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Enquiry in terms of Sections 417/418 of the Companies Act 61 of 1973 read with Item 9 of Schedule 5 of the Companies Act 71 of 2008.

In the matter of:

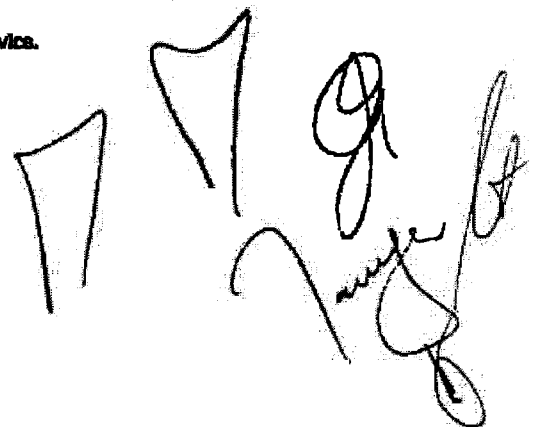
MIRROR TRADING INTERNATIONAL (PTY) LTD t/a MTI (IN PROVISIONAL LIQUIDATION)

Interim Report of the Commissioner, Judge H. Fabricius (r.) dated 10 March 2021

The purpose of a report at this stage (prior to the scheduled continuation of the enquiry before me on 23-26 March 2021, and if necessary before a Magistrate in Stellenbosch on 29-30 March 2021) is to demonstrate why and how the unlawful conduct of the company and its directors and certain management officials has been perpetrated. It would assist the liquidators in examine the affairs of MTI more closely, once the evidence that has still to be presented, has been critically examined. Even at this stage the available evidence is of such a compelling nature that it is clear to me that the unlawfulness business activities should not be permitted to continue for the protection of thousands of members of the public.

A. Background:

1. Bitcoin is a new technology. It is digital currency that is not issued or controlled by a government or a central bank. It is managed by its users who secure the system using software that anyone can download. Persons can send Bitcoin to each other without the need for a bank or a financial intermediary. It can be stored in their own digital wallets. A wallet can also be held as a crypto currency exchange which would however not be as safe as a personal wallet held on a laptop, phone or wallet device.

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- 2. Crypto Assets are not regulated by the Financial Sector Conduct Authority ("FSCA" hereafter); but the Authority has proposed that crypto assets be bought within the definition of "financial product" in Section 1 of the Financial Advisory and Intermediary Services Act 37 of 2002 ("FAIS Act").
- 3. This proposal of the Authority should in my view be implemented urgently. It has identified a number of crypto asset platforms operating in South Africa with an estimated registered users of some 800,000 persons, controlling about 80%-90% of the market with an estimated R6.5 billion value. This proposal was published in November 2020 when the price of a Bitcoin was between 15,000 and 18,000 USD. The price fluctuates wildly and was almost 60,000 USD during February 2021. Its unregulated use opens the door to fraud on an unprecedented scale and has a major impact on the regulation of foreign exchange and the Revenue Services.
- 4. Bitcoin transactions are irreversible and do not contain a trader's / purchaser or seller's personal information.
- 5. During the third quarter of 2020 MTI by way of a written "Referral Programme Success Guide" represented to its existing and new members that it used a "Forex Trading Bot" between August 2019 – August 2020 (which was unlawful inasmuch as it had no licence to do so), and that it used a "Crypto Trading Bot" from August 2020 until its demise in December 2020.
- 6. The founder of the Company was Johann Steynberg and his co-director, and 50% shareholder was Clayton Marks.
- 7. On 24 December 2020 a Mr. A. Lee brought an urgent application in the Western Cape High Court under case no. 19201\2020 for the provisional liquidation of the company. His cause of action was based on the allegation that the company was indebted to him in an admitted amount of some 34,705 USD which it was unable to pay. Further, it owned no assets and earned no income. During August 2020, the FSCA informed the company that its business

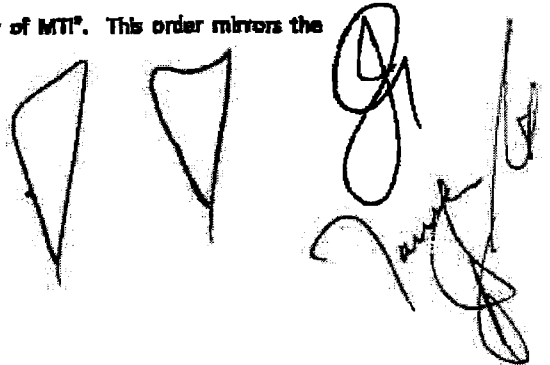
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model required it to be in possession of a financial service provider licence. During October 2020 it was informed, that it was conducting an illegal unregistered financial services business. Up to at least August 2020 it was trading (on its own version) in derivative instruments whilst it was not registered to do so.

- 8. He alleged that a criminal case was opened at the Stellenbosch Police Station during November 2020 under case no. 245\11\2020. The person solely in control of the particular details or password to retrieve the coins under the control of the company, the said Mr. Steynberg, "disappeared" on 2 December 2020. There are allegations that he fled to Sao Paulo in Brazil, whilst a private investigator filed a report alleging that he is hiding in Polokwane to the knowledge of his wife, Mrs. Nerina Steynberg, who was also alleged to be in the possession of all relevant information that would enable the company's members to retrieve their bitcoins. It is not clear at this stage why a warrant of arrest has not yet been issued against Mr. Steynberg. He was also subpoenaed to testify at the second stage of the present enquiry, as was Mrs. Steynberg, who did not appear at the first stage, due to alleged psychological problems diagnosed by a Counselling Psychologist who is in terms of the relevant rules of the Health Professions Council, not authorised to make a clinical diagnosis. Apparently she was also referred to a Psychiatrist, but I have no details of such a visit.
- 9. The second stage of the enquiry will take place from 23 to 26 March 2021. Mrs. Steynberg has been subpoenaed to appear and if she fails to do so, she will be obliged to appear before the Magistrate Stellenbosch, who will be in law entitled to impose a criminal sanction. It has not been explained why Mrs. Steynberg suffers from psychological problems some 3 months after her husband's "disappearance" whilst having failed to have filed a missing person report under oath.

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10. The said Mr. Lee explained the alleged operations of the company in some detail in his founding affidavit. Members of his family have also invested in the company and some 68,000 USD is due to them.
11. I will make reference to the company's alleged operations when I deal in summary form with the said report of the FSCA, which has consented by way of an affidavit dated 9 March 2021 that the report may be used as evidence in the enquiry. It has also confirmed the correctness thereof and the relevant Annexures thereto.
12. A Steven Watkins bought a similar application on 29 December 2020 under case no. 19204\2020. He had a claim against the company for at least R150 000. He described the operations of the company as an illegal investment or "pyramid" scheme as contemplated in section 43 of the Consumer Protection Act No 68 of 2008.
13. On 29 December the Western Cape High Court granted the provisional liquidation order with the return dated being 1 March 2021. On that date, the rule nisi was extended to 31 May 2021 to enable opposition papers to be filed by 31 March.
14. On 22 January 2021 the joint provisional liquidation sought an order from the Western Cape High Court under case no. 935\2020 extending their powers in terms of Section 386 (5) and 387 (3) of the Companies Act 61 of 1973, and for the convening of a Commission of Enquiry in terms of s.417 and 418 of the said Act, and well as for the appointment of a Commissioner. The court granted such order on the same day appointing me as one of 4 Commissioners. My personal details were not before the Court at the time for reasons of urgency. I commenced practice as an Advocate at the Pretoria Bar in 1975 and remained a member until my appointment to the Gauteng Bench in 2010. I was Senior Counsel for 21 years, and an Acting Judge for about 2 years and 3 months. My total period on the Bench was therefore about 12.5 years. It is noted that paragraph 11 of the said Court order provided "that all persons summoned before the Commissioners may be examined concerning the trade, dealings, affairs and property of MTI". This order mirrors the



provisions of Section 418 (2) of the said Act. I mention this at this stage as I was informed on 1 March 2021 by Mr. P. du Toit, the Attorney representing the joint liquidators that Mrs. N. Steynberg legal representative had tendered to answer written questions posed to her under oath. In my experience, such answers can indeed provide a solid starting point for an examination, but would in all likelihood in a matter of this nature and complexity, result in further questions and debates. I informed the said Attorney therefore that an oral examinations be insisted upon.

15. The said Section 418 enquiry commenced before me on 19 February until 26 February 2021. It became clear from all the evidence that "members" of the company and its management team and employees placed their complete trust in Mr. Steynberg who by all accounts was the only person in complete control of the technical aspects of the alleged trades/purchases and sales. Mr. C. Marks, the co-director and 50% shareholder professed to have no technical knowledge whatsoever and confined his role to the recruitment of new members. He also placed his trust in a report by a firm of Attorneys who confirmed that the company was operating within the confines of the law. His wife, Mrs. Cheryl Marks confirmed her husband's total lack of any technical expertise and was furthermore of the view that according to Mr. Steynberg himself, his wife Nerina was his "21C" and that "if something happened to him" she would be able to continue to operate the system used by the company and continue to return the members' investments. In my view Mrs. Nerina Steynberg will be a crucial witness in these proceedings and the prosecuting and law enforcement authorities should interview her urgently.

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B. The FSA Report

16. The "Executive Summary" in my view, having regard to the evidence presented, correctly refers to the 3 periods relevant to the activities of MTI (or lack thereof). For the sake of convenience, I intend to quote this summary in full.

"EXECUTIVE SUMMARY"

The report addresses the unlawful activities of Mirror trading International (Pty) Ltd ("MTI") and its senior management from April 2019 to August 2019 ("the first period"), from August 2019 to October 2020 ("the second period") and from October 2020 to December 2020 ("the third period").

The First Period

MTI first started trading in April 2019. Members of the public were invited to move their Bitcoin from their Bitcoin wallets to MTI Bitcoin wallets. Steynberg was in full control of these MTI Bitcoin wallets. From the MTI Bitcoin wallet, the Bitcoin were transferred to FXChoice Ltd ("FXChoice"), a forex platform broker.

Steynberg testified under oath, that from April 2019 to July 2019, member trading accounts were linked to a professional trader appointment by MTI through a multi account manager arrangement linked to Meta Trader 4. Trading was conducted in derivative instruments based on forex pairs.

However, according to Steynberg MTI experienced substantial losses (of up to 80%), and as a result, MTI requested its members to delink their respective FXChoice accounts from the multi account manager account and move their bitcoin to a pooled account.

The Second Period

From August 2019 Steynberg claimed that MTI employed a bot (high frequency artificial intelligence trading) together with a head-trader and trading team to make all its trading decisions, with great success.

What evidence we obtained with reference to the First and Second Period

The FSCA obtained evidence from FXChoice, a Belize registered on-line trading platform, that is in complete contradiction with the claims of Steynberg and Marks. According to FXChoice MTI's clients provided them with "trading statements" that were based on demo trading accounts and not actual trades. As a result, FXChoice froze the balance of the crypto assets linked to MTI on the FXChoice platform.

However, the total frozen crypto assets on FXChoice is a negligible amount, taking into account the total assets that MTI claimed it invested on behalf of its clients. In addition the little trading that was done resulted in a capital loss of approximately 30%.

This is in stark contrast to the repeated claims of MTI that they average trading profits of 10% per month. In addition, the trading volumes and amount of Bitcoin on the platform as provided by FXChoice falls far short from the volumes claimed by MTI. It is clear that the public claims by MTI senior management are false.

The Third Period

During October 2020, MTI claimed that it changed its trading activities to trade in derivative instruments based on Bitcoin, so that it no longer required an FSP licence (financial services provider licence). It is not correct as the submissions received from Steynberg revealed that the crypto assets were alleged to be traded in the form of a derivative product, which means MTI still required a licence from the FSCA.

MTI, Steynberg, and Cheryl Marks claim that the trading activities of MTI were transferred from FXChoice to Trade300, transferring all the clients' crypto assets from FXChoice to Trade300.

According to Steynberg, Trade300 is another on-line trading platform. At Trade300 MTI experienced the same extraordinary profits utilizing the bot – but at this stage in trading in crypto derivatives.

Steynberg stated under oath and repeatedly in the press that the bot trading averaged a return of 10% per month, and that MTI has never had a negative profit trading day, but for one exception. Marks also repeatedly confirmed the trading successes on social media.

What evidence we obtained with reference to the Third Period

The FSCA followed all possible links on the internet to establish whether Trade300 existed. It could only find one reference to Trade300; i.e. the website of Trade300. However, the website was and still is "under maintenance", and the only reference linked to the website is the name of "Joe Steyn", a known alias of Steynberg.

The FSCA obtained search and seizure warrants and executed them at the homes of Steynberg and Marks, and the offices of MTI. On the desktop computer of Steynberg the investigation team found evidence of Steynberg having created the website of Trade300.

The evidence that MTI, Steynberg and Marks provided to the FSCA about the transfer of clients' assets from FXChoice to Trade300, is false.

We have found no evidence of any significant store of Crypto assets on any trading platform and that most crypto balances appear in the name and under control of

Steynberg. The amount of such balances is well below the advertised balance on the MTI trading platform as being due to investors of MTI.

Contravention of section 7(1) of the FAIS Act

Section 7(1) of the FAIS Act prohibits any person from conducting financial services unless authorised to do so by the FSCA. MTI was conducting financial services with reference to a financial product (during the first and second periods, a derivative linked to forex pairs, and during the third period with reference to a derivative relating to Bitcoin). MTI required a category II licence (discretionary asset management).

MTI, through the activities of Steynberg and Cheri Marks, and with the assistance of others, conducted illegal financial services in contravention of section 7(1) of the FAIS Act for a period of at least 2 years.

This is a criminal offence.

Steynberg and Marks attempted to argue that MTI only receives Bitcoin from clients, and as Bitcoin is not a financial product yet, MTI are not conducting financial services as defined. (Financial services can only be conducted with reference to a financial product).

This argument is not sound in law. During the first period MTI conducted financial services with reference to derivatives in forex pairs (a financial product). The method of payment is not relevant to the licence requirements. During the second period MTI conducted financial services with reference to CFDs in Bitcoin (a financial product). As before, the method of payment is not relevant to the licence requirements.

What did MTI and Steynberg do with the clients' assets

Clients' assets were pooled into one FXChoice account alleged to be in the name MTI. However, the account at FXChoice was in fact in the name of Steynberg. More

Importantly, an immaterial amount of Bitcoin remained on the platform, and the trading history by no stretch of the imagination reflects their claims of extensive trading and extraordinary profits. In fact, the little actual that was conducted on the platform produced substantial capital losses.

According to MTI/Steinberg, these assets were moved to Trade300. This is a misrepresentation. No material amount of Bitcoin was moved out of FXChoice.

With reference to Trade300 it seems highly likely that it is a fabrication of Steinberg, and there is no evidence that the FSCA could find, or that MTI provided, of it being the source of any trading or any profits.

In summary, the evidence shows that very little of the clients' Bitcoin reached any forex or other trading platforms"

17 Mr. K. Badenhorst was interviewed by representatives of the FSCA on 26 October 2020.

The correctness of transcription has been confirmed. This was a telephonic interview in the presence of Mr. Steinberg. There was a "first audio" and Mr. Steinberg was not prepared to make any comments in the absence of his Attorneys when Mr. Badenhorst said "I have assisted in writing the Bot program. So I was busy with it and that is where like I said to you previously (Ms. Parratt) I had stopped doing a while back on the development." He denied that he had access or got access or was responsible for the trading on behalf of Mr. Steinberg.

18. A "second audio" conversation was held, and Ms. Coetzer on behalf of FSCA administered the oath to Mr. Badenhorst. He said that he had known Mr. Steinberg for 15 years. They were friends. He knew what a Bot was. He had created a Bot many years ago that could "do some analysis on forex trading. He then "walked away from it". He said that it was a

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product that he and Mr. Steynberg "sort of dabbled with for a while." This would have been around 2014/2015. He was asked whether they created the Bot together and whether at some point it was given to him or sold to him. He replied: "I sort of walked away from the project". At some stage Mr. Steynberg transferred a bitcoin to his bitcoin wallet. The Bot however did do trading in the sense that he tested it on a couple of forex derivatives. He explained that they first tested it on a demo and then they moved into a live system. He added that "we were playing a bit of forex markets in terms of Rand Dollar and we were making extremely good profit". The Bot was actually "rule based". That happened six years ago. He confirmed that he was involved in that particular Bot but not in any new version of the current Bot. What he basically did "was using forex stuff".

19. In my opinion all the evidence available at this stage supports the conclusions reached by the FSCA. Mr. Steynberg and probably to the knowledge of Mrs. Nerina Steynberg made a number of material misrepresentations to their investors and even their employees who were naive enough to trust him explicitly, although red flags appeared when he repeatedly failed or refused to provide details about the so called "back office" which contained all relevant information required for the company's alleged operations - apart from the opinion of Mrs. Cheryl Marks who allegedly saw a live trade (contrary to the opinions of the FSCA) there is no evidence that Trade300 was an actual trading platform. Similarly he created the "Camilla" who allegedly sent various emails representing Trade300. Mr. Marks, as director, also had a fiduciary duty but fully relied on a written opinion by his attorneys, Ulrich Roux that everything was legal. He did not present this opinion to me.

20. Mr. Marks estimated that MTI owed him 1400 coins with a value as set at the end of February of about 2 Billion Rand. Mrs. Marks estimated that 140 coins were due to her. She added when she last saw Trade300 actually trading, she saw 14,000 coins in MTI's pooled account. This specific trade took place in the company of officials from FSCA including a Mr. Topham and van Deventer. Mr. Steynberg did this "trade" on his i-pad in

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their presence. In her opinion there was overwhelming proof that trading took place via Trade300 from August until the "last day" which was on 14/15 December 2020, and allegedly done by Mr. Steynberg from an unknown location if regard is had to the contents of the minutes of a Board Meeting on 15 December 2020 attended by Mr. Steynberg, Clayton Marks, Charles Ward, Monica Coetzee, Mrs. C. Marks, Andrew Caw and V. Ward. According to the minutes of a Management Meeting on 9 December 2020 it was recorded under the heading "Appointment of 21C" in par 4 that "Nerina Steynberg knows how everything works and she is currently assisting RS with the allocation of pending deposits. ("RS" is Romano Sameuls). Mr. Steynberg attended this meeting on-line (after his "disappearance" on 2 December) and said the following: "CJS advises that should he not log into the server for a period of 12 hours, the system will automatically send an automated e-mail to Nerina Steynberg and Clayton Marks containing instructions of how to contact the server team in India, as well as the broker. This e-mail will include the necessary details and passwords for the accounts".

- 21. This e-mail was allegedly never sent or received and in any event the evidence was that Mr. Steynberg had left strict instructions that the server team in India should only deal with him personally.
- 22. It must be remembered that the FSCA exercised their right of search and seizure on 2 occasions prior to December 2020, the latest date being 26 October 2020. It is therefore not clear what "system" or devices was/were in place during mid-December 2020 for Mr. Steynberg to have conducted the alleged handling of deposits. Replacement items of some sort must have been in place, if this version of trading in December is to be believed. Mrs. N Steynberg would be the ideal person to be examined on this topic.
- 23. It appears that on 17 December Mrs. Marks contacted the said server team in India and disabled all deposits into MTL. The business of the company has come to a standstill. The only available information at this stage relating to the flow and whereabouts of Bitcoin

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invested by members and Bitcoin held by MTI is that only a total of about 1845 was transferred to the said FXChoice platform and 0.16 was withdrawn. Taking into account the trading losses mentioned by FXChoice, 1280 Bitcoin remained on its platform. MTI informed the FSCA that 18.444 Bitcoin was transferred to Trade300 during July 2020. It was confirmed in a letter from MTI's Attorneys dated 7 October 2020 and it was stated that "deposits of all members Bitcoin was made to Trade300 prior to our client being enable to access FXChoice". There is no record of that alleged transfer and FXChoice in addition has denied it.

- 24. It appears therefore that except to the Bitcoin referred to in paragraph 23 above, the majority, if not all of the Bitcoin invested by members did not reach any forex or trading platforms and that they were misappropriated before they could reach such platforms.
- 25. It is clear from the evidence that, unless access can be gained to the database of MTI with the assistance of Mr. Steynberg (and most probably also Mrs. Steynberg or the server team in India) it will not be possible to determine:
 - 25.1 The exact number of Bitcoin invested by members;
 - 25.2 The exact number of members which have most likely been overstated by MTI in its marketing materials;
 - 25.3 The transfer of Bitcoins after investment by members;
 - 25.4 The withdrawal of Bitcoins by members;
 - 25.5 Where the Bitcoins are held at, with the mentioned exception of the 1280 on the FXChoice platform.
- 26. 26.1 On 9 March I received a letter from Mr. P du Toit for Attorneys Mostert and Bosman, annexed thereto was the requested affidavit from the FSCA, which would be signed and dated on 10 March. I was informed on 10 March that this was indeed done. I also received a confirmatory affidavit of Mrs. Coetzer.

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26.2 As far as the 2 homes of Mr. and Mrs. Marks were concerned, which were registered in the name of Uprobuzz (Pty) Ltd, I was informed that a subpoena was issued to obtain the FNB bank accounts of Mr. Nkomo, the sole director of that company, who was allegedly a friend of the Marks'.

26.3 The said affidavit of the FSCA was drafted by Mr. J.G. van Deventer. He re-stated the statutory role of the FSCA and its responsibility to investigate breaches of financial sector laws. He confirmed that the lead investigator was Mrs. Coetzer. Her confirmatory affidavit was attached as well as that of the Divisional Executive Mr. B. Topham. Mrs. E. Parratt was also part of the team.

26.4 Their report made available to the hearing is dated 18 January 2021. He confirmed that the report reflected their findings. The transcriptions of the relevant interviews was correct.

26.5 He confirmed their conclusion that MTI, Mr. Steynberg, Mrs. Cheryl Marks and Mr. Clayton Marks had conducted a unregistered financial services business in contravention of s. 7(1) of Act 37 of 2002 (" the FAIS Act"). He also confirmed their view that the same persons had made material misrepresentations to their clients over an extensive period of time and that such clients were misled in the process.

26.6 As far as the alleged trading screen that Mrs. C Marks had referred to, was concerned, the particular occasion was on 21 August 2020. This was the second time Mr. C. Steynberg was interviewed. Mr. B. Topham requested some proof of trading volumes and the Bitcoin account balances at the trading platform they were utilising. The background to this was, as I have already mentioned above, that MTI had claimed to have transferred the clients' Bitcoin from FXChoice through Bitcoin wallets to its "new broker", i.e. the trading platform Trade300. This was false as the Bitcoin balances at FXChoice was a fraction of the total Bitcoin received from their clients. A demonstration was requested and Mr. Steynberg opened his laptop and entered a site that looked like an MTI branded front-end

programme. He proceeded to show Mr. Topham some trading information on the screen. It seemed as if the programme (and the screen) was dynamic – as opposed to live.

26.7 Mr. C. Steynberg then claimed that he was inside the platform trading application and that he was demonstrating a live trading scenario. They could not confirm the correctness of his claims, and they did not take that matter further at that stage.

26.8 The transcriptions of the occurrence in fact reflects that Mr. Topham was far from satisfied and raised his concerns about the existence of Trade300.

26.9 Mr Topham then requested that the FSCA be provided with proof of transfer of bitcoin into the Trade300 account. Mr. Steynberg promised to do so by e-mail but did not do so.

26.10 He confirmed their view as set out in their report (paras 110-114 and 119-129) that Trade300 was a mere fiction created by Mr. Steynberg, and that crypto assets were not transferred to it at any stage. This of course, is fraudulent conduct (and/or theft) on the part of MTI, who on other occasions had fabricated trading records (paras 80-98 of the report).

27. Statutory Offences: Conducting Business Unlawfully – Failure To Register

26.1 The FSCA is of the view that the nature of MTI's business compels it to be licensed in terms of the Financial Advisory and Intermediary Services Act, 37 of 2002, and the Collective Investment Schemes Control Act, 45 of 2002.

26.2 According to the FSCA, MTI has been conducting business unlawfully in contravention of the provisions of those statutes because it has been operating without a licence. There can be no real dispute about that.

26.3 By virtue of the following statutory provisions and having regard to the evidence adduced at this enquiry, the stance adopted by the FSCA is justified.

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Financial Advisory and Intermediary Services Act, 37 of 2002 ("FAIS")

28. Section 7(1) of FAIS prohibits any person from conducting financial services unless issued with a licence by the FSCA.

29. For present purposes, the following provisions of FAIS are relevant:

"Financial service" – "any service contemplated in paragraph (a), (b) or (c) of the definition of "financial services provider", including any category of such services;"

"Financial services provider" – "any person, other than a representative, who as a regular feature of the business of such person-

- (a) furnishes advice; or
- (b) furnishes advice and renders any intermediary service; or
- (c) renders an intermediary service;"

"Intermediary service" – "... any act other than the furnishing of advice, performed by a person for or on behalf of a client or product supplier -

(a) the result of which is that a client may enter into, offers to enter into or enters into any transaction in respect of a financial product with a product supplier; or

(b) with a view to –

- (i) buying, selling or otherwise dealing in (whether on a discretionary or non-discretionary basis), managing, administering, keeping in safe custody, maintaining or servicing a financial product purchased by a client from a product supplier or in which the client has invested;
 - (ii) collecting or accounting for premiums or other moneys payable by the client to a product supplier in respect of a financial product;
- or

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(iii) *receiving, submitting or processing the claims of a client against a product supplier,*"

30. MTI was conducting financial services with reference to a financial product (during the first and second periods, a derivative linked to forex pairs, and during the third period a derivative linked to crypto currency). MTI required a licence in terms of FAIS because it acted as the intermediary between members and the investment made by those members. This cannot be disputed either.

31. MTI, however, failed to obtain such a licence and continued to conduct its business despite being informed by FSCA representatives during two interviews conducted during July and August 2020 that MTI was conducting business unlawfully.

32. MTI therefore committed an offence in terms of section 36 of FAIS.

Collective Investment Schemes Control Act, 45 of 2002 ("CIS")

33. In section 1 of the CIS, "collective investment scheme" is defined as:

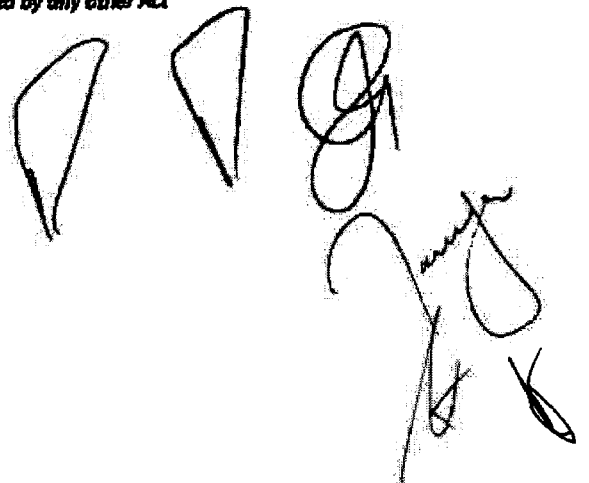
"a scheme, in whatever form, including an open-ended investment company, in pursuance of which members of the public are invited or permitted to invest money or other assets in a portfolio, and in terms of which –

(a) two or more investors contribute money or other assets to and hold a participatory interest in a portfolio of the scheme through shares, units or any other form of participatory interest; and

(b) the investors share the risk and the benefit of investment in proportion to their participatory interest in a portfolio of a scheme or on any other basis determined in the deed,

but not a collective investment scheme authorised by any other Act"

34. "Participatory interest" is defined as:



"any interest, undivided share or share whether called a participatory interest, unit or by any other name, and whether the value of such interest, unit, undivided share or share remains constant or varies from time to time, which may be acquired by an investor in a portfolio"

35. **"Manager"** means a person who is authorised in terms of CIS to administer a collective investment scheme.
36. **"Authorised agent"** means a person authorised by a manager to solicit investments in a portfolio from members of the public or to perform a function contemplated in the definition of "administration", and includes any person to whom a function has been delegated in terms of section 4(5).
37. **"Administration"** means any function performed in connection with a collective investment scheme.
38. Section 5 (read with 1A) provides that no person may perform any act or enter into any agreement or transaction for the purpose of administering a collective investment scheme, unless such person: (a) is registered as a manager by the FSCA or is an authorised agent; or (b) is exempted from the provisions of CIS by the FSCA by notice on the official web site.
39. In terms of section 115, a person who is not a manager or an authorised agent of a manager and who performs an act amounting to administration, is guilty of an offence and section 116 provides for penalties.
40. It appears that MTI conducted a *collective investment scheme* without being registered as a manager by the FSCA or being an authorised agent or being exempted from the provisions of CIS by the FSCA by notice on the official web site. Consequently, MTI committed an offence in terms of section 115.

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Unlawful Scheme

41. In these circumstances MTI has been conducting business unlawfully and the whole scheme has been unlawful.

Statutory Offences: Companies Act, 71 of 2008

42. Section 214 (1) of the Companies Act, 71 of 2008, provides that a person is guilty of an offence if the person:

- (a) *is a party to the falsification of any accounting records of a company;*
- (b) *with a fraudulent purpose, knowingly provided false or misleading information in any circumstances in which this Act requires the person to provide information or give notice to another person;*
- (c) *was knowingly a party to an act or omission by a company calculated to defraud a creditor or employee of the company, or a holder of the company's securities, or with another fraudulent purpose; or*
- (d) *is a party to the preparation, approval, dissemination or publication of a prospectus or a written statement contemplated in section 101, that contains an untrue statement as defined and described in section 95."*

43. In this matter, these provisions ought to be read with the provisions of section 75 relating to the fiduciary duties of directors in particular.

44. There is strong *prima facie* evidence that the directors of MTI have not only breached their fiduciary duties but that, at least Mr. Steynberg, has been committing offences contemplated in section 214.

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Fraud

- 45. There is credible evidence, that MTI, represented by Mr. Steynberg, and Steynberg in his personal capacity, committed fraud to the prejudice of members of the public, investors in MTI, the board of directors and management of MTI and the FSCA.
- 46. Moreover, it appears that Mr. Steynberg has been assisted by his spouse in perpetrating fraud.
- 47. The evidence in this regard is so compelling that it is surprising that the South African Police Service has not made an effort to arrest Mr. Steynberg (if this is so). Apparently the FSCA is the complainant in a criminal matter against him and/or MTI as I have already mentioned (as is Mr. Lee). It may be advisable to lay this report before the Director of Public Prosecutions. It is clear that billions of Rand have been lost to the investors at this stage.

Civil Liability

- 48. The available evidence shows that there may be a basis for claims by the MTI in liquidation against individuals based on *inter alia*:
 - 48.1 a breach of fiduciary duties by the directors of MTI;
 - 48.2 impeachable transactions contemplated in the Insolvency Act, 24 of 1936.
- 49. This report will be supplemented in the likely event of further relevant evidence being adduced at a continuation of this enquiry on 23 March 2021.

COMMISSIONER
 JUDGE (RETIRED) H J FABRICIUS
 Duly appointed as Commissioner by
 the High Court of South Africa (Western
 Cape Division) under the case number 935/2021
 Signed and sent electronically to pierred@mbalaw.co.za

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Enquiry in terms of Sections 417/418 of the Companies Act 61 of 1973 read with Item 9 of Schedule 5 of the Companies Act 71 of 2008.

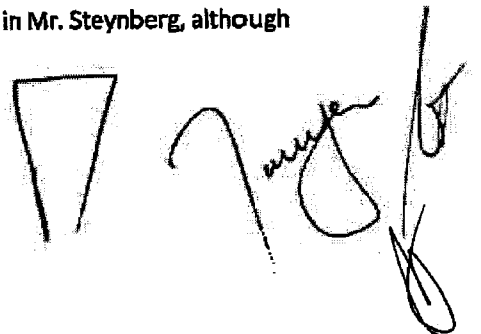
In the matter of:

MIRROR TRADING INTERNATIONAL (PTY) LTD t/a MTI (IN PROVISIONAL LIQUIDATION)

Second Report of the Commissioner, Judge H. Fabricius (r.) dated 22 April 2021

1. Introduction:

In my first report I set out the necessary background to this enquiry with particular reference to the report of the Financial Sector Conduct Authority dated 18 January 2021, and especially the "Executive Summary". Mr. J.G. Louw van Wyk and Mrs. Carolina Susanna Lombard, did relevant investigations for the FSCA and gave evidence on 1 February 2021 regarding the report and their findings. They confirmed that the report had been made available to the enquiry. It will be noted from my first report that I did not deal with the evidence, or the material points thereof, or the witnesses called during the first part of the enquiry. The reason was that a second session would be required as from 23 March, and that I wanted a more complete and accurate picture of all relevant evidence concerning the activities of the major role-players before I made conclusions on facts. It appeared from the outset that the persons involved in the unlawful activities of MTI first and foremost wanted to protect their own interests, disassociate themselves from any unlawful conduct, relied on hear-say evidence and speculative opinions and professed to have had a deep trust in Mr. Steynberg, although

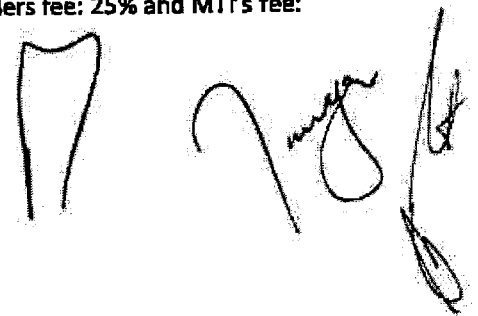
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he at no stage disclosed the essential parts of the company's activities to them. In my view they were either remarkably naïve and/or not completely honest. The second session of the enquiry therefore resulted in an overall better picture of all relevant dealings and failures. In an enquiry of this nature, unless arranged otherwise, there are no specific identifiable issues as one would have in civil litigation. The result is that the version of a witness, not being the first one, could not be put to other witnesses for comment. A good example of this disadvantage occurred in these proceedings where the evidence of Mrs. N. Steynberg regarding the complete absence of knowledge of the workings of the back-office could not be put to other witnesses who had given evidence to the contrary.

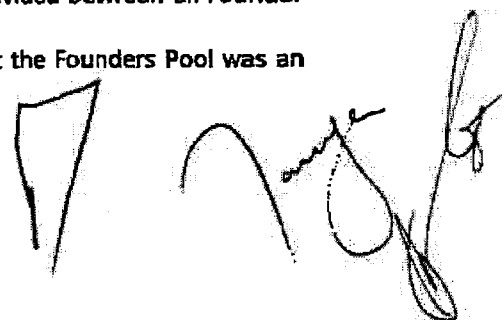
2. The Evidence:

The evidence of Van Wyk and Lombard confirmed the investigated parties, the details of the directors, the management team as it existed only from late July 2020, and the various roles played by such persons. They also confirmed that in their view the company had traded (assuming it did so trade in the latter half of 2020) unlawfully since its inception in April 2019 for reasons set out in paragraphs 27 to 42 of my first report. It is also clear that intentionally false representations were made to the members of the public and the investors regarding the company's activities, and its likely profits. Material non-disclosure also occurred which would have (and did) mislead investors.

3. MTI gave details of how the "profits" would be distributed, which would be 40% to all members, a binary tree / multilevel marketing "team" bonus of 20%, a leadership bonus part 1: 2,5%, a leadership bonus part 2: 2.5%, a traders fee: 25% and MTI's fee:

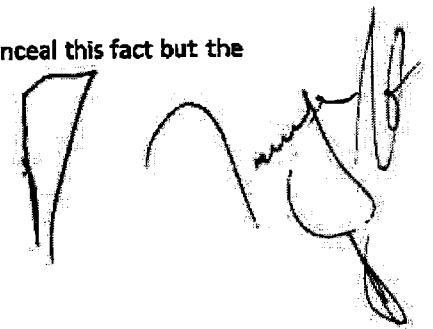
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10%. These leadership bonuses would be paid subject to certain conditions. At this stage it is appropriate that I deal with parts of the role of Cheri Marks. She was Head of Communication and Marketing. In September 2020 "My Broadband" reported on a group calling itself "Anonymous ZA" which had leaked an anonymised copy of MTI's entire database – including account names, e-mail addresses and bitcoin balances. They called it the "MTI Leaks". On 26 October the FSCA raided the offices and homes of MTI leaders, seizing electronic equipment, which has yet to be returned to the liquidators. "My Broadband" published certain details on public media platforms. During that period, Mrs. Cheri Marks apparently gave a number of interviews on "YouTube" and in January 2021 on "Carte Blanche", a television programme which specializes in investigative journalism. They published an analysis of the comments of Mrs. Cheri Marks on "www.mybroadband.co.za" and did an analysis of the various statements made by Mrs. Marks which contained material conflicts of fact and discrepancies between her numerous interviews. This evidence was not put before me and I suggest that the Attorneys for the liquidators and the forensic investigators draw a bundle of the verbatim statements, news and opinions of Mrs. C. Marks made by her on the various platforms. One learned for the first time that there existed a "Founders Pool", which was never mentioned in any of MTI's profit-share reports. She said that "[Founder Pool Members] were simply people that invested \$10,000 worth of bitcoin with Steynberg with the start-up of MTI". However, the "MTI Leaks" shared that there were several Founder Pool members who were promoted to Founder status long after the launch of MTI and apparently invested less than \$10,000. They also said that 10% of the profit share that MTI made was proportionately divided between all Founder Pool Members. However, previously she had stated that the Founders Pool was an



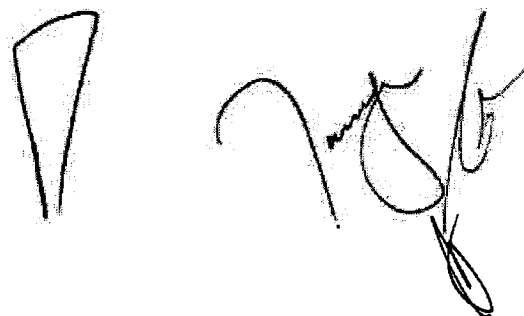
entirely separate pool of funds which has no bearing on members' profits. Assuming it was actually a profit-share arrangement, it is not clear where the extra 10% came from.

4. I therefore suggest that once all the relevant information relating to her various versions has been collated, that she to be issued with a further subpoena to give evidence in that regard. She also thanked Clynton Marks (her husband) and MTI for her new Jeep Grand Cherokee Trackhawk on a Facebook post dated 30 May, but during an interview stated that any funds utilized by herself and her husband, were "proceeds" from trading done outside of MTI". I have no evidence of such.
5. In addition to that the vague and unsatisfactory evidence of the Marks' relating to the properties registered in the name of UPROBUZZ (Pty) Ltd, to which I have briefly referred in par. 26.2 of my first report, should be dealt with at such re-call. Mr. Nkomo has not yet testified but I was informed that the bank statements of himself and the company have been obtained. As at date hereof I do not have any details relating thereto, but the whole transaction involving the registration of these 2 properties would seem to fall within the ambit of the provisions of at least s.29(1) of the Insolvency Act 24 of 1936 as amended.
6. Mrs. Marks made an affidavit dated 23 December 2020. This contains material allegations which conflict with the evidence of Mrs. Nerina Steynberg regarding her role in the affairs of MTI and her knowledge of how J. Steynberg was conducting business. During her evidence, she denied having any knowledge of value or that she could access the MTI back-room or do any withdrawals (see par. 29 and 55 of the C. Marks affidavit). According to par. 35 of the same affidavit she was in fact aware that MTI had a referral programme. Steynberg allegedly tried to conceal this fact but the

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marketing material created by Mrs. Cheri Marks (after August 2020) clearly refers to a "Referral Program" on the 1st page. "Referral Selling", extensively dealt with by MTI in their "Referral Program Success Guide" is prohibited by s.38 (1) of the Consumer Protection Act. (Assuming that this Act applies, an aspect that I deal with hereunder).

7. Her "turn-about" and attempt to dissociate herself from unlawful or fictitious trading after FXChoice had closed the MTI account in June 2020, is apparent from par. 103 of her affidavit which deals with the moving of their trader from FXChoice to Trade300, without anyone having been informed thereof: "It is now evident that this move was made with the sole purpose of taking control over the bitcoin invested by members, in order to misappropriate it". I believe that this is partially true in the sense that her own role relating to her enrichment referred to, and the dubious evidence of Mrs. N. Steynberg, must be kept in mind. I agree with the conclusion made in the FSCA report paragraphs 161-162.
8. I return to the evidence of Van Wyk and Lombard. They also noted "YouTube clips" posted by MTI on "YouTube". The voice was that of Cheri Marks. She was also reported in newspapers and spoke on radio. This is also relevant to her "evidence bundle" which I suggested above. She represented that in November 2020 that there were some 260,000 members. The "loop hole" was that multiple profiles of persons had been created. There was no unique identifier that enabled management to identify whether persons were included on the membership list multiple times. This meant that members could earn income on different levels. This topic is dealt with in paragraphs 157 to 160 of the FSCA report.
9. In their opinions (and see par. 161-162 of the FSCA report) the characteristics of the scheme was that:

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- 9.1 It was illegal;
- 9.2 It was a vague business model;
- 9.3 A high return was promised;
- 9.4 Not all relevant information was shared;
- 9.5 It was a referral scheme;
- 9.6 Trading was not conducted;
- 9.7 So-called "returns" were just "money on paper";
- 9.8 They needed to grow more members to sustain the scheme;
- 9.9 They had screen shots of some terms and conditions. Members were encouraged not to leave the scheme, and to return any profit as well as a referral bonus to the pool that was allegedly created;
- 9.10 From August 2019 a Bot (a high frequency artificial intelligence trader) was allegedly employed. The FSCA report deals with this aspect in par. 152-156. I dealt with this topic in par. 17 and 18 of my first report and will again deal with the evidence of Mr. K. Badenhorst hereunder.
- 9.11 During the 2nd phase referred to in the FSCA report (August 2019 – October 2020), low volume trading took place, mainly manually from a cellular phone, suggesting that no Bot existed.
- 9.12 There was no proof of trading in derivatives and only demo trade were effected.
- 9.13 From August 2020 trade was allegedly done through Trade300 which in reality did not exist as a trading platform. The FSCA report deals with this question in par. 152 of its report and I referred to this in par. 26.10 of my first report.

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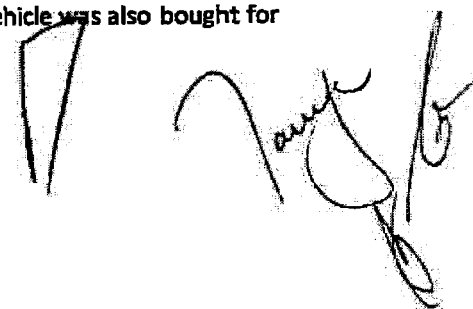
10. A "Joe Steyn" maintained this alleged platform. It is the alias of Mr. J. Steynberg. This is common cause and was also confirmed by his wife. He had purchased a software package for this purpose.
11. On the probabilities J. Steynberg has control over the bitcoin. There is no exact data available yet. The server is in India and both the FSCA and the liquidators have requested their assistance. They would have a record of what went to MTI and what was returned to members. As yet no flow of funds analysis has been (or could be) completed without access (at least) to the back-office. The 10% referral fee was not paid from any "paper returns" but from MTI funds.
12. The scheme was a multi-level marketing set-up. Members replicated themselves to benefit from the binary stream. "Camilla" who purportedly represented Trade300 was merely the creation of Steynberg.

13. Rademan:

He confirmed that his wife was a friend of Cheri Marks. Clynton Marks had a history in marketing and held 50% in MTI. He was involved in the referral programmes. In the "first period" referred to he communicated on a day-to-day basis with Steynberg. They discussed the Bot on WhatsApp. I have no further information regarding details thereof.

14. Charles Ward:

He was the head of Strategy Implementation and a non-executive director of MTI. He was an investor, "not really active", and is the brother of Cheri Marks. He provided some details of members of the (later) management team. Cheri Marks and her husband, Clynton had more than 1 account with MTI. Cheri had property (price of R11 million mentioned) and a Jeep was bought with bitcoin. A vehicle was also bought for

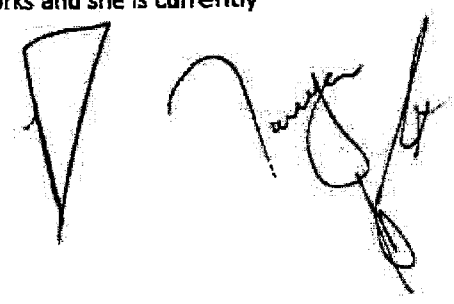


her mother. The Durban homes were registered in the name of a UPROBUZZ Pty Ltd. I have mentioned that a Mr. N. Nkomo was the sole director. I will deal with this company hereunder. Vincent Ward was the youngest brother of Cheri. He was a "trainer" for MTI. Leonard Gray was Cheri's ex-husband and as a non-practicing Attorney, he was the Head of the Legal Department.

15. Mrs. C. Lombard

15.1 Mrs. C. Lombard from FSCA gave additional evidence on 22 February 2021. She confirmed that J. Steynberg left South Africa early in December to Doha via Qatar Airlines and onwards to Brazil. I have at this stage no information either from the Department of Home Affairs, nor from Qatar Air. There is some speculation that he is "hiding" in Polokwane. One Private Investigators report is vague and inconclusive, whilst another one is yet to testify. In her opinion the Stellenbosch Police have sufficient information to apply for a warrant of arrest. I have referred to this topic in par. 47 of my first report.

15.2 The majority of bitcoin are under his control and they have "disappeared". If he converted bitcoin to cash it would be easier to detect. He could do this through small exchanges. After he disappeared members were unable to withdraw from the system. The company is unable to pay its creditors. In the main, all the evidence was that he had sole control of the back-office and all inputs and outputs, though there are some suggestions, some of them plausible, that his wife had sufficient knowledge and experience to take over his role should he disappear or be unable to function for some reason. Minutes of Meetings, especially that of 9 December 2020, indicate, in the presence of J. Steynberg (online) that "It is recorded that Nerina Steynberg knows how everything works and she is currently

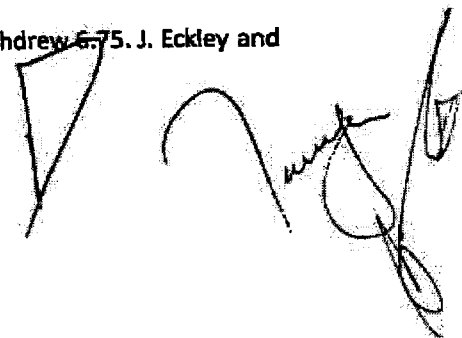
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assisting RS with the allocation of pending deposits". (RS refers to Romano Samuels). The Minute dated 4 December 2020 (online – Zoom), but which according to Cheri Marks was actually held on 13 December, again in the presence of J. Steynberg states under the heading "Withdrawals" that "CJS has programmed a fail-safe for the instance where CJS does not access his accounts in 12 hours, Nerina gets access to everything". A further sub-paragraph repeats this in essence and states: "CJS states that it will be made available to Nerina..." referring to "info for database, passwords, broker, bitcoin".

15.3 I have dealt with this topic in par 20 and 21 of my first report. I have serious reservations about the truthfulness of the evidence of Mrs. Nerina Steynberg. There is also a serious contradiction in the evidence as to who dropped off Mr. Steynberg at the airport and what transpired, there and why it is likely that further evidence will be presented on that aspect. The name of a Mr. Worst was mentioned at a late stage in this context.

15.4 She gave evidence about certain deposits and withdrawals made:

15.4.1 Nerina Steynberg deposited 14.6, and withdrew 7.2019 bitcoin. She had 2 user names. Her mother, D. Marais also had a user name: she deposited 3.88 and withdrew 2.89. Monica Coetzee, Head of Corporate Services, made deposits and withdrawals. Her husband also invested and possibly her children too. This could apparently be determined from a spread sheet (but not by me). Romano Samuels made an "investment which resulted in a short-fall. Gerald Laassen of the Strand Office had 1 account in his own name. He deposited 3.286 and withdrew 26.882, being a gain of 23.596. Mrs. Laassen had 3 users, deposited 1.58 and withdrew 6.75. J. Eckley and



his wife similarly made deposits and withdrawals. Mrs. Cheri Marks had 3 users: deposited 5.915 and withdrew 24.022 with a gain of 18.107. Clynton Marks had 4 users: deposited 39.04, drew 180.48 with a gain of 141.35. In her view, an "estate" was then bought (the UPROBUZZ Company topic). Two daughters also had bitcoin accounts as minors, contrary to the "Terms and Conditions" with which I will deal with under a separate heading. Charles Ward had 2 users limited to his name and a further 2 not directly linked. There was a deposit of 2.44 and a withdrawal of 3.29, a gain of .84. Vincent Ward deposited 4.98 and withdrew 3.69. Leonard Gray also made a gain of 0.246. (On 12 March 2021 the price of a bitcoin was 60,487. 7045 Dollars, being R881,766.10).

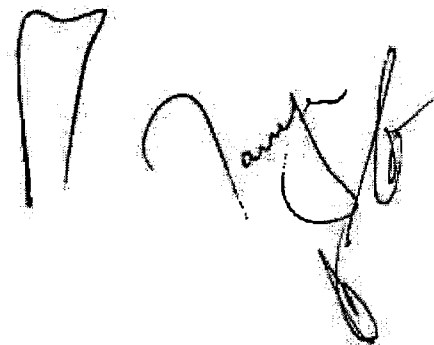
15.4.2 An investor could open an account in other names. Most had multiple accounts most likely because of the referral bonus system. J.S. Steynberg apparently (to her knowledge) had 4 users directly linked to him. He made a gain of 18.876.

16. The problems with these examples are many-fold:

16.1 See par. 123-129 of the FSCA report;

16.2 The system was hacked and certain details were made public. The topic was discussed by the MTI Board on 15 November 2020 (note the presence of Mrs. Cheri Marks). This meeting was after the first media release by FSCA. According to the minutes the deposit history was deleted substantially. The "hacker" was also stealing deposits but J. Steynberg could not say how many.

16.3 The minute of 15 December alleges that J. Steynberg made more than 3000 withdrawals.



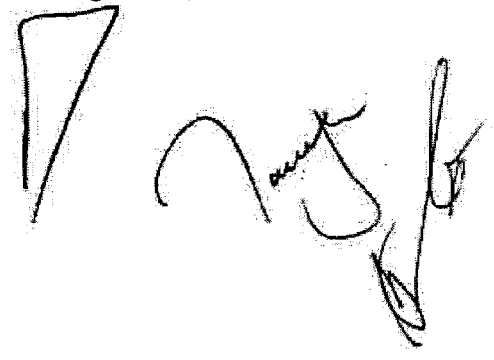
16.4 The affidavit by D. Stephenson, the Administrative Director of FXChoice, dated 28 October 2020, and signed before a Notary Public in London, stated that when FX blocked the account of MTI for reasons of "Fraud", 1280.045 bitcoin remained. I was informed that there had recently been transferred to the liquidators. It is hoped that he will be available for a virtual hearing.

16.5 There is in my view no accurate evidence, if indeed any, of how many bitcoin were transferred to either Mr. J. Steynberg personally, or to the "new trader Trade300", which Mr. Steynberg himself created as FSCA has found, and with which finding I agree.

16.6 Reference should be had to par. 25 of my first report in this context.

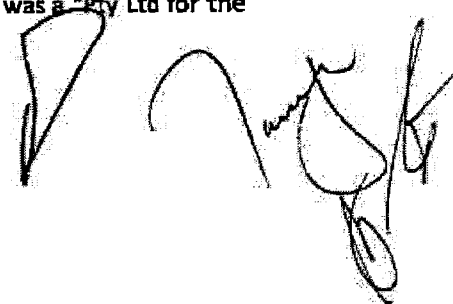
17. Monica Coetzee

17.1 She got to know J. Steynberg at a strategy conference at the end of July 2020. She was initially approached by Cheri Marks. After a Zoom interview with Mrs. Marks, J. Steynberg and T. Fraser she was offered the position of non-executive director. The Minutes of 28 August indicate her presence as well. Her role was largely confined to put a proper corporate governance system in place if regard is had to par. 6 of the same Minutes. The next meeting of 22 September that a book-keeper Mrs. R. Kritzinger had been approached. Her expectation as far as investment was concerned, was that a minimum of \$100 in bitcoin had to be invested. An investment of \$200 entitled one to a participation in a "compensation plan". The relevant platform required and provided by MTI was referred to as the "back-office". She invested on behalf of her husband and children but in \$200. She never met Mrs. Steynberg. She worked remotely from Randburg. In July it was



discussed that trading would be done with bitcoin. An A1 Bot had to do such but it was actually not discussed in what form.

17.2 I note from the Minutes of 28 August 2020 that in her presence Cheri Marks had said that MTI had moved to crypto trading. It was also said that (per par. 5.4) Mr. J. Steynberg was developing a second Bot to serve as a back-up which he would start testing separately and independently from MTI in the near future. He was also working on a "crypto-specific Bot". He was comfortable with the current Bot but noting that it was not a crypto trading Bot. There is no evidence of any second Bot and it is note-worthy that no-one present asked for any details concerning the "current Bot". She thought that there was Forex trading with bitcoin merely used as currency. This was allegedly reportedly stated and understood by all. Only J. Steynberg dealt with the technical department. No audit of the company's financial affairs had ever been done. The server team was based in India and J. Steynberg was the only person who dealt with it. She knew nothing about Trade300 until it was referred to by the FSCA. From October 2020 1 coin per month was added to her salary. She thought this emanated from the service provider to the "coin buyers' club", she would then tell them what to do. Andrew Caw was behind this "club". Any records of MTI in the form of spread sheets indicating what this "club" paid was handed to the mentioned book-keeper. Any information required was given to her by Charlie Ward. Each member could request a withdrawal from the back-office. This was managed exclusively by J. Steynberg. He did however say, as per the Minutes of 9 December that if something happened to him his wife Nerina could do what he did. Monthly salaries stemmed from bitcoin being transferred by Steynberg to the said "coin-buyers' club" which in her view was a "Pty Ltd for the

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sale of crypto currencies". This club was paid for services on a percentage basis of amounts paid and invoiced, but she agreed the original source must have been MTI. Her evidence regarding the exact role of this club and its standing in law is not a model of clarity.

17.3 All monies in the "pool" (this may be the "club") belonged to MTI. Only J. Steynberg knew where the bitcoin were at any given time. The daily profits were obtained from the broker. She was not involved with FXChoice and all coin was transferred to the new broker. Membership data was only reflected in the back-office. A member gave a name, a cell number and email address when he registers, a password and his/her country. As at date of her evidence one could get access to the back-office only if the server in India was paid the fee that was asked for. She did not agree that MTI needed growth to survive as profits were made by trading. One could see the information from the back-office but would not know if it was genuine. She had no clear answer to where the MTI part of the alleged daily profit would go. J. Steynberg and Clynton Marks would do the profit split every Monday. This is reflected in par. 6.2.3 of the Minute of 22 October 2020.

18. It is clear from her evidence and the Minutes of the various meetings that her role was to establish and maintain proper corporate governance. Her evidence regarding the financial aspects is rather opaque. It is however clear that at no stage were any financial statements drawn for the company.

19. J. Eckley:

He started to find support/investors and dealt with client service in Stellenbosch from February 2020. He and his friends also invested from Oct/Nov 2019. He was computer illiterate. R. Samuels took over from him later. He explained the "5 tier" clearance.

After the June/July management system was created, he left in August. Cheri Marks allegedly was of the view that clients should receive all the information; not even he could. He too invested in MTI. With MTI one could transfer coin to it, not cash. One then had no control over the MTI wallet. From that wallet the coin went to the trading pool. He created more than 3 user names. His family was also involved using his e-mail address which was one of the essentials for registration. Bonuses were allocated to his account in terms of the binary system. He didn't know the details. MTI owed him .5 coin but his family between 13-15. He gave brief details of 2 trusts but specifics need to be investigated further. He had created user names for family members.

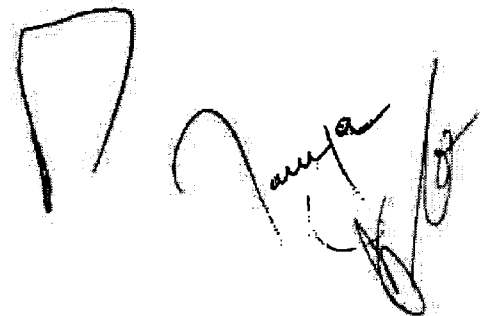
20. R. Samuels

20.1 He was the head of member support. He was in the Stellenbosch office until December. After the Stratcon in July 2020 in Johannesburg he was then employed. His salary was paid partly in cash and partly in coin, as from May until July. He invested in MTI from April by way of a transfer from his own wallet to the MTI pool. He reported to Charles Ward and had a lot of contact with Steynberg and Marks. If there were complaints he had access to the names in the back-office. A username and password was also required. If a withdrawal was requested only J. Steynberg could do this. He gave brief details of board meetings: details thereof are in the relevant Minutes. The last contact he had with Steynberg was in December via a Zoom meeting that I have already referred to. He had 3 user names for his investments: 1 for himself, 1 for his business (sound engineer apparently), and 1 for his family. His only withdrawal was on 1 account to his personal wallet. He was referred to the meeting of 6 October which is important: It is titled "Terms and Conditions with tier 3 Meeting Minutes". Leonard Gray noted that "the original

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T+C's had important clauses "hidden such as multiple accounts and rolling deposits." Further, "new T+C's to be rolled out with the KYC process ("Know Your Client"). "All members would have to accept the new T+C's". It was also mentioned that referral bonus pay-outs would be extended to 30 days instead of 7 days. The question is why? To pay this bonus from new investor deposits? Most probably.

20.2 He was referred to the Minutes of the Management Meeting of 12 November 2020. It appears that because of the lack of a certain security factor in the back-office (2FA = 2nd factor authenticated) unauthorised withdrawals had been made. Steynberg advised that there were not enough bitcoin to pay all the withdrawals (I may interpose at this stage to say that Kruger's view- see hereunder – was that the leaked data list could never be accurate as it did not reflect the withdrawals). Steynberg also admitted that the hacker had deleted all deposit addresses and all deposit history (3 hours worth of data). He added that the missing deposits were in an unknown account. He also referred to 1300 deposit tickets on Zendesk. Samuels testified that these referred to pending deposits not yet reflected. With reference to the 15 December Zoom meeting chaired by Cheri Marks he said that he had never met Mrs. Nerina Steynberg. He gave some explanations regarding the hacking details but it seems most of those are speculative and subject to doubts about what actually transpired and what was genuine. Again, it would seem that in the absence of Steynberg, and Mrs. Nerina's pleaded ignorance, the server in India would be the only entity able to provide essential accurate information about deposits and withdrawals.

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20.3 Samuels could not say how many deposits had been affected by hacking. It could be 2000 in 24 hours. He had not communicated with Trade300. After FXChoice, nobody knew the identity of the new trader.

21. Laassen

21.1 He has been in multi-marketing since 2015, involving crypto. In October 2019 he met Steynberg. He was told that the marketing platform was FXChoice. Trading was done in forex and he paid in bitcoin. In December 2019 they changed from forex. He was never employed but was simply an investor. He moved into the Somerset-West office which was for the purpose of independent members. He conducted presentations with slides and also through Zoom calls. He received 10% of profit as a referral bonus in respect of new members. He was told that it would take 6 weeks to "recover" that bonus. If that was insufficient time the 10% would be paid over a period of time. Regarding the division of profits he saw a report every Saturday in the back-office. He understood that Steynberg had written the Bot, trade with it and make a profit. The owner of the "software" would get 25%. His identity was never revealed. He heard of Trade300 on 22/12/2020. He was told that the database was in India. Cheri Marks had said that Trade300 did not exist. He still believed in the integrity of J. Steynberg who had the key to 22,000 coins. (Compare this to the Minutes of the Board Meeting of 15 December 2020 at page 14 thereof, and the comment of FSCA at par. 163 of their report that some 3524 plus coins were channelled from MTI bitcoin wallets to a bitcoin wallet belonging to Cloudbet, an online platform for sports betting. As on 18 December 2020 this was to the value almost R1.2 billion). No evidence regarding this transaction was presented to me.

21.2 He had no proof of any trading after July 2020. There was a Zoom call with Steynberg on 7 December. He was in Brazil. His wife had dropped him off at the airport. I have already mentioned that there will be evidence that a friend in fact dropped him there. He had sent a list of questions to Cheri Marks by way of WhatsApp, but he deleted this. Cheri should have those in his opinion. He had seen evidence of trading by way of 5 minute videos displayed in the back-office when trading closed. A crypto analyser also reported on these trades.


21.3 Anyone could recruit new members – he had recruited 13. The “team” under him grew to 30,000 members. He does not believe that no Bot existed unless Steynberg confirmed that himself.

21.4 He understood that Badenhorst had wanted to sell the Bot for 25% of the profits. I put to him what he would say that there was no Bot – he replied that he had seen 15 pages on 1 day of trading. Regarding his contributions and withdrawals he said that this was a difficult question. He had used 600 different wallets. He still has 21 bitcoin in MTI including profits. He had used MTI as a “piggy bank”. He did not know if his wife was a member.

22. A picture is emerging at this stage which supports the conclusions of the FSCA regarding the role of Steynberg and the Marks', the doubtful existence of a Bot, the imaginary Trade300, and the numerous fake representations as well as the theft of the remaining coin by Steynberg. The saga will get worse however.

23. Mrs. Cheri Marks

She gave evidence on 24 February 2021 over a period of some 5 hours. She was the Head of Communications and Marketing and my general impression was that she could

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sell sand to desert inhabitants, and all of her statements over time require critical examination.

