

**CONSOLIDATED NEWS AGENCIES (PTY) LTD (IN LIQUIDATION)**

**MASTER’S REFERENCE NO: T3248/02**

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**SUPPLEMENTARY REPORT OF THE LIQUIDATORS, JLC FOURIE, JF KLOPPER, JM DAMONS and K KEEVY (“THE JOINT LIQUIDATORS”) IN TERMS OF SECTION 402 OF THE COMPANIES ACT NO. 61 OF 1973, AS AMENDED, TO BE SUBMITTED AT A FURTHER GENERAL MEETING OF CREDITORS TO BE HELD BEFORE THE MASTER OF THE HIGH COURT, JOHANNESBURG ON THURSDAY, 11 MARCH 2004 AT 11H00**

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**INTRODUCTION**

This report is supplementary to the reports of the Joint Liquidators of **Consolidated** News Agencies (Pty) Ltd (In liquidation) (“**Consolidated**”) submitted to creditors at the Second and General Meetings of Creditors held before the Magistrate, Johannesburg on 25 March 2003 (adjourned to 10 April 2003) and 10 June 2003.

Dr WL Seriti accepted a permanent appointment to the Bench of the High Court of South Africa, Transvaal Provincial Division and resigned his appointment as Joint Liquidator of the **Consolidated**. The Master of the High Court, Pretoria (“the Master”) appointed Juanito Martin Damons as Joint Liquidator of **Consolidated** in his stead.

Subsequent to the General Meeting of Creditors held on 10 June 2003, the Liquidators have proceeded to institute certain actions against various third parties and intend instituting further

proceedings in the nearby future, all of which we believe will ultimately benefit all the creditors of **Consolidated**. This report is aimed at setting out the various causes of actions against third parties, the potential benefit successful prosecution may hold in for **Consolidated** and its creditors and the effect it has on the winding-up of **Consolidated**.

The Joint Liquidators are of the view that alleged aggregate claims of R539 million (i.e. Affinity Logic (Pty) Ltd ("**Affinity**") for R173 million, Wooltru Ltd ("**Wooltru**") for R75 million, ABSA Bank Ltd ("**ABSA**") for R289 million and R2 million) should not participate in the distribution in **Consolidated** and ought to be set aside, expunged or reduced, whatever the case may be, for the benefit of other creditors of **Consolidated**. Further, certain transactions entered into by **Consolidated** and its creditors had the effect of dissipating an amount of R181 million from the coffers of **Consolidated**. This report is specifically aimed at bringing the claims and dispositions to the attention of creditors.

## **SUMMARY OF DEVELOPMENTS THUS FAR**

Before dealing with the subject matters of this circular to creditors, herewith a short summary of developments and what has transpired thus far:

During August 2002 **CTP** Ltd ("**CTP**") applied to the Master and the Master granted leave to hold a commission of enquiry into the affairs of **Consolidated** in terms of Sections 418 as read with Section 417 of the Companies Act, 61 of 1973 ("the Companies Act") and appointed Mr Justice CF Eloff, (former Judge President of the Transvaal Provincial Division of the High

Court), to act as Commissioner (“the Commissioner”). The Commissioner was requested to investigate and report on matters including, *inter alia* the following:

**“The furnishing by the Company [Consolidated] of suretyships to Wooltru as security for payment by Gordon Kay [GK & A] of the purchase price payable to Wooltru with particular reference to:**

**8.5.1 Section 38 of the Companies Act;**

**8.5.2 Voidable preferences and/or dispositions without value in terms of the Insolvency Act;**

**8.6 The relationship between the Company [Consolidated] and/or Central in regard to the retailer agreement between the Company [Consolidated] and M-Tel (Pty) Ltd (“M-Tel”) with particular reference to the amendment of such agreement which had the effect of Central (*sic*) waiving claims against M-Tel for no consideration or benefit and the creation of a trust account at Attorneys Webber Wentzel for payment of funds by the Company [Consolidated] and/or Central under the retailer agreement and more**

**particularly to identify the person entitled to such monies as well as the nature and the legality of the agreement itself”.**

(The reference to **Central** waiving claims in the above quotation should in fact be **Consolidated**)

Various creditors and witnesses were represented at the enquiry and all were required to provide the Commissioner with written submissions to assist him in preparing his report in terms of Section 418(3)(a) of the Companies Act. Submissions were submitted by **CTP**, Mobile Telephone Network (Pty) Ltd (“**MTN**”), **Wooltru**, **ABSA**, the Liquidators of **Central News Agency (Pty) Ltd (In liquidation) (“Central”)** and SC Thomson. **CTP** was invited by the Commissioner to present argument first and other parties represented at the enquiry responded thereto. In result the **CTP** argument and submissions set the tone for all the responses advanced to the Commissioner.

On 9 February 2003 the Commissioner, acting under Section 418 of the Companies Act delivered his report (“the Commissioner’s report”). It contains a number of factual and legal findings which the Joint Liquidators took cognisance of. The Commissioner concluded, *inter alia*, that there are reasonable prospects of success in respect of a number of proposed actions and advised against certain other proceedings.

Subsequent to receiving the Commissioner’s report, the Liquidators conducted further investigations into the affairs of **Consolidated**, which included further investigations into matters dealt with by the Commissioner. Further documentation and other evidence that were

not placed before the Commissioner, were considered. The Joint Liquidators hold the view that there are several causes of action with good prospects of success that, if proceeded with, may ultimately be for the benefit of all creditors of **Consolidated**.

Meetings of creditors were held on 25 March, 10 April and 10 July of 2003 and creditors were requested that resolutions be adopted to authorise the institution of legal proceedings proposed by the Joint Liquidators. The creditors, by a majority of value, voted against the granting of such authority. It is significant to note that only two creditors voted against the granting of such authority at the meeting held on 10 July 2003, i.e. **ABSA** and **Wooltru**.

**ABSA**, in exercising its vote relied on what they perceive to be an unsubordinated portion of a claim in the amount of R289 million which represents a portion of the inter-company loan account of R995 million between **Consolidated News Agencies Holdings (Pty) Ltd (“Holdings”)** and **Consolidated**. The Joint Liquidators have established that the entire claim is subordinated in favour of creditors and have been advised that as a result the claim is unenforceable and not capable of being proved against **Consolidated**. The audited financial statements of both **Consolidated** and **Holdings** also reflect the loan as subordinated. The Liquidators have launched the necessary proceedings to expunge this claim, which will be dealt with later herein.

**Wooltru** relied on a claim for R75 million, a claim allegedly acquired as a result of a suretyship entered into between **Consolidated** and **Wooltru** in terms of which **Consolidated** bound itself as surety and co-principal debtor for the indebtedness of Gordon Kay and Associates (**“GK & A”**) to **Wooltru**. The Joint Liquidators hold the view that the suretyship ought to be set aside

under Insolvency Law. It is our intention to institute the necessary proceedings to set the suretyship aside.

Should the Joint Liquidators be successful in expunging the **ABSA** claim for R289 million and setting aside the suretyship in favour of **Wooltru**, **ABSA** and **Wooltru** no longer will enjoy the majority of value in votes.

