

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

CASE NO: 24463/2009

In the *ex parte* application of:

EXECUTIVE OFFICER OF THE FINANCIAL  
SERVICES BOARD

Applicant

In re the business of a portfolio and the financial  
services business of

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

CMM FINPRO (PTY) LIMITED  
(Registration No: 2008/003729/07)

MIRO CAPITAL (PTY) LIMITED  
(Registration No: 2005/026831/07)

FOUR RIVERS TRADING 307 (PTY) LIMITED  
(Registration No: 2007/024543/07)

REGENT GROUP CAPITAL (PTY) LIMITED  
(formerly called Two Ships Trading 307 (Pty) Limited)  
(Registration No: 2007/033891/07)

ESCAPE INVESTMENTS (PTY) LIMITED  
(trading as Sakha Iblokho)  
(Registration No: 2008/020099/07)

CORPORATE MONEY MANAGERS TREASURY  
SERVICES (PTY) LIMITED  
(Registration No: 2007/000860/07)

CMM CASH MANAGEMENT FUND  
("the business")

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**CURATORS' REPORT REFLECTING THE STATUS OF THE  
CURATORSHIP AS AT 31 JANUARY 2015**

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1.

**INTRODUCTION**

- 1.1 In terms of the Court order dated 7 April 2014 noting the Curators' sixth report dated 24 February 2014, the Court ordered the Curators to file a further report by no later than 28 February 2015, reflecting on the status of the curatorship as at 31 January 2015.
- 1.2 In previous reports we dealt with all the curatorship issues extensively. We, since our appointment in various previous reports, elaborated on claims, assets, recoveries, costs and a number of other relevant issues in detail. We are entering the sixth year of the curatorship and as we have to a large extent completed our work as curators, we will not in this report again deal with those issues in the same detail. We will limit the report to developments since our previous report and request the above Honourable Court to consider and read this report together with our detailed reports of the past. We will ensure that they are available when this report is considered.



2.

**MAIN OBJECTIVE OF THIS REPORT**

2.1 This report will again deal with the following:

2.1.1 the status of the Curatorship as at 31 January 2015 and our view of the future;

2.1.2 the future of certain of the funded developments;

2.1.3 the financial position of the curatorship, with specific reference to the assets in question, including an overview of the assets disposed of or alienated;

2.1.4 an analysis of costs pertaining to the Curatorship with a split between costs incurred from date of curatorship to 31 December 2013 and from 1 January 2014 to 31 January 2015.;

2.1.5 reporting on the status of civil actions instituted by or against the Curators;

2.1.6 reporting on the status of our investigation relating to possible criminal contraventions in compliance of the provisions of the first Court order, in terms whereof the Curatorship was

created;

2.1.7 motivation as to whether the continued appointment of three Curators to undertake and oversee the future actions of the Curatorship is still warranted; and

2.1.8 recommendations as to how the Curatorship or any related matter should be dealt with as from 1 February 2015 onwards.

3.

### FUTURE OF THE CURATORSHIP

5.1 We have for the past five years and since our appointment, pursued every possible avenue in recovering and securing assets for the investors and secured whatever asset we could find.

5.2 We have, for all practical purposes, finalized our forensic investigation into the records of CMM and its related entities and we have successfully instituted a 424 action to hold accountable the individuals who caused the losses. We succeeded and obtained a judgement against *inter alia* Johan Bakkes of more than R800 million.

5.3 We settled and/or won most of the outstanding disputes and have also managed to convince representatives of SARS to repay some of the

taxes paid to it in error.

5.4 In compliance with our obligation to report to the Court on the commission of criminal activity, we have referred the complaints by investors for investigation to specialists in criminal forensic investigation who have independently investigated the cause of the complaints and the actions by those who may have committed common law as well as statutory transgressions. We have reported their conduct to the South African Police as we believe that the conduct in question constitutes fraud and theft.

5.5 We have, save for the personnel in our own practices who assist us when necessary, terminated the services of all employees of CMM. We terminated CMM's lease agreements and moved most of the documents in our possession to our attorneys, who intend using these for purposes of the pending litigation against Absa and a small number of litigious matters we have not yet concluded.

5.6 The balance of the documents is stored by the Curators according to their practical needs, at very low costs. We have sold the bulk of the remaining equipment and see the continuation of this curatorship with a limited scope, being:

5.6.1 the finalisation of collection of the debtors' book ;

- 5.6.2 the finalization of a few remaining litigation matters , the ABSA case and the recovery of costs of our legal matters forming part of the collection of debtors and realization of the underlying assets;
  - 5.6.3 the collection from SARS;
  - 5.6.4 the availability to the South African Police in their need to consult or have access to documents in our possession required by them for the purpose of their investigation;
  - 5.6.5 the realisation of the remainder of the assets under our control, including the possible development of certain of these assets, such as Daggafontein; and
  - 5.6.6 the payment of further dividends to investors.
- 5.7 While we are sensitive to the effect of our approach to investors, we are of the view that the approach theretofore adopted served and still serves the interest of investors the best.
- 5.8 We are in regular communication with investors who make regular enquiries, we have their blessing, of the view adopted by us.

**PROSPECTIVE DIVIDENDS AND RECOVERY OF INVESTORS' MONIES  
SPENT BY CMM AND RELATED ENTITIES ON UNDERLYING ASSETS**

During 2014 the Executive Officer of the Financial Services Board requested us to reconsider the template of our report. We were requested to amend the format of our current style of reporting to deal with specific issues. As per the request we report in the financial section of this report according to the information required in the template to which the court is referred for greater detail.

**Assets found and recovered and/or to be recovered post our  
appointment**

- 7.1 As per our previous reports we found and liquidated liquid assets since our appointment to the value of R106,173,127.00;
- 7.2 In addition to the R106,173,127.00 referred to above, we categorized the remaining assets being investments in various developments funded via CMM / Allegro and the other entities and report as to actual recoveries made to date in accordance with those asset categories.

**Asset category : Four Rivers**

- 8.1 The loans granted by Allegro Bridging are referred to as "Four River assets". Four Rivers bears reference to the issued promissory notes relating thereto.
- 8.2 The total exposure of CMM/CMF to Four Rivers promissory notes, per related project, amounting to R699,102,033.00 as at 3 April 2009.
- 8.3 In summary, the curators have realized the value set out in the table hereunder:

<b><u>Four Rivers Assets</u></b>	<b>Exposure 3 April 2009</b>	<b>Recovery to date</b>
Come What May Properties 3 (Pty) Ltd - Come What May	R 12 689 170.00	R 15 617.27
Rentcor Trading CC t/a Recor - Kamagugu Township	R 10 833 139.00	R 189 775.50
Finfactor (Pty) Ltd & Counterpoint Trading 204 CC & Real Time Investments 506 CC - Finfactor	R 9 846 820.00	R 842 452.21
Malokiba Trading 92 (Pty) Ltd - Malokiba 92	R 4 742 993.00	R 1 944 568.17
Autumn Star Trading 591 (Pty) Ltd - Baybridge, The Island Estate	R 23 131 020.00	R 2 000 000.00
Merry Mole Development (Pty) Ltd - Crystal Lakes Vaal Eco Estates, Vaaldam	R 22 893 085.00	R 2 675 922.37
New Approach Building Projects (Pty) Ltd - Witbank Manor	R 15 103 327.00	R 3 600 000.00
Dunrose Trading 160 (Pty) Ltd - Waldheim Estate, Ramsgate	R 41 500 000.00	R 3 818 419.78

Panamo Properties169 (Pty) Ltd - Place de Tetre, Honeydew Grove Extension 718	R 8 144 204.00	R 8 144 204.05
Bubesi Investments 53 (Pty) Ltd - Westbrook Estate	R 22 231 408.00	R 8 641 182.17
<b>TOTAL</b>	<b>R 171 115 166.00</b>	<b>R 31 872 141.52</b>

8.4 We expect to still recover the amounts reflected below:

<u>Four Rivers Assets</u>	<b>Exposure 3 April 2009</b>	<b>To be recovered</b>
Red Coral Investments 37 (Pty) Ltd - Sekelbos Manor	R 12 798 263.00	R 500 000.00
Malokiba Trading 19 (Pty) Ltd	R 718 150.00	R 250 000.00
Rencor Trading CC t/a Recor - Kamagugu Township	R 10 833 139.00	R 9 000 000.00
Finfactor (Pty) Ltd & Counterpoint Trading 204 CC & Real Time Investments 506 CC	R 9 846 820.00	R 5 157 547.79
Malokiba Trading 92 (Pty) Ltd	R 4 742 993.00	R 1 855 431.83
Autumn Star Trading 591 (Pty) Ltd - Baybridge, The Island Estate	R 23 131 020.00	R 10 000 000.00
Merry Mole Development (Pty) Ltd	R 22 893 085.00	R 12 624 077.63
New Approach Building Projects (Pty) Ltd - Witbank Manor	R 15 103 327.00	R 6 400 000.00
Hightrade Investments 52 (Pty) Ltd		R 415 000.00
Shumba's Rest Game Lodge (Pty) Ltd		R 262 991.54
<b>TOTAL</b>	<b>R 100 066 797.00</b>	<b>R 46 465 048.79</b>

