

The Insolvency Act 1986

## Notice of result of meeting of creditors

Name of Company:  Airphone Distribution Limited	Company number:  05273221
In the High Court of Justice Chancery Division Companies Court	Court case number:  5615 of 2006

We Andrew J Pepper and Alastair P Beveridge of Kroll Limited, 10 Fleet Place, London EC4M 7RB

hereby report that a meeting of the creditors of the above company was held at


Kroll Limited, 10 Fleet Place, London EC4M 7RB

on 20 December 2006

at which:

- Proposals were approved

A creditors' committee was not formed.

Signed   
Joint Administrator

Dated 5/1/07

A copy of the original 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

Steven Osman	
Tel 02070295496	
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



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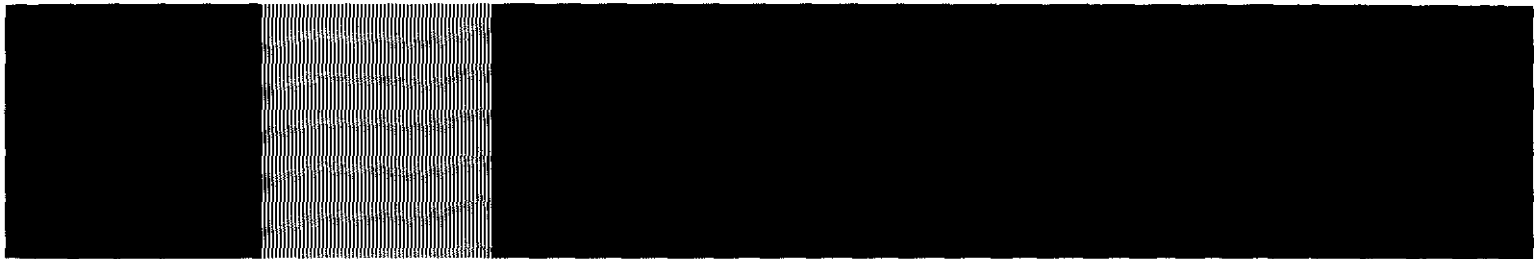
COMPANIES HOUSE

TUESDAY

# **Joint Administrators' Report and Statement of Proposals**

## **Airphone Distribution Limited - In Administration**

**5 December 2006**



# **KROLL**



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## 1 Statutory Information

- 1.1 Andrew J Pepper and Alastair P Beveridge, who are both licensed insolvency practitioners, were appointed as Joint Administrators (the **Administrators**) of the Airphone Distribution Limited (the **Company**) on 24 October 2006.
- 1.2 The Company's registered number is 5273221.
- 1.3 The trading address of the Company was 1 Cygnet Park, The Hamptons, Peterborough PE7 8FD.
- 1.4 The registered office of the Company has been changed from 1 Cygnet Park, The Hamptons, Peterborough, PE7 8FD to c/o Kroll, 10 Fleet Place, London EC4M 7RB.
- 1.5 Details of the Company's Directors and secretary are as follows:

	Date appointed	Date resigned	Shares held
<b>Directors</b>			
John Joseph Forde	29 October 2004	-	665
Robert Whellams	31 March 2005	-	333
<b>Secretary</b>			
Rebecca Barrett	9 July 2005	-	

## 2 Background to the Administration

- 2.1 The Company was a wholesaler of mobile phones.
- 2.2 The Administrators understand that the Company was a member of the International Phone Traders Network (**IPT**). IPT's website provided a forum for the Company to trade with other wholesalers. The Company used freight forwarders to both transport the stock and provide the customer with access to the phones to verify the specification. The Directors have indicated that following receipt of full payment from the customer, the Company would instruct the freight forwarder to release the goods.
- 2.3 The Company sourced its stock from the UK and a significant proportion of its sales were exports. In accordance with Value Added Tax legislation (**VAT**), the Company did not levy VAT on export sales but could reclaim the VAT paid on its purchases. Accordingly, on a monthly basis the Company submitted a VAT Return showing a net refund position from HM Revenue and Customs (**Customs**). No VAT refunds have been forthcoming from Customs since April 2006. According to the Company's records, at the date of the Administrators

appointment, Customs had a liability to the Company in the sum of £1,459,583. The Administrators understand that a number of entities in the telecommunications industry have had their VAT refunds frozen due to an industry wide investigation by Customs in relation to Missing Trader Intra Community VAT fraud. We understand from the Directors that this investigation has resulted in the Company's refund being frozen.

