



**AFFIDAVIT PROVIDING REQUIRED INFORMATION FOR
 PERSONS APPLYING TO BE PLACED ON THE
 NATIONAL LIST OF LIQUIDATORS**

1.

I the undersigned,

Full names and identity number (a certified copy of my Identity Document is attached) declare as follows:

2.

All the information herein contained is within my own personal knowledge and belief both true and correct.

3.

I hereby grant the Department of Justice and Constitutional Development and/or the Master of the High Court or any person authorised by him/her authority to verify the information given herein through an investigation including but not limited to the following:

- a) A personal visit to the business premises mentioned below;
- b) Interviews with any of the persons mentioned herein;
- c) To verify documentation submitted herewith;
- d) Request documentation or further documentation.

4.

I conduct or will conduct my insolvency business as follows (please tick the correct box):

Sole Proprietorship

Unincorporated partnership

Close Corporation

Company

Employed by any of the above

If none of the above is applicable please state the status of your business below:

5.

I am employed as an insolvency practitioner by: _____

The following are my business contact details:

5.1.1 Business telephone number: _____

5.1.2 Business telefax number: _____

5.1.3 Postal Address: _____

5.1.4 Physical Address at main place of business: _____

5.1.5 Physical Addresses of all satellite offices: _____

5.1.4 Mobile number: _____

5.1.5 Electronic mail (e-mail) address: _____

5.2 *Domicilium citandi et executandi*: _____

6.

6.1 My main business trades under the name and style of: _____

7.

I have the following business infrastructure at my main business and satellite offices. (Please address this issue by confirming the following information):

- a) Proof of rental or ownership of business premises is attached. (If you are not the owner or lessee provide full details of the person paying the rent or owning the premises and your business relationship with this person. Any informal agreement needs to be reduced to writing.)
- b) Details of the number of persons employed, duties and qualifications of each person. I attach an organogram for further clarity.

(Please complete an annexure if the provided space is not sufficient)

- c) Number of desktops/laptops in use at your business: _____

- d) Number of printers, scanners and fax machines:

- e) I would like to bring the following additional information to your attention: _____

8.

My office addresses in other provinces are as follows and I include and enclose (where applicable) the same information as set out in paragraph 7 in respect of each office:

9.

I am aware that I will have to apply for a bond facility with one of the approved insurers and confirm that I will apply for such a facility as soon as I have been informed that I was successful in the assessment process. I am aware that I will be required to provide a letter by an approved insurer confirming that a facility has been granted in my favour.

10.

I have successfully completed the following professional and/or academic qualifications and attach hereto certified copies of all of the mentioned qualifications:

11.

Further to my qualifications above, I am also a member in good standing of the following professional organisations (e.g. Law Society of the Free State or SAICA) and/or Insolvency organisations (e.g. SARIPA, ABRIPSA) State not applicable if none. I attach a current certificate/confirmation of good standing.

12.

I have perused the disqualification provision of the law as attached on this form and have satisfied myself that I am not disqualified on the grounds stated therein or any other grounds, to take appointments as a trustee or liquidator and to conduct business as an insolvency practitioner. I would like to bring the following to the attention of the Master of the High Court which could impact on my appointment. State not applicable if none:

13.

I wish to take appointments at the following Master's Offices. I am aware that I will only be allowed to take up appointment at the offices where I do have an acceptable infrastructure:

Please tick the selected offices.

