

**Bancredit Cayman Limited – In Official Liquidation**  
**Updating Report**  
**31 October 2008**

**STRICTLY PRIVATE AND CONFIDENTIAL**

**Updating Report**

31 October 2008

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BANCREDIT CAYMAN LIMITED – IN OFFICIAL LIQUIDATION (“the Company”)

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**APPENDICES**

- I. Receipts and Payments account to date.

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**1.0 Introduction**

This is an update from the Joint Official Liquidators (“the Liquidators”) of Bancredit Cayman Limited (“Bancredit” and “the Company”) to the report dated 18 January 2008 (“the last report”) and should be read in conjunction with all previous reports.

This report covers the period of the Liquidation from 1 January 2008 to 31 October 2008 and is based upon a report for the same period filed under seal at the Grand Court of the Cayman Islands (the Grand Court).

**1.1. Disclaimer**

This report should not 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 with its statutory purpose of informing the Creditors, any such party relying on the report does so entirely at their own risk and shall have no right of recourse against the Liquidators, Kroll (Cayman) Limited (“Kroll”), its partners, directors, employees, professional advisers or agents.

None of the Liquidators, Kroll, 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 Kroll, or any other source shall have no right of recourse against Kroll, its partners, directors, employees, professional advisers or agents.

In preparing this report the Liquidators, where appropriate, have relied upon information provided to them by the Company at the time of their appointment. The Liquidators have not performed an audit examination on this information. Except where specifically stated, the Liquidators have been unable to establish the reliability of the sources of information presented to them by reference to independent evidence.

**1.2. Professional Advisors**

Within this report, reference is made to the various legal and other professional advisors and the following firms continue to be involved as the Liquidation progresses through a litigation intensive phase.

<b>Name</b>	<b>Description</b>	<b>Short Form used</b>
Maples and Calder	The Liquidators’ Cayman Islands Attorneys	M&C
Satterlee Stephens Burke and Burke	The Liquidators’ New York Attorneys	SSB&B
Puello Herrera	The Liquidators’ Dominican Republic Attorneys	PH
Arias Fabrega & Fabrega	The Liquidators’ Panama Attorneys	AFF
Woods and Aitken	The Liquidators’ US Attorney for Debtor realisations	WA
3-4 South Square Chambers	Mr Michael Crystal QC and colleagues	MC
Mark Freehill	Translation Services (Spanish)	MF

**2.0 Assets**

A receipts and payments account to 31 October 2008 is attached at Appendix I, upon which the Liquidators comment as follows:

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**2.1. Loan Book**

In summary, since the last report, a total of US\$213,791.43 has been received from debtors. The additional collections have been achieved despite the Artag Meridian Embargo continuing in place. An update in that matter is provided to the Court at paragraph 4.3.2 of this report. On 21 November 2005 the basis on which the Liquidators may negotiate and agree loan settlements was sanctioned by the Grand Court. All of the loan settlements fall within those parameters, which were set by the Committee.

**2.2. GFN group companies as debtors**

**2.2.1. Zona Franca San Isidro**

Zona Franca San Isidro (“ZFSI”) has not repaid an overdraft amounting to UD\$6.5 million.

ZFSI admits that it owes the debt of US\$6.5 million but has made no offer of payment. Caribbean Energy Corporation (CarEC), a GFN associated Company, has purported to assign such amount of its claim against Bancredit as will enable ZFSI to repay its indebtedness to Bancredit in full, by way of set-off. However, CarEC’s claim has been rejected and it follows that the debt owed by ZFSI remains due and payable. A collection claim is being pursued through the Dominican Republic Courts and the last hearing in the matter took place on 6 October 2008 at which the Liquidators’ attorneys PH made their final arguments. Unexpectedly, CarEC attended this hearing as a “forced intervening party” meaning that it had an intervening claim. As it did not make PH aware of its intention to appear, or its intervening claim as stipulated by Article 337 of the Civil Procedure Code, PH requested that CarEC’s intervening claim be inadmissible, together with a request that CarEC’s attorney not be admitted to be present at the hearing. The judge agreed to these requests.

However, the judge did grant CarEC a 15 day period to produce documents in connection with its proposed intervention, together with a further 5 day period for both parties to review those documents. The next hearing falls outside of the period covered by this report.

**2.2.2. GFN Corporation**

GFNCL is a Cayman Islands registered Company and appears to be, or at one time to have been, the ultimate holding Company for the GFN group of companies controlled by Pellerano.

