

MTI ESTATE

Mirror Trading International (Pty) Ltd (In Liquidation)
Master's ref C906/2020

Liquidators:

Adriaan van Rooyen
Chavonnes Cooper
Herman Bester

Christopher Roos
Jacolien Barnard
Deidre Basson

Estate website:
www.investrust.co.za
www.tygerbergtrustees.co.za

9 MAY 2022

<p>IN RE: MIRROR TRADING INTERNATIONAL (PTY) LTD t/a MTI (IN PROVISIONAL LIQUIDATION) ("MTI")</p> <p>REGISTRATION NUMBER: 2019/205570/07</p> <p>MASTER REFERENCE NO: C000906/2020</p>
--

MTI LIQUIDATORS REJECT ALLEGATIONS OF MARKS

The liquidators contemptuously reject the allegations of dishonesty or misconduct as alleged by Clynton Marks in the urgent court application to remove the liquidators.

Marks made the allegations against the liquidators – but he was Johann Steynberg's business partner - and he personally and illegally appropriated millions of rands of innocent investors' money to himself.

The timing of the application to try to remove the liquidators, being two court days before the hearing of the application to have the MTI scheme declared illegal, speaks volumes of the true motive. The suspicious application was followed by an application for the adjournment of declaring the scheme illegal by Henry Robert Honiball, which was filed on 27 April 2022.

The timing of the two applications leaves no doubt that it was done in a calculated manner to try again to thwart the application to declare the scheme illegal. There were already last-minute applications from parties who wanted to oppose the application on four previous occasions.

The liquidators' view is substantiated because the court dismissed the application for adjournment of Honiball with costs. The deliberate strategy of trying to delay the application by also launching the application to remove the liquidators is evident from the fact that Marks and Honiball

failed to file any complaint or request for the removal of the liquidators at the Master of the High Court. That which Article 379 of the Companies Act (1973) specifically provides for.

The provisional liquidators of JNX Online (Pty) Ltd (in liquidation) have been appointed by the Master of the High Court in Polokwane in terms of the statutory processes and discretion of the Master. There is nothing irregular about the appointment of Elizna Lourens and Dilshad Ishmail as the provisional liquidators of JNX Online. Liquidators are appointed in their personal capacity by the Master and the fact that some want to make hay of the fact that they work in the same firm as some of the MTI liquidators are merely grappling for straws.

The above principle has already been elucidated in no uncertain terms by the Supreme Court.

The allegation that the liquidators of MTI have complete protection against losses which the MTI estate may suffer should they have acted negligently is simply incorrect. The indemnity referred to in the resolution has to do with circumstances where it would be necessary for the liquidators to continue operating a company's business after liquidation. This is a standard provision that is inserted in resolutions of this nature. However, in the specific case of MTI, it is not applicable as there was no business to continue with.

The purpose of adopting the resolutions at the second meeting of creditors is a normal process in an insolvent estate. The liquidators had already acquired most of the powers contained in the resolution in court earlier. This was by way of an application for an extension of their powers at a time when some of them were still the provisional liquidators (in terms of the provisions of Section 386 and Section 387 of the Companies Act 1973).

The provisional liquidators of JNX Online, based on the company's records, prepared a claim document based on the payments of expenses, which according to the company's records, were made on behalf of MTI for a total amount of R7 190 930.

Whether the claim of JNX Online should be accepted "provisionally" rests solely with the Master of the High Court. If the Master is satisfied that the claim, at face value, is in order, the Master accepts the claim. Then an obligation arises on the liquidators of MTI to properly investigate the claim and report on it (in terms of Article 45 of the Insolvency Act).

The investigation into this claim is currently ongoing. It includes an investigation by the liquidators' appointed digital and forensic experts. They, among other matters, must determine with independent evidence the origin of the Bitcoin used to fund a bank account of JNX Online. Once this investigation is completed, the liquidators of MTI will be able to make a final decision on the claim of JNX Online.

If it turns out that the claim is not a valid claim, an application will be made to the Master of the High Court for the expungement of the claim in terms of Section 45 (3) of the Insolvency Act.

The continued efforts of Marks and Honiball to try to make the legally appointed liquidators suspicious are now a hollow-backed strategy. They are trying to prevent the application for an illegal declaration from being heard and finalised with a delaying approach.

The reality is that once the application for illegal declaration has been granted, there will be no further loopholes for Marks to prevent the MTI liquidators from reclaiming the millions of rands he illegally took from investors in MTI.

- What is further strangely striking about media coverage in which Marks is quoted is that there is no reference to the years-long scams he was already involved with and the “investors” he misled. Several of his flagrant endeavours of scheming are in the public domain, but some still struggle to distinguish between the chaff and the wheat.
- It should also be noted that the September 2021 decision of the FSCA to impose an administrative penalty of R50 million against MTI was recently set aside, as was stipulated in a consent order.

End.

www.tygerbergtrustees.co.za

www.investrust.co.za

Issued on behalf of the MTI liquidators