

## Minutes of the first Meeting of Creditors

### Heley Bargain Stores Limited – In Creditors' Voluntary Liquidation

CRO Number: 08220174

Held pursuant to section 98 of the Insolvency Act 1986  
at 2 Nelson Street, Southend on Sea, Essex SS1 1EF  
on 12<sup>th</sup> October 2016 at 10:15 am

**Present:** David Heley, Chairman

Creditors were represented in person and by proxy as scheduled on the attached attendance register and proxy schedule.

**In attendance:** Deborah Ann Cockerton, Insolvency Practitioner  
Toni James of DCA Business Recovery LLP

#### 1. Opening of meeting

Deborah Ann Cockerton opened the meeting and introduced David Heley as Chairman of the meeting and others at the top table and explained the purpose of the meeting.

The creditors were advised that prior to being asked to convene this meeting of creditors, neither Deborah Ann Cockerton nor any partner, director or employee of DCA Business Recovery LLP had any connection with Heley Bargain Stores Limited or its directors or members that would lead to a conflict of interest.

The meeting was informed that having considered the extent of her prior involvement with the Company in the light of the Insolvency Code of Ethics the Liquidator considered that the threats to her objectivity identified as a result of the prior involvement was not at a significant level such that she could still act objectively as Liquidator.

Creditors were also advised that:

Notices convening a meeting of shareholders were issued on 27<sup>th</sup> September 2016.

A meeting of shareholders was held at 2 Nelson Street, Southend on Sea, Essex SS1 1EF earlier today. At this meeting a resolution was passed placing the Company into liquidation and appointing Deborah Ann Cockerton as Liquidator.

The notices for the meeting of creditors were dispatched on 27<sup>th</sup> September 2016 following instructions received from the Directors on 27<sup>th</sup> September 2016.

The fees and disbursements of DCA Business Recovery LLP in respect of assisting the Directors in preparing a Statement of Affairs and convening the creditors' meeting amounting to £7,000 plus VAT have been paid by Heley Bargain Stores Limited.

£3,500 plus VAT out of that fixed fee was charged in connection with preparing the Statement of Affairs and £3,500 plus VAT out of that fixed fee was charged in connection with holding the creditors' meeting.

Creditors were notified that a Liquidator is entitled to be repaid out of pocket expenses as soon as there are funds available in the liquidation. However certain expenses, known as Category 2 expenses, must be approved by the Liquidation Committee, the creditors or the court before being drawn. Details of the category 2 expenses that DCA Business Recovery LLP seeks to recover are set out in the Practice fee recovery policy document provided

Recent changes to the insolvency legislation require the liquidator to provide a range of information about work to be done and anticipated expense before seeking a resolution approving the basis of her remuneration. This information is in the accompanying "report to creditors in connection with fee approval" and we enclose a notice of resolutions by correspondence, which will be used to set the remuneration basis.

## **2. Report**

A Statement of Affairs together with the Chairman's report on the Company's affairs and events leading up to the creditors' meeting was presented to the meeting. It was explained that in view of the Company's financial position it had been concluded that there was no option but to pass a resolution for the Company to be placed into voluntary liquidation.

The creditors were informed that as part of the Liquidator's statutory duties it is her responsibility to report on the conduct of the Directors of the Company and to consider any areas requiring investigation with a view to making asset recoveries. The creditors were invited to bring to the Liquidator's attention any such matters or information. No issues were raised.

## **3. Appointment of Liquidator**

The chairman advised the meeting that at a meeting of the Company's shareholders held earlier today at 10:00 am the following resolutions were passed:

"That the Company be wound up voluntarily" and

"That Deborah Ann Cockerton, Licensed Insolvency Practitioner, be appointed Liquidator of the Company."

Creditors were advised that since the meeting of shareholders Deborah Ann Cockerton has not exercised any powers as liquidator under section 166 of the Insolvency Act 1986.

The Chairman asked for any alternative nominations for the appointment as Liquidator.

No nominations were received and therefore the appointment of Deborah Ann Cockerton as Liquidator was ratified.

## **4. Liquidation Committee**

No Liquidation Committee was appointed.

## **5. Additional Resolutions**

Creditors were invited to propose any further resolutions but none were put forward.

There being no further business the meeting was closed.



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**David Heley**  
Chairman



## PRACTICE FEE RECOVERY POLICY FOR DCA BUSINESS RECOVERY LLP

### Introduction

The insolvency legislation was changed in October 2015, with one or two exceptions, for insolvency appointments made from that time. This sheet explains how we intend to apply the alternative fee bases allowed by the legislation when acting as office holder in insolvency appointments. The legislation allows different fee bases to be used for different tasks within the same appointment. The fee basis, or combination of bases, set for a particular appointment is/are subject to approval, generally by a committee if one is appointed by the creditors, failing which the creditors in general meeting, or the Court.

