

The Insolvency Act 1986

Liquidator's Progress Report

S.192

Pursuant to Sections 92A and 104A of the Insolvency Act 1986

To the Registrar of Companies

For Official Use

Three empty rectangular boxes for official use.

Company Number

06365070

Name of Company

Mercury Equity Limited

I / We  
Malcolm Cohen  
55 Baker Street  
London  
W1U 7EU

the liquidator(s) of the company attach a copy of my/our progress report under section 192 of the Insolvency Act 1986

Signed

*[Handwritten Signature]*

Date

- 7 MAR 2013

BDO LLP  
55 Baker Street  
London  
W1U 7EU

Ref 00177364/MAC/SMB/DSC/ADR

Insol

**For Official Use**

SATURDAY



A07 \*A268T2HE\* 13/04/2013 #35  
COMPANIES HOUSE



Tel +44 (0)20 7486 5888  
Fax +44 (0)20 7935 3944  
DX 9025 West End W1  
www.bdo.co.uk

55 Baker Street  
London W1U 7EU

4 April 2013

Our Ref 7/ADR/MVL461 Report/A6

Please ask for  
Adam Roseby  
0207 893 2862  
adam.roseby@bdo.co.uk

Dear Sirs

**Mercury Equity Limited  
Mercury Bond Limited  
Mercury Media Digital Limited ("the Companies") - All in Members' Voluntary Liquidation**

**Registered Address: 55 Baker Street, London, W1U 7EU  
Registered numbers: 06365070, 06365067 and 06762531  
Liquidator: Malcolm Cohen  
Liquidator Address: 55 Baker Street, London, W1U 7EU  
Date of Appointment: 27 February 2012**

I enclose for your information an annual progress report in accordance with Section 92A of the Insolvency Act 1986 and Rule 4.49C of the Insolvency Rules 1986.

There have not been any receipts or payments during the course of the liquidations and none of the Companies hold any assets to realise

#### **Progress of the liquidation**

Prior to the appointment of the liquidator, the Companies had previously engaged the services of a third party to submit the necessary tax returns to HM Revenue & Customs. The returns were submitted to HMRC in December 2012 and accordingly the liquidator requested permission to conclude the liquidations in February 2013, following confirmation from HMRC that the returns had been accepted and there was no tax due

Both pre and post appointment clearance has been provided for the Companies from HMRC's insolvency claims handling unit, but clearance from the Tax Inspector, specific to Corporation Tax, has not yet been provided

#### **Future Prospects**

Upon receipt of the Corporation Tax clearance, the liquidator will take steps to conclude the liquidations. A final report to members will be issued, providing one month's notice of a final meeting

7/ADR/MVL461 Report  
g:\office97\implementation team master\implementation cases\mercury equity limited group\mvl461\annual report\mvl461 report.docx



**Liquidators' Remuneration**

Pursuant to the Insolvency Rules 1986, the Liquidators are obliged to fix their remuneration in accordance with Rule 4.148A(2) of the Insolvency Rules 1986. This permits remuneration to be fixed either:

- (1) as a percentage of the assets realised and distributed, and/or
- (2) by reference to the time the Liquidators and the staff have spent attending to matters in the liquidation; and/or
- (3) as a set amount, and/or
- (4) as a combination of the above.

The liquidator's remuneration has been approved on the basis of time properly spent in dealing with issues in the liquidation. To date, the following time costs have accrued in respect of time costs, but no costs have been drawn.

	Hours	Cost (£)
Mercury Equity Limited	14 65	4,744.54
Mercury Bond Limited	13 19	4,549.78
Mercury Media Digital Limited	12 69	4,391.28

I enclose schedules analysing the time costs which records the work undertaken. Since there are no funds in the liquidation estates, the liquidator's fees will be met by Ocean Media Group Limited, being a parent company of the group.

For guidance, I enclose "A shareholder's guide to liquidators' fees in a solvent liquidation", together with a document that outlines the policy of BDO LLP in respect of fees and disbursements.

**Disbursements**

Where disbursements are recovered in respect of precise sums expended to third parties there is no necessity for these costs to be authorised. These are known as category 1 disbursements. We therefore report that the following has accrued but not yet been drawn in respect of category 1 disbursements for statutory advertising and insurance.

	Disbursements (£)
Mercury Equity Limited	223.89
Mercury Bond Limited	223.89
Mercury Media Digital Limited	223.89

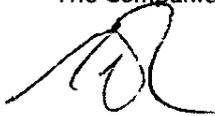
Liquidators often charge expenses for example postage, stationery, photocopying charges, telephone and fax costs, which cannot economically be recorded in respect of a specific case. Such expenses, which are apportioned to cases, require the approval of the members, before they can be drawn and these are known as category 2 disbursements. The policy of BDO LLP is not to charge any category 2 disbursements.

**Members' rights**

I provide at the end of this report an extract from the Insolvency Rules 1986 setting out the rights of members to request further information and/or challenge the remuneration or expenses within the liquidation

If you require any further information please do not hesitate to contact my colleague Adam Roseby, whose contact details are shown above.

Yours faithfully  
For and on behalf of  
The Companies



Malcolm Cohen  
Liquidator

Authorised by the Institute of Chartered Accountants in England & Wales

Enc

**Statement from the Insolvency Rules 1986 (as amended) regarding the rights of members in respect of the Liquidators' fees and expenses:**

**Rule 4.49E Creditors' and members' request for further information**

(1) If-

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

makes a request in writing to the liquidator for further information about remuneration or expenses set out in a progress report in accordance with Rule 4.49B(1)(e) or (f) (including by virtue of Rule 4.49C(5)) or in a draft report under Rule 4.49D, the liquidator must, within 14 days of receipt of the request, comply with paragraph (3) except to the extent that the request is in respect of matter[s] in a draft report under Rule 4.49D or a progress report required by Rule 4.108 which (in either case) was previously included in a progress report not required by Rule 4.108

(2) The period referred to in paragraph (1)(a) and (b) is-

- (a) 7 business days of receipt (by the last of them in the case of an application by more than one member) of the progress report where it is required by Rule 4.108, and
- (b) 21 days of receipt (by the last of them in the case of an application by more than one member) of the report or draft report in any other case

(3) The liquidator complies with this paragraph by either-

- (a) providing all of the information asked for, or
- (b) so far as the liquidator considers that-
  - (i) the time or cost of preparation of the information would be excessive, or
  - (ii) disclosure of the information would be prejudicial to the conduct of the liquidation or might reasonably be expected to lead to violence against any person, or
  - (iii) the liquidator is subject to an obligation of confidentiality in respect of the information, giving reasons for not providing all of the information

**Rule 4.148C Members' claim that remuneration is excessive**

- (1) Members of the company with at least 10% of the total voting rights of all the members having the right to vote at general meetings of the company, or any member with the permission of the court, may apply to the court for one or more of the orders in paragraph (6) on the grounds that-
  - (a) the remuneration charged by the liquidator,
  - (b) the basis fixed for the liquidator's remuneration under Rule 4.148A, or

- (c) expenses incurred by the liquidator,  
is or are, in all the circumstances, excessive or, in the case of an application under sub-paragraph (b), inappropriate
- (2) Application must, subject to any order of the court under Rule 4 49E(5), be made no later than 8 weeks (or 4 weeks when the liquidator has resigned in accordance with Rule 4 142) after receipt by the applicant of the report or account which first reports the charging of the remuneration or the incurring of the expenses in question ("the relevant report")
- (3) The court may, if it thinks that no sufficient cause is shown for a reduction, dismiss the application, but it must not do so unless the applicant has had the opportunity to attend the court for a hearing of which the applicant has been given at least 5 business days' notice but which is without notice to any other party
- (4) If the application is not dismissed under paragraph (3), the court must fix a venue for it to be heard and give notice to the applicant accordingly
- (5) The applicant must at least 14 days before the hearing send to the liquidator a notice stating the venue and accompanied by a copy of the application and of any evidence which the applicant intends to adduce in support of it
- (6) If the court considers the application to be well-founded, it must make one or more of the following orders—
- (a) an order reducing the amount of remuneration which the liquidator was entitled to charge,
  - (b) an order fixing the basis of remuneration at a reduced rate or amount;
  - (c) an order changing the basis of remuneration,
  - (d) an order that some or all of the remuneration or expenses in question be treated as not being expenses of the liquidation,
  - (e) an order that the liquidator or the liquidator's personal representative pay to the company the amount of the excess of remuneration or expenses or such part of the excess as the court may specify,
- and may make any other order that it thinks just, but an order under sub-paragraph (b) or (c) may be made only in respect of periods after the period covered by the relevant report
- (7) Unless the court orders otherwise, the costs of the application must be paid by the applicant and are not payable as an expense of the liquidation



