

Insolvency Act 1986

Notice of result of meeting of creditors

2.23B

Name of Company Starlight Marine Limited	Company number 04865195
In the High Court of Justice, Chancery Division, Leeds District Registry <div style="text-align: right;">[full name of court]</div>	Court case number 1763 of 2008

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

We (a) Mark Shaw, Shay Bannon and Toby Underwood of BDO Stoy Hayward LLP, 55 Baker Street, London., W1U 7EU

*Delete as applicable

hereby report that * a meeting / ~~an adjourned meeting~~ of the creditors of the above company was held at

(b) Insert details of place of meeting

(b) 55 Baker Street, London, W1U 7EU

(c) Insert details of meeting

On (c) 19 January 2009 at which:

*Delete as applicable

*1. ~~Proposals / revised proposals were approved.~~

*2. Proposals / ~~revised proposals~~ were modified and approved.

Modifications made to the proposals are as follows:

(d) Give details of the modifications (if any)

(d) Approval of the Administrators' remuneration on a time cost basis was removed.

*3 ~~The proposals were rejected.~~

(e) Insert time and date of adjourned meeting

*4. ~~The meeting was adjourned to (e)~~

(f) Details of other resolutions passed

*5. ~~Other resolutions: (f)~~

SATURDAY



A08 *AG3B58CT* 21/03/2009 325
COMPANIES HOUSE

The date for automatic end to Administration is 10 November 2009

*Delete as applicable A creditors' committee * was / was not formed.

Signed

(If signing on behalf of appointor indicate capacity
e.g. director/solicitor)

Dated 19 JANUARY 2009

*Delete as applicable A copy of the *original proposals / modified proposals / ~~revised proposals~~ is attached for those who did not receive such documents prior to the meeting.

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

BDO Stoy Hayward LLP, 55 Baker Street, London, W1U 7EU	
Our Ref JJB/JB/0138709/C9	Tel 020 7486 5888
DX Number	DX Exchange

When you have completed and signed this form please send it to the Registrar of Companies at:

Companies House, Crown Way, Cardiff, CF14 3UZ

DX 33050 Cardiff

SATURDAY



AG3B78CV

A08

21/03/2009

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COMPANIES HOUSE

In the Matter of Starlight Marine Limited

and

In the Matter of the Insolvency Act 1986

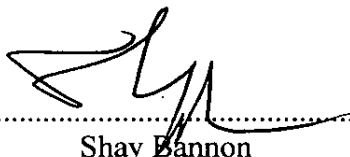
Notice of the Result of Meeting of Creditors

Pursuant to Rule 2.46 Insolvency Rules 1986 I report as follows:

The Joint Administrators' proposals were approved as follows THAT;

- (a) They continue to manage the affairs of the Company and realise assets in accordance with objective c) of the statutory purpose for the Administration and make payments to the secured creditor;
- (b) They exit the Administration by way of a Creditors' Voluntary Liquidation where Shay Bannon, Mark Shaw and Toby Scot Underwood will be Joint Liquidators;
- (c) Removed.
- (d) The Administrators' have the power to do all such things and take such steps as may be incidental or necessary to implement the above proposals;
- (e) The Joint Administrators of the Company be discharged from liability, pursuant to Paragraph 98 of Schedule B1 of the Insolvency Act 1986, in respect of any action of each or all of them, 28 days after the Joint Administrators filing their final report and sending it to creditors.

Date: 19 January 2009


.....
Shay Bannon
Joint Administrator



BDO Stoy Hayward LLP
Chartered Accountants

55 Baker Street London W1U 7EU
Telephone: +44 (0)20 7486 5888
Facsimile: +44 (0)20 7935 3944
DX 9025 West End W1
Web site: www.bdo.co.uk

Private and Confidential

TO ALL MEMBERS AND CREDITORS

5 January 2009

Our Ref JJB/JB/C6

Please ask for James Baggle
Direct Line: 020 7893 3078

Dear Sir(s)

Starlight Marine Limited – In Administration (“the Company”)

I refer to the appointment of Mark Shaw, Toby Scott Underwood and myself as Joint Administrators of the Company on 11 November 2008.

I am now in a position to convene a meeting of the Company's creditors pursuant to Paragraph 51 of Schedule B1 of the Insolvency Act 1986, formal notice of which is attached. The purpose of the meeting is for the creditors to consider and if they think fit approve the Joint Administrators' proposals for achieving the objective of the Administration.

