

INSOLVENT ESTATE: DANIEL EDWIN SCHMIDHAUSER
MASTER'S REFERENCE NUMBER: C460/2017

This is a report by the trustees, Jochen Eckhoff and Laila Essop, in terms of section 81 of the Insolvency Act No. 24, of 1936, as amended, which will be submitted at the Statutory Second Meeting of Creditors, convened to be held before the Presiding Officer, Master of the High Court, Cape Town, on Friday, 16 February 2018 at 09h00.

The abovementioned was provisionally sequestrated by The Standard Bank of South Africa Ltd in the High Court of South Africa (Western Cape Division, Cape Town) on 18 July 2017. We were appointed Provisional Trustees by the Master of the High Court, Cape Town, on 31 July 2017 and Trustees on 24 November 2017, the relevant Certificates of Appointment are dated accordingly.

The First Meeting of Creditors was held before the Presiding Officer at the Master of the High Court, Cape Town, on 24 November 2017 at 09h00. Three claims totaling R6,069,846.52 were proven at the First Meeting of Creditors.

REPORT

We will now report as required by Section 81 of the Insolvency Act No. 24, of 1936.

SECTION 81(a) – ASSETS AND LIABILITIES

1. ASSETS

1.1. Immovable assets:

1.1.1	Unit 8 and Parking Bay 20 Becott Heights, Becott Road, Wetton	R 585,000.00
1.1.2	Unit 656 Grand Central, 243 Main Road, Wynberg, City of Cape Town	R 275,000.00
1.1.3	11 Main Drive, Sea Point East, Cape Town	R 8,000,000.00

All three the above-mentioned properties were sold in terms of section 81 of the Insolvency Act 24 of 1936.

1.2. Movable assets:

1.2.1	Painting	R 60,000.00
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Mr. Rael Levitt is holding the painting as security for a payment he made on behalf of the insolvent to the City of Cape Town of R50,258.63.

1.2.2	Ford Ranger Vehicle	R 70,000.00
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The vehicle was sold before the insolvent was sequestrated but the trustees managed to recover the proceeds from the sale.

TOTAL VALUE OF ASSETS **R 8,990,000.00**

2. LIABILITIES

2.1. Secured Creditors -

2.1.1.	Standard Bank- Mortgage Bond - Unit 8 and Parking Bay 20 Becott Heights	R 487,038.78
2.1.2.	Standard Bank- Mortgage Bond - Unit 656 Grand Central, 243 Main Road, Wynberg	R 364,372.28
2.1.3.	Standard Bank- Mortgage Bond - 11 Main Drive, Sea Point East, Cape Town	R 5,218,435.46
2.1.4.	Standard Bank- Instalment Sale Agreement- Ford Ranger Vehicle	R 47,909.37
2.1.5.	Mr. Rael Levitt- Right of Retention	R 50,258.63
2.1.6.	*Schmidhauser Electrical Holdings (Pty) Ltd (In Liquidation)- Improvement Lien	R 3,429,684.00

The improvement Lien is held over 11 Main Drive, Sea Point East, Cape Town.

2.2. Preferent Creditors -

2.2.1 South African Revenue Service R 262,203.16

2.3 Concurrent Creditors - R 28,062,079.16

TOTAL AMOUNT OF LIABILITIES R 37,921,980.84
TOTAL SHORTFALL OF ASSETS VERSUS LIABILITIES - R 28,931,980.84

In light of the aforementioned financial position of the insolvent estate, concurrent creditors should consider their position carefully before proving a claim against the estate due to a danger of contribution.

SECTION 81(b): CAUSES OF INSOLVENCY

The insolvent's company and only source of income, Schmidhauser Electrical Holdings (Pty) Ltd, was liquidated by its creditors. In light of the aforesaid, the insolvent had no income to pay his financial responsibilities as they became due, which caused his creditors to sequester his estate. The majority of the insolvent's creditors were created by the liquidated company for which he signed surety.

SECTION 81(c): BOOKS AND RECORDS

The insolvent did not personally trade and was, therefore, not required to keep books and records as contemplated by Section 134 of the Insolvency Act.

SECTION 81(d) : CONTRAVENTIONS AND OFFENCES

The insolvent has contravened The Insolvency Act 24 of 1936 by not attending the first meeting of creditors.

SECTION 81(e) : SUBSISTENCE ALLOWANCE

No allowance has been made to the insolvent in terms of Section 79 of the Insolvency Act, nor has it requested any such allowance.

SECTION 81(f): BUSINESS CARRIED ON BEHALF OF THE ESTATE

No business was carried on behalf of the estate.

SECTION 81(g) : LEGAL PROCEEDINGS

I have no knowledge of any legal proceedings pending by or threatened against the estate as at the date of sequestration other than for the normal recovery of debt.

SECTION 81(h): CONTRACT FOR THE ACQUISITION OF IMMOVABLE PROPERTY AND LEASES

No notice has been served on me in terms of Section 35 of the Insolvency Act, and the insolvent was not as far as I am aware, a party to any contract for the purchase of immovable property interrupted by insolvency.

