my firm's charges in respect of the preparation of the Statement of Affairs etc and the convening and holding of the meeting, a sum of £5,000 (excluding VAT), be paid as an expense of the Liquidation

Liquidator's Remuneration

Another of the resolutions passed at the aforementioned meeting was that my remuneration be calculated on a time-costs basis. The sum of £6,126 46 was drawn on account of time costs totalling £19,218 74 (excluding VAT) shown in the analysis of time costs provided at Appendices 3 and 4, being the amount available after providing for all other Liquidation expenses. The balance has been treated as irrecoverable. Additionally, guidance notes issued by my professional body regarding Liquidators' fees and a statement of right to request further information pursuant to Insolvency Rule 4 49E are appended at 5 and 6.

Of the time costs of £9,141 43 categorised as "Administration & Planning" -

- (i) £2,506 45 is referable to complying with statutory obligations and case planning
- (ii) £6,524 98 is referable to cashiering, post-appointment VAT and Corporation Tax matters and maintenance of financial records
- (iii) £110 is referable to telephone calls and correspondence

Of the time costs of £1,784 53 categorised as "Realisation of Assets" -

- (i) £198 is referable to instructing Agents regarding the valuation of assets
- (ii) £1,424 83 is referable to agreeing payment terms and monitoring receipts in respect of the sale of the chattel assets
- (iii) £161 70 is referable to debt collection

Of the time costs of £2,704 35 categorised as "Creditors" -

- (i) £2,220 35 is referable to issuing reports to Creditors
- (ii) £484 is referable to dealing with telephone calls, correspondence etc in respect of general enquiries

Details of time costs are set out in Appendices 3 and 4

Administrative Software Fee

A fee for the proprietary software used to process the administration of the Liquidation

6. FURTHER INFORMATION

An Unsecured Creditor may, with the permission of the Court or with the concurrence of 5% in value of the Unsecured Creditors (including the Creditor in question), request further details of the Liquidator's remuneration and expenses, within 21 days

of receipt of this report Any Secured Creditor may request the same details in the same time limit

An Unsecured Creditor may, with the permission of the Court or with the concurrence of 10% in value of the Creditors (including the Creditor in question), apply to Court to challenge the amount and/or basis of the Liquidator's fees and the amount of any proposed expenses or expenses already incurred, within 8 weeks of receipt of this report Any Secured Creditor may make a similar application to Court within the same time limit Your attention is drawn to Appendix 6

7. CREDITORS CLAIMS AND DIVIDEND PROSPECTS

SECURED CREDITOR

The Company granted a Debenture to Marfin Popular Bank Public Co Ltd dated 11 April 2011 giving fixed and floating charges over the assets of the Company The amount outstanding at the date of my appointment according to the Statement of Affairs was £10,000 There are insufficient funds to pay a distribution to the Bank

HIRE PURCHASE AGREEMENT

Two motor vehicles were subject to hire purchase agreements with P C F Finance Group Limited The liabilities outstanding at the date of my appointment were £7,000 as stated above These liabilities have been assumed by Charmrace com Limited

PREFERENTIAL CREDITORS

There are no Preferential Creditors

UNSECURED CREDITORS

Prescribed Part

As the Company's indebtedness to Marfin Popular Bank Public Co Limited is secured by a Debenture which was created after 14 September 2003, the Prescribed Part provisions apply Marfin Popular Bank Public Co Limited have an entitlement to the proceeds of realisation of the assets covered by the Debenture subject to the setting aside of what is known as the prescribed part, which is a proportion of realisations designated for distribution to Unsecured Creditors, subject to Liquidation costs and expenses

The prescribed part was calculated in the Statement of Affairs as £4,550, being 50% of the sum of £9,100, the total of estimated asset realisations The calculation was dependent upon asset realisations corresponding with the estimated realisable values and was and remains subject in any event to costs and expenses

