

# Liquidator's Progress Report

# S.192

Pursuant to Sections 92A and 104A and 192  
of the Insolvency Act 1986

To the Registrar of Companies

Company Number

00790612

Name of Company

Cape Diamond Products Limited

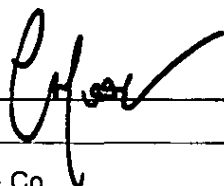
I / We

C H I Moore, Emerald House, 20-22 Anchor Road, Aldridge, Walsall, WS9 8PH

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

The Progress Report covers the period from 06/07/2015 to 05/07/2016

Signed



Date

07 JUL 2016

K J Watkin & Co  
Emerald House  
20-22 Anchor Road  
Aldridge  
Walsall  
WS9 8PH

Ref C188/CHIM/SRW/JRS

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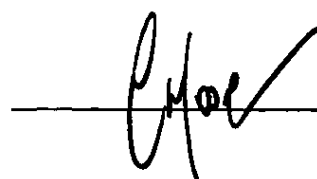
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#242

COMPANIES HOUSE

**Cape Diamond Products Limited**  
**(In Liquidation)**  
**Liquidator's Abstract of Receipts & Payments**

Statement of Affairs	From 06/07/2015 To 05/07/2016
<b>ASSET REALISATIONS</b>	
20,000 00    Plant & Machinery	25,500 00
300 00      Office Furniture & Equipment	300 00
1,500 00    Motor Vehicles	1,500 00
1,000 00    Stock & Work in Progress	1,000 00
59,857 00   Book Debts	61,976 08
1,726 00    Cash at Bank	1,726 00
	Bank Interest Net of Tax      19 51
9 00        Petty Cash	9 58
	National Non-Domestic Rates Refund      537 05
	<u>92,568 22</u>
<b>COST OF REALISATIONS</b>	
	Specific Bond      1,200 00
	Preparation of Statement of Affairs      5,000 00
	Office Holders Fees      30,000 00
	Office Holders Expenses      769 80
	Agents/Valuers Fees      3,225 00
	Debt Collection Fees      595 00
	Electricity Usage      539 15
	Insurance of Assets      347 28
	<u>(41,676 23)</u>
<b>PREFERENTIAL CREDITORS</b>	
(9,290 00)    Employees Wage Arrears & Holiday	<u>9,210 39</u>
	(9,210 39)
<b>UNSECURED CREDITORS</b>	
(58,713 00)    Trade & Expense Creditors	NIL
(89,188 00)    Employees - Notice & Redundancy Pa	NIL
(5,000 00)     Director's Loan Account - G W Forder	NIL
(6,506 00)     HM Revenue & Customs - PAYE	NIL
(8,345 00)     HM Revenue & Customs - VAT	NIL
(35,371 00)    F & G Cape Diamond Limited	<u>NIL</u>
	NIL
<b>DISTRIBUTIONS</b>	
(100 00)      Ordinary Shareholders	<u>NIL</u>
	NIL
<u>(128,121.00)</u>	<u><u>41,681.60</u></u>
<b>REPRESENTED BY</b>	
	Nat West Bank - Int Bearing      41,480 65
	Vat Control Account      200 95
	<u><u>41,681.60</u></u>



**Cape Diamond Products Limited – In Creditors' Voluntary Liquidation  
Liquidator's Progress Report to Members and Creditors  
For the year ending 5 July 2016**

**STATUTORY INFORMATION**

Company name	Cape Diamond Products Limited
Registered office	Emerald House 20-22 Anchor Road Aldridge Walsall WS9 8PH
Former registered office	8M Maybrook Road Maybrook Business Park Sutton Coldfield B76 1AL
Registered number	00790612
Liquidators name	C H I Moore
Liquidators address	Emerald House 20-22 Anchor Road Aldridge Walsall WS9 8PH
Liquidators date of appointment	6 July 2015

**LIQUIDATOR'S ACTIONS SINCE APPOINTMENT**

Upon appointment, all employees were made redundant and Robert Matthews FRICS of Deeley Matthews, agent and valuers of Birmingham was instructed to market the assets of the Company

We hoped to be able to sell the business as a going concern, but although there was some interest, this was limited and no offers were forthcoming

A small number of suppliers claimed to have retention of title over goods supplied to the Company. These claims were agreed and goods released back to the suppliers

A number of offers for the assets of the Company was received, however, only one of these was willing to purchase all of the physical assets and clear the premises to be handed back to the Landlord

After some negotiation, a fee of £27,500 plus VAT was agreed. The physical assets were removed and the property was handed back to the Landlord and the lease was disclaimed.

