

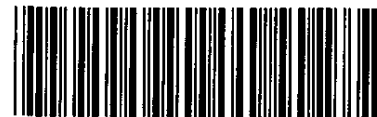
CVA3

Notice of supervisor's progress report in voluntary arrangement



Companies House

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08/04/2020

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COMPANIES HOUSE

1 Company details

Company number 03616068

Company name in full Premier Waste Management Limited

→ Filling in this form

Please complete in typescript or in
bold black capitals.

2 Supervisor's name

Full forename(s) Howard

Surname Smith

3 Supervisor's address

Building name/number KPMG LLP, 1 Sovereign Square

Street Sovereign Street

Post town Leeds

County/Region

Postcode LS14DA

Country

4 Supervisor's name ^①

Full forename(s) James Ronald Alexander

Surname Lumb

① Other supervisor

Use this section to tell us about
another supervisor.

5 Supervisor's address ^②

Building name/number KPMG LLP, 1 Sovereign Square

Street Sovereign Street

Post town Leeds

County/Region

Postcode LS14DA

Country

② Other supervisor

Use this section to tell us about
another supervisor.

CVA3

Notice of supervisor's progress report in voluntary arrangement

6 Date of voluntary arrangement

Date

d	1	d	2	m	0	m	2	y	2	y	0	y	1	y	3
---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---

7 Period of progress report

Date from

d	1	d	2	m	0	m	2	y	2	y	0	y	1	y	9
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Date to

d	1	d	1	m	0	m	2	y	2	y	0	y	2	y	0
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8 Progress report

☒ I attach a copy of the progress report

9 Sign and date

Supervisor's signature

Signature

X

Harold Smith

X

Signature date

d	0	d	3	m	0	m	4	y	2	y	0	y	2	y	0
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CVA3

Notice of supervisor's progress report in voluntary arrangement



Presenter information

You do not have to give any contact information, but if you do it will help Companies House if there is a query on the form. The contact information you give will be visible to searchers of the public record.

Contact name **Clare McCain**

Company name **KPMG LLP**

Address **Quayside House**

110 Quayside

Post town **Newcastle upon Tyne**

County/Region

Postcode **N E 1 3 D X**

Country

Dx

Telephone **Tel +44 (0) 191 401 3867**



Checklist

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Please make sure you have remembered the following:

- ☐ The company name and number match the information held on the public Register.
- ☐ You have attached the required documents.
- ☐ You have signed and dated the form.



Important information

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Crown Way, Cardiff, Wales, CF14 3UZ.
DX 33050 Cardiff.



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Supervisors' Annual Progress Report 12 February 2019 to 11 February 2020

Premier Waste Management
Limited – under a Voluntary
Arrangement and in
Liquidation

3 April 2020

Glossary

The Company and/or PWM	Premier Waste Management Limited under a Company Voluntary Arrangement and in Liquidation (Company registered number 03616068)
CVA	Company Voluntary Arrangement
CVL	Creditors Voluntary Liquidation
The Proposal	The CVA Proposal approved by creditors on 12 February 2013
The Joint Supervisors/Supervisors/we/our/us	Howard Smith and James Ronald Alexander Lumb of KPMG LLP, 1 Sovereign Square, Sovereign Street, Leeds, LS1 4DA
The Period	12 February 2019 to 11 February 2020
HMRC	HM Revenue and Customs
FTT	First Tier Tribunal (Tax)
UT	Upper Tribunal (Tax)

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In the High Court of Justice

Case No. 71 of 2013

Chancery Division

High Court of Justice Newcastle upon Tyne
District Registry

In the matter of Premier Waste Management
Limited (the 'Company')

and in the matter of the Insolvency Act 1986

We attach as Appendix 1 a copy of the Supervisors' annual summary of receipts and payments in the above Voluntary Arrangement for the period 12 February 2019 to 11 February 2020 (the 'Period') and we report as follows:

1 Receipts

1.1 Bank Interest

Bank interest of £8,871 has been received during the Period.

No further funds were received during the Period.

2 Payments

2.1 Legal Fees

Legal fees of £14,000 have been paid to enable the Joint Supervisors to continue to pursue the landfill tax claim. See section 3.2 for further information.

2.2 Corporation Tax

Corporation tax of £39 has been paid to HMRC during the Period.

