

INSOLVENT ESTATE: PJ DE WET  
MASTER'S REFERENCE: G 17/2012

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REPORT IN TERMS OF SECTION 81 OF THE INSOLVENCY ACT NO. 24 OF 1936, AS AMENDED, BY THE JOINT TRUSTEES, BENNIE KEEVY, LIEBENBERG DAWIDRYK VAN DER MERWE AND MATOME JOSEPH MONTSHO, SUBMITTED AT THE SECOND MEETING OF CREDITORS TO BE HELD BEFORE THE MAGISTRATE, KRUGERSDORP ON 15 FEBRUARY 2013 AT 09H30

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## INTRODUCTION

Upon the application of De Wet Van Schalkwyk Inc., the above estate was placed in provisional sequestration on 6 December 2011 in terms of an order issued from the High Court of South Gauteng (Johannesburg). The order was made final on 24 January 2012.

We were appointed Joint Provisional Trustees by the Master of the High Court, Johannesburg; in terms of our Certificate of Appointment number G 17/2012 dated 23 March 2012. The First Meeting of creditors was held before the Magistrate, Krugersdorp, on 15 June 2012. Subsequent to the closing of the First Meeting, the Master of the High Court finally appointed us as Trustees in terms of my Certificate of Appointment dated 27 September 2012.

The insolvent's identity number is 700924 5034 081.

The insolvent resides at 1151 Plovers Nest, Feather Brooke Estate, Krugersdorp

The insolvent is married out of community of property with Andrika Stephanie de Wet with ID number 740208 0104 087.

## REPORT

In compliance with Section 81(1) of the Insolvency act No. 24 of 1936, as amended, I advise that I have investigated the affairs and transactions of the insolvent, insofar as it has been possible, and now wish to report in terms of Section 81 as follows:

### SECTION 81(a) - ASSETS AND LIABILITIES

According to the application for sequestration, the Statement of Debtor's Affairs as submitted by the Insolvent and my investigations into the affairs of the Insolvent, his financial position as at date of provisional sequestration would appear to be as follows:

		<u>Notes</u>
(A)	<u>ASSETS</u>	
1.	<i>Encumbered assets:</i>	
1.1	Erf 24210, George	R350 000.00
1.2	Erf 24193, Kraaibosch Estate, George	R600 000.00
1.3	Erf 24203, Kraaibosch Estate, George	R600 000.00
2.	<i>Unencumbered assets:</i>	None

(B) LIABILITIES

R1 550 000.00

1. **Secured creditors:**

1.1	Nedbank Limited - Mortgage Loan i.r.o Asset 1.1	R367 741.28
1.2	Absa Bank - Mortgage Loan i.r.o Asset 1.2	R436 778.39
1.3	Absa Bank - Mortgage Loan i.r.o Asset 1.3	R440 524.00

2. **Preferent creditors:**

2.1	South African Revenue Services	Unknown
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3. **Concurrent Creditors:**

	Various	R22 984 928.48
		<u>R24 229 972.15</u>

**Apparent deficiency in excess of R22 679 972.15**

Notes

The amounts are estimates and subject to change upon proof of claims and sale of assets.

The liabilities reflected above do not include legal costs of sequestration i.e Attorneys taxed bill of costs, trustees' remuneration, legal costs, advertising, valuation costs, etc.

DIVIDEND PROSPECTS

From the above there is a possibility that a dividend could accrue to creditors in this matter. I therefore enclose claim documents for completion and return to these offices.

SECTION 81(b) - CAUSES OF THE DEBTOR'S INSOLVENCY

To date we have not been able to interview the insolvent and are therefore unable to comment as to what the causes of the debtors insolvency were.

SECTION 81(c) - BOOKS AND RECORDS

The Insolvent was not required to maintain books and records.