One of the motor vehicles was not included in this sale and was instead purchased by Mr Forder, a director of the Company. Mr Forder paid £800 for the vehicle which our agent recommended we accepted.

The cash at bank was collected which included a number of debtor payments which had been paid after the date of liquidation.

The book debts have been collected realising a total of £61,976. This took considerable effort as most of the debtors were relatively small and invoices had to be located in the physical files as the computer servers had been disabled.

Solicitors had to be instructed to realise a small number of the debtors.

There is certain work that I am required by the insolvency legislation to undertake in connection with the liquidation that provides no financial benefit for the creditors. A description of the routine work undertaken since my appointment as Liquidator is as follows:

1 Administration

Case planning - devising an appropriate strategy for dealing with the case and giving instructions to the staff to undertake the work on the case  
Setting up physical and electronic case files  
Setting up the case on the practice's electronic case management system and entering data  
Issuing the statutory notifications to creditors and other required on appointment as office holder, including gazetting the office holder's appointment  
Obtaining a specific penalty bond  
Convening and holding general meetings of creditors and members  
Dealing with all routine correspondence and emails relating to the case  
~~Opening, maintaining and managing the office holder's estate bank account~~  
Creating, maintaining and managing the office holder's cashbook.  
Undertaking regular bank reconciliations of the bank account containing estate funds  
Reviewing the adequacy of the specific penalty bond on a monthly basis  
Undertaking periodic reviews of the progress of the case  
Overseeing and controlling the work done on the case by case administrators  
Preparing, reviewing and issuing annual progress reports to creditors and members  
Filing returns at Companies House  
Preparing and filing VAT returns  
Preparing and filing Corporation Tax returns

2 Creditors

Obtaining information from the case records about employee claims  
Completing documentation for submission to the Redundancy Payments Office  
Corresponding with employees regarding their claims  
Liaising with the Redundancy Payments Office regarding employee claims  
Dealing with creditor correspondence, emails and telephone conversations regarding their claims  
Maintaining up to date creditor information on the case management system

Issuing a notice of intended dividend and placing an appropriate gazette notice  
 Reviewing proofs of debt received from creditors, adjudicating on them and formally admitting them  
 Requesting additional information from creditors in support of their proofs of debt in order to adjudicate on their claims

### 3 Investigations

Preparing a report or return on the conduct of the directors as required by the Company Directors Disqualification Act

## RECEIPTS AND PAYMENTS

My Receipts & Payments Account for the period from 6 July 2015 to 5 July 2016 is attached at Appendix 1

The balance of funds are held in an interest bearing estate bank account

## ASSETS

	Statement of Affairs Estimated to Realise £	Realised to date £
Plant and Machinery	20,000	25,500 00
Office Furniture and Equipment	300	300 00
Motor Vehicles	1,500	1,500 00
Stock and Work in Progress	1,000	1,000 00
Book Debts	59,857	61,976 08
Cash at Bank	1,726	1,726 00
Bank Interest Net of Tax	-	19 51
Petty Cash	9 00	9 58
National Non-Domestic Rates Refund	-	537 05

## LIABILITIES

### Secured Creditors

An examination of the Company's mortgage register held by the Registrar of Companies, showed that the Company has no current charges over its assets

### Preferential Creditors

The Statement of Affairs anticipated £9,290 in preferential creditors Claims totaling £9,210 have been received

### Crown Creditors

The Statement of Affairs included £14,851 owed to HMRC. HMRC's final claim of £15,763 has been received.

### Non-preferential unsecured Creditors

A full list of non preferential creditors showing Statement of Affairs balances, subsequent claims and agreed claims is attached at Appendix 2.

## **DIVIDEND PROSPECTS**

Preferential creditors – Preferential creditors have been paid in full.

Non-preferential unsecured creditors – A dividend to non-preferential unsecured creditors should be paid in the next three months. It is estimated to be approximately 10p in the £.

## **INVESTIGATION INTO THE AFFAIRS OF THE COMPANY**

I undertook an initial investigation into the Company's affairs to establish whether there were any potential asset recoveries or conduct matters that justified further investigation, taking account of the public interest, potential recoveries, the funds likely to be available to fund an investigation, and the costs involved. In particular, I recovered, listed and reviewed the Company's accounting records, obtained and reviewed copy bank statements for the 6 months prior to the Company ceasing to trade from the Company's bankers, and compared the information in the Company's last set of accounts with that contained in the statement of affairs lodged in the liquidation and made enquiries about the reasons for the changes.

