

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 FINAL LIQUIDATION)

Fourth Report of the Commissioner, Judge H. Fabricius (r.) dated 11 April 2022

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**Introduction**

1. This report, which deals with the most relevant evidence of witnesses heard from 23-25 March 2022 and on 1 April 2022, is best read in conjunction with my Interim Report dated 10 March 2021, my Second Report dated 22 April 2021 and my Third Report dated 16 June 2021. The scheduled resumption of the hearing on 29 March 2022 involving the last part of the evidence of Mr McDonald was postponed at his request to 11 May 2022. The next hearings will be held from 9-13 May 2022, and a further report will follow on the evidence that still remains relevant, taking into account the objects of this enquiry.

**Events subsequent to previous hearings and my reports**

2. Since my last report I have not been informed of further development in the Cape High Court by the Cape Attorneys Mostert and Bosman, though I did on two occasions give my consent in terms of s. 417(7) of the said Companies Act that my mentioned reports be utilised in further litigation. One related to an urgent preservation application against Mr J Usher Bell and Mr N. van der Merwe, whilst the other related to an application and counter-application by the Marks'.

- 2.1. MTI was placed under final liquidation on 30 June 2021.
- 2.2. The Liquidators Pretoria Attorneys are now Strydom, Rabie, Heijstek & Faul Inc, under whose auspices I have, and will, conduct the hearings already referred to.
- 2.3. A number of applicants (N. Boshoff, J. Bell, M. Bell, I Bell, W. van der Merwe, G. Lassens) obtained an order in the Western Cape High Court (Case no.

20660/2021) that the s. 417 enquiry involving them, be stayed, pending amongst others, the determination of the main dispute, namely that MTI is not able to pay its debts.

- 2.4. This judgment was delivered on 18 January 2022. It is not for me to comment thereon except simply to point out that the s. 417/418 enquiry is not a public enquiry or "public event", but is in terms of section 417(7) "private and confidential".
- 2.5. I was also informed that the Marks' launched a similar application for the stay of a further examination of them, be stayed, pending a review of the decision by a Magistrate to issue a subpoena for their appearance and the supply of documents. This application, under case number 609/22 was brought on an urgent basis in January 2022. An "interim order" was apparently granted, but at 10 April 2022 the Court's reasons have not yet been furnished. Again, my comment is not required.
- 2.6. The answering affidavit to that application provides useful information as to how the events unfolded after FX Choice in Belize decided to close the MTI account. In particular, the affidavit of Mr C. Pederson, a certified cyber-crime and fraud examiner, provided significant information, and unless further investigations or information have overtaken his conclusion, he should be called as a witness.
- 2.7. An application is to be heard in the Western Cape High Court in late April, brought by the Liquidators more or less in line with my views relating to relevant common law and statutory provisions pertaining to the lawfulness or otherwise of the MTI scheme, as discussed from par. 70 of my said second report. Such judgment by whichever Court, which finally decides this issue, would in my view

be crucial as to the further duties of the Liquidators in regard to the distribution of "assets" obtained to bona fide investors.

- 2.8. It was reported that Mr J. Steynberg was arrested in Brazil on 6/7 January 2022 for using false identity documents. It is as yet not clear when or whether he will be returned to South Africa.

**The evidence tendered between 23-25 March 2022 and concluded on 11 May (McDonald)**

3. **Mr A.G. Caw:**

His role is first referred to in par. 46 of my said second report. Mr Johan Kruger also referred to him as per par. 65.12 of this report.

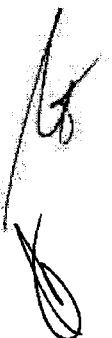
4. A bundle of documents of 300 pages was utilised for his efficient examination by Attorney S. Tintinger. It contains Exhibit CAW1. This is a written response to the subpoena/witness summons and is dated 3 March 2021. A second written response dated 28 May 2021 is Exhibit CAW2.
5. I will deal with the crux of those written responses and the additional comments of Mr Caw thereon, and will for present purposes ignore the legal arguments contained therein. That topic will have to be dealt with at his next hearing, as it is not for him to say which documents (or even evidence) are/is private.

**The Coin's Buyers Club ("CBC")**

6. This is a "Bitcoin Services" company. Mr Caw is the director and it is managed exclusively by him. As a brokerage, the company merely purchases and sells, and does not hold stock. He also provides consulting services.

**Mr Caw's Involvement with MTI: The reply of 2 March 2021**

7. Prior to August 2020 he had made personal investments in Bitcoin since about 2014. The brokerage commenced in the middle of 2016. During August 2020 Ms Cheri Marks, a long-time friend and business associate (from BTC Global, a failed cryptocurrency scam) contacted him to provide advice with the establishment of a proposed new "MTI Management Team" which MTI had discussed during the so-called "Stratcom" meeting held on 23/24 July 2020. (Ms Monica Coetzee had referred to a strategy conference held at the end of July 2020 – see par. 17 of my second report). Prior to the call CBC had no business relationship with MTI. He attended that meeting and Mr J. Steynberg "reluctantly" appointed a "Board and Management Team". He was never a member thereof. As is routinely his practice he did a limited external investigation and inquiries concerning MTI's business operations, including validating trade data published by MTI "in the back office of members, to determine if publicly published factual information was legitimate". He concluded that it was, based on his unconditional reliance on "Trade data" records reviewed by him from a random selection of days for the previous 12-month period, which unequivocally matched actual market data for those days. He had also established from other third parties that they had similarly validated "Trade data" that unequivocally matched live markets. I may interpose to report that, having regard to the affidavit of FX Choice and their evidence, as well as the evidence of the FSCA, no trade had taken place a year earlier, i.e. July 2019. In fact, Mr J. Steynberg had admitted during the FSCA interview, that MTI had dealt with CFD's (contracts for difference), i.e. the exchange rate of one currency versus another. Nevertheless, Mr Caw, had on that basis, like the others, been deceived (see par. 9 of my second report), if he is to be believed.



**MTI/CBC: Brokerage Services**

8. After the "Stratcom" meeting, MTI made limited use of some of the CBC services, particularly the Brokerage Services to sell Bitcoin for Rands, which funds were paid by CBC into the MTI Standard Bank Current Account and later the Nedbank Current Account. These transactions occurred between August and December 2020. Mr Caw annexed a complete breakdown of these transactions, as he said, though it is not clear from the bundle exactly which annexure he was referring to. In any event, these were routine business transactions.

**MTI/Bitcoin Bulk Payment Services**

9. MTI made limited use of the CBC services for batch Bitcoin payments for its staff/employees between August-December 2020, totalling 6. A breakdown of these transactions was annexed in the bundle Exhibit Caw2 pages 45-50.

**Other Involvement of CBC/Mr Caw**

10. Except for doing certain administrative works such as the CBC Strategy Document (Exh. CAW2, p. 116-120), a certain email on the instruction of mainly Ms Monica Coetzee (as per his evidence), his first reply states that neither he nor his company, had involvement with MTI's clients funds and/or MTI trading activities.
11. The following events are however relevant – these emanate from his first written reply:
- 11.1. On 12 June 2020 (p. 35 Exh. CAW2) he drew a buyer's guide for clients who wished to purchase coins and put it into MTI if they wished. It is noted that after purchase and transfer to MTI, the coin "will be in the hands of MTI where they will load it into your trading pool automatically";

- 11.2. He unequivocally established that factually, the entire technical and financial side of MTI's Bitcoin trading activities was completely under the exclusive ultimate control and supervision of Mr J. Steynberg;
- 11.3. None of the rest of the management team of MTI had access to the website "back-office team" (Maxtra) and/or the Broker and trading platform (Trade300) and/or the Bot developer (He had never met or heard of Mr K. Badenhorst);
- 11.4. Mr J. Steynberg was the only person handling Bitcoin transactions, as he exclusively controlled access to the Bitcoin Trading Pool of all the MTI Club Members directly or via the Broker;
- 11.5. He raised this potential risk with Mr J. Steynberg who assured him that his wife Nerina Steynberg, "had full access to everything should he be unavailable". I have addressed this point in par. 20 of my first report and par. 46 of my second report. As appears from par. 50.8 of this report Mr. L. Gray confirmed that the said Nerina was in fact the so-called 2IC, although she herself denied it during her evidence;
- 11.6. In addition to this "safety protocol" an e-mail was set-up to transmit all the required access and contact details for the back-office and broker, to both Mr Clynton Marks and Ms N. Steynberg should Mr J. Steynberg factually not log into the MTI back-office for a period of 12 consecutive hours. Reference to this email has been made previously: It was dealt with in my first report at paras 20-21, in my second report at par. 15.2 via the evidence of Mrs Lombard and Ms N. Steynberg at par. 51.7. It appears from the CAW file (Exh. CAW2, p. 178-179) that Ms Cheri Marks had emailed persons on 16/12/20 at Maxtra in India, confirming that this email had been received and requesting that Mr A. Caw be given the required access. Mr Caw during his evidence stated that the





password contained in this email (see p. 178, Exh. CAW2) had been changed by Maxtra, probably because they required that monies due to them be paid first. It appears that later \$45,000 was paid and access to the database given, but there is also repeated evidence that this could never be accurate for a number of reasons, including the alleged fact that it had been "hacked" during December 2020;

11.7. In his first report Mr Caw added that after a long delay a "withdrawal report" from Maxtra had been received but that it was self-evident that the "broker" was not making any further payment of any coin to MTI, to enable it to make payment of Bitcoin to particular MTI Club members who had expressly instructed such withdrawal request.

12. It is not disputed that CBC and MTI entered into a Service Level Agreement dated 21 August 2020 (not signed by MTI, Exh. CAW2, p. 37-43). This dealt with the scope of the work to be provided by CBC and other aspects of no particular relevance. As far as remuneration was concerned, CBC would receive 1% of the total amount of Bitcoin transferred. Apart from having performed the administrative tasks that I have mentioned (sending and receiving emails in the main – see Exh. CAW2, p. 272-276). Mr Caw denied that he had ever been employed by MTI or had served on the management team. The database emanating from Maxtra on 22 December 2020 was not 50GB as mentioned previously (according to his reply – Exh. CAW2, p. 272) but only 3GB.

**Mr Caw's Second Response of 28 May 2021**

13. The following emanated from his response:

13.1. He confirmed that the only communication he had with Trade300 were emails with Camilac@trade300.com. I may add that no-one who had testified had ever

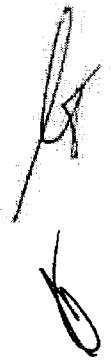
met her and I have previously mentioned that this so-called trading platform did not exist but was merely an alter ego of Mr J. Steynberg (see my first report p. 8 which refers to the opinions of the FSCA in this regard).

13.2. Mr Caw also stated that the MTI back-office is no longer accessible to access statements. They did however reconstruct deposits and withdrawals history from email confirmations. He attached all the deposit and withdrawal emails for A. Caw and CBC along with a statement showing all transactions. These details were not dealt with during his evidence and the forensic team will no doubt have done any necessary examination thereof.

