

**FRESH START LIVING LIMITED ("THE COMPANY")  
(In Liquidation)**

**Company Number: 06816500**

**Registered Office: 7 Empress Street, Old Trafford, Manchester, M16  
9EN**

**Trading Address: 2nd Floor, Oak Court, Wynne Avenue,  
Manchester, M27 8FF**

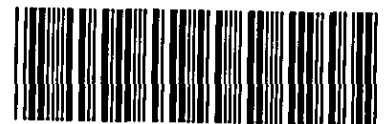
**Manchester County Court 2058 of 2014**

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**Progress Report pursuant to Rule 4.49B of The Insolvency Rules  
1986**

**Period: 19 May 2014 to 18 May 2015**

THURSDAY



\*Q4KZ50GH\*

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26/11/2015

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COMPANIES HOUSE

## **Important Notice**

This progress report has been produced by the Liquidator of the Company solely to comply with his statutory duty to report to creditors on the progress of the liquidation. The report is private and confidential and may not be relied upon, referred to, reproduced or quoted from, in whole or in part, by creditors for any purpose other than this report to them, or by any other person for any purpose whatsoever.

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## **TO ALL CREDITORS OF FRESH START LIVING LIMITED ("THE COMPANY") (IN LIQUIDATION)**

I refer to my appointment as Liquidator of the Company taking over the administration from the Official Receiver with effect from 19 May 2014 and write in order to provide a Progress Report pursuant to Rule 4 49B of the Insolvency Rules 1986

This Progress Report covers the period 19 May 2014 to 18 May 2015 ("the Period") The Progress Report for the Period is broken down as follows

- 1 Progress during the Period
- 2 Liquidator Remuneration
- 3 Disbursements
- 4 Creditor Rights to Challenging Liquidator Remuneration and Expenses
- 5 Liquidator's Duties and Execution of Functions
- 6 Other Matters
- 7 Enclosures

To assist creditors by affording greater transparency as to my duties and the way in which I would typically execute the same, at section 5 of the Progress Report the same is set out in some detail

### **1. PROGRESS DURING THE PERIOD**

Please see the attached Receipts & Payments Account for the Period

Following my appointment, I sought to retrieve the Company's books and records from the directors and the solicitor files from the Company's former solicitors in order to review the same to investigate the Company's affairs

After extensive correspondence with the former director, Charles Cunningham, concerning the books and records of the Company, I instructed solicitors on a time costs basis in order to assist in obtaining the same The records that I have received appear incomplete

I instructed my solicitors to issue proceedings against Mr Cunningham pursuant to Section 236 of the Insolvency Act 1986 for him to produce a questionnaire regarding the Company affairs supported by a statement of truth The application in respect of the same was approved by the court and a costs order was made in respect of my legal costs totalling £6,852 92 My solicitor's time costs in dealing with the application were partially discharged by the Company director by virtue of the costs order for the total of £5,913 27 including disbursements plus VAT of £939 65

Notwithstanding persistent and consistent attempts to obtain the Company's records, it does not appear that a complete set of records has been handed over to me and accordingly I have instructed solicitors to address that position further

The Official Receiver's report to creditors indicated that the Company had cash in hand of £600 00 Prior to my appointment, the Official Receiver realised the sum of £600 00 with respect to the same which was offset against the Official Receiver's administration fee

Upon receipt of the documents I received from the Official Receiver, I undertook a review of the Company's bank statements There were a number of payments which appeared to relate to what appears to be personal expenditure Therefore I entered into correspondence with one of the former directors, Phillip Wright and requested full particulars with respect to

the same. This matter is currently being investigated and my solicitors are instructed to consider the same.

Upon a further review of the bank statements, there appeared to be a number of transactions moving money from the bank account of the Company to its solicitors' accounts in respect of buying and selling properties. This is currently being investigated.

Upon a review of the documentation I have received to date it appeared that two motor vehicles were transferred out of the Company to Empirical Property Group Ltd. The transfer of the vehicles appears to have taken place following commencement of winding up petition. I have instructed solicitors on a time costs basis to assist with this matter as transactions made after the presentation of the winding up petition appear to be void pursuant to Section 127 of the Insolvency Act 1986.

