

**SEVENTEENTH REPORT PURSUANT TO SECTION 73A OF THE BANKRUPTCY  
ACT  
CONCERNING THE LIQUIDATION OF**

Let op: kopie verslag ook zenden aan rb Arnhem en rb Haarlem

**Landis Group N.V.** (liquidation number 02/238F)

**Landis Group B.V.** (liquidation number 02/239F)

**Landis Group International B.V.** (liquidation number 02/146F)

**Landis ICT Group B.V.** (liquidation number 02/145F)

**Detron Zakelijke Netwerken B.V.** (liquidation number 02/154F)

**Detron Group B.V.** (liquidation number 02/333F)

all having their registered offices in Utrecht

**Detron Metaal B.V.**, having its registered office in Zaltbommel (liquidation number 209/2002 MB)

**ICT.com B.V.**, having its registered office in Nieuw Vennepe (liquidation number F132/2002)

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Utrecht, 20 June 2007

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## 1. Introduction

- 1.1 This public report is entirely devoted to the results of the investigation into the causes of the liquidation of Landis Group NV and its Dutch subsidiaries (hereinafter referred to as: ‘the liquidation’ and ‘Landis’ respectively).
- 1.2 In the four-year period between its flotation (spring of 1998) and liquidation (spring of 2002), Landis raised EUR 440 million in the capital market, mainly through the issue of shares. This money can be considered lost; Landis shares no longer have any market value. In addition, Landis’ creditors have sustained loss as a result of the liquidation, which loss, based on the current condition of the assets, can be estimated at EUR 160 million. It can therefore be concluded that, as a result of the liquidation, a total of approx. EUR 600 million in monetary instruments invested in Landis by shareholders and creditors must be regarded as lost. This fact – and the fact that this is a public fund that had approx. 3,000 employees in ten European countries at the time of its decline – justified a detailed investigation into the causes of its liquidation.
- 1.3 In the autumn of 2003, the liquidators appointed an investigation committee (‘the committee’), consisting of A.L. Leuftink, LL.M. and Dr. *ir.* L.J.M. Nelissen. With regard to the financial and accounting-related matters, the committee was assisted by Mr B.J. Scholten RA of BDO CampsObers Accountants (‘BDO’). BDO conducted its own investigation into Landis’ external financial reporting (including the reporting to the bank syndicate) for the years 1999, 2000 and 2001, and more in particular into Landis’ acquisitions during that period and also its record keeping during that period. The investigation took longer than initially expected. For the causes of this delay, reference is made to the preceding public reports.
- 1.4 BDO presented its report to the liquidators (and the committee) on 21 March 2007. The committee subsequently presented its report to the liquidators on 18 April 2007. BDO’s report is attached to the committee’s report as an appendix.
- 1.5 The liquidators studied both reports and also the source documents on which the reports are based. They also drew on the knowledge they have acquired in their capacity over the past five years. The present public report reflects the *liquidators’* view of the main causes of the liquidation. The liquidators are therefore entirely responsible for the contents of this report and not the committee or BDO.
- 1.6 Despite having received ample opportunity to do so, neither Landis’ former executive and supervisory directors nor Ernst & Young as Landis’ former accountant availed themselves of the opportunity to react to the contents of the reports. An exception is Mr J.P. Verhoeven, an executive director of Landis from 1 July 2001 to mid-April 2002. Where the committee deemed this necessary, his comments were incorporated in the committee’s report. The other former executive and supervisory directors formally made known their objections to the manner in which the investigation was conducted and hold the view that the committee and BDO are prejudiced. A disciplinary complaint against BDO was submitted in March of this year by the former executive and supervisory directors. BDO is of the opinion that this complaint is unfounded. Ernst & Young adopted the position that it could only react properly to the reports *after* it had taken note of the comments of the former executive and supervisory directors. As the directors have

not submitted their comments, the liquidators have concluded that Ernst & Young have in turn decided not to submit their own comments either.

- 1.7 This report is available in Dutch and in English. In the event of a difference in interpretation, the Dutch text will prevail.  
No rights may be derived from this report.

## 2. **Short history of Landis**

- 2.1 Landis came into being as an independent company in 1991, following a management buy-out of the business unit ‘Networks’ of HCS Technologies NV. Initially, Landis was mainly engaged in the distribution of products in the field of information and communications technology (ICT).
- 2.2 In the early nineties networks were created and this required the development of new equipment (network components). Landis seized the opportunity and supplied the middle segment in this market through resellers. At the same time, Landis needed to train these resellers so they would be able to sell this equipment to their customers. The market grew and Landis’ own suppliers required Landis to be large and have international presence. None of Landis’ suppliers had granted it exclusivity and it was strongly dependent on them.  
In 1995 Landis’ turnover was over NLG 58 million, with 60 employees. In 1998 Landis was listed on the stock exchange and from that moment in particular it grew rapidly. Its flotation gave it access to the capital market, which meant that takeovers could easily be funded.
- 2.3 As a result of the relatively extensive takeover of Ilion in 1999, Landis increased in scale and strengthened its international presence. The reported turnover for 1999 showed an increase of 217% to EUR 643 million (in 1998, excl. Ilion: EUR 203 million) and the reported net profit increased by 82% to EUR 9.9 million. The number of employees increased to 1,150.
- 2.4 Landis developed its objective “*to become the leading value added networking distributor throughout Europe*”. In other words, Landis stated that it wished to develop from ‘box mover+’ to an important player in the international ICT world, spearheading a whole range of spectacular new technology developments. Landis was, incidentally, not the only company with this goal.<sup>1</sup>
- 2.5 Significant growth was also experienced in 2000, due in particular to the takeover of Detron. The number of employees increased to 3,212 – treble the number in 1999. According to the 2000 annual report, a consolidated turnover of EUR 667 million was achieved and a net profit of approx. EUR 24.7 million.

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<sup>1</sup> Read, for instance, Azlan’s 1999 annual report: “*We have established the Group’s pre-eminence in the European networkplace. As we look forward over the next few years to technology developments, the convergence of voice, data and image networks from 2000 onwards should create a demand for systems replacement, training and services support. Continue to invest in training business and develop the service business*”.

- 2.6 In the 2000 annual report, Landis describes itself as follows:  
*“Landis Group N.V. is an international company operating as a full-service organization in the internet communications technology market (ICT) (...). Landis’ core activities consist of providing specialized solutions, services and training courses in the field of network infrastructures for voice, data and image applications on internet-based application platforms and the required security, supported by a centralized back office organization that provides financial, logistics and purchasing services through a transparent e-commerce infrastructure.”*
- 2.7 According to this annual report, Landis’s strategy was that data, voice and image technology would be merged to digital information communicated over the information superhighway based on internet standards for recreational and professional applications. According to Landis this technological innovation would create a new network economy which would enable global business applications unhindered by borders, using all available currencies and a universal language between digital citizens, 24 hours a day.
- 2.8 In connection with the company’s significant growth, Landis raised a syndicated loan to fund the required working capital of EUR 175 million from a group of nine banks in the third quarter of 2000. In March 2001 a convertible loan (‘the Convertible’) was raised, with a maximum facility of EUR 45 million, which, incidentally, was redeemed on 1 October 2001. The redemption of the Convertible resulted in a breach of trust with the banks in the fourth quarter of 2001 (see below under 8.6).
- 2.9 Due to the redemption of the Convertible and negative cash flow from the operating activities, Landis’ liquidity problems increased, which problems it tried to deal with by selling the distribution activities to Datatec. In March 2002, negotiations with Datatec reached deadlock.
- 2.10 On 11 April 2002, Landis announced a loss of EUR 52 million for 2001, after the banks had cancelled the credit some days before. The full Board of Directors stepped down. The rescue plan presented by the new board on 22 April 2002 was rejected by the banks, after which Landis Group NV and its main subsidiaries were granted a moratorium on 23 April 2002, followed shortly after by their liquidation.

### **3. Organization**

- 3.1 Landis' organization structure after the takeover of Detron in mid-2000 was based on a division of markets relevant to Landis, namely: telecoms companies, the top 500 companies in the Netherlands and the small and medium-sized enterprises. These market segments were driven by the following market divisions:
- Public networks;
  - Enterprise networks (networks for individual enterprises);
  - Business partners (distribution activities of network components).
- The relative spread of turnover between the above market divisions in 2001 was 18%, 18% and 64% respectively.
- 3.2 Landis' sales organization was supported by an executive organization, which can be described in catchwords:
- Managed services (desktop management);
  - Professional services (ICT consultancy and network consultancy, for instance through engineers who perform work on a project or secondment basis);
  - Application services (business automation based on two product lines: Oracle and Microsoft);
  - Educational services;
  - Financial services (support of project funding for customers by third parties; lease of walkie-talkies);
  - Logistical services (management, distribution and logistics of the stock);
  - Network services (building telecommunications and data networks).
- 3.3 Although geographically spread throughout Europe, Landis was essentially one company with its central management in the Netherlands.

