

**INSOLVENT ESTATE MARTIN ASHLEY LEVICK “THE INSOLVENT”
MASTER’S REFERENCE NUMBER G474/2019
INFORMAL REPORT BY JOINT TRUSTEES JULY 2020**

CURRENT STATUS OF WINDING UP

The enquiry in terms of the provisions of Section 152 of the Insolvency Act, 24 of 1936 (“the Act”) into the affairs of the Insolvent is ongoing. Until such time as the presiding officer rules otherwise, we are not at liberty to divulge any of the information or evidence obtained pursuant to the Interrogation.

The Master for the 2nd time convened the first meeting of creditors. Again it contained an error in the name of the insolvent. Submissions were made that the meeting could not continue and the Master agreed.

At this stage the Master’s Covid19, directives stipulate that no meetings of creditors will be convened unless it is urgent, with no clear guidelines on what would constitute such “urgency”. Regulations available: [Master’s Regulation, Level 3](#)

ASSETS AND LIABILITIES

Based on our investigations into the affairs of the estate and the current information at hand, we have revised our view regarding the financial position of the estate as at the date of sequestration to be as follows:

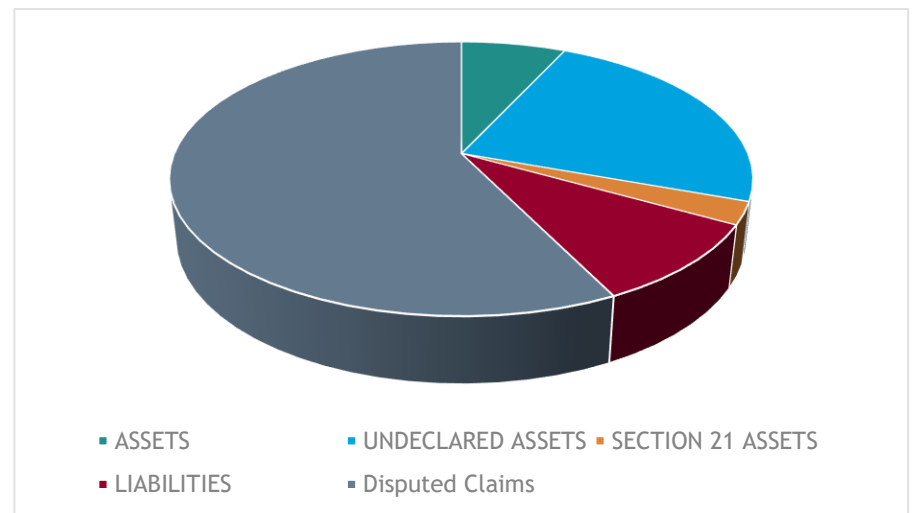
ASSETS- DECLARED & CONFIRMED	NOTES	AMOUNT
Unit 25, The Library Building Clapham (London Flat)	1	11,997,000.00
Clothing and personal effects		44,000.00
Aston Martin	2	2,000,000.00
Wrapistry Loan	3	1,500,000.00
Greg Blank Loan	4	500,000.00
Shares - Calculus Capital-	5	25,000,000.00
Shares - Genesis Capital	6	0.00
		41,041,000.00



Additional information indicated that the Insolvent has not made a full declaration of the following assets:

UNDECLARED ASSETS	NOTES	AMOUNT
2017 Land Rover Discovery 3.0 Si6 HSE	7	800,000.00
2016 Toyota Corolla 1.6 Esteem	7	unknown
2010 Mercedes-Benz E500	7	unknown
2018 Mini Cooper 5DR A/T(XU72	7	unknown
Jewellery	8	696,000.00
Debtors	4	2,700,000.00
Rental Income	9	168,000.00
Mac laptop		unknown
Cellular phones		unknown
Interest in legal entities	10	unknown
Loan - Saharan Trade & Finance (Pty) Ltd	11	136,234,000.00
		<u>140,598,000.00</u>

LIABILITIES NOT DISPUTED BY THE INSOLVENT	NOTES	AMOUNT
Investec Limited by way of Instalment Sale Agreement over Aston Martin		900,000.00
Investec - Overdraft		2,500,000.00
Investec - Surety liability		3,500,000.00
Daytona - vehicle Repairs		unknown
Chester Holdings Limited / Illovo Capital / AC Ball surety		49,796,000.00
		<u>56,696,000.00</u>





In this same version of the Insolvent’s Statement of Affairs the Insolvent disputes the claims of the following creditors.

DISPUTED CLAIMS	NOTES	AMOUNT
CC Brand		184,960,000.00
AMB Capital		31,971,000.00
AM Lin Investments		14,335,000.00
S Carlin		14,227,000.00
R Segal		unknown
Super Segal		15,650,000.00
Monique Friedland / Alan Friedland / Warren Friedland		79,675,000.00
		340,818,000.00

Notes:

1. The trustees applied for and obtained recognition in the High Court of Justice, Business and Property Courts of England and Wales. The order was granted on 16 April 2020.

With the granting of the recognition order, this asset now falls to be dealt with by the Trustees in terms of South African Law.

2. The Aston Martin is subject to the security of Investec. The Trustees have elected, in terms of Section 83(3) of the Act, to settle Investec as they consider there to be equity in the particular asset for the benefit of the general body of creditors.
3. The Trustees continue to investigate and engage with the debtors and will report more fully on the collection thereof once the investigations have been finalised.



