

**TRUSTEE'S TWENTY-SEVENTH REPORT**

**Date: 25 March 2020**

**in the bankruptcies of:**

**1.1 Econcern N.V. (09/356F)**

1.2 Econcern Nieuwegein Beleggingen B.V. (09/742F) (ended on 31 August 2015 following payment of all debts)

**2.1 Ecofys International B.V. (09/362F)**

**3.1 Ecostream International B.V. (09/358F)**

3.2 Ecostream Netherlands B.V. (09/361F)

**4.1 Econcern Power Assets International B.V. (09/357F)**

4.2 Evelop Netherlands B.V. (09/367F)

4.3 Evelop Capital B.V. (09/379F)

4.4 Evelop Real Estate & Energy Infra B.V. (09/449F)

4.5 Evelop France B.V. (09/404F) (terminated on 19 May 2015)

4.6 Windpark Q7 Holding B.V. (10/208F)

4.7 Rembrandt Energy B.V. (11/462F) (terminated on 19 May 2015)

4.8 Bora The Future B.V. (11/463F) (terminated on 19 May 2015)

4.9 Naisete Windparken B.V. (11/464F) (terminated on 19 May 2015)

4.10 Windpark Equipment Leasing B.V. (11/4625) (terminated on 19 May 2015)

**5.1 Econcern Power Assets Projects B.V. (09/360F)**

5.2 Evelop Projects Italy B.V. (09/427F) (ended on 17 July 2015 by the plan of final distribution becoming binding)

5.3 Econcern Systems Czech Republic B.V. (09/426F) (terminated on 19 May 2015)

5.4 BCB Holding B.V. (09/385F) (terminated on 19 May 2015)

5.5 Biomassacentrale Beheer B.V. (09/381F)

5.6 Biomassacentrale De Scharlebelt B.V. (09/382F)

5.7 Biomassacentrale Onroerend Goed B.V. (09/384F) (ended on 17 July 2015 by the plan of final distribution becoming binding)

5.8 Clean Minerals B.V. (09/383F)

5.9 V.O.F. Duurzame Energievoorziening Waterpark Wieringermeer (09/535F)

5.10 Jongert Energievoorziening Waterpark Wieringermeer B.V. (09/536F)

**6.1 Ecoventures B.V. (09/386F)**

6.2 Betronic Nederland B.V. (09/377F)

6.3 Betronic Hybrid Circuits B.V. (09/378F)

6.4 Betronic Holding B.V. (09/584F)

6.5 Betronic Products B.V. (09/583F)

6.6 Solior B.V. (09/401F)

6.7 Wind Holding B.V. (09/403F) (ended on 17 July 2015 by the plan of final distribution becoming binding)

6.8 Darwind Holding B.V. (09/428F)

6.9 Darwind Development and Demonstration B.V. (09/450F)

6.10 General Blade Technology B.V. (09/402F) (terminated on 28 July 2015)

6.11 Bioresource B.V. (09/471F) (terminated on 19 May 2015)

6.12 Innogrow International B.V. (10/60F)

7.1 Win Wind B.V. (09/534F)

Bankruptcy judge : S.C. Hagedoorn, LLM

Trustees : W.J.M. van Andel, LLM and E.L. Zetteler, LLM

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## 1. Background

This is the twenty-seventh public report in the bankruptcy of Econcern NV and its bankrupt Dutch group companies. The report concerns the period from 19 November 2019 to 25 March 2020. In addition to Econcern NV, 37 Dutch group companies have been declared bankrupt. Of those 38 bankruptcies, 12 have now been wound up. In view of the connection between the various bankruptcies, we have opted for publishing one joint public report in all bankruptcies. However, considering that, with the exception of Betronic Netherlands BV, Betronic Hybrid Circuits BV and Betronic Products BV, the rights and obligations of each group company can (reasonably) be separated, the various bankruptcies will have to be wound up separately, and not in consolidation. The bankruptcies of the aforementioned Betronic companies will be wound up in a consolidated manner, as decided by the bankruptcy judge in his decision of 2 December 2011.

The purpose of this report is to provide information to creditors and other interested parties pursuant to Article 73a of the Bankruptcy Act (*Faillissementswet*). No rights may be derived from this report.

## 2. Ecostream Switzerland

The settlement of the Swiss estate finally seems to be making headway. Econcern is entitled to a payment of CHF 18.5 to CHF 19 million (rounded) from the Swiss estate. It is expected that Econcern will be paid the bulk of this amount (more than 95%) in the course of the second quarter.

