IN THE HIGH COURT OF SOUTH AFRICA

(WESTERN CAPE DIVISION, CAPE TOWN)

CASE NO: 1612/2024

and 194 other case numbers listed in Annexure "A" to the Notice of Motion

In the matter between:

HERMAN BESTER N.O	First Applicant
ADRIAAN WILLEM VAN ROOYEN N.O	Second Applicant
CHRISTOPHER JAMES ROOS N.O	Third Applicant
JACOLIEN FRIEDA BARNARD N.O	Fourth Applicant
DEIDRE BASSON N.O	Fifth Applicant
CHAVONNES BADENHORST ST CLAIR COOPER N.O	Sixth Applicant
KEVIN TITUS N.O	Seventh Applicant
DANIEL SANDILE NDLOVU N.O	Eighth Applicant

(Cited in their capacities as the joint liquidators of

MIRROR TRADING INTERNATIONAL (PTY) LTD

(in liquidation)

And

ANMARIE BARNARD First Respondent

And the other 194 parties named in items 2-195 2nd – 195th
Respondent
in Annexure **"A"** to the Notice of Motion

ANSWERING AFFIDAVIT

I, the undersigned

JOHN ANTHONY LISTER

hereby declare under oath as follows:

1. I am an adult male attorney practicing under the name and in the Style of Lister Co, with its address at Astron Energy Centre Office Suite 3 105 Inanda Road Hillcrest, Durban, Kwazulu-Natal.

2. I am the attorney representing the Respondents aforementioned, and I am also the legal representative of approximately 320 other defendants who are being sued by the Applicants in different divisions of the High Court.

3. The facts deposed to herein are within my personal knowledge and belief, save where the context indicates otherwise and are to the best of my belief both true and correct.

4. I am also authorised to depose of this affidavit on behalf of my clients who are the Respondents in the current case.

BACKGROUND

5. The Applicants seek an order consolidating the present matter with the other 194 matters for the sake of convenience, cost-effectiveness, or efficiency, as set out in the Applicant's Rule 11 motion dated 25 November 2024.

6. I deny that the consolidation of the 195 cases would serve any of the stated purpose or be in the interests of justice. It will only convenience the Applicants, whose legal counsel only need to consult with one client and his witnesses whilst I have to consult with all the Respondents individually.

7. In fact, I respectfully submit that the consolidation would prejudice me and my clients and disrupt proper progress of the matters and it will lead to unnecessary delays.

OPPOSITION TO CONSOLIDATION

8. I respectfully submit that the application for consolidation of the above cases should be dismissed for the following reasons:

8.1 **Legal Issues relating to time periods applicable to the different cases.** The issue in the current case and the other case(s) are substantively different. Due to the various points in time which differ between the Respondents, the applicability of prescription in the cases will vary and as such cannot be treated the same. The vastly different time periods will also be problematic as the liquidators have instituted claims in terms of section 26 and 29 of the Insolvency Act which are coupled to specific timelines for a disposition to be made applicable, as the dates on which transactions occurred between MTI and the Respondents differ. The Court will probably have to come to different decisions as to which dispositions were made and when in the various cases.

8.2 It must also be noted that the Applicants have failed to discover the documents relating to the different cases, even asking certain attorneys to not proceed with litigation against them, as there will be a number of test cases done as is evident from a letter dated 27 September 2024 annexed hereto as (Annexure AA1)

8.3 **Common Issues of law or fact** I am aware that there are various special pleas that were pleaded in the cases the Applicants seek to consolidate. However, some of the special pleas may be applicable but others not on a case to case basis and as such these matters are fundamentally different, and there is no significant overlap between the factual or legal questions in dispute.

