

La Lucia Sands

Share Block Limited

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Co: Reg.No. 1974/001166/06

Dear Shareholder,

Circular from the Chairman and Directors of La Lucia Sands Share Block Ltd

Many shareholders have requested a circular from your Board of Directors in response to the complaints made by Panos George Pierides. The purpose of this circular is to set out as dispassionately as possible the facts and events leading to Pierides' dismissal as a director and the motives for his complaints.

Shareholders will recall that in the **Chairman's Statement** for the Annual General Meeting held on 27 June 2006, I addressed the issue of the litigation with Flexi-Club. The Chairman's Statement is still on our website.

It is appropriate now to sketch the history and context of the matter and to explain what your directors have done to safeguard shareholders' interests and what we propose to do to continue safeguarding your interests.

The dramatis personae

First, let me introduce the main actors.

There is your company, La Lucia Sands Share Block Ltd, there are all our shareholders (1206 in total holding 1920 shares) and there is the Board of Directors of La Lucia. During 2007, the local authority valued the land and buildings of your company at sixty-one million rand. Your directors believe this value is conservative. The market value of La Lucia may well be higher, say eighty million rand.

There is the Club Leisure Group. The CLG is a vast group comprising clubs, companies and other entities involved in the timeshare business. CLG has an impressive website. It boasts assets in excess of three billion rand at present. CLG comprises sixteen clubs and approximately 30 management, holding and support companies. The main club in the CLG is Flexi Holiday Club, generally referred to as Flexi Club. Two other clubs in the group to note here are Trafalgar Holiday Resorts and Star Vacation Club, each often simply referred to as Trafalgar and Star Club.

The main founders of CLG are Stuart John Lamont and Anthony Nicholas Ridl. CLG has many employees. Its headquarters are at 1 Crompton Street, Pinetown. The clubs in the CLG have more than 500 000 members (of whom more than 200 000 are members of Flexi Club alone).

The CLG has a policy called 'Quality Always' and, according to its website, CLG continues to acquire holiday and business properties around the world. These acquisitions fall into two categories subject to an over-arching principle. They are 'highly sought after and prime resort locations' and 'luxurious and superior self-contained accommodation' subject to 'peak and high demand seasons throughout the year'. Flexi Club's website reads: 'it is the policy of the Club to continue to acquire only inventory of high quality accommodation at sought after resort locations, during high demand times of the year, in order to adequately satisfy members requests'.



Directors: PM Collins(Chairman), BVH Alstone, DA Manthey,
Dr RE Moraka, G Wolfe

Company Secretary: Corporate Governance CC



Neither the CLG website nor the Flexi Club website explains what is meant by 'continue to acquire' accommodation. Nor is it clear how 'highly sought after and prime resort locations' are identified. Nevertheless, flattery aside, during the late 1990's, Messrs Lamont and Ridl identified La Lucia as 'high quality accommodation at a sought after resort'. Since then CLG, in the words of H G Wells, has regarded this company 'with envious eyes, and slowly and surely drew their plans against us'.

CLG employs many strategies to gain control of stock for its members. But before I explain their acquisition strategies, it is necessary to explain the core conflict between our vision of your company and the CLG vision.

The points system

The core conflict between La Lucia and the Club Leisure Group relates to the points system employed by the CLG. The points system in the CLG works basically as follows:

- a person joins one of the CLG clubs;
- that person pays a membership subscription, and then becomes a member of a club;
- the member must pay annual levies;
- the member is given a number of points;
- by using the points the member has the possibility (subject to availability) of getting a holiday at one of the locations under the control of the club or under the control of other CLG clubs;
- the member may purchase additional points to access more 'sought after' accommodation (again subject to availability);
- the member does not own the property under the control of the club;
- the clubs themselves do not necessarily own the properties they control; and,
- the right to use club property is precarious because all the clubs' constitutions make it clear that accommodation is 'subject to availability'.

The Flexi Club constitution was available on their website until the end of 2006. However, an example of a club constitution can still be seen on the CLG website. Click on Magic Breakaways and go to 'latest news' and in 'Documents' you will find the club's constitution. What is clear is that in the points system you never own a right in property, nor do you have an actual *right* to use the holiday property under the control of the clubs. The use depends upon 'availability'.