23.1 The FSCA report dealt with her role in par. 72, 80, 81, 135, 136, 141, 146, 147, 148, 155 and 161. Its conclusions were:

23.1.1 MTI, J. Steynberg and Cheri Marks had claimed that Bot trading generated exceptional returns;

23.1.2 Trading records provided were fake;

23.1.3 Financial services were conducted with reference to a CFD in forex pairs (April 2019 – October 2020) and later with reference to crypto currency CFD's. These were criminal offences to the extent that derivative trading did take place. It seemed however that the majority of clients assets were never traded, just misappropriated;

23.1.4 Claims made on social media were mainly false;

23.1.5 The version, under oath, to FSCA, was mainly false;

23.1.6 It is highly likely that she (with J. Steynberg and Clynton Marks) misappropriated substantial bitcoin assets of their clients.

24. Her comments, advices and statements are also reflected in various Minutes of Meetings i.e.:

28/8/2020 par 9;

22/9/2020 par 11;

12/10/2020 in total;

22/10/2020 par 9;

15/11/2020 pages 13-16;

17/11/2020 pages 12-14;



13/12/2020 (wrongly marked as being 4/12/2020 pages 2-3;

9/12/2020 in total;

15/12/2020 par 3;

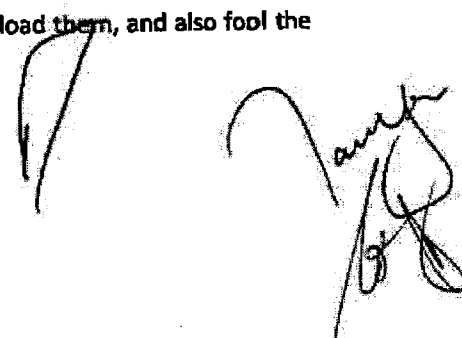
She also made an affidavit on 23 December 2020.

25. I previously suggested, as I did so herein as well, that Mrs. Marks be subpoenaed to give further evidence relating to various contradictory and obviously false statements made to the media and on YouTube. Her statements should be transcribed and made available to the legal teams to consider. They seem to me to be of material value. Details can be found, as I said during the evidence of Mr. Kruger on www.mybroadband.co.za, after "Anonymous ZA" revealed certain information on 20 September 2020. There was such further release on 17 January 2021. The exact role of UPROBUZZ Pty Ltd has yet to be established after an examination of the bank statements of the company and its director Mr. Nkomo, who has not given evidence before me. The transactions relating to the two properties and also the 2 vehicles already referred to, seem highly suspicious, convenient and contrived. Section 29(1) of the Insolvency Act seems to apply.

26. For purposes of her re-call by way of a virtual hearing, I suggest that I be provided with the transcribed record of her evidence. (As at present no record of any evidence has been provided to me, and for the sake of accuracy, such record of her evidence is important. After such further hearing, which may also include the evidence of another private investigator, and a Mr. Worth, an additional report will be provided by me.

27. In the interim, and for purposes of another hearing, I will deal with certain details of her evidence before me. I do not intend to simply repeat all of such.

28. The documents relating to the properties in Natal were signed by Mr. Nkomo. She intended to keep her "finance" separate from her business. She did not know how these properties were paid for and suggested that Mr. Nkomo and her husband be asked this question. (I interpose to say that the latter, Clynton, merely stated that he had made millions from previous multi-marketing ventures, without providing any details). She and Clynton had separate portfolios in MTI. Most of her dealings were on her laptop, and not done from the office. The property in Umhloti was similarly provided by Clynton and Mr. Nkomo. Her mother and grandmother reside there. Payments made for those properties had no connection to MTI. The Jeep referred to was registered in Clynton's name. No of her assets were ever owned by MTI. (This conflicts with what she said to the media as per "mybroadband").
29. She was not an expert on crypto before she became involved with MTI. It is a difficult concept and it's always a risk. (Her "Referral Program Success Guide" states that "the high liquidity associated with bitcoin makes it a great investment vessel...").
30. From April to August 2019 there were physical trades with a Bot trader from Polokwane, Badenhorst. (He denied any involvement with MTI). Steynberg told the FSCA that Badenhorst had developed the Bot. He reported this to them in writing. I put to her that such Bot never existed. She replied that she saw written communication in which he said that he had developed a Bot and sold it. I am not aware of such alleged communication. She also saw a Bot trade, live, in the presence of the FSCA which confirmed the balance. The FSCA said that they cannot confirm that a genuine live trade was shown to them. I dealt with this aspect in par. 26.6 of my first report. In her opinion it was not possible that it was a demo trade. It was very elaborate. Steynberg would have to falsify trade statements every day and upload them, and also fool the

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"Crypto Analyser", as well as his right-hand man, Kruger who later also gave evidence. It was therefore impossible that he could facilitate such an elaborate scam. It must be remembered that there was very little trade at FXChoice and such as there was, it was often done manually. In the interview with Mr. Steynberg on 20 July 2020 he said to the FSCA that the Bot used for FXChoice did between 300-500 trades every day. (See page 45 of the transcript). In par. 96 of the FSCA report it was said that statements from FXChoice reflected that MTI's live account had a total of only 74 buy/sell trades for the period 31 January 2020 to 3 June 2020. On Steynberg's version there should have been at least 37,200.

31. She continued to say that MTI could be divided into 3 eras. From April to August 2019 there were 3 physical traders, the Bell brothers, Kruger and Roelofse. Clynton was the recruiter and connected people to Steynberg. For the 2nd era, August 2019 to July 2020, Steynberg proposed the use of a Bot. MTI was run informally. J. Steynberg with the Bot developed the back-office and ran MTI on his own. She gave details of the binary structure. This is also described in her mentioned "Referral Program" where the income streams are set out. There is a further page titled "Plan your Binary". It sets out the purpose and requirements and makes suggestions as to how the binary should be planned. She got involved at a later stage during the 2nd era. All bitcoin information was in the back-office structure. This structure and back-office was independent from the broker.

32. During April to August 2019 everyone had an account with FXChoice. She did not agree that there were losses. She did not agree that Steynberg had referred to such losses. There was only 1 negative day of trade. In fact, Steynberg had said that there were no losses. Contrast this evidence to what Steynberg told the FSCA on 20 July 2020 during

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the first interview: (in translation) "We suffered regular losses and were hurt in the process" (transcript pages 30 to top of 31). The FSCA report refers to these losses (up to 80%) at par. 57 and 58 of their report.

33. She also saw 4 transactions transferring 16,000 bitcoin to Trade300. This was more than required to honour investors' contributions. Attorney Ulrich Roux on behalf of Steynberg wrote to FSCA saying that all member bitcoin were moved from FXChoice to Trade300 in 4 instalments on 21 July, 22 July and 24 July. This was prior to MTI losing access to the FX platform. Steynberg said the last day of trading on Trade300 was 21 July. By 7 October 2020 the balance in the Trade300 account was said to be 18,779.17 bitcoin. The FSCA report deals with this aspect in some detail in par. 122 to 129 of their report. FXChoice stated that there were no withdrawals in July 2020. The last withdrawal was in August 2019. Steynberg's version and that of Cheri Marks cannot be reconciled with the facts provided by FXChoice by way of the mentioned affidavit.

34. She only gave evidence relating to Steynberg's inter-action with Camilla on behalf of Trade300. The FSCA report deals with this in paragraphs 117 to 119 of their report and conclude that Steynberg created these mails to give the Trade300 a sense of authority. I may add at this stage that not a single witness had ever met this "Camilla".

35. Cheri Marks in my view also manufactured a reason why FXChoice closed the MTI account. It is clear that this version (i.e. not being happy with losing MTI, the pooling system and the criticism of the Texas Regulatory Authority) was a version put to her by Steynberg. Again this does not accord with the facts. Steynberg allegedly also added that he wanted an unregulated broker. He did not inform the members. She checked that Trade300 had confirmed receipt of 16,000 bitcoin by checking the ID codes on the block-chain.

36. In August 2020 the company structure was formalised into marketing. This was done by social referral. Then there were losses but Steynberg said he could trade them out of this with the new Bot, but would need capital. He had shown the Bot to a number of people. A "Founder" position was created and 50 Founder members re-invested USD 10,000. They received a higher percentage of the profits. It is clear that this was not disclosed to investors, assuming it is true. This was in the 2nd era and the names of these "Founders" could be found in the back-office.
37. As far as live trading was concerned she saw J. Steynberg open his iPad in the presence of FSCA officials, Topham and Van Deventer. There were 2 live accounts. They allegedly said that this was trading CFD's, and that a licence was required. Later in August, at a second meeting they were shown a "live balance" of about 14,000 bitcoin. I can add at this stage that the FSCA cannot confirm that any live trading was shown to them. She added that trades were on a block-chain and those cannot be faked. This is not the view of FXChoice. Proof of trade was "overwhelming" from August until the last day.
38. Once all the relevant evidence is put to her at her second appearance, I can deal with this aspect in more detail. At this stage it appears that she was either ill-informed, misled or colluded with Steynberg. She confirmed that she sat next to him when he showed the FSCA a live trade, which was not questioned by them. The FSCA explanation does not accord with that version even assuming that an A1 Bot existed.
39. There is allegedly a recording of the 14,000 bitcoin which was seen by the FSCA officials, Casper Badenhorst, Ulrich Roux, Vanessa da Silva. (Have these persons being contacted?).

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40. In terms of section 418(2) of the Insolvency Act I therefore direct that Mrs. Cheryl Marks be subpoenaed to give further evidence and be cross-examined on the topics that I have raised. Numerous material aspects have not been put to her for comment, nor could they have been in some instances given the nature of the proceedings where new evidence emerged almost every day. This directive will not apply if sufficient information is obtained from the server in India, which would make further evidence irrelevant.

41. Her view of the Texas report was rather dismissive. That authority had no jurisdiction and was produced just to defame MTI. Why this was so, was not explained.

42. She then gave her view about the Bot. She apparently saw a document to the effect that Badenhorst had developed it and with whom he contracted with. I have not seen such a document. Badenhorst himself of course gave a different version to the FSCA and before me. In her view Steynberg had also "tweaked" the Bot and could in fact be the Bot developer. No details were given. It was therefore not possible that there was no Bot and no trade. The Minute of a Board Meeting on 22 September in par. 10.3 it is stated that "CJS informs the Board that he will be testing a new Bot next week. The Board Meeting Minute of 28 August 2020 reflects the following in par. 5.4: "CJS is developing a second Bot to serve as a back-up, which he will start testing separately and independently of MTI in the near future. Further, "CJS is also working on a crypto-specific Bot... the current Bot is not a crypto trading Bot". It appears strange that no-one present thought it fit to ask for further details.

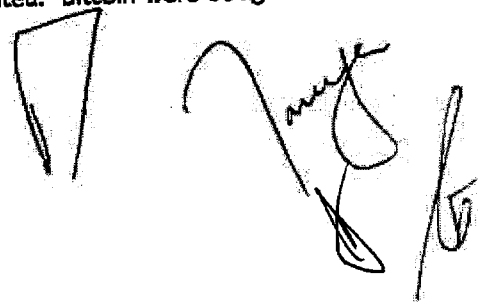
43. The rest of her evidence mainly dealt with her role and comments reflected in the various Minutes of Meetings. FICA requirements were never completed. As regards the testing of a new Bot Steynberg never reported back. According to the report of her

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private investigator S. v.d. Merwe, who has not given evidence before me, Steynberg never left South Africa and added mysteriously "An Attorney in this room was told were Johann is". According to her he remained at the City Lodge between 12-29 December (has this been checked by anyone?), and was then moved by his mother and wife to a safe home in Polokwane and thereafter to a farm which he owned. She had given both addresses to Attorney P. du Toit.

44. There were death threats and in her view the private investigator who had not seen Steynberg during all his surveillance efforts, may himself be afraid.

45. She was referred to the Minute of the Board Meeting of 15 November 2020. Regarding the question of withdrawals mentioned in par. 3, J. Steynberg did such on Sunday. He has a list and his wife Nerina helped him. I must mention that she denied having any knowledge of the workings of the back-office but Nerina physically checked every payment. She had the last withdrawal list and had requested this from the server. (Was this list on her laptop shown to Attorney du Toit?). There were \pm 16,000 withdrawal requests to the value of 2600 coin. This was the first time she actually saw the conclusive number. In her opinion Nerina was definitely part of the technical department (which Nerina denied later). Referring to page 4 of the same minute which deals with some results of the hacking that had occurred, she said that every department had a "living Gmail-document" which had to be completed on a daily basis. The tab created indicated what had to be done. Nerina printed this as she was involved in the department and "wore the pants". The 15% referral bonus mentioned on page 6 of the Minute was the idea of Steynberg. He wanted to increase the 10% bonus that resulted from daily trading. She repeated that initially they traded in forex and thereafter the Bot did crypto trading which was not regulated. Bitcoin were bought

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and sold and the account was consolidated on a daily basis. In her view one did not own a bitcoin. No-one owns it but has the right to use it. As a member she gave MTI the right to trade in coin according to the contract. 40% of profits went to members. Her opinion of what exactly bitcoin is, is reflected in her mentioned "Referral Program" at the top of page 5. If Steynberg or his wife (or both) used bitcoin in breach of the contract, it would be fraudulent conduct, as he makes a misrepresentation to members by not trading as requested. This would be to their prejudice. She added that the transfer of coin from FXChoice to Trade300 would be recorded on the block-chain. She again confirmed that she saw numerous live trades with account number shown and coin balance. J. Kruger could confirm this. A number of videos also showed live trades and these were seen by various traders. These videos were removed from YouTube and she had given 1 to her Counsel.

46. The opinion of FXChoice that a demo account was shown was put to her. Her view was that FXChoice was deliberately misleading. They looked at a pool account statement where MTI just reflected a member's portion. With reference to the Management Meeting Minute of 9 December 2020 which states under par. 4 that "It is recorded that Nerina Steynberg knows how everything works and she is currently assisting RS with the allocation of pending deposits" she said that Johann had told them that Nerina know everything and should therefore be the said "21C". (Steynberg attended this meeting online - would this not indicate to an expert where he was?). Nerina was also upset that her husband suggested that Andrew Caw should be added to the WhatsApp group with the India team, but Nerina did not attend this meeting. I repeat again that the Minute of 13 December reflects that "Info for database, passwords, broker, bitcoin etc." would be made available to Nerina, Clynton Marks and Andrew Caw. A question

is: how would Nerina be able to check deposits and withdrawals without passwords to both accounts?

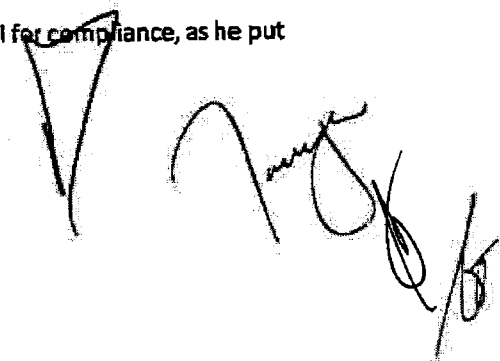
47. She gave details of her communications with Camilla after Steynberg disappeared. She held annexed these to her affidavit of 23 December 2020. During her evidence she said that she did not agree that there were losses at FXChoice. In par. 27 of her affidavit she states the opposite. Paragraph 55 refers to the role of Nerina and screenshots of the messages to some team leaders, which she annexed as "C2". Nerina is clearly lying about her knowledge of MTI affairs and the back-office. See also par. 76 regarding Nerina's role between 3 and 14 December. According to par. 85 Nerina also played a role when withdrawals were made. There were allegedly in the thousands but no number or amounts involved are mentioned. This can therefore not be regarded as proof that the alleged number of coin transferred from FXChoice did indeed reach Trade300. She is convinced that Nerina knows where Steynberg is, that she has control over the funds and that she can run MTI. She therefore suggested that the SAPS attach all of her devices which could assist in obtaining the necessary access codes. I have no information on that topic. I have suggested that the server of her cell phone and/or her cell phone records be subpoenaed which could possibly indicate whether she made to or received calls from her husband.

48. The last time she "saw", she had 140 coin in MTI. Clynton had over 600, excluding the 400 he allegedly gave to Steynberg. It is clear that Cheri Marks has given various conflicting versions under oath.

49. Leonard Gray

He is a non-practising Attorney. He was married to Cheri Marks and had 2 daughters.

He became involved in May 2020 when the FSCA phoned MTI for compliance, as he put



it. The FSCA report fully deals with their complaints and I will therefore not repeat Gray's view thereon. His view of the whole scenario was in essence that the trade in bitcoin was not regulated. He did not give advice to MTI but Ulrich Roux did.

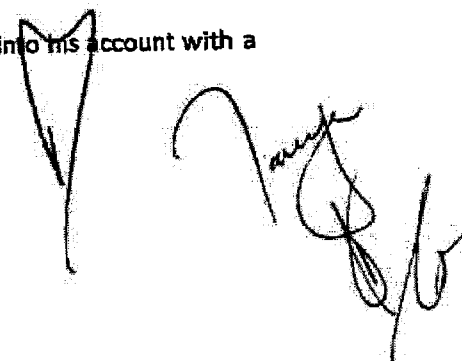
50. Clynton Marks

He was a 50% shareholder in the company. He has wide network marketing experience. On his version, and without presenting any factual material, he made "millions" through networking. He also did marketing for BTC Global, which had also provided exorbitant returns, and which had subsequently collapsed as well.

50.1 His involvement too appears from the Minutes of various Board Meetings. He attended the meeting on 28/8/2020, 11/9/2020, 22/9/2020, 12/10/2020, 22/10/2020, 12/11/2020, 15/11/2020, 17/11/2020, 13/11/2020 (wrongly dated) 4/12/2020, 9/12/2020 and 15/12/2020. He was thus very well aware of all of the activities of the company as well as the various role-players.

50.2 His main interest, the "Referral Program" is described in par. 12 of the Minute of 22/9/2020. His stated aim was to grow MTI membership by 10,000 per day from the present 1500. He selects leaders and mentors them, about 10 per day. The problem of multiple accounts was also raised that day. He also spoke about his "passion", the Referral Program on 22 October 2020 (par.10). Again the vision of 10,000 new members a day was mentioned.

50.3 He stated that the multi-level trading was funded by people transferring their coin and then receiving profits of daily trades. They had 5 traders but he never met them. In the beginning there were separate accounts for members linked to the FXChoice account. He said however that he could not answer any technical questions. All detail was in the back-office. He could log into his account with a



password. There was however no back-office in the 1st period nor terms and conditions.

50.4 He invested about USD 10,000. During August 2019 Steynberg spoke about a Bot and showed him live trades of a demo account. He also spoke about losses. The division of profits was mentioned to him and there were details in the terms and conditions. (It is not clear when the 1st set of such terms and conditions were drawn, but repeated reference is made in the Minutes to the unilateral amendments thereto).

50.5 The Bot did not do as well as the traders in the first four months. About 1%, whilst some did 30% per month.

50.6 In the second period all funds were pooled. He could not remember why. It's an important question in my view. He was not told who the trader was or how the Bot worked. A couple of people told him "it looks real". He never communicated with FXChoice but got their statements in the back-office. Then there was forex trading. There was also a document from FXChoice reflecting the balance.

50.7 The 2nd period was markedly different. Attorney Ulrich Roux became involved regarding compliance with legislation. He only found out about the FSCA later. That's when crypto trading commenced. He was 100% satisfied that there were no applicable regulations.

50.8 Nerina Steynberg was in fact the 21C and had access to everything (which she denied). She had helped with payments, had access to the back-office. She used spread sheets. She had access to the Indian office and whatever Johann could do, she could do. (If this is true she is intentionally not returning the investors coin, despite the 1000's of requests of withdrawals).

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50.9 He complained about being "pushed" by the Advocate when asked about details concerning trade, payment to members, wallets etc. He was not a technical person. He felt assured by their Attorney's view that crypto trading was unregulated. The Attorneys were on a monthly retainer to advise about new applicable laws. The terms and conditions were changed several times.

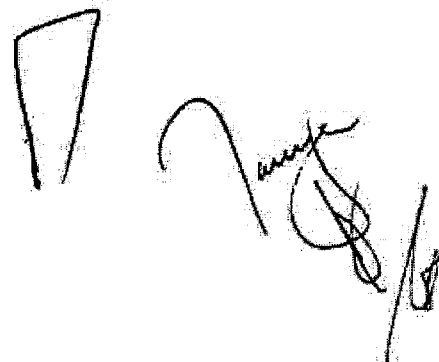
50.10 He knew that Trade300 had confirmed the exact amount of 23,000 bitcoin. He phoned a professional trader, saw a video giving actual trades and was of view that one could not fake 108 trades a day for years.

50.11 When FXChoice froze funds Johann mentioned Trade300. He Googled it but could not find it. He was given no information. He speculated as to why Steynberg had disappeared: an anonymous group had emailed that he had better leave South Africa as his life was in danger. He thought that Nerina was behind this!

50.12 Steynberg promised to revert to him regarding his request for information about Trade300 but never did. He did think at a stage that Steynberg "owned" it, and then he would have held all the coin.

50.13 He was asked about FXChoice traders – he saw live ones, the conversion to crypto, but he just relied on what Steynberg said about the new Bot. He had no other detail.

