

AM10

Notice of administrator's progress report



Companies House

THURSDAY



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A11

11/06/2020

#266

COMPANIES HOUSE

1 Company details

Company number 0 9 3 4 6 7 6 2

Company name in full MBI Ferndale Limited

→ Filling in this form

Please complete in typescript or in
bold black capitals.

2 Administrator's name

Full forename(s) John

Surname Sugden

3 Administrator's address

Building name/number Devonshire House

Street 32/34 North Parade

Post town Bradford

County/Region

Postcode B D 1 3 H Z

Country

4 Administrator's name ①

Full forename(s) Robert William

Surname Sadler

① Other administrator

Use this section to tell us about
another administrator.

5 Administrator's address ②

Building name/number Devonshire House

Street

Post town 32-34 North Parade

County/Region Bradford

Postcode B D 1 3 H Z

Country

② Other administrator

Use this section to tell us about
another administrator.

AM10

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6 Period of progress report

From date	^d 2	^d 9	^m 1	^m 0	^y 2	^y 0	^y 1	^y 9
To date	^d 2	^d 8	^m 0	^m 4	^y 2	^y 0	^y 2	^y 0

7 Progress report

☐ I attach a copy of the progress report

8 Sign and date

Administrator's
signature

Signature

X

H. Snyder

X

Signature date	^d 0	^d 8	^m 0	^m 6	^y 2	^y 0	^y 2	^y 0
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**Presenter information**

You do not have to give any contact information, but if you do it will help Companies House if there is a query on the form. The contact information you give will be visible to searchers of the public record.

Contact name **David Hodgson**

Company name **Auker Rhodes Limited**

Address **Devonshire House**
32/34 North Parade

Post town **Bradford**

County/Region

Postcode **B D 1 3 H Z**

Country

DX

Telephone **01274 299499**

**Checklist**

We may return forms completed incorrectly or with information missing.

Please make sure you have remembered the following:

- ☐ The company name and number match the information held on the public Register.
- ☐ You have attached the required documents.
- ☐ You have signed the form.

**Important information**

All information on this form will appear on the public record.

**Where to send**

You may return this form to any Companies House address, however for expediency we advise you to return it to the address below:

The Registrar of Companies, Companies House,
Crown Way, Cardiff, Wales, CF14 3UZ.
DX 33050 Cardiff.

**Further information**

For further information please see the guidance notes on the website at www.gov.uk/companieshouse or email enquiries@companieshouse.gov.uk

This form is available in an alternative format. Please visit the forms page on the website at www.gov.uk/companieshouse



**MBI FERNDALE LIMITED
(IN ADMINISTRATION)**

ADMINISTRATORS' PROGRESS REPORT

**THE ADMINISTRATORS' FIRST PROGRESS REPORT IN ACCORDANCE WITH
RULE 18.6 OF THE INSOLVENCY (ENGLAND AND WALES) RULES 2016**

**IN THE HIGH COURT OF JUSTICE
BUSINESS AND PROPERTY COURTS
OF ENGLAND AND WALES
LEEDS INSOLVENCY AND COMPANIES LIST**

**IN THE MATTER OF THE INSOLVENCY ACT 1986
AND
IN THE MATTER OF MBI FERNDALE LIMITED**

28 APRIL 2020



AUKER RHODES ACCOUNTING LIMITED

**Devonshire House
32-34 North Parade
Bradford
BD1 3HZ**

Tel: 01274 299499

APPOINTMENT OF ADMINISTRATORS

Date of Administration: 29/10/2019

Date of Administrators' appointment: Robert William Sadler 29/10/2019
John Paul Sugden 29/10/2019

Court case number: Leeds Insolvency & Companies List, CR-2019-001177

Creditors should note that:

- the Administrators were appointed by the director on 29 October 2019;
- the Administrators act as officers of the Court and as agents of the Company without personal liability;
- any Act to be done by an Administrator may be done by any one or more of the Administrators¹; and
- Rob Sadler and John Paul Sugden are licensed by the Insolvency Practitioners Association.

INTRODUCTION

The Administrators' Progress Report², in accordance with the Insolvency (England and Wales) Rules 2016 ("the Rules"), provides creditors with an update on the Administration since the appointment of Administrators on 29 October 2019. The Report covers the period 29 October 2019 to 28 April 2020.

This report is private and confidential and is for the sole purpose of providing creditors of the Company with the information that the Administrators are required to do by the Act and Rules. No part of this report may be reproduced or quoted from, referred to or used for any other purpose without the express permission of the Administrators.

THE ADMINISTRATORS' PROPOSALS

The Administrators' Proposals set out the basis for achieving objective (b) of schedule B1 of the Act, obtaining a better outcome for creditors as a whole than would have been likely if the Company was wound up, by proposing a Company Voluntary Arrangement ("CVA").

