



EAGLE HOLDINGS LIMITED

NOVEMBER 2017

The Royal Court of Guernsey has recently handed down a judgment offering useful guidance to insolvency practitioners when making applications pursuant to practice direction 3 of 2015. The Court indicated that its function concerning the supervision of liquidators' fees is to oversee and scrutinise the request for an increase in fees for the interest of creditors of the company.

In order to satisfy the Court's function it would expect to see the following information in an application to increase a liquidator's level of fees:

1. The information in support of an application needs to be sufficient in detail to enable the Court to form a view as to the state of the liquidation, the reasonableness and potential costs effectiveness of the work which is projected to be covered by the fee increase.
2. A brief description of the affairs of the company specifically identifying matters of note such as any complexities, difficult assets to realise, claims to be investigated and unusual assets.
3. There should be a current statement of the company's affairs with explanatory notes.
4. In respect of the quantum of the fee increase being sought, the Court will want to know the work that is to be carried out, the timing of such work and if this work will complete the liquidation. The fees will also need to be broken down in detail to enable the Court to identify and assess the work for which the fees are proposed to cover.
5. Contingent fee allowances should be clearly identified and explained.
6. A list of creditors and their claims should be included.
7. The Court will want to see an estimate of anticipated realisations for creditors for the relevant period.
8. An explanation of why the pursuit of any claims or assets is being delayed and why it is thought their pursuit remains cost effective.

This judgment is useful to insolvency practitioners seeking the Court's permission for a fee increase because it explains what it will expect to see in support of an application pursuant to practice direction 3 of 2015. It should also result in the IPs being able to make these applications on the papers without the need to instruct advocates, therefore, limiting the costs to the ultimate benefit of creditors.

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