2.3 Bank Charges

Bank charges of £20 have been paid during the Period.

No further payments were made during the Period.

3 Progress of the Arrangement

3.1 Unsecured Creditors

As you are aware, the Proposal stated that the expected distribution to creditors, would be in full and final settlement of 80% of each CVA creditor's claim (i.e. 80% of its debt)

allowing those CVA creditors to vote and prove for the remaining 20% in the subsequent liquidation.

According to the Directors' Statement of Affairs, as at 30 November 2012 (schedule 7 of the Proposal), the estimated claims of unsecured creditors totalled £26,202,234. This was based on the November 2012 management accounts, prepared by the Company, and was prepared on the assumption that the Company would enter liquidation immediately.

Subsequent to the date of the Statement of Affairs, the Company updated its ledgers to reflect all balances which could potentially be claimed in the CVA and subsequent liquidation. The updated balances were taken into account by the Joint Supervisors when agreeing claims.

The Estimated Outcome Statement (schedule 6 of the Proposal) was prepared as at 12 February 2013 on two assumptions: a CVA followed by a CVL and an immediate liquidation. Anticipated claims in the CVA and subsequent CVL were estimated to total £18,968,000.

As stated in the Proposal, the return to creditors through the CVA, and subsequent CVL, was estimated by the Company's directors to be 42 pence in the pound.

An interim dividend of 64.4 pence in the pound was previously declared and paid in February 2015 on the claims of unsecured creditors admitted in the CVA of the Company, totalling £15,733,163.

The total amount distributed to unsecured creditors to date is £10,128,224. A further dividend will be declared in due course. The quantum of any further dividend is dependent on a landfill tax claim made against HMRC; see below for further detail. The outcome of this claim, and any future dividends, is now entirely uncertain given the impacts of Covid-19. We will update creditors on progress in our next report.

3.2 Extension to the period of the CVA

As previously reported, Premier Waste has an ongoing landfill tax claim against HMRC. The claim is valued at £4.5 million and returns to the creditors of PWM would increase, if it is successful. As previously reported, the Company had joined an appeal against HMRC's decision on its treatment of landfill tax, together with a number of other parties, behind a lead appellant.

The claim is progressing but has not been resolved and, accordingly, the Joint Supervisors extended the period of the CVA by a further three years, to 1 June 2021, to allow them to continue to pursue this claim. Please see the progress of the claim below.

- As creditors are aware, a hearing was held before the First Tier Tribunal (Tax). The FTT found in favour of HMRC in May 2018, however, permission was granted to appeal the FTT's decision to the Upper Tribunal. As required by the Upper Tribunal rules, a Notice of Appeal was served on 27 July 2018, which was formally acknowledged by the UT.
- Permission was granted to appeal to the UT; an appeal hearing took place in November 2019.

- In January 2020, the UT issued its decision which overturned the decision of the FTT, finding in favour of the appellants (which includes the Company).
- Following this, HMRC has applied for permission to appeal the decision of the UT. The UT granted HMRC leave to appeal on two of the eight grounds for appeal it had raised. The remaining six grounds for appeal were dismissed. The case will now go forward to the Court of Appeal.
- Any progress on this case is now uncertain given the impacts of Covid-19. It is anticipated Court of Appeal hearings will not run to timetable for the foreseeable future. We will update creditors in our next report.

4 Office Holders' Remuneration

In accordance with the terms of the Proposal, the Joint Supervisors' remuneration is fixed on the basis of time properly given by them and their staff in dealing with matters arising in the Arrangement.

Attached at Appendix 2 is a detailed analysis of time spent and charge out rates, for each grade of staff, for the various areas of work carried out in the Period (as required by the Association of Business Recovery Professionals' Statement of Insolvency Practice 9) together with details of expenses incurred to date.

In the Period the Joint Supervisors incurred time costs of £26,050, representing 68 hours at an average rate of £385 per hour. This includes tax, VAT and pensions advice from KPMG LLP in-house specialists.

Disbursements of £132 were also incurred during the Period, shown at Appendix 2.

The Joint Supervisors have not drawn any fees during the Period. Fees drawn to date are £357,000.

