

I N D E P E N D E N T

C O R P O R A T E R E C O V E R Y A D V I S O R S

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TO ALL KNOWN CREDITORS

REGISTERED MAIL

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Our Ref: **J F KLOPPER / S DANEEL**

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Date: **31 JANUARY 2007**

Dear Sir / Madam

INSOLVENT ESTATE: THE UNION CHARTER TRUST
TRUST NUMBER: IT 7725/97
MASTER'S REFERENCE NUMBER: C360/2006

We refer to the Second Meeting of Creditors to be held before the Magistrate, Goodwood, on Wednesday, 14 February 2007, at 09h00, in the above matter.

Herewith an amended report by the Joint Trustees. Kindly therefore ignore the first report sent on 30 January 2007.

Yours faithfully
INDEPENDENT TRUSTEES (PTY) LTD

J F KLOPPER
JOINT TRUSTEE

INSOLVENT ESTATE THE UNION CHARTER TRUST

TRUST NUMBER : IT 7725/97
("the insolvent trust")

MASTER'S REFERENCE NUMBER : C360/2006

REPORT OF THE JOINT TRUSTEES, JOHANNES FREDERICK KLOPPER *and* RAYMOND DAVID FENNER, ("THE JOINT TRUSTEES") IN TERMS OF SECTION 81 OF THE INSOLVENCY ACT, ACT NO. 24 OF 1936, AS AMENDED, ("THE ACT") TO BE SUBMITTED TO CREDITORS AT THE SECOND MEETING OF CREDITORS TO BE HELD BEFORE THE MAGISTRATE, GOODWOOD, ON WEDNESDAY, 14 FEBRUARY 2007 AT 09H00

ORDER OF THE COURT AND MEETINGS

An order for the provisional sequestration of The Union Charter Trust ("the insolvent trust") was granted by the Honourable High Court of South Africa (Cape of Good Hope Provincial Division) on 06 September 2006 pursuant to an application by The Standard Bank of South Africa Limited under Case Number 2907/2005.

The provisional order of sequestration was made final on 01 November 2006.

The Master of the High Court, Cape Town, appointed Johannes Frederick Klopper and Raymond David Fenner as Provisional Joint Trustees in terms of Certificate of Appointment Number C360/2006 dated 28 September 2006.

The first meeting of creditors was held before the Magistrate, Goodwood, on 10 January 2007. Three claims were submitted and proved at this meeting.

No voting took place at the first meeting of creditors and the afore-mentioned Provisional Trustees were appointed as Final Trustees by the Master of the High Court, Cape Town.

SECTION 81(1)(a) : ASSETS AND LIABILITIES

We have not as yet been provided with a Statement of Affairs by the insolvent trust as is required in terms of the Act and the following represents the assets and liabilities of the insolvent trust as at date of sequestration that we have been able to ascertain from financial statements provided to us and investigations conducted. The assets and liabilities listed are subject to verification and adjustment and may change depending on the extent of the claims submitted for proof and pursuant to our further investigations.

ASSETS	AMOUNT [R]	AMOUNT [R]
<u>Movable Property</u>		
Aircraft : Pilatus PC X11 VH-VAT (based in Sydney, Australia) valued at <i>(Allegedly ceded, pledged and mortgaged in favour of Rivonia Close Trust)</i>		R12 687 500,00
Aircraft : Piper Archer ZS-OIN (based at Rand Airport, Johannesburg) approximately <i>(Allegedly ceded, pledged and mortgaged in favour of Rivonia Close Trust)</i>		R 666 000,00
SUB-TOTAL		R13 353 500,00
<u>LIABILITIES</u>		
Loan by Rivonia Close Trust <i>(Allegedly to be secured by a cession and pledge)</i>	R64 773 298,00	
Preferent Creditors : Unknown at this stage	Unknown	
Concurrent Creditors : Estimated at	R26 917 567,68	
SHORTFALL		R78 337 365,68
TOTAL	R91 690 865,68	R91 690 865,68

COMMENT ON THE ASSETS

The Pilatus PC X11 VH-VAT aircraft is presently hangered at Bankstown Airport situated approximately 35km from Sydney in Australia and, although being valued at R12 687 500,00, an offer of R10 000 000,00 has been received.

