

**INSOLVENT ESTATE : NEVIN FRANCOIS GERBER**  
**("the Insolvents")**  
**MASTER'S REFERENCE NUMBER : G1098/2010**

**REPORT BY THE JOINT TRUSTEES, 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, ALBERTON ON WEDNESDAY, 14 DECEMBER 2011 AT 09H00**

**ORDER OF THE COURT AND MEETINGS**

Nature of Application	Application
Date of Sequestration	3 June 2010
Date of provisional Order	8 June 2010
Date of Final Order	27 July 2010
Provisional appointees	JF Klopper, AI Surmany, F Bodibe
Date of 1 <sup>st</sup> meeting of creditors	7 September 2011
Final appointees	JF Klopper, AI Surmany, F Bodibe

**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:

<b>ASSETS</b>	<b>AMOUNT</b>	<b>AMOUNT</b>
<b>ENCUMBERED ASSETS</b>		
A. Immovable Property		
1. Erf 353, New Redruth	5 700 000-00	
2. Erf Number 3331, Glenvista	830 000-00	
3. Erf 359 The Hill- Valuation	500 000-00	
4. Erf Number 389, Rangeview - Valuation	380 000-00	
5. Erf 1177 Meyersdal Ext 14	2 800 000-00	
6. Erf 687 Vanderbijlpark	530 000-00	
7. Erf 913 New Redruth	150 000-00	
B. Movable assets		
1. Mercedes Benz 500	300 000-00	
2. Daimler Chrysler	75 000-00	
<b>UNENCUMBERED ASSETS</b>		
Household contents	5 000-00	

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<b>LIABILITIES:</b>		
Secured Creditor		
1. ABSA Bank Ltd	950 000-00	
2. ABSA Bank Ltd	1 250 000-00	
3. Standard Bank Ltd	700 000-00	
4. ABSA Bank Ltd	650 000-00	
5. Standard Bank Ltd	8,653,303.36	
6. Standard Bank Ltd	700 000-00	
7. Acutt Development (Pty) Limited	6 493 369.57	
8. Acutt Development (Pty) Limited	1 320 792.88	
9. Standard Bank Ltd	888,085.81	
10. ABSA Bank Ltd	522 008.81	
Preferent Creditors	unknown	
Concurrent Creditors (approximate)	230 000 000-00	
<b>SHORTFALL</b>	<b>11 087 560-43</b>	
<b>TOTAL</b>	<b>22 357 560-43</b>	<b>11 270 000-00</b>

**Notes:**

**1 These figures are subject to change and verification.**

**MARITAL STATUS**

The insolvent is married out community of property to Lorina Gerber. We are investigating the affairs of his former wife and the manner in which she acquired her assets and will in due course act in terms of the provisions of the Act, if necessary.

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

The Insolvent bound himself as surety and co-principal debtor for the indebtedness of, inter alia, South African Property Guarantee Exchange (Pty) Ltd, which company has been liquidated. The insolvent was sequestrated when he could not meet his obligation with regard to this suretyship.

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

The insolvent was not required to keep books and records in his personal capacity.

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

Based on the above, the Insolvent contravened certain provisions of the Act, in that:

1. He has failed to keep me notified at all times of his residential and postal addresses in terms of Section 138(d) read together with Section 23(13) of the Insolvency Act No. 24 of 1936 (as amended).
2. He has failed to provide us with a Statement of Affairs in terms of Section 137© read together with Section 16 of the Insolvency Act No. 24 of 1936 (as amended). This conduct on his part has duly hampered us in the course of our duties.

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

No allowances have been made to the insolvent.

**SECTION 81(1)(f) : TRADING**

There is nothing to report under this heading.

**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.

The estate does not have sufficient free residue funds at its disposal to fund any further enquiry and accordingly it is not our intention to hold a further enquiry into the formation, promotion and/or failure of the insolvents estate. However, Creditors are invited to furnish us with instructions in this regard and are invited to indemnify us and proceed in terms of the provision of Section 32(1) of the Insolvency Act should they so wish.

**DIVIDEND PROSPECTS**

At this stage there appears to be a definite danger of contribution to be levied onto creditors who submit a claim for proof.

SIGNED at Rooibosfontein on this 1st the day of **DECEMBER 2011**.



**JF KLOPPER**

SIGNED at Sandton on this 2nd the day of **DECEMBER 2011**.



**AI SURMANY**

SIGNED at ..... on this ..... the day of **DECEMBER 2011**.

**F BODIBE**

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**JF KLOPPER**

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**RESOLUTIONS SUBMITTED AND ADOPTED AT THE SECOND MEETING OF CREDITORS HELD BEFORE THE MAGISTRATE, ALBERTON ON WEDNESDAY, 14 DECEMBER 2011 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 insolvents and/or any matter relating thereto;

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;
  - 3.4 Write up the books of the insolvents 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 insolvents, 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 insolvents and/or recording agents and/or any other person who in the 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.

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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.
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 insolvents 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 insolvents which he in his sole discretion may deem to be necessary for the support of the insolvents 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.

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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:

the prescribed tariff as is contained in the Insolvency Act

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:

the complexity of the estate in question,

the degree of difficulty encountered by the trustee in the administration of the estate, and

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.

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**q.q. CREDITORS**