The meeting is to be held at 55 Baker Street, London, W1U 7EU on 19 January 2009 at 10:00 hrs. A form of proxy and proof of debt are enclosed.

I attach a statement to creditors pursuant to Rule 2.33 of the Insolvency Rules 1986, which incorporates a statement of proposals under Paragraph 49 of Schedule B1 of the Insolvency Act 1986.

G:\Office\97Implementation Team\Cases\Project Train\Starlight Marine Limited\Para 49 report\Covering letter.DOC

BDO Stoy Hayward LLP is a limited liability partnership and is authorised and regulated by the Financial Services Authority to conduct investment business

Registered office:
55 Baker Street London W1U 7EU
Registered number: OC305127
Registered in England and Wales





BDO Stoy Hayward LLP

To All Members and Creditors
5 January 2009

Additionally, I provide a report setting out the work undertaken by the Joint Administrators to date, incorporating details of my firm's policies regarding fees and disbursements and a 'Creditors' Guide to Administrators' Fees'.

Yours faithfully
For and on behalf of
Starlight Marine Limited

Shay Bannon
Joint Administrator

Encs.

S Bannon and M Shaw are licensed by the Association of Chartered Certified Accountants and T S Underwood is authorised by the Insolvency Practitioners Association

The Joint Administrators are Agents of the Company and act without personal liability.

STARLIGHT MARINE LIMITED – IN ADMINISTRATION

RESOLUTIONS ISSUED TO THE MEMBERS AND CREDITORS

Formal Proposals - the Joint Administrators propose that they:

- (a) They continue to manage the affairs of the Company and realise assets in accordance with objective c) of the statutory purpose for the Administration and make payments to the secured creditor.
- (b) They exit the Administration by way of a Creditors' Voluntary Liquidation where Shay Bannon, Mark Shaw and Toby Scot Underwood will be Joint Liquidators.

NB. Under Paragraph 83(7) of Schedule B1 of the Insolvency Act 1986 and Rule 2.117(3) creditors may nominate different Liquidators, but in the absence of such nomination the above named would become the Liquidators.

- (c) Creditors approve the remuneration of the Joint Administrators on a time cost basis.
- (d) The Administrators have the power to do all such things and take such steps as may be incidental or necessary to implement the above proposals.

A further resolution is put to the creditors:

The Joint Administrators of the Company be discharged from liability, pursuant to Paragraph 98 of Schedule B1 of the Insolvency Act 1986, in respect of any action of each or all of them, 28 days after the Joint Administrators filing their final report and sending it to creditors.

Rule 8.1 Insolvency Act 1986
Proxy (Administration)

*Insert the name of the company

IN THE MATTER OF * Starlight Marine Limited
and
IN THE MATTER OF THE INSOLVENCY ACT 1986

Notes to help completion of the form

Please give full name and address for communication

Name of creditor _____

Address _____

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

Name of proxy-holder _____

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

I appoint the above person to be my / the creditor's proxy-holder at the meeting of creditors to be held on 19 January 2009, or at any adjournment of that meeting. The proxy-holder is to propose or vote as instructed below (and in respect of any resolution for which no specific instruction is given, may vote or abstain at his / her discretion).

Voting instructions for resolutions

* Please delete as appropriate

1 For the acceptance/rejection* of the Administrator's proposals/revised proposals as circulated

for the appointment of _____

of _____

representing _____

as a member of the creditors' committee

This form must be signed

Signature _____ Date _____

Name in CAPITAL LETTERS _____

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

Position with creditor or relationship to creditor or other authority for signature

Please note there are resolutions on the other side of this form

Insolvency Act 1986
Proxy (Administration) continued;

IN THE MATTER OF * Starlight Marine Limited

Additional resolutions
* Please delete as appropriate

- (a) They continue to realise assets in accordance with objective c) of the statutory purpose of the Administration, and make payments to the secured creditor.

Approved/Rejected

- (b) To exit the Administration by way of a Creditors' Voluntary Liquidation where Shay Bannon, Mark Shaw and Toby Scot Underwood will be Joint Liquidators.

NB. Under Paragraph 83(7) of Schedule B1 of the Insolvency Act 1986 and Rule 2.117(3) creditors may nominate different liquidators, but in the absence of such nomination the above named would become the Liquidators.

*Approved/Rejected

- (c) Creditors approve the remuneration of the Joint Administrators on a time cost basis.

