

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

CASE NO: 24463/2009

In the *ex parte* application of:

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

APPLICANT

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

CORPORATE MONEY MANAGERS (PTY) LIMITED
(Registration No. 1999/023598/07)

CMM FINPRO (PTY) LTD
(Registration No. 2008/03729/07)

MIRO CAPITAL (PTY) LTD
(Registration No. 2005/026831/07)

FOUR RIVERS TRADING 307 (PTY) LTD
(Registration No. 2007/033891/07)

REGENT CROUP CAPITAL (PTY) LTD
(formerly called Two Ships Trading 307 (Pty) Ltd)
(Registration Number 2007/033891/07)

ESCAPE INVESTMENTS (PTY) LTD
(trading as Sakha Iblokho)
(Registration No. 2008/020099/07)



CORPORATE MONEY MANAGERS TREASURY SERVICES (PTY) LTD
(Registration No. 2007/000860/07)

CCM CASH MANAGEMENT FUND
("the business")

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

CURATORS REPORT

1.

INTRODUCTION:

1.1. This report must be perused with reference to the previous report applicable to the period ending February 2019. Before embarking on the report which will inform the writer of the status of the Curatorship, subsequent to March 2019 and as February 2020, we deem it necessary to recapitulate briefly the activities of Corporate Money Managers as the managers of a Collective investment scheme in terms of the Collective Schemes Act No. 45 of 2002 (herein after referred to as the **"Collective Act"**). The curatorship has endured since 28 April 2009, when Mr. Justice Southwood placed the of **"Financial Services Business"** under curatorship of John Roderick Graeme Polson and Louis Strydom.

2.

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



3.

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

4.

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

5.

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

5.1.1. the Collective Act;

5.1.2. the Regulations;

5.1.3. the Banks Act; and



5.1.4. the Regulations under the Banks Act

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

6.

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

7.

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

7.1.1. ASSETS RECOVERED FROM 3 APRIL 2009 TO 29 FEBRUARY 2020

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



Assets Recovered from 3 April 2009 to 29 February 2020

Four Rivers Assets

New Approach Building Projects (Pty) Ltd - Reyno Manor	1,960,366
New Approach Building Projects (Pty) Ltd - Witbank Manor	3,357,161
Rentcor Trading CC t/a Recor - Kamagugu Township	4,069,460
Autumn Star Trading 591 (Pty) Ltd - Baybridge, The Island Estate	2,548,295
Malokiba Trading 92 (Pty) Ltd - Malokiba 92	2,266,593
Finfactor (Pty) Ltd & Counterpoint Trading 204 CC & Real Time Investments 506 CC - Finfactor	3,133,500
Come What May Properties 3 (Pty) Ltd - Come What May	15,617
Dunrose Trading 160 (Pty) Ltd - Waldheim Estate, Ramsgate (Consep)	9,755,994
Bubesi Investments 53 (Pty) Ltd - Westbrook Estate	8,641,182
Greenhills View (Pty) Ltd - Greenhills View	201,952
Merry Mole Development (Pty) Ltd - Crystal Lakes Vaal Eco Estates, Vaaldam	2,675,922
NH Clusters cc - Culembeeck Close	1,002,389
Paul Marais	600,000
Massyn	975,000
Farm Roodekop	800,000
Panamo Properties169 (Pty) Ltd - Place de Tetre, Honeydew Grove Extension 718	11,703,173
Buzz Trading 214 (Pty) Ltd - Summerglen Estate	23,289
Total	53,729,894



Escascape Assets

Asande/Garankuwa/Truzanne	29,616,850
B Manana	3,600,000
Hawk's landing	15,408,524
Sakheni Trading	55,900
Solid Investments / Pieter Bekker	585,234
VNP Projects Pty Ltd	332,540
Wykwet	1,100,000
Eastdune	4,837,537
CMT Trading	960,942
Harvard Real Estate	2,009,281
Haydon Dunn	996,673
Jinmoa/Formprops	3,692,829
Loggies Furniture	53,021
Matika	847,169
Minoli	700,000
Tetrafull	2,253,733
Glen Eden Trading 213 also Basic Construction Supply	1,303,267
Imvuno Africa Trading & Projects	17,990
Intsomi	7,500,000