#### 4. Landis' main financial figures for 1997 to 2001

4.1 A breakdown is given below of the key data from Landis' consolidated profit and loss account for 1997 to 2001, as is evidenced by the published annual accounts.<sup>2</sup>

Consolidated profit and loss account (in euros x 1,000)

	2001	2000	1999	1998	1997
<b>Net turnover</b>	<b>694,991</b>	<b>667,291</b>	<b>643,205</b>	<b>202,727</b>	<b>91,251</b>
Cost of sales	529,567	498,604	548,341	173,926	78,165
Gross sales margin	165,424	168,687	94,864	28,801	13,086
Personnel costs	121,400	88,824	42,440	8,835	4,510
Depreciation and amortization	7,596	7,043	3,433	932	345
Other operating costs	42,02	33,648	30,014	9,061	3,970
Operating expenses	171,698	129,515	75,887	18,828	8,825
<b>Operating results (EBIT)</b>	<b>-6,274</b>	<b>39,172</b>	<b>18,977</b>	<b>9,973</b>	<b>4,261</b>
Financial income and expenditure	-11,325	-4,412	-3,453	-1,658	-694
<b>Results on ordinary activities before tax</b>	<b>-17,599</b>	<b>34,760</b>	<b>15,524</b>	<b>8,315</b>	<b>3,567</b>
Tax on income	455	-10,564	-5,629	-2,873	-1,241
Results on ordinary activities after tax	-17,144	24,196	9,895	5,442	2,326
Extraordinary income and expenditure after tax	-34,530	715	-3	0	0
Results of participating interests	-263	-197	0	0	0
<b>Net profit</b>	<b>-51,937</b>	<b>24,714</b>	<b>9,892</b>	<b>5,442</b>	<b>2,326</b>
Gross margin (in % of turnover)	23.8%	25.3%	14.7%	14.2%	14.3%
Personnel costs (in % of turnover)	17.5%	13.3%	6.6%	4.4%	4.9%
Number of employees (at the end of the financial year)	approx. 3,000	3,212	1,150	338	178
Net profit	-7.5%	3.7%	1.5%	2.7%	2.5%

#### Growth compared to the preceding year

Net turnover	4.2%	3.7%	217.3%	122.2%
Gross margin	-1.9%	77.8%	229.4%	120.1%
Operating result	-116%	106.4%	90.3%	134%
Net profit	-310.2%	149.8%	81.8%	134%

4.2 The following is a breakdown of Landis' condensed consolidated balance sheet as at 31 December of the years 1997 to 2001.<sup>3</sup>

<sup>2</sup> Annual accounts for 2001 were no longer published by Landis. In a press release issued on 11 April 2002, Landis announced a loss of EUR 52 million. The figures for 2001 shown above are taken from Landis' internally prepared statements, which are in line with Landis' publicly announced loss for 2001 of EUR 52 million. These statements were, incidentally, prepared on the assumption of continuity and accounting principles are therefore used based on the going-concern principle.

<sup>3</sup> The relevant data for the years 1997 to 2000 were obtained from the published annual accounts and for 2001 from Landis' internally prepared statements; reference is made to the preceding footnote.

<i>Amounts in € 1,000</i>	<i>31-12-2001</i>	<i>31-12-2000</i>	<i>31-12-1999</i>	<i>31-12-1998</i>	<i>31-12-1997</i>
Intangible fixed assets	0	0	0	1,956	1,520
Tangible fixed assets	22,918	21,792	12,005	3,074	1,795
Financial fixed assets	2,894	7,226	0	0	0
	<u>25,812</u>	<u>29,018</u>	<u>12,005</u>	<u>5,030</u>	<u>3,315</u>
Products	37,381	62,656	69,818	29,227	14,150
Work in progress	5,266	13,229	0	0	0
Stock	<u>42,647</u>	<u>75,855</u>	<u>69,818</u>	<u>29,227</u>	<u>14,150</u>
Accounts receivable	144,188	197,454	119,355	49,750	20,659
Other loans, prepayments and accrued income	62,580	92,281	13,333	6,291	1,958
Receivables	<u>206,768</u>	<u>289,735</u>	<u>132,688</u>	<u>56,041</u>	<u>22,617</u>
Cash at bank and in hand	0	824	1,102	978	1,062
<b>Total assets</b>	<b><u>275,227</u></b>	<b><u>395,462</u></b>	<b><u>215,613</u></b>	<b><u>91,276</u></b>	<b><u>41,144</u></b>
Share capital	34,865	28,232	18,260	12,875	25
Share premium reserve	7,174	2,059	27,532	21,443	960
Other reserves	-17,604	34,332	14,237	5,168	4,289
	<u>24,435</u>	<u>64,623</u>	<u>60,029</u>	<u>39,486</u>	<u>5,274</u>
Subordinated loans	851	46,986	3,120	4,254	4,538
<b>Guarantee capital</b>	<b><u>25,286</u></b>	<b><u>111,609</u></b>	<b><u>63,149</u></b>	<b><u>43,740</u></b>	<b><u>9,812</u></b>
<b>Provisions</b>	<b><u>5,277</u></b>	<b><u>6,795</u></b>	<b><u>2,182</u></b>	<b><u>0</u></b>	<b><u>0</u></b>
Bank loans and overdrafts	145,667	172,658	38,043	7,580	10,191
Accounts payable	83,331	80,043	88,440	29,616	17,576
Taxes and social charges	0	1,923	7,894	8,308	2,850
Other debts, prepayments and accrued income	15,666	22,434	15,905	2,032	715
Current liabilities	<u>244,664</u>	<u>277,058</u>	<u>150,282</u>	<u>47,536</u>	<u>31,332</u>
<b>Total liabilities</b>	<b><u>275,227</u></b>	<b><u>395,462</u></b>	<b><u>215,613</u></b>	<b><u>91,276</u></b>	<b><u>41,144</u></b>
Shareholders' equity / total liabilities	8.9%	16.3%	27.8%	43.3%	12.8%
Liability capital / total liabilities	9.2%	28.2%	29.3%	47.9%	23.8%
Net working capital (corrected for provisions)	-526	82,591	51,144	38,710	6,497
Current ratio	1.00	1.29	1.34	1.81	1.21
Quick ratio	0.83	1.02	0.88	1.20	0.76

## 5 Market and strategy

### Market

- 5.1 In the second half of the nineties, the ICT market was clearly a growth market. At the beginning of 2000, many in the market still believed that this growth would continue for some time. The peak of what later proved to be a hype was in March 2000 when the American screen market NASDAQ reached an all time high. It should be noted in this respect that strong movements in share price need not keep pace with the actual performance of the companies in question. Although the market developments are undoubtedly related to the ‘internet hype’, the drop in shareholder value from 2000 should be seen somewhat separately from how the market actually operated. From information from independent sources<sup>4</sup> it is evident that although the ICT market did show a downward trend from 2001, this is by no means commensurate with the fall in the share prices of ICT funds in the same period<sup>5</sup>.
- 5.2 The development of the ICT market *in Western Europe* – Landis’ main market – can be seen from the following table which shows the market growth in terms of percentage in the main segments, IT and Telecommunications, for the various years:

#### **IT Telecommunications**

1996
6.7
8.5
1997
8.6
8
1998
10.1
12.7
1999
10.8
13.4
2000
12.1
14.5

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<sup>4</sup> Including the ICT market monitor 2000-2001, 2001-2002 and 2002-2003 and from the European Information Technology Observatory (EITO) 2001 and 2002

<sup>5</sup> The NASDAQ index had increased in five years until 9 March 2000 by 700% to 5,048 points, and dropped from that date to approx. 2,000 points in 2001 (and at the end of 2002/beginning of 2003 it even dropped to slightly over 1,000 points).

2001

3.9

6.4

2002

-3.4

2.6

- 5.3 The EITO 2001 states, based on the information for December 2000: *“Overall the ICT market in Western Europe grew by 13% (IT expanding 11.5% and telecommunications 14.3%) in 2000 and is expected to grow by 11% in 2001.”*
- 5.4 Growth figures of 10.9% and 7.2% respectively are also predicted for 2002. The EITO Update October 2001 states, however: *“While the slowdown in the global economy is exerting its negative impact on IT spending growth in the US (mainly in the hardware segments), prospects for Europe remain rosier, driven by investments in Intranet-related infrastructure, front-end applications and IT services. Nevertheless forecasts have been revised downward to reflect the less favourable economic environment. The IT market is now expected to expand by 7.5% in 2001 compared with the 11% forecast in the EITO in March. The telecommunications market is expected to be up by some 6.3% compared with the 11.5% forecast. Given the uncertainty of the current economic environment, a steeper downturn could affect the ICT market in the coming months and forecasts might have to be revised lower.”*
- 5.5 These downwards revised forecasts, and later reality, show that the IT climate in Western Europe in particular had become increasingly worse in the course of 2001, resulting in a 3.4% drop in 2002. This downward trend was mainly caused by the ICT equipment segment.

### Strategy

- 5.6 With regard to the description in its own annual report of its core activities and its strategy, reference is made to paragraphs 2.6 and 2.7 of this report.
- 5.7 Initially, Landis was engaged in the distribution of products in the field of information and communications technology. In the first half of the nineties, a relatively high margin could be added, but in the course of time this margin came under increasing pressure. Partly for this reason, Landis tried to place itself in the distribution chain as a ‘value added distributor’ (VAD). In other words, in addition to purely ‘moving boxes’, Landis mainly also tried to deliver know-how linked to these sales or, as Landis put it: ‘added value’.
- 5.8 Every new product on the market must first be proved by the producer/supplier, after which the VAD must distribute it through its service organization (presales and after-

sales). In the end, the product is given a commodity nature and sold by volume distributors.