I can advise that my investigations are continuing into the Company's affairs.

#### **1.1 Unrealised Assets**

I am not aware of any further assets which remain unrealised to date. However, my investigations are ongoing as set out in the progress section above. It is not yet known whether there will be any realisations in respect of the same.

### **2. LIQUIDATOR REMUNERATION**

At a meeting of creditors convened on 31 July 2014 the Company's creditors approved my remuneration on a time costs basis.

Enclosed with this Progress Report is a breakdown of time costs incurred by my staff and I in attending to the administration of the Company's estate during the Period. These time costs total £81,424.80 in respect of 352.90 hours at an average hourly rate of £230.73.

There have been insufficient realisations for me to draw any remuneration to date.

I attach to this report a detailed breakdown of my time costs to date by category of work undertaken. The following table illustrates how the time shown on this detailed breakdown is categorised.

<b>Category</b>	<b>Category Code</b>
Administration and Planning	100-199
Investigations	200-299
Realisation of Assets	300-399
Creditors	500-599

A summary of the work carried out in each category is provided below.

#### **2.1 Administration & Planning**

This category would include such tasks as general correspondence, correspondence with solicitors where instructed, the preparation of the Company's corporation tax returns and cashing matters as well as statutory requirements that I am obliged to undertake pursuant to the Insolvency Act 1986 and associated legislation.

This category will also include the day-to-day administration of the liquidation estate, the performance of bank reconciliations and compliance reviews, the banking of cheques and

maintenance of accurate financial records for the estate, applications for VAT refunds and the filing and retrieval of documents from archive

"Emails" will involve a wide number of matters across many work categories including but not limited to correspondence with agents, solicitors, directors, accountants and banks as well as internal correspondence relating to the planning of the case and delegation of tasks

## 2.2 Investigations

This category will include correspondence with banks, the Company's accountants Mazars and other third parties in relation to their dealings with the Company and the review of any files or information received which may relate to the Company's affairs. It will also involve correspondence with the Company's directors and their solicitors Gateley Plc

This category will also include the review of the Company's bank records for payments made to or on behalf of any connected entities, including directors, and will where applicable include correspondence with solicitors instructed by me

This category included the review of limited Company records to investigate the transfer of two motor vehicles, a review of bank records for payments made to or on behalf of any connected entities, including directors, correspondence with solicitors as to a review of the evidence and likely success of any litigation arising from the same. Further also it will relate to correspondence with the directors in relation to their dealings with the Company

As creditors will appreciate there has been substantial correspondence with the directors and solicitors in relation to obtaining the books and records of the Company as they appear incomplete, the various potential claims in this matter and for advice regarding the case generally

## 2.3 Realisations of Assets

This category would include work undertaken in order to attempt to realise any assets of the Company, including correspondence with agents and solicitors under my instruction. In addition, it will include the preparation and review of witness statements and court applications

This category included entering into correspondence with solicitors and directors in relation to the transfer of two motor vehicles from the Company to a connected entity

## 2.4 Creditors

This category would include preparing statutory progress reports, taking telephone calls from creditors, dealing with incoming correspondence from creditors, and holding any creditor meetings

A copy of the guide for creditors can be requested from my office and includes details on office holder remuneration. Alternatively this guide may also be accessed along with the latest version of Statement of Insolvency Practice Number 9 ("SIP 9") (England and Wales) at the R3 website

<https://www.r3.org.uk/what-we-do/publications/professional/statements-of-insolvency-practice/e-and-w>

SIP 9 can also be accessed at our website <http://www.ocinsolvency.com/> in the Technical Information section. If for any reason neither of those links work, then alternatively you

should be able to obtain the SIP 9 from the following  
<http://www.icaew.com/technical/insolvency/insolvency-regulations-and-standards/statements-of-insolvency-practice-sips-england>