Jannie Haasbroek	1,433,894
Mavhutane Trading cc	4,068,983
Mninathoko Makutupu	342,198
Ricabel Construction	363,156
Selogilwe Building Contractors CC	3,030,342
Siyanda Projects (Pty) Ltd	14,215,933
VNP Projects Pty Ltd	88,256
Total	99,414,251

Regent Assets

Panamo Properties 49 (Pty Limited:	106,001
N Maharaj	417,579
New Order Investment	609,734
VLJ Pienaar	887,892
ER De Beer	311,674
Global Star Developments	751,495
MP Poggenpoel	10,000
SS Gunguluza	2,000
Lamula Trust	1,021,861
NP & LR Mamoepa	81,083
Nellogenix Investments CC	3,775,000



Empire Marketing	528,776
Classic Crown	453,083
HCK Property Investments CC	399,985
RK & S Chetty	18,000
P Persadh	80,000
Prime Property	20,000
YS Pershad	80,000
Litkie	22,500
Mawalall	15,000
BR Shomang	50,000
Blue Skye Development Company	1,653,000
GL Grayson	299,698
The Village Don	186,833
Perlite Plus Trading	258,172
Scoop Dynamics	5,000
SL Draycott	163,064
Whirlaway Trading 297 CC	58,800
D & L Elliot	75,600
TC De Abreu	31,500
CK & P Kisten	41,800

Repayments not allocated: Perumal	104,500
ASN Car Corp CC	2,113,263
Auto Vita Centurion	176,858
Blue Bean Motors	56,000
CT Motor Holdings (Pty) LTd	214,912
Hightide Traders 38 CC	83,610
Hyman Cars	378,055
Ikon Motors	170,549
Meck Motors	79,025
North West Auto	100,000
Owl Eye Trading	342,000
Silverstar Trading	31,131
Per Trade 117 CC	80,744
United Truck	698,982
CSV Wholesalers	371,466
Fairview Express	109,634
Ola Marc	484,224
Rand City Bearings	862,494
Soluble Solutions	753,196
Kuyasa Electrical	1,082,731

Oxford Butchery	477,054
Litigation costs recovered on Regent Assets	896,458
Total	22,082,014
Total Liquid Assets	
Standard Bank Fixed Deposit	1,402,895
Landbank	50,000,000
Zurich	23,320,829
ABSA Fixed Deposits	18,460,485
ABSA Bank CMM Emerald Trust	68,873
Nedbank	12,920,046
Total	106,173,127
Nzalo	4,112,106
ABSA Bank Settlement	175,000,000
Thunderstruck	5,344,345
Total	184,456,451
Total Asset Recoveries to date	465,855,738
Assets Recoverable from SARS	
VAT Refundable Corporate Money Managers	14,532,530
Income Tax Refundable Corporate Money Managers	6,036,103

Income Tax Refundable Allegro Bridging	8,440,800
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	29,009,433
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Curatorsfees from 3 April 2009 to 29 February 2020

Curatorsfees to date	40,276,919
Nett Curatorsfees	40,276,919
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Forensic accounting and investigation costs (Excl litigation costs)

Period: Curatorship (3 April 2009 to 29 February 2020)

Action Against ABSA	9,309,258
424 Actions	4,793,150
Teba Bank / U bank	85,975
Theo Kies Respondent	125,874
Allegro General	3,450
Black Rhino	104,578
Auditprocedures performed	5,250,992
Escascape Assets	1,697,850
Four River Assets	3,937,947
Regent Assets	332,715
Regent General	109,898
Forensic Investigations and Litigation Support	14,103,969
Total Forensic accounting and investigation costs	39,855,657
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Period: Curatorship (3 April 2009 to 29 February 2020)

