

In accordance with Rule 18.7 of the Insolvency (England & Wales) Rules 2016 and Sections 92A, 104A and 192 of the Insolvency Act 1986.

LIQ03

Notice of progress report in voluntary winding up



Companies House

FRIDAY



A12

A7JBXC8W

23/11/2018

#185

COMPANIES HOUSE

1 Company details

Company number 0 3 2 3 0 2 8 2

Company name in full Brimar Limited

→ Filing in this form
Please complete in typescript or in bold black capitals.

2 Liquidator's name

Full forename(s) Antony

Surname Nygate

3 Liquidator's address

Building name/number 55 Baker Street

Street London

Post town W1U 7EU

County/Region

Postcode

Country

4 Liquidator's name ●

Full forename(s) Kerry

Surname Bailey

● Other liquidator
Use this section to tell us about another liquidator.

5 Liquidator's address ●

Building name/number 3 Hardman Street

Street Spinningfields

Post town Manchester

County/Region


Postcode M 3 3 A T

Country

● Other liquidator
Use this section to tell us about another liquidator

LIQ03

Notice of progress report in voluntary winding up

6		Period of progress report									
From date		^d 2	^d 6	^m 0	^m 9	^y 2	^y 0	^y 1	^y 7		
To date		^d 2	^d 5	^m 0	^m 9	^y 2	^y 0	^y 1	^y 8		
7		Progress report									
		<input checked="" type="checkbox"/> The progress report is attached									
8		Sign and date									
Liquidator's signature		^{Signature} X  X									
Signature date		^d 2	^d 2	^m 1	^m 1	^y 2	^y 0	^y 1	^y 8		

LIQ03

Notice of progress report in voluntary winding up



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 **Antony Nygate**

Company name **BDO LLP**

Address **5 Temple Square
Temple Street**

Post town **Liverpool**

County/Region

Postcode **L 2 5 R H**

Country

DX

Telephone **01512 374 500**



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

**Brimar Limited
(In Liquidation)
Joint Liquidators' Trading Account**

Statement of Affairs £	From 26/09/2017 To 25/09/2018 £	From 26/09/2013 To 25/09/2018 £
TRADING EXPENSES		
BAE Trading Surplus	NIL	30,420.83
Thales Trading Surplus	NIL	7,726.59
	NIL	<u>(38,147.42)</u>
TRADING SURPLUS/(DEFICIT)	NIL	<u>(38,147.42)</u>

Brimar Limited
(In Liquidation)
Joint Liquidators' Summary of Receipts & Payments

Statement of Affairs £	From 26/09/2017 To 25/09/2018 £	From 26/09/2013 To 25/09/2018 £
ASSET REALISATIONS		
Book Debts	11,143.30	88,241.47
Bank Interest Gross	15.74	839.22
Trading Surplus/(Deficit)	NIL	(38,147.42)
Balance From Administrator	NIL	329,478.50
	<u>11,159.04</u>	<u>380,411.77</u>
COST OF REALISATIONS		
Liquidators' Fees	NIL	22,000.00
Liquidators' Disbursements	NIL	258.06
Liquidators' Fees (Prescribed Part)	NIL	14,375.00
Legal Fees	12,617.30	46,242.01
Corporation Tax	18.54	166.63
VAT Duty Paid	NIL	1,682.38
Stationery & Postage	NIL	1,841.18
Statutory Advertising	NIL	84.53
Bank Charges	77.86	77.86
	<u>(12,713.70)</u>	<u>(86,727.65)</u>
UNSECURED CREDITORS		
Trade & Expense Creditors	(280.61)	252,009.86
	<u>280.61</u>	<u>(252,009.86)</u>
	<u>(1,274.05)</u>	<u>41,674.26</u>
REPRESENTED BY		
Vat Input		6,046.76
Bank 2 Current		36,407.33
Unclaimed dividends		(779.83)
		<u>41,674.26</u>

Note:

A unsecured dividend of 2.75 pence in the pound was declared on 2 March 2017 which totalled £252,009.86.



