

SITUATING THE CHALLENGE TO ADMINISTRATOR'S CONDUCT IN SALVAGING AILING COMPANY*

Abstract

Administration is geared towards rescuing the company or achieving a better realization of its assets for creditors, this process must be conducted with scrupulous regard for fairness and accountability. This article interrogates the legal contours surrounding the liability of an administrator in the administration of an ailing company. Contrary to any presumption of immunity, an administrator is not shielded from legal consequences arising from the exercise or abuse of his statutory powers. The study is aimed at situating the challenge to administrator's conduct in salvaging ailing company. It employs doctrinal methodology anchored on analyses of the statutory framework and judicial precedents which empower any aggrieved creditor or member whether individually or collectively to challenge the conduct of an administrator where such conduct is deemed unfairly prejudicial to their interests. It was found that liability may arise irrespective of whether the harm is personal to the applicant or shared with other stakeholders within the surrounding guise of administrator's immunity. The article recommends that the Companies and Allied Matters Act 2020 be amended with a provision situating this liability within the broader context of fiduciary responsibility, statutory duty, and equitable intervention. This will ultimately advance the argument that while administration is a tool of corporate rescue, it cannot be a cloak for procedural injustice or mismanagement.

1. Introduction

The modern corporate insolvency regime seeks a delicate balance between rescuing financially distressed companies and protecting the interests of creditors and members. Central to this framework is the role of the administrator, which is an officer appointed to manage the affairs, business, and property of a company in administration with the aim of salvaging its economic viability or maximizing returns to stakeholders. The administrator's responsibilities include managing the business and property of the distressed company to rescue it as a going concern or maximise returns; the statutory duty to balance rescuing the company with protecting creditors and members; and the moratorium on enforcement actions. While the administrator is vested with wide-ranging powers and discretion to achieve these objectives, such authority is not unfettered. The administrator does not enjoy blanket immunity from liability for acts or omissions undertaken during the administration process.¹

Indeed, the statutory and judicial frameworks recognize that administrators, like other fiduciaries, must act within the bounds of fairness, diligence, and good faith. Where an administrator acts in a manner that unfairly harms the interests of a creditor or member whether individually or collectively with others such an aggrieved party has a right to seek judicial redress. Crucially, the law makes clear that liability may arise regardless of whether the harm is personal or shared with other stakeholders, underscoring the administrator's duty to act equitably in all dealings.²

Administration is thus, as a mechanism that transfers control to a qualified administrator with the aim of assessing the company's viability, freezing creditor actions, formulating restructuring plans, engaging stakeholders, and thereby maximising returns for creditors and preserving the business where possible.³

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¹Goodison A, Abraham M, Shaw A & Wilkins S, *Corporate Administrations and Rescue Procedures*, (4th ed., Bloomsbury Professional, 2022), available at <https://www.bloomsburyprofessional.com/uk/corporate-administrations-and-rescue-procedures-9781526513267/?utm_source=chatgpt.com>, accessed on 31 July 2025.

²Watson-Gandy M, 'Application by a Creditor or Member Alleging Unfair Harm by an Administrator,' in *Corporate Insolvency Practice*, Chapter 13, pp. 199-210; *Re Charnley Davies Ltd (No 2)* [1990] BCLC 760.

³Rohi, J, "Role of Voluntary Administration in Corporate Turnaround and Restructuring," *Review of Public Administration and Management*, Vol. 11, Issue 5 (Nov. 2023), Art. 425.

This article explores the legal foundations, limits, and consequences of administrator liability in corporate administration. It examines the principles underpinning the accountability of administrators, the remedies available to creditors and members, and the evolving jurisprudence that shapes this area of insolvency law. By situating liability within both statutory and equitable paradigms, the article advances a nuanced understanding of the administrator's role, not merely as a manager of corporate decline, but as a fiduciary constrained by law and justice.