8.4 It must also be taken into account that some of the Respondents are allegedly class 2 investors in MTI whilst others are class 3 investors. As per definition class 3 investors allegedly made a profit from MTI and Class 2 investors allegedly concluded transactions with MTI, but they were not per se defined as having made a profit. As such, the facts on which a consolidation can be justified are not present, even as per the creditors

circular dated 26 January 2024 which was distributed by Investrust the Second Applicants liquidation firm, which is annexed hereto as Annexure AA2. In this document the Applicants confirm the way in which the different classes of investors need to be handled, and how claims should be calculated.

8.5 **Ownership of the Bitcoin** I have recently become aware of an Intervention application by the joint trustees of the insolvent estate of Cornelius Johannes Steynberg. (now deceased) who was the sole director of the company and the controlling mind behind the scheme.

8.6 The Intervention applications were brought under case number **1372/2022** out of the Western Cape Division where the Applicants were seeking certain directives from Court. It is important to mention that the Respondents were not privy to that case and were unaware of the intervention applications.

8.7 The essence of the Intervention application was that the Trustees of the insolvent estate of Steynberg basically contended that the Applicants in this matter were not entitled to have received and taken control of the Bitcoin which had been frozen in the accounts at FX Choice which was in the name of the aforesaid Steynberg and not in the name of MTI (the Company).

8.8 The Financial Services Conduct Authority (The FSCA) who are clothed with statutory authority to conduct investigations into possible contraventions of financial sector law and the FSCA, confirmed as a matter of fact that the Bitcoin belonged to Steynberg. Retired Judge Fabricius who was appointed as a Commissioner by the Court, also confirmed in a report that was put up with in Steynberg's sequestration

application that the account at FX Choice was in the name of Steynberg personally. (Not MTI)

8.9 I annex hereto marked AA3 a copy of the intervention affidavits in the intervention application and respectfully draw the Court's attention to the tenor of these documents. I have not put up a full set of the papers to avoid unnecessary prolixity.

8.10. It is evident from the contentions of Steynberg's trustees that Bitcoin paid by members of MTI appears to have been stolen at the outset by Steynberg and paid into his account at FX Choice. I annex hereto marked AA3A a copy of the FX Choice statements in the name of Cornelius Johannes Steynberg.It would also appear from the Intervention affidavits put up to the Court that there is evidence that distributions or payments of Bitcoin made to members of the MTI Club were paid by Steynberg and not the Company (MTI). Certainly there is no documentary evidence that the Crypto Wallets used to transact with members actually belonged to MTI (the Company)

8.11. There are serious implications arising out of the trustees claims inter alia;

8.11.1 That the Applicants had no right to receive and deal with Bitcoin belonging to Steynberg's insolvent estate as they appear to have done

8.11.2 That the Applicants do not have a cause of action to sue members of MTI for the return of Bitcoin.

8.11.3 The Maher judgement did not finalize the dispute on these issues as between the Applicant and Trustees of the insolvent estate which are still very much alive and are also the subject of litigation between the Applicants and the Trustees of Steynberg's insolvent estate. I annex a

copy of a Summons marked AA4 and a copy of the Trustees plea marked AA5 relating to the litigation in question. The action relates to an action brought terms of Section 424 of the Companies Act against the Trustees and seventeen other parties.

8.11.4 It is important to note that the Trustees claims are certainly not speculative and it appears that they conducted in depth investigations pursuant to which they obtained the opinion of a respected counsel, P. Louw S.C. The opinion backed up their contentions and was annexed to their papers and is now annexed hereto marked AA6.

8.11.4 The Respondents in this matter and my clients in numerous other matters in other jurisdictions will have to amend their pleas to deny that the Applicants have a valid cause of action to claim Bitcoin paid to them by Steynberg. However, in light of the fact that Applicants appear to be intent on amending their papers it makes sense not to proceed to amend at this stage until there has been proper discovery and the Applicants have given notice of intention to amend their papers and amended their papers.

8.11.5 It is therefore clear that the pleadings have not been closed and a consolidation of the matters is at the very least premature

8.12 **FAILURE TO CONSOLIDATE ALL CASES RELATING TO MTI IN THIS COURT'S JURISDICTION.**

It is common cause that there are numerous other cases against members of MTI who are being sued on the same cause of action that are not part of this consolidation application. Some are my clients but others are represented by other attorneys. I refer to my letter to addressed to the Applicants attorneys dated 19 December 2024 which is annexed hereto marked AA7.

