

CAPULET HOMES (PTY) LTD (IN LIQUIDATION)
("the Company")

MASTER'S REFERENCE NUMBER : G662/06

**REPORT OF THE JOINT LIQUIDATORS L D R VAN DER MERWE, S L ANTICEVICH & M STANDER, IN
TERMS OF SECTION 402 OF THE COMPANIES ACT NO 61 OF 1973 AS AMENDED TO BE SUBMITTED
AT A SECOND MEETING OF CREDITORS, MEMBERS & CONTRIBUTORIES TO BE HELD BEFORE THE
MASTER JOHANNESBURG ON TUESDAY 27 FEBRUARY 2007 AT 10:00 AM**

ORDER OF THE COURT AND MEETINGS

Nature of Liquidation	Special resolution
Date of liquidation	17 July 2006
Date of provisional Order	N/A
Date of Final Order	N/A
Provisional appointees	LDR vd Merwe, SL Anticevich & M Stander
Date of 1 st meeting of creditors	17 October 2006
Final appointees	LDR vd Merwe, SL Anticevich & M Stander

History and information of the Company

- 1 According to the Registrar of Companies the company was incorporated under registration number 2002/029602/07

Registered Address

- 2 The registered address of the company is Block G, Knightsbridge Manor, 33 Sloane Street, Bryanston.

Directors

- 3 It appears from my investigations the following persons consented to serve as directors:

3.1 DM van Hemmert

3.2 MF De Freitas

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- 4 There seems to be some discrepancy as to who acted as directors of the company as at the date of liquidation, although it is common cause that both the individuals acted as directors of the company, shortly before liquidation.

Share Capital & Shareholding

- 5 We have been placed in possession of the statutory records of the company and are therefore unable to comment in this regard.

Business of the Company

- 6 The main business of the company was property development and in particular the construction of residential housing.

Auditors

- 7 The auditors of the company are Malherbe Lourens who also acted as Company Secretary.

STATEMENT OF AFFAIRS

- 8 We have been placed in possession of a Statement of Affairs as required in terms of Section 363 of the Companies Act No 61 of 1973 as amended.

SECTION 79(A): FINANCIAL STATEMENT OF ASSETS AND LIABILITIES

- 9 The following represents the assets and liabilities of the company at date of liquidation. Unless otherwise stated, these figures only represent estimates of the assets and liabilities and will change depending on the amounts of realisation of unsold assets and claims submitted for proof.

ASSETS

IMMOVABLE PROPERTY	NOTES	AMOUNT	AMOUNT
Erf 163 Broadacres Ext 11	(a)		508,000.00
Erf 164 Broadacres Ext 11	(b)		508,000.00
Erf 652 Maroeladal Ext 10	(c)		960,000.00
Erf 312 Peacanwood Ext 5	(d)		2,480,000.00
Erf 1228 Maroeladal Ext 36	(e)		840,000.00
Erf 654 Maroeladal Ext 10	(f)		1,100,000.00
MOVABLE ASSETS			
Motor vehicles	(g)		604,000.00
Office furniture and Equipment subject to various landlords hypothecs (estimated)	(h)		68,000.00
Debtors & uncompleted contracts	(i)		

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TOTAL ASSETS			7,068,000.00
LIABILITIES			
<u>Secured</u>			
First National Bank Ltd	(a)(b)(c)(d)		5,619,793.80
Absa Bank Ltd	(e)		463,932.85
Nedbank Ltd	(f)		846,553.08
Alphera Finance	(g)		589,713.46
Wesbank	(g)		417,973.11
i Four Properties Three (Pty) Ltd	(h)		514,130.67
<u>Preferent Creditors</u>			
Receiver of Revenue			Unknown
Salaries			Unknown
<u>Concurrent Creditors</u>			
Trade Creditors (inclusive of inter company debts)	(j)		6,430,796.00
TOTAL LIABILITIES			14,882,892.00
DEFICIT			7,814,892.00

NOTES

The statement of assets and liabilities must be read in conjunction with the following notes:

- (a) Erf 163 Broadacres was sold prior to liquidation for an amount of R508, 000.00 (Inc VAT). The liquidators with the consent of the creditors requested the Master to extend their powers in terms of Section 386 (2A), of the Companies Act, to abide by the agreement. The purchaser has subsequently repudiated the agreement and the property will be realized after the second meeting of creditors.