There were no matters that justified further investigation in the circumstances of this appointment.

Within six months of my appointment as Liquidator, I am required to submit a confidential report to the Secretary of State to include any matters which have come to my attention during the course of my work which may indicate that the conduct of any past or present Director would make them unfit to be concerned with the management of the Company. I would confirm that my report has been submitted.

## **PRE-APPOINTMENT REMUNERATION**

The Board previously authorised the payment of a fee of £5,000 for my assistance with preparing the Statement of Affairs and convening and holding the meeting of creditors at a meeting held on 6 July 2015.

The fee for preparing the Statement of Affairs and convening and holding the meeting of creditors was paid from first realisations on appointment and is shown in the enclosed receipts and payments account.

## LIQUIDATOR'S REMUNERATION

My remuneration was previously authorised by the members at a meeting held on 6 July 2015 to be drawn on a time cost basis. My total time costs to 5 July 2016 amount to £62,090.50, representing 297.80 of hours work at an average charge out rate of £208.50 per hour.

I have drawn £30,000 to 5 July 2016.

A schedule of my time costs incurred to 5 July 2016 is attached as Appendix 3.

Further information about creditors' rights can be obtained by visiting the creditors' information micro-site published by the Association of Business Recovery Professionals (R3) at <http://www.creditorinsolvencyguide.co.uk/>. A copy of 'A Creditors Guide to Liquidators' Fees' published by the Association of Business Recovery Professionals together with an explanatory note which shows K J Watkin & Co's fee policy are attached to this report at Appendix 4. This is revised on 1 January every year and the previous years rates are shown as a comparative.

## LIQUIDATOR'S EXPENSES

I have incurred expenses to 5 July 2016 of £769.80.

I have drawn £341 for statutory advertising, £240 for redirection of post and £188.80 for travel.

I have used the following agents or professional advisors in the reporting period.

Professional Advisor	Nature of Work	Basis of Fees
Deeley Matthews	Valuer/Auctioneer	Percentage of realisations
The Wilkes Partnership	Solicitors	Time costs

The choice of professionals used was based on my perception of their experience and ability to perform this type of work, the complexity and nature of the assignment and the basis of my fee arrangement with them. I have reviewed the fees charged and am satisfied that they are reasonable in the circumstances of this case.

## FURTHER INFORMATION

An unsecured creditor may, with the permission of the court or with the concurrence of 5% in value of the unsecured creditors (including the creditor in question), request further details of the Liquidator's remuneration and expenses within 21 days of receipt of this report. Any secured creditor may request the same details in the same time limit.


An unsecured creditor may, with the permission of the court or with the concurrence of 10% in value of the creditors (including the creditor in question), apply to court to challenge the amount and/or basis of the Liquidator's fees and the amount of any proposed expenses or expenses already incurred within 8 weeks of receipt of this report. Any secured creditor may make a similar application to court within the same time limit.

To comply with the Provision of Services Regulations, some general information about K J Watkin & Co is attached at Appendix 5

## SUMMARY

The Liquidation will remain open until a dividend to non-preferential unsecured creditors has been agreed and paid. I estimate that this will take approximately 3 months and once resolved the Liquidation will be finalised and our files will be closed.

If creditors have any queries regarding the conduct of the Liquidation, they should contact Simon Wall on the above telephone number.



