

**COPY**

**IN THE HIGH COURT OF SOUTH AFRICA**

**(GAUTENG DIVISION, PRETORIA)**

Case number: 22463/2009

In the *ex parte* application of:

**THE EXECUTIVE OFFICER OF THE FINANCIAL**

**SERVICES BOARD**

In re:

**THE BUSINESS OF A PORTFOLIO AND THE FINANCIAL**

**SERVICES BUSINESS OF:**

**CORPORATE MONEY MANAGERS (PTY) LTD**

**(REGISTRATION NUMBER: 1999/023598/07)**

**CMM FINPRO (PTY) LTD**

**(REGISTRATION NUMBER: 2008/003729/07)**

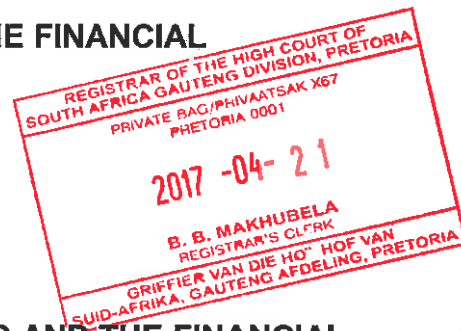
**MIRO CAPITAL (PTY) LTD**

**(REGISTRATION NUMBER: 2005/02683/07)**

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

**(REGISTRATION NUMBER: 2007/024543/07)**

**REGENT GROUP CAPITAL (PTY) LTD**



Applicant

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**(FORMERLY CALLED TWO SHIPS TRADING 307 (PTY) LTD)**

**(REGISTRATION NUMBER: 2007/033891/07)**

**ESCASCAPE INVESTMENTS (PTY) LTD (T/A SAKHA IBLOKHO)**

**(REGISTRATION NUMBER 2008/020099/07)**

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

**(REGISTRATION NUMBER 2007/000860/07)**

**CMM CASH MANAGEMENT FUND (THE BUSINESS)**

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**CURATORS' REPORT REFLECTING THE STATUS OF THE CURATORSHIP AS  
AT THE 28<sup>TH</sup> OF FEBRUARY 2017**

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**INTRODUCTION:**

1.

This Honourable Court on application of the Executive Officer of the Financial Services Board granted an order on the 28<sup>th</sup> of April 2009, placing the business of Corporate Money Managers (Pty) Ltd and other associated legal entities under provisional curatorship.



## 2.

The order was confirmed and extended on a number of occasions, *inter alia* extending the curators' powers and placing the businesses of a number of other entities under curatorship.

## 3.

We as curators have filed numerous reports, the latest which reflected the status of the curatorship as at the 29<sup>th</sup> of February 2016, on the 2<sup>nd</sup> of March 2016.

## 4.

The report referred to above was noted by the above Honourable Court on the 19<sup>th</sup> of May 2016.

## 5.

This Court again extended the curatorship ordering, the curators to report to Court by 31 March 2016 on a number of subjects that was included in the order.

## 6.

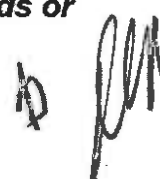
We were ordered to deal with the following issues in this report.

## 7.

7.1 ***"The status of the curatorship as at the 28<sup>th</sup> of February 2017.***

7.2 ***The costs of the curatorship incurred from 1 February 2016 to 31 January 2017.***

7.3 ***An overview of assets disposed of or alienated and how the proceeds or other assets of the curatorship were/are intended to be distributed.***



- 7.4 ***Further irregularities found to have been committed by the entities, or their officers or management or by other persons, not reported on before, and the state of any prosecution which may have been instituted.***
- 7.5 ***Details of the status of civil actions which may have been instituted by or against the curators over the reporting period.***
- 7.6 ***A detailed plan concerning the future of the curatorship with estimated timelines and cost implications for the different projects in which investor funds have been invested, such plan to indicate further:***
- a) ***Which of the entities have over the reporting period been or are likely to be liquidated;***
  - b) ***Which entities may become the subject of a scheme of arrangement;***
  - c) ***Which entities business are probably expected to be remain under curatorship.***
- 7.7 ***A motivation as to whether the continued appointment of three curators to undertake and oversee the future of the curatorship is still warranted.***
- 7.8 ***Any recommendations as to how the curatorship or any related matter should be dealt with as from 28 February 2017 onwards."***



8.

We were obliged to file quarterly reports to the Financial Services Board stating what the progress was with regard to the curatorship assets and liabilities, according to a template prescribed by the Financial Services Board as the curatorships' supervisor.

**THE STATUS OF THE CURATORSHIP AS AT 28 FEBRUARY 2017:**

9.

Since our appointment by Court in 2009, we have filed a number of reports outlining and detailing the approach that we have adopted throughout.

10.

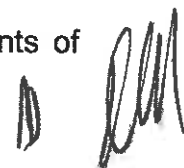
We investigated the affairs of Corporate Money Managers and its subsidiaries extensively, we secured the assets to the best of our ability, registered tangible security wherever we could, whereafter we embarked upon the realisation of these assets so found and secured.

11.

In due course we also embarked upon extensive litigation to recover and collect the investments made by the management of Corporate Money Managers in a number of underlying assets.

12.