The property is bonded in favour of First National Bank Ltd.

- (b) Erf 164 Broadacres was sold prior to liquidation for an amount of R508, 000.00 (Inc VAT). The liquidators with the consent of the creditors requested the Master to extend their powers in terms of Section 386 (2A), of the Companies Act, to abide by the agreement. The purchaser has subsequently repudiated the agreement and the property will be realized after the second meeting of creditors.

The property is bonded in favour of First National Bank Ltd.

- (c) Erf 652 Maroeladal. The liquidators have received an offer of R960, 000.00. The secured creditor has given its permission to the liquidators to accept the offer. The sale will be concluded, subject to the adoption of the resolution to this effect at the second meeting of creditors.

The property is bonded in favour of First National Bank Ltd.

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- (d) Erf 312 Peacanwood. The liquidators received an out of hand offer for the property amounting to R2,479,000.00 (In VAT). The offer was accepted after obtaining the acceptance of the secured creditor and the Master of the High Court extending the powers of the liquidators in terms of the provisions of Section 386 "2A) of the Companies Act.

The purchaser has subsequently repudiated the agreement and the liquidators have cancelled the agreement. The property will be sold after the second meeting of creditors.

The property is bonded in favour of First National Bank Ltd.

- (e) Erf 1228, Maroeladal was sold prior to liquidation for an amount of R 840,000.00. The liquidators with the consent of the creditors requested the Master to extend their powers in terms of Section 386 (2A), of the Companies Act, to abide by the agreement. The property has been sold and transferred accordingly

The property is bonded in favour of Absa Bank Ltd by way of a first mortgage bond and to First National Bank Ltd by way of a second mortgage bond.

- (f) Erf 654, Maroeladal was sold prior to liquidation for an amount of R 1,100,000.00. The liquidators with the consent of the creditors requested the Master to extend their powers in terms of Section 386 (2A), of the Companies Act, to abide by the agreement. The property has been sold and transferred accordingly.

The property is bonded in favour of Nedbank Ltd.

Motor Vehicles

- (g) The following motor vehicles were recovered.

<u>Description</u>	<u>Registration number</u>	<u>Expected Value</u>
Mercedes Benz C55 AMG	RLZ 093 GP	250,000.00
Volkswagen Golf TDi	RKW 867 GP	110,000.00
Trailer	RCX 779 GP	4,000.00
Nissan Cabstar		50,000.00
Nissan King Cub	SKJ 486 GP	80,000.00
Nissan Bakkie	RHM 233 GP	60,000.00
Nissan Bakkie	RHM 239 GP	50,000.00
TOTAL		604,000.00

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The Mercedes Benz and Volkswagen Golf are financed by Alphera Finance. The Nissans are financed by Wesbank. It is not anticipated that a surplus will result in favour of creditors once the secured creditors claims' are settled.

Office Furniture & Equipment

- (h) The liquidators will sell, by public auction all the office equipment and furniture of Capulet Homes as follows:

OFFICE	VALUE	LANDLORD
Muirfield Building	68,470.00	i Four Properties (Pty) Ltd
Fourways Golf Park		
TOTAL	

The value to be realised for the office equipment and furniture is unlikely to be sufficient to settle the secured claim of the landlord. A claim in respect of part ownership of the furniture exists from the various sub tenants who shared the premises with Capulet Homes. These sub tenants are still to prove their entitlement to the portion of the furniture to which they claim part ownership. The sub tenants are also liable for their respective portion of the rental payable to the landlord.

Debts collected

- (i) The liquidators are at present unable to comment on the extent of the debtors of the company. The debtors reflected in the books of the company all relate to constructions agreements at various stages of completion.

The liquidators have employed the services of a specialist Quantity surveyor to assist them in establishing the extent of moneys due to the company on each of the uncompleted agreements. The liquidators intend investigating this aspect further by conducting an enquiry.

In terms of a cession agreement, the company had disposed of all its rights, title and interest in and the Tandatula project. The liquidators are currently still investigating this aspect.

- (j) The liquidators have placed reliance on the amount as indicated by the directors on the statement of affairs (CM100) attached to the special resolution liquidation the company

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These figures do not take into account any costs of administration and are subject to change and/or modification.