- | | | |
|---|---------------------------------------|--------------------------------------|
| <input type="checkbox"/> Johannesburg | <input type="checkbox"/> Kimberley | <input type="checkbox"/> Nelspruit |
| <input type="checkbox"/> Pretoria | <input type="checkbox"/> Mahikeng | <input type="checkbox"/> Thohoyando |
| <input type="checkbox"/> Cape Town | <input type="checkbox"/> Durban | <input type="checkbox"/> Bisho |
| <input type="checkbox"/> Pietermaritzburg | <input type="checkbox"/> Mthatha | <input type="checkbox"/> Polokwane |
| <input type="checkbox"/> Port Elizabeth | <input type="checkbox"/> Bloemfontein | <input type="checkbox"/> Grahamstown |

My race and gender are as follows:

Race:

- | | | |
|----------------------------------|-----------------------------------|---------------------------------------|
| <input type="checkbox"/> African | <input type="checkbox"/> Coloured | <input type="checkbox"/> Indian/Asian |
| <input type="checkbox"/> White | <input type="checkbox"/> Chinese | |

Gender:

- | | |
|-------------------------------|---------------------------------|
| <input type="checkbox"/> Male | <input type="checkbox"/> Female |
|-------------------------------|---------------------------------|

I submit the above information with the understanding that it will assist the Master's Branch to determine my PDI status.

14.

My employment or activities for gain or for generating income that I conducted in the last three years, are as follows (State not applicable if none):

15.

I enclose documentary proof of my bank account in the form of a letter from my bank manager in respect of my business. (Details of previous bank accounts held by my business if my current business bank account is less than six months old.)

16.

Please tick the applicable box:

- I am not related to any official employed at any of the offices of the Master of the High Court by affinity/family/business or partnership.
- I do have a relationship with an employee of the Master and the nature of this relationship is as follows:

17.

- a) The Master of the High Court, as a constituent body of the government of the Republic of South Africa has an obligation by all its stakeholders, including insolvency practitioners to the South African Revenue Services (SARS). I attach hereto a copy of a valid tax clearance certificate for the current financial year.
- b) All practitioners need to annually provide a valid tax clearance within three months before expiry of the previous tax clearance. Failure to submit might result in your suspension from the National List of Liquidators.

18.

Should there be any change in my details I undertake to inform the Master of the High Court within a reasonable time.

19.

I am aware that punitive measures including but not limited to suspension/removal from the panel of liquidators can be instituted against me should it be found that I provided false or misleading information in this affidavit.

20.

I hereby confirm that I have enclosed the following Documents in the under mentioned Sequential Order in PDF Format:

TICK	ANNEXURE	Document
	A	ID Copy
	B	Tax Clearance (Personal & Business)
	C	Qualifications
	D	Written Confirmation of Bond Facility
	E	Written Confirmation of Bank Details (Personal & Business)
	F	Copy of Lease Agreement/Ownership
	G	Letter of Good Standing from Professional Body

DEPONENT

Thus affirmed/sworn to and signed before me at on this day of201.... The Deponent having acknowledged that she/he knows and understands the contents of the foregoing affidavit and has no objection to making the affirmation/prescribed oath and declares the affirmation/prescribed oath as binding on his/her conscience.

COMMISSIONER OF OATHS

Full names:

Business address:

Designation and area or office:

Annexure: Disqualifications

Section 55 of the Insolvency Act (Persons disqualified from being trustees):

Any of the following persons shall be disqualified from being elected or appointed as a trustee:

- (a) any insolvent;
- (b) ...
- (c) a minor or any other person under any legal disability;
- (d) any person who does not reside in the Republic;
- (e) ...
- (f) a former trustee disqualified under section 72;
- (g) any person declared under section 59 to be incapacitated for election as trustee, while any such incapacity lasts, or any person removed by the court, on account of misconduct, from an office of trust;
- (h) a corporate body;
- (i) any person who has at any time been convicted (whether in the Republic or elsewhere) of theft, fraud, forgery or uttering a forged document, or perjury and has been sentenced to imprisonment without the option of a fine, or to a fine exceeding R2 000;
- (j) any person who was, at any time, a party to an agreement or arrangement with any debtor or creditor whereby he or she undertook that he or she would, when performing the functions of a trustee or assignee, grant or endeavour to grant to, or obtain or endeavour to obtain for any debtor or creditor any benefit not provided for by law;
- (k) any person who has by means of any misrepresentation or any reward or offer of any reward, whether directly or indirectly, induced or attempted to induce any person to vote for him or her as trustee or to effect or assist in effecting his or her election as trustee of any insolvent estate;
- (l) ...