In our previous reports we dealt extensively with our failures and successes and presented to Court, a detailed report setting out the nature of the investments of



investor funds, the security we held or had registered, the procedures followed to recover the investment, our recoveries and provision for the write off of a portion of the assets where we could not realize the assets.

13.

Since we have dealt extensively in our previous report with the business of Corporate Money Managers and its assets, we do not intend repeating what was stated in previous reports, and will concentrate in this report on events that took place since our March 2016 report.

14.

This report is a supplementary report to all the other reports that have been filed and were noted by this Court.

15.

What follows is a globular description of the financial position in the reporting period being March 2016 until 28 February 2017.

**THE FINANCIAL POSITION OF THE CURATORSHIP AS AT THE 28<sup>TH</sup> OF FEBRUARY 2017:**

16.

The curatorship inherited and continued to manage the following bank accounts, the credit balances of each account is reflected hereunder as at the 1<sup>st</sup> of February 2016.



16.1	Standard Bank settlement account	R3,114,341.00
16.2	Credit on attorney trust account	R360,551.00
16.3	Absa Call account	R909,269.00
16.4	Consolidated Investec account	R817,232.00
16.5	Rosebank account	<u>R167,438.00</u>
Total positive bank balance in bank accounts as at 1 February 2016		<b>R5,368,831.00</b>

### 17.

From the 1<sup>st</sup> of February 2016 until the 31<sup>st</sup> of January 2017, the total inflow into these accounts are summarised as follows:

17.1	Recoveries of Four River assets	R4,086,896.00
17.2	Recoveries on Escascape assets	R5,893,133.00
17.3	Recoveries on 424 Action	R8,822,403.00
17.4	Bank interest received	<u>R67,614.00</u>
Total:		<b>R18,870,046.00</b>

### THE SOURCES OF THE TOTAL INFLOWS:

The inflow referred to above represent returns on the realization of assets listed below.

## 18.

18.1 Four River Assets

Red Coral Investments 37	R1,007,315.00
New Approach Building Projects Witbank	R1,029,420.00
Rencourt Trading Kamagugu Township	R1,827,197.00
Autumn Star Trading	<u>R222,964.00</u>
<b>Total:</b>	<b>R4,086,896.00</b>

18.2 Escascape Assets Truzane Garankuwa

Truzane / Asanda	R5,255,561.00
East Dune Trading	R500,00.00
Hayden Dun	<u>R137,572.00</u>
<b>Total:</b>	<b>R5,893,133.00</b>

18.3 424 Recoveries

Nzalo Financial Services (advanced dividend)	R4,000,000.00
Thunderstruck (advanced dividend)	R4,700,000.00

Diverse Recoveries	<u>R124,403.00</u>
Total:	<b>R8,822,403.00</b>


## 19.

The curators have since our appointment liquidated and recovered assets as well as costs incurred in order to recover these assets to the value of R312,802,206.00 (three hundred and twelve million eight hundred and two thousand two hundred six rand).

## 20.

The monies so received have been expended as follows:

20.1 Refunds to investors who deposited monies after closure of the fund on 3 April 2009	R13,313,698.00
20.2 Interim payments to investors	R70,278,119.00
20.3 Hardship payments to investors	R13,227,865.00
20.4 Development costs, clearance figures etc.	R5,626,556.00
20.5 Legal fees	R96,399,241.00
20.6 Curators' fees	R33,579,755.00
20.7 Expert accounting and forensic Investigation costs	R34,614,369.00
20.8 Administrative costs	R1,553,901.00

R  


20.9 Audit fees	R2,564,313.00
20.10 Security costs (Misty Hills and the like)	R1,860,588.00
20.11 Office expenses	R1,184,147.00
20.12 Marketing costs in respect of properties	R203,386.00
20.13 Bank interest paid	R20,376.00
20.14 Office rental and utilities	R2,855,158.00
20.15 Computer expenses	R97,401.00
20.16 Travel and motor vehicle expenses	R314,170.00
20.17 Value Added tax (expended still to be refunded by SARS)	R14,532,530.00
20.18 Security costs Green Hills	R150,000.00
20.19 Le Roux Viviers payment of bond in respect of Lutraweb	R3,600,000.00
20.20 Bosch & Lindenburg payment	R2,000,000.00
20.21 Bubezi clearance costs	R57,173.00
20.22 Swaziland payments	R219,502.00
20.23 Personnel costs	<u>R8,396,765.00</u>
<b>TOTAL</b>	<b>R306,649,013.00</b>

## 21.

At present the curatorship has cash available as at 31st of January 2017 in the amount of R2,427,059.00.

## 22.

The curatorship made payment of the following costs and disbursements in the reporting period.

22.1	Dividend payments to investors	R362,837.00
22.2	Legal fees	R14,283,362.00
22.3	Curators' fees and disbursements	R4,829,847.00
22.4	Expert accounting and forensic investigation costs	R2,245,536.00
22.5	Administrative costs	R73,574.00
22.6	Office expenses	R2,502.00
22.7	Office rental and utilities	<u>R14,160.00</u>
	Total:	<u><b>R21,811,818.00</b></u>

## 23.

The legal fees incurred justify comment.

## 24.

The curatorship has expended legal fees in respect of the following matters.

## 25.

(The figure expended is mentioned next to the project.)