4. The debtor paid the full amount into the estate banking account.
5. The shares are held in private corporate entities. The values reflected are subject to change.
6. Genesis Capital (Pty) Ltd has been placed in Business Rescue. At this stage it is not clear whether any dividends will be paid to creditors.
7. At this stage the Insolvent's spouse, Mrs Levick, is in possession of the vehicles. The Trustees have demanded delivery of these vehicles from her but to no avail.
8. The values reflected are based on formal valuations obtained and at a forced sale value.
9. The Trustees instructed the letting agent to continue with the collection of the rental in respect of Unit 25, The Library Building.

The rental payments are paid into the estate banking account on a monthly basis. The lease is due to expire on 26 September 2020.

10. During the enquiry conducted by the Master, reference has been made and evidence given regarding the Insolvent's involvement in several entities, both local and abroad. As stated, the confidential nature of the Interrogation precludes the Trustees from providing details of these entities. The Trustees actively continue to investigate the extent of the Insolvent's interest in these entities.
11. The Trustees have made demand in terms of Sections 344 and 345 of the old Companies Act against Saharan Trade & Finance (Pty) Ltd for the repayment of the Insolvent's loan account.

* All these figures are subject to change and verification.

SECTION 21 OF THE INSOLVENCY ACT 24 OF 1936

To date Mrs Levick, the solvent spouse, has not complied with the provisions of Section 21 of the Act. According to our preliminary investigations into the affairs of Mrs Levick her financial position appears as follows:

ASSETS	NOTES	AMOUNT
Household content	1	585,000.00
Cash in bank account	2	5,090,000.00
Interest in Duo Diamond Trading	3	unknown
Interest in Legal Entities		
Universal Telecommunications - 50%		unknown
Houghton Property		10,000,000
		<u>15,675,000.00</u>

NOTES

1. The household contents are situated at the former residence of the Insolvent. Mrs Levick currently occupies the property.
2. The Trustees have requested the financial institution involved to place a hold on the bank account to avoid any transaction until such time that Mrs Levick (if ever) has successfully applied for release in terms the Act.
3. Mrs Levick has not, as is required of a solvent spouse in terms of the provisions of Section 16(3) of the Act, lodged a statement of affairs. This has hampered the Trustees in determining the full extent of the assets and liabilities of Mrs Levick, both locally and abroad. Such investigations are ongoing.
 - We are investigating the affairs of Mrs Levick and the manner in which she acquired her assets and the Trustees will not hesitate in due course, to the extent required, to act in terms of the provisions of the Act.

- To date Mrs Levick has employed a number of tactics to avoid testifying. Mrs Levick has launched review applications to set aside her subpoena / summons issued by the Master on 7 June 2019. The Trustees are at present opposing this application. The latest application was served on the trustees on 1 July 2020.

PENDING ACTIONS

The Trustees cannot disclose the full details at this stage as the information obtained is both sensitive and confidential, but we can at this stage confirm that:

- The Trustees have identified what they consider a number of assets and impeachable transactions perpetrated by the Insolvent prior to his sequestration. The necessary action will be instituted to set aside these transactions.
- The approximate combined value of these actions are R260mil



Estimated Recovery
Estimated Cost for Recovery

LITIGATION- FUNDING REQUIREMENTS

Considering the complex nature of the estate, recovering assets for the benefit of creditors will require lengthy and costly litigation.

The litigation can be categorised as either:

- Impeachable transactions- Applications to set aside any disposition of property under Section 26, 29, 30 or 31 of the Act;
- Normal debt collection- normal debt recovery of amounts due to the Insolvent, applications, summonses and even liquidation applications; and
- Litigation in defending spurious applications against the estate.

In order to pursue these claims, the estate requires initial funding from creditors. The estimate amount for the litigation is R5million.

Two creditors namely, Chester Holdings Limited and Illovo Limited indemnified the trustees for the costs for the enquiry, but the trustees now require funding to pursue the collections referred to above.

The trustees could either fund these actions piecemeal as and when they have sufficient funding, or ideally institute all at the same time. Options available for creditors willing to fund:

Impeachable transactions- Although all recoveries will fall to the estate and will be accounted for in a Liquidation and Distribution Account, Section 104(3) of the Act, provide that in the event that a creditor has either taken or funded proceedings set aside any disposition of property under Section 26, 29, 30 or 31 that, that creditor shall derive the full benefit of such recovery up to the full settlement of its claim. A creditor who was not a party to such proceedings will only receive a benefit of the proceeds of property recovered once all participating creditors cost for the enquiry and claims have been paid in full.

Other collections and litigation-The provisions of Section 104 of the Act do not extend to “normal debt collection” proceedings, but the trustees may accept funding in the form of a loan from a creditor/s on commercial terms to fund such legal costs required for such recoveries.

LITIGATION- FUNDING PROPOSAL

OPTION 1

The Trustees dispose of the London flat and will apply the proceeds to fund the ongoing litigation. The disposal of the flat will take approximately 2-3 months, which will delay the litigation process.

Although viable, this may delay the intended institutions of Court proceedings until such time as the proceeds of the sale of the London flat are repatriated to South Africa.

OPTION 2

A creditor/s may elect to fund impeachable transaction with the benefit of sharing exclusively in the proceeds.

This option is limited to those transactions that may be impeached in terms of the provisions of the insolvency Act, and the process required to “ring fence” such proceeds to the funding creditors is cumbersome.

It is proposed that this option be explored in conjunction with the funding proposed in Option 3 below.

OPTION 3

A creditor/s to provide an at-risk loan to the Trustees, at a commercially acceptable interest rate, in order to fund the legal costs of the intended recoveries. Such a loan/s would be at arm’s length on normal commercial terms and subject to repayment only in the event of the recovery or realisation of any of the assets referred to above.

Considering the imminent disposal of the London Flat, it is proposed that the required funding be made subject to the proceeds of this disposal be utilised first in settlement of the loan and agreed interest.

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