

The Insolvency Act 1986

Statement of administrator's proposals

Name of Company KCP II (GP) Limited	Company number 06140282
In the High Court of Justice, Companies Court [full name of court]	Court case number 8837 of 2008

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

We (a) Anthony Cliff Spicer and Henry Anthony Shinnars of Smith & Williamson Limited,
London, EC2R 6AY

attach a copy of our proposals in respect of the administration of the above company.

A copy of these proposals was sent to all known creditors on

(b) Insert date

2 December 2008

Signed

Joint Administrators

Dated

2/12/08

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

Smith & Williamson Limited

London, EC2R 6AY

Tel 020 7131 4000

DX Number

DX Exchange

THURSDAY



A662D5DJ

A40

04/12/2008

17

COMPANIES HOUSE

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

Notice of a meeting of creditors

Name of Company KCP II (GP) Limited	Company number 06140282
In the High Court of Justice, Companies Court <small>[full name of court]</small>	Court case number 8837 of 2008

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

Notice is hereby given by (a) Anthony Cliff Spicer and Henry Anthony Shinnars of Smith & Williamson Limited, 25 Moorgate, London, EC2R 6AY that a meeting of the creditors of (b) KCP II (GP) Limited, One Hanover Square, London, W1S 1AX

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

is to be held at (c) Moorgate, London, EC2R 6AY on 17 December 2008 at 11.00 am.

The meeting is an initial creditors' meeting under paragraph 51 of Schedule B1 to the Insolvency Act 1986 ("the Schedule");

(c) Insert details of place of meeting

I invite you to attend the above meeting.

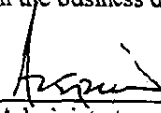
A proxy form is enclosed which should be completed and returned to me by the date of the meeting if you cannot attend and wish to be represented.

(d) Insert date and time of meeting

In order to be entitled to vote under Rule 2.38 at the meeting you must give to me, not later than 12.00 hours on the business day before the day fixed for the meeting, details in writing of your claim.

*Delete as applicable

Signed


Joint Administrators

Dated

2/12/08
A copy of the *proposals is attached

Proxy (Administration)

KCP II (GP) Limited

Name of Creditor _____

Address _____

Name of Proxy Holder

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

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 17 December 2008 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 and as per the attached voting sheet

2. 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

Remember: there may be resolutions on the other side of this form

In the matter of KCP II (GP) Limited

And

In the matter of the Insolvency Act 1986

Administrators' proposals

Please indicate your acceptance or rejection to the joint administrators' proposals by ticking the appropriate boxes below.

The joint administrators propose the following resolutions:-

- That the joint administrators should continue to do all such things reasonably expedient and generally exercise all their powers as joint administrators as they, in their discretion, consider desirable in order to maximise realisations.

Yes ☐

No ☐

- That the joint administrators may seek an extension to the administration period if deemed appropriate.

Yes ☐

No ☐

- That, when it is anticipated that no better realisations will be made in the administration than would be available in a winding up, the joint administrators should take the necessary steps to move Master from administration to creditors' voluntary liquidation or dissolution as deemed appropriate.

Yes ☐

No ☐

- That if Master is moved into voluntary liquidation Anthony Spicer and Henry Shinnars, the joint administrators, may be appointed joint liquidators. In accordance with paragraph 83(7) and Rule 2.117(3) of the Insolvency Act 1986, creditors may nominate a different person as the proposed liquidator, provided that the nomination is made after the receipt of the proposals and before the proposals are approved.

Yes ☐

No ☐

- The joint administrators will be remunerated on a time cost basis. In accordance with Rule 2.106(9) of the Insolvency Rules 1986. Also, that the joint administrators be authorised to draw disbursements from time to time.

Yes ☐

No ☐

- That the costs of Smith & Williamson Limited in respect of Pension, Tax and VAT and Investment Management advice to the joint administrators be based upon time costs and shall be paid out of the asset realisations.

Yes ☐

No ☐

- The Joint Administrators will be discharged from liability in respect of any action of theirs as Joint Administrators upon the termination of the administration, pursuant to paragraph 98(1) of Schedule B1 of the Insolvency Act 1986.

Yes ☐

No ☐

Name of Creditor:

Address:

.....