The Administrators estimated that a dividend would be available to unsecured creditors in the CVA of 17.84 pence in the pound as opposed to zero in Administration. The dividend in the CVA is against all contractual future returns and payments discounted back to the date of the acceptance of the CVA.

The Administrators' Proposals³ were circulated to creditors on 24 October 2019. The Joint Nominee's were subsequently appointed as Administrators in order to protect the Company from any action being taken by creditors whilst the proposals were being considered.

The proposals for a Company Voluntary Arrangement were accepted by creditors on 14 November 2019.

¹ Section 231 of the Insolvency Act 1986 ("the Act")

² Rules 18.2, 18.3 and 18.6 of the Rules

³ Paragraph 49 of schedule B1 of the Act and Rule 3.35 of the Rules

The Administrators proposed the following decisions via deemed consent which were duly approved by creditors, in the absence of sufficient objections, on 18 December 2019:

1. The Administrators' proposals for achieving objective (b) as the purpose of the Administration are approved,
2. The Company shall remain in Administration for such period as the Administrators deem necessary and appropriate.
3. The Joint Administrators shall do all such things as exercise their powers as set out in the Act to the extent that they deem necessary to further the objective of the Administration.

The Administrators also proposed the following decisions by way of postal vote on 18 December 2019:

4. The establishment of a creditors' committee where sufficient nominations are received by the Decision Date.
5. Where a committee of creditors is not established, the Administrators shall be remunerated by reference to the time properly spent by them and their staff in attending the Administration.
6. Where a committee of creditors is not established, the Administrators' fee estimate shall be approved.
7. Where a committee of creditors is not established, the Administrators shall be entitled to draw their own company's costs and expenses, described as Category 2 Disbursements, when funds allow.
8. The Administrators shall be discharged from all liability upon the Administration coming to an end on their appointment otherwise ceasing.

I can confirm that insufficient nominations for a creditors committee were received and as a result no committee has been formed.

PROGRESS DURING THE PERIOD OF THIS REPORT

As advised above the Company had taken steps to deliver proposals for a Company Voluntary Arrangement prior to the appointment of the Joint Administrators, however to prevent the Company being pursued by any creditors by way of legal action the Company was placed into Administration.

The Company's proposal for a CVA allow for objective (b) of the Joint Administrators functions to be met, namely achieving a better result for the Company's creditors as a whole than would have been likely if the Company were wound up (ie: go into Liquidation) without first being in Administration.

It was evident that Company could not be saved as a going concern as it currently had no means of income and it's assets are of insufficient value to meet the claims of creditors.

The Company's Proposal for a CVA was circulated to all known creditors via email, where creditors' email addresses had been identified, on 24 October 2019 and by post on the same date detailing how to access the creditor portal in accordance with Rule 1.50 of the Rules.

Following a request by the majority creditor, formal notice of a physical meeting of creditors was included in the Proposal for a CVA which was held at 10:00am on 14 November 2019.

The following decisions were considered at the meeting:

1. The proposed Company Voluntary Arrangement be approved
2. If Resolution 1 is approved, for the appointment of the Administrators as Supervisors and agreement that acts may be completed by any one or both of them.

The decisions were accepted by 100% of voting creditors.

A copy of the Chair's report on the meeting was uploaded to the creditor portal on 20 November 2019.

Following the acceptance of the CVA Proposal the Administrators have continued to complete and fulfil the statutory and regulatory obligations as per the Act and Rules. Whilst the following tasks have not had a direct benefit in enhancing realisations for the insolvent estate, they have allowed for the Administration to comply with statute and best practice.

The tasks undertaken include:

- Communicating with creditors and members and dealing with general enquiries relating to the Administration.
- Filing statutory documentation at Companies House when required.
- Maintaining a case file which includes records and explanations behind any decisions throughout the Administration period.
- Maintaining an adequate bond.
- Conducting periodic case reviews.
- Maintaining a bank account and cash book.

The Administrators have also submitted a Directors' conduct report⁴ to the Department for Business, Energy and Industrial Strategy, which is a requirement in all Administrations.

WHAT REMAINS TO BE DONE BY THE ADMINISTRATORS

The Administrators are currently reviewing the progress of the CVA before considering bringing the Administration to an end and seeking their release.

THE ADMINISTRATORS' RECEIPTS AND PAYMENTS ACCOUNT

Attached at Appendix A is the Administrators' Receipts and Payments Account covering the six month period from 29 October 2019 to 28 April 2020.

