



FSG FORENSIC INVESTIGATORS & AUDITORS | TRACERS | RISK MANAGERS | GUARDS

Corporate branches in Durban, Cape Town & Johannesburg – Satellite branches elsewhere – Tracer Field Agents in all Magisterial Districts

FSG is the founder member of the CSS Network | FSG is a LEVEL 4 BEE contributor

Members: M Nxumalo (Chairperson); Director: Corporate Business | W Jardine (CEO); Director: National Operations | S Deghaye (Company Secretary); Director: Admin & Finance

SERVICE PROFILE - CONSENT SIGNING SERVICE

Commonly referred to as 'debtor tracing services in support of legal debt recovery i.t.o. of Sec 57/58 and 65(J) of the Magistrates Court Act', this service has been uniquely re-constructed and re-branded by FSG as Consent Signing Services (abbreviated as 'CSS Services'). FSG's CSS Services is intended to benchmark this service for tracing agencies and the consumers of these services in South Africa.

1. **Attorneys, Registered Debt Collectors** and **Registered Financial Service Providers** who attempt to recover their own bad debt before instructing an attorney utilize the services of debtor tracing agencies in two ways:
 - a. **Firstly**, for what FSG refers to as a 'Standard Debtor Trace', where the role of the tracing agency is only trace the current whereabouts and contact details of a defaulted/absconded debtors so that the Sheriff of the Court ('Sheriff') can be given the correct address at which to serve legal process on the debtor.
 - b. **Secondly**, for what FSG refers to as a 'Consent Signing Services' (abbreviated as 'CSS Services'), where the role of the tracing agency is to trace the whereabouts and contact details of a defaulted/absconded debtor **and** to meet with that debtor to deliver a Letter of Demand ('LOD'), and a notice i.t.o. Sec 129 of the National Credit Act (NOTICE), and to obtain proof of receipt by the debtor of same, and to conclude an Acknowledgement of Debt ('AOD') with the debtor that includes an amended repayment plan, and in which the debtor must also consent to a judgement and an emoluments attachment order ('EAO') if the debtor defaults on the amended repayment plan, i.t.o the provisions of Sec 57/58 and 65(J) of the Magistrate's Court Act.
2. *The use of tracing agencies to provide support for legal debt recovery i.t.o. 1.b above* is a common practice – but has always been geographically limited in its execution because tracing agencies have, until now, only *reliably* had the resources to do so in the larger urban areas. A positive trace report for this type of tracing service (that FSG refers to as its 'CSS Services') must at least comprise:
 - a. A trace report stating the debtor's home/work addresses and contact numbers.
 - b. A copy of client's LOD, signed by the debtor to indicate receipt, and bearing the original copy of debtor's signature and/or
 - c. An original copy of client's NOTICE, signed by the debtor to indicate receipt and bearing the original copy of the debtor's signature.
 - d. An original copy of client's AOD (in which AOD the debtor is required to nominate the Magistrate's Court that shall have jurisdiction if further litigation is required), completed and signed by the debtor, and properly witnessed.
3. FSG is obviously not unique in offering this service. However, FSG is unique in that:
 - a. The term 'CSS Services' is FSG's unique branding of this service.
 - b. One of the witnesses to a completed AOD is always the Tracer Field Agent ('TFA') of FSG who meets with the debtor.
 - c. FSG's CSS Services manages the risk that an AOD, a subsequent default judgement and/or a subsequent EAO can be successfully challenged, because:
 - i. FSG's TFA are trained to perform a Means Affordability Test ('MAT') to calculate the quantum of the installment to be included in the AOD. (FSG always first communicates with a debtor telephonically to establish whether a debtor agrees to an installment amount stipulated by client before dispatching a TFA, so that we can revert to client to seek permission to accept a lesser installment tendered by the debtor). When performing that the MAT the TFA calculates the installment considering:
 1. The stated installment stipulated client (if client has stipulated an installment amount).
 2. The provisions of Sec 65(J)(6) of the Magistrates Court Act, that an EAO can be rescinded or amended if '.... *the judgment debtor, after satisfaction of the emoluments attachment order, will not have sufficient means for his own and his dependants' maintenance* ...'.
 3. The results of our MAT. FSG's TFA obtains, from the debtor, an income and expenditure statement and a statement of assets and liabilities, which is constructed by examining such finance-related source documents that are available at the time. The MAT also:
 - a. Explores whether the debtor is married in community of property, and if so, the income and expenditure/assets and liabilities of the spouse are also examined and considered in arriving at the quantum of a sustainable installment that will withstand the challenge of Sec 65(J)(6).
 - b. Seeks to determine that, in the event of default, whether client will be more successful in securing recovery by means of a Sec 65 Order, by attaching moveable