SECTION 81(i); DIRECTIONS TO CREDITORS

Draft resolutions are submitted with this report, and creditors are requested to adopt these resolutions to enable me to finalise the sequestration process.

Dated at Cape Town this 20 December 2017


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JOCHEN ECKHOFF
JOINT TRUSTEE

Dated at _____ this _____ day of _____ 2017

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LAILA ESSOP
JOINT TRUSTEE

**INSOLVENT ESTATE: DANIEL EDWIN SCHMIDHAUSER
MASTER'S REFERENCE NUMBER: C460/2017**

RESOLUTIONS SUBMITTED AT THE SECOND MEETING OF CREDITORS, IN TERMS OF SECTION 81 OF THE INSOLVENCY ACT NO. 24 OF 1936, AS AMENDED, TO BE HELD BEFORE THE PRESIDING OFFICER, MASTER OF THE IGH COURT, CAPE TOWN, ON FRIDAY, 16 FEBRUARY 2018 AT 09H00.

RESOLVED :

1. That all actions of whatsoever nature heretofore taken by the Provisional Trustee/Trustees/Trustee/Trustees and also as set out in the report to which these Resolutions are attached, be and are hereby confirmed ratified and approved.
2. That the Provisional Trustee/Trustees be and is hereby granted the authority and shall be vested with all the powers mentioned in the Insolvency Act no. 24 of 1936 of 1973, as amended.
3. That the Provisional Trustee/Trustees be and is hereby authorised to engage the services of Attorneys, Accountants and/or Counsel and/or Recording Agents, as he/they may deem necessary, for the purpose of :
 - 3.1. taking any legal opinion that may be considered necessary in the interest of the estate;
 - 3.2. instituting or defending on behalf of the Insolvent Estate any action or other legal proceeds of a civil nature, and subject to the provisions of any law relating to criminal procedure, any criminal proceedings;
 - 3.3. holding enquiries and examinations in terms of Section 69 or 152 of the Insolvency Act number 24 of 1936, as amended, and to appoint Attorneys and Counsel and also Accountants and any other advisers, to act on his behalf in regard to such enquiries, at the cost of the Insolvent Estate, to assist him/them in regard to such enquiries and, particularly, to hold an enquiry, as is envisaged in the report to creditors, to which these Resolutions are attached.
 - 3.4. to draw any contracts and sign any documents as may be necessary;
 - 3.5. for any purpose, in doing searches at the Deeds Offices, Registrar of Companies and any other registry, as he/they, in his/their sole and absolute discretion, may deem necessary, all costs so incurred to be costs in the Insolvent Estate.
 - 3.6. for any other purpose whatsoever, as he/they, in his/their sole discretion, may deem fit;

that the Provisional Trustee/Trustees be duly authorised to agree any tariff and/or scale of rates to be used in determination of any Legal or other fees, and in his/their sole discretion, to agree the quantum of such fees, which legal fees shall be on an Attorney and own Client basis and which costs so incurred to be treated as administration costs of the estate.

4. That the Provisional Trustee/Trustees be and is/are hereby authorised and empowered to investigate any apparent voidable and/or undue preference and/or any disposition of property, and to take steps which he/they, in his/their absolute discretion, may deem necessary, including the institution of Legal Actions and the employment of attorneys and/or Counsel to have these set aside, and to proceed to the final end or determination of any such legal actions, or abandon the same at any time as he/they, in his/their sole discretion, may deem fit, all costs so incurred to be costs in the Insolvent Estate. The costs referred to herein being subject to the same conditions and/or the same scales as are set out in the final paragraph of Resolution 3 above.
5. That the Provisional Trustee/Trustees be and is/are hereby authorised to collect any outstanding debts due to the Insolvent Estate and for the purpose thereof, to sell or compound any of these debts for such sum, and on such terms and conditions, as he/they, in his/their sole discretion, may deem fit, or to abandon any claims which he/they in his/their sole discretion may deem to be irrecoverable, and to appoint Debt Collectors in his/their sole discretion to assist him/them in the recovery of outstanding debts, and to take all necessary steps on the terms and provisions as he/they in his/their sole discretion as Provisional Trustee/Trustees may deem fit, to ensure the maximum debt collections or to institute Legal Action and/or employ Attorneys and/or Counsel, in connection with the recovery of the debts, and to proceed to the final end of determination of any such Legal Action instituted, or to abandon the same at any time as he/they, in his/their sole discretion, may deem fit, all costs so incurred to be costs in the Insolvent Estate. The costs referred to herein being subject to the same conditions and on the same scales as are set out in the final paragraph of Resolution 3 above.
6. That the Trustee/s be and is/are hereby authorised to engage the services of bookkeepers, accountants and auditors and any other advisers to investigate and write up the books of the Insolvent Estate as may be required, and if necessary, to produce an audited balance sheet as at the date of sequestration, either for the purpose of investigating the affairs of the insolvent estate, establishing the claims of creditors, or any other purpose as he/they in his/their sole discretion may deem fit, all costs incurred in relation thereto to be costs in the Sequestration. The Trustee/s, in his/their sole discretion, may agree the costs with the relevant Bookkeepers, Accountants or Auditors and other advisers on behalf of the Insolvent Estate. The Trustees are authorised and instructed to pay the reasonable charges of those who rendered services in relation to the preparation and proof of creditor claims against the estate.

