

**HC97**

**IN THE HIGH COURT OF SOUTH AFRICA  
(WESTERN CAPE DIVISION, CAPE TOWN)**

**CASE NUMBER: 15426/2021**

In the matter between:

<b>HERMAN BESTER N.O.</b>	First Applicant
<b>ADRIAAN WILLEM VAN ROOYEN N.O.</b>	Second Applicant
<b>CHRISTOPHER JAMES ROOS N.O.</b>	Third Applicant
<b>JACOLIEN FRIEDA BARNARD N.O.</b>	Fourth Applicant
<b>DEIDRE BASSON N.O.</b>	Fifth Applicant
<b>CHAVONNES BADENHORST ST CLAIR COOPER</b>	Sixth Applicant

[In their capacities as the duly appointed joint liquidators of Mirror Trading International (Pty) Ltd (in liquidation)]

and

<b>MIRROR TRADING INTERNATIONAL (PTY) LTD t/a MTI (in liquidation)</b>	First Respondent
<b>CLYNTON HUGH MARKS</b>	Second Respondent
<b>HENRY ROBERT HONIBALL</b>	Third Respondent
<b>CECIL JOHN JACOB ROWE</b>	Fourth Respondent
<b>ALL MEMBER/INVESTORS OF MIRROR TRADING INTERNATIONAL (PTY) LTD</b>	Fifth Respondent
<b>FINANCIAL SECTOR CONDUCT AUTHORITY (FSCA)</b>	Sixth Respondent

---

**FILING NOTICE: KRIEL SETTLEMENT AFFIDAVIT**

---

**BE PLEASED TO TAKE NOTICE** that the affidavit of Pierre du Toit, on behalf of the Applicants is herewith presented for filing.

DATED AT **BELLVILLE** ON THIS THE 3<sup>rd</sup> DAY OF **MARCH 2022**.



**Per: PIERRE DU TOIT  
MOSTERT & BOSMAN**

*Attorneys for Applicants*

4<sup>th</sup> Floor, Madison Square  
Cnr Carl Cronje Drive &  
Tyger Falls Boulevard,  
Tyger Falls

**BELLVILLE**

(Ref: PDT/Antoinette/WI7913)

**c/o MACROBERT INC.**

The Wembley, 3<sup>rd</sup> Floor  
Solan Road, Gardens

**CAPE TOWN**

Ref: GvdM

**AND TO: KRUGER & CO INCORPORATED**

*Attorneys for the Applicant*

**PRETORIA**

**c/o HEIDI VAN DER MEULEN ATTORNEYS**

3<sup>rd</sup> Floor, Waalburg Building

**CAPE TOWN**

Ref:

E-mail: [info@kclaw.co.za](mailto:info@kclaw.co.za)

**AND TO: MESSRS SELZER LAW**

*Attorneys for Second Respondent*

(Ref: H Selzer/MTI)

E-mail: [henry@selzerlaw.co.za](mailto:henry@selzerlaw.co.za)

**c/o DE KLERK & VAN GEND**

3<sup>rd</sup> Floor, Absa Building

132 Adderley Street

**CAPE TOWN**

(Ref: Cecilia van Zyl)

E-mail: [cvanzyl@dkvg.co.za](mailto:cvanzyl@dkvg.co.za)

**AND TO: DUVENAGE DE VILLIERS**

*Attorneys for Third Respondent*

107 Main Road

**WELLINGTON**

E-mail: [bd@duvdevill.co.za](mailto:bd@duvdevill.co.za) / [monique@duvdevill.co.za](mailto:monique@duvdevill.co.za)

**AND TO: EDJ ATTORNEYS INC**

*Attorneys for Fourth Respondent*

McHardey Avenue

Brandwag

**BLOEMFONTEIN**

Ref: E de Jager

E-mail: [litigation@edjinc.co.za](mailto:litigation@edjinc.co.za)

**c/o HEYNS ATTORNEYS**

3<sup>rd</sup> Floor, 6 On Pepper

Pepper Street  
**CAPE TOWN**

**AND TO: ROBERT CHARLES ATTORNEYS**

*Attorneys for Sixth Respondent*

3<sup>rd</sup> Floor, 33 Church Street

**CAPE TOWN**

(Ref: M Coetzee/mctwfsca137)

E-mail: [mcoetzee@rcharles.co.za](mailto:mcoetzee@rcharles.co.za)

HC97

IN THE HIGH COURT OF SOUTH AFRICA  
(WESTERN CAPE DIVISION, CAPE TOWN)

CASE NUMBER: 15426/2021

In the matter between:

<b>HERMAN BESTER N.O.</b>	First Applicant
<b>ADRIAAN WILLEM VAN ROOYEN N.O.</b>	Second Applicant
<b>CHRISTOPHER JAMES ROOS N.O.</b>	Third Applicant
<b>JACOLIEN FRIEDA BARNARD N.O.</b>	Fourth Applicant
<b>DEIDRE BASSON N.O.</b>	Fifth Applicant
<b>CHAVONNES BADENHORST ST CLAIR COOPER</b>	Sixth Applicant

[In their capacities as the duly appointed joint  
liquidators of Mirror Trading International (Pty)  
Ltd (in liquidation)]

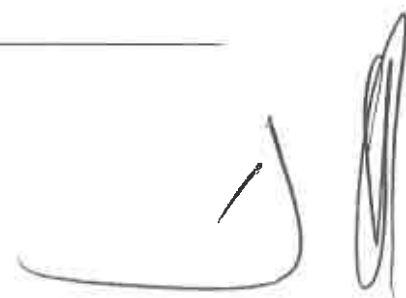
and

<b>MIRROR TRADING INTERNATIONAL (PTY) LTD</b> t/a MTI (in liquidation)	First Respondent
<b>CLYNTON HUGH MARKS</b>	Second Respondent
<b>HENRY ROBERT HONIBALL</b>	Third Respondent
<b>CECIL JOHN JACOB ROWE</b>	Fourth Respondent
<b>ALL MEMBER/INVESTORS OF MIRROR TRADING INTERNATIONAL (PTY) LTD</b>	Fifth Respondent
<b>FINANCIAL SECTOR CONDUCT AUTHORITY (FSCA)</b>	Sixth Respondent

---

AFFIDAVIT: KRIEL SETTLEMENT LETTER

---



I, the undersigned,

**PIERRE DU TOIT**


do hereby make oath and state:

1. I am an adult male attorney practising as such as a partner at Mostert & Bosman Attorneys, 4th Floor, Madison Square, Cnr Carl Cronje Drive and Tyger Falls Boulevard, Tyger Falls, Bellville. I am the attorney of record for the First to Sixth Applicants in this matter.
2. The content of this affidavit falls within my personal knowledge, save where the context indicates otherwise, and is to the best of my knowledge and belief true and correct.
3. I confirm that the Applicants and Mr JC Kriel, (who, according to him, is the representative of a voluntary group comprising of approximately 15 000 investors in MTI) who initially opposed the relief sought by the Applicants in the main application, have reached an agreement with regard to the process that will be implemented in assisting the net loser investors to verify/quantify their claims and have same proved against the insolvent estate of MTI. The agreement also contains certain administrative details which serve to expedite the proof of accurate claims by net loser investors. A copy of this agreement, in the form of a formal letter by Mostert and Bosman dated 2 March 2022, which was also



dispatched to all parties currently before this Court, is annexed hereto marked **"PDT1"**.

4. I confirm that the attorneys representing Mr Kriel, Kruger & Co have communicated their approval of the contents of **"PDT1"**.
5. It is noted that the provisions of the aforesaid agreement, is simply a confirmation of how the parties will go about in order to expedite the proving of claims, in accordance with the legal principles applicable in an insolvent estate.
6. I also confirm, as recorded in paragraph 4 of **"PDT1"** that the provisions thereof, will be applicable to all net loser investors in MTI who wants to prove a claim against the estate.

  
**PIERRE DU TOIT**

I certify that the above signature is the true signature of **PIERRE DU TOIT** and that he acknowledged to me:

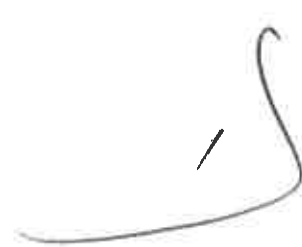
1. that he knows and understands the contents of this affidavit.
2. that he has no objection to taking the prescribed oath.
3. that he considers the prescribed oath to be binding to his conscience.



The deponent thereafter uttered the words: "I swear that the contents of this affidavit are true so help me God". The deponent signed this affidavit in my presence at Bellville on this 3rd day of **MARCH 2022**.



**COMMISSIONER OF OATHS**  
DIRK JACOBUS V.D. WALT  
PRACTISING ADVOLATE RSA.  
3 Zola Buddel Street.  
ADVOCATES' CHAMBERS  
Bloumfontein .