2. Administrator's Powers and the Boundaries of Discretion

In general, the administrator of a company is empowered to take any actions necessary for managing the company's affairs, business, and property. When dealing with the administrator, a person acting in good faith is not required to verify whether the administrator is exercising their powers properly.⁴ Beyond the general powers, an administrator is authorized to exercise the following specific powers:

- (i) to take control of, collect, and manage the company's property, including initiating any necessary actions deemed appropriate;
- (ii) to sell or otherwise dispose of the company's property through public auction or private agreement;
- (iii) to raise funds or borrow money and provide security over the company's assets;
- (iv) to appoint a solicitor, accountant, or other qualified professional to assist in carrying out their duties;
- (v) to initiate or defend legal proceedings in the company's name or on its behalf;
- (vi) to refer any dispute concerning the company to arbitration;
- (vii) to arrange and maintain insurance related to the company's business and property;
- (viii) to use the company's official seal;
- (ix) to perform all necessary acts and execute deeds, receipts, or other documents on behalf of the company;
- (x) to draw, accept, make, or endorse bills of exchange or promissory notes in the company's name;
- (xi) to appoint agents to perform tasks the administrator cannot personally carry out or which are more conveniently done by others, including hiring and dismissing employees;
- (xii) to undertake all actions required to realize the company's property;
- (xiii) to make any payments necessary or incidental to fulfilling their functions;
- (xiv) to continue the company's business operations;
- (xv) to establish subsidiaries of the company;
- (xvi) to transfer all or part of the company's business and assets to its subsidiaries;
- (xvii) to grant or accept surrender of leases or tenancies on company property, and to lease any property needed or beneficial to the company's business;
- (xviii) to negotiate and settle arrangements or compromises on behalf of the company;
- (xix) to call up any unpaid capital of the company;
- (xx) to file claims in the bankruptcy, insolvency, sequestration, or liquidation of any debtor to the company, receive dividends, and agree to trust deeds on behalf of creditors;
- (xxi) to present or oppose petitions for winding up the company;
- (xxii) to change the location of the company's registered office; and
- (xxiii) to perform all other acts incidental to the exercise of these powers.⁵

⁴Companies and Allied Matters Act, 2020, section 496.

⁵Companies and Allied Matters Act, 2020, Eleventh Schedule.

Furthermore, the administrator has the authority to exercise several powers, including the ability to remove or appoint a company director, regardless of whether the appointment is to fill a vacancy; to convene meetings of the company's members or creditors; and to apply to the court for directions related to the performance of his duties.⁶ Thus, the *Companies and Allied Matters Act 2020* (CAMA 2020) confers extensive, though not absolute, powers on a company administrator, primarily detailed in Sections 480 to 494. These powers are designed to aid in rescuing a financially troubled company or, alternatively, to secure a more favourable outcome for creditors than would result from liquidation. Specifically, Section 491(1) empowers the administrator to manage the company's affairs, business, and property, including: taking possession of and recovering company assets (s.491(2)(a)); selling or disposing of such assets by auction or private sale (s.491(2)(b)); raising or borrowing funds and granting security over assets (s.491(2)(c)); engaging legal or accounting professionals (s.491(2)(d)); appointing or removing directors (s.491(3)(a)); convening meetings of creditors or contributories (s.492); and applying to the court for guidance where necessary (s.493). Additionally, the administrator may do anything deemed 'necessary or expedient' for managing the company's affairs (s.491(1)), thereby enjoying broad discretion within the statutory framework.

In the event of a company entering into administration, the management powers vest on the administrator. Neither the company nor any of its officers shall exercise a management power except with the consent of the administrator.⁷ It is the responsibility of an administrator to make a distribution to a creditor of the company whose debt is secured preferential unless the court gives permission for distributions to unsecured creditors.⁸ He may also make payment likely to assist in achieving the purpose of administration.⁹

Upon his appointment, the administration shall take custody or control of all the property to which he thinks the company is entitled.¹⁰ The administrator shall comply with any directions given by the court in connection with any aspect of his management of the company's affairs, business or property.¹¹ The court may issue directions only in specific situations, namely: when no proposal has been approved under section 492 of the CAMA; when the directions align with any proposal or revision approved under sections 486 or 491 of the CAMA; when the court deems it necessary to issue directions to address changes in circumstances following the approval of proposals or revisions under sections 486 or 491; or when the court finds it appropriate to provide directions due to a misunderstanding regarding proposals or revisions approved under those sections.¹²

In the performance of his functions, the administrator acts as its agent.¹³ The administrator may dispose of or take action relating to property which is subject to a floating charge as if it were not subject to the charge. In such circumstance, the holder of the floating charge shall have the same priority in respect of acquired priority as he had in respect of the property disposed.¹⁴ Acting on the order of the court, the administrator of a company may dispose of property which is subject a security other than a floating charge as if it were not subject to the security. The statutory powers of an administrator under the *Companies and Allied Matters Act 2020* (CAMA 2020), especially Section 480(3) of CAMA empowers an administrator, with the leave of the court, to dispose of property subject to a fixed charge as if it were not subject to that charge, including the legal safeguards for the secured creditor (such as court oversight and compensation mechanisms).¹⁵

⁶*Ibid.*, section 498-500.

⁷*Companies and Allied Matters Act, 2020*, section 501.

⁸*Companies and Allied Matters Act*, section 502(1)-(3).

⁹*Ibid.*, section 503.

¹⁰*Ibid.*, section 504.

¹¹*Ibid.*, section 505(2).

¹²*Ibid.*, section 505.

¹³*Ibid.*, section 506.

¹⁴*Ibid.*, section 507.

¹⁵Nwafor, AO, *Company Law and Practice in Nigeria* (2nd Edition, Ambik Press, Enugu, 2021) 650-653 .

Such order of the court may only be made where the administrator makes the application and the court considers that the disposal of the property would likely promote the purpose of administration.¹⁶ The administration shall, before the end of 14 days beginning from the date of the order, send a copy of the order to the Corporate Affairs Commission.¹⁷

The administrator can, by the order of the court, dispose of goods which are in the possession of the company under a hire-purchase agreement as though all the rights of the owner under the agreement were vested in the company. Such an order can only be made on the application of the administrator, and where the court considers that the disposal of the goods would be likely to promote the purpose of administration.¹⁸ The administration shall, before the end of 14 days beginning from the date of the order, send a copy of the order to the Corporate Affairs Commission. In default of so doing, the administration shall be charged with an offence except he has reasonable excuse to exonerate himself from culpability.¹⁹

2.1 Boundaries and Limits to Discretion

While the administrator wields significant powers, **CAMA 2020 imposes checks** to prevent abuse and ensure that their discretion is exercised in good faith and for proper purposes:

- (i) **Fiduciary Duty:** The administrator owes a duty to act in the interest of the creditors as a whole (s.480(3)). Personal interest or bias may amount to misconduct.
- (ii) **Court Supervision:** Affected parties such as creditors, contributories, or the Corporate Affairs Commission (CAC) may apply to court if the administrator acts in a manner that is "unfairly prejudicial" (s.494). The court may then remove the administrator; reverse transactions; and award compensation.
- (iii) **Requirement to File Reports and Notices:** The administrator must regularly update the CAC and creditors (s.488, s.489), which ensures transparency and accountability.
- (iv) **Limitation by the Terms of Appointment:** Where an administrator is appointed under a floating charge or a court order, the scope of their discretion may be constrained by the terms of such appointment or the court's directions.
- (v) **Invalidation of Acts Outside Powers:** If an administrator exceeds their statutory powers or breaches duty, they may be held personally liable (see s.494(3)(b) for possible orders to make good loss from misfeasance).

CAMA 2020 grants the administrator robust powers designed to rescue or wind down a company efficiently, but these powers are not absolute. The administrator must act within the framework of the Act, maintain fairness among stakeholders, and adhere to statutory and judicial oversight mechanisms. The administrator's discretion is therefore wide but not unbounded, reflecting a balance between business efficiency and legal accountability.

3. Grounds for Liability of an Administrator

The administrator of a company in administration does not enjoy immunity over liabilities resulting from the exercise of his powers. Any creditor or member of a company in administration may apply to court claiming that the administrator is acting or has acted so unfairly as to harm the interests of the applicant. Thus, administrators are not immune from personal liability where their actions are deemed prejudicial or negligent.²⁰ It is immaterial whether the harm affects creditor or member alone or in common with some or all other creditors or members of the company. They could also claim

¹⁶Companies and Allied Matters Act, 2020, section 508(1) and (2).

¹⁷Companies and Allied Matters Act, 2020, section 508(5).

¹⁸Omotola, JA, 'Corporate Insolvency Practice under the Nigerian Companies and Allied Matters Act 2020: A Comparative Analysis', *Nigerian Law and Practice Journal*, Vol. 15, No. 1, 2022, pp. 88-93.

¹⁹Companies and Allied Matters Act, 2020, section 509(1) and (2).

Nwafor, AO, *Company Law and Practice in Nigeria* (2nd Edition, Ambik Press, Enugu, 2021) 665.