Position in Company:

Signature:

Print Name:

Date:

PROOF OF DEBT - GENERAL FORM

In the matter of KCP II (GP) Limited (in administration)

and in the matter of The Insolvency Act 1986

Date of Administration: 9 October 2008

1.	Name of Creditor	
2.	Address of Creditor	
3.	Total amount of claim, including any Value Added Tax and outstanding uncapitalised interest as at the date the company went into administration (see note)	£
4.	Details of any document by reference to which the debt can be substantiated. [Note: an administrator may call for any document or evidence to substantiate the claim at his discretion]	
5.	If the total amount shown above includes Value Added Tax, please show:- (a) amount of Value Added Tax (b) amount of claim NET of Value Added Tax	£ £
6.	If total amount above includes outstanding uncapitalised interest please state amount	£
7.	If you have filled in both box 3 and box 5, please state whether you are claiming the amount shown in box 3 or the amount shown in box 5(b)	
8.	Give details of whether the whole or any part of the debt falls within any (and if so which) of the categories of preferential debts under section 386 of, and schedule 6 to, the Insolvency Act 1986 (as read with schedule 3 to the Social Security Pensions Act 1975)	Category Amount(s) claimed as preferential £
9.	Particulars of how and when debt incurred.	
10.	Particulars of any security held, the value of the security, and the date it was given	£
11.	Signature of creditor or person authorised to act on his behalf	
	Name in BLOCK LETTERS	
	Position with or relation to creditor	

The Insolvency Act 1986

Statement of administrator's proposals

Name of Company KCP II (GP) Limited	Company number 06140282
In the High Court of Justice, Companies Court <small>(full name of court)</small>	Court case number 8837 of 2008

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

We (a) Anthony Cliff Spicer and Henry Anthony Shimmers of Smith & Williamson Limited,
London, EC2R 6AY

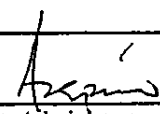
attach a copy of our proposals in respect of the administration of the above company.

A copy of these proposals was sent to all known creditors on

(b) Insert date

2 December 2008

Signed


Joint Administrators

Dated

2/12/08

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

Smith & Williamson Limited

London, EC2R 6AY

Tel 020 7131 4000

DX Number

DX Exchange

Companies House receipt date barcode

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

Companies House, Crown Way, Cardiff, CF14 3UZ

DX 33050 Cardiff

Smith & Williamson

KCP II (GP) Limited (in Administration)

Statement of the Joint Administrators'
Proposals to all known creditors

2 December 2008

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1. Introduction

Further to our appointment as joint administrators of KCP II (GP) Limited ("GP"), we detail below our statement of proposals for GP in accordance with paragraph 49 of Schedule B1 to the Insolvency Act 1986 and rule 2.33 of the Insolvency Rules 1986. On 9 October 2008 we were also appointed over Kaupthing Capital Partners II Master L.P. Inc ("Master").

We attach as Appendix A further relevant information as required by rule 2.33 of the Insolvency Rules 1986.

2. Circumstances giving rise to the Appointment of Administrators

2.1. Background

The Kaupthing Capital Partners II Fund ("the Fund") was created in order to allow employees, senior executives, customers and corporate partners from the Kaupthing Group to invest alongside Kaupthing hf, (the ultimate Kaupthing parent in Iceland).

2.2. The Fund's investors

The structure of the Fund is shown in the diagram included as Appendix B.

Investors invested in the various Limited Partnerships as follows.

- Kaupthing executives via A Partnership.
- Kaupthing employees via B Partnership
- Kaupthing Bank hf via K Partnership
- Other (mainly UK-based) investors via The Fund.

The monies received into the A, B and K Partnerships and The Fund flowed into Master, from where equity investments were made in various UK-registered public and private companies.

2.3. The Fund's management

Management for the Fund was organised by GP. GP, who appointed the Operator, Singer Friedlander Asset Management Limited and the Investment Manager, Kaupthing Singer & Friedlander Limited ("KSF"). Master paid annual fees of 2% of committed capital, £8,000,000 to GP for the management of the fund. GP paid these fees onto the Operator who, after deduction of its annual fee of £250,000 paid the balance to the Investment Manager.

2.4. Kaupthing Bank Luxembourg overdraft and Investor Drawdown

In the first half of 2008 the Fund had made a number of investments. These were partly funded by way of an overdraft provided by Kaupthing Bank Luxembourg ("Banklux").

