

Supplementary Curators' Report

7 May 2013


S.C.

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1. Background

- 1.1 On 1 February 2007, I was appointed as one of the provisional joint curators of Fidentia Holdings Pty Ltd ("Holdings"), Fidentia Asset Management Pty Ltd ("FAM") and Bramber Alternative Pty Ltd ("Bramber"), and their businesses, collectively referred to as the "Fidentia Group". The curatorship of the Fidentia Group was made final on 22 March 2007 in terms of the Court Order granted in the High Court of South Africa (Western Cape) under case number 679/2007.

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2. Objectives

- 2.1 In performing my functions as curator, I have supervised the compilation of detailed cash flow analyses of all funds invested by the various investors who invested in FAM. I can state that the cash flow analyses referred to *infra*, and which were prepared by Gobodo Forensic and Investigative Accounts (Pty) Ltd ("GFIA") are accurate to the extent that source documentation relied upon are accurate, and have been prepared under my supervision from the banking records of Holdings and other relevant companies within the Fidentia Group, from the banking records of Maddock Inc, investor records to the extent that such were maintained by the Fidentia Group and from the records of entities owned by or under the control of Goodwin.


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3. Approach and procedures performed

- 3.1 The compilation of the detailed cash flow analysis commenced by identifying what investor records existed under the control of FAM, and then extracting what records were available. The maintenance of payments made to investors resided with Fidentia Transactional Holdings (Pty) Ltd ("Transact"). Together with staff members previously employed by Transact, all amounts invested by the various investors were traced to and agreed to the various bank accounts operated by different entities within the Fidentia Group, as well as to the relevant Maddock Inc bank accounts.
- 3.2 All amounts paid to investors were traced to and agreed to the various bank accounts operated by different entities within the Fidentia Group.
- 3.3 An analysis was performed on each investor as well as each underlying beneficiary of the LHUT to establish the extent to which gains/losses had been allocated to their account. To the extent that such gains/losses were identified these were then excluded from the balance appearing on the account, in order to calculate the true capital balance on each account i.e. what capital was invested by a particular investor and beneficiary of the LHUT and what repayments had been made to them. This was done in order to quantify the extent of their capital exposure. As appears later in this report, this exercise was necessary because the Fidentia Group, in contravention of the legislative and regulatory provisions applicable to it, had not kept separate records of the assets acquired with the funds of each investor, but had pooled the funds. Consequently the gains or losses of each investor could not be identified.
- 3.4 Upon completion of this exercise I was in a position to perform an accurate calculation of how much had been invested and repaid to investors.
- 3.5 Complete sets of bank statements relating to all the bank accounts identified as having been operated within the Fidentia Group for the relevant period were collated. To the extent that statements were missing, these were obtained from the relevant banks.
- 3.6 With reference to the bank statements, detailed cash flow schedules of how the investor's funds were applied were compiled. This entailed tracing, to the extent possible, how each tranche of funds invested by a particular investor was dealt with, including tracing its movement to related bank accounts operated in the Fidentia Group, with a view to establishing who the ultimate beneficiary of each tranche of funds was.

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- 3.7 The findings of the cash flow analysis were to the extent possible corroborated to the accounting records of the various entities comprising the Fidentia Group, with the particular objective of confirming the ultimate beneficiary of the investor funds. In this regard, the state of the accounting records has been discussed in previous curator reports, and I attach as *Annexure A* a schedule reflecting the status of the companies at the date of curatorship, as such relates to the statutory audit function.
- 3.8 I conducted an investigation into the circumstances surrounding the disbursement to and purpose behind payments to the identified recipients. To this extent, I sought to identify and extract relevant source documents evidencing the transactions, but was constrained by the paucity of available source documentation supporting certain transactions and disbursement of investor funds.
- 3.9 An analysis of the electronic information was performed, including a download of the email server, in order to assist in identifying the beneficiary and purpose of each amount of investor funds paid to a particular person or entity.
- 3.10 Interviews were conducted with current and certain previous employees of the Fidentia Group.
- 3.11 Consultations were held with staff members who were involved in performing the accounting function for the Fidentia Group, including Maddock.



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4. Relevant period

- 4.1 This report covers the period from the initial investment of funds by the first investor (Antheru), until the date of curatorship, being 1 February 2007. The first investment made by Antheru appears to have been made in August 2002.

5. Relevant Persons and Entities

5.1 I provide hereunder a list of relevant Persons and Entities mentioned in this Expert Report:

5.1.1 **Antheru** **Antheru Trust**

The first entity that invested funds with FAM. Antheru is only one of two investors that received so called "profit payments" on its investment. Heydenrych was the appointed trustee.

5.1.2 **Balltron** **Balltron (Pty) Ltd**

One of the entities that subsequently invested funds with FAM.

5.1.3 **Bayview** **Fidentia Bayview (Pty) Ltd**

A company incorporated in accordance with the laws of South Africa, 2003/006557/07. Also known as Bayview Commodities, a company started by Brown trading in consumable products e.g. margarine and cooking oil.

5.1.4 **Dr Piet Bothma** **Bothma**

The previous CEO of TETA who allegedly supported the investment of funds with FAM in return for receiving bribes channelled via Goodwin.

5.1.5 **Bramber** **Bramber Alternative (Pty) Ltd**

A company incorporated in accordance with the laws of South Africa, 2000/024139/07. A company subsequently created to purportedly hold, for the benefit of the investors, shares in certain companies acquired and registered in the name of Holdings.

5.1.6 **Brown Brothers** **Brown Brothers Holdings (Pty) Ltd**

The holding company of Holdings controlled by Brown, and his associates. Brown's trust is the largest shareholder.


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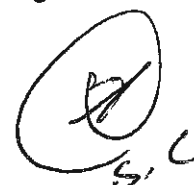
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- 5.1.13 **Fidentia Group** **Fidentia Group**
- A term used in the report to identify all the entities that fall under the curatorship.
- 5.1.14 **Goodwin** **Steven William Goodwin**
- A former director of Holdings. Imprisoned for his role in the demise of the Fidentia Group.
- 5.1.15 **Holdings** **Fidentia Holdings (Pty) Ltd**
- A company incorporated in accordance with the laws of South Africa, 2001/022355/07. A wholly owned subsidiary of Brown Brothers, and in turn, the holding company of the companies comprising the Fidentia Group, including FAM and Bramber.
- 5.1.16 **Infinity** **Fidentia Infinity (Pty) Ltd**
- A company incorporated in accordance with the laws of South Africa, 1996/015882/07. The company that operated the loyalty reward programme.
- 5.1.17 **Intabrand** **Intabrand (Pty) Ltd**
- A company controlled by Goodwin.
- 5.1.18 **Living Hands** **Living Hands (Pty) Ltd**
- A company incorporated in accordance with the laws of South Africa, 2001/022188/07 previously known as Mantadia. The corporate trustee of LHUT.
- 5.1.19 **LHUT** **Living Hands Umbrella Trust**
- The umbrella fund through which underlying source funds invested beneficiaries funds with FAM.



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- 5.1.20 **Maddock** **Maddock**
- The auditor and director of Holdings. Imprisoned for his role in the demise of the Fidentia Group.
- 5.1.21 **Maddock Inc** **Maddock Incorporated**
- Maddock's auditing firm.
- 5.1.22 **Ovation** **Ovation Services (Pty) Ltd**
- A company controlled by the late Cruikshank and to which company funds invested by FAM were diverted.
- 5.1.23 **Pacific Star (Pty) Ltd** **Pacific Star**
- A company controlled by Baloyi, being the single largest shareholder in Mantadia, the corporate trustee of LHUT.
- 5.1.24 **Sante** **Sante Leisure (Pty) Ltd**
- A company incorporated in accordance with the laws of South Africa, 2005/008961/07. The holding company of Sante Hotel and Wellness Centre (Pty) Ltd and Fundev Property Investment (Pty) Ltd held the investment in the Sante hotel, villas and spa suite.
- 5.1.25 **SF** **Software Futures (Pty) Ltd**
- A company incorporated in accordance with the laws of South Africa, 1999/027613/07. A company acquired with investor funds engaged in the provision of IT services. The holding company of Peoples Futures (Pty) Ltd.
- 5.1.26 **TETA** **Transport Education Training Authority**
- The Skills Education Training Authority ("SETA") which invested funds with FAM pursuant to and on the basis of the alleged bribing of its former CEO.
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- 5.1.27 **Transact** **Fidentia Transactional Holdings (Pty) Ltd**
- A company incorporated in accordance with the laws of South Africa, 2000/016785/07. The company that effected payments to particularly the beneficiaries of the source funds and maintained records of payments made to them.
- 5.1.28 **Tucker** **Tucker**
- The in house legal adviser of the Fidentia Group.
- 5.1.29 **Vilayet (Pty) Ltd** **Vilayet**
- A company in the Fidentia Group ostensibly awarded the right under concession to operate the restaurants in the Kruger National Park.

6. Status at Date of Curatorship

6.1 Asset portfolio secured by curatorship order

6.1.1 The assets available at the date of curatorship, assuming that it is accepted that Brown utilised investor funds to acquire assets for the benefit of the investors can essentially be summarised as:

Asset Class	Amount R'000
Cash	10,036
Fixed Property (At Cost)	187,500
Fixed Properties recovered from Brown's trusts (At cost)	37,100
Private Equity Companies (At cost)	365,500
Total	600,136

6.1.2 Other than the cash balances which were invested in the names of the investors, ownership of the fixed properties and private equity companies, contrary to the applicable legislation, was not registered in the names of the investors or in an authorised nominee company. These are included by virtue of the operation of the curatorship order. Ownership of the fixed properties and private equity companies was registered in the names of companies controlled by Holdings, a subsidiary of Brown Brothers. Brown, through a trust, was the controlling shareholder of Brown Brothers.