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Fohla Security CC (2003/050972/23) t/a FSG Forensic Investigators & Auditors | Tracers | Risk Managers | Guards

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- assets or by securing and executing an EAO, assuming the debtor (and/or his communal property spouse) is employed.
- ii. FSG ensures that all the documents that comprise the report of FSG's CSS Service comply with the requirements of all relevant legislation.
 - iii. The shareholders of FSG and all TFA of FSG are registered with the Council for Debt Collectors.
- d. FSG attends to a CSS instruction in two parts:
- i. The tracing component, which is conducted by FSG's desk-bound tracers ('DBT') who, in addition to tracing the debtor:
 1. Establish the debtor's employment status.
 2. Establish the debtor's marital status and marital regime, and if the debtor is married in community of property, establish whether the communal property spouse is employed.
 3. Communicate with the debtor to prepare the debtor for a visit from an FSG TFA under circumstance that our DBT (and TFA) are trained to sell the concept of co-operating with the provisions Sec 57/58 and 65(J) as a means for the debtor to rehabilitate a debt and avoid further punitive legal action and the associated costs. The debtor is encouraged to entertain a visit from one of our TFA such that before a TFA visits a debtor we have already:
 - a. Traced the debtor.
 - b. Established which place is the most conducive to meet with the debtor to sign the LOD.
 - c. Confirmed that the debtor is prepared to meet with the TFA.
 - d. Resolved the issue of the quantum of the repayment installment to be included in the AOD.
 - ii. The field work component, which is the visit with the debtor by our TFA to deliver the LOD and NOTICE, and to conclude the AOD.
- e. In addition to establishing one or more TFA in every Magisterial District in SA, FSG has established the **CSS NETWORK**, which gives all the consumers of these services of tracing agencies - through FSG and through every other tracing agency that is member of the CSS NETWORK – access to a reliable and genuinely national TFA infrastructure resource (that rivals that of the Sheriff) to meet with debtors anywhere in SA to deliver LOD/NOTICES, and conclude AOD). The resource of the CSS NETWORK is offered under circumstances that:
- i. It was formed and exists solely to perform CSS Services in the manner described and packaged by FSG.
 - ii. FSG founded and controls the CSS NETWORK.
 - iii. All the members of the CSS NETWORK have concluded an inter-agency agreement that prescribes:
 1. Adherence to the service levels of FSG's CSS Services.
 2. Adherence to the Code of Conduct of the Council for Debt Collectors.
 3. All aspects of the relationship between members of the CSS NETWORK when sub-contracting the field work component (or TFA component) of CSS Services to each other, including:
 - a. The formula for splitting the fees.
 - b. The manner in which debt packs (referred to as "CSS Documents") must securely be delivered between members.
 - c. The manner in which the MAP must be conducted.
 - d. The manner in which CSS Services must be conducted and recorded.
 - e. The performance levels of TFA.
- f. A significant aspect of the CSS NETWORK is that clients who require CSS Services are entirely free to instruct their preferred tracing agency and still enjoy the benefits of the CSS NETWORK if that tracing agency is a member of the CSS NETWORK.
4. The documents that finally comprise a CSS Services report will include, in addition to those listed in 2.a – 2.d above and any others specified by client:
- a. A DBT/TFA CSS SERVICE REPORT (a copy of which is attached), which a debtor is asked to complete if he meets with a TFA and regardless of whether the debtor accepts the LOD/NOTICE and concludes an AOD. The purpose of this is to:
 - i. Demonstrate that a TFA met with the debtor.
 - ii. Demonstrate that the addresses to which a debtor was traced are accurate.
 - iii. Avoid the risk that a debtor can later claim that any aspect of the field work component of FSG's CSS Services was conducted in a manner that contravened any legislation or code of ethics, or that infringed on the debtor's rights.

