

**IN THE HIGH COURT OF SOUTH AFRICA
(WESTERN CAPE HIGH COURT, CAPE TOWN)**

Case No: **679/2007**

In the ex parte application of:-

EXECUTIVE OFFICER OF THE FINANCIAL SERVICES BOARD

in re the financial services business of:-

FIDENTIA ASSET MANAGEMENT (PTY) LIMITED

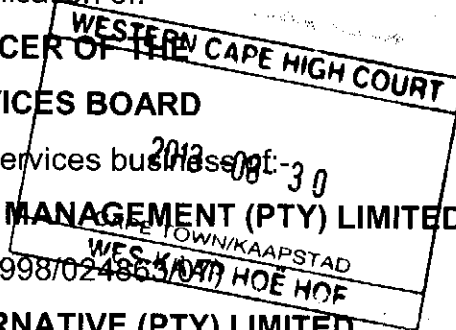
(Registration No: 1998/024863/07)

BRAMBER ALTERNATIVE (PTY) LIMITED

(Registration No: 2000/024139/07)

FIDENTIA HOLDINGS (PTY) LIMITED

(Registration No: 2001/022355/07)



Applicant

FILING SHEET

Filed herewith

CURATORS' REPORT

DATED at CAPE TOWN this the 30th day of AUGUST 2013.

CLIFFE DEKKER HOFMEYR INC

Per 

B SCRIBA

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TO: THE REGISTRAR
High Court
CAPE TOWN

**CURATORS' REPORT ON THE STATUS OF THE FIDENTIA GROUP CURATORSHIP
AS AT 31st JULY 2013**

- 1 In this Report "Fidentia" and/or "Fidentia Group" refers to either of or all of Fidentia Asset Management (Pty) Limited ("FAM") and/or Fidentia Holdings (Pty) Limited ("Holdings") and/or Bramber Alternative (Pty) Limited ("Bramber") and/or their subsidiaries, unless otherwise indicated by context.
- 2 On 6th March 2013 Acting Justice Nyman directed the Curators to file a further Report by not later than 31 August 2013 dealing with the following:-
 - 2.1 *"The status of the curatorship as at 31st July 2013;*
 - 2.2 *An overview of assets disposed of or alienated and how the proceeds were distributed;*
 - 2.3 *Irregularities committed by the companies or their officers or management or by other persons prior to and after the date of curatorship and the state of prosecution which may have been instituted;*
 - 2.4 *Details of civil and criminal actions which may have been instituted by or against the Curators;*
 - 2.5 *The costs of the curatorship as at 31st July 2013;*
 - 2.6 *Any recommendations as to how the continuation of the curatorship or any related matters, should be dealt with further.*
- 3 *The information referred to in paragraph 2.4 above must include a detailed breakdown of all civil legal proceedings instituted, prosecuted or defended by the Curators on behalf of the companies, indicating in respect of each matter,*
 - 3.1 *Who the attorneys of record for the companies were/are;*
 - 3.2 *The fees incurred in respect of the attorneys of record;*
 - 3.3 *The fees incurred in respect of Counsel;*
 - 3.4 *Whether the litigation has been concluded or not;*

- 3.5 *In the case of litigation which has been concluded, the success or otherwise of the litigation; and*
- 3.6 *The amounts recovered on taxation, if any."*
- 4 This Report is filed pursuant to the aforesaid Court Order.
- 5 This Report must be read in conjunction with and supplementary to previous Reports filed and noted.
- 6 In order to avoid prolixity this Report focusses primarily on developments which occurred between 1 January 2013 and 31st July 2013. There may be a measure of overlap between this Report and prior ones; where this does occur it is for the sake of continuity.
- 7 This Report consists of a General Section, a Report in relation to the litigation undertaken and also a Financial Report. It is not practically feasible to confine each section specifically and accordingly there may be a certain amount of overlap between the one part and the other. Where this does occur, it is for the sake of completeness and to ensure a comprehensive understanding of the affairs of the Fidentia Group as a whole for the period under review.
- 8 Two (2) Schedules are attached to this Report. The first is a detailed schedule in response to paragraph 3 herein above. The second Schedule is a detailed Financial Report which speaks to the disposal of assets, recoveries made, costs incurred and paid and distribution effected to the end of July 2013.
- 9 The following is apparent from Schedule One:-
- 9.1 The Curators engaged in 27 litigious matters, as plaintiffs or applicants, either in the form of actions or applications.
- 9.2 Pursuant to the aforesaid, a total amount of R102 542 001.71 was recovered either by way of collection of the amount sued for, or through the realization of an asset claimed and costs recovered.
- 10 The Curators were cited either as Defendants or Respondents in 18 matters. Since the October 2011 report three applications have been instituted against the Fidentia Companies:-

- 10.1 JAW Brown and 6 others instituted an application, under Case Number 679/2007, against the Financial Services Board, Fidentia Holdings (Pty) Limited, Fidentia Asset Management (Pty) Limited and Bramber Alternative (Pty) Limited for an order *inter alia* setting aside the curatorship and removal of the Curators. The Curators were not cited as parties to the application, which was also not served on them. The Curators were compelled to bring an application for leave to intervene in this application, which intervention was eventually granted by consent. The Curators filed comprehensive answering affidavits. The applicants failed to file any replying affidavits. The matter has been enrolled for hearing on 9 September 2013, at the instance of the Financial Services Board.
- 10.2 The Antheru Beleggings Trust brought an application under Case Number 6657/2010 for an order rescinding the judgment granted, by agreement, between the Curators and Antheru Beleggings Trust in terms of which Antheru Beleggings Trust withdrew its application for the winding-up of Fidentia Asset Management (Pty) Limited. The rescission of judgment application was opposed. The Curators brought an application for Antheru Beleggings Trust to provide security for costs in the amount of R500,000.00. This application was heard on 31 January 2013 when Antheru Beleggings Trust was ordered to provide security for costs in the amount of R500 000.00. Antheru Beleggings Trust did not comply with the court order. As a result the application for rescission of judgment was dismissed with costs *de bonis propriis* against the trustees of the Antheru Beleggings Trust and their attorney of record, June Marks.
- 11 The total amount of costs incurred to date by the Curators either as Plaintiff/Applicant or Defendant/Respondents amount to R19 363,695.07 made up as follows:-
- 11.1 Attorneys' fees: R7 399 369.60;
- 11.2 Counsel's fees and other disbursements: R11 964 325.47.

