

**IN THE HIGH COURT OF SOUTH AFRICA
(CAPE OF GOOD HOPE PROVINCIAL DIVISION)**

Case No: **679/2007**

In the ex parte application of:-
**EXECUTIVE OFFICER OF THE
FINANCIAL SERVICES BOARD**

Applicant

in re the financial services business of:-

FIDENTIA ASSET MANAGEMENT (PTY) LIMITED

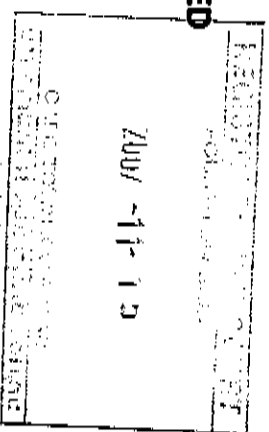
(Registration No: 1998/024863/07)

BRAMBER ALTERNATIVE (PTY) LIMITED

(Registration No: 2000/024139/07)

FIDENTIA HOLDINGS (PTY) LIMITED

(Registration No: 2001/022355/07)



FILING SHEET

Filed herewith

CURATORS' REPORT

DATED at CAPE TOWN this the 14th DAY OF NOVEMBER 2007

**THE JOINT CURATORS
c/o HOFMEYR HERBSTEIN & GIHWALA INC**

Per

**DCM GIHWALA
JOINT CURATOR
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**TO: THE REGISTRAR
High Court
CAPE TOWN**

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CURATORS' REPORT

1 INTRODUCTION AND STATUS AS AT 31st OCTOBER 2007

- 1.1 The businesses of the entities set out in the heading of this Report were placed under final curatorship by Order of the above Honourable Court on 27th March 2007.
- 1.2 This Report is filed by the joint curators pursuant to the provisions of paragraph 4 of the aforesaid Order of Court, Dines Chandra Manilal Gihwala and George Nicholas Papadakis, who were appointed as such by the above Honourable Court.
- 1.3 It is appropriate to refer to the businesses under curatorship as “Fidentia” and/or “the Fidentia Group” for the purposes of this Report.
- 1.4 The Fidentia Group engaged in a wide variety of business activities ranging from sport and recreation, information technology, financial services to property investment. The business of Fidentia was supposed to be that of an asset manager that was to invest and manage funds invested with it.
- 1.5 Every business within the Group was housed within a separate legal entity with its own management whilst the financial management and control of the entire Group was centrally managed by Joseph Arthur Walter Brown (“Brown”) and Graham Allen Maddock (“Maddock”).
- 1.6 There was a centralised accounting function for each of the business units which reported to Maddock. There was a separate accounting function resident in FAM, where the investor funds and the expenditure thereof was accounted for. Instructions to the centralized accounting function emanated predominantly from Maddock while it was not uncommon for Brown to issue instructions directly to the FAM personnel particularly when it came to disbursing investor funds

1.7 Immediately after and on the day that the Provisional Order of Curatorship was granted, the curators assumed control and management of as many of the businesses forming part of the Fidentia Group, as was possible, under the circumstances.

1.8 That same day, all of the staff was assembled and informed of the Provisional Curatorship Order, its legal effect and the process that was to thenceforth follow.

1.9 When we assumed control of the affairs of the companies, a financial assessment was performed to:

- Determine those companies that operated as cost centres and did not generate significant trading revenues;
- Determine from the companies that were operational what the level of cash generation was and make an assessment as to whether these companies could continue trading positively in the foreseeable future;
- Determine the level of management fees being charged to the operating companies with a view to effecting substantial reductions to these management fees;
- Determine the cash flow required to maintain the operations pertaining to the property portfolio and identify sources of potential revenue to provide the necessary funding.

Unless immediate remedial measures were taken to cut the losses and restore the businesses to profitability, the prospects of selling any business at a reasonable price, would be rather remote with the consequent loss to investors being quite significant.

1.10 It is submitted that the selling prices would have been lower than the values placed on the businesses by the management of the Fidentia Group. The selling prices are guaranteed to be lower than the values placed thereon by the management as these were grossly

inflated in order to balance the value of the asset portfolio to the liability to investors. The valuation of both the property portfolio and the private equity portfolio ie the businesses was compiled by FAM.

1.11 The curators immediately embarked upon a cost cutting program which included the retrenchment of superfluous and redundant staff. Within the first two weeks of curatorship these assessments had been complete and the following actions taken:

- Staff employed by those companies, including the various sports related entities, that were identified as not being capable of generating sustainable positive cash flows, were retrenched. (640 staff members were retrenched.)
- The remaining companies were to varying degrees re-structured and continued to operate under the control and direction of the curators.
- The management fees were reduced substantially by restructuring the finance, administration and human resource functions. In this regard a qualified chartered accountant (financial manager) was brought in to assist the curators with managing these core functions.
- Strict cash flow budgeting was introduced, a control mechanism that had never been implemented at Fidentia. The operations of the trading companies were monitored strictly against these monthly cash flow budgets, and in this way unnecessary expenditure was eliminated.
- Under the direction of the curators and the financial manager an exercise into the financial soundness of the companies was undertaken and a review of all outstanding tax related matters undertaken as at 31st August 2007. The results of the financial soundness exercise are reflected in annexure "A" hereof.

➤ The debtors book of each company was assessed and procedures were implemented to collect current and long outstanding balances.

➤ We have completed a master register of all moveable assets in the group. A complete and reliable register did not exist pre-curatorship.

1.12 The curatorship of the Fidentia Group received widespread publicity. Consequently, prospective purchasers of the underlying businesses contacted the Curators within days of the Provisional Curatorship Order having been granted. It was very clear though that prospective purchasers were bargain hunting.

1.13 The Curators resolved that if the businesses were to be immediately disposed of under the prevailing circumstances, the loss to investors would be very significant. The Curators were influenced by the fact that the victims of the loss would in the main be widows and orphans of the most disadvantaged members of society. It was imperative to ensure that maximum value was extracted from the assets to alleviate the plight of the victims as much as possible. Accordingly, bargain hunters were showed away; instead the Curators resolved to restore the businesses to profitability first and only thereafter dispose thereof at a reasonable multiple thereby minimizing the loss to be suffered by victims.

1.14 From the inception of the curatorship process, the senior management in the persons of Arthur Brown in particular, and Graham Maddock have been unco-operative and in fact obstructive to the curatorship process. It would not be incorrect to state that they have through their conduct frustrated and undermined the curators in the discharge of their responsibilities. This is the case notwithstanding Brown's public utterances to the contrary.