Tel: +44 (0)151 237 4500
Fax: +44 (0)151 237 4545
www.bdo.co.uk

5 Temple Square
Temple Street
Liverpool
L2 5RH

TO ALL KNOWN MEMBERS AND CREDITORS

22 November 2018

Our Ref - 00235873/C2/AN/SC

Please ask for Shalna Connor
Direct Line - 0151 237 4444
Email - BRCMT@bdo.co.uk

Dear Sirs

Brimar Limited - In Creditors' Voluntary Liquidation ('the Company')
Registered number: 03230282

I set out below an annual progress report in accordance with Section 104A of the Insolvency Act 1986 and Rule 18.4 of the Insolvency (England and Wales) Rules 2016 ('the Rules'). This report covers the period from 26 September 2017 to 25 September 2018 ('the Period') and should be read in conjunction with my previous reports circulated to creditors.

Professional information regarding the Liquidators

The current Joint Liquidators are Antony Nygate (officeholder no: 9237) of BDO LLP, 55 Baker Street, London, W1U 7EU and Kerry Bailey (officeholder no: 8780) of BDO LLP, 3 Hardman Street, Spinningfields, Manchester, M3 3AT. The Joint Liquidators were appointed on 26 September 2013 and 1 August 2016 respectively. The Liquidation appointment followed the preceding Administration. The Joint Liquidators carry out their functions jointly and severally meaning any action can be done by one Liquidator or by both of them.

Receipts and Payments

I attach for your information a summary of my Receipts and Payments account, analysed to show activity in the last year compared to the compared to the whole of the Liquidation. The account shows a balance in hand of £36,407.

Receipts

The receipts shown are largely self-explanatory, however I would comment specifically on the following:

Book Debts

My previous report provided detail regarding a further receipt in relation to the Company's investment in Brimar Inc, a company incorporated in the USA, which entered into insolvency proceedings on 9 September 2013. The distribution received from these insolvency proceedings during the Period totalled £11,143. No further receipts are expected in this regard.

Other Receipts

The only other receipt in the Period was bank interest of £17.



Payments

Simmons & Simmons LLP received £12,617 during the Period in relation to legal advice provided to the Joint Liquidators. This advice was received on matters relating to the Company's pension schemes, which are discussed in further detail later in this report.

The only other payments in the Period were for Corporation Tax of £19 and bank charges totalling £78.

Other than in relation to the Joint Liquidators' fees, which are discussed later in this report, I am not aware of any other costs which have accrued but have yet to be settled.

Progress of the Liquidation

I have reported previously that the Joint Liquidators were investigating an outstanding issue relating to the Company's pension schemes and in particular the closure of its defined benefit pension scheme. Pension contributions had been paid by the Company to a defined contribution scheme in the period prior to Administration, at a time when the defined benefit scheme had not been properly closed.

The treatment of these contributions was the subject of protracted discussions with the scheme trustees, the Pension Protection Fund and legal advisers. I received notice in January 2018 that the trustees of the respective schemes had concluded that it was appropriate to transfer the contributions from the defined contribution scheme to the defined benefit scheme for the benefit of the pension scheme members and intended to effect the transfer shortly thereafter. As a result the monies would not be available to the Company.

I obtained further legal advice in light of the correspondence received from the trustees, which established that any challenge to this proposed course of action in Court was likely to prove costly and it would remain highly uncertain whether a challenge would result in any recoveries into the Liquidation. I also consulted with the secured creditor in this regard which confirmed it did not wish to fund the costs of any Court application to challenge the trustees' decision.

Given the above it was not in the interests of creditors as a whole for any challenge to be pursued. Accordingly there will be no realisations possible in relation to the pension contributions.

There are no assets remaining to be realised in the Liquidation. I can confirm that there are no assets of a peculiar or special nature which cannot be sold. Consequently there has been no distribution of unsold assets to creditors, as mentioned in Rules 18.10/14.13 of the Insolvency (England & Wales) Rules 2016.

Prospects for Creditors

Secured Creditor - BAE Systems (Operations) Limited ('BAE')

At the date of the Joint Administrators' appointment, BAE was owed approximately £2.7 million in respect of a loan provided to the Company (£1.8m) in April 2012 and subsequent advances against incomplete purchase orders (£0.9m). This was secured by way of a first ranking debenture conferring a fixed charge over goodwill, intellectual property and fixed plant and machinery, and floating charges over the remaining assets of the Company.



BAE received distributions in the Administration of £148,000 under the fixed charge and £1.052m under the floating charge. No further distribution to BAE is anticipated.

Preferential Creditors

Preferential claims totalled £10,516 and were paid in full during the preceding Administration.