CAUSES OF THE COMPANY'S FAILURE

- 10 The company had for some time experienced severe cash flow difficulties. It was hamstrung by a number of projects not being finalized effectively, resulting in severe losses on a number of agreements.
- 11 Over time the company became unable to meet its obligations to suppliers, compounding its difficulties to deliver projects on time, all eventually culminating in the company's demise.

REPORT TO THE MASTER IN TERMS OF SECTION 400 OF THE COMPANIES ACT

- 12 It is not our intention at this stage to submit a report to the Master of the High Court. However, we are still investigating this aspect and if necessary, a detailed report will be submitted to the Master in due course.

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

- 13 At this stage it is not known whether the former director or officer of the company can be held personally liable for the debts of the company. A report will be submitted, should it become necessary.

LEGAL PROCEEDINGS

- 14 We have no knowledge of any legal proceedings pending by or against the company save and except for actions instituted for the recover of monies due, all of which have been suspended by the granting of the final order of liquidation.

ENQUIRY

- 14 The liquidators intend to postpone the second meeting of creditors in order to conduct and enquiry into the affairs of the company, in particular issues relating to the uncompleted agreements and debtors of the company.

BOOKS AND RECORDS

- 15 We have taken control of the books and records found at the offices of the company.

PROGRESS AND PROSPECTS OF WINDING UP

- 16 The joint liquidators have sold a number of the immovable properties, as indicated above.

The remaining properties will be dealt with in due course.

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The liquidators will continue to investigate the affairs of the company with particular regard to the debtors of the company and its uncompleted agreements.

LEASES

- 17 It appears that various lease agreements were entered into. All these lease agreements have been cancelled either expressly or by operation of Law.

ESTIMATED DIVIDEND

- 18 It appears at present that only the secured creditors are to receive an award. The proceeds of the sale of the various assets seem insufficient to meet the claims of the respective secured creditors.
- 19 The joint liquidators therefore currently advise concurrent creditors not to submit claims. The liquidators will advise creditors, should the position materially change and the prospect of a dividend herein arise.

MATTERS REQUIRING THE FURTHER DIRECTIONS OF CREDITORS

- 20 Such directions as required of creditors are contained in the draft resolutions numbers 1 – 15 which is 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 continue.

SIGNED at SANDTON on this _____ day of February 2007

L D R VAN DER MERWE

S L ANTICEVICH

M STANDER

JOINT LIQUIDATORS

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RESOLUTIONS SUBMITTED AND ADOPTED AT THE SECOND MEETING OF CREDITORS HELD BEFORE THE MASTER JOHANNESBURG, ON TUESDAY 27 FEBRUARY 2007 at 10:00AM

RESOLVED THAT:

- 1 The report of Liquidator or Joint Liquidators, as the case may be, hereinafter referred to as (the Liquidator"), as submitted be received and adopted and all his actions referred to therein be and are hereby confirmed, ratified and approved.
- 2 All actions of whatsoever nature heretobefore taken by the Provisional Liquidator and/or Liquidator be and are hereby confirmed, ratified and approved.
- 3 The Liquidator 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 his sole and absolute discretion.
- 4 The Liquidator be and is hereby authorised in his 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;

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- 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 Liquidator be and is hereby authorised in his 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 insolvent 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.
- 6 The Liquidator be and is hereby authorised to collection 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 he in his 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 he in his sole discretion may deem to be irrecoverable.
- 7 The Liquidator be and is hereby authorised to dispose of any movable and immovable property of the company, whether in his possession or under his control now or to come into his possession or under his control in the future by public auction, private treaty or public tender upon such terms and conditions as he in his sole and absolute discretion shall determine and to abandon any such assets for which he 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 Liquidator 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 Liquidator be and is hereby authorised and empowered in his 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

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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 Liquidator, provided that proof thereof has been tendered at a meeting of creditors.

- 9 The Liquidator be and is 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 Liquidator be and is hereby authorised to perform any act or exercise any power for which he is not expressly required by the Companies Act No 61 of 1973, as amended, to obtain the leave of the Court.
- 11 The Liquidator be and is 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 Liquidator be and is 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 Liquidator be and is 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 That the liquidators are hereby authorised to accept the offer for the sale of the immovable property known as Erf 652 Maroeladal for an amount of R960,000.00.
- 15 The further administration of the affairs of the company be left entirely in the hands and at the discretion of the Liquidator.

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q.q. CREDITORS