- 1.15 Maddock of his own volition, met with one of the curators in the presence of the curators' attorney. He made many disclosures and undertook to co-operate fully with the curators. Shortly thereafter he was arrested. He then changed his tune and denied having made the disclosures that were recorded in writing and copied to him.
- 1.16 However, he is shortly to be interrogated by the Curators in terms of the powers conferred upon the curators in terms of the Curatorship Order.
- 1.17 The Curators have made significant progress in identifying frauds committed by Brown, Maddock and one Steven Goodwin who is currently living in Australia. The Curators are also investigating the unlawful conduct of other individuals. It is considered unwise to identify such individuals in this Report; it may prejudice the investigation.
- 1.18 The Curators met with Goodwin in the presence of his legal advisors in Australia where he was interrogated.
- 1.19 It is apparent that Goodwin would be very useful to the Curators in prosecuting a significant claim against a major financial institution. Moreover, he would also be able to assist in tying up certain loose ends in certain pending civil litigation against Brown's Family Trust. In addition, he would be able to secure the conviction of Brown and Maddock on a number of charges of fraud without a long and costly criminal trial. The Curators are in negotiations with him through his attorneys. A condition of any settlement is that the terms thereof remain confidential.
- 1.20 Currently interrogations of key individuals involved in the affairs of the Fidentia Group are ongoing.
- 1.21 The following businesses are still being conducted by the Curators:-

- 1.21.1 AOS (pending conclusion of sale). Negotiations to sell this business have reached an advanced stage. Transaction documents will in all probability be completed and signed before the end of November. This business is not being sold at a multiple; however the purchase price is close to net asset value.
- 1.21.2 Software Futures. This business has been sold and will be finalized once the Competition Commissioner approves the transaction. The selling price is not at a multiple. The price obtained is close to net asset value.
- 1.21.3 Legatus
- 1.21.4 Bakenkop (in liquidation)
- 1.21.5 ERP Elementals
- 1.21.6 Infinity
- 1.21.7 Pollex
- 1.21.8 Ayanda
- 1.21.9 Connect (pending conclusion of sale)
- 1.21.10 Transact
- 1.21.11 Peoples Futures (closed down)
- 1.22 All disposals are subject to FSB approval.
- 1.23 Fidentia did not maintain proper accounting records and particularly investments ledgers recording funds invested by each investor and investment made in respect of individual investors. The investor funds were co-mingled and then disbursed predominantly on the

instruction of Brown. For the purposes of our investigation, we have sought to the extent possible to prepare a cash flow analysis for each investor. Based on specific time frames within which separate investors' funds were introduced it is possible to establish how these funds were disbursed.

1.24 The objective of this exercise was:

- To determine to the extent possible, which assets within the client asset portfolio were acquired with particular investor funds. The objective is to, if possible, utilise this analysis as a basis for a proposed distribution plan;
- To identify other assets purchased with investors' funds which have not been disclosed as part of the asset portfolio; and
- To identify all the beneficiaries who received investor funds with a view to formulating potential claims against all recipients of investor funds who may not be entitled thereto.

1.25 We are at a point where we have completed the cash flow analyses in respect of each investor and a cash flow chart in respect of each investor as well as a consolidated cash flow chart has been prepared. The consolidated cash flow chart depicts the total funds invested with Fidentia as well as the beneficiaries thereof and the amounts received.

1.26 We are currently extending the cash flow analysis to focus on amounts received by S Goodwin through various entities he controls and A Brown through trusts he controls. We are also in the process of retrieving all the documents and accounting entries processed in the accounting records of the Fidentia companies evidencing the payments recorded on the cash flow analyses.

1.27 A detailed cash flow analysis of all the funds invested by individual investors in FAM has been completed. We have also quantified amounts repaid to the individual investors by FAM pre-curatorship.

The resulting difference represents the net capital balance of each investor as at 1 February 2007. The results of this exercise are recorded in the table below.

Investor	Capital Invested	Repayments	Net Capital Balance	Net Capital as % of Capital Invested
Balron	86 411 341	44 565 497	41 845 844	48%
Antheru	45 437 915	33 696 017	11 741 898	26%
Evertrade	48 260 000	69 533 500	0**	0%
TETA	196 697 285	16 009 062	180 688 223	92%
LHUT	1 256 842 219	110 293 028	1 146 549 191*	91%
TOTAL	1 633 648 760	274 097 104	1 380 825 156	83%

*Post curatorship R74.7 million has been paid to the beneficiaries of the LHUT. Accounting for this figure will result in the net capital balance of the LHUT reducing to R1.07 billion, and the total net capital of all investors to R1.114 billion.

**Evertrade received an overpayment of R21 273 500.00.

1.28 The cash flow analysis was compiled utilising bank statements and with reference to the accounting records of FAM and other companies within the Fidentia group. As previously reported the accounting records are not considered to be reliable. The objective of performing individual cash flow analyses for each investor was to establish how their funds had been utilised. This was necessary as separate investor ledgers were not maintained and as such no record was kept confirming how and where investors funds were invested. Furthermore, Fidentia appears to have been operated as a pyramid scheme with funds introduced by latter investors being

applied to settle prior investments (including the capital growth element of these prior investments).

- 1.29 Once all the assets have been disposed of the curators be in a position to quantify the loss that the investors will suffer. The adoption of a particular distribution plan will also determine the loss individual investors will suffer.

2 OVERVIEW OF DISPOSAL OF ASSETS AND APPLICATION OF FUNDS

- 2.1 The Curators were firmly of the view that to sell any of the main assets/businesses by public auction or private tender, would not yield the best price. As time went along, the businesses were being turned around to profitability. Accordingly, it was felt that by not proceeding with a rushed sale process, the benefit to investors would be greater. Meanwhile as a result of the Curators' intervention most, if not all of the businesses, were either making a small profit and in certain instances, breaking even. It is from these profits that the Curators were able, among other things, to pay the stipends to beneficiaries over the last nine months. Since inception of the curatorship we have paid out R74.7 million in stipends which money has been sourced predominantly from the trading companies. We have to date not missed a single month's payment.

- 2.2 A Notice was placed in the Business Report which circulates nationally inviting prospective purchasers of any of the businesses and/or properties to register their interest to acquire any asset of the Group whereafter, the Curators would engage in an orderly negotiation process to extract maximum value.

