

6 August 2013

# Report of the Joint Official Liquidators to the Creditors and the Grand Court of the Cayman Islands for the period 1 May 2012 to 30 June 2013

Trade and Commerce Bank  
Velox Capital Markets Inc.  
Velox International Investments  
Velox Real Estate Limited  
Velox Venture Capital  
Peabody Limited  
Terrace Corporation

(All in Official Liquidation)



## Report to Creditors

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### 1. Basis of Presentation and Disclaimer

#### 1.1 Basis of Presentation

This report has been prepared solely for the purpose of informing those parties claiming to be creditors (the “Creditors”) and the Grand Court of the Cayman Islands (the “Court”) about the progress made in the liquidations of the following companies (collectively “the Companies”):

- Trade and Commerce Bank (“TCB”);
- Velox Capital Markets Inc. (“VCM”);
- Velox International Investments (“VII”);
- Velox Real Estate Ltd (“VRE”);
- Velox Venture Capital (“VVC”);
- Peabody Limited (“Peabody”); and
- Terrace Corporation (“Terrace”);

This report has been prepared using the information available to the Joint Official Liquidators (the “Liquidators”) at the time of preparation. Investigations are ongoing and new information continues to be received. This may result in material changes to the information shown in this report.

This report does not waive privilege in relation to any matters that are the subject of legal proceedings in any jurisdiction.

#### 1.2 Disclaimer

Under no circumstances should this report be copied or disclosed to any third party or otherwise be quoted or referred to, in whole or in part, without the Liquidators’ prior written consent. In the event that this report is obtained by a third party or used for any purpose other than in accordance

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with its purpose of informing the Creditors and the Court, any such party relying on the report does so entirely at their own risk and shall have no right of recourse against the Liquidators, Zolfo Cooper (Cayman) Limited ("Zolfo Cooper"), its partners, directors, employees, professional advisers or agents.

None of the Liquidators, Zolfo Cooper, its partners, directors, employees, professional advisers or agents accept any liability or assume any duty of care to any third party (whether it is an assignee or successor of another third party or otherwise) in respect of this report and any such party who receives a copy of this report whether from Zolfo Cooper, or any other source shall have no right of recourse against Zolfo Cooper, its partners, directors, employees, professional advisers or agents.

## 2. Introduction

On 29 August 2002, by order of the Court, TCB was placed into official liquidation.

On 6 June 2003 an order was made by the Court authorising that the assets of TCB, VCM, VII, VRE and VVC, be treated as being pooled for the purpose of the payment of costs, expenses, claims and distributions arising out of or relating to the liquidations.

On 24 July 2003 a similar order was made by the Court authorising that the assets of TCB, Peabody and Terrace, be treated as being pooled for the purpose of the payment of costs, expenses, claims and distributions arising out of or relating to the liquidations.

By order of the Court dated 16 May 2012, and in accordance with the Companies Winding Up Rules (Amended 2010), Tammy Fu and Eleanor Fisher of Zolfo Cooper, 38 Market Street, 2<sup>nd</sup> Floor, Canella Court, Camana Bay, Grand Cayman, KY1-9006, Cayman Islands replaced Richard Fogerty and Jim Cleaver as Joint Official Liquidators of the Companies.

This report should be read in conjunction with the Liquidators' previous reports dated 21 August 2004, 29 February 2008 and 30 April 2012. This report covers the period from 1 May 2012 to 30 June 2013 (the "Current Period").

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### 3. Receipts and Payments

A receipts and payments account in respect of the Companies for the period from 1 May 2012 to 30 June 2013 is attached at Appendix A. It should be noted that, as requested at the meeting of Creditors held on 11 June 2012, all receipts and payments related to custody accounts have been removed from the receipts and payments account.

The Liquidators hold US\$1,031,575.86 in the liquidation bank account as at 30 June 2013.