A Statutory Demand was served upon GFNCL on 17 August 2006 for repayment of US\$96,153,651.12 and, when this was not met, on 5 January 2007 Bancredit issued a winding up petition against GFNCL at the request and with the support of the committee. Subsequent to this, both sides entered evidence by way of affidavit which did not elicit either any payment or evidence that monies were not owed as claimed. On 23 May 2007, in my third affidavit, I averred that it was appropriate for the Company to be wound up. The GFN Winding-up petition hearing is set to commence on 12 January 2009 and five days has been allowed for this in the Court listings.

**2.2.3. GFN International Investment Corporation**

GFNII continues to be indebted to the Company in an amount in excess of US\$5.5 million and the reasons for this have been explained in the last report and earlier reports. GFNII does not deny that it owes the money to Bancredit but has successfully defended two petitions to wind it up. Dresdner Bank has provided additional information concerning the Pledge and this proved useful when considering other avenues that might be available to the Liquidators for repayment.

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**2.2.4. GFN Capital Corporation**

Bancredit has a separate claim against GFNCC, a company registered in Panama, in respect of four certificates of deposit (“CD” or “CDs”) that were said, according to Bancredit’s management accounts to that date, to have a total value of US\$15,516,754.88 to be reinvested as at 31 July 2003. Those accounts also indicate that interest may never have been paid on the principal monies invested, but the amounts were, instead, rolled over into the investment. The Liquidators hold the originals of only two of the certificates. The Liquidators have not commenced any proceedings in connection with these CDs because the prospect of any recovery being made in respect of the CDs is extremely doubtful.

**2.3. CD and Bank Accounts held at Union Planters (now Regions Bank)**

The background to this matter was discussed in the previous report. On 1 May 2008, the Liquidators, through SSB&B, issued an Amended Complaint, supplemental to one filed on 12 December 2007, against Regions. There followed a course of correspondence between Regions’ attorneys and SSB&B and, on 27 May 2008, Regions filed a motion for Summary Judgment on a Motion to Dismiss. The Complaint against Regions is intensively fact based and includes, amongst other matters, Regions failure to respond to correspondence from both the Liquidators and, before them, the Joint Provisional Liquidators during 2003 and 2004. On 14 July 2008 one of the Liquidators filed a Declaration in response to Regions Motion to Dismiss.

Since then, the parties have exchanged Initial Disclosure of Witnesses and Documents filings.

**2.4. Tricom SA**

**2.4.1. The claim against Tricom SA**

The basis of claim has been covered in detail in previous reports and amounts to at least US\$120.522 million, before interest, and may be summarised as follows:

<b>Narrative</b>	<b>US\$'000</b>
Purported Share Placement	70,000
Purported Substitution of Debt	22,000
Loan or payment made improperly	11,375
Overdraft (adjusted for further claims identified during forensic review)	17,147

Interest will be claimed in addition to the principal amounts of the heads of claim. During 2008, the Liquidators have entered into much correspondence and discussion with Tricom, its representatives and other interested parties and stakeholders. It now seems to be the case that it is accepted that Bancredit is entitled to have a claim admitted to rank for distribution from the restructured Tricom. However, the quantum of such claim is yet to be agreed.

**2.4.2. The Restructuring of Tricom**

The Liquidators recognise that, given Tricom’s apparent insolvency, Bancredit is unlikely to receive repayment in full of the monies that it provided to Tricom. The Liquidators’ strategy is to maintain the claims against Tricom so that the Liquidators have the right to be involved in the restructuring negotiations involving Tricom’s creditors. Offers as to the admissible level of claim made by Tricom thus far have been rejected as derisory, not only when considered against the quantum of the gross claim but also when considered in light of the beneficial position in relation to the new Tricom that it seems will be enjoyed by GFN related entities. Many of the GFN Group companies stand to benefit

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to a great extent from a successful Tricom SA restructuring and those same entities remain debtors of Bancredit, as described earlier in this report.