- 2.4 John Forde is a Director and shareholder of both the Company and a number of other entities in the telecommunications industry including Airpage Limited (**Airpage**). On 9 June 2006, the Company transferred £2,800,000 to Airpage's bank account. This transfer was followed by two other transfers to Airpage of £250,000 and £280,000 on 15 June 2006 and 22 June 2006 respectively. John Forde has advised that these transfers were carried out to enable the Company to benefit from a higher rate of interest available on deposits in this account. Subsequently, Airpage transferred to the Company two payments of £500,000 dated 28 June 2006 and 29 June 2006. Following these transactions, the Airpage bank account was in credit in the sum of £2,330,000. It is the Administrators understanding that Airpage's bank account with Company funds in the sum of £2,330,000 was frozen on 3 July 2006. This prevented funds being transferred to the Company's Barclays Bank plc (**Barclays**) bank account to cover a significant payment to a creditor and resulted in the Company's Barclays account being overdrawn in the sum of £2,086,525.28.
- 2.5 As detailed above, in total, Company funds in the sum of £3,789,583 have been frozen. This substantially impacted the Company's cash flow position.
- 2.6 On 2 August 2006, Barclays served a demand on the Company to pay £2,137,256.19, a sum which included bank charges and interest. This demand remained unsatisfied and therefore on 4 August 2006 Barclays made an application to Court to appoint Administrators.
- 2.7 Whilst attempts were made to achieve settlement of the debt due to Barclays in the period after the demand date, by 24 October 2006 it had become apparent that the Company was unable to discharge its liabilities as and when they fell due and therefore the Company was insolvent as defined by the Insolvency Act 1986 (the **Act**). As a result, Andrew J Pepper and Alastair P Beveridge, were appointed Administrators of the Company on 24 October 2006.
- 2.8 Andrew J Pepper and Alastair P Beveridge are both licensed by the Institute of Chartered Accountants in England and Wales
- 2.9 The Court reference number and address are 5615 of 2006 and The High Court of Justice, Chanceley Division, Companies Court respectively.
- 2.10 The Company's main centre of operations is based in the United Kingdom. The EC Regulations on Insolvency Proceedings 2000 apply to the Administration. The proceedings are main proceedings as defined by Article 3 of these Regulations.

2.11 The Administrators act jointly and severally so that all functions may be exercised by either Administrator.

2.12 The Administrators of the Company must perform their functions with the purpose of achieving one of the following objectives:

- rescuing the Company as a going concern;
- achieving a better result for the Company's creditors as a whole than would be likely if the Company were wound up (without first being in Administration); or
- realising property in order to make a distribution to one or more secured or preferential creditors.

Further information on the pursuance of the above objectives is detailed in the next section.

### **3 Administration Strategy**

3.1 At the date Barclays applied to Court for the appointment of Administrators, it appeared possible that the Company could continue to trade in Administration due to both its historical ability to generate a profit and the presence of a forward order book. Following our *appointment and further investigation into the Company's affairs*, it became apparent that owing to an absence of stock it would not be possible to continue to trade and therefore the second objective detailed in paragraph 2.12 above is being pursued.

3.2 At the date of the Administrators appointment, the Company's accounts detailed a number of assets with significant book value. The Administrators are in the process of investigating the following assets:

#### **VAT Refund**

3.2.1 As detailed above, according to the Company's records, Customs have frozen VAT refunds due to the Company for the period April 2006 to the date of the Administrators appointment. The Company's records detail this liability to be in the sum of £1,459,583. The Administrators have formally requested that Customs either refund the monies due to the Company or provide an explanation as to why no refund is forthcoming. To date no formal response has been received.

