

# 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

6228339

Name of Company

C S Incentive Limited

☒ We

Neil Francis Hickling  
Marmion House  
3 Copenhagen Street  
Worcester  
WR1 2HB

Gilbert John Lemon  
Portwall Place  
Portwall Lane  
Bristol  
BS1 6NA

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 03/07/2012 to 02/07/2013

Signed



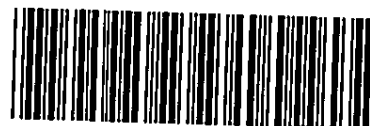
Date

27 AUG 2013

Smith & Williamson LLP  
Marmion House  
3 Copenhagen Street  
Worcester  
WR1 2HB

Ref CS034/PM7/TRDF

WEDNESDAY



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28/08/2013

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COMPANIES HOUSE

**C S Incentive Limited**  
**(In Liquidation)**  
**Joint Liquidators' Abstract of Receipts & Payments**

Statement of Affairs		From 03/07/2012 To 02/07/2013
	<b>ASSET REALISATIONS</b>	
NIL	Computer Equipment	NIL
Uncertain	Book Debts	1,284 00
NIL	List Rental	NIL
	Contribution from Associated Compan	6,646 90
	Cash at Bank	920 00
	Bank Interest Gross	0 04
	Bank Interest Net of Tax	0 77
		<u>8,851 71</u>
	<b>COST OF REALISATIONS</b>	
	Specific Bond	20 00
	S&W Prep of S of A Fees	5,000 00
	Liquidator's Fees	1,500 00
	Irrecoverable VAT	1,107 82
	Stationery & Photocopying	8 80
	Company Searches	54 16
	Postage & Redirection	65 28
	Statutory Advertising	190 50
	Legal Fees - Att at W/U Hearing	250 00
	Travelling & Subsistence	4 60
		<u>(8,201 16)</u>
	<b>UNSECURED CREDITORS</b>	
(2,370 00)	Trade & Expense Creditors	NIL
(786 00)	Directors Loan Account	NIL
(291,370 00)	HM Revenue & Customs	NIL
		<u>NIL</u>
	<b>SHAREHOLDERS</b>	
(2 00)	Ordinary Shareholders	NIL
		<u>NIL</u>
<u>(294,528.00)</u>		<u><u>650.55</u></u>
	<b>REPRESENTED BY</b>	
	Interest Bearing Account	339 70
	FLT Vat Control Account	310 85
		<u><u>650 55</u></u>



Neil Francis Hickling  
Joint Liquidator

**C S INCENTIVE LIMITED - IN LIQUIDATION**  
**COMPANY NUMBER: 6228339**

**PROGRESS REPORT TO THE CREDITORS AND CONTRIBUTORIES**  
**PURSUANT TO S104A INSOLVENCY ACT 1986**  
**FOR THE YEAR ENDED 2 JULY 2013**

**Former Trading Address:**

Unit 1  
Alton Road Industrial Estate  
Ross on Wye  
Herefordshire  
HR9 5NB

**Registered Office:**

Marmion House  
3 Copenhagen Street  
Worcester  
WR1 2HB

**Introduction**

Neil Francis Hickling and Gilbert John Lemon, partners of Smith & Williamson LLP were appointed as Joint Liquidators of C S Incentive Limited ("the company") at the first meeting of creditors held on 3 July 2012

This is the progress report for the first year since the company went into liquidation on 3 July 2012.

**Receipts & Payments Account**

The liquidation receipts and payments account detailing asset realisations for the last twelve months is attached as Appendix 1. The receipts and payments account discloses a balance of £650.55 as at 2 July 2013.

**Asset Realisations**

<b>Assets</b>	<b>Estimated to realise, as per the Statement of Affairs</b>	<b>Amount Realised</b>
	<b>£</b>	<b>£</b>
Book Debts	Uncertain	1,284 00
Cash at Bank	-	920.00

Book Debts

The book debts shown on the company's Statement of Affairs related to an inter-company debt due from CSDM Fundraising Limited CSDM Fundraising Limited is now in Administration and the Joint Liquidators will be submitting a claim within those proceedings

The Joint Liquidators have however realised the sum of £1,284 from Bibby Factors Yorkshire Limited following the completion of the factoring agreement the company entered into prior to liquidation