6.2 Fixed properties

6.2.1 In respect of the fixed properties these were independently valued in April 2007 by sworn appraisers in the amount of approximately R201.4 million. This excludes the Theewaterskloof and Hartenbosch properties, both vacant pieces of land acquired for a combined amount of R2.5 million. The amount of R187.5 million (fixed properties at cost) excludes the purchase of the Facets building and a portion of land comprising the Thaba Manzi game farm. As regards these two properties, both were acquired with investor funds but ownership was registered in the names of trusts controlled by Brown.

6.2.2 The Facets building was acquired for R24.5 million and registered in the name of the Brown Family Investment Trust, was occupied by Brown's wife, who ran her business rent free from these premises. The building was independently valued at R33.3 million in April 2007. R12.6 million of investor funds was utilised to purchase a portion of the game farm which was registered in the name of a trust controlled by Brown, the sole beneficiaries of which were Brown, his wife and their minor children. Pursuant to the curatorship these properties were recovered for the benefit of the investors.

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6.3 Distributions to date

6.3.1 To date the curators have distributed an amount of R248.8 million to the investors. The distribution has been done in accordance with Orders granted by the High Court, and despite vehement opposition by Brown and others who were acting at his instigation.

6.4 Potential remaining recoveries

6.4.1 Tabulated below are the available remaining assets to be disposed of and potential recoveries from litigation instituted against various parties. It is unlikely that the amount of R25.5 million will be recovered from Brown's estate.

Asset Class	Amount R'000
Cash (See note 1)	28 183
Remaining Fixed Properties ex <i>Annexure C</i> (At cost)	127 023
Recovery of Properties not included in <i>Annexure C</i> (Note 2)	8 000
Remaining Private Equity Companies ex <i>Annexure D</i>	Indeterminate
Litigation relating to Private Equity Companies (At cost) (note 3)	109 000
Sequestration of Brown	25 516
Litigation instituted against previous directors, officers of the Fidentia Group	As per litigation report attached to 10 th Report to Court

Note 1 As per December 2012 curators report. Distribution of cash is dependent on legal costs incurred/to be incurred to litigate/defend actions instituted.

Note 2 This includes the Sunset Beach property purchased with TETA funds and registered in the name of a trust controlled by Brown. The curators have sequestered this trust and are engaged in litigation to recover the property for the benefit of the investors.

Note 3 The curators are engaged in litigation with the vendor of Infinity to recover the purchase price. R160 million the amount paid by Brown for a company that was insolvent at the date of acquisition.

7. Detailed Findings

7.1 Reconciliation: Investor Funds Received and Liability to Investors

- 7.1.1 I commenced by quantifying investor funds invested with FAM, and establishing how such funds were subsequently dealt with. Attempts were made to obtain the Investors Ledger from FAM. It is evident that an investor ledger identifying separately the funds received from each investor and how such funds were invested was not maintained.
- 7.1.2 The practice adopted by FAM was to co-mingle the investors' funds into the bank accounts of FAM, Capitalwise and Holdings. In the case of certain investors, their initial funds were deposited in the bank account operated by Maddock Inc, being an account operated at Standard Bank, Kromboom, account number 072895543. For example, funds initially invested by TETA, Antheru, and Evertrade were deposited into the bank account of Maddock Inc. This was occasioned by the fact that initially none of the Fidentia companies, including FAM, operated a bank account.
- 7.1.3 The table below records the total funds invested with FAM, *albeit* that certain of these funds were deposited into the bank account operated by Maddock Inc, repayments to the investors and the resultant liability to the investors. In respect of TETA the face value of the promissory notes, to which I refer later, is included, exclusive of the fee charged for the early redemption.
- 7.1.4 Column 4 records the capital amount due to the investors i.e. excluding gains/losses as calculated by FAM and allocated to the investor accounts. The exclusion is based on calculations performed by the curators and based on the findings of the investigations into how investor funds were applied.
- 7.1.5 As I shall demonstrate, the failure to keep each investor's funds separate and identifiable makes it impossible to attribute gains and losses to each investor. The last column records the liability as reported in the accounting records of FAM. The table records the liability to investors as at 31 December 2006, being approximately one month prior to curatorship.

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Investor Name	Total Capital Investment	Capital Repayment (incl. Profit Payments, excl. encashment)	Liability to Investor (excl. attributable gains)	Liability to Investor (incl. attributable gains as per FAM records)
TETA	200 000 000	15 000 000	185 000 000	242 725 678
Antheru	45 493 707	36 288 258	9 205 449	33 727 398
Evertrade	48 935 000	90 338 500	0	0
Balltron	38 573 680	0	38 573 680	46 571 173
LHUT (Note 1)	1 467 440 675	333 528 851	1 131 911 824	1 061 913 142
Total	1 800 443 062	475 155 609	1 364 690 953	1 384 937 391

Note 1: The liability is calculated after accounting for fees charged and taxes paid to SARS on behalf of the individual beneficiaries.

7.1.6 The reported liability to LHUT (inclusive of attributable gains), is determined after accounting for a fictitious promissory note of R150 million which was included as part of the asset portfolio. This fictitious asset had been included as part of the asset portfolio as from 31 March 2005, and was allocated against the investment of LHUT (R59 million) and TETA (R90 million). During the inspection conducted by the FSB Inspectorate Brown was requested to and undertook to produce this promissory note. To date no evidence of the existence of this promissory note exists and it has not been produced by Brown.

7.1.7 In respect of TETA, the capital transferred to FAM was R100 million. A further amount of R100.3 million was received by Maddock in the form of promissory notes. These promissory notes were redeemed before maturity in an amount of, R94 684 221.82 and subsequently disbursed out of Maddock Inc's trust account. The investment mandate in respect of TETA confirms that the promissory notes were invested with FAM.

7.2 Profile of Investors

With reference to the table above, I have listed all the investors who invested funds with FAM.

7.2.1 TETA

7.2.1.1 Antheru was the first investors to invest funds with FAM and after that TETA. In respect of TETA, the capital transferred to FAM was R100 million and a further amount of R100.3 million in the form of promissory notes. The proceeds from the premature sale of the promissory notes, R94 684 221.82, were deposited into the bank account operated by Maddock Inc.

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7.2.1.2 The investment by TETA was facilitated by Goodwin by the alleged unlawful means of bribing the former CEO of TETA, Bothma. What is apparent from the TETA cash flow analysis, is that the R200 million invested by TETA was essentially disbursed as follows:

7.2.1.2.1 R15 million was used to repay TETA from its own funds invested;

7.2.1.2.2 R4.31 million by way of reduction of the proceeds from the premature redemption of the promissory notes;

7.2.1.2.3 R40.4 million was disbursed to entities controlled by, or for the benefit of Goodwin, and it is apparent that portion of this amount was utilised to effect the alleged unlawful payments to Bothma;

7.2.1.2.4 R17.5 million was paid to persons and entities that had not previously invested funds with FAM, but appear to have invested with Maddock Inc. This illustrates the existence of a Ponzi scheme in operation prior to Fidentia Group commencing with its operations;

7.2.1.2.5 R8 million was paid to an official at the Saudi Arabian embassy for the purposes of illegally exporting this amount to a foreign jurisdiction. This official subsequently left South Africa and misappropriated the funds for his own benefit;

7.2.1.2.6 R4,018,327.31 of TETA funds was utilised to make payments to Antheru;

7.2.1.2.7 R11.23 million was applied toward the purchase of two residential properties registered in the name of the CAM Brown Trust and SL Brown Trust, controlled by Brown. Brown and his family resided at the one property until Brown demolished it, leaving a hole in the ground;

7.2.1.2.8 R15 million for the acquisition of an interest in Vilayet, which operated, under concession, the restaurants in the Kruger National Park. This company was liquidated shortly after the investment was made, and before the date of curatorship. Related to this was a payment out of TETA funds of R3.19 million to SANParks;


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- 7.2.1.2.9 R12.9 million advanced to Bayview which company appears to have traded in consumable goods e.g. margarine and oil. This is a company started by Brown and which originally operated from his garage. The results of this cash flow analysis confirm that no repayments were ever effected by Bayview for the benefit of the investors;
- 7.2.1.2.10 R790,330.19 toward the acquisition of the minority shareholders interest in Mantadia;
- 7.2.1.2.11 R5.9 million was paid to Ovation and Cornerstone, entities controlled by Cruikshank with whom investors had invested, and from whom Cruikshank had misappropriated investor funds. Although reflected as an investment in the FAM records these amounts were advanced, interest free, unsecured and with no terms of repayment to assist Cruikshank with the concealment of his theft of investor funds;
- 7.2.1.2.12 R2.65 million to R. Bam a director of FAM;
- 7.2.1.2.13 R3.3 million for the purchase of vehicles for Brown, L.Koen, R.Bam and Maddock;
- 7.2.1.2.14 Approximately R2.5 million relating to the acquisition of Portion 2 of the farm Hartenbosch No. 217, a vacant parcel of land;
- 7.2.1.2.15 R25.39 million toward the purchase of the shares and provision of a loan facility to Software Futures "SF";
- 7.2.1.2.16 What appear to be salary payments to L.Koen, A.Tucker and Brown in the amount of R937,631;
- 7.2.1.2.17 R226,136 toward payments on Brown's credit card;
- 7.2.1.2.18 R1.6 million for the purchase of erf 423 Bellville, being a residential property occupied, rent free, by Brown's stepfather. A further amount of R949 000 of investor funds were spent on this property. The property was bonded in favour of ABSA;
- 7.2.1.2.19 R259 654.40 relating to the acquisition of Erf 243 Theewaterskloof (Caledon). This is a vacant piece of land.