1893  
EST.

"PATI"

# MOSTERT & BOSMAN

ATTORNEYS | TRUSTED ADVICE BY COMMITTED PEOPLE

**MESSRS KRUGER & CO**

BY E-MAIL: [ruann@kclaw.co.za](mailto:ruann@kclaw.co.za)

**CC: EDJ ATTORNEYS**

BY E-MAIL: [litigation@edjinc.co.za](mailto:litigation@edjinc.co.za)

[elna@edjinc.co.za](mailto:elna@edjinc.co.za)

**CC: ALLIS ATTORNEYS**

BY E-MAIL: [allisattorneys@gmail.com](mailto:allisattorneys@gmail.com)

**CC: DUVENAGE & DE VILLIERS**

BY E-MAIL: [bd@duvdevill.co.za](mailto:bd@duvdevill.co.za);

[monique@duvdevill.co.za](mailto:monique@duvdevill.co.za) &

[litigasie2@duvdevill.co.za](mailto:litigasie2@duvdevill.co.za)

**CC: ROBERT CHARLES**

BY E-MAIL: [mcoetzee@rcharles.co.za](mailto:mcoetzee@rcharles.co.za)

**CC: SELZER LAW**

BY E-MAIL: [henry@selzerlaw.co.za](mailto:henry@selzerlaw.co.za)

**CC: ADV S ALBERTS**

BY E-MAIL: [advgroup10@law.co.za](mailto:advgroup10@law.co.za)

**CC: ADV H LOOTS**

BY E-MAIL: [loots@capebar.co.za](mailto:loots@capebar.co.za)

**CC: ADV RINIER RAUBENHEIMER**

BY E-MAIL: [rinier@gkchambers.co.za](mailto:rinier@gkchambers.co.za)

**CC: ADV RUDI VAN ROOYEN (SC)**

Date:

02 March 2022

Our Ref:

PDT/Antoinette/WI7913

Email:

[antoinette@mbalaw.co.za](mailto:antoinette@mbalaw.co.za)

Your Ref:

---

4<sup>th</sup> floor, Madison Square, Cnr of Carl Cronje & Tygerfalls Boulevard, Tygerfalls, Tyger Waterfront, Bellville, South Africa  
PO Box 3355, Tyger Valley, 7536 | Docex 152, Cape Town | [info@mbalaw.co.za](mailto:info@mbalaw.co.za) | [www.mbalaw.co.za](http://www.mbalaw.co.za)  
t +27(0)21 914 3322 | f +27(0)21 914 3330

Partners: Herman Botes | Riaan Kunz | Pierre du Toit | Cloete Marais | Richard Dixon | Lee-Anne Ely  
Associates: Morné Strydom | Melissa Colyn | Callie Lloyd | Johann Steyn | Michelle Birkenstock  
Jacky Wilkinson | Elizabeth Martin | Corné Botha | Kruger van Dyk  
Office Manager: Charl Hambridge

Now a Level 2 contributor to B-BBEE with a BEE procurement recognition level of 125%

Mostert & Bosman Tygervalley and Mostert & Bosman Swartland are independently owned and operated

1893  
EST.



Dear Sir


**JC KRIEL / H BESTER NO & 5 OTHERS (LIQUIDATORS OF MTI IN LIQUIDATION)**

1. We refer to the above and confirm the agreement reached between our abovementioned clients and your clients, Mr JC Kriel, representing the investment creditors of MTI ("**net loser investors**") grouped under the informal entity, known as GetaQuid, as follows:

1.1 Your clients shall provide the liquidators of MTI with a list of all net loser investors represented by GetaQuid, including in this list the following:

- (i) the full name, surname, identity number/passport number, physical address, e-mail address and telephone number of each investor;
- (ii) the username, user password, e-mail address as utilised for purposes of accessing his/her MTI back-office account and cell phone number as used for the aforesaid purpose, in respect of all accounts under the control of and opened for the ultimate benefit of such investor, irrespective of the name used for the opening of the account in the back-office, together with any additional information that the liquidators may reasonably request on the basis as same being required to give effect to this agreement;
- (iii) The breakdown of the net loser investors' claim, according to the verification of GetaQuid;
- (iv) indicating which of the net loser investors have already submitted a claim for proof and enclosing a copy of such claim;
- (v) a guarantee that the investor has disclosed the details of any and all accounts linked to him;
- (vi) confirmation by each investor that GetaQuid is authorised to represent him/her in this process.

1.2 Upon receipt of the aforesaid schedule, the liquidators shall without undue delay, scrutinise the back-office data and compile a schedule reflecting the amount of each investor's claim against MTI, according to the liquidators' verification ("**the liquidators' verified amount**"). It is recorded that the liquidators shall provide GetaQuid and its representatives access to the back-office data in respect of any specific investor represented by them, on reasonable notice being given to them.

