

**IN THE HIGH COURT OF SOUTH AFRICA**  
**(GAUTENG DIVISION, PRETORIA)**

**CASE NO: 24463/2009**

In the *ex parte* application of:

**THE EXECUTIVE OFFICER OF THE FINANCIAL  
SERVICES BOARD**

**APPLICANT**

In *re* the business of the portfolio and the financial services  
business of:

**CORPORATE MONEY MANAGERS (PTY) LIMITED**

(Registration No. 1999/023598/07)

**CMM FINPRO (PTY) LTD**

(Registration No. 2008/03729/07)

**MIRO CAPITAL (PTY) LTD**

(Registration No. 2005/026831/07)

**FOUR RIVERS TRADING 307 (PTY) LTD**

(Registration No. 2007/033891/07)

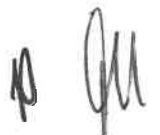
**REGENT CROUP CAPITAL (PTY) LTD**

(formerly called Two Ships Trading 307 (Pty) Ltd)

(Registration Number 2007/033891/07)

**ESCAPE INVESTMENTS (PTY) LTD**

(trading as Sakha Iblokho)



(Registration No. 2008/020099/07)

**CORPORATE MONEY MANAGERS TREASURY SERVICES (PTY) LTD**

(Registration No. 2007/000860/07)

**CCM CASH MANAGEMENT FUND**

("the business")

(Collectively referred to as the "**Financial Services Business**")

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## CURATORS 12<sup>th</sup> REPORT

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### 1.

#### **INTRODUCTION:**

1.1. In order to facilitate an understanding of the scope and nature of the work required by the Curatorship the introduction contained in the previous report is repeated albeit that the risk exists, that the curators will be criticised for submitting a lengthy complex document and therefore, this report must be perused with reference to the previous report applicable to the period ending February 2019. Before embarking on the report which will inform the writer of the status of the Curatorship, subsequent to March 2019 and as February 2020, we deem it necessary to recapitulate briefly the activities of Corporate Money Managers as the managers of a Collective investment scheme in terms of the Collective Schemes Act No. 45 of 2002 (herein after referred to as the "**Collective Act**"). The curatorship has endured since 28 April 2009, when Mr. Justice Southwood placed the of "**Financial Services Business**" under curatorship of John Roderick Graeme Polson and Louis Strydom.



## 2.

- 2.1. Pieter Hendrick Strydom was at a later stage added as a third Curator.

## 3.

- 3.1. We as curators divided the work involved in taking care of the **Financial Services Business** in that Louis Strydom will supervise the Financial position of the curatorship, Henk Strydom would be involved in the collection of assets through litigation and legal process as well as the liaison with lawyers instructed to assist with litigation. The writer was tasked with investigating and drafting of a report describing the activities of Corporate Money Managers. This entailed the supervision of a forensic investigation with a view to unravelling the intricate relationship between various legal entities as borrowers of funds, the supervisions of the banks as trustees of financial assets, as bankers and as guardians of the financial assets under their control in terms of the Collective Act.

## 4.

- 4.1. The investigation briefly revealed that funds were solicited from members of the public to be invested in terms of the provisions of the Collective Act read with regulation 1503 under the regulations issued under the Collective Act (herein after referred to the as the "**Regulations**"), which in essence prescribed that funds were to be invested, in liquid money market instruments, i.e. instruments that could be turned into cash within seven (7) days. The Regulations made provision for benchmarks, which were not to be exceeded. The benchmarks in this case were exceeded and in some cases completely ignored.

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## 5.

5.1. By way of interviews with investors and enquiries held in terms of the curators' powers, it became clear that the provisions of:

- 5.1.1. the Collective Act;
- 5.1.2. the Regulations;
- 5.1.3. the Banks Act; and
- 5.1.4. the Regulations under the Banks Act

have all been contravened, in that the funds were channelled to a backyard securitisation company known as Four Rivers Trading 307 (Pty) Ltd, who on turn lent funds to various other entities involved in the development of land, through a company known as Allegro (Pty) Ltd. Allegro (Pty) Ltd channelled the funds to various of its projects, making use of the cross-subsidization principle, making it difficult to follow the money trail, with a view to determining the exact exposure of the CMM money to each one of the projects.

## 6.

6.1. In the interim, litigation had to be attended to, brought by Mr. Bakkes, who required the removal of the curators as well as the Thunderstruck matter which have been dealt with *in extenso* in previous reports, we do not wish to repeat the details thereof. The reason for this introduction is to remind the court briefly of the background of the matter, so as to place what follows in the correct perspective.