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7.2.1.3 TETA invested R200 million in FAM, and such investment occurred between May 2003 and April 2004, and by 19 October 2004 the funds invested had been fully used. To the extent that TETA's funds were invested in assets capable of generating a return, such investment was made in entities owned and controlled by Holdings, which in turn was owned and controlled by Brown Brothers. The controlling shareholder of Brown Brothers was Brown. Furthermore to the extent that TETA funds were invested in assets capable of generating a return, most notably SF, Vilayet and Bayview, these entities did not in fact generate a positive return. SF was continuously funded with investor funds in order to cover its operating losses, Vilayet was by the date of curatorship liquidated and Bayview, which had been started by Brown, was dormant by the date of curatorship.

7.2.2 Antheru

7.2.2.1 Antheru invested R45 493 707.35 over a period of five years.

7.2.2.2 Three different investment mandates, dated 22 July 2002, 3 September 2003 and another signed in 2006 were located. The latter mandate was signed by Maddock representing FAM and Heydenrych representing the Antheru trustees, at the end of April 2006. On Heydenrych's advice, concerns arose that FAM managed client funds for a period of three years without a mandate.

7.2.2.3 The funds invested were essentially disbursed as follows:

7.2.2.3.1 R19 495 527 of Antheru's funds were returned to Antheru either in the form of capital withdrawals or so called "profit payments". It appears that Antheru was earning a return of approximately 19% per annum on the funds invested with FAM. Other than Evertrade, Antheru is the only investor that earned a return on its "investment". Approximately R24.5 million was paid in so called "profit payments" to Antheru, and during the course of, and based on my investigations I have reasonable grounds to conclude that these so called "profit payments" were not paid to all those investors who in turn had invested directly with Antheru;

7.2.2.3.2 In total an amount of R36 288 258 was returned to Antheru which included an amount from Balltrøn funds of R138 012.94, TETA funds of R4 018 327.31 Evertrade funds of R117 342.74 and LHUT funds of R12 519 048.07.

7.2.2.3.3 The balance of the funds invested by Antheru, being approximately R26 million was applied toward operational costs of entities acquired and owned by Holdings and/or registered in the name of a trust controlled by Brown.

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7.2.2.4 I deal *infra* with the more significant amounts disbursed from the Antheru investment to the following persons or entities:

7.2.2.4.1 R346 089.13 to Tucker for what appears to be salary payments;

7.2.2.4.2 R2 400 000 to A L Goodwin the wife of Goodwin for the benefit of Goodwin as a "restraint of trade" payment;

7.2.2.4.3 R250 000 to Bayview;

7.2.2.4.4 R47 623.43 toward payment of Brown's credit card;

7.2.2.4.5 R10 080 000 for two villas at Sante;

7.2.2.4.6 R282 010.62 to Flight Solutions. This relates to travelling costs undertaken by Brown and the staff employed by the companies in the Fidentia Group;

7.2.2.4.7 R1 085 938.92 to Fundamo. This relates to an investor who had previously invested with Maddock and not with FAM.

7.2.2.4.8 R300 000 to L Koen;

7.2.2.4.9 R6 085 470.48 to Ovation ,an entity controlled by Cruikshank with whom investors, other than the FAM investors, had invested, and from whom Cruikshank had misappropriated investor funds

7.2.2.4.10 R4 185 000 toward the acquisition of the minority shareholders interest in Mantadia;

7.2.2.4.11 R206 365.50 to SF to fund its operating losses;

7.2.2.4.12 R925 000 to R. Bam.

7.2.3 Balltron

7.2.3.1 On 8 November 2004 Balltron deposited as a guarantee R3 million which was transferred into the Transact account no 478453515001. This amount has subsequently been returned to Balltron.

7.2.3.2 On 20 January 2004 a further amount of R38 573 679.81 was deposited into acc no. 078891876001.

7.2.3.3 I deal *infra* with the more significant amounts disbursed from the Balltron investment:

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- 7.2.3.3.1 R138 012.54 toward payments to Antheru;
- 7.2.3.3.2 R10 million to Cornerstone an entity controlled by Cruikshank an individual with whom investors had invested; and from whom Cruikshank had misappropriated investor funds;
- 7.2.3.3.3 R6.5 million relating to the Evertrade deal, as part of a repayment of the initial capital invested;
- 7.2.3.3.4 R2.16 million to fund the operating expenses of SF;
- 7.2.3.3.5 Approximately R2.6 million to Intabrand an entity controlled by Goodwin;
- 7.2.3.3.6 Approximately R15.6 million toward the acquisition of the minority shareholders interest in Mantadia.

7.2.4 LHUT

- 7.2.4.1 In order to access the LHUT funds, Brown had to gain control over Mantadia, which at the time, administered the funds of the LHUT. This was brought about by utilising other investor funds, primarily those invested by Balltron, Antheru and TETA, to buy out the minority shareholders' shares and replace the Mantadia directors with Fidentia directors. The majority shareholder was bought out using LHUT's own funds.
- 7.2.4.2 After disbursement on 19 October 2004 by Fidentia of an amount of approximately R27.5 million to the Mantadia minority shareholders, utilising approximately R15.6 million of Balltron funds, R4.185 million of Antheru funds and R790 330.19 of the remaining TETA moneys in acc no. 072919957, the balance in account number 072919957 was R51 108.57.
- 7.2.4.3 On 19 October 2004 at a board meeting with representatives of Mantadia and Malan, Tucker and Goodwin, representing Holdings, a resolution was passed that Baloyi, Gover, Mileham, Atcheson, Ditz and Guthrie resign as directors and Tucker, Malan and Johan Linde be appointed as directors of Mantadia. At the date of this meeting no payment had been made to Pacific Star (R56 million) and Investec (R9.25 million), the majority shareholders. Baloyi, who was the majority shareholder of Mantadia by virtue of her majority shareholding in Pacific Star, did not inform the board meeting that Pacific Star which held 50.1% of the Mantadia shareholding had at that stage not received payment for its shares.

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- 7.2.4.4 On 20 October 2004 Tucker gave a written and signed instruction to Investec to transfer an amount of R70 215 479.45 from Mantadia Asset Trust Company Investec Bank account number 1100183294500 ("Mantadia Investec acc no. 1100183294500") into Brown Brothers Securities "BBS" Investec Bank account number 40000512714 ("BBS Investec acc no. 40000512714"). The latter account was operated on the Brown Brothers Holdings profile.
- 7.2.4.5 On 21 October 2004 an amount of R70 215 479.45 was transferred from Mantadia Investec account number 1100183294500 into BBS Investec acc no. 40000512714. On the same date an amount of R69 million was transferred from the latter account into Holdings acc no. 072919957, from which account R56 million was transferred to Pacific Star Trading's Standard Bank account number 001950320.
- 7.2.4.6 On 22 October 2004, an amount of R9 250 018.54 was disbursed from account number 072919957 to Investec.
- 7.2.4.7 Based on a written instruction from de Jongh dated 21 October 2004, Old Mutual Unit Trusts commenced liquidating all the money market investments and from 22 October 2004 to 11 November 2004 transferred R1 129 626 740 into Mantadia Asset Trust Company Standard Bank account number 001947052. Together with the R70 215 479 referred to in paragraph 7.2.4.4 *supra* Mantadia received R1 199 842 219 from Old Mutual over the period 21 October 2004 to 11 November 2004.
- 7.2.4.8 Funds were transferred by Mantadia as investments with FAM in a total amount of R1 256 842 219 between 25 October 2004 and 12 October 2005 as follows:

Date	To Fidentia Accounts	Amount
21 October 2004	BBS Inv 1300187819500	R 70 215 479.45
25 October 2004	HOLDINGS 957 acc	R 52 200 000.00
29 October 2004	HOLDINGS 957 acc	R 67 426 740.04
28 October 2004	BBS SB acc 072920491	R 100 000 000.00
29 October 2004	BBS SB acc 072920491	R 80 000 000.00
1 November 2004	BBS SB acc 072920491	R 129 000 000.00
3 November 2004	BBS SB acc 072920491	R 275 000 000.00
11 November 2004	BBS SB acc 072920491	R 192 000 000.00
27 October 2004	BBS Inv 1300187819500	R 100 000 000.00
27 October 2004	BBS Inv 1300187819500	R 134 000 000.00
17 June 2005	Capitalwise	R 40 000 000.00
11 October 2005	Capitalwise	R 7 000 000.00
12 October 2005	Capitalwise	R 10 000 000.00
TOTAL		R1 256 842 219.49