13.3. He did not have a record of commissions or referral bonuses earned from MTI.

14. Other relevant evidence:

14.1. This will be dealt with in summary form only rather than in the form of a more detailed discussion such as one would find in my second report. The reason for that is that as expert forensic investigator had prepared a written report after having obtained access to the back-office from Maxtra. He also gave evidence with reference to exhibit bundles and certain screen-shots. This occurred after Mr Caw had given evidence. Given time constraints, and the complex nature of the evidence that had to be collated and prepared, it was not available to be put to Mr Caw for comment, who would in any event have to be re-called given: firstly his written replies to the two subpoenas referred to, and secondly his comments as Mr Victor's evidence which I will deal with, with the benefit of a typed record of his evidence. At this stage I can simply say that all indications are that Mr Caw was heavily involved in the affairs of MTI (together with the Marks') and that his evidence to the contrary cannot be true. A final conclusion on this topic can however only be given after Mr Caw has been given a proper



opportunity to study Mr Victor's evidence and to comment thereon. Given the nature of the expert evidence, much of which is quite astounding in the light of my previous 3 reports which were prepared without any knowledge of the back-office, it is essential that Mr Caw be re-called by way of a very carefully and precisely drawn subpoena.

- 14.2. With reference to his SLA, his remuneration referred to therein and the "bulk Bitcoin payments rendered on behalf of the customer" (Exh. CAW2, p. 40) he explained that process: if a company needs to pay multiple beneficiaries in Bitcoin, he would process that as a single payment. The client would send one Bitcoin payment to them which would then be split up for payment in a bitcoin-to-bitcoin payment i.e. the supplier pays them in Bitcoin and they pay their clients in Bitcoin. The splitting of the Bitcoin was done by a software system capable of doing 16,000 transactions in half an hour. The payments would go to the wallets of the recipients. A private key must be used to create a wallet, and the wallet will generate an address which would be provided to MTI normally. Before he does the said transfers he would require a list of the wallet addresses.
- 14.3. His relationship with MTI also entailed a buy-and-sell component which was a standard service offered to anyone.
- 14.4. With reference made to 6 such payments made on behalf of MTI (Exh. CAW2, p. 45-50) he stated that these were not paid in fact. The Rand value was simply indicated for MTI's benefit. It also indicated his 1% transaction fee. MTI could do this themselves (i.e. pay "support salaries" and make other payments) but as one scales up, it would be very time consuming to make many small payments. Mistakes could easily be made whereas their automated system was very efficient. For instance, they had a client who was paying 16,000



people a week. They could do that in half an hour whilst the client would require 2 full days doing pay-outs every week.

- 14.5. He (or CBC) had no way to determine whose coin was sent by the supplier. It was simply transferred to the address that he provided. He would simply assume that but could not prove it. In the context of MTI those coins could in fact have emanated from any wallet of MTI, Mr Marks or M.J. Steynberg. He could not verify that.
- 14.6. He did business with Mr Marks for many years including "during this time", i.e. the MTI years.
- 14.7. He did not keep a record of the originating coin as there was no reason to do so. In any event it was difficult to link a wallet address to an individual or an entity. He also never kept no record of any wallet addresses. With handling other people's Bitcoin, he always used a brand-new wallet with no history and destroyed it afterwards so that the transactions is as secure as possible. This does not have to be so as a supplier's coin could simply be used to pay a third party, but he preferred to keep each transaction as a new wallet that he knew to be secure.
- 14.8. Destroying that wallet simply removed his access to it. It does not destroy the actual wallet or the transactions in the blockchain. The blockchain cannot be changed or destroyed and the transaction chain is always visible on the network.
- 14.9. It would be very difficult to say that coin belonged to a particular person because there are no names. The only manner in which this could be done would be if a particular person would say that a particular address belonged to him or if it



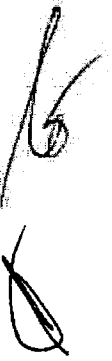
was somehow linked to a KYC platform where they acknowledge ownership of it. This would be dependant on that person's say-so.

- 14.10. He explained that ownership was a very tricky thing in Bitcoin, one did not really have ownership, one had control. A private key meant control as this was linked to a wallet address. In Bitcoin control is ownership. (There is a debate in legal circles on that topic which I do not intend to enter herein). Control of the private key was everything in his opinion.
- 14.11. A private key is basically a very large number and that number is used to cryptographically generate wallets and wallet addresses. In effect it would be like a private key to unlock a bank vault.
15. It is impossible to guess a private key. If the key is lost the coin is lost.
16. CBC also provided a brokerage service which converted BTC in fiat. That was its main business. They also provided such services to MTI. It would be given a deposit address, coins would be sent to it, these would be sold and Rand would be paid into the MTI account, as an example. They did not quote an exchange rate upfront. Once a coin is received they would source or trade at the best rate possible. CBC did not hold stock but filled orders as they came in. The originating party was not required to disclose the identity of a coin. There was also no way to verify whether the sender of a coin was the "owner". A Bitcoin trade could also not be reversed.
17. In some ways transactions are easier to trace because they are public, but in other ways it is harder because there are no named accounts, just wallet addresses.
18. He was asked about his impression as to who had control over coin at MTI. His reply was quite significant: it seemed that all the "technical stuff" was run by Mr Steynberg.



His understanding was that the Bitcoin was either controlled by him or by the broker. This was merely his impression and he could not remember the specifics. I may say at this stage that the evidence of Mr Victor painted a completely different picture.

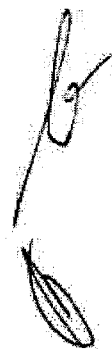
19. As Minutes of Board meetings would show (I have discussed these in previous reports) there were discussions about the topic of control, and Mr Steynberg's role or responsibilities. The idea was that he would be second-in-charge (the so-called "2IC"). This was about October/November 2020. He could not recall whether before that, he spoke to either of the Marks' about the control of coin topic.
20. He did not receive any response to his written proposals or recommendations. They did bulk payments and brokerage transactions for a while. Then at some point Trade300 came up and he was asked by Ms Marks for a proposal on how to verify bitcoin balances. Trade300 was the (alleged) new broker after FXChoice, according to Ms Marks. He had never heard of it, thought that he did a few emails with Camilla, but that was the only contact he had with it.
21. Ms Marks said to him that she had the transaction ID's of the payments between FXChoice and Trade300, and he did not query it. These ID's proved that Bitcoin moved from one wallet to another, but it would be very hard to prove that the source wallet was FXChoice or that the destination wallet was Trade300. He had a "look" at transactions but could only see movement of coin: there were valid transactions but one could not verify where they came from or went to. He told Ms Marks that one could not determine what actually went to Trade300 unless one knew its deposit address.
22. He knew of no evidence to indicate that there was an actual transfer from FXChoice to Trade300.



23. He was referred to an email from Ms Marks to Camilla dated 2 October 2020 (Exh. CAW2, p. 54). Mr A. Caw was referred to as "our contracted crypto expert". Mr Caw know of no such contract, he said. Mr Steynberg was copied per a gmail address. On 5 October 2020 Mr Caw sent an email to Camilla. He wrote: "We want to be able to cryptographically prove that MTI has control of the Bitcoin balance they have with Trade300", and for other facts relating to wallets and a private key. Ms C. Ward (Marks) was copied as well as Mr J. Steynberg. On 6 October Ms Marks asked Camilla for feedback and again on 12 October 2020. Camilla purportedly replied on 13 October (Exh. CAW2, p. 55) as follows: "The BTC held by us is stored amongst a vast spread of addresses. To protect the privacy of our customers, our technical team regularly hide the origin of the BTC held by us by exchanging to privacy coins and back to BTC..." Mr Caw commented that this would be "stupid" as it would incur network and exchange fees. She continued: "We do not have a specific address for a specific customer. Customer B1C are confirmed, exchanged and mixed regularly to fulfil our privacy needs. Therefore it is not possible for us to sign a message on a specific MTI wallet.... I can confirm that the total MTI BTC held by us is 19,672.6285". Mr Caw commented that it was not practical to mix some 19,000 coin and to incur costs.
24. Mr Caw commented further that she was in fact saying that a completely private platform, Monero, or similar, was used to sell and buy back Bitcoin, which would incur a fee of between 1% to 3%, which would be 190 BTC per one occasion, which was "insane". The answer did not make sense and was an avoidance of his questions.
25. When he logged into the back-office he saw almost the exact number of coin mentioned. He could log in because he was a member and the "landing page" did show the stock in trade. He however had grown to believe that Camilla did not exist, so he could not trust her email.



26. On 13 October 2020 (Exh. CAW2, p. 56) Ms Marks (Ward) asked Camilla for suggestions on how they could prove their BTC balance irrefutably to their members without compromising privacy or security. According to Mr Caw there was no reply to this.
27. He also noted that on 5 February 2021 he emailed himself a note on the BTC in the pool and the BTC in trade. There was an extra 338.4825 in trade compared to the number given by Camilla.
28. Mr Caw agreed that it seemed that there weren't coins anywhere else that at Trade300.
29. He never paid Camilla a salary.
30. He was referred to his last inter-action with Camilla by way of an email dated 26 October 2020 (Exh. CAW2, p. 57). This was after the FSCA had raided the houses of Steynberg and the Marks'. Ms Marks phoned him to ask Camilla to freeze the trade account because they were worried about Mr Steynberg's laptop being taken. In theory, he added, the trade account was controlled from Mr Steynberg's laptop. There was no response. He did not know how they would then later re-establish access.
31. After 26 October 2020 he did not know how investors would be paid.
32. On 29 October 2020 he still had to make a bulk payment for salaries. It was R253,000 plus BTC 6.5 plus \$2000 all paid in Bitcoin but with those base values converted to Bitcoin. Mr Steynberg arranged the payment to him. He did not check where these coin originated from despite the events of the previous days. He had, on behalf of MTI, given instructions to Camilla that access be stopped. Mr Caw however regarded this request as a "favour" to Ms Marks. In addition he denied that Ms Marks played any role in CBC. He also knew about the FXChoice warning to investors. Similarly he knew





about the "cease and desist" order of the Texas regulating authority. He then received coin and fiat in excess of about R1.6 million (Exh. CAW2, p. 47), but despite all that he insisted that he had no proof that anything wrong was going on, as he put it. His client was MTI and not Ms Marks. He admitted though that when all these red lights were seen accumulatively, it sounded "bad" (p. 93 of the typed transcript). Added to that was his involvement (allegedly only as an investor) in BTC Global.

33. Leaving aside the evidence of Mr Victor for the moment (but that will be in addition to the above considerations, or "red flags"), the question can even now be asked whether or not section 4-6 of the Prevention of Organised Crime Act 121 of 1998 as amended, will apply. The same question must be asked in the context of relevant provisions of the Prevention and Combating of Corrupt Activities Act 12 of 2004. Does s. 424 of the Companies Act of 1973 apply? These will be dealt with in more detail at a later stage but the main question in the given context remains: what would the reasonable person in Mr Caw's position, with his knowledge and experience, have done? Ask questions or remain supine? Section 7 of the first mentioned Act places a duty on a person to report a reasonable suspicion of unlawful activities.
34. Mr Caw then emphasized that he did not, on behalf of any other person, invest or transfer coin to MTI so as to allow it to pay its BTC investors. Neither was he aware of other persons or entities doing such. He also had no evidence of any loan to MTI, except that Mr C. Marks "apparently" lent Bitcoin to MTI but he did not have any details of such loan. He just "heard about it". He could not recall who told him about it. According to Mr Marks's claim (Exh. CAW7, p. 1) a loan of 400 BTC was made to MTI between 31 October and 12 November 2020. This was a few days after a FSCA raid. He had forgotten about it, but he was asked to do an analysis report (Exh. CAW7). He was told by Mr Marks of the transactions emanating from him. He could not say that the Binance exchange wallet address was proof of any control by Mr Marks.

