



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

COMMERCIAL & TAX DIVISION – MILIMANI

MISC. CASE NO. 818 OF 2010

IN THE MATTER OF STALLION INSURANCE COMPANY LIMITED

AND

IN THE MATTER OF COMPANIES ACT, CAP 486 OF THE LAWS OF KENYA

R U L I N G

The Applicant in the ex parte Notice of Motion dated 16th March 2010, is the Liquidator of STALLION INSURANCE COMPANY LIMITED which was wound up by the court under **Section 219** of the **Companies Act** on 15th November, 2001. Upon such winding up the Applicant who was then the statutory manager of the company was appointed its interim liquidator.

In the course of his ten years tenure as the liquidator of the company the Applicant has undertaken several actuarial activities relevant to the winding up process, in the interests of the shareholders, members of the company, its creditors, insureds and the insurance industry in Kenya. These processes included and were not limited to the severance of the loss-making ventures of the company from the profitable ones and the disposal of saleable assets for the benefit of those concerned.

Being of the view that so much of the property of the company as can possibly be realized, without further and unnecessary protracting the liquidation process, has been realized, the liquidator has now applied to this court for his release, pursuant to **Section 247** of the **Companies Act**, **Rule 192** of the **Companies Winding up Rules**, **Section 3A** of the **Civil Procedure Act** and **Order L** of the **Civil Procedure Rules** (2009 Revised Edition).

Section 247 of the Companies Act provides as follows:-

(1) When the liquidator of a Company which is being wound up by the court has realized all the property of the company, or so much thereof as can, in his opinion be realized without needlessly protracting the liquidation, and has distributed a final dividend, if any to the creditors, and adjusted the rights of the contributories, or has resigned, or has been removed from his office, the court shall, on his application cause a report on his accounts to be prepared, and, on his complying with all the requirements of the court, shall take into consideration the report and any objection which may be urged by any creditor or contributory or person interested against the release of the liquidator, and shall either grant or withhold the release accordingly.

(2) Where release is withheld the court may, on application of any creditor/contributory or person interested make such order as it thinks just, charging the liquidator with the consequences of any act or default which he may have done or made contrary to his duty.

(3) An Order of the court releasing the liquidator shall discharge him from all liability in respect of any act done or default made by him in the administration of the affairs of the company or otherwise in relation to his conduct as liquidator, but any such order may be revoked in proof that it was obtained by fraud or by suppression or concealment of any material fact.

(4) Where liquidator has not previously resigned or been removed, his release shall operate as removal of him from office”.

Rule 192- of the Winding Up Rules provides as follows:

(1) A liquidator in a Winding Up by court, before applying to be released shall give notice of his intention to do so to all the creditors who have proved their debts and to all the contributories and shall send with the notice a summary of all receipts and payments in the winding up.

(2) When the court has granted to a liquidator his release, a notice of the order granting the release shall be published in the gazette; liquidator shall provide the requisite fee for gazette, which he may charge against the Company’s assets.

On 3rd February 2010, the liquidator, through his advocate, caused his intention to apply for a release/discharge order to be published in the daily press and on 17th November 2010, presented his Liquidator’s Statement of Account for the period of his appointment as listed in the bundle filed in this court on 16th November 2010, which bundle also included various Financial Reports and Statements regarding the company’s General Insurance Business and Life Insurance Business for the period 2002 to 31st November, 2009. Also presented before the court is the liquidator’s trading account, the list of creditors as at 30th November 2009, the liquidator’s disbursement proposal and a statement of account showing the calculation of the liquidator’s fees as at 30th June, 2009.

The court has perused the documentation presented before it and is satisfied that the liquidator has faithfully discharged his mandate in the best way possible and that a release order at this stage is well deserved. Accordingly I allow the ex parte Notice of Motion herein and grant the release order sought. I order and direct that a release order do issue and the same to be published in the Kenya Gazette within the next 30 days, the liquidator providing the requisite fee for such gazettement, to be charged from the company’s assets.

Orders accordingly.

DATED SIGNED and DELIVERED at NAIROBI this 9TH day of FEBRUARY, 2011

M. G. MUGO

JUDGE