## 7.

7.1. The forensic investigation and enquiries referred to above, paved the way for the collection process, details of which were dealt with extensively in paragraph 15 of our report reflecting the status of the curatorship as at 29 February 2020 as follows:



### 7.1.1. ASSETS RECOVERED FROM 3 APRIL 2009 TO 30 JUNE 2021

The nature of the assets areis diverse and therefore requires different legal action to collect. We have therefore categorised them as set out hereunder:

#### **Assets Recovered from 3 April 2009 to 30 June 2021**

##### **Four Rivers Assets**

Dreamworld Investments 416 (Pty) Ltd - Eastwood Manor	6,728,164
New Approach Building Projects (Pty) Ltd - Reyno Manor	1,960,366
New Approach Building Projects (Pty) Ltd - Witbank Manor	3,357,161
Rentcor Trading CC t/a Recor - Kamagugu Township	4,069,460
Autumn Star Trading 591 (Pty) Ltd - Baybridge, The Island Estate	2,548,295
Malokiba Trading 92 (Pty) Ltd - Malokiba 92	2,266,593
Finfactor (Pty) Ltd & Counterpoint Trading 204 CC & Real Time Investments 506 CC - Finfactor	3,133,500
Come What May Properties 3 (Pty) Ltd - Come What May	15,617
Dunrose Trading 160 (Pty) Ltd - Waldheim Estate, Ramsgate (Consep)	9,755,994
Bubesi Investments 53 (Pty) Ltd - Westbrook Estate	8,641,182
Greenhills View (Pty) Ltd - Greenhills View	201,952
Merry Mole Development (Pty) Ltd - Crystal Lakes Vaal Eco Estates, Vaaldam	2,746,992
NH Clusters cc - Culembeeck Close	1,002,389
Paul Marais	600,000
Massyn	975,000
Farm Roodekop	800,000
Panamo Properties169 (Pty) Ltd - Place de Tetre, Honeydew Grove Extension 718	11,703,173

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Buzz Trading 214 (Pty) Ltd - Summerglen Estate 23,289

Total **60,529,128**

**Escascape Assets**

Asande/Garankuwa/Truzanne 31,616,850

B Manana 3,600,000

Hawk's landing 15,408,524

Sakheni Trading 55,900

Solid Investments / Pieter Bekker 585,234

VNP Projects Pty Ltd 332,540

Wykwet 1,100,000

Eastdune 4,837,537

CMT Trading 960,942

Harvard Real Estate 2,009,281

Haydon Dunn 996,673

Jinmoa/Formprops 3,692,829

Loggies Furniture 53,021

Matika 847,169

Minoli 700,000

Tetrafull 2,253,733

Glen Eden Trading 213 also Basic Construction Supply 1,303,267

Imvuno Africa Trading & Projects 17,990

Intsomi 7,500,000

Jannie Haasbroek 1,433,894

Mavhutane Trading cc 4,068,983

Mninathoko Makutupu 342,198

Ricabel Construction 363,156

Selogilwe Building Contractors CC 3,030,342

Siyanda Projects (Pty) Ltd 14,215,933

VNP Projects Pty Ltd 88,256

Total **101,414,251**

**Regent Assets**

Panamo Properties 49 (Pty Limited:	106,001
N Maharaj	417,579
New Order Investment	609,734
VLJ Pienaar	887,892
ER De Beer	311,674
Global Star Developments	751,495
MP Poggenpoel	10,000
SS Gunguluza	2,000
Lamula Trust	1,021,861
NP & LR Mamoepa	81,083
Nellogenix Investments CC	3,775,000
Empire Marketing	528,776
Classic Crown	453,083
HCK Property Investments CC	399,985
RK & S Chetty	18,000
P Persadh	80,000
Prime Property	20,000
YS Pershad	80,000
Litkie	22,500
Mawalall	15,000
BR Shomang	50,000
Blue Skye Development Company	1,653,000
GL Grayson	299,698
The Village Don	186,833
Perlite Plus Trading	258,172
Scoop Dynamics	5,000
SL Draycott	163,064
Whirlaway Trading 297 CC	58,800
D & L Elliot	75,600
TC De Abreu	31,500