Contribution from Associated Company

Funds in settlement of Smith & Williamson's costs in connection with the convening of this meeting of creditors and preparing the Statement of Affairs were paid to Smith & Williamson by an associated company

### Cash at Bank

A credit balance of £920 has been received by the Joint Liquidators

### **Anticipated Further Asset Realisations**

The Joint Liquidators will continue to monitor the Administration of CSDM Fundraising Limited in order to establish whether there is likely to be a dividend payable to the unsecured creditors

### **Liquidation Expenses**

The costs of Smith & Williamson LLP for preparing the Statement of Affairs and convening the first meeting of creditors were agreed in the sum of £5,000 plus VAT and disbursements. These were agreed at the creditors meeting held on 3 July 2012. Smith & Williamson LLP have drawn £5,000 plus VAT on account of these costs

The Joint Liquidators have paid advertising costs of £190.50 in relation to advertising the Joint Liquidators appointment in the London Gazette. This is a statutory requirement

The Joint Liquidators have paid £250 to Moon Beever Solicitors for their attendance at the winding up hearing on 18 June 2012. These monies were provided by an associated company.

### **Accrued and unpaid liquidation costs and expenses**

There have been no unpaid costs or expenses accrued within the period of this report

### **Preferential Creditors**

No preferential creditors' claims have been received to date.

### **Unsecured Creditors**

Unsecured creditors were shown on the statement of affairs at £294,526 and unsecured claims totalling £374,265.72 have been received to date.

### **Liquidator's Remuneration and Disbursements**

Statement of Insolvency Practice 9 (SIP9) a guidance note of best practice, concerns an Insolvency Practitioners remuneration and expenses. A time and charge out summary for the year ended 2 July 2013, in the format recommended by SIP9, is attached as Appendix 2 of this report showing that during the year 78.20 hours have been spent at an average of £176.32 per hour totalling £13,788.25

Details of the work carried out under the sub headings on the time and charge out summary at Appendix 2 are set out below.

A copy of a creditors' guide to liquidators' fees is attached as Appendix 3 of this report

### Administration and Planning

Reviewing the progress of the liquidation after six months. That review took place on 3 January 2013.

Reviewing the level of the statutory bond in place over the company's assets at three monthly intervals during the course of the liquidation. Those reviews took place on 3 October 2012, 3 January 2013 and 3 April 2013

Reconciliations of the liquidation bank account were undertaken from time to time throughout the period of the liquidation

Reconciling the VAT position with HM Revenue & Customs and the appropriate applications were made in order to reclaim any input VAT on the costs and expenses of the liquidation as well as to pay over any output VAT to HM Revenue & Customs following the sale of the company's assets.

#### Investigations

The Joint Liquidators took possession of and reviewed the books and records of the company and complied with their statutory duty to make enquiries of the formation, trading and demise of the company and the conduct of those persons who were directors of the company at any time in the three year period prior to the company being placed into liquidation.

The Joint Liquidators also made enquiries and requested information from various parties in order to assist with these duties.

The Joint Liquidators submitted a report on the conduct of the directors to the relevant body. The contents of that report are confidential

The Joint Liquidators have also undertaken an investigation into the amounts due from a number of debtors at the date of liquidation. This has included a review the company's prime records and reconciling them against electronic records. Enquires have also been made of the company's former director. The Joint Liquidators enquires are continuing in this regard

#### Realisation of Assets

Please see details provided above

#### Creditors

The Joint Liquidators have responded to creditor queries as required and liaised with H M Revenue & Customs regarding the winding up petition which was presented prior to the company going into liquidation.

In common with all professional firms, our scale rates increase from time to time over the period of administration on each insolvency case. Full details including any increases since the date of appointment are available on application.

The applicable hourly rates for the year ended 2 July 2013 are: -

Grade	Hourly Rates	
	Year ended 30/04/2013	Year ended 30/04/2014
	£	£
Partners	375	375
Associate Directors	325	325
Managers & Assistant Managers	200-275	200-275
Other Senior Professionals	145-185	145-185
Assistants and Support Staff	70-75	70-75

The time costs are recorded in minimum units of three minutes

A resolution approving the payment of the Joint Liquidators remuneration on a time costs basis was passed at the first meeting of creditors held on 3 July 2012. A copy of the minutes of the creditors meeting held on 3 July 2012, which contains the resolution approving the Joint Liquidators remuneration, is attached as Appendix 4.