25.1	Amalgum Investments/Bronkhorstspuit Industriële Beleggings	R73,084.00
25.2	New Approach Building Projects	R10,926.00
25.3	Autumn Star Baybridge	R24,504.00
25.4	Finfactor	R200,838.00
25.5	Finfactor Real Time	R66,485.00
25.6	Theo Kies	R297,327.00
25.7	Come What May	R4,341,00
25.8	Asande Garankuwa Truzane	R172,664.00
25.9	VNP Projects	R422.00
25.10	Empire Marketing	R399,590,00
25.11	Classic Crown	R85,602.00
25.12	Wilkenson DC	R10,443,00
25.13	C Kannemeyer	R310,003.00
25.14	Regent General	R69,255.00
	<b>Total:</b>	<b><u>R1,725,484.00</u></b>

## 26.

Apart from the figures quoted above, a total amount of R4,965,446.00 was expended towards the preparation for the Absa matter.



27.

We also made payment of the taxed account of our attorneys in respect of the Thunderstruck/424 action in the amount of R7,519,609.00.

28.

Of the total amount expended towards litigation (inclusive of disbursements) in the amount of R14,283,362.00 the bulk went towards the Absa matter and the 424 matter which we have dealt with extensively in previous reports.

29.

As can be seen from the figures quoted above, the curatorship is slowly winding down.

30.

Other than enhancing the value and attempting to dispose of the remainder of the assets and finalising the last litigious matters, the curatorship are not conducting any business and are concentrating on advancing the action instituted against Absa Bank, bringing it to trial as soon as possible.

31.

Since the Financial Services Board has withdrawn the licence of Corporate Money Managers and the Court having found, (the Honourable Judge Murphy), that the financial instruments purchased were illegal, there is no prospect of Corporate Money Managers or its subsidiaries being resuscitated and ever participating in normal commerce again.

32.

What remains is for the curators to dispose of the balance of the assets under our control, the completion of the last litigious matters, the recovery of value added tax and income tax paid to the South African Revenue Services and then, of course, pursuing the claim against Absa bank which we deal with below in more detail.

33.

What follows below is a short summary highlighting the assets disposed of and/or alienated, how we intend distributing the proceeds of the assets, the details of the remainder of the civil actions which has been instituted.

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

34.

Despite the best efforts of ourselves, our legal representatives who assisted and conducted the trial on behalf of ourselves against Johan Bakkes, the managing director of Corporate Money Managers and other, we have not yet been able to convince the South African Police Services to prosecute Bakkes *et al*.

35.

We have had numerous meetings with senior members of the South African Police Services and various investigating officers have been allocated to the matter for further investigation.



36.

Despite this having happened, we have not as yet received confirmation from the South African Police Services that they have decided to prosecute Bakkes *et al.* We are on a regular basis communicating with them and have presented all the evidence at hand to those who have been tasked with the investigation.

37.

We hope to have good news for investors shortly as we do not have the authority to make decisions in this regard, we are unfortunately not in a position to report any meaningful progress as yet.

38.

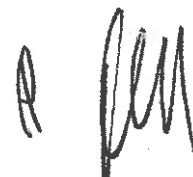
It may be of assistance if the Honourable Court could request the Director of Public Prosecutions to consider the matter and to give instructions to the SAPS with regard to the investigation.

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

39.

**The litigation with Absa Bank, U-Bank and Mi-hold:**

The curators have instituted proceedings against Absa Bank. The curators are of the view that Absa Bank stands to be held liable for the losses of the investors since they failed to comply with their fiduciary duties as trustees.



40.

Similar actions were instituted against Absa Bank by U-bank and Mi-hold.

41.

The curators instituted their action out of this Court whilst Mi-hold and U-bank litigation commenced in the Gauteng South division of this Court.

42.

Shortly after the summons issued, on instructions of the curators, have been served Absa Bank filed a notice of intention to defend the matter.

43.

An exception to the particulars of claim followed.

44.

The exception was eventually heard by the Honourable Judge Fabricius. Apart from two minor amendments the exception was dismissed.

45.

Absa has subsequently filed a plea as well as a third party notice in terms of which they cited Corporate Money Managers (Pty) Ltd as a third party.

46.

In recent months the plea thereto had been filed whereafter the pleadings have been closed.



47.

The curators are at the moment busy compiling the discovery affidavit, have filed normal notices in terms of Rule 37 and have applied for a trial date.

48.

Instructions were given to the curators' legal representatives to arrange a meeting with the Deputy Judge President of this Honourable Court for the appointment of a case manager and the allocation of a special trial date.

49.

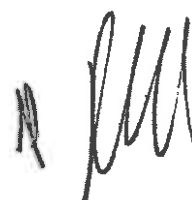
It is envisaged that the matter will be heard no later than 2018 and will it in all probability be enrolled for a term.

50.

Much was said in our previous reports about the U-bank and Mi-hold matters which were supposed to be heard during 2016. The curators of Corporate Money Managers (Pty) Ltd were joined as Third Parties to the U-Bank action, but have been advised not to oppose the relief sought against Corporate Money Managers (Pty) Ltd.

51.

Neither of the parties were ready for trial and these matters were not enrolled.



52.

Arrangements have since been made to proceed by way of arbitration before the Honourable SCA Judge (retired) Fritz Brand as arbitrator to hear the matter, but the final arbitration agreement has not yet been signed.

