

Rule 1 26A/1 54

The Insolvency Act 1986

Notice to Registrar of Companies of
Supervisor's Progress ReportPursuant to Rule 1 26A(4)(a) or
Rule 1 54 of the
Insolvency Rules 1986**R.1.26A(4)(a)/
R.1.54**

For Official Use

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To the Registrar of Companies

Company Number

05870648

Name of Company

First Clarity Limited

+/ We

Mark Newman, 4 Mount Ephraim Road, Tunbridge Wells, Kent, TN1 1EE

Vincent John Green, 4 Mount Ephraim Road, Tunbridge Wells, Kent, TN1 1EE

supervisor(s) of a voluntary arrangement taking effect on

03 January 2013

Attach my progress report for the period

03 January 2014

to

02 January 2015

Number of continuation sheets (if any) attached

11

Signed



Date 13 FEBRUARY 2015

CCW Recovery Solutions LLP
4 Mount Ephraim Road
Tunbridge Wells
Kent
TN1 1EE

Ref FIR00001/MN/VJG/CP/JW

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Insolvency Section

Post Room

SATURDAY



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COMPANIES HOUSE

IN THE HIGH COURT

NO. 9368 of 2012

FIRST CLARITY LIMITED (COMPANY VOLUNTARY ARRANGEMENT)

**JOINT SUPERVISORS' ACCOUNTS AND REPORTS
PURSUANT TO RULE 1.26A OF THE INSOLVENCY RULES 1986 (AS AMENDED)**

In accordance with Rule 1.26A of the Insolvency Rules 1986, we, Mark Newman and Vincent John Green, the Joint Supervisors of the Company Voluntary Arrangement ("CVA") of First Clarity Limited ("the Company"), report as follows

We were appointed Joint Supervisors at a meeting of creditors held on 3 January 2013

This is our second annual report

The proposal dated 6 December 2012, as modified and approved, does not require us to carry on the business of the Company or to trade on its behalf or in its name, or to realise the assets of the Company. The proposal does, however, authorise and require us to administer funds of the Company

At Appendix I to this report is an abstract of receipts and payments to 2 January 2015, set out in the recommended format, showing the first and second years of the CVA, and total receipts and payments to date. We would comment further as follows on progress during the second year of the CVA

Receipts

Business Rates Refund

We have received a business rates refund of £3,255.66 from the London Borough of Camden, in relation to the Company's former trading premises

Voluntary Contributions

The proposal requires the Company to make monthly contributions of not less than £6,000 plus additional profit related contributions, such that not less than £100,000 is paid in each year of the arrangement in addition to any other funds. Total voluntary contributions are to equal or exceed a total of £555,000

In our last report, we advised that contributions totalling £72,000 had been received in the period from 3 January 2013 to 2 January 2014, leaving a shortfall of £28,000. The shortfall was paid in two instalments on 28 January 2014 and 25 February 2014 to remedy the breach

We would advise that whilst the attached receipts and payments shows contributions totalling £100,000 being received in the period from 3 January 2014 to 2 January 2015, £28,000 of this sum relates to the shortfall payments mentioned above. In the circumstances, contributions totalling £72,000 have been received in the period from 3 January 2014 to 2 January 2015, leaving a shortfall of £28,000

On 19 January 2015, the Joint Supervisors wrote to the director of the Company to formally notify him of this breach of obligation. He was also reminded that if any breach of obligation is not remedied within 60 days of its occurrence, this shall constitute default of the CVA that cannot be remedied and the Joint Supervisors would be obliged to petition for a winding up order, under the terms of the proposal

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The Joint Supervisors met with the director, and the Company's accountant, on 28 January 2015 to discuss the progress of the CVA and the current breach of obligation

The director advised that the shortfall would be paid by the end of February 2015, in two instalments

We would advise that we have received contributions totalling £6,000 in the period from 3 January 2015 to the date of this report, being the January 2015 monthly contribution. In order to meet the obligations of the CVA, the Company must ensure that the shortfall of £28,000 is brought up to date by Tuesday 3 March 2015 in addition to maintaining the on-going obligations under the terms of the CVA

As previously reported, the Company had proposed to increase its monthly contributions to £8,500 to ensure that it did not fall short of the minimum level of contributions at the end of the second year of the CVA. The director explained that the Company was unable to increase the monthly contributions during the second year of the CVA because of a commitment to settle a bank loan

The Company has advised us that it will increase its monthly contributions to £8,800 from March 2015 to ensure that it does not fall short of the minimum level of contributions at the next anniversary of the CVA

Payments

Joint Supervisors' fees

A schedule of our time costs incurred for the period to which this report relates, being 3 January 2014 to 2 January 2015 is attached as Appendix II and a schedule of our total time costs to 3 January 2015 as Appendix III

Our time costs for the period to which this report relates, being 3 January 2014 to 2 January 2015 amount to £16,995 50, bringing total time costs for the period from the date of our appointment to 2 January 2015 to £29,097 10. In the period to which this report relates, we have drawn fees of £16,245, bringing total fees drawn to £27,512 10

In the period from 3 January 2015 to the date of writing this report our time costs amount to £3,012 50. Further fees of £2,000 have been drawn since 3 January 2015, bringing total fees drawn to £29,512 10

In the Statement of Affairs appended to the CVA proposal, it was estimated that the total costs of the Joint Supervisors over the proposed five year duration of the CVA would be £52,500. At the present time, it is considered that the Joint Supervisors' total costs will be in line with figure estimated in the Statement of Affairs

Some of the charge-out rates of CCW Recovery Solutions' staff have changed over the course of this matter, as set out below

	From 03/01/2013 to 31/12/2013	From 01/01/2014 to 30/11/2014	From 01/12/2014 to date
Partner (office holder)	£300	£300	£300
Director	-	-	£250
Senior Manager	£200	£200	£200
Manager	-	£175	£175
Assistant Manager	£150	£150	£150
Insolvency Senior	£140	£140	£140
Insolvency Semi-Senior	£100	£100	£100
Insolvency Cashier	£100	£100	£100
Trainee/Support staff	£50	£50	£50

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A sheet setting out charge-out rates and disbursements applicable at the date of this report is attached, together with details of how to obtain guides to insolvency practitioners' fees and best practice, as well as our complaints procedure

Should you require hard copies of any of the electronic documents referred to, please contact this office

Joint Supervisors' Disbursements

Our total disbursements to the date of this report amount to £753 13 plus VAT. The following disbursements have been paid in full

Category 1 disbursements – insolvency practitioner's bond £420, travel expenses £183 60 and postage £41 03

Category 2 disbursements – photocopying £26 40

There are unpaid category 1 disbursements totalling £82 10, which relate to travel expenses

Legal Fees

We have paid the sum of £552 50 plus VAT to HowardKennedyFsi LLP for their legal advice in relation to the Company's former employees' Employment Tribunal awards in the CVA

Distributions to Creditors

Preferential Creditors

In the estimated Statement of Affairs appended to the CVA proposal, the director estimated the value of the preferential creditors' claims against the Company to be £26,625

We have received a preferential claim of £17,704 57 from the National Insurance Fund, in respect of payments made to former employees for holiday pay and arrears of wages (limited preferentially to £800 per person)

A number of employees, made redundant prior to the approval of the CVA, made claims to the Employment Tribunal and their hearings were held following our appointment. We have adjudicated the preferential creditors' claims and reviewed the Employment Tribunal judgments, some of which were rejected in part, and confirm that the agreed preferential claims total £27,928 26

On 4 March 2014 we declared a first and final dividend of 100 pence in the pound on agreed preferential claims totalling £23,889 09. Payment was made on 4 March 2014 and the Joint Supervisors made provision of £4,039 17 for unsettled preferential claims

The preferential payments made were subject to tax. The sum of £1,715 81 has been paid to HM Revenue and Customs ("HMRC") in relation to this

On 17 March 2014 we declared a first and final dividend of 100 pence in the pound on an agreed preferential claim of £941 54. Payment was made on 17 March 2014 and the Joint Supervisors made provision of £3,097 63 for unsettled preferential claims

The preferential payment made was subject to tax. The sum of £268 96 has been paid to HMRC in relation to this

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On 20 March 2014 we declared a first and final dividend of 100 pence in the pound on agreed preferential claims totalling £870 28. Payment was made on 20 March 2014 and the Joint Supervisors made a provision of £2,227 35 for unsettled preferential claims.

The preferential payments made were subject to tax. The sum of £224 85 has been paid to HMRC in relation to this.

On 6 August 2014 we declared a first and final dividend of 100 pence in the pound on agreed preferential claims totalling £2,227 35. Payment was made on 7 August 2014 and it was not necessary to make provision for any unsettled preferential claims.

The preferential payments made were subject to tax. The sum of £609 35 has been paid to HMRC in relation to this.

At the date of this report, four of the preferential dividend cheques have not been cashed, totalling £1,618. We are making attempts to contact the creditors concerned to ascertain whether the dividend cheques have been received and whether they should be stopped and re-issued.