The prescribed part has been calculated as follows -

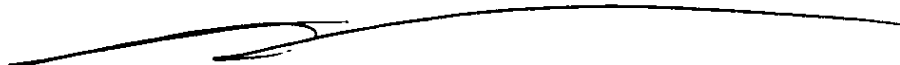
50% of £10,000	£5,000 00
20% of £1,143 60	<u>£ 228 72</u>
Total prescribed part	<u>£5,228 72</u>

Dividend in Relation to the Prescribed Part

There was no distribution of the prescribed part in this case as it has been absorbed by Liquidation costs and expenses

8. INVESTIGATIONS

My investigations within the ambit of Statement of Insolvency Practice 2, which have entailed an examination of the Company's books and records and all other relevant information and consideration of all relevant issues, did not reveal any other basis of realisation nor any other matters to be conveyed in this report. An appropriate report on the Director's conduct was submitted to the Department for Business, Innovation & Skills Disqualification Unit. The contents of that report are confidential.



STEPHEN FRANKLIN
LIQUIDATOR

(Authorised by the Insolvency Practitioners Association)

**CHARMRACE (MOT) LIMITED - IN CREDITORS' VOLUNTARY LIQUIDATION
LIQUIDATOR'S SUMMARY OF RECEIPTS & PAYMENTS**

FROM 19 NOVEMBER 2015 TO 15 SEPTEMBER 2016

S of A £	19/11/13 to 18/11/15	19/11/15 to 15/09/16	Total £
RECEIPTS			
3,000 Motor Vehicles	1,916 51	1,583 49	3,500 00
500 Plant & Machinery	500 00	NIL	500 00
1,000 Fixtures & Fittings	1,000 00	NIL	1,000 00
4,000 Motor Vehicles	4,000 00	1,000 00	5,000 00
600 Book Debts	NIL	NIL	NIL
NIL Cash at Bank	1,438 60	NIL	1,438 60
NIL Bank Interest Gross	NIL	1 46	1 46
NIL Bank Interest Net of Tax	8 56	2 78	11 34
NIL VAT Payable	1,483 49	516 51	2,000 00
<u>9,100</u>	<u>10,347 16</u>	<u>3,104 24</u>	<u>13,451 40</u>
PAYMENTS			
Statement of Affairs Fee	NIL	5,000 00	5,000 00
VAT	77 33	650 21	727 54
Statutory Advertising	270 00	72 00	342 00
Liquidator's Remuneration	NIL	6,126 46	6,126 46
VAT Receivable	6 00	1,014 40	1,020 40
Specific Bond	30 00	20 00	50 00
Administrative Software Fee	185 00	NIL	185 00
	<u>568 33</u>	<u>12,883 07</u>	<u>13,451 40</u>
CASH IN HAND	<u>9,778 83</u>	<u>(9,778 83)</u>	<u>NIL</u>

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RECEIPTS			
3,000 Motor Vehicles	1,916 51	1,583 49	3,500 00
500 Plant & Machinery	500 00	NIL	500 00
1,000 Fixtures & Fittings	1,000 00	NIL	1,000 00
4,000 Motor Vehicles	4,000 00	1,000 00	5,000 00
600 Book Debts	NIL	NIL	NIL
NIL Cash at Bank	1,438 60	NIL	1,438 60
NIL Bank Interest Gross	NIL	1 46	1 46
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CASH IN HAND	<u>9,778 83</u>	<u>(9,778 83)</u>	<u>NIL</u>

CHARMRACE (MOT) LIMITED

SUMMARY OF LIQUIDATOR'S TIME COSTS FOR THE PERIOD FROM 19 NOVEMBER 2015 TO 15 SEPTEMBER 2016							
Classification of work function	Partner	Manager	Senior Administrators	Assistants & Support Staff	Total Hours	Time Cost	Average Hourly Rate
Administration & Planning	0 20	1 50	6 57	0 00	8 27	2,493 15	301 62
Realisation of Assets	0 00	0 50	0 20	0 00	0 70	247 50	353 57
Creditors	0 13	2 50	0 00	0 60	3 23	1,163 25	360 70
Total hours	0 33	4 50	6 77	0 60	12 19		
Time costs	178 75	1,732 50	1,860 65	132 00	3,903 90		
Average hourly rate	550 00	385 00	275 00	220 00	320 23		