35. A debate ensued between the examiner and the witness on the meaning of the whole of the analysis and its evidential value. It is not necessary to report such for present purposes. The point really made was that Mr Marks would have to prove that he owned the Binance account from which the first two transactions described in his analysis, were paid. The 3<sup>rd</sup>, 4<sup>th</sup> and 5<sup>th</sup> transactions did not provide any proof of any loan at all. The purpose of his report, as per Mr Marks's request, was to show that the funds he paid over were used to pay out members, but he used the analysis to provide proof of his claim, which it did not. Mr Marks provided his information by email and Mr Caw undertook to look for it, as he would for any record that showed that Ms Marks gave him the TXID of an alleged transfer of Bitcoin to Trade300.
36. Mr Caw added that he did not obtain anything from Maxtra except for the withdrawal list. They did not send the database, which to him, was in any event a hacked copy. Mr Victor testified to the contrary I may add at this stage.
37. Regarding the alleged loan by Mr J. Steynberg he said that one needed a transaction ID or a wallet address to start with, and they did not have that.
38. During all relevant times he only did one sale for Mr Steynberg but could not remember the exact date.
39. With reference to a Board Resolution of 29 August 2020 (Exh. CAW2, p. 95) he stated that, contrary to its recordal, he was never appointed to the Management Team as "Bitcoin Expert Advisor". He was also given no such responsibilities. Apart from the mentioned SLA he was never employed by MTI in any official capacity. His mentioned role relating to the sending of certain emails was simply on an ad-hoc basis. In December 2020, after Mr Steynberg's disappearance, he advised Mr Marks and Ms Cheri Marks on how to obtain access to the systems and how to process withdrawals, for purpose of assisting MTI. The withdrawal report that he eventually obtained

reflected that 16,000 members were waiting for payment. He did not know what the total Bitcoin was.

40. Mr Caw was referred to what he described as a trade log (Exh. CAW2, p. 96). It purports to reflect trading on 15 December 2020. Although it emanated from his own documents, he did not recognise it. It was part of his second statement (AQ3003), and must have been sent by Trade300 to Ms Marks who then sent it to the Maxtra team and copied it to him. The relevant email from Cheri Ward (Ms Marks) is dated 18 December to "Tushar" of Maxtra. It was copied also to Monica Coetzee and Ulrich Roux. Maxtra was the Indian team that was running the back-office website. He did not ask Ms Marks where she obtained these statements from. He assumed the broker who had conducted the trades in Mr Steynberg's absence. (For the proper context, relevant emails appear at Exh. CAW2, p. 101).
41. Maxtra had demanded \$45,000 before providing back-up of the MTI system including the database. This was then purportedly sent to him as per email dated 22 December 2020 (Exh. CAW2, p. 272). A link to a "MTI Zip" was given. That was only the structure of the MTI back-office website without the database which was apparently 50GB but they only sent 3GB. He followed this up with Maxtra but they did not fulfil their promise to send it.
42. Mr Caw was then referred to his own annexure (AQ640) in Exh. CAW2, p. 733. This was an email from the said "Tushar" to him with a login to the entire back-office.
43. On 16 December 2020 Ms Marks sent an email to the said Tushar, described Mr Steynberg's departure and the "emergency email" already referred to which contained login information for the server. It also referred to Mr Caw as being the "designated person" and point of contact for the Maxtra team (Exh. CAW2, p. 182). Mr Caw attempted that login but could not as the password had been changed. It was noted by

the examiner that written questions would be put to Mr Caw at a later stage. The point being to determine whether at that time there was access to the full MTI database and whether it had been compromised. Mr Caw must be re-called but prior written questions may indeed be advantageous.

44. Mr Caw did not know that one could access the MTI back-office at that time, being 25 March 2022. He was asked about his investments in MTI. He had done a recalculation based on what information he had. He was referred to a number of accounts on a screen. Most persons shown were related to him. It was pointed out to him that he could access the back office with his username. This would show the full history of BTC deposited and withdrawn, and he could check it for accuracy and report back.
45. Mr Caw was then excused on the basis that further questions would be sent to him in writing and that he replies within 14 days. If it was necessary he would be re-called on a date to be arranged.

**Mrs Kritzinger**

46. She gave evidence again on 23 March 2022, having previously dealt with her evidence discussed in my second report of 22 April 2021 (par. 54).
47. She confirmed that she did work for Mr Marks prior to her joining MTI as book-keeper in August 2020. She did book-keeping for him as well as certain administrative tasks. She was still doing work for him in that capacity.
48. She gave brief and rather vague details of "MDC" (My Daily Choice) when she met Ms Marks. It was a failed Multi-Marketing Scheme, and "CWE" which "traded" in either crypto or forex or both. She was not sure. Mr Marks was involved in that. She made

a small investment in it, in Bitcoin. Her Luno account was empty and she had no other account for bitcoin with any other exchange.

49. Ms Kritzinger was then shown exhibits in a Dropbox folder on a screen. I was handed an exhibit bundle.
50. Exhibit RK13 is the back-office trading history of her account with MTI. The trades are shown in reverse order. Her account "RobynKritz11" started with a trading bonus on 12 August 2019. On 19 August a deposit of .018 BTC was made. She had no idea why she earned a trading bonus before there were any coin in her wallet. Mr C. Marks had explained to her how a trading bonus would work. She could not really remember what he said. (I must note that Ms Kritzinger had previously testified that she had memory problems).
51. Similarly, and for that reason, she only gave vague details of FXChoice. Her understanding was though that she had to open a new account at MTI because previously all funds were held in Mr Steynberg's name at FXChoice. A new profile then had to be created. She did not deposit coin in August 2019. That must have come from FXChoice. She was not asked for consent – it just happened. Mr C. Marks had made the first deposit for her. She had no records reflecting her investments. She could not recall whether she could access any website.
52. Mr Marks had said that he would create an account in her name for payment of her groceries. This was done out of goodwill.
53. He would benefit though, because it created a binary tier beneath him. He asked her to recruit other persons, but she did not.



54. She was then asked to explain the business of MTI/Mr Steynberg/Mr C. Marks. Her explanation is of no value. It was not explained to her how the business model would work in those initial months. Mr Steynberg kept the records of MTI before August 2020. She was not involved and Mr Marks only recruited.
55. She was also not informed what the issues were with FXChoice, again alleged issues of memory I may add.
56. She was shown exhibit RK10, an Excel spreadsheet titled "MTI all members-list Clynton email 7 August 2019". She recognised that, but did not know where she got the information from. She also did not know what the purpose was. She did it for Mr Marks. The data was sent by Mr Steynberg to Mr Marks, she then added. He in turn would have sent it to her by email. She was asked to search for it. She only did this exercise once.
57. The reference to "account" would be the account that Mr Steynberg gave to each member, with a unique account number. This would have been in the old system. There was also reference (in Column E) to a "FXChoice account number". She did not know what it meant if a person did not have such a number. "Migrated to pool" probably meant that the account was transferred from the old system to the new system.
58. The BTC shown as 14,13384147 should be attributed to Mr Marks' downline. Other vague information was provided which has little value but after a "flashback" Ms Kritzinger remembered that the purpose of the exercise was for Mr Marks to prove how much recruiting he had done. The same applied to investors under Mr Steynberg. Exhibit RK10 was actually not the full database of all investors. She was totally unaware of other sponsors.

59. It then appeared that she had also recruited others but Mr Marks too had signed up people in her name. She only recruited Mr Mc Creath.
60. Exhibit RK11, an Excel spreadsheet was then shown to her on the screen, the title being "MTI binary August 2019 Clynton/Johann team totals". This reflected only Clynton sign-ups she said. (She was then asked to trace all emails emanating from or concerning MTI for the period April to August 2019).
61. These were then provided and recorded as Exh. RK19. She agreed that this seemed to be a full list of members excluding only the newest members and free members, i.e. persons that did not have funds with FXChoice. Having regard to an email dated 8 July 2019 from Mr Steynberg to Mr Marks it appeared that the list with consecutive account numbers seemed to be a full list of all investors as at 8 July 2019.
62. She disagreed with the proposition put to her that she was actually very much involved in the administration of MTI. It was actually a once-off exercise for Mr Marks' benefit.
63. She agreed that those mentioned investors seemed to be the same as those in BTC Global. Mr Marks had people recruiting for his business, and if one "opportunity" was not working, they would be offered another one. She overheard phone calls in her office but denied any knowledge of BTC Global.
64. On 7 August 2019 emails were sent from Mr Marks to her, after Mr Steynberg to the former. The subject matter was again "MTI all-members list". Numbers 1 and 2 now appeared being Mr Steynberg and Mr Marks. The account numbers again ran consecutively. The total was 679. She agreed that this seemed to be the entire database at the time, and accurate. The same spreadsheet of 7 August 2019 indicated a total of BTC 18,1479 being the balance of the Bitcoin taken over into the MTI back-office. The examiner noted that this was very important as it was the first primary

evidence on what was taken over from FXChoice to the MTI platform. (See however the affidavits of Mr C. Pederson dated 14 January 2022 and 20 August 2021 filed in the Western Cape High Court in the Marks application Case no 609/2022.

65. She was then referred to her email with attachments dated 8 August 2019 to Mr Steynberg. The total of BTC 0.318 was in her profile. Her method as shown as the attachments was simply to tie up the names that she could link to each other. She obviously could not say who had introduced who, but relied on the data obtained from Mr Steynberg.
66. She agreed that seemingly this was the first record of binaries that were compiled. Again she denied that this was in fact another example of her doing administrative work for MTI. It was done at Mr Marks's request.
67. A further email from her to "Don" dated 12 August 2019 was pointed out to her. This was Don Nkomo, used by Mr Marks "for any computer-related stuff". He would help people to sign up as members on the new MTI platform. She sent this to him on her own initiative as Mr Marks did not open his emails. She denied that this was sent for Mr Nkomo to be able to enter this data into the new MTI back-office. It was sent as a back-up for Mr Marks. This supposedly confidential list of members was sent to Mr Nkomo while he was clearly also a promotor of MTI, with many members beneath him on the spreadsheet. She agreed that it was then possible for him to see who his competitors were, and who their members in the tiers were.
68. With reference to Exh. RK13A, p. 23, line 579, she agreed that the back office was open with effect from 12 August 2019. The credits were then introduced on 19 August.
69. She thought that Mr Steynberg and his team would have processed all of this data in the back-office. She had no idea who was in this so-called team.