The Piper Archer ZS OIN is presently hangered at Rand Airport in Johannesburg and is being utilised by Jewel Air for chartering purposes.

COMMENT ON THE LIABILITIES

- 1 Monies are due to a financial institution (the applicant for the sequestration) in respect of the balance outstanding in terms of lease agreements which had been cancelled prior to the date of sequestration.

- 2 The Rivonia Close Trust is a creditor in respect of a loan as was established from financial statements of the insolvent trust as at 29 February 2004. The aforesaid financial statements, duly signed by the trustees of the insolvent trust, state that the loan is interest free, unsecured and has no fixed terms of repayment.

MARITAL STATUS

Not applicable.

SECTION 81(1)(b) : CAUSES OF INSOLVENCY

The insolvent trust, through its trustees, has not provided us with written reasons for the insolvency as they are required to do so in Law as part of the Statement of Affairs, but according to the application for sequestration and investigations conducted, the following would appear to be the main reasons for the insolvency of the insolvent trust.

The Standard Bank of South Africa Limited and the insolvent trust initially concluded three written lease agreements in March 1999 and thereafter a fourth lease in December 1999. In terms of the agreements the insolvent trust leased four Pilatus PC12 Aircraft.

These agreements provided inter alia:

- 1 That the insolvent trust would pay all amounts due by a stipulated date, free of exchange and without any deductions / demands whatsoever.
- 2 The Standard Bank would at all times remain the owner of the aircraft leased until the insolvent trust had paid over all amounts and complied with all obligations in terms of the written lease agreements.
- 3 Upon the expiry of the lease agreements, the insolvent trust would return the aircraft leased to the Standard Bank, who would, in turn, dispose of the aircraft.

The insolvent trust fell into arrears in respect of the lease agreements. The trust was obliged to return the aircraft and remained indebted to the Standard Bank after taking into account the value of the aircraft and applying the value in reduction of the trust's indebtedness.

During 2006 the Standard Bank launched successful applications for the recovery of three of the aircraft and thereafter obtained possession of the fourth aircraft with the consent of the trust. The trust was unable to pay the amounts still owing and Standard Bank applied for the sequestration of the trust.

SECTION 81(1)(c) : BOOKS AND RECORDS

As the insolvent trust traded it was required to maintain books and records. The books and records are alleged to have been properly kept but we have, as yet, been unable to

determine as yet whether the legal provisions as required in respect of the keeping of such records have been complied with. A report will be submitted to the Master of the High Court should it become necessary.

SECTION 81(1)(d) : CONTRAVENTIONS AND OFFENCES

We are still in the process of investigating the insolvent trust's affairs and will in due course determine whether a report relating to further contraventions of the Insolvency Act should be submitted to the Master of the High Court.

At this stage, the insolvent trust would appear to have contravened certain provisions of the Act in that they failed to lodge a Statement of Affairs.

We have not been advised by the Master of the High Court whether such a Statement of Affairs has been submitted to him directly and upon having investigated this matter fully, we will lodge a report relating to this possible contravention to the Master, if necessary.

SECTION 81(1)(e) : ALLOWANCES TO THE INSOLVENTS

The insolvent trust has not requested any subsistence allowance neither has any allowance been paid.

SECTION 81(1)(f) : TRADING

There is nothing to report under this heading.

SECTION 81(1)(g) : LEGAL PROCEEDINGS

We have no knowledge of any legal proceedings pending or threatened by or against the insolvent trust as at date of sequestration save for the actions relating to the recovery of monies due.

SECTION 81(1)(h) : UNCOMPLETED CONTRACTS

To the best of our knowledge and belief there is nothing to report under this heading.

SECTION 81(1)(i) : FURTHER ADMINISTRATION

We have reported on the administration of the insolvent trust to date and the appropriate Resolutions will be submitted to this meeting. Creditors are requested to adopt these Resolutions to enable the administration of the estate to be continued with and finalised.

DIVIDEND PROSPECTS

A contribution might be levied upon concurrent creditors should the secured claims referred to above be found to be in order.