12 CURATORS' FEES

The Curators fees paid to date amount to R17 253 779.00.

13 DISTRIBUTIONS EFFECTED IN TERMS OF CURATORSHIP ORDER

Full particulars of the distributions made to date appear from the Financial Report attached hereto. These distributions have been effected as provided for in terms of the final curatorship order.

14 CRIMINAL PROSECUTIONS

- 14.1 Piet Botma's criminal trial has not been finalised; it is still part heard and set to resume in August 2013.
- 14.2 The case against Cunningham has as yet not commenced.
- 14.3 Joseph Arthur Walter Brown's criminal trial eventually commenced in the Western Cape High Court. The trial did not go smoothly and was often delayed for technical and other reasons. After a few witnesses had testified Brown decided to make certain admissions which the Prosecutor believed was sufficient to secure certain convictions.
- 14.4 The Prosecutor then closed his case without tendering any further evidence. The Court convicted Brown on 2 charges of fraud for which he was sentenced to a fine of R75 000.00 or 18 months' imprisonment on each charge. Brown paid the fine. He was acquitted on the remaining charges.
- 14.5 Brown's sentence caused a public outcry.
- 14.6 The NPA applied to the presiding judge for leave to appeal the sentence. This application was refused. However, the NPA successfully petitioned the Supreme Court of Appeal for leave to appeal. The appeal is likely to be heard by the SCA during the first half of 2014.
- 14.7 In an interim ruling made pursuant to the filing by the Curators' of an interim report the Court stated:

"My problem with the curators' report is that it only provides a partial answer to the problem which it is intended to address. It contains a full account of the information that was provided by the curators to the office of the National Prosecuting Authority but it provides no explanation of the reasons why the charges that were ostensibly supported by it, were not pursued. In my view this is a matter of some importance. The curators were the complainants in Brown's criminal prosecution. In that capacity they represented the public at large. It may be that they were not informed by the NPA as to the reasons for its actions but then the curators should at least explain what steps they took and what the outcome thereof was."

- 14.8 It is necessary to record that the curators were not the complainants in Brown's criminal prosecution. It was the FSB which was the complainant. The curators understand that the FSB drew the matter to the attention of the NPA very shortly after the curatorship application was launched, by furnishing the inspector's report which formed the basis of the application to the NPA.
- 14.9 There was no plea and sentence agreement as contemplated by the provisions of section 105A of the Criminal Procedure Act 51 of 1977. Such an agreement would have preceded the commencement of the criminal trial. The Curators played no role in the NPA's decision to close the case for the prosecution at the stage it did. Nor were the Curators consulted prior to the decision being taken.
- 14.10 The FSB was provided from time to time with such financial information as the Curators obtained, which indicated wrongdoing on the part of Brown. This information was, we believe, passed onto the NPA.
- 14.11 During the course of the trial the NPA consulted extensively with Curator Papadakis and summaries of his evidence were prepared in consultation with the prosecutors. However, Papadakis was not called as a witness prior to the decision of the NPA to close its case. Curator Gihwala was not consulted by the NPA with a view to his testifying at the criminal trial.
- 14.12 As stated above the sentence imposed upon Brown by the trial court is the subject of an appeal presently pending before the Supreme Court of Appeal. If the appeal succeeds, public concern caused by what was considered to be the imposition of a lenient sentence may, of course, be addressed.

GENERAL

15 Sante Hotel Wellness and Conference Centre

- 15.1 This asset continues to present a challenge to the Curators.
- 15.2 Consideration is being given to enhance the viability and value of this asset by increasing the capacity.
- 15.3 The dispute between the Curators and the various homeowners' associations in regard to the payment of levies and security to the estate remains unresolved. The Curators and the hotel operator stationed security guards in the guardhouse at the entrance of the estate. The Homeowners' Associations have instituted an application against the Curators for the eviction of the Curators from the

guardhouse. The application is opposed. It is due to be heard on 22 October 2013 in the Western Cape High Court.

LITIGATION

16 **MI Cunningham NO and 3 Others**

The trial was to have been heard on 22 July 2013 in the High Court, Western Cape but was postponed *sine die*. It was also considered prudent to withdraw the action against Mr Slabbert on the basis that each party will pay its own costs. Cunningham did make an offer of settlement which was so unrealistic that it was not worth pursuing.

17 **S J De Kock and Thebe Securities.**

The action against De Kock and Thebe was due to be heard on 12 February 2013 in the High Court Johannesburg. However, some time before the commencement of the trial settlement negotiations were initiated which on the face of it seemed as if the matter would be settled without the necessity of a costly trial. However, with the trial date having passed the Defendant no longer seems so enthusiastic to settle and it seems inevitable that the matter will have to be resolved in Court.

18 **U-Bank Limited / ABSA Bank Limited – Case No: 05204/11**

18.1 Legal action was instituted by U-Bank against ABSA in February 2011, based on a breach of the defendants' duties in terms of a written Deed concluded by Mcubed Unit Trust Management Company Limited (Ayanda Collective Investments Solutions Limited) and ABSA on or about 10 March 2003. Ayanda was joined by ABSA as a third party to the proceedings.

18.2 Pleadings have closed and the matter was enrolled for hearing during September 2013. However, the matter was subsequently removed from the roll. No new trial date has as yet been allocated.

19 **MIH Holdings Limited / ABSA Bank Limited – Case No: 07662/12**

19.1 MIH Holdings Limited instituted legal action against ABSA Bank Limited in February 2012 based on alleged breach by ABSA of its duties in terms of a written Deed concluded by Mcubed Unit Trust Management Company Limited (Ayanda Collective Investments Solutions Limited) and ABSA on or about 10 March 2003.

19.2 Pleadings have closed and the matter was enrolled for hearing during September 2013. The matter was removed from the roll. No new trial date has as yet been allocated.

20 **Hendrik R Bam**

It appears that Bam has not actually left the country and is "hiding" somewhere. Efforts are being made to locate his current whereabouts.

21 **Legatus**

21.1 The amendment sought by the Curators was duly allowed by the Court. The exchange of pleadings will continue expeditiously so that the matter can be enlisted for hearing as soon as possible.

21.2 The actions under Case Numbers 7972/2010 and 45006/2012 were settled on the basis that the Curators will dispose of the Legatus business and pay 12.5% of the selling price to the trustees of the Insolvent estate of the late Angus Cruickshank.

DISPOSALS

22 The Curators have to date not been able to sell the properties at Blue Horizon Bay but are continuing in their endeavours to do so.

23 Legatus has been put up for sale via a transparent public process. Interested parties have conducted due diligence exercises. Offers are likely to be received during the latter part of August 2013.

DISTRIBUTION OF ASSETS DISPOSED

24 The distribution to Antheru has as yet not been made. Antheru's F A I S licence was cancelled some while ago. Accordingly Antheru has no authority to deal with clients or their funds. In the circumstances the FSB requires the distribution to be effected directly to Antheru's clients/ investors. This is a difficult and cumbersome exercise which is under way. There are also certain claims for costs which need to be recovered from Antheru. This issue still remains unresolved as the assets held by the curators are trust assets which is the property of the clients of Antheru.

25 The Financial Report sets out the particulars of the distributions made to date.

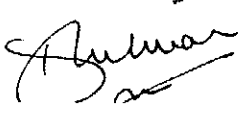
ASSETS STILL TO BE DISPOSED OF

- 26 The following assets still have to be disposed of:
 - 26.1 The property and business of Sante Hotel and Spa;
 - 26.2 Properties at Blue Horizon Bay;
 - 26.3 The Fidentia Group's interest in Moshate (Pty) Limited;
 - 26.4 The Fidentia Group's interest in Legatus;
 - 26.5 The uncut Tanzanite gemstone; and
 - 26.6 Maddock's house at Cape Infanta unless he settles the amount owing by him.

FUTURE CONDUCT AND RECOMMENDATION

- 27 The Curators recommend that the remaining assets be realized as and when it is considered most favourable to do so and that the pending litigation be brought to finality as expeditiously as possible.
- 28 The Curators believe that the realisation of assets and the pursuit of debtors be approached with discretion. In this regard costs benefit analyses are regularly considered.
- 29 Inasmuch as the Curators report on a monthly basis to the FSB it is proposed that the next status report to the Court be as at the end of March 2014.

DATED at CAPE TOWN this 30th day of **AUGUST 2013**.



DINES GIHWALA
On behalf of the Fidentia Curators

Curators' Report as at 31 July 2013

Case Number	Plaintiffs/Applicants Attorneys of record	Defendants/Respondents	Defendants' / Respondents' Attorneys of record	Amount of Claim	Amount Recovered	Fees (excluding WIP)	Counsel's fees and disbursements	Status of matter
43116/08	Port Ferry Properties 48 Petersen Hertog	Fidentia Administration Services (Pty) Ltd DCM Gihwala NO G Papadakis	Cliffe Dekker Hofmeyr - J Jones	R 3 872 667.37	Nil	R 6 728.28		No changes
73145/09	Clubview Ontwikkelings (Pty) Limited Bredells	Infinity Rewards	Cliffe Dekker Hofmeyr - J Jones	R 320 199.55	Nil	R 10 859.00		No changes
20891/09	Itakane Trading Werksmans Attorneys	DCM Gihwala NO and G Papadakis NO	Cliffe Dekker Hofmeyr - J Jones	R 176 538.12	Nil	R 25 078.83	R 50 422.01	No changes
MC Randburg (38259/09)	Legatus Trust (Pty) Ltd Cliffe Dekker Hofmeyr - J Jones	R H Meyerdricks	None	R 68 300.00	Gold Coins recovered	R 6 509.40	R 1 589.00	No changes
No case no.	Fidentia Software Futures Cliffe Dekker Hofmeyr - J Jones	Department of Health	None	Potential claim against Department - R 1.2 million	R 700 000.00	R 32 380.61	R 7 129.24	No changes
27734/08	Legatus Trust (Pty) Ltd Cliffe Dekker Hofmeyr - J Jones	RH Meyerdricks	None	R 175 520.69	Nil			No changes
27949/09	DCM Gihwala NO G Papadakis Legatus Trust (Pty) Ltd	RH Meyerdricks	Garb & Joffe Attorneys	R 5 758 416.54	Nil	R 260 593.36	R 254 184.29	Application to amend quantum claimed by curators was granted
25649/2010	TEBA Bank Ltd Malebye Motaung Mtembu Inc	Corporate Money Managers (Pty) Ltd; ABSA Bank Ltd; mCubed Unit Trust	Cliffe Dekker Hofmeyr - J Jones	R 220 000 000.00	Nil			Matter withdrawn and re-instituted
05024/2011	U-Bank Limited Mervyn Taback Inc	ABSA Bank Ltd, Ayanda Collective Investment Solutions, Corporate Money Managers, JH Bakkes, JRG Poisen, L Strydom, PH Strydom & Registrar of Collective Investment Schemes	Rudolph Bernstein & Associates	R 222 158 261.85	Nil			Legal action was instituted by U-Bank against ABSA in February 2011, based on a breach of the defendants' duties i.t.o a written Deed concluded by mCubed Unit Trust Management Co Ltd (Ayanda Collective Investment Solutions Ltd) and ABSA on or about 10 March 2003. Ayanda was joined by ABSA as a third party to the proceedings. Pleadings have closed and the matter was enrolled for hearing during September 2013. Matter was subsequently removed from the roll. No new trial date has been allocated.