*Approved/Rejected

- (d) The Administrators have the power to do all such things and take steps as may be incidental or necessary to implement the above proposals.

*Approved/Rejected

A further resolution is put to the creditors:

That the Joint Administrators be discharged from liability under the Administration per Paragraph 98 of Schedule B1 of the Insolvency Act 1986, immediately after the Joint Administrators' filing their final report and sending it to creditors.

*Approved/Rejected

**Starlight Marine Limited - In
Administration**

Statement to Creditors pursuant to Rule 2.33 of
the Insolvency Rules 1986 and Statement of
Proposals under Paragraph 49 of Schedule B1 of
the Insolvency Act 1986

BDO Stoy Hayward LLP

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STARLIGHT MARINE LIMITED – IN ADMINISTRATION

Registered No 04865195

In the High Court of Justice Chancery Division, Leeds District Registry 1763 of 2008

Registered office situated at 55 Baker Street, London, W1U 7EU.

1 Introduction

- 1.1 This report is addressed to the creditors of Starlight Marine Limited ("the Company") and incorporates the Joint Administrators' proposals. These proposals are to be considered by the creditors' meeting called pursuant to Paragraph 51 of Schedule B1 of the Insolvency Act 1986 to be held at the offices of BDO Stoy Hayward LLP, 55 Baker Street, London, W1U 7EU on 19 January 2009 at 10:00 hrs.
- 1.2 Creditors may approve the proposals with or without modifications subject to the Joint Administrators' agreement to any such modifications. If the creditors reject the Joint Administrators' proposals a report will be sent to the High Court of Justice, Chancery Division, Leeds District Registry confirming that the creditors have rejected the proposals. The Court may then discharge the Administration and make consequential directions. Alternatively, it may adjourn the hearing or make some other Order as it thinks fit.
- 1.3 If the Joint Administrators' proposals are agreed at the meeting of creditors the Joint Administrators will continue to control the business of the Company to the extent that it has not been transferred. The Joint Administrators would at some later date arrange for the Company to exit from the Administration, as agreed by the creditors. Based on the information presently available and the current situation the Joint Administrators' proposal is that the Company will enter Creditors' Voluntary Liquidation.

2 Events leading up to the Appointment of the Joint Administrators

- 2.1 The Company was incorporated on 13 August 2003 and its principal activities have been that of the ownership and rental of a yacht purchased by the Company in 2004.
- 2.2 The Company was reliant on income generated from the yacht being available for charter, however historically this did not generate sufficient revenue and the Company was effectively financed by its parent company, Starlight Investments Limited ("Starlight"), by way of an inter-company loan.
- 2.3 On 15 July 2008 Starlight was placed into Administrative Receivership, therefore the above funding was no longer forthcoming. On 10 November 2008 the Company resolved to take steps to enter Administration. On 11 November 2008 Shay Bannon, Mark Shaw and Toby Scott Underwood were appointed as Joint Administrators of the Company.
- 2.4 The Joint Administrators are authorised to carry out any act or function either jointly or alone pursuant to Paragraph 100(2) of Schedule B1 of the Insolvency Act 1986.

3 Statements of Affairs and Statutory Information

- 3.1 For your information, enclosed at Appendix 1, is a record of the names of the Company directors and company secretary, together with details of the shareholding.
- 3.2 No Statement of Affairs has been submitted by the former directors; however we attach at Appendix 2 a Statement of Affairs as prepared in draft form by the company secretary, appointed in order to complete the Administration appointment.

4 Prescribed Part

- 4.1 Under the provisions of Section 176A of the Insolvency Act 1986, the Joint Administrators are obliged to state the amount of funds available to unsecured creditors in respect of the Prescribed Part. This provision only applies where the company in question has granted a floating charge to a creditor on or after 15 September 2003.
- 4.2 The Company did not grant a floating charge to any creditor on or after 15 September 2003 therefore the Prescribed Part will not apply in the Administration.

5 Achieving the Purpose of the Administration

- 5.1 The statutory purpose of an Administration consists of three objectives and we now address the progress that has been made in this respect:
 - (a) The first objective is the rescuing of the Company as a going concern. We would comment that this is not achievable.
 - (b) The second objective to consider is the ability to achieve a better result for the creditors of the Company as a whole than would be likely if the Company were wound up (without first being in Administration). At present this purpose will be achievable as a sale of the yacht and moorings owned by the Company will result in payments to the secured and unsecured creditors.
 - (c) The final objective is realising property in order to make a distribution to one or more secured or preferential creditors. As objective (b) will be achieved above, this objective will not be applicable.