#### **SECTION 402(b) : CAUSES OF THE COMPANY'S FAILURE**

From our further investigations it appears that the failure of **Consolidated** can be attributed to *inter alia* three major factors, i.e:

- (a) **The amendment** to the retailer agreement entered into between *inter alia* **Consolidated** and **M-Tel** (Pty) Ltd ("**M-Tel**") to assist **GK & A** to effect part payment of the purchase price to **Wooltru**;
- (b) The sale of the top performing 61 stores by **Consolidated** to **Central** and subsequent attempts by **Holdings** and **ABSA** to divest **Consolidated** of its claim against **Central** for the purchase price;
- (c) **ABSA** terminating an extended overdraft facility and applying payments made by **Consolidated** into the overdrawn account for the period 11 July 2002 to 27 July 2002 (date of winding up) in reduction of **Consolidated's** indebtedness to **ABSA** in the amount of R29 million.

The Joint Liquidators believe that the events referred to in (a), (b) and (c) above entailed many transactions and dispositions that effectively deprived **Consolidated** and its creditors of R181 million and these transactions and dispositions ought to be set aside for the benefit of creditors. We deal with these transactions and dispositions separately hereunder.

#### **SECTION 402(a): ESTIMATED ASSETS AND LIABILITIES**

A First Liquidation and Distribution Account has been lodged with the Master. Certain creditors objected to the account. The Joint Liquidators have considered and dispute the objections. An amended First Liquidation Account will shortly be lodged with the Master.

**Central's** Liquidators have also lodged a First Liquidation and Distribution Account. In its account dividends are being awarded to the following creditors:

<b>ABSA</b>	-	R	24 368 000
<b>ABSA</b>	-	R	8 969 000
<b>ABSA</b>	-	R	53 000
Miscellaneous creditors	-	R	110 000

The Joint Liquidators dispute the awards made to **ABSA** of approximately R33 million and contend that the funds ought to be paid to **Consolidated** for the benefit of its creditors. This will be dealt with later in this report.

If the *status quo* remains, i.e. **Central's** account lodged by its Liquidators is confirmed in its present form, and **Consolidated's** Liquidators accept all claims against **Consolidated** on face value, take no steps to set aside impeachable transactions for the benefit of all creditors, do not invoke the Insolvency Law to reduce or expunge claims, creditors of **Consolidated** and **Central** will be faced with the following dividend scenario:

		Claim		Div		
		(000)		(000)		
<b>CENTRAL</b>						
<b>Available for distribution</b>			R	<b>33 500</b>		
<b>ABSA</b>	(R	133 336)	R	24 368		
<b>ABSA</b>	(R	49 075)	R	8 969		
<b>ABSA</b>	(R	291)	R	53		Claim Div
<b>MISC</b>	(R	600)	R	110	<b>CONSOLIDATED</b>	(000) (000)
<b>CONSOLIDATED</b>	(R	0)	R	0	Dividend ex <b>Central</b>	0
					Recovery voidable transactions	0
					Available for Distribution <b>Consolidated</b>	40 000
					<b>Total available for distribution</b>	<b>40 000</b>
					SECURED	9 000
					PREFERENT	14 000
					CONCURRENT	
					<b>ABSA</b>	(R 49 075) 1 096
					<b>ABSA</b>	(R 289 000) 6 454
					<b>WOOLTRU</b>	(R 75 000) 1 675
					<b>AFFINITY</b>	(173 990) 3 886
					<b>TRADE</b>	(R 174 138) 3 889

**CNA (CONSOLIDATED AND CENTRAL) GROUP DIVIDEND SCENARIO**

Dividends payable to **ABSA** claim: R 49 075 000 / dividend R40 828 000 / (**83** cents / Rand)

Dividends payable to **Wooltru** claim: R75 000 000 / dividend R1 675 000 / (**2** cents / Rand)

Dividends payable to **Affinity** claim: R173 990 000 / dividend R3 886 000 / (**2** cents / Rand)

Dividend payable to **Conc. Cred.** claim: R174 138 000 / dividend R3 889 000 / (**2** cents / Rand)

Award to **MTN** claim: R84 600 000 / award R84 600 000 / (**100** cents / Rand) \*

\* This calculation presupposes that the R84,6 million payable under the amended retailer agreement (which will be dealt with later in this report) falls outside the estate of Consolidated and vest in MTN.

It is also significant to note that, had the winding-up of **Consolidated** and **Central** commenced on 11 July 2002 (as opposed to 27 July and 1 August respectively), **ABSA** would have been in exactly the same position as other concurrent creditors of **Consolidated**. Shortly after **ABSA** acquired additional security for their indebtedness, the overdraft facility utilised by the group was withdrawn and payments made to **Consolidated** was applied by **ABSA** to reduce **Consolidated's** liability to **ABSA**.

**SECTION 402(e): LEGAL PROCEEDINGS BY OR AGAINST CONSOLIDATED INCLUDING ACTIONS, APPLICATIONS AND OTHER PROCEEDING RECOMMENDED BY THE JOINT LIQUIDATORS**

- (i) **Affinity Logic (Pty) Ltd (“Affinity”) v Consolidated and its Liquidators / (Case No: 26609/03 TPD)**

**Affinity** issued summons against **Consolidated** and its Liquidators for “payment, as a concurrent creditor in the insolvent estate of the Fifth Defendant [**Consolidated**], of the amounts of R7 926 007,85 and R173 990 625,00 together with interest thereon from 24 July 2002 until date of payment...”. The cause of action is founded on an alleged acceleration clause contained in an outsourcing agreement entered into between **Consolidated** and **Affinity** and further, for services rendered post the commencement of the winding-up of **Consolidated**. **Consolidated** and the Joint Liquidators gave notice to **Affinity** of their intention to except to their particulars of claim on the grounds that they are vague and embarrassing or lack the necessary averments to sustain the cause of action relied upon. **Affinity** recently advised the attorneys acting on behalf of **Consolidated** that they intend amending their particulars of claim. It is the intention of Joint Liquidators to defend the action and have instructed attorneys to do so.

(ii) **Consolidated v the Master and Central’s Liquidators / (Case No: 23286/2003 TPD)**

**Consolidated** and the Joint Liquidators launched an application in the High Court in which an order is sought that the decision of the Master made on 15 July 2003 to expunge **Consolidated’s** proved claim against **Central** (in the amount of R107 875 656) be reviewed and set aside. This application is pending and is at present being held in abeyance pending the outcome of the application referred to in (iii) hereunder.

(iii) **Consolidated and the Joint Liquidators v ABSA Bank, Central and its Liquidators, Consolidated News Agencies Holdings (Pty) Ltd (“Holdings”), the Master and Thomson Wilks / (Case No: 30380/2003 TPD)**

**Consolidated** and the Joint Liquidators launched an application to the High Court in which an order is sought declaring that the ownership of the claim for R133 336 454,72 in respect of the purchase price for the Top 61 Stores (“the sale claim”) due by **Central** to **Consolidated** vest in **Consolidated**, directing that **Consolidated** is a creditor of **Central** for the amount of the claim, declaring that **ABSA** (or any other party) is not entitled to be paid any dividend by **Central** or its Liquidators in respect of the sale claim, and further directing the Liquidators of **Central** to reflect **Consolidated** as a creditor of **Central** in the Liquidation and Distribution Account for the amount of the said claim. If the Joint Liquidators are successful with the application as set out above, the benefit to creditors of **Consolidated** will be approximately R25 million. We also believe that no creditor of **Consolidated** can legitimately lay claim to the proceeds or dividends paid in respect of the sale claim as their security.