Unsecured Creditors

In the estimated Statement of Affairs appended to the CVA proposal, the director estimated the value of unsecured creditors' claims against the Company to be £1,455,000.

In addition to the unsecured claims of former employees, we have received claims from 7 unsecured trade creditors together totalling £1,526,464 20. This sum includes claims from 3 creditors not included on the Statement of Affairs and of whom we have become aware since our appointment and a claim from The National Insurance Fund in respect of notice and redundancy pay for the Company's former employees.

All unsecured claims have been adjudicated and agreed, with two claims rejected in part. The total agreed value of unsecured creditors' claims is £1,526,048 76.

On 18 August 2014 we declared a first and interim dividend of 5 25 pence in the pound on agreed unsecured creditors' claims. Payments totalling £80,117 59 were made on 20 August 2014 and the Joint Supervisors made a provision of £531 59 for two unsettled claims. As mentioned below, the creditors for whom the provision was made have verbally advised that they no longer intend to claim in the CVA.

At the date of this report, six of the unsecured dividend cheques have not been cashed, totalling £937 89. We are making attempts to contact the creditors concerned to ascertain whether the dividend cheques have been received and whether they should be stopped and re-issued.

We have not received claims from 4 creditors with original estimated claims in the Statement of Affairs of £17,555 31. We have received verbal notification that two of these creditors, one of whom is the director of the Company, with claims totalling £12,750 51, that they no longer want to claim in the CVA. We are currently awaiting formal written notification of their intention to withdraw their claims.

The payments made to former employees, in respect of their unsecured claims, were subject to tax. The sum of £766 51 has been paid to HMRC in relation to this.

The Joint Supervisors anticipate being in a position to declare a second and interim dividend of at least 2 5 pence in the pound during March 2015.

Evolok inter-company account

In accordance with paragraph 4.8 of the proposal, any reductions in the inter-company account between the Company and Evolok Limited ("Evolok") will be paid to the Joint Supervisors for the benefit of the CVA creditors.

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During the second year of the CVA, we would advise that no repayments have been made by Evolok. As previously reported, the director had hoped that Evolok would be in a position to start repaying the debt during the third quarter of 2014. This was not possible because several projects that were waiting to 'go live' have not yet done so.

The director advised there was an uplift in turnover for Evolok from September 2014 onwards and it has had a number of enquiries during January 2015.

The director has advised that monthly management accounts for Evolok are not being produced because of the size of its turnover. The Joint Supervisors have requested a copy of the latest management account information prepared for a minority shareholder and are currently waiting for this information to be received. It is noted that Evolok's balance sheet for the year ending 30 September 2013, showed a profit and loss account balance of £5,513.

The director has advised that once Evolok's client base has grown by 4-5 clients, it should be in a position to start re-paying the inter-company loan. He explained that Evolok's visibility in the market place is improving and all new contracts are for a 3 year term, which will create recurring revenue.

Other Matters

In accordance with paragraph 4.6 of the proposal, management accounts should be prepared on a quarterly basis and supplied to the Joint Supervisors within four weeks of the end of each period. The management accounts for the quarter ending 31 December 2014 were received on 28 January 2015.

Throughout the second year of the CVA the Company has been late in providing some of the management account information, but did remedy the breach of obligation, within the required timescale. The director has assured the Joint Supervisors that the management account information will be supplied on time, going forward.

In accordance with paragraph 4.7 of the proposal, the Company was required to provide the Joint Supervisors with final accounts within three months of 31 July 2014 to enable progress to be monitored. By 31 October 2014, the accounts had not been received and the Joint Supervisors wrote to the director of the Company to formally notify him of this breach of obligation. The final accounts were subsequently received on 15 December 2014.

The Joint Supervisors note that whilst the turnover of the Company reduced by £500,000 during the year to 31 July 2014, the administrative expenses were more than halved from the previous year. This resulted in the Company making a profit. The director has explained that the reduction in administrative expenses is principally because the Company has reduced its number of staff and is focussing on its hosting services, which produce recurring revenue, and consultancy based work.

In accordance with paragraph 3.4.15 of the proposal, if the Company makes profits of more than £144,000 per annum after tax, by reference to the Company's financial year end of 31 July, then 50% of any amount over £144,000 will be paid into the CVA within four months of the accounting year end. We can confirm that the Company made a profit of £89,379 for the financial year to 31 July 2014 and there are therefore no profit related contributions to be paid.

