

Insolvent Estate Moegammat Ghaliebe Abrahams

Master's Reference number: C90/2021

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'S COURT, BELLVILLE ON FRIDAY, 13 AUGUST 2021 AT 11:00

ORDER OF THE COURT AND MEETINGS

Nature of Application	Application to Court-High Court of South Africa (Western Cape High Court)
Date of Provisional Order	4 February 2021
Date of Final Order	9 March 2021
Provisional Appointees	JF Klopper & TS Mahomed
Final Appointees	JF Klopper & TS Mohamed
Date of 1 <sup>st</sup> meeting of creditors	4 June 2021

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

1 On completion of our investigations into the affairs of the estate, the financial position as at the date of sequestration would appear to be as follows:

ASSETS	Notes		
Encumbered Assets			nil
Unencumbered Assets			nil
<b>LIABILITIES</b>			
Secured Creditors		6 462 894	
Preferent Creditors		nil	
Concurrent Creditors		unknown	
Sub Total		6 462 894	
Surplus/Deficit			6 462 894
<b>TOTAL</b>		<b>6 462 894</b>	<b>6 462 894</b>

**Notes:**

- 1 These figures are subject to change and verification.
- 2 The liabilities relate to monies owing to the applicant creditor, Air Products South Africa (Pty) Ltd
- 3 Creditors have requested the trustees to hold an enquiry into transactions by the insolvent prior to his sequestration relating to the sale of his immovable properties

**MARITAL STATUS**

According to information on hand, the insolvent is married out of community of property

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

According to information received and our initial investigations, the following information led to the sequestration of the insolvent's estate:

The insolvent was a sole proprietor trading under the name and style of YA Distributors and was a distributor of gas cylinders for a major industrial gas manufacturer and supplier from 1993 until 2016.

According to the application for sequestration and our investigation into the affairs of the insolvent, it would appear that the insolvent, purchased gas and rented gas equipment from Air Products South Africa (Pty) Ltd. Mr Abrahams t/a YA Distributors did not pay the supplier for gas purchasers, equipment and rental over a period of time nor did he replace lost cylinders. Mr Abrahams failed to make payment to his major supplier and fell into arrears. As a consequence, the major creditor applied for the sequestration of the insolvent's estate.

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

Other than bank statements, no books and records whatsoever have been handed to the trustees

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

We are still investigating whether the insolvent has contravened any of the provisions of the Insolvency Act or committed any other offence.

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

No allowances have been made to the insolvent.

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

The insolvent traded as a sole proprietor under the name and style of YA Distributors.

**SECTION 81(1)(g): LEGAL PROCEEDINGS**

At this point in time of our investigations 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

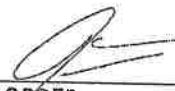
We have reported above on the administration of the estate to date and appropriate resolutions will be submitted to this meeting to enable us to wind up the administration of the estate.

The estate does not have sufficient free residue funds at its disposal to fund any enquiry however, creditors who wish to proceed with an enquiry into the formation, promotion and failure of the affairs of insolvent estates, can furnish us with instructions in this regard and are invited to indemnify the trustees and proceed in terms of the provisions of Section 32(1) b 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 upon creditors who submit their claims for proof.

DATED AT STELLENBOSCH ON THIS 03<sup>RD</sup> DAY OF AUGUST 2021.

  
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J F KLOPPER

  
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T S MAHOMED



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Insolvent Estate Mogammat Ghaliebe Abrahams

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RESOLUTIONS SUBMITTED AND ADOPTED AT THE SECOND MEETING OF CREDITORS HELD BEFORE THE MAGISTRATE'S COURT, BELLVILLE ON FRIDAY, 13 AUGUST 2021 AT 11:00

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 hereto before 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 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 insolvents and/or any matter relating thereto;
    - 3.3.1. 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 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 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.
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 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 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.
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:
  - 16.1. the prescribed tariff as is contained in the Insolvency Act
  - 16.2. 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:
  - 17.1. the complexity of the estate in question,
  - 17.2. the degree of difficulty encountered by the Trustee in the administration of the estate, and
  - 17.3. 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

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PRESIDING OFFICER