**Central** and its Liquidators are not opposing the application and have indicated that they will abide the order handed down by Court. **Holdings**, the Master and Thomson Wilks have not entered an appearance to oppose the application.

**ABSA** is opposing the application. The matter is set down for hearing on 18 May 2004.

(iv) **The Joint Liquidators v ABSA Bank Limited / (Case No: 30228/2003 WLD)**

This action was instituted under the provisions of Section 29(1) of the Insolvency Act and Section 340 of the Companies Act. During the period 11 July 2002 to date of the winding-up of **Consolidated**, **Consolidated** made payments totalling R29 743 704,86

into the overdrawn account held at **ABSA**. Each of the payments was made and applied in reduction of the indebtedness of **Consolidated** to **ABSA** on the overdrawn account. The payments had the effect of preferring **ABSA** above other creditors of **Consolidated** at a time during which **Consolidated's** liabilities exceeded the value of its assets.

**ABSA** is defending the action.

(v) **Consolidated (qua creditor of Central) (exercising its rights under Section 32(1)(b) of the Insolvency Act) v ABSA Bank**

The Liquidators of **Central** reflect in their First Liquidation and Distribution Account a claim lodged by **ABSA** for an amount of R49 075 000, based on a suretyship signed by **Central** in terms of which **Central** bound itself as surety and co-principal debtor for the amounts owing by **Consolidated** and **Holdings** to **ABSA**. The suretyship was a condition precedent that **ABSA** imposed upon **Central** to increase the facilities of **Consolidated** and **Holdings** by R32 million. The facility letter is dated 28 June 2002, but the suretyship was only entered into on 11 July 2002, some sixteen days before the commencement of the winding-up of **Consolidated**. It is also significant to note that shortly thereafter **ABSA** withdrew the facility.

The Liquidators of **Central**, by admitting the claim and attempting to award a dividend thereon in the First Liquidation and Distribution Account, have indicated that they are satisfied with the claim and have no intention of setting the suretyship agreement aside. The Joint Liquidators believe that the suretyship in itself is an impeachable transaction

that ought to be set aside under Insolvency Law. Should such proceedings be instituted and be successful, it will hold a benefit for creditors of **Consolidated** of approximately R8 million.

The Joint Liquidators have addressed a letter to the **Central** Liquidators on 15 October 2003 advising them of their view that the agreement forming the *causa* of the **ABSA** claim (i.e. the suretyship agreement) constitute a disposition in the estate of **Central** that ought to be set aside under Insolvency Law and further requested them to advise whether they (the **Central** Liquidators) intend to institute the necessary proceedings to do so (and thereby effectively expunging the **ABSA** claim). Should the **Central** Liquidators fail to institute proceedings to set aside the suretyship, it is our intention to do so as creditor of **Central**.

The **Central** Liquidators have to date not indicated what their intentions are in this regard.

(vi) **MTN (Pty) Ltd v Webber Wentzel Bowens and the Liquidators of Consolidated**

The Joint Liquidators have reason to believe that **MTN** intends launching an application against Webber Wentzel Bowens and the Joint Liquidators in which they seek an order declaring that **MTN** is beneficially entitled to an amount standing to the credit of an account held by Webber Wentzel Bowens with Nedbank (approximately R23 million) ("the trust fund").

To fully understand and comprehend the claim **MTN** allege it has on the trust fund, it is necessary to set out the facts and complexities that gave rise to this allegation:

- On 20 April 1999 **Consolidated** concluded a retailer agreement (“the retailer agreement”) with **M-Tel** (Pty) Ltd (“**M-Tel**”) of which clause 25 provided as follows:

**“25.1 The Service Provider [M-Tel] warrants that, in each of the periods set out below (“the target period”), the Retailer [Consolidated] shall accrue discounts, commissions and/or incentives as contemplated in 13, 15, 16, 17, and 23 above, equal to or exceeding the following minimum amounts (“the minimum target”):**

- i.) 1 July 1999 to 30 June 2000 – a total of R65 million (exclusive of VAT);**
- ii.) 1 July 2000 to 30 June 2001 – a total of R77 million (exclusive of VAT);**
- iii.) 1 July 2001 to 30 June 2002 – a total of R84,7 million (excluding VAT).**

**In the event that the aforesaid warranty is breached then the Retailer shall be entitled, as its sole remedy, to the relief set out in 25.2.4.2 below.”**

In the result **Consolidated** acquired a guaranteed income stream for the sale of **M-Tel** products (“the income warranties”). Income thus derived amounted to R65 million, R77 million and R84,7 million for the years ending June 2000, 2001 and 2002 respectively.

- During or about August 2000 **Wooltru** decided to dispose of its shareholding in **Holdings** (and effectively the CNA Group) and Casanove South Africa (Pty) Ltd (“Casanove”) was instructed by **Wooltru** to seek offers for the purchase of its shares and loan account in **Holdings**. On 14 February 2001 Casanove tabled a report in which it described the dire financial position of **Holdings** and its subsidiaries, its declining prospects and attempted to place a value on the group.
- On 14 February 2001 the board of **Wooltru** authorised the sale of shares to **GK & A** and an agreement (“the sale agreement”) was concluded the very next day, i.e. on 15 February 2001.
- In terms of the sale agreement **Wooltru** sold its shares and loan claims against **Holdings** to **GK & A**. **GK & A** was required to provide, *inter alia* certain guarantees in respect of the payment of the purchase price: -

A joint personal suretyship by Messrs Gordon and Kay which had to be replaced on or before 1 March 2001 with an irrevocable and unconditional commercial bank guarantee for the due payment of the sum of R30 million to **Wooltru**;

After fulfilment of the conditions precedent, **GK & A** had to provide a further irrevocable and unconditional commercial bank guarantee for due payment of a further sum of R54,6 million to **Wooltru**;

- **GK & A** defaulted with its obligation to provide the first guarantee by 1 March 2001. On 5 March 2001 John Rabb, writing on behalf of **Wooltru** to **GK & A** said:

**“In the interest of the sale transaction, we [Wooltru] have agreed to allow you [Gordon Kay & Associates] lee-way until Friday, 9 March 2001 in order to come up with the guarantees for the revised amount of R86 million. To assist you [Gordon Kay & Associates] in this regard, we [Wooltru] have agreed to allow you to use the M-Tel guarantees to the business as security for the payment guarantee. This concession is conditional upon Wooltru being released, with immediate effect, from any liabilities to M-Tel arising out of the CNA’s purchase.”**

- The so-called “**M-Tel** guarantees” emanated from an amendment to the retailer agreement (“**the amendment**”) referred to above. The salient terms of **the amendment** were as follows:
  - **Consolidated** gave up its right to payment of approximately R33 million that was payable by **M-Tel** to **Consolidated** under the 2001 income warranty;
  - In consideration for **Consolidated** waiving its claims to the 2001 income warranties, **MTN**, a sister company of **M-Tel**, undertook to provide the required payment guarantees in favour of **Wooltru**, i.e. for a portion of the purchase obligation of **GK & A** under the sale agreement, being a sum of R84,6 million.
  - The income warranty for the period ended 30 June 2002 remained in force save that:
    - ◇ The period covered by the income warranty was extended to run from 1 April 2001 (as opposed to 1 July 2001) to 30 June 2002;
    - ◇ **Consolidated** and **M-Tel** agreed that all income (whether earned pursuant to the retailer agreement or otherwise) accruing to the stores between 1 April 2001 and 30 June 2002, to a maximum of the sums payable in terms of the guarantees (R84,6 million) had to be paid into an interest bearing trust account opened by Webber Wentzel Bowens pursuant to the provisions of Section 78(2)(A) of the Attorneys Act of 1979;