CHARGE-OUT RATES

In accordance with the provisions of Statement of Insolvency Practice 9 ("SIP 9"), the charge-out rates applicable to this appointment, exclusive of VAT, are details as follows -

Years
01 01 12 - 31.12.16

Partners/Office Holders	£550
Managers	£385
Senior Administrators/Cashiers	£275
Semi-Senior Administrators/Support Staff	£220
Junior Administrators	£130

Charge-out rates are normally reviewed annually on 1st January, when rates are adjusted to reflect such matters as inflation and increases in direct and indirect costs. Time is recorded and charged in units of a minimum of 6 minutes. It is the policy of Panos Eliades Franklin & Co to fully recover the time chargeable for support staff in respect of secretarial, cashiering and filing activities.

Standard Activity**Examples of Work****Administration and Planning**

Case planning
Administrative set up
Appointment notification
Maintenance of records
Statutory reporting

Investigation

SIP 2 review
CDDA reports
Investigating antecedent transactions

Realisation of Assets

Identifying, securing and insuring assets
Retention of title
Debt collection
Property, business and asset sales

Creditors

Communication with creditors
Creditors' claims (including employees and other preferential creditors)

CHARMRACE (MOT) LIMITED

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Classification of work function	Partner	Manager	Senior Administrators	Assistants & Support Staff	Total Hours	Time Cost	Average Hourly Rate
Administration & Planning	0 70	15 84	8 39	1 80	26 73	9,141 43	341 99
Investigations	1 00	11 90	0 00	3 50	16 41	5,588 43	340 65
Realisation of Assets	0 36	3 58	0 20	0 70	4 84	1,784 53	368 86
Creditors	0 63	4 16	0 32	3 50	8 61	2,704 35	314 28
Total hours	2 69	35 48	8 91	9 50	56 58		
Time costs	1,476 75	13,660 18	2,450 80	1,631 00	19,218 74		
Average hourly rate	550 00	385 00	275 00	171 68	339 69		

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A CREDITORS' GUIDE TO LIQUIDATORS' FEES

ENGLAND AND WALES

1 Introduction

- 1.1 When a company goes into liquidation the costs of the proceedings are paid out of its assets. The creditors, who hope to recover some of their debts out of the assets, therefore have a direct interest in the level of costs, and in particular the remuneration of the insolvency practitioner appointed to act as liquidator. The insolvency legislation recognises this interest by providing mechanisms for creditors to fix the basis of the liquidator's fees. This guide is intended to help creditors be aware of their rights to approve and monitor fees, explains the basis on which fees are fixed and how creditors can seek information about expenses incurred by the liquidator and challenge those they consider to be excessive.

2 Liquidation procedure

- 2.1 Liquidation (or 'winding up') is the most common type of corporate insolvency procedure. Liquidation is the formal winding up of a company's affairs entailing the realisation of its assets and the distribution of the proceeds in a prescribed order of priority. Liquidation may be either voluntary, when it is instituted by resolution of the shareholders, or compulsory, when it is instituted by order of the court.
- 2.2 Voluntary liquidation is the more common of the two. An insolvent voluntary liquidation is called a creditors' voluntary liquidation (often abbreviated to 'CVL'). In this type of liquidation an insolvency practitioner acts as liquidator throughout and the creditors can vote on the appointment of the liquidator at the first meeting of creditors.
- 2.3 In a compulsory liquidation on the other hand, the function of liquidator is, in most cases, initially performed not by an insolvency practitioner but by an official called the official receiver. The official receiver is an officer of the court and an official belonging to The Insolvency Service. In most compulsory liquidations, the official receiver becomes liquidator immediately on the making of the winding-up order. Where there are significant assets an insolvency practitioner will usually be appointed to act as liquidator in place of the official receiver, either at a meeting of creditors convened for the purpose or directly by The Insolvency Service on behalf of the Secretary of State. Where an insolvency practitioner is not appointed the official receiver remains liquidator.
- 2.4 Where a compulsory liquidation follows immediately on an administration the court may appoint the former administrator to act as liquidator. In such cases the official receiver does not become liquidator. An administrator may also subsequently act as liquidator in a CVL.