- 2.3 An auction sale was nevertheless held in respect of surplus movable property such as motor vehicles, office furniture, etc.

- 2.4 The following assets were sold during the period of curatorship for the amounts reflected alongside each asset:-
- | | | |
|-------|---|---------------|
| 2.4.1 | Fidentia Football Rangers | R2.5m |
| 2.4.2 | *Interest in Wavelengths 231 CC | R7 692 300.00 |
| 2.4.3 | *Shares in Boland Rugby (Pty) Ltd | R200 000.00 |
| 2.4.4 | *Software Futures (Pty) Ltd | R12.2m |
| 2.4.5 | Movables sold by auction in Cape Town | R3 715 175.00 |
| 2.4.6 | Movables sold by private treat and public auction in Johannesburg | R1 202 075.00 |
- *Payment still to be received

2.5 The manner in which these funds were applied are evident from the financial report which is annexed hereto marked "B"

3 IRREGULARITIES COMMITTED

- 3.1 The following irregularities have been committed by the companies or its officers or management:-
- 3.2 The directors failed to comply with the Code of Corporate Practice and Conduct, 1994 King Report in particular:
- 3.2.1 Section 1 thereof, which deals with boards and directors and the functioning of the board.
- 3.2.2 Section 2, which deals with risk management and the board's responsibilities in that regard.
- 3.2.3 They breached their fiduciary relationship and duty towards the company in the sense that they failed to act in a manner as

envisaged by Innes CJ in Robinson vs Randfontein Estates Goldmining Company Ltd 1921 AD 168 at 177 to 180.

3.2.4 They failed to act in good faith and in the furtherance of the interests of the companies in the Fidentia Group.

3.3 The directors further:

3.3.1 Exceeded their powers;

3.3.2 Exercised their powers for an improper and/or collateral purposes;

3.3.3 Fettered their discretion in considering the best interest of the Fidentia companies;

3.3.4 Placed themselves in a position in which their personal interests conflicted with their duties to the Fidentia companies;

3.3.5 Dealt with the Fidentia companies otherwise than openly and in good faith;

3.3.6 Made secret profits;

3.3.7 Took economic opportunities for their own personal benefit;

3.3.8 Competed with the Fidentia companies;

3.3.9 Misused confidential information.

3.4 The directors further:

3.4.1 Failed to maintain a register of directors and officers as contemplated in terms of Section 215 and 216 of the Companies Act.

3.4.2 Mr JAW Brown caused the removal of directors without compliance with Section 220 of the Companies Act.

- 3.4.3 Shares were allotted and issued without the prior approval of the company in general meeting as contemplated in terms of Section 221 (1) of the Companies Act.
- 3.4.4 Caused the issue of shares contrary to the provisions of Section 222(1) of the Companies Act.
- 3.4.5 Caused loans to be advanced to directors, and in particular Mr Brown in contravention of the provisions of Section 226(1) of the Companies Act.
- 3.4.6 Failed to disclose their interests, whether directly or indirectly, in contracts or proposed contracts, in contravention of Section 234 of the Companies Act and as contemplated in terms of Section 238 of the Companies Act.
- 3.4.7 Did not keep an attendance register alternatively was not regularly kept of meeting of directors as contemplated in terms of Section 245 of the Companies Act.
- 3.4.8 Made false statements and gave false evidence as contemplated in terms of Section 249(1) and (2) of the Companies Act.
- 3.4.9 With the intent to defraud and deceive, acted in the manner contemplated in terms of Section 250(1) and (2) of the Companies Act.
- 3.4.10 Made false statements as contemplated in terms of Section 251(1) and (2) of the Companies Act.
- 3.4.11 Furthermore, the directors:
- 3.4.12 Contravened generally acceptable auditing and accounting practice requirements *inter alia* by acting as both auditor and financial director of certain Fidentia companies;

- 3.4.13 Generally acted fraudulently and recklessly as contemplated in terms of Section 424 of the Companies Act;
- 3.4.14 Failed to comply with the duty to keep accounting records as contemplated in terms of Section 284 of the Companies Act;
- 3.4.15 Failed to make out annual financial statements and to lay them before an annual general meeting as contemplated in terms of Section 286 of the Companies Act;
- 3.4.16 Caused the issue, circulation and publication of financial statements of the Fidentia companies which were materially false and incorrect as contemplated in terms of Section 287 of the Companies Act;
- 3.4.17 Failed to make group statements before an annual general meeting as contemplated in terms of Section 288 of the Companies Act.
- 3.5 Maddock, in his capacity as auditor, failed to report on decisions of the directors (of which he was one), consolidated the group annual financial statement as contemplated in terms of Section 294 of the Act.
- 3.6 The directors failed to provide information pertaining to loans due and security for benefit of themselves as contemplated in terms of Section 295 of the Act.
- 3.7 The financial statements which were signed off by the directors, did not comply with the provisions of Section 297(1) – (7) of the Companies Act.
- 3.8 No directors report was filed as contemplated in terms of Section 299 of the Companies Act.

- 3.9 The auditor whose conduct was condoned by the board of directors failed to comply with the provisions of Section 333 of the Companies Act.
- 3.10 The directors failed to cause the company to send annual financial statements to members and the registrar as contemplated in terms of Section 302 of the Companies Act.
- 3.11 In addition to the aforesaid, certain individuals appear to have committed fraud, theft, bribery and corruption. Brown and Maddock have been arrested, and are likely to be charged with fraud and theft as well as bribery and corruption.
- 3.12 One Dr P Bothma the CEO of TETA (Transport Education and Training Authority) who was instrumental in placing an investment of R200m, has been arrested and released on bail. He is likely to be charged with corruption.
- 3.13 We are not certain of the exact charges because to the best of our knowledge no charge sheets have been presented to the accused to date.
- 3.14 Brown and Maddock are currently out on bail.
- 3.15 The criminal trials of Brown, Maddock and Botma, are scheduled to commence early in the new year.
- 3.16 One Steven Goodwin who is currently a fugitive from justice living in Australia, seems to have played a significant role in the affairs of the Group. More particularly, it would seem that he facilitated if not masterminded, many of the illegal acts committed by the Group and its officers.

4 LEGAL PROCEEDINGS INSTITUTED BY THE CURATORS

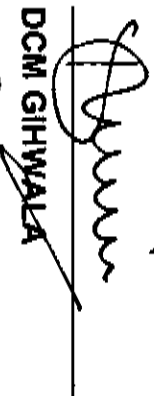
Attached hereto marked "C " are the details of all legal proceedings instituted by and on behalf of the Curators.

5 RECOMMENDATIONS

- 5.1 It is recommended that the Curatorship process should be allowed to continue to its final conclusion;
- 5.2 The curators proceed to identify and dispose of the assets in an orderly manner under the control of and with the approval of the FSB;
- 5.3 The Curators should be suitably and properly empowered to interrogate any person who they reasonably believe to have been involved in the affairs of the Group and may be able to shed light on its activities.
- 5.4 The Curators should be empowered and authorized to institute whatever legal proceedings they deem appropriate to recover whatever monies they reasonably believe to vest in the Fidentia Group and to defend whatever proceedings may be instituted against them provided of course there is a valid and bona fide defence available to them.
- 5.5 The Curators should furnish the Registrar with progress reports on the curatorship on a quarterly basis and upon request by the Registrar. The first such quarterly report to be filed in respect of the quarter ended 31st January 2008.
- 5.6 The Curators shall be remunerated as they have been up to now.

DATED at CAPE TOWN this 14th day of NOVEMBER 2007.

DCM GIHWALA



GN PAPADAKIS



ANNEXURE A

Financial Soundness of the Businesses in the Fidentia Group as at 31 August 2007

We comment on the financial soundness of the businesses in the group as at 31 August 2007 and the trading performance post curatorship to 31 August 2007. In assessing the financial soundness, cognisance has to be taken of the deficiencies which existed in the accounting records pre curatorship.

1. Fidentia Administration Services (Pty) Ltd (FAS)

1.1 FAS is responsible for providing administration services to the group companies and specifically the processing of payments to all creditors in the group. FAS accounts for all group overheads for which it charges a facility fee to the respective businesses and entities.

1.2 FAS is prima facie insolvent in the amount of R103 969 000 at 31 August 2007 which has largely been funded by inter company loans of R83 100 000 and creditors of R16 200 000. The inter company loans were funded from investor funds. Excluding inter group loans, FAS is technically insolvent in the amount of R20 869 000. There is no prospect that FAS will return to a position of solvency.

1.3 Abridged Income Statement for the period 1 February 2007 to 31 August 2007:

	R
	'000
Revenue	7 214
Other income	1 483
Overheads	<u>(7 514)</u> (see para 1.4)
Net profit before abnormal write off	1 183
Write off of inter company balances	<u>(60 672)</u> (see para 1.6)
Net loss after abnormal write off	<u>59 489</u>

ANNEXURE A

1.4 The breakdown of the FAS overheads is:

	R '000
Salaries	1 656 (i)
IT costs	905
Communication – Telephone and Fax	1 404 (ii)
Consultants Fees	657 (iii)
Repairs and maintenance	165
Staff Welfare	194
Insurance	292
Facilities	1 775 (iv)
Other	466
TOTAL	<u>7 514</u>

- (i) The overheads of FAS were reduced substantially at date of curatorship. The staff compliment was reduced to a financial accountant with three support staff, IT support staff of four, two payroll administrators, an HR assistant, a security manager, a security guard for one of the curators and two switchboard operators. In May 2007, the IT support function was sub-contracted at a reduced cost.
- (ii) The telephone and fax charges of the group are borne by FAS and recovered via a facility fee from the businesses.
- (iii) The professional fees largely comprise of the charges from Global Synapse which was contracted to perform the IT support function. The consulting fees also include tax assistance and consulting by ERP on Great Plains.

ANNEXURE A

(iv) The facilities cost of R1 775 000 comprises:

	R '000
Cleaning	245
Rent paid (Fidentia Johannesburg predominantly)	698
Security	646
Electricity and Water	82
Parking	104
TOTAL	1 775

- 1.5 FAS is structured to recover the group's overheads as a facility fee with the objective of achieving a break even result. For the seven months to 31 August 2007, FAS recorded a profit (before the abnormal write off) of R1 183 000 representing an over recovery of overheads which will be passed on to group companies resulting in FAS trading at break even.
- 1.6 Due to the shamboic state of the records prior to curatorship relating to inter company debtors and creditors, the curators decided to write off all inter group balances prior to Curatorship which gave rise to the abnormal write off of R60 672 000.
- 2. Fidentia Connect (Pty) Ltd (Connect)**
- 2.1 Connect operates the call centre on behalf of the Living Hands Trust, Ovation and Fidentia Infinity (Pty) Ltd. The facility fee charged by FAS includes the recovery of the Connect Salaries. The income in Connect post curatorship relates to charges to Ovation as well as a once off charge to AOS.
- 2.2 Connect was *prima facie* insolvent in the amount of R1 724 375 as at 31 August 2007, which was funded largely by inter group loans. These loans were in turn funded out of investor funds.

ANNEXURE A

- 2.3 Abridged Income Statement for the period 1 February 2007 to 31 August 2007:

	R
	'000
Revenue	108
Expenses – salaries	(860) *
Net loss before abnormal write off	(752)
Write off of inter company debtors	(1 479)
Loss after abnormal write off	(2 231)

* The staff compliment consists of a Call Centre Manager and nine call centre agents.

- 2.4 Connect is being managed as a cost centre post curatorship which resulted in the loss of R752 000.
- 2.5 There is currently an offer to purchase the assets within Connect. Negotiations in this regard are at an advanced stage.
3. **Automated Outsourcing Services Limited (AOS)**
- 3.1 AOS provides back office support to prominent financial institutions.
- 3.2 Abridged Income Statement for the period 1 March 2007 to 31 August 2007:

	R
	'000
Revenue	23 729
Interest received	90
Total income	<u>23 819</u>
Expenditure	<u>21 188</u>
Profit	<u>2 631</u>

- 3.3 The profit for the six months to 31 August 2007 of R2 632 000 compares to an audited profit of R1 760 000 for the year ended 28 February 2007.

ANNEXURE A

3.4 The improvement in profitability post curatorship is largely due to strict cash flow budgeting. Furthermore, the profitability post curatorship has been negatively impacted by the removal costs to the new premises, as well as the loss of significant business.

4. Fidentia Ayanda Collective Investment Solutions (Pty) Ltd (Ayanda)

4.1 Abridged Income Statement for the period 1 February 2007 to 31 August 2007:

	R
	'000
Revenue	25 897
Cost of sales	<u>(17 722)</u>
Gross Profit	8 175
Interest received	1 126
Expenses	<u>(1 874)</u>
Net profit before abnormal write off	7 427
Provision against loan to Bramber Alternative	<u>(10 384)</u>
Net loss after abnormal item	<u>(2 957)</u>

4.2 The loan to Bramber Alternative of R10 384 000 was provided for in full on the basis that Bramber Alternative is technically insolvent.

4.3 An offer from Ayanda's white label clients, who are acting as a consortium, has been submitted to the curators.

5. ERP Elemental (Pty) Ltd (ERP)

5.1 ERP provides software solutions and consulting to a variety of customers largely in the consumer market sector.

ANNEXURE A

- 5.2 ERP was *prima facie* insolvent by R1 574 000 as at 31 August 2007. A summarised Balance Sheet is detailed below:

	R '000
Current Assets	<u>3 677</u>
Shareholders deficit	(1 574)
Inter Group loan	3 255
Current liabilities	<u>1 996</u>
TOTAL	<u>3 677</u>

- 5.3 Abridged Income Statement for the period 1 February 2007 to 31 August 2007:

	R '000
Revenue	4 855
Cost of sales	<u>(4 673)</u>
Gross Profit	182
Other Income	71
Expenses	<u>(1 259)</u>
Net loss before abnormal profit	(1 006)
Write off of inter company creditors	<u>1 251</u>
Profit after abnormal item	<u>245</u>

- 5.4 While no further funding has been provided to ERP post curatorship, the company has continued to make losses. These losses have been funded by the collection of debtors which were on the books at date of curatorship.

- 5.5 The curators are attempting to dispose of this company for a value at least equal to the value of the outstanding inter-group loan account, as this loan account was funded predominantly by investors' funds.

ANNEXURE A

6. Fidentia Facilities Management (Pty) Ltd (Facilities)

6.1 Facilities is the owner of the group's moveable assets. Prior to curatorship, the company charged group companies a fee for the use of its assets.

6.2 Facilities was *prima facie* insolvent in the amount of R919 515 as at 31 August 2007. The summarised Balance Sheet is detailed below:

	R
	'000
Fixed Assets	43 227
Current Assets	1 023
Total Assets	44 250
Shareholders deficit	(920)
Inter group loans	38 273
Long term loans	4 500 *
Current liabilities	2 397
	44 250

* This amount represents asset financing owing to Standard Bank. The assets securing this liability were acquired with investors' funds. The assets were pledged pre-curatorship. The assets pledged have post curatorship been identified and returned to Standard Bank who attended to their disposal. We are currently waiting to be advised by Standard Bank of the prices achieved on the sale of these and in the event of these assets having been disposed of at a loss the quantum of the remaining exposure.

ANNEXURE A

- 6.3 Abridged Income Statement for the period 1 February 2007 to 31 August 2007:

	R
	'000
Profit on sale of fixed assets	763
Other income	<u>134</u>
Net profit before abnormal item	897
Write off of inter company balances	<u>(4 202)</u>
Loss after abnormal item	<u>(3 305)</u>

7. Arlenta Transactional Services (Pty) Ltd (Transact)

- 7.1 Transact is responsible for the administration systems of the Living Hands Umbrella Trust and Fidentia Infinity.

- 7.2 The net asset value of Transact at 31 August 2007 was R260 879. The summarised Balance Sheet of Transact as at 31 August 2007 is detailed below:

	R
	'000
Current assets	7 492
Inter Company loan	<u>185</u>
Total assets	<u>7 677</u>
Shareholders Funds	261
Net portfolio liabilities	2 854 *
Creditors	<u>4 562</u>
	<u>7 677</u>

* The net portfolio liabilities balance is still being reconciled.

ANNEXURE A

7.3 Abridged Income Statement for the period 1 February 2007 to 31 August 2007:

	R
	'000
Revenue	6 178
Net Interest Received	152
Overheads	<u>(5 480)</u>
Net profit before abnormal item	850
Write off of inter company balances	<u>(2 418)</u>
Net loss after abnormal write off	<u>(1 568)</u>

7.4 Transact is important to the continuing functioning of the LHUT and the intention is to continue trading this company with a view to ultimately disposing thereof.

8. Legatus Trust (Pty) Ltd (Legatus)

8.1 Legatus acts as an administrator of deceased estates.

8.2 The net asset value of the company at 31 August 2007 was R1 922 921. Included in the net asset value is R700 000 in respect of a Board of Executors Licence which has not been tested for impairment. The summarised balance sheet, as at 31 August 2007, is detailed below:

	R
	'000
Non current assets	700
Current assets	<u>2 076</u>
	<u>2 776</u>
Shareholders funds	1 922
Current liabilities	<u>854</u>
	<u>2 776</u>

ANNEXURE A

- 8.3 Abridged Income Statement for the period 1 February 2007 to 31 August 2007:

	R '000
Revenue	1 810
Expenses	1 345
Payroll costs	862
Facility Fee to FAS	135
Rent	91
Other indirect overheads	257
Profit before tax	465
Tax	(135)
Profit after tax	330

- 8.4 There is currently a dispute as to ownership of Legatus, with Ovalton/Cornerstone and Fidentia laying claim thereto. Pending resolution of this dispute Legatus is under our control. Once the dispute is resolved a decision will be taken regarding Legatus.
9. **Infinity (Pty) Ltd (Infinity)**
- 9.1 Infinity is the operator of two loyalty programmes, the Infinity Card and the Wild Card.
- 9.2 Based on our scrutiny of the management accounts, there were numerous deficiencies in the accounting records. Accordingly, it was necessary to remap the chart of accounts and reprocess all the transactions from 1 March 2006 to 31 August 2007..
- 9.3 The revised financial statements will be completed shortly.
- 9.4 The business has been managed by monitoring the cash flows on a weekly basis. From a cash flow perspective, Infinity has been marginally cash positive.

ANNEXURE A

10. Policy Exchange (Pty) Ltd (Polex)

- 10.1 Polex trades in second hand insurance policies.
- 10.2 The net asset value of Polex was R3 098 514 at 31 August 2007 after raising a provision of R7 117 750 against the loan to Bramber Alternative.

- 10.3 Abridged Income Statement for the period 1 February 2007 to 31 August 2007:

	R
	'000
Gross profit	451
Other Income – Interest received	54
	<hr/> 505
Overheads	1 056
	<hr/> (551)
Net loss for the period	(7 117)
Provision against Bramber Alternative loan	<hr/> (7 117)
Net loss after abnormal item	<hr/> (7 668)

11. Software Futures (Pty) Ltd (Software Futures)

- 11.1 Software Futures has contracts in the financial services sector to provide IT Consulting services.
- 11.2 The sale of Software Futures has been successfully concluded with the approval of the FSB. The approval from the Competition Commission authorities is still outstanding. The net asset value at date of sale was approximately R11.3 million and the sale price was R12.2 million.
- 11.3 From a cash flow perspective, Software Futures has generated cash from operations of R9.1 million post curatorship. Of the R9.1 million, R8.8 million was utilised to repay the inter-company loan and applied for the repayment of stipends.

1. Cash Generated Post Curatorship

1.1.1 Cash flow of the trading companies from the date of curatorship

1.1.2 The net cash on hand at date of commencement of curatorship amounted to R8.9 million, represented by positive cash balances of R13.4 million and borrowings of R4.5 million, secured by fixed assets.

1.1.3 Cash of R66.3 million has been generated by the business units from date of curatorship to 30 September 2007 and comprises:

	R
	'000
VAT refunds from SARS	24.4 (See 1.1.4 <i>infra</i>)
Loan to Ms D Baloyi recovered	8.0 (see 1.1.5 <i>infra</i>)
Funds recovered from Legatus	5.0
Cash generated by operating activities	28.9 (see 1.1.6 <i>infra</i>)
	<u>66.30</u>

1.1.4 The VAT recovery of R24.4 million largely related to the reversal of a transaction by the curators between Bramber Alternative and Fidentia Holdings. Fidentia Holdings charged a fee of R151.8 million inclusive of VAT on the unrealised surplus of R665 million on the revaluation of investments held by Bramber Alternative. The transaction was reversed on the basis that the transaction was unlawful and Fidentia Holdings was not entitled to the fee. The total VAT recovered on this transaction amounted to R18.6 million from which outstanding P.A.Y.E of R4 million was deducted by SARS. The balance of the VAT recovered is in respect of the reversal of inter group balances between operating and dormant subsidiaries.

1.1.5 The loan to D Baloyi of R7 955 900 by Fidentia Holdings was repaid on 29 May 2007.

Annexure B

- 1.1.6 The trading companies generated cash of R28.9 million for the period 1 February 2007 to 30 September 2007, of which R22.2 million was transferred to the LHUT for the payment of Stipends to beneficiaries. The excess of R6.7 million was applied in October to pay the September stipend.

- 1.1.7 The cash outflow to pay stipends amounted to R63.6 million which is made up as follows:

	R '000
VAT refunds distributed	24.4
Recovery of loan to D Baloyi distributed	8.0
Funds recovered by Legatus distributed	5.0
Distributions from Business Units	22.2
Repayment of loans	15.8
Dividend from Ayanda	4.8
Rental paid by Shekels	1.6
Transfer from FAM	4.0
	<hr/>
	63.6

- 1.1.8 The net cash balance at 30 September 2007 amounted to R15.5 million represented by cash balances of R20.0 million and borrowings of R4.5 million secured by fixed assets.

Annexure B

2. Living Hands Umbrella Trust Account (LHUT)

2.1 At the commencement of the curatorship, the LHUT had cash on hands of R3 656 000.

2.2 The undermentioned transfers were made to the LHUT for the period 1 February 2007 to 30 September 2007, the source of which is detailed below:

	R '000
VAT refunds	24.4
Loan to D Baloyi distributed	8.0
Legatus Funds	5.0
Transfers from Trading Companies	22.2
New Funds after Curatorship	1.2
Transfer from FAM	4.0
Refunds	0.2
Capital recovery transferred from Hofmeyr Trust account	2.5
	67.5

2.3 The LHUT made payments of R66.6 million to beneficiaries for the period 1 February 2007 to 30 September 2007, which are summarised below:

	Monthly Stipends R '000
February	5.3
March	17.8
April	9.0
May	8.8
June	8.6
July	0.1
August	17.0
September	0.1
	66.7

*

Annexure B

* An additional R8 million was paid during October 2007, being the September stipends. Including this amount, the curators have paid stipends totaling R74.7 million.

- 2.4 The cash on hand in the Living Hands Trust Account at 30 September 2007 amounted to R1 644 919.

**CIVIL CLAIMS INSTITUTED ON BEHALF OF CURATORS AND AGAINST
FIDENTIA GROUP IN CURATORSHIP AS AT 13 NOVEMBER 2007**

A) CLAIMS INSTITUTED BY CURATORS

PLAINTIFF	DEFENDANT/S	NATURE OF CLAIM	AMOUNT RECOVERED	STATUS OF CLAIM	ADDITIONAL COMMENTS
Fidentia Holdings (Pty) Ltd	Yellowwood Brand Architects (Pty) Ltd	Amounts advanced in lieu of failed transaction.	R4 270 494,80	Matter finalised	
Flight Solutions (Pty) Ltd	Standard Bank	Amounts advanced in lieu of travel arrangements that were subsequently cancelled.	R45 575,87	Matter finalised	No formal proceedings required.
Fidentia Holdings (Pty) Ltd	H R Barn ("Barn")	Claim for the sum of R8.5 million in respect of Fidentia Holdings (Pty) Ltd share transaction.		Particulars of claim being drafted.	Claim was preceded by an application brought by Barn for a declarator order claiming issue and allotment of shares. Fidentia successfully opposed this and is entitled to its costs of the application which are still the subject matter of taxation and dispute.
Fidentia Group	Graham Maddock ("Maddock"); Jukeyn Trust and Justkel Trust	Monies lent and advanced.	R1 011 838,52	Claim has been opposed by Maddock whose attorneys have denied the indebtedness and alleged that the loans were repaid.	Formal proceedings are now being instituted.
Fidentia Group	Arthur Joseph Brown ("Brown")	Monies lent and advanced on loan account - R25 543 351,96		Application for the sequestration of Brown and Mrs Brown's estate was launched on 21 September 2007 under Cape High Court case number 13420/07. Matter has been opposed and is set down for hearing on 22 November 2007.	Answering affidavit filed Thursday, 8 November 2007. Reply due 14 November 2007.
Fidentia Group	Steven Goodwin ("Goodwin")	Fidentia has various claims against Goodwin arising out of alleged unlawful profit share payments and other amounts paid to him by the Fidentia Group under questionable circumstances.	R1 million to date.	A conditional settlement, (subject to a confidentiality agreement), has been reached with Goodwin in terms of which substantial amounts will be repaid.	Intabrand and Worthytrade 185 (Pty) Ltd companies previously controlled by Goodwin were used as conduits for the payments. Both companies were liquidated by special resolution. Steps have been taken to resurrect these entities and fully investigate their affairs and the flow of funds through their banking accounts.