53.

The curators are confident that the matter where the Curators are the Plaintiffs against Absa will proceed during 2018 alternatively early in 2019. It is an extremely complex matter and it involves vast volumes of documentation and evidence and our estimate is that at least a full court term will be required for the hearing of the matter.

**THE PENDING DISPUTE WITH THE SOUTH AFRICAN REVENUE SERVICES  
REGARDING THE PAYMENT OF VALUE ADDED TAX AND INCOME TAX:**

54.

**CMM income tax:**

Corporate Money Managers made payment of provisional tax in the amount of R8,667,398.94 shortly prior to curatorship.

55.

The provisional tax payments were calculated and made on factually incorrect assumptions made by the then management of Corporate Money Managers as to the profit that the company has made in the relevant tax period.



56.

After the investigations of the curators have been completed, the financial statements of the company were restated, reflecting that no taxable income existed in the relevant period.

57.

It follows that the provisional tax paid by CMM to the South African Revenue Services became refundable to the company.

58.

During 2012 the curators submitted a revised income tax return prompting an audit by SARS.

59.

SARS during 2013 and again around September 2015 conducted a further audit into the affairs of Corporate Money Managers.

60.

The curators appointed tax accountants and an attorney who specialises in tax affairs to assist and were advised that instituting action against SARS for recovery would not have the desired effect.

61.

Further negotiations took place between SARS and the attorneys appointed by the curators resulting in further audits being conducted.

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62.

The curators have recently been advised, during a meeting with senior representatives of the South African Revenue Service, that the audit has been completed and that a decision as to the repayment of the taxes paid in error is eminent.

63.

The current balance owing to the curatorship for the relevant period amounts to R12,049,039.00.

64.

A similar approach has been adopted in respect of the Allegro tax refund claimed back. The quantum of this claim is R5,600,000.00 plus interest from 2009 until date of payment.

**CMM VALUE ADDED TAX:**

65.

Whilst conducting the investigation and specifically dealing with senior representatives of the South African Revenue Services, SARS raised VAT assessments in June 2016, effectively disallowing the deduction of all input taxes for the VAT periods between 2013 and 2015. The curators objected thereto.



66.

The attorneys representing the curators engaged with the South African Revenue Services, whereafter a number of meetings followed

67.

SARS has indicated that the assessments raised was done erroneously and undertook to withdraw the assessments.

68.

The decision to withdraw the assessments, we understand, has been made and motivations have been prepared for the senior executive of the South African Revenue Services to consider in this regard.

69.

We have been advised that this should be completed by no later than the end of April 2017.

70.

The amount that stands to be recovered in respect of VAT is approximately R6,500,00.00 plus interest.

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**THUNDERSTRUCK, JOHAN BAKKES AND MARITA BAKKES:**

71.

There have been some delays with the confirmation of the liquidation and distribution account of Thunderstruck (Pty) Ltd by the Master of the High Court.

72.

As is evident from the content of this report, the curators have received substantial advance dividends in respect of the sale and await payment of the balance thereof once the liquidation and distribution account has been confirmed by the Master of the High Court.

73.

Subsequent to the sequestration of the estate of Bakkes, an enquiry was conducted into his affairs. It was ascertained that in excess of a million rand was paid out of the Thunderstruck/Nzalo account towards his legal costs. This payment constitutes a disposition without value. Summons has been issued for the recovery of these payments.

74.

It was further established that the fixed property registered in the name of the wife of Johan Bakkes has been paid by him.

75.

The trustees of his insolvent estate have subsequently advised Ms Marita Bakkes that they are not prepared to accept her claim as to ownership of the property.

76.

At present an application in terms of section 21 of the Insolvency Act, no 24 of 1936, is the subject matter of an opposed High Court application. It stands to be heard by the middle of 2017.

77.

It was likewise established that the children of Johan Bakkes received undue benefit from Thunderstruck and actions have been instituted for recovery thereof.

78.

Bakkes' son in law has paid what he had received and there is at present pending litigation against his son Waldo, for the recovery of the amounts that he has received.

79.

In these matters pleadings have been closed and the trustees' attorneys are at present waiting for the Registrar of the High Court to allocate dates for the hearing of these matters.

80.

Not taking into consideration the costs incurred to date and to be incurred, the curators have been advised that a further estimated R2,500,000.00 could flow from these actions towards the CMM investors.



**MANANA AND VINCENT SMITH:**

81.

Since the estate of Vincent Smith and his wife has been sequestrated, it was established that the driving force behind the litigation between the curatorship and Vincent Smith was the advocate who represented him, one Advocate Manie Meyer.

82.

Meyer passed away towards the middle of 2016. Since then, no further applications have been instituted against the curators by Smith and/or Manana and the pending applications seem to have been abandoned.

83.

Both Manana and attorney Sandy de Jager have since paid the cost orders granted against them, resulting in a substantial recovery of costs that have been incurred and the only outstanding issue is the investigation into the affairs of the family trust controlled by Vincent Smith which owns the property in which Smith and his wife is residing.

84.

Application has been made to the Master of the High Court for consent to have an enquiry into the affairs of his estate, a date in August 2017 has been obtained and the investigation will proceed then.



85.