- 5.9 A VAD is able to add higher margins – which it needs to cover the higher costs of service. A business focused solely on distribution will need to aim at large volumes and low costs. The longer a product is on the market or as the supply of new products falls, a VAD will see its margins drop, while needing to adjust the costs of its organization to this or having to achieve a higher turnover while keeping costs the same.
- 5.10 The development of technology also puts pressure on the margins. As soon as a reseller no longer needs information with a product, there is a risk that the reseller will buy the product at a lower price elsewhere (from a volume distributor). Landis therefore ensured that it continuously introduced new products and technology, while reducing the focus as these products reached adulthood and the relevant gross margins dropped due to competition with not only other value added distributors but also with volume distributors.
- 5.11 A VAD must maintain a good relationship with its suppliers in order to stay technologically up-to-date and to be able to continue to operate as the recognized preferred distributor. Landis had agreements with major suppliers such as Cisco, Sun, Nortel, Novell, Intel and others.
- 5.12 Partly due to an expansion of its activities, Landis grew significantly in 1999 and 2000. The building of networks opened up a new world for installers, who were also going onto the market themselves to sell components. Distributors such as Getronics began to provide installation services themselves in order to protect their distribution activities and keep up-to-date with market know-how. In line with this development, Landis saw its future as an ‘ICT integrator’: distribution, software and installation – providing a service for the customer’s entire network, with equipment from various suppliers being ‘tied together’. In other words: activities with more added value than simply being a distributor.
- 5.13 The takeover of Detron in 2000 was in line with this strategy. Landis’ expectations in mid-2000 of a rapid UMTS rollout were, however, much too optimistic. Not until July 2004, for instance, did KPN start offering mobile telecommunications services through the UMTS network.
- 5.14 In conclusion, the liquidators find that Landis, within an obvious growth market and dictated by its main suppliers, pursued a strategy of international expansion. In addition, in order to counterbalance falling distribution margins, it sought to increase turnover with added value, in other words more service-oriented turnover in the ICT sector. The strategy pursued by Landis runs reasonably parallel to what its competitors did in this respect. The slowdown in growth of services within the telecommunications sector because substantial UMTS and telecommunications projects failed to materialize was, however, not sufficiently recognized by Landis. In the end, because of its liquidation in the spring of 2002, Landis missed the UMTS rollout altogether.

## **6 Acquisition policy and practice**

- 6.1 Landis' strategy was based on growth – organic but mainly through takeovers. These takeovers were mostly funded by the issue of shares. In connection with acquisitions, Landis charged a total of over EUR 417 million in goodwill, off the profit and loss account, to the shareholders' equity for the years 1999, 2000 and 2001. At the time of the takeover of Ilion in the autumn of 1999, Landis for the first time decided to charge the purchased goodwill arising on acquisition directly to the shareholders' equity. Until that time, Landis capitalized purchased goodwill arising on acquisitions on the balance sheet and, according to its 1998 annual accounts, subsequently depreciated this goodwill on a straight-line basis in not more than 10 years. Both methods of recognizing purchased goodwill arising on acquisitions were permitted under the annual reporting rules applicable at that time.
- 6.2 The table below shows the amounts (in euros) charged by Landis to the shareholders' equity as acquisition goodwill in the period from 1999 up to and including the first quarter of 2002.

Detron	270,326,000
Ilion	66,623,000
Citee	29,548,000
Dennis Bergström	12,896,000
4U	11,148,000
ICT.com	7,632,000
QuayOne	5,296,000
7 W&H	2,653,000
Team IT	2,650,000
Schneider & Koch	2,225,000
Teletron	2,063,000
Miscellaneous 2001	1,611,000
De Waecke Holding	1,180,000
RZ Telecom	1,055,000
Miscellaneous 2000	303,000
<b>Total goodwill charged to Landis' shareholders' equity in 1999, 2000, 2001 and 2002</b>	<b>417,209,000</b>

- 6.3 Acquisitions were generally characterized by a lack of proper preparation, documentation and assessment of figures. In most cases, no targeted market research was found. Due diligence investigations were regularly limited to a quick scan, sometimes based on investigations already carried out by third parties. Negative outcomes of due diligence investigations, which in themselves were regularly conducted with insufficient depth, were mostly ignored. As far as can be ascertained, actual price negotiations were usually not conducted. In most cases, no substantiation of the purchase price was found. Possibly, the acceptance of relatively high purchase prices may have been influenced in part by the fact that payment was in most cases effected in

shares.

- 6.4 With regard to the five main takeovers<sup>6</sup> the following must in particular also be noted (discussion in chronological order).

Dennis Bergström (April 1999)

- 6.5 Dennis Bergström was a distributor, comparable to Landis, that operated in the Scandinavian countries. The company had 72 employees in permanent employment and achieved a turnover of NLG 100 million for 1998.
- 6.6 At the time of the takeover, Dennis Bergström was technically insolvent. Continuity could only be guaranteed by means of a legal composition with creditors and a cash injection.
- 6.7 As far as can be ascertained from Landis' accounts, only a limited legal due diligence investigation was conducted but no operating or financial due diligence investigation. Nor was any market research found. The minutes of the meetings of the Supervisory Board do not show that this acquisition was discussed there.
- 6.8 The recognition of this acquisition in the 1999 annual accounts was incorrect to the extent that the EUR 3.8 million creditor release resulting from the composition with creditors ought to have been deducted from the goodwill (charged directly to the shareholders' equity) and should not have been recognized as income via the profit and loss account.
- 6.9 Furthermore, in the 2000 annual accounts, EUR 5.7 million in operating expenses was incorrectly not recognized in the profit and loss account but charged directly to the shareholders' equity as after-acquired goodwill adjustment (see below under 7.18).

Ilion (autumn of 1999)

- 6.10 The acquisition of Ilion was in line with Landis' strategy of pursuing a further geographic spread of the distribution activities.
- 6.11 Ilion was established mainly in the UK and France, which countries together generated approx. 82% of the turnover. There were also smaller units in the Netherlands, Belgium, Germany, Austria and Spain. At the time of the takeover, Ilion was larger than Landis (turnover of approx. GBP 250 million; over 500 employees). Ilion's operating result was marginal in the period prior to the takeover (the total operating result for the period of 1 January 1998 to 30 June 1999 was a loss of approx. EUR 1 million). Ilion's solvency was relatively low (12.8%).
- 6.12 To fund the takeover of Ilion, new shares were issued in the second half of 1999. According to the 1999 annual accounts, additional shareholders' equity of EUR 80 million was created through the issue of shares. This EUR 80 million was recognized in

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<sup>6</sup> This is based on the amounts charged by Landis to its shareholders' equity as acquisition goodwill. Reference is made to the list under 6.2.

the 1999 annual accounts as having been used entirely to fund the Ilion acquisition. Contrary to what is recognized in the 1999 annual accounts, however, a) the offering memorandum of 23 September 1999, regarding the public offer for the Ilion shares, b) the offering prospectus of 25 November 1999, regarding the private placement of 2,785,000 Landis shares and c) the offering memorandum of 6 June 2000, regarding the public offer by Landis for Detron, show that Landis did not pay EUR 80 million but only EUR 60 million for the acquisition of Ilion. As the acquisition of Ilion is recognized in the 1999 annual accounts via the adjusted shareholders' equity as at 1 January 1999, it is of essential importance to receive clarification about how the difference of EUR 20 million was spent. To date, given the fact that the parties involved have not reacted to the draft investigation reports, this point has remained unclear. The size of the amount in question justifies the fact that the liquidators will do their utmost to ensure this clarity is eventually obtained.

- 6.13 The goodwill component allocated by Landis to the takeover of Ilion was increased in 2000 by a further amount of approx. EUR 4.8 million. This goodwill adjustment was charged to Landis' shareholders' equity in the 2000 annual accounts, in addition to the previously recognized goodwill component of EUR 60 million (namely the difference between the purchase price of EUR 80 million and Ilion's shareholders' equity of EUR 20 million). Due to a lack of underlying documentation in Landis' accounts, it could not be established whether this amount was correctly charged as goodwill to Landis' shareholders' equity in 2000 or whether all or part of this amount should have been charged to Landis' consolidated results for 2000.

#### 4U Group (December 1999)

- 6.14 4U Group was mainly a training institute specialized in network applications, with authorizations from companies including Novell and Microsoft. 4U Group was a relatively small company (turnover of approx. EUR 8 million on an annual basis). The reason this acquisition must be discussed in this report is not so much the size of this acquisition as the involvement of the chairman of Landis' Supervisory Board, Mr C. de la Haye, as an indirect shareholder and financial backer of 4U Group. At the time of the takeover, Mr De la Haye indirectly held 25% of the shares of 4U Group and indirectly had an outstanding amount of over EUR 500,000 as a partly subordinated claim against 4U Group. An indirect majority shareholder was Mr J. Bras.
- 6.15 In the autumn of 1999, 4U Group was technically insolvent: there was a shareholders' equity deficit, in a loss situation that could no longer be recovered (independently), in addition to idle capacity. Inability to pay had been announced and at the time of the takeover negotiations, a winding-up petition was pending. Although Landis' strategic motive – the acquisition of a training division (and associated teachers), thus strengthening its training activity – can in itself be appreciated, the decision to take over this technically insolvent company, in which its supervisory board chairman had a substantial interest, must be questioned.
- 6.16 The purchase price was paid by issuing over 200,000 Landis shares to (companies of) Mr Bras and Mr De la Haye, which shares represented a value of NLG 19.1 million (EUR 8.7 million) as at the date of the takeover, 14 December 1999. In the liquidators' opinion, this purchase price does not reflect the value of 4U Group, which was

technically insolvent at the time of the takeover. The liquidators must conclude from this that this transaction did not take place ‘at arm’s length’.

