

10 March 2021

Dear board of the Nova Property Group

I trust all is well.

I have downloaded Nova's 2020 AFS and have the following questions:

1. In paragraph 11 of the Directors' Report, the board states Nova has sold properties to the value of R375.2 million.
  - a. Please segment the amount of R375.2 million and indicate which properties were used in the calculation.
  - b. Nova's cash flow statements from 2012 to 2020 shows that a total of R576.2 million were raised through the sale of properties. Can you explain the apparent discrepancy with the amount of R375.2 million referred to by the board in the Board Report?
  
2. According to the cash flow statement, Nova sold investment properties valued at R79.5 million during the financial period. It means Nova sold properties to the value of R290.4 million during the past three financial periods, as per the cash flow statements.
  - a. How much of the proceeds were reinvested in the remaining properties?
  - b. How much of the proceeds were used to fund operational expenses and salaries?
  
3. The auditor qualified the financial statements and questioned the valuations of seven out of the eleven remaining properties in the group. The AFS states these seven properties were collectively valued at R2,049,456,978, representing 96% of the remaining Nova portfolio's total value.
  - a. Were the actual valuations of the independent valuers used by the board, or did the board amend the valuations?
  - b. The AFS discloses valuations as R43.44 million for the Village Mall and R69.98 for the Courtside Centre. However, Amanda de Wet, the independent valuer of these two properties, submitted the valuation

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certificates in court papers (Beneficio case). These certificates show her official valuations were R39 million for the Village R66.355 million for Courtside. Please explain the discrepancy.

- c. If Nova used the independent valuer's actual values in the AFS, the value of the investment properties would be R8.065 million lower. This would have reduced the value of the total assets to such an extent that the company's liabilities would exceed assets and render the company insolvent. What is your comment on this?
4. There is currently a dispute between Nova and Beneficio.
    - a. Why did you not make a provision for the repayment of the Beneficio loan?
    - b. The board states in the AFS that Nova made an overpayment to Beneficio. On what basis was an overpayment made?
    - c. Since the first loan, how much interest in total has Nova paid to Beneficio at an interest rate of 1% per week?
  5. The basic salaries of Mr Myburgh and Ms Haese were increased by 6.8% and 6% respectively. The directors also received 13th cheques.
    - a. Given the financial position of the company, on what grounds were such above-inflation increases approved?
    - b. Is Nova prepared to make its remuneration and incentive policies public?
    - c. The Nova executive directors received 19.7% of all the cash the company received from customers during the financial year. Why should this not be regarded as reckless conduct?
  6. Nova has not published its AFS within six months of its year-end, as prescribed by the Companies Act, for three consecutive years. The auditors have also qualified the AFS for each of the three years, questioned the valuations of properties and stated "material uncertainty" exists regarding Nova's ability to continue to operate as a going concern.
    - a. Why were the 2020 AFS published late?

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- b. What is your comment on the auditors' views for three consecutive years that there is an uncertainty that the group can continue to operate as a going concern?
  - c. What is the Nova board's view on the level of corporate governance at the group, in light of the auditor's qualifications for three consecutive years?
  - d. How do you think debenture holders should interpret the views of the independent auditors?
7. The CIPC has issued a notice in terms of Section 22(2) of the Company's Act to Nova, which requires the board to prove to the CIPC that it is not trading recklessly, fraudulently, or insolvently.
- a. What is your comment on the CIPC's issuance of the notice?
  - b. Why has Nova not communicated to debenture holders that the CIPC has issued such a notice?
  - c. Has Nova responded to the notice? If so, will Nova make a copy of the correspondence available to debenture and other stakeholders?
8. In the original Section 311 Scheme of Arrangement, projections of possible repayment timeframes were published. The projected repayments were summarised in Appendix ARR7. For the most part, Nova has not been able to repay debenture holders in terms of these projections.
- a. Why hasn't Nova repaid debenture holders in terms of these projections?
  - b. Will Nova be able to repay all investors in 2022, as stated in the Section 311 Scheme of Arrangement?
  - c. Does the Nova board have the discretion to postpone the repayment of debenture holders?
9. The Debenture Trust deed states in paragraph 15.2 that if the trustee resigns, the board needs to notify debenture holders, nominate a new trustee and convene a meeting where debenture holders can vote on the candidate.
- a. Why has Nova not called for a debenture holder meeting to replace Derek Cohen?
  - b. Why should it not be interpreted that Nova and the Nova Debenture Trust's receivers are in breach of their fiduciary duties and the Debenture

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### Trust Deed?

10. Paragraph 8.1 of the Debenture Trust Deed sets out under which conditions the debentures shall become immediately payable. Paragraph 8.1.3.1 states debentures will become payable if "the company disposes of or attempts to dispose of the whole or substantially the whole of Its undertaking or the whole or the greater part of its assets other than in the normal course of business." Since 2012, Nova has sold 18 of 29 properties (including Gold Creek).
- a. Why should the sale of the properties not be seen as the disposal of "the greater part" of its assets?
  - b. What your definition of "in the normal course of business"?
  - c. Can you refer me to a paragraph in the original Section 311 scheme of arrangement that explicitly allows the board to sell properties?
11. Over the past few months, Moneyweb has written several articles about Mr Myburgh's involvement with a company called Harrison & White. Mr Myburgh was cited as one of the parties who played a key role in the delay of the company's liquidation, which allowed for the looting of the company's assets. This was revealed in a Section 417 report. The company's liquidators instituted a civil action against Mr Myburgh, and the Master of the Court referred the Section 417 report to the NPA for investigation. The Master also referred the report to the Legal Practice Council.
- a. Were the independent directors informed of these developments?
  - b. Do the independent directors agree that Mr Myburgh should remain in his position as chairman of the company, despite the findings of the Section 417 report into H&W and the referral of this report to the NPA?
  - c. Would it not constitute good corporate governance to suspend Mr Myburgh from the board pending the outcome of the civil and potential criminal proceedings, especially in the light of the significant selloff of assets by the Nova board over the past few years?
  - d. According to the financial statements, and the qualified audit report, it is clear that Nova is insolvent and should be placed in business rescue or be liquidated. The potentially illegal sale of properties is funding the company. If it is allowed to trade much longer, no assets will remain to repay creditors and debenture holders. Why is the Nova board's conduct

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different from Mr Myburgh and other individuals' behaviour before the liquidation of H&W?

Yours sincerely,

A handwritten signature in black ink that reads "Ryk van Niekerk". The signature is written in a cursive style with a large initial 'R'.

Ryk van Niekerk  
Editor - Moneyweb