It is not clear if grounds exist for the recovery of the property. The books and records of Smith seized, however indicate substantial payments towards the property of the trust, at least *prima facie* indicating that there are grounds for an investigation and a possible recovery.

**PAUL MARAIS:**

86.

Paul Marais, a former director of Allegro, who personally benefitted from the receipt of investor monies through his dealings with Bakkes and CMM, was sued by the curators.

87.

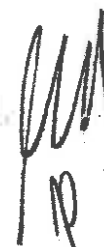
Shortly before the commencement of the trial, Marais made a settlement offer to the curators which was in due course accepted and made an order of Court.

88.

In terms of the settlement agreement, Marais had to make a payment of R1,000,000.00 through monthly instalments. After making the first instalment Marais failed to make payment of the balance.

89.

Marais disappeared and after approximately a year, the curators managed to locate him whereafter a warrant of execution was prepared and served on him.



90.

Marais indicated to the curators that he owns no disposable assets. On investigation it however appeared that he is a wealthy businessman with directorships in a number of companies which own fixed property with a face value of hundreds of millions of rands.

91.

At present an application to sequestrate his estate is pending. It should be heard towards the middle of 2017 whereafter an investigation into his affairs should commence, leading to what we believe, substantial recoveries of assets for the benefit of the CMM investors.


### **EMPIRE MARKETING:**

92.

Empire Marketing is one of the remaining assets of Regent.

93.

Despite vigorously opposing all the attempts of the curators to obtain judgment and to liquidate the assets of Empire Marketing by its director and shareholder, Rampukar, the curators successfully applied for the liquidation of Empire Marketing (Pty) Ltd.



94.

Empire Marketing is the owner of valuable land on the south coast of KwaZulu Natal. This land was encumbered in favour of Regent and has subsequently been sold by the liquidators of Empire Marketing for an amount of R2,000,000.00 plus VAT.

95.

An enquiry into the affairs of Empire Marketing is being conducted which might lead to further recoveries.

96.

In the short term we can report that the purchase consideration in respect of the property has been paid into trust with the liquidators of Empire Marketing (Pty) Ltd and that transfer is eminent.

97.

On registration of the property into the name of the purchaser, the curatorship will recover the costs incurred to date in the amount of approximately R400,000.00 and thereafter received as a secured dividend the balance of the purchase consideration as a dividend.

98.

The curators are confident that a substantial recovery will be made in this regard.



**KANNEMEYER AND DU PLESSIS:**

99.

An attorney, one Du Plessis, practising in the Western Cape succeeded in defrauding Regent of approximately R600,000.00.

100.

The curators successfully obtained judgement against Du Plessis and an application for her sequestration is currently pending.

101.

Criminal charges have been laid and the South African Police Services is busy with an extensive investigation into her conduct.

102.

Every conceivable and tactical ploy is being used to postpone and prevent the sequestration of her estate.

103.

The application for sequestration has been enrolled, the curators are confident that we will shortly obtain an order in terms of which her estate is sequestrated whereafter a number of fixed properties which she owns or has recently owned, should yield substantial dividends for the curatorship.

A handwritten signature in black ink, appearing to be 'J. M. P.' with a small 'R' below it.

**MAHARAJ:**

104.

Unfortunately the curators have not been able to commence with an enquiry into the affairs of Mr Maharaj.

105.

Delays and issues with the Magistrate of Newcastle have resulted in us not being able to arrange dates for an enquiry to take place.

106.

The curators hope to have this enquiry completed by the end of the year.

107.

The preliminary investigation into the affairs of Maharaj indicates the ownership of substantial properties which we believe will lead to the recovery of substantial assets for the benefit of the investors of Corporate Money Managers.

**MRZ AUTOHAUS, EBRAHIM, FATIJA CARS AND JIVA:**

MRZ Autohaus is a debtor who owed on date of curatorship a number of millions to Regent.

108.

Both Ebrahim and Jeewa, its members and directors bound themselves as sureties for MRZ Autohaus.



109.

Both Ebrahim and Jeewa have been sequestrated by this Court on application of Regent. All kinds of tactical manoeuvres thereafter took place, such as rescission applications, to but name a few.

110.

The estate of Jeewa comprises of a number of fixed properties which we are confident should yield decent returns to creditors.

**CLASSIC CROWN, RATA NAYAGER:**

111.

Nagayer, a chartered accountant by profession bound himself as surety and co-principal debtor with an entity Classic Crown CC.

112.

Nayager and his co-member passed a resolution placing Classic Crown into voluntary liquidation whereafter its assets were sold by the liquidator nominated by them and appointed by The Master of the High Court.

113.

The curators then sequestrated the estate of Nayager.

114.

The trustees of his insolvent estate ascertained that he is the sole member of an entity Erf 603 Benoni CC.



115.

This close corporation owns unencumbered property with a value of approximately R750,000.00 situated in Benoni.

116.

Nayager failed to disclose his membership and the value of the property to his appointed trustees.

117.

He somehow applied successfully for his rehabilitation *inter alia* by presenting to this Court a report of his trustees which they deny having ever seen.

118.

Nayager then applied to rescind the liquidation order of Erf 603 Benoni CC, on the premises that its membership vests in his new estate.

119.