As detailed in the Account, £15,000 was received as a contribution to the costs of the Administration. Against that figure the following has been paid:

- Office Holders fees totalling £11,893.33 as agreed by decision 5 by way of correspondence vote on 18 December 2019.
- A payment to £140 Park House in respect of the meeting room provided for the physical meeting of creditors held on 14 November 2019.
- A payment of £400 to Sanderson Weatherall in respect of valuation services provided in valuing the property owned by the Company.
- A payment of £80 in respect of the Joint Administrators statutory bond.

THE ESTIMATED OUTCOME FOR CREDITORS

We are not aware of any secured or preferential creditors.

Our estimate of the dividend that will be available to unsecured creditors in the CVA is 17.84 pence in the pound. Creditors should note that this dividend would represent 22 pence in the pound against all contractual future returns and payments discounted back to this date. This dividend is anticipated to be paid to creditors within nine months of the approval of the CVA.

⁴ Company Directors Disqualification Act 1986

PRE-APPOINTMENT COSTS

The Administrators have decided not to seek approval of pre-appointment costs⁵.

THE ADMINISTRATORS' REMUNERATION, EXPENSES & DISBURSEMENTS

The remuneration of the Administrators⁶ was approved by creditors on 18 December 2019 by way of a postal vote. That remuneration is based upon time properly spent in attending to the Administration and is currently capped at £17,450 in accordance with the estimate provided to creditors in the Proposals.

The Administrators are required to report their remuneration which has been charged in the period. This reflects the time charged to the case for any category of work where remuneration has been approved on a time spent basis. The Administrators have incurred costs of £13,315.00 in the current period. An analysis of the time incurred is attached at Appendix B.

The amount of £11,893.33 plus VAT has been paid and a further £1,421.67 remains outstanding.

Details of the expenses that the Administrators have incurred are also attached at Appendix C. A guide to Auker Rhodes Accounting - Expenses and Chargeout Rates can be found at Appendix D.

CREDITORS' RIGHTS

The following may make a written request to the Administrators⁷ for further information with regard to their remuneration, expenses or disbursements.

- A secured creditor
- A non-preferential, unsecured creditor with the concurrence of at least 5% in value of the non-preferential, unsecured creditors, including the creditor raising the request.
- Any non-preferential, unsecured creditor with the permission of the Court.

The request must be made within 21 days of receipt of this report and the Administrators must reply within 14 days of receipt of the request.

If the Administrators do not respond within the specified 14 days or do not provide all the requested information, the creditors may have recourse to the Court within 21 days of the Administrators' reply or the 14 days expiring.

The following have a right to challenge the Administrators' remuneration or expenses⁸.

- A secured creditor
- A non-preferential, unsecured creditor with the concurrence of at least 10% in value of the non-preferential, unsecured creditors, including the creditor making the challenge.
- Any non-preferential, unsecured creditor with the permission of the Court.

The challenge is to be made by an application to Court on the grounds that the remuneration charged or the expenses incurred are excessive. Alternatively, the challenge can assert that the fee basis is inappropriate.

The application to Court must be made no later than eight weeks after receipt of the report to creditors where the charging of the remuneration or the incurring of the expenses being objected to is set out.

⁵ Rule 18.5 of the Rules

⁶ Rule 18.4 of the Rules

⁷ Rule 18.9 of the Rules

⁸ Rule 18.34 of the Rules

A Creditors Guide to Administrators' Fees can be accessed at www.r3.org.uk/technical-library/england-wales/technical-guidance/fees/more/28888/page/1/version-1-issued-april-2010. A hard copy of the Guide can be requested from the Administrators' office.

EC REGULATION

Regulation (EU) Number 2015/848 of the European Parliament and of the Council applies to these proceedings, which the Administrators believe are "main proceedings" within the meaning of Article 3 of the Regulation.

EXIT FROM ADMINISTRATION

The Administration will automatically come to an end after twelve months unless an extension is granted by the Court or with the consent of creditors.

In this instance it is anticipated that the Company will be dissolved following the successful completion of the CVA.

The Joint Administrators have decided to keep the Company in Administration throughout the CVA period to safeguard the Company should the CVA fail for any reason.

OTHER MATTERS

Should creditors have any questions arising from this Progress Report they should contact the Joint Administrators.



