

## **PUBLIC LIQUIDATION REPORT (under Section 73(a) Dutch Bankruptcy Act)**

### **Concerning**

Reportnumber	23
Date report	8 October 2020
Bankruptcy number	F.09/15/233
'Toezicht' case number	NL:TZ:0000015867:F001
Date of decision	April 21 <sup>st</sup> 2015
Delegated judge	Mr R. Cats
Trustees	Mr M.J.H. Vermeeren Mr F.Th.P. van Voorst

### **General information**

#### **Name company**

Etam Groep Retail B.V.

#### **Information company**

Etam Groep Retail B.V.  
Oostweg 2 (Etam Groeplaan)  
2723 RH Zoetermeer

The insolvent companies are hereinafter referred to as "Retail" and "Holding" respectively or jointly as "Etam Group".

---

This public liquidation report is partially based on information and statements acquired from the directors, employees and involved third parties, as well as on the financial information that has been verified to a limited extent. The trustees cannot guarantee the accuracy and completeness of the information received.

Additional information could result in the emergence of new facts or a different understanding of events. This also means that the (financial) data included in this report can be adjusted at any time. As from the second report the parts that have not been settled will be exclusively stated.

This public liquidation report serves exclusively for the information purposes of the interested parties. No rights can be derived from this public liquidation report. Nothing in this report can be interpreted as an acknowledgement of liability and/or waiver of any right.

---

NB: The following report is bankruptcy report number 22 and NOT, as mentioned above, bankruptcy report 23. The numbering cannot be changed due to technical reasons.

### **Company activities**

Ladies fashion (retail)

### **Financial information**

<b>Year</b>	<b>Turnover</b>	<b>Profit and loss</b>	<b>Balance sheet</b>
20142015	€ 94.331,00	€ 8.957.000,00	€ 31.088.000,00
20132014	€ 199.086,00	€ 7.266.000,00	€ 33.740.000,00
20122013	€ 218.793,00	€ 5.667.000,00	€ 30.920.000,00
20112012	€ 231.016,00	€ 132.000,00	€ 34.490.000,00
20102011	€ 238.016,00	€ 3.330.000,00	€ 35.176.000,00
20092010	€ 233.585,00	€ 4.315.000,00	€ 34.021.000,00

The financial year of the insolvent companies runs from August 1<sup>st</sup> up to and including July 31<sup>st</sup>.

The consolidated net turnover and net results are mentioned above. The balance sheet total contains the consolidated balance sheets totals per July 31st of the concerning year; the balance sheet total of 2015 per January 31st 2015.

NB:

Up to and including the financial year 2012/2013 the records include the consolidated accounts of the parent company Sintra Investments B.V. On 31 December 2013 a takeover was established and legal merger was entered into with an economic and tax effective date of 1 August 2013 (see under 1.1). From this date (financial year 2013/2014) the accounts included the consolidated figures of the Holding Company.

### **Average number of personnel:**

2000.

### **Balance at the end of the reporting period:**

€ 4,670,503.38

## Reporting period

1 July 2020 – 30 September 2020

## Hours spent during the reporting period:

Report 1: 1671.95 hours

Report 2: 976.35 hours

Report 3: 504,00 hours

Report 4: 459.35 hours

Report 5: 418.65 hours

Report 6: 356.7 hours

Report 7: 258.25 hours

Report 8: 189.10 hours

Report 9: 120.00 hours

Report 10: 131.85 hours

Report 11: 128.10 hours

Report 12: 293.55 hours

Report 13: 181.60 hours

Report 14: 158,85 hours

Report 15: 125.77 hours

Report 16: 147.95 hours

Report 17: 104.65 hours

Report 18: 173.71 hours

Report 19: 211.6 hours

Report 20: 127.31 hours

Report 21: 102.54 hours

Report 22: 65.24 hours

## Total hours spent:

6,852.94 hours

Inadvertently a total hours spent of 3,022.72 was mentioned in Bankruptcy Report 15. The correct number of total hours spent should have been 5,660.77 hours.

A guarantee has been provided by third parties for a part of the hours spent by the trustees. Reimbursement has been added to the liquidation assets. See previous report under 9.3.

## 1. Overview

### Board of directors and organisation

See previous report.

### Ongoing proceedings

See previous report.

### **Insurances**

See previous report.

### **Leases**

See previous report.

### **Cause of the liquidation**

#### Report 22:

*As mentioned in the previous bankruptcy reports, the trustees of Etam Groep have investigated the causes of the bankruptcies of Etam Groep. First some general statements will be made concerning the cause and regularity audit, as well as which proceedings were followed, how the cause and regularity audit took place and which stages in this investigation have been completed. See chapter 7 of this report, more specifically paragraph 7 Explanation regularity for the conclusions of this investigation.*

*Among other things, trustees are responsible for managing and winding-up the bankruptcy estate as provided in Article 68 of the Bankruptcy Act. The trustees appointed need to provide the individuals involved with supervision and management with the opportunity to share their views on the causes of the bankruptcy as well as their role. The trustees also need to investigate if there's cause to institute proceedings against (prior) directors and/or (prior) supervisory board members due to liability based on improper performance of one's duties or wrongful acts towards the bankrupt companies, or towards others involved due to liability based on wrongful acts towards the bankrupt companies or the joint creditors. Combined this is called the cause and regularity audit. A cause and regularity audit occurs in every bankruptcy. However, the cause and regularity audit in the bankruptcies of Etam Groep has been more detailed than in an average bankruptcy, since it concerns a larger than average bankruptcy, known nationally with more parties involved, as well as a large number of employees.*

