

## PRE-REPORT ASSESSMENT

CLAIMANT X

**PLEASE NOTE:**

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## 1 Introduction

- 1.1 This document is prepared for use by the Instructing Firm only and is not allowed to be distributed to third parties without the prior written consent of Grid Forensic Accounting (Pty) Ltd (“Grid”). This Pre-Report Assessment does not constitute a Forensic Accounting Report. The particulars of this case are set out below:

Background particulars	
Instructing Firm	ABC Attorneys
Date of Instruction	10 April 2016
Name of Claimant	Claimant X
ID Number of Claimant	851212 1234 000
Date of Accident	13 September 2013
Claimant’s Age at Date of Accident	27 years
Business 1	
Trading Name of the Business	XYZ Logistics
Entity Type	Close Corporation
Entity Registration Number	5432/123456/78
Type of Trade	Logistics and related services
Business 2	
Trading Name of the Business	Claimant X Carriers
Entity Type	Close Corporation
Entity Registration Number	1234/567890/01
Type of Trade	Transport and other related services
Business 3	
Trading Name of the Business	JKL Play
Entity Type	Private Company
Entity Registration Number	4321/876543/21
Type of Trade	Design and marketing of information technology products and related activities
<b>Brief:</b> Perform a high-level review of the available documentation and provide commentary on any identified irregularities, matters that require clarification, possible questions to ask the Claimant to obtain clarity, and advise the next steps to be taken.	

## 2 Approach

- 2.1 Internet searches, as well as Companies and Intellectual Property Commission (“CIPC”) searches, were conducted on the businesses and on the Claimant.
- 2.2 Information was gathered regarding the state of the South African economy, the businesses and their operating environments.
- 2.3 The available financial information was reviewed.
- 2.4 Where applicable, financial figures were adjusted to take the effect of inflation into account. Unless stated otherwise, all figures are reflected in actual terms.
- 2.5 Where applicable, tables containing figures may include minimal rounding differences. Where applicable, the Date of Accident is depicted in graphs by means of a vertical red line.

### **3 Available Information and Related Limitations**

- 3.1 Copies of the following medico-legal reports were provided and are listed below to the extent that they are considered relevant for purposes of this Pre-Report Assessment:
- 3.1.1 Occupational Therapist report by Dr X, dated 13 May 2014;
  - 3.1.2 Neurosurgeon report by Dr Y dated 14 July 2015; and
  - 3.1.3 Orthopaedic Surgeon report by Dr Z, dated 2 December 2015.
- 3.2 Copies of the following documents were provided and are listed below to the extent that they are considered relevant for purposes of this Pre-Report Assessment:
- 3.2.1 SARS Income Tax Return for payment of provisional tax form (IRP 6) of XYZ Logistics, for an unknown period in 2007 (page 2 was omitted);
  - 3.2.2 SARS Income Tax Return for payment of provisional tax form (IRP 6) of Claimant X Carriers, for an unknown period in 2007 (page 2 was omitted);
  - 3.2.3 SARS change of bank particulars form (IT 152(a)) in the name of the Claimant, dated 27 August 2007;
  - 3.2.4 Letter from GHI Chartered Accountants (“GHI”), the Auditors of JKL Play, dated 19 May 2011; and
  - 3.2.5 Identification Document of the Claimant.
- 3.3 Reasonable steps have been taken to ensure that the information obtained is authentic and complete, however, the authenticity and completeness of the information can not be guaranteed.
- 3.4 Limited financial information and evidence was provided. Various efforts to obtain further information from the Claimant and other individuals have been unsuccessful.

### **4 South African Economy**

- 4.1 According to the CIPC search conducted on JKL Play (paragraph 5.4), the business operates within the information technology industry. Opportunities within this industry are created in South Africa by significant global vendors and this is supported by an established technology market within South Africa. Relevant industry challenges within South Africa include a skills gap, a saturated market and weak information technology innovation capacity.
- 4.2 According to the CIPC searches conducted on XYZ Logistics and Claimant X Carriers (paragraphs 5.2 and 5.3), both these businesses operate within the transport and logistics industry. General operational challenges identified within the logistics and transport industry include increasing operational costs, operational management of infrastructure, as well as difficulties relating to human resources. The available information for these industries is presented on a macro-level and information could not be found which presents operations similar to, or on a level relevant to, the size of the operations of these businesses.

### **5 Preliminary Observations**

#### CIPC searches

- 5.1 A CIPC Director search conducted on the Claimant confirmed his association with all three businesses and reflected his current status within all three of the businesses as active.
- 5.2 A CIPC Company search conducted on XYZ Logistics indicates that the business was registered as a Close Corporation in the Eastern Cape on 7 July 2006. It furthermore reflects that the Claimant was one of two members appointed on the date of registration, both with a 50% membership in the business. The other

member was indicated as Mr T. It also revealed that the business' status changed to "annual return final deregistration" on 24 February 2011, more than two years prior to the Date of Accident. The current Accounting Officer of the business is reflected as "DEF Admin".

- 5.3 A CIPC Company search conducted on Claimant X Carriers indicates that the business was registered as a Close Corporation in the Eastern Cape on 23 February 2006. It furthermore reflects that the Claimant is one of four active members within the business, holding a 40% members' interest, with the other three members each holding a 20% members' interest. The other members were identified as Mr A, Mr B and Mr C. The business' status changed to "annual return final deregistration" on 24 February 2011, more than two and a half years prior to the Date of Accident. The current Accounting Officer of the business is reflected as "MNO Inc".
- 5.4 A CIPC Company search conducted on JKL Play indicated that the business was registered as a Private Company in the Western Cape on 2 June 2008. The Claimant was appointed as a director within this business on 1 January 2008 and is one of three current active directors. The other directors are recorded as Mr D and Mr F. It also revealed that the business' status changed to "annual return deregistration process" on 21 January 2015, approximately 16 months after the Date of Accident. The current Auditor of the business is reflected as "GHI".

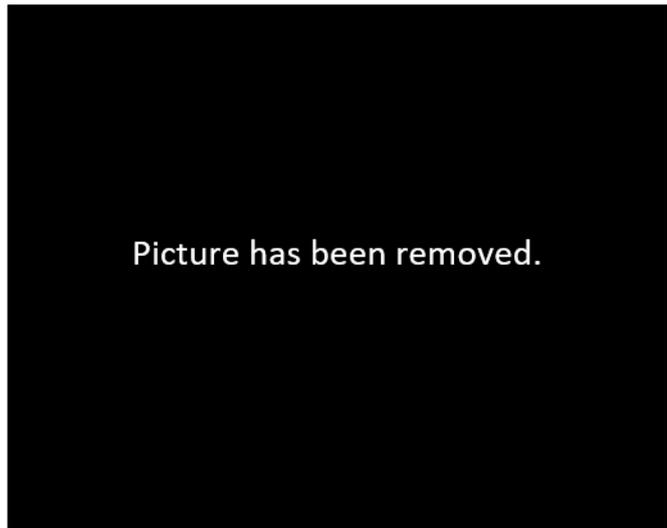
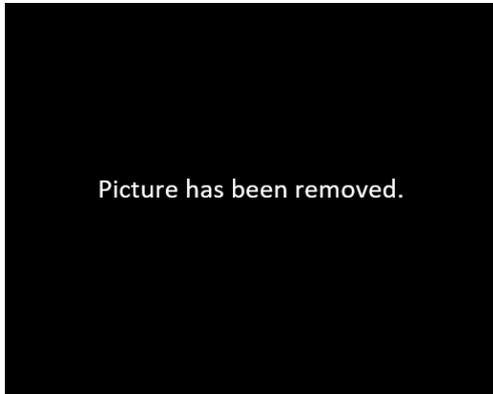
#### Medico-legal reports

- 5.5 It was reported in the Occupational Therapist report that:
- 5.5.1 The Claimant acquired two code 14 trucks and two long-term contracts prior to the Date of Accident. One of the long-term contracts was entered into with PQR Dairy, for the transportation of milk, and the other long-term contract was entered into with BCD Tyres, for the transportation of tyres. The Claimant's uncle is currently running the business, however, only one of the two trucks is operational. The Claimant was responsible for the mechanical maintenance of these trucks, but he could not manage this aspect of the business after the accident;
  - 5.5.2 The Claimant is a partner in "IJK Real Estate" and reportedly managed all tasks related to those of an estate agent, prior to the accident. The Claimant's partner is stated as "Mr H". It is possible that this is the same person holding a 50% membership in XYZ Logistics (paragraph 5.2);
  - 5.5.3 The Claimant should be provided with an adapted vehicle that will allow for his transport. The vehicle would need to be adapted to accommodate a paraplegic; and
  - 5.5.4 The Claimant has not been able to return to driving a vehicle since the accident.
- 5.6 Upon his assessment of the Claimant on 24 July 2015 (approximately 22 months after the Date of Accident), the Neurosurgeon reported that the Claimant has reached a plateau from which further recovery is not expected, and that the Claimant will be wheelchair-bound for the remainder of his life.
- 5.7 The Orthopaedic Surgeon assessed the Claimant on 10 October 2015 (approximately 25 months after the Date of Accident) and reported that the Claimant has no motor power in his lower limbs. He further reported that the Claimant is a paraplegic as a result of the motor vehicle accident and that he is wheelchair-bound and will never be able to walk again.

#### Internet searches

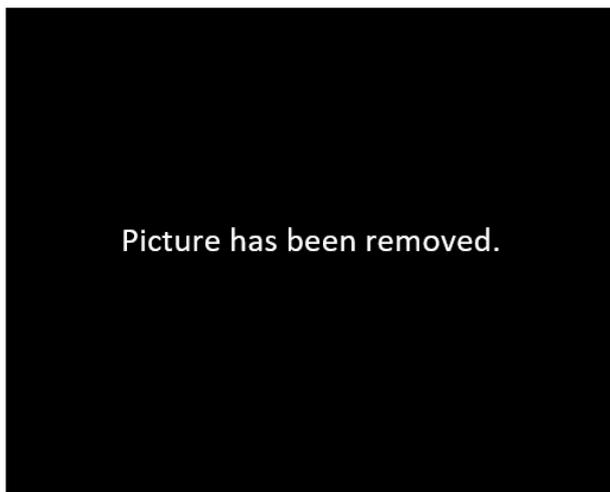
- 5.8 Internet searches conducted on the identified businesses did not reveal any relevant information.
- 5.9 An internet search conducted on the Claimant revealed a Facebook page with a profile name similar to that of the Claimant. In addition to the corresponding name, this profile appears to belong to the Claimant, as the "Work and Education" section of this profile states that this individual has been a director of JKL Play since January 2008 to date.

5.10 Photographs of a damaged bakkie that appeared to have been in an accident, were noted on this Facebook profile. The date stamps on these photographs are recorded as 2 October 2013 (approximately 20 days after the Date of Accident), with one of the photographs published with a caption that reads “A Lesson learnt...”. These pictures are reflected below:

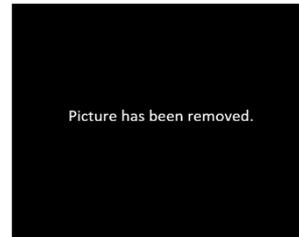
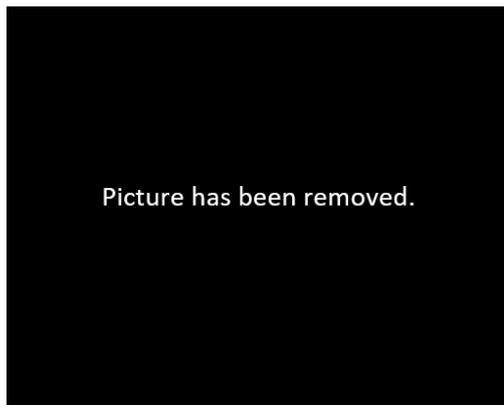


5.11 It is worth noting that several photographs and videos posted to this Facebook page well after the Date of Accident, appear to contradict the contents of the medico-legal reports. No wheelchairs, supportive devices or disabled driver vehicle conversions were noted on these photographs, as can be seen below:

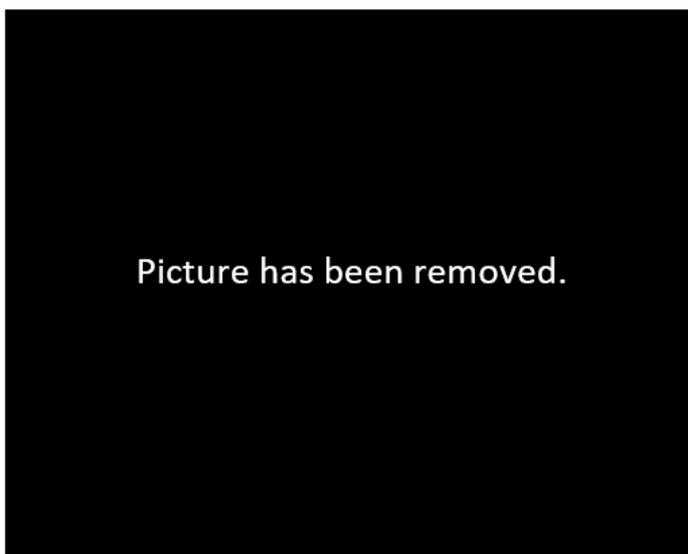
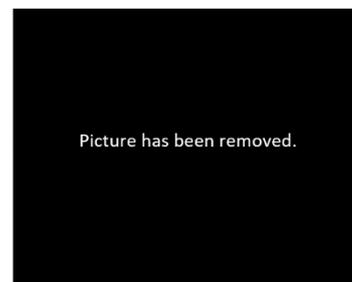
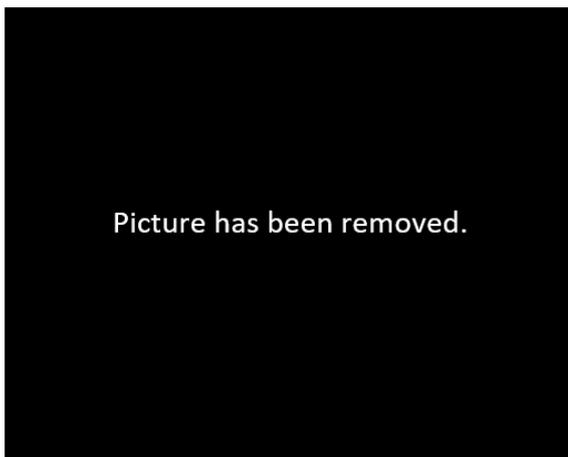
5.11.1 A photograph of a car, posted to the Facebook page on 3 August 2015:



5.11.2 Numerous photographs, where the user can be seen behind the steering wheel of different vehicles, were posted to the Facebook page between 18 August 2015 and 29 August 2016:



5.11.3 Various photographs were posted to the Facebook page between 4 April 2015 and 15 February 2016, where the Facebook user can be seen standing without the aid of any crutches:



5.11.4 Various photographs were posted by the Facebook user, indicating that the vehicle in which the photographer was travelling, was doing speeds in excess of 220 kmph;

Picture has been removed.

Picture has been removed.

- 5.12 A video was posted by the Facebook user on 8 June 2015, where the person recording the video can be seen travelling in a vehicle at speeds in excess of 200 kmph. At the time of writing this Pre-Report Assessment, this video could be viewed at: [REDACTED]

#### Letter from JKL Play's Auditors

- 5.13 The letter from GHI, dated 19 May 2011 and signed by "GHI", confirms that his business, as the Auditors of JKL Play, is in the process of transferring 33.3% of JKL Play's shares to the Claimant. It also indicates that the Claimant would be appointed as a director of JKL Play.
- 5.14 The appointment of the Claimant as a director of JKL Play was confirmed by the CIPC Company search conducted on the business (paragraph 5.4).
- 5.15 In email correspondence between Grid and Ms V of GHI, she indicated that GHI has not done much work for the Claimant's business other than secretarial work. She also indicated that this business (JKL Play) was dormant up until November 2013, after which the account was handed over for collection.