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

Office expenses	1,254,103
Marketing	203,386
Bank interest paid (Operational account)	20,376
Office Rental and Utilities	2,903,528
Computer Expenses	99,126
Travel & Motorvehicle Expenses	314,170
Payments to Swaziland	219,502
Operational costs	5,014,191

Legal fees other than litigation cost

Period: Curatorship (3 April 2009 to 29 February 2020)

Asset Holding Costs (Incl Transfer costs, rates & taxes)	6,113,260
Security (Misty Hills and the like)	1,896,688
Security on Costs Greenhills	150,000
Le Roux en Vivier - Lutraweb Erwe	3,600,000
Settlement Bosch & Lindenburg	2,000,000
Bubesi liquidationcost	571,743

Legal fees other than litigation cost

14,331,690

Finance and administration

Period: Curatorship (3 April 2009 to 29 February 2020)

Administrative costs

2,182,843

Personnel Costs

8,396,765

Finance and administration cost

10,579,608

Period: Curatorship (3 April 2009 to 29 February 2020)

Litigation cost from 3 April 2009 to 29 February 2020

Four Rivers Assets

Dreamworld Investments 416 (Pty) Ltd - Eastwood Manor	1,631,477
Jasper & Donovan (Pty) Ltd & Mogale City Local Council - Heritage Manor	707,261
AZS Investments (Pty) Ltd - Misty Hills	83,957
Amalgum Investments 150 (Pty) Ltd / Bronkhorstspuit Industriële Beleggings (Pty) Ltd - Misty Hills	321,510
New Approach Building Projects (Pty) Ltd - Reyno Manor	10,926
Red Coral Investments 37 (Pty) Ltd - Sekelbos Manor	135,447
Red Coral Investments 13 (Pty) Ltd - Unitas Park Vereeniging	26,400
New Approach Building Projects (Pty) Ltd - Witbank Manor	21,776
Rentcor Trading CC t/a Recor - Kamagugu Township	1,485,302
Autumn Star Trading 591 (Pty) Ltd - Baybridge, The Island Estate	840,044
Malokiba Trading 19 (Pty) Ltd - Malokiba 19	39,066
Malokiba Trading 92 (Pty) Ltd - Malokiba 92	392,534
Finfactor (Pty) Ltd & Counterpoint Trading 204 CC & Real Time Investments 506 CC - Finfactor	3,243,355
Theo Kies Ontwikkelings BK - Ikwezi Estate & Montana Gardens	3,959,519
Come What May Properties 3 (Pty) Ltd - Come What May	1,767,827
Dunrose Trading 160 (Pty) Ltd - Waldheim Estate, Ramsgate	3,663,777
White Pine Investments 7 (Pty) Ltd - Heritage View	31,549



Bubesi Investments 53 (Pty) Ltd - Westbrook Estate	136,500
Greenhills View (Pty) Ltd - Greenhills View	295,466
Merry Mole Development (Pty) Ltd - Crystal Lakes Vaal Eco Estates, Vaaldam	1,025,451
- Mettle	42,840
Akubra Trading 21 (Pty) Ltd - Clear Water Eco Estate	60,073
NH Clusters cc - Culembeeck Close	181,146
Panamo Properties169 (Pty) Ltd - Place de Tetre, Honeydew Grove Extension 718	137,380
Buzz Trading 181 Pty (Ltd) - Fleur n Villa	328,827
Total	20,569,411