- ◇ In determining the liability of **M-Tel** under the 2002 income warranty, the income earned by all the stores (**Consolidated** and **Central**) under the retailer agreement had to be aggregated, and **M-Tel** remained liable for the shortfall, and had to pay such shortfall into the trust account;
- ◇ **Consolidated** (and **Central**) was entitled to withhold from the trust account, and to retain as a loan, 50% of their income from existing business conducted under the retailer agreement, subject to a maximum withholding of R1,5 million per month, and further subject to a maximum total withholding of R20 million;
- ◇ **M-Tel** undertook to **Consolidated** and to **MTN** (its sister company providing the guarantees) that if the balance of the trust account as at date on which payments is made by **MTN** under the guarantees (30 June 2002) is less than the sum payable under the guarantees, **M-Tel** shall forthwith pay into the trust account the full shortfall between such sum and the balance of the trust account;
- ◇ If **MTN** was to be called upon to make payment under the guarantees (which did happen) **MTN** would be entitled to recover the amounts paid by it from **GK & A** and **Consolidated** it being always the intention of the parties that **MTN** will in fact be reimbursed by **Consolidated**, and that such reimbursement being effected from the monies held in the trust account;

- ◇ **Consolidated** bound itself as surety and co-principal debtor with **GK & A** for **GK & A's** obligation to **MTN** to refund monies paid by **MTN** under the guarantees, to create a legal *causa* for the payments contemplated above and **Consolidated** ceded to **MTN**, as security for those obligations, all of their rights in and to the monies in the trust account and all of their rights under the income warranties for the period ended 30 June 2002.
- It is clear that, had it not been for **the amendment** the sale agreement would not have been implemented. **GK & A** was unable at any stage to finance its acquisition of the shares **Wooltru** held in **Holdings**. It is also clear that, with the exception of **Consolidated**, all of the participants to **the amendment** stood to benefit substantially from the conclusion of **the amendment**:
  - ❖ **Wooltru** obtained the assurance of payment of R84,6 million of the purchase price of R150 million (a claim that only became due and payable on 30 June 2002, some 27 days before the commencement of the winding-up of **Consolidated**) a position it could never have attained but for **the amendment**. **Wooltru** further had the benefit of ridding itself of certain contingent liabilities incurred in respect of **Consolidated's** indebtedness;
  - ❖ **M-Tel** benefited substantially in that it was released from its obligation under the 2001 income warranty (some R33 million). The calculation period for the 2002 income warranty was also extended by three months.

- ❖ **GK & A** benefited from the conclusion of **the amendment** since it was now able to provide the necessary guarantees;
- ❖ Messrs **Gordon** and **Kay** benefited from **the amendment** since they were released from their personal suretyships to **Wooltru**;
- ❖ **MTN's** position was neutral (if they can successfully lay claim to the proceeds of the trust accounts), whereas it supplied payment guarantees in favour of **Wooltru** in respect of the purchase obligations of **GK & A**, it knew that it would be repaid all of the monies expended by it from the trust account in terms of **the amendment**.
- In stark contradistinction to the foregoing, **Consolidated** not only lost R33 million payable under the 2001 income warranty, it was also now effectively deprived of its warranted income stream of R84,7 million for the period 1 July 2001 to 30 June 2002. It also lost the financial backing of **Wooltru**, a listed company with the financial muscle to support it, and acquired a new ultimate holding company with no track record, it effectively being a shelf company.
- **Consolidated** effectively disposed of a benefit of R117 million (to facilitate the sale agreement between **GK & A** and **Wooltru**) for no commercial or other benefit to itself whatsoever.

- The Joint Liquidators have been advised that the claim on the monies in the trust account vest in **Consolidated**, ought to be placed in the custody and under the control of the Joint Liquidators whose duty and right it is to take possession thereof, and to distribute the proceeds in the proper order of preference as the law directs them to do.

(vii) **Action to compel M-Tel to specifically perform in terms of the amendment**

As is stated above, the income warranty for the period ended 30 June 2002 remains in force save for an amendment to the period covered and the Joint Liquidators believe that **M-Tel** is obliged to pay the shortfall under the 2002 income warranty into the trust account.

The Joint Liquidators intend instituting an action against **M-Tel** to compel them to fully comply with the provisions of **the amendment** and to pay into the trust account the full shortfall as they are obliged to do. According to the calculations of the Joint Liquidators, the amount payable by **M-Tel** into the trust account should be in the region of R60 million.

(viii) **Action to set aside suretyship by Consolidated in favour of MTN**

As stated above, **Consolidated** bound itself as surety and co-principal debtor with **GK & A** for **GK & A's** obligation to **MTN** to refund monies paid by **MTN** under the guarantees, to create a legal *causa* for **MTN** to lodge a claim in **Consolidated**, and ceded to **MTN**, as security for the obligation, all of their rights in and to the monies in

the trust account and all of their rights under the income warranties for the period ended 30 June 2002. **MTN** has thus far not attempted to prove their claim at a meeting of creditors or to establish it in a Court of Law. However, the Joint Liquidators anticipate that **MTN** will attempt to do so shortly.

The **MTN** suretyship in itself constitute a disposition by **Consolidated** that ought to be set aside under Insolvency Law, thereby effectively expunging any possible claim **MTN** may have against **Consolidated**. If the Joint Liquidators are successful in this action, the full benefit of the R84,6 million under the 2002 income warranties will be for the benefit of the general body of creditors of **Consolidated**.

(ix) **An action to hold Wooltru and JD Newton liable for all debts and other liabilities of Consolidated**

**Wooltru** and **Newton** actively participated and co-operated in the negotiation, conclusion and the implementation of **the amendment** to the retailer agreement. Had it not been for the active participation and co-operation on the part of **Wooltru** and **Newton**, **Consolidated** would have had the benefit of either the proceeds of any contemplated shortfall provided for under the income warranties or, alternatively, a proposed “once off” cash payment of R84,6 million payable on 30 June 2002.

As a consequence of the conclusion and implementation of **the amendment**, and to the knowledge of **Wooltru** and **Newton**, **Consolidated** was deprived of income warranties the benefit of which it would have received under the retailer agreement or, alternatively, a once off cash payment which it would have received had the proceeds

of **the amendment** been channelled in a proper manner, i.e. for the benefit of **Consolidated**. **Consolidated** derived no, alternatively no commensurate, commercial benefit and was rendered factually and commercially insolvent thereby, and was not a going concern.

During or about June 2001 and again during December 2001 the cash resources of **Consolidated** were further depleted by **GK & A** by two amounts of R15 million each (“the withdrawals”). The withdrawals were purportedly made against an unsubordinated portion of the loan debt acquired by **GK & A** under the sale agreement. The withdrawals occurred with the full knowledge of **Newton** who permitted same to be effected without any demur whatsoever, and **Wooltru** who accepted and appropriated same.

