

Liquidator's Progress Report

S.192

Pursuant to Sections 92A and 104A and 192 of the Insolvency Act 1986

To the Registrar of Companies

Company Number

05790394

Name of Company

Newport Care Limited

I / We

Christopher David Stevens, 4th Floor, Southfield House, 11 Liverpool Gardens, Worthing, BN11 1RY

Colin Ian Vickers, 4th Floor, Southfield House, 11 Liverpool Gardens, Worthing, BN11 1RY

the liquidator(s) of the company attach a copy of my/our Progress Report under section 192 of the Insolvency Act 1986

The Progress Report covers the period from 14/01/2014 to 13/01/2015

Signed 

Date 27.7.15

FRP Advisory LLP
4th Floor
Southfield House
11 Liverpool Gardens
Worthing
BN11 1RY

Ref N0337WOR/CDS/CIV/COB/DLW/VMT/SMC/KL

MONDAY



A27 *A42ASQXU* #61
02/03/2015
COMPANIES HOUSE

Newport Care Limited
(In Liquidation)
Joint Liquidators' Abstract of Receipts & Payments

Statement of Affairs	From 14/01/2014 To 13/01/2015
500,000 00	652,000 00
	<u>652,000 00</u>
	6,210 35
	1,437 00
	5,790 98
	490 72
	<u>28,980 56</u>
	(42,909 61)
(1,540,000 00)	609,090 39
	<u>(609,090 39)</u>
21,762 81	NIL
NIL	NIL
21,001 39	NIL
	43,159 21
	<u>9 32</u>
	43,168 53
	24,410 25
	1,003 55
	3,675 00
	281 25
	2,500 00
	<u>6,317 77</u>
	(38,187 82)
(451,723 64)	NIL
(52,306 31)	<u>NIL</u>
	NIL
(1,000 00)	NIL
	<u>NIL</u>
<u>(1,502,265.75)</u>	<u><u>4,980 71</u></u>
	4,980 71
	<u><u>4,980 71</u></u>

Note



Christopher David Stevens
Joint Liquidator



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**TO SHAREHOLDERS AND ALL KNOWN
CREDITORS**

your ref

our ref N0337WOR/CVL 51a/J

date 27 February 2015

please ask for Donna Wingham

Dear Sirs

NEWPORT CARE LIMITED (IN LIQUIDATION) ("THE COMPANY")

Further to my appointment as Joint Liquidator on 14 January 2014 I report on the progress of the liquidation for the period 14 January 2014 to 13 January 2015 ("the period") in accordance with Rule 4 49(C) of the Insolvency Rules 1986

I attach:

- Appendix A – Statutory Information
- Appendix B – Receipts and payments account
- Appendix C – Details of my firm's time costs and disbursements including charge out rates
- Appendix D – Statement of expenses

1. Receipts and Payments

- 1.1 I attach for your information a copy of a recently prepared receipts and payments account detailing both transactions for the period, and also since my appointment as Liquidator.
- 1.2 On the statement of affairs the freehold property from which the Company traded was shown with a value of £500,000. I can confirm that Lloyds TSB Bank plc which holds security over the property appointed separate Law of Property Act receivers to deal with the disposal of the property. A decision was made to leave the fixtures and fittings in situ as it was uneconomic to remove from site for disposal. A request was made to the receiver that any purchaser could be informed that they could purchase the fixtures and fittings at the same time.
- 1.3 The sale of the property completed on 18 September 2014 but unfortunately the purchaser did not require the fixtures and fittings due to the age and condition of these items. After consulting with the chattel agents who had originally valued these assets a decision was made to abandon them as they had no value after taking into account the anticipated costs of removal and disposal.
- 1.4 One book debt of £21,001.39 was shown in the statement of affairs and I can confirm that this sum was received into the Company bank account prior to my appointment. The total sum of £43,159.21 has been received from cash at bank and no further realisations are expected from this source.

2. Work Undertaken by the Liquidator during the period

- 2.1 At the creditors' meeting held on 14 January 2014, I was requested by the creditors to carry out initial investigations into the following matters:
 - Review the Company's purchase of its shares from Mr B Johal. The Company paid him the sum of £400k for 85% of the Company's shareholding in May 2013.

CVL 51a
Record Book H (copy in J)

Issue 2 07/01 QP
H6 of H10 (CVL)

- Consider whether the directors may be guilty of wrongful and/or fraudulent trading given the payments that were made and general trading prior to the Company going into liquidation
- Review the Interest Rate Hedging Product (IRHP) sold by the Bank of Ireland (BOI) to the Company and consider whether there may be a claim for redress under the review process requested by the FCA.