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- 7.2.4.9 R210 598 455.59 was introduced into LHUT as new capital bringing the total amount of LHUT's investment to R1 467 440 675.08 pre-curatorship.
- 7.2.4.10 The amounts disbursed from the R1 467 billion invested constituting capital were:
- 7.2.4.10.1 Approximately R280.2 million used to repay beneficiaries of the underlying LHUT source funds. Payments comprised a monthly stipend and in certain cases *ad hoc* payments paid to beneficiaries of the source funds. These stipend payments were in turn funded from subsequent investments made by source funds. In other words beneficiaries whose investment had initially been made in FAM by LHUT were then paid a monthly stipend from funds invested by subsequent source funds on behalf of other beneficiaries;
 - 7.2.4.10.2 R51 million charged as fees; and
 - 7.2.4.10.3 R2.29 million paid to SARS in respect of taxes relating to the beneficiaries;
- 7.2.4.11 I deal *infra* with the more significant amounts disbursed to third parties from the LHUT investment and as reflected on the LHUT cash flow chart:
- 7.2.4.11.1 R12 519 048.07 to Antheru;
 - 7.2.4.11.2 R39 822 223 in dividends to the shareholders of Brown Brothers, a company controlled by Brown and the holding company of Holdings;
 - 7.2.4.11.3 R25.2 million in restraint of trade payments paid to certain shareholders of Brown Brothers;
 - 7.2.4.11.4 R8.2 million to Boland Rugby for the acquisition of a 50% interest as well as sponsorship funding;
 - 7.2.4.11.5 R12 336 596.09 to Bowman Gilfillan for legal fees;
 - 7.2.4.11.6 R7.9 million to Danisa Baloyi
 - 7.2.4.11.7 R28 million to Cliffe Dekker Inc, being R3.5 million as a deposit on Waterford Place and R24.5 million representing the purchase price of the Facets building, which was registered in the name of the Brown Family Investment Trust;

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- 7.2.4.11.8 R32.7 million to Commetre Accountants for the acquisition of Servicare. Servicare held 71.8% of the shares in Definiti. The balance of the shares in Definiti was acquired from the minority shareholders. At the date of curatorship this company was dormant;
- 7.2.4.11.9 R12.86 million for the acquisition of the 28.21% minority interest in Definiti. At the date of curatorship this company was dormant;
- 7.2.4.11.10 Approximately R90.4 million to Cornerstone, an entity controlled by Cruikshank with whom other investors had invested, and from whom Cruikshank had misappropriated investor funds. In total R112.4 million of investor funds, invested with FAM were transferred to entities controlled by Cruikshank to assist him in covering the "black hole" caused by his misappropriation of funds invested in entities under his control.
- 7.2.4.11.11 R11 509 893.36 to DELL Computers;
- 7.2.4.11.12 R1.19 million for the purchase and conversion of 2 Nissan 350Z cars for racing;
- 7.2.4.11.13 R1.3 million to Grant Thornton for the sponsorship of the Nissan racing cars;
- 7.2.4.11.14 R2.28 million to Kopano K Matla, which relates to the acquisition of SF;
- 7.2.4.11.15 R32 278 055.40 to Landman & Steyn which relates to the purchase of the Thaba Manzi game farm. The portion on which the buildings and improvements resided was registered in the name of a trust controlled by Brown. A further amount of R4.3 million was utilised to fund the monthly operating losses associated with the game farm;
- 7.2.4.11.16 Approximately R40 million relating to the acquisition of three companies from MCubed Ltd;
- 7.2.4.11.17 R160.3 million to M Cunningham for the purchase of Infinity, which company was technically insolvent at the date of acquisition. A further amount of R2.9 million was advanced to fund the monthly operating losses of the company;
- 7.2.4.11.18 R15 million for the acquisition of a minority interest in Moshate Holdings, a dormant company which has never traded and is still dormant;
-

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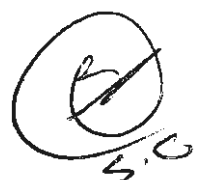
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- 7.2.4.11.19 R2 692 568 to Norwalk which relates to the failed attempt to establish a foreign operation;
- 7.2.4.11.20 Approximately R86.5 million for the acquisition of the Sante Hotel.
- 7.2.4.11.21 R31.8 million to Sante Wellness to fund the monthly operating losses, and a further R9.6 million to Sheckels (the predecessor to Sante Wellness) to fund the monthly losses of the hotel operations at Sante. At the date of curatorship Sheckels had been liquidated.
- 7.2.4.11.22 R3 215 314.88 for the purchase a spa suite located at Sante;
- 7.2.4.11.23 R13.57 million for the purchase of two villas located at Sante;
- 7.2.4.11.24 R1.1 million for the installation of a video conferencing system;
- 7.2.4.11.25 R1.71 million to acquire the Manning Rangers Football Club and approximately R3.4 million to fund the monthly running expenses of the Club;
- 7.2.4.11.26 R6.1 million to acquire an interest in Leapfrog which company was used to generate the marketing and printing material for the Fidentia group. Associated to this was the purchase of a Heidelberg Printing Press for R750 000;
- 7.2.4.11.27 R8.25 million for the acquisition of an interest in Yellowood Architects;
- 7.2.4.11.28 R14 248 762.37 to fund SF and its subsidiaries;
- 7.2.4.11.29 R862 200 to acquire 6 Condor vehicles;
- 7.2.4.11.30 R2.9 million to acquire gym equipment;
- 7.2.4.11.31 Approximately R2.7 million to establish a call centre;
- 7.2.4.11.32 R715 813.52 for a bus for the Choir;
- 7.2.4.11.33 Approximately R1.2 million to fund the Fidentia Choir;
- 7.2.4.11.34 R1.55 million as advances to Vilayet;



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- 7.2.4.11.35 R3.255 million to fund the operating expenses of ERP Elementals;
- 7.2.4.11.36 Approximately R36.8 million to Thebe Securities/Ovation deposited into accounts operated for the benefit of Goodwin. (In addition to "commission" fees received by Goodwin, totalling R85.9 million, he received a further amount of R6.864 million in relation to dividends paid on the unrealised profit from the fictitious asset swap transaction referred to below and the restraint of trade payment);
- 7.2.4.11.37 R17.5 million as a transaction fee paid to PLJ (Namibia)/Thebe Bank to facilitate the fictitious asset swap transaction;
- 7.2.4.11.38 R56.645 million relating to the Evertrade deal. This payment is discussed in detail in paragraph 7.3.3.7 below;
- 7.2.4.11.39 R31.5 million to purchase Waterford Place;
- 7.2.4.11.40 R69 million to purchase the majority shareholding in Mantadia from Pacific Star;
- 7.2.4.11.41 R13.1 million to acquire erven 403, 404 and 411, being vacant parcels of land in Blue Horizon Bay;
- 7.2.4.11.42 Brown appropriated R25.5 million of investor funds for his benefit, which appropriations were charged to a "directors" loan account. The appropriated amounts originate in the main from LHUT funds. This amount excludes amounts received by Brown in relation to dividends paid on the unrealised profit from the fictitious asset swap transaction and the restraint of trade payment.
- 7.2.4.11.43 Approximately R22.3 to Old Mutual for the acquisition of paid up life insurance policies in which Porex traded. Porex repaid via its loan account R8.547 million of the amount;
- 7.2.4.11.44 R750 000 to Vilayet;
- 7.2.4.11.45 Approximately R163.3 million of investor funds predominantly sourced from LHUT, to fund companies that did not form part of the so called private equity or fixed property portfolio, and which were not owned by the investors or a nominee acting for the investors. For example approximately R90 million was advanced to Fidentia Administration Services which was applied predominantly toward the


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payment of salaries, including that of Brown; approximately R40 million to Facilities which company procured business furniture and equipment and R19.6 million to Fidentia Society Investments. Certain amounts included in the R163.3 million are dealt with specifically in the analysis relating to the other investors.

7.2.5 Evertrade

- 7.2.5.1 The Evertrade transaction in essence comprised a sale transaction between two foreign entities, being Reno Africa Pte Ltd (registered in Singapore) and Stericycle Inc (registered in the USA), in terms of which Reno Africa Pte Ltd was to acquire from Stericycle Inc the latter's interest in Evertrade Medical Waste (Pty) Ltd and Evertrade Medical Waste Manufacturing (Pty) Ltd (both registered in RSA). In terms of the agreement a deposit of at least \$6 million was to be placed by Reno Africa Pte Ltd with FAM, to be held as security. The deposit could not be withdrawn without the prior written consent of Stericycle Inc. The deposit appears to have been returned to Reno Africa Pte Ltd and thereafter Stericycle Inc claimed that Reno Africa Pte Ltd had not fulfilled its obligations and demanded the deposit held with FAM, in terms of a cession agreement, be paid to it. Litigation ensued resulting in R40 million of funds invested by LHUT being paid in settlement thereof.
- 7.2.5.2 On 23 April 2003, Evertrade deposited an amount of R 675 000 into the Maddock Inc Trust account at Standard Bank, Kromboom Road, bearing account number 072895543.
- 7.2.5.3 These funds were utilised, *inter alia*, for various Fidentia Group related operational expenses, disbursements to attorneys as well as to Zac Brown, J de Jongh, towards Brown's Blue Bean credit card account, airfares and salaries to L. Koen and R.Bam.
- 7.2.5.4 On 10 December 2003 and 14 January 2004, Evertrade deposited R4 million and R44.26 million respectively into the FAM Nedbank account number 1232019283 ("acc. no. 1232019283"). On 19 January 2004, an amount of R48 26 million was transferred into the FAM Trust Savetron Standard Bank account number 072929448 ("acc no.072929448").
- 7.2.5.5 The amounts thereafter disbursed from acc no. 072929448 were as follows:
- 7.2.5.5.1 On 20 January 2004 an amount of R7.5 million was transferred into the Fundev account number 0401200909NP5433;