3 The liquidation committee

- 3.1 In a liquidation (whether voluntary or compulsory) the creditors have the right to appoint a committee called the liquidation committee, with a minimum of 3 and a maximum of 5 members, to monitor the conduct of the liquidation and approve the liquidator's fees. The committee is usually established at the creditors' meeting which appoints the liquidator, but in cases where a liquidation follows immediately on an administration any committee established for the purposes of the administration will continue in being as the liquidation committee.
- 3.2 The liquidator must call the first meeting of the committee within 6 weeks of its establishment (or his appointment if that is later), and subsequent meetings must be held either at specified dates agreed by the committee, or when requested by a member of the committee, or when the liquidator decides he needs to hold one. The liquidator is required to report to the committee at least every 6 months on the

progress of the liquidation, unless the committee directs otherwise. This provides an opportunity for the committee to monitor and discuss the progress of the insolvency and the level of the liquidator's fees.

4 Fixing the liquidator's remuneration

4.1 The basis for fixing the liquidator's remuneration is set out in Rules 4.127 – 4.127B of the Insolvency Rules 1986. The Rules state that the remuneration shall be fixed

- as a percentage of the value of the assets which are realised or distributed or both,
- by reference to the time properly given by the liquidator and his staff in attending to matters arising in the liquidation, or
- as a set amount.

Any combination of these bases may be used to fix the remuneration, and different bases may be used for different things done by the liquidator. Where the remuneration is fixed as a percentage, different percentages may be used for different things done by the liquidator.

It is for the liquidation committee (if there is one) to determine on which of these bases, or combination of bases, the remuneration is to be fixed. Where it is fixed as a percentage, it is for the committee to determine the percentage or percentages to be applied. Rule 4.127 says that in arriving at its decision the committee shall have regard to the following matters:

- the complexity (or otherwise) of the case,
- any responsibility of an exceptional kind or degree which falls on the liquidator in connection with the insolvency,
- the effectiveness with which the liquidator appears to be carrying out, or to have carried out, his duties,
- the value and nature of the assets which the liquidator has to deal with.

4.2 If there is no liquidation committee, or the committee does not make the requisite determination, the liquidator's remuneration may be fixed by a resolution of a meeting of creditors. The creditors take account of the same matters as apply in the case of the committee. A resolution specifying the terms on which the liquidator is to be remunerated may be taken at the meeting which appoints the liquidator.

4.3 If the remuneration is not fixed as above, it will be fixed in one of the following ways. In a CVL, it will be fixed by the court on application by the liquidator, but the liquidator may not make such an application unless he has first tried to get his remuneration fixed by the committee or creditors as described above, and in any case not later than 18 months after his appointment. In a compulsory liquidation, it will be in accordance with a scale set out in the Rules.

4.4 Where the liquidation follows directly on from an administration in which the liquidator had acted as administrator, the basis of remuneration fixed in the administration continues to apply in the liquidation (subject to paragraph 8 below).

5 Review of remuneration

Where there has been a material and substantial change in circumstances since the basis of the liquidator's remuneration was fixed, the liquidator may request that it be changed. The request must be made to the same body as initially approved the remuneration, and the same rules apply as to the original approval.