Prescribed Part and Unsecured Creditors

The only funds available to unsecured creditors in this matter will be pursuant to the prescribed part provisions under Section 176A of the Insolvency Act 1986. These state that, where after 15 September 2003 a company has granted a floating charge to a creditor, a proportion of the net property of that company must be made available purely for the unsecured creditors.

The Company did grant a floating charge after this date and, as reported previously, a first dividend was paid to creditors whose claims are neither secured nor preferential by virtue of the prescribed part in March 2017.

After the costs of distribution, the total amount distributed to unsecured creditors was £252,290, being 2.75p in the £ on claims totalling £9,162,867.

Given that it has not been possible to realise any further sums in relation to the pension contributions mentioned above, there will be insufficient realisations to enable any further distribution to be made by virtue of the prescribed part. There will therefore be no further dividend available to unsecured creditors in this matter.

Investigations

The Joint Liquidators have a duty to investigate the affairs of the Company and also the conduct of the directors and in respect of the latter, to submit a confidential statutory report to the Secretary of State. I confirm that a report has been submitted.

I have completed my review of the Company's affairs and assets to establish whether there are any actions that can be investigated for the benefit of the creditors and concluded there are no causes of action to be pursued.

Joint Liquidators' Remuneration

Pursuant to the Rules, the Joint Liquidators are obliged to fix their remuneration in accordance with Rule 18.16. This permits remuneration to be fixed either:

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

Given that there will be insufficient funds available to enable any distribution to unsecured creditors other than from the prescribed part, the Joint Liquidators have sought and obtained the approval of the secured creditor to draw fees on a time costs basis. A discount of 15% has



been applied to the Liquidators' time costs in line with an agreement with the Pension Protection Fund.

I attach two schedules detailing the time costs incurred to date. These schedules are before the 15% reduction outlined above. The first schedule covers the Period and records time costs of £13,667, which represents 57 hours spent at an average charge out rate of £240 per hour.

The second schedule covers the whole period of appointment and records time costs of £107,871, which represents 477 hours spent at an average charge out rate of £226 per hour.

To date, the Joint Liquidators have drawn £22,000 in respect of remuneration in the Liquidation, together with a further £14,375 that was approved by the unsecured creditors in relation to distribution of the Prescribed Part. No fees were drawn during the Period.

For guidance, I enclose a document that outlines the policy of BDO LLP in respect of fees and disbursements.

Disbursements

Where disbursements are recovered in respect of precise sums expended to third parties there is no necessity for these costs to be authorised. These are known as category 1 disbursements. Since my last report category 1 disbursements of £181 have been incurred in respect of record storage.

Some Liquidators recharge expenses, for example printing, photocopying and telephone costs, which cannot economically be recorded in respect of each specific case. Such expenses, which are apportioned to cases, require the approval of the creditors before they can be drawn, and these are known as category 2 disbursements. The policy of BDO LLP in respect of this appointment is not to charge any category 2 disbursements with the exception of mileage on the basis of the mileage scale approved by HMRC, being 45p per mile unless otherwise disclosed to the creditors. No category 2 disbursements have accrued during the Period.

Total disbursements of £1,010 have been incurred in this Liquidation as detailed below.

	Cat. 1 (£)	Cat. 2 (£)	Total (£)
Bonding	50	0	50
Companies House Charges	1	0	1
Storage Costs	959	0	959
	1,010	0	1,010

To date category 1 disbursements of £258 have been drawn, none of which was paid in the Period. No Category 2 disbursements have been incurred or drawn to date.

Creditors' Rights

I provide at the end of this report an extract from the Rules setting out the rights of creditors to request further information and/or challenge the remuneration or expenses within the Liquidation. Creditors may access information setting out creditors' rights in respect of the approval of Liquidators' remuneration at <https://www.r3.org.uk/what-we-do/publications/professional/fees>.



The Insolvency Service has established a central gateway for considering complaints in respect of insolvency practitioners. In the event that you make a complaint to me but are not satisfied with the response from me then you should visit <https://www.gov.uk/complain-about-insolvency-practitioner> where you will find further information on how you may pursue the complaint.

The Joint Liquidators are bound by the Insolvency Code of Ethics when carrying out all professional work relating to this appointment. A copy of the code is at: <http://www.icaew.com/en/members/regulations-standards-and-guidance/ethics/code-of-ethics-d>.

If you require any further information please contact me or my colleague Shahna Connor at BRCMT@bdo.co.uk.