At the time of the negotiations, conclusion and implementation of **the amendment** and the withdrawals referred to above, **Newton** and **Wooltru** were well aware of the dire financial position of **Consolidated**, that their conduct deprived the management of **Consolidated** of the opportunity to utilise same for creditors or for the benefit of **Consolidated**. We have been advised that **Wooltru**, in conducting itself in the manner aforesaid became a party to the business of **Consolidated** as contemplated under the provisions of Section 424 of the Companies Act , and was knowingly a party to the business of **Consolidated** being carried on recklessly as contemplated under the provisions of Section 424 of the Companies Act.

It is the intention of the Joint Liquidators to institute an action against **Newton** and **Wooltru** for an order declaring them jointly responsible, without any limitation of liability,

for all the debts and other liabilities of **Consolidated**, alternatively for such debts of **Consolidated** as the Court may direct.

(x) **An action setting aside the suretyship by Consolidated in favour of Wooltru**

On or about 25 April 2001, **Consolidated** bound itself as surety and co-principal debtor together with **GK & A** for the indebtedness of **GK & A** to **Wooltru** under the sale agreement.

The Joint Liquidators hold the view that the suretyship agreement entered into was a disposition of property of **Consolidated** that ought to be set aside under Insolvency Law. Once again, no benefit or value of whatsoever nature has been received by **Consolidated** for entering into the agreement. The transaction was detrimental to the interest of the creditors of **Consolidated** and ought to be set aside.

**Wooltru** has lodged and proved a claim for R75 994 060,32 based on the suretyship.

(xi) **Application to expunge ABSA's claim proved for R995 million**

The Joint Liquidators have lodged a memorandum in terms of Section 45(3) of the Insolvency Act and have made application to the Master to expunge the claim submitted and proved by **ABSA** for an amount of R995 million (which include an amount of R289 million which **ABSA** allege is not subordinated)

**Holdings** is the sole shareholder and a substantial creditor of **Consolidated**. On 28 February 2001 **Consolidated** was indebted to **Holdings** in the amount of R995 million. **Holdings** agreed to assist **Consolidated** by subordinating its claims against **Consolidated** and in favour and for the benefit of other creditors of **Consolidated**. The intention of both **Holdings** and **Consolidated** to subordinate the inter-company loan claim are also reflected in the financial statements of both **Holdings** and **Consolidated** for the year ending 28 February 2001, audited by Deloitte & Touche and approved by the Board of Directors of both **Consolidated** and **Holdings** on 31 July 2001.

**ABSA** is opposing the application and we are awaiting the ruling from the Master.

(xii) **Application to reduce ABSA's claim in the amount of R49 366 519,06 under the provisions of Section 45(3) of the Insolvency Act**

The Joint Liquidators has lodged a memorandum under the provisions of Section 45(3) of the Insolvency Act to reduce the claim submitted and proved by **ABSA** for an amount of R49 366 519,06 (claim number 290) to an amount of R46 397 007,90. The claim was incorrectly calculated and **ABSA** consented to the claim being reduced to R46 397 007,90.

(xiii) **Action to set aside payments to CTP subsidiaries**

On or about 11 July 2002, **ABSA** had taken a decision not to make payment to any creditors of **Consolidated** and that creditor cheques would be dishonoured. To this

**ABSA** made a single exception in making payment to subsidiary companies within the **CTP** group of amounts owing to them by **Consolidated**. The following payments were made:

11 July 2002	-	R455 686,34
11 July 2002	-	R254 163,28
11 July 2002	-	R263 759,15
18 July 2002	-	R2 930 606,02

**ABSA** obtained a transfer of funds from the trust account of Thomson Wilks Attorneys, such funds being funds specifically set aside by **Consolidated** in respect of a dispute with one of its landlords. In addition, **ABSA** obtained an undertaking by **GK & A** to pay **ABSA** the sum of R1 823 849,60 to facilitate the payment to the **CTP** subsidiaries. **ABSA** was only prepared to make payments to the **CTP** subsidiaries on the bases that it was fully covered.

The Commissioner investigated the payments and came to the conclusion that the effect of the payment by **ABSA** was to prefer the **CTP** subsidiaries above the remaining creditors of **Consolidated**. The payments were made by **ABSA** on behalf of **Consolidated**, having been instructed to make the payments by Messrs Gordon and Kay, with the intention to prefer the **CTP** subsidiaries above the general body of creditors, and that the payments were not made in the ordinary course of business. The Commissioner found that there are good grounds for the recovery of the amounts paid by virtue of the provisions of the Insolvency Act and Section 340 of the Companies Act.

It is the view of the Joint Liquidators, or at least the view of certain of the Joint Liquidators, that the **CTP** subsidiaries may have a valid defence to counter any such action and are awaiting an opinion from Senior Counsel in this regard. However, the Joint Liquidators will assist and commit themselves to the prosecution of such claim, should creditors so desire.

(xiv) **Settlement proposal proposed by GK & A and Holdings**

**Holdings** and **GK & A** contend that, in terms of an agreement entered into between **Consolidated** and **Holdings** during November of 2001, **Holdings** became the sole shareholder in the CNA Property Holding Companies. They further contend that the vehicle fleet of **Consolidated** and the assets situate at Laub Street were similarly sold to **Holdings**.

Further, **Consolidated** sold the Benmore Gardens and Morning Glen franchise stores to Gordon and further supplied those stores (and the store in Maputo) with goods. **Consolidated** contend that, in the aggregate, an amount of R3,6 million is owing to **Consolidated**, all of which is disputed by Mark Gordon.

**GK & A** owes to **Consolidated** R1 million in respect of a loan extended by **Consolidated** to **GK & A**.

In terms of the sale of business agreement entered into between **Consolidated**, **Central** and Edgars **Consolidated** Stores Limited, **Consolidated** sold all of its right,

title and interest in and to the intellectual property owned by **Consolidated** which included trademarks, trade names, logos, design and the signage attaching to the CNA businesses. The sale also included all and any unregistered trademarks or trade names used by **Consolidated** and **Central**, together with all the goodwill appertaining to the foregoing. **Holdings** alleges that the Joint Liquidators sold the [www.cna.co.za](http://www.cna.co.za) domain and the trademark "You Can At CNA" to Edcon wrongfully, since the two items of intellectual property belong to **Holdings**, and not to **Consolidated**.

**Holdings**, through their attorneys, propose that, as an all in settlement transaction not capable of partial exception or rejection, all of the issues referred to above be resolved as follows:

In consideration for the waiver and abandonment by **Holdings** of all of its right, title and interest in and to the assets as set out above or the sale proceeds thereof, **Consolidated** pay to **Holdings** an amount of R6,5 million;

All of the assets or the sale proceeds thereof, are delivered or paid to **Consolidated**;

**Holdings** pay to **Consolidated** the sum of R1 million in full and final settlement of any dispute pertaining to the franchise stores and the Maputo store;

**Holdings** pay to **Consolidated** an amount of R1 million in full and final settlement of the claim **Consolidated** has against **GK & A** (R1 million).

The nett effect of the settlement would be that a further amount of R12 million will accrue to **Consolidated** and its creditors.

The Joint Liquidators request creditors to consider the offer, and should creditors approve of such settlement proposal, authorise the Joint Liquidators to settle the dispute on the basis as set out above.