**Asset category : Escascape**

9.1 The table below sets out the total recoveries to Escascape promissory notes:

<b><u>Escascape Assets</u></b>	<b>Exposure 3 April</b>	
	<b>2009</b>	<b>Recovery to date</b>
VNP Group	R 59 315 885.00	R 15 741 064.11
Asande/Garankuwa/Truzanne	R 42 883 846.00	R 9 259 355.99
B Manana	R 3 600 000.00	R 3 600 000.00
Sakheni Trading	R 500 000.00	R 55 900.00
Wykwet	R 1 100 000.00	R 1 100 000.00
Eastdune	R 3 300 000.00	R 3 050 000.00
CMT Trading	R 3 500 000.00	R 70 016.58
Harvard Real Estate	R 700 000.00	R 2 009 281.17
Haydon Dunn / Multilayer Trading	R 2 520 000.00	R 859 100.05
Jinmoa/Formprops	R 1 800 000.00	R 3 692 829.34
Loggies Furniture	R 250 000.00	R 53 021.00
Matika	R 2 250 000.00	R 847 168.58
Minoli	R 700 000.00	R 700 000.00
Tetrafull	R 2 253 733.00	R 2 253 732.67
Glen Eden Trading 213 also Basic Construction Supply	R 3 406 556.00	R 1 303 266.98
Imvuno Africa Trading & Projects	R 120 000.00	R 17 990.14
Intsomi	R 8 000 000.00	R 7 500 000.00
Jannie Haasbroek	R 3 000 000.00	R 1 433 893.87
Mavhutane Trading cc	R 4 095 635.00	R 4 068 982.60

Mninathoko Makutupu	R 1 687 693.00	R 342 198.29
Ricabel Construction	R 363 156.00	R 363 155.57
Selogilwe Building Contractors CC	R 18 279 069.00	R 3 021 745.47
Siyanda Projects (Pty) Ltd	R 14 215 933.00	R 14 215 932.96
<b>Total</b>	<b>R 177 841 506.00</b>	<b>R 75 558 635.37</b>

9.2 We expect to still recover the amounts reflected below:

**Exposure 3 April**

<u>Escascape Assets</u>	2009	To be recovered
VNP Group	R 59 315 885.00	R 3 758 935.89
Kufa Trading Enterprises CC	R 8 456 303.00	R 1 000 000.00
Solid Investments / Pieter Bekker	R 26 854 774.00	R 500 000.00
Thunderstruck Investments 15 (Pty) Ltde	R 15 030 000.00	R 15 000 000.00
CMT Trading	R 3 500 000.00	R 500 000.00
Tetrafull 123 CC	R 2 253 733.00	R 623 813.33
Iceberg Trading	R 6 000 000.00	R 1 500 000.00
<b>Total</b>	<b>R 121 410 695.00</b>	<b>R 22 882 749.22</b>

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**Asset category : Regent**

10.1 In summary, the curators have realized the value set out in the table hereunder:

**Exposure 3 April**

**Regent Assets**

**2009**

**Recovery to date**

Panamo Properties 49 (Pty) Ltd	R 9 117 513.38	R 54 000.00
N Maharaj	R 1 425 878.24	R 417 579.12
New Order Investment	R 2 907 123.57	R 399 996.03
VLJ Pienaar	R 1 087 009.30	R 887 892.26
ER De Beer	R 706 112.17	R 311 674.00
Global Star Developments	R 838 508.21	R 751 495.29
MP Poggenpoel	R 129 869.10	R 10 000.00
SS Gunguluza	R 36 762.95	R 2 000.00
Lamula Trust	R 1 323 969.80	R 1 021 860.98
NP & LR Mamoepa	R 286 031.04	R 81 083.00
Nellogenix Investments CC	R 7 008 805.93	R 3 775 000.00
Classic Crown	R 13 803 106.87	R 453 083.00
HCK Property Investments CC	R 467 840.13	R 399 985.09
RK & S Chetty	R 49 944.62	R 18 000.00
P Persadh	R 343 292.29	R 80 000.00
Prime Property	R 31 208.39	R 20 000.00
YS Pershad	R 499 496.56	R 80 000.00
Litkie	R 116 377.66	R 22 500.00
Mawalali	R 50 150.01	R 15 000.00
BR Shomang	R 128 058.06	R 50 000.00
Blue Skye Development Company	R 1 955 668.18	R 1 653 000.00
GL Grayson	R 299 697.93	R 299 697.93
The Village Don	R 3 759 265.69	R 186 833.29
Perlite Plus Trading	R 920 147.96	R 258 172.26
Scoop Dynamics	R 180 540.04	R 5 000.00
SL Draycott	R 163 063.84	R 163 063.84
Whirlaway Trading 297 CC	R 214 451.85	R 58 800.00

D & L Elliot	R 75 600.00	R 75 600.00
TC De Abreu	R 31 500.00	R 31 500.00
CK & P Kisten	R 41 800.00	R 41 800.00
ASN Car Corp CC	R 7 984 707.90	R 2 113 262.55
Auto Vita Centurion	R 207 000.00	R 176 857.61
Blue Bean Motors	R 247 200.00	R 56 000.00
CT Motor Holdings (Pty) LTd	R 3 043 319.31	R 214 912.28
Hightide Traders 38 CC	R 170 621.69	R 83 609.57
Hyman Cars	R 572 339.00	R 378 054.50
Ikon Motors	R 562 500.00	R 170 549.09
Meck Motors	R 133 256.11	R 79 024.80
North West Auto	R 1 242 600.00	R 100 000.00
Owl Eye Trading	R 798 000.00	R 342 000.00
Silverstar Trading	R 550 839.91	R 31 131.00
Per Trade 117 CC	R 916 324.27	R 80 744.30
United Truck	R 1 192 365.00	R 698 982.29
CSV Wholesalers	R 552 536.00	R 371 465.81
Fairview Express	R 320 996.85	R 109 633.55
Ola Marc	R 484 223.82	R 484 223.83
Rand City Bearings	R 855 045.70	R 862 493.79
Soluble Solutions	R 753 195.88	R 753 195.87
Kuyasa Electrical	R 1 394 656.79	R 1 082 730.84
Oxford Butchery	R 477 053.94	R 477 053.95
Unallocated	R 73 178.02	R 845 502.03
Repayments not allocated: Perumal	R -	R 104 500.00
<b>Total</b>	<b>R 105 633 290.05</b>	<b>R 21 240 543.75</b>

10.2 We expect to still recover the amounts reflected below:

<u>Regent Assets</u>	<b>Exposure</b>	
	<b>3 April 2009</b>	<b>To be recovered</b>
P Maharaj	R 239 758.35	R 250 000.00
Empire Marketing	R 4 674 910.16	R 2 000 000.00
Classic Crown	R 13 803 106.87	R 600 000.00
DC Wilkinson	R 10 929 123.33	R 2 500 000.00
C Kannemeyer	R 377 619.40	R 380 000.00
Fatija Cars (Pty) LTd	R 4 218 400.00	R 500 000.00
<b>Total</b>	<b>R 105 633 290.05</b>	<b>R 6 230 000.00</b>

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**RECOVERY OF PROVISIONAL AND VALUE ADDED TAX PAID BY ALLEGRO AND CMM**

11.1 The annual audited financial statements of CMM were signed off by the Curators on 18 June 2012. We as Curators deemed it necessary to recall the financial statements for the financial year ending 28 February 2009. The need to recall the previous approved financial statements arose due to the fact that extensive investigations conducted subsequently have revealed widespread mal-administration of the CMF and irregularities in the investment policy adopted by CMM, in investing the funds in CMF. In addition thereto, the non-performing nature of the instruments invested in by CMM on behalf of the CMF, the inability of the issuers of promissory notes to meet their obligations on due date or

*P*

at all, as well as the inability of the underlying debtors to pay their debts to the issuers of the promissory notes have been established. These statements reflect a restated revenue figure of some R13,185,730.00 for the 2009 financial year. The pre-audit trial balance obtained from CMM in 2009 reflected credits (revenue) of some R60 million. The net effect of the 2009 audited results of CMM can be summarised as follows:

- 11.1.1 the de-recognition of revenue of some R46,763,918.00;
- 11.1.2 the reversal of a previously declared dividend to Nzalo of some R31 million;
- 11.1.3 making of a loss of R870,871,426.00;
- 11.1.4 the resultant reflection of an indebtedness by CMM to the Fund of R28,467,557.00; and
- 11.1.5 a zero current income tax implication.
- 11.1.6 It must also be remembered that CMM will ultimately be liable for repayment of the losses suffered by investors to such investors.