CK & P Kisten	41,800
Repayments not allocated: Perumal	104,500
ASN Car Corp CC	2,113,263
Auto Vita Centurion	176,858
Blue Bean Motors	56,000
CT Motor Holdings (Pty) LTd	214,912
Hightide Traders 38 CC	83,610
Hyman Cars	378,055
Ikon Motors	170,549
Meck Motors	79,025
North West Auto	100,000
Owl Eye Trading	342,000
Silverstar Trading	31,131
Per Trade 117 CC	80,744
United Truck	698,982
CSV Wholesalers	371,466
Fairview Express	109,634
Ola Marc	484,224
Rand City Bearings	862,494
Soluble Solutions	753,196
Kuyasa Electrical	1,082,731
Oxford Butchery	477,054
Litigation costs recovered on Regent Assets	896,458
	<b>Total</b>
	<b>22,082,014</b>
<b>Total Liquid Assets</b>	
Standard Bank Fixed Deposit	1,402,895
Landbank	50,000,000
Zurich	23,320,829
ABSA Fixed Deposits	18,460,485
ABSA Bank CMM Emerald Trust	68,873
Nedbank	12,920,046

	Total	<b>106,173,127</b>
Nzalo		4,112,106
ABSA Bank Settlement		175,000,000
Thunderstruck		5,469,858
	Total	<b>184,581,964</b>
<b>Total Asset Recoveries to date</b>		<b>474,780,485</b>

#### Curatorsfees from 3 April 2009 to 30 June 2021

Curatorsfees up to 30 June 2021 (12+ years)	42,899,912
<b>Nett Curatorsfees</b>	<b>42,899,912</b>

#### Forensic accounting and investigation costs (Excl litigation costs)

Period: Curatorship ( 3 April 2009 to 30 June 2021)

Action Against ABSA	13,870,915
SARS	385,554
Escascape Assets	1,697,850
Four River Assets	3,937,947
Forensic Investigations and Litigation Support	26,530,818
<b>Total Forensic accounting and investigation costs</b>	<b>46,423,085</b>

Period: Curatorship ( 3 April 2009 to 30 June 2021)

Operational (e.g. office expenses and rental cost)

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Office expenses	1,254,276
Marketing	203,386
Bank interest paid (Operational account)	20,376
Office Rental and Utilites	2,903,528
Computer Expenses	97,401
Travel & Motorvehicle Expenses	314,170
Payments to Swaziland	219,502
<b>Operational costs</b>	<b>5,012,639</b>

#### Legal fees other than litigation cost

Period: Curatorship ( 3 April 2009 to 30 June 2021)

Asset Holding Costs (Incl Transfer costs, rates & taxes)	6,496,177
Security (Misty Hills and the like)	1,896,688
Security on Costs Greenhills	150,000
Le Roux en Vivier - Lutraweb Erwe	3,600,000
Settlement Bosch & Lindenburg	2,000,000
Bubesi liquidationcost	571,743
<b>Legal fees other than litigation cost</b>	<b>14,714,607</b>

#### Finance and administration

Period: Curatorship ( 3 April 2009 to 30 June 2021)

Administrative costs	2,287,259
Personnel Costs	8,396,765
<b>Finance and administration cost</b>	<b>10,684,024</b>

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**Period: Curatorship ( 3 April 2009 to 30 June 2021)**

**Litigation cost from 3 April 2009 to 30 June 2021**

**Four Rivers Assets**

Dreamworld Investments 416 (Pty) Ltd - Eastwood Manor	1,631,477
Jasper & Donovan (Pty) Ltd & Mogale City Local Council - Heritage Manor	707,261
AZS Investments (Pty) Ltd - Misty Hills	186,025
Amalgum Investments 150 (Pty) Ltd / Bronkhorstspuit	
Industriële Beleggings (Pty) Ltd - Misty Hills	331,867
New Approach Building Projects (Pty) Ltd - Reyno Manor	10,926
Red Coral Investments 37 (Pty) Ltd - Sekelbos Manor	135,447
Red Coral Investments 13 (Pty) Ltd - Unitas Park Vereeniging	26,400
New Approach Building Projects (Pty) Ltd - Witbank Manor	21,776
Rentcor Trading CC t/a Recor - Kamagugu Township	1,485,302
Autumn Star Trading 591 (Pty) Ltd - Baybridge, The Island Estate	840,044
Malokiba Trading 19 (Pty) Ltd - Malokiba 19	39,066
Malokiba Trading 92 (Pty) Ltd - Malokiba 92	392,534
Finfactor (Pty) Ltd & Counterpoint Trading 204 CC & Real Time Investments 506 CC - Finfactor	3,243,355
Theo Kies Ontwikkelings BK - Ikwezi Estate & Montana Gardens	3,959,519
Come What May Properties 3 (Pty) Ltd - Come What May	1,767,827
Dunrose Trading 160 (Pty) Ltd - Waldheim Estate, Ramsgate	3,663,777
White Pine Investments 7 (Pty) Ltd - Heritage View	31,549
Bubesi Investments 53 (Pty) Ltd - Westbrook Estate	136,500
Greenhills View (Pty) Ltd - Greenhills View	295,466