Mercury Equity Limited - In Members' Voluntary Liquidation

Summary of Time Charged and Rates Applicable for the Period From 27 February 2012 to 26 February 2013

Description	PARTNER		MANAGER		EXECUTIVE		OTHER STAFF		GRAND TOTAL		AV RATE	
	Hours	£	Hours	£	Hours	£	Hours	£	Hours	£	Hours	£
A Pre Appointment Matters	1 50	987 00	4 16	1,892 80	2 00	358 00			7 66	3,237 80		422 69
B Steps on Appointment					4 25	760 75			4 25	760 75		179 00
C Planning and Strategy			0 84	353 64					0 84	353 64		421 00
D General Administration			0 50	164 00	1 15	205 85			1 90	392 35		206 50
	0 00	0 00	1 34	317 64	5 40	966 60			0 23	22 50		22 50

Net Total 14 65 4,744 54 323 86

Other Disbursements 223 89

Billed 4,113 39

Grand Total 855 04



## **A SHAREHOLDER'S GUIDE TO LIQUIDATORS' FEES IN A SOLVENT LIQUIDATION**

### **1 Introduction**

When a company goes into solvent liquidation the costs of the proceedings may be paid out of its assets. The shareholders, who hope to receive a capital distribution out of the assets, therefore have a direct interest in the level of costs, and in particular the remuneration of the insolvency practitioner appointed to act as liquidator. The insolvency legislation recognises this interest by providing mechanisms for shareholders to fix the basis of the liquidator's fees. This guide is intended to help shareholders be aware of their rights to approve and monitor fees and explains the basis on which fees are fixed.

### **2 The liquidation procedure**

2.1 Liquidation is the formal winding up of a company's affairs entailing the realisation of its assets and the distribution of the proceeds in a prescribed order of priority. Liquidation may be either voluntary, when it is instituted by resolution of the shareholders, or compulsory, when it is instituted by order of the court.

2.2 Voluntary liquidation is the more common of the two. An insolvent voluntary liquidation is called a creditors' voluntary liquidation (often abbreviated to 'CVL'). In this type of liquidation, an insolvency practitioner acts as liquidator throughout and the creditors can vote on the appointment of the liquidator at the first meeting of creditors.

2.3 A solvent liquidation is called a members' voluntary liquidation (often abbreviated to 'MVL'). It is initiated by the directors calling a general meeting ('GM') of the shareholders. The shareholders then decide whether to place the company into liquidation and vote on the appointment of the liquidator.

### **3 Fixing the liquidator's fees**

3.1 The basis for fixing the liquidator's remuneration in an MVL is set out in Rule 4.148A of the Insolvency Rules 1986. This states that the remuneration shall be fixed either:

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

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

In an MVL, it is for the shareholders to determine on which of these bases the remuneration is to be fixed, and if it is to be fixed as a percentage, to fix the percentage to be applied. The rules state that in arriving at their decision, the shareholders shall have regard to the following matters:

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

3.2 A resolution specifying the terms on which the liquidator is to be remunerated may be taken at the meeting which appoints the liquidator. If the remuneration is not fixed in any of these ways by the shareholders, the liquidator can apply to have the basis of his remuneration fixed by the court instead.

#### **4 What information should be provided by the liquidator?**

4.1 When seeking fee approval

4.1.1 When seeking agreement to his fees the liquidator should provide sufficient supporting information to enable the shareholders 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

4.1.2 Where, at any shareholders' meeting, the liquidator 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.

4.1.3 Where the liquidator seeks agreement to his fees during the course of the liquidation, he should always provide an up to date receipts and payments account. Where the proposed fee is based on time costs, the liquidator should disclose to the shareholders the time spent and the charge-out value, 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 liquidator has achieved and how it was achieved, to enable the value of the exercise to be assessed (whilst recognising that the liquidator must fulfil certain statutory obligations that might be seen to bring no added value for shareholders) 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 3.1 above. To enable this assessment to be carried out it may be necessary for the liquidator 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 liquidator's own initial assessment, including the anticipated return to shareholders. 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 liquidator wishes to make
- The steps taken to establish the views of shareholders, particularly in relation to agreeing the strategy for the assignment, budgeting, time recording, fee drawing or fee agreement.
- Any existing agreement about fees
- Details of how other professionals, including subcontractors, were chosen, how they were contracted to be paid, and what steps have been taken to review their fees

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

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

#### 4.2 After fee approval

Where a resolution fixing the basis of fees is passed at any shareholders' meeting held before he has substantially completed his functions, the liquidator should notify the shareholders of the details of the resolution in his next report or circular to them. When subsequently reporting to shareholders on the progress of the liquidation, or submitting his final report, he 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 4.1.3. Where the fee is charged on a percentage basis the liquidator should provide the details set out in paragraph 4.1.4 above regarding work which has been sub-contracted out.