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- 7.2.5.5.2 On 23 January 2004 an amount of R3 million was disbursed to MGX Software. This relates to the funding of the operating expenses of SF;
- 7.2.5.5.3 On 23 January 2004 an amount of R22 243 800 was transferred to a Capitalwise Securities Standard Bank account number 072920491 ("acc no. 072920491");
- 7.2.5.5.4 On 28 January 2004 an amount of R4.75 million and on 6 February 2004 an amount of R1 299 766.69 were disbursed to Intabrand an entity controlled by Goodwin;
- 7.2.5.5.5 On 6 February 2004 an amount of R117 342.74 was disbursed to Antheru.
- 7.2.5.6 As mentioned above in paragraph 7.2.5.5.3 *supra*, on 23 January 2004 an amount of R22 243 800 was transferred into acc no. 072920491. From this amount the following disbursements were made from said account:
- 7.2.5.6.1 On 23 January 2004 an amount of R20 033 500 was transferred to Evertrade account number 072709908; and
- 7.2.5.6.2 On 29 January 2004 an amount of R2 210 000 was transferred into Capitalwise Securities account number 478455534 ("acc no. 478455534").
- 7.2.5.7 On 20 January 2004 an amount of R6.5 million of Balltron funds transferred to acc no. 072920491 in four tranches of R500 000.00, R2 million, R2 million and R2 million were transferred from account number 072920491 to Evertrade, making up a total of R26 533 500 paid to Evertrade. This comprised a repayment of the initial investment made of R48.935 million.
- 7.2.5.8 On 1 and 5 March 2004 two tranches of R300 000 each and on 8 March 2004 an amount of R1.6 million were transferred from acc. no. 478455534 to acc. No. 072920491 and on the same date from acc no. 072920491 into BBH current account number 072919957 ("acc. No. 072919957").
- 7.2.5.9 The R2.2 million transferred to acc no. 072919957 was disbursed as follows:
- 7.2.5.9.1 During March 2004 twenty-two tranches amounting to R168 152.78 were disbursed towards operational costs;
- 7.2.5.9.2 Between 1 and 5 March 2004 amounts totalling R170 000.00 was transferred into the Bayview account;


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- 7.2.5.9.4 On 5 March 2004 an amount of R233 545.81 was disbursed towards travelling expenses; and
- 7.2.5.9.5 On 29 March 2004 an amount of R28 995.37 was disbursed to Lagoon Beach for rental expense.
- 7.2.5.10 On 11 November 2004, an amount of R20 million, which originated from LHUT funds, was transferred to Threadneedle (relating to the Evertrade deal). In addition to this amount, on 12 April 2005 an amount of R36.645 million, of LHUT funds was disbursed from acc no 072929491 to Webber Wentzel for the credit of Stericycle.
- 7.2.5.11 R90 338 500 of investor funds was paid to entities associated with the Evertrade deal. An initial amount of R48.935 million was invested. This represents a return of R41.4 million on funds invested over a period of approximately one year. This equates to a return of approximately 85% per annum.

7.3 The operation of a Ponzi Scheme

- 7.3.1 The investigations support the conclusion of the operation of a Ponzi scheme which according to the acceptable definition thereof is a fraudulent investment operation that pays returns to its investors from their own money or the money paid by subsequent investors, rather than from any actual profit earned by the individual or organization running the operation. A Ponzi scheme usually entices new investors by offering returns other investments cannot guarantee, in the form of short-term returns that are either abnormally high or unusually consistent. The perpetuation of the returns that a Ponzi scheme advertises and pays requires an ever-increasing flow of money from investors to keep the scheme going.
- 7.3.2 While a Ponzi scheme has a triangular structure similar to a Pyramid scheme the two are not exactly the same. The organisation and methodology in a Ponzi scheme is such that the perpetrator sits at the top and in this instance it was the Fidentia Group and its directors. A Ponzi scheme, however, differs from the classic pyramid scheme in that the Ponzi schemer will only acquire the investment and not require the investor to do anything other than hand over the money, claiming to take care of the rest and pay out the returns later. The money so invested will be shuffled around from one account to another, as is evident from the cash flows in this matter. The pyramid scheme on the other hand will offer an opportunity to investors to make the money themselves. It requires more work on the part of recruited participants, *inter alia* to start a franchise and start recruiting more people like themselves who will often pay the recruiter a portion of their profits.


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- 7.3.3 Prime examples of the operation of a Ponzi scheme *in casu* are *inter alia* the following:
- 7.3.3.1 No return was generated from the TETA investment at any stage and its funds were used otherwise than in accordance with the applicable legislation by 19 October 2004;
 - 7.3.3.2 Apart from buying luxury vehicles for the directors and two houses for the Brown family trust at Sunset Beach other disbursements were made indicating the operation of a Ponzi scheme for example as shown in paragraph 7.2.1.2 *supra*. In the latter instance Antheru was paid R4 018 327.31 from the TETA investment capital over the period 5 December 2003 until 6 October 2004, so that an illusion of profit payments to Antheru was created.
 - 7.3.3.3 Antheru investors' funds were returned to other Antheru investors' in the form of capital withdrawals or profit payments.
 - 7.3.3.4 In addition, Antheru received funds of other investor, to wit R117 342.74 from Evertrade between 6 February 2004 and 17 March 2004, R12 519 048 from LHUT between the end of 2004 into 2005 and R 138 012.94 from Balltron on 9 March 2004.
 - 7.3.3.5 During October 2004 Fidentia was in the process of acquiring Mantadia and had to raise the purchase price of R93 million. On 19 October 2004 it only had R841 439.44 in its current account. However it raised the amount of R27 751 034.26 to purchase the shares of the minority shareholders using *inter alia* R4.185 million of Antheru funds, R15 856 600 of Balltron funds and the remaining R790 330.87 of the TETA funds. R69 million of Mantadia monies was used to effectively buy the company with money of the beneficiaries of the LHUT.
 - 7.3.3.6 On 20 February 2004 R6.5 million from the Balltron investment was transferred through various FAM Standard Bank accounts, to wit 078891876-001, t072877316, 072876425 and Capitalwise Account 072929491 and was disbursed on the Evertrade deal on the same date.
 - 7.3.3.7 On 11 November 2004 R20 million of LHUT funds went to Threadneedle Consulting, which was in essence a payment on the Evertrade deal. In addition, on 12 April 2004 an amount of R36.645 million of LHUT funds was disbursed to Webber Wentzel in respect of this deal.



7.4 The Illiquidity of FAM

7.4.1 The cash flow analysis reflects that by 7 October 2004 the funds invested by TETA had been dissipated through a combination of alleged misappropriation, sponsorships and the acquisition of entities that did not generate any positive cash returns which in turn required the operating expenses of these entities to be funded from investor funds. This resulted in FAM being in a position of illiquidity.

7.5 Asset Portfolio

7.5.1 Background to the alleged "Asset Portfolio"

7.5.1.1 At any point in time the liability to the investors as recorded at paragraph 7.1.5 *supra* ought to be matched to the asset portfolio, which should represent assets in which investors funds have been invested for their benefit. It follows that to the extent that the value of the asset portfolio, fairly valued, exceeds the liability to investors a surplus arises for the benefit of the investors. To the extent that the value of the asset portfolio, fairly valued is less than the liability the investors would have suffered a loss.

7.5.1.2 I scrutinised the asset portfolio as represented by Bramber in the Consolidated Asset Class Holdings portfolio for FAM, and did so on the assumption that the assets as presented were acquired for the benefit of the investors, although not held in accordance with the applicable legislative requirements, in the names of the investors who paid for them. The figures presented are as at 31 December 2006. According to the representations made, as at 31 December 2006 it represented that the value of assets under administration by FAM for the benefit of the investors was R1 394 813 332.60. This may be compared to an investor liability of R1 571 885 054.03. As at 30 November 2006, without considering the correctness of the underlying assets as reported, a shortfall existed between the reported assets and client liabilities of R177 071 721.43. This represents a loss to the investors. I have considered the position as at 30 November 2006 based on the fact that this is the latest date for which there is a client liability statement prepared.



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7.5.1.3 The "asset portfolio" was classified into the following assets:

Asset Class	Amount
Money Market	R 10 964 971.55
Money Market-Other Instruments	R 812 905 196.48
Private Equity Portfolio	R 570 943 164.57
Total	R1 394 813 332.60

7.5.1.4 In respect of each of the asset classes listed above, I have established the following:

- 7.5.1.4.1 At the date of curatorship a total amount R10 035 885.16 was held in various bank accounts under the control of FAM and Transact. This amount included the R3 million guarantee held on behalf of Balltron. This is the only asset held in the names of certain of the investors as required by the investment mandates. See *Annexure B* for a list of balances held to the credit of the investors in bank accounts operated in their name.
- 7.5.1.4.2 The R812 905 196.48 (Money Market-Other Instruments) represents the alleged purchase by Capitalwise on or about 23 June 2006 of money market instruments to the value of R800 million from Thebe Securities. According to a maturity schedule which was provided on a monthly basis by Thebe Securities, the maturity value as at 30 November 2006 was R812 905 196.48. This asset, as represented in the client asset portfolio, is fictitious.
- 7.5.1.4.3 As from June 2006 onward, the property portfolio, allegedly held for the benefit of the investors', was no longer reported as part of the asset portfolio. The reason the property portfolio was no longer reported is attributable to the fact that it formed the basis of an "asset swap" transaction i.e. the other side of this fictitious money market transaction. By replacing the property portfolio asset with the "money market-other instruments" Fidentia created the false impression that the investors' funds were held in liquid assets (money market) when in fact the funds had been applied toward the acquisition of illiquid assets (properties). I have established that no cash represented by these fictitious money market instruments was deposited into any bank account under the control of Capitalwise, or for that matter, FAM or any company in the Fidentia Group.

