

INSOLVENT ESTATE : J A & H DE BRUYN ("the Insolvents")

MASTER'S REFERENCE NUMBER : T3951/02

Report by the joint Trustees, JOHANNES FREDERICK KLOPPER and LIEZEL MAGRIETHA PONT, 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, Germiston on Friday, 28 November 2003 at 9:00

INTRODUCTION

In a sequestration application, a final Order was granted against the abovementioned estate by the Honourable High Court of South Africa (Witwatersrand Local Division) on 15 October 2002. The Master of the High Court, Pretoria appointed us as provisional trustees on 31 January 2003. Our appointment was made final on 28 August 2003, after the first meeting of creditors was held before the Magistrate, Germiston on 1 August 2003.

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

- 1 On completion of my investigations into the affairs of the estate and in terms of a statement of affairs submitted by the insolvents the financial position of the estate as at the date of sequestration would, according to the Insolvents, be as follows:

ASSETS		AMOUNT (R)
Immovable Property		
23 Clive Street, Dinwiddie, Germiston (sold at a sale in execution prior to sequestration)		167,000.00
LIABILITIES:	AMOUNT (R)	
Secured Creditor (approximate)	194,000.00	
Preferent Creditor (unknown)		
Concurrent Creditors (unknown)		
Shortfall		27,000.00
TOTAL	194,000.00	194,000.00

- 2 These figures are subject to change and verification.

INSOLVENT ESTATE : J A & H DE BRUYN ("the Insolvents")**MASTER'S REFERENCE NUMBER : T3951/02****MARITAL STATUS**

The Insolvents are married in community of property.

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

Mr de Bruyn was retrenched by the National Defence Force approximately 3 years ago. He then decided to start a transport business but unfortunately this did not work out for him. He's had no income for approximately 2½ years and they had to live off Mrs De Bruyn's salary. When their house was sold in execution, the Insolvents had no alternative but to move in with Mr De Bruyn's parents. To date, Mr De Bruyn is unemployed.

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

The Insolvents did not maintain books and records in their personal capacity.

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

Upon information available to us it does not appear as if the Insolvents contravened any provisions of the Act.

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

There is nothing to report under this heading.

SECTION 81(1)(f) : TRADING

There is nothing to report under this heading.

SECTION 81(1)(g) : LEGAL PROCEEDINGS

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.

INSOLVENT ESTATE : J A & H DE BRUYN ("the Insolvents")**MASTER'S REFERENCE NUMBER : T3951/02**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 appropriate resolutions will be submitted to this meeting to enable us to wind up the administration of the estate.

DIVIDEND PROSPECTS

Based on the figures available to us at this stage, it is clear that there is a definite danger of a contribution being levied upon concurrent creditors.

SIGNED at RANDBURG on this 29th day of October 2003.

J F KLOPPER

L M PONT**JOINT TRUSTEES**

INSOLVENT ESTATE : J A & H DE BRUYN ("the Insolvents")**MASTER'S REFERENCE NUMBER : T3951/02****RESOLUTIONS SUBMITTED AND ADOPTED AT THE SECOND MEETING OF CREDITORS HELD BEFORE THE
MAGISTRATE, GERMISTON ON FRIDAY, 28 NOVEMBER 2003 AT 9:00**

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 heretobefore 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 corporation 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 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 insolvent 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.

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- 5 The Trustee be and is hereby authorised to collection 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 corporation 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").

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- 12 The Trustee be and is hereby authorised to allow the insolvent 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 insolvent which he in his sole discretion may deem to be necessary for the support of the insolvent 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 further administration of the affairs of the estate be left entirely in the hands of and at the discretion of the Trustee.

q.q. CREDITORS