The Tricom dispute has required significant input from the Liquidators and the period from February 2008 to date has been the most labour intensive dispute. A summary of the milestones in the Tricom litigation and Liquidators' involvement is as follows:

- Investigating and articulating for SSB&B the basis of the claims against Tricom for in excess of US\$120 million, and assembling the available documentary evidence in support of such claims for the purposes of continuing instructions;
- Reviewing Tricom's lengthy pre-packaged plan filed under Chapter 11 of the US Bankruptcy Code and related filings with the US Securities and Exchange Commission;
- Review of the preparation of the Liquidators' motion to determine classification of the Liquidators' claims;
- Preparation of a detailed Proof of Claim against Tricom (and reviewing other Proofs of Claim filed);
- Reviewing court filings in connection with disputed discovery issues;
- Reviewing hearing transcripts;
- Meetings with SSB&B in connection with hearings on the Tricom matter during the period. There have been some ten hearings before the US court in connection with Tricom during the period covered by this report, many of which have been highly contested. For example, on 13 March 2008, the Liquidators filed a Motion requesting the appointment of an Examiner over Tricom and a hearing was held on 2 April 2008. The Court made no decision on the Motion because Tricom agreed to delay its reorganisation proceedings and claims objections so as to give notice to all its creditors of its pre-packaged plan under Chapter 11 of the US Bankruptcy Code. This was a satisfactory result for the Liquidators. The Liquidators had nonetheless been required to prepare for the hearing on 2 April 2008 assuming it would have been on a contested basis. This included reviewing Tricom's response to the proposed appointment of an Examiner and preparing responses with SSB&B;
- Reviewing and assisting US counsel in objecting to Tricom's Motion seeking summary judgement on the subordination of certain claims, including those of the Liquidators on behalf of Bancredit, under the US Bankruptcy Code;
- Pursuant to orders made on 29 April 2008, the parties to the Tricom litigation were ordered to give discovery by 30 May 2008 (i.e. on an expedited basis). Bancredit's discovery obligations placed a considerable burden on the Liquidators and their staff. The Liquidators hold approximately 200 boxes of documents which required review, together with the Liquidators' own internal files. Discovery was a substantial undertaking requiring advice and assistance from both M&C and SSB&B. Of particular concern to the Liquidators were their obligations under the Confidential Relationships (Preservation) Law (1995 Revision) given the amount of third party client information in their possession. The task of reviewing and collating documents in order to comply with the orders of the US Court required a significant amount of time to be spent by both the Liquidators and their staff;
- Review of discovery provided by other parties including GFN Group companies.

The Liquidators consider that significant progress has been made in the dispute with Tricom, which constitutes the largest potential recovery for the estate. The final likely recovery remains uncertain. However, since an application by Tricom for Summary Judgment was dismissed on 13 August 2008, the Liquidators have spent considerable time and effort working towards a settlement with Tricom and the parties with interests in Tricom's bankruptcy and restructuring.

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**2.5. Interest received**

The realisation monies held in the client account for the Company have been invested in various rolling monthly fixed deposit accounts to maximize realisations for creditors. The interest received to date is US\$2,103,826.71.

**3.0 Liabilities**

**3.1. Unsecured Claims**

One additional claim has been agreed since the last report, although no distribution of dividend in respect of the claim has been made and no additional dividends have been declared, pending the outcome of the security for costs issue in relation to the objections to the rejection of claims made by GFN Group companies, which matter is discussed below.

**3.1.1. Customer deposits and the Central Bank**

There are no additional matters to report and the position continues to be that the Central Bank has been overpaid US\$5,181.78, being 4% of a claim in respect of a current account at Bancredit when such payment was not appropriate. At such time as a further dividend can be paid, this amount will be recovered from any future dividend payments to the Central Bank.

**3.1.2. Banco Leon**

The Liquidators continue to hold monies in respect of dividends to Banco Leon, as previously reported, pending resolution of the claims made by GFN (see below).

There is also the matter of the second account held at Regions into which the proceeds of the sale of the US\$13 million CD were paid. The Liquidators have commenced an action against Regions for recovery of the monies in that account, on the basis that the US\$13 million was paid improperly to BNC (now Banco Leon). It may be that Banco Leon is joined into the litigation and, if that is the case, in the event that judgment is obtained against it, then one means of recovery could be by way of set off against the claims in the liquidation of Bancredit.

**3.1.3. The Central Bank and Banco Leon**

Pursuant to a Memorandum of Understanding and Contract for the Assignment of Credit and Accessory Rights, dated 16 January 2007, Banco Leon ceded and assigned all right and title in claims against Bancredit to the Central Bank. This matter had been referred to, in passing, at a meeting of the committee held during that year but no official notification was received. By a Bailiff Act number 839 of 2007 dated 8 October 2007, the documentation was confirmed under Dominican Law. The subsequently received translations of all three documents from the Spanish language into English from PH appear to be valid.