Since the date of appointment, the Joint Liquidators have drawn remuneration of £1,500 plus VAT on a time costs basis, in accordance with the resolution passed at the creditors meeting held on 3 July 2012.

## Category 2 Disbursements

The first creditors meeting referred to above authorised Smith & Williamson LLP to charge the following disbursements:-

- a) Postage at actual cost of posting
- b) Photocopying at 10p per sheet.
- c) Storage costs of up to £10 per box per annum.
- d) Mileage at the rates approved by HM Revenue & Customs (currently 45 pence per mile and 50 pence per mile for two or more employees travelling in the same vehicle)
- e) That the services of Smith & Williamson Financial Services Limited be utilised to deal with any pension schemes at their usual hourly charge out rates. The current charge out rates and estimated cost per scheme are given in Appendix 5 of this report.

The Category 2 disbursements paid during the year ended 2 July 2013 were:-

	£
Postage	65 28
Photocopying	8.80
	<u>74.08</u>

Creditors' attention is drawn to Rule 4.49E of the Insolvency Rules 1986, whereby within 21 days of receipt of this progress report, a secured creditor, or unsecured creditor with the concurrence of 5% in value of the unsecured creditors, including the value of their own claim, or with the permission of the Court, may make a request in writing to the Liquidator for further information about remuneration or expenses.

Creditors' attention is also drawn to Rule 4.131 of the Insolvency Rules 1986, which states, inter alia, a secured creditor or any unsecured creditor with the concurrence of at

least 10% in value of the unsecured creditors, including the value of their own claim, or with the permission of the Court may apply to the Court for an Order that the remuneration and expenses of the Liquidator are excessive or inappropriate. Any such application must be made within 8 weeks from receipt of this report and formal notice of such must be sent to the Liquidator at least 14 days before the hearing

### **The Prescribed Part**

Where a company has granted a floating charge to a creditor on or after 15 September 2003, Section 176A of the Insolvency Act 1986 requires the Liquidator to set aside part of the floating charge realisations that would otherwise be used to pay the charge holder. This fund, known as the "prescribed part", is made available to pay the company's unsecured debts.

The Company granted a floating charge to Bibby Financial Services Limited on 20 August 2010 such that the prescribed part would apply in this winding up. However, it is understood that there are no monies owing to Bibby Financial Services Limited from the company. Consequently the prescribed part will not be applicable.

### **Dividend Prospects**

On present information, it will not be possible to declare a dividend to any class of creditor. However, the Joint Liquidators will keep all creditors updated accordingly.



**N F HICKLING  
JOINT LIQUIDATOR**

**23 August 2013**

**APPENDIX 1**  
**LIQUIDATOR'S RECEIPTS AND PAYMENTS ACCOUNT**



**C S Incentive Limited**  
**(In Liquidation)**  
**Joint Liquidators' Abstract of Receipts & Payments**  
**To 02/07/2013**

<b>S of A £</b>		<b>£</b>	<b>£</b>
	<b>ASSET REALISATIONS</b>		
NIL	Computer Equipment	NIL	
Uncertain	Book Debts	1,284 00	
NIL	List Rental	NIL	
	Contribution from Associated Co	6,646 90	
	Cash at Bank	920 00	
	Bank Interest Gross	0 04	
	Bank Interest Net of Tax	0 77	
			8,851 71
	<b>COST OF REALISATIONS</b>		
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(2,370 00)	Trade & Expense Creditors	NIL	
(786 00)	Directors Loan Account	NIL	
(291,370 00)	HM Revenue & Customs	NIL	
			NIL
	<b>SHAREHOLDERS</b>		
(2 00)	Ordinary Shareholders	NIL	
			NIL
<b>(294,528.00)</b>			<b>650.55</b>
	<b>REPRESENTED BY</b>		
	Interest Bearing Account		339 70
	FLT Vat Control Account		310 85
			<b>650.55</b>