**Monies owed by Airpage Limited**

- 3.2.2 As previously outlined, £2,086,525.28 has been frozen in Airpage's bank account. The Administrators are in the process of investigating the circumstances surrounding this freezing order and the appropriate way to recover the asset.

**Debtors**

- 3.2.3 According to the Company's records, KTM Communications Limited (**KTM**), an entity based in Israel, is a debtor in the sum of £1,290,833.50. The Administrators have both written to and telephoned KTM requesting full repayment of this debt. To date no payment has been forthcoming. Accordingly, the Administrators are in the process of exploring other avenues to recover these monies (discussed below).
- 3.2.4 The Company used freight forwarders to transport stock to overseas customers. The freight forwarder is instructed not to release the stock until full payment has been received from the customer. The Administrators understand that the logistics of this system failed to operate successfully during the Company's final trade with KTM, as the freight forwarders released the stock to KTM prior to both; payment being received from KTM and the Company agreeing to the release. The Company has an insurance policy in place with Norwich Union Marine (**NU**) to cover the costs of payment default resulting from a third party error. Accordingly, the Administrators are in the process of liaising with NU's agents in an attempt to recover the monies due.
- 3.2.5 In addition to KTM, the Company's records detail three outstanding debtors. Following investigation it is apparent that two of these debtors are incorrectly recorded. The residual debtor is Global Assist, an entity based in South Africa. The outstanding debt in sum of £19,500 is considered collectable and is being pursued by the Administrators.

**Property**

- 3.2.6 According to the Directors, the Company invested £50,000 in the construction of a residential property development. The Directors have advised that the Company failed to pay the second instalment towards this investment and in accordance with the terms and conditions of the contract this investment is now irrecoverable and has no future value. The Administrators have requested copies of the relevant contract from the Directors, however to date this has not been provided.

**Investments**

- 3.2.7 As previously detailed, John Forde owns shares in a number of companies in the telecommunications industry including Activefone Limited (**Activefone**). In addition, it is

apparent that the Company holds approximately 8 percent of the equity in Activefone. According to the Company's records, the Company paid £425,000 for this equity. The Administrators are in the process of ascribing a value for this asset and investigating the possibilities for recovery.

- 3.2.8 It should be noted that with the exception of the Company's approximate 8 percent shareholding in Activefone, there is no inter company share ownership between the various entities controlled by John Forde. Following a review of the Company's bank transactions and creditor and debtor accounts, it is apparent that there are outstanding liabilities due from Airphone Limited and Activefone to the Company. The Administrators are in the process of finalising the debtor positions and in due course will seek to recover the monies due.

**Stock**

- 3.2.9 Following investigation, it is apparent that the Company held no stock at the date of the Administrators appointment.

**Cash at Bank and in hand**

- 3.2.10 At the Administrators appointment, the Company's assets included cash held in a solicitors client account in the sum of £2,500.74. In addition, the Company's second Barclays bank account held a credit balance in the sum of £1,841.54. This cash was subsumed within the Company's overdraft in accordance with the rights of combination granted to Barclays.

**4 Administrators' Receipts and Payments**

- 4.1 A summary of receipts and payments for period 24 October 2006 to 30 November 2006 is attached as Appendix A.
- 4.2 To date the only asset realisation is the cash held in the solicitors client account. Given the nature of the Company's assets, it is impossible at this stage to accurately estimate either the quantum or timing of any future recoveries.
- 4.3 As detailed in the receipts and payments account, following payment to legal Counsel no funds are held by the Company.

**5 Financial Position of the Company**

- 5.1 Attached as Appendix B is a summary of the Directors' Estimated Statement of Affairs (**SoA**) of the Company as at the date of the appointment of the Administrators. The SoA is signed

by John Forde. At present the Administrators have not received a SoA from Robert Whellams.