I also annex marked AA8 a letter addressed to Applicants attorneys by Engelbreght Attorneys another colleague who enquired why the Applicants appear to be cherry picking certain cases to be consolidated and others not.

8.13 **Premature application as pleadings are not closed and failure to discover by the Applicants** the Applicants having failed to discover also renders this application premature, as is confirmed in a letter from me addressed to Mostert and Bosman attorneys dated 27 January 2025 (annexed hereto as Annexure AA 9) As indicated in the letter the Applicants have failed/refused to make discovery in terms of Rule 35(14). The Application is hopelessly premature as pleadings cannot under the circumstances mentioned above be considered to be closed. It is also important to mention that the constituency of clients I represent had no knowledge of actual business and workings of the scheme. Proper discovery is vital to them as to what actually went on in MTI and to enable me to consider whether there are further defences that will emerge.

8.14 **Prejudice to the Respondents** The Respondents will be prejudiced by consolidation as it will complicate the legal issues, create unnecessary delays, and increase the cost of litigation. This is emphasised by the unwillingness of the Applicants to have a few test cases done as to have certain hallmark issues that may be applicable to all the cases determined by court in order of precedence which is the most cost-effective way to go. If the consolidation is allowed to simply continue it will also have the potential to muddy and confuse the different facts applicable to the cases if heard as one, which is not in the best interest of justice, as the right to hear the other side will be drowned out, leading to lip service of the *audi alteram partem* rule. Consolidating the matters now would also cause significant inconvenience to the Respondents, as it will require

determination of issues that are unrelated to each other within the same proceedings, making the process inefficient and costly.

8.15 It must also be noted that the current course of action being taken by the Applicants, will inundate the court with a complex case of long duration, which will not be in the best interests of the creditors, to whom the liquidators owe a duty of care. By now simply going after class 2 investors for payment, instead of having an offset which is the norm in similar cases, with some investors willing to pay is not in accordance with the judgment made by Maher AJ.

8.16 The impression created by the Applicants is that they intend on maximizing the amount they can make out of the estate of MTI by having class 2 investors pay back what they received, and only then submit a claim for what they invested. Taking this into account, the legal teams of the Applicants, will be the ones getting paydays for work done, which just unnecessarily drives the legal costs upwards and will not be in the interest of the creditors or best interests of justice.

8.17 Taking into account that the legal fees paid to the attorneys according to the L & D account dated 5 June 2023, annexed hereto marked AA10 were over R64 529 437,95 which by now it must be considerably higher, I shudder when comprehending how many innocent persons may be sequestrated in the unjust process, taking into account the high value of Bitcoin currently as of 1 March 2025 being approximately 90 000 USD, whilst on 19 December 2020 around the time when MTI was liquidated provisionally the value of Bitcoin was approximately 23 132.87 USD. With Applicants insisting that today's value of Bitcoin must be repaid to the estate, this will bankrupt many innocent members with only the Applicants and their legal teams standing to gain. It is important to mention that to

date not a single dividend appears to have been paid to creditors who are class 1 members.

8.18 Unnecessary **Complexity and Delay** I submit that consolidating the matters would result in increased complexity and delay, as the consolidation would entail considerable effort in terms of the preparation of evidence, examination of witnesses, and legal argument as each case will involve unique facts that must be dealt with separately, especially the alleged payment of Bitcoin to each Member/Investor.

THE APPLICANTS FAILURE TO MEET THE REQUIREMENTS OF RULE 11

9.I submit that the Applicants failed to meet the requirements of Rule 11:

9.1 Rule 11 allows for the consolidation of matters if it is convenient and if the court considers that consolidation will avoid unnecessary repetition of evidence and issues, the Applicants have failed to demonstrate that such a situation exist in the present case, as the consolidation will only convenience the Applicants.