**APPENDIX 2**  
**TIME AND CHARGE OUT SUMMARY**

**C S INCENTIVE LIMITED  
IN LIQUIDATION**

**TIME AND CHARGE-OUT SUMMARY**

Classification of work function	Hours					Time Cost £	Average Hourly Rate
	Partners & Associate Directors	Managers & Assistant Managers	Other Professionals	Support Staff	Total Hours		
Administration and Planning	2 35	4 90	4 65	5 85	17 75	3,142 50	177 04
Investigations	0 00	9 30	37 25	0 50	47 05	8,241 25	175 16
Realisation of assets	0 00	3 25	6 30	0 00	9 55	1,807 75	189 29
Creditors	0 00	0 00	3 85	0 00	3 85	596 75	155 00
Total Hours	2 35	17 45	52 05	6 35	78 20	13,788 25	176 32
Total Fees Claimed £	813 75	4,471 25	8,058 75	444 50		13,788 25	

**APPENDIX 3**  
**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 71, 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.

**APPENDIX 4**  
**RESOLUTION APPROVING LIQUIDATOR'S REMUNERATION**

**C S Incentive Limited  
(In Liquidation)**

**Minutes of the Meeting of Creditors  
held pursuant to Section 98 of the Insolvency Act 1986**

**Venue:** Marmion House, 3 Copenhagen Street, Worcester, WR1 2HB.

**Date:** 3 July, 2012

**Time:** 10 30 am

**Chairman:** Christopher John Stoddard, Director

**Present:** Creditors present in person or by proxy were as detailed on the attached attendance register and proxy schedule

**In attendance:** Neil Francis Hickling – Smith & Williamson LLP  
Chris Allen - Smith & Williamson LLP  
Phil Morton – Smith & Williamson LLP

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**Chairman**

In accordance with the proceedings of the Board Meeting held on 28 May 2012, Christopher John Stoddard acted as Chairman for the purposes of this meeting of the Company's creditors

**Quorum and notice**

A quorum being present, the Chairman declared the meeting open, and it was agreed that the notice convening the meeting should be taken as read

**Matters brought to the attention of the meeting**

The Chairman asked Neil Francis Hickling, Joint Liquidator appointed by the members of the Company, to address the meeting. The following matters were reported to the creditors

**1 Statement of independence**

Neither the Joint Liquidators appointed by the members of the Company nor Smith & Williamson LLP had any professional or other relationship with the Company, its Director or members prior to the instructions to advise the sole Director and assist in the formalities for winding up the Company.

## **2 Instructions from the sole Director**

The sole Director approached Smith & Williamson LLP on 28 May 2012 and in view of the Company's financial position it was concluded that the Company should be placed into creditors' voluntary liquidation

## **3 General Meeting**

Notices convening a General Meeting of the Company were sent to the members on 13 June 2012. The meeting was held on 3 July, 2012 at 10 00 am and the following Resolutions were duly considered and passed

- A Special Resolution THAT it has been proved to the satisfaction of this meeting that the Company cannot, by reason of its liabilities, continue its business and that it is advisable to wind up the same and, accordingly, that the Company be wound up voluntarily
- An Ordinary Resolution THAT Neil Francis Hickling of Smith & Williamson LLP, Marmion House 3 Copenhagen Street Worcester WR1 2HB and Gilbert John Lemon of Smith & Williamson LLP, Portwall Place, Portwall Lane, Bristol, BS1 6NA be and are hereby appointed as Joint Liquidators for the purposes of the winding up

## **4 Exercise of Liquidators' powers**

Since their appointment by the members at the General Meeting the Joint Liquidators have not exercised any of their statutory powers in relation to the assets or affairs of the Company

## **Report on the Company's position**

A statement of the Company's assets and liabilities together with a brief history and statutory and financial information was laid before the meeting and Neil Francis Hickling, on behalf of the Chairman, explained the reasons for proposing that the Company be wound up. The meeting was also advised that from the information made available to Neil Francis Hickling and Gilbert John Lemon prior to this meeting there had been no transactions with connected parties (other than in the ordinary course of business) during the period of one year prior to the sole Director's Resolution that the Company be wound up

## **Statement of Affairs fee**

The meeting was advised that the fee for Smith & Williamson LLP preparing the Statement of Affairs and for convening and holding the creditors' meeting was £5,000 plus VAT and disbursements of £539.08 plus VAT.