6 Management of the Company's Affairs since the Joint Administrators' Appointment**6.1 Initial Actions**

- 6.1.1 Upon our appointment as Joint Administrators we undertook an immediate review of the Company's affairs with particular regard to the Company's financial position and ongoing requirements. This assessment was carried out in liaison with the management having regard to the Company's ongoing business commitments and anticipated cash flows.

6.2 Yacht and mooring rights

6.2.1 We have instructed specialist agents to market and sell the Company's yacht (a Mangusta 80) which is moored in Antibes, South of France. The yacht is being marketed at €1.9m. No formal offers for the yacht have been received to date.

6.2.2 In addition the Company owns 100% of the share capital Starlight Moorings Limited (a dormant company) and Sayan Limited (a Guernsey registered company). Sayan Limited owns the mooring rights to the mooring berth in Antibes which runs to 2021 and is being marketed for sale with the above yacht. It is valued at around €500,000.

6.3 Creditors' claims**6.3.1 Secured Creditor**

The Company granted a marine mortgage over the yacht to Bank of Scotland plc ("BOS") on 30 November 2004. All realisations in respect of the yacht will be distributed to BOS in respect of its indebtedness of approximately €1.3m.

6.3.2 Preferential Creditors

It is understood that there were no employees of the Company; therefore there will be no preferential creditors in the Administration.

6.3.3 Unsecured claims

The major unsecured creditor is Starlight in respect of inter company balances totalling c. £4.5m.

Based on present information there will be sufficient funds available for a dividend payment to be made to unsecured creditors.

7 Receipts and Payments Account

A receipts and payments account is not attached, as no realisations have been made to date.

8 EC Regulations on Insolvency Proceedings

We are required under the Insolvency Rules 1986 to state whether and if so the extent to which the above regulations apply to the Administration. In this particular case, the EC Regulation will apply in respect of the Administration and these proceedings will be main proceedings as provided by Article 3 of the aforesaid Regulation.

9 Joint Administrators' Remuneration

9.1 Please note that under the provisions of the Insolvency Rules 1986 the Joint Administrators are obliged to fix their remuneration in accordance with Rule 2.106(2) of the Insolvency Rules 1986. This permits remuneration to be fixed

either as a percentage of the value of the property with which the Joint Administrators have to deal, or alternatively, by reference to the time the Joint Administrators and their staff have spent attending to matters in the Administration.

- 9.2 In respect of this Administration we request that our remuneration is approved on a time cost basis and enclose a resolution in this regard, although if a creditors' committee is appointed at the meeting of creditors, approval of the Joint Administrators' remuneration will be the committee's responsibility.
- 9.3 For your guidance we attach at Appendix 3 a summary of time charged and the rates applicable, a 'Creditors' Guide to Administrators' Fees', together with a document that outlines the policy of BDO Stoy Hayward LLP in respect of fees and disbursements.

10 Possible Outcomes for the Company and Creditors

The Insolvency Act 1986 and Insolvency Rules 1986 provide a variety of options regarding the possible exit routes for the Company from the Administration, being primarily a Company Voluntary Arrangement, a Creditors' Voluntary Liquidation or Dissolution of the Company. It is the Joint Administrators' recommendation and proposal, as detailed below, that once all assets have been realised and distributed, that the Joint Administrators arrange for the Company to move from Administration to Creditors' Voluntary Liquidation.

11 Statement of Proposals under Paragraph 49 of Schedule B1 of The Insolvency Act 1986

In accordance with Paragraph 49 of Schedule B1 of the Insolvency Act 1986 the Joint Administrators make the following proposals for the Company for achieving the purpose of the Administration. Approval of these proposals will be considered by the meeting of creditors to be held on 19 January 2009.

Formal Proposals - the Joint Administrators propose that:

- (a) They continue to manage the affairs of the Company and realise assets in accordance with objective c) of the statutory purpose for the Administration and make payments to the secured creditor;
- (b) They exit the Administration by way of a Creditors' Voluntary Liquidation where Shay Bannon, Mark Shaw and Toby Scot Underwood will be Joint Liquidators

NB. Under Paragraph 83(7) of Schedule B1 of the Insolvency Act 1986 and Rule 2.117(3) creditors may nominate different Liquidators, but in the absence of such nomination the above named would become the Liquidators.