70. Her own investment is reflected in Exh. RK12. She had invested BTC 0,1875767 but her total credit was BTC 1,322. Exh. RK13 reflected a withdrawal of BTC 1,32. She was asked on which basis she had earned the trading bonus. She understood it to be her proportional profit of the daily trading done.
71. Ms Monica Coetzee drew the sketch titled "MTI percentage pie drawing – Monica" (Exh. RK7). It reflected that a daily trading bonus accrued and how it would be divided. It reflected amongst others that MTI earned 10% of all trading profit as its own income. Ms Coetzee drew this for her to understand the system and how to bring fiat currency into the books. She thought that this was just a proposal as to how daily profits would be divided but did not know whether it was accepted. This was around September/October 2020.
72. For the rest of the year she kept Mr Marks' Rand bank accounts.
73. In August she heard through social media that the Texas regulator had issued a "cease and desist" order. She did not discuss it with Mr Marks at the time. She was paid a monthly retainer by Mr Marks of about R6000 p.m. After the "fall" of MTI she was paid R10,000 p.m. from a Standard Bank account.
74. When she commenced her duties as a book-keeper in August 2019 she told Ms Coetzee that she had to bring assets into the books. There is no point in repeating this part of her evidence. It is dealt with in par. 54 of my second report. She was never supplied with the BTC asset value. Ms Coetzee also told her that she did not have facts either. She voiced her concerns that only Mr Steynberg knew the answer. The landing page at the back-office did however reflect the BTC in trade. This could not be the total however as "they only traded some of that" as far as she knew. She did ignore the back-office as a point of reference to determine the stock. She also had no idea where (in which wallets) the BTC was being held. Despite having known Mr Marks for years,

she did not ask him, as her channel was through Ms Coetzee. She never ultimately received a stock figure.

- 75. Her further evidence relating to the income shown is confusing and contradictory having regard to her evidence as dealt with in my second report (par. 54).
- 76. In November she became aware of MTI's inability to pay BTC to investors as she did not receive the usual pay-out. There was a vague reference to "hackers into the back-office". In December she heard that the Standard Bank account was blocked. Mr Steynberg could not be contacted either.
- 77. She knew nothing of an alleged loan of 400 BTC to MTI. Mr Marks's claim of a 400 BTC is Exh. RK16. This was news to her she said. It was never disclosed to her as book-keeper. In fact, as a conclusion, all she did in that capacity was to compile a list of expenses and forced an income against that.
- 78. Mrs Marks had contended in her evidence that the books were restricted to only what happened in Rand and the BTC was excluded from the books of account. She agreed.
- 79. She was also never informed of the existence of a separate MTI club.
- 80. Ms Kritzinger was the author of the Excel spreadsheet Exh. KK3. It is titled "JNX statement 19 February to 16 August 2020 Johann coded". It seemed to her that she imported the detail from the bank statements of JNX Online. She sent it to Mr Steynberg for comment so that she could pick up MTI expenses or income. This account served as a bank account for MTI. The items marked "P" were Mr Steynberg's personal transactions. She could see income but no trading activity on those bank statements. She could not explain certain major expenses i.e. R2 and R2.5 million. Ms Kritzinger was given time to consider Exhibits RK4 and RK17.



81. She was referred then to Exh. RK18, a proposal by M. Coetzee and herself dated 22 September 2020. The document speaks for itself. It dealt with the MTI BTC income and expense amounts and how these should be brought to account weekly to accurately reflect the percentages shown in the drawing (a "pie" division). The weekly chart reflected on page 2 thereof was merely a "guesstimate" and reflected an example only. She never received any figures to accurately reflect any income, be it simply a basis of meeting the liability historically or on the actual income.

82. Minutes of a Board meeting held on 22 September 2020, Exh. RK19 were shown to her. She could not recall attending this meeting but she must have then as it was so reflected in per par. 7. Her previous recommendation that income needed to be reflected historically, was not followed. It is debatable whether Ms Kritzinger was just a book-keeper. She still needs to provide her opinion on exhibits RRK4 and RK17, and should again be asked to do so.

**Mr B. McDonald**

83. He and Mr Steynberg were best friends, he said. They last spoke on 12 December 2020 per video call on Signal. He was in Brazil at that time. He, Mr McDonald, probably would have phoned him. This call was not recorded. On 15 December he sent him a message on WhatsApp asking him to call his wife. He received no response and called him without success. This was a Signal call. Since then there was no further communication with him.

84. Nerina, his wife, was at his home three/four hours a day trying to get MTI staff paid.

85. On 15 December he attempted to obtain his passport from Home Affairs without success. Nerina phoned him to say that she had received the fail-safe email that has been mentioned a number of times.

86. When Steynberg left South Africa he stopped using WhatsApp and asked him to get onto Signal, which has better privacy settings.
87. He did send him messages on Signal, copies of which he would provide, apparently 40 of them.
88. The idea initially had been that he would join him in Sao Paulo. His communications on Signal commenced on 6 December but apparently Mr Steynberg left South Africa on 2 December. He did not accompany him to the airport. He told him that he was worried about his safety and that he should leave the country for a couple of weeks. He told him that in November in Stellenbosch after the FSCA "trouble" and the "enormous hacking at MTI". He said also that he was afraid of being arrested and showed him an anonymous email stating that his life was in danger and that he should leave the country. He did not disclose his destination which he only discovered later. Nerina told him that he was in Sao Paulo probably around 4 or 5 December, probably while at his home. She also told him that he had flown with Qatar airlines to Sao Paulo via Dubai or Abu Dhabi and that a return flight had been booked for 23/24 December. She was not concerned about that but about his safety.
89. Screenshots were taken from his Signal messages with Mr. Steynberg (Exh. BM9). These were debated in some detail. Nerina knew that he had intended to join him in Sao Paulo, from around 21 December. She was however aware that he was attempting to renew his passport.
90. Nerina told him that she had communicated with her husband by Signal up to 15 December. Then the fail-safe message was received by her.
91. Screenshots of messages with Mr Steynberg were then discussed on the basis that there would be no interest in personal matters. Mr McDonald was then given time to

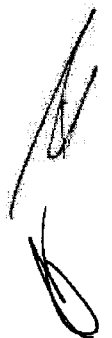


look at these shots and to make the distinction between private matters and those relating to Mr Steynberg. The latter were then received via "AirDrop" consisting of some 120 pages. The relevant ones were collated into a bundle, Exh. BM10 (pages 1-173). These screenshots only commenced on 23 December 2020. Before that it would have been via WhatsApp or a normal call. That was deleted as Nerina had changed her number and because she wanted the security of Signal. Mr McDonald however then "found" some chats that had to be read by the examiner, and Mr McDonald was then (on 24 March 2022) excused until 29 March.

92. It was also noted that he had extensive communications with Mr Johan Kruger, a previous witness (par. 65 of my second report). These needed to be read as well and Mr McDonald had "no problem" in providing those as well (typed record, 24 March 2022, Vol. 14, p.58). On that basis his evidence stood down until 29 March. On that day however he appeared with a legal representative who requested time to consult with him regarding possible privacy issues apparently in terms of the Protection of Personal Information Act 4 of 2013. His evidence was therefore postponed to 11 May 2022. Other evidence will be heard during the week 9-13 May, and this will be dealt with in a further report.

**Mr N. G. du Plessis**

93. Early in 2018 he started trading Bitcoin on peer-to-peer websites, such as Local Bitcoin.com. On those sites he advertised to both buy and sell such. He would also use other sites such as Luno and VALR. He would take advantage of the difference in prices between the various platforms.
94. At that time he met Mr J. Steynberg virtually on that platform. They had a trading relationship until they took trading off the platform and communicated trades on



WhatsApp. He would sell or buy Bitcoin on an agreed price. He was then not a broker but traded directly. He did not hold anyone's coin.

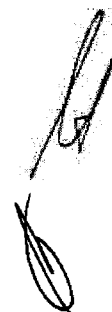
95. In 2019 he started a company "Duppa+Duppa", so that he could move trading into a business as apposed to doing it in his personal capacity.
96. Around August 2019 Mr Steynberg told him about his new venture called "MTI" and sent him an introductory video. He viewed it and the returns "seemed promising", but he did not like the multi-level marketing aspect of it. The Industry was also not regulated. He was uncomfortable with the idea that his coin would be in a trading pool under someone else's control. He had found over time that that type of activity which promised amazing returns were all scams. At that time he had no reason to believe that MTI was a scam, it was only a year later that he thought so.
97. He had heard of BTC Global but did not know who was behind it.
98. He was a software engineer and could write programs. In theory one could trace and follow a Bitcoin route but this was a specialist field and difficult. Addresses and wallets don't necessarily have names associate with them.
99. Documents provided by him were then dealt with, Exh. DUP2 was a summary that the witness provided by email on 24 February 2021 concerning his involvement with MTI. Annexed to that summary were a number of messages between him and Mr Steynberg. His communications with Mr Steynberg were almost exclusively by WhatsApp.
100. He never invested in MTI, not in his name of anyone else's. The benefit of his WhatsApp communications was that later he could, if required, reconcile every transaction.
101. He was referred to Exhibit DUP3, an Excel sheet prepared by himself with the title "Johann Steynberg trade history". He prepared that for purposes of this enquiry. It

speaks largely for itself and I will deal only with the important aspects emanating from it:

- 101.1. Regarding the purchase and sale of Bitcoin, he was not a financial services provider, and he was not regulated in any financial advisory environment;
- 101.2. All his transactions were done as EFT's, there was no cash involved and the KYC was being done by the banks anyway;
- 101.3. In any transaction he required the person's ID together with a "selfie", and needed certainty that the payment he received was from that person to avoid third party involvement;
- 101.4. Despite these precautions there were still people lying about the involvement of third parties, which was far too risky. He ceased selling peer-to-peer as a result in about March 2021;
- 101.5. Since then he would make private purchases and sell those on Luno or VALR, and the difference in price would represent his profit;
- 101.6. When he transacted with Mr Steynberg on 2 July the ID, "selfie" and KYC did not exist, the reason being he would have conducted the KYC the first time that Johann bought from him on Local Bitcoins, who wipe the chats after about a year;
- 101.7. He did not have a system verify that the Bitcoin sent to him was from the actual "owner" or someone else's. He could not verify the origin of the coin;
- 101.8. He did not ask any seller to warrant that he was the owner;



- 101.9. He would only send a coin once the bank has cleared the funds;
- 101.10. When a new client wanted to buy Bitcoin he would ask them a series of standard questions to avoid any scam;
- 101.11. When buyers raised an intention to invest in MTI he raised his mentioned concerns and later the information about it in the public domain.
102. A typical transaction with Mr Steynberg was reflected in Exhibit DUP4. It was noticeable that prices vary almost minute by minute.
103. Usually they did business on the Local Bitcoins exchange, the peer-to-peer website. On 8 July 2020 he was told to pay JNX Online. There was no system to establish why he would have to pay someone else.
104. It did not trouble him when Mr Steynberg said that he is selling BTC for a friend to a Capitec account whilst the BTC was in his LBC account.
105. With reference to Exhibit DUP4, p. 11, Mr Steynberg wanted to sell BTC for a friend on 8 August 2019. He gave him a quote and received an account number of a certain "Odendaal". He did not ask whose BTC it was.
106. In the early days he would not have asked Mr Steynberg the mentioned cautionary questions, as he was not even aware "of all those scams". He formulated those questions possibly late 2018 or sometime during 2019 by which time he had a trading relationship with Johann.
107. He did not ask those questions after August 2019 when he knew about MTI. Only very later on in the relationship did it arise in his mind that Mr Steynberg may be selling coin

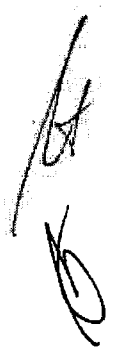




belonging to someone else or MTI. This would have been after his discussion with the FSCA.