Fidentia Group	Sunset Beach property trusts (ent 19590 and 19571) – trustees of the SL Brown Family Trust and the CAM Brown Family Trust				Application for transfer of properties to Fidentia argued on 17 August 2007 and was dismissed by Judge Cleaver. Curators have now issued summons against the trustees of the SL Brown Family Trust and CAM Brown Family Trust under case number 14267/07 for return of the monies used to purchase the properties. Matter has been defended and summary judgment application is set down for hearing on 15 November 2007.	Opposing affidavit in summary judgment application due 13 November 2007.
Fidentia Group	Louis Koen ("Koen") / Clarabel Trust	Various amounts were advanced to Koen and/or his family trust by Fidentia for loans, dividends and restraint of trade payments. The amount involved is approximately R10 million.	First payment of R789 011,00 towards settlement has been received to date.	Settlement agreement was negotiated with Koen and the Clarabel Trust, in which the amounts due to Fidentia are being repaid on terms agreed upon.	Second payment expected at the end of November 2007.	
Fidentia Group	Martin Van Schalkwyk ("Van Schalkwyk")	Loan advanced to Van Schalkwyk in the sum of approximately R1.6 million in order to assist Van Schalkwyk or his wife in purchasing a fixed property.		Van Schalkwyk alleges that the money was advanced to him by Brown personally and not Fidentia.	Curators may institute claim against Van Schalkwyk directly depending on the outcome of Brown's sequestration application. Van Schalkwyk also possibly encumbered his or his wife's fixed property as security for Brown's bail.	
Fidentia Holdings (Pty) Ltd	Sandra Burger ("Burger")	Fidentia has a claim against Burger in the sum of R782 222,00 in respect of dividends paid to her at a time when the Curators allege that no dividends were payable.	R30 000,00	Settled.	Burger signed an acknowledgement of debt in favour of the Curators and is repaying the amount advanced on agreed terms of R10 000,00 per month for 24 months with a lump sum payment on the 25 th month of the outstanding balance.	
Fidentia Holdings (Pty) Ltd	Simmlone Maritz ("Maritz")	Fidentia has a claim against Maritz in the sum of R782 222,00 in	R20 000,00	Settled.	Maritz signed an acknowledgement of debt in favour of the Curators and is repaying	

		respect of dividends paid to her at a time when the Curators allege that no dividends were payable			the amount advanced on agreed terms of R10 000,00 per month for 24 months with a lump sum payment on the 25 th month of the outstanding balance.
Fidentia Group	Second Start 9 (Pty) Ltd	This company owns 2 properties in Eversdal, Western Cape which are currently being leased by the choir that Fidentia previously sponsored. The registered shareholders of the company are Koen and Brown. Koen has agreed to his 50% share of the company being transferred to the curators upon the sale of the properties which is in progress. Brown's share forms part of his estate.		Pending.	The claim against Brown for his 50% shares forms part of the sequestration application. The claim against Koen for his 50% shares forms part of the settlement with Koen.
Fidentia Group	Melanie Oettle ("Oettle")	The Fidentia Group possibly has a claim against Oettle based on amounts advanced to Oettle for the purchase of a property in Milnerton, Western Cape on the alleged instructions of Brown.		Pending.	Oettle has been summonsed to appear at an examination which examination will <i>inter alia</i> deal with this issue.
Fidentia Group	Facets Ladies Lifestyle Centre (Pty) Ltd	Monies lent and advance.		The Company has been placed into liquidation.	In the process of formalizing claim with liquidator. May not be necessary to submit claim in light of arrear rental and admin rental as preferred claims. Meeting with liquidators next week
Fidentia Infinity	Automobile Association of South Africa ("AA")	Amount claimable R5,6 million.		The company has a claim against the AA in respect of services rendered in terms of a contract. AA disputes its liability.	In the process of preparing summons and particulars of claim.
Fidentia Group	Sheekles Trading 18 (Pty) Ltd	Liquidation application as against Sheekles.		Matter finalised.	Matter was opposed and Application then withdrew application.

Fidentia Group	Scheekies Trading 18 (Pty) Ltd	Outstanding rental – R5 673 780,00.		Liquidation application drafted.	Curators deciding whether to proceed.
Fidentia Group	Inlabrand and Worthytrade 185 (Pty) Ltd	Amounts lent and advanced to the companies involving tens of millions of rands.		These two companies were controlled and owned by Goodwin. Inlabrand was liquidated by way of special resolution in and during 2005. Worthytrade is currently in liquidation having also been liquidated by way of special resolution. The Curators are in the process of reopening the liquidation of Inlabrand and appointing new liquidators to Worthytrade so as to finalise their claims against these entities.	The liquidators of Worthytrade have launched an anti-dissipation interdict against Hamlyn Properties LLP, a property company linked to Goodwin.
Fidentia Holdings (Pty) Ltd	Johan Linde	Claim of R5 137 778,00 million.	R5 137 778,00 paid on 18 September 2006.	Settled.	(Linde entered into a settlement agreement and has repaid the amount due).
Fidentia Holdings (Pty) Ltd	S Dekker/Baysands Trust	Dividend payments amounting to R117 333,30.		Summons in the process of being issued.	
Fidentia Holdings (Pty) Ltd	Zach Brown / The Dutchman Trust / ZC Brown Family Trust	Dividend payments amounting to R2 737 778,00.		Summons in the process of being issued.	
Fidentia Holdings (Pty) Ltd	Johan De Jongh / The Groenval Trust / The Malopo Trust	Dividend payments amounting to R2 737 778,00.		Summons in the process of being issued.	
Fidentia Holdings (Pty) Ltd	Hjalmar Mulder / The Megson Trust / The HSM Family Trust	Dividend payments amounting to R2 737 778,00.		Summons in the process of being issued.	
Fidentia Holdings (Pty) Ltd	Andrew Tucker / The Tashnik Trust / The Mini Moon Trust	Dividend payments amounting to R2 737 778,00.		Summons in the process of being issued.	
Fidentia Holdings (Pty) Ltd	Graham Maddock / The Justkel Trust	Dividend payments amounting to R5 474 844,00.		Summons in the process of being issued.	
Fidentia Holdings (Pty) Ltd	Arthur Brown / Brown Brothers Family Investment Trust /	Dividend payments amounting to		Summons in the process of being issued.	

