



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA**  
**AT NAIROBI (MILIMANI COMMERCIAL COURTS)**

**Bankruptcy Cause 117 of 2002**

**FRANCIS MUHIA.....DEBTOR**

**VERSUS**

**MECHACK ONYANGO MWEHA.....CREDITOR**

**RULING**

The Public Examination of the Debtor herein was concluded on 28<sup>th</sup> July, 2008. One of the witnesses required by the Official Receiver for examination, one Jonathan Karobia the father of the Debtor was unable to come to court between the 19<sup>th</sup> May, 2008 and 28<sup>th</sup> July, 2008 on medical grounds. A report from a doctor indicating the condition of this witness was filed in court by his advocate, Mr. Gachuhi. That report indicated that due to a past stroke Jonathan Karobia had extensive damage to the brain which had affected his ability to communicate and to walk and that he was confined to the bed.

I have considered the evidence that was adduced in the Public Examination which included the evidence of the Debtor, the evidence of his wife, one Mary Wanjiru Muhia and his sister, Ruth Wangui Karobia. Following the evidence of the Debtor, it was clear that the Debtor was collecting some amount of money on premises which he claimed he was doing on behalf of his son who was abroad. The court ordered that the money so collected in the sum of Kshs.20,000/= be deposited with the Official Receiver on a monthly basis. That order was made on the 10<sup>th</sup> July, 2008. The Debtor did not comply with that order until the court warned him of the possible committal to civil jail for contempt. The deposits were made from the end of September 2008.

From the Official Receiver's report dated 13<sup>th</sup> November, 2008 I note that the Debtor has deposited five post dated cheques of Kshs.100,000/- each, to the Official Receiver and that two of those two cheques have been cashed by the Creditor. I note that the Official Receiver annexed a proposal made by the Debtor of how he proposes to settle debt owed to Creditors. According to the Official Receiver's report apart from the Creditor who was before the court, there were two outstanding Creditors pending settlement.

In view of the proposal made and having concluded the public examination, I make the following orders:

1. That the Debtor submits to the Official Receiver within 14 days from the date hereof a proposal for a composition in satisfaction of his debts as provided for under section 18 of the Act and rule 160 of the Bankruptcy rules.

2. The Official Receiver shall within 30 days

(i) Prepare a composition or scheme.

(ii) Arrange a meeting with Debtor and creditors for consideration of the proposal.

3. The Official Receiver shall then make the necessary application for the confirmation of the composition or scheme by the court within a reasonable time.

4. In the meantime, the Debtor shall continue to comply with the order made on 10<sup>th</sup> July, 2008 by depositing with the official Receiver the sum of Kshs.20,000/= every month until further orders of the court.

5. Receiving Order to remain in force.

Dated at Nairobi, this 28<sup>th</sup> day of November, 2008.

**LESIT, J.**

JUDGE

***Read, signed and delivered, in the presence of:***

Mr. Gakuru for Official Receiver

Debtor present

**LESIT, J.**

JUDGE