

CITRISTAR (PTY) LIMITED (IN LIQUIDATION)
("THE COMPANY")

REGISTRATION NUMBER : 2002/029192/07

MASTER'S REFERENCE NUMBER : C57/2007

REPORT OF THE JOINT LIQUIDATORS, JOHANNES FREDERICK KLOPPER and EDWIN JOHN PETERSEN, IN TERMS OF SECTION 402 OF THE COMPANIES ACT NO. 61 OF 1973, AS AMENDED, ("THE ACT"), TO BE SUBMITTED AT A SECOND MEETING OF CREDITORS TO BE HELD BEFORE THE MAGISTRATE, STELLENBOSCH, ON WEDNESDAY, 17 OCTOBER 2007 AT 10H00

ORDER OF THE COURT AND MEETINGS CREDITORS

The company was placed under provisional liquidation by Order of the High Court of South Africa (Cape of Good Hope Provincial Division) on 15 February 2007 pursuant to an application by the Stargrow Group (Pty) Limited under Case Number 828/2007.

Messrs J F Kloppe and E J Petersen were appointed as Provisional Joint Liquidators by the Master of the High Court, Cape Town ("the Master"), in terms of Certificate of Appointment Number C57/2007 dated 27 February 2007.

The provisional order of liquidation was made final on 27 March 2007.

The first meeting of creditors was held before the Magistrate, Stellenbosch, on 25 July 2007. No claims were submitted and proved at this meeting.

No voting took place at the first meeting of creditors and the Provisional Joint Liquidators were appointed as Final Liquidators by the Master in terms of Certificate of Appointment Number C57/2007 dated 05 September 2007.

HISTORY AND INFORMATION OF THE COMPANY

According to the records obtained from the Registrar of Companies, the company was registered as a private company and was incorporated in terms of the

Companies Act, No. 61 of 1973, under Registration Number 2002/029192/07 with its principal place of business situated at 21 Electron Street, Techno Park, Stellenbosch, Western Cape.

REGISTERED ADDRESS

The registered address of the company is reflected as being De Waterkant Building, Helderberg Street, Stellenbosch, Western Cape.

DIRECTORS AND SHAREHOLDERS

It appears from our investigations that the following two persons served as the directors of the company as at date of liquidation:

- Petrus Johannes Jansen van Rensburg.
- Michiel Hendrik Prins

The following were the two shareholders of the company with 50% equal shares in the company:

- Vista Hermosa Trust.
- Stargrow Group (Pty) Limited.

BUSINESS OF THE COMPANY

The principal business of the company was to commercialise fruit cultivars. This involved the cultivation of trees under licence as well as the marketing of the fruit from these trees. The main source of income for the company was derived from royalties being the percentage of income earned from the trees under cultivation and the fruit sold from the trees. In some instances royalties were derived solely from the trees and in other instances royalties were derived solely from the fruit.

AUDITORS

The former auditor of the company is reflected as being Loubser du Plessis Inc of De Waterkant Building, Helderberg Street, Stellenbosch, Western Cape.

STATEMENT OF AFFAIRS

We have not as yet been placed in possession of a Statement of Affairs by the directors as required in terms of Section 363 of the Companies Act, No. 61 of 1973, as amended. We have, however, not been hampered in our administration of the affairs of the company as a result of this.

SECTION 402(a) : FINANCIAL STATEMENT OF ASSETS AND LIABILITIES

The following represents the assets and liabilities of the company as at date of liquidation that we are aware of. The assets and liabilities listed are subject to verification and adjustment and may change depending on the claims submitted for proof.

ASSETS	AMOUNT {R}	AMOUNT{R}
<u>Movable Assets</u>		
Closing balance of cash in bank		R5 335,93
Outstanding book debts approximately		R500 000,00
<i>SUB-TOTAL</i>		R505 335,93
LIABILITIES	AMOUNT {R}	AMOUNT {R}
Secured Creditors : None	R NIL	
Preferent Creditors : Estimated at	R78 028,00	
Concurrent Creditors : estimated at	R202 740,00	
<i>EXCESS</i>	R224 567,93	
TOTAL	R505 335,93	R505 335,93

COMMENTS ON THE ASSETS:

We are still in the process of collecting the outstanding book debts of approximately R500 000,00 and have to date collected the amount of R76 207.24.

COMMENT ON THE LIABILITIES

The liabilities relate in the main to monies due to SARS in respect of a VAT claim and various loan accounts.

SECTION 402(b) : CAUSES OF THE COMPANY'S FAILURE

According to documentation lodged and investigations conducted, the following would appear to be the main reasons for the liquidation of the company:

There was a conflict of interest between the directors and shareholders of the company which weakened the relationship between the directors and shareholders. Despite several meetings between the parties and their legal representatives to resolve these differences, agreements could not be reached which resulted in a deadlock.

Should the situation have continued as such the company would have suffered severe damages. As the company was no longer in a position to meet its obligations in terms of various contracts and as the personal relationships between the directors and shareholders could not be resolved, the liquidation of the company was consequently applied for by one of the shareholders of the company.