Merry Mole Development (Pty) Ltd - Crystal Lakes Vaal Eco Estates, Vaaldam	1,025,451
- Mettle	42,840
Akubra Trading 21 (Pty) Ltd - Clear Water Eco Estate	60,073
NH Clusters cc - Culembeeck Close	181,146
Panamo Properties169 (Pty) Ltd - Place de Tetre, Honeydew Grove Extension 718	137,380
Buzz Trading 181 Pty (Ltd) - Fleur n Villa	328,827
<b>Total</b>	<b>20,681,836</b>

### Escascape Assets

Asande/Garankuwa/Truzanne	415,077
Kufa	1,811,483
Solid Investments / Pieter Bekker	423,613
Thunderstruck	3,589,662
VNP Projects Pty Ltd	3,378,523
Wykwet	468,507
Estdune	73,319
CMT Trading	575,343
Harvard Real Estate	163,295
Haydon Dunn	459,938
Jinmoa/Formprops	234,141
Minoli	64,665
Quartet	479,413
Zeta	585,190
Anchor Park	169,481
DMX Consulting	442,023
Glen Eden Trading 213 also Basic Construction Supply	196,506
Iceberg Trading	112,544
Invuno Africa Trading & Projects	81,571
Intsomi	272,222

Mninathoko Makutupu	95,881
Selogilwe Building Contractors CC	363,365
<b>Total</b>	<b>14,455,761</b>

**Regent Assets**

Panamo Properties 49 (Pty Limited:	595,581
N Maharaj	331,871
New Order Investment	192,766
K Naidoo	30,611
Purple Rain Properties	6,400
Global Star Developments	21,890
MG Peterson	8,519
P Maharaj	127,237
Ramcheret	124,993
Lamula Trust	29,709
Nellogenix Investments CC	60,939
Empire Marketing	632,445
Classic Crown	956,882
DC Wilkinson	815,203
Naidoo & Iyer	1,270
RK & S Chetty	4,555
Bunkerhill Investment	680
C Kannemeyer	310,003
New Heights 1268 (Pty) Ltd	56,408
JC Kemp	879
BR Shomang	157,384
The Village Don	723,315
Nebraska Consulting	6,553
CK & P Kisten	9,146
Adistra 45 CC	22,047
ASN Car Corp CC	184,335

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Auto Vita Centurion	185,769
Cars By Kim CC	8,355
Grand Bridge Trading 93 CC	68,682
Ikon Motors	14,611
MRZ Autohaus (Pty) Ltd	365,153
North West Auto	873,426
Silverstar Trading	28,169
Imvusa Trading	81,571
Unallocated	69,255
<b>Total</b>	<b>7,106,611</b>
Total Legal fees assets (as above)	42,244,208
Action against ABSA	40,792,658
Action against SARS	3,492,290
Afdawn	78,713
Barker Insurance	412,899
FSB Legalfees & Costs, General Legal advice	6,730,893
Dynamic Wealth Stockbrokers	1,409,884
Thunderstruck, 424 Actions, Miro	34,443,414
Johan Neethling	135,295
Teba Bank / Ubank	2,043,385
Vincent Smith	814,689
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<b>Total Litigation fees including Disbursements</b>	<b>132,598,329</b>

7.2.

**Assets distributed to investors from 3 April 2009 to 30 June 2021**

Nett effect of deposits & refunds after 03 April 2009	-6,506,209
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Hardship Payments to investors	13,698,824
Interim dividend payments to investors	70,563,373
<b>Assets Distributed to investors</b>	<b>77,755,988</b>

To date we have recovered R17,773,497 from the South African Revenue Services for income tax refunds and VAT refunds due on CMM. We have earned interest on the bank deposit in the amount of R34,293,985.

