

PRESS RELEASE IN RESPECT OF BCCSA RULING

1. The trustees of the insolvent estate late Fourie were requested to comment on the ruling of the BCCSA in case number 17/2014 in the matter between Neil Diamond and others vs Electronic Media Network (Pty) Ltd.
2. The trustees respect the ruling. They were not parties to the proceedings before the tribunal and were also not called upon to comment on certain of the facts of Mr. Diamond in his response to the BCCSA. Were they called to respond, they would have placed certain facts before the tribunal which would have elucidated certain of the issues touched on in the ruling. To deal with those issues separately in this press release would be counterproductive and serve no purpose, in light of the ruling already having been made.
3. The BCCSA reached the conclusion that Carte Blanche programme unjustifiably portrayed Mr Diamond as a person with questionable integrity. The following facts were not brought to the attention of the BCCSA and/or misrepresented by Mr and Mrs Diamond:
 - 3.1. Mrs Diamon assured the South Gauteng High Court, under oath, that occupational rent will be paid into their attorney's trust account. This was not done and Mrs. Diamond and the attorney have to date steadfastly refused to account for the occupational interest. The BCSSA simply accepts, as a fact, that the occupational interest was paid.
 - 3.2. Mrs Diamond conducted the property, which they complained of containing a great number of defects, as a profitable concern for roughly two (2) years and only paying 3 months occupational interest or rent to the deceased estate and the insolvent estate.

- 3.3. The trustees of the insolvent estate demanded from Mrs. Diamond and the company to vacate the premises. They refused. They were informed in writing in a letter that they may not deal with any of the property of the insolvent estate and, if they do so, ***it would constitute a criminal offence***. They were also informed that they have no right of retention in respect of the property or any of the moveable goods. An application for their eviction followed. They opposed the application.
- 3.4. During November 2013 the estate learnt that La Montanara will be closing down and will not be hosting further functions, due to renovations. A demand was sent to Mrs. Diamond and the company that they may not effect any renovations to the property, since they are not authorized to do so. An undertaking was requested from them that they will not do so. In response to this demand their attorneys responded that the status quo will be maintained until the eviction application was finalised.
- 3.5. During the holiday season and without informing the trustees whatsoever, Mrs. Diamond, assisted by Mr. Diamond, behind the backs of the trustees and in spite of the pending application for eviction simply left the premises without any notice whatsoever to the trustees and in spite of the trustees written caution to them that to deal with the assets of the insolvent estate would constitute a criminal offence.
- 3.6. In the process, they ransacked the premises leaving an empty shell and taking with them all of the assets belonging to the deceased estate. This was done unlawfully.
- 3.7. The trustees applied for a Section 69 search and seizure warrant and that warrant was executed with police officers, as the law prescribes. In the application for the warrant the trustees specifically tendered that, in the event that certain assets belong to Mrs. Diamond or any other

person, the trustees will release those assets to any party who can prove ownership.

- 3.8. Subsequent to the warrant having been issued, the trustees succeeded, with the assistance of the sheriff and members of the SAPS to attach the assets belonging to the estate. Some assets belonging to Mrs. Diamond were also removed in the process, since they were pointed out as assets belonging to the insolvent estate. Mrs. Diamond brought an application to set aside the search and seizure warrant. At court the parties agreed that they will meet at the auctioneers where the assets were held and Mrs. Diamond could point out to the trustees which of her assets were also removed. The trustees were at all stages willing to release to third parties their assets, if they could prove title to it.
- 3.9. ***Approximately 70% of all of the assets removed in accordance with the terms of the warrant remained in possession of the trustees. In other words all of these assets were unlawfully removed and the Section 69 search and seizure warrant was fully justified .***
- 3.10. During the execution of the warrant, Mr. and Mrs. Diamond failed to disclose to the officers executing the warrant that they have hidden away assets belonging to the estate in offices not disclosed. Had these offices not been noticed, by chance, they would have, in spite of a court order, not disclosed the existence of these assets. They failed to point out these assets and were obstructing justice.
- 3.11. The tribunal has for instance arrived at the conclusion that “*when it became clear that the executor of the estate would not permit them to make repairs so that the purchase of the venue by them could be financed*” the Diamond evacuated the venue. This is with respect not correct and was probably as a result of what was contained in the response to the

BCSSA. More than six (6) months before the Diamonds abruptly left the premises, they were informed by the trustees that they have no right to remain there.

- 3.12. *Long before* they removed the assestes belonging to the estate, the assets were seized and attached by the sheriff in the presence of the applicants and their lawyer, Mr. Bouwer. This attachement was simply disregarded.
- 3.13. Regarding the renovations, two (2) letters were sent to Mr. and Mrs. Diamond's attorneys requiring an undertaking that no renovations will be effected to the premises, pending finalization of the eviction application. In response their attorney that "*Our client will not do any "so-called renovations" as alleged by you and the status quo will remain pending until the application is finalized*". This was false. Instead of remaining the status quo as undertaken by their attorneys in their letter, the entire property was ransacked and all the moveable property belonging to the estate was removed from the property, unlawfully, and while the eviction application was not finalized. The undertaking provided by Mr. and Mrs Diamond in their attorney's letter was therefore not adhered to by them and the removal of the assets took place behind the backs of the trustees.
- 3.14. The attorneys also recorded that "*Our clients will not do any "so-called renovations" as alleged by you*". To therefore have concluded that Mrs. Diamond and Casino Retail (Pty) Ltd left the premises because they could not renovate the premises for purposes of finance was not correct. On their version, they would not have renovated the premises. Finance was not an issue at all at the time. They left the premises with one purpose and one purpose only, namely to unlawfully remove the property belonging to the insolvent estate and to conceal that from the

trustees. If they were bone fide, why did they not give any notice of their intention to vacate the property and take all the assets with them, to the trustees? The trustees maintain that the conduct of Mr and Mrs Diamond was dishonourable. This much is underlined by the fact that, as stated above, it was subsequently now conceded by Mr and Mrs Diamond that the bulk of the assets removed by them at all stages belonged to the insolvent estate. The search and seizure warrant was never set aside and the trustees can now sell what was unlawfully taken by Mr and Mrs Diamond.

- 3.15. Equally dishonourable, is for Mrs Diamond and Casino Retail (Pty) Ltd to not have accounted to the trustees to date hereof in respect of the occupational interest which they alleged was paid into their attorney's trust account. The trustees believe that they misrepresented the facts to court under oath.
- 3.16. Equally dishonourable, was the state in which Mr and Mrs. Diamond left the premises of La Montanara. This is a matter of record and the photos the trustees have taken are self evident.
- 3.17. Even after the estate assets were removed to the offices of Mr and Mrs Diamond, the trustees still attempted to get Mr and Mrs Diamond to identify to which premises the assets were removed, which they refused to do. A comprehensive letter written to the attorneys for Mr and Mrs Diamond, WF Boucher Attorneys dated 7 January 2014, forming part of the court papers; is on record. The failed to do so, dishonourably. In the circumstances the search and seizure warrant was entirely justified and validly issued.

- 3.18. The trustees will still hold Mr and Mrs Diamond and Casino Retail (Pty) Ltd accountable for all the losses caused to the estate and a copy of the summons to be issued against them will be made available once it is issued, as received back from counsel.