- (c) Creditors approve the remuneration of the Joint Administrators on a time cost basis.
- (d) The Administrators have the power to do all such things and take such steps as may be incidental or necessary to implement the above proposals.



BDO Stoy Hayward

5 January 2009

A further resolution is put to the creditors:

The Joint Administrators of the Company be discharged from liability, pursuant to Paragraph 98 of Schedule B1 of the Insolvency Act 1986, in respect of any action of each or all of them, 28 days after the Joint Administrators filing their final report and sending it to creditors.

Dated: 5 January 2009

A handwritten signature in black ink, appearing to be 'Shay Bannon', written over a horizontal dotted line.

Shay Bannon
Joint Administrator



Starlight Marine Limited – In Administration

Appendix 1 - Statutory Information

**Starlight Marine Limited
In Administration**

Statutory Information

Company Number: 04865195

Date of Incorporation: 13 August 2003

Address of Registered Office: 55 Baker Street, London, W1U 7EU
Formerly: 15 – 17 Grosvenor Gardens, London,
SW1W 0BD

Directors: Mr P R Klimt (resigned 18 July 2008)
Mr G A Naggar (resigned 18 July 2008)

Company Secretary: Ms M J Langridge (resigned 30 September 2008)
Mr D Howie (appointed 6 November 2008)

Nominal Share Capital: £1 – 1 Ordinary share

Registered Shareholders: **No of £1 ordinary shares held**

Starlight Investments Limited (In
Administrative Receivership) 1

1



Starlight Marine Limited – In Administration

Appendix 2 – Draft Statement of Affairs

STARLIGHT MARINE LIMITED

A1 - Summary of Liabilities

	Book Value £	Estimate to Realise £
Estimated total assets available for preferential creditors (carried from page A)	931,582	367,424
Liabilities:		
Preferential creditors:		
	-	-
Estimated deficiency/surplus as regards preferential creditors	931,582	367,424
Debts secured by a floating charge:		
Estimated deficiency/surplus available for non-preferential creditors	931,582	367,424
Non-preferential claims:		
Loans from parent & subsidiary	(4,563,561)	(4,563,561)
Loans from related parties	(10,544)	(10,544)
Bank of Scotland overdraft	(11,075)	(11,075)
Trade creditors	(35,400)	(35,400)
Accruals	(28,059)	(28,059)
Deferred Taxation	(483,483)	-
Estimated deficiency/surplus as regard creditors	(4,200,540)	(4,281,215)
Issued and called up capital:	(1)	-
		(4,281,215)

Signature _____

Date _____

STARLIGHT MARINE LIMITED

A - Summary of Assets

Assets

Assets specifically pledged:-

Vessel & Furnitures "Mangusta 80"
Mortgaged to Bank of Scotland

Assets not specifically pledged:-

Investment in Sayan
Loans due from subsidiary
Motor Vehicles "Renault Espace"
Cash & Credit Cards
Other Debtors

Estimate total assets available for preferential creditors

Book Value £	Estimate to Realise £
1,325,492	1,221,827
(1,063,321)	(1,063,321)
262,171	158,506
245,760	203,638
20,440	-
10,561	5,280
37,415	-
355,235	-
931,582	367,424

Signature _____

Date _____



Starlight Marine Limited – In Administration

Appendix 3 – Summary of time charged and rates applicable, Policy of BDO Stoy Hayward LLP regarding remuneration and disbursements and a 'Creditors' Guide to Administrators' Fees'

STARLIGHT MARINE LIMITED - IN ADMINISTRATION
Summary of Time Charged and Rates Applicable

DESCRIPTION	PARTNER		MANAGER		ASSISTANT MANAGER		SENIOR ADMINISTRATOR		ADMINISTRATOR		OTHER STAFF		GRAND TOTAL		AVERAGE RATE	
	Hours	Total £	Hours	Total £	Hours	Total £	Hours	Total £	Hours	Total £	Hours	Total £	Hours	Total £	£	£
A. Pre Appointment Matters	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	N/A
B. Steps On Appointment	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	N/A
C. Planning & Strategy	-	-	0.30	111.60	-	-	-	-	-	-	-	-	0.30	111.60	-	372.00
D. General Administration	-	-	-	-	3.35	1,058.60	2.00	470.00	-	-	-	-	5.35	1,528.60	-	285.72
E. Assets Realisation/Dealing	-	-	-	-	4.40	1,390.40	-	-	-	-	-	-	4.40	1,390.40	-	316.00
F. Trading Related Matters	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	N/A
G. Employee Matters	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	N/A
H. Creditor Claims	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	N/A
I. Reporting	-	-	-	-	5.00	1,580.00	-	-	-	-	-	-	5.00	1,580.00	-	316.00
J. Distribution and Closure	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	N/A
	-	-	0.30	111.60	12.75	4,029.00	2.00	470.00	-	-	-	-	15.05	4,610.60	-	

