

INSOLVENT ESTATE HERMAN DAWID & KERSTIN SWART
("the Insolvents")
MASTER'S REFERENCE NUMBER : T647/09

REPORT by the JOINT TRUSTEES, LIEBENBERG DAWID RYK VAN DER MERWE, ELMARIE BOOYSE & JOHANNES ZH MULLER, in terms of SECTION 81 of the INSOLVENCY ACT NO 24 OF 1936, as amended, ("the Act"), to be submitted at the SECOND MEETING of CREDITORS to be held before the MAGISTRATE, RANDBURG ON WEDNESDAY, 17 FEBRUARY 2010 AT 09H00

ORDER OF THE COURT AND MEETINGS

Nature of Application	APPLICATION
Date of Sequestration	4 MARCH 2009
Date of provisional Order	NA
Date of Final Order	4 MARCH 2009
Provisional appointees	LDR VAN DER MERWE, E BOOYSE & JZH MULLER
Date of 1 st meeting of creditors	14 OCTOBER 2009
Final appointees	LDR VAN DER MERWE, E BOOYSE & JZH MULLER

SECTION 81(1)(a) : ASSETS AND LIABILITIES

- 1 On completion of our investigations into the affairs of the estate the financial position of the estate as at the date of sequestration would appear be as follows:

ASSETS	AMOUNT	AMOUNT
<u>Immovable Property (Valued)</u>		
As per Schedule "A"		4,365,000.00
<u>Movable Property (Estimated)</u>		
Nil		0.00
<u>LIABILITIES:</u>		
Secured Creditor – As per Schedule "A"	6,907,563.00	
Preferent Creditors	Unknown	
Concurrent Creditors (approximate)	2,973,152.00	
<u>ADMIN COSTS</u>	654,750.00	
<u>SHORTFALL</u>		<u>6,170,465.00</u>
<u>TOTAL</u>	<u>10,535,465.00</u>	<u>10,535,465.00</u>

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Notes:

- 1 *These figures are subject to change and verification.***
- 2 *The anticipated realisation of the immovable properties will not be sufficient to cover the claims of the various bondholders in full and therefore there will be no surplus monies for the general body of creditors.***

MARITAL STATUS

The insolvents are married in community of property.

SECTION 81(1)(b) : CAUSES OF INSOLVENCY

The causes of the insolvency can be attributed as per Annexure "B"

SECTION 81(1)(c) : BOOKS AND RECORDS

The insolvents were not required to keep books and records in their personal capacity.

SECTION (81)(1)(d) : CONTRAVENTIONS AND OFFENCES

The Insolvents have not contravened any provisions of the Act

SECTION 81(1)(e) : ALLOWANCES TO THE INSOLVENTS

There is nothing to report under this heading.

SECTION 81(1)(f) : TRADING

There is nothing to report under this heading.



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SECTION 81(1)(g) : LEGAL PROCEEDINGS

At this point in time of our investigation into the affairs of the estate there does not appear to be any legal actions, which were pending by or against the estate as at the date of sequestration, except for normal debt recovery.

SECTION 81(1)(h) : UNCOMPLETED CONTRACTS

To the best of our knowledge and belief there is nothing to report under this heading.

SECTION 81(1)(i) : FURTHER ADMINISTRATION

We have reported above on the administration of the estate to date and appropriate resolutions will be submitted to this meeting to enable us to wind up the administration of the estate.

DIVIDEND PROSPECTS

As anticipated the realisation of the assets of the insolvent estate will not be sufficient to cover the claims of the secured creditors and therefore there will be a danger of a contribution in this matter.

SIGNED at ROODEPOORT ON THIS THE 25TH DAY OF JANUARAY 2010.



LDR VAN DER MERWE

JZH MULLER

E BOOYSE

INSOLVENT ESTATE HD & K SWART

"A"

ANNEXURE "A"

Physical Address	Valuation	Bondholder	Amount due to Bondholder
Erf 10902, Cape Town, Fish Hoek	1 000 000.00	Standard Bank	960 000.00
Unit 35, Nottinghill Park, Randpark Ridge	435 000.00	Standard Bank	575 000.00
Oak Park 26 bach	175 000.00	Standard Bank	251 802.00
Vista Court , Section 2, Unit 106	140 000.00	Standard Bank	268 000.00
Vista Court, Section 16, Door 306	140 000.00	Standard Bank	400 000.00
Vista Court , Section 18, Unit 305	155 000.00	Standard Bank	358 287.00
Vista Court , Section 21, Unit 302	100 000.00	Standard Bank	260 000.00
18, Wayne Avenue, Randpark Ridge	1 000 000.00	SA Home Loans	1 308 526.00
Vista Court, Section 3, Unit 107	140 000.00	First National Bank	360 484.00
Vista Court, Section 4, Unit 105	155 000.00	First National Bank	180 044.00
Vista Court, Section 5, Unit 104	100 000.00	First National Bank	113 262.00
Vista Court, Section 6, Unit 103	100 000.00	First National Bank	226 351.00
Vista Court, Section 9, Door 206	140 000.00	First National Bank	179 794.00
Vista Court, Section 11, Door 205	155 000.00	First National Bank	359 760.00
Vista Court, Section 13, Door 203	100 000.00	First National Bank	225 264.00
Vista Court, Section 8, Door 101	50 000.00	Nedbank	199 748.00
Vista Court, Section 10, Door 207	140 000.00	Nedbank	346 241.00
Vista Court, Section 17, Door 307	140 000.00	Nedbank	335 000.00
TOTAL:	4 365 000.00		6 907 563.00

