

# *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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Date: **20 April 2011**

## **TO ALL KNOWN CREDITORS**

Dear Sir/Madam

**J K BRANDS SA (PTY) LTD (IN LIQUIDATION)**  
**REGISTRATION NUMBER: 2005/019048/07**  
**MASTER'S REFERENCE NUMBER: C874/2010**

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, 6 May 2011 at 09h00.

We confirm that, based on the information at this stage, there would appear to be no prospect of a concurrent dividend award to concurrent creditors. This is owing to the fact that most of the company's assets were subject to the liens of the landlords. This is also due to substantial preferent claims to be proved by preferent creditors.

We assure you of our best attention at all times.

Yours faithfully

**INDEPENDENT TRUSTEES (PTY) LIMITED**

**HILLARY PLAATJIES**  
**JOINT LIQUIDATOR**

**Independent Trustees (Pty) Ltd** is a member of **hww insolvency cooperation partners**

Austria (Vienna) Brazil (Sao Paulo) Cayman Islands (Grand Cayman) Czech Republic (Prague) France (Paris) Germany (Hamburg) Great Britain (London)  
Hungary (Budapest) India (New Delhi) Italy (Rome) Mexico (Mexico City) Netherlands (Amsterdam) Poland (Warsaw) Republic of China (Hong Kong)  
Romania (Bucharest) Russia (Moscow) South Africa (Johannesburg) Spain (Barcelona) Sweden (Stockholm) USA (New York)

Directors:

JF Kloppe\* B Com B Proc R Pieters\* B Econ LDR Van der Merwe\* B Com LLB  
MJ Maseko B Juris LLB HA Plaatjies\* B Juris LLB

\* Member of the Association of Insolvency Practitioners of Southern Africa ("AIPSA")

**J K BRANDS SA (PTY) LIMITED (IN LIQUIDATION)**  
**("the Company")**

**MASTER'S REFERENCE NUMBER : C874/2010**

**REPORT SUBMITTED BY THE JOINT LIQUIDATORS IN TERMS OF SECTION 402 OF  
 THE COMPANIES ACT NO 61 OF 1973 AS AMENDED TO BE SUBMITTED AT THE  
 SECOND MEETING OF CREDITORS TO BE HELD BEFORE THE MASTER OF THE HIGH  
 COURT, CAPE TOWN ON FRIDAY, 6 MAY 2011 AT 09H00**

Nature of Liquidation	Application to the High Court of South Africa (Western Cape High Court, Cape Town) – case number: 17817//2010
Date of liquidation	17 August 2010
Date of provisional Order	17 August 2010
Date of Final Order	17 September 2010
Provisional appointees	J F Klopper, H A Plaatjies & K Kiewitz
Date of 1 <sup>st</sup> meeting of creditors	25 March 2011
Claims proof at 1 <sup>st</sup> meeting of creditors	2 claims were proved at the meeting
Final appointees	J F Klopper, H A Plaatjies & K Kiewitz

**GENERAL AND STATUTORY INFORMATION**

**Registrar of Companies**

The Company was duly registered with the Registrar of Companies under their reference number 2005/019048/07 with its registered office of the company at 33 Kunene Road, Omuramba Park, Marconi Beam Industria, Montague Gardens, Cape Town.

**Directors**

It appears from our investigation that the following person served as the director of the company:

Alfred Steven Hartzenberg (Born on 6 January 1956)

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**BUSINESS OF THE COMPANY**

The main business of the company was the distribution and retail operation of distinctive and trendy children's clothing, accessories and footwear as well as maternity wear under the JK Kids label. The company traded out of four retail stores which were respectively situated at Constantia Village Shopping Centre, Cape Town, Willowbridge Shopping Centre in Tygervalley, Umhlanga Kwa-Zulu Natal and Menlyn Shopping Centre in Pretoria.

**STATEMENT OF AFFAIRS**

The statement of affairs as required in terms of Section 363 of the Companies Act No 61 of 1973 as amended has been lodged.

**SECTION 402(a)**

**Financial Statement Of Assets And Liabilities**

According to information available to us the following would appear to represent the financial position of the Company as at the date of liquidation:

<b>ASSETS</b>		
Movable assets: JK Kids Head Office – Montague Gardens valued at (office furniture and computers)		R 31 310.00
Movables : Willowbridge – Tyger Valley valued at (Subject to a landlord's lien : fixtures, fittings, stock & computers)		R 47 520.00
Movables : Constantia Village - Constantia valued at (Subject to a landlord's lien: fixtures, fittings, stock & computers)		R 27 280.00
Movables : Menlyn Park Shopping Centre – Menlyn Park valued at		R 69 970.00