108. In respect of the said Odendaal transaction he asked him whether he was sending the coin from LBC. The reply was: "from my Blockchain wallet". The point was that if he was sending it from Local Bitcoins he would give him his Local Bitcoins account. If he was sending it from elsewhere he would give him his Coindirect (CYR) account. There were many different wallet providers, one being Blockchain.com, but he could be sending it from any wallet. There was no way for him to verify whose name that account was in.
109. Similarly, when he was given the account number of a certain "Gouws", Steynberg did not say who the Bitcoin belonged to or even if it was Gouws's Bitcoin. It could have been MTI BTC, Mr du Plessis conceded. It was not unusual to receive an instruction of Bitcoin traders to pay a third party, although traceability could become an issue. Both MTI and Steynberg would fall out of traceability. This was however the norm according to the witness. He had no reason to be suspicious that Mr Steynberg was trying to scam him.
110. With reference to the said summary of trades (Exh. DUP3), the total turn-over of BTC sold and bought was R26 million. During that period Mr Steynberg sold R22,511,748.15 coin to him. The period was July 2019 to December 2020. From October 2019 until the end of December 2020 he only sold BTC to him, and never bought. He did not know where the coin came from. People were trading on different platforms all the time. It could well have been, as he himself has been doing, that Mr Steynberg had built up a good trading stock (I note that R22 million seems like a huge amount but the number of coin may well be few, depending on the price).

111. There was also a "strange" payment to the Polokwane Golf Club. I do not intend to repeat details of other payments. The witness would obviously not know the reason for any particular payment, and usually this would be a question for argument if these proceedings were like a civil trial.
112. Mr du Plessis conceded that he followed the MTI "story" on social media. He would have obtained a lot of news from a website called Bitcoin.com. He did not think that MTI was declared to be a Ponzi scheme at the time.
113. He also became aware of the FSCA raid. That was about the time he spoke to Mr B. Topham. It was also the time that he ended his trading relationship with him (See Exh. DUP2, p. 4). This refers to contact with Ms Andrea Coetzer of the FSCA in November 2020. He had been aware of their earlier cautionary note. It did not affect his business with Mr Steynberg and he agreed, in retrospect, that this looked "very bad". (One must consider though that in general, in criminal law, proof of intention is required, and that entails proof of awareness of unlawfulness. I will however briefly deal with applicable legislation hereunder).
114. It was put to him that with his knowledge of BTC, his knowledge of the abuses of Bitcoin, his knowledge of multi-level marketing should have led him to have reasonably known that what was occurring could very well be the theft by Steynberg of coin belonging to MTI. The witness replied frankly: "In retrospect, yes definitely". At that time however he had no reason to suspect that Mr Steynberg was selling MTI coin to him. He never had the feeling that Mr Steynberg was trying to scam him in any way. It never occurred to him. In all their transactions he was always the first one to send any payment of Bitcoin. However, seeing events as they transpired afterwards, it seemed "pretty obvious" that he should have exercised more caution.



115. He himself had no knowledge of how to trace coins from a Cloud Bots site (which he did not even know of) back to MTI.
116. It never occurred to him to have asked Mr Steynberg, when he requested to sell, who do the coin belong to? I might add, what would any convincing reply of Mr Steynberg have meant to him? He could have been told a litany of lies, with nothing at his disposal to verify a version.
117. It was put to the witness that in the light of his evidence and ex part facto concessions even, I would be requested to consider certain applicable sections of the Prevention of Organised Crime Act No. 121 of 1998.
118. Exhibit DUP7, correspondence between the witness and Ms A Coetzer of the FSCA was handed in, nothing of significance needs to be reported.
119. I have considered the applicability of sections 1-7 of the said Act. For present purposes the most important and relevant provision is the Definition and Interpretation part. Section 1(2) and 1(3) is the decisive one. Mr du Plessis denied any knowledge or even suspicion of unlawful conduct by Mr Steynberg or that he had the knowledge or means to verify any representation made to him, despite his own knowledge of the trading in Bitcoin. I believe that this should be accepted on the facts such as they were at the time of his dealings with Mr Steynberg. He ceased to trade with him after the FSCA raid and made the effort to have discussions with Mr Topham of the FSCA. Most importantly it was only fairly recently that the back-office became available to the liquidators and it took months for experts to unravel the affairs of MTI. Mr du Plessis last spoke to Mr Steynberg in early November 2020. One cannot ascribe the knowledge that one now has, after months of investigations and the calling of dozens of witnesses, to Mr du Plessis during the period that he dealt with Mr Steynberg. In addition, as I have said, even if he had asked Mr Steynberg relevant questions, as perhaps he ought



to have in retrospect, what would he have made of any plausible reply or explanation? He probably would have been misled like dozens of other persons in his particular field of expertise. There were also no means at his disposal, financial or otherwise, to have made any independent enquiry of MTI affairs. Even at this stage experts in the field have had difficulties in putting together a plausible reliable mosaic.

120. My opinion therefore is that a prosecution under this Act would not succeed against Mr du Plessis. I have grave doubts in fact whether a coherent charge sheet could even be drawn in this context. I do not think that Mr du Plessis ought reasonably to have suspected that he was part of or was made part of unlawful activities by Mr Steynberg. It can also not be said, with the available and known facts at that time, that he assisted him to benefit from proceeds of unlawful activities. He did not know anyone else at MTI to consult, and even if he had done so, the outcome would almost definitely again have been a litany of lies, impossible to verify any version.
121. I therefore do not recommend that a charge or charges be laid against Mr du Plessis in terms of the said Act.

#### **Mr Vaughn Victor**

122. Mr Victor gave expert evidence on a number of separate but inter-related topics with which I will deal with as such. He holds an LL.B degree and is an admitted Advocate of the High Court of South Africa. He is a registered insolvency practitioner. He is an associated member of Certified Fraud Examiners, International Chapter, a certified Bitcoin professional. He is also a certified crypto currency and blockchain investigator, the certification being done by an international Blockchain Council, which is a private-public co-operation group that has been established by the IRS, like SARS, the FBI and Homeland Security. He is also a crypto auditor, one of only two in Africa, one of 50

world-wide. He assists a number of Government agencies as well as the United Nations Drug and Crimes Office as well as the European Union Cyber Group.

- 122.1. During January 2021 he was approached by the liquidators regarding the investigation into the trade, dealings and affairs of MTI. Most of the information that was received or was available was an open-source-intelligence basis such as information from correspondence, emails, bank statements, service providers and employees of MTI. He and Mr Craig Pederson from TCG (The Computer Group) started actively with the investigations in March 2021.
- 122.2. Mr Pederson made an affidavit dated 20 April 2021 as I have said dealing with the aspects of the MTI database that ultimately became available and which dealt with the purported trades at FXChoice and Trade300, which was in his opinion only an alter ego of Mr Steynberg and in which no trades occurred, contrary to the witnesses dealt with in my second report. It is my recommendation that he be called as a witness to confirm his affidavit.
123. He was part of about 99% of all enquiries to date and also assisted with the sequestration application of Mr Steynberg. They were also provided with the information available to the FSCA which included electronic devices which the FSCA seized from the Marks', and other electronic data obtained from devices. There were also communications such as discovered from WhatsApp.
124. The Marks' had also been involved with BTC Global. There were objective identifiable similarities between BTC Global and MTI. The latter commenced after about a 14 month "cooling off" period after the collapse of the former. A number of persons were active in both entities especially the Marks', Mr A. Caw, Liz Malton and Mr Willie Breedt. The scheme was much the same: the CEO of BTC Global, allegedly Mr Mark Twain was seldom seen, no-one had access to him and no telephonic conversations with him

took place. The "exit" plan was also the same as in MTI: the leading figure disappeared. Mr Twain was never seen again, if he existed at all. The new scheme then required a new face, a physical person whom people could trust and believe in. I will deal with this aspect hereunder when the actual life and role of Mr Steynberg acquires a more concrete picture.

125. Mr Victor gave details of the persons involved in BTC Global. The database of MTI obtained from Maxtra was compared. Apart from some same persons involved in both schemes, certainly not co-incidentally, the same wallet appeared in both schemes, i.e. same users that were in BTC Global moved to MTI.

126. A system was built around the back-office called MARS (see the annexed affidavit of Mr Victor dealing with this in some detail). It was like an investigative tool giving all relevant details of members joining, Bitcoin received and paid out, clustering of emails and telephones. One could see when individuals joined MTI, most post March 2020. They suspected that the Marks' still had the controlling email list and cell phone numbers of the previous scheme and with that they built a database and commenced sending out correspondence to individuals to join MTI. One could pick up that certain investors featured in every scheme. Main recruiters and leaders in BTC Global also actively participated in MTI to recruit members. Some examples were a Mr C. Venter and Mr Willie Breedt.

127. Mr Victor gave details emanating from the MARS system that the social media were manipulated but for present purposes these are not relevant.

**Mr C. Marks' Wallet**

128. The position of Mr Marks and the flow of funds emanating from MTI and him was then presented with reference to Annexure 4 of "Victor bundle 3". The flow of funds is

imperative in ascertaining the source of funds. As evidenced by the Maxtra database and the back-office, wallet "..... ZIM" belongs to him. Under the heading "Search Results" the number "7176010" appears. This is Mr C. Marks' primary account with MTI. His username is "Daydream". A screenshot from the MTI back-office shows the wallet address associated with him (Figure 3 in Annexure 4). Payments 2 and 5 appear there. There are outward payments, out of the system, so when Mr Marks requested a withdrawal out of MTI, he would then elect a certain wallet which would receive his funds. Since the time of BTC Global, the ".....ZIM" wallet was identified as one of his primary wallets.

129. To continue with detail it is best to refer to what is contained in Annexure 4 with reference to Figures 1-10. The Marks' "..... ZIM" wallet first received Bitcoin on 9 March 2018 and first sent Bitcoin on 19 September 2018. Until the date that it was no longer used, 11 December 2020, it had transacted a total of 957 Bitcoin. At least 917 of those originated from MTI during that period. Figure 4 taken from the Qlue Software shows the starting transaction dates and the turnover in Bitcoin on his wallet.

130. Figure 5 shows all deposits to Marks' "ZIM" wallet for the period 1 January 2020 to 19 December 2020. The bulk of payments originated from MTI. The wallet received about 400 BTC during this period.

131. Table 1 of Annexure 4 shows the deposit transaction block reference, the date and the BTC amount for inbound transactions to Mr Marks' wallet originating from MTI wallets. The total was BTC 473,876. In the context of accuracy: the Blockchain is an open block which cannot be manipulated: it is like the verification statement from a Bank.

132. Table 2 indicates "Indirect MTI deposits to wallet ending ZIM". Indirect payments are funds that did not follow directly from a MTI wallet to the ZIM wallet: there was always an intermediary wallet like a mixer or an exchange, a Binance exchange wallet. All the

indirect deposits into his wallet originated from MTI. Most of them were payments directly from members' Bitcoin, i.e. members deposited Bitcoin into MTI, these were pooled in a wallet and from that wallet certain individuals were paid. On the software one could see that new members' Bitcoin was used to pay old members. The total of indirect payments is BTC 444,516.