11.2 As a result of the de-recognition of revenue as reflected in the annual financial statements of CMM, an amount of R10,812,174.00 is indicated as current income tax receivable. In this regard, an amount of R8,667,398.50 (excluding any interest calculations) was overpaid as

provisional tax payments to SARS for the 2009 year of assessment. The Curators filed the appropriate income tax returns and after an audit from SARS managed to convince SARS to repay the provisional income tax, plus interest, paid.

- 11.3 SARS is progressing a full audit of the Value Added Tax position, post curatorship of CMM. At this stage, CMM claims an amount of R12,542,754.00 to be refunded for expenditure incurred up to 30 November 2013. An assessment in this regard has been received from SARS.

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### **Income tax positions of the Allegro Group of Companies**

- 12.1 The 2009 annual financial statements of the Allegro Group of companies were audited by Lloyd Viljoen auditors. The financial statements of Allegro Bridging reflect revenue, described as "*Interest received (trading) and profit share*" of R119,886,461.00, a pre-tax profit of R93,320,460.00 and a tax charge of R25,784,109.00 for the 2009 financial year.

- 12.2 It appears as if a total amount of R5,800,000.00 has been paid as a first provisional tax payment on behalf of Allegro Bridging. This payment reflects in the SARS statements.

- 12.3 As was the case with CMM, it appears as if Allegro Bridging made provisional tax payments, based on revenue and resultant profits, which in part originated from the Fund as well as from the accrual of debtors, on seemingly non-performing loans made to end-users.
- 12.4 It is the opinion of the Curators that the annual financial statements of most of the Allegro Group of companies, prepared before our appointment as Curators by the Court, are incorrect and have been restated and re-audited, given that:
- 12.4.1 revenue shown was derived from funds round-tripped out of the Fund and the raising of non-recoverable debtor figures, at short term bridging interest rates, on long term property developments; and
- 12.4.2 the recognition of the revenue does not adhere to the requirements of the International Accounting Standard 18.20, with specific reference to the criteria of probability (18.20(b)) pertaining to income recognition.
- 12.5 The effect of the restatement and re-audit of the figures have the result that the provisional tax paid to date be recovered from SARS.
- 12.6 Apart from these subsidiaries liquidated as reported in the previous report, the Curators have signed off all the remaining entities financial statements after the statements were restated. These statements are



available but not included for fear of belabouring this report.

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To illustrate what we have done to collect these amounts since our previous report, we report as follows:

13.1 **Income Tax Refund – Corporate Money Managers (Pty) Ltd 2009 Tax Year.**

13.1.1 Prior to the inception of the curatorship, the directors of Corporate Money Managers (Pty) Ltd made an overpayment on provisional income tax for the 2009 financial year. The financial statements were restated as per the request of the Curators and submitted to SARS in July 2013.

13.1.2 SARS started auditing the financial statements and the supporting documents in October 2013.

13.1.3 During April 2014 SARS informed the curatorship that the payment of the refund is ready however the bank details as per SARS records are incorrect. The curators accompanied by the tax practitioner corrected these details at SARS.

13.1.4 In June 2014 SARS requested that income tax returns for the financial years 2010, 2011, 2012 and 2013 be submitted prior

to them refunding the outstanding amount owed R10,812,174.00.

13.1.5 The curators requested the compilation of the financial statements and these financial statements and income tax returns were submitted by September 2014. SARS issued assessment notices (IT34's) for these 4 years during the months of October 2014 and November 2014, as they completed the electronic audits on these years.

13.1.6 At the end of November 2014 the curators were informed that the outstanding refunds were pending the outcome of the Value Added Tax Audit being conducted by SARS Enforcement Auditor, Mr V Nyamate. (CN 140694225, 140833182, 141067390).

13.1.7 SARS has thus agreed that the amount owed to CMM in respect of over payment is correct and that a refund is due, SARS however wishes to delay paying out the refund, pending the VAT audit, as any assessment that might arise during that audit will be deducted from the Income Tax refund.

## 13.2 Value Added Tax – Corporate Money Managers (Pty) Ltd

### 13.2.1 Value Added Tax before curatorship

13.2.1.1 Due to the restatement of the financial statements of Corporate Money Managers (Pty) Ltd for the financial tax year 2009, and the resubmission of the income tax return for that period, the Value Added Tax returns were also recalculated and submitted. The effect of the resubmission totalled an amount due from SARS to the curatorship of R2,007,512.06. Together with the Value Added Tax returns after curatorship are currently under enforcement audit at SARS.

13.2.1.2 The main reason for this audit, is the resubmission of information older than 3 years.

## 13.2.2 Value Added Tax after curatorship

13.2.2.1 After the inception of the curatorship, Corporate Money Managers (Pty) Ltd had a limited standard output for the purposes of Value Added Tax. The curatorship however still paid over value added tax to suppliers of services and goods as per the legislation. The curatorship received refunds until 22 September 2009 with regards to these

payments. After the last payment an unauthorised person attempted to change the banking details at SARS and all other refunds were accrued for refund at a later stage.

13.2.2.2 A further amount of VAT was paid over to suppliers which are awaiting a refund amounts to R14,252,594. These amounts are nett of any output VAT that were accrued during the curatorship.

### 13.2.3 Enforcement VAT Audit

13.2.3.1 After the completion of the returns and submission of all relevant documents to SARS, the curatorship contacted the SARS Service Monitoring Office (SSMO) of the South African Revenue Service to assist them with the delay with regards to the refunds as assessed by SARS.

13.2.3.2 The SARS Service Monitoring Office assigned a case manager to assist the curators in obtaining the correct refunds from SARS. On 7 August



2014, Mr P Yako was assigned and assisted the curators with their dealings with SARS.

13.2.3.3 On 5 September 2014 Mr P Yako reported to the curatorship that the Enforcement department of SARS requires that a complete enforcement audit and risk assessment be done on the company prior to the refunds being paid.

13.2.3.4 On 8 September 2014 the curatorship and the tax practitioner was informed that SARS has assigned an enforcement audit for all the periods of Value Added Tax after March 2008.

13.2.3.5 Contact was made with Mr V Nyamate with regards to the audit and the audit commenced.

13.2.3.6 The curatorship supplied Mr V Nyamate (SARS official) with all the relevant documentation by 15 October 2014. Mr V Nyamate has been requesting certain documentation during the course of the audit which is still ongoing.

13.2.3.7 Mr P Yako (SSMO) is closely monitoring the progress of the SARS official, and reverts to the practitioner on her request.

13.2.3.8 It is important to note that no assessment can be raised with regards to Value Added Tax during the curatorship period as there was hardly no output vat collected by the curatorship, during that period, and only input vat was paid. Thus the outcome of this enforcement audit should have no influence on the over payment of provisional tax as mentioned previously.

### 13.3 Allegro Bridging (Pty) Ltd – Overpayment of provisional tax

13.3.1 During 2009 the previous directors of Allegro Bridging (Pty) Ltd made a provisional payment to SARS to the amount of R5,800,000.

13.3.2 It is our view that these payments were however an attempt to show supper profits and declare unlawful dividends to the shareholders. The financial statements were restated as per the request of the Curators and submitted to SARS in May 2014. SARS requested financial statements and supporting documentation for the audit and completed the audit in November 2014. SARS also raised an IT34 for this refund in December 2014.

13.3.3 During the course of the curatorship the curators closed all unnecessary bank accounts for all the companies in the curatorship. SARS however required that any refunds pertaining to a company be transferred to a bank account of that company. The curators will thus open a new bank account for Allegro Bridging to facilitate the refund that is due to the company and the curatorship.

13.4 **African Dawn Limited ("Afdawn")**

We have since the conclusion of the 424 trial against Bakkes again considered the merits of the claim against African Dawn and the prospects of recovery given their financial position. We have come to the conclusion that it would not be economically viable to proceed against them and decided to abandon any further claims in this regard.

13.5 **ECE Group Holdings ("ECE")**

13.5.1 ECE is both a creditor and a debtor with and of Allegro. Allegro granted substantial loans to two companies within the ECE stable, namely High Trade Investments 52 and Autumn Star, for purposes of buying and/or developing residential properties.

