

Deon Pienaar

Email : deonpie@mweb.co.za

## **Property Syndications Newsletter 21 June 2023**

Dear Investors, Brokers and others

The last PSPC (Property Syndication Promotion Companies) combined email I sent was 15 May 2023.

### **The CIPC investigations**

Firstly, find attached a letter I received from the CIPC which I informed them that I will be distributing to you all, the affected parties/ victims of this investigation. (**Annexure; CIPC letter dated 18 June 2023.**)

This letter is the investigations upon which our hope pivots, and the reason I wish to go through it with you point by point, to understand it, within the context it is written.

1. The reference.... Namely CCDR 150/2019. The initial case was to investigate NOVA for non compliance of submitting mandatory documents annually, and was triggered by the CIPC themselves in 2019. In January 2021, I filed my complaint for the CIPC, to ask them to elaborate their investigations against NOVA regarding my complaint topics as well. The CIPC realized their Constitutional obligation to protect the rule of law, and to protect the rights of the victims who were prejudiced, and thus decided to look at this case in a holistic approach. I was given a reference number G 17/2022. On 25 July 2022, we received a Final report from the CIPC which was a 26 page report, and the reference to this report was also CCDR 150/2019. In this report it is clear that the initial non compliance investigation had been expanded to a comprehensive inter regulatory investigation. In the interim, Kings, Realcor and the other PSPC's of the 6 I always mentioned, have also been incorporated into this inter regulator investigation.
2. You will notice, this letter I have just received, so this is the current scenario, and no one can claim this investigation is not happening or has been abandoned.
3. Why has this become an inter regulator investigation? Simply set, I brought it to the CIPC 's attention that the SARB/ FSB had not acted lawfully at all times. What is the use of following up with NOVA for compliance, if in fact they are beneficiaries of unlawful conduct. It is as absurd to fine a thief who had stolen your car because the license has expired. Deal with the bigger crime than focus on the administrative violation. The CIPC grasp this concept, since after all, Sharemax was alleged to be an unlawful illegal deposit taking/ ponzi/ pyramid scheme, so how could the Court sanction a s311 and allow NOVA to proceed with the proceeds of alleged crime? The very same people, the SARB who autocratically determined

Sharemax to be unlawful, and misrepresented court to sanction the s311. As simple as this. For more than 10 years, no one thought this as odd, except the team that was working with me, but we were totally isolated and ignored, while asking for support.

4. You will notice, this letter is addressed to me. If I had not been party to instigate this investigation, they would not merely give me this information just because I asked. They have accepted that I'm the complainant and thus give me feedback on my complaint.
5. You will notice that these investigations are ongoing. This is not a final report and this letter is just feedback with regard to their progress.
6. Point 1; Here reference is made to the media report dated 10 August 2022 where inter alia the Commission found certain historical salient matters, that led to the fallout of the PS industry. "*The legal implications of the retrospective findings that surfaced from the triangulation have a grossly material impact on the actions taken by the parties which caused the cessation of various PS companies, but not limited to Sharemax...*" It is this cause which triggered the implosions which are the subject matter of investigation, and to investigate how these imploded companies were dealt with, by these parties. The parties are primarily the SARB / FSB, but not restricted to them. The reason as to why I refer to both of them, is due to the close relationship the two have always had, and which can be seen with a recent Memorandum of understanding between them in May 2020. (**Annexure MOU**). The one could not have caused the implosion without the other, and they are jointly accountable for our losses. It is important to note, that as late as 2020, the SARB still believe they have the jurisdiction to deal with illegal deposit taking/ ponzi/ pyramid schemes, despite other legislation in place like the FICA/ POCA and the Consumer Protection Act. This just shows why these inter regulator meetings are necessary, since they have been discussing such meetings since 2002, but never gone so far to do so. This is thus not a minor oversight, but in fact negligence from their part.
7. Point 2; In order for the regulatory bodies to sort out jurisdiction, the rule of law to be applied and the relief which will be sought, it is necessary to make sure that the correct process is followed, or else the CIPC may find themselves as guilty as the other regulatory bodies who had erred to act lawfully and Constitutionally correct. It is for this reason, no stone is left unturned. Investigations are based primarily to what I have provided, and thus it is tested for relevance and trustworthiness. Further investigations will merely elaborate from where I have left off, should my merits not be sufficient. So yes, it is proceeding far faster than a fresh new investigation, but obviously not as fast as we may wish.
8. Point 3; In point 3.1, it is confirmed that during the past year many documents were recovered from other regulatory bodies. For example, the IRBA case with regard to the Sharemax auditors has been ongoing for years, and now all this information was given to the CIPC to assist their investigations. So too, information was achieved via the inter regulatory framework, which may have taken us years to obtain. For example, where I only received the SARB criminal complaint against Sharemax which was filed in 2012, I received it in 2019 for

the first time. We have also saved millions of rands in litigation by following this route, and as example I can quote the Moneyweb application they had to bring against Nova just to find out who the shareholders of Nova were. The inter regulator cooperation have sidestepped all these actions that would have taken years to finalise and millions of rands in litigation.

9. Point 3.2: My investigations had given the CIPC a chronology of when legislation was applied and how it affected the PSPC's. The CIPC investigation is assisted by verifying whether the jurisdiction and legislation was correctly interpreted and applied. This is the rule of law which should have been applied, and how it had in fact been applied. It is as a result of some regulators who acted ultra vires (without the necessary jurisdiction) and unlawful (not applying the correct rule of law), and even with malice (deliberate sinister intentions), that the CIPC had to ask the SIU (Special Investigative Unit, who are the States own preferred and trusted anti-corruption forensic investigation and litigation agency) to intervene in order to investigate the criminal content of these contraveners. Sharemax and Bluezone are already sitting with a nolle prosequi, so the side that is investigated for criminal accusations are these very same people who caused the implosions. In no other court cases or investigations this side of the allegations were ever considered.
10. Point 4: Here it is made clear that the Commission may refer to any regulatory authority with regard to concerns with regard to behaviour and conduct. It is exactly this which is the scope and actions of this inter regulatory investigation.
11. Point 5; Considering the magnitude and importance of this case, we cannot afford to lose the case based on technicalities and procedures. For this reason the CIPC are being extra careful and not acting impulsively with their findings, but relying on the guidelines of the Constitution. This aspect I comprehensively dealt with in the previous newsletter.
12. Point 6: Only after this process has been finalized, we can expect a court date for the court to sanction what ever was agreed on. I believe this aspect will be nearing its conclusion soon, since these matters have been ongoing for some time already, if you can recall when I started to report on this aspect. I believe the final consultation will be between the SARB Governor and the DTI Commissioner, and then we will find out what relief or plan of action they have agreed on. This may not be too far in the future.
13. For this reason, I do find this report back, which we never received from any other government department, as more than satisfactory and I wish to speak out our thanks and best wishes to all concerned, not only from myself but every affected person of these saga's.

### **My continuous support for the investigations to make sure all merits are covered**

I want to thank every one of you when I placed my trust in you to disclose the role that Mr Zwane would play, and when I asked you not to try and contact him directly, but allow me to convey the merits to him alone, and then to wait on me to keep you informed. By doing this, I have been able to keep him focused to what I had placed before the courts, and people would not have placed uncontested merits before him which he would then have had to go through great efforts to verify.

By playing along, we can thank Mr Voller, Mr Zwane and his team for focusing and believing our narrative of the events, to base his investigations on. He could do so impartially, since he could test my merits against affidavits of the accused and see how they reacted to the allegations, if indeed so. From the start of investigations, it was not necessary for them to consider numerous different narratives of people who have selective information and base their whole case on this selective evidence. They were able to place all my averments against what the regulatory bodies provided them.

**It is only as a result of this exercise, people will receive restitution and compensation.**

I had run out of options to turn to within our own country to combat this corruption. I had gone to almost every government department, including the courts, and none of them were prepared to accept our narrative. I thank the Lord when Connie Myburgh with his dishonesty was not prepared to accept the votes I received to become Debenture Trustee, since this caused me to file my complaint with the CIPC. Mr Zwane, was at all times supported by the Commissioner, Adv Rory Voller who eventually believed our narrative and have brought the investigations to where they are.

Prior to this intervention, I had almost reached the end of my path locally, and the only option I could still think of was to turn to the FATF. As I say, fortunately we will not need to rely on this action since the CIPC have already got the support and cooperation of other regulators, and the SARB/ FSB are very close to the end of their road now. We will continue to assert the pressure until we receive our restitution and compensation and the criminals are prosecuted.

I give the Lord all the praise and worship as to how things have developed, and realise it is Him who had the right time all along for this saga to come to an end. I thank those that prayed for this case, since it is these prayers that have brought us this far. Thank you for every prayer.

**The 6 PSPC's and other cases.**

Only after I had taken each PSPC to court individually, I realized it was an impossible fight. It was like trying to corner the SARB in a corner of a rondawel, and they kept on making excuses to the court as to why they had not followed the rule of law. Justice Tuchten had informed me that the Registrar had a discretionary right as well, and this justified his actions and conduct.

Only when the SARB themselves wanted to make all the cases one, in bringing a vexatious application against me in the Sharemax rescission application, I realized that I too should start combining my cases.

By doing so, we created corners to corner the SARB in, since their contradictory actions and conduct in the 6 different cases, was no longer possible to attribute towards discretionary powers.

Fortunately for us, the CIPC have grasped this concept from inception, and despite still referring to the matter as the Nova investigation, it is in fact a SARB/ FSB investigation with regard to their role in causing the PS industry implosions.