6 What information should be provided by the liquidator?

6.1 When fixing bases of remuneration

- 6.1.1 When seeking agreement for the basis or bases of remuneration, the liquidator should provide sufficient supporting information to enable the committee or the creditors to make an informed judgement as to whether the basis sought is appropriate having regard to all the circumstances of the case. The nature and extent of the information provided will depend on the stage during the conduct of the case at which approval is being sought. The appendix to this guide sets out a suggested format for the provision of information.
- 6.1.2 If any part of the remuneration is sought on a time costs basis, the liquidator should provide details of the minimum time units used and current charge-out rates, split by grades of staff, of those people who have been or who are likely to be involved in the time costs aspects of the case.
- 6.1.3 The liquidator should also provide details and the cost of any work that has been or is intended to be sub-contracted out that could otherwise be carried out by the liquidator or his or her staff.
- 6.1.4 If work has already been carried out, the liquidator should state the proposed charge for the period to date and provide an explanation of what has been achieved in the period and how it was achieved, sufficient to enable the progress of the case to be assessed and whether the proposed charge is reasonable in the circumstances of the case. Where the proposed charge is calculated on a time costs basis, the liquidator should disclose the time spent and the average charge-out rates, in larger cases split by grades of staff and analysed by appropriate activity. The liquidator should also provide details and the cost of any work that has been sub-contracted out that could otherwise be carried out by the liquidator or his or her staff.

6.2 After the bases of remuneration have been fixed

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

6.3 Disbursements and other expenses

- 6.3.1 Costs met by and reimbursed to the liquidator in connection with the liquidation should be appropriate and reasonable. Such costs will fall into two categories:
- **Category 1 disbursements** These are costs where there is specific expenditure directly referable both to the liquidation and a payment to an independent third party. These may include, for example, advertising, room hire, storage, postage, telephone charges, travel expenses, and equivalent costs reimbursed to the liquidator or his or her staff.

- **Category 2 disbursements** These are costs that are directly referable to the liquidation but not to a payment to an independent third party. They may include shared or allocated costs that can be allocated to the liquidation on a proper and reasonable basis, for example, business mileage.

Category 1 disbursements can be drawn without prior approval, although the liquidator should be prepared to disclose information about them in the same way as any other expenses. Category 2 disbursements may be drawn if they have been approved in the same manner as the liquidator's remuneration. When seeking approval, the liquidator should explain, for each category of expense, the basis on which the charge is being made.

6.3.2 The following are not permissible

- a charge calculated as a percentage of remuneration,
- an administration fee or charge additional to the liquidator's remuneration,
- recovery of basic overhead costs such as office and equipment rental, depreciation and finance charges.

6.4 Realisations for secured creditors

Where the liquidator realises an asset on behalf of a secured creditor and receives remuneration out of the proceeds (see paragraph 11.1 below), he should disclose the amount of that remuneration to the committee (if there is one), to any meeting of creditors convened for the purpose of determining his fees, and in any reports he sends to creditors.

7 Progress reports and requests for further information

7.1 The liquidator is required to send annual progress reports to creditors. The reports must include

- details of the basis fixed for the remuneration of the liquidator (or if not fixed at the date of the report, the steps taken during the period of the report to fix it),
- if the basis has been fixed, the remuneration charged during the period of the report, irrespective of whether it was actually paid during that period (except where it is fixed as a set amount, in which case it may be shown as that amount without any apportionment for the period of the report),
- if the report is the first to be made after the basis has been fixed, the remuneration charged during the periods covered by the previous reports, together with a description of the work done during those periods, irrespective of whether payment was actually made during the period of the report,
- a statement of the expenses incurred by the liquidator during the period of the report, irrespective of whether payment was actually made during that period,
- a statement of the creditors' rights to request further information, as explained in paragraph 7.2, and their right to challenge the liquidator's remuneration and expenses.

7.2 Within 21 days of receipt of a progress report (or 7 business days where the report has been prepared for the purposes of a meeting to receive the liquidator's resignation) a creditor may request the liquidator to provide further information about the remuneration and expenses set out in the report. A request must be in writing, and may be made either by a secured creditor, or by an unsecured creditor with the concurrence of at least 5% in value of unsecured creditors (including himself) or the permission of the court.

7.3 The liquidator must provide the requested information within 14 days, unless he considers that

- the time and cost involved in preparing the information would be excessive, or

- disclosure would be prejudicial to the conduct of the liquidation or might be expected to lead to violence against any person, or
- the liquidator is subject to an obligation of confidentiality in relation to the information requested,

in which case he must give the reasons for not providing the information

Any creditor may apply to the court within 21 days of the liquidator's refusal to provide the requested information, or the expiry of the 14 days time limit for the provision of the information

8 Provision of Information – additional requirements

The liquidator must provide certain information about the time spent on the case, free of charge, upon request by any creditor, director or shareholder of the company

The information which must be provided is –

- the total number of hours spent on the case by the liquidator or staff assigned to the case,
- for each grade of staff, the average hourly rate at which they are charged out,
- the number of hours spent by each grade of staff in the relevant period

The period for which the information must be provided is the period from appointment to the end of the most recent period of six months reckoned from the date of the liquidator's appointment, or where he has vacated office, the date that he vacated office

The information must be provided within 28 days of receipt of the request by the liquidator, and requests must be made within two years from vacation of office

9 What if a creditor is dissatisfied?

- 9 1 Except in cases where there is a liquidation committee it is the creditors as a body who have authority to approve the liquidator's fees. To enable them to carry out this function they may require the liquidator to call a creditors' meeting. In order to do this at least ten per cent in value of the creditors must concur with the request, which must be made to the liquidator in writing
- 9 2 If a creditor believes that the liquidator's remuneration is too high, the basis is inappropriate, or the expenses incurred by the liquidator are in all the circumstances excessive he may, provided certain conditions are met, apply to the court
- 9 3 Application may be made to the court by any secured creditor, or by any unsecured creditor provided at least 10 per cent in value of unsecured creditors (including himself) agree, or he has the permission of the court. Any such application must be made within 8 weeks of the applicant receiving the liquidator's progress report in which the charging of the remuneration or incurring of the expenses in question is first reported (see paragraph 7 1 above). If the court does not dismiss the application (which it may if it considers that insufficient cause is shown) the applicant must give the liquidator a copy of the application and supporting evidence at least 14 days before the hearing
- 9 4 If the court considers the application well founded, it may order that the remuneration be reduced, the basis be changed, or the expenses be disallowed or repaid. Unless the court orders otherwise, the costs of the application must be paid by the applicant and not out of the assets of the insolvent company

10 What if the liquidator is dissatisfied?

If the liquidator considers that the remuneration fixed by the liquidation committee, or in the preceding administration, is insufficient or that the basis used to fix it is inappropriate he may request that the amount or rate be increased, or the basis changed, by resolution of the creditors. If he considers that the remuneration fixed by the liquidation committee, the creditors, in the preceding administration or in accordance with the statutory scale is insufficient, or that the basis used to fix it is inappropriate, he may apply to the court for the amount or rate to be increased or the basis changed. If he decides to apply to the court he must give at least 14 days' notice to the members of the committee and the committee may nominate one or more of its members to appear or be represented at the court hearing. If there is no committee, the liquidator's notice of his application must be sent to such of the creditors as the court may direct, and they may nominate one or more of their number to appear or be represented. The court may order the costs to be paid out of the assets.

