

**THE EASTERN CARIBBEAN SUPREME COURT  
IN THE HIGH COURT OF JUSTICE  
FEDERATION OF SAINT CHRISTOPHER AND NEVIS  
SAINT CHRISTOPHER CIRCUIT  
(CIVIL)**

**CLAIM NO. SKBHCV2010/0048**

**IN BANKRUPTCY**

**VERNON S. VEIRA**

*Debtor/Respondent*

**And**

- [1] **CARIBBEAN BUILDING SYSTEMS (ST. KITTS) LTD**
- [2] **CARIBBEAN ESTATES LTD**
- [3] **JK DEVELOPMENT LTD**
- [4] **HERITAGE BAY LTD**
- [5] **ALLAN BILZERIAN**
- [6] **KEYAPAHA INTERNATIONAL LTD**
- [7] **RAYMOND SCETTINO**
- [8] **SCOTT TOM**
- [9] **HARRY HAHAMOVITCH**
- [10] **GERALD WEINER and KATHLEEN WEINER**
- [11] **VISTAS INFINITAS INTERNATIONAL LLC**
- [12] **RICHARD CAINES** *Creditors (Alleged) Respondents*

**And**

- [1] **GUY MITCHELL**
- [2] **AMY MITCHELL** *Judgment Creditors/Applicants*

**Appearances:**

Mr Gerhard Wallbank for the Applicants, Guy Mitchell and Amy Mitchell  
Mr Fitzroy Eddy for the Creditors: Caribbean Building Systems (St. Kitts) Ltd,  
Heritage Bay Ltd, Keyapana International, Rayner Scheltino, Harry Hamnamovitch,  
Gerald Weiner, Vistas Infinitas International LLC.  
Mr Perry Joseph of Daniel Brantley and Associates  
Mrs Dolrita Jack for Mr Ian Ratner (former Receiver)  
Present: Simon Briggs, Derek Forde, Brian Bowen

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**2011: January 21**

**2011: December 21**

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**DECISION**

- [1] **THOMAS J:** On December 02, 2010 the Applicants, Judgment Creditors Guy Mitchell and Amy Mitchell, filed a Notice of Application requesting directions

in the Application for Bankruptcy commenced by the Debtor Respondent, Vernon S. Veira.

[2] The directions sought in summary are:

1. Directions dismissing the Debtor Respondent's Application for Bankruptcy, and thereupon;
2. An Order, endorsed with a Penalty Notice, that Mr Veira shall forthwith pay or cause to be paid to Guy Mitchell and Amy Mitchell or their Order for the sum of US\$895,000.00;
3. An Order endorsed with a Penalty Notice, that Mr Veira shall forthwith provide to the Court appointed receiver, Mr Ian Ratner or other person as the Court may designate any and all documentation which Mr Veira has to date failed to provide to the Receiver and to provide all assistance the receiver may require in relation to the Debtor's assets;
4. Such other directions as the Court deems just.

[3] The Grounds of the Application include the following:

1. The Applicants bring this application for directions as unsatisfied judgment creditors of Mr. Vernon S. Veira.
2. This Court's sealed Order filed on 6 July 2010 (the "Bankruptcy Directors Order") gave certain directions in relation to Mr Veira's application for bankruptcy, and in particular, at clause 4, giving liberty to apply. The Applicants make this application pursuant to this liberty.
3. The Applicants are judgment creditors pursuant to orders made by this Honourable Court in Claim No. HCV2009/97 between: Guy Mitchell, Amy Mitchell as claimants and Vernon S. Veira, Vernon S. Veira & Associates and W Management Co LLC as defendants.
4. On 18 December 2009 the Applicants were awarded US\$704,953.28 or its equivalent EC\$1,895,055.40 against the Defendants in that action, plus costs of EC\$20,063.00
5. On 9 July 2010 the Applicants were additionally awarded, upon assessment of damages in that same action, US\$7,162,875.54 against the First Defendants jointly and severally plus costs prescribed by the Eastern Caribbean Supreme Court Civil Procedure Rules 2000, which amount to be EC\$113,782.86 (equivalent to US\$42,326.78). Despite frequent attempts at communication with the Court office staff to obtain this, the judgment order has not yet been provided to the Applicants.
6. The total of the Applicants' adjudged claims against Mr. Vernon S. Veira is therefore US\$7,917,618.96.
7. In that action the Court appointed a Receiver over the assets of Mr. Vernon Veira and his law firm Vernon S. Veira & Associates on 18 December 2009. The purpose of that receivership was twofold: (a) receivership by way of equitable execution in respect of the debt owed to the Applicants of US\$704,953.28 and (b) to identify, locate, get in and