*The cause and regularity audit does not pretend to be a scientific study. It is a rather an as accurate as possible (factual) inventory of the events and developments that have arisen in the years prior to the bankruptcies, followed by a assessment of how these events and developments have lead or contributed to the bankruptcies. All facts and circumstances that may have contributed will be taken into account. Pursuant to the law and legal precedents the trustees initially must look after the interests of the joint creditors, not losing sight of other (public) interests.*

*In principle the investigative period extended over a period of 5 years prior to the bankruptcies, connecting to the financial year of Etam Groep, which runs from 1 August up and until 31 July.*

*The investigative period included the financial years as of 2010/2011 to 9 April 2015, the date on which the suspension of payment was granted, with the emphasis on the final three financial years of the investigative period, in view of the scope of Article 2:248 paragraph 6 of the Dutch Civil Code.*

*The cause and regularity audit started with the investigation of the facts. In this first stage ("Stage 1") a first impression was gained based on reports, minutes of meetings of the board of directors, the supervisory board and the general shareholders' meetings, annual report and accounts, as well as internal and external correspondence. The accounts of Etam Groep have been investigated. Subsequently the trustees interviewed (non-exhaustive list) the members of the board of directors, members of the supervisory board, shareholders, employees of the accounting firm, banks and other parties involves. The facts as stated in the interviews have been verified as much as possible in supporting documentation. These interviews are confidential, as well as the report of the facts (see the following) that was drawn up.*

*In view of the investigation of the facts a extensive report was drawn up. In light of this report the trustees had no reason to conduct a more detailed investigation into relevant subjects or to conduct follow-up interviews with interviewees. Stage 1 was completed by submitting the report to the delegated judge confidentially. The aforementioned report has not been shared comprehensively with others.*

*With the aid of the report of the facts the trustees have phrased their conclusions with regards to the causes of the bankruptcy of Etam Groep, including their preliminary conclusions about the ratio between internal and external causes. This concerns Stage 2 of the cause and regularity audit. Please see chapter 7 paragraph Explanation regularity for a summary of these conclusions.*

*The possible civil liability of (former) directors and (former) supervisory board members is usually addressed in Stage 3, as well as the possible liability under civil law of other parties involved. However, the trustees will not pursue Stage 3, due to the conclusions as mentioned in chapter 7 paragraph Explanation regularity. Therefore, the cause and regularity audit has been concluded.*

#### Work

Report 1: 174.1 hours

Report 2: 1.9 hours

Report 3: 0 hours

Report 4: 7.1 hours

Report 5: 0 hours

Report 6: 1,2 hours

Report 7: 0 hours

Report 8: 5.7 hours

Report 9: 0.2 hours

Report 10: 2.4 hours

Report 11: 0.0 hours

Report 12: 0.9 hours

Report 13: 0.9 hours

Report 14: 0 hours  
Report 15: 0 hours  
Report 16: 0 hours  
Report 17: 0 hours  
Report 18: 0.2 hours

NB. The work related to the research of the causes and the regularity audit is accounted for in chapter 7.

## 2. Personnel

### Number at the time of the liquidation

2000.

See previous report.

### Number in the year before liquidation

2100.

See previous report.

### Date of notice of dismissal

Date	Number	Explanation
<b>Total</b>	0	

### Work:

Report 1: 138.6 hours  
Report 2: 23.95 hours  
Report 3: 18.15 hours  
Report 4: 37.6 hours  
Report 5: 7.45 hours  
Report 6: 5.45 hours  
Report 7: 1 hours  
Report 8: 3.65 hours  
Report 9: 0.3 hours  
Report 10: 3.6 hours  
Report 11: 0.1 hours  
Report 12: 2 hours  
Report 13: 0 hours  
Report 14: 0.2 hours  
Report 15: 0 hours  
Report 16: 0,1 hours  
Report 17: 0 hours

Report 18: 0 hours

### 3. Assets

#### Immovable property

Description	Sales proceeds	Mortgage	Estate contribution
Does not apply			
<b>Total</b>	€ 0,00		€ 0,00

#### Explanation immovable property

Does not apply.

#### Work immovable property

None.

#### Business assets

Description	Sales proceeds	Estate contribution
See previous report		
<b>Total</b>	€ 0,00	€ 0,00

#### Explanation business assets

See previous report.

#### Right of seizure by the tax authorities of property found on the premises

See previous report.

#### Work business assets

See paragraph 6.4 of previous report (Continuation).

#### Stock / work in progress

Description	Sales proceeds	Estate contribution
See previous report		
<b>Total</b>	€ 0,00	€ 0,00

#### Explanation stock / work in progress

See paragraph 6.4 of previous report (Continuation).

#### Work stock / work in progress

See paragraph 6.4 of previous report (Continuation).

**Other assets**

Description	Sales proceeds	Estate contribution
See previous report		
<b>Total</b>	€ 0,00	€ 0,00

**Explanation other assets**

See paragraph 6.4 of previous report (Continuation).