7. That the Provisional Trustee/Trustees be and is/are hereby authorised to sequestrate the Estate of any person or liquidate any Company or Close Corporation in order to recover any monies due to the Insolvent Estate, where he/they considers it necessary and that the costs in relation thereto be costs in the Insolvent Estate. The costs referred to herein being subject to the same conditions and on the same scale as are set out in the final paragraph of Resolution 3 above.
8. That the Provisional Trustee/Trustees be and is/are hereby authorised to engage the services of a representative to trace assets, make an inventory and take possession thereof, all costs incurred in relation thereto, to be costs in the Insolvent Estate.
9. That the Provisional Trustee/Trustees be, and is/are hereby authorised, to sell or in any other way dispose of any immovable or movable assets of the Insolvent Estate, whether as going concerns, or otherwise, or whether separately or jointly, with any other person or corporate entity, and on such terms and conditions as the Trustee/Trustees, in his/their sole discretion, may decide on and particularly, in his sole discretion, should they decide to sell or otherwise dispose of any such asset, jointly with any other person or corporate entity, on the method and quantum, of division, of the total consideration, by public auction, tender or private treaty, and on such terms and conditions as he/they, the Trustee/Trustees, in his/their sole discretion may deem fit and any other costs thereof which he/they, in his/their sole discretion cannot pass over, to be costs of sequestration. That the Provisional Trustee/Trustees is furthermore authorised, in his/their sole discretion, to abandon any assets for which he/they can find no purchaser or which is not practical to sell, the costs of which are the costs of sequestration.
10. THAT the Provisional Trustee/Trustees, in the case of the sale of any immovable property by the estate, and where the Provisional Trustee/Trustees contracts that he as Seller shall be entitled to nominate the conveyancers to do the conveyancing of the property to the Purchaser, shall be entitled to instruct Attorneys, to effect such registration of transfer on condition that the Purchaser pays all costs of transfer and that the Seller estate has no liability for such costs of transfer or any part thereof.
11. That in the event of any asset which is the subject of a mortgage bond, pledge or any other form of security, not realising sufficient to pay the claim of the secured creditors, plus the pro rata share of the costs of administration in full, the Provisional Trustee/Trustees be and is/are hereby authorised, in his/their sole discretion to sell such asset to the creditor concerned, at an agreed valuation, subject to the payment by such creditor of a pro rata share of the costs of administration, in terms of Section 89 of the Insolvency Act, as amended.
12. That the said Provisional Trustee/Trustees be and is hereby authorised and empowered, in his/their sole discretion, to compromise or admit any claim against the Insolvent Estate, whether liquidated, or unliquidated, arising from any guarantee, damages claim or any other cause whatsoever, as a Liquidated claim in terms of Section 78(3) of the Insolvency act, as amended, at such amount as may be agreed upon by both the creditor concerned and the Provisional Trustee/Trustees, and to accept payment of any claims due to the Insolvent Estate.
13. That the Provisional Trustee/Trustees be authorised to sell to the Insolvent, a member of his/their family or anyone else, household furniture and firearms at valuation thereof, on such terms and conditions as the Provisional Trustee/Trustees may determine, or alternatively sell the assets by Public Auction or private treaty. That the Provisional Trustee/Trustees is/are authorised to return to the Insolvent such essential wherewithal or as much thereof as he/they, in his/their sole discretion, deems necessary to sustain living.
14. That the action of the Provisional Trustee/Trustees in maintaining, conserving and realising any assets of the Estate, be and is/are hereby confirmed and that such costs be costs of administration and/or costs in terms of Section 89 of the Insolvency Act, no. 24 of 1936, as amended, if applicable and payable by the Estate or the creditors, as the case may be.
15. That the Provisional Trustee/Trustees is/are authorised to release to the solvent spouse her assets in accordance with conditions of Section 21 of the Insolvency Act no. 24 of 1936, as amended.
16. That the Provisional Trustee/Trustees is/are authorised to sign all documents that may be necessary to enable the purchaser of immovable property to obtain ownership whether the property was sold in terms of Section 80(bis) read with Section 18(3) of the Insolvency Act No 24 of 1936, as amended or after the second meeting of creditors.
17. The Provisional Trustee/Trustees is/are hereby authorised, in his/their sole discretion to continue with or cancel any agreement the insolvent entered into before his sequestration the costs of which are costs of sequestration.
18. That all costs pertaining to travelling and meetings of creditors, including the costs of an agent to attend the meeting on behalf of the Provisional Trustee/s or Trustee/s, must be considered as costs of administration.
19. That the further administration of the affairs of the Insolvent be left entirely in the hands and at the discretion of the Provisional Trustee/Trustees.
20. The Report submitted by the Provisional Trustee/Trustees in terms of Section 81 of the Insolvency Act be and is/are hereby approved and adopted.

The Provisional Trustee/Trustees Resolutions for adoption by Creditors were presented and approved of.

ADOPTED ON BEHALF OF CREDITORS

PRESIDING OFFICER

DATE