The meeting was advised that the Company has paid part of the fee and disbursements plus VAT such that £3,872.42 plus VAT remains outstanding

## **Questions**

The creditors were given the opportunity of putting forward questions

No questions were raised at the meeting

## **Appointment of Joint Liquidators**

The meeting was reminded that Neil Francis Hickling and Gilbert John Lemon of Smith & Williamson LLP had been appointed as Joint Liquidators by the members of the Company and that they had provided written statements that they are Insolvency Practitioners duly qualified under the Insolvency Act 1986 to act as the Joint Liquidators of the Company and that they consent so to act. Creditors were then asked whether there were any alternative nominations. There being no alternative nominations the creditors duly considered and approved the following Resolution:

- THAT Neil Francis Hickling and Gilbert John Lemon of Smith & Williamson LLP, Marmion House 3 Copenhagen Street Worcester WR1 2HB be and are hereby appointed as Joint Liquidators for the purposes of the winding up

## **Certificate of appointment of Joint Liquidators**

In accordance with Rule 4.101 of the Insolvency Rules 1986 the Chairman signed a certificate confirming the appointment of Neil Francis Hickling and Gilbert John Lemon as Joint Liquidators of the Company.

## **Liquidation Committee**

The creditors were asked if they wished to form a Liquidation Committee but none was established

## **Remuneration/conduct of the liquidation**

As no Liquidation Committee was appointed the meeting was asked to consider Resolutions relating to remuneration and the conduct of the liquidation. Before the Resolutions were duly considered the creditors' attention was drawn to the

- guidance notes explaining the ways in which Liquidators' remuneration may be fixed
- charge out rates for Smith & Williamson LLP
- charge out rates for Smith & Williamson Financial Services Limited

The following Resolutions were approved by the meeting

1. THAT the Joint Liquidators' remuneration is to be calculated by reference to the time properly spent by them and their staff in attending to matters arising in the winding up, in accordance with Rule 4.127 of the Insolvency Rules 1986
2. THAT the fees due to Smith & Williamson LLP in the sum of £5,000 plus VAT and disbursements of £539.08 plus VAT incurred in preparing the Statement of



the Statement of Affairs and convening and holding the meeting of creditors be paid as an expense of the liquidation

3. THAT any acts during the administration of the winding up may be undertaken by the Joint Liquidators acting jointly or by either one of them
4. THAT Smith & Williamson LLP are authorised to charge the following disbursements
  1. Mileage at the rates approved by HM Revenue & Customs (currently 45 pence per mile and 50 pence per mile for two or more employees travelling in the same vehicle)
  2. Postage of actual costs of posting
  3. Photocopying at 10p per sheet
  4. Storage of up to £10 per box per annum
5. THAT the services of Smith & Williamson Financial Services Limited be utilised to deal with any company pension schemes, charges specified on the attached appendix

#### **Chairman's discretion on voting**

The Chairman was not required to exercise his discretion in relation to the admissibility or value of any claim for voting purposes.

#### **Joint Liquidators' investigation**

The meeting was asked to notify the Joint Liquidators in writing of any matters relating to the Company's affairs that the creditors considered should be investigated.

There being no further business the meeting then terminated

Signed



Christopher John Stoddard  
**Chairman**

Date: 3 July, 2012

## **APPENDIX 5**

### **Smith & Williamson Employee Benefit Consultants (S&WEBC) a division of Smith & Williamson Financial Services Limited**

S&WEBC is a pensions consultancy firm which specialises in providing advice to Insolvency Practitioners (IPs) on their appointment in relation to all aspects of pensions. The service S&WEBC provides is extremely specialised and there are few others in this 'niche' market. Having provided services to IPs for more than 15 years S&WEBC's experience and expertise ensures that an efficient and concise approach is taken to investigating each case and, as a result, appropriate advice is given.

S&WEBC's fees are considered to compare favourably with others in this specialist sector but it has not yet been possible to obtain comparable quotes. In providing our services our fees will be accrued on a time costed basis a summary of S&WEBC charge out rates from July 2013 are detailed below. It should be noted that S&WEBC will always seek to recover its fees from third party funds, wherever possible.

Charge out rates from July 2013	Per hour
Director	£265 - £405
Associate Director	£180 - £240
Manager	£170 - £195
Administrator	£115 - £165

S&WEBC will endeavour to estimate the fee to be accrued on each case on its initial instruction from the IP appointed