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9.2 The Applicant failed to show substantial commonalities between the actions that would justify consolidation under Rule 11, this is emphasized by their failure to point out that in the list of Respondents, there are class 2 and class 3 members / investors as alluded to earlier in this affidavit.

9.3 Moreover the Applicants have not presented any evidence of how consolidation will promote efficient administration of justice, taking into account the failure by the Applicants to have selected test cases run as to ensure various hallmark issues are resolved prior to large complex cases which will flow from the consolidation application.

10. **Defense and Response**

10.1 I hereto respectfully submit the application for consolidation should be dismissed.

10.2 The facts in the matter relating to transactions between the Respondents and MTI are too distinct to warrant consolidation, and the Applicants have failed to provide sufficient reasons why consolidation should be granted, taking into consideration that as stated above the pleadings are not yet closed and this application is hopelessly premature.

10.3 The issues raised in each mater are separate and would be better addressed in separate proceedings to ensure that each matter receives due consideration without unnecessary overlap.

11. **Conclusion**

11.1 In light of the above, I submit that the application for consolidation should be dismissed with costs.

I ANSWERS ON BEHALF OF THE RESPONDENTS AS FOLLOWS TO THE ALLEGATIONS MADE BY THE APPLICANT IN ITS FOUNDING AFFIDAVIT:

1. **AD PARAGRAPH 1 TO 15:**

These allegations admitted.

2. **AD PARAGRAPH 16:**

2.1 This is admitted; however, the Applicants fail to explain why certain of the cases of parties I represent, are not included in this consolidation application as alluded to in Annexure AA7 and why the cases of other attorneys representing other Defendants in MTI matters within the jurisdiction of this Court are excluded. It seems that the attempt to consolidate is lacking based on their own version in terms of Rule 11 of the Uniformed Rules of the High Court.

2.2 It must also be mentioned that are still engaged in issuing new actions and new actions are still crossing my desk. The applicants cannot, surely proceed with this consolidation whilst they are still issuing new summonses against Defendants.

3. **AD PARAGRAPH 17:**

The contents hereof are noted. I reiterate my conclusions to paragraph 16 and after that the Applicants have failed to take the Court into their confidence by not admitting that the pleadings in other matters are not closed yet. They persist in their failure to make discovery of vital documents, especially their so called expert report where I understand Millions of Rands were paid to a Mr. Pederson.

4. **AD PARAGRAPH 18:**

The contents hereof are denied as set out *supra* and the Applicants put to proof thereof.

5. **AD PARAGRAPH 19:**

The contents hereof are noted.

6. **AD PARAGRAPH 20:**

The contents are admitted where it pertains to the authority to institute legal proceedings on behalf of MTI, it is however disputed that the Applicants have the right to institute legal proceedings relating to Bitcoin which did or do not belong to MTI, but rather were held in the personal name of Johan Steynberg.

7. **AD PARAGRAPH 21 and 22:**

The contents hereof are noted.

8. **AD PARAGRAPH 23:**

The contents hereof are acknowledged to the extent that Johannes Cornelius Steynberg (Steynberg) and Clyton Marks (Marks) were the two shareholders of MTI, the remainder of the paragraphs are denied as there was no known board of Directors that controlled MTI. The only Director was Johan Steynberg. MTI was provisionally liquated on grounds that it was just and equitable to do so as its sole director had disappeared overseas.

9. **AD PARAGRAPH 24:**

The content of this paragraph is noted however the marketing material was not provided and as such the content of this paragraph cannot be properly pleaded to at this time.

10. **AD PARAGRAPH 25:**

This is denied as the Applicants failed to proof of the wallets which allegedly belong to MTI that were used for transactions.

