

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)
Blaauwklip Office Park Block 2 Level 1 Webersvallei Road Jamestown
Stellenbosch 7600 (Also at Randburg)
P O Box 820 Stellenbosch 7599
Telephone: (021) 880 5400
International: (+27) 21 880 5400
Fax: (021) 880 5430
Website: www.corprecover.co.za

Your Ref:

Our Ref: **R PIETERS / S DANEEL**

Direct Line: **021 – 880 5400**

Direct Fax: **021 – 880 5430**

Cell Phone: **082 3769690**

Direct E-Mail: **rynettep@corprecover.co.za**

Date: **04 DECEMBER 2006**

TO ALL KNOWN CREDITORS

Dear Sir / Madam

INSOLVENT ESTATE LEON STEYN
IDENTITY NUMBER : 640306 5161 085
MASTER'S REFERENCE NUMBER : C 154/2006

We refer to the above matter and enclose an **amended** second meeting report by the Joint Trustees, together with Resolutions, to be adopted at the Second Meeting of Creditors to be held before the Magistrate, Malmesbury, on Wednesday, 06 December 2006 at 09h00.

Yours faithfully
INDEPENDENT TRUSTEES (PTY) LTD

R PIETERS (MRS)
For JOINT TRUSTEES

INSOLVENT ESTATE LEON STEYN

IDENTITY NUMBER : 640306 5161 085
("the insolvent")

MASTER'S REFERENCE NUMBER : C154/2006

REPORT OF THE JOINT TRUSTEES, JOHANNES FREDERICK KLOPPER *and* EDWIN JOHN PETERSEN, IN TERMS OF SECTION 81 OF THE INSOLVENCY ACT, ACT NO. 24 OF 1936, AS AMENDED, ("THE ACT") TO BE SUBMITTED TO CREDITORS AT THE SECOND MEETING OF CREDITORS TO BE HELD BEFORE THE MAGISTRATE, MALMESBURY, ON 06th DECEMBER 2006 AT 09H00

ORDER OF THE COURT AND MEETINGS

An order for the provisional sequestration of Leon Steyn ("the insolvent") was granted by the Honourable High Court of South Africa (Cape of Good Hope Provincial Division) on 18 April 2006 pursuant to an application by Gabriël Hendrik Steyn under Case Number 3851/2006.

The provisional order of sequestration was made final on 24 May 2006.

The Master of the High Court, Cape Town, appointed Johannes Frederick Klopper and Edwin John Petersen as Provisional Joint Trustees as per Certificate of Appointment Number C154/2006 dated 05 May 2006.

The first meeting of creditors was held before the Magistrate, Malmesbury, on 12 July 2006. No claims were submitted and proved at that meeting and no voting took place.

The Provisional Trustees were appointed as Final Trustees by the Master of the High Court, Cape Town, on 24 July 2006.

SECTION 81(1)(a) : ASSETS AND LIABILITIES

The following represents the assets and liabilities of the insolvent as at date of sequestration, that we are aware of. The assets and liabilities listed are subject to verification and adjustment and may change depending on the extent of the claims submitted for proof and other factors, including our further investigations.

| ASSETS | AMOUNT [R] | AMOUNT [R] |
|---|--------------------|--------------------|
| <u>Movable Property</u> | | |
| Vehicle : 2005 Mercedes Benz Atego 1528/54 sold for (Subject to Instalment Sale Agreement in favour of Standard Bank Vehicle & Asset Finance) | | R375 060,00 |
| Vehicle : 2005 Ford Ranger Bakkie sold for (Subject to Instalment Sale Agreement in favour of Wesbank Limited) | | R170 000,00 |
| Vehicle : 2005 Yamaha YFZ 450 Quadbike sold for (Subject to Instalment Sale Agreement in favour of Wesbank Limited) | | R38 760,00 |
| Furniture and effects sold for | | R29 625,00 |
| SUB-TOTAL | | R613 445,00 |
| LIABILITIES | | |
| Secured Creditors : Estimated at | R697 184,00 | |
| Preferent Creditors : Unknown at this stage | Unknown | |
| Concurrent Creditors : At least | R95 000,00 | |
| SHORTFALL – AT LEAST | | R178 739,00 |
| TOTAL | R792 184,00 | R792 184,00 |

COMMENT ON THE ASSETS

All assets have been sold pursuant to an extension of the Joint Trustees' powers by the Master of the High Court, Cape Town.