The Joint Supervisors are required to conduct a quarterly review of the Company's business income and expenditure and may require an increase in voluntary contributions if deemed to be appropriate. From the information provided to the Joint Supervisors by the Company, there has not been a rise in the Company's net income during the second year of the CVA, which would permit an increase in voluntary contributions.

It is our understanding that during the second year of the CVA, the Company paid its post-CVA tax and VAT liabilities on time throughout the year.

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As reported above, the Joint Supervisors met with director and the Company's external accountant on 28 January 2015, to discuss the progress of the CVA and are hopeful that the obligations which have not been met under the CVA during the second year of its operation will be remedied within the relevant timescales

A handwritten signature in black ink, appearing to read 'Mark Newman', followed by a period.

Mark Newman, Joint Supervisor

11 February 2015

First Clarity Limited
(Under a Voluntary Arrangement)

Summary of Receipts & Payments

RECEIPTS	Statement of Affairs (£)	From 03/01/2013 To 03/01/2014 (£)	From 04/01/2014 To 02/01/2015 (£)	Total (£)
Business Rates Refund		0 00	3,255 66	3,255 66
Voluntary Contributions	555,000 00	72,000 00	100,000 00	172,000 00
Evolok inter-company account	327,838 00	0 00	0 00	0 00
		72,000 00	103,255 66	175,255 66

PAYMENTS

Joint Supervisors' Fees	(52,500 00)	11,267 10	16,245 00	27,512 10
Joint Supervisors' Cat 1 Disbursements	(1,000 00)	573 88	70 75	644 63
Joint Supervisors' Cat 2 Disbursements		0 00	26 40	26 40
Legal Fees		0 00	552 50	552 50
RPS's preferential claim		0 00	17,704 57	17,704 57
Employees' Arrears of Pay & Holiday Pay	(26,625 00)	0 00	10,223 69	10,223 69
Trade & Expense Creditors	(17,909 00)	0 00	3,101 23	3,101 23
Employees' unsecured claims	(109,630 00)	0 00	3,747 60	3,747 60
Director's current account	(1,356 00)	0 00	0 00	0 00
Landlord	(33,493 00)	0 00	814 63	814 63
Taxation VAT & PAYE	(1,292,612 00)	0 00	72,454 13	72,454 13
		11,840 98	124,940 50	136,781 48

Net Receipts/(Payments)		60,159 02	(21,684 84)	38,474 18
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MADE UP AS FOLLOWS

Bank 1 Current - Handelsbanken	60,159 02	(21,795 34)	38,363 68
VAT Receivable / (Payable)	0 00	110 50	110 50
	60,159 02	(21,684 84)	38,474 18



Mark Newman
Joint Supervisor

First Clarity Limited (Company Voluntary Arrangement)

Time Cost Summary for the period from 3 January 2014 to 2 January 2015

	Partner	Manager	Case Administrator	Total Hours	Time Cost £	Average Hourly Rate £
General Administration						
Administration & Planning	2 50	21 80	0 45	24 75	4,042 50	163 33
Case Accounting		3 60	4 15	7 75	945 50	122 00
Legal		0 80		0 80	120 00	150 00
Statutory Matters		4 70		4 70	705 00	150 00
Strategy/Case Review	3 20	4 15		7 35	1,595 00	217 01
Tax & VAT		1 35		1 35	202 50	150 00
Creditors						
Distributions	0 25	18 70	0 30	19 25	2,895 00	150 39
Employees	2 50	2 45	0 10	5 05	1,135 00	224 75
Preferential Creditors	0 20	17 75		17 95	2,747 50	153 06
Unsecured Creditors	0 20	13 60	9 65	23 45	2,607 50	111 19
Total Hours	8 85	88 90	14 65	112 40		151 21
Total Cost					16,995 50	

First Clarity Limited (Company Voluntary Arrangement)

Time Cost Summary as at 2 January 2015

	Partner	Manager	Case Administrator	Total Hours	Time Cost £	Average Hourly Rate £
General Administration						
Administration & Planning	8 45	37 00	0 45	45 90	8,295 00	180 72
Case Accounting		6 40	7 64	14 04	1,708 10	121 66
Legal		0 80		0 80	120 00	150 00
Property Related		1 10		1 10	165 00	150 00
Statutory Matters	0 45	9 85		10 30	1,637 50	158 98
Strategy/Case Review	6 90	8 10		15 00	3,322 50	221 50
Tax & VAT	1 00	4 20		5 20	930 00	178 85
Creditors						
Distributions	0 25	18 70	0 30	19 25	2,895 00	150 39
Employees	3 50	15 25	0 20	18 95	3,419 00	180 42
Preferential Creditors	0 70	18 20		18 90	2,965 00	156 88
Unsecured Creditors	0 75	19 00	9 65	29 40	3,640 00	123 81
Total Hours	22 00	138 60	18 24	178 84		162 70
Total Cost					29,097 10	