The Applicants further failed to take the Court into their confidence as to what happened to the 7 738.83266 Bitcoin which is the difference between the 289421.03379 Bitcoin paid into the My MTI database and the 21681.20112 Bitcoin which was withdrawn in accordance with the report by JGL Forensic Services based on the report conducted on the MYMTI database version dd 17 October 2020, said report is annexed hereto as Annexure AA11.

11. **AD PARAGRAPH 26:**

It is denied that MTI conducted an unlawful pyramid scheme. In her judgment De Wet AJ declared the business model of MTI an illegal and unlawful scheme in case number 15426/2021, read with case number 19201/2020 in the Western Cape High Court. The said judgment was handed down on 26 April 2023. The words pyramid scheme do not appear in her judgment.

12. **AD PARAGRAPH 27:**

The content is denied as the deponent failed to adduce evidence as to which various statutory provisions were being contravened by MTI.

13. **AD PARAGRAPH 28:**

The contents of this paragraph are denied and the wording used in this paragraph is not in accordance with the judgment which read that all agreements concluded between MTI and its investors in respect of trading / management / investment for Bitcoin for the purported benefit of the investors, are declared unlawful and *void ab initio* as per the order of De Wet AJ.

14. **AD PARAGRAPH 29 AND 30:**

This is admitted.

15. **AD PARAGRAPH 31:**

The content hereof is denied. As to the contention that MTI was unable to pay its debt at all material times, De Wet AJ refused to make a finding that MTI was at all times factually insolvent, The Applicants have to prove these allegations taking into account that they failed to provide evidence as to what happened to the Bitcoin held by the My MTI club, as mentioned in paragraph 10 above.

16. **AD PARAGRAPH 32:**

The contents are admitted.

17. **AD PARAGRAPH 33:**

The content hereof is noted, however in the terminology used is misleading. The business of MTI was essentailly found to be an unlawful scheme.

18. **AD PARAGRAPH 34, 35 , 36,37,38, 39 AND 40:**

The content hereof is noted.

19. **AD PARAGRAPH 41:**

The content hereof is admitted, it also proof that the Applicants acknowledge there are different calculations applicable to different Respondents in the cases which they intend to consolidate. Accordingly, this confirms that consolidation of cases where the calculations and claim differ from each other will not be in the best interest of justice as alluded to *supra*.

20. **AD PARAGRAPH 42:**

The contents of this paragraph are denied, as the Applicants have failed to discover the so called database hosted by Maxtra. The data integrity of the back office cannot be confirmed or guaranteed by the Applicants, as the Applicants failed to discover the

crypto wallets applicable for the alleged transactions to prove MTI's ownership thereof and failed to discover transaction ID's which are used for all Crypto transactions of which record is kept on the Blockchain. The alleged data base provided is a mere Excel spreadsheet of entries which could have been created by anyone.

21. **AD PARAGRAPH 43:**

The contents hereof are acknowledged

22. **AD PARAGRAPH 44:**

These allegations are denied, the terminology used by applicants is misleading as an unlawful scheme does not necessarily equate to a pyramid scheme. Despite MTI being declared an illegal and unlawful scheme, it was not declared a Pyramid scheme per se as in the well-known Krion case which relates to the matter of *Foure NO and others v Edeling NO and others(2005) 4 All SA 393 (SCA) (Krion case)*. In the Krion case the difference was that the court order declared that at all material times from and after 1 March 1999 the company was insolvent in that its liabilities exceeded its assets. This is in contrast to the fact in MTI Judge De Wet refused to make a finding that MTI was factually insolvent at all relevant times, as there was indeed trading conducted on the version of the liquidators, the FX Choice reports. The facts regarding the schemes are vastly different and the observation was made in the Krion case that *"The nature of the scheme dictated its insolvency"*, the case also dealt, *inter alia*, with a claim for the repayment of what was referred to as the "actual payment of the accumulated gains", in other words the amount which an investor received over and above his/her investment (para 19 of the judgment).

23. **AD PARAGRAPH 45:**

These allegations are denied. The Applicants are effectively misleading the Court as there were transactions in trading and thus MTI's business model was not the same as in the Krion case as mentioned *supra*.