50.14 He was then asked about the various Minutes of Meetings that I have referred to. There is no point in repeating certain of his comments thereon. They speak for themselves. He agreed that if there was no trading since August 2019, no Trade300, that the profits shown in the back-office were fictitious. That is obviously so, and the probabilities point in that direction in my view.

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50.15 He spoke to Steynberg on 15/12/2020 by WhatsApp at 1.50 am. When he left he sent a photo of a plane ticket.

50.16 Regarding his contributions and withdrawals he gave estimated figures: he probably withdrew 100 coin but 1400 remained and thus MTI owed him millions. The homes in Natal were paid with his own money. I have mentioned that the arrangement with Mr. Nkomo should be fully investigated. In my view, with the present facts it seems to be a convenient ploy. His evidence as a whole is rather vague, perhaps also conveniently so.

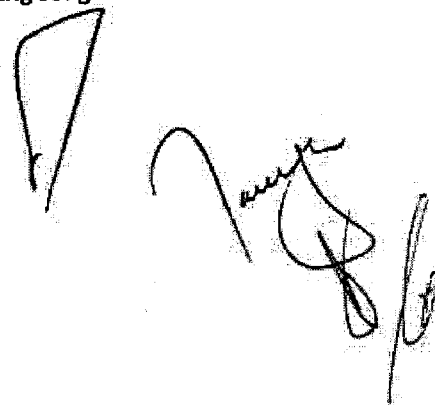
51. Nerina Steynberg

51.1 Nerina gave long and tearful evidence, the crux of which I will discuss. There remain serious question marks about her credibility. They live in Polokwane. The home is registered in her name and she pays the bond. There is an erven next door which her husband bought. She and her husband are directors of Dulospan. It appears from a search that they own 5 properties registered in the name of the company. (Relevant details are in Bundle 3, p. 1-21). There were no financial statements or bank accounts. She and her husband were also directors of JNX Online. Her husband "fixed" computers and created websites. She did not know who the shareholders were. She was not involved. Her husband had bought 2 Jaguars (they cost over R1 million each) in 2020. She worked for Pick & Pay in Polokwane. (There was evidence at a later stage that she or they had an interest in that business, but details are not clear).

51.2 Her husband Johann was a programmer and dealt with crypto. MTI had an account at Standard Bank and Nedbank but she had no signing rights. When Monica Coetzee had to pay something an OTP was sent to her.

51.3 She knew little of the affairs of MTI. She enjoyed her employment at Pick & Pay for the last 15 years. In the beginning she did help to send out proof of payment i.e. that the bitcoin was transferred to a wallet. That was all.

51.4 She was a member of MTI. Her husband had opened the account. She thought she had 2 bitcoin in a wallet. The platform was in Exodus. She knew about Altcoin Trader Pty Ltd. The company provided a list of deposits done, details of trading and of withdrawals. Most of the deposits and withdrawals were done during the period April 2019 to date, thus within the timeframe during which MTI operated. It is important to trace the source of these funds as it appears from the evidence as a whole that withdrawals were made from MTI, re-deposited and split between various members (and family members and children) accounts in order to exploit the 10% referral commission (The Altcoin Trader statement appears in File 4, p. 167-177). Certain particular deposit detail were put to her and she replied that they could have been done by her or her husband. This was done with MTI funds so as to do separate trading! She admitted that she had access to the deposits made. She and her husband also bought other crypto. This source was from the trading at MTI, from her and her husband's wallet. When she had her own wallet she did not always discuss withdrawals with her husband. The FNB and Capitec accounts shown at p.175 were hers. Records of her transferral would be reflected in the block-chain as proof of payment. She also gave rather vague evidence of deposits into "Exodus". Any withdrawals from Exodus were made by her husband only. (She also referred to a friend's wallet Ms. S. Tilburg into which she deposited 2 bitcoin). I am told that a preservation order is presently being sought.

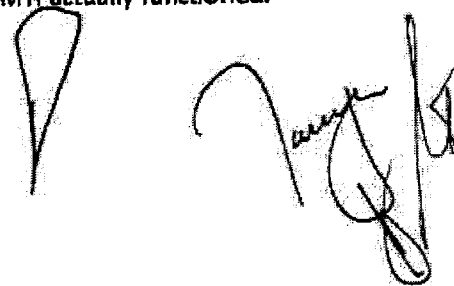
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51.5 She knew about silver having been bought by her husband but could give no details.

51.6 She was not at all involved with the technical development, the server in India, the usernames or passcodes. She knew there was talk about her having all the relevant knowledge if her husband was absent, but she regarded the evidence of the Marks's as lies.

51.7 With reference to the meeting of 9 December 2020 (bundle 4 p. 163) she did on one occasion help Samuels with allocation. She did not have any other details or knowledge and Mrs. Cheri Marks was simply lying about this aspect. (It must be remembered that her husband was online during this meeting and did not contradict it or comment when it was said "Nerina Steynberg knows how everything works"). Monica had drawn the Minute. I asked her why would all conspire to record this if it was not true? She replied that the idea was to make her husband the "fall-guy" and that 80% of the version of Cheri Marks were lies. Similarly, with reference to the Minute of 13 December (wrongly dated 4 December, at p. 158) where it was recorded that "CJS has programmed a fail-safe for the instance where CJS does not access his accounts in 12 hours, Nerina gets access to everything", she said this was not correct. It was easy to change a Minute, but someone just forgot to change the date! This is a new version. I therefore asked her again whether she thought that everyone would have conspired against her. Her view was that this was indeed so, as they were all one family. The intention was to put the blame on her.

51.8 She added that even if she received all the necessary information she would not know what to do with it. She had never known how MTI actually functioned.

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This may well be true, to some extent as Steynberg had not shared his knowledge or details of the functioning (assuming it did), with anyone. She did not know who "Camilla" was. She had sent 1 e-mail to her but received no reply. When Cheri Marks did so, she did receive a reply as noted above.

51.9 She was not aware of the existence of Trade300 but knew of the Indian server but not what they did. She knew Johan Kruger as having been a broker of MTI. She knew what a Bot was. Her husband had one and programmed it himself. No one else did. Badenhorst was not involved at MTI. (He confirmed that fact). She was also not aware of a "leader team" in MTI but knew of the Minute of 15 December.

51.10 Contrary to the opinion of Mrs. Marks, she did file a missing person report and gave details how this was done. She actually gave Marks the case number. She lied about this topic as well. (She gave the hearing the case number plus the cell phone number of Warrant Officer Mangkene).

51.11 With reference again to the 13 December Minutes she added that she could not believe that her husband had actually said that she had access to everything. According to her that was false. Aspects of the affidavit of Cheri Marks were put to her (Vol. 3 p.200). She denied as per par.11 that Steynberg would contact people. This is what Clynton did. (I do agree that this was the evidence of all on this topic). She said that par. 31 was also not true. She was never at the address in Randburg and also did not know how MTI actually worked. As far as par. 65 was concerned she did not give any coin nor was this ever discussed with her. Regarding par. 70, this was out of context. Her child did not have a passport and apparently not even the full birth certificate required for such. She never had any intention to leave South Africa.

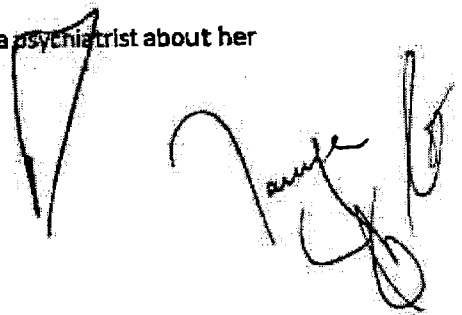
51.12 She had read the anonymous threatening e-mail referred to in par. 68. That was why her husband left South Africa.

51.13 She did not support that idea. He would have returned on 23 December and the relevant reservations had so been made with Qatar Air. (Can this be confirmed?). He went to Brazil because it did not require a Covid-19 test.

51.14 She did say, as mentioned, that if everyone was re-paid MTI could be closed down.

51.15 She was asked about the context of par. 72 which deals with her allegedly dropping her husband off at the airport together with his friend B. McDonald. (Has he ever been contacted?). She agreed she was on the way but could not fly because he had no accommodation reservation. He flew the next day. A photo of the air-ticket and boarding pass had been sent to Clynton. (There is a version that a Mr. Worth had accompanied them and I have asked whether he had been contacted). She also insisted, in the context of par. 71, but the Marks's had encouraged him to leave. Regarding par. 73 she does not believe that her husband would have said that she could continue to run MTI. Paragraph 74 was also not true. Clynton had been sent a photo of the boarding pass. She thought that the Marks's knew more Johann would simply not leave her and their child.

51.16 Par. 79 regarding her knowledge of the running of MTI was again denied. Similarly par. 81 was also not true. Regarding par. 85 Samuels had helped with a spread sheet to check the withdrawals. She denied that she was calm as suggested in par. 94. She was in fact hysterical when she received the e-mail referred to in par. 93. I must note that throughout her evidence on 23/3/2021 Mrs. Steynberg was very tearful and had consulted with a psychologist and a psychiatrist about her

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emotional state. The latter had indeed prescribed certain medication. It was noteworthy that Mrs. Marks was very dismissive of Nerina's emotional state.

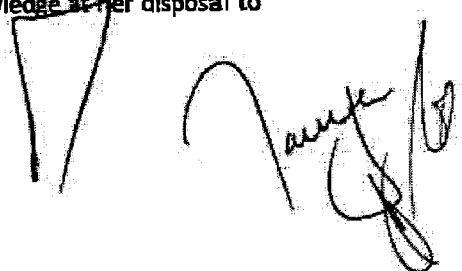
51.17 She also denied that par. 109 had any merit. It was a lie. She never had access to the Nedbank account of MTI. The account was blocked. She was simply asked to unblock it. To this end Monica Coetzee had even asked her for her marriage certificate.

51.18 It was put to her that her husband had never left South Africa. She referred to photos from Brazil and that he had phoned through "Signal". (Surely, with modern technology this call could be traceable?).

51.19 Tom Fraser was a trusted advisor to Johann but was removed by the Marks'. She had never met Clynton Marks.

51.20 She undertook not to dispose of any coin in Exodus and Altcoin. She was not aware of the Stoffel van der Merwe report. She found some conclusions laughable. She did drive in a Hyundai bus with 6 children and four of his friend who played golf to Sun City. Nothing mysterious about that. She denied that either she or Johann's mother had taken him to a "safe-house" in Polokwane.

52. It is, by any standard of proof difficult to simply reject her evidence. The investigations into the Altcoin transaction may produce more factual results. There are clear indications in the Cheri Marks affidavit that she wished to involve Nerina in the MTI affairs, much more than the Minutes of various Meetings justify. She explained her minor role in the back-office and I cannot find, in the absence of Steynberg, the facts from the Indian server, the question about an actual Bot and subsequent trading, the apparent absence of Trade300 and the doubts expressed by FXChoice about the number of coin transferred, that she had indeed all the knowledge at her disposal to

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continue with the activities of MTI. There is an obvious enmity between Cheri Marks and her, whose own conduct in these proceedings, from a credibility point of view, really concerned me. One could probably say more about Mrs. Steynberg's role after investigations into bank accounts and further evidence as requested.

53. Keith Badenhorst

He was interviewed by the FSCA on 26/10/20 and that is transcribed. I dealt with that evidence in par.17 and 18 of my first report. He confirmed that he never developed an A1 Bot with Steynberg. It was rule-based. To "code" an A1 would take many years to complete and one needed to be an expert. It was also not a "1 person job". The rule-based Bot was not intended for trading purposes at all. One would require 100 of thousands of man-hours to get that working. He did that for his own purpose, "dabbled" during 2012-2014 and left it at that. He could not comment on Steynberg's expertise except that he was a capable programmer. He did invest 3.5 bitcoin but had no insight into what they did. He made a withdrawal on 16/11/20. His programme was intended for forex trading but could be manipulated to be used for crypto currency as well. He had never been paid for any Bot by Steynberg, contrary to what Steynberg told his team about payment and a confidentiality agreement. In the "Referral Program Success Guide" drawn by Cheri Marks the following is said at page 4:

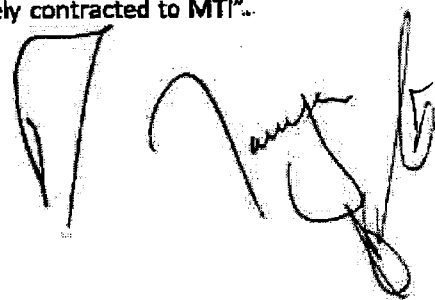
"Forex Trading Bot"

Aug '19 – Aug '20

Crypto Trading Bot

Aug '20 to date", and under the heading "What do we do?", the following appears:

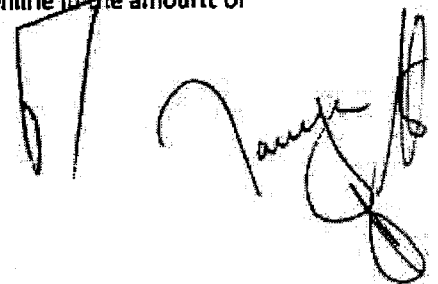
"MTI trades on behalf of members on the crypto markets with an unregulated broker using MTI software with an artificial intelligence Bot exclusively contracted to MTI".



This representation is false in material respects. There is no evidence of an A1 Bot, nor any contract.

54. R. Kritzinger

She has been a book-keeper since the 1980's, and has done accounting for the last 20 years. She was a MTI member and introduced 2 others. She does not understand how the block-chain system works. Clynton Marks introduced her to MTI. She had met Cheri previously. She was appointed book-keeper / accountant in August 2020. That was the first month for a current account but she did catch up since April 2019. Accounts were non-existent but management understood that a system had to be in place regarding all payments and expenses. She was also supplied with a bank statement from JNX Online which identified MTI expenses, including Steynberg's personal ones. There was no revenue as such but there was an MTI bank account since the middle of 2020. From August funds were shown so that salaries, rentals and overheads could be paid. No revenue was indicated between April 2019 – August 2020, only JNX Online existed. She did not know what business this entity did. After 2020 revenue only came from bitcoin. She liaised monthly with Monica Coetzee. She discussed with Charles Ward how revenue should be recorded. He was "pushing" for 10% but asked where the "Founders Bonus" came from. She withdrew some coin value from January 2020 at R1000 p.w and then in November it was R4000 p.w. Her investment had grown to USD 4000 by December. She was employed as an independent contractor at R10,000 p.m, from a Standard Bank account in Rand. Others were paid in coin. This was recorded in the system of MTI in Rand. After 2020 no income was recorded in the books. There was a loan account entry from a coin wallet to cover expenses. There were 2 loan accounts: one from JNX Online in the amount of

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R7 million and one from the MTI bitcoin wallet. It was said that Steynberg and Clynton had placed these funds into the company from their own wallets for payment of expenses. The "Coin Buyers Club" facilitated the sale of coin into Rand, and did this for MTI. Our management and staff were on the pay-roll. There were no tax returns nor any legislation for VAT. She suggested that this be done. She never looked at monthly trading statements from MTI to members on the back-office. It is clear that the company failed to implement and maintain a proper corporate governance, and transgressed provisions in the Tax Administration Act relating to tax returns and VAT. In my view this aspect should be referred to SARS.

55. G. van Zyl

He invested USD 200 from end of November 2019. Ignatius Bell had sent him information. He spoke to Pieter Muller who had done the due diligence examination. In the back-office one could see how many coin were in pool and one could see details of the binary system. He had used 3 or 4 wallets to pay MTI with a username and ID. Wallets were coupled to a bank account, in his case at Capitec. He could not say how many coin he had transferred as these were withdrawals too. There was also an account for his wife. He and his wife could also transfer coin internally. If there was a re-investment a 10% bonus was paid. "The Trader" told them that this 10% would not be paid until it was "recovered". This could take weeks. He signed-up 9 "down-lines" in the referral system. Later he had 30 people and this grew to 25,000. He gave evidence about a video which is not clear to me. He did however see a "pro-life account" with trade reflecting "MTI from FXChoice". This was on 30/6/20. (Contra the affidavit of FXChoice regarding this date). After too many people phoned FXChoice and made enquiries, Steynberg looked for other brokers and moved to them. He had never

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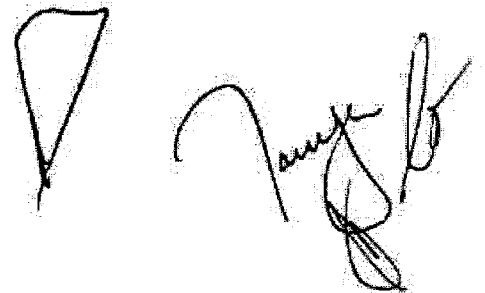
heard of Trade300. He was told by Steynberg that the trader had written the Bot. He only saw short snips at back-office but could gather information to look at a live trade. He was referred to his "Update Profile" (bundle 5, p.277). He had 3 wallet addresses but could not say what/which he used. He believed all income/profits/bonuses came from trades even if there were no new investors. He said that in August there were 5822 re-payments with a balance of $\pm 23,000$ in trade. (I cannot say how he arrived at these figures).

56. K. P. de Jager

He started investing in October 2019. He transferred his bitcoin to MTI via the Luna platform. A username, ID and cell number was required. He had an account at ABSA. He could not say how many coin were transferred to MTI. He used different platforms. The back-office would have to provide that information. He invited 12 new investors and sponsored most of them. This resulted in a binary system advantage. His book-keeper was busy with his tax affairs and he would then have more information.

57. G. Denham

Apart from details relating to his own investments, he attended a conference in January 2020 and trades were shown. Steynberg had said that he had written his own algorithms, which he knew. (Contra the opinion of Badenhorst). The USA crypto analyser also gave him peace of mind. Live trade was seen at Zoom meetings. He always re-invested his bonus. He transferred about 25-27 coin to MTI via Luna. He withdrew 4. At the end of November, with the binary structure system, he had 36 coin. At a Zoom meeting Steynberg said he would get a 21C should he be involved in a car accident but did not say who. This seems to be an uncritical investor.

The image shows two handwritten signatures or initials. The one on the left is a simple, stylized 'V' shape. The one on the right is a more complex, cursive signature that appears to be 'G. Denham'.

58. H. Meyer

He started investing in October 2019. He had a Luna account, plus a few other connected to a FNB and Capitec connection. His evidence is of little relevance.

59. Marinus Bell

He was an investor only, introduced by his brother Ignatius in October 2019. He transferred his own coin using various platforms including Altcoin Trader, Luna and Exodus. He could not say what he had invested or re-invested. He recruited some 30 persons. There was no control what management did with coin. He only heard that MTI had moved to an unregulated trader in December 2020. It was unthinkable that Steynberg would leave his wife and child. The remainder of his evidence is of a hear-say nature and opinions.

60. J. Usher Bell

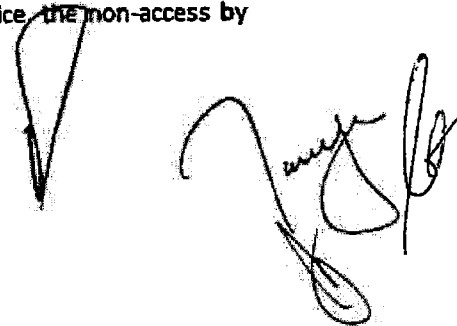
He invested in October 2019. He was persuaded by his brother. He is an entrepreneur but saw the concept without any system. During a Zoom conference on 14 May Steynberg announced that he would be the COO. He discussed the regulatory requirements with the Attorney. He had nothing to do with the operational system. He was never informed of how the back-office worked. He had no access except as an investor. The Bot was not discussed with him, nor any trader. Cheri Marks was clearly the main voice, (both literally and figuratively) and he could not work with her. He resigned during June 2020 also for health reasons. He recruited 50 people and sponsored 30. He did not know what was withdrawn during the last months of operation in October/November. He gave no evidence of why he stored some ± R2 million worth of silver on behalf of Steynberg. This emerged later.



61. Thomas Fraser

61.1 He has a long history of corporate advisor. His role was explained in the FSCA report at par. 44-45. He attended the first interview with Steynberg. The FSCA was of the view that "it was astonishing how uninformed about the true state of affairs Fraser was, or acted". He attended the first Managerial Board Meeting on 28 August 2020 as Chairman. It is clear that corporate governance was discussed in some detail. According to the Minute of 11 September (Vol. 4 p. 16 par. 6.2) it is clear that he drafted the MTI Office Policy. He was also present at the 22/9/20 meeting where key issues were discussed at length. The next meeting he attended was on 7/11/2020 where discussions were held regarding income being reflected. The book-keeper Kritzinger was also present. He again attended a meeting on 12 October 2020 where the KYC Implementation Policy was discussed in great detail.