secure the assets of Mr Veira and his law firm so that further judgment in our favour will not be nugatory.

8. The receiver is Mr. Ian Ratner, of GlassRatner Advisory & Capital Group LLC, of Lenox Overlook, 3391, Peachtree Road, Suite 110, Atlanta, Georgia, 30326, United States of America. Mr Ratner has filed a First Interim Report dated 13 April 2010 with the Court. He filed a Second Interim report on or about 1 October 2010.
9. Prior to his appointment, a Manager had been appointed by a Consent Order made on 11 June 2009 over Mr. Veira's law firm. His name is Mr. Joseph Pereira. Mr Pereira also issued a report.

[4] Another ground advanced is the absence of an Official Receiver and that in the meantime it appears that Mr Ratner's Receivership has continued by default. It is further stated that Mr Veira has not given Mr Ratner active cooperation. And at paragraphs 13 and 14 of the Application the following is stated:

- "13. Further, Mr Veira has apparently shown no interest in advancing his bankruptcy application, which is therefore now merely blocking legitimate creditors' rights of enforcement.
14. There is therefore no clear and active control over Mr Veira's estate and the Applicants fear that unless the Court takes the strongest possible measures legitimate debts owed by Mr. Veira will go unsatisfied".

[5] A further ground of the Application for directions is stated to be "objection to appointment of Mr Pereira". It is articulated in these terms:

- "23. The Applicants object to appointment of Mr Joseph Pereira appointment as Trustee in Bankruptcy, on grounds that he is not manifestly beyond the influence of Mr Veira. The Applicants point to the fact that Mr Veira appear to have made an interim payment of US\$450,000.00 to the Applicants pursuant to an Order of this Court in August 2009, with the then manager Mr Joseph Pereira's approval, from monies subsequently identified by the Receiver as apparently belonging to other clients, indicating that Mr Pereira (a) possibly too readily complied with Mr Veira's wishes and (b) did not apply sufficient rigour and accounting discipline over Mr Veira's business and its assets".

### **Affidavits**

#### **Guy Mitchell**

- [6] In his Affidavit in support Mr Guy Mitchell outlines the various amounts awarded to him and his wife as being US\$7,917,618.96 and the failure of Mr Veira to pay these various amounts awarded.
- [7] Mr Mitchell also refers to the Receiver's First and Second Interim Reports and contends that the receiver does not have Mr Veira's active cooperation.
- [8] At paragraphs 17 and 18 of his Affidavit Mr Mitchell deposes as follows:

- "17. Mr Veira appears to be using and stalling a bankruptcy application to defeat enforcement. It is clear to us that the bankruptcy application is not

being pursued on a bona fide basis, but is just another ploy by Mr Veira and an abuse of the process of this Court. We believe it should therefore be dismissed immediately to enable enforcement to proceed.

18. We beg the Court to bear in mind that our uncompensated losses continue to mount and clear and strongest possible action by the Court is the only chance we have of stopping the financial difficulties caused by Mr Veira's acts, because we believe Mr Veira will otherwise not respect his obligations".