11 Other matters relating to remuneration

- 11.1 Where the liquidator realises assets on behalf of a secured creditor he is entitled to be remunerated out of the proceeds of sale in accordance with a scale set out in the Rules. Usually, however, the liquidator will agree the basis of his fee for dealing with charged assets with the secured creditor concerned.
- 11.2 Where two (or more) joint liquidators are appointed it is for them to agree between themselves how the remuneration payable should be apportioned. Any dispute between them may be referred to the court, the committee or a meeting of creditors.
- 11.3 If the appointed liquidator is a solicitor and employs his own firm to act in the insolvency, profit costs may not be paid unless authorised by the committee, the creditors or the court.
- 11.4 If a new liquidator is appointed in place of another, any determination, resolution or court order which was in effect immediately before the replacement continues to have effect in relation to the remuneration of the new liquidator until a further determination, resolution or court order is made.
- 11.5 Where the basis of the remuneration is a set amount, and the liquidator ceases to act before the time has elapsed or the work has been completed for which the amount was set, application may be made for a determination of the amount that should be paid to the outgoing liquidator. The application must be made to the same body as approved the remuneration. Where the outgoing liquidator and the incoming liquidator are from the same firm, they will usually agree the apportionment between them.
- 11.6 There may also be occasions when creditors will agree to make funds available themselves to pay for the liquidator to carry out tasks which cannot be paid for out of the assets, either because they are deficient or because it is uncertain whether the work undertaken will result in any benefit to creditors. Arrangements of this kind are sometimes made to fund litigation or investigations into the affairs of the insolvent company. Any arrangements of this nature will be a matter for agreement between the liquidator and the creditors concerned and will not be subject to the statutory rules relating to remuneration.

12. Effective date

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

STATEMENT OF RIGHT TO REQUEST INFORMATION
INSOLVENCY RULE 4 49E

4.49E Creditors' and members' request for further information

- (1) If-
- (a) within the period mentioned in paragraph (2) -
 - (i) a secured creditor, or
 - (ii) an unsecured creditor with the concurrence of at least 5% in the value of value of the unsecured creditors (including the creditor in question), or
 - (iii) members of the company in a members' voluntary winding up with at least 5% of the total voting rights of all the members having the right to vote at general meetings of the company, or
 - (b) with the permission of the court upon an application made within the period mentioned in paragraph (2) -
 - (i) any unsecured creditor, or
 - (ii) any member of the company in a members' voluntary winding up,

makes a request in writing to the liquidator for further information about remuneration or expenses set out in a progress report in accordance with Rule 4 49B(1)(e) or (f) (including by virtue of Rule 4 49C(5)) or in a draft report under Rule 4 49D, the liquidator must, within 14 days of receipt of the request, comply with paragraph (3) except to the extent that the request is in respect of matter in a draft report under Rule 4 49D or a progress report required by Rule 4 108 which (in either case) was previously included in a progress report not required by Rule 4 108

- (2) The period referred to in paragraph (1)(a) and (b) is -
- (a) 7 business days of receipt (by the last of them in the case of application by more than one member) of the progress report where it is required by Rule 4 108, and
 - (b) 21 days of receipt (by the last of them in the case of an application by more than one member) of the report or draft report in any other case
- (3) The liquidator complies with this paragraph by either -
- (a) providing all of the information asked for, or
 - (b) so far as the liquidator considers that -
 - (i) the time or cost of preparation of the information would be excessive, or
 - (ii) disclosure of the information would be prejudicial to the conduct of the liquidation or might reasonably be expected to lead to violence against any person, or
 - (iii) the liquidator is subject to an obligation of confidentiality in respect of the information,giving reasons for not providing all of the information
- (4) Any creditor, and any member of the company in a members' voluntary winding up, who need not be the same as the creditors or members who asked for the information, may apply to the court within 21 days of -
- (a) the giving by the liquidator of reasons for not providing all of the information asked for, or
 - (b) the expiry of the 14 days provided for in paragraph (1),

and the court may make such order as it thinks just.

(5) Without prejudice to the generality of paragraph (4), the order of the court under that paragraph may extend the period of 8 weeks or, as the case may be, 4 weeks provided for in Rule 4 131(1B) or 4 148C(2) by such further period as the court thinks just

(6) This Rule does not apply where the liquidator is the official receiver