13.5.2 Both High Trade and Autumn Star were liquidated and as

insolvency inquiries conducted in the insolvent estate of Autumn Star. The evidence given at the enquiry led to a number of claims being instituted against individuals. These actions are being prosecuted by the liquidator, some of whom successful other still to be finalized, upon finalization of the estate a dividend will fall due to the curatorship in the future.

13.5.3 Most of these matters driven by the liquidators of Autumn Star will be heard during 2016. From the litigation further dividends will flow to the curatorship as one of the major creditors of the estate.

#### 13.6 **Sortino General Partner (Pty) Ltd**

13.6.1 A total amount of R20,422,566.72 appears to have been received from Sortino as capital on various projects.

13.6.2 A total amount of R25,877,422.41, according to the interest schedules of Allegro, appears to have been repaid as capital and interest to Sortino. Acting on legal advice on the prospect of recovery we have abandoned the idea of proceeding against Sortino.

### 13.7 Other Creditors and subsidiaries of CMM

13.7.1 The Curatorship effectively controls the business of not only Allegro and CMM, but also a number of other entities and subsidiaries of CMM and Allegro. All of these have their own individual assets and liabilities. These liabilities are not linked to CMM or its investors nor do they have competitive claims.

13.7.2 None of the entities are trading, other than disposing of the assets which we have secured and/or land-banked, nor are they attracting any costs other than the costs of realisation of the assets.

13.7.3 The dormant entities have no assets and have since our last report been liquidated. The position remains the same.

### 13.8 Dynamic Wealth Limited

13.8.1 Upon the loss by Dynamic Wealth of its licences as a financial service provider *et al* and, because of the large claim by Dynamic Wealth against CMM, the Curators were swamped with communication from individual Dynamic Wealth investors, who were referred to us by Dynamic Wealth's management for direct payment of dividends.

13.8.2 These enquiries placed a tremendous strain on the Curatorship resources and the Curators themselves to deal with a problem which in essence was a Dynamic Wealth problem not related to the Curatorship. In each instance, the relationship between the alleged investor and Dynamic Wealth had to be verified before any information could be disclosed.

13.8.3 We have met with the provisional liquidator of Dynamic Wealth Stockbrokers and discussed the plight of the Dynamic Wealth investors. Although sympathetic towards them, a request was made not to make any payments to Dynamic Wealth investors directly, until the liquidators have concluded their own investigations.

13.8.4 Dynamic Wealth invested their investors' money with CMM. The HiPort balance of this investment as at 3 April 2009 amounted to R231,104,853.02.

13.8.5 Dynamic Wealth's investors' funds were pooled and invested in the name of the following Dynamic Wealth companies:

	<b>Code</b>	<b>As at 3 April 2009</b>
Dynamic Wealth Stock Brokers	CMMDWS	R 89 053 561.27
JSE Dynamic Wealth	CMMJSE	R 108 858 608.08
Dynamic Structured Index	CINDEX	R 20 212 398.69

Zamani Portfolio - Dynamic	CMMZAM	R	2 513 258.53
MR Money Market	CMGELD	R	10 184 676.93
JSE Capitaux Fin Trust	JSECFT	R	51 978.26
Hamret Retirement Umbrella Fund	HAMRET	<u>R</u>	<u>230 371.26</u>
<b>Totals</b>			<b>R 231 104 853.02</b>

13.8.6 At this point in time, the Dynamic Wealth investors remained faceless to CMM.

13.8.7 The management of Dynamic Wealth, however, after the appointment of the Curators, disclosed to the curators the list of names of the Dynamic investors. As these individuals did not invest with CMM, we did not have the necessary *locus standi* to deal with them directly.

13.8.8 The liquidation of Dynamic Wealth approached this Court under case number 16071/2014 and after extensive negotiations with us as well as the offices of the Executive Officer of the Financial Services Board, obtained an order in terms of which

13.8.8.1 this Court confirmed that the funds entrusted to Dynamic Wealth by its investors bear the character of trust funds;

13.8.8.2 that the proceeds paid by us as dividend to the

liquidators of Dynamic Wealth will not form part of the assets of the liquidated company and will be distributed to investors by the liquidator of Dynamic Wealth under supervision of the office of the Executive Officer of the Financial Services Board;

13.8.8.3 a copy of the order is attached hereto marked "A".

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### **The remaining litigation**

14.1 As is dealt with in detail in the previous reports, the Curators had to resort to litigation in many instances to collect the outstanding debt. Due to the nature of the investment and, *inter alia*, the type of debtor, a substantial amount of costs had to be incurred. The litigation has been successful and substantial recoveries of both costs and capital have been made.

14.2 We have, after five years, finalized the bulk of the litigation and what follows, is a report on the remainder of the litigation.

14.3 We do not wish to repeat the contents of our previous litigation reports and limit this litigation report to developments that occurred subsequent to our last litigation report. This litigation report must be read in conjunction with previous litigation reports.

14.4 We do not deal with the legal matters individually, but rather on a debtor by debtor basis. For example, there are various litigation matters pending with Theo Kies, but all these matters are dealt with under the heading "Theo Kies".

14.5 We also limit the debtors to the original/principal debtors. Where secondary debtors such as sureties and other claims are concerned, we identify these debtors during our discussion with regard to the original/main debtors.

14.6 The majority of our litigation has been finalised and there are only a few matters left which must proceed to trial, being the matters discussed hereunder.

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On page 47 of the curators' report of January 2014, we listed a number of matters where litigation and/or investigations into the affairs of insolvent estates had been conducted or were in the process of being completed. The discussion of the outstanding matters hereunder will reveal the current status thereof.

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We are confident that the balance of the matters outstanding will be addressed within the next twelve months.



We now deal with the individual matters.

17.1 **CME Trading (Rosenbaum)**

17.1.1 Summons was issued out of the High Court Gauteng Division for payment of the shortfall on an investment that CMM made in the business of Rosenbaum.

17.1.2 Rosenbaum settled the matter with us. The settlement entailed the sale of a house from which an amount of plus minus R600,000.00 flowed to the curatorship.

17.2 **Kufa Trading**

The trial was settled. The member of Kufa Trading is repaying the settlement amount in monthly instalments.

17.3 **Mminathoko Trading**

The curators have abandoned this claim due to non recoverability.



17.4 **K Rutter**

The curators abandoned this claim due to non recoverability.

17.5 **Selogilwe (Irene Beukes)**

Irene Beukes surrendered her estate. The curators are busy with a forensic investigation assisted by the trustee of her insolvent estate. An insolvency enquiry will in all propability be held later this year by the trustee of her estate (no costs to the curatorship) whereafter a final decision as to possible impeachable transactions will be taken. There is no respect of receiving a meaningful dividend from the assets that she declared to the trustee of her estate.

17.6 **Van Greunen Ackhurst Attorneys**

The matter will go to trial early 2016. A trial date has been allocated.

17.7 **VNP Group / Kleinhans**

Subsequent to the Section 424 trial being concluded towards the end of May 2014, our attorneys continued to investigate into the affairs of the VNP Group. A number of actions have been instituted by our attorneys, instructed by the trustee of the insolvent estate of Van Niekerk and the liquidators of the VNP Group. These will be enrolled

for 2016. We will continue to monitor these matters.

17.8 **Vincent Smith**

We managed to attach all the movable assets of Vincent Smith. These were sold in execution. We await payment from the sheriff of our dividend ex the proceeds of the sale. A sequestration application for the sequestration of his estate in which his wife was joined, is in progress.

17.9 **Akubra / G du Plessis**

Trustees have been appointed in Du Plessis' insolvent estate and a forensic search for assets is in progress based on the reasonable suspicion, given the receipts ex Allegro payments to him.

17.10 **Autumn Star / Erasmus**

17.10.1 The estate of Erasmus was sequestrated after judgment obtained against him.

17.10.2 The properties were sold by the trustee of his insolvent estate, had an insolvency enquiry been convened by the trustee of his estate (no costs to the curatorship) to investigate his affairs.

17.10.3 We have already ascertained that he misappropriated approximately R200,000.00 being the nett equity on a property that he sold post his sequestration. It will be recovered from him.

17.10.4 Criminal charges in respect of his conduct have also been instituted in this regard.

17.10.5 The litigation against the rugby players is continuing. To date we have had significant success in this regard and decent recoveries were made. A few of the actions against the rugby players are defended. We remain confident of our prospects of success.

#### 17.11 Come What May

17.11.1 Our attorney has conducted an enquiry into the affairs of Come What May. He found information and a wealth of documents supporting claims against one Ken Stricker against whom summons will be issued shortly.

17.11.2 At present the merits of the matter is under advisement from senior advocate. We hope to have papers issued by no later than the end of March.