Work other assets

- Report 1: 76.35 hours
- Report 2: 117.20 hours
- Report 3: 33.2 hours
- Report 4: 37.6 hours
- Report 5: 43.95 hours
- Report 6: 57.5 hours
- Report 7: 17,7 hours
- Report 8: 11.8 hours
- Report 9: 13.8 hours
- Report 10: 3.8 hours
- Report 11: 2.6 hours
- Report 12: 1.8 hours
- Report 13: 2.35 hours
- Report 14: 0.0 hours
- Report 15: 0.2 hours
- Report 16: 0,4 hours
- Report 17: 0 hours
- Report 18: 8.75 hours

**4. Accounts receivable**

**Accounts receivable**

Description	Extent	Sales proceeds	Estate contribution
See previous report and interim financial report			
<b>Total</b>		€ 0,00	€ 0,00

### **Explanation accounts receivable**

The investigation mentioned above is still ongoing. Several lessors have received a letter from the trustees. A few claims to the estate have already been corrected in favor of the estate.

An amount claimed under the bank guarantee in excess has been received from one lessor. These activities will be continued in the next reporting period.

#### Report 13:

Basically all bank guarantees have been checked.

Current status:

Total bank guarantees: 82

Total amount of bank guarantees: € 3,476,724.49

Total claimed bank guarantees: 61

Total amount of claimed bank guarantees: € 2,840,545.29

(Partially) wrongly claimed bank guarantees: 19

Total value of (partially) wrongly claimed bank guarantees: € 957,916.41

Amount wrongly claimed: € 358,093.31

The item 'partially wrongly claimed bank guarantees' will be adjusted downwards if and in case a lessor can prove that the bank guarantee has been claimed rightfully. Not yet all lessors have shared their definitive assessment of their legal position.

#### Report 14:

Current status:

Total bank guarantees: 82

Total amount of bank guarantees: € 3,476,724.49

Total claimed bank guarantees: 61

Total amount of claimed bank guarantees: € 2,840,545.29

(Partially) wrongly claimed bank guarantees: 20

Total value of (partially) wrongly claimed bank guarantees: € 983,538.23

Amount wrongly claimed: € 432,800.32

Already refunded: € 42,816.93

Settled: € 192,678.10

The item 'partially wrongly claimed bank guarantees' will be adjusted downwards if and in case a lessor can prove that the bank guarantee has been claimed rightfully. Not yet all lessors have shared their definitive assessment of their legal position.

Report 15:

Current status:

Total bank guarantees: 82

Total amount of bank guarantees: € 3,476,724.49

Total claimed bank guarantees: 61

Total amount of claimed bank guarantees: € 2,840,545.29

(Partially) wrongly claimed bank guarantees: 21

Total value of (partially) wrongly claimed bank guarantees: € 1,066,735.43

Amount wrongly claimed: € 438,623.30

Already refunded: € 48,639.91

Settled: € 192,678.10

The item 'partially wrongly claimed bank guarantees' will be adjusted downwards if and in case a lessor can prove that the bank guarantee has been claimed rightfully. Not yet all lessors have shared their definitive assessment of their legal position.

Report 16:

Current status:

Total bank guarantees: 82

Total amount of bank guarantees: € 3,476,724.49

Total claimed bank guarantees: 61

Total amount of claimed bank guarantees: € 2,840,545.29

(Partially) wrongly claimed bank guarantees: 24

Total value of (partially) wrongly claimed bank guarantees: € 1,237,270.65

Amount wrongly claimed: € 604,555.40

Already refunded: € 135,958.88

Settled: € 468,596.52

The item 'partially wrongly claimed bank guarantees' will be adjusted downwards if and in case a lessor can prove that the bank guarantee has been claimed rightfully. Not yet all lessors have shared their definitive assessment of their legal position.

Report 17:

Current status:

Total bank guarantees: 82

Total amount of bank guarantees: € 3,476,724.49

Total claimed bank guarantees: 61  
Total amount of claimed bank guarantees: € 2,840,545.29

(Partially) wrongly claimed bank guarantees: 24  
Total value of (partially) wrongly claimed bank guarantees: € 1,237,270.65  
Amount wrongly claimed: € 609,202.28

Already refunded: € 146,419.27  
Settled: € 462,137.04

The item 'partially wrongly claimed bank guarantees' will be adjusted downwards if and in case a lessor can prove that the bank guarantee has been claimed rightfully. Not yet all lessors have shared their definitive assessment of their legal position.

#### Report 18:

Current status:

Total bank guarantees: 82  
Total amount of bank guarantees: € 3,476,724.49

Total claimed bank guarantees: 61  
Total amount of claimed bank guarantees: € 2,840,545.29

(Partially) wrongly claimed bank guarantees: 24  
Total value of (partially) wrongly claimed bank guarantees: € 1,237,270.65  
Amount wrongly claimed: € 594,948.94

Total collection/deducted from the estate debt: € 235,048.92  
Collected: € 91,609.52  
Deducted from the estate debt: € 143,439.40

Settled: € 359,900.01

The item 'partially wrongly claimed bank guarantees' will be adjusted downwards if and in case a lessor can prove that the bank guarantee has been claimed rightfully. Not yet all lessors have shared their definitive assessment of their legal position.

#### Report 19:

Current status:

Total bank guarantees: 82  
Total amount of bank guarantees: € 3,476,724.49

Total claimed bank guarantees: 61

Total amount of claimed bank guarantees: € 2,840,545.29

(Partially) wrongly claimed bank guarantees: 24

Total value of (partially) wrongly claimed bank guarantees: € 1,237,270.65

Amount wrongly claimed: € 594,948.94

Total collection/deducted from the estate debt: € 235,048.92

Collected: € 91,609.52

Deducted from the estate debt: € 143,439.40

Settled: € 359,900.01

The item 'partially wrongly claimed bank guarantees' will be adjusted downwards if and in case a lessor can prove that the bank guarantee has been claimed rightfully. Not yet all lessors have shared their definitive assessment of their legal position.