As Nayager being a chartered accountant and having practised throughout has failed to present his own books and records to the trustees of his insolvent estate, these litigious matters are being opposed as the curators maintain that the proceeds of the sale of the property of Erf 603 Benoni CC vest in his insolvent estate.

120.

Both matters have been enrolled for hearing on 12 June 2017.



**PANAMO PROPERTIES IMAGINA:**

121.

Craigh Massyn and his father Johan conduct business in the bridging industry.

122.

The curators have issued summons against both father and son for the recovery of a substantial amount owing to the curatorship.

123.

A number of payments have been made since litigation commenced with by the curators. Recovery of the balance owing in terms of the settlement agreement is claimed. The Massyns have offered settlement of the outstanding amount owing of approximately R2,000,000.00 in instalments of R50,000.00 monthly.

124.

The curators have accepted this offer. Given their financial position we are confident that they will stick to the monthly instalments as agreed to.

**RENCOURT AND RUMILOX:**

125.

The liquidators of Rencourt and Rumilox have sold most of the fixed properties of these two entities.



126.

Some of these properties have been transferred and others are in the process of being transferred, the proceeds to be apportioned to the curators of Corporate Money Managers as a dividend.

127.

An enquiry has been conducted into the affairs of Rencourt and Rumilox. Evidence was collected, indicating claims against the attorney who was tasked with the conveyancing of the properties that form part of the scheme.

128.

They have issued summonses against the attorney in question. Pleadings have been closed.

**THE INSOLVENT ESTATE OF DENNIS WILKINSON:**

129.

The estate of Dennis Wilkinson has been sequestrated as per previous reports from the curators.

130.

An enquiry is in the process of being conducted into his affairs. Movable assets of approximately R200,000.00 have been discovered. It however seems as if the bulk of the funds appropriated by Wilkinson has been lost.



131.

He made a number of investments which seems not able to yield any meaningful recovery.

**CONSEP DEVELOPMENTS (PTY) LTD:**

132.

Consep Developments which has been liquidated bound itself as surety and co-principal debtor towards the curators of Corporate Money Managers.

133.

Consep Developments holds 49% of the shares of a development company known as Kagiso Developments (Pty) Ltd.

134.

Kagiso Developments (Pty) Ltd in turn, owned a substantial amount of stands in the northern suburbs of Pretoria which has subsequently been sold and the most transferred, leaving undistributed reserves in the company of approximately R18,000,000.00 (eighteen million rand).

135.

Concept Developments' liquidators have applied for the liquidation of Kagiso Developments (Pty) Ltd on the basis of just and equitability.



136.

Since the company has no creditors, approximately half of the nett proceeds of the sales should flow to the liquidators of Concept Developments which in turn will award as dividends a substantial amount thereof to the curators of Corporate Money Managers.

137.

All indications are that the curators would receive dividends of approximately R6,000,000.00 from the insolvent estate.

**SAREL VAN NIEKERK, ERNST KLEYNHANS, THABA THULA, SVN BUSINESS TRUSTS:**

138.

Sarel van Niekerk, the managing director of the VNP group of companies is presently the subject matter of an investigation by the National Prosecuting Authority.

139.

They have launched applications to attach assets that used to belong to the VNP group of companies of which the curatorship is a major creditor.

140.

They have also launched proceedings in terms of the POCA Act which is at present pending.



141.

The only outstanding issues left to deal with in the VNP insolvent estate, is pending litigation against one Ernst Kleynhans who, with the assistance of attorney Eddie Leonard, provided bridging finance to VNP group.

142.

Kleynhans, with the assistance of attorney Eddie Leonard, who coincidentally also represented him and the VNP Group, received special benefits in the form of ownership of shares of an entity known as Corner Heights as well as transfer of a valuable game farm outside of Rustenburg known as Thaba Thula.

143.

The pleadings in these matters have closed and a trial date has been set for the period 31 July to 4 August 2017.

144.

Kleynhans has subsequently launched proceedings to have claims proved in the company, which is being opposed by the curators as it has no foundation.

145.

We believe that the merits in these trials are good and should lead to substantial recovery being made for the curators.

A handwritten signature in black ink, appearing to be 'RM' with a small '10' written below it.

146.

**AUTUMN STAR TRADING (PTY) LTD:**

One of the many success stories the curators conducted an investigation and subsequently collecting, on behalf of investors, the monies collected from a number of rugby players who received benefits from the company Autumn Star Trading.

147.

The majority of the litigation with the rugby players was settled and our attorneys managed to collect a nett amount of approximately R1,500,000.00 from these rugby players.

148.

Two matters outstanding is still continuing, one being a claim against a certain Me Bekker, the mother in law of Victor Matfield from which an amount of R1,500,000.00 is claimed.

149.

This matter has been set down for trial on the 7<sup>th</sup> of June 2017.

150.

The other outstanding matter is a claim against Calgro M3 (Pty) Ltd which acted as consultants and contractors for Autumn Star and Baybridge Canal.



151.

This company received payment of their account in the amount of R9,000,000.00 via the transfer of a number of stands forming part of the development.

152.

In receiving the payments, the liquidators of Autumn Star maintain that Calgro had been preferred to other creditors and have applied to Court to set aside this transfer.

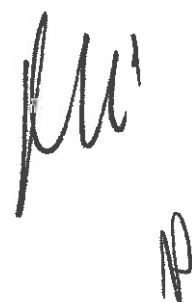
153.