C H I Moore  
Liquidator



**Cape Diamond Products Limited  
(In Liquidation)**

**Liquidator's Abstract Of Receipts And Payments  
To 05 July 2016**

<b>RECEIPTS</b>	<b>Statement of Affairs (£)</b>	<b>Total (£)</b>
Plant & Machinery	20,000 00	25,500 00
Office Furniture & Equipment	300 00	300 00
Motor Vehicles	1,500 00	1,500 00
Stock & Work in Progress	1,000 00	1,000 00
Book Debts	59,857 00	61,976 08
Cash at Bank	1,726 00	1,726 00
Bank Interest Net of Tax		19 51
Petty Cash	9 00	9 58
National Non-Domestic Rates Refund		537 05
		<hr/>
		92,568 22
		<hr/>
<b>PAYMENTS</b>		
Specific Bond		1,200 00
Preparation of Statement of Affairs		5,000 00
Office Holders Fees		30,000 00
Office Holders Expenses		769 80
Agents/Valuers Fees		3,225 00
Debt Collection Fees		595 00
Electricity Usage		539 15
Insurance of Assets		347 28
Employees Wage Arrears & Holiday	(9,290 00)	9,210 39
Trade & Expense Creditors	(58,713 00)	0 00
Employees - Notice & Redundancy Pay	(89,188 00)	0 00
Director's Loan Account - G W Forder	(5,000 00)	0 00
HM Revenue & Customs - PAYE	(6,506 00)	0 00
HM Revenue & Customs - VAT	(8,345 00)	0 00
F & G Cape Diamond Limited	(35,371 00)	0 00
Ordinary Shareholders	(100 00)	0 00
		<hr/>
		50,886 62
		<hr/>
Net Receipts/(Payments)		41,681 60
		<hr/>

**MADE UP AS FOLLOWS**

Nat West Bank - Int Bearing	41,480 65
VAT Receivable / (Payable)	200 95
	<hr/>
	41,681 60
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**Note**

This R&P account is prepared net of VAT

**DIVIDEND PROSPECTS**

Preferential creditors - Preferential creditors have been paid in full

Non-preferential unsecured creditors - A dividend to non-preferential unsecured creditors should be paid in the

**Cape Diamond Products Limited  
(In Liquidation)**

**Liquidator's Abstract Of Receipts And Payments  
To 05 July 2016**

next three months It is estimated to be approximately 10p in the £

**K.J.Watkin & Co**  
**Cape Diamond Products Limited**  
**Creditor Claims Summary Report**

Key	Name	Rep. By	S of A £	Claim £	Agreed Claim £
CA00	A1 Electrical Services		232 20	0 00	0 00
CA01	Apparelmaster		206 64	0 00	Agreed Nil Claim
CA02	Arco Limited		25 51	25 51	25 51 (U)
CA03	Astley Diamond Tools		8,106 00	8,515 20	8,515 20 (U)
CB00	BNP Paribas Leasing Solutions Limited		0 00	892 08	892 08 (U)
CB01	Birmingham City Council		0 00	0 00	Agreed Nil Claim
CB02	Barclaycard		136 56	370 99	370 99 (U)
CB03	Bissell & Brown		1,800 00	0 00	0 00
CB04	Breton International Ltd		7,197 72	7,866 78	7,866 78 (U)
CB05	BOC Limited		17 19	0 00	0 00
CB06	British Gas Business		0 00	0 00	0 00
CB07	BT		0 00	0 00	0 00
CC00	Cannock Chemicals Ltd		132 96	132 96	132 96 (U)
CC01	Capro Palmer Steels Ltd		151 20	151 20	151 20 (U)
CC02	Centro Webnet		293 96	0 00	0 00
CC03	Cromwell Group (Holdings) Ltd		204 07	0 00	0 00
CC04	Custompak Ltd		1,480 13	1,480 13	1,480 13 (U)
CC05	Close Brothers Premium Finance		0 00	335 03	335 03 (U)
CD00	DWF LLP		0 00	0 00	0 00
CD01	Dynashape Ltd		91 69	0 00	0 00
CE00	Edmundson Electrical		7 20	0 00	0 00
CE01	Ernest Bennett (Sheffield) Ltd		1,242 65	0 00	0 00
CE02	Euro Superabrasives Ltd		5,597 88	3,080 10	3,080 10 (U)
CE03	Emms Gilmore Liberson		0 00	0 00	0 00
CE04	EE		0 00	0 00	0 00
CF00	Mr G Forder		5,000 00	0 00	0 00
CF01	F & G Cape Diamond Limited		35,371 00	0 00	0 00
CG00	Gold Personnel		500 00	500 00	500 00 (U)
CG01	The Grinding Centre Ltd		37 44	0 00	Agreed Nil Claim
CG02	GE Capital Equipment Finance Ltd		0 00	0 00	Agreed Nil Claim
CH00	Hodge Clemco Ltd		152 88	0 00	0 00
CH01	HM Revenue & Customs		0 00	0 00	Agreed Nil Claim
CH02	HM Revenue & Customs		0 00	0 00	Agreed Nil Claim
CH03	HM Revenue & Customs		6,506 00	15,763 75	15,763 75 (U)
CH04	HM Customs & Excise		8,345 00	0 00	Agreed Nil Claim
CH08	Harmon Engineering Ltd		0 00	0 00	0 00
CI00	Insurance Factory Limited		0 00	0 00	Agreed Nil Claim
CI01	IDC (Holdings) Ltd		12,771 34	13,161 57	13,161 57 (U)
CI02	Intertool Ltd		354 43	0 00	0 00
CJ00	J4 Packaging		116 28	0 00	0 00
CJ01	James Murphy Cleaning		50 00	0 00	0 00
CJ02	Jones Lang La Salle		5,853 06	0 00	0 00
CJ03	John Keatley (Metals) Ltd		600 16	600 16	600 16 (U)
CL00	Lam Plan Industries		748 27	0 00	0 00
CL01	L G Farmer Engineering		51 24	0 00	Agreed Nil Claim
CL02	Lab 3 Ltd		177 00	0 00	0 00
CM00	Monaco Insurance Services Ltd		0 00	0 00	0 00
CM01	MSC Industrial Supply		18 52	0 00	0 00
CM02	Metalex		1,869 12	0 00	0 00
CM03	MC Abrasives		1,699 99	0 00	0 00
CN00	Npower		794 78	1,908 24	1,908 24 (U)