COMMENT ON THE LIABILITIES

The liabilities relate in the main to monies due to financial institutions in respect of the balance outstanding in respect of finance contracts. In addition, various amounts are due to

trade creditors in respect of services rendered for the insolvent's former business, L S Vervoer.

MARITAL STATUS

The insolvent is not married.

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

The insolvent has not provided us with written reasons for his insolvency. We are investigating whether the purchase of expensive vehicles and assets shortly prior to insolvency was a contributing factor to his eventual financial downfall. A supplementary report will be submitted, if necessary.

The application for sequestration indicates that one of the reasons for the insolvency was that during 2004 the insolvent started his own transport business in the name and style of L S Vervoer in the delivery of agricultural products and live stock to farmers in the Malmesbury district. Since November 2005 the business began to suffer financially as there was a shortage of work in the transport industry and during that period the insolvent's biggest competitor dropped their transport fees drastically.

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

As the insolvent traded in his own name he was required to maintain books and records. Despite repeated requests, he has not delivered the books and records to us. This has hampered our investigations into the insolvent's affairs. Certain books and records are purportedly available for collection in Malmesbury and the Trustees will be taking steps to uplift these books and records.

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

We are still in the process of investigating the insolvent's affairs, the question of whether to report various possible contraventions of the Insolvency Act and other matters to the Master. At this stage, the insolvent appears to have contravened certain provisions of the Act in that he failed to lodge a Statement of Affairs and possibly failed to keep adequate books and records. Once we have investigated this matter fully we will lodge a report to the Master of the High Court, if necessary.

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

The insolvent has not requested any subsistence allowance neither has any allowance been paid to him.

SECTION 81(1)(f) : TRADING

There is nothing to report under this heading.

SECTION 81(1)(g) : LEGAL PROCEEDINGS

We have no knowledge of any legal proceedings pending or threatened by or against the insolvent as at date of sequestration save the actions relating to the recovery of money due.

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 on the administration of the estate to date and the appropriate Resolutions will be submitted to this meeting. Creditors are requested to adopt these Resolutions to enable the administration of the estate to be continued with and finalised.

DIVIDEND PROSPECTS

At this stage it appears that there is no danger of a contribution in this estate.

GENERAL

1. In the light of recent criticism involving Trustees' fees and a judgement in the Supreme Court of Appeal handed down in April 2004 and reported in January 2005, we deem it appropriate to bring to your attention our view that the Master of the High Court must tax Trustees' fees in accordance with the tariff as is provided for in the Insolvency Act, but having done so, the Master may reduce or increase the amount arrived at by applying the tariff if, in his or her discretion, there is "good cause" to do so.
2. The dominant provision of the aforesaid judgement is that the remuneration to which a Trustee is entitled is remuneration for work or services rendered, not a set commission, and that it must be reasonable.
3. The tariff serves as a point of departure for the determination of the appropriate fee. However, once taxation is complete, the Master has a flexible discretion to increase or decrease the amount of remuneration arrived at by the previous application of the tariff.
4. The concept of 'good cause' is very wide and there is nothing in the Act which indicates that it should be interpreted so as to exclude any factor which may be relevant in determining what constitutes reasonable remuneration for a Trustees' services in the circumstances of each case.
5. Obviously, what factors are relevant will vary from case to case, but may certainly include aspects such as:

- 5.1. the complexity of the estate in question,
 - 5.2. the degree of difficulty encountered by the Trustees in the administration thereof,
 - 5.3. the amount of work done by the Trustees **and the time spent by them in the discharge of their duties involved.**
6. If, in the administration of the estate, particular difficulties are experienced by the Trustees because of the nature of the assets or some other similar feature connected with the administration, this would undoubtedly constitute 'good cause' entitling the Master to increase the tariff remuneration.
 7. In view of the above, we hereby advise that we have resolved to keep time records of the work done by our staff in order to enable the Master to be guided along the above-mentioned guidelines and are in the process of writing up detailed time sheets of the effort and correspondence in this matter which will then be presented to the Master when submitting the next account in this matter.
 8. We also wish to bring to your attention that the SCA held in the above-mentioned reported Judgement that an hourly fee of R1 800,00 for a Trustee based on the experience and qualifications of the parties in that matter would not be inappropriate. For your information we also advise that the charge out rates of our staff will be based on this rate as a point of departure and taking into consideration the qualifications of our staff.

**JOHANNES FREDERICK KLOPPER
JOINT TRUSTEE**

and

**EDWIN JOHN PETERSEN
JOINT TRUSTEE**

**C/O INDEPENDENT TRUSTEES (PTY) LIMITED
P O BOX 820
STELLENBOSCH
7599**

**TEL: 021 – 880 5400
FAX: 021 – 880 5430**

INSOLVENT ESTATE LEON STEYN

IDENTITY NUMBER : 640306 5161 085
("the insolvent")

MASTER'S REFERENCE NUMBER : C154/2006

RESOLUTIONS TO BE SUBMITTED AT THE SECOND MEETING OF CREDITORS TO BE HELD BEFORE THE MAGISTRATE, MALMESBURY, ON WEDNESDAY, 06 DECEMBER 2006 AT 09H00

RESOLVED THAT:

1. The report of the Provisional Joint Trustees and/or Joint Trustees, as the case may be, hereinafter referred to as ("the Joint Trustees"), 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 heretofore taken by the Joint Trustees be and are hereby confirmed, ratified and approved.
3. The Joint Trustees be and are hereby authorised in their 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 estate 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 insolvent and/or any matter relating thereto;
 - 3.4. 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;
 - 3.5. Write up the books of the insolvent 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 insolvent, establishing the claims of creditors, or any other purpose.

4. The Joint Trustees 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 Joint Trustees 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 Joint Trustees be and are hereby authorised to collect 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 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.
6. The Joint Trustees be and are hereby authorised to dispose of any movable and immovable property of the estate, 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 Joint Trustees 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 Joint Trustees be and are hereby authorised and empowered in their sole discretion to compromise and admit any claim against the estate 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 Joint Trustees provided that proof thereof has been tendered at a meeting of creditors.
8. The Joint Trustees be and are 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 Joint Trustees be and are 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 Joint Trustees be and are 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 Joint Trustees be and are 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 Joint Trustees be and are hereby authorised to allow the insolvent to retain for her own use the whole or such part of her household furniture and tools and other essential means of subsistence as they may determine.
13. The Joint Trustees be and are hereby authorised to release, as they in their absolute discretion decide, 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 Joint Trustees be and are hereby authorised to make any allowance out of the estate to the insolvent which they in their sole discretion may deem to be necessary for the support of the insolvent and his/her dependants.
15. The Joint Trustees be and are hereby authorised to perform any act or exercise which they are not expressly empowered to perform in terms of the provisions of the Act.
16. The creditors hereby consent to the Joint Trustees' remuneration ("the remuneration") being taxed by The Master of High Court in terms of the Insolvency Act at the higher figure of:
 - 16.1. the prescribed tariff as is contained in the Insolvency Act;
 - 16.2. the increased amount of work done by the Joint Trustees in terms of the actual time spent by them and 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.
17. The remuneration referred to in 16 above may further be increased based on aspects such as:
 - 17.1. the complexity of the estate in question;
 - 17.2. the degree of difficulty encountered by the Joint Trustees in the administration of the estate, and
 - 17.3. particular difficulties experienced by the Joint Trustees 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 Joint Trustees.

.....
CREDITOR / INSOLVENT