MIH Holdings Limited instituted legal proceedings against ABSA Bank Limited in February 2012 as an alleged breach by ABSA of its duties to a written Deed concluded by mCubed Unit Trust Management (Ayanda Collective Investments Solutions Limited) and ABSA on or about 10 March 2003. Pleadings have closed and the matter was enrolled for hearing during 2013. Matter was subsequently removed from the roll. No new trial date has as yet been allocated.

2773709	Schoombie Ouditeure	None	G Papadakis NO & DCM Gihwala NO	Cliffe Dekker Hofmeyr - J Jones	R 89 490.00	Nil	R 98 154.00	R 12 724.24	Matter withdrawn
G3072007	DCM Gihwala NO and G Papadakis NO	Cliffe Dekker Hofmeyr - J Jones	Insolvent estate Worthyltrade 185 (Pty) Ltd	None	R37 297 603.76 claim lodged for Fidentia Capitalwise (Pty) Ltd (In Curatorship)	Nil			No changes
G3072007	DCM Gihwala NO and G Papadakis NO	Cliffe Dekker Hofmeyr - J Jones	Insolvent estate Worthyltrade 185 (Pty) Ltd	None	R6 864 960.32 claim lodged for Fidentia Asset Management (Pty) Ltd (In Curatorship)	Nil			No changes
T3324	DCM Gihwala NO and G Papadakis NO	Cliffe Dekker Hofmeyr - J Jones	Insolvent estate Intabrand	None	R5 858 000.00 claim lodged for Fidentia Asset Management (In Curatorship)	Nil			No changes
T3324	DCM Gihwala NO and G Papadakis NO	Cliffe Dekker Hofmeyr - J Jones	Insolvent estate Intabrand	None	R37 847 725.74 claim lodged for Fidentia Holdings (Pty) Limited (In Curatorship)	Nil	R 70 623.28		No changes
07972/2010	SML Gore NO, EW Prinsloo NO & LW Theunissen NO	Webber Wentzel	Legatus Trust (Pty) Ltd, GCM Gihwala NO & G Papadakis NO	Cliffe Dekker Hofmeyr - J Jones	R 4 800 000.00	Nil	R 423 742.56	R 289 919.95	Matter settled
2010/45006	SML Gore NO, PD Kruger NO & NM Phosa NO	Webber Wentzel	Legatus Trust (Pty) Ltd	Cliffe Dekker Hofmeyr - J Jones	R 1 150 000.00	Nil	R 198 382.23	R 135 089.20	Matter settled
14172/2010	PD Kruger NO EM Motala NO	Webber Wentzel	Bramber Alternative (Pty) Ltd / Legatus Trust (Pty) Ltd	Cliffe Dekker Hofmeyr - J Jones	Dispute in respect of ownership Legatus Trust (Pty) Ltd	Nil	R 215 032.20	R 250 200.24	Matter settled
T740/07	DCM Gihwala NO and G Papadakis NO	Cliffe Dekker Hofmeyr - J Jones	Insolvent estate Cruickshank	None	R 59 000 000.00	Nil			No changes
5126/2012	DCM Gihwala NO and G Papadakis NO	Cliffe Dekker Hofmeyr - N Muller	Adam Cloete t/a Franschoek Estate Security & Sheriff Paarl	Faure & Faure	Release of property from attachment	Successful	R 24 377.30	R 14 421.00	Matter finalised

Case No	Applicant	Respondent	Attorneys	Interpleader and High Court Stay of Warrant	Nif	R	Matter finalised
5126/2012 (H.C)	DCM Gihwala NO and G Papadakis NO	Adam Cloete, Sheriff Paarl	Faure & Faure Paarl	Interpleader and High Court Stay of Warrant	Nif	R 23 000.00	Matter finalised
6517/2012 (H.C)	DCM Gihwala	JAW Brown; J Theart	June Marks Attorneys	Stay and setting aside of subpoena	Setting aside of subpoena granted by agreement	R 18 962.50	Matter finalised
4258/2008	DCM Gihwala NO and G Papadakis NO	Cliffe Dekker Hofmeyr - L Rhoadie	Acting personally	R9,866,434.18 and R96,744.41	R	601 147.47 R	1 030 123.85 Judgment granted against defendant in the amount claimed together with interest and costs, as well as the costs for the sequestration. In the process of tracing their whereabouts.
13420/07	DCM Gihwala NO and G Papadakis NO	Cliffe Dekker Hofmeyr - L Rhoadie	MIR Khan and Associates	R 24 771 203.82	R	112 462.94 R	1 635 445.48 Application finalised
14267/07	DCM Gihwala NO and G Papadakis NO	Cliffe Dekker Hofmeyr - L Rhoadie	MIR Khan and Associates	R11,229,119.53	Nif	R 14 443.80	Matter pending until the finalisation of the applications for the sequestration of the SL Brown and CAM Brown Family Trusts
3604/09	DCM Gihwala NO and G Papadakis NO	Cliffe Dekker Hofmeyr - L Rhoadie	None	R840,000 and R971,999.99	R864,683.91 (dividend and taxed costs recovered from the insolvent estate)	R 19 653.03 R	12 098.59 Matter is finalised
5467/07	DCM Gihwala NO and G Papadakis NO	Cliffe Dekker Hofmeyr - L Rhoadie	None	Forfeiture Order Re. Facets Building	R45,000,000 from sale of Facets Building	R 38 532.00 R	107 673.00 Matter is finalised
9397/09	DCM Gihwala NO and G Papadakis NO	Cliffe Dekker Hofmeyr - L Rhoadie	EG Cooper Majiedt Inc. 77 Kellner Street, Westdene, NO; S Tsangarakis NO (Kia Joy Trust)	R5,100,000	R5,132,641.53 Recovered in terms of settlement	R 25 917.90 R	7 695.00 Matter is finalised
8510/07	South African Broadcasting Corporation Limited	SBS Incorporated, 2nd Floor, 20 Baker Street, Rosebank, Johannesburg	Cliffe Dekker Hofmeyr - L Rhoadie	Urgent application for access to interrogation of witnesses	R80,938.93 (taxed costs)	R 22 754.40 R	40 612.50 Matter is finalised
6655/10	Antheru Beleggings Trust	June Marks Attorneys	Fidentia Holdings (Pty) Ltd	Applications for winding up including intervention application and separation of issues application	Nif	R 969 462.01 R	2 647 607.34 Bills of costs taxed in the amount of R2,1200,079.87 - in the process of being recovered
6656/10			Fidentia Asset Management (Pty) Ltd		Nif		Bills of costs taxed in the amount of R2,1200,079.87 - in the process of being recovered
8657/10	Intervening Creditors: Marin van Schaikwyk; JJ van Blerk Family Trust		Bramber Alternative (Pty) Limited; DCM Gihwala NO; G Papadakis No; Financial Services Board		Nif		Application for rescission of judgment dismissed with costs due to failure to provide security for costs. Taxed costs to be recovered

Case No.	Applicant	Respondent	Order	Proceeds from sale of property	Order authorising sale of property	Property	Amount	Amount	Amount	Remarks
2171710	DCM Gihwala NO and G Papadakis NO; Bramber Alternative (Pty) Ltd	Cliffe Dekker Hofmeyr - L Rhoodie	The Registrar of Deeds	Proceeds from sale of property R35,000,000	Order authorising sale of property		27 953.94 R	8 679.96 R	8 679.96 R	Matter finalised
8992/07	DCM Gihwala NO	Cliffe Dekker Hofmeyr - L Rhoodie	JAW Brown NO	Nil	Forfeiture Order		85 977.03 R	182 742.00 R	182 742.00 R	Matter finalised
8993/07	G Papadakis NO	None	SJ Brown NO; A Tucker No; Registrar of Deeds (Sunset Beach)	Nil			371 767.11 R	200 972.43 R	200 972.43 R	Applicants to file replying affidavits. Security for costs demanded. Matter set down for argument on 9 September 2013
679/2007	JAW Brown; Carter & Kloof; M J Van Schalkwyk; JAW Brown Family Trust; ZC Brown Family Trust; Antheru Mandated Investors; Brown Brothers Holdings	None	The Financial Services Board; Fidentia Holdings (Pty) Limited; Bramber Alternative (Pty) Limited; Fidentia Asset Management Limited; D Gihwala NO; G Papadakis NO	Nil	Application for setting aside curatorship and intervention application by curators		371 767.11 R	200 972.43 R	200 972.43 R	Applicants to file replying affidavits. Security for costs demanded. Matter set down for argument on 9 September 2013
7394/2012	H Heydenrych N.O.; Joubert NO	June Marks Attorneys	D Gihwala NO; G Papadakis NO; Fidentia Management (Pty) Limited; Fidentia Asset Holdings (Pty) Limited; Bramber Alternative (Pty) Limited	Nil	Application to declare investment of Antheru Beleggings Trust R33,727,399		134 703.43 R	63 005.94 R	63 005.94 R	Application dismissed with costs due to failure by Antheru to put up security for costs. Costs to be recovered
7242/2013	Akarana Master's Homeowners Association; La Bella Vita Wine Estate Property Owners Association; The Body Corporate of the Sante Winelands Estate	Van der Spuy & Partners	Bramber Property (Pty) Limited; Dires Gihwala N.O.; George Papadakis N.O.; Minister of Public Works, Orkon Hotels and Resorts (Pty) Limited	Nil	Application for ejectment of Bramber and curators from occupying guardhouse at entrance of Sante estate		182 542.50 R	9 928.30 R	9 928.30 R	Application set down for hearing on 22 October 2013
3042/2010	D Gihwala NO; G Papadakis No; Fidentia Capitalwise (Pty) Limited	Cliffe Dekker Hofmeyr - B Scriba	Bramber Alternative (Pty) Limited; Threadneedle Holdings Company (Pty) Limited; Threadneedle Consulting (Pty) Limited; Reed; JNP de Jongh	Nil	R 20 000 000.00		30 090.02 R	120 732.23 R	120 732.23 R	No changes
2054/08	DCM Gihwala NO and G Papadakis NO	Cliffe Dekker Hofmeyr - B Scriba	JPN de Jongh; N de Jongh NO; L Spies NO; JPN de Jongh NO; N de Jongh NO; JM de Jager NO	2 221 070.00 R	R 6 737 778.00 R	Settle with De Jongh and undefended by remaining defendants	301 795.63 R	648 122.53 R	648 122.53 R	Settled for R5 100 000 plus costs. Opposed taxation set down for 3 September 2013
3350/08	DCM Gihwala NO and G Papadakis NO	Cliffe Dekker Hofmeyr - B Scriba	L Spies	2 393 360.00 R	R 4 000 000.00 R	Nicci Ferguson Attorneys, Level C, The Adderley, 25 Adderley Street, Cape Town	347 349.34 R	833 316.27 R	833 316.27 R	Settled for R1 750 000, plus costs at R500 000 and interest on settlement figure
3349/08	DCM Gihwala NO and G Papadakis NO	Cliffe Dekker Hofmeyr - B Scriba	S Dekker	Nil	R 1 173 333.00 R	Werksmans Attorneys	44 350.27 R	150 198.79 R	150 198.79 R	Matter is in process of being set down. Pre-trial conference postponed to 9 September 2013