Yours faithfully
For and on behalf of
Brimar Limited

A handwritten signature in black ink, appearing to read 'Antony Nygate'.

Antony Nygate
Joint Liquidator
Authorised by the Institute of Chartered Accountants in England & Wales in the UK

Enclosures

Receipts and Payments Account
SIP 9 Time Cost Report for the Period of Report
SIP 9 Time Cost Report for the Period of Liquidation
BDO LLP Policy in Respect of Fees and Disbursements
Statement of Creditors' Rights in respect of Fees and Disbursements

**Brimar Limited
(In Liquidation)
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	<u>NIL</u>	<u>(38,147.42)</u>
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(In Liquidation)
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	<u>280.61</u>	<u>(252,009.86)</u>
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REPRESENTED BY		
Vat Input		6,046.76
Bank 2 Current		36,407.33
Unclaimed dividends		(779.83)
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Note:

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Name of Assignment

Brimar Limited - CVL

00235873

Summary of Time Charged and Rates Applicable for the Period From 26/09/2017 to 25/09/2018

Description	PARTNER		MANAGER		ASSISTANT MANAGER		SENIOR ADMINISTRATOR		ADMINISTRATOR		OTHER STAFF		GRAND TOTAL		WRI
	Hours	Total £	Hours	Total £	Hours	Total £	Hours	Total £	Hours	Total £	Hours	Total £	Hours	Total £	
C. Planning and Strategy	8.65	6,266.00	0.75	195.75	0.85	105.40	1.60	191.50	16.25	1,318.80	0.55	36.85	0.75	195.75	261.0
D. General Administration			2.15	491.75									30.05	8,410.30	279.8
G. Employee Matters			5.85	1,440.10									5.85	1,440.10	246.1
H. Creditor Claims			1.10	289.80			0.10	11.60	5.00	335.00			6.20	636.40	102.6
I. Reporting	1.00	520.00	7.50	2,079.00					5.75	385.25			14.25	2,984.25	209.4
	9.65	6,786.00	17.35	4,396.40	0.85	105.40	1.70	203.10	27.00	2,039.05	0.55	36.85			
													57.10	13,666.80	

Detail of Time Charged and Rates Applicable for the Period From 26/09/2013 to 25/09/2018

Description	PARTNER		MANAGER		ASSISTANT MANAGER		SENIOR ADMINISTRATOR		ADMINISTRATOR		OTHER STAFF		GRAND TOTAL	
	Hours	Total £	Hours	Total £	Hours	Total £	Hours	Total £	Hours	Total £	Hours	Total £	Hours	Total £
B. Steps on Appointment														
02 Statutory Documentation			12.00	2,760.00									12.00	2,760.00
sub total -			12.00	2,760.00									12.00	2,760.00
B. Steps on Appointment														
C. Planning and Strategy														
07 Strategy Planning			4.90	1,134.60	7.00	1,281.00							11.90	2,415.60
sub total -			4.90	1,134.60	7.00	1,281.00							11.90	2,415.60
C. Planning and Strategy														
D. General Administration														
01 Insurance Matters					0.50	91.50							0.50	91.50
02 VAT	5.50	2,535.50	1.50	778.50	14.00	2,562.00			1.25	227.50			22.25	6,103.50
03 Taxation			2.65	834.00	1.50	274.50			1.55	896.20			8.70	2,004.70
04 Instruct Use Solicitors			2.00	620.00	0.50	91.50							2.50	711.50
07 Receipts Payments Accounts	0.35	182.00	5.35	1,164.50	13.15	2,362.20		659.95	30.50	2,835.45			56.85	7,445.45
08 Remuneration Issues													0.15	14.85
09 Statutory Matters			1.00	279.00					2.00	352.00			4.15	744.85
13 General Meetings													0.50	58.00
14 General Discussions	19.75	14,031.00											19.75	14,031.00

Detail of Time Charged and Rates Applicable for the Period From 26/09/2013 to 25/09/2018