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**3.1.4. Potentially Duplicative Claims made by GFN Group Companies and the Central Bank**

The table from the last report, which summarised apparently duplicative claims, is reproduced below for ease of reference.

Name of Claimant	Claim received		Amount claimed US\$
Central Bank	31 January 2007	Equivalent to RD\$5.231327 billion	168,752,483.87
GFN SA and Artag Meridian	27 April 2006	Equivalent to RD\$5.231327 billion	168,700,000.00
Artag Meridian ("Artag")	7 August 2006	Equivalent to RD\$5.231327 billion	168,700,000.00
GFN SA	30 October 2006	Either	43,831,576.11
		Or	30,984,486.78
Caribbean Energy Co ("CarEC")	3 August 2004		41,613,810.34

GFN SA, Artag and CarEC ("the GFN related entities") have also applied to expunge the proofs of debt of the Central Bank and Banco Leon, of which their claims appear to be duplicative.

The Liquidators have rejected the above claims and all of those rejections have been appealed.

The Liquidators, together with M&C, SSB&B and MC continue to spend a great deal of time and effort to draw together the aspects of the liquidation that involve GFN group companies. The claims made by GFN (as well as the attempts to expunge the claims of the Central Bank and Banco Leon) are predicated on an agreement made between the Central Bank, GFN SA, BNC, Acyval Puesto de Bolsa SA, Carlos Guillermo Leon and Manuel Pena Morros on 2 July 2003. Under the terms of the agreement, it appears that the Central Bank agreed to provide liquidity funding to Banco Nacional de Credito (later Bancredito SA) ("BNC") in exchange for the transfer of a portfolio of debts said to be owed to Bancredito by various related companies which included Bancredit. In consideration for the Central Bank agreeing to provide funding, GFN SA guaranteed the obligations of those related companies. The assigned portfolio included a debt said to be owed by Bancredit to BNC and a purported promissory note was purportedly issued in respect of it in an amount of RD\$5,231,327,000 (US\$156 million, it is claimed). Each of GFN SA, Artag and the Central Bank claims to be entitled to recover this sum from Bancredit. The books of Bancredit do not support the liability and there is no evidence that Bancredit is or was a debtor under the US\$156 million portfolio.

As previously reported, the Liquidators have applied to the Court for an order that the GFN related entities should provide security for the costs of their appeals and of the applications to expunge the proofs of debt of the Central Bank and Banco Leon. Mrs Justice Levers heard that application and held that the Court does not have the jurisdiction to make such an order. On 26 July 2007 Mrs Justice Levers granted the Liquidators leave to appeal that decision, which they did, and the appeal was upheld on 29 November 2007. The GFN related entities have since sought and been granted special leave to appeal to the Privy Council. The appeal is to be heard in May 2009. If the Liquidators successfully oppose the appeal to the Privy Council, they will re-list their application for security for costs from the GFN related entities.

The Liquidators have filed an application seeking directions upon the appeals against the Liquidators rejection of the claims detailed earlier in this section of the report and the applications to expunge the claims of the Central Bank and Banco Leon. The listing of that application is on hold pending the outcome of the Liquidators' appeal of the security for costs decision referred to above.

If a global settlement can be achieved, via the Tricom negotiations (see section 3.4) it is hoped this might include the withdrawing of these claims, making further litigation unnecessary.

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**3.1.5. Claims adjudication**

The following table represents the current status of the claims of the unsecured creditors.

Status	Number of Creditors	Total Claims (US\$)
Adjudicated and admitted	25	126,602,600.34
Adjudicated pending KYC information	21	980,588.82
Further information required **	20	41,395,504.54
Yet to claim	118	1,413,572.57
Rejected++	135	57,623,780.43
<b>Total</b>	<b>319</b>	<b>228,016,046.70</b>

\*\*Includes the claim from Banco Leon in an amount of US\$38,274,864.00 in relation to a claimed overdraft facility provided during June, July and August 2003. Certain of the monies claimed do not appear to have been used for the benefit of Bancredit or its investors but, rather, for the benefit of other GFN group companies. No longer includes the claim of CarEC (see the table at section 4.1.4 of this report).

++The figure given in this table for rejected claims does not include any of the rejected claims in the table at section 4.1.4 of this report

The admitted claims of Banco Leon, as assigned to the Central Bank, continue to be accounted for with the set off applied in respect of the US\$13 million CD at Regions pending the outcome of the action against Regions (please see sections 3.3 and 4.1.2 of this report).

It remains the Liquidators' wish to repay, or to substantially repay, the indebtedness to the remaining minority third party creditors. By the term minority third party creditors, the liquidators mean those unconnected to the GFN Group of companies or the Central Bank. These creditors form the majority, in number, of Bancredit's admitted claimants which comprise, for the most part, Dominican Republic individuals and small businesses that had accounts for comparatively small amounts with Bancredit. The payment of these claims would greatly simplify the liquidation. However, whilst the GFN group has indicated that it would support such payment being made, the current position of both Banco Leon and the Central Bank continues to be that they object to any such payment.

**3.2. Investigation**

**3.2.1. Evidence of Fraud committed against Bancredit**

The investigations undertaken by the liquidators have revealed such matters as:

- The systematic suppression of information, in reports to the regulator, concerning purported debts owed by connected group companies. This avoided close scrutiny of those accounts from which questions as to collectibility would have ensued.
- The use of those alleged debts of connected group companies to set off against liabilities in similar amounts to third party creditors, thus obfuscating those liabilities;

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- The under-reporting of liabilities and over-stating of assets generally so that the widespread netting off of assets and liabilities kept the assets to liabilities ratios, as reported to CIMA, within the bounds required to demonstrate going concern solvency.
- The overstating of assets allegedly held by third parties – notable the US\$13 million at Regions detailed in the previous report and referred to earlier in this paragraph;
- The apparent lack of adequate provision against large market loans – notably Casa Urena and Bratex, where the latter Company had huge liabilities under a multi banking arrangement where Bancredit was in the minority.
- The understating of amounts owed to depositors – notably in the case of Cap Cana detailed in the previous report where the current account was subject to entries apparently showing payments away from the account. Those apparent payments were, in reality, transfers to certificates of deposit which certificates were not then included in the liability amounts reported to CIMA.

The liquidators note that many of the matters discovered in relation to the books and records of Bancredit were similar to those that featured in the criminal proceedings in the Dominican Republic for which Pellerano and Mendoza have been convicted and imprisoned.

**3.2.2. Evidence of Fraud committed by Pellerano against Bancredito SA**

In August 2006 the National District 1st Collegiate Court of the Dominican Republic convicted and sentenced Pellerano and Juan Felipe Mendoza (“Mendoza”) to three years in prison and a RD\$1 million fine, in a lawsuit filed by a group of Bancredito SA’s depositors. A Justice Minister later agreed to an appeal against the sentence going forward to the national District Court on the basis that a settlement agreement had been reached with those depositors.

In August 2007, the Justice Ministry and the Central Bank of the Dominican Republic filed an indictment against Pellerano for his part in the collapse of Bancredito SA. Pellerano, together with Mendoza, being accused of forgery, conspiracy, and concealment in violation of the Monetary and Financial Law. In October of 2007, when a National District Court dismissed the charges the head of the Dominican Republic Government’s anti-corruption department noted that the Justice Ministry would appeal the National District Court ruling and, in April 2008, the Supreme Court Penal Chamber overturned the National District court sentence and sent the matter to the 2nd Collegiate Court for retrial.

Whilst just outside of the period covered by this report, the Liquidators note that, on 3 November 2008, the Supreme Court of the Dominican Republic upheld that Court’s sentence of eight years in prison and a fine of RD\$2.5 million against Pellerano and Mendoza, finding them guilty of, amongst other things, embezzlement; forgery; conspiracy; concealment of financial data and evidence tampering. Pellerano and Mendoza began their respective sentences on 27 November 2008.

According to the Dominican Republic press, the Bancredito failure cost the Dominican taxpayer RD\$23 billion and is the second largest collapse in Dominican banking history.

**3.2.3. Manuel Arturo Pellerano**

The Liquidators sought the opinions of M&C and MC as to the merits of taking action against Pellerano on the basis of his alleged acts of misfeasance and breach of fiduciary duty. Based upon advice received, a protective writ was filed in the Court on 28 August 2008 because a potential limitation date was approaching in respect of the first known breach. An application for leave to serve

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the writ outside the jurisdiction is pending and the Liquidators have been granted a hearing on 18 December 2008.

**3.3. Actions brought against the Company and/or its Liquidators**

**3.3.1. Economic Group Action against GFN companies**

Bancredit’s assets remain under threat as a result of an action brought in the Dominican Republic court (“the DR court”) by a group of GFN creditors known as el Grupo Economico (“the economic group”). The claims of the members of the economic group relate to monies owed to them by GFN group companies (other than Bancredit) in respect of commercial paper issued by those GFN companies. None of those concerned had deposited monies with Bancredit. PH was previously allowed to view the initial judgment in the action, which is now publicly available, and confirmed that, by this, the Company had not been made liable for the debts of other companies within the GFN group. Despite this, by a later ruling handed down in August this year, the Dominican Republic Court of Appeal held that Bancredit was jointly and severally liable, together with GFN, for those debts (which amount to US\$4,299,765.95). It appears that this may, amongst other matters, have been predicated upon a notice on the face of the commercial paper which read “This certificate may be redeemable at its maturity through Bancredit Cayman Limited”. For payment to have been made in that way, it would have been necessary for the relevant GFN Company to put Bancredit in funds to do so. PH has advised that the DR Court’s decision is wrong as a matter of Dominican Republic law. Additionally, in certain cases Bancredit holds commercial paper issued by GFN group companies as security for loans made by Bancredit to the third party owners of those certificates. If Bancredit is liable to repay the monies represented by the certificates, Bancredit has no recourse on the loans except the issuer of the certificate – the relevant GFN Company. An appeal against the decision was filed by PH with the Dominican Republic Supreme Court, on behalf of the Liquidators, on 17 September 2007 and this has yet to be assigned a hearing date.

**3.3.2. Artag Meridian Embargo (“Artag”)**

Since the last report, the Liquidators have received some positive information about the embargoes registered by Artag against certain debtors of Bancredit. In January 2008, the Liquidators were notified by PH that the 5<sup>th</sup> Civil and Commercial Chamber of the First Instance of the National District (“Court of 1<sup>st</sup> instance”) had issued a decision in favour of Bancredit and against Artag declaring the embargoes null and void against certain debtors of Bancredit. Artag had until 30 June 2008 to appeal the decision and the liquidators are not aware that this decision was appealed. There are various legal formalities which must be adhered to in order to make this decision final and, because of this, the embargoes remain in effect. PH is making every effort to enforce the decision made by the Court of 1<sup>st</sup> instance, following which it is hoped that the debtors will be in a better position to repay their debts to Bancredit

Despite approaches made by PH to the debtors that have been served with an Artag Meridian embargo, in an attempt to negotiate settlement of the loans, no offers to pay monies into an escrow account pending the lifting of the relevant embargo have been obtained. Monies, either the full debt owed or agreed instalments to repay the loans, could be passed to the Liquidators’ attorney or the debtor’s attorney and held in escrow until the embargo is lifted, at which time the funds could be transferred to the Liquidators’ bank account.

The indebtedness claimed by Artag pursuant to which it has obtained the legal embargo in the Dominican Republic, is in respect of the same promissory note pursuant to which GFN SA and Artag are jointly claiming to be owed an amount of US\$168.7 million. Artag claims that the debt arising out of the promissory note has been assigned to it by GFN SA. The claim has been rejected.

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**4.0 The Liquidation Committee**

**4.1. Committee Meeting**

A meeting of the committee was held, in Santo Domingo, on 13 February 2008 when representatives of two members of the committee only attended. The members had previously been provided with an updating report covering a period up to 31 December 2007. Additional information, available at that time, was provided to the meeting in respect of the Omnibus Application including the Security for costs claim; the complaints against Tricom and Regions; information sought from third parties and the Economic Group Action. No business was conducted at the meeting.

**4.2. Committee Membership**

A question was asked at the meeting on 13 February concerning the lack of an invitation to Conaresa. As a result of the investigation process undertaken by the Liquidators over a long period of time, they have concluded that, rather than being a creditor, as has been claimed, Conaresa is probably a debtor to Bancredit for a far greater amount. In January 2008, the Liquidators wrote to the owner of Conaresa, as notified to them by Banco Leon, rejecting the claim in the liquidation and reserving their position regarding a claim for monies apparently owed to Bancredit, pending further investigation. Because the claim had been rejected, and after a statutory period of 21 days in which Conaresa could have appealed the decision, had expired, Conaresa no longer had entitlement to serve on the committee which, as a result, currently comprises four members. A revised Certificate of Constitution of the Committee was provided to the Clerk to the Justices on 19 March 2008.