SECTION 81(d) - CONTRAVENTIONS AND OFFENCES

The Insolvent has not submitted Income and Expenditure Statements. If necessary, a contravention report in terms of Section 81(1)(d) will be lodged with the Master of the High Court, Pretoria, in due course.

SECTION 81(e) - ALLOWANCE TO THE INSOLVENT

No allowance has been made to the Insolvent in terms of Section 79 of the Insolvency Act.

**SECTION 81(f) – CARRYING ON BUSINESS**

No business has been conducted on behalf of the estate.

**SECTION 81(g) – LEGAL PROCEEDINGS**

I am not aware of any legal proceedings that have been suspended by the sequestration or of any pending or threatening actions other than in the normal course. No legal actions have been commenced or continued by the Trustee.

**SECTION 81 (i) – OTHER MATTERS / DIRECTIONS OF CREDITORS**

There are no further matters relating to the administration of the estate which require the directions of creditors, other than the adoption of the Resolutions, numbers 1 to 22 which are submitted in conjunction with this Report. Creditors are requested to adopt these Resolutions to enable the administration of the affairs of the estate to continue.

SIGNED at Rondepoort on this 16<sup>th</sup> \* day of January 2013.

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B KEEVY  
JOINT TRUSTEE

  
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LDR VAN DER MERWE  
JOINT TRUSTEE

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MJ MONTSHO  
JOINT TRUSTEE



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RESOLUTIONS SUBMITTED AT THE SECOND MEETING OF CREDITORS TO BE HELD BEFORE THE  
MAGISTRATE, KRUGERSDORP, ON 15 FEBRUARY 2013 AT 09H30

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**RESOLVED:**

1. THAT the Trustee's actions in that arrangements were made for banking facilities to meet the necessary administrative expenses be approved and confirmed.
2. THAT the actions of the Trustee to date hereof, be and is hereby ratified and confirmed.
3. THAT the Trustee be hereby authorised to engage the services of Attorneys and/or Counsel and/or Shorthand Writers for the purpose of:
  - (i) taking any legal action that may be considered necessary in the interest of the estate;
  - (ii) instituting or defending any action in respect of any matter affecting the estate in any Court of Law;
  - (iii) instituting an enquiry into the affairs of the estate, and/or any matter relating thereto.

All costs so incurred, including his travelling and subsistence expenses, be treated as administration charges in the estate.
4. THAT the Trustee be and is hereby authorised to collect any outstanding debts due to the estate, and for the purpose thereof either to sell or compound any of these debts for such sum and on such terms and conditions as he in his sole discretion may deem fit, or to abandon any claim which he in his sole discretion may deem appropriate and that all legal costs so incurred shall be costs of the estate.
5. THAT should costs be incurred in respect of travelling, whether by way of road travel or air travel, for purposes of securing the assets belonging to the company and/or conducting the business of the company subsequent to liquidation and/or investigating the affairs of the company, costs so incurred be and are hereby agreed and ratified by the creditors to be treated as costs of administration in the estate.
6. THAT the Trustee be and is hereby authorised to employ Auditors to investigate and write up the books of the estate to the date of sequestration and to produce an audited balance sheet as at that date, and to complete any necessary Income Tax and other Government Returns and that all costs so incurred shall be costs in the liquidation of the company.