## 2.5 Narrative Overview

The sections above which break down work completed into the various categories of tasks undertaken are designed to provide creditors with information regarding the complexity of the case, any exceptional responsibility falling on the office holder, the office holder's effectiveness and the value and nature of the property in question in this case

If any creditor has any queries in relation to that which is set out above or would like any further information relating to these matters, please contact my offices and I will endeavour to deal with the same

In addition to the above, the following information is supplied to give creditors an overview of the case in accordance with Statement of Insolvency Practice 9 (England and Wales)

### 2.5.1 *Nature of the Assignment*

The main aspects of this case relates to the investigation of the Company's affairs leading up to the liquidation. This revolved mainly around understanding the Company and the group companies it operated alongside

### 2.5.2 *Initial Views*

It was apparent that investigations should be undertaken into the affairs of the Company leading up to liquidation to establish the reasoning behind the Company's failure and also to identify any potential claims that may exist

It was therefore clear that a thorough investigation would need to be undertaken in relation to this matter

### 2.5.3 *Significant Aspects of Case*

As any Liquidator enters office as a relative stranger one of the significant aspects of the case will have been to obtain and where necessary reconstruct the books, papers and records of the Company. In circumstances where records appear to have been missing the reconstruction can be all the more time consuming. However, whilst this is undoubtedly one of the primary duties when entering office it is also part of my statutory responsibilities

As set out above, there has been a significant amount of time spent on investigating the Company's affairs and potential claims that were identified. This included detailed analysis of the Company's accounting papers and the books and records which I have received to date. This further included a detail review of the solicitor's files, in particular their client ledgers, in relation to the significant sums of the Company's money flowing through the solicitors client account

Due to the complexity of these issues, a large amount of time was spent by more senior staff who attract a higher charge out rate

The case appears to have been hampered particularly by what appears to be the incompleteness of the Company's records that I have available to me

#### 2 5 4 *Views of Creditors*

There are currently no funds available for creditors and therefore the carrying out of investigations and the potential legal proceedings will not have any impact on distributions to creditors

#### 2 5 5 *Remuneration*

As set out above, creditors agreed my remuneration on a time costs basis at a meeting of creditors held on 31 July 2014

#### 2 5 6 *Agents, Subcontractors and Professionals*

This report sets out details of solicitors instructed by me to assist with my administration of the liquidation. These individuals will have been chosen as a result of their anticipated effectiveness to carry out the various roles, whilst considering the cost of the services provided.

The various bases of their remuneration have been set out in the progress section above. The invoices of the various parties are reviewed by me upon receipt.

#### 2 5 7 *Management of the Assignment*

The various aspects of the case are overseen by me as Liquidator, however work is generally delegated to more junior members of staff where it is considered appropriate and reasonable.

The strategy with respect to the case will have been considered by me on a continual basis throughout.

### **3. DISBURSEMENTS**

I have incurred the following disbursements on account in the Period, these have not been drawn from estate funds:

3 1 Statutory Bonding	£30 00
3 2 Statutory Advertising	£75 50
3 3 Land Registry	£42 00

### **4 CREDITOR RIGHTS TO CHALLENGING LIQUIDATOR REMUNERATION AND EXPENSES**

Creditors are entitled under Rule 4 49E of the Insolvency Rules 1986, within 21 days of the receipt of this report (secured creditor or an unsecured creditor with concurrence of at least 5% in value of the unsecured creditors or any unsecured creditor with the permission of the court) to request further information from me regarding my remuneration and expenses which have been detailed in this progress report.

Pursuant to Rule 4 131 of the Insolvency Rules 1986 creditors (secured creditor or an unsecured creditor with concurrence of at least 10% in value of the unsecured creditors or any unsecured creditor with the permission of the court) have a right to challenge my remuneration and expenses via application to Court on the grounds that the remuneration charged or the expenses incurred by me as set out in this report are, in all the circumstances, excessive or, the basis fixed for remuneration is inappropriate.