- 5.2 We have the following observations to make in relation to the SoA:
- 5.3 The SoA estimates that the VAT refund will be recovered in full. As previously detailed, the likely timing and quantum of repayment of this asset from Customs remains uncertain.
- 5.4 The SoA estimates that the monies frozen in Airpage's account will be returned to the Company in full. As previously detailed this realisation remains uncertain.
- 5.5 The SoA estimates that the KTM debt will be paid in full. This realisation remains highly uncertain. This asset appears more likely to be recovered through the insurance claim against NU.
- 5.6 The SoA estimates that the Company will recover the full investment in Activefone. However the real value of this asset remains uncertain.
- 5.7 The SoA details an outstanding liability in the sum of £3,694 from entities controlled by John Forde. Whilst investigations in this regard are ongoing, it appears that the outstanding debts due to the Company may be considerably higher than this figure.
- 5.8 The outstanding creditor balances detailed in the SoA have yet to be adjudicated.

## **6 Proposals**

It is proposed that the Administrators continue to manage the affairs of the Company in order to achieve the purpose of the Administration. In the circumstances it is proposed that:

- 6.1 The Administrators continue to manage the affairs of the Company.
- 6.2 The Administrators do all such other things and generally exercise all of their powers as contained in Schedule 1 of the Act, as they consider desirable or expedient to achieve the statutory purpose of the Administration.
- 6.3 The creditors consider establishing a Creditors' Committee and that if any such Committee is formed they be authorised to sanction any proposed act on the part of the Administrators without the need to report back to a further meeting of creditors generally, to include making any decision about the most appropriate exit route from the Administration.

- 6.4 Under Rule 2.106 of the Insolvency (Amendment) Rules 2003 and in the absence of a Creditors' Committee, the remuneration of the Administrators be fixed by reference to time properly spent by them and their staff in attending to matters arising from the Administration.
- 6.5 In accordance with Statement of Insolvency Practice No 9, issued by the Association of Business Recovery Professionals, the Administrators be authorised to draw remuneration as and when funds are available on account of their time costs. A creditors' guide to fees is attached as Appendix C.
- 6.6 As previously detailed the Administrators are uncertain whether there will be sufficient funds to enable a dividend to be paid to unsecured creditors. If there are no funds available to enable a distribution to the unsecured creditors, we propose filing a notice pursuant to Paragraph 84 of Schedule B1 together with our final progress report at Court and with the Registrar of Companies for the dissolution of the Company. We shall send copies of these documents to the Company and its creditors. The appointment will end following the registration of the notice by the Registrar of Companies.
- 6.7 In the event that the Administrators' consider that there will be sufficient funds available to enable a distribution to unsecured creditors, the Administrators will file a notice with the Registrar of Companies in order that the Administration will cease and the Company will move automatically into Creditors' Voluntary Liquidation (**CVL**). Should the Company move into a CVL, it is proposed that the Administrators be appointed as Joint Liquidators of the Company or, such different person/s as are nominated by the creditors in accordance with Paragraph 83(7) of Schedule B1 of the Act provided that such nomination is made in writing to the Administrators prior to these proposals being approved. Where this occurs, the Administrators will advise creditors and provide the opportunity to vote. In the absence of a nomination, the Administrators will automatically become the Joint Liquidators of the subsequent CVL.
- 6.8 The Administrators' will be discharged from liability under Paragraph 98 of Schedule B1 to the Insolvency Act 1986 immediately upon their appointment as Administrators ceasing to have effect.

## **7 Administrators' Remuneration**

- 7.1 It is proposed that the remuneration of the Administrators will be fixed by reference to time spent by them and their staff in managing the Administration, in accordance with the Statement of Insolvency Practice No 9 (**SIP9**) issued by the Association of Business Recovery Professionals. A copy of the 'Creditors' Guide to Administrators' Fees' is attached as Appendix C.

7.2 The Administrators' time costs at 30 November 2006 are £45,718.50. Attached at Appendix D is a Time Analysis in accordance with the provisions of SIP9, which provides details of the activity costs incurred by staff grade to the above date. The Administrators propose drawing fees in accordance with the proposals outlined above.

7.3 Attached as Appendix E is additional information in relation to our policy on staffing, the use of sub-contractors, disbursements and details of our current charge-out rates by staff grade.

