

Marrache & Co (“the Firm”) – No 5 of 2010

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Isaac S Marrache – In Bankruptcy – No 1 of 2010

Benjamin J Marrache – In Bankruptcy No 2 of 2010

Solomon S Marrache - In Bankruptcy No 3 of 2010

Interim update to creditors

20th December 2012

**PricewaterhouseCoopers Limited
10th Floor, International Commercial Centre
Casemates Square
Gibraltar**

**Chantrey Vellacott (Gibraltar) Limited
86 Main Street
Gibraltar**

Dear Creditor,

We write further to our last update of 31 May 2012 to provide you with a summary of developments over the last few months. As you will note from this half yearly report we continue to face a number of difficulties and challenges. However, despite these challenges we have managed to progress the following matters.

Successful Strike out application against Benjamin Marrache in relation to an appeal against his bankruptcy

As you are aware, an appeal was lodged with the Court of Appeal by Benjamin Marrache against his November 2010 Bankruptcy Order. This appeal was filed by Benjamin Marrache 16 months after the date of the Bankruptcy Order. In his Notice and Memorandum of Appeal Benjamin Marrache argued a number of matters, many of which bore a similarity to those used by his brother Isaac Marrache which had already been rejected by the Court of Appeal. Benjamin Marrache blamed the delay in appealing his bankruptcy on his inability to obtain legal assistance prior to March 2012. Benjamin Marrache asserted that there were a number of new grounds for appeal. This included a suggestion that the Chief Justice took a less than sympathetic stance towards Mr Marrache's religious beliefs during the Bankruptcy hearing by not adjourning on the Friday afternoon during which the petition was heard. Our view was that the prospects of a successful Appeal were very low on the basis that the Court of Appeal had already rejected many of the same grounds in Isaac Marrache's Appeal. Moreover, we were of the view that the new grounds were unfounded as no application had been made for an adjournment as had been suggested by Benjamin Marrache. On the basis of advice from our lawyers Cruz & Co we pre-empted the Appeal by applying to the Court to strike out Benjamin Marrache's application on various grounds.

The Court of Appeal ruled against every single point made by Mr Gomez of Gomez & Co, the solicitors for Benjamin Marrache, and delivered a powerful judgement, expressing the view that Benjamin Marrache's appeal was in fact frivolous and vexatious. A copy of this judgement is enclosed.

We have recently received notice from Mr Gomez that Benjamin Marrache intends to appeal to the Judicial Committee of the Privy Council in the same manner as his brother Isaac Marrache. Our legal advice suggests that neither appeal should succeed nor that leave (permission) by the Lordships of the Privy Council to appeal will be granted. However, the above demonstrates the continuing and extremely onerous costs being incurred as a result of the actions of at least two of the Bankrupts. We seem, in practical terms, powerless to stop this whilst the Bankrupts appear to have unlimited access to tax payer resources in the form of legal assistance.

Successful Order for Possession of Isaac Marrache's residential property 74 Ragged Staff Wharf

We have recently been successful in obtaining an Order for Possession over Isaac Marrache's residential home valued at approximately £500,000, which Isaac Marrache has recently vacated. This followed a significantly drawn out process which involved 4 court appearances where our lawyer Mr Cruz and his associate appeared for us and Mr Cohen from London chambers and Mr Isaac Massias appeared for Isaac Marrache. It should be noted that Isaac Marrache was once again benefiting from the receipt of legal assistance. A copy of the compelling judgement given by Mr Justice Butler dated the 25th September 2012 is enclosed. Once again, due to the fact that Isaac Marrache was funded by legal assistance, we were powerless to recover our costs. This demonstrates the entirely unfair circumstances you as creditors find yourselves in. Nevertheless, we have instructed various estate agents to sell the property and we should secure a sale shortly. We expect the property to realise an element of equity notwithstanding there being a mortgage to Barclays Bank.

Application for Possession of Benjamin and Solomon Marrache residential properties, 306 Main Street and 10D Pitman's Alley

On the strength of the judgement of Mr Justice Butler referred to above, we believe that we will be successful in obtaining possession orders for 306 Main Street and 10D Pitman's Alley, despite family members residing there. To that effect we wrote to them on the 27th and 28th day of October 2012 respectively with copies of the said Judgement of Mr Justice Butler and requested that they confirm that they would vacate the properties without the need for further legal proceedings. They have refused via their solicitors; Mr Gomez on behalf of Mrs Anjette Marrache and Mr Haresh Budrani QC on behalf of Mrs Monica Marrache.