Escascape Assets

Asande/Garankuwa/Truzanne	415,077
Kufa	1,809,347
Solid Investments / Pieter Bekker	423,613
Thunderstruck	3,589,662
VNP Projects Pty Ltd	3,378,523
Wykwet	468,507
Eastdune	73,319
CMT Trading	575,343
Harvard Real Estate	163,295
Haydon Dunn	459,938
Jinmoa/Formprops	234,141
Minoli	64,665
Quartet	479,413
Zeta	585,190
Anchor Park	169,481
DMX Consulting	442,023
Glen Eden Trading 213 also Basic Construction Supply	196,506
Iceberg Trading	112,544
Imvuno Africa Trading & Projects	81,571
Intsomi	272,222
Mninathoko Makutupu	95,881
Selogilwe Building Contractors CC	363,365
Total	14,453,625

Regent Assets

Panamo Properties 49 (Pty Limited):	595,581
N Maharaj	313,934
New Order Investment	192,766



K Naidoo	30,611
Purple Rain Properties	6,400
Global Star Developments	21,890
MG Peterson	8,519
P Maharaj	127,237
Ramcheret	124,993
Lamula Trust	29,709
Nellogenix Investments CC	60,939
Empire Marketing	632,445
Classic Crown	956,882
DC Wilkinson	815,203
Naidoo & Iyer	1,270
RK & S Chetty	4,555
Bunkerhill Investment	680
C Kannemeyer	310,003
New Heights 1268 (Pty) Ltd	56,408
JC Kemp	879
BR Shomang	157,384
The Village Don	723,315
Nebraska Consulting	6,553
CK & P Kisten	9,146
Adistra 45 CC	22,047
ASN Car Corp CC	184,335
Auto Vita Centurion	185,769
Cars By Klm CC	8,355
Grand Bridge Trading 93 CC	68,682
Ikon Motors	14,611
MRZ Autohaus (Pty) Ltd	365,153
North West Auto	873,426
Silverstar Trading	28,169
Imvusa Trading	81,571
Unallocated	69,255
Total	7,088,674
Total Legal fees assets (as above)	42,111,710
Action against ABSA	33,548,551
Action against SARS	1,673,273
Afdawn	78,713
Barker Insurance	412,899
FSB Legalfees & Costs, General Legal advice	6,265,583

Dynamic Wealth Stockbrokers	1,409,884
Thunderstruck, 424 Actions, Miro	34,388,838
Johan Neethling	135,295
Teba Bank / Ubank	2,043,385
Vincent Smith	814,689
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Total Litigation fees Including Disbursements	122,882,821
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Reconciliation of cash balance

**From 3 April 2009
to 29 February 2020**

Opening balance	-3,211,565
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- Standard Bank Settlement	-4,811,013
- Absa Call	1,245,232
- Consolidated Investec Account	362,051
- Rosebankaccount	-7,834
- Consep Development Recovery of Cost	-
- Paul Marais Recovery	-
- Massyn Recovery	-
- Proceeds on sale of Buzz Trading	-
- Consep Development Dividend	-

Total Inflows	526,405,147
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Liquid Assets realized	106,173,127
Recoveries on moveable assets	111,208
Recoveries on loans (Young Alum & P Sevenster)	515,985
Recoveries Four Rivers Assets	53,729,894
Recoveries on Escascape Assets	99,414,251
Recoveries on Regent Assets	22,082,014
Recoveries on 424 Actions	9,456,451
Recoveries on ABSA	175,000,000
Refunds from SARS	12,981,591
Recovery on share investments (Dino, Hightrade)	116,022
Bank Interest Received	23,137,329
Recoveries in Excess of Capital Exposure	3,867,367
Deposits by investors after 3 April 2009	19,819,907

Total Outflows **347,042,944**

Refunds to investors after 3 April 2009	13,313,698
Interim payments to investors	70,463,652
Hardship payments to investors	13,227,865
Development Cost	6,113,260
Legal fees	122,882,821
Curators' fees	40,276,919
Forensic Accounting and Investigation costs	39,855,657
Administrative costs	2,182,843
Auditfees	2,564,313
Security (Misty Hills and the like)	1,896,688
Office expenses	1,254,103
Marketing	203,386
Bank interest paid (Operational account)	20,376
Office Rental and Utilities	2,903,528
Computer Expenses	99,126
Travel & Motorvehicle Expenses	314,170
Value Added Tax Expended still to be refunded from SARS	14,532,530
Security on Costs Greenhills	150,000
Le Roux en Vivier - Lutraweb Erwe	3,600,000
Settlement Bosch & Lindenburg (Dreamworld Shareholders - Paardeplaats)	2,000,000
Bubesticost	571,743
Payments to Swaziland	219,502
Personnel Costs	8,396,765