**Michael Weintraub**

[9] In his Affidavit filed on January 12, 2011 Michael Weintraub deposes that he is the lawfully appointed attorney of Claimant-Creditor, Mr Simon Briggs; and further that the said affidavit is made in furtherance of the requirements of the Second Schedule to the Bankruptcy Act.

[10] The nature of the land transaction between Mr Briggs and Mr Veira is outlined and in consequence the following is deposed:

"7. I am advised and verily believe that Vernon S. Veira has committed a breach of contract, a breach fiduciary duties, breach of trust, fraudulent misrepresentations, fraud and professional negligence resulting in the loss of £450,000.00 and US\$53,000.00 as a result of the foregoing averments, and further entitling Mr Briggs to an award of exemplary damages".

[11] In another Affidavit filed on January 14, 2011, Mr Michael Weintraub deposes that he is the lawfully appointed attorney of the Claimant-Creditor, Mr Brian Bowen by virtue of a Power of Attorney; and that the Affidavit is made in furtherance of the Second Schedule to the Bankruptcy Act.

[12] In his said Affidavit Mr Weintraub outlines the nature and extent of two land transactions in which Mr Veira acted for Mr Bowen, as purchaser and the vendors in both transactions.

[13] In this connection the affiant deposes thus:

"12. I am advised and verily believe that Vernon S. Veira has committed a breach of contract, a breach of fiduciary duties, a breach of trust, fraudulent misrepresentations, fraud and professional negligence resulting in the above losses of USD\$48,000.00; USD\$10,000.80; USD\$54,677.59, USD\$9,000.00; USD\$2,377.40 and USD\$925.00 (totaling USD \$125,779.99) as a result of the foregoing averments and further entitling Mr Bowen to an award of exemplary damages".

**Derek Ford**

[14] In his Affidavit filed on January 12, 2011, Mr Derek Ford deposes as to a purchase and sale agreement with Vernon S. Veira with respect to land for which he paid EC\$261,873.00, being the full purchase price. According to Mr Forde, a Memorandum of Transfer was executed but he never received a Certificate of Title

after several attempts to secure the same.

[15] In the result, the affiant deposes as follows:

“9. I am advised and verily believe that Vernon S Veira has committed a breach of contract, a breach of fiduciary duties, a breach of trust, fraudulent misrepresentations, fraud and professional negligence resulting in my out of pocket losses totaling EC\$291,287.76 (EC\$261,873.00 for payment of the contract purchase price EC\$31,955.71 for the payment of stamp duty, registration fee and Assurance Fund Contribution; and EC\$10,000.00 for legal fees incurred to date. As a result of the foregoing averments, and further entitling me to an award for exemplary damages”.

**Vernon S Veira**

[16] In his Affidavit in Response Mr Vernon S Veira makes a number of admissions and denials in relation to Mr Guy Mitchell’s Affidavit in Support. These will be highlighted as appropriate. And in so far as money matters are concerned the following admissions and denials are relevant:

1. Mr Veira admits that he owes the sum of US\$892,000.00 “as a result of a judgment in the matter”.
2. Also admitted as being owed is the sum of US\$704,953.28 or EC\$1,895,005.40 as a result of an award on the 18<sup>th</sup> December 2009.
3. A further admission is the damages assessed in the amount of US\$7,162,875.54 plus costs. However Mr Veira contends that this matter is being appealed.
4. At paragraph 2(vi) of his Affidavit Mr Veira deposes as follows: “that I do not agree that there is any judgment against me for the sum of US\$7,917,618.96 and that the only amount that is properly adjudged against me is the sum of US\$892,000.00 inclusive of costs...”
5. The matter of US\$200,000.00 distribution to members of his family is also denied and he deposes that no evidence was produced to him in this regard.
6. The payment of US\$450,000.00 to “the Mitchells” is acknowledged but the source of the funds as identified by Guy Mitchell at paragraph 21 of his affidavit is denied.

[17] In terms of related issues, Mr Veira contends that he has cooperated with the Receiver, and that he did everything in his power to advance his bankruptcy for the benefit of all of his creditors.