  
1893  
EST.

1.3 The claims of loser investors against MTI will be calculated using the following formula:

[Actual amount invested (excluding peer to peer and internal MTI account transfers), calculated on the highest value of bitcoin on the date of the investment]

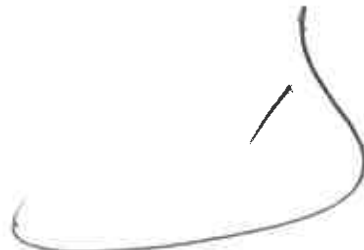
**Less**

[Actual payments made to an investor, based on the value of bitcoin on the date of the payment]

1.4 The value of bitcoin as per the abovementioned formula, will be based on the value, in South African Rand, as published by Luno (South Africa) on the specific day.

1.5 Your client will revert back to the liquidators in respect of each net loser's verified claim, whereafter:

- (i) in respect of those investors who have already submitted claims for proof at the first or second meeting of creditors and in respect of which consensus has been reached between the liquidations and the specific investor regarding the quantum of his/her claim ("**the finally agreed claims**"), these claims shall be compromised and admitted by the liquidators in terms of Section 78(3) of the Insolvency Act;
- (ii) in respect of those net loser investors whose claims have been finally agreed, but who have not yet submitted claim documents, those investors to forthwith submit claim documents to the liquidators for verification of the finally agreed amount;
- (iii) the liquidators will convene a special meeting of creditors for the purpose of proving all of the abovementioned finally agreed claims;
- (iv) the liquidators will prepare a first liquidation and distribution account forthwith after the proof of those finally agreed claims at the special



EST.

1893

meeting of creditors and will make provision for a concurrent dividend to be paid to all proven creditors whose claims have been compromised/admitted by the liquidators and those proved at the special meeting of creditors. Such dividend will be calculated on the applicable principles in the insolvency industry when a determination is made in respect of a provisional, first dividend in these circumstances.

2. The abovementioned agreement is conditional on the High Court finding that the business of MTI was conducted illegally. Pending the fulfilment of this condition, the parties shall act in accordance with the terms thereof, except for the finalisation of a first liquidation and distribution account.
3. It is recorded that the terms of the abovementioned agreement, will be applicable to all net loser investors of MTI, irrespective of whether they are represented by GetaQuid.
4. The contents of this agreement will be filed as part of the record of the liquidators' pending application to declare the business model of MTI illegal and a copy thereof will be provided to all parties involved in the said application.

Yours faithfully

**MOSTERT & BOSMAN**



This is an electronically generated signature

Per: **PIERRE DU TOIT**



1893  
EST.

## Antoinette Engelbrecht

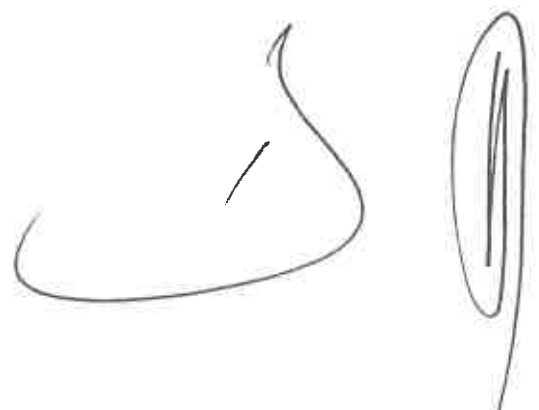
---

**From:** Pierre du Toit  
**Sent:** 02 March 2022 04:37 PM  
**To:** 'ruann@kclaw.co.za'  
**Cc:** 'EDJ Litigation'; Elna de Jager; 'allisattorneys@gmail.com'; 'bd@duvdevill.co.za'; 'monique@duvdevill.co.za'; 'litigasie2@duvdevill.co.za'; 'Matthew Coetzee'; 'henry@selzerlaw.co.za'; 'advgroup10@law.co.za'; 'Hanri Loots'; 'rinier@gkchambers.co.za'; 'vanrooyen@capebar.co.za'  
**Subject:** JC KRIEL / H BESTER NO & 5 OTHERS (LIQUIDATORS OF MTI IN LIQUIDATION)  
**Attachments:** SKM\_650i22030216320.pdf

Dear Sir

We refer to the abovementioned matter and annex hereto correspondence for your attention.

Yours faithfully

A handwritten signature in black ink, consisting of a large, stylized 'S' shape followed by a vertical line with a loop at the top.