Description	PARTNER		MANAGER		ASSISTANT MANAGER		SENIOR ADMINISTRATOR		ADMINISTRATOR		OTHER STAFF		GRAND TOTAL	
	Hours	Total £	Hours	Total £	Hours	Total £	Hours	Total £	Hours	Total £	Hours	Total £	Hours	Total £
15 Gen Admin Correspondence	1.40	690.30	29.00	7,775.10	14.75	2,697.25	1.05	123.30	11.85	1,591.65			58.05	12,877.60
16 Maintain Internal Files			1.00	224.00	0.30	49.00					0.30	29.70	1.60	302.70
99 Other Matters			2.50	775.00									2.50	775.00
sub total -	27.00	17,438.80	45.00	12,450.10	44.70	8,127.95	5.20	841.25	50.15	5,902.80	5.15	399.75	177.20	45,160.65
D. General Administration														
E. Assets Realisation/Dealing														
07 Debt Collection			6.10	1,628.00	1.75	320.25							7.85	1,948.25
09 Dealing with other Assets					2.25	413.00							2.25	413.00
14 Sale of Business Assets			2.00	542.00									2.00	542.00
99 Other Matters			2.75	852.50									2.75	852.50
sub total -			10.85	3,022.50	4.00	733.25							14.85	3,755.75
E. Assets Realisation/Dealing														
F. Trading Related Matters														
06 Monitor Supervise Trading					2.50	457.50							2.50	457.50
08 Trading Accounts	1.00	461.00	22.50	5,544.00	37.00	6,771.00			0.25	43.00			60.75	12,819.00
sub total -	1.00	461.00	22.50	5,544.00	39.50	7,228.50			0.25	43.00			63.25	13,276.50
F. Trading Related Matters														
G. Employee Matters														

Detail of Time Charged and Rates Applicable for the Period From 26/09/2013 to 25/09/2018

Description	PARTNER		MANAGER		ASSISTANT MANAGER		SENIOR ADMINISTRATOR		ADMINISTRATOR		OTHER STAFF		GRAND TOTAL	
	Hours	Total £	Hours	Total £	Hours	Total £	Hours	Total £	Hours	Total £	Hours	Total £	Hours	Total £
02 Dealing with Employees					1.75	320.25							1.75	320.25
04 Pension Issues			13.00	3,212.85	13.50	2,472.75							26.50	5,685.60
99 Other Matters			0.25	56.00									0.25	56.00
sub total -			13.25	3,268.85	15.25	2,793.00							28.50	6,061.85
G. Employee Matters														
H. Creditor Claims														
02 Secured Creditors	0.50	230.50											0.50	230.50
03 Preferential Creditors			0.65	145.60	6.00	1,098.00							6.65	1,243.60
04 Non-Preferential Creditors			39.45	9,366.80	4.50	823.50	0.10	11.60	5.00	335.00	2.50	275.00	47.05	10,811.90
06 Other Creditors			1.00	326.00									1.00	326.00
sub total -	0.50	230.50	41.10	9,838.40	10.50	1,921.50	0.10	11.60	5.00	335.00	6.20	662.00	63.40	13,019.00
H. Creditor Claims														
I. Reporting														
01 Statutory Reporting			8.75	2,371.50	2.75	503.25			21.75	1,457.25			33.25	4,332.00
02 Reporting to Appointment			3.75	957.50	0.50	91.50							4.25	1,049.00
04 Reporting to Creditors	1.00	520.00	7.75	2,090.75	7.50	1,372.50							16.25	3,983.25
sub total -	1.00	520.00	20.25	5,419.75	10.75	1,967.25			21.75	1,457.25			53.75	9,364.25
I. Reporting														

Name of Assignment

Brimar Limited - CVL

00235873

Detail of Time Charged and Rates Applicable for the Period From 26/09/2013 to 25/09/2018

Description	PARTNER		MANAGER		ASSISTANT MANAGER		SENIOR ADMINISTRATOR		ADMINISTRATOR		OTHER STAFF		GRAND TOTAL	
	Hours	Total £	Hours	Total £	Hours	Total £	Hours	Total £	Hours	Total £	Hours	Total £	Hours	Total £
J. Distribution and Closure														
01. Closure Planning			3.00	754.50									3.00	754.50
02. Distributions			48.95	11,303.25									48.95	11,303.25
sub total -			51.95	12,057.75									51.95	12,057.75
J. Distribution and Closure														
Net Total														107,871.35
Secretarial Expense														0.00
Other Disbursements														0.00
Billed														0.00
Grand Total														107,871.35



Brimar Limited - In Liquidation

In accordance with best practice I provide below details of policies of BDO LLP in respect of fees and expenses for work in relation to the above insolvency.