The Proposal included an estimate of total fees to be paid to the Supervisors of £200,000 plus outlays and VAT thereon. The Joint Supervisors' time costs for the CVA to date are £471,648 and it is anticipated that these costs will increase to £520,000 by the time the CVA is concluded. These costs are higher than anticipated, predominantly as a result of increased time required in the agreement of creditors' claims and time taken in pursuing the landfill tax claim and joining the subsequent appeal as outlined in section 3.2.

The estimated future costs relate to progressing the landfill tax claim appeal process, making a further distribution to creditors and dealing with statutory obligations, including corporation tax, and management of the case up until 1 June 2021.

Please note that all staff who have worked on this assignment, including cashiers and secretarial staff, have charged time directly to the assignment and are included in the analysis of time spent. However, the cost of staff employed in central administration functions is not charged directly to this assignment but is reflected in the general level of charge out rates.

A creditors' guide to fees can be found at:

<https://www.r3.org.uk/media/documents/publications/professional/Voluntary%20Arrangement%20Creditor%20Fee%20Guide%20April%202017.pdf>

However, if you are unable to access this guide and would like a copy then please contact Clare McCain on 0191 4013867.

5 Future conduct of the arrangement

The CVA cannot be concluded at present. The Joint Supervisors will continue to perform their duties as set out in the Proposal. This will include, but is not limited to:

- resolution of the ongoing landfill tax claim;
- the agreement of remaining creditors' claims;
- a further distribution to unsecured creditors; and
- any other functions which it may be necessary or expedient for the Supervisor to undertake in connection with the implementation of the Arrangement.

If you have any further queries in relation to the above please direct them to Clare McCain on 0191 401 3867.

Signed



Dated

3 April 2020

Howard Smith
Joint Supervisor

Appendix 1 Receipts and payments account for the period 12
February 2019 to 11 February 2020

Statement of affairs (£)		From 12/02/2019 To 11/02/2020 (£)	From 12/02/2013 To 11/02/2020 (£)
ASSET REALISATIONS			
297,650.00	Plant & machinery	NIL	385,486.00
267,833.00	Other debtors	NIL	NIL
1,007,756.00	Book debts	NIL	1,665,730.46
460,580.00	Inter company debtors	NIL	404,454.00
	CVA contributions	NIL	1,676,189.34
5,601,422.00	Cash at bank	NIL	3,992,902.94
	Bond release	NIL	2,760,790.73
	Return of Barclays retained cash	NIL	825,000.00
		NIL	11,710,553.47
OTHER REALISATIONS			
	Bank interest, gross	8,870.93	111,528.46
	Bank interest, net of tax	NIL	236.23
	Accrued income	NIL	156,765.03
	Sundry refunds	NIL	49,320.53
	Funds received in error	NIL	36,407.95
	Funds held for employee compromise	NIL	50,000.00
		8,870.93	404,258.20
COST OF REALISATIONS			
	Employee compromise - payment	NIL	(50,000.00)
	Management team bonus	NIL	(167,508.63)
	Costs of bond release	NIL	(45,971.48)
	Repayment of funds rec'd in error	NIL	(36,407.95)
	Supervisors' fees	NIL	(357,000.00)
	Agents'/Valuers' fees	NIL	(5,836.50)
	Agents'/Valuers' disbursements	NIL	(15,187.33)
	Legal fees	(14,000.00)	(26,180.50)
	Legal disbursements	NIL	(150.00)
	Corporation tax	(38.57)	(14,841.36)
	VAT interest	NIL	(245.29)
	Sundry expenses	NIL	(119.07)
	Insurance of assets	NIL	(464.28)
	Bank charges	(20.00)	(250.00)
		(14,058.57)	(720,162.39)
UNSECURED CREDITORS			

Statement of affairs (£)		From 12/02/2019 To 11/02/2020 (£)	From 12/02/2013 To 11/02/2020 (£)
(3,876,626.00)	Trade & expense	NIL	(914,328.25)
(797,230.00)	Employees	NIL	(47,168.25)
(1,484,440.00)	Barclays Mercantile	NIL	(530,236.79)
(4,149,113.00)	Restoration & aftercare provision	NIL	NIL
(1,602,699.00)	Landfill tax	NIL	NIL
(957,834.00)	Connected companies	NIL	(381,202.49)
(5,872.00)	Finance lease	NIL	(296,479.07)
(12,500,000.00)	Pension scheme	NIL	(7,884,650.00)
(828,420.00)	Operating lease	NIL	NIL
	National Insurance Fund	NIL	(74,158.89)
		NIL	(10,128,223.74)
	DISTRIBUTIONS		
(500,000.00)	Ordinary shareholders	NIL	NIL
		NIL	NIL
(19,066,993.00)		(5,187.64)	1,266,425.54
	REPRESENTED BY		
	Floating ch. VAT rec'able		9,440.87
	Supervisors trust account		263,625.54
	Floating charge mon. mar.3 Months		1,000,000.00
	Floating ch. VAT payable		(54,318.20)
	Floating ch. VAT control		47,677.33
			1,266,425.54

