

**INSOLVENT ESTATE TONY BOETIETJE ERASMUS ("the Insolvent")**  
**MASTER'S REFERENCE NUMBER T2763/09**

**REPORT by the JOINT TRUSTEES, LIEBENBERG DAWID RYK VAN DER MERWE, JOHANNES FREDERICK FOURIE & KISLON MANYAME MALEMA , 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 MASTER OF THE HIGH COURT, JOHANNESBURG ON TUESDAY, 19 OCTOBER 2010, at 10:00**

**ORDER OF THE COURT AND MEETINGS**

Nature of Application	APPLICATION
Date of Sequestration	18 JUNE 2009
Date of provisional Order	N/A
Date of Final Order	18 JUNE 2009
Provisional appointees	LDR VAN DER MERWE, JF FOURIE & KM MALEMA
Date of 1 <sup>st</sup> meeting of creditors	2 FEBRUARY 2010
Final appointees	LDR VAN DER MERWE, JF FOURIE & KM MALEMA

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

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

<b>ASSETS</b>	<b>AMOUNT</b>	<b>AMOUNT</b>
<b><u>Immovable Property (Valuation)</u></b>		800,000.00
<b><u>LIABILITIES:</u></b>		
Secured Creditor (approximate)	1,510,539.00	
Preferent Creditors	Unknown	
Concurrent Creditors (approximate)	1,060,017.00	
<b><u>ADMIN COSTS</u></b>	120,000.00	
<b><u>SHORTFALL</u></b>		<b>1,890,556.00</b>
<b><u>TOTAL</u></b>	<b>2,690,556.00</b>	<b>2,690,556.00</b>



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**Notes:**

- 1 These figures are subject to change and verification.**
- 2 We do not anticipate the proceeds of the sale of the immovable property to be sufficient to cover the claim of the bondholder in full and therefore there will be no monies to be distributed amongst the general body of creditors.**

**MARITAL STATUS**

Unknown.

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

I have not been able to make contact with the insolvent and therefore cannot give any indication to the causes of his insolvency.

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

The insolvent was not required to keep books and records in his personal capacity.

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

I am of the opinion that the following contraventions and/or offences should be brought to the attention of the Attorney General:-

1. Section 134 of the Insolvency Act No. 24 of 1936 (as amended) in that the insolvent failed to deliver to me all books and documents in his possession or custody or under his control relating to his affairs.
2. Section 138(b) of the Insolvency Act No. 24 of 1936 (as amended) in that the insolvent, after having been requested in writing, failed to furnish me with a true, clear and detailed explanation of his insolvency, alternatively failed to account correctly and in detail for the excess of his liabilities over his assets.



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3. Section 138(d) read together with Section 23(13) of the Insolvency Act No. 24 of 1936 (as amended) in that the insolvent has failed to keep me notified at all times of his residential and postal addresses.

Should further investigations cause me to believe that the insolvent has committed any other contraventions and/or offences of the Insolvency Act, I shall report these findings directly to the Master of the High Court.

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

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**

At this point in time of our investigation 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.

**DIVIDEND PROSPECTS**

As the amount due to the secured creditor is substantially more than the anticipated proceeds of the sale of the property there is a real likelihood of a contribution being levied upon creditors.



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**SIGNED at ROODEPOORT on this the ..... day of AUGUST 2010.**

  
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LDR VAN DER MERWE

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JF FOURIE

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KM MALEMA

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**RESOLUTIONS SUBMITTED AND ADOPTED AT THE SECOND MEETING OF CREDITORS HELD  
BEFORE THE MASTER OF THE HIGH COURT, JOHANNESBURG ON TUESDAY, 19 OCTOBER  
2010 AT 10H00**

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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 heretofore 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

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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 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

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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 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 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

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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**