#### 3.1 Receipts

There have been receipts relating to debtor recoveries totalling \$119,994.00 realised by Hughes and Hughes (“H&H”) during the Current Period. These realisations have been offset against fees previously incurred by H&H.

#### 3.2 Payments

##### 3.2.1 Official Liquidators fees and expenses

During the Current Period US\$52,756.65 has been paid to the Liquidators in respect of their costs and expenses relating to the adjudication of creditor claims. It should be noted that US\$309,294.01 has been incurred relating to other liquidation matters but those fees remain unpaid.

##### 3.2.2 Campbells

During the Current Period, US\$36,781.56 has been paid to Campbells in respect of legal advice in relation to creditor claim adjudication and the liquidation wind down.

##### 3.2.3 Hughes and Hughes

During the Current Period \$119,994.00 was paid to H&H in respect of fees incurred.

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### 3.2.4 Committee Expenses & Legal Fees

During the Current Period, expenses of US\$8,000.00 were paid to members of the Liquidation Committee (the "Committee") in relation to their costs of attending the last Committee meeting.

### 3.2.5 Other Payments

During the Current Period, a nominal amount of bank charges and miscellaneous expenses relating to the maintenance of the liquidation website were incurred.

## 4. Liquidation Committee

The Committee is comprised as follows:

- Carlos Folle Martinez, represented by Dr. Juan Jose Fraschini Chalar;
- Antonion Luquin, Mariano Alarcon and Victor Testoni, represented by Alberto O. Forti; and
- Fondus Mutuos Banaleman, represented by its liquidator, Elisabetta de Riveros.

During the Current Period, one Committee meeting has been held which took place on 1 February 2013 in Montevideo. The Liquidators intend to convene a further meeting, by telephone conference, in September 2013.

## 5. Debtors

### 5.1 Uruguay

As previously reported, H&H are engaged to assist the Liquidators with debtor collections in Uruguay.

As detailed below, H&H now advise that the only real prospect of future recoveries in Uruguay is a claim for US\$600,000 plus interest against Letiza Vejo Peirano Mailhos (see 5.1.3).

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Whilst there may potentially be smaller debtor balances available for recovery, the cost associated with the continued investigation and collection of such amounts is prohibitive. The Liquidators are attempting to work with H&H to identify any potential purchasers for the remaining debtor book. Any Creditors who may wish to consider purchasing the remaining debtor book of the Companies should contact [Kevin.Guirey@Zolfocooper.ky](mailto:Kevin.Guirey@Zolfocooper.ky).

### 5.1.1. Juan Peirano Basso

H&H have advised that there is no prospect of recovery from this source.

### 5.1.2. Miguel Peirano Basso (“MPB”)

Creditors will recall that the judge ruled in favour of TCB in respect of the claim against MPB, however he appealed the decision. The Court of Appeal then rejected the claim of TCB on the grounds that the action was barred by statute limitation. The case was then appealed to the Supreme Court of Justice. By judgement dated 11 June 2013 the Supreme Court supported the decision of the Court of Appeal and ruled against TCB. The case is now closed.

### 5.1.3. Letiza Vejo Peirano Mailhos (“LVPM”)

Creditors will recall that there were two claims being pursued against LVPM.

Claim 1 for US\$600,000 plus interest

Following two favourable judgements against the defendant, H&H anticipate that the amount awarded will be received in late 2013 or early 2014. This is however, dependent on any further appeals.

Claim 2 for outstanding balances of US\$30.9 million plus interest:

The Liquidators have consulted with their legal advisers, H&H, and have reached the conclusion that on the basis that there have been two unsuccessful appeals, this claim is no longer worth pursuing.



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### 5.2 Argentina

Estudio Binacional ('EB') are currently pursuing settlements with a number of debtors in Argentina and continues to provide updates to the Liquidators where appropriate. EB have recently updated the Liquidators that they are continuing in their efforts, via the courts, to gain control of Los Chorrillos and a decision is expected shortly.

EB are instructed on a contingent basis and will receive 33.3% of any realisations made in Argentina.