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- iv. Provide FSG (and all of the CSS NETWORK) the means to assess:
 1. Whether a TFA actually met with a debtor.
 2. Whether a TFA completed any part of any document only after meeting with a debtor.
 - b. A debit order authority, but on condition that the debtor consents to same. If a debtor declines to sign a debit order authority the TFA will attempt to demonstrate that he has asked the debtor to do so by asking the debtor to initial the relevant section of the DBT/TFA CSS SERVICE REPORT.
 - c. A Reminder (see attached), so that the debtor is left with a written document that contains everything the debtor needs to know to service his obligations in terms of the AOD he has just signed. Client is advised to provide a copy of same, printed on client's stationery, with the indicated information pre-printed on it, when instructing FSG.
5. FSG's motivation for developing its CSS Services and forming the CSS NETWORK includes:
 - a. Recognition that, to benchmark a service, it is necessary to set standards and to define terms of reference globally so that all participants (tracing agencies and the consumers of their services) use a uniform language to describe the service and express their requirements.
 - b. Recognition of the trend by attorneys to recover debt by, *instead of* commencing the process by issuing a Summons Commencing Action (which we refer to as 'the traditional method'), to rather instruct tracing agencies to trace and to meet with debtors to deliver a LOD/NOTICE and conclude an AOD (which we refer to as 'the alternative method')
 - c. Recognition that the trend towards the alternative method is motivated by:
 - i. The desire to minimize disbursements.
 - ii. The desire to avoid wasted costs caused by (repeated) Returns of Non-Service. The desire to generate cash flow from a debt collection instruction as soon as possible and to reduce the debt recovery periods.
 - iii. The increasing pressure on attorneys (and registered debt collectors) to accept debt recovery instructions on the basis that fees may be raised only if recovered from debtors, and that the payment of such fees can only be claimed from monies collected, and the resultant strain on the cash flow for debt recovery practitioners.
 - d. Our assessed opinion that more debt recovery practitioners will adopt the alternative method were it reliably available in every place in SA.
 - e. Tracing agencies that render CSS Services, who are members of the CSS NETWORK must comply with minimum performance standards that FSG controls. To this end, FSG has published a comprehensive Tracer Field Agent Procedures and Performance Manual which is made available all members of the CSS NETWORK. (Membership of the CSS NETWORK is entirely free of charge.)
6. Several other components of FSG's CSS Service are noteworthy:
 - a. FSG insists that all CSS Services instructions from clients are delivered to only one location; in the case of FSG, to FSG's Durban-based head office. Instructions must be sent by:
 - i. Email to fohladbn@yebo.co.za or
 - ii. Fax to 086 5168722, or
 - iii. Courier service to 7 Cedar Road, Westville, Durban, 3629, or
 - iv. Overnight (traceable) Post Office mail to PO Box 17, Pavilion, 3611.
 - b. After a TFA has delivered the LOD/NOTICE, and obtain an AOD, these (along with all other relevant documents) are returned to FSG's head office, where they are checked for quality control purposes before release to clients.
 - c. FSG requires a 45 day mandate period for CSS Service instructions, but strives for a 21 day turnaround period. (We do not want to mislead clients. While we have been building the CSS NETWORK and appointing TFA for some time, there remain some areas of SA where we do not have a TFA resource. When an instruction for such an area is received – this applies to the more remote areas of SA – we use that instruction as the occasion to source, appoint and train a TFA in that area, which we can do within 14 days. Instructions received under these circumstances can initially take 31 – 60 days to complete, but client will be informed of the fact.
 - d. The appointment and training of TFA is part of FSG's social responsibility commitment, as we use it as an opportunity to create employment opportunities for persons from Previously Disadvantaged Groups. It is a significant opportunity for job creation.
 - e. Once a week all instructions to FSG are subjected to an audit process to:
 - i. Account for the physical whereabouts of all instructions recorded on our control databases.
 - ii. Assess progress on each instruction.
 - iii. Identify instructions that are approaching the end of a mandate period, so that we can request an extension of the mandate period.