## 8.

### ACTION AGAINST ABSA

8.1. After extensive preparation, due to having been forced to make disclosure of all the hard drives contained in each computer of every employee of CMM, which became a heavy expensive burden on the Curatorship, the litigation with the assistance of PwC Forensic Technology Services, Prof Jan van Romburgh and the Curatorship's attorneys and advocates, who agreed to retain their accounts until finalization of the litigation, the matter was brought to a head when during the weekend before the day of the hearing, the matter through intensive negotiation with ABSA's legal team, the matter was ultimately settled, the settlement was placed before the court and Judge Davis approved the settlement having heard counsel for the curators Mr. Freek Terblanche SC. Because of the novelty of the matter the litigation was not without its challenges. The Curators acting on legal advice ultimately settled for the sum of R175 million. Details of how this sum is being dealt with will follow in the financial section of this report. The curators instituted the action in terms of their powers with the full knowledge of the Regulator. The proceeds of the settlement fall back into the fund in favour of all the investors. The curatorship costs occurred in order to achieve the settlement, as well as any other costs to bring the curatorship to its final determination, is to be

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borne by the fund, which is in the collective interest of all the investors. The court has a wide discretion to grant the curators the powers, which is in this case granted. The decision of the Supreme Court of Appeal in *Ovation Preservation Fund and Others vs The Executive Officer, The Financial Services Board 2009(1) SA page 485 at page 489 paragraph 7 G – J and 490 H – I and 491 E – F and 492 paragraph 16D to E* makes it clear that the Fund and the investors must bear the cost incurred, in order to finalise the affairs of the fund. This case was one of the fund's affairs and seen as an obligation resting on the shoulders of the curators to look after the interest of the investor body as a whole. Not all the investors were capable of prosecuting litigation against a large commercial bank, due to health and financial constraints on their part. Those investors who chose to prosecute their claims in delict and contract, did so at their own risk and financed the litigation out of their own pockets. Those that chose to rely on the curators to prosecute their claim must bear the costs *pro rata* to the capital amount of their investments. The content of the previous reports, as well as this report show that the financial condition of the Corporate Money Managers Fund was poor and not sufficient to repay investments, let alone a fair return. Unfortunately, each investor will therefore suffer a loss.

9.

**THE CRIMINAL PROSECUTION OF THE INDIVIDUALS RESPONSIBLE FOR THE LOSSES INCURRED BY THE INVESTORS**

9.1. This Honourable Court in its order of the 4<sup>th</sup> of July 2017 directed the Registrar to furnish to the National Director of Public Prosecution with copy of the Court order and file for consideration.

10.



10.1. The Court also directed that our report be referred to National Director of Public Prosecution and the specific paragraphs thereof dealing with our recommendation as to the prosecution of those involved to be brought to attention of the National Director of public prosecution.

11.

11.1. To date we have not had any feedback from the Director of Public Prosecution.

12.

12.1. Now that a new Director for public Prosecution has been appointed, we believe that the matter will receive the necessary attention. Our Graeme Polson has undertaken to personally take the matter up with the newly appointed director of Public. Prosecution in order to expedite the criminal investigation into the transgression we have reported since we have been appointed. Since the settlement of the ABSA matter, our attention has been directed at the preparation for the making of further payments to the investors by obtaining FICA requirements and Counsel's opinion on tax and other matters, which have a bearing on the calculation of other payments, rather than the prosecution of criminal proceedings, which do not hold any financial benefit to investors. On the contrary, expenditure may be required to obtain professional evidence to assist such a prosecution. Once the next payments have been made, this matter will receive the attention it deserves.

13.



**THE STATUS OF THE LITIGATION INSTITUTED BY OR AGAINST THE CURATORS DURING THE REPORTING PERIOD**

- 13.1. No new litigation was instituted by or against the curatorship. An investor has however instituted an action against the three(3) curators, alleging that the curators represented to them that they would receive the full capital amount of their claims ex the ABSA litigation. The action is defended and the allegations denied. The action has however expanded in that the investor iProp has also instituted action against their erstwhile attorneys, who in turn cited their Pretoria correspondents, one of whom has since passed away as a result of Covid- 19 infection.
- 13.2 The Curatorship is winding-down its existing litigation, the action against **Mogale City** is in progress, in that the Plaintiff has amended its claims. Progress is hampered however by the Covid-19 pandemic in that meetings, which requires face-to-face discussions in an endeavour to resolve the issues is difficult to arrange due to the non-availability of participants and colleagues. The curatorship's exposure is considerable and it is considered that the matter cannot merely be relinquish.