²⁰Nwafor, AO, *Company Law and Practice in Nigeria* (2nd Edition, Ambik Press, Enugu, 2021) 665.

before the court that the administrator proposes to act in a way which would unfairly harm the interest of the applicant irrespective of whether the harm affects the creditor or member alone or in common with some or all other creditors or members of the company.²¹ Accordingly, a creditor or member of a company in administration may apply to the court claiming that the administrator is not performing his functions as quickly or as efficiently as is reasonably practicable. On hearing the application, the court may grant a relief; dismiss the application; adjourn the hearing conditionally or unconditionally; make an interim order; or make any other order it considers appropriate.²² Such order of the court particularly regulate the administrator's exercise of his functions, and to do or not to do a specified thing. The order may also require a creditor's meeting to be held for a specified purpose. It may also provide for the appointment of an administrator to cease to have effect, may also make consequential provisions relating to the company in administration.²³ However, such order may not be made if it would impede or prevent the implementation of a voluntary arrangement and a proposal for a scheme of arrangement and compromise or reconstruction to be sanctioned under the necessary provisions of the Companies and Allied Matters Act, 2020. Additionally, the order may not be made if it would impede or prevent a proposal for a cross-border merger within the meaning of relevant legislation such as the Investment and Securities Act²⁴ as well as a proposal or a revision approved under section 491 or 492 of the CAMA more than 28 days before the day on which the application for the order is made before the court.

3.1 Misfeasance

At the request of the official receiver, administrator, liquidator, creditor, or a company contributory, the court may investigate the actions of any individual who is, has been, or claims to be the company's administrator when there are allegations that the administrator has misappropriated or withheld the company's money or property, failed to properly account for such assets, breached fiduciary or other duties owed to the company, or engaged in misfeasance.²⁵

Upon reviewing the individual's conduct, the court may direct them to repay, restore, or provide an account for any money or property involved; to pay interest; or to make a financial contribution to the company's assets as compensation for any breach of duty or misfeasance.²⁶ Section 506 of CAMA 2020 explains that where an administrator (or any officer of the company) is alleged to have misapplied or retained company money or property, breached fiduciary duties, or been guilty of misfeasance or negligence, then the official receiver, liquidator, creditor, contributory, or even the company, may apply to court for an inquiry and for restitution, compensation, or other remedy.²⁷ Judicial oversight of insolvency practitioners, especially administrators, under Sections 505–507 of CAMA 2020 emphasizes that courts may investigate and sanction any past or present administrator accused of fiduciary breaches or misfeasance on the application of stakeholders, including creditors and contributories²⁸

3.2 Cessation of Administration

The appointment of an administrator shall automatically cease to have effect at the end of the period of one year beginning with the date on which the administration took effect. On application of the administrator however, the court may by order extend the term of office of the administrator for a

²¹Companies and Allied Matters Act, 2020, section 511(1).

²²Ibid., section 511(3).

²³Companies and Allied Matters Act, 2020, section 511(4).

²⁴Cap. I24, Laws of the Federation of Nigeria (LFN), 2004.

²⁵Ibid., section 512(1)–(3).

²⁶Companies and Allied Matters Act, 2020, section 512(4).

²⁷Nwafor, AO, *Company Law and Practice in Nigeria* (2nd Edition, Ambik Press, Enugu, 2021) 664–668.

²⁸Orojo, JO, 'The Role of the Court in Corporate Insolvency under Nigerian Law', *Nigerian Current Law Review*, Vol. 9, 2022, pp. 74–88.

specified period. It may also be extended by consent to a period not exceeding six months.²⁹ The consent may be written or signified at a creditor's meeting. The term of office of the administrator may be extended only once, hence, the term of office shall not be extended by consent after its expiration, and after the extension by order of the court. The order may be made in respect of an administrator whose term of office has already been extended by order or by consent. On no account would the order be made at the expiration of the term of office of the administrator of a company. The administrator shall as soon as reasonably practicable notify the Corporate Affairs Commission of the order for extension of the term of office of the administrator, otherwise, he shall be charged with an offence.³⁰ Where the term of office of the administrator is extended by consent, he shall as soon as reasonably practicable file notice of the extension with the court, and notify the Corporate Affairs Commission. It is an offence for the administrator to fail in complying with this requirement without reasonably excuse.³¹