GENERAL

1. In the light of recent criticism involving Trustees' fees and a judgement in the Supreme Court of Appeal handed down in April 2004 and reported in January 2005, we deem it appropriate to bring to your attention our view that the Master of the High Court must tax Trustees' fees in accordance with the tariff as is provided for in the Insolvency Act, but having done so, the Master may reduce or increase the amount arrived at by applying the tariff if, in his or her discretion, there is "good cause" to do so.
2. The dominant provision of the aforesaid judgement is that the remuneration to which a Trustee is entitled is remuneration for work or services rendered, not a set commission, and that it must be reasonable.
3. The tariff serves as a point of departure for the determination of the appropriate fee. However, once taxation is complete, the Master has a flexible discretion to increase or decrease the amount of remuneration arrived at by the previous application of the tariff.
4. The concept of 'good cause' is very wide and there is nothing in the Act which indicates that it should be interpreted so as to exclude any factor which may be relevant in determining what constitutes reasonable remuneration for a Trustees' services in the circumstances of each case.
5. Obviously, what factors are relevant will vary from case to case, but may certainly include aspects such as:
 - 5.1. the complexity of the estate in question,
 - 5.2. the degree of difficulty encountered by the Trustees in the administration thereof,
 - 5.3. the amount of work done by the Trustees **and the time spent by them in the discharge of their duties involved.**
6. If, in the administration of the estate, particular difficulties are experienced by the Trustees because of the nature of the assets or some other similar feature connected with the administration, this would undoubtedly constitute 'good cause' entitling the Master to increase the tariff remuneration.
7. In view of the above, we hereby advise that we have resolved to keep time records of the work done by our staff in order to enable the Master to be guided along the above-mentioned guidelines and are in the process of writing up detailed time sheets of the effort and correspondence in this matter which will then be presented to the Master when submitting the next account in this matter.
8. We also wish to bring to your attention that the SCA held in the above-mentioned reported Judgement that an hourly fee of R1 800,00 for a Trustee based on the experience and qualifications of the parties in that matter would not be inappropriate.

For your information we also advise that the charge out rates of our staff will be based on this rate as a point of departure and taking into consideration the qualifications of our staff.

**JOHANNES FREDERICK KLOPPER
JOINT TRUSTEE**

and

**RAYMOND DAVID FENNER
JOINT TRUSTEE**

**C/O INDEPENDENT TRUSTEES (PTY) LIMITED
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INSOLVENT ESTATE THE UNION CHARTER TRUST

TRUST NUMBER : IT 7725/97
("the insolvent trust")

MASTER'S REFERENCE NUMBER : C360/2006

RESOLUTIONS TO BE SUBMITTED AT THE SECOND MEETING OF CREDITORS TO BE HELD BEFORE THE MAGISTRATE, GOODWOOD, ON WEDNESDAY, 14 FEBRUARY 2007 AT 09H00

RESOLVED THAT:

1. The report of the Provisional Joint Trustees and/or Joint Trustees, as the case may be, hereinafter referred to as ("the Joint Trustees"), as submitted be received and adopted and all their actions referred to therein be and are hereby confirmed, ratified and approved.
2. All actions of whatsoever nature heretofore taken by the Joint Trustees be and are hereby confirmed, ratified and approved.
3. The Joint Trustees be and are hereby authorised in their sole and absolute discretion to:
 - 3.1. Take legal advice on any question of law affecting the administration and distribution of the insolvent trust;
 - 3.2. Institute or defend on behalf of the estate any action or other legal proceedings of a civil nature for the recovery of monies due to the estate or otherwise and subject to the provisions of any law relating to criminal procedure, institute any criminal proceedings;
 - 3.3. Hold any enquiry into the affairs of the insolvent trust and/or any matter relating thereto;
 - 3.4. Investigate and institute legal proceedings for the recovery of any voidable or undue preferences, voidable dispositions of property or any other impeachable transactions of whatsoever nature and to abandon same at any time;
 - 3.5. Write up the books of the insolvent trust as may be required, and if necessary, to produce a balance sheet, audited or not, as at the date of sequestration, either for the purpose of investigating the affairs of the insolvent trust, establishing the claims of creditors, or any other purpose.