## **5. LIQUIDATOR'S DUTIES AND EXECUTION OF FUNCTIONS**

### **5 1 Liquidator Duties**

I have a number of statutory duties which apply as follows

5 1 1 Duty to call meetings when requisitioned in accordance with the Insolvency Rules

5 1 2 Duty of notification via advertisement of the appointment and the convening of creditors meetings

5 1 3 Duty to provide annual progress reports to creditors and file the same at Companies House

5 1 4 Duty to provide information to the Official Receiver

5 1 5 Duty to collect the Company's assets

5 1 6 Duty to realise assets and discharge liabilities

5 1 7 Duty to discover who the creditors of the Company are and the amount of their claims

5 1 8 Duty to meet the prescribed requirements for the provision of security (referred to as a bond) for certain types of losses in relation to the insolvent estate

5 1 9 Duty to manage and administer the insolvent estate and its funds

It is the primary duty of a liquidator of a company to collect its assets with a view to discharging its liabilities to the extent the assets permit. To perform that function the liquidator needs information. The companies legislation has for many years given a liquidator power to obtain it from those who can be expected to have relevant information.

I am obliged under Section 144 of the Insolvency Act 1986 to take into my custody and control the Company's property, which includes its books, papers and records as defined in Section 436 of the Insolvency Act 1986.

A Liquidator enters office as a relative stranger to the Company and I am required pursuant to Statement of Insolvency Practice Number 2 ("SIP 2") to investigate and reconstitute knowledge of the Company. SIP 2 states as follows:

*" an office holder has a duty to investigate what assets there are (including potential claims against third parties including the directors) and what recoveries can be made locate the company's books and records (in whatever form), and ensure that they are secured "*

A full copy of SIP 2 can be downloaded from the Technical section of [www.ocinsolvency.com](http://www.ocinsolvency.com)

In the satisfaction of reconstituting knowledge of the Company I am obliged to consider any claims capable of swelling the Company's assets. I would therefore need to seek to identify, discover and recover the Company's property. To undertake that exercise I will need to obtain the books and records for the Company from its Officers and if relevant its agents. Whilst there are many and varied statutory functions of a liquidator, obtaining the books and records is arguably one of the most important duties as without the same it can be impossible to identify the assets with sufficient specificity to enable their recovery.



This is a compulsory liquidation and therefore pursuant to Section 143 of the Insolvency Act 1986 I have a duty to furnish and assist the Official Receiver with such information as may be reasonably required for the purposes of carrying out his or her functions in relation to the winding up. I am also obliged pursuant to Section 218 of the Insolvency Act 1986 to report to the Official Receiver any apparent criminal offences in relation to the Company by any past or present officer or any member of the Company.

## **5.2 Books and Records**

By virtue of Section 386(3) of the Companies Act 2006 the Company's accounting records should have contained daily entries confirming details of all monies received and paid by the Company. In addition the same should have contained a record of the assets and liabilities of the Company.

Without this information I may be unable to independently verify what assets both exist and or should exist and only be in a position to collect disclosed assets.

## **5.3 Fulfilling the Liquidator's Functions**

As this is a compulsory liquidation I have not had any prior dealings and or introduction to the Company through its Directors. In light of the same it will be / have been necessary for me to conduct an information gathering exercise to obtain the books and records and also where possible to obtain the Director's cooperation via completion of a questionnaire to obtain data on the Company.

There are usually a number of sources of the Company's books, papers and records as follows:

- 5.3.1 the Company's officers such as its Directors,
- 5.3.2 the Company's accountants who may and often will have acted as its tax agents,
- 5.3.3 the Company's bankers who may and often will have acted as its agents in the processing of transactions,
- 5.3.4 the Company's solicitors who may have acted as agents.

Accordingly, I intend to or will have sought to call up the files of the Company from those typical sources. Often the information gathering process is time consuming with entitlement to information being the focus of debate.

Once the information has been obtained it would need to be collated, catalogued and then reviewed to investigate the Company's affairs, dealings and property.

If there are any matters that arise from a review of the same that lead me to not have satisfactory understanding of the Company's financial affairs or information is incomplete then it may be necessary for me to interview some or all of the Directors. Investigations generally may involve contacting third parties as part of the process of unscrambling the Company's dealings.

