

# *I N D E P E N D E N T*

*C O R P O R A T E R E C O V E R Y A D V I S O R S*

Independent Trustees (Pty) Limited (Reg No 2002/025164/07)  
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## **TO ALL INVESTORS/CREDITORS**

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Date: **09 November 2009**

Dear Investor / Creditor

**BIZ AFRICA 1332 T/A KING FINANCIAL HOLDINGS (PTY) LIMITED (IN LIQUIDATION)  
("THE COMPANY") & ITS SUBSIDIARIES (THE KING GROUP)  
REGISTRATION NO.: 2001/006894/06  
MASTER'S REFERENCE NUMBER: C721/2009**

1. We refer to the above matter and queries relating to the circumstances under which investors / creditors may become liable for contribution.
2. A statement on the so-called Investors Forum website relating to a possible contribution does not fully explain the nature and basis whereupon a contribution could be levied upon concurrent creditors (not only investors) who submit their claims for proof in the liquidation process.
3. A contribution is levied upon concurrent creditors in terms of the provisions of Section 106 of the Insolvency Act 24 of 1936 read with the provisions of the Companies Act.
4. A contribution will be levied:
  - 4.1. only upon concurrent creditors whose claims have been **proved** at a statutory meeting of creditors; and
  - 4.2. when the proceeds of the assets of the estate or the company being liquidated are insufficient to cover all the costs of administration (not **only** the liquidators' fees).
5. In other words, where there is no free residue (meaning assets not subject to any form of encumbrance or the surplus of assets after the bondholder has been paid in full) in the

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Directors:

JF Klopper B Com B Proc R Pieters\* B Econ LDR Van der Merwe\* B Com LLB  
MJ Maseko B Juris LLB HA Plaatjies\* B Juris LLB

\* Member of the Association of Insolvency Practitioners of Southern Africa ("AIPSA")

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estate or insolvent company or when the proceeds of the free residue is insufficient to meet all the expenses, costs and charges mentioned in the Insolvency Act such as:

- 5.1. the sheriff's charges incurred since the liquidation
- 5.2. the fees payable to the Master in connection with the liquidation
- 5.3. the taxed costs of the attorneys who brought the application in liquidation; and
- 5.4. the remuneration of the liquidator

will the concurrent creditors who have proved claims against the estate be called upon to pay a pro rata portion of the uncovered costs by way of a contribution.

6. For the sake of good order we explain as follows by way of an example:

- 6.1. Say, a small company is liquidated and the assets only realise a minimum of R20 000,00 (Twenty Thousand Rand) whilst the costs of liquidation referred to above amounts to R25 000,00 (Twenty Five Thousand Rand).
- 6.2. Under these circumstances the concurrent creditors who have proved claims will, pro rata to the amount of their claims, be liable to cover the shortfall, in this example the amount of R5 000,00 (Five Thousand Rand).

7. What should be abundantly clear from this is:

- 7.1. that it is highly unlikely that any of the King companies will have insufficient assets to cover the costs of liquidation.
- 7.2. having regard to the agreed value of the assets, on a worst case scenario, as stated in the letter of Eversheds of 3 July 2009, the assets will amount to at least approximately R350 000 000,00 (Three hundred and fifty million rand).

8. Under these circumstances we do not believe that there is realistically any danger of a contribution being levied upon concurrent creditors in this matter.

9. What the liquidators are hoping to achieve by obtaining every investor/creditor's proof of claim documents is to determine the exact liabilities in the group as per the investors records.

10. Where it becomes apparent that here there is a clear danger of a contribution being levied upon concurrent creditors in a specific company in the Group the liquidators will not allow any claims to be admitted for proof at a statutory meeting of creditors.

11. We trust that this explains that a contribution is not only levied in respect of "liquidator's fees" but in respect of all costs of liquidation and that a contribution will only be levied under circumstances where a company owns no unencumbered assets.

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12. Should any further queries in this regard exist we invite you to address us in writing whereupon we will gladly answer such queries.

Yours faithfully  
INDEPENDENT TRUSTEES (PTY) LTD

**R PIETERS**  
**JOINT LIQUIDATOR**