4. Remedies Available to Aggrieved Creditors and Members

The appointment of an administrator of a company may cease to have effect on the application of the administrator. In the circumstance, the court may provide that the appointment cease to have effect from a specified time.³² An application must be made by the administrator in any of the following situations: when the administrator believes that the objectives of the administration cannot be fulfilled regarding the company; if the administrator considers that the company should not have entered administration; where a creditor's meeting directs the administrator to submit the application; if the administration is conducted under an administration order; or when the administrator is of the view that the goals of the administration have been adequately accomplished.³³

Thus, if the administrator thinks that the purpose of administrator has been sufficiently achieved in relation to the company, he may file a notice in the prescribed form with the court and the Cooperate Affairs Commission.³⁴ The administrator shall, within the prescribed period, send a copy of the notice to every creditor of the company of whose claim and address he knows. Administration now includes the ability of the court to provide that the appointment of an administrator shall cease to have effect from a specified time on the application of the administrator.³⁵ However, where the administrator publishes before the end of the prescribed period, in the prescribed form, a notice undertaking to provide a copy of the notice to any creditor of the company who applies in writing to a specified address, he is taken to have complied with the foregoing requirement.³⁶

Upon hearing the application, the court has the discretion to take various actions, including adjourning the hearing either with or without conditions, dismissing the application entirely, issuing

²⁹Companies and Allied Matters Act, 2020, section 513. Note that by virtue of section 515(1), consent means consent of each secured creditor of the company, and in the case of unsecured debts, creditors whose debts amounts to more than 50% of the company's unsecured debts. This is in disregard of the debt of any creditor who does not respond to an invitation to give or withhold his consent for the extension of the administrator's term of office. However, where the administrator has made a statement setting out proposals for achieving the purpose of the administration pursuant to section 486 of the CAMA 2020, consent in section 513(2)(b) of the CAMA 2020 means consent of each secured creditor of the company. In the event that the administrator thinks that a distribution may be made to preferential creditors, consent means consent of each creditor of the company, and preferential creditors whose debts amount to more than 50% of the preferential debts of the company. This is in disregard of the debts of any creditor who does not respond to an invitation to give or withhold consent.

³⁰Companies and Allied Matters Act, 2020, section 514(1)-(3).

³¹*Ibid.*, section 516.

³²Companies and Allied Matters Act, section 517(1).

³³Companies and Allied Matters Act, 2020, section 517(2) and (3).

³⁴*Ibid.*, section 518(2).

³⁵Umfreville, C 'Out of Court Administration Appointment Reform: Hardy Solution or Another Fine Mess?' (2014) 2 NIBLeJ 9.

³⁶*Ibid.*, section 518(4) and (5).

³⁷*Ibid.*, section 517(4).

an interim order, or making any other order it deems appropriate in the circumstances.³⁷ The court may also, upon the application of a company's creditor, order that the appointment of an administrator be terminated at a specified time if certain conditions are met, specifically, where the administrator was appointed by an administration order and the applicant is alleged to have acted with improper motive, or in other cases, where the person responsible for the administrator's appointment is alleged to have acted with improper intent.³⁸ Under Kenya's Insolvency Act 2015, a creditor dissatisfied with an administrator may apply to court for removal on allegation of improper motive.³⁹

When an application is made, the court may choose to adjourn the hearing either conditionally or unconditionally, dismiss the application, issue an interim order, or grant any other order it deems suitable in the circumstances.⁴⁰

Where a winding up order is made for the winding up of a company in administration on a petition presented under grounds of public interest as may be prescribed by the Chief Judge or under an enactment, the court shall order that the appointment of the administrator ceases to have effect. In the same vein, the appointment ceases to have effect where the winding up order is made on a petition presented under the Banks and Other Financial Institutions Act,⁴¹ Nigerian Deposit Insurance Corporation Act⁴² or any other financial services and markets related Act.⁴³ The appointment of a provisional liquidator does not prejudice the application of the foregoing section 520(1).