Paid to banks: € 233,699.43

10% paid to the trustee for work done (excluding 21% V.A.T.): € 23,369.94

21% V.A.T.: € 4,907.69

Report 20:

The trustees intend to transfer the active files (wrongly claimed bank guarantees) to the banks.

Report 21:

With regards to the active files the limitation period has been interrupted, as far as required.

Report 22:

*Current status:*

*Total bank guarantees: 82*

*Total amount of bank guarantees: € 3,476,724.49*

*Total claimed bank guarantees: 61*

*Total amount of claimed bank guarantees: € 2,840,545.29*

*(Partially) wrongly claimed bank guarantees: 24*

*Total value of (partially) wrongly claimed bank guarantees: € 1,131,484.27*

*Amount wrongly claimed: € 489,118.80*

*Total collection/deducted from the estate debt: € 235,048.92*

*Collected: € 91,609.52*

*Deducted from the estate debt: € 143,439.40*

*Settled: € 254,069.87*

*Paid to banks: € 233,699.43*

*10% paid to the trustee for work done (excluding 21% V.A.T.): € 23,369.94*

*21% V.A.T.: € 4,907.69*

### **Work accounts receivable**

Report 1: 7.9 hours

Report 2: 10.03 hours

Report 3: 2.35 hours

Report 4: 9.2 hours

Report 5: 9.6 hours

Report 6: 11.5 hours

Report 7: 10,45 hours

Report 8: 1.5 hours

Report 9: 0.0 hours

Report 10: 0.0 hours

Report 11: 0.3 hours

Report 12: 0.15 hours

Report 13: 0.45 hours

Report 14: 0.35 hours

Report 15: 0.0 hours

Report 16: 0.95 hours

Report 17: 0.9 hours

Report 18: 0 hours

## **5. Bank / securities**

### **Claim of bank(s)**

#### **Leases**

See previous report.

#### **Description of securities**

See previous report.

#### **Position as a secured creditor**

See previous report.

#### **Retention of title**

See previous report.

#### **Rights of retention**

See previous report.

### **Right to claim back unpaid goods**

See previous report.

### **Estate contribution**

### **Work bank / securities**

Report 1: 272.65 hours

Report 2: 123.88 hours

Report 3: 59.05 hours

Report 4: 40 hours

Report 5: 50.60 hours

Report 6: 32.45 hours

Report 7: 6,8 hours

Report 8: 2.4 hours

Report 9: 0.55 hours

Report 10: 1.9 hours

Report 11: 6 hours

Report 12: 8.2 hours

Report 13: 10.20 hours

Report 14: 10.25 hours

Report 15: 1.85 hours

Report 16: 4.5 hours

Report 17: 1.2 hours

Report 18: 10.1 hours

## **6. Restart / continuation of the enterprise**

### **Operation / securities**

See previous report.

### **Financial reporting**

See previous report.

### **Work continuation of the enterprise**

See paragraph 6.8 of the previous report (Work continuation)

### **Restart of the enterprise**

## Description

See previous report.

## Accountability

See previous report.

## Proceeds

### Work restart of the enterprise

Report 1: 710.30 hours

Report 2: 305.62 hours

Report 3: 81.45 hours

Report 4: 169.85 hours

Report 5: 134.9 hours

Report 6: 45.45 hours

Report 7: 89,8 hours

Report 8: 31.1 hours

Report 9: 2.20 hours

Report 10: 3.45 hours

Report 11: 1 hours

Report 12: 4.95 hours

Report 13: 1.65 hours

Report 14: 2.6 hours

Report 15: 0.45 hours

Report 16: 2.4 hours

Report 17: 0.8 hours

Report 18: 0.3 hours

## 7. Regularity

### Accounting obligation

Under research (see paragraph 1.7 of the report, “Causes of the liquidation”).

#### Report 22:

*The investigation of the accounting obligation has been conclusion (see paragraph 1.7 of this report, “Causes of the liquidation”). The trustees have not found evidence that the accounting obligation pursuant to Article 2:10 of the Dutch Civil Code was violated. Therefor, there’s no evidentiary presumption based on Article 2:248 paragraph 2 of the Dutch Civil Code in light of the investigation into mismanagement. Please see Chapter 7 paragraphs 5 and 7 of this report for a more detailed explanation.*

## **Filing of the annual accounts**

See report 10.

### Report 22:

*With reference to the 10<sup>th</sup> bankruptcy report it is become apparent that the filing obligation pursuant to Article 2:394 of the Dutch Civil Code has not been violated. Therefor, there's no evidentiary presumption based on Article 2:248 paragraph 2 of the Dutch Civil Code in light of the investigation into mismanagement. Please see Chapter 7 paragraphs 5 and 7 of this report for a more detailed explanation.*

## **Unqualified audit certificate from auditor**

See previous report.

## **Payment obligation shares**

See previous report.

## **Mismanagement**

Under research (see paragraph 1.7 of the report, "Causes of the liquidation").

### Report 22:

*The investigation into mismanagement is concluded. See paragraphs 1.5 and 7.7 of this report for a more detailed explanation and completion of the work.*

## **Acting fraudulently in respect of creditors**

Under research (see paragraph 1.7 of the report, "Causes of the liquidation").