	JAW Brown Family Trust	R8 620 089,00.		issued.	
Fidentia Holdings (Pty) Ltd	Graham Maddock	Alleged restraint of trade payments amounting to R3 600 000,00.		Summons in the process of being issued.	
Fidentia Holdings (Pty) Ltd	Arthur Brown	Alleged restraint of trade payments amounting to R3 600 000,00.		Summons in the process of being issued.	
Fidentia Holdings (Pty) Ltd	Hjalmar Mulder	Alleged restraint of trade payments amounting to R2 400 000,00.		Summons in the process of being issued.	
Fidentia Holdings (Pty) Ltd	Andrew Tucker	Alleged restraint of trade payments amounting to R2 400 000,00.		Summons in the process of being issued.	
Fidentia Holdings (Pty) Ltd	Lodewyk Spies	Alleged restraint of trade payments amounting to R2 400 000,00.		Summons in the process of being issued.	
Fidentia Holdings (Pty) Ltd	Johan De Jongh	Alleged restraint of trade payments amounting to R2 400 000,00.		Summons in the process of being issued.	
Fidentia Holdings (Pty) Ltd	Zach Brown	Alleged restraint of trade payments amounting to R2 400 000,00.		Summons in the process of being issued.	
Fidentia Group	Ovation Group	Fidentia has a claim against the Ovation Group in the order of R1 10 million for monies lent and advanced.		This will be lodged with the Curators of Ovation.	
Fidentia Group	Ovation – Global Investments Services (Pty) Ltd	Fidentia advanced an amount of approximately R6 million on behalf of Ovation in respect of a debt which was due by Ovation to SARS.		Particulars of claim are currently being drafted.	It may not be worth instituting a claim against Ovation due to the fact that it is also under curatorship and in a precarious financial situation. Matter could possibly be negotiated and settled between the respective curators.
Fidentia Group	Deceased estate Angus Crulickshank	Fidentia has substantial claims against the deceased estate of		The Curators brought a sequestration application against the deceased estate	The Curators are in the process of quantifying the claim.

		the late Angus Cruickshank. A portion of these claims may be included in the figure of R110 million due by the Ovation Group.		of Cruickshank. This was opposed by the administrator and the deceased's wife in her capacity as executor. The application was successful and the final order of sequestration was granted on 19 June 2007.	
Fidentia (Software Futures)	Mikrozone Trading	Fidentia has a claim against the company as a result of a rental agreement. The amount due is R474 750,96.		Parties are presently in negotiation to attempt to achieve a settlement.	
Fidentia Holdings	Turquoise Moon Trading	Amount advanced by Fidentia Holdings to Turquoise Moon.	R2 million	No basis for the funds to be advanced. Section 345 letter of demand furnished to registered address of Defendant. Defendant denies liability.	In the process of preparing liquidation application.
Fidentia Holdings (Pty) Ltd	Brownel Trucking (Pty) Ltd	Monies lent and advanced – R772 148,14.		Section 345 of Companies Act letter delivered.	No response from debtor. Liquidation application being prepared.
Fidentia Group / Flight Solutions (Pty) Ltd	Natalie Stevenson	Monies lent and advanced – R1 041 104,28		Formal letter of demand sent.	
Fidentia Group / Flight Solutions (Pty) Ltd	Natalie Stevenson	Monies lent and advanced – R298 662,87		Formal letter of demand sent.	
Fidentia Software Futures (Pty) Ltd	Alex Woodburn ("Woodburn")	Enforcement of restraint of trade against Woodburn – restraint successfully enforced.	R37 500,00 (costs of suit)		

B) CLAIMS AGAINST FIDENTIA

DEFENDANT	PLAINTIFF	NATURE OF CLAIM	AMOUNT CLAIMED	STATUS OF CLAIM	ADDITIONAL COMMENTS
Fidentia Group	SABC	SABC launched urgent application against Curators for access to transcript of examinations.		Hofmeyr opposed the application. SABC withdrew the matter and tendered legal costs.	Costs in the process of being taxed.

		Application heard on 11 July 2007.				
Fidentia Holdings (Pty) Ltd	Shumani Printers (Pty) Ltd		R100 924,20	Summary Judgment application was opposed and Shumani Printers withdrew its claim. Matter appears to be finalised.		
Fidentia Group	Sante Wineyards / M Tuscher	Hofmeyr opposed liquidation of Sante and Tuscher withdrew the application for liquidation.		Matter finalised.		
Fidentia Group	Sante Wineyards Hotel & Wellness Centre / R Nieuwenhuis	Summons was issued for R20 000,00. Nieuwenhuis applied for summary judgment. Application was opposed and subsequently refused by the Court.		Matter has not been proceeded with any further.		
Fidentia Group	Roubaix Vars Produkte CC	Goods sold and delivered.	R101 558,91	Judgment obtained on 13 April 2007.	Claim would presumably be submitted in the curatorship	
Fidentia Group	New Media	Judgment obtained by New Media against Sante on 2 May 2007.		Goods attached. New Media's attorneys persuaded not to proceed with the sale.		
Fidentia Administration Services (Pty) Ltd	Port Ferry Properties 48 (Pty) Ltd	Claim instituted for non payment of rent and other amounts due in terms of Sandlon premises lease.		Landlord's damages claim and costs still needs to be quantified.		
Fidentia Rangers Football Club & Fidentia Rangers Football Club (Pty) Ltd & Rich Rewards trading 45 (Pty) Ltd & Curators of the Fidentia Group	SAPFU obo Cunningham & 6 Others	Unfair dismissal and payment of alleged outstanding statutory amounts.			Pre-trial minute recently filed with Registrar of Labour Court – awaiting date for trial which is anticipated late 2008.	
Fidentia (Software Futures (Pty) Ltd) & D Gihwala N.O.	Marika Lewis	Unfair dismissal and payment of alleged outstanding statutory amounts.			Statement of response recent filed on behalf of Respondents – now awaiting pre-trial	

