

# Liquidator's Annual Progress Report to Creditors

**Crouch Commodities Limited**  
**- In Compulsory Liquidation**  
**19 August 2015**



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## **APPENDICES**

- A Receipts and Payments Account from 14 July 2014 to 13 July 2015
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- C Additional Information in relation to Liquidator's fees pursuant to Statement of Insolvency Practice No 9

## **1 Introduction and Statutory Information**

- 1 1 This report provides an update on progress in the liquidation for the period from 14 July 2014 to 13 July 2015 inclusive. By way of reminder, I can confirm that I, Michaela Joy Hall of Kingston Smith & Partner LLP, 105 St Peter's Street, St Albans, Herts AL1 3EJ was appointed as Liquidator of Crouch Commodities Limited ("the Company") on 14 July 2014, following the presentation of a Winding-Up Petition on 23 January 2014 by HM Revenue & Customs ("HMRC") in respect of unpaid VAT of £1,081,930. A Winding-Up Order was made on 10 March 2014.
- 1 2 The registered office of the Company has been changed to 105 St Peter's Street, St Albans, Herts AL1 3EJ and its registered number is 4593081.
- 1 3 The trading address of the Company was Lakeview House, 4 Lake Meadows Office Park, Woodbrook Crescent, Billericay, Essex CM12 0EQ.
- 1 4 The main trading activity of the Company involved the purchase and onward sale of mobile telephones.

## **2 Realisation of Assets**

### ***Cash at Bank***

- 2 1 My enquiries to date have revealed that the Company originally held an existing credit balance of £186,121 with the First Curacao International Bank N V ("FCIB"), ("the bank") which went into Emergency or Special Measures under the Supervision of Banks and Credit Institution Ordinances 1994 on 9 October 2006. At around the same time, the management powers of the bank were effectively devolved to the Bank van de Nederlandse Antillen ("BNA") and all accounts held by FCIB were frozen with immediate effect.
- 2 2 The role of the BNA was then taken over by the Central Bank of Curacao and St Maarten following a change in the sovereign status of Curacao. Curators were also appointed to take over the day to day management of FCIB under the Emergency or Special Measures referred to at paragraph 2 1 above.
- 2 3 Although the curators were initially reluctant to release any funds the terms of an official "Protocol" was eventually agreed between the BNA, the Dutch Criminal Tax Authorities, FCIB and HM Revenue & Customs ("HMRC") which then involved the Liquidator having to provide a detailed report on the Company's former trading activities to HMRC.
- 2 4 Between 2008 and 2013, Protocols were regularly submitted to HMRC in order to secure the release of 75% of the funds held in a relatively large number of FCIB accounts on the basis that the remaining 25% balances would effectively be held over until such time as the solvency and associated liquidity of FCIB had been fully resolved to the satisfaction of the bank's curators and the Central Bank in Curacao.
- 2 5 FCIB stopped remitting funds in July 2013 when proceedings brought against the beneficial owner of the bank by the Dutch Criminal Tax Authorities reached a successful conclusion. Further announcements on the FCIB website then led me to conclude that the bank was possibly seeking to avoid having to make any further payments to former account holders. Unconfirmed reports also suggested that a significant settlement had been paid to the Dutch Criminal Tax Authorities but despite extensive enquiries I was unable to establish whether this had been financed, either wholly or in part, by the bank.
- 2 6 Negotiations between a number of leading IP firms including Kingston Smith & Partners LLP, FCIB and HMRC were finally concluded at the beginning of 2015, when an Omnibus Settlement Agreement was signed in respect of a large number of existing credit balances.
- 2 7 Given the length of time that has elapsed since the bank originally froze accounts in 2006, and the decision of FCIB in 2013 to suspend any further repayments of existing account balances, I believe that I have reached a viable and commercially attractive settlement which also has the full and continuing support of HMRC.

- 2 8 The settlement itself was based on categorising liquidation estates as follows,
- 2 8 1 Category 1 accounts are those where FCIB had previously remitted 75% of the total account balance. The settlement agreed with the bank means that I have now made an additional realisation of 7.5 % which represents an overall recovery rate of 82.5% on a broad portfolio of cases.
- 2 8 2 Category 2 accounts are those accounts where I am already the account holder or have successfully obtained an enforceable judgment against an account held in the name of a third party after July 2013. In those cases, I have negotiated an 80% recovery of the total account balance. This represents an increase of 5% over the level of payments that FCIB was making between 2008 and July 2013 when it effectively stopped remitting funds altogether.
- 2 8 3 Category 3 accounts represent those where there is either ongoing legal action against a third party or where the funds held in the account are already subject to a claim by a third party. I have negotiated a 77.5% settlement rate on this category which again represents an improvement on the overall level of funds that FCIB was prepared to release prior to July 2013.
- 2 9 This case falls within Category 2.
- 2 10 As a result of the settlement agreement, FCIB commenced remitting funds again on 24 February 2015. As such, I can confirm that I have now received the sum of £148,897 less £11.76 in administration fees, which represents 80% of the total account balance held by the bank. The terms of the settlement agreed with FCIB, which remain confidential, also mean that there will be no further realisations from this particular source.