### 5.3 Brazil

The Brazilian attorney previously instructed by the Liquidators advised that he was unable to realise any of the outstanding debtor monies and resigned from his appointment. H&H have been unable to find a new Brazilian attorney to act for the Liquidators on a contingent basis. Accordingly the Liquidators are assessing the possibility of selling these debts to a third party. Discussions with interested parties are currently ongoing. Any Creditors who may wish to consider purchasing the remaining debtor book of the Companies should contact [Kevin.Guirey@Zolfocooper.ky](mailto:Kevin.Guirey@Zolfocooper.ky).

### 5.4 USA

As detailed in the last report, TCB has been involved in a dispute with the Government of Brazil where each party are claiming monies held by the United States Court. Further to the last report, the United States Court awarded summary judgement to the Brazilian Government. The Liquidators have appealed this decision and have obtained a freezing order over the monies that would have otherwise been transferred to the Brazilian Government. The Liquidators are awaiting the result of the appeal. In the meantime, the Liquidators' US attorneys have made a settlement proposal to the Brazilian Government's legal adviser which has been rejected. The Liquidators' US attorneys have advised that briefs have been submitted in advance of the appeal which is expected to take place in October 2013.

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### 5.5 British Virgin Islands (BVI)

#### 5.5.1. Establishment for International Investment Inc

H&H have advised that there is no prospect of recovery from this source.

#### 5.5.2. Other BVI Entities

Creditors will recall that Whiterock Financial Inc and Dusany Properties Limited have both been dissolved.

The potential claims against LVPM relating to Lightblue Limited and Rushdale Financial Corporation have not been assigned to TCB following the unsuccessful appeals detailed at 5.1.3. These companies have now also been dissolved.

## 6. Third Official Liquidator (TOL)

It is understood that the TOL has reached settlements with Arthur Anderson and Morris Brankin. The Liquidators have asked the TOL to provide an accounting of his costs however, to date, this has not been forthcoming.

The Liquidators are continuing to press for confirmation of costs and for the remittance of the balance to the estate.

## 7. Liquidators' Fees and Expenses

The Liquidators have taken fees and expenses of \$3,442,089.22 and \$385,153.04 respectively, totalling US\$3,827,242.26 relating to the provisional and official liquidation periods.

The Liquidators' fees of US\$518,179.05 incurred as Joint Provisional Liquidators during the period from 5 July 2002 to 29 August 2002 were approved by order of the Court dated 28 August 2007.

The Liquidators' fees of US\$1,888,107.62 incurred during the period 29 August 2002 to 28 February 2007 were approved by order of the Court dated 8 May 2007.

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The Liquidators' fees and expenses of US\$1,071,089.50 incurred during the period from 1 March 2007 to 30 November 2011 were approved by order of the Court dated 11 December 2012.

At the Committee meeting held on 1 February 2013, the Committee approved the Liquidators' fees for the period from 1 December 2011 to 31 July 2012, by written resolution, to the value of US\$142,130.00. At the same time, the Committee also approved the Liquidators' fees for the period from 1 August 2012 to 31 December 2012 to the value of US\$116,943.50, by written resolution.

In an effort to efficiently manage the costs of the liquidation, the Liquidators requested an extension from the Court for the next scheduled fee application. On 12 July 2013, the Court ordered that the Liquidators be permitted to dispense with any further interim fee approval applications and be permitted to submit a final fee approval application, together with the application for dissolution, at the conclusion of the liquidation

## 8. Outstanding Liabilities

The following liquidation expenses remain outstanding:

<i>Liquidators Fees and Expenses</i>	\$ 577,863.12
<i>Legal Service Providers:</i>	
Campbell's	4,382.50
Hughes & Hughes	326,059.59*
Satterlee Stephens Burke & Burke LLP	42,822.88
(Estudio Binacional are paid on a contingent basis - see section 5.2)	
<i>Other Professional Fees</i>	16,254.12
<u><i>Total Liabilities Outstanding as at 30 June 2012</i></u>	<u>967,382.21</u>

*\*to be reviewed and approved by the Liquidators*

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### 9. Ring Fenced Funds for Distribution to Creditors.