BDO Stoy Hayward LLP Remuneration and Disbursements Policy

In accordance with best practice I provide below details of policies of BDO Stoy Hayward LLP in respect of fees and expenses for work in relation to the above insolvency.

The current charge out rates per hour of staff within my firm who may be involved in working on the insolvency follows: This in no way implies that staff at all such grades will work on the case.

GRADE	£
Partner1	645
Partner2	520
Director	437
Senior Manager	405
Manager	372
Assistant Manager	316
Senior Executive	213-252
Executive	156-189
Junior Executive	86-136
Support staff/Secretary	86

The rates charged by BDO Stoy Hayward LLP, 55 Baker Street, London, W1U 7EU are reviewed in December and July each year and are adjusted to take account of inflation and the firm's overheads.

Time spent on casework is recorded directly to the relevant case using a computerised time recording system and the nature of the work undertaken is recorded at that time. Units of time can be as small as 3 minutes. BDO Stoy Hayward LLP records work in respect of insolvency work under the following categories:-

- Pre Appointment
- Steps upon Appointment
- Planning and Strategy
- General Administration
- Asset Realisation/Management
- Trading Related Matters
- Employee Matters
- Creditor Claims
- Reporting
- Distribution and Closure
- Other Issues

Under each of the above categories the work is recorded in greater detail in sub categories. Please note that the 11 categories provide greater detail than the 6 categories recommended by the Recognised Professional Bodies who are responsible for licensing and monitoring insolvency practitioners.



BDO Stoy Hayward



BDO Stoy Hayward

Where an officeholder's remuneration is approved on a time cost basis, the time invoiced to the case will be subject to VAT at the prevailing rate.

Where remuneration has been approved on a time costs basis, a periodic report will be provided to any committee appointed by the creditors, or in the absence of a committee, to the creditors. The report will provide a breakdown of the remuneration drawn and will enable the recipients to see the average rates of such costs.

Other Costs

Where expenses are incurred in respect of the insolvent estate they will be recharged. Such expenses can be divided into 2 categories.

Category 1

This heading covers expenses where BDO Stoy Hayward LLP has met a specific cost in respect of the insolvent estate where payment has been made to a third party. Such expenses may include items such as advertising, travel (by public transport), couriers, searches at company house, land registry searches, fees in respect of swearing legal documents, external printing costs etc. In each case the recharge will be reimbursement of a specific expense incurred.

A further disbursement under this heading is the cost of travel where staff use either their own vehicles or company cars in travelling connected with the insolvency. In these cases a charge of 40p per mile is raised which is in line with the Inland Revenue Approved Mileage Rates (median – less than 10,000 miles per annum) which is the amount the firm pays to staff.

Where applicable, disbursements will be subject to VAT at the prevailing rate.

Category 2

Additionally some firms recharge expenses for example postage, stationery, photocopying charges, telephone and fax costs, which cannot economically be recorded in respect of each specific case. Such expenses, which are apportioned to cases, require the approval of the creditors, before they can be drawn, and these are known as category 2 disbursements. The policy of BDO Stoy Hayward LLP, effective from 1 July 2003, is not to recharge any expense which is not a specific cost to the case, therefore there will be no category 2 disbursements charged. Category 2 disbursements, because they are imprecise, require approval by the creditors before they can be drawn.

BDO Stoy Hayward LLP



BDO Stoy Hayward

A CREDITORS' GUIDE TO ADMINISTRATORS' FEES

1 Introduction

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

2 The nature of administration

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

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

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

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

3 The creditors' committee

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

4 Fixing the administrator's fees

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

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

It is for the creditors' committee (if there is one) to determine on which of these bases the remuneration is to be fixed and, if it is fixed as a percentage fix the percentage to be applied. Rule 2.106 says that in arriving at its decision the committee shall have regard to the following matters:

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

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



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

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

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

- 4.4 A resolution of creditors may be obtained by correspondence.