2.2 Shares – The purchase of the shares was authorised / confirmed by way of a declaration from the director stating that payment of the £400,000 would not place the Company under any financial threat but in fact less than a year down the line the Company became insolvent.

Lester Aldridge (LA) Solicitors were instructed by the liquidators to assist in the investigation process LA were instructed to issue letters to Mr Johal claiming that the purchase of the shares may have constituted a transaction at under value or a preference in accordance with either section 238 or 239 of the Insolvency Act 1986

On the basis that Mr Johal is an associated party, there is a presumption that the Company is insolvent at the time of or as a result of the transaction This position is further supported by the fact that HMRC had been pursuing the Company for arrears of taxes since October 2012 HMRC's subsequent claim in the liquidation is for the sum of approximately £130,000.

The letter issued by LA to Mr Johal also claimed that there was no evidence available to the liquidators to suggest that the shares were in fact were for the sum of £400k

Mrs Johal (a director) was also written to and put on notice of a potential claim for misfeasance under section 212 of the Insolvency Act 1986. The basis of the potential claim related to the fact that she had allowed the Company to make a payment that may have rendered the Company insolvent given that it went into liquidation approximately seven months later

In addition, LA advised that it would be appropriate to write to the accountant putting them on notice of a potential claim of misfeasance under section 212 of the Insolvency Act 1986. This was on the basis that they had been involved with the share purchase process and had assisted in putting together the declaration suggesting that the Company was in a position to repurchase its shares without rendering it insolvent

All parties responded to the letters and rebutted the claims Matters that were cited in their letters are as follows

- They claim that the Company was not insolvent at the time the purchase happened and equally did not become insolvent as a result.
- Mr Johal suggested that he was not a creditor of the Company and therefore the liquidator would not be able to bring a claim for a preference under section 239 of the Insolvency Act 1986
- The parties claim that the shares had value prior to the transaction and evidenced this by providing management accounts suggesting that the balance sheet was solvent. This appears to be on the back of a revaluation that was carried out by Lloyds TSB Bank plc, which had resulted in the Company being provided with additional borrowing.
- It is claimed that if there is no claim against Mr Johal because it did not represent a transaction at under value or a preference then any claim from misfeasance against Mrs Johal or the accountants will equally fall away
- A draft balance sheet has been provided suggesting net assets at March 2013 were £1m and therefore 85% of the shareholding would be worth £850k
- HMRC were notified of the transaction as required.

The following information is also relevant for consideration:

- The major reason for the Company failure was suggested to be the problems with CQC. It is relevant to note that these problems started on 29 May 2013 which is after the shares had been purchased.
- The associated companies in the group had tried to fight the position with CQC and indeed provided funding to the Company to assist. The group companies are a creditor for the sum of £144,905.
- The only evidence of creditor pressure in May 2013 would be in relation to HMRC and their outstanding debt. This may add weight to a counter claim that the Company was solvent on the basis that it can be demonstrated there was a substantial debt to HMRC that the Company was not able to pay and therefore despite the balance sheet possibly looking positive because of the property revaluation, there is clear evidence that cash flow insolvency was occurring at the time given the debt to HMRC.
-

- 2.3 Wrongful trading – The liquidators have reviewed the payments in the period leading up to the Company going into liquidation. It does appear from the transactions reviewed that payments were being made in the ordinary course of business.

The payments do appear to have been made to the trade creditors in preference to HMRC who have been left with a substantial claim of £130,000. In addition, Lloyds TSB Bank plc have lost additional funds given that they provided monies to assist in the closure process.

The initial view of the liquidators is that it would be difficult to formulate a claim for wrongful trading on the basis of the information reviewed.

- 2.4 Interest Rate Hedging Product – The liquidators have written to the Bank of Ireland requesting that they consider whether the product sold to the Company should be placed into their review process. The initial response from the Bank of Ireland is that the products fall outside of the scope of the review and will therefore not be looked at and there will be no offer of redress.

The liquidators are reviewing this position further to determine whether there may be any challenge to this decision and in fact whether the products should be placed into the review process.

3. Actions and strategy moving forwards

- 3.1 The liquidators have now completed their initial investigations and are not in a position to issue any proceedings at the present time on the basis of a lack of substantial evidence and a lack of funding to make a claim.