My investigations into the Company's affairs will generally have regard to any transactions or trading that appear capable of giving rise to greater realisations for creditors. The provisions under the Insolvency Act 1986 and Companies Act 2006 which may enable me as Liquidator to effect the same would include but not necessarily be limited to the following:

- Section 212 of the Insolvency Act 1986 - Misfeasance and Breach of Duty
- Section 213 of the Insolvency Act 1986 - Fraudulent Trading
- Section 214 of the Insolvency Act 1986 - Wrongful Trading
- Section 238 of the Insolvency Act 1986 - Transactions at an Undervalue
- Section 239 of the Insolvency Act 1986 - Preferences
- Section 423 of the Insolvency Act 1986 - Transactions defrauding creditors
- Section 847 of the Companies Act 2006 - Unlawful Dividends

Directors owe companies fiduciary duties and as a result of their duty of loyalty, to act within their powers, avoid conflicts of interest and to promote the success of the Company, they have a duty to disclose any of the above that give rise to a breach of those duties

If any creditor is aware or becomes aware of the existence of any transactions or trading that they consider to be consistent with the above or of concern generally, then please contact my office to afford me details of the same for my consideration

## **6 OTHER MATTERS**

Should any Creditor reasonably require further particulars in relation to any aspect of the conduct of my administration then please submit such requests in writing to this office. The same will be considered and if appropriate further information may be furnished such that you may reasonably require the same

## **7 ENCLOSURES**

The following are enclosed for your attention

- 7 1 Breakdown of time costs for the Period
- 7 2 Detailed breakdown of time costs by category of work undertaken for the Period
- 7 3 Receipts & Payments Account
- 7 4 Minutes of Creditors Meeting

Any queries with regard to this Progress Report must be submitted in writing to this office quoting my full reference

Yours faithfully



**E.H. Green**  
Liquidator

*Licensed by the Institute of Chartered Accountants in England & Wales*

8 July, 2015

**SIP 9 - Time & Cost Summary**

Period 19/05/14 18/05/15

## Time Summary

Hours						Time Cost (£)	Average hourly rate (£)
Classification of work function	Partner	Manager	Other Senior Professionals	Assistants & Support Staff	Total Hours		
Administration & planning	23 20	0 40	4 70	77 40	105 70	22,189 30	209 93
Investigations	68 40	1 10	77 10	86 20	232 80	55,835 30	239 84
Realisations of assets	1 50	0 00	0 00	0 00	1 50	675 00	450 00
Trading	0 00	0 00	0 00	0 00	0 00	0 00	0 00
Creditors	2 60	0 70	0 00	9 60	12 90	2,725 20	211 26
Case specific matters	0 00	0 00	0 00	0 00	0 00	0 00	0 00
<b>Total Hours</b>	<b>95 70</b>	<b>2 20</b>	<b>81 80</b>	<b>173 20</b>	<b>352 90</b>	<b>81,424 80</b>	<b>230 73</b>
<b>Total Fees Claimed</b>						<b>0 00</b>	