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7. Terms and conditions of service:
- a. While the CSS NETWORK does not prescribe the fees that CSS NETWORK members must raise to their clients, FSG reveals its fees to all CSS NETWORK members.
 - b. Some consumers of CSS Services, especially the large credit providers, have call centres and in-house tracers such that, when a tracing agency is instructed to perform CSS Services, all that is necessary is to perform the field work/TFA component. Consequently:
 - i. Client is required to state, when instructing FSG, if the contact details provided for debtors have been confirmed.
 - ii. FSG has two tariffs in respect of CSS Services:
 1. If FSG is instructed to trace a debtor and to deliver a LOD/NOTICE and secure an AOD, our fee is R 385.00 plus VAT. The same fee will automatically apply if a client sends an instruction in which the alleged confirmed contact details of a debtor prove to be incorrect.
 2. If FSG only has to conduct the field work/TFA component, our fee is R 285.00 plus VAT.
NOTE: As we have no legal right to insist that a debtor signs a debit order authorization, our fee is not reduced if a debtor chooses not to sign a debit order authorization. However, we always motivate debtors to do so.
 - c. All CSS Services are conducted on a **no success, no fee basis**. (Clients may insist that FSG must produce unsuccessful CSS Services reports for all debtors found to be unemployed.)
 - d. Our fee for CSS Services is payable no later than 30 days from date of issue of our invoice. A separate invoice is issued for each successfully concluded matter, and a consolidated statement of account is published on the 26th day of each month. Upon finalization of an instruction, FSG will issue and submit a report and an invoice by email, but will only courier signed documents once a month on the 20th day of the month (unless a more frequent period is agreed to with client).
 - e. CSS Services instructions should include:
 - i. The debtor's last known details, stating:
 1. Whether last known details are confirmed.
 2. The name of the party to whom the debt is owned (using the trading name by which the debtor knows the creditor), the associated account number and a description of the nature of the debt..
 - ii. Two copies of a LOD that includes the NOTICE (or two copies of the LOD/NOTICE if provided separately). One copy must provide a place for the debtor to sign to acknowledge receipt.
 - iii. One copy of an AOD that:
 1. Includes a blank income and expenditure account.
 2. Includes a blank statement of assets and liabilities.
 3. Includes provision for consent to judgement and consent to an EAO.
 4. Is printed on our client's stationery and in which as much of the relevant information as possible is pre-printed.
 - iv. One copy of the likes of the attached Reminder, printed on the instructing client's stationery.
 - v. If required, a debit order authority.
NOTE: FSG's DBT / TFA CSS Services Report includes the debtor's residential and employment addresses and contact numbers, and bank account details.
8. Finally, please further be advised as follows:
- a. Because of the audit trails implemented by FSG and the manner in which all efforts are recorded, FSG's CSS Services are forensic in nature, as it anticipates legal challenge.
 - b. FSG (and its predecessor entity) has provided tracing and investigation services to *inter alia* legal practitioners since 1985.
 - c. FSG is a national service provider with corporate offices in Durban, Cape Town and Johannesburg, satellite offices in numerous other small towns, agencies elsewhere, and TFA appointed in every Magisterial District.
 - d. In terms of our CSS Services, in areas where we do not yet have a physical presence ourselves, we make use of the services of a member of the CSS NETWORK.
 - e. By establishing the CSS NETWORK, FSG is making it possible for debt to be recovered using the CSS Services (or alternate) method everywhere in SA.
 - f. FSG's CSS Services are provided in the context that FSG has five primary service divisions:
 - i. Forensic investigations and audits.
 - ii. Risk and security management.
 - iii. Operational loss, risk and financial auditing.

