



INSOL
INTERNATIONAL



PROGRAMME IN SOUTH AFRICAN INSOLVENCY LAW AND PRACTICE 2023

Summative Assessment (Examination): Paper 2

Date: 28 – 29 November 2023

Time limit: 24 hours (from 13:00 SAST on Tuesday 28 November to 13:00 SAST on Wednesday 29 November 2023)

EXAMINERS

Ms B Bennett

MODERATORS

Ms R Bekker Dr R Brits Dr D Burdette Ms J Calitz Mr Z Cassim Dr E Levenstein

It is imperative that all candidates read and take cognisance of the examination instructions on the next page.

All candidates are expected to comply with ALL the instructions.

Remuneration of Liquidator – (s 63 of the Insolvency Act – according to Tariff B in the Second Schedule of the Act)

- 1.1 Proceeds of Portion 8 of farm “ValleyGrove”, Stellenbosch, Western Cape – ZAR 273,000.00;
- 1.2 Proceeds of assets sold at auction:
 - 1.2.1 Bottling plant and equipment sold ex situ – ZAR 350,000.00
 - 1.2.2 Substantial inventory of bottled wines manufactured by the windery on the farm “ValleyGrove” - ZAR 23,089.41
 - 1.2.3 Miscellaneous movable assets and office equipment found at the farm – ZAR 4370.00
- 1.3 2019 Self-Proppeled Grape Harvester, registration number CA9090 used on the farm for faming operatinons – ZAR 115,000.00
- 1.4 Proceeds of book debts collected by attorneys Sithole & Partners at the request of the liquidator in the course of the winding -up – ZAR 8,840.51
- 1.5 Proceeds of quantity of Stella Valley Cabernet grapes harvested shortly after liquidation and sold privately to the local Co-Op market – ZAR 7252.61

Accounts

ENCUMBERED ASSET ACCOUNT 1

PROCEEDS OF PORTION 8 OF FARM “VALLEY GROVE”, STELLENBOSCH, WESTERN CAPE, SOLD BY PUBLIC AUCTION BY HASTINGS AUCTIONS ON 10 NOVEMBER 2022

NARRATION	VAT	PAYMENTS	RECEIPTS
<u>Receipts</u>			
Proceeds of Portion 8 of Farm “Valley Grove”, Stellenbosch, Western Cape, sold by public auction by Hastings Auctions	ZAR 1,186,956.52		ZAR 9,100,000.00
<u>Payments</u>			
<ul style="list-style-type: none"> • Master’s fee, pro rata portion as per Schedule A 	-----	ZAR 175,812.96	
<ul style="list-style-type: none"> • GuardianSure Bonds Ltd , for bond security premium as per schedule A 	ZAR 4336.26	ZAR 33,244.63	

<ul style="list-style-type: none"> Liquidators fee as per Schedule B 	ZAR 40,148.81	ZAR 307,807.51	
<ul style="list-style-type: none"> Western Province Municipality for rates and taxes payable on Portion 8 of the farm ValleyGrove for approx 4 months arrear taxes as well as the amount owing from date of liquidation to date of transfer of the property. 	-----	ZAR 124,897.50	
<ul style="list-style-type: none"> Hastings Auctions for expenses incurred in respect of the auction held on 10 November 2022 	ZAR 42,420.00	ZAR 325,220.00	
<ul style="list-style-type: none"> SARS, VAT payable as per this account 		ZAR 1,100,051.45	
		<u>ZAR 2,067,034.05</u>	
Balance awarded as follows:			
<ul style="list-style-type: none"> Capital Bank Ltd for first mortgage bond over Portion 8 of the farm "ValleyGrove Farms" 		ZAR 9,605,639.43	

<p>Capital – ZAR 8,946,765.32</p> <p>Plus Interest – ZAR 658,874.11</p> <ul style="list-style-type: none"> ▪ Interest @ 14% from 05/09/22 to 17/03/23 (192 days) <p>(Creditor has relied on its security and the balance is sufficient to pay capital claim)</p> <p>Totals</p>			
		<u>ZAR 9,100,000.00</u>	<u>ZAR 9,100,000.00</u>