It was agreed between one of the former Liquidators, Richard Fogerty, and the Committee that certain realisations would be ring fenced for distribution to Creditors subject to the deduction of specific expenses including those associated with the adjudication of Creditor claims. The ring fenced balance currently stands at approximately US\$919,137.39.

As a result of analysis conducted by the Liquidators and their staff, the Liquidators estimate that there are approximately 1,400 claims against the Companies totalling approximately US\$580 million. To date, the Liquidators have admitted approximately 500 Creditor claims totalling approximately US\$200 million. An advertisement will shortly be published in all relevant countries requesting that all non-admitted Creditors confirm their claim(s) against the Companies before 12 September 2013. The Liquidators will hopefully be in a position to finalise the adjudication of Creditor claims within the next six months.

If admitted claims total in excess of US\$200 million and there are no further realisations available to the Liquidators, a distribution to admitted Creditors would be less than 0.5 cents in the dollar. Accordingly, the Liquidators will seek appropriate directions from the Court given the costs associated with making up to 1,400 distribution payments, may make any distribution to Creditors not economically.

### 10. Meeting of Creditors

A meeting of Creditors will be held on Friday 6 September 2013 at 10.00am Eastern Standard Time. Please note that the meeting will be held by telephone conference and will be held solely to discuss the contents of this report. Should any Creditor wish to participate on the call then they should complete and return the proxy form attached at Appendix B to Emma Storry at [emma.storry@zolfocooper.ky](mailto:emma.storry@zolfocooper.ky) no later than close of business on Wednesday 4 September 2013.

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In advance of the meeting please forward any questions or queries which are intended to be raised to enable the preparation of a comprehensive response. Any questions must be submitted before close of business on Wednesday 4 September 2013. Please also provide, if possible, a contact email address for all future correspondence.



Tammy Fu  
Joint Official Liquidator

Appendix A Receipts and Payments Account for the period from 1 May 2012 to 30 June 2013

Trade and Commerce Bank, Velox Capital Markets Inc., Velox International Investments, Velox Real Estate Ltd, Velox Venture Capital, Peabody Limited and Terrace Corporation (all in Official Liquidation)

