

VERSLAG/REPORT

INSOLVENT ESTATE

DEON VAN DER MERWE

IDENTITY NUMBER

700204 5055 083

MASTER'S REFERENCE

T3821/08

REPORT OF THE TRUSTEE IN TERMS OF THE PROVISIONS OF SECTION 81 OF THE INSOLVENCY ACT NO. 24 OF 1936, AS AMENDED, TO BE SUBMITTED TO THE SECOND MEETING OF CREDITORS TO BE HELD BEFORE THE PRESIDING OFFICER MAGISTRATE RANDBURG AT 09H00 ON WEDNESDAY 17 MARCH 2010.

INTRODUCTION

An order for the sequestration of the above estate was granted by the High Court of South Africa (Transvaal Provincial Division) on 23 October 2008. This order was made final on 23 October 2008.

The Master of the High Court appointed JP FOURIE, LDR VAN DER MERWEK, together with N CLOETE as Provisional Trustees on 23 October 2008. At the First Meeting of Creditors held before the MAGISTRATE RANDBURG no claims were proved.

The Master of the High Court subsequently issued the Certificate of Appointment No. T3821/08 dated 3 APRIL 2008.

REPORT

Herewith our report in terms of the provisions of Section 81 of the Insolvency Act 1936 (as amended).

SECTION 81(1)(a): ASSETS AND LIABILITIES OF THE ESTATE

On completion of our investigation into the affairs of the estate and after considering the Statement of Affairs as submitted by the Insolvents in terms of Section 16(2) of the Insolvency Act 1936 (as amended), the financial position of the estate as at the date of sequestration would appear to be as follows:

The Insolvent did submit the required Statement of Affairs in terms of Section 16(2) of the Insolvency Act 1936 (as amended), and according to information currently available the financial position of the estate at date of sequestration appears to have been as follows:

ASSETS

1. ENCUMBERED ASSETS

ERF 947 BEVERLYE EXT 8 (estimated value)	R2,900,000.00
ERF 228 WESTLAKE EXT 1 (estimated value)	R1,800,000.00

UNENCUMBERED ASSETS

NONE

LIABILITIES

1. SECURED CREDITORS

ABSA BANK – BOND	R2,452,512.63
NEDBANK – BOND	R1,615,981.70

2. PREFERENT CREDITORS

ie Receiver of Revenue	UNKNOWN
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3. CONCURRENT CREDITORS

Known thus far	R639,444.48
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COMMENTS

1. *These figures are subject to change and verification.*
2. a Nationwide deed search was done and it was established that the insolvent does own this fixed property
3. No movable assets with economical value were found.
4. There is a danger of contribution and are concurrent creditors advised not to lodge their claims against the estate.

SECTION 81(1)(b): CAUSES OF THE DEBTOR'S INSOLVENCY

According to the Statement of Affairs referred to above, the Insolvent indicates the following reasons to be the causes of insolvency:-"Attach please find annexure "A"

We have investigated the above reasons, which we regard to be a just report of the circumstances leading to his insolvency.

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

The insolvent's actions were of such a nature that it was not necessary to keep book thereof.

SECTION 81(1)(d): OFFENCES

According to our investigation and to the best of our knowledge the insolvent has not contravened any of the provisions of the Insolvency Act no. 24 of 1936 (as amended). Should further investigations reveal any offences, we shall report it directly to the Master of the High Court.

SECTION 81(1)(e): ALLOWANCE TO THE INSOLVENT

No allowance has been made to the Insolvent in terms of Section 79 of the Insolvency Act No. 24 of 1936 (as amended).

SECTION 81(1)(f): CARRYING ON OF BUSINESS

No business has been carried on, on behalf of the estate.

SECTION 81(1)(g): LEGAL PROCEEDINGS

We are not aware of any legal proceedings instituted by or against the Insolvent suspended by the sequestration of the estate or which may be pending or threatening against the estate, except legal proceedings instituted by Creditors for the collection of debts.

SECTION 81(1)(h): UNCOMPLETED CONTRACTS IN TERMS OF SECTIONS 35 AND 37

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

SECTION 81(1)(i): MATTERS IN REGARD TO THE ADMINISTRATION OR REALIZATION OF THE ESTATE

To the best of our knowledge it appears at this stage that there will be a definite danger of a contribution in this matter and we would not advise concurrent creditors to prove their claims.

We request creditors to adopt the attached Resolutions and to leave the future administration of the estate in our hands.

SIGNED AT PRETORIA on this 25 January 2013



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TRUSTEES
LDR VAN DEER MERWE

TRUSTEES
N CLOETE

RESOLUTION

**TO BE SUBMITTED AT THE SECOND MEETING OF CREDITORS TO BE HELD BEFORE THE PRESIDING OFFICER
MAGISTRATE RANDBURG ON WEDNESDAY 17 MARCH 2010.**