Once again, we have no alternative but to issue legal proceedings for orders of possession. The issue of these proceedings have been recently filed in Court and we are currently waiting for Court dates. We are advised that our case has merit despite the added complication that the families of the Bankrupts reside in the properties. When we obtain possession we will be able to sell the properties and we would hope to negotiate with the Bank, and any other parties who have claims to the properties, to achieve a reasonable settlement that will see us making significant realisations. In these cases we would hope to obtain orders as to costs against Mrs Anjette Marrache and Mrs Monica Marrache if they are not legally assisted. However, it is uncertain how effective this will be in terms of recovery.

Private examinations

We have recently been successful in obtaining Court Orders to privately examine Isaac Marrache, Solomon Marrache, Joshua Marrache, Abraham Marrache and Rebecca Marrache, with our application to privately examine Benjamin Marrache, Anjette Marrache and Raphael Marrache being adjourned to February 2013. We are hopeful that these private examinations will help deal with conflicting claims surrounding certain known assets as well as leading us to other possible assets.

Pending applications

At present we have managed to secure various Court dates for case management conferences on the following matters:

- Application to seek an order for possession over a large number of paintings (paragraph 5.4 of the 31 May 2012 report) - 15 January 2013
- Application to seek an order for possession over a Mercedes Viano (carrier) vehicle (paragraph 7.6 of the 31 May 2012 report) - 15 January 2013
- Application to seek an order to wind up Prime Sight Limited (20 Ragged Staff Wharf) – 24 January 2013
- Application for the Private Examination of Benjamin Marrache, Anjette Marrache and Raphael Marrache – February 2013

We continue to wait for hearing dates on the following applications

- Application to seek an order for possession over Benjamin Marrache's personal assets
- Application for declaration that funds held in Israel by Anjette Marrache are not funds that she is beneficially entitled to
- Application to seek an order for possession over 306 Main Street and 10D Pitman's Alley.

Legal assistance and request for Government funding

To date, the Bankrupts continue to be in receipt of legal assistance which unfortunately leads to further unnecessary legal costs being met. As a matter of fact the Court of Appeal, in the judgement referred to above, made reference to the costs that had already been incurred in the liquidation and described them as shocking as a result of the lack of cooperation from the bankrupts.

We have met with the Minister for Justice, the Honourable Mr Gilbert Licudi QC, to express our serious concerns about this entirely iniquitous situation and what we, and it appears the Court of Appeal, feel is an unfair situation for creditors. In order to achieve a level playing field we have sought funding from the Gibraltar Government to help us meet our legal and other costs and are currently waiting for a reply. The Government are now fully aware of the plight of the many creditors and the inevitable consequences on your chances of recovery due to the tactics being employed by the Bankrupts. We have prepared an estimate of likely future cost for Mr Licudi and we understand our request is at cabinet level. The Government have the power and discretion via the office of the Official Receiver to provide us with resources and although it is taking several months to receive a response we hope that they will respond positively.

Additionally, we have written to the previous Registrar of the Supreme Court and the current Acting Registrar highlighting what we consider to be anomalies in some of the previous successful applications for legal aid. Our concerns relate to both the financial qualification for legal aid by some applicants and the questionable merits of cases where a legal aid certificate has been granted.

Continuing Cost

Inevitably the cost incurred by the Joint Liquidators and their advisors continue to be higher than we would expect in a normal insolvency situation due to the reasons highlighted above. Since our last report our outstanding time costs and disbursements have increased by £455,521.

Potential distribution to creditors

As can be seen from this update report there are a large number of outstanding matters making it difficult to comment on the potential distribution to creditors. However, it is important to highlight that if the obstacles and complications incurred to date continue, our costs including that of our legal advisors are likely to further increase, which will inevitably result in less funds being available for any distribution to creditors.

Conclusion

It is therefore disheartening to conclude that, in a liquidation with parallel criminal and regulatory investigations, where total claims approximately amount to close on £40 million, the bankrupts are succeeding in making it almost impossible for creditors to recover any amounts lost. To use the words of Mr Justice Parker in the Appeal court:

"So much for the picture painted by the Official Trustee and Mr Hyde in their latest report to creditors. If it is a true picture (I have already pointed out that the report is disputed by Benjamin) it is, to my mind a shocking one."

It is our sincere hope and expectation that the Government will assist by providing finance and that the Supreme Court Registrar will assist by ensuring that extra care is taken before legal assistance is granted. If these actions are taken then we would hope to be in a better position to provide more positive updates in the future.

Yours sincerely



Edgar C Lavarello
Joint Liquidator



Adrian C Hyde
Joint Liquidator