## 3. Dutch Glycerine Refinery

The remaining mortgage claim against Dutch Glycerine Refinery currently stands at €1,020,000. This amount must be paid in June 2020.

#### 4. Delta Lloyd proceedings

In respect of the Lobosillo project in Murcia (Spain) by order of Iberglobasol – at the time it concerned the construction of the largest solar park in Europe – a CAR insurance policy had been taken out by Ecostream International with Delta Lloyd. With the settlement of the dispute with Iberglobasol (see above under 3) the loss in respect of the solar panels which was the reason for the dispute has been confirmed. The trustees calculate that loss at more than €18 million, plus statutory interest from June 2009. Before the bankruptcy Delta Lloyd had already paid an amount of €2 million to Ecostream International as preliminary payment under the policy. After the bankruptcy Delta Lloyd adopted the position that only a loss of €700,000 was covered under the policy and it submitted a claim for repayment of the excess (€1.3 million) in the bankruptcies of Ecostream International and – on the basis of the comfort letter (*403-verklaring*) issued – of Econcern. Claim validation proceedings are pending in this case. For a long time the parties have tried to reach a settlement about this dispute, but have not succeeded. On 16 September 2015 the trustees of Ecostream International and Econcern filed a reply in the claim validation proceedings and the trustees of Ecostream International also filed a counterclaim for payment under the policy by Delta Lloyd of the loss referred to above, with a principal of more than €18 million, which in the opinion of the trustees is indeed covered by the policy. On 9 May 2018 the Court passed judgment. The Court rejected Delta Lloyd's claim in its entirety and the claim of Econcern and Ecostream International was allowed for an amount of €650,000, including interest and costs. Delta Lloyd has by now paid the latter amount to the estate. Although from a legal point of view the Court decided in the trustees' favour in virtually all respects, the trustees are nevertheless not entirely satisfied with

the outcome since the Court set the amount of the loss claimed at a much lower amount than the trustees had in mind.

The trustees have lodged an appeal and in January 2019 submitted grounds for appeal. Meanwhile, Delta Lloyd has submitted its defence on appeal with a large number of exhibits. The trustees have responded to these exhibits by means of a deed. The court of appeal has listed the case for mention on 28 July 2020 to decide on its further continuation. The court of appeal is expected to order an oral hearing of the case.

## **5. Claim validation proceedings**

On 13 December 2011, first creditors' meetings were held at Utrecht District Court for 30 of the 38 bankruptcies (these are the bankruptcies in which there is some prospect of payment to the bankruptcy creditors). Since that date more than 50 claim validation proceedings have been instituted. Only two of those are still pending, including the proceedings against Delta Lloyd referred to above. The other claim validation proceedings concern a disputed claim against Econcern and Econcern Power Assets International of €1,349,308. The parties are currently trying to reach settlement in this case. As regards the completed claim validation proceedings in which judgment has been passed in a defended action, we refer to the fifteenth public report.

## **6. Estate debts**

In the bankruptcies with sufficient assets the admitted estate debts have by now been paid.

## **7. Overview of the Econcern estate**

As only the estate of Econcern shows a substantial change compared to the earlier reports, the overview given below only relates to that estate. As regards the estates of the other companies we refer to the attached financial reports.

#### Econcern NV

##### *Assets*

|                                                     |   |                  |
|-----------------------------------------------------|---|------------------|
| Liquid assets                                       | € | 7,992,046.61     |
| Remaining claim against DGR                         | € | 1,020,000.00     |
| Claims against estate of ES <sup>1</sup> (estimate) | € | 17,500,000.00    |
| Payments from estates of subsidiaries               |   | TBD              |
| Total estate assets (estimate)                      | € | 26,500,000 + TBD |

##### *Liabilities*

|                                                                                                      |   |                |
|------------------------------------------------------------------------------------------------------|---|----------------|
| Total estate:                                                                                        |   | TBD            |
| Claim of tax authorities:                                                                            |   | nil            |
| Employee Insurance Administration premium claim (high preferential):                                 |   | nil            |
| Total admitted low preferential:                                                                     |   | paid out       |
| Total admitted unsecured:                                                                            | € | 199,258,514.00 |
| <i>[During the review period a first distribution of 12.5% was made to the unsecured creditors.]</i> |   |                |
| Total admitted subordinated:                                                                         | € | 69,865,000.00  |
| Total disputed:                                                                                      | € | 2,649,308.00   |

The unsecured and disputed claims include the claims on account of the statement of joint and several liability filed by Econcern in respect of debts of subsidiaries as referred to in Article 2:403(1)(f) of the Dutch Civil Code.