We believe that the CMM Investors stand to recover a substantial amount for investors from the actions of these liquidators.

**COME WHAT MAY:**

154.

The liquidators of Come What May instituted action against Ken Stricker and are considering instituting action against the insolvent estate of At Sheppard. In the action against Stricker pleadings have closed. The matter has been enrolled for trial for the period 27 November 2017 to 8 December 2017. We are confident that substantial recoveries will be made.

Handwritten signature and initials in the bottom right corner of the page.

**COTTIE KIRSTEN, CKLK FAMILY TRUST:**

155.

The investigation into the affairs of Kirsten and the CKLK Family Trust is progressing rapidly. All indications are that creditors stand to recover a substantial dividend from the investigation.

156.

A huge number of properties have been discovered, housed in shelf companies which all are in the process of being liquidated for the benefit of the insolvent estate where we have proven a claim.

**COUNTERPOINT TRADING / ILLIAD:**

157.

Action has been instituted for the recovery of a number of properties which was dissipated in insolvent circumstances.

158.

Pleadings in the matter have closed and the matter has been set down for hearing from the 6<sup>th</sup> to the 16<sup>th</sup> of March 2018.

**MERRIMOLE DEVELOPMENTS:**

159.

Merrimole and Walter Goldblatt settled the dispute as to payment with the curators of Corporate Money Managers approximately two years ago.



160.

The settlement that was made an order of Court, then became the subject of an application for liquidation.

161.

The liquidation application was heard in March 2017. The curators managed to obtain a final liquidation order and liquidators were appointed on the 7<sup>th</sup> of April 2017.

162.

Prior to its liquidation, the curators have received a number of offers of third parties for the acquisition of the land owned by Merrymole Developments.

163.

We are confident that we will be able to recover the balance owing to the curatorship and if not, will pursue the claims for the residual balance against Walter Goldblatt and his family trust who bound themselves as surety and co-principal debtors.

**MOGALE CITY LOCAL MUNICIPALITY, WHITE PINE INVESTMENTS HERITAGE**

**MANNER:**

164.

The curatorship owns property situated within the Mogale City Local Municipality housed in the companies known as AZS Investments (Pty) Ltd and Bronkhorstpruit Industriële Beleggings (Pty) Ltd.



165.

Shortly before these properties were to be sold, the Mogale City Local Municipality launched proceedings to interdict the sale.

166.

Their claim is based upon the fraudulent transfer of these stands to the companies prior to curatorship.

167.

As the pleadings were badly drafted an exception followed whereafter the curatorship succeeded in obtaining orders on an opposed basis against the Mogale City Council to amend their pleadings.

168.

A number of interlocutory applications are at present pending.

169.

Although denying the veracity and accuracy of the pleadings in this regard, the curators have been advised to institute a conditional counterclaim against the local municipality since the development of the township was paid for prior to curatorship by investors.



170.

The properties in question are all bonded in favour of Corporate Money Managers as security for the debt of Donovan Atkins. We believe that there are extremely strong grounds to make recoveries from either the sale in the event of transfer of the property or from the conditional counterclaim.

171.

As the curators are not *dominis litis* we cannot speculate as to the date of enrolment of the matter.

172.

We do however believe that we have solid grounds to oppose the present litigation and to have instituted the counterclaim as alluded to above.

173.

We now turn and deal with the balance of the assets of the curatorship.

**MISTY HILLS:**

174.

The development known as Misty Hills situated within the local municipality of Bronkhorstspuit is in all probability the single largest asset that vests within the curatorship.

Handwritten signature and initials in the bottom right corner of the page.

The property is known as:

REMAINING EXTENT OF PORTION 98 (A PORTION OF PORTION 10) of the farm  
**HONDSRIVIER 508**, REGISTRATION DIVISION: J. R. Gauteng Province;

MEASURING: 42,7420 (Forty Two comma Seven Four Two Zero) Hectares held by  
**Deed of Transfer T 23090/1989.**

REMAINING EXTENT of the farm **DIE SCHLOSBERG 505**, REGISTRATION  
DIVISION J.R. Gauteng Province;

MEASURING: 13,5722 (Thirteen comma Five Seven Two Two) Hectares held by  
**Deed of Transfer T 38245/1970.**

PORTION 4 of the farm **DIE SCHLOSBERG 505**, REGISTRATION DIVISION J.R.  
Gauteng Province;

MEASURING: 8,4608 (Eight comma Four Six Zero Eight) Hectares; held by  
**Certificate of registered Title T 23092/1989**

PORTION 209 (A PORTION OF PORTION 38) of the farm **ROODEPOORT 504**,  
REGISTRATION DIVISION J.R. Gauteng Province;

MEASURING: 5,4724 (Five comma Four Seven Two Four) Hectares; held by  
**Certificate of registered Title T 23088/1989.**

REMAINING EXTENT of the farm **HONDSPOORT 625**, REGISTRATION DIVISION  
J.R. Gauteng Province

MEASURING: 42,0173 (Forty Two comma Zero One Seven Three) Hectares held in  
terms of **Title Deed T 2918/2006**.