[18] At paragraph 2(xxii) of his said affidavit Mr Veira deposes as follows:

“With regards to paragraphs 25 to 35 I deny that any or all allegations made therein which [seek] to give the impression that I have been dishonest in reporting my assets. I have not stashed away any assets nor have I made any arrangement to favour any of my creditors. I have not colluded or be in connivance with anyone with regards to my creditors or assets”.

**ISSUE****Submissions:**

- [19] In summary, the submissions on behalf of the Applicants are as follows:
1. There is very substantial non-compliance by Mr Veira with Mr Ratner's requirements.
  2. Facing ruin is not a ground for setting aside a Bankruptcy Order.
  3. Mr Pereira was the first Court appointed manager of Veira & Co. and during his tenure a payment was made out of a trust account.
  4. The Mitchells, being the Applicants, do not have confidence in Mr Pereira.
  5. The non-compliance with the receiver is listed and Mr Veira did not give essential documentation.
  6. Mr Veira made payments to his family in the amount of US\$200,000.00 and he had entered into other transactions.
  7. The Applicants have concern with management.
  8. The modus of the Bankruptcy Petition suggest that there was collusion.
  9. The Applicants do not accept that all the creditors are bone fide.
  10. The bankruptcy order should be set aside and the Court take control of the bankruptcy.
- [20] On behalf of his clients Mr Eddy made the following submissions:
1. If Mr Ratner returns it will only benefit the creditors.
  2. The application is not just for the Mitchells but all the creditors.
  3. Money belonging to the Mitchells was put into Mr Veira's trust account and if so it should be returned.
  4. Payments made to Mr Veira's family are noted in the Trustee's Report. And other moneys were paid out.
  5. The assertion that Mr Veira is not bankrupt should be done by the Court by way of an order to this effect.
  6. Mr Veira is using the bankruptcy procedure as a front.
  7. If it is that the Court would set aside the bankruptcy on behalf of one creditor it would not be fair and equitable.
  8. [The alternative] is 16 actions before the Court and litigations for 3 – 5 years to and the fee for this receiver and attorneys-at-law.
  9. The creditors are disadvantaged and as such the benefit should not be to one creditor.
  10. The trustee should remain in place for the benefit of all and deal with the assets that can be recouped and reduce the losses.
- [21] Mr Vernon Veira
1. There was cooperation with the receiver by his office.

2. There is a single trust account and all the relevant documents were taken.
3. The executed Memorandum of Transfer with respect to Villa 205 cannot be found in my office.
4. No cheque was signed in order to transfer.
5. Mr Pereira paid out money from the account based on orders of the Court; and he is well qualified to do the assignment. There is no influence over Mr Pereira.
6. Mr Ratner is in breach of the Court's Order.
7. There is land in Nevis.
8. Century 21 Telecoms information was given to Mr Ratner.

**Mrs. Cato**

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[22] Any Order of the Court in the Application will be complied with.

**Mr Wallbank (in Rebuttal)**

- [23]
1. The fact that Mr Veira filed an Application for Bankruptcy is significant.
  2. Mr Veira said he could pay US\$450,000.00 from the trust account and the Mitchells are entitled to assume that the money came from available assets.
  3. There was non-cooperation with the receiver.
  4. There is disorder because of the following:
    - a. Ownership of Veira's assets is unclear.
    - b. The receiver was unable to integrate.
    - c. Documents in relation to Villa 205 and Nevis land are not available.
    - d. There was an improper payment of US\$450,000.00
    - e. Neither the receiver nor the Mitchells were told of the Bankruptcy Application.
    - f. Mr Veira's office affairs.
    - g. Fees involved in a forensic investigation.
    - h. All or a substantial amount of the creditors are involved in W Management – a private arrangement.