## Sub Analysis in Period

100	Admin & Planning	0 60	90 00
101	Reviewing Incoming Correspondence	0 80	203 00
102	Telephone Calls	6 90	1,237 60
104	Reviews	5 40	789 00
106	General Correspondence	19 70	5,102 20
107	Case Opening	17 80	2,420 80
109	Opening Review	4 00	1,800 00
110	IPS Diary Update	1 70	176 80
111	Other	0 30	40 80
112	Incoming correspondence	0 10	25 00
113	Our solicitors correspondence	0 90	197 40
115	Instructions to solicitors	0 40	60 00
116	Official Receiver correspondence	0.70	126 60
117	Internal Memo	12 10	4,642 20
118	Cashbook / Cashier / Cheque Matters	2 80	420 00
119	Correspondence with Debtor/Director	5 70	855 00
120	Emails	4 00	602 50
121	Filing	15 80	2,462 90
124	Internal discussion	2 20	347 50
125	Corporation Tax Return	0 30	45 00
128	Review of case administrators work	2 90	445.00
130	Archiving	0 30	45 00
131	Amend Audio Typing	0 30	55 00
200	Investigations	73 20	12,805 00
201	Correspondence With Banks	8 90	1,284 40
202	Correspondence With Solicitors	42 10	14,641 10
203	Correspondence With Accountants	9 60	2,631 00
204	Review Solicitors Files	5 00	1,800 00
205	Review Accountants Files	3 30	495 00
206	Review Company Records	21 40	3,840 00
209	Interview Company Directors	36 80	6,135 40
214	Incoming correspondence	0 30	115 00
215	Our solicitors correspondence	8 70	3,765 00
218	Official Receiver correspondence	2 80	1,170 00
220	Correspondence with Debtor / Director	12 00	4,811 80
221	Telephone Calls	3 40	1,391 60
222	Land Registry and Property Searches	2 40	360 00
226	Internal Discussion	0 60	180 00
227	Review of case administrators work	0 30	75 00
228	Internal Emails	2 20	335 00
301	Correspondence With Agents	0 30	135 00
305	Review Of Witness Statements	1 20	540 00
501	Proofs Of Debt	1 00	150 00
502	Proxies	1 40	210 00
504	Telephone Calls With Creditors	2 60	858 60
505	Creditors Enquires/Response	0 70	175 00
506	Creditors Meetings	3 30	645 00
512	Correspondence with creditors	3 90	686 60
		352 90	81,424 80

## FRESH START LIVING LIMITED – IN LIQUIDATION

### MINUTES OF CREDITORS MEETING HELD AT 10:00AM ON 31 JULY 2014 AT OURY CLARK, 58 HERSCHEL STREET, SLOUGH SL1 1PG

**Present:** G K Fisher – (Liquidator) (Chairman)

The meeting was called for the purpose of approving the following resolutions

- I The Liquidator is authorised to draw fees in respect of time properly incurred by him or his staff in relation to the liquidation.
- II The Liquidator's legal costs / disbursements are sanctioned from estate recoveries
- III The Liquidator is authorised to draw category 2 disbursements on account at rates detailed in his Disbursement Recovery Policy dated 23 May 2014.

The creditor Empirical Property Group Ltd did not provide sufficient supporting documentation substantiating their claim and thus their claim was submitted for £1 00

Voting on resolution by proxy	FOR	AGAINST	INVALID	Proof Of Debt
Sellick Partnership Limited	X			£2,916.00
University of Bradford	X			£46,716 14
Sinclair Taylor Debt Management Ltd	X			£133,187 20
David Armbruster	X			£23,013.00
Christopher S Wright	X			£1,503.84
Empirical Property Group		X		£1.00
Roger Walters	X			£20,000.00
Stephen David Carson			X	£5,140.00
<b>TOTAL</b>	<b>£227,336.18</b>	<b>£1.00</b>	<b>£5,140.00</b>	<b>£232,477.18</b>

On the basis of the information stated above, the above resolutions were passed

There being no further business, the meeting concluded

  
G K Fisher  
Chairman

**FRESH START LIVING LIMITED**  
**(In Liquidation)**

**Liquidator's Abstract Of Receipts And Payments**  
**To 18 May 2015**

<b>RECEIPTS</b>	<b>Statement of Affairs (£)</b>	<b>Total (£)</b>
Costs Order		6,852 92
Cash in Hand	600 00	0 00
		<hr/>
		6,852 92
		<hr/>
<b>PAYMENTS</b>		
Legal Fees		5,913 27
Official Receiver's Fee		470 00
Secretary of State Fee		88 00
		<hr/>
		6,471 27
Net Receipts/(Payments)		<hr/>
		381 65
		<hr/>
 <b>MADE UP AS FOLLOWS</b>		
 ISA		381 65
		<hr/>
		381 65
		<hr/>
		<hr/>
		Elliot Harry Green
		Liquidator