ANNEXURE VII/ AANHANGSEL VII

Detailed statement of Causes of Debtor's Insolvency
Uitvoerige beskrywing van oorsake van skuldenaar se insolvensie

REDES VIR INSOLVENSIE:

Ek, die Eerste Applikant het gedurende ongeveer Oktober 2000 'n maatskappy genaamd Impreveil (Edms) Bpk opgerig. Ek het as enigste direkteur en aandeelhouer Impreveil (Edms) Bpk se sake bedryf en het Impreveil (Edms) Bpk dienste gelewer as 'n sagtewareontwikkelingsmaatskappy. My enigste bron van inkomste was naamlik die salaris wat ek vanuit Impreveil (Edms) Bpk verdien het. Ek het in Impreveil (Edms) Bpk sake gedoen tot aan ongeveer die einde van 2006.

Die Tweede Applikant het te alle relevante tye gewerk as 'n vrywilliger waar sy sonder vergoeding gehelp het met gemeenskapsopheffing, veral onder die armes in die gemeenskap.

Ten einde 'n beter finansiële toekoms vir my en my gesin te bewerk het ek gedurende die begin van 2002 begin investeer in onroerende eiendomme as beleggingsinstrument.

Die struktuur van die onroerende eiendomsbeleggingsportefeulje was dat ek eendersyds eiendomme aangekoop het in die persoonlike naam van myself en die Tweede Applikant en het ek en die Tweede Applikant verder 'n trust, te wete The Celle Trust (IT1416/03) opgerig, en het die Trust ook eiendomme aangekoop.

Ek het aan die begin van 2007 my volle aandag aan die eiendomsportefeulje geskenk, aangesien ek die verwagting gehad het dat ek vanuit die aankoop, verkoop en verhuring van onroerende eiendomme goeie winste sou kon maak.

AP
 [Handwritten signatures]

Soos alom bekend het rentekoerse ongelukkig gedurende die middel van 2007 tot hede met 5.5% gestyg. Die National Credit Act het die uitwerking gehad dat voornemende kopers van onroerende eiendomme moeilik verbande bekom het by finansiële instellings en het die Suid-Afrikaanse ekonomie in die algemeen 'n afwaardse neiging getoon weens die afname in markvertroue.

Die gevolg van voormelde gebeure is dat die onroerende eiendomme se maandelikse paaiemente met ongeveer 40% toegeneem het wat veroorsaak het dat daar 'n tekort ontstaan het tussen die huurinkomste vanuit die onroerende eiendomme teenoor die paaiemente betaalbaar.

In die lig van voormelde gebeure is ek en die Tweede Applikant sowel as The Celle Trust tans feitelik sowel as kommersieel insolvent en het ons geen ander keuse nie as om hierdie Agbare Hof te versoek om 'n bevel te verleen vir die boedeloorgawe van eendersyds myself en die Tweede Applikant en andersyds The Celle Trust.

Ek vestig die Agbare Hof se aandag daarop dat The Celle Trust op hierdie selfde dag en voor hierdie selfde Agbare Hof 'n aansoek bring om sy boedeloorgawe.

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**RESOLUTIONS SUBMITTED AND ADOPTED AT THE SECOND MEETING OF CREDITORS HELD
BEFORE THE MAGISTRATE, RANDBURG ON WEDNESDAY, 17 FEBRUARY 2010 AT 09H00**

RESOLVED THAT:

1. The report of the Trustee, as the case may be, hereinafter referred to as ("the Trustee"), as submitted be received and adopted and all his actions referred to therein be and are hereby confirmed, ratified and approved.
2. All actions of whatsoever nature heretofore taken by the Provisional Trustee and/or Trustee be and are hereby confirmed, ratified and approved.
3. The Trustee be and is hereby authorised in his sole and absolute discretion to:
 - 3.1. Take legal advice on any question of law affecting the administration and distribution of the estate;
 - 3.2. Institute or defend on behalf of the estate any action or other legal proceedings of a civil nature for the recovery of monies due to the corporation or otherwise and subject to the provisions of any law relating to criminal procedure, institute any criminal proceedings;
 - 3.3. Hold any enquiry into the affairs of the insolvent and/or any matter relating thereto;
 - 3.4. Investigate and institute legal proceedings for the recovery of any voidable or undue preferences, voidable dispositions of property or any other impeachable transactions of whatsoever nature and to abandon same at any time;
 - 3.5. Write up the books of the insolvent as may be required, and if necessary, to produce a balance sheet, audited or not, as at the date of sequestration, either for the purpose of investigating the affairs of the insolvent, establishing the claims of creditors, or any other purpose.
4. The Trustee be and is hereby authorised in his sole and absolute discretion to employ and engage the services of attorneys and/or counsel (senior and/or junior) and/or accountants and/or bookkeepers and/or any employee of the insolvent and/or recording agents and/or any other person who in the

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sole discretion of the Trustee may be of assistance in the winding-up of the estate in relation to any matter referred to in 3 above and further to pay all the costs thereof of whatsoever nature out of the estate as costs incurred in the sequestration.

5. The Trustee be and is hereby authorised to collection any debts due to the estate and for the purpose thereof to sell or compound or compromise any of these debts for such sum and upon such terms and conditions as he in his sole discretion may deem fit, and to accept any part of the debt in settlement thereof, and to grant an extension of time for the payment of any such debt, and to abandon any debt which he in his sole discretion may deem to be irrecoverable.
6. The Trustee be and is hereby authorised to dispose of any movable and immovable property of the estate, whether in his possession or under his control now or to come into his possession or under his control in the future by public auction, private treaty or public tender upon such terms and conditions as he in his sole and absolute discretion shall determine and to abandon any such assets for which he can find no purchaser or abandon them to a secured creditor at the value placed thereon by such creditor or at such value as is agreed upon by the Trustee and the creditor if such creditor's claim is secured by such assets and to sign all such documents as may be necessary to give effect to such disposition.
7. The Trustee be and is hereby authorised and empowered in his sole discretion to compromise and admit any claim against the corporation of whatsoever nature and howsoever arising and whether disputed or not and whether actual, contingent, prospective, conditional, unconditional, assessed, unassessed, liquidated or unliquidated as a liquidated claim in terms of Section 78(3) of the Insolvency Act No 24 of 1936 as amended, at such amount as may be agreed upon by the Trustee provided that proof thereof has been tendered at a meeting of creditors.
8. The Trustee be and is hereby authorised to make application for the destruction of books and records of the estate six months after the confirmation of the final account.
9. The Trustee be and is hereby authorised to submit to the determination of arbitrators any dispute concerning the estate or any claim or demand by or upon the estate.

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10. The Trustee be and is hereby authorised to carry on or discontinue any part of the business of the estate insofar as may be necessary for the beneficial winding-up thereof
11. The Trustee be and is hereby authorised to exercise mutatis mutandis the powers conferred upon a Trustee by Section 35 (uncompleted acquisition of immovable property before sequestration) and 37 (effect of sequestration upon a lease) of the Insolvency Act No 24 of 1936, as amended ("the Act").
12. The Trustee be and is hereby authorised to allow the insolvent to retain for his/her own use the whole or such part of his household furniture and tools and other essential means of subsistence as he may determine.
13. The Trustee be and is hereby authorised to release, as he in his absolute discretion decides, any assets belonging to the solvent spouse which is proved to have acquired or safeguarded as provided for in Section 21(2) of the Insolvency Act No 24 of 1936, as amended.
14. The Trustee be and is hereby authorised to make any allowance out of the estate to the insolvent which he in his sole discretion may deem to be necessary for the support of the insolvent and his/her dependants.
15. The Trustee be and is hereby authorised to perform any act or exercise which he is not expressly empowered to perform in terms of the provisions of the Act.
16. The creditors hereby consent to the trustee's remuneration ("the remuneration") being taxed by The Master of High Court in terms of the Insolvency Act at the higher figure of:
 - 16.1. the prescribed tariff as is contained in the Insolvency Act
 - 16.2. the increased amount of work done by the trustee in terms of the actual time spent by him or her and his or her staff in the discharge of their duties in the winding-up as is reflected on properly kept timesheets at the charge out tariff of the respective professional and administrative staff and which will be deemed to be good cause for the increase of such remuneration.
17. The remuneration referred to in 16 above may further be increased based on aspects such as:

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- 17.1. the complexity of the estate in question,
 - 17.2. the degree of difficulty encountered by the trustee in the administration of the estate, and
 - 17.3. particular difficulties experienced by the trustee because of the nature of the assets or some other similar feature connected with the administration of the estate.
18. The further administration of the affairs of the estate be left entirely in the hands of and at the discretion of the Trustee.

q.q. CREDITORS