### Report 22:

*Fraudulent acts in respect of creditors have not emerged from the cause and regularity audit. Therefor, this subject is concluded.*

## **Explanation regularity**

The trustees are currently working on the report of the facts, that will be the conclusion of the first investigative stage. In this report the relevant facts that have been acquired from the interviews will be described, as well as the facts that have been acquired from the investigation into the accounts and the information the trustees will receive from the analysis of the financial accounts. The trustees have worked on this report with extra manpower during the reporting period. A number of chapters are ready. The trustees' aim is to complete the first investigative stage within the next reporting period.

**Report 13:**

The report of the facts being prepared, but not completed properly. During the next reporting period the trustees will allocate extra manpower, to allow first investigative stage to be concluded.

**Report 21:**

The report of the facts containing the trustees' findings and conclusions with regard to the cause and regularity audit has been concluded and explained to and discussed with the delegated judge, who also received a summary of the report. The report of the facts is confidential. A limited summary of the trustees' findings and conclusions shall be concluded in a subsequent bankruptcy report.

**Report 22:**

*Paragraph 1.5 of this report contains a detailed explanation of the course of the investigation of the facts (Stage 1), which investigation is already concluded. From the investigation was concluded that multiple factors played a role in the run-up to the bankruptcy. Below you'll find a summary of the most important factors and conclusions. Please note that no rights can be derived from the limited description of the factors and the summary of the conclusions.*

*Etam Groep is a long-standing family business that has leaned firmly of the Korijn family since its founding in 1916, organizationally as well as financially. Through the years Etam Groep has developed into a (women) fashion and clothing group. In April 2015 Etam Groep had approximately 200 stores, spread all over the Netherlands. Of these 200 stores there were approximately 130 Miss Etam stores and 65 Promiss stores. There were also approximately 20 so-called shop-in-shop stores. Until 2014 both Miss Etam and Promiss operated as two independent companies, each with their own stores, brands and sales organizations. After 2014 Miss Etam and Promiss merged into one company.*

*The original success of the company was focused on a large number of stores in prime locations (so called "Bricks") with good staff and large selling volumes. However, Etam Groep was confronted with multiple challenges in a heavily modified 'retail-landscape' and a market development, in which a revolution was unleashed according to several parties involved. Etam Groep had to contend with high lease prizes, long-term leases and shops that were located in wrong places. The competition increased, due to several large international players joining the Dutch market. These competitors processed larger volumes and therefor could stimulate more keen purchase prizes. Furthermore, the retail market was hit by the economic crisis, turnover in stores declined, while online sales ("clicks") took flight. The stores' fixed costs (lease and staff) remained even and Etam Groep was confronted with additional costs concerning its web shop, partly because the distribution warehouse was organized for stores ('hanging clothes') and not for online sales and distribution of parcels ('lying clothes'). The combination of these developments led to a strong loss-making operation. The brand Miss Etam performed significantly better than Promiss, that had been loss-making for years already. Etam Groep has tried to accomplish the turnaround to 'clicks', but the brick-and-mortar shops as well as the underperforming component Promiss, combined with laborious decision-making made it difficult to achieve cost savings.*

*For example, it seemed complex to dispose of Promiss. Shared overhead (costs), competition motives and differences in perception served as a basis for the complexity.*

*In financial perspective Etam Groep leaned heavily on two banks (ABN Amro and ING Bank), as well as on the Korijn family. The moment the banks put the heat on, Etam Groep turned to the Korijn family to further make up the deficits.*

*Despite financial injections of approximately EUR 15 million in the two years prior to the bankruptcy, the Korijn family ultimately decided, as well as the banks, to no longer finance the inclining losses based on the negative forecast. Since the summer of 2014 the banks have decided to limit their loans, to further secure their collateral position and to wind down their interests.*

*The investigation of the facts showed that Etam Groep had taken several actions to try and turn the tide. However, measures like costs savings, accelerated turnaround to online sales, drafting reorganization- and continuity plans, management changes, reduction of the number of FTEs in the head office, mergers of several entities in 2014, hiring of external experts and starting up Mergers & Acquisitions procedures, turned out to be insufficient to avert a bankruptcy. Interested parties appeared not willing to reach an acquisition without a bankruptcy, apparently because re-examining lease agreements and staff would be too expensive due to the significant number of stores. Therefore, Etam Groep turned out to be insufficiently viable for a restart without a bankruptcy.*

*Etam Groep was obstructed by slow-moving and laborious decision-making by the board of directors (the relatively short term of office of the board members stood out) and a field of tension with the shareholder. Within this field of tension the board of directors was reproached of though decisions being put forward, plans being insufficiently worked out, the members of the board being insufficiently transparent and vigorous and Etam Groep continuing to lean too firmly on the Korijn family. The Korijn family in turn, as (indirect) shareholder, members of the supervisory board of directors as well as the real estate's proprietor through an affiliated party, were reproached to be wearing two hats and to stand in the way of change. In the final months before the bankruptcy this field of tension became more visible, in the course of which other stakeholders like the banks, the tax authorities and the credit insurer wanted to secure their interests more firmly. The many years of the Korijn family's financial support was indispensable for Etam Groep, the drawback being the board of directors not able to adequately operate in a independent and self-supporting manner. Due to this, several restructures and projects did not come of the ground. In retrospect a lot of time and energy was spent on internal processes, which unfortunately did not lead to significant (culture) changes Etam Groep possibly could gain from.*