### **Analysis**

The relevant law in outline

- [24] Section 4 of the Bankruptcy Act<sup>1</sup> ("the Act") defines acts of bankruptcy by a debtor, while section 7 gives the Court the jurisdiction to make a receiving order and section 9 relates to the effect of such an order.
- [25] Section 15 of the Act deals with the making of a statement of affairs by a debtor with certain time limits as prescribed which may be extended by the Court for "Special

<sup>1</sup> Cap. 5.04 Revised Laws of Saint Christopher and Nevis, 2002, Section 4

reasons". Under the heading of "Duties of Debtor as to discovery and realization of property", section 24 of the Act provides for the arrest of a debtor in certain prescribed circumstances.

- [26] Part IV of the Act has the broad heading of "Administration of Property". It includes section 38(1) which relates to priority of debts. And in this regard, rates and taxes due from the bankruptcy to the Crown, wages or salary of a clerk or servant due from the bankrupt for services rendered, and contributions payable under the Social Security Act have priority over all other debts.
- [27] It is common ground that bankruptcy arises under the Act when a person commits an act of bankruptcy and a petition is filed by debtor or creditor and an Order made by the High Court.
- [28] This happened in the case of Vernon S. Veira<sup>2</sup> and an Application<sup>3</sup> was made for a Receiving Order pursuant to section 5 of the Act. The Order was granted in these terms:

"... IT IS HEREBY ORDERED that

1. As of 21<sup>st</sup> May, 2010 this petition will proceed in accordance with the Bankruptcy Act, Cap 5.04 and the General Rules made pursuant to Section 127 of the Bankruptcy Act, 1883 (Imperial Statute, 46 & 47 Victoria, c.52).
2. The Petitioner (debtor) is to file and serve an amended petition in seven (7) days.
3. A Receiving Order is issued pursuant to section 5 of the Bankruptcy Act.
4. Liberty to apply.
5. Costs of today's proceedings to be determined by the Trustee in Bankruptcy".

- [29] It will be recalled that the Application filed on 2<sup>nd</sup> December 2010 by the Mitchells seeks directions and certain order. Further, it is stated in the Application that is made pursuant to clause 4 of the above-mentioned Order which grants liberty to apply.
- [30] Based on the affidavit evidence the Court is satisfied that it fair to conclude that bankruptcy procedures are not progressing as contemplated by the law. This is given credence by the following extracts from the Receiver's Interim Report:

6. The sole source of any financial information is derived from the firm's bank account check registers and bank statements. Certain clients' funds transactions are maintained by administrative staff as a simple list of transactions. These lists are not readily available, are not regularly updated, and rely on the knowledge of law firm administrative personnel.
7. Company and client files are not maintained in any orderly or organized manner. Upon request for files or documents by the Receiver, Mr Veira, on several occasions, has claimed that he has not been able to locate the necessary files and documents. The office environment, as well as the accounting and recordkeeping system, is in a general state of disarray.

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<sup>2</sup> Petition filed 11<sup>th</sup> March 2010

<sup>3</sup> This Application did not include Guy Mitchell and Amy Mitchell among the Applicants



The disorganized nature of file maintenance and recordkeeping has had the effect of delaying the progress of the Receivership and rendering the Receiver's attempts to locate and preserve assets more difficult.

8. Mr. Veira previously controlled, as sole signatory, all firm bank accounts (both operational and client trust). Further, it appears as though all accounts and funds were co-mingled and used as needed, to pay for any items at the request of Mr. Veira, without regard as to the ownership of the funds.
9. Neither Financial Statements nor any other Statement of Operations have ever been prepared, other than reports filed by the Court appointed Manager, Joseph Pereira, prior to the appointment of the Receiver".