Section 372 of Companies Act, 1973: (Persons disqualified from appointment as liquidator):

No person shall be qualified for nomination or appointment as the liquidator of a company, if he or she is -

- (a) an insolvent;
- (b) a minor or any other person under any legal disability;
- (c) a person declared under section 373 to be incapable of being appointed as a liquidator, while he or she remains so incapable;
- (d) a person removed from an office of trust by the court on account of misconduct or a person who is the subject of any order under this Act disqualifying him or her from being a director;
- (e) a corporate body;
- (f) any person who has at any time been convicted (whether in the Republic or elsewhere) of theft, fraud, forgery or uttering a forged document or perjury and has been sentenced therefor to imprisonment without the option of a fine or to a fine exceeding twenty rand;
- (g) any person who has by means of any misrepresentation or any reward, whether directly or indirectly induced or attempted to induce any person to vote for him or her in the nomination of a liquidator or to effect or assist in effecting his or her nomination or appointment as liquidator of any company;
- ...
- (j) any agent authorized specially or under a general power of attorney to vote for or on behalf of a creditor at a meeting of creditors of the company concerned and acting or purporting to act under such special authority or general power of attorney.

CODE OF CONDUCT FOR INSOLVENCY PRACTITIONERS ON THE MASTER'S LISTS

1. Definitions

In this Code, including the Annexure-

- (a) **Code** means this Code of Conduct;
- (b) **estate** means an estate or assets of any natural person, trust, partnership, company, close corporation, or any other body or entity in respect of which a practitioner holds an appointment by the Master;
- (c) **Master** means any Master of a High Court;
- (d) **practitioner** means an insolvency practitioner appointed by the Master as a *curator bonis*, provisional trustee, trustee, provisional liquidator, liquidator, provisional judicial manager or judicial manager (judicial managers appointed before the repeal of Chapter 15 of the Companies Act 61 of 1973);
- (e) **services** include all things done and work rendered and performed by a practitioner in the exercise of his or her duties and functions during the winding up and administration of an estate;
- (f) **stakeholders** include the Master of the High Court having jurisdiction and the relevant estate's creditors, insolvent debtor and directors and members.

2. General

Practitioners must, at all times, render and perform their services and conduct themselves in a competent, correct, professional, honourable and impartial manner. Practitioners may not engage in conduct which is-

- (a) dishonest or otherwise discreditable;
- (b) prejudicial to the administration of justice;
- (c) likely to diminish public confidence in practitioners as a profession or the administration of estates; or
- (d) likely to bring practitioners as a profession into disrepute.

3. Competence

3.1 Practitioners who in fact possess or ought to possess, a particular level of knowledge or skill must employ that level of knowledge or skill in the provision of services.

3.2 Practitioners may not undertake work requiring a certain expertise without possessing or being able to apply that expertise.

3.3 Practitioners may not declare or create the impression that they have specific expertise which they do not have or undertake any task which they know or ought to know that they are not competent to deal with.

3.4 Practitioners must ensure that they have sufficient knowledge of the applicable law to fulfil all professional engagements.

3.5 Practitioners have a continuing duty to maintain knowledge and skills for the purposes of rendering competent services, based on current developments in law and practice.

3.6 Practitioners must be able to deal with issues competently where time is of the essence and commercial considerations have to be balanced with legal requirements.

4. Correct conduct

4.1 Practitioners must comply with all statutory and other legal requirements, including orders of court and lawful instructions by the Master or any other regulatory authorities.

4.2 Practitioners may not, without lawful excuse, fail to make payment of monies to other parties within the time limits set out in legislation or, in the absence of such statutory provision, fail to make payment within a reasonable time from the date that such monies become due and payable.