24. **AD PARAGRAPH 46:**

The contents thereof are denied. As pleaded *supra* the Respondents had user accounts into which Bitcoin was transferred from their personal Crypto wallet to other crypto wallets, and which transactions can be verified through a transaction ID which is obtained from the blockchain. This is exactly the discovery the Applicants appear reticent to provide and also it underlines that pleadings are not finalized and this application is premature and not in the best interest of justice.

25. **AD PARAGRAPH 47:**

The contents thereof are denied, and as pleaded above, Applicants failed to provide the necessary discoveries and, as such, it emphasizes that pleadings are not finalized and this application for consolidation is premature and not in the best interest of justice.

26. **AD PARAGRAPH 48:**

The contents thereof are denied and as there are various scenarios applicable as per the paragraphs 37, 38, 39 and 40 of the Founding Affidavit, the insinuation that

section 26 is applicable and that every transfer was not made for value is denied. That in fact Applicants have still failed to provide the Pederson report.

27. **AD PARAGRAPH 49,50, 51 AND 52:**

The contents of these paragraphs are denied as the Applicants failed to discover documents evidencing ownership of the wallets in which the alleged transactions took place and in contradiction of the rule established in the Krion case, that the liquidators do have a claim in excess of the amount a person invested in the illegal scheme. Accordingly, Section 26, 29 and 30 cannot be applicable as the pleadings are not yet closed. It must also be taken into account that the court did not rule that repayment of an investor's capital constituted a "disposition without value".

28. **AD PARAGRAPH 53:**

The contents thereof are acknowledged.

29. **AD PARAGRAPH 54 AND 55:**

The contents hereof are acknowledged, however due to the indication by the Applicants that they intend to amend their pleadings, and taking into account the new facts have come to the knowledge of the Respondents, a plea over by Respondent would be required. Once again it is evident that pleadings have not closed and this consolidation application is premature.

30. **AD PARAGRAPH 56:**

The contents hereof are noted. As per the new evidence that has been unearthed all the pleadings have to be amended as part of the anticipated plea over, and again as alluded to earlier, this application for consolidation is premature and not in the best interest of justice.

31. **AD PARAGRAPH 57 AND 58:**

The content hereof is acknowledged. The special plea was not pleaded by all Respondents, as acknowledged by the Applicants. Facts on which the claims are based do not apply across the board. A plea over will be necessary once the Applicants have amended.

32. **AD PARAGRAPH 59:**

The contents hereof are admitted.

33. **AD PARAGRAPH 60 AND SUBPARAGRAPHS:**

The Applicants earlier in their Founding Affidavit at paragraphs 38, 39 and 40 alluded to how the possible factual scenarios as are applicable as per judge Maher's order. They acknowledge that the Respondents in this case are a mix of class 2 and Class 3 investors. However, they now appear to add to the confusion that will be created by a consolidation as they only link this special plea to the Class 2 investors.

34. **AD PARAGRAPH 61 AND 62:**

The content hereof is noted, however with the new information that has come to light and in accordance with my communications with the attorneys for the Applicants amendments will be necessary.

35. **AD PARAGRAPH 63 :**

35.1 The contents of this paragraph are denied, as the extension of the Liquidator power's took place on 21 January 2021, which gave the liquidators time to retrieve the MTI back office from Maxtra in India, (which contains the data they base their claims on), and institute legal process. A copy of the order is annexed marked AA12.

35.2 The Applicants have failed to bring this critical information to the attention of the Court.

35.3 Further the various Respondents will all have separate dates of prescription linked to the alleged transactions between them and MTI. Some investors also lodged claims with the Applicants in support of their appointments, and some submitted claims for the return of Bitcoin. In most of these instances the liquidators had a full set of information supplied by investors to enable them to commence legal action from date of submission of the particulars relating to claims. As such the dates of prescription will be different for most of the Respondents and do not justify a consolidation where pleadings will differ on trial as facts are not similar.