#### Income tax documentation

- 5.16 The available IRP 6 forms relate to FY2008. These documents reflect the taxable income, of both XYZ Logistics and Claimant X Carriers, as R 0. This suggests that, even though the businesses were registered during 2006, at the time of submitting these forms the businesses had not yet started trading.
- 5.17 The IT 152(a) form of the Claimant revealed a savings account in his personal name, held at HIJ Bank, with account number 123 456 7890.
- 5.18 No income tax documentation was provided in relation to JKL Play. Although this is expected, considering the email received from the Auditors of JKL Play which indicates that the company was dormant (paragraph 5.14), it seems to contradict the information on the identified Facebook profile, where it states that the Claimant has been the director of JKL Play since January 2008 to date (paragraph 5.9).
- 5.19 The businesses identified in this Pre-Report Assessment comprise Close Corporations and a Private Company. Companies' Tax, as well as Dividends Tax, would apply to the earnings generated by all three of these businesses.
- 5.20 Personal Income Tax will be applicable to the earnings generated by the Claimant in his personal capacity. This will relate to salaries and related remuneration components that the Claimant earns from these businesses.
- 5.21 It is important that careful consideration be given to the appropriate calculation of income tax.

## 6 Recommendations

- 6.1 Contradictions have been noted between the findings of the various medical experts (paragraphs 5.5 to 5.7) and the content posted to the Facebook profile (paragraphs 5.9 to 5.11). Clarity needs to be obtained as to whether the Claimant is indeed wheelchair-bound, whether he is able to drive a vehicle and whether he is truly reliant on supportive devices, as these factors would influence his ability to continue with the operations of his businesses.
- 6.2 It is recommended that an Assessor be instructed to conduct surveillance on the physical whereabouts of the Claimant, or that independent medical opinion be obtained regarding the physical impact of the Claimant's injuries.
- 6.3 According to the CIPC Company searches conducted on XYZ Logistics and Claimant X Carriers, both these businesses were deregistered more than two years prior to the Date of Accident (paragraphs 5.2 and 5.3). If and how the Claimant's injuries could have had an impact on the operations of these businesses requires further investigation, as these entities were not operational at the Date of Accident. It is recommended that the Claimant provide evidence to indicate whether these businesses were in operation when the accident occurred, as well as financial records pertaining to the financial performance of these businesses prior to and after the Date of Accident.
- 6.4 JKL Play also appears to have been dormant since May 2011 up until November 2013 (paragraphs 5.12 to 5.14). It is recommended that the Claimant provide evidence to indicate whether this business was in operation at the Date of Accident, as well as financial records pertaining to the financial performance of the business prior to and after the Date of Accident.
- 6.5 No information was provided to support the Claimant's alleged partnership in "IJK Real Estate", neither was this business identified by the CIPC Director search (paragraph 5.5.2). It is highly recommended that the Claimant provide proof to support the alleged partnership, along with documentation to support the financial performance of this business prior to and after the Date of Accident.
- 6.6 To accurately calculate the Claimant's alleged loss of earnings from the businesses, additional information is required. The recommended procedures in this regard include, but are not limited to:
- 6.6.1 Conducting an interview with the Claimant;
  - 6.6.2 Conducting interviews with the Accounting Officers of XYZ Logistics and Claimant X Carriers;
  - 6.6.3 Conducting interviews with the Claimant's business partners;
  - 6.6.4 Obtaining financial information for each of the entities that were in operation at the Date of Accident. This information may include financial statements for at least three years prior to the Date of Accident and bank statements for each business for a period of at least one year prior to the accident, to date. Note that for any bank accounts closed after the Date of Accident, the bank statements up to date of account closure are required, along with a letter from the relevant institution confirming the date of closure of the account;
  - 6.6.5 Obtaining the Claimant's personal bank statements from FY2011 to date;
  - 6.6.6 Obtaining the Income Tax Assessments for all of the businesses from FY2011 to date; and
  - 6.6.7 Obtaining the Personal Income Tax returns of the Claimant from FY2011 to date.
- 6.7 Due to the limited available information and based on the preliminary observations, it is strongly recommended that the Claimant be urged to provide adequate information to confirm the income of the businesses prior to and after the Date of Accident.
- 6.8 It is recommended that a Forensic Accounting Report be compiled for purposes of investigating and quantifying the Claimant's alleged loss of earnings from each business. This will ensure that an analysis of

the pre- and post-accident performance of the businesses is performed and that income tax is appropriately taken into account.

- 6.9 This document does not constitute a Forensic Accounting Report. Information was made available and assumptions were made that appear reasonable in light thereof. If, however, it is thought that any information is incorrect, or should further information become available, or if it is thought that alternative assumptions would be more appropriate, please contact Grid Forensic Accounting.