- 6.17 This conclusion is not only based on the disparity between the purchase price and the state 4U Group was in at the time of the takeover, but also on the fact that, contrary to what had been done in respect of all Landis’ other acquisitions, the takeover was recognized in the 1999 annual accounts as if goodwill had been purchased for only EUR 3,000, whereas the actual initially purchased goodwill was EUR 8.7 million.
- 6.18 The goodwill component allocated by Landis to the takeover of 4U Group was, incidentally, increased in 2000 by a further EUR 2.4 million. The total goodwill component in connection with 4U Group thus amounted to over EUR 11.1 million. The sum of EUR 2.4 million was incorrectly recognized as a goodwill component; it ought to have been recognized by Landis as sustained operating loss via the consolidated profit and loss account for 2000; see below under 7.19.

#### Detron (mid-2000)

- 6.19 Based on the number of employees involved as well as the purchase price and the relevant goodwill component, the acquisition of Detron in mid-2000 was by far the largest takeover in the history of Landis.
- 6.20 Detron, listed on the Amsterdam stock exchange from February 1999, had two divisions: Public Networks and Business Networks Services. Public Networks was engaged in the design, building, testing and maintenance of public (tele)communications networks, for landlines as well as mobile phones. Public Networks provided services to telecommunications operators, internet service providers and suppliers of telecommunications and data communications equipment. Public Networks had over 1,650 employees. The Business Networks Services division was engaged in the design, building, testing and maintenance of voice and data networks in buildings. This division was also active in the field of the implementation of internet solutions and software applications. Approx. 450 people were employed by this division.
- 6.21 Detron’s ambition was to become a leading player on the pan-European market within a few years. Growth was to have come by focusing on services with high added value.
- 6.22 Detron’s turnover for the last financial year before the takeover – 1999 – was EUR 195 million and its net profit was EUR 13.8 million (including an exceptional income of EUR 5.7 million).
- 6.23 It is evident from the financial due diligence reports of Arthur Andersen of 20 April 2000 and of Ernst & Young of 24 May 2000 that the internal audit and the records organization within Detron had many defects.
- 6.24 Landis’ objective was “*to become the leading Internet and Telephony Integrator throughout Europe*”.<sup>7</sup> This did not seem to be an unrealistic ambition; after all, Detron

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<sup>7</sup> As also stated in the presentation of Kuiken and Banken of 18 April 2000 under the heading “*reason: Synergy*” and in the “*Landis & Detron integration process*”.

also saw that:

*“The international telecom market is likely to continue to show double-digit growth figures in the coming years.”*<sup>8</sup>

The general expectation in 2000 was that the ICT sector would merge fully with the telecommunications sector. Landis was solely involved in ICT and Detron mostly in telecommunications. The belief at the time was that UMTS would become of major importance. Viewed in this light, the takeover of Detron was in line with Landis’ growth strategy and its aim to expand the business with activities that would generate a higher added value than the (original) distribution activities.

- 6.25 For the takeover of the Detron shares, Landis paid a total of over EUR 267 million. Detron’s shareholders’ equity recalculated via the takeover balance sheet as at 1 July 2000 was approx. EUR 12 million, which meant the purchased goodwill was approx. EUR 255 million. As was the case in all Landis’ other acquisitions, this goodwill was charged directly to the shareholders’ equity.
- 6.26 To finance the takeover, over 13 million new Landis shares were issued, raising EUR 266 million of additional shareholders’ equity. This amount was exactly what was needed for the purchase price. The issue of shares did not raise additional capital to fund the Landis group activities that had significantly expanded as a result of the takeover of Detron. The increased need for working capital was provided for by the syndicated loan of EUR 175 million raised in the third quarter of 2000.
- 6.27 The goodwill component allocated by Landis to the takeover of Detron was increased in the second half of 2000 by a further EUR 7.3 million. This was increased yet again by approx. EUR 8 million in 2001. Ultimately, therefore, Landis charged over EUR 270 million to the shareholders’ equity as goodwill allocated to the acquisition of Detron.
- 6.28 The accounting principles and financial basis of the aforesaid EUR 7.3 million with which the goodwill had been increased in the second half of 2000 can be derived from Landis’ accounts up to an amount of EUR 2.3 million. The nature of the other adjustments of EUR 5 million is not evident from the accounts. It has therefore not been possible thus far to answer the question whether the other adjustments in 2000 were correctly charged to Landis’ shareholders’ equity as goodwill or whether these items ought to have been charged to Landis’ consolidated profit and loss account. The same applies *mutatis mutandis* to the goodwill write-off of EUR 8 million in the draft 2001 annual balancing.
- 6.29 Detron Interim Techniek (DIT), member of the Public Networks division with approx. 800 employees had, with Landis’ approval, technically already been sold to the management of DIT at the time of the takeover of Detron. The purchase price was EUR 7 million and was paid in cash. Nevertheless DIT, despite the fact that this company had technically already been sold at the time of the takeover, was fully consolidated in the takeover balance sheet, and the book profit of EUR 4.9 million on the sale already achieved was subsequently – and incorrectly – recognized in the results of Landis for the second half of 2000. This EUR 4.9 million ought to have been recognized directly under

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<sup>8</sup> Information for investors, Detron’s 1999 annual report of February 2000.

goodwill via the shareholders' equity and not via Landis' results for 2000.

- 6.30 Whether the Supervisory Board played a part in the acquisition of Detron and, if so, what part, is not clear. No minutes of any Supervisory Board meetings are available which show any discussions between the Board of Directors and the Supervisory Board or arguments exchanged in connection with the intended takeover, what the outcome of those discussions were and whether the supervisory directors brought forth any criticism (for instance on account of the worrisome outcome of the conducted due diligence investigation) and, if so, what criticism.
- 6.31 Following the takeover, Detron's management also departed (which included major shareholder Mr G. Banken). Due to the integration of the Detron companies in Landis in the period following the takeover, the results of the individual Detron companies in the period between the takeover (mid-2000) and the liquidation (spring of 2002) are difficult to calculate. What is clear, however, is that the integration and management of a company which, in comparison to Landis, was extensive and engaged in a different area – mainly activities such as 'telephony contractor' on a project basis – caused Landis severe problems. In addition, the expected UMTS rollout took much longer than Landis had initially estimated.

#### Citee (end of 2000)

- 6.32 Citee was an ICT integrator: the company was engaged in building and managing complete networks and ICT workstations for large companies. Citee was formed in 1998 and taken over by Landis at the end of 2000. It always remained an independent company and was sold back to the original shareholders shortly after the moratorium was granted. Of all Landis' takeovers, the one of Citee involved the highest amount in cash, namely over EUR 13 million – in addition to a payment in shares of over EUR 16 million in total.
- 6.33 The acquisition was in line with Landis' strategy of developing into an ICT service provider with added value.
- 6.34 Citee achieved a turnover of EUR 26.3 million for 2000 and a net loss of EUR 0.4 million with a shareholders' equity deficit of EUR 2 million as at the end of 2000. The business of Citee, however, seemed to have substance and potential at the time of the takeover.
- 6.35 Initially, Landis paid over EUR 23 million for the acquisition of Citee. In addition, to buy out the existing earn-out arrangement, a further EUR 6.5 million was paid to Citee's shareholders in March 2002, resulting in a total purchase price of over EUR 29 million.
- 6.36 No documentation was found in Landis' accounts on which any informed opinion about the pricing with regard to the takeover of Citee can be based. Nor was any documentation found from which can be deduced which information the supervisory directors used for assessing and approving the takeover.
- 6.37 The recognition of the takeover of Citee in the annual accounts was incorrect. Despite the fact that the Letter of Intent was dated 11 October 2000 and the definitive takeover

agreement was dated 28 December 2000, this takeover was – incorrectly – not recognized in the annual accounts for 2000. The only thing Landis did was to recognize, under the entry ‘other loans’ in the annual accounts for 2000, an advance payment on the purchase price of EUR 3.4 million in November 2000.