*At the end of 2014, the joint stakeholders made one final attempt to save Etam Groep, at least until the summer of 2015, so there would be enough time to conclude the Mergers and Acquisitions-procedures and to reach the sale of the company without a bankruptcy. In the meantime the remedial actions were continued in January 2015, in particular in the area of lessors, staff and stock control. However, the sales strongly disappointed in the first few months of 2015 and Etam Groep performed, almost weekly, significantly worse than forecasted.*

*As soon as it was clear that an acquisition without a bankruptcy was no longer possible and the continuity of the company no longer was guaranteed, everything gained momentum. Large-scale seasonal purchases were no longer possible and the rescue efforts in the current form either did not succeed or had insufficient time. The sales growth of the online sales was not enough to compensate the disappointing financial results. Restructuring seemed impossible.*

*The trustees are of the opinion that a combination of internal and external factors have contributed to the bankruptcies of Etam Groep. The sum total of factors is what led to the bankruptcy. In the opinion of the trustees the bankruptcy of Etam Groep cannot be reproached to one or multiple factors. More so, there are no indications irresponsible risks were taken by various parties involved that would be incompatible with the business interest of Etam Groep. There is no evidence that the board of directors or other parties involved have acted objectionably, even though certain decisions could have been made differently in hind sight.*

*To the opinion of the trustees it is not a matter of improper performance in pursuant of Article 2:248 of the Dutch Civil Code or a matter of serious imputable acts. Therefor, civil liability of (prior)directors and (prior) supervisory directors isn't the subject under discussion. The cause and regularity audit is herewith concluded.*

### **Work regularity**

Report 1: 31.5 hours  
Report 2: 97.62 hours  
Report 3: 119.5 hours  
Report 4: 110.8 hours  
Report 5: 56.4 hours  
Report 6: 133.15 hours  
Report 7: 32,55 hours  
Report 8: 4.65 hours  
Report 9: 35.7 hours  
Report 10: 3.0 hours  
Report 11: 0.7 hours  
Report 12: 85.05 hours  
Report 13: 56.60 hours  
Report 14: 21.25 hours  
Report 15: 14.12 hours  
Report 16: 2.55 hours  
Report 17: 3 hours  
Report 18: 31.81 hours

## 8. Creditors

### Claims against the insolvent company

€ 9.782.173,54

Employment Insurance Agency (Dutch UWV): € 6,125,009.36 (see explanation previous report).

Rent: € 3,657,158.13 (definite amount is under research, see explanation previous report).

Whether there is a claim of the tax authorities (concerning turnover tax) is currently under discussion.

Report 12:

### Claims against the insolvent company of the Employee Insurance Agency (Dutch UWV) (preferential and competing)

The preferential claim of the Employee Insurance Agency (Dutch UWV) has been paid in full (€ 5,770,665.72). 50% of the unsecured estate claims (50% of € 354,243.64 = € 177,171.82) has been paid.

### Claim against the insolvent company of the lessors (competing)

The current status of the estate makes it possible for a (partial) payment of the unsecured estate claims. For this reason the trustees have started the payment of 50% of the unsecured estate claims submitted by the lessors.

### The step-by-step plan of the trustees is as follows:

- Per location (or – if possible – per lessor, which depends on the circumstances of the case) the trustees will draw up an inventory of the claim submitted per lessor;
- Subsequently the submitted estate claim will be checked using the accounts of the liquidated assets, the accounts of the insolvent company, information received from the banks (including the claimed bank guarantees) and information received from the restarter;
- The lessor will be informed about the result of this check by the trustees, after which the lessor will be allowed a period to respond. After receiving the consent of the lessor on the result, a (partial) payment will be paid out by the bankruptcy estate.

### (Interim) conclusion of trustees

The examination has been concluded for approximately 75%. From the examination the following (interim) conclusions can be drawn:

- The lessors have submitted a total amount of € 4,552,964.15 of alleged unsecured estate claims to the bankrupt estate (NB: this is not a definitive amount: approximately 25% of the lessors/locations still needs to be checked).  
The above mentioned amount is considerably higher than the total amount of unsecured estate claims to the estate of the lessors that has been mentioned in the previous reports (€ 3,657,158.13).

The difference is largely explained by the fact that most lessors initially submitted their unsecured estate claims as an unsecured bankruptcy claim, at least the usual registration of the estate claim and indication as such was (initially) omitted.

- After verification of the submitted unsecured estate claims the trustees are of the opinion that an amount of € 3,086,260.47 was indeed submitted with a just cause (NB: this is not a definitive amount: approximately 25% of the locations still need to be checked).
- Based on the assumption that the amount of € 3,086,260.47 as validated by the trustees is correct, a 50%-payment to unsecured estate creditors of € 1,534,089.72 may be expected. From the latter amount an amount of € 946,876.65 has been paid to the lessors.

### **Expected period for completing examination and possible second (partial) payment**

Based on the status of the bankrupt estate as well as the expected total amount of unsecured estate claims, a second (partial) payment is to be expected. Most relevant is the definitive position of the fiscal authorities with reference to their alleged preferential claim against the bankruptcy estate.

The trustees aim to finalize the examination of the claims of the lessors in the following reporting period, or at least to be able to report about a second (partial) payment. Since the estate claims have already been checked, a second (partial) payment shall be transferred significantly faster.