SECTION 402(c) : REPORT TO THE MASTER IN TERMS OF SECTION 400 (2) OF THE COMPANIES ACT

Based upon the information available to us at this stage, it is not our intention to submit a report to the Master of the High Court. A report will be submitted at a later stage should it become necessary.

SECTION 402(d) : PERSONAL LIABILITIES OF DIRECTORS OR OFFICERS

At this stage we are still in the process of investigating whether the former directors of the company may be held personally liable for the debts of the company. Should information come to light that would prove that the former directors can be held personally liable, a report will be submitted should it become necessary.

SECTION 402(e) : LEGAL PROCEEDINGS

We have no knowledge of any legal proceedings pending or threatened by or against the company as at date of liquidation other than actions relating to the recovery of debt.

SECTION 402(f) : ENQUIRY

Based upon the information available to us at this stage, it appears that an enquiry may be necessary with regard to the formation and failure of the company in terms of the provisions of the Act. A report will be submitted should it become necessary.

SECTION 402(g) : BOOKS AND RECORDS

The books and records in terms of the Act have been handed to us.

SECTION 402(h) : ESTIMATED DIVIDEND

There is no danger of a contribution being levied upon creditors in this matter. Based on asset realisations and known claims, there would appear to be a prospect of a dividend award due to creditors in this estate.

SECTION 402(i) : MATTERS REQUIRING THE FURTHER DIRECTIONS OF CREDITORS

Such directions as are required of creditors are contained in the draft resolutions numbers 1 – 13 which are submitted for consideration and adoption by the creditors at the second meeting of creditors in conjunction with this report. Creditors are requested to adopt these resolutions to enable the administration of the company in liquidation to be continued with and finalised.

GENERAL

- 1 In the light of recent criticism involving Liquidator's fees and a judgement in the Supreme Court of Appeal handed down in April 2004 and reported in January 2005, we deem it appropriate to bring to your attention our view that the Master of the High Court must tax Liquidator's fees in accordance with the tariff as is provided for in terms of Section 384(1) of the Companies Act, but having done so, the Master may reduce or increase the amount arrived at by applying the tariff if, in his or her discretion, there is "good cause" to do so.
- 2 The dominant provision of the aforesaid judgement is that the remuneration to which a Liquidator is entitled is remuneration for work or services rendered, not a set commission, and that it must be reasonable.
- 3 The tariff serves as a point of departure for the determination of the appropriate fee. However, once taxation is complete, the Master has a flexible discretion to increase or decrease the amount of remuneration arrived at by the previous application of the tariff.
- 4 The concept of 'good cause' is very wide and there is nothing in the Act which indicates that it should be interpreted so as to exclude any factor which may be relevant in determining what constitutes reasonable remuneration for a Liquidator's services in the circumstances of each case.
- 5 Obviously, what factors are relevant will vary from case to case, but may certainly include aspects such as:

- 5.1 the complexity of the estate in question;
- 5.2 the degree of difficulty encountered by the Joint Liquidators in the administration thereof;
- 5.3 the amount of work done by the Joint Liquidators **and the time spent by them in the discharge of their duties involved.**
- 6 If, in the administration of the estate particular difficulties are experienced by the Joint Liquidators because of the nature of the assets or some other similar feature connected with the administration, this would undoubtedly constitute 'good cause' entitling the Master to increase the tariff remuneration.
- 7 In view of the above we hereby advise that we have resolved to keep time records of the work done by our staff in order to enable the Master to be guided along the above-mentioned guidelines and we are in the process of writing up detailed time sheets of the effort and correspondence in this matter which will then be presented to the Master when submitting the next account in this matter.
- 8 We also wish to bring to your attention that the SCA held in the above-mentioned reported judgement that an hourly fee of R1 800,00 for a Liquidator based on the experience and qualifications of the parties in that matter would not be inappropriate. For your information we also advise that the charge out rates of our staff will be based on this rate as a point of departure and taking into consideration the qualifications of our staff.

SIGNED AT STELLENBOSCH ON THIS

8/2

October
DAY OF SEPTEMBER 2007

.....
JOHANNES FREDERICK KLOPPER
JOINT LIQUIDATOR

SIGNED AT ATHLONE ON THIS *28th* DAY OF SEPTEMBER 2007

.....
EDWIN JOHN PETERSEN
JOINT LIQUIDATOR

C/O INDEPENDENT TRUSTEES (PTY) LIMITED
P O BOX 820
STELLENBOSCH
7599

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TELEFAX: 021 – 880 5430

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RESOLUTIONS

**RESOLUTIONS TO BE SUBMITTED AT THE SECOND MEETING OF CREDITORS
TO BE HELD BEFORE THE MAGISTRATE, STELLENBOSCH, ON WEDNESDAY,
17 OCTOBER 2007 AT 10H00**

RESOLVED THAT:

1. The report of the Provisional Joint Liquidators or Joint Liquidators, as the case may be, hereinafter referred to as "the Joint Liquidators", as submitted, be received and adopted and all their actions referred to therein be and are hereby confirmed, ratified and approved.
2. All actions of whatsoever nature heretobefore taken by the Joint Liquidators be and are hereby confirmed, ratified and approved.
3. The Joint Liquidators be granted the authority and is vested with all the powers mentioned in Section 386(4) (a) – (i) of the Companies Act No 61 of 1973, as amended, ("The Act") such powers to be exercised at their sole and absolute discretion.
4. The Joint Liquidators be and are hereby authorised in their sole and absolute discretion to:
 - 4.1. Take legal advice on any question of law affecting the administration and distribution of the company;

- 4.2. Institute or defend on behalf of the company any action or other legal proceedings of a civil nature for the recovery of monies due to the company or otherwise and subject to the provisions of any law relating to criminal procedure, institute any criminal proceedings;
- 4.3. Hold any enquiry into the affairs of the company and/or any matter relating thereto;
- 4.4. Investigate and institute legal proceedings for the recovery of any voidable or undue preferences, voidable dispositions of property or any other impeachable transactions of whatsoever nature and to abandon same at any time;
- 4.5. Write up the books of the company as may be required, and if necessary, to produce a balance sheet, audited or not, as at the date of liquidation, either for the purpose of investigating the affairs of the company, establishing the claims of creditors, or any other purpose.
5. The Joint Liquidators be and are hereby authorised in their sole and absolute discretion to employ and engage the services of attorneys and/or counsel (senior and/or junior) and/or accountants and/or bookkeepers and/or any employee of the company and/or recording agents and/or any other person who in the sole discretion of the Joint Liquidators may be of assistance in the winding-up of the company in relation to any matter referred to in 4 above and further to pay all the costs thereof of whatsoever nature out of the estate as costs incurred in the liquidation.
6. The Joint Liquidators be and are hereby authorised to collect any debts due to the company and for the purpose thereof to sell or compound or compromise any of these debts for such sum and upon such terms and conditions as they in their sole discretion may deem fit, and to accept any part of the debt in settlement thereof, and to grant an extension of time for the payment of any such debt, and to abandon any debt which they in their sole discretion may deem to be irrecoverable.
7. The Joint Liquidators be and are hereby authorised to dispose of any movable and immovable property of the company, whether in their possession or under their control now or to come into their possession or under their control in the future by public auction, private treaty or public tender upon such terms and conditions as they in their sole and absolute discretion shall determine and to abandon any such assets for which they can find no purchaser or abandon them to a secured creditor at the value placed thereon by such creditor or at such value as is agreed upon by the Joint Liquidators and the creditor if such creditor's claim is secured by such assets and to sign all such documents as may be necessary to give effect to such disposition.

8. The Joint Liquidators be and are hereby authorised and empowered in their sole discretion to compromise and admit any claim against the company of whatsoever nature and howsoever arising and whether disputed or not and whether actual, contingent, prospective, conditional, unconditional, assessed, unassessed, liquidated or unliquidated as a liquidated claim in terms of Section 78(3) of the Insolvency Act No 24 of 1936, as amended, read with Section 339 of the Act, at such amount as may be agreed upon by the Joint Liquidators, provided that proof thereof has been tendered at a meeting of creditors.
9. The Joint Liquidators be and are hereby authorised to make application for the destruction of books and records of the estate six months after the confirmation of the Final Liquidation and Distribution Account.
10. The Joint Liquidators be and are hereby authorised to perform any act or exercise any power for which they are not expressly required by the Companies Act No. 61 of 1973, as amended, to obtain the leave of the Court.
11. The Joint Liquidators be and are hereby authorised to submit to the determination of arbitrators any dispute concerning the company or any claim or demand by or upon the company.
12. The Joint Liquidators be and are hereby authorised to carry on or discontinue any part of the business of the company insofar as may be necessary for the beneficial winding-up thereof.
13. The Joint Liquidators be and are hereby authorised to exercise *mutatis mutandis* the powers conferred upon a Liquidator by Section 35 (uncompleted acquisition of immovable property before liquidation) and 37 (effect of liquidation upon a lease) of the Insolvency Act No 24 of 1936, as amended, read with Section 339 of the Act.
14. The creditors hereby consent to the Joint Liquidators' remuneration ("the remuneration") being taxed by The Master of High Court in terms of Section 384 of the Act at the **higher figure of:**
 - 14.1. the prescribed tariff as is contained in Annexure CM 104 to the Winding Up Regulations to the Act;
 - 14.2. the increased amount of work done by the Joint Liquidators in terms of the actual time spent by them or their staff in the discharge of their duties in the winding-up as is reflected on properly kept timesheets at the charge out tariff of the respective professional and administrative staff and which will be deemed to be good cause for the increase of such remuneration.
15. The remuneration referred to in 14 above may further be increased based on aspects such as:

- 15.1. the complexity of the estate in question;
 - 15.2. the degree of difficulty encountered by the Joint Liquidators in the administration of the estate, and
 - 15.3. particular difficulties experienced by the Joint Liquidators because of the nature of the assets or some other similar feature connected with the winding-up.
16. The further administration of the affairs of the company be left entirely in the hands and at the discretion of the Joint Liquidators.

q.q. CREDITORS