In the event that the administrator of a company is of the opinion that the total amount which each secured creditor of the company is likely to receive has been paid to him, or set aside for him, the appointment of then administrator shall cease to have effect. The appointment shall also cease to have effect where a distribution is made to unsecured creditors of the company. The administrator shall send a notice of this to the Corporate Affairs Commission, which shall register the notice. As soon as reasonably practicable, the administrator shall file a copy of the notice with the court, and send a copy to each creditor whose claim and address the administrator is aware. The registration of the notice operates to make the appointment of the administrator cease to have effect. Consequently, the company shall be wound up as if a resolution for voluntary winding up under section 620 of the CAMA 2020 were passed on the date of registration of the notice.⁴⁴ The liquidator shall be a person nominated by the creditors of the company in the prescribed manner and within the prescribed period, and where no person is nominated, the administrator shall be the liquidator.⁴⁵ Petition for winding up of the company in the circumstance is not presented under grounds of public interest.⁴⁶

Where the administrator of the company thinks that the company has no property which might permit distribution to its creditors, he shall send a notice to that effect to the Corporate Affairs Commission, which shall register same. The appointment of the administration of the company ceases to have effect on the registration of the notice. The administrator shall as soon as practicable file a copy of the notice with the court, and send a copy to each creditor whose claim and address are known to the administrator. However, the court may discontinue with this requirement on the application of the administrator.⁴⁷ Three months from the date of registration of the notice to the effect that a company

³⁷ *Ibid.*, section 517(4).

³⁸ Companies and Allied Matters Act, section 519(1) and (2).

³⁹ Hofmeyr CD, 'Insolvency Administrator's Burden', *Newsletter Article*, April 12, 2023; *Bhatt & Another v Olam Aviv Kenya Ltd* (Insolvency Petition E031 of 2022) [2025] KEHC 5625 (KLR), - Commercial Law Ruling dated 7 May 2025 .

⁴⁰ *Ibid.*, section 519(3).

⁴¹ Cap. B3 LFN, 2004.

⁴² Cap. N102 LFN, 2004.

⁴³ Companies and Allied Matters Act, 2020, section 520(1).

⁴⁴ Companies and Allied Matters Act, 2020, section 521(1)-(5).

⁴⁵ *Ibid.*, section 521(6).

⁴⁶ *Ibid.*, section 521(7).

⁴⁷ *Ibid.*, section 522(2).

has no property which might permit distribution to its creditors, the company is deemed to be dissolved.⁴⁸ On the application of administrator or any interested member, the period may be extended or suspended by an order of the court. The administrator shall notify the Corporate Affairs Commission of the order as soon as reasonably practicable, and the latter commits an offence in default of so doing.⁴⁹ However, where the administrator was appointed by administration order and the court has made an order to the effect that the appointment of an administrator of a company has ceased to have effect, the court shall discharge the administration order upon the dissolution of the company.⁵⁰ Accordingly, the administrator shall, within 14 days of the date of the order, send a copy of the order to the Corporate Affairs Commission.⁵¹

An administrator may voluntarily resign from office under certain conditions: if appointed by an administration order, resignation must be communicated in writing to the court; if appointed under section 452 of CAMA 2020, notice must be given to the holder of the floating charge responsible for the appointment; if appointed under section 459(1), written notice must be sent to the company; and if appointed under section 459(2) of the Companies and Allied Matters Act, 2020, resignation must be notified in writing to the company's directors.⁵²

The court may by order remove an administrator from office.⁵³ The administrator shall vacate office if he ceases to be qualified to act as an insolvent practitioner in relation to the company.⁵⁴ He shall thereon notify the court in writing the fact of his vacation of office where he was appointed by administration order. In the case of an administrator appointed under section 452 CAMA 2020, he shall give notice in writing to the holder of the floating charge by virtue of which the appointment was made. Where he was appointed out of court pursuant to section 459(1) CAMA 2020, he shall notify his vacation of office in writing to the company. Nonetheless, where the administrator was appointed under section 459(2) of CAMA 2020, he shall notify the directors of the company accordingly.⁵⁵ Thus, vacancy exist in the office of an administrator of company where the administrator either dies, resigns, removed under section 524, or vacated office under section 523 of the CAMA, 2020.⁵⁶ In cases where the administrator was appointed by administration order, the court may replace the administrator on an application made by a Creditors' Committee of the company. However, where there is no Creditors' Committee, and the court is satisfied that the Creditors' Committee or a remaining administrator is not taking reasonable steps to make a replacement or for any other satisfactory reason, the court may replace the administrator on the application of the company; the directors of the company; one or more creditors of the company; or any of two or more persons appointed to act jointly or concurrently as the administrator or any of those persons who remains in office.⁵⁷ Besides, on the application of any of the person mentioned immediately above, the court may replace an administrator if he is satisfied that a person entitled to replace the administrator under sections 525-527 of the CAMA, 2020, is not taking reasonable steps to make a replacement. The court may as well replace an administrator for any other reason that is proper to make the replacement.⁵⁸ Where an administrator was appointed under section 452 CAMA 2020, he may be replaced by the holder of the floating charge by virtue of which the appointment was made.⁵⁹ In the same vein, an

⁴⁸Companies and Allied Matters Act, 2020, section 522(6).