61.2 It is clear that he advised Steynberg on a number of important corporate issues, the risks of absolute control and issues regarding the Bot. He was assured by Steynberg that a Bot existed. Mr. Steynberg had given him a Power of Attorney. Mrs. Steynberg later requested this to gain access to the MTI bank account at Nedbank. Steynberg also informed him that he has a second passport, apparently from an Eastern Baltic State, and that he had bought a plantation in Panama. He had never seen the "Governance" document contained in bundle 5. Although the security of bitcoin was discussed and the necessity of a 21C nothing had happened, and no-one had access to confirm either the existence of the coin held or the existence of a Bot. He was of the view though that rewards were paid from trading profits and not from the contributions of new members. I am not convinced that this can be accepted in light of all the evidence of FXChoice, the non-access by

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anyone to the back-office, and the fact that no-one had seen the Bot at any stage.

Add to that the evidence of Badenhorst and a different picture emerges on the probabilities: the scheme was a pyramid scheme.

61.3 When asked about the Bot, Steynberg vaguely mentioned the existence of a non-disclosure agreement, which Badenhorst said did not exist.

61.4 He never met Nerina Steynberg.

61.5 One comment made by Cheri Marks was unfortunately not explored further: she stated that she earned R4 million per week. One would like to know the source of such amounts and where they are presently held and in what form.

61.6 He had a claim against the estate and had lodged that with the liquidators. This was based on what his fee would have been.

61.7 If not familiar with the details appearing on a screen one could not discern whether a live or a demo account trade was shown. If a demo was shown, it said so on the screen but there was evidence that this too could be manipulated.

61.8 In retrospect he did not believe that any trading took place after August 2019. He should have recognised that earlier, he said.

61.9 Nerina was in "cahoots" with Steynberg and controlled him like a puppet.

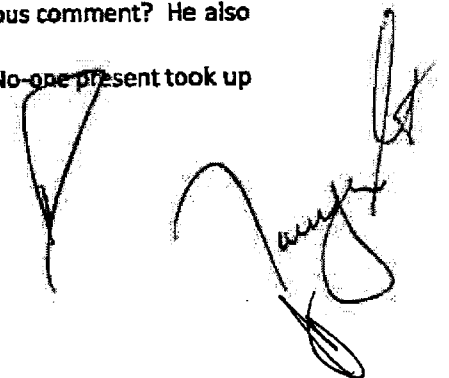
61.10 He resigned on 25 November 2020 as access to Steynberg was repeatedly obstructed. He made a 13 page statement about all his activities and proposals on 22 January 2021 (bundle 5 p. 306). A further lengthy analysis of the relationship between him and the company commences at p. 324 and is dated 15 November 2020. It is clear that his inputs were largely ignored. Again Cheri Marks seems to be the main figure in that context.



62. Charles Ward

62.1 Cheri Ward is his sister. He became a member in 2019. During July/August he attended a strategy conference in Johannesburg. He was a non-executive director and was the Head of Strategy Implementation. Fraser was a consultant and had explained the duties and roles of both directors and non-executive directors. In September he became the COO and supervised management who were accountable to the CEO. The COO was more in a support role. He actually had no say. He was paid a salary and 1 bitcoin in Sept/Oct 2020. He created and/or assisted in establishing a revenue stream in the books of MTI which would be 1% from the 10% the share-holders received. He had no access to the back-office, though this was discussed at length with Steynberg. An audit of the back-office was a priority to him especially after Steynberg said that he was not a crypto expert. Steynberg was solely in charge of the technical side of the business and protected "his field". He told him that his wife Nerina knew the back-office inside out. She could run the business. He had pushed for that his family was in the hands of 1 man. A 21C was necessary.

62.2 He attended the meeting on 28 August 2020 (Bundle 4). This confirms his concerns (see par. 7) (Paragraph 4 of the Minute deals with Steynberg's comments about the Bot. One should take note of Steynberg's comment which has perhaps not been considered fully in this saga: "the terminal in South Africa has no data on it". I would suggest by the way of a written communication at least, J. Kruger be asked to comment on it. Does this imply that no trade could be seen and that it is the reason why no-one was given access, or is it an innocuous comment? He also noted that the "current Bot was not a crypto trading Bot". No-one present took up

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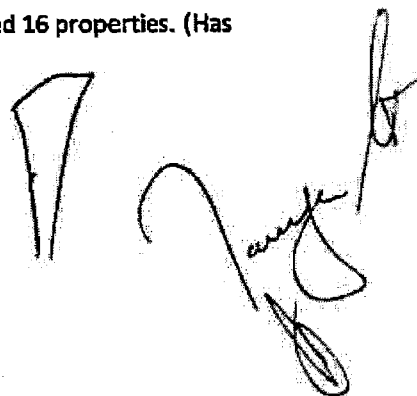
this topic, nor was it sufficiently dealt with during the hearing. (It does however seem to support Fraser's ex post facto view that no trading to place as from August).

62.3 Nerina had helped in the back-office from time to time and Steynberg also told him that she could make payments. He had no reason not to believe him. He trusted his wife and added that she got 50% of the share profit on a weekly basis. If this is so, does this not amount to misappropriation of the share of others? To my knowledge it was certainly not disclosed to anyone nor discussed at any meeting.

62.4 He invested USD 1000 in FXChoice, lost it and also lost interest then. Regarding Trade300 Steynberg said that Nerina would have all the details. Because a 21C was his main concern he "harped" on it and spoke about it at length. Steynberg made it clear that she had all the necessary knowledge. One wonders therefore why Nerina was so insistent that she did not know anything about the back-office or the functioning of MTI. I have through-out the hearing felt that there is more to this (topic) than meets the eye.

62.5 Nerina and he had numerous telephonic discussions and she confided in him. Nerina also got involved in support work when there were bottle necks. (I presume relating to withdrawals). She had also helped allocating deposits and had the necessary understanding.

62.6 He added that it was improbable that one would receive large amounts of money every week but ask no questions. There was a massive life-style change, and they also had a stake in the Pick & Pay business and owned 16 properties. (Has this been sufficiently investigated?).



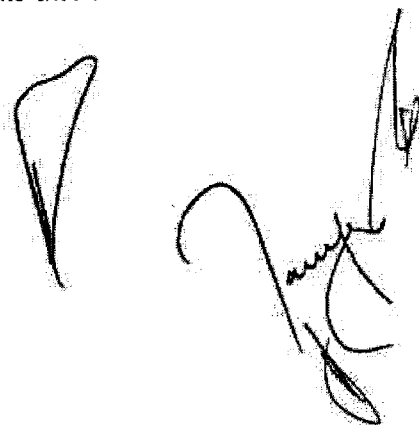
62.7 At Zoom meetings Steynberg said that there was a protocol in place for a pay-out. She was the only person he could have referred to. He would not say that in public for security reasons.

62.8 He emphasized that he had not enough knowledge of any Bot or how to "audit" it. After FXChoice it was mere speculation of where the balance of coin were and in which quantity.

62.9 The so-called "Coin Buyers Club" would pay expenses from a monthly budget drawn by Monica Coetzee after approval by Steynberg. He confirmed that R2 million of silver had been purchased and held by Usher Bell. Steynberg had shown him photos of boxes containing it. He asked Nerina about it who deflected the issue. He did not believe that Steynberg had left South Africa. A certain Brian Brotherton apparently looked after him. (Has he been approached for comment?). He also provided protection to Nerina.

62.10 An interesting further comment was allegedly made by Steynberg, which, if true could provide the answer to the main question: he said that not all the funds are held in MTI and that there is residual income. Stoffel van der Merwe told him that they owned 16 properties (his report does not mention this), Nerina drove an expensive Jaguar, chartered a plane to fly to Cape Town, and there was also talk of a property development in Cape Town.

62.11 A coin did not belong to MTI but to a member according to the Terms and Conditions. (Assuming that is so, there would be common-law remedies, but my view is that the contract is invalid in any event for reasons that I will discuss hereunder).

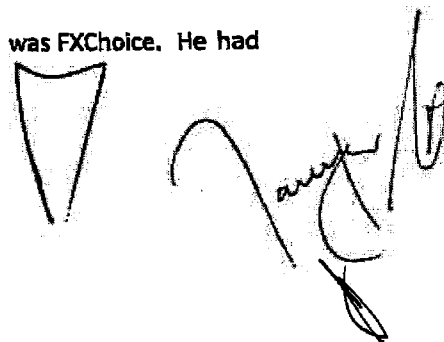
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63. Ignatius Bell

He had two accounts which he managed. He made a total withdrawal from 1 account and invested it in the 2nd to obtain 10% commission which would be paid to him after 6 weeks from profits made from trading as he believed. He invested on being shown a live trade with Pieter Muller. During a Zoom call he and Muller were shown such and also a video footage. He had no doubt that trading had taken place. This was on the FXChoice platform. After that no-one knew which platform was used. He was told that Steynberg had transferred 16,000 coin in 5 transactions. On the new platform only bitcoin was traded from about August 2019, contrary to the view of FSCA report par. 135. He confirmed that Steynberg spoke about having bought silver. Two Jaguar vehicles were also bought. He was 100% certain that Nerina Steynberg could do the necessary transactions. His accounts were in the name of his 2 minor children. He had received e-mails from MTI when requesting a withdrawal and he would provide such. According to Steynberg a Bot had been developed in Potchefstroom. The developer wanted 14 million USD but would have received 25% of profits as a developer. He had returned 95% of crypto currency withdrawn as the validation of trades had convinced him not to withdraw his investment. He confirmed mainly weekly withdrawals during November 2020 to early December 2020 but had then re-invested them in his 2nd account. (This is evidenced from the so-called "leaked accounts").

64. P. Muller

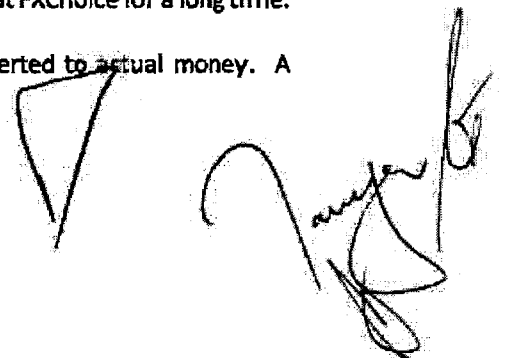
He was in investor and also did a "due diligence" text. He had experience in trading in forex. He tweeted Steynberg but needed to see a live trade. This was in January 2020. He recorded it and would provide the video. The history of the particular trade was opened and all cloud trades were seen. The trading platform was FXChoice. He had

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no reason to believe that this was a demo account. In his view members should be repaid from the coin kept by FXChoice. He gave details of threats to himself and his family. The January 2020 occurrence does not correlate with the FXChoice statement or version that they closed the MTI from August 2019. He had heard rumours that Trade300 was not existent, but was of the view that another broker might have been used, with Trade300 merely being a "cover". He did not believe that Mrs. Nerina Steynberg played any role in the affairs of MTI. He was not involved in any corporate discussions. FXChoice could confirm what the balance was in August, but what was transferred could in his view only be verified by the data held in the MTI back-office. He could not confirm that the final withdrawals or transfers from FXChoice had been to another broker, obviously such as Trade300. The "leaked" record was not correct in that it did not show what was withdrawn. Only access to the back-office could confirm this. He would provide the Attorney for the liquidators with his FNB account statements from 19 April 2019 to date. He confirmed that he had not seen any live trades shown on the MTI back-office. He did not agree that FXChoice had closed the MTI account on 10/6/19 as he had statements up to 30 June which he would provide. If his evidence (from my own notes) is read carefully it would seem that he had only seen live trades on the FXChoice platform.

65. Johan Kruger

65.1 He was an experienced forex trader as well as in gold and silver for 6 years. He has known Steynberg since 2015 when he met him at a presentation held about crypto currency. He is an internet connectivity specialist. On 17 September 2019 after he was contacted he invested USD 100. He traded at FXChoice for a long time. The lone currency is bitcoin and bits. It is never converted to actual money. A



bitcoin is an asset but is never transferred. It is not a financial investment. A crypto currency transaction is purely of a buying and selling of assets nature.

65.2 Regarding the design of the Steynberg Bot – I got the usual hear-say version: Steynberg had an agreement and he could make small changes depending on volumes. He could therefore change the parameters. He showed him a couple of times when trading with FXChoice.

65.3 He knew the difference between a live account and a demo account, and gave reasons why. One could change the ID if one had the skill. In Feb/March 2020 he, Steynberg and Muller looked at the same trade on his account and on Steynberg's account. He also saw a video of 4 February 2020 and statements from 29 June 2020. There were 8 different trading accounts. Every account has between 875 and 1000 coins in them. If more, a new account would be opened. As far as MTI was concerned he could only comment about what he was told by Steynberg, (which is the usual refrain). There were 20 accounts at FXChoice. There were problems in that too many people had phoned the company about their investments. Steynberg then decided to move to another brokerage.

65.4 On 6 November 2020 his laptop was stolen which meant that he had lost most of the e-mails from FXChoice since January. There was an agreement on the back-office which everyone had to sign when joining MTI. This contained "Terms and Conditions", "Advice Disclaimer", general policies and a code of conduct. An investor would have to agree on the particular referral link and accept (by clicking on the link apparently) the Terms and Conditions.

65.5 The Bot of Steynberg was rule-based. It was not an AI Bot (contra the representation made at p. 4 of the mentioned "Referral Program Success Guide"

which I have dealt with). One could write some algorithms by changing to a stop-loss for instance. The relevant software used was Meta Trader 4.

65.6 He read the Terms and Conditions and it was a copy and paste effort. They were not clear and he asked Steynberg to change them. He did not know who had compiled them.

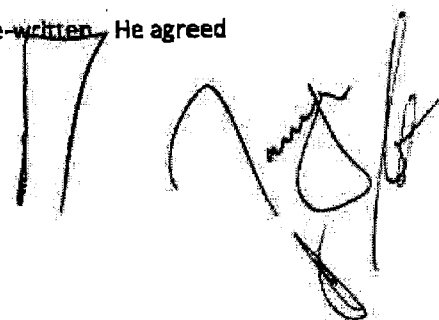
65.7 MTI was not selling a product. It was merely an investor's choice where he wanted to trade. If one sent one's wallet to MTI they had full control over it. Once this was done one could inform others.

65.8 At FSCA Steynberg gave them proof of trade but they did not know what they were looking at (I have dealt with this hear-say evidence above).

65.9 From August the unregulated crypto trading took place. He gave evidence of the roll of Usher Bell and internal strife. Steynberg was the only person with access to the system which concerned him. When FXChoice was the broker a statement in the back-office could be seen and results verified on own account. Automated statements were sent from FXChoice.

65.10 The leaked list of coin was not accurate as it did not show withdrawals. After the FSCA attached his laptop there were daily attacks on the server. It must have fallen into the hands of someone who did the hacking from Steynberg's own laptop. The only accurate list would be the "My MTI Club" website itself. He had no idea what the Indian server could supply. I do not intend to deal with his version of what the hackers did, how and why. There is a conspiracy theory that is highly defamatory, and which I will not repeat for that reason.

65.11 A video was shown to me and explained. The "FXChoice Pro Live" was not a demo. This could be manipulated if the MTI software was re-written. He agreed

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that only FXChoice could confirm the accuracy of what was shown. Trade was not confirmed with FXChoice. They wanted to audit the Bot but since the Marks' practically took over, nothing happened. The live trade shown purportedly related to FXChoice only. Later in August Cheri Marks cut off all communication with Steynberg.

65.12 Andrew Caw (not called as a witness) withdrew 60-66 coin from Trade300. Cheri Marks told him. Cheri also requested 2000.

65.13 What was actually missing was the recovery password where coin is lying.

65.14 Regarding her knowledge or involvement in the business he said that her daughter of 11 years could make payments from a wallet, so could she.

65.15 Regarding Steynberg's alleged departure he said that Marius Worth (a person not referred to by anyone else) had dropped him off at the airport and had waited there for the night. (I do not know whether Worth has been consulted). He added that Nerina had dropped him off, Marius had picked him up and had taken him somewhere and took him back the next day. One cannot reconcile this version. He also added that actually he did not know what Nerina did.

65.16 The account at FXChoice was in Steynberg's personal name. When we wanted to withdraw the company did not allow this and requested financial statements after he had changed the name to a Pty Ltd.

65.17 The most important part of his mainly hear-say or descriptive narrative how things work in general is his reply to the affidavit of FXChoice that I have referred to. It is hoped that the author will still give evidence in a virtual hearing. He admitted that if that version was true, and it was made by a reputable company,

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then it is highly likely that Steynberg did not trade in the manner described to investors.

66. This concluded the fair summary of relevant evidence in my opinion. I have added comments when I deemed it appropriate. I have done this memorandum in the absence of a typed record and merely from my notes. The evidence of Kruger is by way of example much more detailed but not always to the point. In my view the crux lies in the affidavit of FXChoice and his view thereon.

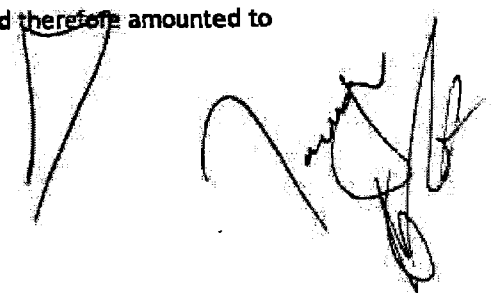
67. The FSCA report has indicated contradictions of various financial Statutes and it is common cause that they have occurred. They constitute criminal offences.

68. It is also clear to me that Steynberg and the management team have made material misrepresentations to the public and material non-disclosures as indicated above. This is fraud. The non-access to the coin by investors in my view amounts to theft, whatever the definition of bitcoin may be.

69. I have no explanation why a warrant of arrest has not yet been issued in respect of Steynberg. That is wholly justifiable on the available evidence and the investigating and prosecuting authorities should be approached in this regard. This would also facilitate the intervention on Interpol, should he indeed have left South Africa.

70. The Contract or Terms and Conditions

70.1 The "Governance" Document is in Bundle 5. It contains an "Advice Disclaimer". It declares that it is an internet-based crypto-currency club: the benefit to members bitcoin growth through forex trading by a registered and regulated broker (FXChoice). This is unlawful and also a criminal offence. The FSCA dealt with this aspect and I referred to it in my first report. All 3 periods of "trading" are relevant and in contravention of s.7(1) of the FAIS Act and therefore amounted to

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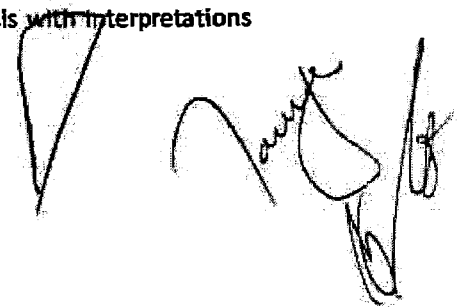
conducting illegal financial services. The overall conclusion by the FSCA in para 162 and 163 of its report is fully justified. (As said, I have no evidence relating to "Cloudbet".

70.2 MTI however stated that it did not portray itself as a registered or authorised financial services provider and all members had to agree that they had read and understood this (false) "Advice Disclaimer".

70.3 Section 2 contains "General Terms and Conditions". The evidence of J. Kruger was that all new investors/members had to agree to these Conditions when they first registered. It is an 11 page document and it is doubtful that anyone actually did read and understand these Conditions. It contains a "Disclaimer of Warranties" in par. 4 wherein MTI absolves itself from any possible liabilities. It also contains an "Indemnity" in par. 7. In effect this means that an investor has waived all possible rights and remedies against MTI. The same applies to par.8 which contains the "Limitation of Liability" clause neither party is liable to the other for any consequential or indirect loss. To add insult to injury it contains in par. 10 an "Amendments and variation to terms and conditions clause" – Par. 10.1 states that "MTI may amend these terms and conditions from time to time, if and when necessary without prior notice and at MTI's sole discretion". A member is also bound for a period of 36 months after cancellation of membership.

70.4 It is clear from the various Minutes of Meetings that Terms and Conditions were materially and unilaterally amended from time to time without any notice to members.

70.5 The Consumer Protection Act 108 of 2008 prohibits in s.48 unfair, unreasonable and unjust contracts and terms. Part A deals with interpretations

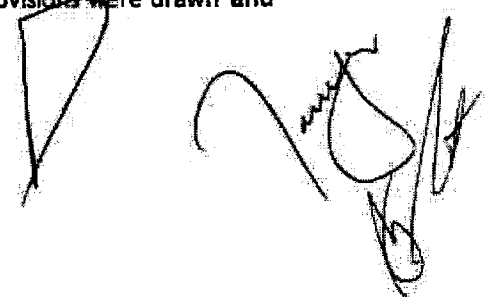
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and Definitions. Chapter 1, Part B deals with purpose, policy and application of the Act. Section 3(1)(a) protects a consumer from unconscionable, unfair and unjust trades practices. Part F (s.40-42 deal with fake, misleading and deceptive representations. On the present facts these were indeed made as indicated. Section 42 in particular deals with fraudulent schemes and offences. Section 43 prohibits a Pyramid or similar scheme. Section 43 (4) defines such, and in my view applies to the common cause facts.