## 7 Landis’ results for the period from 1999 to 2001

### Results for 1999

- 7.1 In its 1999 annual accounts of 9 March 2000, Landis presented a net turnover of EUR 643 million, a net profit of EUR 9.9 million and a guarantee capital as at the end of 1999 of EUR 63 million with a balance sheet total of EUR 216 million.
- 7.2 In the liquidators’ opinion, an amount of at least EUR 7.4 million (made up of various items) was incorrectly factored into the net profit for 1999, which means the actual net profit for 1999 was at the most EUR 2.5 million. In addition, such questions can be raised about at least one other substantial entry (of EUR 9.5 million; reference is made to 7.9 below) that the liquidators do not exclude that Landis in actual fact made a loss for 1999 and not a profit.
- 7.3 The acquisition of Ilion by Landis was recognized in the annual accounts for 1999 as a merger and not as an ordinary takeover. Due to this manner of recognition, Landis consolidated Ilion’s full annual results for 1999 in Landis’ consolidated profit and loss account for 1999. Had the takeover been recognized as an ‘ordinary’ takeover (and not a merger) the shares would have been recognized in the results from the date of the takeover (November 1999).
- 7.4 In the liquidators’ opinion, the recognition as a merger is incorrect. After all, there was no exchange of shares and there was clearly an acquiring party (in this case Landis) and an acquired party (in this case Ilion). Based on the applicable annual reporting rules<sup>9</sup>, this transaction could therefore not have been considered a merger.
- 7.5 The correcting amount of EUR 7.4 million referred to above under 7.2 is made up of three items.
- 7.6 In the first place, Ilion’s net profit for the first half of 1999 of EUR 1.8 million<sup>10</sup> which, if Ilion’s acquisition had been correctly recognized (as a takeover), ought not to have been factored into Landis’ consolidated result for 1999. The same applies *mutatis mutandis* to Ilion’s results for the period from July to October 1999, the amount of which, however, cannot be deduced from the accounts found by the liquidators.
- 7.7 The second correcting entry concerns the upwards adjustment by Landis of the valuation of Ilion’s stock after the takeover. This is also an amount of EUR 1.8 million. To the

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<sup>9</sup> Dutch Accounting Standards Board RJ 2.03

<sup>10</sup> This in fact concerns Ilion’s ‘cleaned’ net profit, i.e. cleaned of approx. EUR 2.2 million in non-recurring charges which were not recognized by Landis in the profit and loss account but were charged directly to the shareholders’ equity as a component of the acquisition goodwill.

extent that this adjustment was correct it ought, in the liquidators' opinion, to have been recognized via the goodwill – therefore taken directly to the shareholders' equity – and not via the profit and loss account.

- 7.8 The third correcting entry of EUR 3.8 million relates to the acquisition of Dennis Bergström. In the takeover agreement, Landis had stipulated that the acquisition would only take place if a composition with creditors was effected. The resulting reduction in supplier credit would then be recognized in the balance sheet as at the date of the takeover, forming a goodwill-reducing factor. In the liquidators' opinion, this means that the effected composition with creditors ought not to have been recognized as income via the profit and loss account. If it had been correctly recognized, Landis' results for 1999 would have been approx. EUR 3.8 million less.
- 7.9 As explained above under 7.3, Landis recognized the acquisition of Ilion as a merger. Based on the annual reporting rules of the Dutch Accounting Standards Board (RJ)<sup>11</sup> it ought to have charged (reorganization) costs in connection with the (supposed) merger to its profit and loss account – and therefore not directly to its shareholders' equity as a goodwill adjustment. In the balance sheet as at 1 January 1999, however, a merger provision was created, charged to Landis' shareholders' equity, of EUR 9.5 million, of which EUR 4.5 million was used in 1999 to cover the integration costs incurred. In the explanatory notes to the consolidated balance sheet as at 31 December 1999, Landis states that, in addition, EUR 2.7 million was withdrawn for the settlement in 1999 of an exceptional claim against Ilion and that the balance of EUR 2.3 million was recognized as a remaining reorganization provision in the balance sheet as at 31 December 1999. A substantiation of the creation and withdrawal of this provision was not found in Landis' accounts. As this substantiation is lacking, the liquidators are unable to ascertain how the creation of this provision, off the profit and loss account – given the fact that Landis recognized the acquisition of Ilion as a merger – relates to the aforesaid reporting rules which stipulate that (reorganization) costs relating to a merger must be charged to the profit and loss account. It can furthermore not be ascertained whether the aforesaid EUR 9.5 million actually involve costs in connection with the acquisition of Ilion or whether these relate to operating costs which, irrespective of the aforesaid reporting rules, ought to have been charged to the results for 1999. In conclusion, however, it can be stated that Landis technically presented its results for 1999 much too positively by recognizing the Ilion reorganization costs via the goodwill (directly charged to the shareholders' equity). This is contrary to the recognition method opted for by Landis as regards the Ilion takeover.
- 7.10 In the 1999 annual report, Landis links the trend in its turnover and results to previous forecasts. The report of the board of directors states: "*Landis was able to achieve significant growth in 1999 in turnover (217%) as well as net profit (82%) and has thus been able to fulfil the announced expectations.*" The conclusion from the above, however, is that if Landis had reported correctly, a result after tax of at the most EUR 2.5 million would have been presented for 1999 instead of a result after tax of EUR 9.9 million. In that case, compared to 1998 no growth figures could have been reported for the operating result and net profit for 1999. Instead, these results would have been considerably less compared to 1998. In addition, the liquidators

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<sup>11</sup> RJ 203.710

question the recognition off the profit and loss account of EUR 9.5 million of costs apparently incurred in connection with Ilion, of which no substantiation was found in Landis' accounts.

#### Results for 2000

- 7.11 According to its annual report, Landis achieved a turnover of over EUR 667 million and a net profit of EUR 24.7 million in 2000. The guarantee capital as at the end of 2000 was, according to the annual accounts, EUR 111.6 million with a balance sheet total of EUR 395 million.
- 7.12 The turnover of EUR 667 million meant that – despite the expansion of the activities in 2000, in particular due to the takeover of Detron – there was only a slight increase in turnover (less than 4%) compared to the turnover for 1999 of EUR 643 million. The liquidators have concluded that there was, in fact, not a slight increase but a slight drop in turnover for 2000 compared to 1999. In its half-yearly report for 2000, Landis stated that Detron's results would be included in the consolidation as from 1 July 2000. Contrary to this, in the annual accounts for 2000 the turnover achieved by Detron for the months of May and June 2000 of EUR 31.5 million was consolidated in Landis' consolidated profit and loss account for 2000. This turnover for the months of May and June 2000 was recorded as a cross entry as cost of sales of also EUR 31.5 million, which means that this consolidated turnover would not have affected Landis' recognized net result. This manner of turnover recognition (and recording an equivalent amount in costs as a cross entry) is contrary to the annual reporting rules – the takeover of Detron was not effected until 1 July 2000 – and seems to have been prompted in particular by a desire to show at least some growth in turnover. Landis' actual turnover for 2000 was therefore EUR 667 million less EUR 31.5 million, which is EUR 635.5 million and a drop of over 1% compared to 1999.
- 7.13 In the liquidators' opinion, at least EUR 14.8 million of the presented net profit of EUR 24.7 million was incorrectly included in that profit, which means Landis' actual net profit for 2000 was at the most EUR 9.9 million. In addition, such questions can be raised about several other substantial entries that the liquidators do not exclude that Landis in actual fact made hardly any or no profit for 2000, or possibly even a loss.
- 7.14 The liquidators found a document (**Appendix 1** to this report) in Landis' accounts from which it would appear that Landis, by recognizing numerous exceptional items in the annual accounts for 2000, wished to ensure that the results would approximately be at the level it apparently desired them to be, namely NLG 55 million (EUR 25 million). This document shows Detron's and Landis' results separately. In both cases, the appendix starts with the amount (in Dutch guilders) which, according to the consolidation – in other words according to the figures presented to the head office by the local companies – was the result. In Detron's case this was NLG 2.3 million and in Landis' case this was -/- NLG 50 million. Together this is -/- NLG 47.7 million. After 'head office adjustments' (see also 7.24 below), the combined consolidated result of Detron and Landis is NLG 88.3 million; a difference therefore of NLG 136 million (EUR 61.7 million) compared to the figures 'according to the consolidation'. An entry is then mentioned, which is referred to as 'space for adjustment', of NLG 4 million, leaving a net result after tax of NLG 54.8

million, rounded to whole figures. Below this are the words “this should be 55.000”.

- 7.15 As mentioned before, the liquidators are of the opinion that at least part of the head office adjustments or exceptional items referred to in the appendix were incorrectly factored into Landis’ results.
- 7.16 In the first place, Landis incorrectly recognized the book profit on the sale of DIT of EUR 4.9 million via the profit and loss account and not via the goodwill; reference is made to paragraph 6.29 of this report.
- 7.17 Then Landis began capitalizing start-up expenses in 2000 of in particular its loss-making Training and Services activities. Landis was already engaged in these activities before this, but in 2000 Landis for the first time decided to capitalize start-up expenses for these activities. In total, EUR 6.2 million was capitalized by adjusting the salary costs downwards by this amount in the consolidated annual accounts, which had a positive impact of EUR 6.2 million on the results for 2000. These capitalized amounts were calculated by multiplying the percentage of profit (profit before tax) of the aforesaid business units budgeted by Landis for 2001 by the turnover achieved by these business units for 2000. As a result, the actual start-up expenses – if there were any – were not capitalized but instead the profit deemed theoretically achievable was capitalized. This is an incorrect representation of the actual performance of the aforesaid business units which, in the liquidators’ opinion, is not permitted in accordance with the annual reporting rules.
- 7.18 In addition, Landis made adjustments in respect of its Scandinavian activities in its consolidation process for the financial year 2000. In total, EUR 5.7 million were added to the consolidated result in this respect. This was achieved by deducting the aforesaid amount as after-acquired goodwill (relating to the acquisition of Dennis Bergström) in 2000 from Landis’ shareholders’ equity; in the consolidated profit and loss account the same amount was deducted from the other operating costs. These additional goodwill amounts were calculated by multiplying the percentage of profit (profit before tax) of the aforesaid Scandinavian distribution activities budgeted by Landis for 2001 by the turnover achieved by these business units for 2000. As a result, instead of the actual losses of these activities, the profit deemed theoretically achievable was recognized. In the liquidators’ opinion, this manner of recognition is also incorrect, all the more so as these activities had not just been newly started but had formed part of Landis’ core business since its incorporation.
- 7.19 The same applies *mutatis mutandis* to the EUR 2.4 million ‘after-acquired goodwill’ in connection with the takeover of 4U Group (see below under 6.18): here too salary costs are involved which, in the liquidators’ opinion, were incorrectly not included in the profit and loss account.
- 7.20 If the manner of capitalization of the items referred to in 7.17 to 7.19 of EUR 14.3 million in total is also followed through as regards tax, an adjustment of these items should include a corresponding adjustment (i.e. reduction) of the income tax expense. Based on the average effective tax burden as is evidenced by Landis’ annual accounts, this adjustment results in a reduction of the income tax expense of EUR 4.4 million, leaving a correction of EUR 9.9 million net in respect of incorrect capitalization.