However, it may be the case the creditors wish to fund the liquidators to carry out additional work to determine whether there are any claims available particularly in relation to the repurchase of the shares. If this were the case, the following bullet points would summarise the initial strategy that the liquidators would propose.

- Provide instructions to solicitors and Counsel to review the investigation work to date and give structure to further investigation work and areas that require particular focus.
- Preparation of management accounts for the period from 1 April 2013 to liquidation.
- Full review of the management accounts to 31 March that were provided by the accountants.
- Consider whether it is possible to show that the Company was insolvent at the time of the share purchase in order to rebut the claim/statement made by Mr and Mrs Johal and the accountants.

- It is worth noting that the Company books and records appear to be fairly limited and may not have been fully written up and therefore the process of preparing the accounts may be time consuming and costly
- A full review of the position with the HMRC debt and confirmation of any pressure that was being exerted by HMRC during 2013
- Give consideration to whether there may be a claim for wrongful trading given the further investigation work carried out above
- Further review the product sold by the Bank of Ireland to determine whether there may be a claim for redress

The above is not intended to be exhaustive but is a guide to the further work that could be carried out if funding can be obtained. Once the work has been completed, it would then be necessary to further engage with solicitors and Counsel to determine whether the further evidence that has been put together would give rise to a claim that can be issued with a high chance of success. At that time, it may also be possible to seek third party funding to pursue the claim if appropriate.

The liquidators have spoken to the solicitors to get an estimate of the costs. It's difficult to put an exact figure on these but the liquidators believe that the total costs to pursue a claim through the Courts would be substantial especially given that the claim is likely to be defended by all parties. The liquidators propose to speak to the major creditors to see if they would be interested in funding before they seek quotes from the solicitors. Clearly if creditors do not have an appetite to fund then any potential claims regarding the repurchase of shares or wrongful trading cannot be pursued further.

All creditors are invited to make contact with the liquidator if they believe they may be interested in providing funding to try and recover monies under the claim headings detailed above.

4. Dividend to Creditors

4.1 The following preferential creditors' claims have been received

	£
Employees	107 35
The Redundancy Payments Service	1,204 48

4.2 I have received claims totalling £446,683.98 from unsecured creditors who have proved their debts in these proceedings

4.3 Pursuant to rule 11.7 of the Insolvency Rules 1986, at present no dividend will be declared to preferential and unsecured creditors as the funds realised were distributed, used or allocated for defraying the expenses of the administration

5. Prescribed Part

5.1 In accordance with the Enterprise Act 2002, the prescribed part is an element of net realisations due to the floating charge holder which is made available for unsecured creditors (subject to the floating charge post-dating 15 September 2003).


5.2 In this circumstance the floating charge realisations will be fully utilised in meeting the costs of realising the assets, there will be insufficient funds to make a prescribed part distribution to unsecured creditors

6. Liquidators' Remuneration, Disbursements and Expenses

- 6.1 Turning to my own costs in this matter, my remuneration as Liquidator is based on computerised records of all time spent on the administration of this case. Matters dealt with during the assignment are dealt with by different members of staff depending on the level of complexity and experience required. Time is charged to the case in maximum of 6 minute units. Charge-out rates are based on individual expertise, qualification and grade. The costs of the firm's support staff are not directly charged to the estate unless dealing with directly identifiable case specific matters. Charge out rates are reviewed at least annually, details of FRP Advisory LLP charge out rates are attached together with a breakdown of our time costs and disbursements incurred during the period of this report in accordance with Statement of Insolvency Practice 9.
- 6.2 You may recall that I was authorised to draw fees on a time cost basis, I have drawn fees of £24,410.35 exclusive of VAT.
- 6.3 The Liquidators' disbursements are a recharge of actual costs incurred by the Liquidators on behalf of the Company. Mileage payments made for expenses relating to the use of private vehicles for business travel, which is directly attributable to the insolvency estate, are paid by FRP Advisory at the HMRC approved mileage rate prevailing at the time the mileage was incurred. Details of disbursements incurred during the period of this report are attached.
- 6.4 I attach at Appendix C a statement of expenses that have been incurred during the period
- 6.5 Creditors have a right to request further information from the Liquidator under Rule 4.49E of the Insolvency Rules 1986 and further have a right to challenge the Liquidator's remuneration and expenses which are first disclosed in this report, under Rule 4.131 of the Insolvency Rules 1986 (For ease of reference these are the expenses incurred in the reporting period as set out in Appendix C only). Further details of these rights can be found in the Creditors' Guide to Fees which can be located using the following link <http://creditors.frpadvisor.com/feesguide.htm> and select the one for liquidations. Alternatively a hard copy of the relevant guide will be sent to you on request. Please note there are time limits for requesting information of 21 days of receipt of the progress report for requesting further information and 8 weeks from receiving this report for a Court application that the remuneration or expenses are excessive.