A call on Investors to deposit more capital into the fund was made on 18 September 2008 with the funds to be paid by 14 October 2008. This capital was to be used to repay the Banklux overdraft in full.

2.5. Insolvency of Kaupthing entities and effect on Master

Kaupthing Bank hf entered into receivership in Iceland on 7 October 2008. Kaupthing Bank hf is the single largest investor in the Fund.

KSF (the investment manager) was placed into administration on 8 October 2008. M Mills, A Bloom, T Burton and P Brazil of Ernst & Young were appointed joint administrators in the High Court.

Kaupthing Bank Luxembourg, Master's largest creditor, was placed into administration on 9 October 2008. Ms Emmanuelle Caruel-Henniaux and Mr Franz Fayot of PricewaterhouseCoopers were appointed joint administrators by the Luxembourg Court.

The insolvency of KSF could have triggered a winding-up of the Fund unless a new Investment Manager was appointed as soon as practically possible.

2.6. Demand from Kaupthing Bank Luxembourg

On 8 October 2008, Banklux issued a written demand to Master for repayment of the £67,000,000 by 10 October 2008. The demand stated that if the amount due was not repaid by 10 October 2008, the Bank would take steps to unwind the Funds' investments.

Master was unable to repay this loan by 10 October 2008. Master was therefore rendered insolvent on the basis of being unable to pay its debts as they fall due. GP was also rendered insolvent as it relied on fees paid to it from Master to meet its own liabilities.

On 8 October 2008 the directors of GP sought professional advice as they had concerns that:

- 1) actions taken by Banklux in respect of the Fund's investments could be of significant detriment to the value of those investments and
- 2) that the amounts actually received in response to the investor call would be insufficient because of the insolvency of Kaupthing Bank hf to meet the liabilities of Master.

2.7. Advice to the directors of GP

Having given due consideration of the financial position of GP and Master, representatives of Smith & Williamson and Rosenblatt solicitors advised that both GP and Master were insolvent and should be placed into administration and steps taken for the immediate replacement of the Investment Manager and GP to avoid the winding up of the Fund being triggered by the insolvency of those entities. It was also necessary to appoint a new Operator in order to facilitate these changes.

Master and directors of GP filed notices appointing administrators in the High Court on 9 October 2008.

3. Statement of Affairs

Two of the directors have submitted a statement of GP's affairs or a statement of concurrence and this attached at Appendix C.

The other directors have been asked to provide statements that they concur with the contents of this document.

Although the statement is the responsibility of the directors, the administrators have the following comments.

The uncharged asset of £6,124,667 represents unpaid management fees, for the management of the Fund, owed by Master.

GP's sole creditor is Singer & Friedlander Asset Management Limited, for the sub-management of the fund.

4. Details of the Conduct of the Administration

4.1. Preventing the winding up of the Fund

The following actions were taken to avoid triggering the winding up of the Fund due to the insolvency of GP and the Investment Manager.

- New subsidiaries of GP were incorporated to act as a new general partner and a new operator. On incorporation, these companies were called Phoenix Shelfco 1 Limited and Phoenix Shelfco 3 Limited respectively. The names have subsequently been changed by written resolution to Walpole GP Limited and Pelham Operator Limited respectively.
- PCE Investors Limited ("PCE") was engaged by the General Partner to act as the new FSA authorised Investment Manager.
- The revised structure is shown in Appendix D.

4.2. Control of Fund assets

The administrators' initial efforts to identify and gain control over the Fund's assets were complicated by the fact that

- neither of Master nor GP had any employees. The individuals dealing with the Fund were employees of KSF, which had been placed into administration on 8 October 2008.

- The Fund's paperwork and electronic records were stored in KSF's premises and could not be removed.

4.2.1. Private Equity Companies

Individuals who had been involved in the day to day management of the private equity investments have agreed to work for this Fund alongside PCE. This has involved a number of changes to the investor representation on the Boards of both ADP and Phase 8. The situation of DLG was critical at the time of our appointment. KSF, who had provided debt finance to DLG instructed Deloitte to carry out a review. This culminated in the appointment of Administration on 19 November 2008 with a significant write off for KSF and a total loss of investment for the Fund.