Together with the correction of EUR 4.9 million relating to DIT, as referred to under 7.16, this results in the correction to the net profit presented by Landis for 2000 of EUR 14.8 million, as referred to above under 7.13.

- 7.21 In addition to the items (of EUR 14.8 million in total) which, in the liquidators' opinion, were incorrectly recognized in the net result for 2000, the liquidators also question a number of other substantial items.
- 7.22 In the first place, the addition of EUR 4.8 million to the Ilion goodwill (see above under 6.13) and EUR 5 million to the Detron goodwill (see above under 6.28). Due to a lack of proper documentation in Landis' accounts, it cannot be ascertained whether these additions were correct or whether they concern amounts that were incorrectly not included in the profit and loss account.
- 7.23 There is furthermore no documentation in Landis' accounts based on which can be assessed whether the level of the provisions for accounts receivable and stock is correct.<sup>12</sup>
- 7.24 As indicated above under 7.14, adjustments to the figures provided by the local companies were made in the consolidation statement at the head office. These were necessary in order to produce the final external financial report. This is common practice in larger, decentralized groups of companies. These head office adjustments (also referred to as 'group adjustments') are in a significant number of cases either hardly or not at all documented in Landis' accounts. This also applies to head office adjustments of provisions for accounts receivable and stock.
- 7.25 The figures provided by the local companies for the 2000 consolidation show a provision for accounts receivable of approx. EUR 15 million (7.3%). Landis' methodology was to completely reverse this provision at the head office and replace it with a new provision. This concerned an amount of EUR 3.4 million for 2000, which is 1.7% of the total accounts receivable as at the end of 2000 of EUR 200 million, rounded to whole figures. No explanation of any kind has been found in Landis' accounts about this amount or about the underlying reason for the relatively significant difference of the total provisions created locally. The liquidators can only conclude that there was a trend within Landis where in the course of time the provision for accounts receivable continued to drop in terms of percentage compared to the total accounts receivable: as at the end of 1999 the provision was EUR 5.9 million with a total of EUR 119.4 million (4.9%), as at the end of 2000 this was EUR 3.4 million with a total of EUR 197.5 million (1.7%) and in mid-2001 this was EUR 2.7 million with a total of EUR 172 million (1.6%). This downward trend is also notable as the accounts receivable portfolio as at the end of 2000 compared to 1999 showed a significant increase (from EUR 119.4 million to EUR 197.5 million, an increase therefore of over 65%), whereas the turnover for both years remained practically the same (EUR 643 million compared to EUR 667, an increase therefore of not even 4%<sup>13</sup>). This implies that the number of accounts receivable days outstanding (the time between the date on which an invoice is sent and the date on which it is paid) increased significantly in 2000. Under those circumstances, an increase rather than a decrease of the

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<sup>12</sup> The same applies to the annual figures for 1999 and the half-yearly figures for 2001

<sup>13</sup> That is, if this is based on the figures presented by Landis. As explained above under 7.12, there was in fact a slight *drop in turnover* for 2000.

provision for accounts receivable would be expected.

7.26 It must be noted in this respect that the French auditor (also employed at Ernst & Young) gave a qualified opinion on the consolidation statements of the French Landis companies, while at the same time these French Landis companies were fully consolidated in the annual accounts for 2000 of Landis Group NV, in respect of which Ernst & Young had given an unqualified audit opinion. This fact is important as the French companies formed a substantial part of the total Landis activities. Landis achieved a net turnover in France of EUR 209 million for 2000, with a total turnover of EUR 667 million, i.e. 31%. The accounts receivable portfolio and the stock position connected with Landis' total distribution activities were, as at the end of 2000, made up of French accounts receivable for approx. 50% and French stock for approx. 35%. Given this qualified opinion and the lack of underlying documentation to substantiate the provision for accounts receivable and stock recognized in the consolidated annual accounts, it is not clear to the liquidators on what basis Ernst & Young were nevertheless able to give an unqualified audit opinion on the annual accounts for 2000 at group level as early as 5 March 2001. When requested, the French auditor was not prepared to provide the liquidators with information regarding the exact nature and scope of the qualification.

#### Half-yearly result for 2001

7.27 There was no external audit of Landis' half-yearly figures for 2001. For the period ending on 30 June 2001 Landis presented a net profit of EUR 12.5 million (compared to EUR 7.1 million for the first half of 2000). The operating result for the first half of 2001 was EUR 21 million, which is NLG 45 million. The fact that in this case too, the desired result seemed to have been the driving force is apparent, among other things, from an email found by the liquidators in Landis' accounts which was sent by Gerrit Bonnema (Landis's controller) to Annemarie Jalili (consolidation department) on 2 August 2001. This email is attached to this report as **Appendix 2**. In this email Mr Bonnema says: *"I request you to do the following. Check all the counting but make sure that the total column tallies and adjust everything else accordingly. I must end up with EUR 0.26 a share, no matter what, and the EBIT must be NLG 45 million, etc. Annemarie!!!!!"*

7.28 The presented net profit of EUR 12.5 million is made up entirely of exceptional items, all created at group level. This can be concluded based on the *'Findings of the review period balancing as at 30 June 2001 for Landis Group N.V., Utrecht'*, reported by Ernst & Young Accountants. This report of 22 August 2001 is based on a review of Landis' half-yearly report for 2001 conducted at the request of Landis' board of directors.

7.29 The following exceptional items affected Landis' result for the first half of 2001:

- the sale of the companies TAB Telecommunicatie Adviesbureau, EMS Sekurik and Protel to SCC, which achieved a book profit of EUR 7.6 million;
- the introduction of a fluctuation reserve, to which unrealized exchange differences were taken on conversion of balance sheet items according to the rate of exchange applicable on the balance sheet date. This involved an amount of EUR 4.4 million;
- income relating to import duties paid in excess in the past, amounting to EUR 6.4 million;

- income relating to the cleaning of the accounts payable balance, amounting to EUR 2.5 million;
- capitalization of the start-up expenses for the business units, ICT services and ICT training, amounting to EUR 2.4 million;
- various smaller items amounting to approx. EUR 2 million in total.

7.30 In total, therefore, the positive impact on the result in the first half of 2001 in connection with exceptional items created at group level was over EUR 25 million. Given the operating result presented by Landis (EBIT) of EUR 21 million, it must therefore be concluded that Landis was only able to show a profit for the first half of 2001 by recognizing various large amounts of an exceptional or non-recurrent nature via the operating result (EBIT).

7.31 Due to a lack of proper underlying documentation, which was not found in Landis' accounts, it cannot be ascertained for a number of items whether these were correctly or incorrectly recognized in the half-yearly results for 2001. The liquidators have, however, concluded that in any case the capitalization of the fluctuation reserve of EUR 4.4 million and the start-up expenses of ICT Services and ICT Training of EUR 2.4 million was incorrect. These, together with two smaller items of EUR 0.45 million in total, were therefore incorrectly not charged to the profit and loss account. The presented profit before tax is thus at least EUR 7.25 million more than it should be, which corresponds with a positive impact on the profit after tax of at least EUR 4.7 million. The actual half-yearly profit for 2001 was therefore not more than EUR 7.8 million. As is the case for all of 1999 and 2000, the liquidators do not, however, exclude that Landis in actual fact made hardly any or no profit for the first half of 2001, or possibly even a loss.

### Results for 2001

7.32 On 31 October 2001, Landis announced publicly that it expected a profit for 2001 of at least EUR 0.40 a share, which would work out to a consolidated net profit of EUR 19 million.

7.33 Landis did not prepare and publish any formal annual accounts for 2001. Three annual balancing reports were found in Landis' accounts, however, the first of which was prepared in January 2002, the second around February 2002 and the third around March 2002.

7.34 The first annual balancing shows a local loss<sup>14</sup> of (converted) EUR 58.1 million, group adjustments credited to the result of EUR 63 million and a final net profit of EUR 4.9 million.

The second annual balancing shows a local loss of EUR 45.6 million, group adjustments credited to the result of EUR 65 million and a final net profit of EUR 19.4 million. The third annual balancing, which was finally made public by Landis on 11 April 2002, shows a local loss of EUR 47.4 million, group adjustments *charged* to the result of EUR 4.6 million and a final net loss of EUR 52 million.

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<sup>14</sup> A 'local loss' is understood to be loss as shown by the figures presented to the head office by the local companies, therefore before head office adjustments.