Case No	Curators of Ovation Global Investment Services (Pty) Limited and Ovation Global Investment Nominees (Pty) Limited	Webber Wentzel	Fidentia Curators and Fifteen Others	Cliffe Dekker Hofmeyr - B Scriba	Total divestment of investors' funds	Nil	R	R	R	Fidentia and Common Cents Curators' were unsuccessful and ordered to pay costs. Fidentia Curators' taxed down original bills of costs from R1 237 615.32 to R156 386.53
24478/09	DCM Gihwala NO and G Papadakis NO	Cliffe Dekker Hofmeyr - B Scriba	Ml Cunningham N.O.; Anton Slabber; Ml Cunningham; D Warren	Knowles Husain Lindsay, 10th Floor, 2 Long Street, Cape Town Werksmans Inc, 18th Floor, 1 Thibault Square, Cape Town Mark W Nixon Attorneys, 2nd Floor, Hatfield Plaza North, 424 Hilde Street, Pretoria	R 149 522 422.00	R42 869.45 by 4th Defendant being payment of the taxed costs for the dismissed exception	R 1 109 229.18	R 1 811 787.31	R 277 896.80	Matter set down for trial on 22 July 2013, postponed sine die with matter withdrawn against second defendant
20937/2010	DCM Gihwala NO and G Papadakis NO	Cliffe Dekker Hofmeyr - B Scriba	D Warren	Unrepresented Unrepresented Unrepresented	R 10 897 230.00		R 10 897 230.00	R 172 557.80	R 98 538.19	Matter finalised
3351/2008	DCM Gihwala NO and G Papadakis NO	Cliffe Dekker Hofmeyr - L H Mulder, SL Mulder N.O.; A Tucker N.O.; H Mulder N.O.; P Stofberg N.O.; J de Wet	Cliffe Dekker Hofmeyr Incorporated Michael John Lane NO Abia Edwin Tjale NO Hjalmar Mulder NO Pieter Eduard Stofberg NO Johannes Wessels De We NO	Korbers Inc, Unit 6A, Graphic Centre, 5 Buiten Street, Cape Town Korbers Inc, Unit 6A, Graphic Centre, 5 Buiten Street, Cape Town Korbers Inc, Unit 6A, Graphic Centre, 5 Buiten Street, Cape Town	R 4,000,000.00 / R2,737,778.00 / R100,000.00		R 75 914.31	R 137 233.40	R 75 914.31	Matter still ongoing
3352/2008	DCM Gihwala NO and G Papadakis NO	Cliffe Dekker Hofmeyr - L H Mulder, SL Mulder N.O.; A Tucker N.O.; H Mulder N.O.; P Stofberg N.O.; J de Wet	Zacharias Christian Brown; Andrew Herbert Tucker NO; Zacharias Christian Brown NO; Stephanus Lategan NO	MR Khan and Associates, 2 Struban Road, Claremont	R4,000,000.00 / R2,737,778.00		R 29 646.67	R 8 171.17	R 29 646.67	Matter is still ongoing
2010/02938	DCM Gihwala NO and G Papadakis NO	Wertheim Bekker Attorneys - A Kika	Stephanus de Kock	Edward Nathan Sonnenbergs Inc, 150 West Street, Sandton	R 17 600 000.00		R 85 215.00	R 66 286.49	R 85 215.00	The matter is set down for trial on 24 July 2014
	Fidentia Capitalwise (Pty) Limited		Thebe Securities Limited	Phukubje Piere Masithela Attorneys, Level 4, 17 Baker Street, Rosebank			R 102 542 001.17	R 7 399 369.60	R 11 964 325.47	

Curators' Financial Report – June 2013

1. Introduction

- 1.1 This financial report deals with the administration and financial performance of the remaining companies comprising the private equity portfolio for the period ended 31 July 2013. Legatus represents the remaining trading entity in the private equity portfolio. With regards to the other companies, these have either been disposed of with the consent of the FSB, alternatively, those companies for which no offers were received and which could not continue trading profitably have been wound down.
- 1.2 The remaining companies comprising the private equity portfolio, for the period covered by this report, are:
- Legatus; and
 - Moshate (not trading).

2. Legatus Trust (Pty) Ltd (“Legatus”)

2.1 Introduction

- 2.1.1 Legatus continues to provide specialised fiduciary products to the South African Market, and specifically administers deceased estates and Trusts. It is a member of the Fiduciary Institute of South Africa.
- 2.1.2 The audited financial statements of Legatus for the year ended 31 March 2013 have been completed.
- 2.1.3 The income statement, statement of financial position, cash flow statement and statement of changes in equity for the four months ended 31 July 2013, together with a commentary thereon, are recorded at paragraphs 2.2 to 2.5 *infra*.

2.1.4 The legal matters and disputes are recorded at paragraph 2.6 *infra*.

2.2 Income statement for the four months ended 31 July 2013

		Four months ended 31 July 2013 (Unaudited)	Four months ended 31 July 2012 (Unaudited)	Year ended 31 Mar 2013 (Audited)
	Note	R	R	R
Revenue	2.2.1	1 571 963	1 514 558	5 360 906
Operating expenses	2.2.2	1 621 619	1 511 110	4 922 998
Operating Profit/(Loss)		(49 656)	3 448	437 908
Investment Income		24 160	33 607	82 178
Net profit (Loss) before tax		(25 496)	37 055	520 086
Taxation		0	10 375	145 624
Profit/(Loss) after tax		(25 496)	26 680	374 462

2.2.1.1 Total revenue for the four months ended 31 July 2013 increased by 1.4% compared to the comparative period.

2.2.1.2 Operating expenses for the four months ended 31 July 2013 increased by 7% compared to the comparative period. The income is largely due to salary and leased office related costs.

2.3 Statement of financial position

	Note	31 July 2013 (Unaudited) R	31 Mar 2013 (Audited) R
Assets			
Non-current assets			
Property plant and equipment	2.3.1	46 903	41 493
Intangible Assets – Trust Licence	2.3.2	200 376	200 376
		<u>247 279</u>	<u>241 869</u>
Current assets			
Trade and other receivables	2.3.3	478 158	576 877
Cash and cash equivalents		1 863 345	1 921 411
		<u>2 341 503</u>	<u>2 498 288</u>
Total assets		<u>2 588 782</u>	<u>2 740 157</u>
Equity and liabilities			
Equity			
Share capital		312	312
Retained income		1 844 299	1 869 795
	2.3.4	<u>1 844 611</u>	<u>1 870 107</u>
Current Liabilities			
Current tax payable		161 720	161 720
Trade and other payables		582 451	708 330
Total Current Liabilities		<u>744 170</u>	<u>870 050</u>
Total Liabilities and equity		<u>2 588 782</u>	<u>2 740 157</u>

2.3.1 Property Plant and Equipment comprises of computers and equipment, which is being depreciated using the straight line method to write down the cost, less residual value over the useful lives of the assets.

2.3.2 The intangible assets comprise of the Trust Licence and are regarded as having an indefinite life. Based on all relevant factors, there is no foreseeable limit to the period over which the asset is expected to generate cash flows.

2.3.3 Trade and other receivables largely include advances made to Estates and Trusts and are recoverable in full.

2.3.4 The movement in shareholders' equity is addressed through the statement of changes in equity (refer paragraph 2.5).

2.4 Cash Flow Statement

	4 months ended 31 July 2013 (Unaudited)	Year ended 31 Mar 2013 (Audited)
	R	R
CASH FLOWS FROM OPERATING ACTIVITIES		
Cash receipts from customers	1 619 090	5 170 928
Cash paid to suppliers and employees	(1 701 316)	(4 790 256)
Cash generated from operations	(82 226)	380 672
Interest income	24 160	82 178
Tax paid	0	(121 439))
Net cash from operating activities	(58 066)	341 411
CASH FLOWS FROM INVESTING ACTIVITIES		
Dividends paid	-	(1 200 000)
Total cash movement for the period	(58 066)	(858 589)
Cash at the beginning of the year	1 921 411	2 780 000
Total cash at end of the year	1 863 345	1 921 411

2.5 Statement of changes in equity

	Share Capital	Retained income	Total equity
Balance at 31 March 2012	312	1 495 333	1 495 645
Profit for the year		374 462	374 462
Balance at 31 March 2013	312	1 869 795	1 870 107
Profit/(Loss) for the four months		(25 496)	(25 496)
Balance at 31 July 2013	312	1 844 299	1 844 611

2.6 Legal matters

2.6.1 Summonses have been issued to RH Meyeridricks, a former director and shareholder of Legatus. The details are recorded at paragraphs 2.6.1.1 to 2.6.1.2 *infra*.

2.6.1.1 While acting as director of Legatus, Meyeridricks allegedly received certain monies "secret profits" to which he was not entitled.

2.6.1.2 Monies lent and advanced to Meyeridricks have not yet been repaid.

2.6.2 The Joint Trustees of the estate of AL Cruickshank agreed to withdraw their claim for the recovery of an asset in the amount of R4.8 million on the conditions agreed to in 2.6.3

2.6.3 The dispute as to the ownership of Legatus was resolved by both parties agreeing that Bramber Alternative (Pty) Ltd is the beneficial shareholder of the company on condition that 12.5% of the proceeds from the sale of the company will be allocated to the joint trustees of the insolvent deceased estate of Angus Lloyd Cruickshank. Pursuant to the resolution of this dispute, the process to dispose of Legatus has been initiated.

5. Moshate Holdings Pty Ltd (Moshate)

5.1 This is a non-trading company in which approximately R15 million of investor funds was invested, with a view to the company procuring land upon which cemeteries would be established. The dispute regarding the effective shareholding in Moshate has not been resolved.

5.2 Despite repeated assurances from the directors of Moshate that audited financial statements would be prepared from the date of commencement of operations, to date the directors have failed to provide audited financial statements for the company.

5.3 The curators initiated steps to investigate the affairs of the company, to the extent that accounting records and information was made available. The results of the investigations were presented to Senior Counsel for the purposes of obtaining an

opinion regarding the potential for recovery of the amount applied toward the acquisition of a minority shareholding in Moshate. Based on the advice received there are little prospects of any recovery, and as such the curators do not consider it appropriate to proceed with applying for the liquidation of the company.

6. Compilation of Accounting Records

- 6.1 Further to our previous report the statutory audits of Bramber Property (Pty) Ltd and Fidentia Administration Services (Pty) Ltd have been completed, and the statutory audits for Fidentia Holdings (Pty) Ltd and Fidentia Facilities (Pty) Ltd need to be completed.

7. Court Sanctioned Distribution Plan

7.1 Admitted Claims

7.1.1 The curators admitted the following claims:

Investor	Capital Claim
TETA	R 185 000 000
Antheru	R 9 205 449
Baltron	R 38 573 680
LHUT	R1 133 911 822
Total admitted claims at date of this report	R1 366 690 951

7.1.2 In respect of the Evertrade transactions there is nothing further to report from the previous report.

7.1.3 In terms of the distribution plan as approved by the Western Cape High Court, the amounts as recorded at 7.1.4 *infra* have been distributed to the TETA, Baltron and LHUT. In accordance with the judgment the distribution to Antheru has been withheld pending the determination of an action to be instituted by Antheru. Details relating to this action are contained in the litigation report.

7.1.4 With the approval of the FSB a guarantee held for the benefit of Baltron, in the amount of R4 418 311 was returned to Baltron. This amount does not form part of the capital claim of Baltron.

Investor	Capital Claim
TETA	R 33 300 361
Baltron	R 6 943 338
LHUT	R90 728 888
Total distribution	R130 972 587

In accordance with the judgment, an amount of R5 027 413 is still retained by the curators. Further details regarding this aspect are contained in the litigation report.

7.2 Disposals of capital assets to date and recoveries of other amounts.

7.2.1 The disposal of the capital assets as at 30 June 2013 is summarised as:

7.2.1.1 Proceeds from the Sale of Assets Comprising the Fixed Property Portfolio (exclusive of VAT):

Description of Property	Sales Proceeds R
Facets	43 480 824
Facets-Occupational Rental	6 177 054
ThabaManzi	34 099 998
ThabaManzi-Occupational Rental	2 100 000
Sante-Rental (Note 1)	623 399
Syco Deli	1 750 000
Syco Deli-Occupational Rental	176 250
Waterford Place	34 415 887
Wavelengths 231	5 302 552
Villa Marais	3 900 352
Recovery Transfer Duty&Deposit-BellSombre	1 510 268
Recovery Teewaterskloof	265 000
Total	133 801 584

Note 1 The rental figure is recorded net of costs incurred associated with the hotel and which have been for the account of the landlord. The hotel and spa is operated under a lease agreement by an independent contractor for its own account.

7.2.1.2 The proceeds from the sale and realisation of assets associated with such sales, comprising the Private Equity Portfolio, exclusive of VAT, are:

Description	Net Sales Proceeds R
AOS	9 993 668
Software Futures	14 366 636
Fidentia Rangers	3 050 000
Boland Rugby	201 397
Polex	5 293 284

Infinity	13 464 626
Total	46 369 611

7.2.2 Other recoveries, recorded exclusive of VAT, comprise:

Description	Proceeds R
Sale of Movable Assets	10 840 902
Sale of Cricket Suite	319 200
Recoveries from Previous Directors & Staff	22 768 233
Recoveries from Third Parties	8 971 639
Guarantee (Note 1)	4 418 311
Other	450 617
Total	47 768 902

Note 1: The guarantee represents funds held as a guarantee deposited by Baltron.

7.2.3 The inflow of funds as detailed *supra* can be summarised as:

Description	Proceeds R
Sale/rental of fixed properties	133 801 584
Sale of private equity	46 369 611
Other Recoveries (See 7.2.2 above)	47 768 902
Inflows from sales and recoveries	227 940 097
Interest earned (Note 1)	23 416 745
Interest Porex	2 260 809
Interest Infinity	407 100
Proceeds from trading activities	93 442 728
Total inflows	347 467 479

Note 1: No provision for tax on the interest earned has been raised as it is anticipated that the interest income will be offset against the assessed losses and trading expenses of the various companies within the Fidentia Group.

- 7.2.4 The total outflows, representing expenditure incurred by the Curators (exclusive of VAT), to 31 June 2013 are:

Description	Expenditure R
Curators Fees	17 253 779
Forensic Accounting Services	8 375 962
Legal Services	45 014 060
Recoveries-Legal Fees	(1 718 775)
FSB costs	2 509 782
Total expenditure	71 434 808

- 7.2.5 The amount currently available can accordingly be summarised as:

Total inflows	R347 467 479
Less: Total expenditure	R(71 434 808)
Less: Distributions for benefit of LHUT	R(113 389 614)
Less: Distribution of Guarantee to Baltron	R(4 418 311)
Less: Court Approved Distributions	R(130 972 587)
Amount available Note 1	R27 252 159

Note 1: This includes the amount of R5 027 413 retained as directed by the Court.

- 7.2.6 The account reflects that as at 30 June 2013, an amount of approximately R27.2 million is available.

8. Distributions

8.1 Since curatorship, the following distributions to investors have been made:

	R
To LHUT in terms of Curatorship Order	113 389 614
Court Approved Distribution Plan	130 972 587
Distribution to LHUT pursuant to the Global Funding Agreement	340 000
Baltron Guarantee Refund	4 418 311
Total Distribution to Investors	249 120 512

To date, a total amount of R249 120 512 has been returned to the investors since curatorship. To date, the curators have effected distributions to LHUT, Baltron and TETA in amounts which represent 18% of their admitted claims.