5 What information should be provided by the administrator?

5.1 When seeking fee approval

- 5.1.1 When seeking agreement to his fees the administrator should provide sufficient supporting information to enable the committee or the creditors to form a judgement as to whether the proposed fee is reasonable having regard to all the circumstances of the case. The nature and extent of the supporting information, which should be provided, will depend on:

- the nature of the approval being sought;
- the stage during the administration of the case at which it is being sought; and
- the size and complexity of the case.

- 5.1.2 Where, at any creditors' or committee meeting, the administrator seeks agreement to the terms on which he is to be remunerated, he should provide the meeting with details of the charge-out rates of all grades of staff, including principals, which are likely to be involved on the case.

- 5.1.3 Where the administrator seeks agreement to his fees during the course of the administration, he should always provide an up to date receipts and payments account. Where the proposed fee is based on time costs the administrator should disclose to the committee or the creditors the time spent and the charge-out value in the particular case, together with, where appropriate, such additional information as may reasonably be required having regard to the size and complexity of the case. The additional information should comprise a sufficient explanation of what the administrator has achieved and how it was achieved to enable the value of the exercise to be assessed (whilst recognising that the administrator must fulfil certain statutory obligations that might be seen to bring no added value for creditors) and to establish that the time has been properly spent on the case. That assessment will need to be made having regard to the time spent and the rates at which that time was charged, bearing in mind the factors set out in paragraph 4.1 above. To enable this assessment to be carried out it may be necessary for the administrator to provide an analysis of the time spent on the case by type of activity and grade of staff. The degree of detail will depend on the circumstances of the case, and professional guidance has been provided setting out a minimum of 6 category headings under which the work done by the officeholder and his staff should be analysed. As a firm BDO Stoy Hayward LLP operates a computerised time recording system which analyses work done under the following categories:-

- Pre Appointment Matters
- Steps upon Appointment
- Planning and Strategy
- General Administration
- Asset Realisation/Management



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- Trading Related Matters
- Employee Matters
- Creditor Claims
- Reporting
- Distribution and Closure
- Other Issues

Professional guidance suggests the following categories as a basis for analysis by grade of staff:

- Partner
- Manager
- Other senior professionals
- Assistants and support staff

The explanation of what has been done can be expected to include an outline of the nature of the assignment and the administrator's own initial assessment, including the anticipated return to creditors. To the extent applicable it should also explain:

- Any significant aspects of the case, particularly those that affect the amount of time spent.
- The reasons for subsequent changes in strategy.
- Any comments on any figures in the summary of time spent accompanying the request the administrator wishes to make.
- The steps taken to establish the views of creditors, particularly in relation to agreeing the strategy for the assignment, budgeting, time recording, fee drawing or fee agreement.
- Any existing agreement about fees.
- Details of how other professionals, including sub-contractors, were chosen, how they were contracted to be paid, and what steps have been taken to review their fees.

It should be borne in mind that the degree of analysis and form of presentation should be proportionate to the size and complexity of the case. In smaller cases not all categories of activity will always be relevant, whilst further analysis may be necessary in larger cases.

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

5.2 After fee approval

Where a resolution fixing the basis of fees is passed at any creditors' meeting held before he has substantially completed his functions, the administrator should notify the creditors of the details of the resolution in his next report or circular to them. In all subsequent reports to creditors the administrator should specify the amount of remuneration he has drawn in accordance with the resolution. Where the fee is based on time costs he should also provide details of the time spent and charge-out value to date and any material changes in the rates charged for the various grades since the resolution was first passed. He should also provide such additional information as may be required in accordance with the principles set out in paragraph 5.1.3. Where the fee is charged on a percentage basis the administrator should provide the details set out in paragraph 5.1.4 above regarding work which has been sub-contracted out.



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5.3 Expenses and disbursements

There is no statutory requirement for the committee or the creditors to approve the drawing of expenses or disbursements. However, professional guidance issued to insolvency practitioners requires that, where the administrator proposes to recover costs which, whilst being in the nature of expenses or disbursements, may include an element of shared or allocated costs (such as room hire, document storage or communication facilities provided by the administrator's own firm), they must be disclosed and be authorised by those responsible for approving his remuneration. Such expenses must be directly incurred on the case and subject to a reasonable method of calculation and allocation.

6 What if a creditor is dissatisfied?

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

7 What if the administrator is dissatisfied?

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

8 Other matters relating to fees

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

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