ENCUMBERED ASSET ACCOUNT 2

PROCEEDS OF BOTTLING PLANT AND EQUIPMENT SOLD EX SITU, SOLD BY PUBLIC AUCTION BY HASTINGS AUCTIONS ON 21 NOVEMBER 2022

NARRATION	VAT	PAYMENTS	RECEIPTS
<p><u>Receipts</u></p> <p>Proceeds of bottling plant and equipment sold ex situ, sold by public auction by hastings auctions</p>	ZAR 456,521.74		ZAR 3,500,000.00
<p><u>Payments</u></p> <ul style="list-style-type: none"> • Master’s fee, pro rata portion as per Schedule A • GuardianSure Bonds Ltd , for bond security premium as per schedule A 	<p>--</p> <p>ZAR 1,667.74</p>	<p>ZAR 67,620.37</p> <p>ZAR 12786.40</p>	

<ul style="list-style-type: none"> • Liquidators fee as per Schedule B 	ZAR 51,472.82	ZAR 394,624.99	
<ul style="list-style-type: none"> • GrapeFlow Bottling Solutions for repairs made to the bottling prior to it being sold on auction 	ZAR 3,732.10	ZAR 28,612.77	
<ul style="list-style-type: none"> • Hastings Auctions, pro rata portion of auctioneer's fees for expenses incurred in respect of the auction held on 21 November 2022 as per schedule C 	ZAR 16,315.39	ZAR 125,084.62	
<ul style="list-style-type: none"> • SARS, VAT payable as per this account 		ZAR 383,333.69	
Total Payments:		ZAR 1,012,062.84	
Balance awarded as follows:			
<ul style="list-style-type: none"> ▪ Harvest Finance Ltd for monyes lent and advanced by way of working capital 		ZAR 3,481,053.80	
Capital – ZAR 3,203,046.89			
Plus Interest – ZAR 278,006.91			

<ul style="list-style-type: none"> ▪ Interest @ 16.5% from 05/09/22 to 17/03/23 (192 days) <p>Balance of claim is concurrent in terms of Singer v The Masters</p>			
Totals		ZAR 3,500,000.00	ZAR 3,500,000.00

ENCUMBERED ASSET ACCOUNT 3

PROCEEDS OF 2019 SELF-PROPELLED GRAPE HARVESTER, REGISTRATION NUMBER CA 9090 USED ON THE FARM FOR FARMING OPERATIONS, SOLD BY PUBLIC AUCTION BY HASTINGS AUCTIONS ON 10 NOVEMBER 2022

NARRATION	VAT	PAYMENTS	RECEIPTS
<p><u>Receipts</u></p> <p>Proceeds of 2019 self-propelled grape harvester, registration number ca 9090 used on the farm for farming operations, sold by public auction by hastings auctions</p>	ZAR 150,000.00		ZAR 1,150,000.00
<p><u>Payments</u></p> <ul style="list-style-type: none"> • Master's fee, pro rata portion as per Schedule A • GuardianSure Bonds Ltd , for bond security premium as per schedule A 	<p>-----</p> <p>ZAR 547.99</p> <p>ZAR 16,912.50</p>	<p>ZAR 22,218.12</p> <p>ZAR 4201.24</p> <p>ZAR 129,662.50</p>	

<ul style="list-style-type: none"> • Liquidators fee as per Schedule B • SARS, VAT payable as per this account 		ZAR 132,539.51	
<p>Total Payments:</p>		<p><u>ZAR 288,621.37</u></p>	
<p>Balance awarded as follows:</p>			
<ul style="list-style-type: none"> • AgriTech Finance for monyes lent and advanced by way of installement sale transaction over the 2019 Grape Harvester registration number CA9090 		ZAR 250,0430.35	
<ul style="list-style-type: none"> • Capital – ZAR 1,261,052.55 			
<ul style="list-style-type: none"> • Plus Interest – ZAR 124,377.80 			
<ul style="list-style-type: none"> • Interest @ 18.75% from 05/09/22 to 17/03/23 (192 days) 			
<p>Balance of claim is concurrent in terms of Singer v The Masters</p>			
<p>Totals</p>		<p>ZAR 1,150,000.00</p>	<p>ZAR 1,150,000.00</p>