Closing Cash Balance **176,151,641**

- Standard Bank Settlement	2,113,648
- Absa Call	909,269
- Rosebankaccount	280,915
- Investec Account	5,071,125
- Investec Term Deposit	167,769,243
- Consep Development Recovery of Cost	7,442

7.2.



Assets distributed to Investors from 3 April 2009 to 29 February 2020

Nett effect of deposits & refunds after 03 April 2009	-6,506,209
Hardship Payments to investors	13,227,865
Interim dividend payments to investors	70,463,652
Total Assets Distributed to Investors	77,185,308

8.

ACTION AGAINST ABSA

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



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

9.

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

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



10.

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

11.

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

12.

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

13.

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

13.1. No new litigation was instituted by or against the curatorship.



14.

14.1. The curatorship is winding-down the existing litigation and apart from two or three trials, there is only the pending litigation against ABSA Bank on which we are focusing at the stage. The balance of outstanding matters relates to the recovery of costs and dividends from various insolvent estates in the process of being wound down.

15.

15.1. **Assets Recoverable from SARS**

VAT Refundable Corporate Money Managers	R14,532,530.00
Income Tax Refundable Corporate Money Managers	R6,036,103.00
Income Tax Refundable Allegro Bridging	R8,440,800.00
	<u>R23,071,266.00</u>

15.2. **Discovery in SARS matter:**

15.2.1. Extensive discovery has been made; the matter, however, has been suspended due to the effect of Covid -19. The curatorship has been advised that the matter has merit and that the abovementioned amount will ultimately be recovered for investors. This legal process is in progress and will require management and expenses until its final determination, given the financial condition in the country, SARS is backward in coming forward to effect payment either. A pre-trial conference has been arranged and the matter has been set down for hearing in November 2020. Senior and Junior Counsel are on brief.



15.3. Other Actions Against SARS – MAT3506 & MAT3514

15.3.1. These matters relate to a Value Added Tax Refund. The Returns will be submitted by the end of September 2020 of a total value of approximately R3 million. We hold the positive relief that the refund will be affected.

15.3.2. Remaining matter of Refundable Income Tax relating to the company Allegro Bridging has been discussed with SARS and an amended assessment has been received resulting into a credit to the curatorship in the sum of R8,644,873.00.

15.4. Thunderstruck, Johan Bakkes & Maritha Bakkes (MAT2802)

15.4.1. Mrs. Bakkes has applied in terms of Section 21 of the Insolvency Act for the release from the Insolvent Estate of the residence registered in her name. The trustees in the Insolvent Estate of Mr. Bakkes, is of the view that the assets belong to the Insolvent Estate.

15.4.2. The matter was set down for hearing during the lockdown period and will have to resume when circumstances permit.

15.4.3. With the assistance of our attorneys, Werksmans, the Thunderstruck matter has been settled and we are awaiting an account, once Counsels fees have been received.

15.4.4. The Johan Bakkes and Maritha Bakkes matter has been postponed but progress is bedevilled by the Disaster Regulations in combating Covid-19 resulting in the non-availability of the Courts for matters of this nature.