36. **AD SUBPARAGRAPH 63.1:**

Given the extended powers granted by the Court in January 2021, especially the power to sue debtors, the Applicants have not provided reasons why they could not have garnered the facts upon which they base their claims at an earlier date.

37. **AD PARAGRAPH 63.2:**

The contents thereof are denied as the Applicants have failed to justify the contention why the debts were not due until at least 1 June 2022.

38. **AD PARAGRAPH 64:**

The contents hereof are noted, and as such, and yet again the application for consolidation is premature, as the facts relating to transactions, as well as the applicability of special pleas vary considerably.

39. **AD PARAGRAPH 65 AND SUBPARAGRAPHS:**

The contents thereof are noted, however since the new information came to our knowledge, further amendments are required to the pleadings, making this consolidation application, as alluded to earlier, premature.

40. **AD PARAGRAPH 66:**

The contents thereof are admitted.

41. **AD PARAGRAPH 67 AND 68:**

The contents of these paragraphs are admitted.

42. **ADSUB PARAGRAPH 69**

The contents of this paragraph are denied, as the Applicants failed grasp that there are four considerations for a consolidation application, being commonality of issues; efficiency and avoiding duplication; prejudice to the parties and the interests of justice. Convenience is not the paramount consideration, as convenience will only be the convenience of the Liquidators. I would submit the best interest of justice should be paramount.

44. **ADSUB PARAGRAPH 69.1:**

The contents of this subparagraph are admitted.

45. **AD SUB PARAGRAPH 69.2:**

The contents of this paragraph are denied, specifically with the new information that came to our attention, regarding the ownership of the Wallets in which the Applicants claimed belonged to MTI, but which appear to have belonged to

Steynberg. Further, the failure by the Applicants to discover the necessary proof of transactions, with supporting source documents that alledgedly took place between investors and MTI.

46. **AD SUB PARAGRAPH 69.3:**

These allegations are denied, and the defence raised will need to be amended since the new information came to light.

47. **AD SUB PARAGRAPH 69.4:**

These allegations are denied. There were some persons who purportedly operated as agents and received referral bonuses whilst others did not. The Applicants failed to produce evidence that accounts belonged to persons they were attributed to, and as some were class 2 investors and others class 3 investors there is not a blanket commonality to claims against all the Respondents.

48. **AD SUB PARAGRAPH 69.5:**

The contents of this paragraph are denied, the Applicants are again attempting to equate the illegal business practice as a pyramid scheme. A pyramid scheme model was not made an order in relation to MTI.

49. AD SUB PARAGRAPH 69.6:

This is denied since no discovery was made as to substantiate the allegations contained herein. As alluded to earlier, the Pederson report is still outstanding and the correctness of the database allegedly used by the so-called experts is disputed.

50. AD SUB PARAGRAPH 69.7:

The contents hereof are denied as the Applicants failed to discover substantive evidence to these allegations.

51. AD SUB PARAGRAPH 69.8:

This allegation is not appropriate. As alluded to earlier, by running test cases applicable to the different classes of investors, which can be agreed upon, would avoid unnecessary repetitions and attendances on specific issues. It will be more efficient to run test cases, for example: two selected by the Applicants and two selected by the Respondents attorney for the various classes of investors. This will prevent a prolonged case which many Respondents cannot afford and their costs would be reduced. This would also prevent the Courts from being overrun with cases relating to MTI, especially with the many possible sequestrations and insolvencies which may flow from the way the Applicants and legal teams intend to handle the matter, where offsets between capital deposited and withdrawals are not being taken into account, to the detriment of Respondents, and justice.

52. **AD SUB PARAGRAPH 69.9:**

This allegation is denied. As alluded to earlier, by running test cases applicable to the different classes of investors, which can be agreed upon, will avoid unnecessary repetitions and attendances on specific issues. It will be more efficient to run test cases, for example: two selected by the Applicants and two selected by the Respondents attorney for the various classes of investors. The consolidation of cases will in contrast simply confuse matters and will not be in the best interest of justice.