- 7.35 The difference between the net result calculated around February 2002 and around March 2002 is thus over EUR 71 million, i.e. from a profit of EUR 19.4 million to a loss of EUR 52 million. As the local net result remained basically the same, this difference is almost entirely (that is for over EUR 69 million) due to group adjustments to that local net result.
- 7.36 As Landis recognized a profit of EUR 12.5 million for the first half of 2001, it can be concluded that Landis recorded a net loss of over EUR 64 million for the second half of 2001. This net loss can be subdivided in loss on ordinary activities for the second half of 2001 of EUR 30 million and recognized extraordinary expenses for that period of EUR 34 million. The main item in the recognized extraordinary expenses is the write-down of capitalized start-up expenses for new activities (see above under 7.16) of EUR 15.5 million.
- 7.37 The relevant extraordinary expenses were all – but not until the third balancing – recorded for December 2001; for the first 11 months, Landis still reported a net profit to the bank syndicate of EUR 7.4 million. The liquidators conclude in this respect that Landis apparently only began charging various items originating in previous periods in its determination of results for December 2001. This is evidenced mostly from the nature of the presented extraordinary expenses and the amount of the other operating costs recognized in December 2001 (NB: the information provided to the bank syndicate until the end of November 2001 shows other operating costs of EUR 20 million (for a period of 11 months), whereas these costs for the whole of 2001 were just EUR 43 million; therefore in December alone EUR 23 million was recognized as other operating costs).

## **8 External financing of Landis**

### The syndicate loan

- 8.1 Due to the expansion of its activities, in particular due to the takeover of Detron in mid-2000, Landis needed to find additional external financing in connection with the increased need for working capital. This financing was found through a syndicate loan from nine banks in August 2000, initially of EUR 135 million and several months later increased to EUR 175 million. At the time of the liquidation in the spring of 2002, the outstanding liability was EUR 144.6 million.
- 8.2 This facility was not covered by securities but, in addition to the fact that the facility might never be more than EUR 200 million, Landis was obliged to comply with four financial ratios (hereinafter referred to as: ‘the ratios’). The ratios ensured that minimum positions of the shareholders’ equity, the operating result and the accounts receivable insurance were maintained. To verify that these ratios were complied with, Landis had to submit compliance certificates to the bank syndicate every six months. From March 2001, in connection with a waiver requested at that time, the frequency was increased to once a quarter and an audit report on these certificates had to be provided. In the end, Landis submitted three compliance certificates to the bank syndicate:
- a compliance certificate (dated 28 June 2001) according to the situation as at 31 December 2000;

- a compliance certificate (dated 26 September 2001) according to the situation as at 30 June 2001;
  - a compliance certificate (dated 8 November 2001) according to the situation as at 30 September 2001.
- 8.3 On submission of the first certificate Landis reported that it did not comply with one of the ratios – and it requested a waiver in this respect – but that it did comply with the other ratios, whereas on submission of the last two certificates it reported that it complied with all the ratios.
- Taking into consideration what has been stated above with regard to inaccuracies in the annual figures for 2000 and the half-yearly figures for 2001 presented by Landis, the liquidators conclude that Landis practically from the start did not comply with *any* of the ratios and that Ernst & Young incorrectly issued unqualified audit reports on the compliance certificates in question.
- 8.4 The relationship with the syndicate deteriorated in the fourth quarter of 2001 due to the early repayment of the Convertible, discussed below. In the end, the banks were willing to wait and see whether Landis would be able to reduce its debt significantly by selling the distribution activities to Datatec, but after the negotiations with Datatec broke down and it became clear that Landis, instead of the net profit presented to the banks of EUR 74 million for the first eleven months of 2001, had in fact made a loss of tens of millions of euros, the banks cancelled their loans after which, when a rescue plan also failed to meet with their approval, moratorium followed by liquidation were inevitable.

#### The Convertible

- 8.5 In March 2001, Landis and two American investors agreed on a facility for a subordinated convertible loan of EUR 45 million. Landis actually only drew part of the loan – up to an amount of EUR 26.6 million – in the first half of 2001. Of this amount, EUR 12.8 million in total was converted in the period up to 1 October 2001 into approx. 3.5 million Landis shares, while another part of this amount, EUR 13.8 million, was redeemed by Landis as at 1 October 2001 from its own resources. At the time of the redemption, Landis was already in an awkward liquidity position but fear of an impending dilution at shareholder level, which would be the result of any further conversion, seemed to tip the balance as regards the decision to redeem the loan early, despite the costs of EUR 3.3 million for early redemption.
- 8.6 The redemption of the Convertible resulted in a breach of trust with the banks, which can be explained as follows:
- In a letter of 8 March 2001, Landis wrote to the syndicate: *“Please note that the Convertible is always subordinated to the current syndicated facility”*. On 21 June 2001 Landis wrote: *“In future it is Landis’ intention that all payments made in relation to the Convertible, be they interest or principal, will be in the form of shares in Landis Group NV”*. On 1 October 2001, the date on which the Convertible was redeemed, Landis stated in a press release: *“The main financial backers have agreed to the early redemption”*. RBS, the Facility Agent, as well as the other syndicate members dispute, however, that they were informed of the early redemption in advance, let alone that they had agreed to it. Reference is made in this respect to the following quote from a letter written by RZB,

one of the syndicate members, to RBS on 4 December 2001: *"Referring to the Bankers' Meeting in Amsterdam on 30 November 2001, Raiffeisen Zentralbank Austria AG ("RZG") feels the need to express a serious concern about recent developments regarding the Borrower. In particular, we find it rather surprising that the EUR 45 million subordinated Convertible loan has been redeemed early by a repayment partly in cash, whereas a letter sent out by the Borrower as of 21 June 2001 contained assurances of the Borrower's intention not to use cash to satisfy its payment obligations thereunder."*

8.7 The Convertible was already incorrectly included in Landis' annual accounts for 2000 at the full amount of EUR 45 million. Apart from the fact that no evidence was found in Landis' accounts of any actual agreement with the providers of the Convertible before 1 January 2001, only the amounts actually included in the facility as at the end of 2000 were in any case allowed to have been recognized as part of Landis' guarantee capital according to the annual reporting rules. It is an established fact that the first amounts under the Convertible were only recognized by Landis in March 2001.

8.8 The incorrect recognition of the facility for the full amount of EUR 45 million in the balance sheet as at 31 December 2000 occurred in such manner that the amount in question was entered on the assets side under 'other loans' and on the liabilities side under 'subordinated loans' as part of the guarantee capital. As a result, the solvency as well as the liquidity position were presented in far too positive a light in the annual accounts for 2000.

## 9 Solvency and liquidity ratios

9.1 As shown by the breakdown under 4.3 above, Landis' solvency as at the end of 1998 could without a doubt be regarded as sound: at that point the shareholders' equity was 43.3% of the balance sheet total and the guarantee capital was 47.9% of the balance sheet total. From the end of 1998, however, the solvency dropped steadily, as is apparent from the following breakdown.

	31-12-2001	31-12-2000	31-12-1999	31-12-1998
Shareholders' equity/balance sheet total	8.9%	16.3%	27.8%	43.3%
Guarantee capital/balance sheet total	9.2%	28.2%	29.3%	47.9%

9.2 The decline in the solvency in 1999 was caused by the significant expansion of Landis' invested capital as a result of acquisitions in 1999 (in particular the acquisition of Ilion) and as a result of achieved organic growth.

9.3 In 2000 the shareholders' equity dropped from 27.8% to 16.3% of the balance sheet total, while the ratio between the guarantee capital presented by Landis and the balance sheet total remained practically the same (a slight drop from 29.3% to 28.2%). Three cases of incorrect recognition in the annual accounts for 2000 have already been mentioned above, which resulted in the guarantee capital as at the end of 2000 being shown in much too positive a light.

These are:

- the Convertible (see above under 8.7); interest: EUR 45 million;

- the takeover of Citee (see above under 6.37); interest: EUR 9 million<sup>15</sup>;
- the capitalization of the start-up expenses for Services and Training (see above under 7.17); interest:  
EUR 6.2 million gross, which is EUR 4.2 million net.

The total of these items is EUR 58.2 million.

This means that, setting aside the as yet unanswered questions about the annual accounts for 2000 (see above under 7.21 et seq.), the guarantee capital as at the end of 2000 was not EUR 111.6 million, as presented by Landis in its annual accounts for 2000, but at the most EUR 53.4 million and therefore less than half the presented amount. Landis' solvency as at the end of 2000, expressed as the guarantee capital in proportion to the balance sheet total, was therefore not the presented 28.2% but at the most 15.9%.

9.4 In the course of 2001 Landis' solvency deteriorated further, in particular due to the loss of EUR 52 million and the redemption of the Convertible. After Landis had still announced an increase in its guarantee capital in its half-yearly figures of up to EUR 113.9 million and it had still presented a guarantee capital of EUR 92.1 million to the banks as at 30 November 2001, the balance of the guarantee capital as at the end of 2001 according to the annual figures for 2001 presented on 11 April 2002 was only EUR 25.3 million. This last figure was, incidentally, still much too high, as Landis had incorrectly not written off the deferred tax receivables from the preceding years of EUR 17 million in the balance sheet as at 31 December 2001. The liquidators therefore conclude that as at the end of 2001 Landis' guarantee capital had in fact almost entirely evaporated.