### Report 13:

#### **(Intermediate) conclusions of the trustees**

The investigation has been completed for approximately 85%. From this investigation the following (intermediate) conclusions can be drawn:

- The lessors have submitted a total amount of € 5,050,040.45 of unsecured estate claims to the bankrupt estate.
- After verification of the submitted unsecured estate claims the trustees are of the opinion that an amount of € 3,413,229.71 was indeed submitted with a just cause.
- Based on the assumption that the amount of € 3,413,229.71 as validated by the trustees is correct, a 50%-payment to unsecured estate creditors of € 1,697,574.34 may be expected. From the latter amount an amount of € 1,238,685.33 has been paid to the lessors.

#### **No estate claim of the tax authorities**

The tax authorities have confirmed to the trustees that it will comply with the conclusion of the trustees that, in keeping with the ruling in the case of 'Geddes & Gilmore' of the Supreme Court, the turnover tax, due to the sale of supplies pledged to the bank during the continuation period, shall not be considered to be an estate claim.

Report 14:

**(Intermediate) conclusions of the trustees**

The investigation has been completed for approximately 95%. From this investigation the following (intermediate) conclusions can be drawn:

- The lessors have submitted a total amount of € 5,545,204.62 of unsecured claims to the bankruptcy estate.
- After verification of the submitted unsecured estate claims the trustees are of the opinion that an amount of € 3,633,879.72 was indeed submitted with a just cause.
- Based on the assumption that the amount of € 3,633,879.72 as validated by the trustees is correct, a 50%-payment to unsecured estate creditors of € 1,807,899.35 may be expected. From the latter amount an amount of € 1,263,488.09 has been paid to the lessors.

Report 15:

**(Intermediate) conclusions of the trustees**

The investigation is close to being completed. From this investigation the following (intermediate) conclusions can be drawn:

- The lessors have submitted a total amount of € 5,839,767.83 of unsecured claims to the bankruptcy estate.
- After verification of the submitted unsecured estate claims the trustees are of the opinion that an amount of € 3,903,023.72 was indeed submitted with a just cause.
- Based on the assumption that the amount of € 3,903,023.72 as validated by the trustees is correct, a 50%-payment to unsecured estate creditors of € 1,942,471.35 may be expected. € 1,488,877.41 thereof has been paid to the lessors.
- Upon instruction of the trustees an inquiry was made into the possibility of an additional (second) payment to the unsecured estate creditors mid-December 2018. It was concluded that an additional payment of the unsecured estate creditors was possible. Based on the current bankruptcy estate, the level of de unsecured estate creditors (balance) and other (likely) obligations of the estate, a payment of 100% of the unsecured estate creditors seems feasible.
- The trustees have started with the payment of 100% of the unsecured estate creditors. The payments will (similar to the first payments) take place per location, subject to the (possible) verification of the claims and (as far as required) after receiving a (written) approval of the lessors concerned. To this date an amount of € 496,884.14 was paid on account of this additional (second) round of payments.

Report 16:

**(Intermediate) conclusions of the trustees**

The investigation has virtually been completed. From this investigation the following (intermediate) conclusions can be drawn:

- The lessors have submitted a total amount of € 6,070,931.92 of unsecured claims to the bankruptcy estate.
- After verification of the submitted unsecured estate claims the trustees are of the opinion that an amount of € 4,151,832.87 was indeed submitted with a just cause.
- At this date a total amount of € 2,366,045.00 has been paid to the lessors in two consecutive rounds.

Report 17:

**(Intermediate) conclusions of the trustees**

The investigation has virtually been completed. From this investigation the following (intermediate) conclusions can be drawn:

- The lessors have submitted a total amount of € 6,100,945.24 of unsecured claims to the bankruptcy estate.
- After verification of the submitted unsecured estate claims the trustees are of the opinion that an amount of € 4,186,578.54 was indeed submitted with a just cause.
- At this date a total amount of € 2,686,256.93 has been paid to the lessors in two consecutive rounds.

Report 18:

**(Intermediate) conclusions of the trustees**

The investigation has been completed. From this investigation the following (intermediate) conclusions can be drawn:

- The lessors have submitted a total amount of € 5,995,607.25 of unsecured claims to the bankruptcy estate.
- After verification of the submitted unsecured estate claims the trustees are of the opinion that an amount of € 4,141,020.75 was indeed submitted with a just cause.
- At this date a total amount of € 3,838,661.56 has been paid to the lessors in two consecutive rounds. This amount includes a correction for wrongly claimed bank guarantees (€ 143,439.40).

Report 19:

The UWV has a remaining (unsecured) claim to the bankruptcy estate of € 177,171.84 (pension premium pursuant to Section 66 (2) of the Unemployment Insurance Act).

**(Intermediate) conclusions of the trustees**

The investigation has been completed. From this investigation the following (intermediate) conclusions can be drawn:

- The lessors have submitted a total amount of € 5,995,607.25 of unsecured claims to the bankruptcy estate.
- After verification of the submitted unsecured estate claims the trustees are of the opinion that an amount of € 4,141,020.75 was indeed submitted with a just cause.
- At this date a total amount of € 3,982,141.70 has been paid to the lessors in two consecutive rounds. This amount includes a correction for wrongly claimed bank guarantees (€ 143,439.40).

