**QUESTIONS AND ANSWERS:**

**What are my obligations after a Liquidation?**

Attend a meeting with your Liquidator if possible (which we will set up). We will attend the meeting with you.

All assets must be fully disclosed to the Liquidator.

Assist the Liquidator as much as possible.

**How long does it take to finalize the Liquidation of my Company/ Close Corporation?**

The process normally takes between six months to twenty four months.

The Administration process does not really involve you personally.

**What are the consequences of Liquidation?**

All legal Action stops immediately!!

Any attachment by Creditors put into force against the Company / Close Corporation after the commencement of the Liquidation is void.

The Directors or Members cease to be in charge of the Company / Close Corporation, the Master of the High Court will Appoint a Liquidator whom will deal with all the matters of the Company / Close Corporation.

**How does the Liquidator get paid?**

There is a schedule that forms part of the insolvency act which prescribes that the Liquidator is paid from the sale of the assets.

Fixed Property:

3% from the Sale of Immovable Property,

Movable Assets:

10% from the sale of movable assets,

Cash

1% of cash in the estate etc.

When a Company is Liquidated and it has no assets it costs the Liquidator a substantial amount to wind up the estate. In these circumstances we always advise our clients to pay the Liquidators fee and expenses because the Liquidator does not want to incur losses in the winding up progress. The Director of Member may be sued by the Liquidator if there is contribution payable.

**Who Appoints the Liquidator and how does he get Appointed?**

The Liquidator is appointed by the Master of the High Court by way of Requisitions received by Creditors. The Master of the High Court could also make a discretionary Appointment

**What about Court Actions pending against my Company / Close Corporation?**

All Legal Auction stops immediately

**My Company / Close Corporation has instituted legal action against a third party – what happens after Liquidation?**

After the Liquidation has been granted, the Liquidators can decide whether they want to take the legal action further. Remember the legal action is only suspended once the Liquidation Order has been granted.

**If the Liquidator does not want to proceed with legal action after the Liquidation Order has been granted, what is my Company / CC’s legal position?**

You or anyone else can negotiate with the Liquidator to buy the right from the Insolvent Estate to proceed with the legal action in your private capacity. The price of the acquisition of this right will be determined by the probability of success as well as the quantum the action. The purchase price can range from R1 to millions of Rands.

**What do I tell the Creditors or Workers of the Company or Close Corporation?**

Request them to contact us, we will deal with them on your behalf.

**What is the position of People who work for me?**

There Contract with the Company / Close Corporation will cease to exist immediately

What claims do employees have after the Liquidation order has been granted?

Your employees stand second in line for payment after Creditors who hold security on bonds over immovable properties. They are preferrent claims and the preference of their claims is determined as follows:

Salaries or wages (for a maximum of three months) are prefferent up to an amount of R12,000.

Leave pay accrued in the year of insolvency or the previous year is prefferent up to an amount of R4,000.

Any payments due for any other form of paid absence for a maximum of three months prior to date of insolvency is preferent in the amount of R4,000.

Severance or retrenchment pay is Preferent up to an amount of R12,000.

Contributions payable by the insolvent Company / Close Corporation as employer in respect of any employees to any pension, provident fund, medical aid, sick pay, holiday, unemployment, training or any other similar scheme is Preferent to the amount of R12,000.

Any amounts due to the employee over and above the monies for which the employee has a Preferent claim, becomes a concurrent claim. This means that he stands in line with the Creditors which do not hold security.

**What can a Creditor do if your Company does not pay its debt?**

It is advisable to Liquidate the Company / Close Corporation as the Creditor cannot summons you to appear in court after Liquidation.

**What is a requisition?**

A requisition is a form, which Liquidators send to creditors requesting them to “support” his application to the Master of the High Court for his Appointment as Liquidator.

**How do I as a Creditor in a matter ensure that I receive information from the liquidator about the winding up p**rocess?

You send send your details to the Liquidator’s office requesting that your name be put on the mailing list of Creditors.

What is the purpose of a First & Second Meeting of  Creditor’s.

The purpose of proving creditors’ claims and to vote on important issues such as the Appointment of the Final Liquidator to provide the Liquidator with directions (i.e. whether to institute legal action) and to interrogate witnesses.

**Are there any costs involved in signing a Requisition?**
No.

**Do I have to submit a claim after signing a Requisition?**
No.