⁴⁹*Ibid.*, section 522(7)-(9).

⁵⁰*Ibid.*, section 523.

⁵¹*Ibid.*, section 524.

⁵²Companies and Allied Matters Act, 2020, section 525.

⁵³*Ibid.*, section 526

⁵⁴Shoroye, BS, 'Delimiting the Duties and Powers of Company Administrator: an Examination of CAMA 2020' *International Journal of Law, Policy and Social Review*, Vol. 5 Issue 3, Sep 2023 .

⁵⁵Companies and Allied Matters Act, 2020, section 527.

⁵⁶*Ibid.*, section 528.

⁵⁷Companies and Allied Matters Act, 2020, section 529.

⁵⁸*Ibid.*, section 533.

⁵⁹*Ibid.*, section 530.

administrator appointed out of court by the company or the directors pursuant to section 459(1) and 459(2) of the CAMA, 2020, may be replaced by the company or the director respectively.⁶⁰ The replacements may be made with the consent of each person who is the holder of a floating charge in respect of the company's property, or with the permission of the court where consent is withheld.⁶¹ Where an administrator is appointed by the holder of a floating charge in respect of the company's property pursuant to section 452 CAMA, 2020, the holder of a prior floating charge may apply to the court for the administrator to be replaced by an administrator nominated by the holder of the prior floating charge.⁶²

In the event that there is no holder of a floating charge in respect of a company's property and where an administrator is appointed by a company or director under section 459 CAMA 2020, a creditors' meeting may replace the administrator provided that the new administrator's written consent to act is presented to the meeting before the replacement is made.⁶³

5. Striking the Balance between Immunity and Accountability of Administrator

Administrator of a company is discharged from liability where he ceases to be the administrator of a company because he vacates office by reason of resignation, death, removal or otherwise. In the case of an administrator who dies, the discharge takes place on the filing of notice of his death with the court. In the case of an administrator appointed by administration order of court under section 450 or 457 of CAMA, 2020, the discharge takes effect at a time appointed by resolution of the creditors' committee, or by resolution of the creditors if there is not committee. However, where the administrator has made a statement under section 488 CAMA, 2020, a resolution is taken as passed if it is passed with the approval of each secured creditor of the company, and preferential creditors whose debts amount to more than 50% of the preferential debts of the company. This does not take into cognizance debts of any creditor who does not respond to an invitation to give or withhold approval, where the administrator has made a distribution to preferential creditors or thinks that a distribution may be made to preferential creditors.⁶⁴ In any other case, the discharge takes place at a time specified by the court.⁶⁵ Upon vacation of office, the remuneration and expenses of the former administrator shall be charged on and payable out of property of which he had custody or control of immediately before cessation. Thus, the remuneration of the administrator will be paid from the property in the administrator's custody.⁶⁶

Such remuneration and expenses shall also be payable in priority to any security in respect of secured creditors pursuant to section 510 of the CAMA, 2020. Again, any sum payable in respect of a debt or liability arising out of contract, including a contract for post-commencement financing, entered into by the former administrator or a predecessor before cessation shall also be charged on and payable out of property of which the former administrator had custody or control of immediately before cessation. His remuneration and expenses shall also be payable in priority to any charge arising thereon.⁶⁷

Generally, an act of the administrator of a company is valid in spite of a defect in his appointment or qualification.⁶⁸ Again, a person who commits an offence with respect to administration of a company is liable on conviction to a fine of N200,000 or more unless otherwise provided.⁶⁹

⁶⁰Ebebu, SC & Ebubedike, JC 'Corporate Rescue and Restructuring in Nigeria: A Critical Analysis of the Provisions and Procedures under Companies and Allied Matters Act 2020' (2025) 20; CAMA, section 531.

⁶¹Companies and Allied Matters Act, 2020, sections 532.

⁶²*Ibid.*, section 534.

⁶³*Ibid.*, section 535.

⁶⁴Companies and Allied Matters Act, 2020, section 536(3).

⁶⁵*Ibid.*, section 536(2).

⁶⁶Adiele CE, *Developing a Corporate Insolvency Framework for Nigeria* (2020), available at <ir.lib.uwo.ca>, accessed on 31 July 2025.