Report 20:

**(Intermediate) conclusions of the trustees**

The investigation has been completed. From this investigation the following (intermediate) conclusions can be drawn:

- The lessors have submitted a total amount of € 5,995,607.25 of unsecured claims to the bankruptcy estate.
- After verification of the submitted unsecured estate claims the trustees are of the opinion that an amount of € 4,108,815.85 was indeed submitted with a just cause.
- At this date a total amount of € 4,022,569.85 has been paid to the lessors in two consecutive rounds. This amount includes a correction for wrongly claimed bank guarantees (€ 143,439.40).

To a large extent the work has been completed. The trustees are still conducting consultations with two lessors and expect to finalize these files in the near future.

Report 21:

**(Intermediate) conclusions of the trustees**

The investigation has been completed. From this investigation the following (intermediate) conclusions can be drawn:

- The lessors have submitted a total amount of € 5,995,607.25 of unsecured claims to the bankruptcy estate.
- After verification of the submitted unsecured estate claims the trustees are of the opinion that an amount of € 4,108,815.85 was indeed submitted with a just cause.

- At this date a total amount of € 4,022,569.85 has been paid to the lessors in two consecutive rounds. This amount includes a correction for wrongly claimed bank guarantees (€ 143,439.40).

Report 22:

*All unsecured claims to the bankruptcy estate (lessors) have been completed, except two payments to the deposit fund, the request has been submitted to the Ministry of Finance.*

*The (intermediate) balance at the time of submitting this bankruptcy report:*

- *The lessors have submitted a total amount of € 5,995,607.25 of unsecured claims to the bankruptcy estate.*
- *After verification of the submitted unsecured estate claims the trustees are of the opinion that an amount of € 4,058,713.27 was indeed submitted with a just cause.*
- *At this date a total amount of € 4,022,569.85 has been paid to the lessors in two consecutive rounds. This amount includes a correction for wrongly claimed bank guarantees (€ 143,439.40).*

**Preferential claims of the tax authorities**

€ 18,023,823.00

**Preferential claims of the Employee Insurance Agency (Dutch UWV)**

€ 3,548,999.11

**Other preferential creditors**

€ 16,867,649.33

To date 61 employees have submitted a claim for a total amount of approximately € 889,257.41. Eleven creditors have made a preferential claim for a total amount of € 15,978,392.42.

Report 19

€ 1,044,339.16

To date 67 employees have submitted a claim for a total amount of € 1,037,572.41. Three creditors have submitted a preferential claim for a total amount of € 6,766.75.

**Number of competing creditors**

510.

Approximately 510 creditors have submitted a claim.

Report 19:

521.

Until the date of this report 521 creditor have submitted a claim.

### **Amount owed to competing creditors**

€ 42,268,893.13.

### **Plan of action**

See paragraph 10.1 of the previous report.

### **Work creditors**

Report 1: 214.75 hours

Report 2: 199.14 hours

Report 3: 141.00 hours

Report 4: 36.2 hours

Report 5: 55.9 hours

Report 6: 28 hours

Report 7: 68,6 hours

Report 8: 102.3 hours

Report 9: 51.1 hours

Report 10: 99.1 hours

Report 11: 108.95 hours

Report 12: 173.3 hours

Report 13: 92.05 hours

Report 14: 117 hours

Report 15: 102.65 hours

Report 16: 131.25 hours

Report 17: 90.7 hours

Report 18: 109,6 hours

## **9. Proceedings**

**Name other party/parties**

**Nature of the proceedings**

See previous report.

## Stage of proceedings

All proceedings have been concluded.

## Work proceedings

Report 1: 15.60 hours

Report 2: 20.06 hours

Report 3: 12.50 hours

Report 4: 30.10 hours

Report 5: 11.7 hours

Report 6: 1.6 hours

Report 7: 4 hours

Report 8: 1.1 hours

Report 9: 0.0 hours

Report 10: 0.0 hours

Report 11: 0.0 hours

Report 12: 0.0 hours

Report 13: 0.0 hours

Report 14: 0.0 hours

Report 15: 0.0 hours

Report 16: 0.0 hours

Report 17: 0.0 hours

Report 18: 0.0 hours

## 10. Other

### Plan of action

#### Report 19:

In the next reporting period the trustees will focus mainly on (i) continuing the interim distributions to creditors/estate beneficiaries, (ii) continuing the investigation of the payments to the lessors under bank guarantees and reclaim the amounts paid in excess and (iii) continuation of the examination of the alleged cause of the bankruptcy and review of the lawfulness of the boards' decisions.

#### Report 22:

*In the next reporting period the trustees will focus mainly on (i) continuing the interim distributions to creditors/estate beneficiaries and (ii) continuing the investigation of the payments to the lessors under bank guarantees and reclaim the amounts paid in excess.*

### Period of settlement of the liquidation(s)

See previous report as well as 8.1 (Claims against the insolvent company).

### **Submission of the next report**

On or around 1 January 2021.

### **Work other**

Report 1: 30.20 hours  
Report 2: 75.35 hours  
Report 3: 36.8 hours  
Report 4: 26.00 hours  
Report 5: 48.15 hours  
Report 6: 40.4 hours  
Report 7: 27,35 hours  
Report 8: 24,9 hours  
Report 9: 16.15 hours  
Report 10: 14.6 hours  
Report 11: 8.45 hours  
Report 12: 17.2 hours  
Report 13: 17.4 hours  
Report 14: 7.2 hours  
Report 15: 6.5 hours  
Report 16: 5.9 hours  
Report 17: 8.05 hours  
Report 18: 12.95 hours