ROB SADLER

Joint Administrator

APPENDIX A**MBI Ferndale Limited
(in Administration)****Administrators Receipts and Payments Account for the period
29 October 2019 to 28 April 2020**

INCOME	Total (£)
Cash at bank	15,000.00
	15,000.00
EXPENDITURE	
Specific bond	80.00
Administrators' remuneration	11,893.33
Meeting room hire	140.00
Valuer's fee	400.00
Irrecoverable VAT	2,486.67
	15,000.00
Balance	0.00
MADE UP AS FOLLOWS	
Floating Current A/c	0.00
	0.00

APPENDIX B

MBI Ferndale Limited Analysis of time costs for the period 29/10/2019 to 28/04/2020

Classification of work function	Officeholder	Manager	Other senior professionals	Assistants & support staff	Total hours	Time costs (£)	Average hourly rate (£)
Case Administration	36.50	16.75	0.00	0.00	53.25	12,475.00	234.27
Case Specific Matters	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Closure	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Creditors & shareholders	0.00	0.20	0.00	0.00	0.20	40.00	200.00
Employees	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Investigations	0.00	1.50	0.00	0.00	1.50	300.00	200.00
Realisation of Assets	2.00	0.00	0.00	0.00	2.00	500.00	250.00
Trading	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Total Hours	38.50	18.45	0.00	0.00	56.95	13,315.00	233.80

APPENDIX C

REMUNERATION, CHARGES AND EXPENSES INCURRED BY THE ADMINISTRATORS IN THE PERIOD 29 OCTOBER 2019 TO 28 APRIL 2020

		Incurring from 29/10/19 to 28/04/20 £	Paid from 29/10/19 to 28/04/20 £	Remaining unpaid to 28/04/20 £
Administrators' remuneration		13,315.00	11,893.33	1,421.67
Administrators' expenses & disbursements				
<u>Expense</u>	<u>Supplier</u>			
Meeting room hire	Park House	140.00	140.00	-
Statutory advertising	EPE Reynell	105.60	-	105.60
Bond premium	Insolvency Risk Services	80.00	80.00	-
Agents' fees	Sanderson Weatherall	400.00	400.00	-
		<u>14,040.60</u>	<u>12,513.33</u>	<u>1,527.27</u>

Notes

1. The Administrators' expenses and disbursements are shown inclusive of VAT, which is irrecoverable.
2. The costs incurred in respect of statutory advertising has been paid by Auker Rhodes Accounting Limited.

ADMINISTRATORS' CHARGE OUT RATES AND DISBURSEMENTS POLICY

AUKER RHODES ACCOUNTING

INTRODUCTION

This note applies where a licensed Insolvency Practitioner in the firm is acting as an office holder of an insolvent estate and seeks creditor approval to make a separate charge by way of expenses or disbursements to recover the cost of facilities provided by the firm. Required professional practice¹ states that such charges should be disclosed to those who are responsible for approving his remuneration, together with an explanation of how those charges are made up and the basis on which they are arrived at.

DEFINITIONS

Required professional practice classifies expenses into two broad categories:

- *Category 1 expenses (approval not required)* – specific expenditure that is directly related to a specific insolvency case, where the cost of the expense incurred is referable against an independent external supplier's invoice or published tariff of charges; and
- *Category 2 expenses (approval required)* – all other items of expenditure:
 - which cannot, or cannot easily, be directly related to a specific insolvency case because there is an element of shared or allocated cost; and / or
 - where the cost of the expense incurred is an estimated, utilised cost with the estimate based on external costs or opportunity cost.

EXPENSES

- *Category 1 expenses (approval not required)* – except for any items referred to below, all such items are re-charged to the case as they are incurred.
- *Category 2 expenses (approval required)*
 - (A) The following items of expenditure are re-charged as described:
 - Internal meeting room usage for the purpose of statutory meetings of creditors is re-charged at the rate of £100 per meeting;
 - Car mileage is re-charged at the rate of 35 pence per mile;
 - Storage of books and records (when not rechargeable as a *Category 1 expense*) is re-charged on the basis that the number of standard archive boxes held in storage for a specific case bears to the total of all archive boxes for all cases in respect of the period for which the storage charge relates;)
 - (B) The following items of expenditure will normally be treated as general office overheads not subject to a re-charge:
 - Telephone and facsimile
 - Printing and photocopying
 - Stationery

A re-charge may be made, however, where the precise cost to the case can be determined because the item satisfies the test of a *Category 1 expense*.

STANDARD CHARGEOUT RATES AND CHARGING POLICY

The rates applying as at the date of this report are as follows, having been revised in 2019:

Grade of staff	Charge out rate (£ per hour)
Partner & appointment taker	250
Manager	200
Administrator	125
Admin / support staff	75 – 125

Time spent by support staff for carrying out shorter tasks, such as typing or dealing with post, is not charged to cases but is carried as an overhead. Only where a significant amount of time is spent at one time on a case is a charge made for support staff.

Time is recorded in units of six minutes, having previously been charged in five minute units to 1 March 2020.

¹Statement of Insolvency Practice 9 (SIP 9) effective from 1 December 2015.