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**Assets Recoverable from SARS**

- 14.1 The litigation against SARS, based on the question of refund of income tax, has been concluded. It has resulted in considerable recoveries, which will be dealt with in the Financial Section of this report. One outstanding aspect is the recovery of refund of income tax together with interest thereof, duly assessed by the Receiver of Revenue in the sum of R9 434 488.00. payment of this amount is expected soon. In addition, an amount of R3.5 million VAT is still outstanding, SARS is conducting an audit in this regard. The total amount which can thus be recovered



from SARS amounts to R12 934 488.00. consisting of a refund of both income tax as well as value added tax.

15.

**Assets Recovered during the Period of 1 July 2020 to 30 June 2021**

**Four Rivers Assets**

Dreamworld Investments 416 (Pty) Ltd - Eastwood Manor	6 728 164
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**Escascape Assets**

Truzanne Properties	2 000 000
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SARS Refund (as explained above)	4 666 569
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Thunderstruck (Cost order collected)	125 513
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<b>Total Asset Recoveries for the period</b>	<b>13 520 246</b>
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16.

**Assets Distributed to Investors during the Period of 1 July 2020 to 30 June 2021**

Hardship Payments to investors	470 959
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Interim dividend payments to investors	99 721
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(who missed the previous payment as a result of their failure to comply with FICA)

<b>Assets Distributed to investors</b>	<b>570 680</b>
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17.

**Expenditure during the Period of 1 July 2020 to 30 June 2021**

Curators fees (two Curators).	1 139 446
Asset holding cost (Transfer cost rates and taxes, Kungwini Hills)	275 784
Administrative Cost (Destruction of superfluous files)	29 876
<b>Total Expenditure</b>	<b>1 445 106</b>

18.

**Total legal costs expended during the Period of 1 July 2020 to 30 June 2021**

18.1 The total expenditure paid to Attorneys and Forensic Accountants for their management of litigation and legal assistance, most of which is of a historic nature, unpaid because of extension granted to the curatorship due to the curatorship's inability for lack of funds to make payment when the services were rendered are as follows;

**Four Rivers Assets (old accounts)**

AZS Investments (Pty) Ltd - Misty Hills	102 068
Amalgum Investments 150 (Pty) Ltd / Bronkhorstspuit Industriële Beleggings (Pty) Ltd – Misty Hills	10 357

**Escascape Assets**

Kufa	2 136
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**Regent Assets**

Action against ABSA	3 924 685
Action against SARS	1 738 331
General Legal expenses to attorneys and counsel on advice relating To Interim payments and application still to be made	465 310
<b>Total</b>	<b><u>6 242 887</u></b>

19.

**Forensic Accounting and Investigation Cost during the Period of 1 July 2020 to 30 June 2021**

Action Against ABSA (Last historic payment to PWC)	1 002 621
SARS (Support in action against SARS)	385 554
Forensic Investigations and Litigation Support (Payable to Jan van Romburgh part of Adams and Adams )	1 620 217
<b>Total Forensic accounting and investigation costs</b>	<b><u>3 008 392</u></b>

20.

**Cash balance during the period 1 July 2020 to 30 June 2021**

Opening Balance retained in Bank Accounts (with Investec, Absa and Standard Bank)	171 296 576
Plus total inflows	21 031 495

Minus total outflows	<u>11 267 066</u>
Leaves a closing cash balance of	<u>181 061 005</u>

It remains to be explained that in addition to the funds received as described above in this report, bank interest was received in the sum of R7 511 249.00, which adds up together with the other receipts to the sum of R181 061 005.00

21.

### **Assets still to be dealt with**

#### **21.1 Classic Crown, Ratha Nayager, Erf 603 Benoni BK (MAT3908)**

21.1.1 These matters have been dealt with and accounting has taken place.

21.1.2 After the applications of Nayager and his brother were dismissed, the property of Erf 603 was sold. Since the property was unencumbered, the dividends that will flow from Erf 603 into the estate of Nayager will result in further dividends to be paid to the curatorship. The liquidation and distribution account of Erf 603 CC has been confirmed. The Dividends have been paid over to his insolvent estate and will shortly be distributed to the curatorship, once a supplementary account has been confirmed, our attorneys also managed to collect some of the cost incurred.