The erven numbering 417 described on the general plan prepared by the surveyor  
general no.9855/2007 held in terms of the township **Title Deed T20500/2009** being  
the title of the farm **MISTY HILLS 761** REGISTRATION DIVISION J.R. Gauteng  
Province in extent 29,8001 (Twenty Nine comma Eight Zero Zero One) Hectares  
endorsed in terms of Section 46 of the Deeds Registries Act No. 47 of 1937, to the  
effect that the township of Kungwini Hills, Extension 1 was established on the said  
farm on 17 April 2009.

175.

In the last couple of months, the curators have been able to secure an offer for the  
purchase of this land for an amount of R55,000,000.00 which we believe in current  
times represents market value.

176.

We have been locked in very sensitive negotiations since the middle of 2016 to  
obtain an offer for this value and have received it since.

177.

Guarantees have been promised to us in terms of the conditions of the agreement of  
sale and we will, upon receipt thereof, approach the above Honourable Court to  
obtain consent for the sale of the land.

**HERITAGE MANOR AND WHITE PINES:**

178.

As alluded to above the curators at this stage cannot dispose of or enter into land availability agreements with any individual or company due to the pending dispute with the Mogale City Local Council.

179.

Our only hope to dispose of these assets is to finalise the pending litigation.

180.

We have instructed our attorneys to expedite matters and hope to have this matter enrolled before the end of 2017.

**SEKELBOS MANOR (RED CORAL INVESTMENTS 37 (PTY) LTD):**

181.

Sekelbos Manor is a so-called development situated in Brits in the North West province.

182.

Due to issues such as demand and the bulk contributions to the local municipality, we sadly have to report that the development has no commercial value.



183.

We have subsequently decided to abandon it to the liquidators or Red Coral Investments 37 (Pty) Ltd and suggested to them that they should do the same and abandon the property to the local municipality.

184.

It is simply not commercially viable to spend a single cent on the property.

### **FINFACTOR AND COUNTERPOINT TRADING AND REALTIME INVESTMENTS**

#### **506 CC:**

185.

As alluded to above the property that stands to be transferred back should the litigation be successful, has some commercial value. We believe that the ultimate sale of these assets will shortly yield at least R2,500,000.00.

186.

Unfortunately it will not be possible to do so until the outcome of the litigation is known.

#### **MERRYMOLE DEVELOPMENTS (PTY) LTD:**

187.

Since the company has been liquidated in recent weeks, the curators will request the appointed liquidator to proceed with the liquidation of the assets of the company as a matter of extreme urgency.



**BUZ TRADING 214 (PTY) LTD AND BUZ TRADING 181 (PTY) LTD:**

188.

These two companies are the owners of two portions of land, one situated in Bela Bela and the other near Krugersdorp.

189.

We have come to the conclusion after the best part of nine years that these properties are not commercially viable and have instructed auctioneers to offer them for sale by way of public auction during May 2017.

190.

We intend disposing thereof as it simply has no prospect of being developed or held in abeyance any longer.

**TRUZANE GARANKUWA DEVELOPMENT:**

191.

The curatorship is the shareholder and bondholder of the property situated within Garankuwa.

192.

As can be seen from the cash collected, the curators have managed to dispose of a number of a stands in the development. Recently interest has been expressed for the acquisition of the balance of the stands.

193.

The curators will continue their marketing efforts in respect of these stands and hope that substantial recovery will be made in this regard.

**KUFA TRADING:**

194.

The curators have subsequently succeeded in obtaining information as to the Kufa Trading debtor and its assets.

195.

Shortly after an application for the liquidation of Kufa Trading was issued, Kufa opposed and filed a counter application for business rescue.

196.

The curators are confident that the amount owing in this regard will be recovered within the next financial year.

**DAGGAFONTEIN / SPRINGS:**

197.

The curatorship owns valuable land situated in Daggafontein near Springs on the East Rand. The curators have been negotiating the sale of the land to two developers since 2015.



198.

The prospective purchasers have indicated an offer for the land will be made shortly. They have dealt with the electricity and other developmental issues.

199.

We are confident that we will be in a position to dispose of this land for a market related price.

#### THE POSITION OF THE CURATORS:

200.

We do not believe that the necessity exist to relieve any of the curators of their duties as the curators are paid by the hour and perform defined separate duties with minimal overlapping

#### CONCLUSION:

201.

This report as per the Court order of the Honourable Judge Vorster, had to be presented to the above Honourable Court by no later than close of business on 31 March 2017. Due to unforeseen circumstances *inter alia* the involvement and testimony of curator Louis Strydom in a matter where the South African Revenue Services retained his services as an expert witness that was set down and actually ran for the whole of March 2017 as well as other commitments it simply was not possible to complete the report in time.



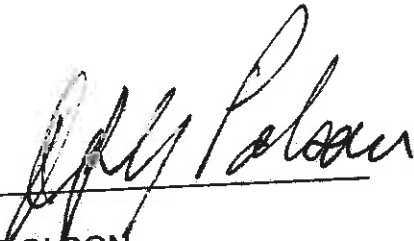
202.

The curators beg leave of the above Honourable Court and condonation for the late filing of the report.

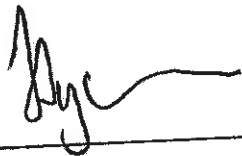
Signed at PRETORIA on this the 20<sup>th</sup> day of APRIL 2017



PH STRYDOM



JRG POLSON



L STRYDOM