[31] The foregoing extracts from the Receiver's Interim Report point to section 24(1) of the Act which gives the Court power to arrest the debtor in certain circumstances. Included are the following:

- (b). If after the presentation of a Bankruptcy Petition by or against him or her, it appears to the Court that there is probable cause for believing that he or she is about to remove his or her goods with a view of preventing or delaying possession being taken of them by the official receiver or trustee, or that there is probable ground for believing that he or she has concealed or is about to conceal or destroy any of his or her goods, or any books, documents or writings which might be of use to his or her creditors in the course of his or her bankruptcy;
- (c). If after service of the Bankruptcy Petition on him or her or after a Receiving Order is made against him or her, he or she removes any goods in his or her possession above the value of one hundred dollars, without leave of the official receiver or trustee".

### **Liberty to Apply**

[32] In *Civil Litigation*<sup>4</sup> at page 651 the following learning is to be found:

"The making of an order even a final order, does not thereby terminate the jurisdiction of the Court which made the Order. Either party may apply to the Court to determine any subsidiary or consequential issues which may then arise between them, for example issues relating to the costs payable ... the methods of enforcement available ..., the amount of judgment interest payable. The principles here are sometimes summarized by saying that all orders carry with them an implied liberty to apply<sup>5</sup>. In the case of Interlocutory Orders, the words 'liberty to apply' are often expressly included in the order so as to remove or minimize doubt thereto. The liberty to apply, whether express or implied can be invoked for all purposes necessary to give effect to the Court's Order. However, it does not by itself confer a right to ask the Court to derogate from its previous order".

<sup>4</sup> John O'Hara and Robert Hill (8<sup>th</sup> Ed.)

<sup>5</sup> See: *Electricity Supply Nominees Ltd v. Farrell and others* [1997] 2 All ER 498

- [33] It is against the backdrop of the provisions of the Act and the import of ‘liberty to apply’ as contained in the receiving order, that the directions and orders sought by the Applicant must be addressed.

**Directions dismissing the Debtor Respondent’s Application for bankruptcy**

- [34] It is the determination of the Court that the directions sought in this regard do not arise since the Court’s Order of 21<sup>st</sup> May, 2010 requires that the debtor’s petition, being that of Vernon S. Veira, proceed in accordance with the Bankruptcy Act. Technically, the application is spent since the petition has been granted by the Court. Neither the Act nor liberty to apply can assist the applicants.

- [35] In **Bankruptcy Law and Practice**<sup>6</sup> at para 1.2.2 the following learning in this regard is to be found:

“A debtor’s own petition simply alleges that he is unable to pay his presently payable debts. The Court has virtually no discretion on the debtor’s petition other than to make a receiving order so that, in practical effect, there will be, very few, if any debtors’ petitions overlapping the Old Bankruptcy Law and the New Law”.

- [36] The evidence and submissions by Mr Wallbank on behalf of the Applicants go towards the hardships caused to the Applicants. But the Applicants are not alone. And the Court interprets the other Affidavits<sup>7</sup> filed in this matter as a reminder of this fact. This proposition is articulated by Mr Eddy on behalf of the creditors whom he represents.

- [37] The scheme of the Act is that there are priority payments<sup>8</sup> that must be made and then thereafter “all debts proved in the bankruptcy shall be paid *pari passu*.”

- [38] As the Court has noted before, the nature and extent of the loss suffered by the Applicants cannot promote their debt beyond that of any other creditor.

- [39] An Order, endorsed with a Penalty Notice that Mr Veira shall forthwith provide to the Court appointed receiver Mr Ian Ratner or other person as the Court may designate any and all documentation which Mr Veira has to date failed to provide to the Receiver and to provide all assistance the receiver may require to marshal the Debtor’s assets.

- [40] It is the determination of the Court that liberty to apply can assist the Applicants and all other creditors since it is clear that the petition has not proceeded in accordance with the Bankruptcy Act. Of immediate relevance is section 15(1) (2) and (3) which provides as follows:

“1. Where a Receiving Order is made against a debtor, he or she shall make out and submit to the official receiver a statement of and in relation to his or her affairs in the prescribed form verified by affidavit, and showing the particulars of the debtor’s assets, debts and liabilities the names, residence and

<sup>6</sup> Christopher Berry and Edward Barley (1987)

<sup>7</sup> Affidavit of Michael Weintraus appointed attorney for Claimant – Creditors, Mr Simon Briggs, filed 12<sup>th</sup> January, 2011; Affidavit of Derick Forde filed 12<sup>th</sup> January, 2011; Affidavit of Michael Weintraus appointed attorney of Claimant – Creditor Mr Brian Bowen.