FREE RESIDUE ACCOUNT 1

NARRATION	VAT	PAYMENTS	RECEIPTS
<u>Receipts</u>			
<ul style="list-style-type: none">Substantial inventory of bottled wines manufactured by the winery	ZAR 3,010.97		ZAR 230,894.10
<ul style="list-style-type: none">Miscellaneous movable assets and office equipment	ZAR 5,700.00		ZAR 43,700.00
<ul style="list-style-type: none">Proceeds of book debts collected by attorneys Sithole & Partners	-----		ZAR 88,405.08
<ul style="list-style-type: none">Proceeds of a quantity of Stella Valley Cabernet grapes harvested	ZAR 2,723.10		ZAR 120,876.76
Total:			ZAR 483,875.94
<u>Payments</u>			
<ul style="list-style-type: none">Master's fee, pro rata portion as per Schedule A	-----	ZAR 9,348.53	
<ul style="list-style-type: none">GuardianSure Bonds Ltd , for bond security premium as per schedule A		ZAR 1767.72	
<ul style="list-style-type: none">Liquidators fee as per Schedule B	ZAR 6,390.78	ZAR 48,995.96	
<ul style="list-style-type: none">Hastings Auctions, pro	ZAR 1,280.03	ZAR 9,813.57	

<p>rata portion of auctioneer's fees for expenses incurred in respect of the auction held on 21 November 2022 as per schedule C</p> <ul style="list-style-type: none"> • Wages paid to general labourers who assisted with harvesting the grapes • Costs of advertising general (second) meeting of creditors • Provision for advertising inspection of account • Provision of advertising confirmation of account • Trust Bank Ltd bank charges • Postages and Petties • Sithole & Partners Professional Fee for collecting book debts • SARS, VAT payable as per this account <p>Total Payments:</p>	<p>-----</p> <p>ZAR 120.00</p> <p>ZAR 4.93</p> <p>ZAR 4.93</p> <p>ZAR 52.17</p> <p>ZAR 134.35</p> <p>ZAR 901.84</p>	<p>ZAR 15 000.00</p> <p>ZAR 920.00</p> <p>ZAR 37.82</p> <p>ZAR 37.82</p> <p>ZAR 400.00</p> <p>ZAR 1,030.00</p> <p>ZAR 6,914.10</p> <p>ZAR 137,186.64</p> <p>ZAR 231,452.16</p>	
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Balance awarded as follows:			
<ul style="list-style-type: none"> Vinotech Supplies Ltd – for goods sold and delivered 	ZAR 2,270.95	ZAR 17,410.61	
<ul style="list-style-type: none"> Winecraft Essentials Ltd, for glass bottles and bottling equipment 	ZAR 478.47	ZAR 3,668.29	
Salaries			
<ul style="list-style-type: none"> Thabo Moeng (preferent creditor) S 98 A Arrear salary - ZAR 12 000.00 Leave pay s 98A - ZAR 4 000.00 David Smith Maria Ndlovu Sindiwe Mthembu 		ZAR 16,000.00	
		ZAR 100,000.00	
		ZAR 72,000.00	
		ZAR 12,000.00	
There are insufficient funds to pay creditors, no further awards to be made.			
Total:		ZAR 483,875.94	ZAR 483,875.94

MASTERS FEE CALCULATIONS

Gross value of estate:	ZAR 14 233 875.94	ZAR 1000.00
<u>Less:</u>	<u>ZAR 150 000.00</u>	
	ZAR 14 083 875.94	
Divide by ZAR 5 000.00	ZAR 2816.775 188	
Therefore, 2816 x ZAR 275		ZAR 774 400.00

Total Master's Fee:	ZAR 275 000.00
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Master's fee calculation:

Total gross value of estate: ZAR 14 233 875.94 less ZAR 150,000.00
Balance of ZAR 14,083,875.94 divided by ZAR 5 000.00 = ZAR 2816.775 188
Therefore, 2816 x ZAR 275 = ZAR 774 400.00
Total Master's Fee therefore = **ZAR 275 000.00**

SCHEDULE A

PRO RATE APPORTIONMENT OF THE MASTER'S FEES AND BOND OF SECURITY PREMIUM				
ACCOUNT	GROSS PROCEEDS	MASTER'S FEE	BOND PREMIUM	
Encumbered Asset Account 1	ZAR 9,100,000.00	ZAR 175,812.96	ZAR 33,244.63	
Encumbered Asset Account 2	ZAR 3,500,000.00	ZAR 67,620.37	ZAR 12786.40	
Encumbered Asset Account 3	ZAR 1,150,000.00	ZAR 22,218.12	ZAR 4201.24	
Free Residue Account	ZAR 483,875.94	ZAR 9,348.53	ZAR 1767.72	
TOTALS	ZAR 14,233,875.94	ZAR 274,999.98 (Rounded off) = ZAR 275,000.00	ZAR 51,999.99 (Rounded off) = ZAR 52,000.00	

SCHEDULE B

CALCULATION OF LIQUIDATORS REMUNERATION IN ACCORDANCE WITH SPENDIFF DECISION			
ENCUMBERED ASSET ACCOUNT 1			
Fixed Property Fee @ 3% on Less:	ZAR 9,100,000.00 ZAR 1,186,956.52		ZAR 273,000.00 <u>ZAR 5,341.30</u> ZAR 267,658.70
Plus VAT @ 15% thereon			<u>ZAR 40,148.81</u> ZAR 307,807.51

ENCUMBERED ASSET ACCOUNT 2			
Fee @ 10% on	ZAR 3,500,000.00		ZAR 350,000.00

Less:	ZAR 456,521.74		ZAR 6,847.83 ZAR 343,152.17
Plus VAT @ 15% thereon			<u>ZAR 51,472.82</u> ZAR 394,624.99

ENCUMBERED ASSET ACCOUNT 3

Fee @ 10% on	ZAR 1,150,000.00		ZAR 115,000.00
Less:	ZAR 150,000.00		<u>ZAR 2,250.00</u> ZAR 112,750.00
Plus VAT @ 15% thereon			<u>ZAR 16,912.50</u> ZAR 129,662.50

FREE RESIDUE ACCOUNT (Para 1.2.2, 1.2.3, and 1.4)

Fee @ 10% on	ZAR 230,894.10 ZAR 43,700.00 <u>ZAR 88,405.08</u> ZAR 362,999.18		ZAR 36,299.92
Less:	ZAR 47,347.72		<u>ZAR 710.22</u> ZAR 35,589.07
Plus VAT @ 15% thereon			<u>ZAR 5,338.36</u> ZAR 40,927.43

FREE RESIDUE ACCOUNT (Para 1.5)

Fee @ 6% on	ZAR 120,876.76		ZAR 7,252.61
Less:	ZAR 15,766.53		<u>ZAR 236.50</u> ZAR 7,016.11
Plus VAT @ 15% thereon			<u>ZAR 1,052.42</u> ZAR 8,068.53

SCHEDULE C

PRO RATA APPORTIONMENT OF AUCTIONEER'S COMMISSION		
<u>ACCOUNT</u>	<u>GROSS PROCEEDS</u>	<u>AUCTIONEER'S COMMISSION</u>
Encumbered Asset Account 1	ZAR 9,100,000.00	ZAR 325,220.00
Encumbered Asset Account 2	ZAR 3,500,000.00	ZAR 125,084.62
Free Residue Account	ZAR 274,594.10	ZAR 9,813.57
	ZAR 12,874,594.10	ZAR 460,118.19