For this reason, please do not challenge me when I write these emails, and accuse me on focusing on the Sharemax saga alone. This case will have exactly the same result for the victims of Realcor, Bluezone, PICVEST, Kings, and Amatenda;- as it will for the victims of Sharemax.

Despite this, there are unfinished cases that will all abruptly come to an end as well, when the CIPC win this case for us. These cases I continue to fight, and will have to do so until the whole saga is over. I will discuss what I'm doing in each case currently. New evidence we get from carrying on these cases are also assisting our bigger case, together with the CIPC

### **Spitskop (Bluezone)**

In the Spitskop/ Bluezone case the SARB and liquidators are finally prepared to ask the court to set down a court date for the Rule 47's they filed against me after I had filed an application to rescind the Spitskop liquidation which was brought on the basis that the court was fraudulently misrepresented to place it in liquidation. I have now been called on to file my Practice Note, which I have done, and hereby attach for you all to see how largely our narrative differs to that which the court was informed of. ( **Annexure Bluezone PN**)

### **Realcor**

In the Realcor saga, PwC had brought a vexatious application against me which the court sanctioned. I referred the case to the Judicial Service Commission who rejected by complaint in December 2021. I have referred it to them again for an appeal, and wait for their response, where I will not just be dismissed with a letter, but where I have to appear before the panel before they can dismiss my complaint against all the Realcor judges who had erred in my cases. My complaint is primarily based on the fact that they were biased and just accepted the SARB/ PwC narrative. Now with this inter regulatory meetings, the JSC will not dismiss my case lightly.

### **PICVEST**

Irrespective of what the Business Rescue practitioners;- Orthotouch Directors;- the Theron Class Action;- the Adv Bolt individual cases;- and the Ms Naik investigations establish, they cannot achieve the relief I have asked for and which this CIPC case will achieve, the Lord permitting. In the end of the day, all these actions are against the beneficiaries of the unlawful conduct, who are similar to the Nova group and the liquidators of the other PSPC's, and their actions are null and void. The date from which they will be determined void, is from the date the SARB caused the implosion, and in this case, when Adv Theron SC gave the Registrar his opinions that PICVEST and the Zelpy Group had contravened the Banks Act. This caused Georgiou, correctly so, to cancel all agreements he had had between these two entities. From these breaches of contracts, any other actions were only of academic value.

### **Sharemax**

In the Sharemax case, my rescission application is sine die, which means "resting" until the case is taken further. My rescission application, as with my other rescission applications, are before court

to prove exactly what the CIPC will be doing for me. The actions of the SARB/ FSB will be declared ultra vires, unlawful, unconstitutional and male fides. This has been the relief I have been asking the court to grant me since 2013, but the court was not prepared to consider my narrative and that is why 32 courts have dismissed my cases since 2015. The CIPC will be approaching the court with the same narrative I had presented, and will also be seeking similar relief.

### **Kings**

The Kings civil rescission application is also sine die. With the criminal prosecution we have asked the state to provide us with certain evidence prior to them continuing with their prosecution. This information was asked for in February and we will see what they present prior to end of July 2023. This has been the longest postponement between court dates from this case started in 2013, and the trial has yet to be set down.

### **Amatenda**

The Amatenda criminal proceedings will commence on 15 August 2023, when Mr Malherbe will start presenting his case. The State have finished in presenting their case which was almost solely based on the SARB appointed inspectors/ managers. This case is also gave us the opportunity to get valuable evidence with regard to the SARB unlawful inspections for alleged illegal deposit taking.

### **The attacks against Brokers and how we will become equal victims relying on restitution and compensation.**

I have gone through hundreds of court cases from the Masterbond saga of the 1980's to current 2023 judgments. I have focused on SARB related cases where they have been party to investigate ponzi/ pyramid/ alleged illegal deposit taking schemes. In these investigations, it has come to light that almost in every judgment or FAIS Ombud determination, the Court/ Ombud has relied heavily on the Durr vs ABSA case (SCA 1997). This case is based on the fact that a Broker should have thorough knowledge of a product it sells, and should have done a proper due diligence of every product sold. Failure to do so, is considered negligence and the Broker is ordered to repay the capital plus arrear interest in a delict claim.

On almost every PSPC determination/ order made against a Broker, the court used this court case to hold the Broker fully accountable for the losses plus capital. They based their orders determinations on this narrative.

I have always considered this as illogical, since which Broker could have justified making a ponzi/ pyramid/ illegal deposit taking investment, irrespective of the client's risk profile?

If the court now determines, based on my narrative and the correct narrative as they should have, that the SARB/ FSB were the cause of every PSPC implosion, and considering the fact that the SARB/ FSB have acted unlawfully, ultra vires, unconstitutionally and male fides, then how should the Broker have known this? Then every Broker was wrongly judged with current determinations

and where Brokers made settlements in order to side step these judgments. So too, Brokers who lost clients as a result of these false accusations made against them as well as Brokers who assisted their clients as far as they could, have been prejudiced by these crimes as well.