4.3 Practitioners must employ individuals who, in their opinion, are of good moral character. Practitioners must, adequately and continuously, supervise and control their employees, representatives or agents. Except with the consent of the Council, practitioners may not knowingly employ any person—

4.3.1 while such person is suspended or debarred by the court or the Master from acting as an insolvency practitioner; or

4.3.2 who has, at any time during the preceding ten years, been convicted, whether in the Republic or elsewhere, of theft, fraud, forgery or uttering a forged document or perjury and has served any sentence of imprisonment in connection with the conviction.

- 4.4 Practitioners must keep proper books of account and records in respect of all financial transactions relating to the administration of estates.
- 4.5 Practitioners must exercise the care, diligence and skill which can reasonably be expected of a person who manages the affairs of another.
- 4.6 Practitioners must exercise the general level of skill and diligence possessed and exercised by practitioners.
- 4.7 Practitioners may not, through the medium of another entity, do anything which would not be permissible for them to do.
- 4.8 Practitioners may not assist a breach or concealment of a breach of the law, which includes an agreement not to investigate and report any transactions or conduct or unjustified failure to investigate or report transactions or conduct which should be investigated or reported.
- 4.9 Practitioners must avoid any conduct or action which discredits or may discredit the insolvency profession. Practitioners must report conduct of joint appointees which could be to the detriment of an estate or the insolvency profession.
- 4.10 Practitioners may not enter into an agreement whereby they undertake that they will, in the performance of their services, grant or endeavour to grant to, or obtain or endeavour to obtain for any debtor or creditor any benefit or advantage not provided for by law.

5. Professional conduct

- 5.1 Practitioners must conduct themselves professionally and with the necessary courtesy and consideration towards all with whom they come into contact in the performance of their services and may not, in their conduct and performance of their services, discriminate against anyone on one or more grounds, including race, gender, sex, pregnancy, marital status, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscience, belief, culture, language and birth.
- 5.2 Practitioners must, within a reasonable time, answer or appropriately respond to and deal with any correspondence or other communications which reasonably require a reply or other response.
- 5.3 Practitioners must communicate with stakeholders in a manner that is accurate, honest, open, clear, succinct, and timely to ensure effective understanding of the processes, and the rights and obligations of stakeholders. Practitioners must act in good faith to resolve concerns received from stakeholders about any matter affecting them.
- 5.4 When practitioners sell assets they must, subject to conflict with a legal or professional obligation, ensure that the processes are transparent, understandable and readily identifiable to all third parties who may be affected by any sale or proposed sale.
- 5.5 Practitioners must, in all correspondence, circulars and other written documentation used in the performance of their services, disclose their names and contact details where they are available to be contacted, which must include, at least a physical address, telephone or cell phone number, fax number and email address or P.O Box number.
- 5.6 Practitioners must observe the principles relating to good corporate governance as set out in the King III report.
- 5.7 Practitioners must respect the confidentiality of information acquired as a result of professional and business relationships and may not disclose any such information to third parties without proper and specific authority unless there is a legal or professional right or duty to disclose.
- 5.8 Practitioners may not use confidential information acquired as a result of professional and business relationships for the personal advantage of the practitioners or third parties.

6. Honourable conduct

- 6.1 Practitioners must conduct themselves with the highest degree of integrity.
- 6.2 Practitioners must be straightforward and honest in all professional and business relationships.
- 6.3 Practitioners may not, by means of misrepresentation, reward or benefit, or offer of any reward or benefit, whether directly or indirectly, induce or attempt to induce any person to vote for their appointment.
- 6.4 Practitioners must promote and advance transformation and empowerment of legitimate and sustainable Black-owned and female owned practices and may not make themselves guilty of fronting or failure to report cases of fronting which they are aware of.
- 6.5 Practitioners may not accept or express their willingness to accept from any auctioneer, agent, financial institution or any person engaged to render any services for or in connection with any estate, any share of the commission or remuneration of such auctioneer, agent or person or any other benefits.
- 6.6 Practitioners may not make a donation, contribution or payment in any form to a public official or public officer, which constitutes a bribe or is contrary to a directive by the Master or the