4.2.2. Publicly Listed Investments

No sales of any shares in the publicly listed investments have been made.

4.2.3. Subsidiary company & cash

The cash resources of the Fund of some £3.3m were held by KSF and as a consequence of the KSF administration, are not immediately available.

The ongoing costs of the Fund, specifically PCE, the cost of the Investor representatives of the Boards of the private equity investment and professional costs need liquid resources.

The administrators of both Banklux and KSF have been approached in order to reach a solution. These discussions remain ongoing.

5. Remuneration of the Joint Administrators

Pursuant to rule 2.106 of the Insolvency Rules 1986, the joint administrators are entitled to receive remuneration for their services as such.

The joint administrators are seeking approval from the creditors to have their remuneration fixed by reference to the time properly given by the joint administrators and their staff in attending to matters arising in the administration. We are also seeking approval from the creditors for the fees of Smith & Williamson Investment Management Limited, who may assist the administrators in the management of the Fund, to be based on their time costs.

The joint administrators' remuneration will be fixed by reference to the time properly given by the joint administrators and their staff in attending to matters arising in the administration.

From 9 October 2008 to 16 November 2008, the administrators and their staff have spent 7.20 hours dealing with the Administration at a cost of £767.75.

Prior to the appointment of administrators, Smith & Williamson employees spent 3 hours at a cost of £1,095 considering whether it was reasonably likely that the purpose of the

administrations would be achieved and to enable completion of the relevant forms. In accordance with Rule 2.67 (1) (c), these costs may be paid as an expense of the administration. A fee in the sum of £1,095 will be raised and paid from asset realisations when funds allow.

6. The Prescribed Part and the Company's Net Property

A company's net property is the amount of its property available for the satisfaction of the claims of the holders of debentures secured by, or holders of, any floating charge created by the company.

As no floating charge has been granted there will be no prescribed part.

7. Achieving the Purpose of the Administration

Under paragraph 3(1) of Schedule B1 to the Insolvency Act 1986, the joint administrators must perform their functions with the objective of, in order of priority of purpose: -

- Rescuing the Company as a going concern; or
- 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

We do not currently consider it possible to achieve the first objective and rescue GP as a going concern.

We have formed this view on the basis that Master may be insolvent on a balance sheet basis as it may not receive its management fees from Master in full.

The administrators are of the view that the second objective will be achieved for the following reasons.

The actions taken by the directors and administrators prevented the automatic winding up of the fund and otherwise the liquidation of Master and GP. This protection should allow for a more orderly and controlled disposal of the investments, with the expectation of achieving greater realisations for the benefit of creditors.

8. Convening a Meeting of Creditors & approval of proposals

Included with these proposals is a notice of a meeting of GP's creditors. Creditors are entitled to attend and vote at this meeting and if they wish to do so, they should complete the enclosed proxy and proof of debt forms and return them to us within the timescale stipulated in the notice.

At the meeting, the proposals will be presented to creditors and we will attempt to respond to any questions arising. The formal business of the meeting will be the approval (or modification) of the proposals by the simple majority of creditors by value, whether attending in person or by proxy, once they have been considered and the formation of a creditors' committee, if required by creditors.

9. Administrators' Proposals

That the joint administrators should continue to do all such things reasonably expedient and generally exercise all their powers as joint administrators as they, in their discretion, consider desirable in order to maximise realisations.

That the joint administrators may seek an extension to the administration period if deemed appropriate.

That, when it is anticipated that no better realisations will be made in the administration than would be available in a winding up, the joint administrators should take the necessary steps to move Master from administration to creditors' voluntary liquidation or dissolution as deemed appropriate.

That if Master is moved into voluntary liquidation Anthony Spicer and Henry Shinnars, the joint administrators, may be appointed joint liquidators. In accordance with paragraph 83(7) and Rule 2.117(3) of the Insolvency Act 1986, creditors may nominate a different person as the proposed liquidator, provided that the nomination is made after the receipt of the proposals and before the proposals are approved.

The joint administrators will be remunerated on a time cost basis. In accordance with Rule 2.106(9) of the Insolvency Rules 1986. Also, that the joint administrators be authorised to draw disbursements from time to time.

That the costs of the Smith & Williamson Group in respect of Pension, Tax and VAT and Investment Management advice to the joint administrators be based upon time costs and shall be paid out of the asset realisations.