#### 4.3 Expenses and disbursements

There is no statutory requirement for the shareholders to approve the drawing of expenses or disbursements. However, professional guidance issued to insolvency practitioners requires that, where the liquidator 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 liquidator'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.

#### 4.4 Realisations for secured creditors

Where the liquidator realises an asset on behalf of a secured creditor and receives remuneration out of the proceeds, he should disclose the amount of that remuneration to any meeting of shareholders convened for the purpose of determining his fees, and in any reports he sends to shareholders.

## **5 Progress reports and requests for further information**

5.1 The liquidator is required to send a progress report annually to shareholders if the MVL continues for more than one year, until conclusion. The report must include

- details of the basis fixed for the remuneration of the liquidator (or if not fixed at the date of the report, the steps taken during the period of the report to fix it),
- if the basis has been fixed, the remuneration charged during the period of the report, irrespective of whether it was actually paid during that period (except where it is fixed as a set amount, in which case it may be shown as that amount without any apportionment for the period of the report),
- if the report is the first to be made after the basis has been fixed, the remuneration charged during the periods covered by the previous reports, together with a description of the work done during those periods, irrespective of whether payment was actually made during the period of the report,
- a statement of the expenses incurred by the liquidator during the period of the report, irrespective of whether payment was actually made during that period,
- a statement of the shareholders' rights to request further information, as explained in paragraph 5.2, and their right to challenge the liquidator's remuneration and expenses

5.2 Within 21 days of receipt of a progress report (or 7 business days where the report has been prepared for the purposes of a meeting to receive the liquidator's resignation) a shareholder may request the liquidator to provide further information about the remuneration and expenses set out in the report. A request must be in writing, and may be made by any shareholders of the company with at least 5% of the total voting rights of all shareholders having the right to vote at general meeting of the company, or any shareholder with the permission of the court.

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

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

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

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

## **6 Provision of information – additional requirements**

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

The information which must be provided is –

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

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

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

## **7 What if a shareholder is dissatisfied?**

7.1 If a shareholder believes that the remuneration charged by the liquidator is too high, the basis of his remuneration is inappropriate, or the expenses incurred by the liquidator are in all the circumstances excessive he may, provided certain conditions are met, apply to the court

7.2 Application may be made to the court by any shareholder, provided the shareholder (or shareholders) making the application hold at least 10% of the total voting rights of all the shareholders having the right to vote at general meetings, or they have the permission of the court. Any such application must be made within 8 weeks of the applicant receiving the liquidator's progress report in which the charging of the remuneration or incurring of the expenses in question is first reported. If the court does not dismiss the application (which it may if it considers that insufficient cause is shown) the applicant must give the liquidator a copy of the application and supporting evidence at least 14 days before the hearing.

7.3 If the court considers the application well founded, it may order that the amount of remuneration be reduced, the basis be changed, or the expenses be disallowed or repaid. Unless the court orders otherwise, the costs of the application must be paid by the applicant and not out of the assets of the company

## **8 What if the liquidator is dissatisfied?**

If the liquidator considers that the remuneration fixed by the shareholders is insufficient he may request that it be increased by resolution of the shareholders. If he considers that the remuneration fixed by the shareholders is insufficient, he may apply to the court for it to be increased. If he decides to apply to the court, the liquidator's notice of his application must be sent to such of the shareholders as the court may direct, and they may nominate one or more of their number to appear or be represented. The court may order the costs to be paid out of the assets

## **9 Other matters relating to fees**

9.1 Where two (or more) joint liquidators are appointed it is for them to agree between themselves how the remuneration payable should be apportioned. Any dispute between them may be referred to the court or a meeting of shareholders

9.2 If the appointed liquidator is a solicitor and employs his own firm to act in the liquidation, profit costs may not be paid unless authorised by the shareholders or the court

**Mercury Equity Limited  
(In Liquidation)  
Liquidator's Abstract of Receipts & Payments**

**Statement  
of Affairs**

**From 27/02/2012  
To 26/02/2013**

**NIL**

REPRESENTED BY

**NIL**



Malcolm Cohen  
Liquidator