70.6 In my view It could reasonably be argued that the agreement referred to is one that offers services if regard is had to clauses 2.1 – 2V1, and the evidence. "Service" is defined as including "financial services" and "intermediary services" that are subject to regulation in the terms of the Financial Advisory and Intermediary Services Act 37 of 2002, as also found by FSCA.

70.7 Thus, if the Act applies (I cannot deal with the question of the rise and fall in the price of bitcoin over various periods), the mentioned contract would likely be set aside as being the subject of a prohibited transaction, and also unfair and unjust, all against the background of false, misleading and deceptive representations. It also regulates a prohibited pyramid or similar related scheme (see sect. 43, and 43(4)).

71. Should the Act not apply the contract would in my opinion in any event be set aside on the basis that it offends against public policy to introduce, enforce and amend terms unilaterally to the clear prejudice of the other party. Public Policy considerations founded in the Constitution are also implicated i.e. a contract that detracts from all consideration of fairness and reasonableness, objectively seen, against the background of an unlawful scheme. Added to that is the fact that all provisions were drawn and

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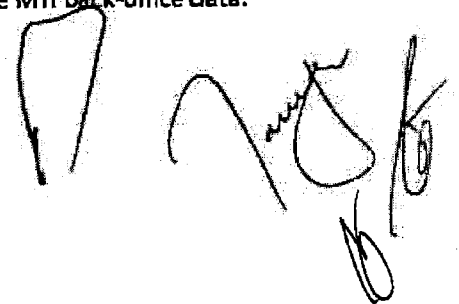
amended unilaterally which would severely "water-down" the usual principles relating to the enforcement of contracts voluntarily entered into, or the sanctity of contracts as discussed in Barkhuizen v Napier 2007(5) SA 323 (CC) at p. 58. This topic was also more recently dealt with in Mohameds Service Holdings Pty Ltd v Southern Sun Hotel Interests Pty Ltd [2017] ZA SCA 176 of 1/12/17. My conclusion is therefore that a court will not uphold an unjust, oppressive and unilateral contract drawn in the context of an illegal trading scheme.

72. There is another relevant consideration that I mentioned previously: no party has a right to benefit from an unlawful contract. See: All Pay Consolidated Investment Holdings Pty Ltd v CEO of SASSA, CCT48/13 at par 30 and 67, 2014(4) SA 179(CC).

73. Regarding the question of use or abuse of other companies such as JNX Online, UPROBUZZ Pty Ltd and Dulospan Pty Ltd the provisions of sections 20(a) and 22 of 2008 Act should be considered and/or s.424 of 1973 Act. In the last mentioned 2 cases the sole purpose would seem to be to protect the properties against execution by the creditors of Steynberg and MTI.

74. In conclusion I must repeat again that I have not had the benefit of the evidence of Mr. Nkomo in respect of UPROBUZZ nor the benefit of the re-calling of Mrs. Cheri Marks for the numerous reasons indicated in this report as well as the information provided by "mybroadband" relating to her numerous inconsistent statements over a lengthy period of time, of which I had no knowledge.

75. Whilst drafting this report I was informed by Attorney P. du Toit on behalf of the liquidators that various bank accounts are still being examined in the context of transactions done by Mrs. Nerina Steynberg, that Maxtra Technologies, who is the Indian service provider is likely to co-operate and to provide the MTI back-office data.

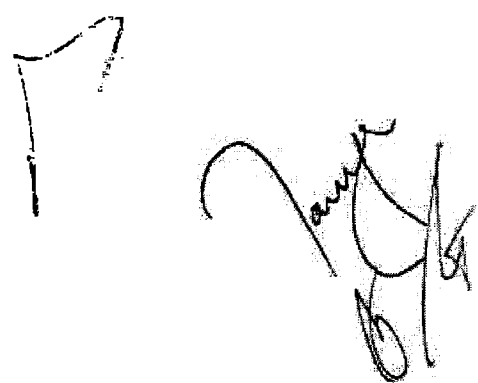
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The computers seized by the FSCA still needs to be analysed once access is afforded.
Other queries raised by me relating to the "leaked" list of investors will most likely be resolved once the database from Maxtra Technologies is obtained.

COMMISSIONER

JUDGE (RETIRED) H J FABRICIUS

Duly appointed as Commissioner by
the High Court of South Africa (Western
Cape Division) under the case number 935/2021
Signed and sent electronically to pierred@mbalaw.co.za

A handwritten signature in black ink, appearing to read 'Judge H J Fabricius', is written over a faint, large, stylized outline of a signature or the name 'Fabricius'.

Enquiry in terms of Sections 417/418 of the Companies Act 61 of 1973 read with item 9 of Schedule 5 of the Companies Act 71 of 2008.

In the matter of:

MIRROR TRADING INTERNATIONAL (PTY) LTD t/a MTI (IN PROVISIONAL LIQUIDATION)

Third Report of the Commissioner, Judge H. Fabricius (r.) dated 16 June 2021

1. Introduction:

This report will briefly deal with the most relevant evidence of witnesses heard as from 1 June 2021. The liquidation application v MTI was heard on 15 June 2021 in the Western Cape High Court. There is also an Intervention Application by the provisional liquidators, who also seek an order that MTI's "business model" or rather "scheme" was unlawful for a number of reasons referred to in the report of the FSCA of 18 January 2021, as well as an Application declaring the contract between MTI and the Investors to be a nullity and unlawful for reasons mentioned in par. 70 of my 2nd report dated 22 April 2021.

2. The evidence tendered between 1 and 4 June 2021:

2.1 J.G. van Deventer:

He was the co-author of the FSCA report of 18 January 2021. This report was subsequently up-dated for the benefit of the National Prosecuting Authority. He confirmed that the FSCA had not yet managed to hand over all documents and

evidence to the Attorneys acting for the provisional liquidators and explained the reason: they utilized external experts at times to do certain investigations. The evidence in possession of those instances / persons had not yet been handed to him. This consisted mostly of hard-drives and mirror-imaging which would have to be analysed. Documents would be in PDF form. The material was vast and a proper search tool would have to be found and utilized to determine the relevance of the particular material.

2.2 He explained that during "the second period" (August 2019 to October 2020) referred to in par. 65-105 of his report, MTI traded in forex pairs. This was common cause. In effect it is betting on the movement of 2 currencies vis-à-vis each other. This is a trade in derivatives which amounts to conducting unregulated financial services in contravention of s. 7(1) of the FAIS Act. It's a criminal offence. This type of trading is merely funded with crypto currency, which is not a financial product and thus not subject to their jurisdiction. I interpose to state that this has been repeatedly shown to be MTI's main refrain: Crypto-currency is not regulated and therefore their business is lawful. I will refer hereunder to instances where even their own Attorneys Ulrich Roux propounded (negligently in my view) this opinion, although they were quite aware of the fact that investors' coins had been pooled and that the Collective Investments Schemes Control Act 45 of 2002 was therefore applicable. It was a repeated misrepresentation to investors and the public that MTI's business was unregulated, and by implication therefore lawful.

2.3 Mr. van Deventer explained that during this period, nor the 3rd period, MTI was not buying or selling crypto currency. At all times trade was in derivatives and therefore subject to regulatory control. These particular derivatives were the so-

called "Contracts for Difference" or CFD's. A CFD is a contract between 2 parties betting on a future uncertain event. Hence the high risk, and, I may add, the impossibility to guarantee a monthly profit.

2.4 In CFD trading the reliability of the counter-part was of utmost importance and it is clear from the transcript of the interviews that Mr. van Deventer had with MTI that he repeatedly, but in vain, sought to establish from MTI who the "other side" was in such CFD trades. (If indeed they took place). It would be impossible to obtain, let alone promise, a consistent 10% monthly profit as a result of such trades.

2.5 They did contact FXChoice for details pertaining to the first period dealt with in par. 48-64 of the FSCA report. FXChoice presented a totally different version than what MTI held out to investors. Mr. D. Stephenson, in his capacity as administrative director made an affidavit on 28 October 2020. This affidavit contained answers to questions posed by the FSCA. Attorneys Coombe addressed a further request for information to FXChoice on 25 May 2021. The background and purpose of the present enquiry was explained to them and they were also requested to authorize a representative to testify under oath via an online platform. This still has to be arranged.

2.6 The replies that FSCA received from Mr. Stephenson clearly show that MTI made repeated false representations to investors and that they sustained substantial losses during that particular period. In Mr. van Deventer's opinion MTI had not expected that the FSCA would contact FXChoice, and obtain reliable information from a reputable source. Hence their move to Trade300, a platform which did not exist. The alleged number of coins transferred by Mr. Steynberg to Trade300 also did not take place, and the sad truth is that they were misappropriated which is

obviously another criminal offence. FSCA could not find details of the alleged transfers on the block-chain, which is public information, as alleged by Ulrich Roux Attorneys in a letter to the FSCA of 7 October 2020. (Par. 3.14 alleging that 16,444 coins were transferred between 21/7 and 24/7/2020). FXChoice also denied such transfers. There is certainly no evidence of any transfer of coins to Trade300.

2.7 Mr. van Deventer emphatically denied that he or Mr. Topham had been shown a live trade by Mr. Steynberg. What they had seen was not of such a nature that one could verify that it was live nor anything to compare it to. Normally, one sound explanation, in his 25 years' experience, solves their concerns, if the explanation is genuine. In this case, this was the second interview, and nothing had been explained. (The 1st interview was on 20 July and the second on 11 August 2020). It was also never disputed that they were trading in forex or CFD's. In response to a question by me he replied that the fraud was not only committed by Mr. Steynberg but also by Mrs. Cheri Marks who was the mouthpiece of MTI, and convinced the public repeatedly by way of social media that the business was lawful as it was unregulated. This is abundantly clear and many of her appearances were on YouTube and were also subsequently analysed by www.mybroadband.co.za. I will hereunder refer to an "interview" that she had with Attorney Ulrich Roux. The latter, upon questioning, confirmed that trading in crypto currency was unregulated and that MTI traded lawfully, whilst both knew, at the very least, that the Collective Schemes Control Act applied to MTI activities.

2.8 In his opinion, Mr. Roux was a well-known Attorney and his view gave comfort to investors. He saw the particular video and was surprised by Roux's statements. (The particular video was for the benefit of the team leaders who had voiced

concerns. It was published by Mrs. Liesel Smith on 23 December 2020 and well as on the said www.mybroadband.co.za website. Mr. Roux was clearly heard to say that in his opinion the FSCA could simply not "fathom the returns" and did not understand the MTI platform through lack of knowledge. The remainder of the 17 minute conversation concerns the likelihood of the FSCA "shutting down" MTI by way of a Court order. The view expressed was also that FSCA was trying to destabilize the crypto market. It was also said that the FSCA had been sent "extensive correspondence". Mr. van Deventer denied that they had been given sufficient information. The details given of the transfer of coin were false. No correct details of the alleged developer of the BOT were provided. Mr. K. Badenhorst was interviewed and denied any input into a recent A1 BOT, nor knowledge of payment for such. There was also no truth in Steynberg's allegation that a "team of traders" maintained it. One could indeed buy a BOT of the shelf but it would not be able to create major success. Trade300 could not be traced. The FSCA kept up-to-date with all new relevant developments and have a team of experts at their disposal to do so. They do belong to an international organisation that shares ideas and assist each other. Internationally the idea is to regulate the trading of crypto currencies. There is no unclear issue about it. It was true however that the mere buying and selling fall outside their jurisdiction. They only take active steps if there is a reasonable suspicion of a contravention of the applicable legislation. Derivative trading is regulated and it is common cause that MTI did trade in CFD. The FAIS legislation was applicable as well.

2.9 He agreed with my view that in the mentioned video interview Roux gave no facts except to state that crypto currency was not regulated. Nothing else of value was

said to investors. This case was in any event not about the crypto market: one could buy and sell and did not need a broker or a specialized platform. In his opinion there could have been no doubt in Roux's mind that the FSCA was only concerned with the question of unlawful trades in derivatives.

2.10 I will refer to the "Roux Files" hereunder, which support Mr. van Deventer's opinion fully, but will not again refer to the particular video. When Mr. Roux gave evidence he admitted that with "hind-sight" he ought to have mentioned the Collective Schemes Control Act. The correspondence and internal emails will show that both Mr. Roux and MTI were fully aware of this fact. It was mentioned repeatedly. The questions posed after the 11 August interview were never answered. There appear by way of summary by Mr. van Deventer on p. 218 in bundle 2, being p. 71 of the actual transcript. In Mr. van Deventer's view there was no evidence of trading in the second period. He could not say to whom any coin (or funds) were transferred to after FXChoice locked the MTI account in June 2020. I must emphasize that if there was trading in second period, it was in CFD's.

3. Mr. Ulrich Roux, Ms. Da Silva Faria and Mr. C. Badenhorst

3.1 They testified on 2 June 2021. On that morning I received 2 arch lever files containing documents emanating from his firm after the necessary subpoenas had been issued to him, and his assistants Ms. Da Silva Faria and Mr. Casper Badenhorst. I studied them after the hearing. They contain emails to and from MTI, internal emails, draft opinions and an opinion from the firm regarding the legality of MTI's operations. As I have said, the bundles were referred to as Volume 1 and 2 but

being bundles 6 and 7 respectively. All 3 persons made affidavits in similar format confirming that all requested documents had been provided to the Attorneys.

3.2 Mr. Roux said the following in par. 5.13 of his affidavit of 19 May 2021, Ms. Faria par. 7.13 of her affidavit of 19 May 2021, and Mr. Casper Badenhorst in par. 5.13 of his affidavit also dated 19 May 2021: "neither I or URA had completed or furnished a final legal opinion relating to MTI. The opinion could never be finalised because pertinent questions asked to MTI on the advice of senior counsel and a forensic accountant remained unanswered. Neither I nor URA received the further information and / or documentation sought and as a result of same, neither URA, Counsel or any third-party adviser engaged by URA could furnish any legal opinion pertaining to MTI".

3.3 This statement is not accurate. Firstly, Mr. Roux confirmed that on the said video he had expressed the view that MTI was acting lawfully. Secondly I will refer to correspondence / emails that show without any doubt that Mr. Roux's firm was of the view that the Collective Schemes Control Act applied to the activities of MTI and had in fact told them so.

3.4 The affidavit is also not accurate in the sense that all documents had been supplied. There is reference to a "first opinion" of Adv. C. Badenhorst which is not contained in the files and the contents of which is nowhere disclosed, nor its date.

4. I will now deal with certain of the documents contained in the said Roux files which are objective evidence of what occurred internally in the firm and externally vis-à-vis MTI. The above witnesses were examined on a number of them and gave their comments.

Mr. Badenhorst for instance agreed that his or his firm's view would have been provided to MTI, especially through Mrs. Cheri Marks.

4.1 It is not in dispute that URA received a retainer of R10,000 p.m. to keep abreast of relevant legislation and to advise MTI of such. In addition they marked fees for certain specific work done in significant amounts. They had numerous consultations with MTI, either in person or virtually. In addition there are many emails that pertain to the central question: The jurisdiction of the FSCA and "the legality of MTI".

4.2 Some of the invoices issued are quite telling. The invoice of 8 April 2020 refers to a consultation with client on 14 January 2020, with Mr. Roux and Ms. Faria. The invoice then refers to "conducting vast amount of research and preparing a "first draft of memorandum". Another consultation with MTI was held on 17 February 2020. Their comments were considered relating to the memorandum and "terms and conditions of MTI" on 3 April 2020. The invoice then refers to 6 April 2020 and a fee is marked for "finalising memo in respect of Bitcoin".

4.3 In file 2 (Vol. 6) one then finds a written "memorandum in respect of the legality of MTI and its Trading Terms and Conditions". There was a previous such but in draft form dated 10 February 2020. The April memo deals with aspects such as – what is virtual currency, - what is Bitcoin, - and the question of what is Bitcoin in South Africa appears in par. 13. It is said that virtual currencies such as BTC are not defined as securities in terms of the Financial Markets Act 19 of 2012. They are therefore not subject to regulatory standards that apply to the trading of securities. The question of taxation is dealt with in par. 19. The terms and conditions are then dealt with, as well as the binary bonus and compensation plan.

4.4 Paragraph 57 refers to FXChoice, an online broker used by MTI which uses software which has a particular focus on forex markets. It was said that FXChoice is a "trusted" and registered online brokerage system. It is then stated that FXChoice specialises in forex and CFD. ("Contract for Difference"). CFD "is a method in a buyer of a commodity, such as BTC, will pay to the seller the difference between the current value of an asset and its value at contract time". In par. 58 it is said that MTI acts as an intermediary between an investor looking to invest in BTC and the online broker. MTI facilitates transaction and interacts with FXChoice in order to use the deposit for the optimal means in securing a return for the investor. FXChoice then takes the deposit and invests these monies into a foreign trading market. MTI serves the purpose of growing the investors BTC. This version must have emanated from MTI and makes it clear, whether it is correct or not, that the period with FXChoice was concerned with forex trading in the form of CFD's, and that these trades were subject to statutory regulation.

4.5 The conclusion of this memo to MTI (Mr. Clynton Marks in fact) is that "Trading in BTC must be viewed as a speculative investment into an emerging market with high risk and high return. As with any type of commodity trading it will fluctuate in value". This warning was not repeated by Mr. U. Roux nor Mrs. Cheri Marks during the mentioned video interview. Paragraph 64 concludes by saying that MTI is an entity which is operating in a legal manner in accordance with our South African laws. It however also explicitly states that returns are never guaranteed, contrary to what MTI before that date and thereafter falsely held out to investors. I need scarcely add that the conclusion about legality is plainly wrong.

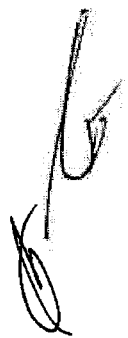


5. On 4 May 2020 another draft in similar form was sent to MTI for comment. This was referred to as the first version: (p. 201, File 2, Vol. 7). The 2nd version, not marked "draft" was emailed to MTI, including Mr. Steynberg. It now contains a topic titled "What is Mirror Trading International...". Par. 5 reads: "MTI is a trading and networking company that uses Bitcoin as its base currency and to pay members bonuses. It uses an automated system that performs forex trading on behalf of its members. It refers to Mr. J. Steynberg as the founder and CEO of MTI. Mr. Clynton Marks is referred to as a director. It states that MTI has 31,609 members in 146 countries and that there are 4,407.27 Bitcoin in trade daily. MTI was said to offer a "reasonable daily profit". Trading and other bonuses are dependent on daily trade results. This makes the company sustainable and able to grow as the member pool increases. (I underline).

6. The remainder of this memo is much in the same format as the previous ones. It concludes again that MTI is operating in a legal manner but that returns are never guaranteed. This is of course contrary to what MTI held out to investors. The schedules to this memo are however marked "draft". They refer to terms and conditions.

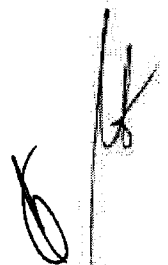
7. On 7 May another such memo was sent to MTI and "info@mymticlub.com". It is not marked "draft". It is a repetition of the above except that the schedules are not marked "draft". (File 2, Vol. 7, p. 275).

8. On 18 May 2020 a memo was emailed to Cheri Ward (Marks), concerning the legality of Multi-Level Marketing Structures in South Africa. It states that MTI refers to itself "as a company which trades Bitcoin as trading software against contract for difference ("CFD" Forex markets). The writer adds however that the memo will not consider the business structure of MTI "as we are not instructed with the workings of the business model". It deals with multi-level marketing structures. It mentions that there is a fine line between MLM structures and illegal pyramid schemes, with reference to a number of text-books. It states in par. 18 that multi-level marketing is regulated in South Africa. Reference is made to the Consumer Affairs Act in this context, especially 5.43 thereof. The conclusion is that the firm would have to understand the precise workings of the MTI referral bonus and binary structures in order to consider whether they would fall within the ambit of 5.43. MTI is warned that "it is exceptionally important to steer away from such structures and to ensure that they do not solely rely on remunerating members only on the basis of referrals to the company". A further consultation was proposed. This memo, with its wise but unheeded warning was written by Casper Badenhorst, to whom I will refer again when I revert to file 1 (Vol. 6) which contains relevant emails.
9. A further memo was sent to the same addresses as the above one, dated 10 June 2020 (file 2, Vol. 7 p. 328). This deals with the legality of MTI and its Trading Terms and Conditions. It states in par. 4 that URA were asked to deal with the legal questions that surround "the trading and investing of crypto currencies, such as Bitcoin ("BTC") and how to navigate the legal ambiguity that surrounds it". It confirms that the information was received from representatives of MTI. The company was described as: a trading

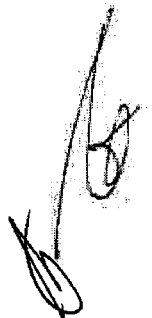


company with a binary database structure that uses Bitcoin as its base currency and pays members profit sharing bonuses. It uses an automated system that performs forex trading on behalf of its members. Trading and other bonuses are dependent on the daily trade results. It provides a platform for persons wishing to grow their Bitcoin on MTI's platform.