## **8 Estimated Outcome**

8.1 At this stage, due the significant uncertainty regarding the recovery of the Company's assets, it is not possible to provide an accurate estimated outcome for creditors.

## **9 Next Report**


9.1 The Administrators are required to provide a progress report within one month of the end of the first six months of the Administration.

## **10 Meeting of Creditors**

10.1 An initial meeting of the Company's creditors is being convened to approve the Administrators' Proposals. The meeting will be held on 19 December 2006 at 11:00am at Kroll, 10 Fleet Place, London EC4M 7RB.

If you require any further information please do not hesitate to contact my colleague Chris Sharpe.

For and on behalf of  
Airphone Distribution Limited

  
**Andrew J Pepper**  
Joint Administrator  
Enc

Receipts and Payments Account for the Period from 24 October 2006  
to 30 November 2006

Appendix A

Summary of Receipts and Payments  
24 October 2006 to 30 November 2006

	£ Total
<b>RECEIPTS</b>	
Cash held at solicitors client account	<u>2,500.74</u>
	2,500.74
<b>PAYMENTS</b>	
Legal Fees	<u>2,500.74</u>
	2,500.74
<b>Balance in Period</b>	<u><b>0.00</b></u>

Summary of Directors Statement of Affairs as at 23 November 2006

Appendix B

Rule 2.29

Form 2.14B

**Statement of affairs**

Name of Company Airphone Distribution Ltd	Company number 5273221
In the  [full name of court]	Court case number

(a) Insert name and address of registered office of the company Statement as to the affairs of (a) Airphone Distribution Ltd  
1 Cygnet Park, The Hamptons,

Peterborough PE7 8FD

(b) Insert date on the (b) 24 October 2006, the date that the company entered administration.

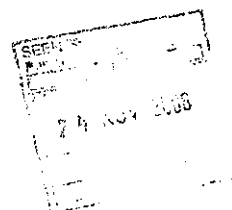
**Statement of Truth**

I believe that the facts stated in this statement of affairs are a full, true and complete statement of the affairs of the above named company as at (b) 24 October 2006 the date that the company entered administration.

Full name John Joseph Forde

Signed

Dated 23 November 2006



**A - Summary of Assets****Assets****Assets Subject to Fixed Charge:****Assets Subject to Floating Charge:**

	Book Value £	Estimated to Realise £
Property Deposit	50,000	0
Stock	Nil	Nil
Cash at Bank	2,116	2,116
KTM - Debtors - Insurance claim	1,290,833	1,290,833
Vat receivable	1,459,583	1,459,583
HSBC Deposit account	2,330,000	2,369,610
Activefone Shares	425,000	425,000
Activefone - Debtors	3,964	3,964

**Estimated Total assets available for preferential creditors**

5,561,496	5,551,106
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Signature  Date 23/11/06

**A1 Summary of Liabilities**

		Estimated to realise £
<b>Estimated total assets available for preferential creditors (carried from page A)</b>	£	5,551,106
<b>Liabilities</b>		
Preferential Creditors	£	Nil
<b>Estimated deficiency/surplus as regards preferential creditors</b>	£	5,551,106
Estimated prescribed part of net property where applicable (to carry forward)	£	Nil
<b>Estimated total assets available for floating charge holders</b>	£	5,551,106
Debts secured by floating charges	£	Nil
<b>Estimated deficiency/surplus of assets after floating charges</b>	£	5,551,106
Estimated prescribed part of net property where applicable (brought down)	£	Nil
<b>Total assets available to unsecured creditors</b>	£	5,551,106
Unsecured non-preferential claims (excluding any shortfall to floating charge holders)	£	5,578,932
<b>Estimated deficiency/surplus as regards non-preferential creditors (excluding any shortfall to floating charge holders)</b>	£	-27,826
Shortfall to floating charge holders (brought down)	£	Nil
<b>Estimated deficiency/surplus as regards creditors</b>	£	-27,826
Issued and called up capital	£	1,000
<b>Estimated total deficiency/surplus as regards members</b>	£	<u>(28,826)</u>

Signature  Date 23/11/2006

## COMPANY CREDITORS

**Note:** You must include all creditors and identify all creditors under hire-purchase, chattel leasing or conditional sale agreements *and* customers claiming amounts paid in advance of the supply of goods or services *and* creditors claiming retention of title over property in the company's possession.