IT IS HEREBY RESOLVED

1. That the report of the Trustee(s) and his\their actions as referred to therein be and are hereby approved, ratified and confirmed.
2. All actions of whatsoever nature hereto before taken by the provisional Trustee(s) and/or Trustee be and are hereby confirmed, ratified and approved.
3. That the actions of the provisional Trustee(s) and Trustee(s) in engaging the services of attorneys and/or counsel on such matters as he\they found necessary in the administration of the estate to date, are hereby approved, ratified and confirmed and the costs thereof be paid out of the funds of the estate as part of the costs of administration.
4. That the Trustee(s) be and is\are hereby authorised to engage whatever further legal assistance he\they may require in the interests of the estate and that the costs thereof be paid out of the funds of the estate as part of the costs of administration.
5. That the Trustee(s) be and is\are hereby authorised to institute or defend legal action and/or employ the services of a tracing agent or debtor collector in order to collect debts owing to the estate or in respect of any other matter affecting the estate including the holding of enquiries or examinations in terms of the Insolvency Act, 1973, as amended, as he\they may deem fit, and for such purposes to employ the services of attorneys and/or counsel of his\their choice and to pay the costs out of funds of the estate as part of the costs of administration which accounts do not have to be taxed but a fee approved by the trustee(s) will be payable.
6. That the Trustee(s) be and is\are hereby authorised to settle or compromise any legal proceedings whether instituted or to be instituted by or against the estate, on such terms and conditions and for such amount as he\they in his\their discretion may deem fit.
7. That should costs be incurred for the use of a tape recorder where the State does not supply the service free of charge, the costs thereof and the cost for obtaining copies of the Court records will be deemed part of the administration costs of the estate.
8. That the Trustee(s) be and is\are hereby authorised to sell any movable or immovable property of the estate of whatsoever description and including outstanding debts by public auction, public tender or private treaty in such manner, upon such terms and conditions and for such amounts as he\they may deem fit.
9. That the Trustee(s) be and is\are hereby authorised to consent to the cancellation of any bond passed in favour of the estate.
10. That the Trustee(s) be and is\are hereby authorised to abandon any amount or any part of an amount due to the estate as he\they has\have been unable to recover or dispose of as he\they may deem fit.
11. That the Trustee(s) be and is\are hereby authorised to engage the services of auctioneers or agents to sell the assets of the estate and to determine the conditions of sale and manner of advertising in his\their discretion.
12. That the payment of reasonable expenses incurred by the Trustee(s) for his\their personal or his\their employee's transportation and accommodation in carrying out any statutory duty or in the performance of his\their duty as Trustee(s) be paid as administration costs additional to the Trustee(s) remuneration, immediately or as soon as the estate receives sufficient funds to meet such expenses. Such expenses include all reasonable hotel accommodation, necessary air travel, car rental and fuel calculated against AA-tariffs.
13. That the payment of reasonable expenses incurred by the Trustee(s) in carrying out any statutory duty or in the performance of his\their duty as Trustee(s) be paid as administration costs additional to the Trustee(s) remuneration. Such expenses include the expenses incurred for countrywide deeds office searches, Kredit-Info enquiries, ITC enquiries, obtaining copies of title deeds, bond documents, court orders and any other documents required, postages and petties, and attendance at the Registrar of Deeds for the noting of court orders.
14. That the Trustee(s) be and is\are hereby authorised and empowered in his\their discretion to compromise or admit any claim against the estate, whether liquidated or not liquidated, arising from any guarantee or any other cause whatsoever, as a liquidated claim in terms of Section 78(3) of the Insolvency Act, as amended, at such amount as may be agreed upon between the creditor(s) concerned and the Trustee(s) provided that proof thereof has been tendered at a meeting of creditors.
15. That the Trustee(s) be and is\are hereby authorised to transfer to the purchaser thereof any immovable property sold by the estate prior to its liquidation or to agree to the cancellation of any such sale and to re-sell such property or to agree to the substitution of a new purchaser under any existing Deed of Sale.

16. That the Trustee(s) be and is/are hereby authorised to abandon any asset or assets of the estate where no purchaser for the asset(s) can be found.
17. That the Trustee(s) be and is/are hereby authorised to terminate leases in respect of premises or of any other object entered into by the estate.
18. That the Trustee(s) be and is/are hereby authorised to, if necessary, borrow moneys with or without providing security therefore and that the interest payable on such loans shall be paid as costs of administration of the estate.
19. That the Trustee(s) be and is/are hereby authorised to engage the services of bookkeepers, accountants, auditors or any other person for any purpose in and about the affairs of the estate which he\they may require and the costs so incurred to be paid as costs of administration of the estate.
20. 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:
 - 20.1 the prescribed tariff as is contained in the Insolvency Act
 - 20.2 the increased amount of work done by the Trustee(s) 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.
21. The remuneration referred to in 20 above may further be increased based on aspects such as:
 - 21.1 the complexity of the estate in question,
 - 21.2 the degree of difficulty encountered by the Trustee(s) in the administration of the estate, and
 - 21.3 particular difficulties experienced by the Trustee(s) because of the nature of the assets or some other similar feature connected with the administration of the estate.
22. That the trustees is hereby authorized to sell all the household furniture to the insolvent at the amount of valuation and on such terms and conditions as the trustees may determine. In the event of the insolvent not paying the amount the trustee be authorized to sell the assets by public auction or private treaty. All costs incurred will be treated as administration costs
23. That the future administration of the estate be left in the hands of and to the discretion of the Trustee(s).

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KREDITEURE/
CREDITORS

VOORSITTENDE BEAMPTE/
PRESIDING OFFICER