Share ownership

The position with regard to ownership of shares in La Lucia is very different to the points system.

In La Lucia, you the shareholder, own your shares. You have the right to use your timeshare in accordance with your shareholding. This is not dependent on availability. God willing, we shall never suffer a calamity that by *force majeure* renders any unit at La Lucia out of service! Absent *force majeure*, your right to your unit does not depend on the whim of any administrator as to 'availability'. In short: a share gives you as shareholder a personal right you can enforce against your company.

The RCI exchanges

As all good shareholders are aware, you may bank your share for swapping via RCI. The essential difference between banking your share and the points system, which can also be swapped through RCI, is that after the swap you still own your original share. In the points system you never own a right in the property and you do not have a *right* to use a particular property.

CLG acquisition strategies

So how does Club Leisure Group acquire 'highly sought after and prime resort locations' and 'luxurious and superior self-contained accommodation' ?

CLG uses three main methods to acquire accommodation.

First; a person working for the CLG, or an entity in the CLG, like a club or a registered company, purchases the accommodation. The accommodation may be an entire building, a sectional title unit, or a share in a share block company.

Second; an entity in the CLG or a person working for the CLG enters into a contract with the governing body of a sectional title development or the board of a share block for access to use the accommodation.

Third; an entity in the CLG or a person working for the CLG takes control of the governing body of a sectional title development or the board of a share block.

Control and the desire for control lead to a very peculiarly unique form of abuse employed by the CLG. Quite frankly, we believe it is the abuse aspect of CLG conduct which undermines the points system the most. Objectively speaking, and subject to sections 30 and 31 of the Companies Act, which I canvass below, the points system *via* club usage is a very cleverly constituted and constructed business model. In effect it converts the entirety of letting and hiring of holiday accommodation into the fiction of a non-profit association - the club. But for the peculiarly unique form of abuse employed by CLG, we would not be in litigation with them or their clubs. Shareholders of long standing will recall that there was a time when La Lucia co-operated with the clubs. So what went wrong?

The unique form of abuse employed by CLG

We have identified six methods employed by CLG to gain control of share block companies.

First, the Clubs raise false alarm concerning the financial affairs of the targeted share block. Then to give credence to the alarm, the clubs systematically delay payment on their levies. The false alarm on finances is a standard method employed at all times. The non-payment of the levies is the immediate cause of our current litigation with the CLG. See the history of the litigation below.

Second, the Clubs try to gain representation on and then control of the Board of Management or Board of Directors of the targeted share block. See the history of the litigation below.

Third, the Clubs make direct contact with various shareholders in the share block. The contact is not *bona fide*. It is to persuade, beguile, allure, cajole, badger or harass members either to part with their share holdings or to make over proxies as happened in June 2006 or, as is happening now, to attempt a section 181 requisition for a general meeting.

Fourth, the Clubs use employees (and seeming outsiders, who stand to benefit from their association with the Clubs) to front for them, both in the acquisition of shares in share blocks, and, as in the case relating to the 2006 AGM, the bringing of proceedings by Batstone and Crowell.

Fifth, personnel from the Clubs attend meetings of the targeted share blocks and engage in disruptive behaviour designed to gain control of the meeting.

Finally, employees from the Clubs, once in control of a share block, raise extraordinary levies at such extortionate rates that shareholders balk. The Clubs then offer points in exchange for members' shares to allow members to avoid payment of the extraordinary levy. When the Clubs are called to pay their share of the extraordinary levy, their levy is written off. Such was the fate of La Montagne and Magna Resorts.

History of the litigation

The main case: Flexi Club et al v La Lucia Sands, case number 19/2002

Shareholders will recall that in 2001 Flexi Holiday Club, Trafalgar Holiday Resorts, Trafalgar Holiday Resorts (Pty) Ltd and Star Vacation Club withheld their levies. Your company, after due demand, foreclosed on their shares to defray the levies.

Under case number 19/2002, Flexi, Trafalgar and Star sued La Lucia for damages. They allege that our onward sale to Arrowwood International achieved too little money. Hence they claim damages.

Irate at your directors' foreclosure on their shares, Flexi Club tried another tactic. A shareholder sold her share to Flexi. When your directors refused to sanction transfer of the share as is required in the Use Agreement, Flexi sued La Lucia in case number 4990/2002. The matter proceeded to hearing.