SCHEDULE D

VAT SCHEDULE				
<u>ACCOUNT</u>		<u>OUTPUT VAT</u>	<u>INPUT VAT</u>	<u>VAT PAY / REFUND</u>
Encumbered	Asset	ZAR 1,186,956.52	ZAR 86,905.07	ZAR 1,100,051.45
Account 1				
Encumbered	Asset	ZAR 456,521.74	ZAR 73,188.05	ZAR 383,333.69
Account 2				
Encumbered	Asset	ZAR 150,000.00	ZAR 17,460.49	ZAR 132,539.51
Account 3				
Free Residue Account		ZAR 378,765.71	ZAR 137186.64	ZAR 241,579.07

VALLEY GROVE FARMS (PTY) LTD (IN LIQUIDATION)

BANK RECONCILIATION STATEMENT		
<u>NARRATION</u>	<u>PAYMENTS</u>	<u>RECEIPTS</u>
Balance as per bank statement as a the date of drafting the account		ZAR 13,552,455.81
<u>PAYMENTS STILL TO BE MADE:</u>		
Bond premium (provision for renewal)	ZAR 26,000.00	
Master's Fee	ZAR 275,000.00	
Liquidators Remuneration		
Advertising Costs	ZAR 1,033.46	
Bank Charges	ZAR 150.00	
Postages and Petties	ZAR 1,030.00	
SARS, VAT payable on this account	ZAR 241,579.07	
<u>AWARDS TO CREDITORS STILL TO BE MADE</u>		
Encumbered asset account 2		
Encumbered asset account 3	ZAR 3,481,053.80	
	ZAR 1,385,430.34	
<u>FREE RESIDUE</u>		
CR1 (Preferent)	ZAR 16,000.00	
CR2	ZAR 100,000.00	
CR3	ZAR 72,000.00	
	ZAR 12,000.00	
TOTALS	<u>ZAR 13,552,455.81</u>	<u>ZAR 13,552,455.81</u>

DISTRIBUTION ACCOUNT

<u>NO</u>	<u>CREDITOR NAME</u>	<u>TOTAL CLAIM</u>	<u>SECURED CLAIM</u>	<u>PREFERENT CLAIM</u>	<u>CONCURRENT CLAIM</u>	<u>SECURED / PREFERENT AWARD</u>	<u>CONCURRENT AWARD</u>
<u>1.</u>	Capital Bank Ltd	ZAR 8,946,765.32 (Capital) ZAR 658,874.11 (Interest)	ZAR 9,605,639.34	0.00	0.00	ZAR 9,605,639.34	0.00
<u>2.</u>	Harvest Finance Ltd	ZAR 3,203,046.89 (Capital) ZAR 278,006.92 (Interest)	<u>ZAR</u> <u>3,481,053.81</u>	0.00		ZAR 3,481,053.81	0.00
<u>3.</u>	Vinotech Supplies Ltd	ZAR 17,410.61		0.00	ZAR 17,410.61	0.00	0.00
<u>4.</u>	AgriTech Finance	ZAR 1,261,052.55 (Capital) ZAR 124,377.79 (Interest)	<u>ZAR</u> <u>1,385,430.34</u>	0.00		ZAR 1,385,430.34	0.00
<u>5.</u>	SA Revenue Services (SARS)	ZAR 137.186.64	0.00	0.00	0.00	ZAR 137,186.64	0.00
<u>6.</u>	Winecraft Essential Ltd	ZAR 3,668.29	0.00	0.00	ZAR 3,668.29	0.00	0.00
<u>7.</u>	Thabo Moeng	ZAR 54,000.00	0.00	ZAR 12 000.00 (Salary s 98A) ZAR 4 000.00 (Leave pay s 98A)	ZAR 38,000.00	ZAR 16,000.00	0.00
<u>8.</u>	David Smith	ZAR 100,000.00	0.00	0.00	ZAR 100,000.00	0.00	0.00
<u>9.</u>	Maria Ndlovu	ZAR 72,000.00	0.00	0.00	ZAR 72,000.00	0.00	0.00
<u>10.</u>	Sindiwe Mthembu	ZAR 12,000.00	0.00	0.00	ZAR 12,000.00	0.00	0.00
					ZAR 243,078.90		0.00