The Joint Administrators will be discharged from liability in respect of any action of theirs as Joint Administrators upon the termination of the administration, pursuant to paragraph 98(1) of Schedule B1 of the Insolvency Act 1986.

10. Future Conduct of the Administration

Subject to the approval of the proposals, the administrators will realise the Fund's assets at some future point. The timing of any realisation will be based upon the advice of the Investment Manager be designed to maximise the return for investors and creditors.

In order to maximise these future realisations it is possible that the administrators will seek to extend the term of the administration.

10.1. Dividend prospects

The administrators consider that there will be a dividend payable to unsecured creditors in due course. However, because of the difficulty in valuing some of Master's investments and therefore the dividend available to GP it is not possible at this time to provide a realistic estimate or range of dividend rates.

It is also possible that the Fund investors may receive a partial refund of funds invested. It is also too early to provide an estimate of any such return.

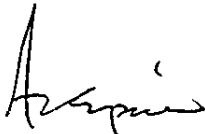
10.2. Conclusion of the Administration

The administrators expect Master to have sufficient assets to permit a distribution to its unsecured creditors.

11. EC Regulations

Since GP's centre of main interests is in the UK, we are of the opinion that the EC Regulations will not apply.

If the EC Regulations do apply, these proceedings will be main proceedings as defined in Article 3 of the EC Regulations.



Anthony Spicer and Henry Shinner
Joint Administrators

Appendix A. Further relevant information

Relevant Court: High Court of Justice
Chancery Division
Companies Court
The Strand
London

Court Reference: 8837 of 2008

Former Name: Alnery No. 2670 Limited

Registered Office: 25 Moorgate
London
EC2R 6AY

Registered number: 06140282

Joint Administrators: Anthony Cliff Spicer & Henry Shinnars
Smith & Williamson Limited
25 Moorgate
London
EC2R 6AY

All functions are to be exercised by the administrators jointly and severally

Date of Appointment: 9 October 2008

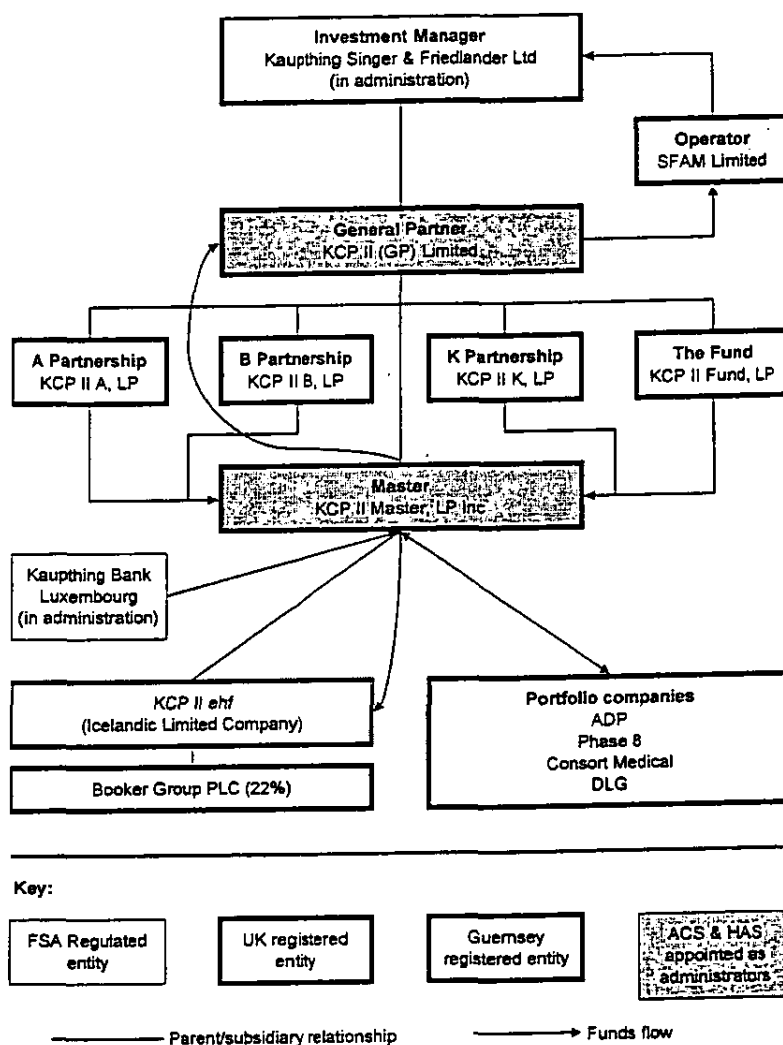
Appointor: The directors

Shares Held

Company Director: David Mark Sherratt
Helgi Bergs
Helgi Sigurdasson
Tim Cavanagh
Ben Barnett