17.11.3 Information unearthed at the insolvency inquiry supports our



*prima facie* view that our prospects of recovery are better than before.

17.12 **Counterpoint Trading**

This matter will go to trial early 2016.

17.13 **Dunrose / Paul Marais**

A trial date was allocated for the first week in March 2015. The matter subsequently became settled and is Marais paying off a settlement amount in excess of R1 million to the trustees.

17.14 **Greenhills View**

Legal process of execution is in progress which may culminate in a sequestration procedure.

17.15 **Merry Mole**

17.15.1 The matter became before court in May 2014. We settled with Walter Goldblatt. He is to repay the company's debt in his personal capacity as well as his capacity as well as via his family trust. The payment will commence shortly.

17.15.2 We have in the mean time ascertained that he has dissipated some of his assets and we are considering the possibility of proceeding against him as he is in breach of the court order.

17.16 **Rencort / Rumilox**

17.16.1 Subsequent to the 424 action being disposed of, both Rencort and Rumilox were liquidated.

17.16.2 Our forensic team lead by Jan Brink found a number of unencumbered assets and fixed properties which were registered in the name of the two members of the two entities who bound themselves as surety and co-principal debtors with Rencort and Rumilox.

17.16.3 Litigation followed, whereafter these assets were attached. The assets were all sold at a public auction in late November 2014.

17.16.4 From the sale of the assets encumbered in favour of Corporate Managers, the other properties found and the movable assets, we will be making a full recovery of capital and costs.

17.17 **Theo Kies**

17.17.1 Theo Kies instituted no less than 16 different applications in the High Court in Pretoria against the trustees of his insolvent estate as well as the curators.

17.17.2 We had no choice but to oppose these applications. All of these applications were dismissed.

17.17.3 We launched counter applications in terms of which he was declared a vexatious litigant. An order was granted in terms of which he was declared to be in contempt of court and ordered to be jailed.

17.17.4 His property has been sold. The proceeds is insufficient to pay the amount outstanding on the bond. His harassment by way of electronic media is incessant. Mrs Kies has made her contribution to costs.

17.18 **Toro Ya Africa**

Toro Ya Africa sued the curatorship for the balance purchase price of the Truzane properties. Despite a number of requests to continue, they have failed to do so. They have abandoned their claim against the curators.

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17.19 **Classic Crown / Nayager**

17.19.1 After the insolvency enquiry was concluded, the trustees of the insolvent estate found another property registered in the name of a close corporation belonging to the estate.

17.19.2 The property was attached and is in the process of being sold.

17.19.3 We believe that we will recover a further R1 million from Nayager.

17.20 **Du Plessis & Partners**

This matter is pending in the High Court, Cape Town. The matter is enrolled towards the middle of this year. We have good prospects of success.

17.21 **Empire Marketing**

This matter is enrolled to be heard shortly. We believe that we will make good recovery.

17.22 **Maharaj**

A final sequestration order was granted against Maharaj. As a result of Maharaj being the owner of a number of immovable properties, we expect a reasonable dividend resulting from the sequestration proceedings. We accordingly continue to foresee a reasonable recovery.

17.23 **Mamoepa**

Abandoned due to non-recoverability.

17.24 **MRZ / Ebrahim**

An insolvency inquiry in the insolvent estate of MRZ Autohaus is continuing. The insolvency inquiry has, to date, borne fruit and we have recovered a number of motor vehicles that belong to the insolvent estate of MRZ Autohaus. Our prospects of recovery therefore continue to look better than before.

17.25 **K Naidoo**

This debt is written off due to non collectability.

17.26 **Johnny Parreira / Panamo Properties**

17.26.1 After the liquidation of Panamo Properties and the sequestration of the estate of Johnny Parreira, our attorneys conducted an enquiry into the affairs of the company.

17.26.2 They found evidence of a number of irregular transactions which led to a settlement in terms of which an amount of R3,5 million (nett) was recovered.

17.26.3 There are also a number of properties in the group that have not been sold. These are unencumbered.

17.26.4 As Absa Bank, the major creditor in the estate, has received handsome dividends from the sale of the property, that we believe that a recovery of approximately R5 million will accrue to CMM.

17.27 **Peega Shomang**

17.27.1 The attorney Peega Shomang was sequestrated.

17.27.2 After the appointment of a trustee by the Master of the High Court, an insolvency enquiry has been conducted. We are at present awaiting a comprehensive report from the trustee in this regard.

17.27.3 We do not know if any recovery will be made.

17.28 **Purple Rain**

The debtors are continuing with monthly installments.

17.29 **Ramcharet**

Action has been abandoned due to non recoverability.

17.30 **Rowland**

Registration of transfer of a holiday flat is in progress. The proceeds of the sale will be the dividend.

17.31 **Wilkinson**

17.31.1 The litigation with Denis Wilkinson came to an end.

17.31.2 Wilkinson's estate was sequestrated by Standard Bank. An insolvency enquiry into his affairs is being conducted towards the end of March 2015.

17.31.3 We have already found cash in bank accounts and vehicles

that have been transferred shortly before the estate of Wilkinson was sequestrated that he did not disclose to the trustees of his insolvent estate.

17.31.4 We are confident that our investigation will lead to further recoveries. It is unfortunately too early to comment meaningfully. We are however confident that this investigation will be concluded within this calendar year.

## 17.32 ABSA BANK

### (MiHold, Ubank)

17.32.1 After our attorneys served the amended particulars of claim on Absa Bank's attorneys of record, a further notice of exception was served on our attorneys. Our legal team considered the latest notice of exception served by Absa Bank's attorneys and are confident that there is not merit in the notice of exception. Our attorneys have, accordingly, advised Absa Bank's attorneys that if they wish to proceed with the exception they must enrol the exception for argument as soon as possible.

17.32.2 The Absa Bank case remains our first priority and our legal team is instructed to use their best endeavours to enrol the action as soon as possible. In view of the magnitude of the

Absa Bank case a whole Court term will be necessary for the actual trial. Indications are that a judge will only become available during the course of 2016 for such a long trial.

17.32.3 In the meantime the MiHold and Ubank matters are proceeding. Because the curatorship was joined as third parties in these actions we are obliged to defend the actions and to protect the investors' interests. As a result the MiHold and Ubank actions may precede our Absa Bank case. Although we would have preferred our Absa Bank case to precede the MiHold and Ubank actions, the underlying facts relating to all 3 actions are the same. In the circumstances the MiHold and Ubank actions may also bring an end to our Absa Bank case. At the very least the MiHold and Ubank actions would serve as proper preparation for our Absa Bank case.

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## **COSTS INCURRED BY THE CURATORS DURING LITIGATION AND THE RECOVERY THEREOF**

18.1 In our previous report and in discussions with representatives of the Executive Officer of the Financial Services Board, we were requested to separately deal with the issue of the legal costs of the curatorship and

prospects of recovery thereof.

18.2 Up to now, we, apart from an unsuccessful application and one or two matters where we decided not to proceed for commercial reasons, we were successful in obtaining cost orders in favour of the Curatorship, some on a party and party scale and others as in the Bakkes sequestration application, the court ordered the costs to be paid *de bonis propriis* by the representatives of debtors and other litigants.

18.3 Given the nature of the assets we found on appointment, we approached litigation and the process of collection more aggressive than what we would, had the assets been ordinary liquid assets as one could expect in normal circumstances. As a result the costs we had to incur was higher than expected but also the returns.