#### **SECTION 402(h) : PROGRESS AND PROSPECTS OF THE WINDING-UP**

In order to assist creditors, the Joint Liquidators calculated the possible financial impact that the successful prosecution of every recommended action or application will have on possible dividends that may accrue to creditors of **Consolidated**. In our calculations we have provided for Section 89 costs to be deducted and further provided for legal costs to be deducted from the nett proceeds of all actions. The information contained in this supplementary report was compiled for the sole purpose of assisting creditors in understanding the many issues and permutations in the winding-up of **Consolidated**. All amounts reflected in the report are estimates for calculation purposes only and reflected in the report without prejudice to any rights, claims or increased claims **Consolidated** and the Joint Liquidators may have against third parties.

The actions may have the following impact on the winding-up of **Consolidated**:

**Reduction of ABSA's claim (claim number 290) to R46 397 007,90 (xi);**

		Claim		Div		
<b>CENTRAL</b>		(000)		(000)		
<b>Available for distribution</b>			R	<b>33 500</b>		
<b>ABSA</b>	(R	133 336)	R	24 368		
<b>ABSA</b>	(R	49 075)	R	8 969		
<b>ABSA</b>	(R	291)	R	53	Claim	Div
<b>MISC</b>	(R	600)	R	110	<b>CONSOLIDATED</b>	(000) (000)
<b>CONSOLIDATED</b>	(R	0)	R	0	Dividend ex <b>Central</b>	0
					Recovery voidable transactions	0
					Available for Distribution <b>Consolidated</b>	40 000
					<b>Total available for distribution</b>	<b>40 000</b>
					SECURED	9 000
					PREFERENT	14 000
					CONCURRENT <b>ABSA</b>	(R 46 397) 1 040
					<b>ABSA</b>	(R 289 000) 6 477
					<b>Wooltru</b>	(R 75 000) 1 680
					<b>Affinity</b>	(R 173 990) 3 900
					<b>Trade</b>	(R 174 138) 3 903

**CNA (CONSOLIDATED AND CENTRAL) GROUP DIVIDEND SCENARIO**

Dividends payable to **ABSA** claim: R 46 397 000 / dividend R40 907 000 / (**88** cents / Rand)  
 Dividends payable to **Wooltru** claim: R75 000 000 / dividend R1 680 000 / (**2** cents / Rand)  
 Dividends payable to **Affinity** claim: R173 990 000 / dividend R3 900 000 / (**2** cents / Rand)  
 Dividend payable to **Conc. Cred.** claim: R174 138 000 / dividend R3 903 000 / (**2** cents / Rand)  
 Award to **MTN** claim: R84 600 000 / award R84 600 000 / (**100** cents / Rand) \*

\* This calculation presupposes that the R84,6 million payable under **the amendment** falls outside the estate of Consolidated and vest in MTN.

**Declaring ownership in the sale claim (R133 million) an asset of Consolidated (iii);**

	Claim	Div		
<b>CENTRAL</b>	(000)	(000)		
<b>Available for distribution</b>	R	<b>33 500</b>		
<b>ABSA</b>	(R 49 075)	R 8 969		
<b>ABSA</b>	(R 291)	R 53		Claim Div
<b>MISC</b>	(R 600)	R 110	<b>CONSOLIDATED</b>	(000) (000)
<b>CONSOLIDATED</b>	(R 133 336)	R 24 368	Dividend ex <b>Central</b>	19 957
			Recovery voidable transactions	0
			Available for Distribution <b>Consolidated</b>	40 000
			<b>Total available for distribution</b>	<b>59 957</b>
			SECURED	9 000
			PREFERENT	14 000
			CONCURRENT <b>ABSA</b>	(R 46 397) 2 261
			<b>ABSA</b>	(R 289 000) 14 081
			<b>Wooltru</b>	(R 75 000) 3 654
			<b>Affinity</b>	(R 173 990) 8 477
			<b>Trade</b>	(R 174 138) 8 484

**CNA (CONSOLIDATED AND CENTRAL) GROUP DIVIDEND SCENARIO**

Dividends payable to **ABSA** claim: R 46 397 000 / dividend R25 364 000 / (**54** cents / Rand)  
 Dividends payable to **Wooltru** claim: R75 000 000 / dividend R3 654 000 / (**5** cents / Rand)  
 Dividends payable to **Affinity** claim: R173 990 000 / dividend R8 477 000 / (**5** cents / Rand)  
 Dividend payable to **Conc. Cred.** claim: R174 138 000 / dividend R8 484 000 / (**5** cents / Rand)  
 Award to **MTN** claim: R84 600 000 / award R84 600 000 / (**100** cents / Rand) \*

\* This calculation presupposes that the R84,6 million payable under **the amendment** falls outside the estate of Consolidated and vest in MTN.

**Setting aside the suretyship entered into on 11 July 2002 between Central and ABSA**

**(v);**

		Claim		Div		
<b>CENTRAL</b>		(000)		(000)		
<b>Available for distribution</b>			R	<b>33 500</b>		
<b>ABSA</b>	(R	291)	R	72	Claim	Div
<b>MISC</b>	(R	600)	R	150	<b>CONSOLIDATED</b>	(000) (000)
<b>CONSOLIDATED</b>	(R	133 336)	R	33 278	Dividend ex <b>Central</b>	27 255
					- (Sec 89/legal costs provided for)	
					Recovery voidable transactions	0
					Available for Distribution <b>Consolidated</b>	40 000
					<b>Total available for distribution</b>	<b>67 255</b>
					SECURED	9 000
					PREFERENT	14 000
					CONCURRENT	
					<b>ABSA</b>	(R 46 397) 2 707
					<b>ABSA</b>	(R 289 000) 16 861
					<b>Wooltru</b>	(R 75 000) 4 376
					<b>Affinity</b>	(R 173 990) 10 151
					<b>Trade</b>	(R 174 138) 10 160

**CNA (CONSOLIDATED AND CENTRAL) GROUP DIVIDEND SCENARIO**

Dividends payable to **ABSA** claim: R 46 397 000 / dividend R19 640 000 / (**42** cents / Rand)  
 Dividends payable to **Wooltru** claim: R75 000 000 / dividend R4 376 000 / (**6** cents / Rand)  
 Dividends payable to **Affinity** claim: R173 990 000 / dividend R10 151 000 / (**6** cents / Rand)  
 Dividend payable to **Conc. Cred.** claim: R174 138 000 / dividend R10 160 000 / (**6** cents / Rand)  
 Award to **MTN** claim: R84 600 000 / award R84 600 000 / (**100** cents / Rand) \*

\* This calculation presupposes that the R84,6 million payable under **the amendment** falls outside the estate of Consolidated and vest in MTN.