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- 7.5.1.4.4 It is apparent that at the time the "asset swap" was done the property portfolio was stated by Fidentia to be valued at R683 814 495 and the money market instruments at approximately R813 million. I have found no evidence of independent valuations to support the value of R683 814 495. This difference in values had the effect of fictitiously inflating the value of the assets under administration, thereby understating the extent of the loss already suffered by the investors. It follows that the loss to investors as reported at 30 November 2006 in the amount of approximately R177 million was understated by approximately R129 million. Accounting for the fictitious profit on the "asset swap" transaction the reported loss would have been R306 million at this stage. The effect of concluding the fictitious "asset swap" transaction was twofold, firstly it facilitated the misrepresentation of the liquidity of the asset portfolio at a time when in fact the funds invested by investors, to the extent that such had not been misappropriated or mismanaged had been invested in assets that were not generating cash.
- 7.5.1.4.5 During July and August 2006 Holdings charged Bramber a management fee of R141 231 041 (excl VAT) raised via two fee notes. It is apparent that R124 873 615 of this fee relates to the alleged sale of the property portfolio, being the subject matter of the "fictitious asset swap". This latter amount approximates the profit made on the fictitious "asset swap".
- 7.5.1.4.6 The effect of this "fictitious" asset swap transaction was to benefit the shareholders of Holdings, and ultimately the shareholders of Brown Brothers, to the prejudice of the investors whose funds had been utilised in funding the acquisition of the properties.
- 7.5.1.4.7 Before these two fee notes were raised Holdings was indebted to Bramber in the amount of R174 million. These fee notes reduced the indebtedness by R141 million. The effect of the "fictitious" transaction went further by now reducing Holdings indebtedness to Bramber, which indebtedness arose from the transfer of investor funds to Holdings in the first instance.

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7.5.2 Private Equity Portfolio

7.5.2.1 The figures reported as the value of the private equity portfolio at 30 November 2006 are:

Company	Valuation at 30 Nov 2006 R '000	Valuation at 31 Oct 2006 R '000	Valuation at 30 Sep 2006 R '000
SF Group	95 592	144 915	208 305
Infinity	66 208	112 565	162 748
Polex	78	8 933	19 485
Ayanda	26 028	35 636	24 241
AOS	37 928	46 614	108 140
Living Hands	11 793	11 503	20 167
Definiti	9 869	17 918	60 808
ERP	8 660	12 388	18 815
Sub Total	256 158	390 472	622 709
Operating Loans and non re-valued companies at cost	314 785	314 785	
Total	570 943	705 257	

7.5.2.2 I analysed the private equity portfolio with reference to the organogram of the Fidentia Group. The companies referred to in the table above are subsidiaries of Holdings and Bramber. Bramber is a subsidiary of Holdings.

7.5.2.3 With reference to the table above it is apparent that by 30 November 2006 the value of the private equity portfolio had declined by approximately R134 million compared to the value attached thereto as at 31 October 2006, being one month earlier. It is evident that by this stage the value of the private equity portfolio was declining based on the representations as contained in the valuations of the private equity portfolio. Notwithstanding the declining valuation attached to the private equity portfolio between October 2006 and November 2006, Fidentia sought to establish higher valuations for the private equity portfolio by furnishing unaudited (and inaccurate) financial information to E&Y and obtaining valuations based on inaccurate information. These valuations which were invariably higher than those reported as at 31 October 2006.

7.5.2.4 The fact FAM had identified that the value of the companies comprising the "private equity portfolio" was declining means that the cash generating projections previously applied in performing the valuations on these companies were not materialising, this coupled with the absence of cash within the Fidentia companies exacerbated the illiquid situation within the Fidentia Group. The fact



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that the companies comprising the "private equity portfolio" were not in a position to generate positive cash flows required that funding in the form of loans, sourced from investor funds, had to be advanced these companies in order for them to continue operating. This further exacerbated the illiquid position. Thus any payments to a particular class of investors had to be sourced from other investor funds.

7.5.2.5 With reference to the above table it is apparent that at November 2006, 55% of the "private equity portfolio" is represented by "operating loans and non-revalued companies at cost". The amount of R314.785 million represents the cost of acquiring and funding companies that did not generate free cash flow and were not held in the names of the investors. As such the recoverability of funds advanced to these companies, and the cost thereof, should have been seriously questioned before including the figures in the private equity portfolio. It is also inappropriate for the amount of R314.785 million to have been represented as part of the private equity portfolio as these companies are not owned by the investors. Excluding this amount would have resulted in a value of R256.158 million being reported as the value of the private equity portfolio. As such the diminution in value of the "private equity portfolio" would have been reported at R415.287 million or 62% less than what had been reported 12 months previously.

7.5.2.6 The amount of R314.785 million comprises:

Company	As at 31 October and 30 November 2006 R '000
Bond Discounting	5 520
Flight Solutions Loan	950
Moshate Holdings	15 500
SAWIHAI	65
Solostand	168
Yellowwoods	8 250
Fid Facilities	60 000
Manning Rangers	1 500
Servicare Holdings	32 746
Loans	190 094
BB Execubond	923
Fidentia Property Inv Portfolio	12 137
Boland Rugby	5 181
Fidentia Property & Leisure	89

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Company	As at 31 October and 30 November 2006 R '000
Fidentia Society	202
Jazz	719
Manning Rangers	3 719
Ovation	111 311
Sante Leisure	31 807
Rapid Dawn	254
Scheckels	5 673
Thaba Manzi	4 020
Wavelengths	171
Bayview	13 888
Total	314 523

7.5.2.7 In respect of the above, I comment on the significant amounts recorded thereon as follows:

7.5.2.7.1 The R5.520 million represents funds allegedly invested in a "subsidiary", Bond Discounting. It has been established that this amount in fact represents investors funds loaned to Cornerstone during September 2004 which loan has not been repaid. Cornerstone was a company controlled by the late Cruikshank who controlled investor funds invested on the Ovation platform.

Cruikshank allegedly misappropriated funds invested, which shortfall was then covered by virtue of funds invested with FAM being advanced, on the instruction of Brown, to companies controlled by Cruikshank. This is accordingly a fictitious asset presented as part of the "private equity portfolio".

7.5.2.7.2 The R65 000 is recorded in the accounting records as stamp duty paid in respect of SAWIHAI. The payment of stamp duty cannot represent an investment.

7.5.2.7.3 The R167 910 is recorded in the accounting records as an investment in Solostand Properties (Pty) Ltd. Investigations to date indicate that there is no investment held in the name of this company.

7.5.2.7.4 The R60 million represents a journal entry purporting to revalue Facilities, a subsidiary of Holdings, and ultimately of Brown Brothers and not owned by the investors. Facilities is funded by the investors of FAM but not owned by them. Facilities invested

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in the acquisition of movable assets, which assets were utilised by the companies in the Fidentia Group. These assets comprised predominantly office and other furniture and computer equipment.

7.5.2.7.5 The R32.7 million rand represents the purchase price of Servicare, the holding company of Definiti. I have established that the only administration contract that Definiti had, was by November 2006 cancelled, and Servicare was at that stage dormant. On the appointment of the curators it was established that this company was dormant and not operating. The inclusion of the R32.7 million, considering that both companies were dormant at the time and never generated any return for the investors, warrants a reasonable conclusion that its inclusion was a misrepresentation of the value of the asset.

7.5.2.7.6 As regards the loans of R190 million, I have established that not only is the recoverability thereof in certain instances unlikely, loans are recorded as assets which are fictitious. In this regard the funds advanced to Sante and Sheckels in the amounts of R31.8 million and R9.6 million are based on their financial status unlikely to be recovered. I have established that these companies consistently lost money since they commenced operations. The same applies to the R4 million advanced to Thaba Manzi which runs the game farm which never generated revenue of any significance.

7.5.2.7.7 In respect of the loan of R111 million to Ovation I have established that R13.188 million thereof was deposited into the personal account of Brown, operated at ABSA. The balance was advanced to Cornerstone (R65.5 million), Common Cents (R691 973), Ovation Nominees (R971 118) and Ovation (R32 million). Common Cents and Ovation have been placed under curatorship and Cornerstone has been liquidated.

7.5.3 Investor funds applied towards "the private equity portfolio"

7.5.3.1 To the extent that it is argued that the acquisition of companies represented as the private equity portfolio was for the benefit of the investors, reference can be had to *Annexure D* which reflects that at best for the investors a total amount of R385.7 million of their funds were invested in these private equity companies. As regards these companies:

7.5.3.1.1 ownership was not registered in the names of any of the investors or in the name of a nominee company;

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- 7.5.3.1.2 *Annexure B* confirms that the bank accounts operated in the names of these companies reflected a total of R12.7 million standing to their credit at 31 January 2007. This excludes an overdraft of R4.5 million which Brown obtained from Standard Bank by encumbering certain assets which had been purchased with investor funds;
- 7.5.3.1.3 On an overall basis these companies needed to be funded to the tune of R20.2 million to continue their operations as they were not generating a positive return. These funds were sourced from investor funds and reflected in the accounting records as inter-company loans ultimately owed to the investors.
- 7.5.3.1.4 At best for investors, R365.5 million was spent acquiring these companies. As at November 2006 these companies were valued by Fidentia at R302.79 million. On Brown's own version therefore, the companies were worth less than was paid for them;
- 7.5.3.1.5 Between October 2006 and November 2006 based on the valuations applied by Brown *et al* the companies had lost R134 million in value between October and November 2006.