#### **21.2 Rencourt, Rumilox**

21.2.1 This matter has been finalised; dividends are awaited ex the Insolvent Estate.

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21.3 **Sarel van Niekerk, Ernst Kleinhans, Thaba Thula, SVN Business Trust (MAT2079)**

21.3.1 A development right has been sold to Mr. van Niekerk. Still to be transferred.

21.4 **Autumn Star**

21.4.1 Ex the liquidation of Autumn Star, an application for the sequestration of Mr. Gerhard Erasmus came forth. The dispute was settled, and certain payments must be made by January 2021, resulting in further payments to be made to the curatorship.

21.4.2 An action against Calgro M3 is dormant.

21.5 **Merry Mole, Ferco Investments (MAT3701, MAT3395)**

21.5.1 The liquidators are attempting to sell the properties as described above, given the present state of disaster. The matters will have to be shelved, unless Purchasers come forth.

21.5.2 This matter relates to Come What May as well. We have investigated the market ability of the erven by indicating through Park Village Auctions, that the property is for sale and received the following report, which is self-explanatory:

*“During November 2019 an advertising board was erected at Vaal Marina. This board does not display an auction date but merely tries to create interest for a auction of Stands belonging to the abovementioned Estate in the near future.*

21.5.3 There has been a steady flow of interest from locals, holiday makers and people who own property in the area.

*People have enquired whether they can buy an individual Stand prior to the auction sale. We have not entertained any offers as we do not have permission to sell and we do not want prospective purchasers to "cherry pick" and leave the Estate with the less desirable Stands.*

*From further investigation, most of the people who enquired about the Stands were the same people who attended the auction sale of the 5 Stands which were sold in November 2019.*

*Stands Numbers 404 – 416 are Zoned for 15 Units per Hectare and we recommend these Stands need to be sold individually rather than as one lot. This will enable small investors to attend an auction sale and give them an opportunity to buy.*

*The remaining Stands along the waterfront are in demand and these should be sold separately giving the neighbours an opportunity to purchase.*

*The hundred 1.1 Hectare Stands Zoned for 2 Units per Stand would fetch more if sold as one lot as the demand is limited.*

*The boat storage locker is in great demand and most of the enquiries which we have received are in respect of the boat storage locker.*

*We believe that there is a demand for the 2 commercial stands and these should be sold separately.*

*We do understand that there is more of a demand for some Stands than others. We recommend that all the stands should be sold at one venue on*



*a specific date and time with all interested purchasers bidding against each other which will determine it's true value."*

21.6 **Mogale City, White Pines (MAT2234)**

21.6.1 This action was set down for hearing during the lockdown period. Possible settlement negotiations are in progress. Litigation has made progress to a stage where settlement negotiations are being conducted, Covid -19 has intervened. The Plaintiff has now amended his claim, the situation is studied and has been referred to counsel for their advice.

21.7 **Misty Hills:**

21.7.1 A signed offer for R55 million was received on Wednesday, 29 July 2020, subject to a resolutive condition that the purchase price was to have been affected into the trust account of the transferred attorneys on 28 February 2020, payment was not affected and therefore the agreement was null and void. Recent site inspection has revealed the need to have the property sold and occupied by a Purchaser as soon as possible, due to the threat of occupation by squatters, which with the assistance of a neighbour owner, Timothy Kgabo, efforts may require the expenditure of funds in order to ensure non-occupation. So far, the threat of occupation has been avoided.

21.7.2 Extensions with in which the guarantees were to be delivered had been given but nothing has realised. We have established that notwithstanding the individuations of stands, the property is still classified as farm land. An offer for the acquisition of approximately 1<sup>1</sup>/<sub>2</sub> hectares for the erection of a motor service station with a consideration of R350 000.00 has been received. The Courts approval for the sale of this portion of the 142 hectare asset is sought. The purchase consideration is considered reasonable in the light of the following factors;



21.7.2.1 The Minister's consent for subdivision would have to be obtained in terms of the Division of Agricultural Land Act, No. 70 of 1970.

21.7.2.2 The property will have to be rezoned

21.7.2.3 The development will add value to the property as a whole

21.7.2.4 The property has been offered to the state, who declined the offer for reasons of their own.

21.7.3 A cell phone company has expressed interest in erecting a cell phone tower on the property and to enter in a long-term lease. This will once again enhance the property in making it attractive for a possible developer. It is considered that the property may have to be put up for auction in order to test the market. The Curatorship's received offers over the last three (3) years of approximately R55 million, for the Kungwini Property. The agreements were subject to payment and or the issue of guarantees in a certain time, none of which materialised. Attention to this aspect will be given once the disaster regulations have been further relaxed. It is considered that the property may be put up for auction, with a reserved price of at least R55 million.