In the meantime, in the main case and during 2005, the Clubs filed an expert's opinion concerning the calculation of damages. To our consternation the expert is none other than Adrian Watkin-Jones, director of Arrowwood International, to whom we had originally sold the shares for fair market value. The hypocrisy and cynicism of the CLG approach has only to be declared to be unmasked.

On advice from counsel, your company applied to the High Court, Durban, to separate the issue of the legal standing of the clubs. The issue is simply the following: are the clubs legal in South African law when one considers sections 30 and 31 of the Companies Act ? To quote part of section 30 is sufficient to make the point. The section reads:

"No company, association, syndicate or partnership consisting of more than **twenty persons** shall be permitted or formed in the Republic for the purpose of carrying on any business that has for its **object the acquisition of gain** by the company, association, syndicate or partnership, or by the individual members thereof, **unless it is registered as a company** under this Act ...".

Despite opposition, Mr Justice Hugo ordered a separate trial to be heard to examine whether the Clubs have legal standing. The order was made on **28 August 2006**. I must emphasise the date. The reason is this: if you grasp the sequence of events, then you will understand CLG's need for the litigation against La Lucia, culminating in Pierides.

Let me explain.

In order to get a hearing on the separation of issues, La Lucia had to apply to Court. We did so in February 2006, some four months before the June AGM and before we knew the result in the share transfer case. We also knew that the Clubs would oppose our application. It makes sense that the Clubs opposed. An enquiry into their legal standing may result in the complete destruction of their very cleverly constituted and constructed business model, admired above.

Latest news insert:

In any event, the day of reckoning is nigh. The trial to determine the legal standing of the Clubs has been set down by the Registrar for hearing over three days from **Wednesday, 26 November to Friday, 28 November 2008**.

Shortly after we had applied for a separate hearing on the Clubs standing, and on 31 March 2006, Mr Justice Patel gave judgment in the share transfer case in our favour. The judgment is reported at **Flexi Holiday Club v La Lucia Sands Shareblock Ltd** [2006] 2 All SA 479 (D).

As directors, we had been very careful not to launch the application for the separation of issues before obtaining the advice of a very well-respected senior counsel in Durban. We knew that the application, if successful, would evoke the full fury and the wrath of CLG. So we prepared very carefully not only for the hearing in August, but also for the June 2006 AGM.

CLG counter-attack

By mid May 2006, and the third week of June 2006, we had become aware of a two-pronged counter-attack on your company, emanating from CLG. The first related to the **register** of shareholders. The second related to **control of the AGM**.

The 'register case' initially resulted in three months of low level skirmishing by way of lawyers' letters, starting about 11 May and ending dramatically and definitively at 13 h 30 on **28 August 2006**. Note the date.

While the register case was trundling along 'lost' in lawyers' letters, the 'AGM control case' started dramatically and in a flurry. It is a case of three phases.

Phase one: June 2006;

Phase two: December 2006 until 29 February 2008; and,

Phase three: 11 April 2008 until the matter is heard again by Mr Justice Nicholson (date pending).

The AGM control case: phase one

In the third paragraph of the Chairman's Statement of 27 June 2006 I dealt briefly with the events leading up to the AGM. Shareholders will remember receiving an unsigned circular, purporting to have been sent by La Lucia, feigning concern about corporate governance and requesting proxies to be faxed to 031-701-8695 (the fax number of the Club Leisure Group). Shareholders who attended the AGM will recall that the CLG personnel behaved disruptively at the meeting, save for Stuart Lamont, who spoke well and requested certain additional information to be recorded in the 2007 AGM documents. The conflict about the convening and conduct of the 2006 AGM falls into phase two of the AGM control case.

The register case: Barkhan and Glasser v LLS case number 13827/2006

While George Wolfe, counsel and I were having lunch on 28 August 2006, celebrating the fact that Judge Hugo had ordered the issue of the Clubs' legal standing to a dedicated trial, Wolfe received a phone call from a Captain Govender. Barkhan had laid a charge in terms of section 113 of the Companies Act against your directors: he alleged that we had failed to hand over the full share register including your personal details, addresses and contact telephone numbers.

The timing was no coincidence.

