

I N D E P E N D E N T

C O R P O R A T E R E C O V E R Y A D V I S O R S

Independent Trustees (Pty) Limited (Reg No 2002/025164/07)
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TO ALL KNOWN CREDITORS

Your Ref:
Our Ref: **J F KLOPPER/C PENDERIS**
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Date: **7 AUGUST 2009**

Dear Sir / Madam

MERCHANTS OF SOUTH AFRICA (PTY) LIMITED (IN VOLUNTARY LIQUIDATION)
REGISTRATION NUMBER: 1998/023247/07
MASTER'S REFERENCE NUMBER: C97/2009

We refer to the above matter and enclose an a copy of the Joint Liquidators' Report, together with Resolutions, to be adopted at the Second Meeting of Creditors to be held before the Master of the High Court, Cape Town, on Friday, 21 August 2009 at 9h00.

We confirm that based on asset realisations and known claims it would appear a danger of an contribution cannot be ruled out and that only secured and preferent creditors may expect a dividend. Those creditors who have not as yet submit their claim for proof are urged to do so without any delay.

We assure you of our best attention at all times.

Yours faithfully
INDEPENDENT TRUSTEES (PTY) LIMITED

J F KLOPPER
JOINT LIQUIDATOR

(Sent electronically and therefore not signed)

MERCHANTS OF SOUTH AFRICA (PTY) LIMITED (IN VOLUNTARY LIQUIDATION)
(REGISTRATION NUMBER: 1998/023247/07)
("the company")

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REPORT OF THE JOINT LIQUIDATORS, JOHANNES FREDERIK KLOPPER *and* RENE WILLOUGHBY, IN TERMS OF SECTION 402 OF THE COMPANIES ACT NO. 61 OF 1973, AS AMENDED, TO BE SUBMITTED AT A SECOND MEETING OF CREDITORS & CONTRIBUTORIES TO BE HELD BEFORE MASTER OF THE HIGH COURT, CAPE TOWN, ON FRIDAY, 21 AUGUST 2009, AT 9H00

ORDER OF THE COURT AND MEETINGS

Nature of Application	Special Resolution registered with the Registrar of Companies for voluntary liquidation
Date of Registration	2 February 2009
Provisional Liquidators	Johannes Frederick Klopper and Rene Willoughby
Provisional Appointment Date	6 April 2009
Final Liquidators	Johannes Frederick Klopper and Rene Willoughby
Final Appointment Date	12 June 2009
Date of 1 st meeting of creditors	29 May 2009
Claims proved at 1 st meeting	One claim was submitted for proof

GENERAL AND STATUTORY INFORMATION

Registrar of Companies

According to the Registrar of Companies, the company was incorporated under registration number on 1998/023247/07 and commenced business operations on 24 November 1998.

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Registered Address

The registered address of the company is reflected as being 16th Floor, 1 Thibault Square, 1 Long Street, Cape Town, Western Cape.

Directors

It appears from our investigations that the following person consented to serve as the director of the company:

- Paula Blaine

Business of the Company

It appears from our investigations that the company carried on business in the wholesale and retail trade.

Auditors

The auditor of the company is situated at M G I Bass Gordon, 6th Floor, 1 Thibault Square, 1 Long Street, Cape Town.

STATEMENT OF AFFAIRS

We have been provided with of a Statement of Affairs as required in terms of Section 363 of the Companies Act No. 61 of 1973 as amended.

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

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

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ASSETS	AMOUNT {R}	AMOUNT{R}
Stock <i>(Subject to Landlord's Lien)</i>		R 400 000.00
Movables <i>(Subject to a Landlord's Lien)</i>		R 140 000.00
Bookdebts - as per Statement of Affairs <i>(Ceded to Investec Bank)</i>		R5 622 251.68
Cash at hand – as per Statement of Affairs		R 37 730.72
TOTAL		R6 199 982,40
LIABILITIES	AMOUNT {R}	AMOUNT {R}
<u>Secured Creditors:</u>	R5 264 043.00	
<u>Preferent Creditors:</u> Employees	R 460 282.00	
Concurrent Creditors - Estimated at	R9 300 564.00	
SHORTFALL		R8 824 916,60
TOTAL	R15 024 889,00	R15 024 889,00

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COMMENT ON THE ASSETS

The stock consists of items which have been imported for distribution in stores such as Mr. Price and others. The items are extremely seasonal. The bookdebts have been under the control of a creditor who holds a cession of bookdebts and have been collected by them. Certain amounts owing to the company have been withheld pursuant to an alleged set-off. This issue will be further investigated at an enquiry.

COMMENTS ON THE LIABILITIES

The extent of monies owing (if any) to the South African Revenue Services are unknown at this stage as we have not as yet received notification of any claims.

The balance of the liabilities relates to monies owing in respect of services rendered and monies lent (concurrent creditors).

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

According to the sole director the causes of the company's failure may be described as follows:

"The Company had a history of losses. It was never recapitalised to put it on a correct footing. One of the main overseas suppliers (Euro Centra) were forced to convert their trade creditor account into a medium term loan. They were owed approximately US\$460k at the time of liquidation.

In the last year of trading the company was unable to control its margins due to the sharp increase of the petrol prices which had a direct impact on its shipping and forwarding costs as well as its transport costs to our clients' distribution centres. The volatility of the currency also made it very difficult for the company to trade.

All these factors resulted in the company continuing to trade at a loss which ultimately caused the its demise."

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. A report will be submitted at a later stage should it become necessary.

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

At this stage we are unable to comment as to whether the former directors of the company could be held personally liable for the debts of the company. Should information come to light at a later to the effect that the directors could be held personally liable for the debts of the company, 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. This meeting will be postponed in order to interrogate certain witnesses.

SECTION 402(g) : BOOKS AND RECORDS

The books and records that the company was required to keep in terms of the Act have been handed to us.

SECTION 402(h) : ESTIMATED DIVIDEND

Based on asset realisations and known claims, it would appear that a danger of an contribution cannot be rules out and that only secured and preferent creditors may expect a dividend.

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 – 16 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.

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RESOLUTIONS SUBMITTED AND ADOPTED AT THE SECOND MEETING OF CREDITORS TO BE HELD BEFORE THE MASTER OF THE HIGH COURT, CAPE TOWN, ON FRIDAY, 21 AUGUST 2009 AT 9H00

RESOLVED THAT:

- 1 The report of Liquidator or Joint Liquidators, as the case may be, hereinafter referred to as (the 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 hereto before taken by the Liquidators be and are hereby confirmed, ratified and approved.
- 3 The 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, such powers to be exercised at their sole and absolute discretion.
- 4 The 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 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 Liquidator 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.

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- 6 The 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 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 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 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 Companies Act No. 61 of 1973, as amended, at such amount as may be agreed upon by the Liquidators, provided that proof thereof has been tendered at a meeting of creditors.
- 9 The 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 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 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 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 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 Companies Act No. 61 of 1973, as amended.
- 14 The creditors hereby consent to the 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:

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- 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 Liquidators in terms of the actual time spent by 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 Liquidators in the administration of the estate, and
- 15.3 particular difficulties experienced by the 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

PRESIDING OFFICER