133. Wallet ".....CabF" was first used on 13 February 2018 and last transacted on 8 February 2022. During this time it transacted 851 BTC. (Inputs into this wallet appear in Figure 9). It is the same wallet address used to affect the payments by Mr C. Marks to Mr A. Caw. (Details will appear hereunder). Figure 10 of the said Annexure shows all the movement of all the funds from Marks' "CabF" wallet to the Binance "INDY" wallet which later effects payments to Mr Caw as evidenced in certain WhatsApp conversations and further evidenced by references on the Blockchain.

134. Annexure 4.1 – "Caw/Marks transactional wallet" refers to a WhatsApp dialogue wherein Mr Caw makes mention that he has set up a wallet specifically for his transactions with Mr Marks: he provided the wallet address ".....Wdk". (Figure 1 is a screenshot of the relevant conversation). This wallet was seen first receiving on 13 August 2020 and last seen receiving on 23 October 2020. Figure 2 depicts the deposits to this wallet. Payments by Mr Marks to Mr Caw appear from the "Transaction Block" indicating the BTC amount of 88.266. All the deposits to this wallet were traced to originate from two wallets i.e. the Marks' MTI "ZIM" wallet and ".....bu1s", the Binance exchange wallet. The wallet deposits thus concur with the statement made by Mr Caw that he had set up this wallet specifically for Mr Marks to effect payments to the "hacking" of the back-office.

135. It will be remembered from my previous reports and certain Minutes of Board meetings, that repeated references had been made that the back-office had been hacked. This



was put to Mr Victor for comment. In his opinion there was never any hacking. Witnesses who did "pen-testing" in MTI would so testify. Pen-testing was used to see whether there were any vulnerabilities in the back-office relating to hacking and ransomware. The so-called "leaked" MTI database was a topic on social media. What did in fact occur was that unknown persons "scraped the system". For that they only needed one user ID in MTI. The entire system was of such poor quality so if that ID was changed, access would automatically follow without a password. The persons created a false profile, accessed the back-office and wrote a script to keep on changing that user ID and the domain name. They extracted the data from the back-office, put it together and that was then referred to as the hacked version. Hacking means altering data, and neither he nor the said Mr Pederson could not find any evidence of that.

#### The Marks' Property Transactions

136. Mr Victor was requested to investigate and analyse the said flow of funds from MTI to Ms Cheri Marks, Mr Clynton Marks, Mr A. Caw and the mentioned Coin Buyers Club ("CBC"). He was placed in possession of various documentation and information relating to MTI specifically.

- 136.1.1. He was granted access to the back-office system of MTI;
- 136.1.2. He was provided with an extract of WhatsApp conversations between Mr Marks and Mr A Caw of Coin Buyers club;
- 136.1.3. He was provided with reports on the investigations conducted by the FSCA;

136.1.4. He was provided with the relevant bank statements of Coin Buyers Club (Pty) Ltd and the relevant "KYC" documentation of different cryptocurrency exchanges.

137. In order to conduct investigations, he used a program called Qlue software, an investigative software application used by law enforcement and investigative agencies. The toolset allows for the graphical interrogation of the Blockchain via a user interface, the creation of case and investigative files and the graphical depiction of Blockchain transaction data.

He was specifically requested to provide an analysis of the origins of the funds deposited by interrogating the Blockchain in order to establish the source of the funds deposited.

The source of the funds should be traced back until it reached either a point of origin in wallets belonging to Mirror Trading International or from Mr. Marks MTI wallets.

#### **Flow of Funds from MTI to Mr Marks**

138. As stated, he used the program known as Qlue software to investigate the flow of funds from MTI to Mr Marks.

The flow of funds is imperative in ascertaining the source of funds which was investigated by using information from the Maxtra Database and the Backoffice.

The back-office of MTI uses an email and other features which is unique to a specific bitcoin wallet.

Mr Clynton Marks has a bitcoin wallet with identity: 1Bm2zgFHqgZDnuLqpwbpTc7iVwjFYT7Zim. Clynton Marks used the email of xftonfire@gmail.com.

It was established that Mr Clynton Marks' "ZIM" wallet received bitcoin for the first time on the 9<sup>th</sup> of March 2018 and sent the first bitcoin on the 19<sup>th</sup> of September 2018. On the 11<sup>th</sup> of December 2022, Clynton Marks transacted a total of 957 Bitcoin.

It was established that at least 917 Bitcoins originated from MTI during the 9<sup>th</sup> of March 2018 and 11<sup>th</sup> of December 2022.

139. Screen shots can show the Clynton Marks profile demonstrating the wallet addresses associated with him. A screen shot of the Qlue software demonstrates the starting transaction dates and the turn-over on his wallet.

140. It will be noticed that:

140.1. 419 transactions were received;

140.2. 246 transactions were sent;

140.3. 957.321511 BTC were received; and

140.4. 957.321511 BTC were sent.

141. An available image demonstrates all deposits to Mr Marks 'ZIM' wallet for the period 1<sup>st</sup> of January 2020 to the 19<sup>th</sup> of December 2020. The bulk of payments i.e 400 BTC originate from MTI.

Direct and indirect deposits were made from MTI to Mr Clynton Marks. These have been referred to above.

Direct payments are payments made from the MTI wallets to members whereas indirect payments are payments effected with Bitcoin belonging to MTI but are or have not been paid directly nor recorded in the Maxtra database.

From an analysis of the Coin Buyers Club (Pty) Ltd's bank statements, it is evident that 90% of the amounts received originated from the Marks and/or their clients.

**Correspondence: Mr C. Marks and Mr A. Caw**

142. Mr Victor was placed in possession of the WhatsApp communication between Mr Clynton Marks and Mr Andrew Caw which communication which was extracted by FSCA.

Mr Clynton Marks and Mr Andrew Marks discussed the purchase of properties with bitcoins. Mr Andrew Marks indicated that different exchanges are used. The purpose of such exchanges is to remove Mr Clynton Marks from the transactions, as if Mr Clynton Marks never made any payments in respect of his assets, through his personal account.

The immovable properties registered in Uprobuzz (Pty) Ltd as an example of their modus operandi and seem to fall within the ambit of money laundering as set out in the Prevention of Organised Crime Act, 121 of 1998. Sections 4-7 seems to be particularly relevant, but as I have said it would be proper and fair that Mr Caw can comment when he is re-called as this is new evidence.

143. The WhatsApp conversations revealed that Mr. Marks and Mr. Caw had come to a commercial agreement where Mr. Marks would transfer Bitcoin to Mr. Caw to effect payments on his behalf for which he received payments for his services.

143.1. Two properties were purchased being:

(a) R11,500,000.00 home in Durban, and

(b) R8,000,000.00 Beach House.

The payment of transfer duties by Mr Caw on behalf of Mr Marks amounting to a few million Rands.

143.2. Additionally, there were purchases of two vehicles, a Jeep and a Honda, a high-end computer system and a Trezor digital hardware wallet.

143.3. These assets were purchased by Mr Clynton Marks who transferred bitcoin to Mr Andrew Caw through the services of Coin Buyers Club (Pty) Ltd ("CBC") into a Standard Bank account.

143.4. For each transaction, Mr Clynton Marks transferred bitcoin to CBC, whereafter Mr Andrew Caw then proceeded to sell the Bitcoin, in his personal name or through the CBC business.

143.5. From this Standard Bank account, Mr Andrew Caw made various payments on behalf of Mr Clynton Marks, effectively acting as a financial intermediary and offering a payment service for Mr Clynton Marks' private expenses. He was not registered as such and the Financial Advisory and Intermediary Services Act 37 of 2002 may well apply, especially the definition section read with s. 7(1) and 36, which creates the relevance statutory offence.

143.6. The said communication is available for inspection and verification.

144. It will be noted that the Durban property owned by Uprobuzz (Pty) Ltd was sourced whereafter Mr Andrew Caw was asked to get R11 million. It was agreed that Ms Cheri Marks would provide the address to send the Bitcoin to.

144.1. Andrew confirmed on the 20<sup>th</sup> of June 2020 that he would:

*"process sale thought multiple exchanges or over the counter trades. Once all trades are thought I'll transfer rands to where it's needed".*

144.2. Andrew furthermore confirmed that the process safe and

*"We're very careful always."*

144.3. After Bitcoin was transferred, Mr Marks indicated that he would send Mr Andrew Caw more business:

*"Thanks bro. I did not know you offered this service. Will send alot more business your way"*

144.4. On the 22<sup>nd</sup> of June 2020, Mr Caw further advised Mr Marks that:

*"if you'd converted \$180k USD to ZAR direct you'd have R250k less - so not a bad rate"*

144.5. On the 22<sup>nd</sup> of June 2020, a deposit was made of 0.0196 BTC. It was further communicated between the parties:

*Marks: Ok is it safe to do balance now? Caw: yes*

144.6. On the 22<sup>nd</sup> of June 2020, Mr Caw indicated that the total paid out was:

*"48.47374286 waiting (sic) for Bitcoin confirmations"*

144.7. On the 24<sup>th</sup> of June 2020, Mr Caw indicated that Ms Cheri Marks indicated that the Marks are "taking that house" whereafter Mr Clynton Marks confirmed such purchase.

144.8. Clynton Marks thereafter asked:

*When are you doing payments? I think we can split it over 3 or 4 payments. As long as it's done by Friday or so. What do you suggest?*

144.9. On which Mr Caw replied:

*"That works. Just need bank details, can do first R3mil immediately"*

144.10. The communication between the parties clearly demonstrates how Bitcoin was transferred to purchase the property for R11,5 million.

145. The payments were confirmed by Mr Caw on the 24<sup>th</sup> of June 2020:

*Caw: First R3.2mil paid*

*Caw: Will do 1 more payment this afternoon & then the balance tomorrow*

*Marks: Hey Andrew. Are you still doing that second payment today?*

*Caw: Yes. Did another R3.8*

*Total of R7 mil paid today.*

*I'll send you the 2nd proof of payment a little later. Just putting kids to bed.*

*Marks: Awesome man*

*Caw: 2020-06-24 - Clynton Payment 2 - R3,800,000.00.pdf*

*Caw: 2020-06-24 - Clynton Payment 2 - R3,800,000.00.pdf*

*Caw: payment 2*

*Marks: Ok thanks. Do you want the R21 630 in cash or Bitcoin*

*Caw: Whatever is easiest for you*

*Marks: Will do tomorrow around 10am*

*Caw: Sorry I was checking on my phone earlier & doing a quick calc in my head*

*Your total for sales was R. 11,428,370*

*So you need an extra \*R71,630\* not 21,630*

146. On the 25<sup>th</sup> of June 2020:

146.1. Mr Clynton Marks indicated that he will do the R71, 630 Bitcoin to Mr Andrew Caw.

146.2. Also on the 25<sup>th</sup> of June 2020, Mr Andrew Caw sent a proof of payment of R4,500,000.00.

147. Purchase 1:



- 147.1. Mr Marks informing Mr Caw that he would be purchasing a property known as No 25 Monteith Place, Durban North for the price of R 11 500 000.00.
- 147.2. Mr Marks proposed transferring the equivalent amount in Bitcoin to Mr Caw in order to effect the purchase of the property.
- 147.3. The following wallet is provided by Mr Caw into which Mr Marks is to deposit the funds to effect the purchase of this immovable property:  
3NWhm67oT2YdsobHnEEAc1RH8m1fFVCGLe
- 147.4. This wallet and the corresponding transaction date were queried on the Blockchain in order to verify the payment transaction from Mr Marks to Mr Caw.
- 147.5. In the WhatsApp conversation the following is disclosed:
- 147.5.1. Mr Marks will transfer \$200 as a test;
- 147.5.2. Mr Marks will transfer 19,689 Bitcoin;
- 147.5.3. Mr Marks will transfer 0,196 Bitcoin;
- 147.5.4. Mr Marks will transfer the balance Bitcoin;
- 147.5.5. Mr Caw received 48,4737 Bitcoin as the transfer from Mr Marks for the balance.
- 147.5.6. Mr Caw additionally paid over R1 400 000.00 in transfer fees on behalf of Mr Marks.
148. The following transaction are confirmed to the wallet provided by Mr Caw.