Joint Supervisors' fees drawn in accordance with the time cost resolution passed at the meeting on 3 January 2013

27,512 10

CCW RECOVERY SOLUTIONS LLP

CHARGE-OUT RATES AND DISBURSEMENTS

The table below sets out the charge-out rates utilised by CCW Recovery Solutions LLP for charging staff time -

Partner	£300 per hour
Director	£250 per hour
Senior Manager	£200 per hour
Manager	£175 per hour
Assistant Manager	£150 per hour
Insolvency Senior	£140 per hour
Insolvency Semi-Senior	£100 per hour
Insolvency Cashier	£100 per hour
Trainee/support staff	£50 per hour

It should be noted that the above rates may increase from time to time over the period of the administration of each insolvency case, but this information will be included in periodic statutory reports to creditors. The above rates are effective from 1 December 2014. Time is charged in six minute units.

Category 1 disbursements will be charged at the actual cost at which they are incurred, for example statutory advertising and records storage.

Category 2 disbursements, that is those which are paid to CCW Recovery Solutions LLP, will be on the following basis, once the appropriate approval has been obtained -

Photocopying	Re-charged at 10p per sheet
Internal room hire	Charged at £50 per meeting held at CCW offices
Company searches	£15 per corporate case
Mileage	Charged at 45 pence per mile

GUIDES TO FEES AND BEST PRACTICE

Further information relating to insolvency practitioners' fees and their required practice published by the Association of Business Recovery Professionals can be found on the Insolvency Practitioners Association website www.insolvency-practitioners.org.uk

Hover over Regulation and Guidance located to the right of the option ribbon on the home page and select "Creditors Guides to Fees". This information is also relevant to members of companies in both solvent liquidations and insolvency procedures.

The option of Regulation and Guidance will display the following information, and the relevant links in this case are highlighted to assist you.

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The Creditors' Guides to Fees provide explanations of creditors' rights with regard to insolvency practitioners' fees. They explain how an insolvency practitioner seeks approval of his fees, what information a creditor can expect to receive, and what a creditor can do if he is dissatisfied with the level of a practitioner's fees.

The Guides form appendices to Statement of Insolvency Practice 9, which sets out required practice for insolvency practitioners. The full text of SIP9 can be found by clicking onto the link to SIPs on the left hand side of this page.

Guides for England & Wales

- [Administration](#)
- [Administration \(Pre 6 April 2010\)](#)
- [Bankruptcy](#)
- [Bankruptcy \(Pre 6 April 2010\)](#)
- [Liquidation](#)
- [Liquidation \(Pre 6 April 2010\)](#)
- [Voluntary Arrangement](#)
- [Voluntary Arrangement \(Pre 6 April 2010\)](#)
- [Administrators Fees \(November 2011\)](#)
- [Liquidators Fees \(November 2011\)](#)
- [Trustee in Bankruptcy Fees \(November 2011\)](#)
- [Voluntary Arrangement Fees \(November 2011\)](#)

COMPLAINTS

At CCW Recovery Solutions LLP we always strive to provide a professional and efficient service, however, we recognise that it is in the nature of insolvency proceedings for disputes to arise from time to time. If you should have cause to complain about the way that we are acting, you should, in the first instance, put details of your complaint in writing to our complaints officer, Mark Newman at CCW Recovery Solutions LLP, 4 Mount Ephraim Road, Tunbridge Wells, Kent TN1 1EE. This will formally invoke our complaints procedure and we will endeavour to deal with your complaint under the supervision of a senior partner unconnected with the appointment. Most disputes can be resolved amicably either through the provision of further information or following negotiations.

However, in the event that you have exhausted our complaints procedure and you are not satisfied that your complaint has been resolved or dealt with appropriately, you may complain to the regulatory body that licences the insolvency practitioner concerned. Any such complaints should be addressed to The Insolvency Service, IP Complaints, 3rd Floor, 1 City Walk, Leeds, LS11 9DA and you can make a submission using an on-line form available at www.gov.uk/complain-about-insolvency-practitioner, or you can email ip.complaints@insolvency.gov.uk, or you may phone 0300 678 0015 - calls are charged at up to 9p per minute from a land line, or for mobiles, between 8p and 40p per minute if you are calling from the UK.