If you have any queries about this report or the progress of the liquidation, please do not hesitate to contact Donna Wingham of this office.

Yours faithfully



Chris Stevens
Joint Liquidator

Licensed in the United Kingdom by the Insolvency Practitioners Association

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Newport Care Limited

STATUTORY INFORMATION

Company Details:

Other trading names:

Date of incorporation: 21 April 2006

Company number 05790394

Registered office: 4th Floor, Southfield House
11 Liverpool Gardens, Worthing
West Sussex
BN11 1RY

Previous registered office: C/O Jon Avol & Associates
204 Field End Road
Pinner Middlesex
HA5 1RD

Business address: Holywell Bay Care Centre
Rhubarb Hill
Holywell Bay
Newquay
Cornwall
TR8 5PT

Liquidator Details:

Liquidators: Christopher David Stevens & Colin Ian Vickers

Address of Liquidators FRP Advisory LLP
4th Floor, Southfield House
11 Liverpool Gardens, Worthing
West Sussex
BN11 1RY

Date of appointment of Liquidators 14 January 2014

**Newport Care Limited
(In Liquidation)
Joint Liquidators' Abstract of Receipts & Payments**

Statement of Affairs	From 14/01/2014 To 13/01/2015	From 14/01/2014 To 13/01/2015
	SECURED ASSETS	
500,000 00	Freehold Land & Property	652,000 00
		<u>652,000 00</u>
	COSTS OF REALISATION	
	LPA Receivers Fees	6,210 35
	Legal Fees & disbursements	1,437 00
	VAT - Irrecoverable	5,790.98
	Bank Charges - Fixed	490 72
	Holding Costs including insurance	28,980 56
		<u>(42,909.61)</u>
	SECURED CREDITORS	
(1,540,000.00)	Lloyds Banking Group	609,090.39
		<u>(609,090.39)</u>
	ASSET REALISATIONS	
21,762 81	Fixtures & Fittings	NIL
NIL	Goodwill	NIL
21,001 39	Book Debts	NIL
	Cash at Bank	43,159.21
	Bank Interest Gross	9.32
		<u>43,168.53</u>
	COST OF REALISATIONS	
	Joint Liquidators' Remuneration	24,410 25
	Joint Liquidators' Disbursements	1,003 55
	Agents/Valuers Fees - Wyles Hardy	3,675 00
	Agents Fees - Your Care Associates	281.25
	Legal Fees	2,500.00
	VAT Irrecoverable	6,317.77
		<u>(38,187.82)</u>
	UNSECURED CREDITORS	
(451,723 64)	Unsecured Creditors	NIL
(52,306 31)	Employees redundancy/notice pay	NIL
		<u>NIL</u>
	DISTRIBUTIONS	
(1,000 00)	Ordinary Shareholders	NIL
		<u>NIL</u>
(1,502,265.75)		<u>4,980.71</u>
	REPRESENTED BY	
	Bank 2 Current A/c	4,980 71
		<u>4,980.71</u>

Note:

**Newport Care Limited
(In Liquidation)
Joint Liquidators' Abstract of Receipts & Payments**

Statement of Affairs	From 14/01/2014 To 27/02/2015	From 14/01/2014 To 27/02/2015
500,000.00	SECURED ASSETS	
	Freehold Land & Property	652,000.00
		<u>652,000.00</u>
	COSTS OF REALISATION	
	LPA Receivers Fees	6,210.35
	Legal Fees & disbursements	1,437.00
	VAT - Irrecoverable	5,790.98
	Bank Charges - Fixed	490.72
	Holding Costs including insurance	28,980.56
		<u>(42,909.61)</u>
(1,540,000.00)	SECURED CREDITORS	
	Lloyds Banking Group	609,090.39
		<u>(609,090.39)</u>
21,762.81	ASSET REALISATIONS	
NIL	Fixtures & Fittings	NIL
21,001.39	Goodwill	NIL
	Book Debts	NIL
	Cash at Bank	43,159.21
	Bank Interest Gross	9.32
		<u>43,168.53</u>
	COST OF REALISATIONS	
	Joint Liquidators' Remuneration	24,410.25
	Joint Liquidators' Disbursements	1,003.55
	Agents/Valuers Fees - Wyles Hardy	3,675.00
	Agents Fees - Your Care Associates	281.25
	Legal Fees	2,500.00
	VAT Irrecoverable	6,317.77
		<u>(38,187.82)</u>
(451,723.64)	UNSECURED CREDITORS	
(52,306.31)	Unsecured Creditors	NIL
	Employees redundancy/notice pay	NIL
		<u>NIL</u>
(1,000.00)	DISTRIBUTIONS	
	Ordinary Shareholders	NIL
		<u>NIL</u>
(1,502,265.75)		<u>4,980.71</u>
	REPRESENTED BY	
	Bank 2 Current A/c	4,980.71
		<u>4,980.71</u>