Appendix 2 Time cost analysis for the period from 12 February 2019 to 11 February 2020

	Hours	Time Cost (£)	Average Hourly Rate (£)
Administration & planning			
Cashiering			
Fund management	0.50	155.00	310.00
General (Cashiering)	6.60	2,058.30	311.86
Reconciliations (& IPS accounting reviews)	1.15	384.25	334.13
General			
Fees and WIP	0.30	93.00	310.00
Statutory and compliance			
Checklist & reviews	13.15	5,077.75	386.14
Statutory receipts and payments accounts	1.70	527.00	310.00
Strategy documents	3.35	1,693.50	505.52
Tax			
Post appointment corporation tax	7.35	3,028.25	412.01
Post appointment VAT	1.40	434.00	310.00
Creditors			
Creditors and claims			
Agreement of preferential claims	0.50	295.00	590.00
General correspondence	1.95	604.50	310.00
Legal claims	2.90	1,584.00	546.21
Statutory reports	16.60	5,761.00	347.05
Realisation of assets			
Asset Realisation			
Other assets	10.20	4,354.50	426.91
Total in period	67.65	26,050.05	385.07
Brought forward time (appointment date to SIP 9 period start date)	1,418.80	445,597.75	
SIP 9 period time (SIP 9 period start date to SIP 9 period end date)	67.65	26,050.05	
Carry forward time (appointment date to SIP 9 period end date)	1,486.45	471,647.80	

All staff who have worked on this assignment, including cashiers and secretarial staff, have charged time directly to the assignment and are included in the analysis of time spent. The cost of staff employed in central administration functions is not charged directly to the assignment but is reflected in the general level of charge out rates.

All time shown in the above analysis is charged in units of six minutes.

Joint Supervisors' disbursements

The Joint Supervisors have incurred disbursements of £132 during the Period.

Disbursements	Category 1		Category 2		Totals (£)
	Paid (£)	Unpaid (£)	Paid (£)	Unpaid (£)	
External printing		23.94		NIL	23.94
Postage		107.73		NIL	107.73
Total		131.67		NIL	131.67

KPMG Restructuring Policy for the recovery of disbursements

Where funds permit the officeholders will seek to recover both Category 1 and Category 2 disbursements from the estate. For the avoidance of doubt, such expenses are defined within SIP 9 as follows:

Category 1 disbursements: These are costs where there is specific expenditure directly referable both to the appointment in question and a payment to an independent third party. These may include, for example, advertising, room hire, storage, postage, telephone charges, travel expenses, and equivalent costs reimbursed to the officeholder or his or her staff.

Category 2 disbursements: These are costs that are directly referable to the appointment in question but not a payment to an independent third party. They may include shared or allocated costs that can be allocated to the appointment on a proper and reasonable basis, for example, business mileage.

The only Category 2 disbursements that KPMG Restructuring currently charges is mileage. Mileage claims fall into three categories:

- use of privately-owned vehicle or car cash alternative – 45 pence per mile;
- use of company car – 60 pence per mile; and
- use of partner's car – 60 pence per mile.

For all of the above car types, when carrying passengers an additional 5 pence per mile per passenger will also be charged where appropriate.

Any disbursements to be paid from the estate are disclosed within the summary of disbursements above.

Appendix 3 Charge out rates for the period from 12 February 2019 to 11 February 2020

Charge-out rates (£) for: Restructuring			
Grade	From 01 Jan 2019 £/hr	From 01 Oct 2019 £/hr	From 01 Jan 2020 £/hr
Partner	655	655	690
Director	590	590	620
Senior Manager	535	535	560
Manager	445	445	467
Senior Administrator	310	310	325
Administrator	225	225	236
Support	140	140	147

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