

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

COMMERCIAL AND TAX DIVISION

INSOLVENCY PETITION NO. E055 OF 2024

IN THE MATTER OF THE INSOLVENCY ACT, 2015

AND

**IN THE MATTER OF CREDIT INFORMATION SYSTEMS COMPANY
LIMITED**

**CREDIT REFERENCE BUREAU (HOLDINGS)
LIMITED.....PETITIONER**

VERSUS

**CREDIT INFORMATION SYSTEMS COMPANY
LIMITED.....RESPONDENT**

JUDGMENT

Introduction

1. The Petitioner, **Credit Reference Bureau (Holdings) Limited**, filed the present Insolvency Petition dated 23rd May 2024 seeking the liquidation of the Respondent, **Credit Information Systems Company Limited**, under sections 424(1)(c), 424(1)(g), and 425(1)(a) of the Insolvency Act, 2015.
2. The Petition is accompanied by a Verifying Affidavit sworn on the same date by **Vivian K. Onyino**, the Managing Counsel - Group Legal of the

Petitioner, who confirmed that she is duly authorised to depone to the facts on behalf of the Petitioner.

3. The Respondent is a limited liability company incorporated on 4th December 2001 under Registration Number **C.96582**. According to the official records from the Companies Registry, which were exhibited as *VKO-1*, the Respondent has a nominal capital of Kshs. 100,000, divided into 100 ordinary shares of Kshs. 1,000 each.
4. The Petitioner is the majority shareholder, holding 78 shares, while the remaining shares are held by Stephen Mills (1 share), Charles Onyancha (20 shares), and Michael John Karanja (1 share). The Respondent's registered office is located off Lusaka Road, Building L.R. No. 37/143, Witu Road, Nairobi.
5. It is the Petitioner's case that although the Respondent was incorporated to carry on the business of providing credit-related information and services as reflected in its Memorandum of Association, the company has ceased trading for a period exceeding twelve (12) months.
6. The Petitioner averred that the Respondent has not engaged in any form of business activity for an extended period and that the company's commercial operations have effectively ground to a halt. This, the Petitioner stated, amounts to a complete failure of the company's substratum.
7. The Petitioner further contended that it has made multiple efforts to trace and engage the minority shareholders and directors with a view to initiating a voluntary winding-up process. These efforts, however, have been futile, thereby preventing any internal resolution on the

future of the company. The Petitioner therefore approached this Court for appropriate relief under the Insolvency Act.

8. The Petitioner asserts that the Respondent has no known debtors, creditors, or assets, and that no prejudice would result to any third party if a liquidation order is made.
9. In support of this averment, the Petitioner filed the Respondent's Statement of Affairs signed by **Justin Gachigo** on **23rd May 2024**, marked as *VKO-2*. The Statement of Affairs confirms that the Respondent has no secured or unsecured liabilities, no floating or fixed charge assets, no uncharged assets, and no outstanding financial obligations.
10. Despite service, the Respondent did not file any response to the Petition and did not contest the averments made by the Petitioner, nor did they file any submissions. The Petition has therefore proceeded unopposed.
11. In support of the Petition, the Petitioner, through the law firm of Madhani Advocates, filed their submissions dated 2 March 2026, which the Court has duly considered.

Analysis and Determination

12. Having reviewed the Petition and the supporting material, the Court considers that the sole issue for determination is whether the statutory grounds for liquidation of the Respondent company have been established.

13. Before proceeding to the primary issue for determination, the Court finds it critical to first examine whether the Petitioner has the requisite locus standi to file this Petition.
14. Under Section 425(1)(c), a liquidation petition may be presented by, among others, a contributory of the company. Under the Insolvency Act 2015, a contributory is a person (past or present shareholders of the company) liable to contribute to the assets of a company in the event of its liquidation. Section 389 of the Act provides that:
- “The liability of a contributory creates an ordinary contract debt due from the contributory at the time when the contributor's liability began, but payable at the times when calls are made to enforce the liability.”
15. Here, the company registry extract annexed to the Petition confirms that the Petitioner is a shareholder and holds 78 out of the 100 issued ordinary shares. The Petitioner, therefore, is a contributory within the meaning of the Act and is consequently possessed of the requisite locus standi to present and sustain this Petition.
16. The Petition is primarily grounded on **Section 424(1)(c)** of the Insolvency Act, 2015, which provides that a company may be liquidated by the Court if it does not commence its business within twelve months from its incorporation or suspends its business for a whole year.
17. Regarding whether the Petition meets the statutory criteria, the Petitioner's uncontroverted evidence establishes that the Respondent has been dormant for a period exceeding twelve months. In the absence of a Replying Affidavit or any evidence of commercial activity

from the Respondent, the Court upholds the Petitioner's assertion and finds that the Respondent has indeed ceased to trade.

18. The cessation of business operations strikes at the very core of the Respondent's corporate existence, rendering its continued presence on the register of companies a mere formality without substance.
19. The Petitioner also invokes the "just and equitable" ground under Section 424(1)(g) on the condition that the substratum of the company has disappeared. The "just and equitable" ground is a long-established principle in company law.
20. Where a company's substratum has disappeared, meaning it can no longer carry out the objects for which it was formed, the Court agrees with the Petitioner's submissions that "it is just and equitable" for the Court to intervene.
21. In **Ebrahimi v Westbourne Galleries Ltd [1973] AC 360**, the House of Lords held that the Court may order the winding up of a company where the circumstances demonstrate that the company can no longer operate in accordance with the expectations of its members.
22. The same principle has been applied in Kenya in several cases, including In Re Garnets Mining Co Ltd [1978] KEHC 8 (KLR), where the Court held that a dormant company whose substratum has disappeared may properly be wound up on the just and equitable ground.
23. In the present case, the evidence on record shows that the Respondent company has ceased operations, and there is no evidence of ongoing business activity. It is also clear from the verifying affidavit

of **Ms. Viviam K. Onyino** that the company has no known assets or liabilities and that efforts to wind up the company internally have not been successful due to what the Petitioner, who is the majority shareholder, depones to be its inability to trace the other (minority) shareholders.

24. As to the procedure, the Court notes that the Petition was duly advertised in the *Daily Nation* on **3rd September 2025** without any objection being raised by the public, an indication that allowing the application would not prejudice third parties, including creditors (there are none).
25. The Court has also examined the Statement of Affairs filed alongside the Petition, which lists no known creditors or liabilities. This lack of indebtedness, coupled with the fact that the advertisement of the Petition has not elicited any objection, leads this Court to an inescapable conclusion that the dissolution of the Respondent will prejudice no third party.
26. The Court is therefore satisfied that it is just and equitable that the Respondent company be liquidated. Accordingly, the Court allows the Petition and issues the following final orders:
- i. Credit Information Systems Company Limited is hereby liquidated under the provisions of Section 424(1)(c) of the Insolvency Act.
 - ii. placed under liquidation.
 - iii. The Official Receiver (or a person nominated by the Official Receiver) is appointed as the liquidator of the company.
 - iv. The liquidator shall conduct the liquidation in accordance with the provisions of the Insolvency Act, 2015.

- v. The costs of the liquidation to be met by the contributories of the company.
 - vi. I make no orders as to costs of the Petition bearing in mind that this Petition has been commenced by the majority shareholder of the company.
27. It is so ordered.

SIGNED, DATED, and DELIVERED IN VIRTUAL COURT THIS

12TH MARCH 2026



ADO MOSES

JUDGE

In the presence of: -

C/A - Moses

Kavata.....for the Petitioner

N/A..... for the Respondent