It is necessary for our judgment to show that Brokers were unfairly prejudiced by these actions and conduct by the SARB/ FSB, and we will be filing delict claims of our own once a criminal case of prosecution is started against these parties.

**Please continue support and do not allow diversions to take your eyes off Jesus.**

I wish to than every one of you who have contributed in the past, either with donations and/ or prayers. THANK-YOU. There are those who do more than others, as life will confirm, and I want to give

**My banking details:**

Kindly pay into this account, and state your name and "Sharemax, Bluezone, Realcor and/ or whatever PSPC you were involved with" as reference please:

**DJ Pienaar, ABSA Savings Account, Parow Branch, Account number 911 973 7959.**

As you will note this account number does not change and thus a record of all payments will be on these statements. I will not be shy to disclose these statements to persons who wish to come inspect it. As with the PS'S calculations, to establish exact amounts, I will be disclosing my accounts to the authorities for scrutiny and investigations.

Thank you to every-one who contributes, and despite not holding people accountable, I do have the records of those that have paid. I so wish I need not ask for donations, but truly I have no choice. Please, I wish I could ask you to stop, but please do not give if you are not able to do so.

Reliance on donations.... My case will be to the benefit of every investor, not just the few that contribute. As stated before, even the amount of donations I receive is a testimony of powers beyond that of human, is in play. If one considers, approximately 6000 people receive my newsletters. If every person who receives it, contributed R10 to my cause as a donation, I would be a prosperous person, and this amount would make me a comfortable person. Then I could carry on with no haste, and know I will be provided for sufficiently.

The Lord however is in control, and always knows how much a person needs, and every month I receive just enough not to fall behind with my accounts. In months I needed extra money to fly up for court cases, somehow I would receive an extra R5000 or so to cover the costs. These last three months however, people seem not to bother any more and I'm starting to fall in arrears. If I had received what I had previously received, I would manage to be able to fly up to Gauteng and establish in person as to the progress of our case. Unfortunately, now I have to rely on email and whats-apps, and this seems to take the urgency off the case from up north.

I specifically want to call on those that can afford to contribute monthly to my cause, and/ or those that have not done so before. There is a core group of about 25 people who contribute every month, for years already, with others (about 10 monthly) giving ad hoc contributions that usually finalise the monthly amount. In total, it will not be more than 400 persons who have contributed these past 3 years, while more than 6000 receive my newsletters and more than 50 000 people will benefit from my work. This will be about 80 000 investments that will be compensated and restituted when we finish this exercise.

I need compensation more now while I'm fighting, than in the end when everyone will be compensated, myself included. I do give this saga less than a year to be finalized, so plead with you please to assist with a small contribution if at all possible. My final expenses will increase towards the end to finalise the case, but I need to get over the line, please, do not drop me now.

I have said, there are few of you with more to loose than myself, since I have more than R50m in litigation fees they can still hold me personally accountable for, and me alone. None of you are bound with my costs, **and if this had been a class action, you would not have been so lucky.**

I will not be able to do what I'm doing if I did not have people praying for this case and for others that contribute financially to this case....THANK YOU!!!!!!

With regard to prayers, I know that I'm being prayed for, and the things I achieve are not in my own powers. Those that do not bother to pray for this cause, that is your own problem. I thank the Lord continuously for wisdom, insight, the strive for righteousness, courage and other attributes of HIS, which he provides me, because people prayer for me. Thank you. The prays are the energy that is provided to take this case far beyond the finishing line, thank you.

## **Conclusion**

We are really on the correct road, and I know we will reach our destination, the Lord permitting. I also believe you all realise what a miracle this case will be and how huge the implications of this are. We are already victors, just by being on the right path, considering there is no other party that sought this path in all these years. We are ages ahead of anyone who tries to hijack these proceedings, and I believe we have the right support to take us all the way. I consider this as a one-horse race, but we **MUST** complete the race in order to be victorious.

This is a confirmation of our life journeys as well, it is not how we start but how we end. We have long forgotten about the start 13 years ago, we are now ending this saga, and we give our Lord and Saviour all the praise and worship.

I will continue to keep you updated and please do not stop with your support. Please also send to others who you know who were either directly involved or have now become next of kin beneficiaries to this case. We need to expand our receiver base radically, in order to turn the public opinion with the correct facts. Believe me, my facts are correct and any one who differs, is welcome to inform me where I'm wrong, if it is indeed so. I do not wish not to report only the truth.



Thank you to all, that have allowed me to bring this saga on behalf of yourselves to court. The opportunity, chances and experience mean's a real lot to me.

Kind regards

Deon Pienaar