

I N D E P E N D E N T

C O R P O R A T E R E C O V E R Y A D V I S O R S

Independent Trustees (Pty) Limited (Reg No 2002/025164/07)
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TO ALL KNOWN CREDITORS

Your Ref:

Our Ref: **J F KLOPPER/ ELAINE**

Direct Line: **021 880 5400**

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Date: **24 June 2011**

Dear Sir/Madam

MAXIMUM DIESEL CC (IN LIQUIDATION)
REGISTRATION NUMER: 2001/045288/23
MASTER'S REFERENCE NUMBER: C124/2011

We refer to the above matter and enclose a copy of the Joint Liquidators' Report, together with Resolutions, to be adopted at the First Meeting of Creditors to be held before the Master of the High Court, Cape Town on Tuesday, 12 July 2011 at 09h00.

As is evident from the aforementioned report, there is a danger of contribution being levied upon creditors in this estate and creditors are therefore urged not to submit claim documents for proof at this meeting.

We assure you of our best attention at all times.

Yours faithfully
INDEPENDENT TRUSTEES (PTY) LIMITED

J F KLOPPER
JOINT LIQUIDATOR
(Sent electronically, therefore not signed)

Independent Trustees (Pty) Ltd is a member of hww insolvency cooperation partners

Austria (Vienna) Brazil (Sao Paulo) Cayman Islands (Grand Cayman) Czech Republic (Prague) France (Paris) Germany (Hamburg) Great Britain (London)
Hungary (Budapest) India (New Delhi) Italy (Rome) Mexico (Mexico City) Netherlands (Amsterdam) Poland (Warsaw) Republic of China (Hong Kong)
Romania (Bucharest) Russia (Moscow) South Africa (Johannesburg) Spain (Barcelona) Sweden (Stockholm) USA (New York)

Directors:

JF Klopper B Com B Proc R Pieters* B Econ LDR Van der Merwe* B Com LLB
MJ Maseko B Juris LLB HA Plaatjies* B Juris LLB

* Member of the Association of Insolvency Practitioners of Southern Africa ("AIPSA")

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("the Close Corporation")

MASTER'S REFERENCE NUMBER : C124/2011

REPORT OF THE JOINT LIQUIDATORS, J F KLOPPER *and* EJ PETERSEN, IN TERMS OF SECTION 79 OF THE CLOSE CORPORATION'S ACT NO 69 OF 1984 ("THE ACT") TO BE SUBMITTED AT A FIRST MEETING OF CREDITORS TO BE HELD BEFORE THE MASTER OF THE HIGH COURT, CAPE TOWN, ON TUESDAY, 12 JUNE 2011 AT 09h00

INTRODUCTION AND MEETINGS

The Close Corporation was placed under creditor's voluntary winding-up by way of a Special Resolution registered with the Registrar of Companies and Close Corporations on 4 February 2011 as is provided for in Section 67(1) of the Close Corporation's Act, Act No. 69 of 1984, read with the provisions of the Companies Act, as is provided for in Section 66 of the Close Corporation's Act.

Mr J F Klopper and Mr EJ Petersen have been appointed as Joint Liquidators by the Master of the High Court, Cape Town, ("the Master") in terms of Certificate of Appointment Number C124/2011.

HISTORY AND INFORMATION OF THE CLOSE CORPORATION

According to the Registrar of Companies the Close Corporation was incorporated under registration number 2001/045288/23 with its registered address situated at 2nd Floor 47 On Strand, Strand Street, Cape Town.

According to the records in our possession, the member of the Close Corporation, as at date of voluntary liquidation, was:

1. Tom Schwerdtfeger ID:720726504308

REPORT IN TERMS OF SECTION 79 OF THE ACT
SECTION 79(a): ASSETS AND LIABILITIES

The following represents the assets and liabilities of the Close Corporation at date of liquidation based on the Statement of Affairs and information provided by the members.