15.5. Empire Marketing

15.5.1. This matter is not being proceeded with for fear of throwing good money after bad.

15.5.2. Attorneys accounts are awaited.

15.6. Kannemeyer & du Plessis

15.6.1. This matter has been finalised.

15.7. Maharaj (MAT2126)

15.7.1. This matter has been abandoned due to the uneconomic activity of litigating with the view of receiving nothing.

15.8. MRZ Autohaus, Ebrahim, Fatija Cars & Jeewa

15.8.1. The prosecution of this matter has reached the stage of dormancy.

15.9. Classic Crown, Ratha Nayager, Erf 603 Benoni BK (MAT3908)

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

15.9.2. After the applications of Nayager and his brother were dismissed, the property of Erf 603 was sold. Since the property was unencumbered, the dividends that will flow from Erf 603 into the estate of Nayager will result in further dividends to be paid to the curatorship. The liquidation and distribution account of Erf 603 CC has been confirmed. The Dividends have been paid over to his insolvent estate and will shortly be distributed to the curatorship,



once a supplementary account has been confirmed, our attorneys also managed to collect some of the cost incurred.

15.10. Panamo Properties, Imagina (MAT3025)

15.10.1. The matter has been finalised and costs have been collected.

15.11. Rencourt, Rumilox

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

15.12. Consep Developments, Dunrose

15.12.1. This matter has been finalised.

15.13. Sarel van Niekerk, Ernst Kleinhans, Thaba Thula, SVN Business Trust (MAT2079)

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

15.14. Autumn Star

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

15.14.2. An action against Calgro M3 is dormant.

15.15. Come What May (MAT2439)

15.15.1. This matter has been finalised and duly accounted for.



15.16. Cottle Kirsten, CKLK Family Trust

15.16.1. This matter has been finalised and duly accounted for.

15.17. Counterpoint Trading, Iliad

15.17.1. This matter has been finalised and duly accounted for.

15.18. Merry Mole, Ferco Investments (MAT3701, MAT3395)

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

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

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

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

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



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

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

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

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

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

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

We do understand that there is more of a demand for some Stands than others. We recommend that all the stands should be sold at one venue on a specific date and time with all interested purchasers bidding against each other which will determine it's true value."

15.19. Mogale City, White Pines (MAT2234)

- 15.19.1. This action was set down for hearing during the lockdown period. Possible settlement negotiations are in progress. Litigation has made progress to a stage where settlement negotiations are being conducted, Covid -19 has intervened.



15.20. Kufa

- 15.20.1. An asset was transferred out of Kufa into a trust, in which Mr. Sithole is the sole beneficiary. This is a disposition without value. Our attorneys will be instructed to proceed.

15.21. Vincent Smith

- 15.21.1. This matter has been settled advantageously to the curatorship.

15.22. The Insolvent Estate of Dennis Wilkinson:

- 15.22.1. This matter has been stopped. The report from his trustee reflected the possibility of a contribution to cost, it was decided not to prove the claim.

15.23. Misty Hills:

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



15.24. Truzane Garankuwoa Development:

- 15.24.1. The appointed liquidators of the company are continuing to sell the property of the company. Individual stands are being sold to members of the public.
- 15.24.2. A number of transfers are pending.
- 15.24.3. We believe that the bulk of the assets of this company will be offered for the sale during 2019 and 2020.
- 15.24.4. The liquidators of the company have received an offer for a large number of stands at a substantially discounted price which are at this stage considering.
- 15.24.5. It would expedite the finalization of the realization of these assets.
- 15.24.6. The liquidator shall make payment to the curatorship once it has sold a substantive number of erven, resulting in a periodic payment after the sale of a number of properties. A regular report is received and requires management.
- 15.24.7. Litigation is pending which does not affect the curatorship, but it has been closely monitored by our attorneys. For the present, is an armistice.

15.25. Daggafontein and Springs:

- 15.25.1. This property has been sold full details of the sale has been placed before the court for approval by way of a substantive application. The transfer is in progress as a result whereof a recovery of R6.5 million will be received once the property has been transferred, Covid -19 has intervened hence the delay. Once the proceeds have been received, upon the maturity of the investment within the next few days, it is intended to defray the arrear costs due to the attorneys, Roestoff Attorneys, who have



delayed and deferred rendering their account in order to assist the curatorship, financially.