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<i>(Subject to a landlord's lien: fixtures, fittings, stock &amp; computers)</i>  Movables : Gateway Shopping Centre – Umhlanga Durban valued at <i>(Subject to a landlord's lien: fixtures, fittings, stock &amp; computers)</i>  Movables : Wonderpark Shopping Centre – Akasia Pretoria valued at <i>(Subject to a landlord's lien: fixtures, fittings, stock &amp; computers)</i>  Debtors - approximately <i>(Funds may be irrecoverable)</i>  Stock sale		R 50 370.00    R 13 950.00    R 163 632.00   R 461 598.05
<b>TOTAL</b>		<b>R 865 630,05</b>
<b>LIABILITIES</b>		
<u>Secured Creditors:</u> Landlords - estimated at  <u>Preferent Creditors:</u> SARS – estimated at  Workers – estimated at  <u>Concurrent Creditors:</u> Estimated at  <b>TOTAL LIABILITIES</b>	R 1 604 283.02   R 151 933.38   R 151 249.45   R15 499 289.73	
Deficit		R16 515 125.53
<b>TOTAL</b>	<b><u>R17 370 755.58</u></b>	<b><u>R17 370 755.58</u></b>

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**COMMENT ON THE ASSETS**

We have sold the assets comprising of fixtures and fittings, equipment and stock by public auction pursuant to an extension of our powers granted to us by the Master in terms of Section 386(2A) of the Companies Act No. 61 of 1973.

The liquidators are in the process of collecting outstanding debts.

**COMMENTS ON THE LIABILITIES**

The liabilities relate in the main to monies owing to the various landlords of respect of rental agreements (secured creditors).

The preferent creditors relate in the main to monies owing to the South African Revenue Services which are unknown at this stage and the employees of the company.

The balance of the liabilities relate to monies owing to various trade creditors in respect of services rendered and goods supplied and delivered and unsecured loans to the company(concurrent creditors).

**SECTION 402(b)**

**Causes Of The Company's Failure**

According to information received the principle causes of the Company's failure are attributable to the following:

- The company concluded lease agreements to open two stores in Paarl Mall and Willowbridge respectively even though the shopping centres were still under construction at the time and relied heavily on the services of an experienced retail property expert to source and secure retail stores on its behalf.
- The company proceeded to open yet more stores with large rental areas and huge rental payments.
- The company was tied into bad leases in underperforming shopping centres and could not service it's landlords.
- The high rentals and poor sales performance resulted in the closure of various stores.

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- The factors referred to above together with the economic downturn within the retail environment resulted in the company incurring trading losses and the company could not continue to trade.
- Major shareholders and investors become unwilling to put more cash into the business.

In the light of the above, the company was unable to settle the claims of its creditors in the ordinary course of business.

**SECTION 402(c)**

Report Under Section 400(2)

At this stage we do not have anything to report under this heading, however, should any contraventions come to our attention, a report will be submitted to the Master of the High Court in regard to such contraventions.

**SECTION 402(d)**

Personal Liabilities Of Directors Or Officers

At this stage it appears as if the former director or officer of the company are not personally liable for the debts of the company. A report will be submitted, should it become necessary.

**SECTION 402(e)**

Legal Proceedings

As far as we are aware there are no legal proceedings pending by or against the Companyas at date of liquidation other than actions relating to the recovery of debt.

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**SECTION 402(f)**

**Further Enquiry**

The liquidators do not intend to hold an enquiry at present. Creditors will be informed if the liquidators decide to proceed with an enquiry into the affairs of the company.

**SECTION 402(g)**

**Books And Records**

All books and records relating to the affairs of the Company have been handed to us.

**SECTION 402(h)**

**Progress And Prospects Of Liquidation**

There would appear to be no prospect of a concurrent dividend award to concurrent creditors. This is owing to the fact that most of the company's assets were subject to the liens of the landlords. This is also due to substantial preferent claims to be proved by preferent creditors.

**SECTION 402(i)**

**Matters Requiring Further Directions Of Creditors And Contributories**

Such directions as we desire, and sanction of the actions taken by the Provisional Liquidators and Liquidators to date, are contained in the Resolutions to be submitted for consideration and adoption, are attached hereto.

**SIGNED AT STELLENBOSCH      DATED      OF      APRIL 2011**

**J F KLOPPER**

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**SIGNED AT STELLENBOSCH      DATED      OF      APRIL 2011**

**H A PLAATJIES**

**SIGNED AT      DATED      OF      APRIL 2011**

**K KIEWITZ**

**C/O Independent Trustees  
Po Box 820  
STELLENBOSCH  
7599**

**TEL: 021 880 5400**

**FAX: 021 880 5430**



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**RESOLUTIONS SUBMITTED AND ADOPTED AT THE SECOND MEETING OF  
CREDITORS HELD BEFORE THE MASTER OF THE HIGH COURT ON FRIDAY 6 MAY  
2011 AT 09H00**

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**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.

All actions of whatsoever nature heretobefore taken by the Provisional Liquidator and/or Liquidator be and are hereby confirmed, ratified and approved.

The Liquidator be granted the authority and is vested with all the powers mentioned in Section 386(4)(a) – (i) and Section 386(5) of the Companies Act No 61 of 1973, as amended, such powers to be exercised at his sole and absolute discretion.

The Liquidator be and is hereby authorised in his sole and absolute discretion to:

- 1.1 Take legal advice on any question of law affecting the administration and distribution of the company;
- 1.2 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;
- 1.3 Hold any enquiry into the affairs of the company and/or any matter relating thereto;

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- 1.4 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;
- 1.5 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.

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.

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.

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

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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.

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 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.

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.

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.

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.

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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.

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.

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**

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**PRESIDING OFFICER**