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- iv. Debtor tracing of three kinds, for which SERVICE PROFILES are available upon request, or can be downloaded from our website at www.fohlasecurity.co.za
 - 1. Standard debtor tracing.
 - 2. Third Party tracing.
 - 3. Consent Signing Services.
 - 4. Second Phase Tracing.
 - 5. Foreign Pensioner Tracing.
- v. Security guarding.

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REMINDER TO DEBTOR

You have agreed in an Acknowledgement of Debt signed on _____ to settle your debt to _____, by means of monthly/weekly (*delete which is not applicable*) installment payments in the amount of R _____ to (*client to insert their name and contact particulars here*).

The outstanding balance as at _____ is R _____ plus interest and costs.

Payment is to be made by the method indicated below. (*FSG's TFA will tick the appropriate box and enter the relevant information*)

Debit order authority on the _____ day of each month.

Direct deposit or electronic funds transfer on the _____ day of each month into the following bank account:

Account Name: (*client to insert when constructing this document*)

Bank: (*client to insert when constructing this document*)

Account Number: (*client to insert when constructing this document*)

Branch Code: (*client to insert when constructing this document*)

Cheque or postal order made payable to (*client to insert account name when constructing this document*) on the _____ day of each month, to be deposited into the following bank account:

Account Name: (*client to insert when constructing this document*)

Bank: (*client to insert when constructing this document*)

Branch Code: (*client to insert when constructing this document*)

Cheque or postal order made payable to (*client to insert account name when constructing this document*) and mailed to (*client to insert name of practice and postal address when constructing this document*), and which must be mailed on the _____ day of each month.

When paying by direct deposit, electronic funds transfer, cheque or postal order, the following reference number must be included with each payment:

_____ (*client to provide a ref no. for this purpose*)

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<u>DBT / TFA CSS SERVICE REPORT</u>				TFA Name		
				DBT Name		
Date	Debtor's Name					
FSG Ref	Debtor's Id. No.					
Debtor's Home Address						
Debtor's Employer						
Debtor's Work Address						
Debtor's Clock Card/Salary No.						
Tel H	Tel W	Cell				
Debtor's Bank Acc No.						
Debtor's Bank						
Branch / Brach Code						
<i>TFA must complete the following section if the Debtor WAS visited</i>					DEBTOR INITIAL	TFA INITIAL
Address where debtor visited on above date						
<u>OUTCOME OF VISIT</u>		<u>TFA'S COMMENTS</u>				
Receipt of LOD signed						
Receipt of NOTICE signed						
AOD & debit order signed; employed						
AOD & debit order signed; self employed						
AOD signed, no debit order; employed						
AOD signed, no debit order; self employed						
AOD signed, no debit order; unemployed						
Debtor refused to sign AOD						
<i>DBT must complete this section if the Debtor was NOT visited OR REFUSED to sign AOD</i>						
<u>REASON NOT VISITED/SIGNED</u>		<u>DBT'S COMMENTS</u>			DBT INITIAL	
Debtor deceased						
Debtor not traced						
Debtor declined/avoided meeting						
Debtor refused to sign AOD						
Debtor refused to co-operate						
Account paid up						
Debtor disputes the account						
Debtor disputes account balance						
Debtor unemployed						
Debtor is currently paying						

To be signed by DEBTOR and TFA if DEBTOR visited by TFA

I, the above named debtor acknowledge 1) That this form was completed by me in the presence of the above named TFA, 2) That the contents are true and correct, 3) That this form has been explained to me by the above named TFA and that I know and understand its contents, 4) That if I have chosen not to sign the LOD, NOTICE or AOD referred to, that I understand the possible consequences, which the above named TFA has explained to me; 5) That I have not in any way been threatened, intimidated or mistreated by the above named TFA; 6) That if I have signed any documents presented by the above named TFA; 6.a) I have done so of my own free will; 6.b) I have been advised of my rights to refer this matter to a debt counselor/the ombudsman, but that I waiver my rights to do so.

Signed at _____ on this _____ day of _____

DEBTOR

TFA

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