Note:



Newport Care Limited (In Liquidation)
Time charged for the period 14 January 2014 to 13 January 2015

Administration and Planning	4 00	3 75	16 00	8 70	32 45	6,367 75	196 23
Case Control and Review			1 30		1 30	208 00	160 00
Case Accounting - General			0 05	8 70	8 75	1 400 00	160 00
General Administration	2 00	3 75	14 20		19 95	3 887 75	194 87
Strategy	2 00				2 00	800 00	400 00
Fee and WIP			0 45		0 45	72 00	160 00
Asset Realisation	8 25	8 15	1 85		18 25	5,465 75	299 49
Asset Realisation	3 50	2 50	1 00		7 00	2 122 50	303 21
Freehold/Leasehold Property		0 15	0 85		1 00	183 25	183 25
Chattel Assets		0 25			0 25	78 75	315 00
Debt Collection	2 00				2 00	800 00	400 00
Legal-asset Realisation	2 75	5 25			8 00	2 281 25	285 16
Creditors	5 00	9 10	9 30	10 50	33 90	7,326 50	216 12
Unsecured Creditors		3 75	5 05		8 80	1 686 25	191 62
Secured Creditors	5 00	1 00			6 00	2 225 00	370 83
Employees			3 20	10 50	13 70	2,192 00	160 00
ROT		4 35	0 50		4 85	1 135 25	234 07
Unsecured Creditors - TAX/VAT			0 15		0 15	24 00	160 00
Landlord			0 40		0 40	64 00	160 00
Investigation		9 00	5 00		14 00	2,693 75	192 41
Investigatory work - Other		4 75			4 75	1 006 25	211 84
CDDA Enquiries		1 50	1 55		3 05	585 50	191 97
Legal - Investigations		2 75	3 45		6 20	1 102 00	177 74
Statutory Compliance	6 50		6 80		13 30	3,583 00	269 40
Post Appt TAX/VAT			0 30		0 30	48 00	160 00
Statutory Compliance - General	2 50		4 30		6 80	1 000 00	400 00
Statutory Reporting/ Meetings	4 00		1 35		5 35	2 183 00	263 01
Appointment Formalities			0 85		0 85	216 00	160 00
Statement of Affairs	0 00				0 00	136 00	160 00
Unknown	0 00				0 00	0 00	#DIV/0!
Pre Appointment	0 00				0 00	0 00	#DIV/0!
Total Hours	23 75	30 00	38 95	19 20	111 90	25,436 75	227 32
Total Cost £	9,500 00	6,776 25	6,088 50	3,072 00			
Average Hry Rate £	400 00	225 88	156 32	160 00			

Disbursements for the period
14 January 2014 to 13 January 2015

Category 1	Value £
Advertising	253 80
Company Search	3 00
Delivery	34 55
Postage	47 94
Bonding	90 00
Category 2	
Car/Mileage Recharge	73 80
Grand Total	503 09

Mileage is charged at the HMRC rate prevailing at the time the cost was incurred

FRP Charge out rates	At
Grade	31st July 2013
Partner	275-495
Manager	225-455
Other Professional	85-275
Support	70-320

NEWPORT CARE LIMITED (IN LIQUIDATION)
STATEMENT OF EXPENSES FOR THE 12 MONTH PERIOD ENDED 13 JANUARY 2015

Appendix D

Expenses	Total paid to date of progress report period per R and P £	Costs committed not yet paid at reporting date £	Total Expenses for the 12 months ended 13/01/2015 £
Liquidators' remuneration	24,410	1,026	25,436
Liquidators' disbursements	1,003	0	1,003
Agents/valuers fees	3,675	0	3,675
Legal fees	2,500	0	2,500
VAT Irrecoverable	6,318	0	6,318
	37,906	1,026	38,932