Name of creditor or Claimant	Address (with postcode)	Amount of debt £	Details of any security held by creditor	Date security given	Value of security £
AI Inspections Ltd	Rockware Business Centre, 5 Rockware Avenue, Greenford, UB6 0AA	9,309			
AFI Logistics UK Ltd	Unit 6, Bridge Business Centre, Bridge Rd, Southall, UB2 4AY	4,012			
Airpage Ltd	1 Cygnet Park, Hamptons, Peterborough, PE7 8FD	70,500			
Duncan & Toplis	Welland House, High Street, Spalding, PE11 1UB	4,112			
Edge Logistics Ltd	Trinity Point, Halesowen, B63 3HY	-609			
Future Communications	Commercial House, 486 Honeyput Lane Stanmore, HA7 1JR	2,647,216			
Global Assist SA (Pty) Ltd	P O Box 30440, Kyalami, 1684 South Africa	-19,500			
Hawk Precision Logistics Ltd	Unit 1, Poyle 14, Newlands Drive Colnbrook, SL3 0DX	-2,500			
MNR Global Ltd	CG22B Innovation Labs, Watford Rd Harrow, HA1 3TP	678,050			
Third Dimension Ltd	The Old Bank, High Street, Milborne Port, Dorset, DT9 5AQ	464			
Barclays Bank	1 Church Street, Peterborough, PE1 1QP	2,086,035			
Airphone Telecom Ltd	1 Cygnet Park, The Hamptons, Peterborough PE7 8FD	12,738			

[illegible]Date 23 November 2006

Signature \_\_\_\_\_

Date 23 November 2006

**A Creditor's Guide to Administrators' Fees**

**Appendix C**

**England and Wales**

**1 Introduction**

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

**2 The Nature of Administration**

- 2.1 Administration is a procedure which places a company under the control of an insolvency practitioner and the protection of the court in order to achieve one or more of the following statutory purposes:
- rescuing the company as a going concern;
  - achieving a better result for the company's creditors as a whole than would be likely if the company were wound up (without first being in Administration); or
  - realising property in order to make a distribution to one or more secured or preferential creditors.

Administration may be followed by a company voluntary arrangement, liquidation, dissolution or survival of the company.

**3 The Creditors' Committee**

- 3.1 The creditors have the right to appoint a committee with a minimum of three and a maximum of five members. One of the functions of the committee is to determine the basis of the Administrator's remuneration. The committee is established at the meeting of creditors, which the Administrator is required to hold within ten weeks of the commencement of the Administration to consider his proposals (subject to certain conditions). The Administrator

must call the first meeting of the committee within six 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 the power to summon the Administrator to attend before it and provide such information as it may require.

#### **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 (Amendment) Rules 2003, 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, to 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; and
- 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.

**5 What Information should be provided by the Administrator?**

*When seeking fee approval*

5.1 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.

5.2 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.

5.3 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 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; and
- any other case-specific matters.

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

- partner;
- manager;
- other senior professionals; and
- 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; and
- 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.

- 5.4 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.

***After fee approval***

- 5.5 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 the work which has been sub-contracted out.

***Expenses and disbursements***

- 5.6 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% 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.

## **9 Provision of information - Additional Requirements**

In any case where the administrator is appointed on or after 1 April 2005 he 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.