7.5.4 Property Portfolio

- 7.5.4.1 As discussed above, the "property portfolio" had been "replaced" by the fictitious money market-other instruments transaction, or the so called asset swap transaction. As such no valuation of the property portfolio appears to have been done subsequent to the conclusion of this fictitious transaction. Attached to the December 2006 asset valuation is a property portfolio valuation as at 30 June 2006 which records a value (excluding fees charged) of R675 126 385.04.
- 7.5.4.2 Based on independent valuations obtained by the curators it is apparent that the valuation as presented was inflated.
- 7.5.4.3 In respect of the relevant properties the following has been established:

7.5.4.3.1 Erf 423 Bellville

Notwithstanding that it was represented that the property was valued at approximately R3 million it has been established that this property was in fact bonded. Furthermore the property was occupied by Brown's stepfather, who at no stage paid any rental, and


B.C.

as such the investors received no return on an asset that had been acquired with investor funds. Notwithstanding that the property had been purchased with investor funds, occupied by Brown's stepfather rent free, Brown bonded the property in favour of ABSA. When this property was auctioned the proceeds of the sale were applied to settle the outstanding bond amount.

7.5.4.3.2 Erven 403, 404 and 411 Blue Horizon Bay

These properties are vacant areas of land and accordingly no income was generated from these properties since the date of acquisition.

7.5.4.3.3 Portions 2 & 39 Hartenbosch (Paradyseiland)

These properties are vacant areas of land and accordingly no income was generated from these properties since the date of acquisition. The properties are situated below the flood line.

7.5.4.3.4 Erf 5159 Montague Gardens

This property, also known as Waterford Place, is the building at which address most of the companies in the Fidentia Group were tenants. As discussed above as these companies were themselves not in a position to generate a positive cash flow they were not in a position to pay any rental. I have established that in fact no rental was recovered from the companies that occupied the building.

7.5.4.3.5 Sante Hotel

The properties comprising the hotel, villas and spa suites, referred to as Sante Hotel and Spa, did not generate a positive return subsequent to the date of acquisition. The trading operation associated with the properties was initially conducted in the name of Sante Leisure. With reference to the private equity portfolio under the category loans, it is recorded that approximately R31.8 million was advanced out of investors funds to this company. The funds were utilised to cover the monthly trading losses of the hotel operation. Sante Leisure was eventually liquidated, and the trading operations resumed through a company styled Scheckels. Again with reference to the private equity portfolio loans of approximately R9.6 million were advanced to Scheckels, this is represented by investor funds which were advanced to cover the operating losses of Scheckels. Not only did the properties acquired not generate a return for investors, in fact



approximately R41.4 million of investor funds were applied toward covering the operating losses associated with these properties.

7.5.4.3.6 Changing Tides 396 (Pty) Ltd

This company owned the properties which comprised the Thaba Manzi Game Farm. The game farm was not operated as a commercial enterprise but was utilised mostly for the pleasure of Brown, his family and friends. With reference to the private equity portfolio as at 31 October 2006 an amount of approximately R4.3 million had been advanced to fund the operations of the game farm. This amount was funded by investor funds.

7.5.4.3.7 Century City Site #12 known as the Facets Building

This property was acquired with investor funds and registered in the name of the Brown Family Trust, the beneficiaries of which were Brown and his family. The property was occupied by a company owned and controlled by Brown's wife, and I have established that for the duration of such occupation and until the time that the this company was liquidated no rental was paid for the benefit of the investors for such occupation.

Not only did the company controlled by Brown's wife not pay rent, investor funds were also advanced to fund the trading losses of her company. No positive return was generated for investors from this property acquired with investor funds.

7.5.5 Investor funds applied towards "the fixed property portfolio"

7.5.5.1 To the extent that it is argued that the acquisition of fixed properties was for the benefit of the investors, reference can be had to *Annexure C* which reflects that at best for the investors a total amount of R187.5 million of their funds were invested in fixed properties. These properties never generated any rental income. The curators had these properties valued in April 2007 by independent sworn appraisers. The properties were valued at R201.4 million. This in itself confirms that by the date of curatorship the investors had suffered a loss of at least R609 million, being the difference between the value attaching to the properties pursuant to the fictitious asset swap transaction and the independent valuations. In respect of these properties ownership was not registered in the names of any of the investors or in the name of a nominee company


S.G.

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8. Conclusion

8.1 The results of my investigations, as supported by the facts contained in this report warrant a reasonable conclusion that FAM was operated as a Ponzi scheme, in that to the extent that investors were repaid either capital, or in the case of Antheru and Evertrade "profit payments", such payments were sourced either from the investor's own funds or from other investor funds.

8.2 To the extent that investor funds were not misappropriated and it is argued that such was applied toward the acquisition of entities comprising the private equity and fixed property portfolio, such assets did not, until the date of curatorship generate a positive return for the investors. In fact investor funds were utilised to fund the continuing operations of the companies comprising the "private equity portfolio" and the properties. In addition investor funds were also applied toward entities engaged in for example sporting activities and a choir.

8.3 Other than an amount of R10 million held in bank accounts in the names/for the benefit of the investors no other assets were registered in their names or in the name of an authorised nominee. On the purported basis that the "fixed property" and "private equity" portfolios are to be included as assets acquired for the benefit of the investors, the minimum shortfall, expressed at cost, on the date of curatorship can be summarised as:

Investor	Capital Liability to Investors (R)	Asset Class Expressed at Cost	Amount (R)	Investor Capital Shortfall at Date of Curatorship (R)
TETA	185 000 000	Money Market	10 035 885	
Antheru	9 205 449	Fixed Property Portfolio	224 600 000	
Balltron	38 573 680	Private Equity Portfolio	385 691 000	
LHUT	1 131 911 824			
Total	1 364 690 953		620 326 885	744 364 068

8.4 Accepting that the fixed properties and private equity companies were acquired for the benefit of the investors, then the shortfall of R781 million, represents a shortfall in capital invested by Antheru, TETA, Balltron and LHUT. The funds representing the shortfall were disbursed as described above, most notably in the form of commission payments to Goodwin, to cover the "black hole" created by Cruickshank, appropriated by Brown for his personal benefit and to fund operating expenses of

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companies comprising the Fidentia Group. The shortfall of R744 million is arrived at after accounting for an amount of R37.1 million representing the cost price attaching to the Facets building and a portion of the Thaba Manzi game farm acquired with investor funds and registered in the name of trusts controlled by Brown. The curators have recovered and sold these properties for the benefit of the investors.

Prepared by: **George N Papadakis CA (SA)**

7 May 2013

A handwritten signature in black ink, appearing to be 'G.N. Papadakis', is located in the bottom right corner of the page. The signature is written in a cursive style with a large initial 'G'.

STATUS OF AUDITED FINANCIAL STATEMENTS AT DATE OF CURATORSHIP

ANNEXURE A

Company	Auditor	Last Audit Completed	Audit Report
Brown Brothers Execubond (Pty) Ltd	Maddock Inc	28 February 2005	Unqualified
Definiti (Pty) Ltd	Haumann Rodger	31 December 2005	Unqualified
Fidentia Infinity (Pty) Ltd	Warren & Associates	28 February 2005	Unqualified
Fidentia Asset Management (Pty) Ltd	Maddock Inc	29 February 2004	Unqualified
Fidentia Ayanda Collective Investment Solutions	Deloitte & Touche	31 August 2006	Unqualified
Fidentia Bayview (Pty) Ltd	Maddock Inc	29 February 2004	Qualified
Fidentia People Futures KKM (Pty) Ltd	Haumann Rodger	28 February 2005	Qualified
Fidentia Software Futures (Pty) Ltd	Haumann Rodger	28 February 2005	Qualified
Fidentia Transactional Holdings (Pty) Ltd	Maddock Inc	28 February 2005	Unqualified
Flight Solutions	Maddock Inc	28 February 2005	Unqualified
IDE Administrators (Pty) Ltd	Malan Du Preez	28 February 2005	Unqualified
IDE Securities (Pty) Ltd	Haumann Rodger	28 February 2005	Unqualified
Kert Corporate Finance (Pty) Ltd	Maddock Inc	28 February 2005	Unqualified
Legatus Trust (Pty) Ltd	Schoombie	28 February 2005	Unqualified
New Heights 586 (Pty) Ltd	Maddock Inc	28 February 2005	Unqualified
Rapid Dawn 228 (Pty) Ltd	Maddock Inc	28 February 2005	Unqualified
Software Futures Coastal (Pty) Ltd	Haumann Rodger	28 February 2005	Qualified
Software Futures Gauteng (Pty) Ltd	Haumann Rodger	28 February 2005	Qualified
Software Futures information Management (Pty) Ltd	Haumann Rodger	28 February 2005	Qualified
Wavelengths 231 (Pty) Ltd	Maddock Inc	28 February 2005	Unqualified