The current charge out rates per hour of staff within my firm who may be involved in working on the insolvency follows:

GRADE	£
Partner	533-760
Manager	235-411
Assistant Manager	212
Senior Administrator	200-212
Administrator	71-180
Other Staff	75

This in no way implies that staff at all such grades will work on the case. The rates charged by BDO LLP are reviewed in December and July each year and are adjusted to take account of inflation and the firm's overheads.

Time spent on casework is recorded directly to the relevant case using a computerised time recording system and the nature of the work undertaken is recorded at that time. Units of time can be as small as 3 minutes. BDO LLP records work in respect of insolvency work under the following categories:

- Pre Appointment
- Steps upon Appointment
- Planning and Strategy
- General Administration
- Asset Realisation/Management
- Trading Related Matters
- Employee Matters
- Creditor Claims
- Reporting
- Distribution and Closure
- Other Issues

Under each of the above categories the work is recorded in greater detail in sub categories. Please note that the 11 categories provide greater detail than the six categories recommended by the Recognised Professional Bodies who are responsible for licensing and monitoring insolvency practitioners.

Where an officeholder's remuneration is approved on a time cost basis the time invoiced to the case will be subject to VAT at the prevailing rate.

Where remuneration has been approved on a time costs basis a periodic report will be provided to any committee appointed by the creditors or in the absence of a committee to the creditors. The report will provide a breakdown of the remuneration drawn and will enable the recipients to see the average rates of such costs.

Other Costs

Where expenses are incurred in respect of the insolvent estate they will be recharged. Such expenses can be divided into two categories.



Category 1

This heading covers expenses where BDO LLP has met a specific cost in respect of the insolvent estate where payment has been made to a third party. Such expenses may include items such as advertising, couriers, travel (by public transport), land registry searches, fees in respect of swearing legal documents etc. In each case the recharge will be reimbursement of a specific expense incurred.

Category 2

We propose to recover from the estate the cost of travel where staff use either their own vehicles or company cars in travelling connected with the insolvency. In these cases a charge of 45p per mile is raised which is in line with the HM Revenue & Customs Approved Mileage Rates (median - less than 10,000 miles per annum) which is the amount the firm pays to staff. Where costs are incurred in respect of mileage, approval will be sought in accordance with the Insolvency (England and Wales) Rules 2016 to recover this disbursement.

Where applicable, all disbursements will be subject to VAT at the prevailing rate.

BDO LLP
22 November 2018



Statement from the Insolvency (England and Wales) Rules 2016 regarding the rights of creditors in respect of the Joint Liquidators' fees and expenses:

Creditors' and members' requests for further information in administration, winding up and bankruptcy

18.9.—(1) The following may make a written request to the office-holder for further information about remuneration or expenses (other than pre-administration costs in an administration) set out in a progress report under rule 18.4(1)(b), (c) or (d) or a final report under rule 18.14—

- (a) a secured creditor;
- (b) an unsecured creditor with the concurrence of at least 5% in value of the unsecured creditors (including the creditor in question);
- (c) members of the company in a members' voluntary winding up with at least 5% of the total voting rights of all the members having the right to vote at general meetings of the company;
- (d) any unsecured creditor with the permission of the court; or
- (e) any member of the company in a members' voluntary winding up with the permission of the court.

(2) A request, or an application to the court for permission, by such a person or persons must be made or filed with the court (as applicable) within 21 days of receipt of the report by the person, or by the last of them in the case of an application by more than one member or creditor.

(3) The office-holder must, within 14 days of receipt of such a request respond to the person or persons who requested the information by—

- (a) providing all of the information requested;
- (b) providing some of the information requested; or
- (c) declining to provide the information requested.

(4) The office-holder may respond by providing only some of the information requested or decline to provide the information if—

- (a) the time or cost of preparation of the information would be excessive; or
- (b) disclosure of the information would be prejudicial to the conduct of the proceedings;
- (c) disclosure of the information might reasonably be expected to lead to violence against any person; or
- (d) the office-holder is subject to an obligation of confidentiality in relation to the information.

(5) An office-holder who does not provide all the information or declines to provide the information must inform the person or persons who requested the information of the reasons for so doing.

(6) A creditor, and a member of the company in a members' voluntary winding up, who need not be the same as the creditor or members who requested the information, may apply to the court within 21 days of—

- (a) the office-holder giving reasons for not providing all of the information requested; or
- (b) the expiry of the 14 days within which an office-holder must respond to a request.

(7) The court may make such order as it thinks just on an application under paragraph (6).

Remuneration and expenses: application to court by a creditor or member on grounds that remuneration or expenses are excessive

18.34.—(1) This rule applies to an application in an administration, a winding-up or a bankruptcy made by a person mentioned in paragraph (2) on the grounds that—

- (a) the remuneration charged by the office-holder is in all the circumstances excessive;
- (b) the basis fixed for the office-holder's remuneration under rules 18.16, 18.18, 18.19, 18.20 and 18.21 (as applicable) is inappropriate; or
- (c) the expenses incurred by the office-holder are in all the circumstances excessive.

(2) The following may make such an application for one or more of the orders set out in rule 18.36 or 18.37 as applicable—

- (a) a secured creditor,
- (b) an unsecured creditor with either—
 - (i) the concurrence of at least 10% in value of the unsecured creditors (including that creditor), or
 - (ii) the permission of the court, or
- (c) in a members' voluntary winding up—
 - (i) members of the company with at least 10% of the total voting rights of all the members having the right to vote at general meetings of the company, or
 - (ii) a member of the company with the permission of the court.

(3) The application by a creditor or member must be made no later than eight weeks after receipt by the applicant of the progress report under rule 18.3, or final report or account under rule 18.14 which first reports the charging of the remuneration or the incurring of the expenses in question ('the relevant report').



Applications under rules 18.34 and 18.35 where the court has given permission for the application

18.36.—(1) This rule applies to applications made with permission under rules 18.34 and 18.35.

- (2) Where the court has given permission, it must fix a venue for the application to be heard.
- (3) The applicant must, at least 14 days before the hearing, deliver to the office-holder a notice stating the venue and accompanied by a copy of the application and of any evidence on which the applicant intends to rely.
- (4) If the court considers the application to be well-founded, it must make one or more of the following orders—
 - (a) an order reducing the amount of remuneration which the office-holder is entitled to charge;
 - (b) an order reducing any fixed rate or amount;
 - (c) an order changing the basis of remuneration;
 - (d) an order that some or all of the remuneration or expenses in question is not to be treated as expenses of the administration, winding up or bankruptcy;
 - (e) an order for the payment of the amount of the excess of remuneration or expenses or such part of the excess as the court may specify by —
 - (i) the administrator or Liquidator or the administrator's or Liquidator's personal representative to the company, or
 - (ii) the trustee or the trustee's personal representative to such person as the court may specify as property comprised in the bankrupt's estate;
 - (f) any other order that it thinks just.
- (5) An order under paragraph (4)(b) or (c) may only be made in respect of periods after the period covered by the relevant report.
- (6) Unless the court orders otherwise the costs of the application must be paid by the applicant, and are not payable as an expense of the administration, winding up or bankruptcy.

Applications under rule 18.34 where the court's permission is not required for the application

18.37.—(1) On receipt of an application under rule 18.34 for which the court's permission is not required, the court may, if it is satisfied that no sufficient cause is shown for the application, dismiss it without giving notice to any party other than the applicant.

- (2) Unless the application is dismissed, the court must fix a venue for it to be heard.
- (3) The applicant must, at least 14 days before any hearing, deliver to the office-holder a notice stating the venue with a copy of the application and of any evidence on which the applicant intends to rely.
- (4) If the court considers the application to be well-founded, it must make one or more of the following orders—
 - (a) an order reducing the amount of remuneration which the office-holder is entitled to charge;
 - (b) an order reducing any fixed rate or amount;
 - (c) an order changing the basis of remuneration;
 - (d) an order that some or all of the remuneration or expenses in question be treated as not being expenses of the administration or winding up or bankruptcy;
 - (e) an order for the payment of the amount of the excess of remuneration or expenses or such part of the excess as the court may specify by —
 - (i) the administrator or Liquidator or the administrator's or Liquidator's personal representative to the company, or
 - (ii) the trustee or the trustee's personal representative to such person as the court may specify as property comprised in the bankrupt's estate;
 - (f) any other order that it thinks just.
- (5) An order under paragraph (4)(b) or (c) may only be made in respect of periods after the period covered by the relevant report.
- (6) Unless the court orders otherwise the costs of the application must be paid by the applicant, and are not payable as an expense of the administration or as winding up or bankruptcy.