In this bankruptcy an interim distribution of 100% has been made to the preferential creditors and 12.5% to the unsecured creditors. Of the total amount of distributions to the unsecured creditors, approx. 97% has now been paid. The other payments will be made during the next review period, provided that the relevant creditors pass on their payment details in good time.

## **8. Interim distributions**

So far, the trustees have made the following interim distributions:

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<sup>1</sup>See par. 2 of this report

- in the bankruptcy of **Econcern** such that the preferential creditors have been paid in full and the unsecured creditors have received 12.5%.
- in the bankruptcy of **Ecofys International** such that the preferential creditors have been paid in full and the unsecured creditors have received 24%.
- in the bankruptcy of **Ecostream International** such that the low-preferential creditors have received 65%.
- in the bankruptcy of **Ecostream Netherlands** such that the preferential creditors have been paid in full.
- in the bankruptcy of **Econcern Power Assets International** such that the preferential creditors have been paid in full and the unsecured creditors have received 31.3%.
- in the bankruptcy of **Evelop Netherlands** such that the preferential creditors have been paid in full and the unsecured creditors have received 1.75%.
- in the bankruptcy of **Evelop Capital** such that the unsecured creditors have received 29.3%.
- in the bankruptcy of **Evelop Real Estate & Energy Infra** such that the unsecured creditors have received 2.0%.
- in the bankruptcy of **Windpark Q7 Holding** such that the unsecured creditors have received 2.05%.
- in the bankruptcy of **Econcern Power Assets Projects** such that the unsecured creditors have received 22.7%.
- in the bankruptcy of **Ecoventures** such that the preferential creditors have been paid in full and the unsecured creditors have received 2.25%.
- in the bankruptcy of **Darwind Development & Demonstration** such that the unsecured creditors have received 23%.
- in the bankruptcy of **Betronic Netherlands, Betronic Hybrid Circuits and Betronic Products (consolidated)** such that the preferential creditors have been paid in full and the unsecured creditors have received 4.0%.

- in the bankruptcy of **Betronic Holding** such that the unsecured creditors have received 12%.
- in the bankruptcy of **Solior** such that the preferential creditors have been paid in full and the unsecured creditors have received 6.5%.
- in the bankruptcy of **Wind Holding** such that the unsecured creditors have received 22%.
- in the bankruptcy of **Darwind Holding** such that the unsecured creditors have received 26%.
- in the bankruptcy of **Win Wind** such that the preferential creditors have been paid in full and the unsecured creditors have received 2.05%.

## 9. Settlement of bankruptcies

In the bankruptcy of **Darwind Development & Demonstration** the final distribution list has become binding. Several final payments still have to be made, following which the bankruptcy will have been settled. The bankruptcies of **Econcern Power Assets Projects**, **Evelop Real Estate & Energy Infra**, **Solior**, **Clean Minerals** and **Biomassacentrale De Scharlebelt** can be settled in the second quarter.

In addition to the above, the trustees aim to settle the following bankruptcies in 2020:

- 1) Darwind Holding
- 2) Innogrow International
- 3) Jongert Energievoorziening Waterpark Wieringermeer
- 4) VOF Duurzame Energievoorziening Waterpark Wieringermeer
- 5) Windpark Q7 Holding
- 6) Wind Holding
- 7) Biomassacentrale Beheer

- 8) Betronic Holding
- 9) Betronic (consolidated)
- 10) Ecoventures
- 11) Evelop Netherlands
- 12) Evelop Capital
- 13) Win Wind

#### **10. Activities during the next review period**

During the next review period the trustees will:

- expedite the settlement of the Swiss estate;
- continue the appeal in the case against Delta Lloyd;
- continue the winding-up of the bankruptcies of subsidiaries.

#### **11. Financial reports**

The financial reports of the pending bankruptcies showing the situation on 15 March 2020 are attached as an **annex** to this report.

#### **12. Submission of next report**

The trustees will publish their next public report in June.

W.J.M. van Andel

E.L. Zetteler