### **3 Investigations**

- 3 1 Following my appointment as liquidator on 14 July 2014, I reviewed the initial handover papers obtained from the Official Receiver and entered further correspondence with a number of third parties including HMRC and FCIB.
- 3 2 Having conducted a detailed review of some of the trades conducted by the Company, my staff then met with the former director at my London offices on 17 April 2015.
- 3 3 My investigations into the affairs of the Company which also appear to include the assignment of a potential claim in relation to the non-payment of costs under an existing After The Event insurance policy remain ongoing however, and are unlikely to be resolved in the short term.
- 3 4 As you may be aware, in a Compulsory Liquidation the duty to investigate the Company's affairs is the responsibility of the Official Receiver. There is no requirement on the liquidator to submit a report or return on the directors' conduct to the Department for Business, Innovation and Skills ("DBIS"). However, where matters are brought to the liquidator's attention these are reported as appropriate to the Official Receiver for further consideration.

### **4 Creditors**

#### ***Secured Creditors***

- 4 1 I am not aware of any secured creditors.

#### ***Preferential Creditors***

- 4 2 I am not aware of any preferential creditors.

#### ***Unsecured Creditors***

- 4 3 I have received claims totalling £2,650,090 from three creditors.

## 5 Liquidator's Remuneration

- 5 1 The creditors approved that the basis of the liquidator's remuneration be fixed by reference to the time properly spent by her and her staff in managing the Liquidation at a meeting held on 11 September 2014
- 5 2 My time costs from 14 July 2014 to 13 July 2015 are £39,879 18 This represents 105 00 hours at an average rate of £379 80 per hour Attached as Appendix B is a Time Analysis which provides details of the activity costs incurred by staff grade during this period in respect of the costs fixed by reference to time properly spent by me in managing the liquidation For the avoidance of doubt, I can confirm that the sum of £27,947 93 plus VAT together with disbursements of £87 49 have been drawn on account
- 5 3 The main activities undertaken under the general heading of "Administration & Planning" include the setting up of internal files and statutory compliance together with reviewing checklists and preparing file reviews
- 5 4 The heading of "Realisation of Assets" also includes the identification, securing, insuring and bonding of Company assets together with maintaining the liquidation estate bank accounts
- 5 5 The section headed "Investigations" consists of conducting records examinations, other scheduling and information analysis, correspondence with third parties, developing strategies, planning and attending meetings
- 5 6 The section headed "Creditors" includes the preparation of reports to creditors, claims, proofs and related correspondence
- 5 7 A copy of 'A Creditors' Guide to Liquidators' Fees' is available on request or can be downloaded from [www.kspllp.co.uk/creditorsguidetofees](http://www.kspllp.co.uk/creditorsguidetofees)
- 5 8 Attached as Appendix C is additional information in relation to this firm's policy on staffing, the use of subcontractors, disbursements and details of our current charge-out rates by staff grade

## 6 Liquidator's Expenses

- 6 1 The following expenses have been incurred since my appointment as liquidator,

Supplier/ Service Provider	Nature of expense incurred	Amount incurred to date £	Paid to date £	Amount Outstanding £
Marsh	Bonding Bordereau	210 00	10 00	200 00
TMP Worldwide Limited	Statutory Advertising	71 61	71 61	0 00
1st Class Transcription Services Limited	Transcription costs	85 80	0 00	85 80
Kingston Smith & Partners LLP	Photocopies	3 60	3 60	0 00
Royal Mail	Postage	2 28	2 28	0 00
		373 29	87 49	285 80

## 7 Proposed Resolution

- 7 1 I now intend to propose a resolution that the liquidator be paid a further fixed fee from the estate of the Company in relation to my extensive and wide ranging negotiations with FCIB
- 7 2 As such, I am seeking formal approval of a further fixed fee under the provisions of Rule 4 63A of the Insolvency Rules 1986, whereby the following resolution will be proposed,

**"To approve that the Liquidator be paid a further fixed fee of £50,000 from the estate of the Company in relation to the time costs incurred by Kingston Smith & Partners LLP in obtaining an overall settlement with the First Curacao International Bank N.V."**

- 7 3 I do not, at this stage, propose to summon a meeting of creditors. However, under the provisions of Rule 4.57 of the Insolvency Rules 1986, creditors with the support of at least 10% of the total value of creditors may request that such a meeting is summoned. Any requests must be made to my office in writing and be accompanied by a list of the creditors concurring with the request and the amount of their claim in the liquidation.