15.26. Payment to Investors

- 15.26.1. It is intended to make a further payment to Investors, utilising approximately R100 mil of the funds achieved due to the settlement against ABSA. In order to affect the payments effectively and orderly, Investors have been called upon to confirm the existence of their bank accounts, due to the necessity to comply with the FICA Act. We have made considerable progress, but a large number of responses directed at intermediaries and individual investors are still outstanding.
- 15.26.2. Payment will have to be affected in tranches, due to bank regulations, which does not allow transfers of more than R10 million per day, hence the necessity to stagger the payments over a period and the need to ensure that payments are meticulously correctly made.
- 15.26.3. The abovementioned calculations have been submitted to our forensic auditor for his input. Senior Counsel have been briefed for opinions on the validity of some of the claims, as well as the taxability of the settlement amount as well as the interest earned thereon, subject to the deductibility of the costs incurred, in order to arrive at the settlement amount, due to the existing uncertainty, a large portion of the proceeds are re-invested in anticipation of the receipt of the opinion, as well as the election of further proceeds of further assets, mainly from SARS and the sale of further properties, such as Kungwini (Misty Hills), which should enable the curatorship to make a further substantial payment to the investors, however, there is an element of uncertainty, due to the state of the South African Economy, as well as the bedeviling effect of Covid-19.



THE FUTURE OF THE CURATORSHIP

- 16.1. The curatorship has presently been governed by Louis Strydom and John Roderick Graeme Polson. Louis Strydom assists in the supervision of the financial accounts and payments made to beneficiaries.
- 16.2. The day-to-day communication with investors and the conclusion of agreements with prospective Purchasers as well as the communication with attorneys to manage the remaining litigation, is conducted by John Roderick Graeme Polson.
- 16.3. Our fees have been adapted by the Financial Services Conduct Authority and capped at R3,028 and R3,400 per hour, subject to a total monthly fee of R340 000.00. The curatorship has not debited the capped fee in any one month since the commencement of the arrangement.
- 16.4. The main area of activity relates to the safeguarding and sale of immovable assets, such as Truzane, Kungwini Hills (Bronkhorstspuit Property), subject to a 3 month suspension condition, Mogale City, litigation which may result in the acquisition of immovable property to be sold for the benefit of the curatorship, Merry Mole property situated in close proximity of the Vaaldam.
- 16.5. It is recommended that the curatorship be retained for a further period of 1 year at the existing fee structure, which is in favour of investors, if compared to the market related fees for professionals of the curator's ilk. Considerable progress has been made since the settlement of the ABSA matter, to curtail expenditure. It is expected that the pending litigation will pay for itself, with a resultant benefit to the curatorship.




COURT'S INDULGENCE

17.1. The court's indulgence is sought to condone the late filing of this report. The lateness can be prescribed to the preparatory work to be done in order to ensure the accurate payment to the investors subsequent to the settlement of the action against ABSA. The funds were to be invested in safe accounts with Investec, which required the removal of certain authorised signatories, erstwhile employees of CMM with the signatories of the curators and oversight by our financial officer. This process took considerable time. Counsel's opinion had to be obtained, regarding the tax position of the investment, both in each nature and the taxability of its proceeds, as well as the deductibility of the expenses incurred.

17.2. Since 27 March 2020, the regulations relating to Covid-19 bedevilled proper communication, as well as mobility to attend consultations and to facilitate negotiations. The situation has improved due to the relaxation of the regulation and the use of technologies.

17.3. It is suggested that the next report to court must be the 29th of March 2021, in order to allow sufficient time for an audit to be conducted and an audit report to be prepared for the next report to the above honourable court.

SIGNED AT Pretoria ON THIS THE 7th DAY OF
_____ 2020.



JOHN RODERICK GRAEME POLSON
CURATOR

LOUIS STRYDOM
CURATOR