#### 21.8 Truzane Property Developers (Pty) Ltd (Reg No. 2008/021525/07)

21.8.1 This is a company, which before the curatorship, acquired for development approximately 800 entry level stands in the Garankuwa area, within the local authority jurisdiction of Tshwane.

21.8.2 With the advent of curatorship a Bond was registered in favour of the curatorship to secure its otherwise unsecured exposure of approximately

R34 million. Initially the erven was sold intermittently over a period and entry level prices the proceed whereof was reflected in our previous reports. The erven where developed and serviced in various degrees of development and serviced by water reticulation, electricity and roads. The dynamic change when a creditor applied for the liquidation of the company and Corporate Liquidators were appointed the liquidators. The liquidators received an offer for some of the erven by a company known as Toro Ya Africa for ;

21.8.2.1 Phase 3 – 52 erven at R40 000.00 per erf	
Total	R2 080 000.00
21.8.2.2 Phase 2 – 121 erven at R40 000.00 per erf	
Total	R4 840 000.00
21.8.2.3 Phase 1 – 200 erven at R40 000.00 per erf	
Total	<u>R8 000 000.00</u>
	<u>R14 920 000.00</u>

21.8.3 The liquidator received the above offers on 23<sup>rd</sup> November 2020. After due consideration and consultation with our co curators, given the status of the development as well as the statues on the arrear taxes, also taking into account that neither the curators nor the liquidators are developers, the curatorship as a secured creditor considered the offers reasonable both from a timing as well as from a financial position given the arrear rates and taxes liability.

21.8.4 We received a report from Corporate Liquidators, which states as follows;

1. 65 erven have already been sold by the liquidators and transferred.
2. Of the 3 Toro Ya Africa contracts as described above, phase 1 – 200 erven have been transferred.
3. Phase 2 – 121 erven, transfer is in progress

4. Phase 3 – 52 erven, guarantees must be delivered by 31<sup>st</sup> of November 2021.
5. The second Liquidation and Distribution Account, has been submitted to the Master and it is expected that an further dividend of R5 000 000.00 (R5 million) is forth coming and awaited

## 22.

**Payment to investors**

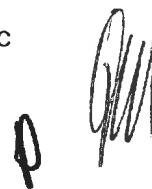
22.1 It is considered that a further payment must be made to investors on the basis that investors must be treated equally and the amount distributed must be prorated to each investors claim when calculating each investors payment. A founding affidavit to that effect has been prepared for an application to be lodged to court sanctioning the method of calculation. It was considered that such an application could have been before the court on the 7<sup>th</sup> of May, unfortunately the matter was delayed when our attorney of record took ill and has since passed away.

22.2 The action by iProp against the Curators personally has had an obfuscating effect. The curators in all times acted in their capacities as curators and not in their personal capacities nor did they give any undertakings, guarantees or made representations of whatsoever nature.

## 23.

**Future of the Curatorship**

23.1 My co-curator Louis Strydom has advised me that the board of directors of his employer require his uninterrupted attention to the execution of his duties and that he would want to be released of his obligations as an curator. He resigned from PwC on 1 July 2019. His position is understood although his guidance will be missed. The curatorship is still served by the institutional knowledge of the remaining curator, its legal advisors as well as Jan van Romburgh, the forensic

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accountant. It is however advisable to appoint another independent individual. The curator Polson has approached Jaco Spies, an experienced Chartered Accountant with legal qualifications, with whom he has worked with in the past in matter on behalf of the South African Reserve Bank as well as FSCA. A recommendation has been made to the FSCA and their decision is awaited. The curatorship must continue in order to deal with the matters mentioned above, which have not yet been completed. It is envisaged that the main problem is the finalisation of the Kungwini and Merry Mole assets. It is also necessary to await as the receptacle for the dividends of which still needs to be received from the companies in liquidation and SARS.

24.

### Courts Indulgence

It remains to seek the courts indulgence and to condone the late filing of this report. The non-readiness to communicate by various entities and individuals resulting from the present effects of the Covid-19 disaster, must carry the blame to a large extent, together with the writers attention being sought to resolve various issues necessary in drafting this report.

SIGNED AT Pretoria ON THIS THE 23 DAY OF  
August 2021.

  
\_\_\_\_\_  
JOHN RODERICK GRAEME POLSON  
CURATOR

  
\_\_\_\_\_

**LOUIS STRYDOM**  
**CURATOR**

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