## **8 Meeting by Correspondence**

- 8 1 In light of the above, I have attached a voting form which contains the above resolution. This must be completed and returned to me at the address listed below by 12 noon on 9 September 2015.

## **9 Creditors' rights**

- 9 1 Within 21 days of the receipt of this Report, a secured creditor, or an unsecured creditor (with the concurrence of at least 5% in value of the unsecured creditors) may request in writing that the liquidator provide further information about his remuneration or expenses which have been itemised in this Progress Report.
- 9 2 Any secured creditor, or an unsecured creditor (with the concurrence of at least 10% in value of the unsecured creditors) may within 8 weeks of receipt of this Progress Report make an application to Court on the grounds that, in all the circumstances, the basis fixed for the liquidator's remuneration is inappropriate and/or the remuneration charged or the expenses incurred by the liquidator, as set out in this Progress Report, are excessive.

## **10 Next Report**

- 10 1 I am required to provide a further report on the progress of the liquidation within two months of the end of the next anniversary of the liquidation, unless I have concluded matters prior to this, in which case I will write to all creditors with my Final Progress Report ahead of convening the final meeting of creditors.

Yours faithfully



**MICHAELA JOY HALL**  
Liquidator

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**Crouch Commodities Limited  
(In Liquidation)**

**Liquidator's Abstract Of Receipts And Payments  
To 13 July 2015**

RECEIPTS	Statement of Affairs (£)	Total (£)
Cash at Bank		148,885 80
Bank Interest Gross		21 98
Petitioners Deposit		1,165 00
Vat Control Account		5,607 08
		<hr/>
		155,679 86
		<hr/>

**PAYMENTS**

O R Disbursements	47 04
O R Remuneration	2,235 00
DTI Cheque Fees	1 25
Sec of State Fees	25,146 57
Petitioners Costs	996 00
Office Holders Fees	27,947 93
Office Holders Expenses	87 49
Tax Deducted at Source	4 40
Bank Charges	88 00
Vat Receivable	5,607 08
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	62,160 76
Net Receipts/(Payments)	93,519 10
	<hr/>

**MADE UP AS FOLLOWS**

ISA IB	93,519 10
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	93,519 10
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Michaela Hall  
Liquidator

## Crouch Commodities Limited

### Summary of Fees and Expenses

From 14/07/2014 to 13/07/2015

#### Time Costs

The following is a summary of the time costs incurred by the Office Holder and his staff in the administration of this matter. It should be read in conjunction with the Office Holder's Report for the period referred to above.

Work Activity	Partner Hrs	Manager / Supervisor Hrs	Administrator Hrs	Total Hrs	Time Costs (£)	Average Costs (£)
Administration & Planning	0 67	38 67	6 17	45 50	16,519 16	363 06
Cashiering - set-up, maintenance &	0 08			0 08	32 92	411 50
Strategy reviews/Checklists/Diary	0 58	1 67	0 50	2 75	988 75	359 55
Books & Records administration		0 25		0 25	98 75	395 00
Case Planning/Information		30 08		30 08	11,882 92	395 04
Dealing with company/Debtor re		1 17		1 17	460 83	393 87
General Admin/Billing/Filing		3 58	1 92	5 50	1,745 41	317 35
Post Appointment VAT & CTax		0 50	0 50	1 00	220 00	220 00
Set-up Administration/IPS/Initial		1 17	3 25	4 42	990 83	224 17
Statutory filing with Court, Companies		0 25		0 25	98 75	395 00
Investigations	3 42	51 42		54 83	21,720 85	396 15
Litigation - document review	2 42			2 42	1,371 25	566 63
Strategy, planning, meetings and	1 00	35 42		36 42	14,029 59	385 22
Information capture/initial		10 42		10 42	4,114 59	394 87
Other scheduling & information		5 58		5 58	2,205 42	395 24
Realisation of Assets	1 58	0 08	0 17	1 83	1,000 00	546 45
Cash & Bank balances/VA contrbs &	1 58			1 58	942 08	596 25
Identification, securing, insuring &		0 08	0 17	0 25	57 92	231 68
Creditors		0 83	2 00	2 83	639 17	225 86
Correspondence/Preparation of		0 83	2 00	2 83	639 17	225 86
<b>Grand Total</b>	<b>5 67</b>	<b>91 00</b>	<b>8 33</b>	<b>105 00</b>	<b>39,879 18</b>	

#### Notes

1 All costs are shown excluding VAT and include an element of undrawn work in progress. It should also be noted that the office holder's fees and other expenses included in his Abstract Receipts and Payments, will include irrecoverable VAT, where the insolvent was not formerly registered for VAT.