4. The Joint Trustees be and are hereby authorised in their sole and absolute discretion to employ and engage the services of attorneys and/or counsel (senior and/or junior) and/or accountants and/or bookkeepers and/or any employee of the insolvent trust and/or recording agents and/or any other person who in the sole discretion of the Joint Trustees may be of assistance in the winding-up of the insolvent trust in relation to any matter referred to in 3 above and further to pay all the costs thereof of whatsoever nature out of the estate as costs incurred in the sequestration.
5. The Joint Trustees be and are hereby authorised to collect any debts due to the insolvent trust and for the purpose thereof to sell or compound or compromise any of these debts for such sum and upon such terms and conditions as they in their sole discretion may deem fit, and to accept any part of the debt in settlement thereof, and to grant an extension of time for the payment of any such debt, and to abandon any debt, which they in their sole discretion may deem to be irrecoverable.
6. The Joint Trustees be and are hereby authorised to dispose of any movable and immovable property of the insolvent trust, whether in their possession or under their control now or to come into their possession or under their control in the future by public auction, private treaty or public tender upon such terms and conditions as they in their sole and absolute discretion shall determine and to abandon any such assets for which they can find no purchaser or abandon them to a secured creditor at the value placed thereon by such creditor or at such value as is agreed upon by the Joint Trustees and the creditor if such creditor's claim is secured by such assets and to sign all such documents as may be necessary to give effect to such disposition.
7. The Joint Trustees be and are hereby authorised and empowered in their sole discretion to compromise and admit any claim against the insolvent trust of whatsoever nature and howsoever arising and whether disputed or not and whether actual, contingent, prospective, conditional, unconditional, assessed, unassessed, liquidated or unliquidated as a liquidated claim in terms of Section 78(3) of the Insolvency Act No. 24 of 1936, as amended, at such amount as may be agreed upon by the Joint Trustees provided that proof thereof has been tendered at a meeting of creditors.
8. The Joint Trustees be and are hereby authorised to make application for the destruction of books and records of the insolvent trust six months after the confirmation of the final account.
9. The Joint Trustees be and are hereby authorised to submit to the determination of arbitrators any dispute concerning the insolvent trust or any claim or demand by or upon the insolvent trust.
10. The Joint Trustees be and are hereby authorised to carry on or discontinue any part of the business of the insolvent trust insofar as may be necessary for the beneficial winding-up thereof.
11. The Joint Trustees be and are hereby authorised to exercise mutatis mutandis the powers conferred upon a Trustee by Section 35 (uncompleted acquisition of immovable property before sequestration) and 37 (effect of sequestration upon a lease) of the Insolvency Act No. 24 of 1936, as amended ("the Act").

12. The Joint Trustees be and are hereby authorised to allow the insolvent to retain for their own use the whole or such part of her household furniture and tools and other essential means of subsistence as they may determine.
13. The Joint Trustees be and are hereby authorised to release, as they in their absolute discretion decide, any assets belonging to the solvent spouse which is proved to have acquired or safeguarded as provided for in Section 21(2) of the Insolvency Act No 24 of 1936, as amended.
14. The Joint Trustees be and are hereby authorised to make any allowance out of the estate to the insolvent which they in their sole discretion may deem to be necessary for the support of the insolvent and his/her dependants.
15. The Joint Trustees be and are hereby authorised to perform any act or exercise which they are not expressly empowered to perform in terms of the provisions of the Act.
16. The creditors hereby consent to the Joint Trustees' remuneration ("the remuneration") being taxed by The Master of High Court in terms of the Insolvency Act at the higher figure of:
 - 16.1. the prescribed tariff as is contained in the Insolvency Act;
 - 16.2. the increased amount of work done by the Joint Trustees in terms of the actual time spent by them and their staff in the discharge of their duties in the winding-up as is reflected on properly kept timesheets at the charge out tariff of the respective professional and administrative staff and which will be deemed to be good cause for the increase of such remuneration.
17. The remuneration referred to in 16 above may further be increased based on aspects such as:
 - 17.1. the complexity of the estate in question;
 - 17.2. the degree of difficulty encountered by the Joint Trustees in the administration of the insolvent trust, and
 - 17.3. particular difficulties experienced by the Joint Trustees because of the nature of the assets or some other similar feature connected with the administration of the insolvent trust.
18. The further administration of the affairs of the estate be left entirely in the hands of and at the discretion of the Joint Trustees.

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CREDITOR