**Expunging ABSA's claim (claim no 289) for R995 million (including the alleged "unsubordinated" portion of R289 million (xi);**

		Claim		Div		
<b>CENTRAL</b>		(000)		(000)		
<b>Available for distribution</b>			R	<b>33 500</b>		
<b>ABSA</b>	(R	291)	R	72	Claim	Div
<b>MISC</b>	(R	600)	R	150	<b>CONSOLIDATED</b>	(000) (000)
<b>CONSOLIDATED</b>	(R	133 336)	R	33 278	Dividend ex <b>Central</b>	27 255
					- (Sec 89/legal costs provided for)	
					Recovery voidable transactions	0
					Available for Distribution <b>Consolidated</b>	40 000
					<b>Total available for distribution</b>	<b>67 255</b>
					SECURED	9 000
					PREFERENT	14 000
					CONCURRENT <b>ABSA</b>	(R 46 397) 4 373
					<b>Wooltru</b>	(R 75 000) 7 069
					<b>Affinity</b>	(R 173 990) 16 399
					<b>Trade</b>	(R 174 138) 16 414

#### **CNA (CONSOLIDATED AND CENTRAL) GROUP DIVIDEND SCENARIO**

Dividends payable to **ABSA** claim: R 46 397 000 / dividend R4 445 000 / (**10** cents / Rand)

Dividends payable to **Wooltru** claim: R75 000 000 / dividend R7 069 000 / (**9** cents / Rand)

Dividends payable to **Affinity** claim: R173 990 000 / dividend R16 399 000 / (**9** cents / Rand)

Dividend payable to **Conc. Cred.** claim: R174 138 000 / dividend R16 414 000 / (**9** cents / Rand)

Award to **MTN** claim: R84 600 000 / award R84 600 000 / (**100** cents / Rand) \*

\* This calculation presupposes that the R84,6 million payable under **the amendment** falls outside the estate of Consolidated and vest in MTN.

**Setting aside voidable dispositions to ABSA subsequent to 11 July 2002 (iv);**

		Claim		Div		
<b>CENTRAL</b>		(000)		(000)		
<b>Available for distribution</b>			R	<b>33 500</b>		
<b>ABSA</b>	(R	291)	R	72	Claim	Div
<b>MISC</b>	(R	600)	R	150	<b>CONSOLIDATED</b>	(000) (000)
<b>CONSOLIDATED</b>	(R	133 336)	R	33 278	Dividend ex <b>Central</b>	27 255
					- (Sec 89/legal costs provided for)	
					Recovery voidable transactions	
					- <b>ABSA</b> (R29 million)	23 751
					- (Sec 89/legal costs provided for)	
					Available for Distribution <b>Consolidated</b>	40 000
					<b>Total available for distribution</b>	<b>91 006</b>
					SECURED	9 000
					PREFERENT	14 000
					CONCURRENT <b>ABSA</b>	(R 75 397) 10 285
					<b>Wooltru</b>	(R 75 000) 10 231
					<b>Affinity</b>	(R 173 990) 23 735
					<b>Trade</b>	(R 174 138) 23 755

**CNA (CONSOLIDATED AND CENTRAL) GROUP DIVIDEND SCENARIO**

Dividends payable to **ABSA** claim: R75 397 000 / dividend R10 357 000 / (14 cents / Rand)  
Dividends payable to **Wooltru** claim: R75 000 000 / dividend R10 231 000 / (14 cents / Rand)  
Dividends payable to **Affinity** claim: R173 990 000 / dividend R23 735 000 / (14 cents / Rand)  
Dividend payable to **Conc. Cred.** claim: R174 138 000 / dividend R23 755 000 / (14 cents / Rand)  
Award to **MTN** claim: R84 600 000 / award R84 600 000 / (100 cents / Rand) \*

\* This calculation presupposes that the R84,6 million payable under **the amendment** falls outside the estate of **Consolidated** and vest in **MTN**. This calculation also presupposes that **ABSA** will be successful in increasing their claim by R29 million.

**Setting aside voidable payments to CTP subsidiaries (xiii);**

		Claim		Div		
<b>CENTRAL</b>		(000)		(000)		
<b>Available for distribution</b>			R	<b>33 500</b>		
<b>ABSA</b>	(R	291)	R	72	Claim	Div
MISC	(R	600)	R	150	<b>CONSOLIDATED</b>	(000) (000)
<b>CONSOLIDATED</b>	(R	133 336)	R	33 278	Dividend ex <b>Central</b>	27 255
					- (Sec 89/legal costs provided for)	
					Recovery voidable transactions	
					- <b>ABSA</b> (R29 million)	23 751
					- <b>CTP</b> (R4 million)	3 276
					- (Sec 89/legal costs provided for)	
					Available for Distribution <b>Consolidated</b>	40 000
					<b>Total available for distribution</b>	<b>94 282</b>
					SECURED	9 000
					PREFERENT	14 000
					CONCURRENT <b>ABSA</b>	(R 75 397) 10 695
					<b>Wooltru</b>	(R 75 000) 10 639
					<b>Affinity</b>	(R 173 990) 24 680
					<b>Trade</b>	(R 178 138) 25 268

**CNA (CONSOLIDATED AND CENTRAL) GROUP DIVIDEND SCENARIO**

Dividends payable to **ABSA** claim: R75 397 000 / dividend R10 767 000 / (14 cents / Rand)  
 Dividends payable to **Wooltru** claim: R75 000 000 / dividend R10 639 000 / (14 cents / Rand)  
 Dividends payable to **Affinity** claim: R173 990 000 / dividend R24 680 000 / (14 cents / Rand)  
 Dividend payable to **Conc. Cred.** claim: R178 138 000 / dividend R25 268 000 / (14 cents / Rand)  
 Award to **MTN** claim: R84 600 000 / award R84 600 000 / (100 cents / Rand) \*

\* This calculation presupposes that the R84,6 million payable under **the amendment** falls outside the estate of **Consolidated** and vest in **MTN**. This calculation also presupposes that **ABSA** will be successful in increasing their claim by R29 million and **CTP** theirs by R4 million.

**Successfully defending the Affinity Logic action (i). For calculation purposes we have provided for damages claims of R30 million, although it is doubted if any such claims exist;**

		Claim		Div		
<b>CENTRAL</b>		(000)		(000)		
<b>Available for distribution</b>			R	<b>33 500</b>		
<b>ABSA</b>	(R	291)	R	72		Claim Div
<b>MISC</b>	(R	600)	R	150	<b>CONSOLIDATED</b>	(000) (000)
<b>CONSOLIDATED</b>	(R	133 336)	R	33 278	Dividend ex <b>Central</b>	27 255
					- (Sec 89/legal costs provided for)	
					Recovery voidable transactions	
					- <b>ABSA</b> (R29 million)	23 751
					- <b>CTP</b> (R4 million)	3 276
					- (Sec 89/legal costs provided for)	
					Available for Distribution <b>Consolidated</b>	40 000
					<b>Total available for distribution</b>	<b>94 282</b>
					SECURED	9 000
					PREFERENT	14 000
					CONCURRENT <b>ABSA</b>	(R 75 397) 14 990
					<b>Wooltru</b>	(R 75 000) 14 911
					<b>Damages</b>	(R30 000) 5 964
					<b>Trade</b>	(R 178 138) 35 417

#### **CNA (CONSOLIDATED AND CENTRAL) GROUP DIVIDEND SCENARIO**

Dividends payable to **ABSA** claim: R75 397 000 / dividend R15 062 000 / (**20** cents / Rand)

Dividends payable to **Wooltru** claim: R75 000 000 / dividend R14 911 000 / (**20** cents / Rand)

Dividend payable to **Conc. Cred.** claim: R208 138 000 / dividend R41 381 000 / (**20** cents / Rand)

Award to **MTN** claim: R84 600 000 / award R84 600 000 / (**100** cents / Rand) \*

\* This calculation presupposes that the R84,6 million payable under **the amendment** falls outside the estate of **Consolidated** and vest in **MTN**. This calculation also presupposes that **ABSA** will be successful in increasing their claim by R29 million and **CTP** theirs by R4 million.