2 The time accounting system utilised by Kingston Smith & Partners LLP does not allow for analysis of time, by task, prior to 30 November 2002.

3 The number of hours shown have been rounded to two decimal places.

#### Disbursements

##### Category 1 Disbursements

367 41

These are out of pocket expenses which are directly attributable to the case. These are charged to the case and billed as funds allow.

##### Category 2 Disbursements

These are costs which are allocated to the case, where no direct costs are applicable. In this case, category 2 disbursements have been charged to the case as follows:

Photocopies	3 60
Postage	2 28
	<u>5 88</u>



## Appendix C

### ADDITIONAL INFORMATION IN RELATION TO LIQUIDATOR'S FEES PURSUANT TO STATEMENT OF INSOLVENCY PRACTICE 9 (SIP9)

#### 1 Policy

Detailed below is Kingston Smith & Partner's LLP policy in relation to

- Staff allocation and the use of subcontractors
- Professional advisors
- Disbursements

##### 1.1 *Staff allocation and the use of subcontractors*

Our general approach to resourcing our assignments is to allocate staff with the skills and experience to meet the specific requirements of the case

The constitution of the case team will usually consist of a Partner, Manager, Administrator and/or an Assistant. The exact constitution of the case team will depend on the anticipated size and complexity of the assignment and additional staff may be allocated to meet the demands of the case.

We are not proposing to utilise the services of any sub-contractors in this case.

##### 1.2 *Professional advisors*

On this assignment we have used the professional advisors listed below. We have also indicated alongside, the basis of our fee arrangement with them, which is subject to review on a regular basis.

Name of Professional Advisor	Basis of Fee Arrangement
Marsh (insurance)	Scale rate
SA Law (legal)	Set Fee

Our choice was based on our perception of their experience and ability to perform this type of work, the complexity and nature of the assignment and the basis of our fee arrangement with them.

##### 1.3 *Disbursements*

Category 1 disbursements do not require approval by creditors. The type of disbursements that may be charged as a Category 1 disbursement to a case generally comprise of external supplies of incidental services specifically identifiable to the case, such as postage, case advertising, invoiced travel and external printing, room hire and document storage. Also chargeable will be any properly reimbursed expenses incurred by personnel in connection with the case.

Category 2 disbursements do require approval from creditors. These are costs which are directly referable to the appointment in question but are not payments which are made to an independent third party and may include shared or allocated costs that can be allocated to the appointment on a proper and reasonable basis such as internal room hire, document storage or business mileage.

On this case the following Category 2 disbursements have been incurred since appointment,

Type and purpose	£
Photocopying	3 60
Postage	2 28

## 2 Charge-out rates

A schedule of Kingston Smith & Partners LLP charge-out rates was issued to creditors at the time the basis of the Liquidator's remuneration was approved. Below are details of this firm's charge out rates which have been applied with effect from 1 May 2014,

	Per Hour £
<b>Partner</b>	595
<b>Senior Manager</b>	495
<b>Manager</b>	450
<b>Other Senior Professionals</b>	
Supervisor/Assistant Manager	395
Senior Administrator	240
Administrator	180
Junior Administrator	140
<b>Support Staff</b>	
Experienced Cashier	260
Cashier	180
Support	110

Please note that this firm records its time in minimum units of 5 minutes

## Voting Form – Business to be conducted by correspondence (no meeting to be held)

Name of Company

Crouch Commodities Limited

Company number

4593081

Notice is hereby given by Michaela Joy Hall of Kingston Smith & Partners LLP, 105 St Peter's Street, St Albans, Herts AL1 3EJ to the creditors of Crouch Commodities Limited that the following resolution is to be considered by creditors by correspondence rather than at a meeting. Please indicate whether you are in favour or against the resolution.

This form must be received at Kingston Smith & Partners LLP, 105 St Peter's Street, St Albans, AL1 3EJ by 12 00 hours on 9 September 2015 in order to be counted. It must be accompanied by details in writing of your claim. Failure to do so will lead to your vote(s) being disregarded.

Signed  \_\_\_\_\_

**MICHAELA JOY HALL**  
Liquidator

Dated 19 August 2015

### Resolution

**"To approve that the Liquidator be paid a further fixed fee of £50,000 from the estate of the Company in relation to the time costs incurred by Kingston Smith & Partners LLP in obtaining an overall settlement with the First Curacao International Bank N.V."**

I am \*in Favour / Against

To be completed by the creditor when returning the form

Name of creditor \_\_\_\_\_

Signature of creditor \_\_\_\_\_

(If signing on behalf of creditor, state capacity e.g. director/solicitor) If you require any further details or clarification prior to returning your votes, please contact me / us at the address above

Date \_\_\_\_\_