On Tuesday, 5 September 2006 Barkhan left me a message to phone him. I did. He explained to me that he wanted the register of members so he could make an offer for your company. I asked him how he would pay. He said in cash and points. The points would come from Flexi Club. I told him that he would have to send the offer in writing to the board. We were still waiting for the offer when, on 11 December 2006, Barkhan and Glasser commenced proceedings against La Lucia.

On 19 December 2006 I sent a circular to shareholders indicating that we would enter a notice to oppose the matter unless by 12 January 2007 the majority of shareholders instructed the directors in writing to concede the case. We were overwhelmed by your replies ordering us, sometimes in firm language, not to disclose the information and to oppose the matter. So we did.

Ultimately, the central issue before Judge van Zyl, who heard the matter on 17 October 2007, is the following:

Can a person exact compliance with section 113 (to gain access to the register) with the stated intent to send out offers direct to shareholders, by-passing the Board, and thereby validly avoid compliance with the entire Chapter XVA of the Companies Act and the Securities Regulations on Mergers and Take-overs ? In short, can one tiny section in the Companies Act trump an entire Chapter of the Act as well as a dedicated and specifically established administrative body, called the Securities Panel ?

We genuinely believe that our defence in the case is good and that we have protected our shareholders' interests honestly, accurately, valiantly and in accordance with the AGM resolution. (As such, we disagree with Pierides' statement that La Lucia will lose all its cases, even if it means La Lucia may have to win on appeal. In this regard, we respectfully state that Pierides is not a qualified lawyer.)

Judgment has been reserved in the matter. As soon as the judgment is delivered, we shall make known the outcome to all shareholders.

The AGM control case: phase two

The AGM control case was heard before Mr Justice Nicholson on 29 February 2008. The names of the applicants are Batstone and Croswell. The purpose of the application is to set aside the AGM of 27 June 2006 and to reconvene another AGM under the control of CLG. La Lucia's defence is that the two applicants are fronting for the Club Leisure Group, especially Flexi Club, Trafalgar and Star.

The applicants' case was that your company had not sent the AGM notices to the Clubs, had not allowed their proxies and that your Chairman had not conducted the meeting properly. Since the Clubs had not received their notices, the applicants argued the entire AGM should be set aside.

Our counsel argued that the cited applicants (Batstone and Croswell) are merely the *alter egos* of the Clubs, that the real applicants are the Clubs, and that the Clubs were seeking to circumvent and to frustrate the Order made by Mr Justice Hugo. As such, as far as La Lucia is concerned, the issue is 'Who are the real applicants ?' Our counsel also made the point that if the Clubs did not receive their notices, how did they contrive to attend the AGM in such numbers, procure the false proxies on which they relied, and seek to install their own directors ? Why was such an important CLG person as Stuart Lamont present at our AGM ? And what was the relevance of all the evidence about the Clubs in relation to Batstone, who filed a proxy, and Croswell who attended the AGM personally ?

After argument Justice Nicholson reserved judgment. The Court then adjourned.

We, your directors, believe that the true purpose of the application is to take control of the Board of Directors of your company. Once the CLG is in control of your Board, CLG will 'settle' case 19/2002, that is the main case on damages. In that manner CLG will not have to face a judicial probe into the legality of its Clubs and its very cleverly constituted and constructed business model.

George Wolfe, Panos Pierides and I were in Court. We all listened to the argument. Naturally Wolfe and I were delighted by our counsel's carefully reasoned and compelling argument.

Pierides was not. He told me privately that he had affidavits from our staff stating that the AGM notices had not been sent to the Clubs. I invited him to hand them up to Court. He refused. I did not believe him.

However, after the hearing I met our staff. I put Pierides' allegations to them. All our staff vehemently denied Pierides' allegations. Quite frankly, I believed our staff. So by round robin telephoning to the other directors, we decided to cancel Pierides appointment as director in terms of Article 49 of the Memorandum and Articles of Association.

The AGM control case: phase three

On 11 April 2008 the applicants launched an interlocutory application to lead further evidence. The deponent to their founding affidavit is Panos George Pierides. The evidence they seek to lead is to the effect that - on my instructions, relayed *via* Jeanne Parker, the staff deliberately omitted to send the AGM notices to the Clubs. To our sadness and profound concern, the three staff members referred to in the Pierides affidavit have deposed to confirmatory affidavits.