**Setting aside suretyship by Consolidated in favour of Wooltru (x);**

		Claim		Div		
<b>CENTRAL</b>		(000)		(000)		
<b>Available for distribution</b>			R	<b>33 500</b>		
<b>ABSA</b>	(R	291)	R	72		Claim Div
<b>MISC</b>	(R	600)	R	150	<b>CONSOLIDATED</b>	(000) (000)
<b>CONSOLIDATED</b>	(R	133 336)	R	33 278	Dividend ex <b>Central</b>	27 255
					- (Sec 89/legal costs provided for)	
					Recovery voidable transactions	
					- <b>ABSA</b> (R29 million)	23 751
					- <b>CTP</b> (R4 million)	3 276
					- (Sec 89/legal costs provided for)	
					Available for Distribution <b>Consolidated</b>	40 000
					<b>Total available for distribution</b>	<b>94 282</b>
					SECURED	9 000
					PREFERENT	14 000
					CONCURRENT <b>ABSA</b>	(R 75 397) 18 955
					<b>Trade</b>	(R 208 138) 52 327

**CNA (CONSOLIDATED AND CENTRAL) GROUP DIVIDEND SCENARIO**

Dividends payable to **ABSA** claim: R75 397 000 / dividend R19 027 000 / (25 cents / Rand)

Dividend payable to **Conc. Cred.** claim: R208 138 000 / dividend R52 327 000 / (25 cents / Rand)

Award to **MTN** claim: R84 600 000 / award R84 600 000 / (100 cents / Rand) \*

\* This calculation presupposes that the R84,6 million payable under **the amendment** falls outside the estate of **Consolidated** and vest in **MTN**. This calculation also presupposes that **ABSA** will be successful in increasing their claim by R29 million and **CTP** theirs by R4 million.

**Successful prosecution of actions against Wooltru / Newton (ix) alternatively MTN, M-Tel and Webber Wentzel Bowens (vi) and (viii) (for calculation purposes we provided for a recovery of R85 million);**

	Claim	Div		
<b>CENTRAL</b>	(000)	(000)		
<b>Available for distribution</b>	R	<b>33 500</b>		
<b>ABSA</b>	(R 291)	R 72	Claim	Div
<b>MISC</b>	(R 600)	R 150	<b>CONSOLIDATED</b>	(000) (000)
<b>CONSOLIDATED</b>	(R 133 336)	R 33 278	Dividend ex <b>Central</b>	27 255
			- (Sec 89/legal costs provided for)	
			Recovery voidable transactions	
			- <b>ABSA</b> (R29 million)	23 751
			- <b>CTP</b> (R4 million)	3 276
			- <b>Wooltru/Newton/MTN etc</b> (R85 million)	69 615
			- (Sec 89/legal costs provided for)	
			Available for Distribution <b>Consolidated</b>	40 000
			<b>Total available for distribution</b>	<b>163 897</b>
			SECURED	9 000
			PREFERENT	14 000
			CONCURRENT <b>ABSA</b>	(R 75 397) 37 467
			<b>Trade</b>	(R 208 138) 103 430

#### **CNA (CONSOLIDATED AND CENTRAL) GROUP DIVIDEND SCENARIO**

Dividends payable to **ABSA** claim: R75 397 000 / dividend R37 539 000 / (**50** cents / Rand)

Dividend payable to **Conc. Cred.** claim: R208 138 000 / dividend R103 430 000 / (**50** cents / Rand)

\* This calculation also presupposes that **ABSA** will be successful in increasing their claim by R29 million and **CTP** theirs by R4 million.

**Settlement of the Consolidated/Holdings/GK & A disputes as proposed by Holdings;**

		Claim		Div		
<b>CENTRAL</b>		(000)		(000)		
<b>Available for distribution</b>			R	<b>33 500</b>		
<b>ABSA</b>	(R	291)	R	72	Claim	Div
MISC	(R	600)	R	150	<b>CONSOLIDATED</b>	(000) (000)
<b>CONSOLIDATED</b>	(R	133 336)	R	33 278	Dividend ex <b>Central</b>	27 255
					- (Sec 89/legal costs provided for)	
					Recovery voidable transactions	
					- <b>ABSA</b> (R29 million)	23 751
					- <b>CTP</b> (R4 million)	3 276
					- <b>Wooltru/Newton/MTN etc</b> (R85 million)	69 615
					- (Sec 89/legal costs provided for)	
					Settlement of disputes	
					- <b>Holdings / GK &amp; A</b> (R10,5 million)	9 198
					- (Sec 89 costs/settlement payment provided for)	
					Available for Distribution <b>Consolidated</b>	40 000
					<b>Total available for distribution</b>	<b>173 095</b>
					SECURED	9 000
					PREFERENT	14 000
					CONCURRENT <b>ABSA</b>	(R 75 397) 39 913
					<b>Trade</b>	(R 208 138) 110 182

**CNA (CONSOLIDATED AND CENTRAL) GROUP DIVIDEND SCENARIO**

Dividends payable to **ABSA** claim: R75 397 000 / dividend R39 985 000 / (**53** cents / Rand)

Dividend payable to **Conc. Cred.** claim: R208 138 000 / dividend R110 182 000 / (**53** cents / Rand)

\* This calculation also presupposes that **ABSA** will be successful in increasing their claim by R29 million and **CTP** theirs by R4 million.

## **LEGAL ASSISTANCE OBTAINED FROM ATTORNEYS AND COUNSEL**

The Joint Liquidators engaged the services of attorneys, senior and junior counsel to consider and give advice to the Joint Liquidators in relation to the prospects of successfully instituting the proceedings referred to and recommended in this report. All of the actions, applications and proceedings thus far instituted by the Joint Liquidators and actions recommended by them, has been discussed with in detail, consulted in regard thereto, investigated by and supported by attorneys and counsel employed by the Joint Liquidators. Privileged and confidential memoranda prepared in anticipation of litigation by attorneys and counsel that support the views adopted by the Joint Liquidators, are in possession of the Joint Liquidators.

The Joint Liquidators believe that all their actions and intended actions are necessary to derive the maximum benefit for all creditors of **Consolidated**, have no sinister motive behind it and will ultimately result in parity amongst all creditors.

## **SECTION 402(i) : MATTERS REQUIRING THE FURTHER DIRECTIONS OF CREDITORS**

Such directions as the Joint Liquidators require of creditors are contained in the draft Resolutions, numbers 1 to 6, which are submitted for consideration and adoption by creditors at the further General Meeting of Creditors, in conjunction with this supplementary report. Creditors are requested to adopt these resolutions to enable the administration of the Company in liquidation to continue.

SIGNED AT JOHANNESBURG on this the 26<sup>th</sup> day of FEBRUARY 2004.

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JLC FOURIE

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JF KLOPPER

\_\_\_\_\_  
JM DAMONS

\_\_\_\_\_  
K KEEVY

**JOINT LIQUIDATORS  
CONSOLIDATED NEWS AGENCIES (PTY) LTD (IN LIQUIDATION)**