<sup>8</sup> Section 38 of the Act

occupations of the debtor's assets, debts and liabilities the names, residences and occupations of his or her creditors, the securities held by them respectively, the dates when the securities were respectively given and such further and other information as may be prescribed or as the official receiver may require.

2. The statement shall be so submitted within the following times namely
  - a. If the order is made on the petition of the debtor within three days of the date of the Order;
  - b. If the order is made in the petition of a creditor within seven days from the date of the Order
3. The official receiver or the Court may, in either case, for special reasons extend the time".

[41] It is the determination of the Court that in light of the principles attached to 'liberty to apply' and section 15 of the Act, effect can be given to that aspect of the application which seeks to have the debtor provide relevant documentation which he has refused to provide thus far. And the Court also agrees that a Penal Notice must be attached so that failure would give rise to contempt of Court.

[42] Under section 15(3) of the Act the Court may extend the time to comply for 'special reasons'.

[43] In essence the Receiver has painted a picture of non-cooperation by Mr Veira and also the difficulties encountered in seeking to give effect to the requirements of the Act on behalf of creditors. As noted before, the findings of the Receiver, which the Court accepts, are all denied by Mr Veira in his Affidavit in Response. The following quotation from the Second Interim Report at paragraph 11 further illustrates the point: "Additionally the Receiver continues to receive little if any cooperation from Mr Veira, In general, requests for information from Mr Veira are ignored".

[44] Therefore, in light of the Receiver's Interim Reports and the nature of Mr Veira's affairs as he found them then, this for the purposes of the Act would, in the view of the Court, constitute special reasons to extend the time prescribed for the submission of a statement of affairs.

[45] It is to be noted that in making the relevant Order for this purpose the Court will also rely on section 32 of the Interpretation Act<sup>9</sup> which allows a person exercising a power to exercise all such powers that are reasonably incidental to that power.

#### **Costs**

[46] In view of the fact that the Application has achieved some measure of success which benefits all creditors there will be no order as to costs.

#### **ORDER**

[47] IT IS HEREBY ORDERED AND DELCARED as follows:

1. The Court on 21<sup>st</sup> May 2010 upon the Petition of the debtor ordered that the said Petition proceed in accordance with the Bankruptcy Act and as such

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<sup>9</sup> Cap. 1.02

the matter of dismissing the Petition does not arise and the Application is hereby dismissed.

2. The Bankruptcy Act prescribes certain debts which have priority in the context of bankruptcy proceedings and therefore all debts rank *pari passu*, and as such the Applicants cannot be given priority for the payment of US\$895,000.00 ahead of other creditors.
3. The Order of the Court dated 21<sup>st</sup> May 2010 contains a liberty to apply clause at paragraph 4 thereof which empowers the Court to make further Orders in order to give effect to the said Order of 21<sup>st</sup> May 2010.
4. In accordance with section 15 of the Act, the debtor shall submit to the Court appointed receiver or the Registrar of the High Court, as appropriate, a statement of his affairs, verified by Affidavits showing
  - a. Full particulars of the debtor assets (including banks accounts), debts and liabilities.
  - b. The names residences and occupations of his creditors, the securities held by them respectively, the dates when the securities were respectively given.
  - c. All documentation relevant to the requirements of sub-paragraphs (a) and (b) above.
5. The Statement required by paragraph shall be submitted or filed as the case requires on or before Tuesday 31<sup>st</sup> January 2012.
6. Liberty to Apply.
7. Penal Notice to be attached.

ERROL L THOMAS  
*High Court Judge (Ag)*