148.1. The evidence from the Transaction Block indicates the following:

<u>TX</u> No	<u>Transaction</u> block	<u>Date</u>	<u>BTC</u> Amou nt	<u>USD</u> Amount
1	729af9dec8c9dac489064f55e83434daf41342abf420ef052d4c6b27c0132b5e	21- Jun- 20	19,6894	185840,83
2	4a20d0b61275240c9609ec29aeb0b347900aa67e0bea8e4d214d2f0f429bd88c	21- Jun- 20	0,0213	201,90
3	13e41202df370fd5e4941b2e38b678ec949fd690a9529e479060b7d8a2742aa3	22- Jun- 20	48,4737	457522,94
4	97f5a2a753a4577121566cbfb40940409ddd6194c52e2cbb0d1967042a122dcc	25- Jun- 20	0,4629	4369,97
5	cbef4238edd779f790eff5e7c478bd08d9297e338ed363fb08a23c583b6d6acd	22- Jun- 20	0,0196	185,00
			<b>68,6669</b>	<b>648120,64</b>

148.2. The transactions correlate with the amounts, source wallet and destination wallet contained in the WhatsApp conversations. There are no other transactions to the wallet, these are the only inward payments to this wallet.

148.3. The source of the funds emanates from Marks MTI wallet, ending ZIM. A graph depicting such transaction is available for verification.

149. Purchase 2:

149.1. Mr Marks further informed Mr Caw that he would be purchasing a 6 monitor, high end computer system.

149.2. Mr Marks proposed transferring the equivalent amount in Bitcoin to Mr Caw in order to effect the purchase based upon a quotation submitted by Mr Caw to Mr Marks who then approved the purchase.

149.3. The following wallet is provided by Mr Caw into which Mr Marks is to deposit the funds to effect the purchase of the computer system:  
3Nixfvq7A6TgunXw26NGyeYWR1BpJwiSDm

150. In the WhatsApp conversation the following is agreed to:

150.1. Mr Marks will transfer Bitcoin to the value of R75,000 to Mr Caw.

150.2. The balance was due on delivery.

150.3. Mr Caw received 0,3610 Bitcoin as the transfer from Mr Marks, an amount of \$4 332, 37- the blockchain reference was provided to evidence the payment by Mr Marks.

The transaction correlate to the amounts, source wallet and destination wallet contained in the WhatsApp conversations.

151. Purchase 3:

151.1. Mr Marks informed Mr Caw that he would be purchasing a Jeep motor vehicle for R1 700 000.00 and a property for R8 000 000.00 in Umdloti.

151.2. Mr Marks proposed transferring the equivalent amount in Bitcoin to Mr Caw in order to effect the purchase. The following wallet is provided by Mr Caw into which Mr Clynton Marks is to deposit the funds to effect the purchase:  
32NIHBrNPG3NcryJLhhyZ3FgA2DwJPpWDK

151.3. In the WhatsApp conversation the following is agreed to:

151.3.1. Mr Marks is purchasing a Motor vehicle from Honda.

151.3.2. Mr Caw received 0,09474 Bitcoin as the transfer from Mr Marks confirming receipt thereof in the WhatsApp conversations.

151.3.3. Mr Marks paid over 53 Bitcoin to Mr Caw to effect payment on the house and car, Mr Caw responded affirming he received the 53 Bitcoin on the 29<sup>th</sup> of September 2020.

152. The transaction block reflects the following:

<u>Transa</u> <u>cti</u> <u>on</u>	<u>Transaction</u> <u>block</u>	<u>Date</u>	<u>BTC</u> <u>Amo</u> <u>unt</u>	<u>USD</u> <u>Amo</u> <u>unt</u>
1	6a6e24b4d66f905f39ec376c2f9a739c4a403e227-c8127de3e1ec8c52d680ab510	Sep-20	0,000469	4,99
2	fafd9738780e1ecd94234cd6698253be0196c2f27-47c738c774f06614a 4c3d58d4	Sep-20	53,1765	565789,73
			<b>0,000469</b>	<b>565794,72</b>

152.1. The transactions correlate with the amounts, source wallet and destination wallet contained in the WhatsApp conversations.

153. Purchase 4:

153.1. Mr Marks informed Mr Caw that he would be purchasing a motor vehicle and instructed Mr Caw to effect the payment.

153.2. Mr Marks proposed transferring the equivalent amount in Bitcoin to Mr Caw in order to effect the purchase, which was duly accepted by Mr Caw.

153.3. In the WhatsApp conversation the following is agreed to:

153.3.1. Mr Marks is purchasing a motor vehicle from Honda.

153.3.2. Mr Caw is currently still holding funds belonging to Mr Marks from the previous transaction.

153.3.3. Mr Marks instructs Mr Caw to effect payment for R875,000 for the vehicle.

153.3.4. Mr Caw effects the payment.

154. Purchase 5:

154.1. Mr Marks informed Mr Caw that he would be purchasing a Trezor digital wallet to be couriered to him via Postnet. Mr Marks proposed transferring the equivalent amount in Bitcoin to Mr Caw in order to affect the purchase, which was duly accepted by Mr Caw.

154.2. In the WhatsApp conversation the following is agreed to:

154.2.1. Mr Marks is purchasing a Trezor digital wallet.



154.2.2. Mr Caw procures the digital wallet on behalf of Mr Marks and courier it via Postnet.

154.2.3. Mr Marks receives the Trezor digital wallet.

154.2.4. Mr Caw instructs Mr Marks on where to make payment to in the amount of R1,800.00

155. BTC Global:

155.1. BTC Global imploded at the start of 2018 and traded in the same manner as MTI. BTC Global was also used a multilevel marketing scheme.

155.2. Like MTI, BTC Global promised high and unrealistic returns to investors (14% bonuses).

155.3. What is of the utmost importance is that a number of key people that were part of both BTC Global and MTI being:

155.3.1. Clynton Marks,

155.3.2. Cheri Marks,

155.3.3. Russel Jerrard,

155.3.4. Andrew Caw,

155.3.5. Liz Malton,

155.3.6. Johan van Wyk,

155.3.7. Willie Breedt, and

155.3.8. Johann Steynberg.

155.4. During the enquiry, Ms Cheri Marks testified on the 24<sup>th</sup> of February 2021 that she and Mr Clynton Marks was involved in BTC Global (Bitcoin related business) since 2017. According to Cheri's testimony, a friend, Madeleine Roos asked Mr Clynton Marks to invest in BTC Global with Mr Steven Twain. A 14% investment per week was promised to the investors.

155.5. Ms Cheri Marks further testified that she was involved in the administration of BTC Global. (From page 573, line 13). Ms Cheri Marks further testify that:

*"On the 5<sup>th</sup> February – and I don't forget these dates because I literally remember where I was when it happened, my daughter was doing Gauteng Athletics – and I got the phone call that nobody had been paid that Monday. And immediately I was messaging him on messenger going "what's going on?" And the two weeks preceding that the Anonymous ZA guys – I'm assuming you guys have all seen on Carte Blanche and Vivian Budge and this group of propagandas army had created such a social media frenzy that my personal belief is that it put Steven Twain into a very difficult position and he ran. Now the Bitcoin wallets have remained untouched until today and you can see that the Bitcoin are all lying in wallets with Coinbase but nobody has touched them, which suggests that he was spooked and ran away but not that he stole the Bitcoin. The point is no-one can get access to it."*

155.6. Clearly the involvement in BTC Global is more than what the Marks' attempt to portray.

**The MARS System**

156. This was developed by the forensic teams. They took the Maxtra data and expanded it back to the old MTI back-office. The following relevant facts emerged (transcript: Vol. 17, 1 April, p. 33 and further).

- 156.1. Total number of users: 304,000;
- 156.2. Total number of Bitcoin deposited: 39.193;
- 156.3. Total amount of Bitcoin paid out: 32.285;
- 156.4. Total number of debtors: 58,117;
- 156.5. Total number of creditors: 204,001;
- 156.6. Discrepancy between coin paid in and out: 7000, apparently the number that Mr Steynberg fled with;
- 156.7. Creditors to be paid: 15,975.

157. It has already been established that there were no accounting records before August 2019. The total number of transactions was 479,119 resulting in the said 39.193 coin deposited. An example of a back-office user statement relating to Mr Marks, is Exhibit VIC-J.

**Ms C. Marks Access to the MTI Wallet in December 2020 and back-office details discovered**

158. Mr Victor was referred to Exhibit CAW2, p. 60. On 16 December, and after Mr Steynberg's departure, she purportedly emailed Camila, copying a number of leading



members of MTI, and referring to the "hardware wallet for MTI's so we can pay our clients". A hardware wallet is a cold stage device like a Tresor. All the evidence was that only Mr Steynberg could affect payments to clients, the question then being: how did Ms C. Marks have access to the hardware wallet of MTI? The software system used indicated that the actual hardware wallet from Ms Marks made payment four days after Mr Steynberg disappeared. One of the wallet addresses discovered reflected a payment to Ms Belinda van Zyl, a close associate of Ms Marks. Payments were even made after the date of provisional liquidation on 29 December 2020. Mr Steynberg himself could not have accessed the hardware wallet from Brazil.

159. It appeared to the forensic investigators that Mr Steynberg used 19 wallets to receive deposits from investors, the total being BTC 9.683. Mr Steynberg used a wallet that had a previous identification number which was identified with BTC Global. The last transaction on this wallet was on 17 February 2021. Only 2 persons could say who emptied the remaining wallets according to Mr Victor: Ms C. Marks and Mr A. Caw. This is another important reason why these 2 persons should be re-called.

160. With reference to the movement of BTC between certain wallets, details of which will appear in an additional affidavit that I annex hereto, Mr Victor came to the conclusion that it would physically have been impossible for Mr Steynberg to have been involved in every transaction. No evidence of many transactions moved to certain wallets were found on his electronic devices or in any written notes. The iPhone that was seized from him indicated that he spent about ¾ of his time on the golf course. His opinion was that Mr A. Caw facilitated the many payments (see Vol. 17, pages 78-80). It would have been impossible for Mr Steynberg to have facilitated between 19,000-20,000 payments monthly. Not one employee was part of the finance team and just one wallet indicated 100 transactions. On his computer that were seized there was no evidence of any software, any programming or any website that he could use to affect these types

of payments on a continuous basis. It was impossible to facilitate, by himself, 765,000 transactions in a 14-month period.

- 161. Mr Victor also referred to an email (still to be presented to me) from FXChoice that stated that Mr Caw, Mr C. Marks, Ms C. Marks and Mr Steynberg had access to the FXChoice Multi-asset management account. Mr Caw would need to explain his involvement relating to payments regarding wallets that were created already in 2017. These were the ALEXXA wallets.

**Direct and Indirect Payments**

- 162. Mr Victor gave further evidence in regard to direct and indirect payments that have to a large extent been dealt with above in the context of properties and assets acquired by the Marks' through Mr Caw and his CBC company. With reference to a screenshot he pointed out, as an example, that 333 new investors deposited funds into MTI but these were then directly pooled into Mr Marks's ZIM wallet (see Annexure 4, Table 1), the starting amount of BTC 32.635 on 5 October 2020. There was no trading, an intermediary service. These funds were so moved either by Mr Steynberg or someone else who had access to those deposit wallets. The first indirect deposit was made on 19 October 2020 with BTC 45.533.

- 163. With reference to graph overview and a pay cycle indicated the flow of funds could be shown into MTI, to an intermediary wallet to obscure the flow, and out of the specific payment cycle, Mr Marks received BTC 45 (equal to \$537,000).

- 164. That what was received from Mr Caw, Mr Marks's bank account at Capitec Bank reflected that the only money received was from Mr Caw or CBC. No other source of income was reflected. The forensic team had focussed primarily on the ZIM wallet, and

suspected that he had withdrawn out of MTI between BTC 1,4000-2000 to the value of about R1.2 billion.

165. Mr Steynberg's spending pattern, compared to other Ponzi schemes was almost negligible. He bought 2 cars, a home and a golf club. He never went on holiday. In contrast the Marks' advertised their shopping sprees on social media extensively. Mr Vince Ward also spent millions and he should be called to testify. There was also new evidence relating to Ms Monica Coetzee, who should be re-called to explain that.

166. Mr Steynberg's name does not even feature in the list of the top 10 people who took Bitcoin out of MTI. He regarded him as the face of the company only who then became "the fall guy". Social media reports relating to his alleged purchases in Brazil, like his own aeroplane, and a ring worth \$50,000 were all untrue. These rumours were being spread by an independent journalist, Mr Sean Newman. The said Capitec Bank statements reflects regular payments to him by the Marks'. Why?

167. Mr McDonald apparently confirmed in a message to Mrs Steynberg (not seen) that electronic devices and computers had been hidden by the latter's house keeper, Ms Phumulani. Has she been approached?

168. Mr Caw, when re-called, and in the context of his report to Mr Marks, must be asked where he obtained all the information from. His report does not refer to user ID's, with persons names. How did he connect a wallet to an individual's name without having access to the back-office?

169. Ms Strydom had mentioned to Mr Victor that Mr Caw had stated that he had audited the balance of crypto at Trade300. No evidence of that was provided. He needed to provide the physical wallets that he received from whoever to confirm those balances. Also, if Mr Steynberg disappeared on 15 December, how did Ms Cheri Marks receive the

trading results to be forwarded to Tushar at Maxtra to upload them at the back-office? Who provided the trading statements to her? The Marks' also never used the MTI Club domain to send emails.

170. Mr Caw needed to provide all documents relating to the CBC Club. He needed to explain also the hundreds of thousands of Rand paid to Mr Ray Schooms, per month, from the Standard Bank account. That name was not picked up in South Africa and could be an alias. The forensic team would do a full analysis on KYC that is provided by the exchange as well as the Standard Bank account. At this stage they were of the opinion that about 70% of all CBC and Mr Caw's personal business were related to MTI directly or indirectly.
171. It is clear that Mr Victor must give further evidence after his written explanation on what I was shown on the screen, and after the further analysis referred to.
172. After the further evidence in May I will briefly deal with the requirements needed for a conviction in terms of the Prevention of Organised Crime Act, especially section 4. See for instance: S v Tiry 2021(1) SACR 349 (SCA).

COMMISSIONER JUDGE H J FABRICIUS (r)

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 [karike@srhfinc.co.za](mailto:karike@srhfinc.co.za)



"FA 10"  
350

DEPARTMENT OF JUSTICE  
PROVINCIAL BUREAU  
2021-09-03  
IN THE HIGH COURT OF SOUTH AFRICA  
GENERAL OFFICE  
WESTERN CAPE DIVISION, CAPE TOWN  
WESTERN CAPE

Case No.

15426/21

In the matter between:

<b>HERMAN BESTER N.O.</b>	First Applicant
<b>ADRIAAN WILLEM VAN ROOYEN N.O.</b>	Second Applicant
<b>CHRISTOPHER JAMES ROOS N.O.</b>	Third Applicant
<b>JACOLIEN FRIEDA BARNARD N.O.</b>	Fourth Applicant
<b>DEIDRE BASSON N.O.</b>	Fifth Applicant

[In their capacities as the duly appointed joint  
provisional liquidators of Mirror Trading International (Pty)  
Ltd (in liquidation)]

and

<b>MIRROR TRADING INTERNATIONAL (PTY) LTD t/a MTI (IN LIQUIDATION)</b>	First Respondent
<b>CLYNTON HUGH MARKS</b>	Second Respondent
<b>HENRY ROBERT HONIBALL</b>	Third Respondent
<b>CECIL JOHN JACOB ROWE</b>	Fourth Respondent
<b>ALL MEMBER/INVESTORS OF MIRROR TRADING INTERNATIONAL (PTY) LTD</b>	Fifth Respondent
<b>FINANCIAL SECTOR CONDUCT AUTHORITY (FSCA)</b>	Sixth Respondent

**NOTICE OF MOTION**

Mostert and Bosman  
Ref. Pierre du Toit  
(021) 914 3322  
Pierred@mbalaw.co.za

**KINDLY TAKE NOTICE THAT** application will be made by the above-mentioned Applicants to this Honourable Court, particularly the Honourable Acting Justice De Wet, at 14h15 on 8 September 2021, or as soon thereafter as counsel for the Applicants may be heard, for an order in the following terms:

1. The hearing of this matter in which the following relief will be sought by the above Applicants, is postponed to the semi-urgent roll on 2 March 2022:
  - 1.1. declaring the business model of MTI as an illegal/and/or unlawful scheme and/or that MTI at all relevant times operated an illegal and/or unlawful business;
  - 1.2. declaring all agreements purportedly concluded between First Respondent (Mirror Trading International (Pty) Ltd (in liquidation) ("MTI") MTI and its investors in respect of the trading/management/investment of Bitcoin for the purported benefit of the investors, to be unlawful and *void ab initio*;
  - 1.3. declaring that MTI is/was factually insolvent in that the value of its liabilities exceeded the value of its assets since 18 August 2019 until the date of its winding-up on 29 December 2020;
  - 1.4. declaring any and all dispositions, whether by means of a payment in fiat currency or by means of a transfer of Bitcoin (or any other crypto currency) made by or on behalf of MTI to any of its investors or other third party, as payment or part payment of purported profits, referral commissions or any other remuneration in respect of and pursuant to the unlawful investment scheme perpetrated by MTI, to be dispositions without value, as defined in section 2, read with

section 26(1) of the Insolvency Act 24 of 1936 (as amended) ("**the Insolvency Act**");

1.5. declaring any and all dispositions, whether by means of a payment in fiat currency or by means of a transfer of Bitcoin (or any other crypto currency), made by or on behalf of MTI to any of its investors or any third party as payment or part payment of any purported claim or entitlement pursuant to the unlawful investment scheme, within 6 (six) months before the *concursum creditorum* i.e., all dispositions since 23 June 2020, to be dispositions which had the effect of preferring one or more of MTI's creditors above others, as defined in section 2, read with section 29(1) of the Insolvency Act and that such dispositions were not made in the ordinary course of business as provided for in section 29(1) of the Insolvency Act;

1.6. leave be granted to the liquidators of MTI to approach this court on the same papers, duly amplified where necessary, for orders setting aside specific dispositions as described in 1.4 and 1.5 above, in terms of sections 26 and/or 29 of the Insolvency Act and for orders declaring that the liquidators of MTI are entitled to recover the aforesaid dispositions, alternatively the value thereof at the date of each disposition or the value thereof at the date on which the respective dispositions are set aside, whichever is the higher, as provided for in section 32(3) of the Insolvency Act;

1.7. the costs of this application shall be paid by any party/parties opposing this Application, jointly and severally, the one paying the other to be absolved;

- 1.8. save as aforesaid, the costs of this application are costs in the liquidation of the First Respondent.
2. All affidavits, notices and documents filed, up to and including 8 September 2021, in the matter in this Court under case number 19201/2020 shall be deemed to have been filed in this application and all parties are entitled to rely thereon in support of or opposition to this application.
3. Substituted service of this application, in a format directed by this Court, shall be permitted.

TAKE NOTICE FURTHER that the Applicants shall accept service of any notices, affidavits or documents herein by email sent to the following address:  
[mtiadmin@mbalaw.co.za](mailto:mtiadmin@mbalaw.co.za)

TAKE NOTICE FURTHER that the affidavits filed by the Applicants in case number 19201/2020 will be used in support hereof.

Dated at Cape Town on this 8<sup>th</sup> day of September 2021

Mostert and Bosman

Per:

c/o Macrobert Inc.  
3<sup>rd</sup> Floor  
The Wemby  
Sole Road, Gardens  
CAPE TOWN

Ref: Mr P du Toit  
Tel: (021) 914 3322



Pierred@mbalaw.co.za

**TO: THE REGISTRAR  
HIGH COURT  
CAPETOWN**

**AND TO:**


**SELZER LAW**  
Attorneys for the Second Respondent  
Ref: Mr Selzer  
Email: henry@selzerlaw.co.za  
c/o:  
De Klerk & Van Gend  
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132 Adderley Street  
Cape Town  
Tel: 021 - 424 9200  
Ref: Johan Ferreira  
Email: jferreira@dkvg.co.za

**AND TO:**

**DUVENAGE DE VILLIERS**  
Attorneys for the Third Respondent  
107 Main Road  
WELLINGTON  
Tel: 021 873 3140  
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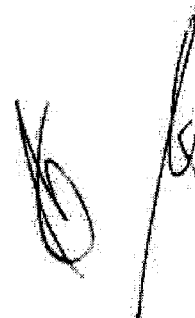
**AND TO:**

**EDJ ATTORNEYS INC**  
Attorneys for the Fourth Respondent  
McHardey Avenue  
Brandwag  
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Ref: E de Jager  
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Email: litigation@edjinc.co.za  
c/o  
**HEYNS ATTORNEYS**  
3rd Floor, 6 On Pepper, Pepper Street  
Cape Town  
(021) 424 7008



AND TO:

**ROBERT CHARLES ATTORNEYS**  
Attorneys for the Sixth Respondent  
3<sup>rd</sup> Floor, 33 Church Street  
Cape Town  
Ref: M Coetzee mctwfsca137  
Mcoetzee@rcharles.co.za

Handwritten signature or initials, possibly 'M Coetzee', written in black ink.