**K.J.Watkin & Co**  
**Cape Diamond Products Limited**  
**Creditor Claims Summary Report**

Key	Name	Rep. By	S of A £	Claim £	Agreed Claim £
CN01	The National Insurance Fund		0 00	86,452 87	77,344 48 (U) 9,108 39 (P)
CP00	ParkingEye Limited		100 00	0 00	0 00
CP01	Premium Credit Limited		0 00	530 10	530 10 (U)
CP02	P S Office Supplies Ltd		558 65	0 00	0 00
CR00	Ronald Britton & Co		949 80	949 80	949 80 (U)
CR01	Roy-ol Abrasives		1,925 55	0 00	0 00
CS00	Siemens Financial Services Ltd		0 00	1,983 23	1,983 23 (U)
CS01	Sage (UK) Limited		0 00	0 00	Agreed Nil Claim
CS02	Saint-Gobain Abrasives		73 20	0 00	0 00
CS03	Sil Mid Ltd		147 60	0 00	0 00
CS04	Severn Trent Water Ltd		0 00	339 72	339 72 (U)
CT00	Toshiba Tec UK Imaging		48 91	0 00	0 00
CT01	IMCO Tekmat Ltd		60 65	0 00	0 00
CU00	United Parcel Service Ltd		2,130 57	0 00	0 00
CV00	VWR International Ltd		0 00	0 00	0 00
<b>66 Entries Totalling</b>			<b>113,935.00</b>	<b>145,039 42</b>	<b>145,039.42</b>

U - Unsecured

P - Preferential

## SIP 9 - Time & Cost Summary

Period 06/07/15 05/07/16

## Time Summary

[illegible]

Claims inc emp, prefs	0 00	0 00	0 00	0 00	0 00	0 00	0 00
Employee Issues	0 00	0 70	0 00	9 20	9 90	1,341 00	135 45
Claims	0 00	0 00	0 00	0 00	0 00	0 00	0 00
Payroll	0 00	0 00	0 00	0 00	0 00	0 00	0 00
Pensions	0 00	0 00	0 50	0 50	1 00	160 00	160 00
Creditors	0 10	44 90	6 60	15 20	66 80	17,103 50	256 04
Case Specific	0 00	0 00	0 00	0 00	0 00	0 00	0 00
Case Specific 1	0 00	0 00	0 00	0 00	0 00	0 00	0 00
Case Specific 2	0 00	0 00	0 00	0 00	0 00	0 00	0 00
Case specific matters	0 00	0 00	0 00	0 00	0 00	0 00	0 00
Total Hours	3 70	111 70	53 20	129 20	297 80	62,090 50	208 50
Total Fees Claimed						30,000 00	

## **A CREDITORS' GUIDE TO LIQUIDATORS' FEES**

### **ENGLAND AND WALES**

#### **1 Introduction**

- 1 1 When a company goes into liquidation the costs of the proceedings are paid out of its assets. The creditors, who hope to recover some of their debts out of the assets, therefore have a direct interest in the level of costs, and in particular the remuneration of the insolvency practitioner appointed to act as liquidator. The insolvency legislation recognises this interest by providing mechanisms for creditors to fix the basis of the liquidator's fees. This guide is intended to help creditors be aware of their rights to approve and monitor fees, explains the basis on which fees are fixed and how creditors can seek information about expenses incurred by the liquidator and challenge those they consider to be excessive.

#### **2 Liquidation procedure**

- 2 1 Liquidation (or 'winding up') is the most common type of corporate insolvency procedure. Liquidation is the formal winding up of a company's affairs entailing the realisation of its assets and the distribution of the proceeds in a prescribed order of priority. Liquidation may be either voluntary, when it is instituted by resolution of the shareholders, or compulsory, when it is instituted by order of the court.
- 2 2 Voluntary liquidation is the more common of the two. An insolvent voluntary liquidation is called a creditors' voluntary liquidation (often abbreviated to 'CVL'). In this type of liquidation an insolvency practitioner acts as liquidator throughout and the creditors can vote on the appointment of the liquidator at the first meeting of creditors.
- 2 3 In a compulsory liquidation on the other hand, the function of liquidator is, in most cases, initially performed not by an insolvency practitioner but by an official called the official receiver. The official receiver is an officer of the court and an official belonging to The Insolvency Service. In most compulsory liquidations, the official receiver becomes liquidator immediately on the making of the winding-up order. Where there are significant assets an insolvency practitioner will usually be appointed to act as liquidator in place of the official receiver, either at a meeting of creditors convened for the purpose or directly by The Insolvency Service on behalf of the Secretary of State. Where an insolvency practitioner is not appointed the official receiver remains liquidator.
- 2 4 Where a compulsory liquidation follows immediately on an administration the court may appoint the former administrator to act as liquidator. In such cases the official receiver does not become liquidator. An administrator may also subsequently act as liquidator in a CVL.

#### **3 The liquidation committee**

- 3 1 In a liquidation (whether voluntary or compulsory) the creditors have the right to appoint a committee called the liquidation committee, with a minimum of 3 and a maximum of 5 members, to monitor the conduct of the liquidation and approve the liquidator's fees. The committee is usually established at the creditors' meeting which appoints the liquidator, but in cases where a liquidation follows immediately on an administration any committee established for the purposes of the administration will continue in being as the liquidation committee.
- 3 2 The liquidator must call the first meeting of the committee within 6 weeks of its establishment (or his appointment if that is later), and subsequent meetings must be held either at specified dates agreed by the committee, or when requested by a member of the committee, or when the liquidator decides he needs to hold one. The liquidator is required to report to the committee at least every 6 months on the

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

#### **4 Fixing the liquidator's remuneration**

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

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

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

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

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

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

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

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

#### **5 Review of remuneration**

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



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

### **6 1 When fixing bases of remuneration**

- 6 1 1 When seeking agreement for the basis or bases of remuneration, the liquidator should provide sufficient supporting information to enable the committee or the creditors to make an informed judgement as to whether the basis sought is appropriate having regard to all the circumstances of the case. The nature and extent of the information provided will depend on the stage during the conduct of the case at which approval is being sought. The appendix to this guide sets out a suggested format for the provision of information.
- 6 1 2 If any part of the remuneration is sought on a time costs basis, the liquidator should provide details of the minimum time units used and current charge-out rates, split by grades of staff, of those people who have been or who are likely to be involved in the time costs aspects of the case.
- 6 1 3 The liquidator should also provide details and the cost of any work that has been or is intended to be sub-contracted out that could otherwise be carried out by the liquidator or his or her staff.
- 6 1 4 If work has already been carried out, the liquidator should state the proposed charge for the period to date and provide an explanation of what has been achieved in the period and how it was achieved, sufficient to enable the progress of the case to be assessed and whether the proposed charge is reasonable in the circumstances of the case. Where the proposed charge is calculated on a time costs basis, the liquidator should disclose the time spent and the average charge-out rates, in larger cases split by grades of staff and analysed by appropriate activity. The liquidator should also provide details and the cost of any work that has been sub-contracted out that could otherwise be carried out by the liquidator or his or her staff.