9.5 Landis' liquidity ratios in the period 1998 to 2001 as at 31 December of each year were as follows:

	31-12-2001	31-12-2000	31-12-1999	31-12-1998
Current ratio (current assets/short-term liabilities)	1.00	1.29	1.34	1.81
Quick ratio (current assets less stock/short-term liabilities)	0.83	1.02	0.88	1.20

9.6 It is evident from the above that the apparent improvement of the quick ratio in the course of 2000 is in particular due to a) the incorrect recognition in the annual accounts for 2000 of the full amount of the Convertible made available in March 2001, b) the incorrect manner of recognition of the takeover of Citee and c) the incorrect capitalization under 'other loans' of start-up expenses for Training and Services. If these items had been recognized correctly, this would have resulted in a drop in *both* liquidity ratios (a current ratio as at the end of 2000 of 1.08 instead of the presented 1.29 and a quick ratio of 0.82 instead of the presented 1.02). If Landis had furthermore, as it ought to have done, written off the deferred tax receivables of EUR 17 million, capitalized on its balance sheet, the current ratio as at the end of 2001 would only have been 0.93 and the quick ratio 0.76. A quick ratio under 1 is generally an indication that the liquidity position of a company is a cause for concern.

<sup>15</sup> This is the share of the purchase price for the Citee shares that was paid in cash by Landis in the fourth quarter of 2000. In March 2000 a further cash payment was made to Citee's former shareholders of EUR 4 million.

## **10 Landis' actual decline**

- 10.1 From the end of 2000, some months before the takeover of Detron and the raising of the syndicate loan, Landis struggled increasingly with liquidity problems. In addition, its actual solvency in the course of the second half of 2000 could no longer be considered sound (the ratio between the actual guarantee capital and the balance sheet total as at the end of 2000 was at the most 15.9% instead of the reported 28.2%; see above under 9.3). In order to remain, optimistically, just within the ratios set by the banks, Landis presented financial figures in three compliance certificates that did not tally with reality (see above under 8.3).
- 10.2 During all of 2001, the Service and Consultancy, Training, Application Services and Public Networks divisions operated at a loss, while the distribution activities were struggling with liquidity problems, delivery problems and mismatched stock during this period.
- 10.3 The downturn in the ICT market will have contributed to the deterioration of Landis' actual operating results.
- 10.4 In fact, from the end of 2000 Landis' continuity could in any case have been regarded as under threat. Landis masked this for a long period of time, however, by presenting misleading (too positive) annual figures for 2000, half-yearly figures for 2001 and figures for the first 11 months of 2001 (to the banks). Not until April 2002 did Landis for the first time publish a loss (EUR 52 million for 2001), after which the moratorium followed within two weeks and shortly after its liquidation.
- 10.5 Landis tried to deal with the increasing liquidity problems by attempting to sell the distribution activities. To this end, intensive negotiations were conducted with the South African company Datatec from the end of 2001. In the second half of March 2002, these negotiations reached deadlock.
- 10.6 In the meantime, Landis had proposed a first rescue plan to the bank syndicate at the beginning of March 2002. According to reports, this plan consisted of proposing a composition with creditors, resulting in a cancellation of 75% of the debts (including the bank syndicate's loan). Various large suppliers agreed to the plan, but the banks did not. According to the banks, they had insufficient understanding of Landis' financial situation and the prospects for the future of the company seemed dim.
- 10.7 After the deal with Datatec had fallen through, the bank syndicate was invited by Landis on 21 March 2002 to discuss the situation that had arisen and the possible measures to be taken. The banks gave Landis until 22 April 2002 to come up with a reorganization plan. At the request of the banks, PWC was called in to assess Landis' forecasts and projections. In the findings it reported to the banks on 17 and 22 April 2002, PWC gives a generally unfavourable opinion about the information provided by Landis as well as Landis' prospects for the future. The rescue plan drawn up by Landis' new board of directors was ultimately rejected by the banks: in their opinion, they would have to make too many compromises, there were too many risks involved and prospects for the future were not clear nor were they good. After rejection of this rescue plan a moratorium, followed shortly after by Landis' liquidation, had become inevitable.

## 11 Conclusions

- 11.1 Landis' flotation in the spring of 1998 gave it access to the capital market, which it used to realize its ambition of becoming a pan-European ICT distributor and supplier. Landis' growth in the years following its flotation was substantial. Its turnover increased sevenfold and the number of employees increased eighteenfold in the three years between 1997 and 2000.
- 11.2 In total, Landis raised EUR 440 million on the capital market in the years 1998 to 2001, mostly through the issue of shares, which it used to finance its growth. On closer consideration it can be concluded that Landis raised most of its capital based on misleading (too positive) half-yearly and annual figures.
- 11.3 In addition, it can be concluded that Landis, during almost the entire term of the loan of initially EUR 135 million and later EUR 175 million (August 2000 – April 2002), incorrectly informed the bank syndicate about its financial situation, in particular by issuing compliance certificates that were supposed to create the impression that Landis complied with the ratios agreed by the banks, whereas in reality Landis did not comply with *any* of those ratios almost from the start.<sup>16</sup>
- 11.4 With regard in any case to the presented annual figures for 1999 and 2000, the half-yearly figures for 2001 and the compliance certificates submitted to the banks in 2001, it can therefore be said, in the liquidators' opinion, that there was a pattern of systematically misleading reports with the apparent aim to induce market parties to invest money in Landis, to lend money to Landis or not to claim loans that had been provided.
- 11.5 In addition, the acquisitions – which were generally in line with Landis' strategy – were mostly characterized by a lack of preparation, documentation and assessment of figures. In a significant number of cases, there is no evidence of discussions having taken place at meetings of the board of directors or the supervisory board relating to the intended acquisitions. Targeted market research was in most cases not found and the due diligence investigations were often limited to a quick scan. Negative outcomes of due diligence investigations were mostly ignored. Actual price negotiations were hardly conducted. In most cases, no substantiation of the purchase price was found.
- 11.6 The recognition of major acquisitions in Landis' annual accounts was as regards essential entries substantially incorrect. This applies in any case to Landis' five major acquisitions – measured based on the acquisition goodwill charged to the shareholders' equity – i.e. Detron, Ilion, Citee, Dennis Bergström and 4U Group, jointly responsible for a total write off of acquisition goodwill of over EUR 390 million. As regards 4U Group, this probably occurred in part to cover up the fact that Landis' supervisory board chairman, as the selling party, benefited in this respect, unjustifiably in the liquidators'

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<sup>16</sup> These are the four ratios referred to under 8.2. An additional condition was that the outstanding liability was never under any circumstances to exceed EUR 200 million. Ensuring that Landis remained within those boundaries was of course up to the banks.

opinion, by several million euros.

11.7 The significant growth in the period between mid-1999 and mid-2000 (in particular due to the acquisitions of Ilion and Detron) meant that Landis needed to raise considerably more loan capital in order to finance its significantly increased need for working capital. As a result, Landis' solvency deteriorated while it was also increasingly struggling with liquidity problems from the end of 2000. In fact, from the end of 2000 Landis' continuity could be regarded as under threat.

11.8 Struggling companies sometimes show remarkable similarities in their final stages. Reference is made in this respect to the following quote from Roland Berger Strategy Consultants<sup>17</sup>:

*“Crises in companies develop over a longer period of time. In most cases, they arise due to a combination of external and internal factors. It usually starts with strategic errors, with the company unable to adapt its strategy to changing markets or the competition. If appropriate measures are not taken, this leads to a decrease in profitability which finally results in a liquidity crisis.*

*At the same time, this reduces the possibilities of taking measures and the company is consequently no longer able to come out of the crisis on its own.*

*Companies that end up in a crisis in this manner are often neither able nor willing to take appropriate measures with the necessary openness and determination. Instead, the management confines itself to denying the facts or it applies a considerable amount of energy to preventing the crisis from becoming known. By means of reporting measures, the balance sheet can for the time being still be ‘brightened up’. The fact that a crisis exists is only acknowledged when the results dramatically come to light, liquidity problems arise and the shareholders’ equity has been almost entirely used up. At that point, there is hardly any room left for taking appropriate measures and the company is consequently no longer able to come out of the crisis on its own.”*

11.9 In the liquidators' opinion, Landis' actions in its final stages reasonably resemble what is described above by Roland Berger. Significant in this respect is that Landis still announced publicly, on 31 October 2001, that it expected a profit for 2001 of at least EUR 0.40 a share, which would work out to a profit of EUR 19 million. It is also significant that the second internal annual balancing for 2001, dated around February 2002, did indeed show a profit of over EUR 19 million. More than a month later, Landis announced a loss of EUR 52 million for 2001.

11.10 In the meantime, Landis failed to take any strong initiatives and failed to take the required measures in connection with a necessary and drastic reorganization and financial restructuring, which measures it should in any case have taken in conjunction with its financial backers (primarily the bank syndicate) from the moment its continuity was, in the liquidators' opinion, threatened, therefore at the end of 2000. When Landis subsequently made a substantial operating loss for 2001 in a declining market, which further weakened its solvency and liquidity position, and it failed to reduce its debts

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<sup>17</sup> The words, freely translated, have been taken from ‘Stürmische Zeiten Meistern’ by Roland Berger Strategy Consultants, around 2003.

significantly by selling its distribution activities, liquidation was inevitable.

Final remark

In view of the results of the investigation, the main parts of which are included in this report, the liquidators will consider the actions to be taken by them. Further information will be provided in this respect in a following report.

H. Dulack,  
liquidator

W.J.M. van Andel,  
liquidator