

HARRY B. SANDS, LOBOSKY & COMPANY

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MEMORANDUM ON

DISSOLUTION OF BAHAMIAN COMPANIES BY VOLUNTARY LIQUIDATION

The Shareholders of the Company must resolve by Resolution passed at a duly convened meeting of the Shareholders that the affairs of the Company should be wound up and that a particular person be appointed the Liquidator for the purpose of such winding up.

A copy of the Resolution Certified by the Secretary of the Company, with the seal affixed thereto, must be submitted to the Registrar General. It is also necessary to advertise the passing of the Resolution in the local newspaper.

The Liquidator need not be a citizen of, or resident in, the Bahamas, although, this would, of course, be preferable if the assets of the Company are in The Bahamas. We are usually able to arrange for a Liquidator to undertake the work. The fee will depend on the amount of work involved, but in simple liquidations, the Liquidator's fee will be a minimum of \$1000.00, with an hourly rate of \$225.00. A premium of 25% will be added if the Liquidator is asked to complete the liquidation on an *urgent* basis.

After the Resolution has been passed, the Liquidator is free to commence the business of winding up the Company's affairs. This he does by taking charge of the Bank Accounts, gathering in the assets of the Company, paying its debts and then distributing the assets amongst the members in specie or kind if the Resolution for winding up of the Company authorise distribution in specie or kind, or alternatively, by selling available assets and paying over the monies to the Shareholders. It is important to note that any assets remaining in the Company's name after it is removed from the Register automatically vest in the Treasurer of The Bahamas to be used for the benefit of the Commonwealth. The powers of the Directors will normally cease upon the passing of the Resolution for winding up the affairs of the Company unless it is desired that those powers should be continued on a limited basis in which event it will be necessary to perpetuate those powers by a special provision in the Resolution.

As soon as the Liquidator has completed the winding up of the Company it is his duty under Section 222(1) of The Companies Act to call a meeting of the Shareholders, at which he exhibits to the Shareholders an account of the manner in which the winding-up has been conducted, giving such explanations as shall be required. This meeting must be called by advertisement in a local newspaper specifying the time, place, and object of such meeting, and such advertisement must be published in such newspaper 21 days at least prior to the date of the meeting. At the same time an advertisement for creditors should be put in the local newspaper. The notice should state that all claims should be submitted at least Ten (10) days prior to the date set for the final meeting.

As soon as the meeting referred to in the preceding paragraph has been held the Liquidator is to "Make a Return to the Registrar General of such meeting having been held, and of the date on which the same was held". This requirement is laid down by Section 222(3) of The Companies Act. That Section also provides that at the expiration of Three (3) months from the date of the registration of such Return, the Company should be deemed to be dissolved.

For all practical purposes the Company can be deemed to be in liquidation at the date when the Liquidator calls the meeting under Section 222(1) for the purpose of explaining the manner in which the liquidation has been conducted, but in strict point of law, the

Company does not cease to be a corporate body until Three (3) months after the registration with the Registrar General of the Return required under Section 222(3).

The time-frame involved is accordingly governed by the following considerations:-

- (i) The Company's Articles of Association usually provide that notice shall be given, but if all members consent to a meeting without notice, this requirement can be waived;
- (ii) There follows the time required for the Liquidator to carry out the business of winding up the affairs of the Company. This will vary greatly according to the amount of work involved but in simple cases, it can usually be accomplished in a matter of approximately two weeks.
- (iii) The statutory meeting under Section 222(1) cannot be held less than 21 days after the appearance of the advertisement in the newspaper.
- (iv) The Company cannot cease to exist as a Company until the expiration of Three (3) months after the registration of the Return given by the Liquidator under Section 222(3).

The approximate total cost of liquidation will be as follows:-

Liquidator's fee (Minimum)	\$ 1000.00
Our fee for preparing the necessary Minutes and Notices	\$ 1500.00
Filing Fee for Articles of Dissolution	\$ 200.00
Approximate total advertising fee	<u>\$ 400.00</u>
APPROXIMATE TOTAL LIQUIDATION FEE	<u>\$3,100.00</u>