Company Secretary: Helen Frances Hay

Appendix B. Structure of Fund as at our appointment



Appendix C. Statement of GP's affairs

Statement of affairs

Name of Company
KCP II (GP) Limited

Company number
06140282

In the
High Court of Justice, Companies Court
[full name of court]

Court case number
8837 of 2008

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

Statement as to the affairs of KCP II (GP) Limited, One Hanover Square, London , W1S 1AX
on the 9 October 2008 , the date that the company entered administration.

(b) Insert date

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 9 October 2008 the date that the company entered administration.

Full name T. CAVANAS IT

Signed T. Cavanagh

Dated 19/10/08

A – Summary of Assets

Assets

Assets subject to fixed charge:


Assets subject to floating charge:

Uncharged assets:

Estimated total assets available for preferential creditors

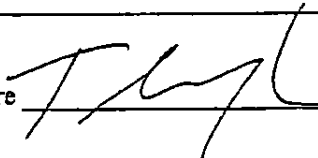
Book Value £	Estimated to Realise £
6124667	
6,124,667	

Signature

 Date 19/10/08

A1 – Summary of Liabilities

	Estimated to realise £
Estimated total assets available for preferential creditors (carried from page A)	£
Liabilities	
Preferential creditors:-	
Estimated deficiency/surplus as regards preferential creditors	£
Estimated prescribed part of net property where applicable (to carry forward)	£
Estimated total assets available for floating charge holders	£
Debts secured by floating charges	£
Estimated deficiency/surplus of assets after floating charges	£
Estimated prescribed part of net property where applicable (brought down)	£
Total assets available to unsecured creditors	£
Unsecured non-preferential claims (excluding any shortfall to floating charge holders)	£ 6086 091
Estimated deficiency/surplus as regards non-preferential creditors (excluding any shortfall to floating charge holders)	£
Shortfall to floating charge holders (brought down)	£
Estimated deficiency/surplus as regards creditors	£
Issued and called up capital	£ 1
Estimated total deficiency/surplus as regards members	£

Signature  Date 19/10/08

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.

[illegible]

Signature

Learning

Date _____

29/10/08

1

COMPANY SHAREHOLDERS

Name of Shareholder	Address (with postcode)	No. of shares held	Nominal Value	Details of Shares held
KAPRITHINS SINGH & PARTNERS LLP	1 HANOVER STREET LONDON W1S 1AY	1	£1	
TOTALS		1	£1	