ASSETS	AMOUNT	AMOUNT
Book Debts		NIL
Equipment valued at		R 1 000.00
ASSETS		R 1 000.00
LIABILITIES		

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<u>Secured Creditor:</u> Estimated at	Unknown	
<u>Preferent Creditor:</u> Estimated at	Unknown	
<u>Concurrent Creditors:</u> Estimated at	R370 284.95	
SHORTFALL		R369 284.95
TOTAL	R370 284.95	R370 284.95

Notes:

The assets and liabilities reflected above are subject to change and verification.

COMMENT ON THE ASSETS

It was established that debts which were collectable were paid into the corporation's bank account during the early part of 2010.

The equipment which mostly consist of nuts and bolts are being stored at the offices of Moosa, Waglay & Petersen.

COMMENT ON THE LIABILITIES

The balance of liabilities relates to monies owing to various trade creditors in respect of services rendered and goods supplied and delivered (concurrent creditors).

SECTION 79(b): CAUSES OF THE CORPORATIONS FAILURE

According to the member of the Close Corporation and investigations conducted, the main reason for the liquidation was as a result of the following:

The Close Corporation's debts accumulated and as the business was in dire straits, it was unable to pay its creditors in the ordinary course of business. An application for the voluntary liquidation of the Close Corporation was consequently applied for and was registered on 4 February 2011.

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SECTION 79(c): REPORT UNDER SECTION 400(2) OF THE COMPANIES ACT READ WITH SECTION 66 OF THE ACT

It would not at this stage appear that the former member has contravened any provisions of the Companies Act save for the failure to keep or hand books and records to the liquidators. Should information come to light at a later stage that would change this situation, a report will be submitted.

SECTION 79(d): LIABILITIES OF MEMBERS

At this stage it appears that the member is not personally liable to:

1. the Close Corporation on the grounds of breach of trust or negligence;
2. make repayments to the Close Corporation in terms of Section 70(2) or (3) or Section 71(1) or (2) of the Act;
3. either a creditor of the Close Corporation or to the Close Corporation itself.

Should information come to light at a later stage that would change this, a report will be submitted.

SECTION 79(e): LEGAL PROCEEDINGS

We have no knowledge of any legal proceedings pending or threatened by or against the Close Corporation as at date of liquidation save for actions relating to the recovery of debt caused by the liquidation of the Close Corporation.

SECTION 79(f): ENQUIRY INTO FORMATION AND FAILURE

Based upon information available to us at this stage, it appears that an enquiry with regard to the formation and failure of the Close Corporation will not be necessary. Should information come to hand at a later stage that would warrant an enquiry, a report will be submitted.

SECTION 79(g): BOOKS AND RECORDS

No books and records relating to the close corporation's affairs have been handed to the liquidators.

SECTION 79(h): DIVIDEND PROSPECTS AND FURTHER WINDING UP

Based on asset realizations and known claims, at this stage there would appear to be a danger of contribution in the estate.

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SECTION 79(i): MATTERS REQUIRING THE FURTHER DIRECTIONS OF CREDITORS

Such directions as required of creditors are contained in the draft resolutions, which are submitted for consideration and adoption by the creditors at this meeting in conjunction with this report. Creditors are requested to adopt these resolutions to enable the administration of the affairs of the Close Corporation to be finalised.

SIGNED AT STELLENBOSCH DATED *JFK* JUNE 2011


J F KLOPPER

And

SIGN AT CAPE TOWN DATED JUNE 2011

EJ PETERSEN

C/O INDEPENDENT TRUSTEES (PTY) LIMITED
P O BOX 820
STELLEN BOSCH
7599

TELEPHONE: 021 – 880 5400
TELEFAX: 021 – 880 5430

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RESOLUTIONS SUBMITTED AND ADOPTED AT THE FIRST MEETING OF CREDITORS HELD BEFORE THE MASTER OF THE HIGH COURT, CAPE TOWN, ON TUESDAY, 12 JULY 2011 at 09H00

RESOLVED THAT:

- 1 The report of Liquidator or Joint Liquidators, as the case may be, hereinafter referred to as (the Liquidators"), as submitted, be received and adopted and all their actions referred to therein be and are hereby confirmed, ratified and approved.
- 2 All actions of whatsoever nature hereto before taken by the Liquidators be and are hereby confirmed, ratified and approved.
- 3 The Liquidators be granted the authority and is vested with all the powers mentioned in Section 386(4)(a) – (i) of the Companies Act No. 61 of 1973, as amended, such powers to be exercised at their sole and absolute discretion.
- 4 The Liquidators be and are hereby authorised in their sole and absolute discretion to:
 - 4.1 Take legal advice on any question of law affecting the administration and distribution of the Close Corporation;
 - 4.2 Institute or defend on behalf of the Close Corporation any action or other legal proceedings of a civil nature for the recovery of monies due to the Close Corporation or otherwise and subject to the provisions of any law relating to criminal procedure, institute any criminal proceedings;
 - 4.3 Hold any enquiry into the affairs of the Close Corporation and/or any matter relating thereto;
 - 4.4 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;
 - 4.5 Write up the books of the Close Corporation as may be required, and if necessary, to produce a balance sheet, audited or not, as at the date of liquidation, either for the purpose of investigating the affairs of the Close Corporation, establishing the claims of creditors, or any other purpose.
- 5 The Liquidators be and are hereby authorised in their 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 sole discretion of the Liquidators may be of assistance in the winding-up of the Close Corporation in relation to any matter referred to in 4 above and further to pay all the costs thereof of whatsoever nature out of the estate as costs incurred in the liquidation.

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- 6 The Liquidators be and are hereby authorised to collect any debts due to the Close Corporation 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 they in their 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 they in their sole discretion may deem to be irrecoverable.
- 7 The Liquidators be and are hereby authorised to dispose of any movable and immovable property of the Close Corporation, whether in their possession or under their control now or to come into their possession or under their control in the future by public auction, private treaty or public tender upon such terms and conditions as they in their sole and absolute discretion shall determine and to abandon any such assets for which they 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 Liquidators 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.
- 8 The Liquidators be and are hereby authorised and empowered in their sole discretion to compromise and admit any claim against the company 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, read with Section 339 of the Companies Act No. 61 of 1973, as amended, at such amount as may be agreed upon by the Liquidators, provided that proof thereof has been tendered at a meeting of creditors.
- 9 The Liquidators be and are hereby authorised to make application for the destruction of books and records of the Close Corporation six months after the confirmation of the Final Liquidation and Distribution Account.
- 10 The Liquidators be and are hereby authorised to perform any act or exercise any power for which they are not expressly required by the Companies Act No. 61 of 1973, as amended, to obtain the leave of the Court.
- 11 The Liquidators be and are hereby authorised to submit to the determination of arbitrators any dispute concerning the Close Corporation or any claim or demand by or upon the Close Corporation.
- 12 The Liquidators be and are hereby authorised to carry on or discontinue any part of the business of the Close Corporation insofar as may be necessary for the beneficial winding-up thereof.
- 13 The Liquidators be and are hereby authorised to exercise *mutatis mutandis* the powers conferred upon a Liquidator by Section 35 (uncompleted acquisition of immovable property before liquidation) and 37 (effect of liquidation upon a lease) of the Insolvency Act No. 24 of 1936, as amended, read with Section 339 of the Companies Act No. 61 of 1973, as amended.
- 14 The creditors hereby consent to the Liquidators' remuneration ("the remuneration") being taxed by The Master of High Court in terms of Section 384 of the Act **at the higher figure** of:

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- 14.1 the prescribed tariff as is contained in Annexure CM 104 to the Winding up Regulations to the Act;
- 14.2 the increased amount of work done by the Liquidators in terms of the actual time spent by their 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.
- 15 The remuneration referred to in 14 above may further be increased based on aspects such as:
- 15.1 the complexity of the estate in question;
- 15.2 the degree of difficulty encountered by the Joint Liquidators in the administration of the estate, and
- 15.3 particular difficulties experienced by the Joint Liquidators because of the nature of the assets or some other similar feature connected with the winding-up.
- 16 The further administration of the affairs of the Close Corporation be left entirely in the hands and at the discretion of the Joint Liquidators.

q.q. CREDITOR / MEMBER

PRECIDING OFFER: