



INSOL
INTERNATIONAL



Drafting of liquidation and distribution accounts – practical exercise

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PRACTICAL EXAMPLE

Facts:

The insolvent estate of X was provisionally sequestrated on 16 January 2021, the order being made final on 31 January 2021

Assets realised (sold)

1.1 Proceeds of furniture and effects sold by public auction by Sellme Auctioneers on 20 March 2021 for
R8,500.00

1.2 Proceeds of a BMW 318 i motor vehicle sold by public auction on 20 March 2021 by Sellme Auctioneers for
R40,250.00

1.3 Proceeds collected of an Old Mutual insurance policy for **R3,750.00**

Expenses incurred:

- 2.1 Bond of security premium paid to Fedgen Insurers: **R300.00**
- 2.2 Auctioneers commission on proceeds of auction held on 20 March 2021, paid to Sellme Auctioneers: **R4,800.00**
- 2.3 Repairs made to brakes of the BMW motor vehicle: **R350.00**
- 2.4 Crooked Attorneys, for application re sequestration: **R1,854.50**
- 2.5 Advertisement costs paid: second meeting: **R250.00**; inspection of account: **R250.00**; confirmation of account: **R75.00**
- 2.6 Bank charges on estate banking account: **R200.00**

The following creditors proved claims:

- 1 ABC Bank, for overdraft facility: **R6,214.99** (the overdraft is **secured by a cession** of the Old Mutual insurance policy. The creditor **did not rely** on its security)
- 2 Woolworths, for arrear amount owing on open account: **R3,651.65**
- 3 ABC Bank, for the amount owing for the sale of a BMW motor vehicle: **R56,748.37**

An Instalment Sale Transaction secures this amount over the BMW motor vehicle in favour of ABC Bank.

This creditor has **relied** on its security

- 4 SA Revenue Service for arrear Personal Income Tax: **R2,754.13**
- 5 Western Province Cellars, for the amount owing on open account: **R2,120.00**

Preparation of the Account

Step 1 - Determine the **Secured Creditors**

- Creditor No. 1 – ABC Bank for the cession over Old Mutual Policy
 - Open and Encumbered Asset Account No 1 – EAA 1
 - Reflect the proceeds of the Old Mutual Policy- R 3750.00
- Creditor No. 2 – ABC Bank for the Instalment Sale Agreement over the BMW
 - Open and Encumbered Asset Account No 2 – EAA 2
 - Reflect the proceeds of the BMW- R 40 250.00
- Determine the Section 89 Costs associated with the EAA 1 and 2
 - Repairs to BMW – R 350.00 – insert in EAA No. 2

Step 2 - Open a Free **Residue Account**

1. Reflect the **proceeds** of the remainder of the Assets sold:

- Furniture and Household effects – R8500.00

2. Reflect all the **administration costs** payable from the Free Residue Account:

- Crooked Attorneys – Application for sequestration – taxed Bill of Costs – R 4800.00

- Advertising Costs – Second meeting R 250.00, Inspection of Account R 250.00 and Confirmation of Account R 75.00

- Bank charges – R 200.00

Step 3 - Draft the **Distribution** Account

Insert all the creditors who proved their claims at the meetings of creditors:

- Determine the **preferent** creditors – Creditor no 4 – SARS – R 2 754.13
 - Determine the **secured** creditors who **relied** on their security – Creditor no 3- ABC Bank
R 56 748.37
 - Determine the **secured** creditor who **did not rely** on security – ABC Bank – Creditor no 1
R 6 214.99
 - Determine the concurrent creditors –
 - Creditor no 2 – Woolworths – R 3 651.65
 - Creditor no 5 - Western Province Cellars – R 2 120.00
- Add the above information in the respective columns.

Step 4 - Draft the schedules to calculate the pro-rata share of Administration Costs and Masters Fees.

- Determine the Administration Cost to be shared amounts the EAA and the Free Residue
 - Fedgen Bond of Security – R 300.00
 - Sellme Auctioneers Commission for R 4800.00 to be shared pro rata between:
 - Free Residue- Furniture and Effects, and
 - EAA No. 1 – BMW
- Calculate the Master's Fees
 - Step 1 - Calculate the Gross value of Assets = R 52 500.00
 - Note – If Gross value is above R 50 000 and less than R 150 000
 - Master's Fees is R 1000.00
 - Determine the pro rata share the Free Residue, EAA 1 and EAA 2 must contribute.

Steps Continued

- Step 5 - Allocate the Masters Fees and shared administration costs from the Schedules to the Free Residue, EAA 1 and EAA 2
- Step 6 - Add the Trustee's Fees in the Free Residue and EAA 1 and EAA 2.
- Step 7 - Free Residue- Calculate the balance available for distribution (Proceeds of Assets minus the Costs) = R 3 973,10
- Step 8 - Determine the Preferent creditors to be paid first from the balance available for distribution – SARS – Sec 101 – Creditor no 4 – Transfer the award to the distribution account under SARS- preferent award
- Step 9 – Deduct the amount of the amount allocated to the preferent creditor(SARS) from the amount available for distribution = The balance available to concurrent creditors- transfer the amount to the Distribution account → Total Concurrent dividend

Steps Continued – EAA no 1

- Step 10 – Calculate the balance available for distribution in both the EAA no 1
- Calculate the interest – if applicable
- EAA No 1 – Proceeds of assets R 40 250,00
minus the Section 89(1) costs R 9 334,74
= the dividend awarded to Creditor no 3 = R 30 915,26
- Add note that the creditor relied on its security.
- Transfer the dividend calculated to the Distribution account – to creditor no 3 under secured dividend column
- Under the concurrent claim column for the creditor, note that the creditor relied on its security.

Steps Continued – EAA no 2

- Step 11 – Calculate the balance available for distribution in both the EAA no 2
- Calculate the interest – if applicable
- EAA No 2 – Proceeds of assets R 3 750,00
minus the Section 89(1) costs R 205,36
= the dividend awarded to Creditor no 1 = R 3 544,64
- Add note that the creditor did not rely on its security.
- Transfer the dividend calculated to the Distribution account – to creditor no 1 under the secured dividend column
- Under the concurrent claim column for the creditor, calculate the difference of the claim amount

Steps Continued

- Step 12 – Calculate the total amounts in the Distribution Account of the various claims
- Step 13 - Calculate the respective concurrent awards of the concurrent creditors:

e.g. Creditor 1 -

Concurrent claim R 2 670,35 is **divided** by the total amount of all concurrent claims

R 8 442,00 X the Total amount available for Concurrent creditors R 1 218,97

= the concurrent dividend/award to Creditor no 1 – R 385,58

- Do the same calculations for the remaining concurrent creditors/ portion of concurrent creditors.
- Calculate the shortfall= Total claim minus all awards received
- Draft the Heading of the L& D Account:
- Draft the reconciliation Statement
- Draft the Trustee's Affidavit.