18.4 The recoveries below show that we have recovered a substantial portion of the costs of litigation.

18.5 We set out below a schedule reflecting litigation costs, for the period since inception of the curatorship to 31 January 2015:

**Four Rivers Assets**

Dreamworld Investments 416 (Pty) Ltd - Eastwood Manor	49 973.30
Jasper & Donovan (Pty) Ltd & Mogale City Local Council - Heritage Manor	107 617.69
AZS Investments (Pty) Ltd - Misty Hills	83 957.40
Red Coral Investments 37 (Pty) Ltd - Sekelbos Manor	135 446.80
Red Coral Investments 13 (Pty) Ltd - Unitas Park Vereeniging	26 400.00
New Approach Building Projects (Pty) Ltd - Witbank Manor	21 776.46
Rentcor Trading CC t/a Recor - Kamagugu Township	163 780.94
Autumn Star Trading 591 (Pty) Ltd - Baybridge, The Island Estate	804 123.48
Malokiba Trading 19 (Pty) Ltd - Malokiba 19	39 065.57

Malokiba Trading 92 (Pty) Ltd - Malokiba 92	279 829.05
Finfactor (Pty) Ltd & Counterpoint Trading 204 CC & Real Time Investments 506 CC - Finfactor	2 368 615.95
Theo Kies Ontwikkelings BK - Ikwezi Estate & Montana Gardens	3 010 952.79
Come What May Properties 3 (Pty) Ltd - Come What May	371 679.55
Dunrose Trading 160 (Pty) Ltd - Waldheim Estate, Ramsgate	3 653 802.11
White Pine Investments 7 (Pty) Ltd - Heritage View	31 549.12
Bubesi Investments 53 (Pty) Ltd - Westbrook Estate	81 544.52
Greenhills View (Pty) Ltd - Greenhills View	290 294.55
Merry Mole Development (Pty) Ltd - Crystal Lakes Vaal Eco Estates, Vaaldam - Mettle	663 659.80 42 840.38
Akubra Trading 21 (Pty) Ltd - Clear Water Eco Estate	6 006.25
NH Clusters cc - Culembecck Close	181 145.76
Panamo Properties 169 (Pty) Ltd - Place de Tetre, Honeydew Grove Extension 718	136 493.80
Buzz Trading 181 Pty (Ltd) - Fleur n Villa	328 827.35
<b>Total</b>	<b>14 379 383</b>

#### Escascape Assets

Asande/Garankuwa/Truzanne	52 675
Kufa	1 109 045
Solid Investments / Pieter Bekker	423 613
Thunderstruck	3 589 662
VNP Projects Pty Ltd	2 784 480
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	398 670
Glen Eden Trading 213 also Basic Construction Supply	196 506
Iceberg Trading	73 190
Imvuno Africa Trading & Projects	81 571
Intsomi	272 222
Mninathoko Makutupu	3 697
<b>Total</b>	<b>12 258 623</b>

#### Regent Assets

Panamo Properties 49 (Pty Limited):	521 238
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<b>Total Litigation fees including Disbursements</b>	<b>74 372 685</b>
Less Disbursements	5 919 840
<b>Total Litigation fees excluding Disbursements</b>	<b>68 452 845</b>

18.6 The total litigation costs reflected above are the net amount before recoveries have been set off against it

18.7 Below follows a schedule reflecting costs recovered to date:

	<b>Litigation fees recovered</b>
<b>Four Rivers Assets</b>	
Malokiba Trading 92 (Pty) Ltd - Malokiba 92	279 530
Finfactor (Pty) Ltd & Counterpoint Trading 204 CC & Real Time Investments 506 CC	842 452
Dunrose Trading 160 (Pty) Ltd - Waldheim Estate, Ramsgate	6 523 978
Merry Mole Development (Pty) Ltd - Crystal Lakes Vaal Eco Estates, Vaaldam	835 864
Bubesi Investments - Westbrooke estate	3 220 954
Panamo Properties169 (Pty) Ltd - Place de Tetre, Honeydew Grove Extension 718	244 704
<b>Escascape Assets</b>	
Asande/Garankuwa/Truzanne	535 958
VNP Projects Pty Ltd	1 520 050
Wykwet	468 507
Eastdune	80 709
CMT Trading	70 017
Harvard Real Estate	163 118
Haydon Dunn	492 948
Jinmoa/Formprops	234 318
Loggies Furniture	35 847
Matika	237 568
Minoli	99 000
Tetrafull	494 186
Glen Eden Trading 213 also Basic Construction Supply	215 805
Invuno Africa Trading & Projects	17 990
Intsomi	272 222
Jannie Haasbroek	154 887
Mavhutane Trading cc	35 177
Mninathoko Makutupu	25 345

Ricabel Construction	23 145
Selogilwe Building Contractors CC	968 089
Siyanda Projects (Pty) Ltd	3 505
VNP Projects Pty Ltd	836 883
<b>Regent Assets</b>	
N Maharaj	79 007
New Order Investment	46 559
ER De Beer	-11 674
Global Star Developments	21 890
Lamula Trust	57 032
Classic Crown	453 083
BR Shomang	50 000
The Village Don	400 519
ASN Car Corp CC	184 335
Auto Vita Centurion	59 894
Ikon Motors	14 611
North West Auto	1 016 667
Silverstar Trading	28 169
<b>Total for projects</b>	<b>21 332 847</b>
424 Actions	750 000.00
<b>Total Costs Recovered</b>	<b><u>22 082 847.16</u></b>

18.8 The curators are assessing the remaining matters on an on-going basis in order to recover litigation costs where possible at all.

18.9 In a number of matters, the success and recoverability has not been assessed as yet. Defended matters where the outcome is not yet clear, matters where recovery is doubtful or uncertain and matters where the curators are defendants or respondents are set out below. The ABSA and 424 matters are included in this list.

18.10 The result of the 424 action and the subsequent liquidation or sequestration of Johan Bakkes and Thunderstruck justifies special

*P*

reference.

18.11 Up to now we have spent an enormous amount of money on pursuing the claim against Johan Bakkes and Absa Bank. The result in the 424 matter made an end to the litigation against Bakkes and Thunderstruck. Being the major creditor of both, we stand to collect in an insolvency dividend from the liquidators the net proceeds after costs of liquidation. Given the yield of the annual rental of the district we stand to collect the proceeds of the building Bakkes purchased via investor funds as well is the proceeds of a second building registered in Thunderstruck, the house of his wife as well as the proceeds of a number of claims against *inter alia* his attorneys, children and their spouses who all lived of the Thunderstruck proceeds since 2009.

18.12 We have also recently sold the movable assets of Vincent Smith in execution and stand to recover from his estate substantially more than what we have expended so far.

18.13 Lastly we have to mention that the claim against Absa and the 424 action relies on the same evidence. The investment we made in our legal team in this regard will save a huge amount of costs given the preparation we have done and paid for to date.

18.14 We, as has been illustrated above, have made a substantial recovery of costs incurred and are committed to continue to do so. Most of the costs that we deem unrecoverable were not caused by bad or irresponsible decision taking on our side, but rather due to the fact that

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we have been cited as defendants or respondents in the course of litigation requiring us to defend the Curatorship.

18.15 It is our view and we are acting on advice of our Counsel, to make full disclosure of the litigation which is pending but not to deal with the merits of each one thereof for fear of prejudicing such litigation. Our future reports will deal with those matters that have been finalised or which cannot be prejudiced in greater particularity in the interest of transparency.

19

## ANALYSIS OF CASHFLOW AND COSTS PERTAINING TO THE CURATORSHIP

### 19.1 Reconciliation of cash balance as at 31 January 2015

In order to understand the flow of funds since 3 April 2009, it is necessary to provide a reconciliation of the cash balance, commencing with the opening balance on the 3<sup>rd</sup> of April 2009, depicting the total in- and outflows since the 3<sup>rd</sup> of April 2009 up to 31 December 2013 and thereafter for the period 1 January 2014 to 31 January 2015.

<u>Reconciliation of cash balance</u>	From 9 April 2009 to 31 December 2013	From 1 January 2014 to 31 January 2015	Total
<b>Opening balance</b>	<b>-3 211 565</b>	<b>21 722 103</b>	<b>-3 211 565</b>
- Standard Bank Settlement	-4 811 013	6 494 650	-4 811 013
- Absa Call	1 245 232	845 650	1 245 232
- Consolidated Investec Account	362 051	13 306 214	362 051
- Rosebankaccount	-7 834	1 075 589	-7 834
<b>Total Inflows</b>	<b>259 791 144</b>	<b>15 159 503</b>	<b>274 950 647</b>
Liquid Assets realized	106 173 127	-	106 173 127
Recoveries on moveable assets	111 208	-	111 208
Recoveries on loans (Young Alum & P Sevenster)	515 985	-	515 985
Recoveries Four Rivers Assets	17 431 747	14 440 395	31 872 142
Recoveries on Escascape Assets	72 017 667	3 540 969	75 558 636
Recoveries on Regent Assets	20 723 893	516 652	21 240 545
Refunds from SARS	499 907	-	499 907
Recovery on share investments (Dino, Hightrade)	116 022	-	116 022
Bank Interest Received	18 665 314	110 488	18 775 802
Recoveries in Excess of Capital Exposure	3 716 367	151 000	3 867 367
Deposits by investors after 3 April 2009	19 819 907	-	19 819 907
<b>Total Outflows</b>	<b>234 857 207</b>	<b>26 406 445</b>	<b>261 263 652</b>
Refunds to investors after 3 April 2009	13 313 698	-	13 313 698
Interim payments to investors	61 163 596	2 552 235	63 715 831
Hardship payments to investors	13 108 404	38 155	13 146 559
Asset Holding Costs ( Inc Transfer costs, rates & taxes)	521 954	3 641 110	4 163 064
Legal fees	60 938 581	13 434 104	74 372 685
Curators' fees	22 583 408	3 809 171	26 392 579
Forensic Accounting & Investigations	27 144 197	3 770 774	30 914 971
Administrative costs	1 261 152	53 587	1 314 739
Auditfees	1 431 522	585 011	2 016 533
Security (Misty Hills and the like)	1 860 588	-	1 860 588
Office expenses	1 055 783	125 862	1 181 645
CMM Pre Curatorship Liability & Auction			
Advertisements	106 380	33 412	139 792
Bank interest paid (Operational account)	20 376	-	20 376
Office Rental and Utilites	3 046 613	-233 349	2 813 264
Computer Expenses	96 991	410	97 401
Travel & Motorvehicle Expenses	297 943	16 227	314 170