7. THAT the Trustee be and is hereby authorised to dispose of the immovable and movable assets of the estate by Public Auction, Private Treaty or Public Tender and that the mode of sale for any one or more of the assets shall be determined by the Trustee and that all costs incurred in relation thereto be costs of administration.
8. THAT should costs be incurred for the use of a recording machine where the Government does not provide this service without cost, the costs incurred herein and the costs to obtain copies of such Court Records be allowed against the estate as costs of administration.
9. THAT the Trustee be and is hereby authorised and empowered in his discretion to hold an enquiry into the formation, and affairs of the company, and/or any matter relating hereto, should he deem it to be in the best interest of creditors, and to employ Attorneys and/or Counsel and/or Recording Agents, to assist in the said enquiry, and to summons any person who he should deem necessary to be present at the enquiry, all costs so incurred to be costs of administration.
10. THAT the Trustee be and is hereby authorised and empowered to investigate any apparent voidable and/or undue preference and/or any disposition of property, and to take any steps which he in his discretion may deem necessary, including the instituting of legal action and the employment of attorneys and/or Counsel, to have these set aside and to proceed to the final end or determination of any such legal action or to abandon same at any time as he in his sole discretion may consider appropriate and that all costs incurred in terms hereof be treated as administration costs.
11. THAT in the event of any asset which is subject to a Mortgage Bond, Pledge, or other form of security not realising sufficient to pay the claim of the secured creditors plus the prorata share of the costs of administration in full, then the Trustee be and is hereby authorised in his discretion to abandon such assets to the creditor concerned at an agreed valuation, subject to the payment by such creditor of a prorata share of the costs of administration in terms of Section 89 of the Insolvency Act, as amended.
12. THAT the Trustee be and is hereby authorised and empowered, in his discretion to compromise or admit any claim against the estate, whether liquidated or unliquidated, as a liquidated claim in terms of Section 78(3) of the Insolvency Act, as amended, provided that proof thereof had been tendered at a meeting of creditors.
13. THAT the action of the Trustee in utilising the services of a representative, legal or otherwise, for the purpose of tracing assets, compiling an inventory of stock and taking possession of the assets, be and is hereby confirmed, that his remuneration plus travelling expenses, be paid by the estate.
14. THAT the Report, submitted by the Trustee in terms of Section 81 of the Insolvency Act, be and is hereby approved and adopted and that the further administration of the affairs of the estate be left to the discretion of the Trustee.



15. THAT the Trustee has the right to cancel any or all Lease Agreements entered into, and that any action taken by the Trustee in the cancellation of any or all Leases, before the holding of this meeting, is hereby ratified and confirmed.
16. THAT the costs incurred by the Trustee in furnishing the Master of the Supreme Court with the required fidelity guarantee and/or any renewal thereof at the rate prescribed by the Master of the Supreme Court or at a rate in excess thereof be and is hereby agreed and ratified by the creditors.
17. THAT the action of the Trustee in conducting the business of the Insolvent, utilising the assets of the estate subsequent to sequestration, be hereby ratified and confirmed and that any losses so incurred be approved as costs of administration and borne by the estate.
18. THAT the Trustee is hereby authorised to submit for determination and/or arbitration any dispute concerning the insolvent estate or any claim or demand by or upon the insolvent and that any costs so incurred to be costs of administration and paid for by the estate.
19. THAT it is resolved that in the event of the Trustee having to advance funds to the estate in order to finance disbursements in respect of administration costs, of whatever nature, such loan will attract interest at a rate equal to the prime overdraft rate of a commercial bank prevailing at the time of the making of the loan and that such interest costs be admitted as a cost of liquidation.
20. THAT costs incurred by the Trustee in maintaining, conserving and realising any assets of the estate, be and is hereby ratified and confirmed and that such costs be costs of administration and/or costs in terms of Section 89(1) of the Insolvency Act No. 24 of 1936, as amended, if applicable and payable by the estate or the creditors, as the case may be.
21. THAT the action of the Trustee in selling the immovable property in the estate by private treaty, prior to the holding of this meeting, with the consent of the Master of the Supreme Court, is hereby ratified and confirmed.
22. THAT the Trustee is hereby authorised and empowered to pass transfer on all the immovable property registered in the name of the Insolvent in his sole and absolute discretion.
23. THAT the action of the Trustee in realising the assets of the Insolvent Estate, with the consent of the Master of the Supreme Court, prior to the holding of this meeting, is hereby ratified and confirmed.
24. THAT the actions of the Trustee in respect of the sale of immovable property by public auction or private treaty is hereby ratified.

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qq CREDITORS

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PRESIDING OFFICER