Receipts and Payments Account for the period from 1 May 2012 to 30 June 2013

Receipts	<u>1 May 2012</u> <u>restated</u>	<u>Movement</u>	<u>30 June 2013</u>
Cash Taken Over			
Merrill Lynch	69,547.64	-	69,547.64
Butterfield	1,836.64	-	1,836.64
Brown Bothers Harriman	67,602.35	-	67,602.35
BSI	460.74	-	460.74
Peabody	32,878.93	-	32,878.93
Terrace	9,058.84	-	9,058.84
Velox Investment Company settlement	40,000.00	-	40,000.00
Sale of vehicle and other assets	17,867.62	-	17,867.62
Sale of Securities	314,824.65	-	314,824.65
Sale of properties - Moneta units	342,739.02	-	342,739.02
Proceeds Attributable to Sale of Pegasus	173,000.00	-	173,000.00
IPASA Settlement	480,000.00	-	480,000.00
Proceeds from PEP	1,265,945.33	-	1,265,945.33
Sale of Merlin	5,000.00	-	5,000.00
Disposal of Pedro Goyena Properties	69,000.00	-	69,000.00
Inmobiliaria El Gaucho	323,039.74	-	323,039.74
Funds from ECHG Settlement	79,638.34	-	79,638.34
Interest Earned	44,034.64	-	44,034.64
Dividends	2,236.00	-	2,236.00
Debts recovered	6,353,921.45	119,994.00	6,473,915.45
Miscellaneous Receipts	51,143.36	-	51,143.36
Fees Paid from Custody Account Holders	-	-	-
<b>Total Receipts</b>	<u>9,743,775.29</u>	<u>119,994.00</u>	<u>9,863,769.29</u>
<b>Payments</b>			
Provisional Liquidators' fees and expenses	596,775.16	-	596,775.16
Official Liquidators' fees and expenses	3,177,710.45	52,756.65	3,230,467.10
Third Official Liquidators' fees and expenses	392,438.99	-	392,438.99
BVI costs	6,985.25	-	6,985.25
Campbells	884,070.58	36,781.56	920,852.14
Hughes & Hughes	1,692,728.91	119,994.00	1,812,722.91
Estudio Binacional	79,035.00	-	79,035.00
Felsberg e Associados	28,288.45	-	28,288.45
Michael Crystal - South Square	8,116.33	-	8,116.33
Adam Al Attar - South Square	4,058.17	-	4,058.17
Maples & Calder	5,880.48	-	5,880.48
Satterlee Stephens Burke & Burke	118,644.69	-	118,644.69
Diamond McCarthy	23,744.00	-	23,744.00
Ortiz y Asociados	266,618.77	-	266,618.77
Raul A Borthwick	17,489.30	-	17,489.30
Unpaid Capital Call re PEP (BBH) withheld on sale	150,000.00	-	150,000.00
Charles Adams Ritchie & Duckworth	167,390.30	-	167,390.30
Mourants	419,820.11	-	419,820.11
Felten & Associes	1,262.14	-	1,262.14
Forbes Hare	188,904.08	-	188,904.08
Martin Kenney & Co	35,000.00	-	35,000.00
Other Legal Fees & Expenses	39,839.18	-	39,839.18
Blair Consular Services	3,081.20	-	3,081.20
Database Reconstruction	69,446.50	-	69,446.50
Ernst & Young LLP (UK)	16,346.68	-	16,346.68
Government Fees	5,963.41	-	5,963.41
Costs for Disposal of Assets	78,215.55	-	78,215.55
Miscellaneous Expenses	34,645.00	585.36	35,230.36
Bank Charges	11,463.18	642.70	12,105.88
Committee Expenses & Legal Fees	89,471.30	8,000.00	97,471.30
<b>Total Payments</b>	<u>8,613,433.16</u>	<u>218,760.27</u>	<u>8,832,193.43</u>
<b>Balance</b>	<u>1,130,342.13</u>	<u>- 98,766.27</u>	<u>1,031,575.86</u>





# PROXY FORM

Notes to help completion of this form

**Trade and Commerce Bank  
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Please give full name and address for communication.

NAME OF CREDITOR \_\_\_\_\_

ADDRESS \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

EMAIL ADDRESS \_\_\_\_\_

AMOUNT OF CLAIM \_\_\_\_\_

Please insert name of person (who must be 18 or over) or the "Chairman of the Meeting" (see note below). If you wish to provide for alternative proxy-holders in the circumstances that your first choice is unable to attend please state the name(s) of the alternative(s).

NAME OF PROXY HOLDER

1. \_\_\_\_\_

2. \_\_\_\_\_

3. \_\_\_\_\_

I appoint the above person to be my/the\* creditor's proxy-holder at the meeting of creditors to be held on 6 September 2013 or at any adjournment of that meeting.

This form must be signed

SIGNATURE \_\_\_\_\_

DATE \_\_\_\_\_

NAME IN CAPITAL LETTERS \_\_\_\_\_

Only to be completed if the creditor has not signed in person.

POSITION WITH CREDITOR OR RELATIONSHIP TO CREDITOR OR OTHER AUTHORITY FOR SIGNATURE

\_\_\_\_\_

PLEASE NOTE THAT IF YOU NOMINATE THE CHAIRMAN OF THE MEETING TO BE YOUR PROXY-HOLDER HE WILL BE ONE OF THE JOINT LIQUIDATORS OF THE ABOVE COMPANIES.

(\* - Delete as applicable)



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