### **6 2 After the bases of remuneration have been fixed**

The liquidator is required to send progress reports to creditors at specified intervals (see paragraph 7 1 below). When reporting periodically to creditors, in addition to the matters specified in paragraph 7 1, the liquidator should provide an explanation of what has been achieved in the period under review and how it was achieved, sufficient to enable the progress of the case to be assessed. Creditors should be able to understand whether the remuneration charged is reasonable in the circumstances of the case (whilst recognising that the liquidator must fulfil certain statutory obligations and regulatory requirements that might be perceived as bringing no added value for the estate). Where any remuneration is on a time costs basis, the liquidator should disclose the charge in respect of the period, the time spent and the average charge-out rates, in larger cases split by grades of staff and analysed by appropriate activity. If there have been any changes to the charge-out rates during the period under review, rates should be disclosed by grades of staff, split by the periods applicable. The liquidator should also provide details and the cost of any work that has been sub-contracted out that could otherwise be carried out by the liquidator or his or her staff.

### **6 3 Disbursements and other expenses**

- 6 3 1 Costs met by and reimbursed to the liquidator in connection with the liquidation should be appropriate and reasonable. Such costs will fall into two categories:
- **Category 1 disbursements** These are costs where there is specific expenditure directly referable both to the liquidation and a payment to an independent third party. These may include, for example, advertising, room hire, storage, postage, telephone charges, travel expenses, and equivalent costs reimbursed to the liquidator or his or her staff.

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

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

**6.3.2 The following are not permissible**

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

**6.4 Realisations for secured creditors**

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

**7 Progress reports and requests for further information**

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

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

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

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

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

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

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

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

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

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

The information which must be provided is –

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

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

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

## **9 What if a creditor is dissatisfied?**

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

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

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

## **11 Other matters relating to remuneration**

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

## **12 Effective date**

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

## **Appendix**

### **Suggested format for the provision of information**

Professional guidance issued to insolvency practitioners sets out the following suggested format for the provision of information when seeking approval of remuneration. However, the level of disclosure suggested below may not be appropriate in all cases, and will be subject to considerations of proportionality. In larger or more complex cases the circumstances of each case may dictate the information provided and its format.

#### **Narrative overview of the case**

In all cases, reports on remuneration should provide a narrative overview of the case. Matters relevant to an overview are:

- the complexity of the case,
- any exceptional responsibility falling on the liquidator,
- the liquidator's effectiveness,
- the value and nature of the property in question.

The information provided will depend upon the basis or bases being sought or reported upon, and the stage at which it is being provided. An overview might include:

- an explanation of the nature, and the liquidator's own initial assessment, of the assignment (including the anticipated return to creditors) and the outcome (if known),
- initial views on how the assignment was to be handled, including decisions on staffing or subcontracting and the appointment of advisers,
- any significant aspects of the case, particularly those that affect the remuneration and cost expended,
- the reasons for subsequent changes in strategy,
- the steps taken to establish the views of creditors, particularly in relation to agreeing the strategy for the assignment, budgeting, and fee drawing,
- any existing agreement about remuneration,
- 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,
- in a larger case, particularly if it involved trading, considerations about staffing and managing the assignment and how strategy was set and reviewed,
- details of work undertaken during the period,
- any additional value brought to the estate during the period, for which the liquidator wishes to claim increased remuneration.

#### **Time cost basis**

Where any part of the remuneration is or is proposed to be calculated on a time costs basis, requests for and reports on remuneration should provide:

- An explanation of the liquidator's time charging policy, clearly stating the units of time that have been used, the grades of staff and rates that have been charged to the assignment, and the policy for recovering the cost of support staff. There is an expectation that time will be recorded in units of not greater than 6 minutes.
- A description of work carried out, which might include:
  - details of work undertaken during the period, related to the table of time spent for the period,
  - an explanation of the grades of staff used to undertake the different tasks carried out and the reasons why it was appropriate for those grades to be used,
  - any comments on any figures in the summary of time spent accompanying the request the liquidator wishes to make.
- Time spent and charge-out summaries, in an appropriate format.

It is useful to provide time spent and charge-out value information in a tabular form for each of the time periods reported upon, with work classified (and sub-divided) in a way relevant to the circumstances of the case

The following areas of activity are suggested 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 level of disclosure suggested above will not be appropriate in all cases, and considerations of proportionality will apply

- where cumulative time costs are, and are expected to be, less than £10,000 the liquidator should, as a minimum, state the number of hours and average rate per hour and explain any unusual features of the case,
  - where cumulative time costs are, or are expected to be, between £10,000 and £50,000, a time and charge-out summary similar to that shown above will usually provide the appropriate level of detail (subject to the explanation of any unusual features),
  - where cumulative time costs exceed, or are expected to exceed, £50,000, further and more detailed analysis or explanation will be warranted
-