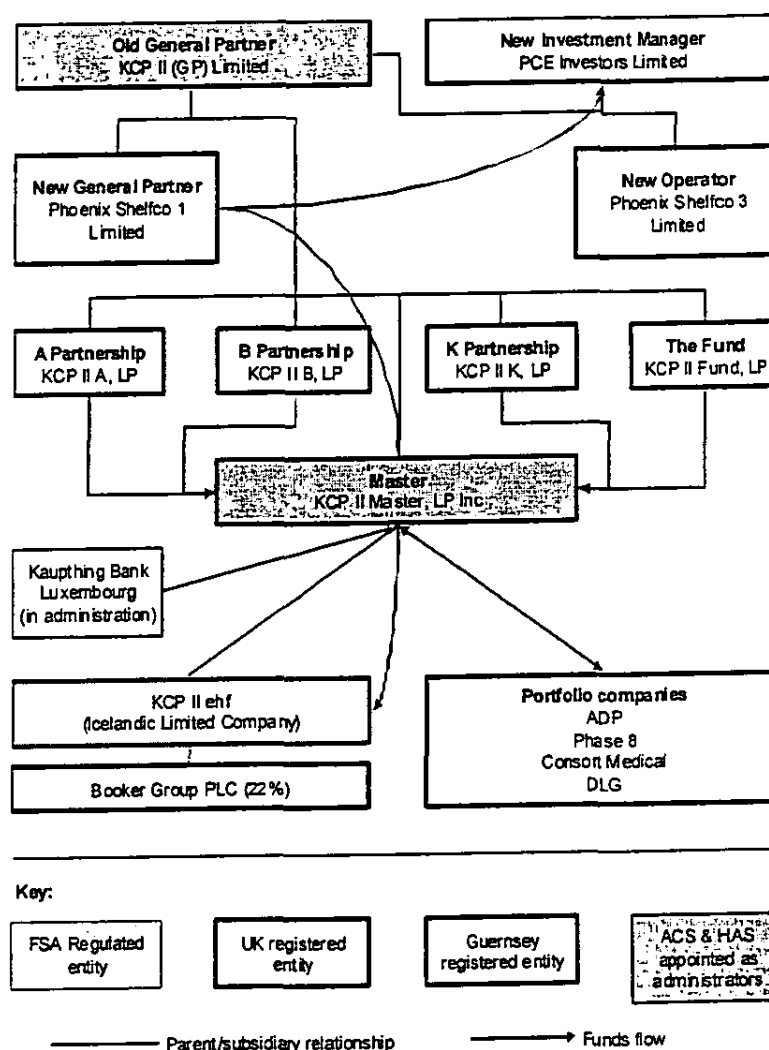
Signature

T. Hanover

Date

19/10/08

Appendix D. Revised Fund structure



Appendix E. Statement of Insolvency Practice (SIP9)

Breakdown of time spent by Smith & Williamson Limited employees for the period ended 23 November 2008

Classification of work function	Director (hours)	Administrator (hours)	Assistants & support staff (hours)	Total hours	Time cost £	Average hourly rate £
Administration & planning	0.00	3.25	3.95	7.20	767.75	106.63
Totals	0.00	3.25	3.95	7.20	767.75	106.63
Pre-appointment	3.00	0.00	0.00	3.00	1,095.00	365.00

Appendix F. 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.

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

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

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

4.4 A resolution of creditors may be obtained by correspondence.

5 What information should be provided by the administrator?

5.1 When seeking fee approval

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

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

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

5.1.3 Where the administrator seeks agreement to his fees during the course of the administration, he should always provide an up to date receipts and payments account. Where the proposed fee is based on time costs the administrator should disclose to the committee or the creditors the time spent and the charge-out value in the particular case, together with, where appropriate, such additional information as may reasonably be required having regard to the size and complexity of the case. The additional information should comprise a sufficient explanation of what the administrator has achieved and how it was achieved to enable the value of the exercise to be assessed (whilst recognising that the administrator must fulfil certain statutory obligations that might be seen to bring no added value for creditors) and to establish that the time has been properly spent on the case. That assessment will need to be made having regard to the time spent and the rates at which that time was charged, bearing in mind the factors set out in paragraph 4.1 above. To enable this assessment to be carried out it may be necessary for the administrator to provide an analysis of the time spent on the case by type of activity and grade of staff. The degree of detail will depend on the circumstances of the case, but it will be helpful to be aware of the professional guidance which has been given to insolvency practitioners on this subject. The guidance suggests the following areas of activity as a basis for the analysis of time spent:

- Administration and planning
- Investigations
- Realisation of assets
- Trading
- Creditors
- Any other case-specific matters

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

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

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

- Any significant aspects of the case, particularly those that affect the amount of time spent.
- The reasons for subsequent changes in strategy.
- Any comments on any figures in the summary of time spent accompanying the request the administrator wishes to make.
- The steps taken to establish the views of creditors, particularly in relation to agreeing the strategy for the assignment, budgeting, time recording, fee drawing or fee agreement.

- 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.

5.2 After fee approval

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

5.3 Expenses and disbursements

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

6 What if a creditor is dissatisfied?

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

7 What if the administrator is dissatisfied?

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

8 Other matters relating to fees

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

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.

Appendix G. Schedule of charge-out rates

Smith & Williamson Limited
Restructuring & Recovery Services

Charge out rates listed by staff classification

	£
Director	500
Associate Director	400
Manager / Senior Manager	300
Administrator / Senior Adminis	175
Support Staff	70