Your directors (Wolfe, Manthey, Alstone, Dr Moraka and I) do not know whether Pierides was a 'Trojan Horse' from the beginning for the Club Leisure Group or whether he became an *Ephialtes*, on promise of reward from Anthony Nicholas Ridl and Stuart John Lamont, on or before 29 October 2007. (*Ephialtes* in Modern Greek means a 'nightmare'. In Ancient Greece *Ephialtes* betrayed the Greek forces to the Persians at Thermopylae in 480 BCE.)

Pierides had volunteered his services as a director during early 2007. He had been a shareholder for many years. He was keen to assist La Lucia in 'warding off' the threat of the Clubs. He told our Board that he was a registered tax practitioner. He could get SARS to do a lifestyle assessment on Lamont and Ridl. He would see to it that the Club Leisure Group 'never succeed in getting La Lucia'. He was very convincing. His track record as a shareholder was exemplary. So we appointed Pierides as a director on 27 March 2007. I know what you are thinking dear shareholder: 'timeo Danaos et dona ferentes'!

Since receipt of the application to lead further evidence we have conducted a forensic investigation. As a result of what we had experienced at the hands of Pierides during the latter months of his tenure of office as director and the weeks leading up to a host of vexatious summonses, we now know how he suborned our staff to commit perjury.

Since the detail of the events has first to be adjudicated by judge Nicholson, we have decided to present all the facts to the shareholders by way of copies of the entire set of Court papers. However, to avoid unnecessary costs, we shall scan the documents into electronic format, and upload the entire set onto the La Lucia website. The upload should be ready for viewing by the end of May 2008. As and when further papers are filed, we shall scan and upload the documents. You, as shareholder, will thus be in a position to make up your own mind about Pierides.

Finally, it is gratifying to note that so many shareholders who have received Pierides' complaints have sent messages of support to us, your directors, and have seen through the spurious complaints raised by Pierides. Alas, we have to report that your company has charged Pierides with theft, fraud and breach of section 226 of the Companies Act. The case is logged under the Commercial Branch of the South African Police Service at Durban Central, CAS 363/5/2008. The investigating officer for the time being is Detective Inspector: Vish Pillay.

General comment on the way forward

As a result of the application to set aside the 2006 AGM, your company has not had an AGM during the year 2007, and in all likelihood, will not have one during 2008. The reason is stark but simple. Any attempt to pre-empt the decision of a High Court judge is wrong. Counsel for both sides are *ad idem* on this point: any party who tries to force an AGM before Nicholson J has pronounced on his decision will be met with an interdict.

As such, Pierides' attempt to obtain the very same relief as the AGM control case (of Batstone and Crosswell) under section 181 of the Companies Act is misguided.

So too are the cases Pierides has instituted against your company and two of the directors. All the detail of these cases will appear in the annexures to the documents filed in Court (and presently to be accessible on our website).

The most vexatious and egregious case Pierides has commenced is to summons your company for 'services rendered' in the amount of R 120 000.00. Firstly, Pierides rendered no services. Secondly, Pierides claims we are squandering money because we did not use his paving contractor from Dainfern, Johannesburg, to do the new paving. He is sanctimonious and, frankly, not credible. Thirdly, as can be seen from the forensic investigator's report annexed to our papers in the AGM control case, Pierides helped himself to airfares, free accommodation and cash at the expense of your company. The total value of the theft and fraud exceeds R 160 000.00.

Financial statements and special levies

We have decided that annual financial statements must be sent to all shareholders even though we must wait before holding the next AGM. We envisage sending the financials in June 2008. In any event, our auditors are already working to complete the financials. If they are available by the end of May we shall send them out forthwith.

Finally, the Pierides' cases do require serious attention. He has caused damage to your company. In the circumstances the directors have decided that a special levy of R 350.00 be requested from each shareholder. This special levy is justified in the circumstances, and, moderate. Our legal fees are very low for the amount of good work done to date.

For all queries and comments, wise or otherwise, please contact me by e-mail at my address below.

Keep heart, we have seen this all before!

Happy holidaying,

Patrick Collins
Chairman of La Lucia Sands Share Block Limited and
The Board of Directors of La Lucia Sands Share Block Limited

9th May 2008