No response was heard from Conaresa until an email was received from an individual known, from enquiries received from Tricom, to be a representative of that Company claiming on this occasion to represent Conaresa and asking for particulars of how to make a claim in the liquidation of Bancredit on behalf of Conaresa. Having established in October 2008 that Lemare Internacional Inc is the new owner of Conaresa, as had been claimed, the liquidators wrote to Conaresa at its new address to demand repayment of an amount by which Conaresa apparently benefited as a result of transfers from Bancredit to Conaresa's current account for no apparent consideration. A response is awaited.

**4.2.1. The Central Bank as Committee Member**

Following the assignment of the Banco Leon Claim to the Central Bank discussed earlier in this report, the aggregate claims of the Central Bank represent over ninety-nine per cent of all agreed claims. The Liquidators have misgivings concerning the apparent lack of regard on the part of some members of the committee for the terms of the confidentiality agreements entered into by them. The Liquidators have reached a particularly delicate stage in their litigation or proposed litigation against several parties and the views of the committee would ordinarily be sought concerning continuing with or compromising these actions. However, given that the Liquidators believe that any matters discussed in Committee are likely to become public knowledge and that the Central Bank (itself still involved in litigation against Pellerano and the GFN related entities resulting from the failure of Bancredito and the associated frauds) is the majority stakeholder in Bancredit, the Liquidators have sought the sanction of the Central Bank alone, rather than a full meeting of the committee, for its views on these and other matters.

**5.0 Liquidation Expenses**

It will be noted that the Liquidators' asset recoveries over the course of the Liquidation are, to date US\$28.5 million and from the preceding narrative it will be evident that the Liquidators have for some time been involved in a litigation-heavy period of the liquidation.

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**5.1. Legal and other Professional Fees**

By reference to Appendix 1 to this report, it may be seen that the fees and expenses of the professional advisors instructed by the liquidators currently amount to US\$6,862,511.45 and that the costs of translation are US\$69,108.66.

**5.2. Liquidators' fees**

As previously reported, the basis of remuneration for the Liquidators was agreed by the committee on the basis of 8% of asset realisations and 4% of distributions, on 8 February 2006. This basis proved inadequate to remunerate the Liquidators for work undertaken during a litigation intense period of the insolvency proceeding which coincided with a period of low realisations due to the various factors highlighted in this report and previously. In November 2007, in response to an application from the Liquidators supported by a majority of the committee, the Court approved an amendment to the basis of remuneration such that the Liquidators are currently remunerated on two bases. The percentage basis is still used but, additionally, they are remunerated on the basis of time costs for work undertaken in respect of litigation support work. At such time as recoveries are made as a result of any item of litigation, when remuneration is drawn on the percentage basis, the liquidators will give credit for the fees already received on a time cost basis in respect of that piece of litigation.

**Richard E L Fogerty**  
Joint Official Liquidator

## APPENDIX I

Bancredit Cayman Limited - In Official Liquidation

Joint Official Liquidators' receipts and payments account  
For the period 4 September 2003 to 31 October 2008

**Receipts**

As at 31 October 2008  
US\$

US\$

*Cash recovered from banks:*

HSBC	17,671.55
Union Planters	25,367.33
Dresdner	940,284.27
American Express	158,216.97
Hemisphere	362,258.67

*Customer loan repayments*

*Funds received from Cap Cana*

*Sale of investment*

*Intercompany debts*

*Interest received*

*Sundry income*

1,503,798.79
23,321,891.00
286,749.00
1,245,095.14
61,048.35
2,103,826.71
100.00

**Total receipts**

**28,522,508.99**

**Payments**

*Controllers' fees*

*Controllers' expenses*

*Liquidators' fees*

*Liquidators fees for litigation support work*

*Liquidators' expenses*

*Legal fees and expenses*

*Translation fees*

*Webdesign and maintenance*

*Dividend to unsecured creditors*

*Dresdner - subrogated claim*

*Document management*

*Judicial Taxes re debt collection*

*Bank charges*

-414,498.00
-39,243.87
-2,453,502.25
-1,481,199.15
-372,564.72
-6,862,511.45
-69,108.66
-1,560.97
-4,331,141.97
-20,943.03
-39,673.07
-1,181.38
-10,843.61

**Total payments**

**-16,097,972.13**

**Net position as at 31 October 2008**

**12,424,536.86**