

# *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*

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## **TO ALL KNOWN CREDITORS**

Your Ref:  
Our Ref: **H A PLAATJIES / ELAINE**  
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Date: **13 October 2009**

Dear Sir / Madam

**WEST CAPE CONCRETE FLOORS CC (IN VOLUNTARY LIQUIDATION)**  
**REGISTRATION NUMBER: 1997/034527/23**  
**MASTER'S REFERENCE NUMBER: C896/2009**

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 Magistrate Bellville on Friday, 30 October 2009 at 11h00.

As is evident from the aforementioned report, there is no danger of contribution being levied upon creditors in this estate. There appears to be no prospect of a concurrent dividend award to creditors due to substantial preferent claims. Concurrent creditors are therefore urged not to submit claims for proof at the meeting.

We assure you of our best attention at all times.

Yours faithfully  
**INDEPENDENT TRUSTEES (PTY) LIMITED**

**HILLARY PLAATJIES**  
**FOR JOINT LIQUIDATOR**

**WEST CAPE CONCRETE FLOORS CC (IN VOLUNTARY LIQUIDATION)****REGISTRATION NUMBER : 1997/034527/23****("the Close Corporation")****MASTER'S REFERENCE NUMBER : C896/2009**

**REPORT OF THE JOINT LIQUIDATORS, JOHANNES FREDERICK KLOPPER *and* FATIMA SALIE, 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 MAGISTRATE BELLVILLE ON FRIDAY, 30 OCTOBER 2009 AT 11H00**

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**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 **01 September 2009** 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 F Salie have been appointed as Joint Liquidators by the Master of the High Court, Cape Town, in terms of Certificate of Appointment Number C896/2009 dated 07 October 2009.

**HISTORY AND INFORMATION OF THE CLOSE CORPORATION**

According to the Registrar of Companies the Close Corporation was incorporated under registration number 1997/034527/23 with its registered address situated at 3 Leipoldt Street, Bellville, 7530, Western Cape.

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

1. Lambert, Ignatius Stefan

The principal business activity of the Close Corporation was in the construction industry. The main business was casting and powerfloating of industrial and domestic concrete floors.

**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 member.

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	AMOUNT	AMOUNT
<b>ASSETS</b>		
Movable Assets – valued at		R181 876.00
Book Debts: Approximately		R1 018 289.00
Toyota Hilux D4D 2.5 Diesel – valued at (Subject to an Instalment Sale Agreement i.f.o Absa Bank)		R 95 000.00
DYNA 6-104 3-ton Truck – valued at (Subject to an Instalment Sale Agreement i.f.o Absa Bank)		R 140 000,00
Trailer, Bobcat & non runner		R 20 500.00
<b>LIABILITIES</b>		<b>R1 455 665.00</b>
Secured Creditor : estimated at	R 831 722.92	
Preferent Creditor : Workers & Sars	R3 466 243.08	
Concurrent Creditors – estimated at	R4 521 630.29	
<b>SHORTFALL</b>		<b>R7 363 931.29</b>
<b>TOTAL</b>	<b>R8 819 596.29</b>	<b>R 8 819 596.29</b>

**Notes:**

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

**COMMENT ON THE ASSETS**

We are in the process of collecting outstanding book debts. The vehicles are subject to instalment sale agreements. It is the intention of the liquidators to sell the assets by public auction.

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**COMMENT ON THE LIABILITIES**

The liabilities relate in the main to monies owing to Nedbank and Bankfin in respect of Instalment Sale Agreement, registered over the respective vehicles.

The extent of monies owing (if any) to the South African Revenue Services is unknown at this stage.

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 company commenced business activities in 1997.
- The company has a dispute which led to an arbitration with one of it's major suppliers. This resulted in cashflow problems for the company. Two of the company's major debtors were placed in liquidation and the company incurred a loss of R 583 000,00.
- 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 1 September 2009.
- The downturn in the economy contributed to the company's financial problems as less contracts were entered into.

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

At this stage it appears that the former member has not contravened any provisions of the Companies Act. 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 members is not personally liable:

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

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Should information come to light at a later stage that would change this situation, 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 will not be necessary with regard to the formation and failure of the Close Corporation. 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**

The Close Corporation's books and records have not been handed to us.

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

As a result of the substantial claim against the company by SARS it appears as if no concurrent dividend will be awarded to concurrent creditors.

Based on the figures available to me at this stage, it is clear that only secured and preferent creditors will be awarded a dividend.

**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**

**OCTOBER 2009.**

**JOHANNES FREDERICK KLOPPER**  
**JOINT LIQUIDATOR**

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*and*  
SIGNED AT

DATED

OCTOBER 2009.

FATIMA SALIE  
JOINT LIQUIDATOR

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

TELEPHONE: 021 – 880 5400  
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**RESOLUTIONS SUBMITTED AND ADOPTED AT THE FIRST MEETING OF CREDITORS  
HELD BEFORE THE MAGISTRATE BELLVILLE, ON FRIDAY, 30 OCTOBER 2009 AT 11H00**

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**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.

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- 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.
- 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.



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- 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:
- 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.

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q.q. CREDITOR / MEMBER

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MAGISTRATE BELLVILLE