Further information about creditors' rights can be obtained by visiting the creditors' information micro-site published by the Association of Business Recovery Professionals (R3) at <http://www.creditorinsolvencyguide.co.uk/>. Details about how an office holder's fees may be approved for each case type are available in a series of guides issued with Statement of Insolvency Practice 9 (SIP 9) and can be accessed at [www.dcabr.co.uk](http://www.dcabr.co.uk). Alternatively a hard copy may be requested from DCA Business Recovery LLP at 2 Nelson Street, Southend on Sea, Essex SS1 1EF. Please note that we have provided further details in this policy document.

Once the basis of the office holder's remuneration has been approved, a periodic report will be provided to any committee and also to each creditor. The report will provide a breakdown of the remuneration drawn. If approval has been obtained for remuneration on a time costs basis, i.e. by reference to time properly spent by members of staff of the practice at our standard charge out rates, the time incurred will also be disclosed, whether drawn or not, together with the average, or "blended" rates of such costs. Under the legislation, any such report must disclose how creditors can seek further information and challenge the basis on which the fees are calculated and the level of fees drawn in the period of the report. Once the time to challenge the office holder's remuneration for the period reported on has elapsed, then that remuneration cannot subsequently be challenged.

Under some old legislation, which still applies for insolvency appointments commenced before 6 April 2010, there is no equivalent mechanism for fees to be challenged.

### Time cost basis

When charging fees on a time costs basis we use charge out rates appropriate to the skills and experience of a member of staff and the work that they perform. This is combined with the amount of time that they work on each case, recorded in 6 minute units with supporting narrative to explain the work undertaken.

### Chargeout Rates

Grade of staff	Current charge-out rate per hour, effective from 15 October 2015	Previous charge-out rate per hour, effective from 1 April 2014
	£	£
Partner – appointment taker	350	350
Senior Manager	275	275
Manager	250	250
Senior Administrator (Grade 1)	225	225
Senior Administrator (Grade 2)	-	200
Case Administrator	175	175
Case Administrator (Grade 2)	-	150
Case Administrator (Grade 3)	-	110
Cashier	150	-
Support Staff	130	-



These charge-out rates charged are reviewed at regular intervals, approximately once 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. The work is generally recorded under the following categories:

- Administration and Planning
- Investigations
- Realisation of Assets
- Creditors
- Trading
- Case specific matters

In cases where we were appointed prior to 1 October 2015, most of our fees were recovered on a time costs basis and appropriate authority was obtained from the creditors or the committee as set down in the legislation. The legislation changed on 1 October 2015 and on new appointments we now only seek time costs for the following categories:

- Investigations
- Distributions
- Trading

When we seek time costs approval we have to set out a fees estimate. That estimate acts as a cap on our time costs so that we cannot draw fees of more than the estimated time costs without further approval from those who approved our fees. When seeking approval for our fees, we will disclose the work that we intend to undertake, the hourly rates we intend to charge for each part of the work, and the time that we think each part of the work will take. We will summarise that information in an average or "blended" rate for all of the work being carried out within the estimate. We will also say whether we anticipate needing to seek approval to exceed the estimate and, if so, the reasons that we think that may be necessary.

The disclosure that we make should include sufficient information about the insolvency appointment to enable you to understand how the proposed fee reflects the complexity (or otherwise) of the case, any responsibility of an exceptional kind falling on the office holder, the effectiveness with which the office holder has carried out their functions, and the value and nature of the property with which the office holder has to deal.

If we subsequently need to seek authority to draw fees in excess of the estimate, we will say why we have exceeded, or are likely to exceed the estimate; any additional work undertaken, or proposed to be undertaken; the hourly rates proposed for each part of the work; and the time that the additional work is expected to take. As with the original estimate, we will say whether we anticipate needing further approval and, if so, why we think it may be necessary to seek further approval.

### **Percentage basis**

The legislation allows fees to be charged on a percentage of the value of the property with which the office holder has to deal (realisations and/or distributions). Different percentages can be used for different assets or types of assets. In cases where we were appointed prior to 1 October 2015, most of our fees were recovered on a time costs basis and appropriate authority was obtained from the creditors or the committee as set down in the legislation. The legislation changed on 1 October 2015 and we now seek remuneration on a percentage basis more often. A report accompanying any fee request will set out the potential assets in the case, the remuneration percentage proposed for any realisations and the work covered by that remuneration, as well as the expenses that will be, or are likely to be, incurred. Expenses can be incurred without approval, but must be disclosed to help put the remuneration request into context.



The percentage approved in respect of realisations will be charged against the assets realised, and where approval is obtained on a mixture of bases, any fixed fee and time costs will then be charged against the funds remaining in the liquidation after the realisation percentage has been deducted.

The disclosure that we make should include sufficient information about the insolvency appointment to enable you to understand how the proposed fee reflects the complexity (or otherwise) of the case, any responsibility of an exceptional kind falling on the office holder, the effectiveness with which the office holder has carried out their functions, and the value and nature of the property with which the office holder has to deal.

If the basis of remuneration has been approved on a percentage basis then an increase in the amount of the percentage applied can only be approved by the committee or creditors (depending upon who approved the basis of remuneration) in cases where there has been a material and substantial change in the circumstances that were taken into account when fixing the original level of the percentage applied. If there has not been a material and substantial change in the circumstances then an increase can only be approved by the Court.

#### **Fixed fee**

The legislation allows fees to be charged at a set amount. Different set amounts can be used for different tasks. In cases where we were appointed prior to 1 October 2015, most of our fees were recovered on a time costs basis and appropriate authority was obtained from the creditors or the committee as set down in the legislation. The legislation changed on 1 October 2015 and we now seek remuneration on a fixed fee basis more often. A report accompanying any fee request will set out the set fee that we proposed to charge and the work covered by that remuneration, as well as the expenses that will be, or are likely to be, incurred. Expenses can be incurred without approval, but must be disclosed to help put the remuneration request into context.

The disclosure that we make should include sufficient information about the insolvency appointment to enable you to understand how the proposed fee reflects the complexity (or otherwise) of the case, any responsibility of an exceptional kind falling on the office holder, the effectiveness with which the office holder has carried out their functions, and the value and nature of the property with which the office holder has to deal.

If the basis of remuneration has been approved on a fixed fee basis then an increase in the amount of the fixed fee can only be approved by the committee or creditors (depending upon who approved the basis of remuneration) in cases where there has been a material and substantial change in the circumstances that were taken into account when fixing the original level of the fixed fee. If there has not been a material and substantial change in the circumstances then an increase can only be approved by the Court.

#### **Members' voluntary liquidations and Voluntary Arrangements**

The legislation changes that took effect from 1 October 2015 did not apply to members' voluntary liquidations (MVL), Company Voluntary Arrangements (CVA) or Individual Voluntary Arrangements (IVA). In MVLs, the company's members set the fee basis, often as a fixed fee. In CVAs and IVAs, the fee basis is set out in the proposals and creditors approve the fee basis when they approve the arrangement.

#### **All bases**

With the exception of Individual Voluntary Arrangements and Company Voluntary Arrangements which are VAT exempt, the officeholder's remuneration invoiced to the insolvent estate will be subject to VAT at the prevailing rate.

#### **Agent's Costs**



Charged at cost based upon the charge made by the Agent instructed, the term Agent includes:

- Solicitors/Legal Advisors
- Auctioneers/Valuers
- Accountants
- Quantity Surveyors
- Estate Agents
- Other Specialist Advisors

In new appointments made after 1 October 2015, the office holder will provide details of expenses to be incurred, or likely to be incurred, when seeking fee approval. When reporting to the committee and creditors during the course of the insolvency appointment the actual expenses incurred will be compared with the original estimate provided.

### **Disbursements**

In accordance with SIP 9 the basis of disbursement allocation in respect of disbursements incurred by the Office Holder in connection with the administration of the estate must be fully disclosed to creditors. Disbursements are categorised as either Category 1 or Category 2.

Category 1 expenses are directly referable to an invoice from a third party, which is either in the name of the estate or DCA Business Recovery LLP; in the case of the latter, the invoice makes reference to, and therefore can be directly attributed to, the estate. These disbursements are recoverable in full from the estate without the prior approval of creditors either by a direct payment from the estate or, where the firm has made payment on behalf of the estate, by a recharge of the amount invoiced by the third party. Examples of category 1 disbursements are statutory advertising, external meeting room hire, external storage, specific bond insurance and Company search fees.

Category 2 expenses are incurred by the firm and recharged to the estate; they are not attributed to the estate by a third party invoice and/or they may include a profit element. These disbursements are recoverable in full from the estate, subject to the basis of the disbursement charge being approved by creditors in advance. Examples of category 2 disbursements are photocopying, internal room hire, internal storage and mileage.

It is proposed that the following Category 2 disbursements are recovered:

Stationery	10p per plain sheet, 25p per headed sheet
Photocopying	10p per sheet
Facsimile	10 per facsimile
DCA Meeting Room Hire	£100
Travel / Mileage	45p per mile
Retrieval of Books & Records	£75 per collection (up to 10 boxes)