10. It will be noticed that (unlawful) forex trading is admitted as at June 2020, and if this is so, why was this simple explanation not tendered to the FSCA during the first interview on 20 July when neither J. Steynberg or Cheri Marks were able to give a coherent explanation of what MTI was doing. By then they obviously knew that forex trading was regulated.
11. In par. 12 reference is made to the requirement of setting up a digital wallet with a minimum of \$100 in Bitcoin value. The MTI broker will credit this Bitcoin to the MTI trading account and trade by using the MTI "licenced BOT". The BOT trades on 28 different "Forex Currency pairs" and utilizes its algorithms to search for the best trade. In the event that currency weakens against another currency, the BOT will then trade that currency on the down or up.
12. It was said that BTC was not considered a form of legal tender and crypto currencies such as BTC are not defined as securities in terms of the Financial Markets Act 19 of 2012. They are therefore not subject to the regulatory standards that apply to the trading of securities. Reference is then made to future regulations and how these would affect MTI such as keeping proper records, FICA requirements and taxation.



13. In par. 44 It was emphasized that the firm was instructed that all the benefits are amassed from joining the optimal binary bonus scheme, are received from the profits accruing in a trading day. No funds are paid out from persons joining MTI. (An obvious reference to an illegal Ponzi scheme). The binary bonus scheme is then described, as well as the referral system.
14. The "Forex Broker" is the next topic (par. 48). It is said that this broker is the online broker used by MTI which uses software which has a particular focus on forex markets. It is stated that "the Forex Broker is a trusted and registered online brokerage system". This Forex Broker specialises in forex and CFD ("Contract for Difference"). "CFD is a method a buyer of a commodity, such as BTC, will pay to the seller the difference between the current value of an asset and its value at contract time. The Forex Broker is fully licenced and a regulated broker". None of this information, if indeed correct, was tendered to the FSCA a month later. The writer adds that MTI acts as an intermediary between an investor looking to invest in BTC and the online broker. The Forex Broker takes the mentioned deposits and invests these monies into a foreign trading market. The BTC is never exchanged for any other currency but rather remain in BTC.
15. The above mentioned description of MTI's activities (emanating from themselves) was unfortunately not put to anyone from MTI for reasons that I mentioned in par. 1 of my Second Report. It would be interesting to hear Mrs. Cheri Marks comment on this version and whether anyone from MTI could bona fide have thought that forex trading



was not subject to any regulatory system. The "Conclusion" stated in par. 53 is also interesting and it is certainly not contained in Cheri Marks' marketing material or elsewhere. It states that trading in BTC must be viewed as a speculative investment into an emerging market with high risk and high return. A wholly unjustified opinion in then tendered "in consideration of the above" that MTI is an entity which is operating in a legal manner in accordance with South African laws, though returns are never guaranteed. This is obviously contrary to the representations made by MTI to the investors. My copy of this memo is not signed.

16. Mr. Roux accepted "with hind-sight" that his video appearance with Mrs. Cheri Marks was intended to satisfy or appease members and new members. He denied however that his statements would have had the effect of enticing persons to join MTI in that the public had been so "bamboozled" by MTI that nothing would have deterred them, as not even the FSCA warnings had an effect. He admitted that he was quite aware of a number of contraventions by MTI but did not refer thereto. He also admitted that he should have referred to the impact of the Collective Schemes Control Act. In my view, his conduct during the said interview was not only highly irresponsible but also grossly negligent and unethical. This may well be a subject-matter for future civil litigation. If MTI members or the public had been properly and accurately informed at that stage, it is highly likely that the warnings would have been heeded, coming from a well-known Attorney who regularly appeared on public platforms. Individual losses would most probably have been substantially less.



17. It is clear from a number of invoices that consultations were held with Usher Bell, Clynton Marks and Zoom connections with "MTI". The persons representing MTI were not always identified in the invoices. Two Senior Council were consulted at a substantial cost. Insufficient information was given to Adv. C. Badenhorst SC for him to complete his second opinion. His first opinion is not in the URA files. It is also apparent from the invoice of 3 June 2020 that the FSCA warnings and notices had been considered. In fact, a telephonic discussion with the FSCA had been held on 27 July (a week after the joint interview with them as recorded). This makes Mr. Roux's said public opinion even more irresponsible.

18. The invoice of 28 September 2020 (file 1, Vol. 6, p. 34) makes reference to researching aspects of the Collective Schemes Control Act, a topic that was in fact mentioned in the memoranda that I dealt with before.

19. On 8 April 2020 Ms. Faria from URA sent an email to Clynton Marks, referring to a completed memorandum, and stating MTI "is operating in a legal manner". This phrase or view was repeated in all the above mentioned memoranda. (Wrongly and negligently in my view). On 23 June 2020 Casper Badenhorst emailed the questions posed by Adv. C. Badenhorst SC for purposes of his second opinion. As I have said, those were never answered by Usher Bell or anyone else. (File 1, Vol. 6, p. 122). The absence of answers should have alerted the firm that there were serious deficiencies, to put it mildly, in MTI's operations. Casper Badenhorst from URA in fact asked Adv. C. Badenhorst SC directly on 9 June 2020 (File 1, Vol. 6, p. 125) whether the CFD trade

that I have referred to in par. 14 above, would be tantamount to an illegal scheme. The Advocate obviously then required answers to the questions he subsequently posed.

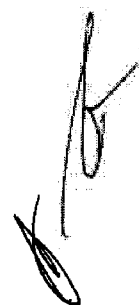
20. It is also clear that a number of persons repeatedly posed questions to URA about the actual functions of MTI and its legality. These questions were simply avoided by merely stating that they were only acting as legal advisers to the Company, and that all such queries should be directed to MTI itself. The red flags that one would have expected were never raised by the firm. See for instance the questions posed by Gary Owen, file 1, Vol. 6, p. 155-159 of 26 June 2020.

21. These type of questions and those put by Adv. C. Badenhorst SC were never put to Mr. U. Bell or Cheri Marks for comment for the reason that already bothered me as appears from par. 1 of my second report of 22 April: Ulrich Roux stated in his affidavit of 19 May 2021 that he had provided all documents on 26 February and 29 April 2021. Usher Bell testified on 25 March 2021. I have mentioned before that in my view Mrs. Cheri Marks should be re-called in view of the many unanswered questions and facts discovered after testimony. Whether this will have any practical effect at this stage of the proceedings I leave to the Attorneys and the liquidators to decide.

22. Having regard to her role and her repeated appearances on various public platforms I deem it important to refer to a very sensible and incisive email sent by Mr. Casper Badenhorst from URA on 30 July 2020 to Cheri Ward (Marks), Clynton Marks and Mr. J. Steynberg. (See File 1, Vol. 6, p. 179). It referred to a discussion with Mr. van

Deventer of the FSCA and its immediate concerns (after the first interview on 20 July). It was stated explicitly that the FSCA required proof that trades were being made by their brokers and that the funds or assets were not being "pocketed". In addition it was said that what is of concern for the FSCA is that the trades being made with FXChoice were not in the name of the actual clients but rather in the name of MTI itself. This is what is known as a discretionary investment for which a licence is required. He continued: "As we have previously advised, the regulatory requirements of MTI come in from the Collective Schemes Act which deals, not so much with how the transaction are funded, but rather how the assets (including BTC) are invested by a provider. The issue here is not that you are trading in BTC, it is the fact that the assets are being pooled together, given to a forex broker and traded in the name of MTI". He requested urgent information to show that trades are being conducted with the brokers and that there is value in such trades. This email was copied to Ulrich Roux and Ms. Faria. It is my opinion that after 30 July 2021 no-one from URA or MTI could have been under the bona fide impression that MTI was trading lawfully, assuming that it did trade.

23. On 31 July Ulrich Roux sent a lengthy email to FSCA together with annexures. It gives details of how trade is done via Trade300, as if the above mentioned email did not exist. Reference is made to a BOT which conducts trade with the Metatrader 4 software. It refers to 2 active accounts on the Trade300 platform, the main account containing 12,645.67 Bitcoin and the secondary account containing 30.74 Bitcoin. It must be remembered that on 7 October 2020 Ulrich Roux wrote to the FSCA stating



that 16,444 Bitcoin had been transferred from FXChoice to Trade300. (See Annexure I to the FSCA report). This obvious discrepancy has not been explained by anyone.

24. Reference is also made to the BOT "which is proactively maintained by the developer". We know this is not true. It is also stated the members of MTI are not locked into any contract. This is also not true. It is further said that MTI does not require the funding of new members in order to remain in existence (see File 1, Vol. 6, p. 181-184, the letter of URA to FSCA of 31 July 2020).

25. The FSCA replied on 6 August 2020 (File 1, Vol. 6, p. 281). Amongst others it was suggested that proof of assets is required. The accounts should be opened in front of investigators to illustrate the balances in the accounts live. It was also suggested that MTI should illustrate live the Metatrader access, BOT trading and the back office function. The FSCA also needed to understand how MTI generated income whilst the clients were not charged any fees.

26. Prior to that, and on 28 July 2020, Mr. van Deventer had sent an email to Mr. Casper Badenhorst. He referred to a telephonic discussion. It was specifically pointed out that when assets are pooled and paid to a forex broker in MTI's own name, an illegal collective investment scheme is operated. Also, MTI is providing financial services to clients with reference to the trading in a foreign currency denominated instrument (i.e. a financial product). Both these activities require a licence. Urgent proof was also

required that MTI's forex assets matches what the clients have handed over in crypto. We now know that no such proof could be provided and I am in full agreement with FSCA's overall conclusion as per par. 161-162 of their report of 18 January 2021 namely that MTI, Steynberg, Cheri and Clynton Marks committed a number of criminal offences in terms of various Statutes and also that fraud on the public was committed. I still fail to understand why the NPA has not yet taken the appropriate steps.

27. On 11 August 2020 Ulrich Roux personally emailed Cheri Marks and Johann Steynberg, stating amongst others that non-compliance with the FAIS Act, as well as the CIS Act were both criminal offences. I must again repeat that it is inexplicable on which basis the subsequent interview for the benefit of team leaders could in all good conscience have been conducted. It is totally and utterly misleading and in fact false.

28. On 17 August 2020 Casper Badenhorst emailed Ulrich Roux and Ms. Faria, pointing out that MTI were acting in contravention of 3 Acts, namely the Collective Investment Schemes Control Act, the Financial Advisory and Intermediary Services Act and the Security Services Act. He suggested that MTI be informed accordingly.

29. On 17 August 2020 Ulrich Roux emailed Mr. van Deventer and Ms. Andrea Coetzer stating that he had been instructed by MTI that it would henceforth "redevelop" the manner which they operate. It would no longer be utilizing the derivative forex market but would conduct all trades within a "purely crypto currency based market" in order

to move away from regulated securities such as the forex market. A statement should be issued to all MTI's customers. It would also inform them of their right to withdraw their accounts from MTI. I am not aware that customers were indeed informed of such "redeveloped system". (See File 1, Vol. 6, p. 279).

30. The FSCA replied on 20 August 2020 (File 1, Vol. 6, p. 284). It re-iterated its view that MTI was conducting an unregistered business and had in fact admitted that during the last interview (on 11 August) it required information regarding all forex brokers since it moved its funds from FXChoice. It also wanted to know how MTI traded during the period 10 June 2020 and 7 August 2020 whilst the FXChoice account was frozen. It was also noted that Mrs. Cheri Marks had refused to provide a client list, which was a contravention of s. 139 read with s. 267(5) of the FSR Act.

31. On 21 December 2020 URA withdrew as Attorneys for MTI citing lack of instructions and Mr. Steynberg's absence.

32. During his evidence Mr. Badenhorst stated that Mr. Roux's Zoom meeting had not been discussed with him.

33. Ms. Faria confirmed that the answers to the questions posed by Adv. C. Badenhorst SC were never received. The remainder of her evidence was essentially in relation to the documents and emails that I discussed above.

34. In my view the above evidence clearly indicates that MTI knew that it was conducting unlawful trading and that it intentionally misled investors almost up to the last moment in late December 2020. Prosecutions should follow. There is enough evidence to justify such.

35. Mr. Stoffel van der Merwe

He is a registered private investigator who was briefed by MTI to establish the whereabouts of Mr. Steynberg who had allegedly left South Africa on 3 December 2020 and did not return by Christmas as had apparently been the idea. Allegations were that he had travelled to Brazil to "recuperate" after receiving threats concerning his safety. He drafted a written report dated 8 February 2020. It is apparent from such that he employed a "team" to do investigations in Polokwane where Mr. Steynberg had resided with his wife and daughter. Much of his report is speculative and based on hear-say evidence. He also undertook to provide further documentation contained in his investigation file. Having read his report and listened to his evidence I am unable to say whether or not Mr. Steynberg indeed left South Africa and where he is at present. There is no official statement from Home Affairs either. There is no point in discussing his report any further in the absence of evidence of his Polokwane "teams".

36. L. Dryer

36.1 He gave his evidence in Afrikaans. I will refer to the salient points of his evidence. We have heard a lot of evidence about the kindness and generosity of Steynberg. Dryer tells a different story: one of cruel greed and deception.

36.2 He had received R2.5 million from an insurance company after his bed and breakfast facility in Oudtshoorn had been burned down. He was also the owner of a similar facility in Bellville. On 23 November 2020 when the house of cards was already in a state of collapse when regard is had to the minutes of a meeting on 17 November 2020 (Vol. 4, p.145), and thousands of withdrawals were taking place, MTI's so-called "prime team" and various guests had a function at his premises. Steynberg was presented with a very expensive trophy, worth over R250,000, so it was said. (Nerina Steynberg denied this later).

36.3 During a conversation at the bar Steynberg had told him that he had bought a gold melting facility that morning. (This is normally used to melt down gold or other precious metals such as silver, and to give it a different shape or form so that its origin cannot be traced. It is apparently a well-known method for money laundering). During that talk Steynberg produced a silver coin and offered it to him. It was a silver Kruger Rand. He presented it at the hearing and it will be analysed.

36.4 On that day Steynberg briefly explained how MTI operated by "trading" with Bitcoin and that he guaranteed a profit of 10% p.a. but if the coin increased in value, the profit would be higher.

36.5 When they were about to leave the next morning Steynberg showed him between 6-8 boxes contained Kruger Rands. The size of these was about that of a CD holder (height of 10-15 cm). The weight of between 200-300 kg was mentioned.

36.6 After further explanations about the opening of "profiles" and further promises of the 10% p.a. profit by Beukes, he transferred his money between 10 and 11 December although he knew that Steynberg was in Brazil by that time. Kruger helped him establishing the required profile. He transferred R2.5 million

from Exodus and then to MTI. He had a guest-list plus a number of photos of the occasion which he would forward to the Attorneys. There were WhatsApp conversations with Kruger and Beukes.

36.7 He also mentioned that during that evening Botha had asked for access to his safe to deposit cash. He was told it was between R250 and R500,000. Steynberg also mentioned that they wanted to deposit R15 million in an ATM. He did not know who was in control thereof. This discussion was between Steynberg, Botha and Kruger.

37. Nerina Steynberg

37.1 She also gave her evidence in Afrikaans after having been warned by Attorney P. du Toit about the importance of the oath, especially the importance of the "whole truth" and the possibility of a charge of perjury. She gave her evidence sometimes tearfully and at other times with belligerence.

37.2 She was shown a letter from a pensioner who had invested and lost R700,000. She agreed that Steynberg had been admired by many because of his believed expertise to make huge profits. She herself was not materialistic.

37.3 She was not aware of the vast amounts of cash that were carried.

37.4 She was shown the silver Kruger Rand. She had also received one. Regarding her knowledge of the silver that had previously been mentioned during the enquiry (see par. 51.5, par. 60 regarding Usher Bell's role, par. 62.9 Charles Ward's explanation of R2 million worth of silver held by Usher Bell, par. 63 the evidence of Ignatius Bell, referred to in my second report of 22 April 2021) she suddenly provided a written document emanating from "Goldsave Primary Co-Operative"

wrongly dated 12 January 2020 which reflects that Usher Bell had handed to Johan Kruger the precious metals referred to in 3 attached addenda. These reflect hundreds of silver coins from various countries to the value of R750,000. She did not previously refer thereto because she was "not asked". Neither Usher Bell nor Kruger had referred to this either and one must wonder why not? The correct date would be 12 January 2021.

37.5 She also mentioned that her husband had shown her silver bars, about the size of a match-box, which was regarded merely as an investment.

37.6 She repeatedly said that her husband did not discuss his affairs with her. They had a happy marriage but she did not see much of him during 2020. She did not accompany him when he regularly played golf at the Polokwane Club. She did not know that he had donated R1.5 million to the Club. She did know however that he had supported 84 caddies during the lock-down period.

37.7 She knew nothing about a gold smelting facility or of any Cannabis farm in Stellenbosch.

37.8 She denied that she could take control of MTI if her husband disappeared. This topic was discussed during a Management meeting on 9 December 2020 (Vol. 4, p. 162), whilst Steynberg himself was online. She denied that her husband would have said so. She worked full-time at Pick 'n Pay and only occasionally helped when withdrawals were made with the aid of a spreadsheet.

37.9 She waived the right to any Bitcoin in her possession and to those that she had transferred to her friend L. Tillburn, who in her evidence also waived any such right to the coin.

37.10 She knew nothing about a farm in Panama though she did hear that he had purchased one. It was apparently only a plantation.

37.11 She could not explain why, if her husband had indeed been threatened, he had arranged to be back from Brazil for Christmas. She mentioned his friend Viljoen and McDonald who would have joined him there.

38. I will not repeat her version as to what occurred when she allegedly dropped her husband at OR Tambo airport, and why he only flew the next day. There are conflicting versions who had accompanied them. (See par. 51.15 of my second report at p. 35). The whole scenario does not make sense, and I am certainly not convinced that he flew to Brazil with Qatar Airlines via Doha. The airline itself, according to S. van der Merwe was very reluctant to provide information via a phone and requested a personal visit, which van der Merwe did not do. There is simply no reliable information where Mr. Steynberg is, but in my opinion his wife knows more than she is prepared to say. I have previously requested that Mr. Worth be contacted who allegedly can give evidence about his presence at the airport and what occurred there.

39. She did mention that she had a photo from Brazil which was sent via Signal to her and Brandon. She could not determine where this was taken. It was not on her present phone as she had swapped the sim card to a new phone. Experts can apparently determine where photos sent to Brandon were taken, and who had given or provided those to her.

40. She was also not aware of the fact that her husband had lent R5 million to a friend. She was aware of 2 loans, one to Hein Viljoen.
41. She also knew nothing of substance about Trade300 and "Camilla".
42. She gave some strange evidence about a device used by her mother, which apart from being able to determine blood pressure, could also by way of Johann's DNA determine that he was held in India and had suffered stab-wounds. I do not intend to say anything further about this nonsense, but it may well be an indication that her mother does not know where Steynberg is.
43. She also confirmed that she was a director of JNX Online, but did not know what her duties were as such, nor did she know who the shareholders were. She added that she had said so previously, which indicates that there is nothing wrong with her (selective) memory. This company pays her R50,000 p.m. for household expenses. She could give no evidence about transfers and transactions between JNX and Duppa. She just thought that Bitcoin had been sold. (See p. 115, the Standard Bank Statement of 15 July 2020, Vol. 8). She had no access to the Standard Bank account.
44. The remainder of her evidence basically consisted of denials of knowledge of persons and transactions reflected in bank statements contained in section 6 of Volume 8.
45. She also waived any right that she may have had to the Jaguar vehicle bought for her. She agreed that this vehicle be sold at fair market value.

46. Of interest is that her property is substantially bonded (over R2 million) despite the huge amounts of cash that the enquiry was told about. Her explanation was that it belonged to her and she wanted to pay off the bond herself. It is likely that this was done to protect this property from creditors, should the empire collapse one day. It would also indicate in my view that she had more knowledge of the unlawfulness of MTI's operations and the risks involved.

47. She confirmed that Club Swan still has to transfer over R300,000 to her Capitec account and she agreed that this would be kept in trust with her Attorney.

48. I was informed that there will be further evidence, especially by FXChoice and that suitable dates would be arranged. A further report would then be furnished.

COMMISSIONER

JUDGE (RETIRED) H J FABRICIUS

Duly appointed as Commissioner by

the High Court of South Africa (Western

Cape Division) under the case number 935/2021

Signed and sent electronically to pjerrred@mbalaw.co.za