## Time Analysis for the Period from 24 October 2006 to 30 November 2006

## Appendix D

TIME CLASSIFICATION	TIME COSTS BY EMPLOYEE RANK				TOTAL	
	Partner/ Director Hours	Manager Hours	Other Sen/Prof Hours	Assistants/ Support Hours	Total Hours	Total Cost (£)
Administration and Planning	6.2	33.6	32.0	33.2	105.0	15,225.00
Investigations	3.7	23.5	36.7	2.6	66.5	9,642.50
Asset Realisation - Debtors	-	17.8	8.1	25.8	51.7	7,496.50
Asset Realisation - Floating Charge	-	4.5	66.8	0.1	71.4	10,353.00
Trading	-	-	-	-	-	-
Creditors	-	10.5	3.6	6.6	20.7	3,001.50
<b>TOTAL</b>	<b>9.90</b>	<b>89.90</b>	<b>147.20</b>	<b>68.30</b>	<b>315.30</b>	<b>45,718.50</b>

**Additional Information in Relation to Administrators' Fees Pursuant to  
Statement of Insolvency Practice 9**

**Appendix E**

**1 Policy**

Detailed below is Kroll's policy in relation to:

- staff allocation and the use of sub-contractors;
- professional advisors; and
- disbursements.

**1.1 Staff Allocation and the use of Sub-contractors**

Our general approach to resourcing our assignments is to allocate staff with the skills and experience to meet the specific requirements of the case.

The constitution of the case team will usually consist of a Partner, Manager, Senior and Assistant. The exact constitution of the case team will depend on the anticipated size and complexity of the assignment and on larger, more complex cases, several Seniors/Assistants may be allocated to meet the demands of the case.

With regard to support staff, we would advise that time spent by cashiers in relation to specific tasks on an assignment is charged. Only if there is a large block of time incurred by a member of the secretarial team, eg, report compilation and distribution, do we seek to charge and recover our time in this regard.

We have not utilised the services of any sub-contractors in this case.

**1.2 Professional Advisors**

On this assignment we have used the professional advisors listed below. We have also indicated alongside, the basis of our fee arrangement with them, which is subject to review on a regular basis.

<b>Name of Professional Advisor</b>	<b>Basis of Fee Arrangement</b>
DLA Piper UK LLP (legal advice)	Hourly rate and disbursements
Alexander Forbes (insurance)	Hourly rate and disbursements

Our choice was based on our perception of their experience and ability to perform this type of work, the complexity and nature of the assignment and the basis of our fee arrangement with them.

### 1.3 Disbursements

Category 1 disbursements do not require approval by creditors. The type of disbursements that may be charged as a Category 1 disbursement to a case generally comprise of external supplies of incidental services specifically identifiable to the case, such as postage, case advertising, invoiced travel and external printing, room hire and document storage. Also chargeable will be any properly reimbursed expenses incurred by personnel in connection with the case.

No Category 2 disbursements have been incurred.

## 2 Charge-out Rates

A schedule of Kroll charge-out rates effective from 1 January 2005 is as follows:

	(Per hour) £
<b>Partner:</b>	
Partner	300
Associate Partner / Director	280
<b>Manager:</b>	
Senior Manager	260
Manager	240
<b>Other Senior Professionals:</b>	
Experienced Senior	200
Senior	180
Administrator	140
<b>Assistants and Support Staff:</b>	
Assistant	90
Experienced Cashier	140
Cashier	90
Assistant Cashier	65
Support	65

**Insolvency Act 1986****Proxy (Administration)****Airphone Distribution Limited – In Administration**

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 for 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

1 \_\_\_\_\_

2 \_\_\_\_\_

3 \_\_\_\_\_

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

I appoint the above person to be my/the creditor's proxy holder at the meeting of creditors to be held on 19 December 2006 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 That the Joint Administrators' proposals be approved. **For/Against\***
- 2 Under Rule 2.106 of the Insolvency (Amendment) Rules 2003 and in the absence of a Creditors' Committee, the remuneration of the Joint Administrators be fixed by reference to time properly spent by them and their staff in attending to matters arising from the Administration. **For/Against\***
- 3 In accordance with Statement of Insolvency Practice No 9, issued by the Association of Business Recovery Professionals, the Joint Administrators be authorised to draw remuneration as and when funds are available on account of their time costs. **For/Against\***
- 4 The Joint Administrators will be discharged from liability under Paragraph 98(3) of Schedule B1 to the Insolvency Act 1986 immediately upon their appointment as Administrators ceasing to have effect. **For/Against\***
- 5 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  
\_\_\_\_\_  
\_\_\_\_\_