AUDITED FINANCIAL STATEMENTS NEVER PREPARED

Fidentia Multi-Manager (Pty) Ltd
 Brown Brothers Holdings (Pty) Ltd
 Brown Brothers Underwriting Services (Pty) Ltd
 Bramber BEE Fund (Pty) Ltd
 Fidentia Bramber Holdings (Pty) Ltd
 Bramber Infrastructure (Pty) Ltd
 Bramber Manco (Pty) Ltd
 Fidentia Capital Wise (Pty) Ltd
 Fidentia ERP (Pty) Ltd
 Fidentia Bursary Fund (Pty) Ltd
 Bramber Alternative (Pty) Ltd
 Fidentia Connect Holdings (Pty) Ltd
 Fidentia Connect (Pty) Ltd
 Fidentia Facilities Holdings (Pty) Ltd
 Fidentia Norwalk (Pty) Ltd
 Fidentia FX (Pty) Ltd
 Fidentia Intermediary Services (Pty) Ltd
 Fidentia IT (Pty) Ltd
 Fidentia Property and Leisure (Pty) Ltd
 Bramber Property Ltd
 Fidentia Administration Services (Pty) Ltd
 Fidentia Tracing Company (Pty) Ltd
 Fidentia Treasury Services (Pty) Ltd
 Fidentia Sports Academy (Pty) Ltd
 Fidentia Sport & Entertainment (Pty) Ltd
 Fidentia Society Investments (Pty) Ltd
 Fundev (Pty) Ltd
 Ibuyu (Pty) Ltd
 Jazz Spirit 113 (Pty) Ltd
 Fidentia Leap Frog (Pty) Ltd
 Fidentia Learning and Development (Pty) Ltd
 Fidentia Legal and Compliance Services (Pty) Ltd
 Luthuli (Pty) Ltd
 Living Hands (Pty) Ltd
 Fidentia Money Management (Pty) Ltd
 Playco (Pty) Ltd
 Sante Leisure (Pty) Ltd
 Somnio Insurance Brokers (Pty) Ltd
 Somnio Holdings (Pty) Ltd
 Somnio Life Insurance Brokers (Pty) Ltd
 Somnio Short Term Insurance (Pty) Ltd
 Vilayet (Pty) Ltd

A handwritten signature in black ink, consisting of a stylized 'S' and 'C' intertwined, with the letters 'S.C.' written below it.

Living Hands Umbrella Trust

001947117	Living Hands (Pty) Ltd	190 054.04	
072876891	FAM*LivingHands	0.00	
272106615	Fidentia Transactional Holdings*LH	136.93	
272111562	Living Hands Umbrella Trust	1 165 578.27	
001947052	Living Hands (Pty) Ltd	2 300 064.62	
478453779-001	Fidentia Ass*Living	0.00	
008680183-001	Living Hands (Pty) Ltd	0.00	
072909471	FAM*LivingHands (TPFA System)	0.00	
			3 655 832.86

Eskom Pension and Provident Umbrella Trust

072902515	Eskom Pension & Provident Umbrella Trust	1 132 018.41	
478468385-001	Eskom Pension & Prov	0.00	

Balltron

072875577	FAM*Savetron	595 141.25	
072929448	FAM*Trust (Savetron)	161 615.95	
078891876-001	FAM(Call acc - Savetron)	502 136.46	
078891876-002	Fidentia Asse*Trust	0.00	
478453515-001	Fidentia Transactional Holdings(Call acc-Collection security)	3 025 098.72	
478453698-001	Fidentia A*Savetron	0.00	
478453795-001	Fidentia As*Savdist	0.00	
072890630	FAM Life Trust Account	-8.24	
072910844	FAM acc - Savetron for Assetron (Not linked to profile of Transact - balance of 27/01/07) (TPFA System Account)	11 345.07	
072428961	Savetron (Pty) Ltd	0.00	
			4 295 329.21

Antheru

072876425	FAM*Antheru	13 171.00	
			13 171.00

FAM/Capitalwise

338320	Treasury - Capitalwise Securities Pty Ltd	238 712.65	
357710	Treasury - Fidentia - ABSA Trustees O/A	1 007 076.71	
360439	Treasury - O/A ABSA Trustee M	100 709.18	
356930	Treasury - ABSA Trustees O/A	704 964.25	
352860	Treasury - FAM*Ovation	20 089.30	2 071 552.09
			10 035 885.16

Fidentia Holdings

072919957	Current Account	2 407.69	
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Facilities Holdings

272102075	Current Account	15 025.95	
639800880001	LCL	-4 539 836.71	

BUSINESS ACCOUNTS PER COMPANYFidentia Holdings/Ovation

072882522	Current Account	6 161.08	
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Fidentia Transactional Holdings

272100447	Current Account	6 112.84	
478453515-001	Call Account		
478453515-002	Fidentia Transactional Holdings(Guarantee security)		
478453515-004	Call Account		

FAM

072877316	Current Account	100.57	
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FAS

072919612	Current Account	5 137.57	
078885620 - 002	Call Account		

Changing Tides (Thabamanzi Ops)

272116599	Changing Tides 388 Pty Ltd	-9 911.04	
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HOLDINGS TOTALS

-4 048 762.91 -4 048 762.91

Bramber Alternative

272115533	Current Account	505.02	
078885620 - 001			

Bramber Property

272108820	Current Account	868.74	
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<u>Living Hands</u>		
01947305	Current Account	13 487.41
<u>Bayview</u>		
072894865	Current Account	747.73
<u>ERP</u>		
272111953	Current Account	5 651.12
478531982-001	Fidentia ERP (Pty) Ltd	24 820.26
<u>Rangers</u>		
072894318	Current Account (Saffron Balm Trading 30 Pty Ltd)	1 784.66
<u>Infinity</u>		
272124885	Current Account	116 568.48
62202445195 FNB	FNB Business Current Account	
0270333940	Wild	
62202451994 FNB	FNB Wild	
<u>Software Futures</u>		
072915889	Current Account	775.81
072916249	Current Account	6 444.24
420969020	Current Account	-1 037 052.61
421059370	Current Account	2 290 050.85
<u>People Futures</u>		
421059168	Current Account	204 937.99
<u>Mcubed UT - Ayanda</u>		
002071746	Current Account	100 331.98
608481238-001	Money Market Account	13 780.81
002071622	Current Account (Pay Away account) - Debit order account	348.61
608481238-002	Daily Call account	
4056084218	ABSA Business account	6 796 743.00
<u>AOS</u>		
270341749	Current Account	103 692.88
<u>Polex</u>		
072903031	Current Account	102.68
<u>Legatus</u>		
1013761503	ABSA Current Account	761 620.73
FAI TOTALS		<u>12 742 978.81</u> <u>8 694 215.90</u>



S.C.

Entity Name	Acquisition Date	Purchase Price R'000	Independent Valuation R'000	Loan Account Bal at 1 Feb 07 R'000	Rental Income Since Acquisition
Changing Tides 308 Waterford Place	24/12/2004	35 000	53 700	0	0
Erf 403&404 Blue Horizon Bay Brown Brothers Commercial Fixed Assets Portfolio	03/11/2004	10 036	6 200	0	0 Vacant Land
Erf 411 Blue Horizon Bay Brown Brothers Commercial Fixed Assets Portfolio	27/01/2005	3 118	3 780	0	0 Vacant Land
Erf 423 Bellville Brown Brothers Execubond	07/09/2004	0	2 700	-949	0
Section 3,11,12 Sante Winelands Fidentia Property Investments	31/03/2005;28/10/2004	88 659	70 000	-41 400	0
Portio n47 Sante Winelands Fidentia Property Investments	26/05/2005	6 730	7 000		0
Portion 59 Sante Winelands Fidentia Property Investments	18/03/2006	4 800	5 500		0
Portion 50 Sante Winelands Fidentia Property Investments	14/10/2005	6 840	7 300		0
Changing Tides 308 Portion52 Sante Winelands	07/04/2005	6 840	7 000		0
Portion 62 Sante Winelands Brown Brothers Commercial Fixed Assets Portfolio	08/07/2005	3 240	5 000		0
Rapid Dawn 228 Pty Ltd Erf243Theewaterskloof	29/02/2004	259			0 Vacant Land
Wavelengths 231 (Pty) Ltd Portion2&39 Hartenbosch	29/02/2004	2 300		-171	0 Vacant Land
Changing Tides 396 Pty Ltd Thabamanzi Various portions	June to August 2005	19 678	33 253	-4 300	
Total acquisition cost		187 500	201 433	-46 820	0

ANNEXURE D

ANNEXURE D

Entity Name	Purchase Price R'000	Investor Funds Injected R'000	Loan Account Bal 1 Feb 07 R'000 (liability)/asset
Polex	10 100	-8 547	3 838
AOS	18 575	-4 084	4 084
Ayanda (Manco)	16 620	-10 877	10 877
Servicare	32 748		
Definiti Medical Fund Manager	12 865	-2 250	2 250
Living Hands (Pty) Ltd	85 830	6 795	-6 795
Infinity	160 322	2 907	-27 162
ERP		3 255	-3 255
Bayview		13 876	-13 876
Legatus		236	-236
Bakenkop			
Software Futures	28 437	6 148	1 988
Peoples Futures		12 735	-12 735
Total	365 497	20 194	
Total Purchase Price Incl Investor Funds Injected		385 691	

S.C.