53. **AD PARAGRAPH 69.10:**

The contents of this paragraph are noted. However, the last response from the attorney for the Applicants was a via WhatsApp where he said he did not agree with my suggestions and that he will see me in court which is what happened when my counsel appeared and adjourned the matter by agreement.

54. **AD PARAGRAPH 70:**

The contents hereof are denied as the Applicant has failed to quantify substantial prejudice, as once prejudice is created, the best interest of justice should also be considered.

55. AD SUB PARAGRAPH 70.1 AND 70.2:

These allegations are noted; however, it will be more cost effective to run test cases as suggested *supra* which will also save time.

56. AD SUB PARAGRAPH 70.3:

The contents of this subparagraph are denied as the necessary discovery by the Applicants is still outstanding, and failure to discover the specific wallet ownership, alleged transactions between Respondents and MTI with source documents, as well as discovery of the particular transaction details such as transaction ID's will prejudice the Respondents severely and will deny them justice.

57. AD SUB PARAGRAPH 70.4:

57.1 The contents of this paragraph are denied as a few selected test cases as suggested can avoid a multiplicity unnecessary court dates.

57.2 I also wish to mention that the Applicants attorneys are also planning to consolidate about 200 (two hundred) matters in Gauteng. If they have their way this will also mean expensive litigation of consolidated matters being repeated in another court. All this could be avoided by using selected test cases on the hallmark issues pertaining to all matters.

58. **AD SUB PARAGRAPH 70.5:**

The contents of this paragraph are denied as a few selected test cases can have the same effect, and if taken by either parties to the Supreme Court of Appeal when a judgment is taken on appeal, one would be able to obtain a binding precedent for the matters.

59. **AD PARAGRAPH 70.6:**

The contents of this paragraph are denied as a few selected test cases can have the same effect. I am not aware of any investors, not even the class 1 investors who have to date received payment. I fear that the already disputed funds appropriated by the Applicants may continue to be used to fund continuous unnecessary litigation and we may see a repeat of the Krion case where the investors were left out of pocket, whilst Liquidators and legal teams received tens of millions of rands. It must be noted that the amounts received by the Applicants being over R 120 000 000 and the legal teams over R 80 000 000 as reflected in Annexure AA10 are likely to have increased substantially since June 2023.

60. **AD PARAGRAPH 71:**

These allegations are denied and I submit that the application be dismissed with costs.

61. **AD PARAGRAPH 72:**

The contents hereof are noted.

62. **AD PARAGRAPH 73:**

The contents of this paragraph are denied as a few selected test cases can have the same effect, and if taken to the Supreme Court of Appeal when a judgment is taken on appeal we will be able to obtain a binding precedent on hallmark issues applicable to all the cases which will entail and streamline litigation

63. **AD PARAGRAPH 74:**

In the light of the above, I submit that the application for consolidation be dismissed as the facts in the various matters are too distinct to warrant consolidation. New facts have come to the Respondents knowledge which require a plea over, also each matter is separate and would be separately addressed in proceedings. Selected test cases on the other hand will be able to assist the court to reduce the hallmark issues that will be applicable in the different classes of investors.

WHEREFORE the on behalf of the Respondents I humbly pray the Court to dismiss the application with costs on an attorney and client scale including the costs of two Counsel on scale c.

DEPONENT

Signed and sworn to before me at Gillitts on this the 13 day of MARCH 2025 the deponent having acknowledged in my presence that he knows and understands the contents of this affidavit, and the provisions of Government Notice R1478 published on the 11th of July 1980, as amended, concerning the taking of the oath, having been complied with.

Commissioner of Oaths

Full names and surname: _____

Rank and Number: _____

Physical address of station: _____

Evana Naidoo
Commissioner of Oaths
Attorney
12 Old Main Road Gillitts
Kwazulu Natal 3610