Value Added Tax Expended still to be refunded from SARS	12 542 754	1 709 840	14 252 594
Security for High Court Costs - Greenhills	150 000	-	150 000
Settlement - First Bond Holder Alizay	3 600 000	-	3 600 000
Settlement - Dreamworks	2 000 000	-	2 000 000
Clearance - Bubesi Rates & taxes	-	466 896	466 896
Payments to Swaziland	219 502	-	219 502
Personnel Costs	8 393 765	3 000	8 396 765
<b>Closing Cash Balance</b>	<b>21 722 103</b>	<b>10 475 161</b>	<b>10 475 161</b>
- Standard Bank Settlement	6 494 650	8 720 735	8 720 735
- Absa Call	845 650	887 796	887 796
- Consolidated Investec Account	13 306 214	774 752	774 752
- Rosebankaccount	1 075 589	91 878	91 878

19.2 Items of expenditure are stated exclusive of Value Added Tax. It is reiterated that these figures are not audited. A perusal of the above reconciliation is self-explanatory.

19.3 We include the following additional financial information:

19.3.1 **Assets distributed to investors:**

**Assets distributed to investors to 31 January 2015**

Nett effect of deposits & refunds after 03 April 2009	-6 506 209.00
Hardship Payments to investors	13 146 558.80
Interim dividend payments to investors	63 715 830.86
<b>Assets Distributed to investors</b>	<b>70 356 180.66</b>

19.3.2 **Curatorship fees to 31 January 2015**

Curatorsfees to date	26 392 579.17
Minus Disbursements	1 752 056.00
<b>Nett Curatorsfees</b>	<b><u>24 640 523.17</u></b>

19.3.3 **Forensic account and investigation costs:**

**Forensic Accounting and Investigation Costs as at 31 January 2015**

Action Against ABSA	5 451 208
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	1 626 677
Four River Assets	3 757 254
Regent Assets	332 715
Regent General	109 898
Forensic Investigations and Litigation	
Support	9 273 201
<b>Total Forensic accounting and investigation cost</b>	<b><u>30 914 971</u></b>

19.3.4 **Other costs:**

Office expenses	1 181 645
Pre Curatorship CMM Marketing costs and auction advertisements	139 792
Bank interest paid (Operational account)	20 376
Office Rental and Utilities	2 813 264

Computer Expenses	97 401
Travel & Motorvehicle Expenses	314 170
Payments to Swaziland	219 502

<b>Operational costs</b>	<b>4 786 151</b>
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<b>Other</b>
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Asset Holding Costs ( Inc Transfer costs, rates & taxes)	4 163 064
Security (Misty Hills and the like)	1 860 588
Security for High Court Costs - Greenhills	150 000
Settlement - First Bond Holder Alizay	3 600 000
Settlement - Dreamworks	2 000 000
Bubesi (Rates & Taxes)	466 896

<b>Total</b>	<b>12 240 548</b>
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<b>Finance and administration</b>
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Administrative costs	1 314 739
Personnel Costs	8 396 765

<b>Finance and administration cost</b>	<b>9 711 504</b>
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19.3.5 In addition to the funds referred to in the previous paragraph, the following funds are expected within this calendar year:

19.1.3.1 Tax	R 29,154,928.00
19.1.3.2 Autumn Star	R 7,000,000.00
19.1.3.3 Concept Developments	R 10,000,000.00
19.1.3.3 Thunderstruck / Bakkes	R 15,000,000.00
19.1.3.4 Daggafontein	R 18,000,000.00
19.1.3.5 Theo Kies	R 450,000.00
19.1.3.6 Alizay	R 5,000,000.00

*P*

19.1.3.7 Rumilox & Rencort Trading	R <u>9,000,000.00</u>
<b>TOTAL</b>	<b>R 93,604,928.00</b>

## 19.2 Payments to investors

19.2.1 Deposits received after 3 April 2009 amounted to R19,819,907.00. An amount of R13,313,698.00 was refunded to identifiable investors.

19.2.2 Interim dividend payments amounting to R63,715,830 were made to investors on a *pro rata* basis. Hardship payments amounting to R13,146,588 were paid to meritorious investors.

19.2.3 There is still an amount of R4,771,936 of the latest dividend owing to Dynamic Wealth and an amount of R1,856,475 to Swaziland institutional investors.

## 19.3 Curators' fees

The amount of R24,640,523.17 represents the total amount paid to the Curators over approximately a 6 year period, divided by three, at an authorised rate of R2,200.00 per hour. This rate is far below the market rate for professionals of the ilk of the curators. We intend approaching the Executive Officer of the Financial Services Board to agree to an increase in our hourly rate this calendar year.

#### 19.4 Legal Fees

A total amount of R68,452,845 (net of litigation fees recovered and disbursements) was incurred by the curatorship in payment of legal fees to legal practitioners throughout the country during the period 03 April 2009 up to 31 January 2015, of which an amount of R9,834,104 (net of litigation fees recovered and disbursements) was incurred during the period 1 January 2014 up to 31 January 2015 predominantly in preparation for the ABSA and the 424 trial.

#### 19.5 Forensic, accounting and investigation costs

These costs which were paid to forensic consultants in respect of their professional services relating to consulting, forensic investigations, financial calculations, forensic technology, verifications and the provision of litigation support services. The total amount paid from inception of the curatorship to 31 January 2015 amounted to R30,914,971.

#### 19.6 Administrative costs

As is clear from the content of this report, we are nearing the end of our tenure as curators. We have completed the bulk of the assets into cash, finalized all but a few of the litigious matters and are spending less and less of our time on curatorship issues. The last remaining properties

and the litigation against Absa Bank are the only issues that we will have to address in the next 18 months.

20

### **CIVIL ACTIONS INSTITUTED AGAINST THE CURATORS**

20.1 Since our previous report, we were cited as defendants in a matter where the Mogale City Local Municipality instituted action against us (without the leave of Court we might add) for cancellation of the transfer of certain properties registered in White Pine Investments (Pty) Ltd and Arctic Sun (Pty) Ltd and bonded in our favour.

20.2 The cause of action is based on fraud perpetrated on them.

20.3 We have been advised that we should oppose the relief sought and are doing so. The matter should be finalized during 2016.

21

### **MOTIVATION FOR CONTINUED APPOINTMENT OF CURATORS**

21.1 The expertise of the three Curators complements each other. The Curators meet from time to time to take decisions with regard to the completion of the Curatorship work defined in the various Court orders in order to source their collective business acumen, wisdom and skills



with a view to taking informed and responsible decisions always with the interest of investors in mind. Although all three of us will not contest the removal of either of us by this Court, we must point out that we have accumulated a vast amount of knowledge since our appointment and complement each other well.

21.2 From a costs point of view, despite being three appointed curators, it is to be remembered that curators only charge for the work done by them and the time spent by them on curatorship matters. Their fees are capped at R2,200.00 per hour, an aspect which we believe should be revisited, given that the Curatorship is five (5) years old with only a slight increase on one occasion, approximately two years ago. Each one still has their other practices, the expansion whereof has been curtailed because of this Curatorship's demand on their attention.

21.3 Therefore the costs are not a continued fulltime expenditure stream.

21.4 It is to be considered that the Curatorship is not an uncomplicated one. It is submitted that the final determination will require the expertise of each one of us, both with regard to corporate memory, skills and business acumen discussed above and in previous reports.

### **FUTURE DURATION OF THE CURATORSHIP**

22.1 Apart from the pending litigation referred to above and collecting costs orders awarded in our favour, the only remaining issue for us to deal with is the sale and/or development of the remaining land we have secured for investors since our appointment.

22.2 The resuscitation of these properties are dependent upon economic climate, demand, financial appetite by banks, the re-profiling of the assets and compliance with national and local legislation in that regard. The capacity of water purification infrastructure available within the jurisdiction of the local authorities in which the properties are situated, is also an inhibiting factor. We are however confident that the prospects of developing land is far better now than it was five years ago. We managed to sell the land belonging to Bubezi as an example. The land belonging to Rencort and Rumilox in Nelspruit was sold in a very short space of time for prices far exceeding the valuation.