## K J Watkin & Co

### Disclosure of information in accordance with current regulatory guidance under the codes of Best Practice (SIP 9)

In accordance with the current code of best practice Directors, Shareholders and Creditors are advised that Office Holder's Fees are charged in six minute units at varying rates depending upon the grade of staff allocated to a specific task Charge out rates are maintained for a period of 12 months by K J Watkin & Co and are subject to review on 1 January each year The following equivalent hourly charge out rates are applicable with effect from 1 January 2016 The comparable rates for the previous year are also disclosed

Grade of Staff	2015 £	2016 £
Partner	395	395
Senior Manager	310	315
Manager	260	265
Assistant Manager	225	230
Senior Administrator	190	195
Cashier	190	195
Administrator	135	135
Administrative Assistant	105	105
Assistant Administrator	90	90
Clerical Assistant	90	90

Staff are allocated work in each insolvency in accordance with their qualification, skills and experience.

During the course of the administration of a case there will be various category 1 disbursements incurred by K J Watkin & Co These will be recharged to the estate at cost These disbursements will include such things as, but not restricted to -

Statutory Advertising  
Insurance Bonding  
Bank Charges  
Postage

Additionally, K J Watkin & Co will recharge to the estate various category 2 disbursements at prevailing rates These are currently restricted to costs under the following headings -

		2015 £	2016 £
Searches	per search	20	20
Travelling	per mile	50p	50p
Storage	per quarter per box	15	15
Room hire for statutory meetings	per meeting	185	185

## **PROVISION OF SERVICES REGULATIONS SUMMARY SHEET FOR K J WATKIN & CO.**

The following information is designed to draw the attention of interested parties to the information required to be disclosed by the Provision of Services Regulations 2009

### **Licensing Body**

Mr C H I Moore is licensed to act as an Insolvency Practitioner in the United Kingdom by the Institute of Chartered Accountants in England and Wales (ICAEW)

### **Rules Governing Actions**

All IPs are bound by the rules of their professional body, including any that relate specifically to insolvency. The rules of the professional body that licences K J Watkin & Co's IP can be found at <http://www.icaew.com/en/members/regulations-standards-and-guidance/insolvency/insolvency-regulations-and-guidance>. In addition, IPs are bound by the Statements of Insolvency Practice (SIPs), details of which can be found at <https://www.r3.org.uk/what-we-do/publications/professional/statements-of-insolvency-practice>

### **Ethics**

All IPs are required to comply with the Insolvency Code of Ethics and a copy of the Code can be found at <http://www.icaew.com/en/technical/insolvency/insolvency-regulations-and-standards>

### **Complaints**

At K J Watkin & Co we always strive to provide a professional and efficient service. However, we recognise that it is in the nature of insolvency proceedings for disputes to arise from time to time. As such, should you have any comments or complaints regarding the administration of a particular case then in the first instance you should contact the IP acting as office holder.

If you consider that the IP has not dealt with your comments or complaint appropriately you should then put details of your concerns in writing to our complaints officer Mr C H I Moore, K J Watkin & Co, Emerald House, 20-22 Anchor Road, Aldridge, Walsall WS9 8PH. This will then formally invoke our complaints procedure and we will endeavour to deal with your complaint under the supervision of a senior partner unconnected with the appointment.

Most disputes can be resolved amicably either through the provision of further information or following negotiations. However, in the event that you have exhausted our complaints procedure and you are not satisfied that your complaint has been resolved or dealt with appropriately, you may complain to the regulatory body that licences the insolvency practitioner concerned. Any such complaints should be addressed to The Insolvency Service, IP Complaints, 3rd Floor, 1 City Walk, Leeds, LS11 9DA, and you can make a submission using an on-line form available at [www.gov.uk/complain-about-insolvency-practitioner](http://www.gov.uk/complain-about-insolvency-practitioner), or you can email [insolvency.enquiryline@insolvency.gsi.gov.uk](mailto:insolvency.enquiryline@insolvency.gsi.gov.uk), or you may phone 0300 678 0015 - calls are charged at up to 12p per minute from a land line, or for mobiles, between 3p and 45p per minute if you're calling from the UK.

### **Professional Indemnity Insurance**

K J Watkin & Co's Professional Indemnity Insurance is provided by Nexus Underwriting Ltd, of 150 Leadenhall Street, London, EC3V 4QT. This professional indemnity insurance provides worldwide coverage.

### **VAT**

K J Watkin & Co is registered for VAT under registration no 559 3875 84