⁶⁷Companies and Allied Matters Act, 2020, section 537(1)-(3).

⁶⁸*Ibid.*, section 542.

⁶⁹*Ibid.*, section 544.

The Corporate Affairs Commission shall establish an Administrative Proceedings Committee pursuant to Part G of the Companies and Allied Matters Act, 2020. The Committee is composed of the Registrar-General, who serves as its chairman; five representatives from the operational departments of the Corporate Affairs Commission, each holding a position not lower than director, including at least one from the Compliance Department; and one representative from the Federal Ministry of Industry, Trade and Investment, also not below the rank of director.⁷⁰

The Administrative Committee may co-opt persons as observers, representatives of relevant associations, at any of its meetings as are considered necessary. The persons or members so co-opted shall not count towards a quorum or have the right to vote in respect of any decision taken by the Administrative Committee.⁷¹ Thus, the Corporate Affairs Commission shall designate any of its officers with at least 10 years post call experiences in the legal profession as the secretary of the Administrative Committee established under the CAMA, 2020.⁷² The Administrative Committee is tasked with ensuring fair hearing for individuals accused of violating the provisions of the Companies and Allied Matters Act (CAMA) and its regulations, resolving disputes or complaints that arise from the implementation of the Act, and imposing administrative sanctions for any breaches of its provisions in the course of settling matters brought before it.⁷³

The chairman shall preside at every meeting of the Committee. In his absence, the members present at the meeting shall select one of their numbers to preside over the meeting of the Committee.⁷⁴ The quorum at the Committee's sitting is four members present. The determination of issue shall be by simple majority of members present. Where there is equality of votes, the chairman or the member presiding shall be entitled to a casting vote to resolve the tie. Parties seeking audience before the Administrative Committee may appear in person or be represented by a legal practitioner.⁷⁵ The proceedings of the Administrative Committee shall be recorded on audio or visual tape or such other electronic device acceptable by the Committee.⁷⁶ Any decisions reached on any matter before the Committee shall be forwarded to the parties not later than 14 days after the confirmation after the confirmation by the Board.⁷⁷

6. Conclusion and Recommendations

The office of the administrator occupies a central position in the rescue and management of companies in financial distress. While the law equips the administrator with extensive powers to act in the best interest of the company and its creditors, these powers are not without legal limits. This article has demonstrated that the administrator is not immune from liability arising from the exercise or misuse of such powers. In situations where an administrator's conduct causes unfair harm to a creditor or member, whether individually or collectively, the law provides a clear pathway for redress through judicial intervention.

It is well established that the liability of an administrator is not contingent upon the exclusivity of harm; rather, the courts are concerned with the presence of unfair prejudice to any stakeholder, regardless of how widespread or individualized the effect may be. Thus, the administrator must operate within a framework of fiduciary responsibility, statutory compliance, and equitable fairness.

⁷⁰Companies and Allied Matters Act, 2020, section 851(1).

⁷¹Companies and Allied Matters Act, 2020, section 851(2).

⁷²*Ibid.*, section 851(3).

⁷³*Ibid.*, section 851(4).

⁷⁴*Ibid.*, section 851(5).

⁷⁵*Ibid.*, section 851(7).

⁷⁶**Okangla, S.** *The Impact of Technology on Legal Practice in Nigeria*, available at <SSRN: <https://ssrn.com/abstract=5166449>>, accessed on 31 July 2025; CAMA, section 851(8).

⁷⁷Companies and Allied Matters Act, 2020, section 851(9).

It is therefore recommended that courts should continue to adopt a robust interpretive approach in reviewing the conduct of administrators, ensuring that stakeholder interests are not undermined under the guise of business discretion. On the other part, creditors and members should be made more aware of their rights to challenge unfair administrative practices, including procedural access to remedies.

Besides, there is need for clearer statutory guidance on the boundaries of administrator discretion and the standards for liability to reduce interpretive uncertainty. In addition, regulatory bodies should develop frameworks for routine oversight and evaluation of administrators, particularly in high-stakes or complex insolvency proceedings. Insolvency practitioners therefore, should be held to strict professional standards, including continuing legal and ethical education on their obligations during administration. Thus, ensuring administrator accountability strengthens the integrity of the insolvency regime, protects stakeholder rights, and reinforces the principle that the rescue of a failing company must never come at the cost of justice and fairness, which is basis of the administration scheme.