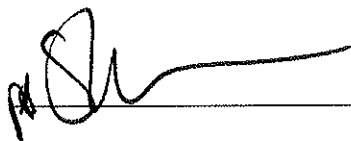
22.3 As is reported above, we have managed to sell ± R10 million of stands in Truzane near Garankuwa to individual buyers. The development especially of low costs stands, seems to be increasing and are we hopeful that we will be able to sell the balance of land we have available within the next 12 to 24 months. The arrear rates levied by the Tshwane City Council remains a bugbear to affordable housing. We are addressing this problem.

22.4 The only real concern we have is the land at Misty Hills in Bronkhorstspuit. Although we have, yet again, since our last report negotiated with prospective buyers, we were not able to secure an offer for the land or even an offer to develop the land in partnership with a developer. The inability of the local municipality to provide water, electricity and the costs to completion is simply not a possibility at the moment. We have no answer as yet for this land but will continue to market it to the best of our ability.

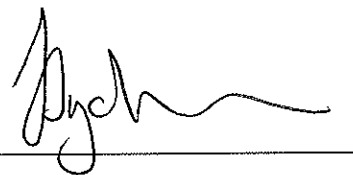
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We will as soon as this report has been delivered to the Executive Officer of the Financial Service Board, publish this report and discuss the contents with investors.

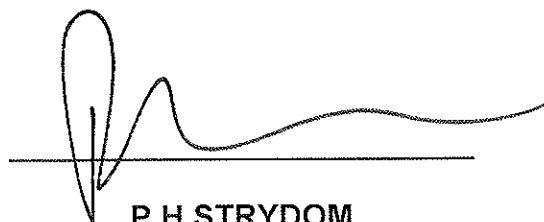
**SIGNED at PRETORIA this 2<sup>nd</sup> day of MARCH 2015**



**J R G POLSON**



**L STRYDOM**



**P H STRYDOM**

A  
S-X

IN THE HIGH COURT OF SOUTH AFRICA  
[ GAUTENG DIVISION, PRETORIA ]

11 November 2014

Before the Honourable Mr Justice De Vos

Case number: 16071 / 2014

In the *ex parte* application by

MARYNA ESTELLE SYMES N.O


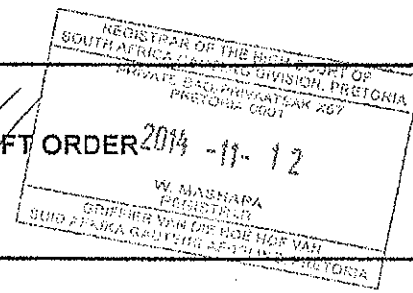
First Applicant

IGNATIUS CLEMENT MIKTEKO SHIRILELE N.O

Second Applicant

[ in their capacity as joint liquidators of Dynamic Wealth Stockbrokers (Pty) Ltd ]

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REGISTRAR OF THE HIGH COURT OF  
SOUTH AFRICA - GAUTENG DIVISION, PRETORIA  
PRIVATE: SACI PRIVAATSAK 267  
PRETORIA 0001


DRAFT ORDER 2014 -11- 12

W. MASHARA  
PROSEKUTOR  
GRIPPER VAN DIE HOE HOE VAN  
SUID-PANJA GELYKSTIG APPELLAS, PRETORIA

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After having read the affidavits filed by the Applicant and the Financial Services Board, and after having considered submissions by counsel for the Applicants, the following order is made:

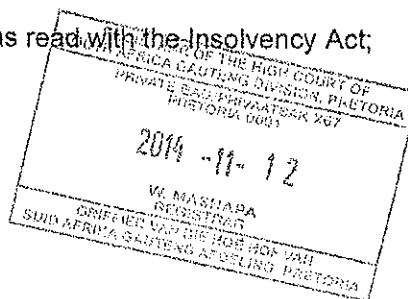
1. In terms of the provisions of the Financial Institutions (Protection of Funds) Act, 28 of 2011:

  
11/11/14

- 1.1 Investments were entrusted to Dynamic Wealth Stockbrokers (Pty) Ltd ("DWS"), as asset manager, by those investors recorded in annexure "A" hereto ("the investors");
- 1.2 DWS, on behalf of the investors, invested an amount of R158 million of the investments ("the investments") with Corporate Money Managers (Pty) Limited ("CMM");
- 1.3 The investments referred to in 1.1 and 1.2 bear the character of trust funds, also in relation to the Applicants.

2. Insofar as the investments, or portions thereof, are repaid by CMM (now under curatorship) to the Applicants as liquidators of DWS on behalf of the investors ("the repayments"), the repayments will be dealt with by the Applicants in the following manner:

- 2.1 the Applicants will deposit the repayments into a separate designated DWS bank account under their control;
- 2.2 the repayments will not form part of the assets of DWS as provided for in the Companies Act, as read with the Insolvency Act;



*Handwritten signature and date:*  
2  
11/11/14

2.3 the Applicants will not be required to account to the Master of the High Court with regard to the investments as such investments do not constitute assets in the estate of DWS, but instead will be accountable to the Financial Services Board or its nominees as set out hereunder;

2.4 the Applicants will repay investors in the following manner:

2.4.1 as a first charge, provide for any pay:

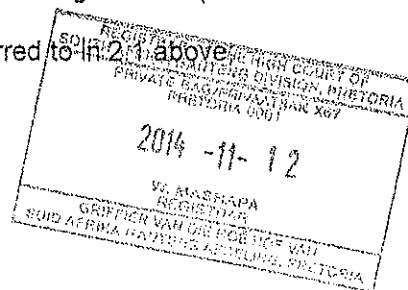
2.4.1.1 each Applicant's remuneration calculated at R2,200.00 per hour plus VAT for the services actually rendered by each Applicant in respect of investments and / or the repayments thereof;

2.4.1.2 all legal costs incurred in regard to this application;

2.4.1.3 all storage costs and costs of indexing and removing DWS / CMM files where applicable;

2.4.1.4 bank charges in respect of the bank account

referred to in 2.4.1 above

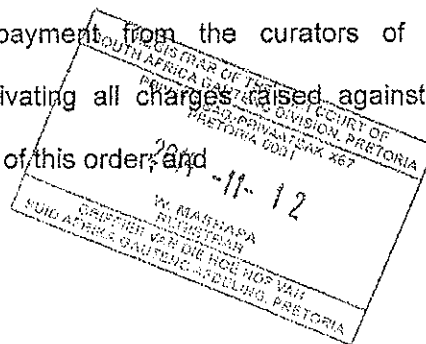


- 2.4.1.5 postage and printing costs;
- 2.4.1.6 telephone and telefax costs;
- 2.4.1.7 FICA costs incurred relating to each investor;
- 2.4.1.8 travelling expenses;
- 2.4.1.9 accounting costs of the Applicant.

2.4.2 as a second charge, pay to the investors the balance of each repayment *pro rata* to each investor's investment.

2.5 The Applicants shall:

2.5.1 account to the Financial Services Board or its nominees in regard to each proposed payment, within six months of receipt of each payment, from the curators of CMM, indicating and motivating all charges raised against each repayment in terms of this order, and



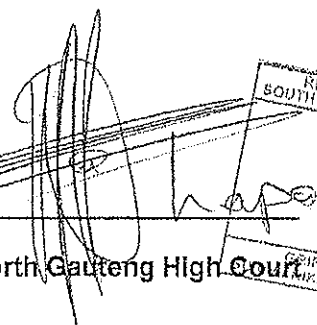
*Janine*  
11/11/14

2.5.2 present to the Financial Services Board or its nominees a detailed account with supporting documents detailing all dividends to be paid to investors listed in Annexure "A" hereto within 45 days from submission of the account referred to in 2.5.1 to the Financial Services Board or its nominee;

2.6 The Financial Services Board or its nominee shall consider the accounts referred to above and within 30 days confirm or reject the accounts. Upon acceptance the accounts shall be deemed to be confirmed and the Applicants shall thereupon proceed and pay the dividends to the investors listed in Annexure "A" hereto immediately;

2.7 In the event of any account being rejected or objected to, any interested party shall have the right to approach the Court by way of application to seek the amendment or confirmation of such account.

By Order,

  
2014 -11- 12  
W. MASHAPA  
REGISTRAR  
GRIPPIER VAN LIG HOE HOE VAN  
NKA GAUTENG AFDDELING, PRETORIA

REGISTRAR OF THE HIGH COURT OF  
SOUTH AFRICA GAUTENG DIVISION, PRETORIA  
PRIVATE BES. PRIVAATSAK X07  
PRETORIA COOI

Registrar of the North Gauteng High Court

