

**THE CONSTITUTIONAL COURT TRUST  
(TRUST NUMBER 3836/95)**

**(NPO REGISTRATION NUMBER : 004 - 997 NPO)**

**ANNUAL FINANCIAL STATEMENTS  
FOR THE YEAR ENDED  
31 MARCH 2011**

**THE CONSTITUTIONAL COURT TRUST  
(TRUST NUMBER 3836/95)**

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FOR THE YEAR ENDED 31 MARCH 2011**

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THE CONSTITUTIONAL COURT TRUST  
(TRUST NUMBER 3836/95)

TRUSTEES' RESPONSIBILITIES AND APPROVAL

ANNUAL FINANCIAL STATEMENTS FOR THE YEAR ENDED 31 MARCH 2011

The trustees are required by the Trust Property Control Act, 1988, and the trust deed, to maintain adequate accounting records and are responsible for the content and integrity of the financial statements and related financial information included in this report. It is their responsibility to ensure that the financial statements fairly present the state of affairs of the trust as at the end of the financial period and the results of its operations and cash flows for the period then ended, in conformity with its own accounting policies. The external auditors are engaged to express an independent opinion on the financial statements.

The financial statements are prepared in accordance with its own accounting policies and are based upon appropriate accounting policies consistently applied and supported by reasonable and prudent judgements and estimates.

The trustees acknowledge that they are ultimately responsible for the system of internal financial controls established by the trust and place considerable importance on maintaining a strong control environment. To enable the trustees to meet these responsibilities, the board of trustees sets out standards for internal control aimed at reducing the risk of error or loss in a cost - effective manner. The standards include the proper delegation of responsibilities within a clearly defined framework, effective accounting procedures and adequate segregation of duties to ensure an acceptable level of risk. These controls are monitored throughout the trust and employees are required to maintain the highest ethical standards in ensuring the trust's business is conducted in a manner that in all reasonable circumstances is above reproach. The focus of risk management in the trust is on identifying, assessing, managing and monitoring all known forms of risk across the trust. While operating risk cannot be fully eliminated, the trust endeavours to minimize it by ensuring that appropriate infrastructure, controls, system and ethical behaviour are applied and managed within predetermined procedures and constraint

The trustees are of the opinion, based on the information and explanations given by management, that the system of internal controls provides reasonable assurance that the financial records may be relied on for the presentation of the financial statements. However, any system of internal financial control can provide only reasonable, and not absolute, assurance against material misstatement or loss.

The trustees have reviewed the trust's cash flow forecast for the year to 31<sup>st</sup> March 2012 and, in the light of this review and the current financial position, they are satisfied that the trust has or has access to adequate resources to continue in operational existence for the foreseeable future.

Although the board of trustees is primarily responsible for the financial affairs of the trust, it is supported by the trust's external auditors.

The external auditors are responsible for independently reviewing and reporting on the trust's financial statements. The financial statements have been examined by the trust's external auditors and their report is presented on pages 2 and 3.

The annual financial statements set out on pages 4 to 22 and the appendices, were approved by the board of trustees on 14 MARCH 2012 and were signed on its behalf by:

JOHN BRANDS - CHAIRMAN

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**REPORT OF THE INDEPENDENT AUDITORS**

**TO THE TRUSTEES**

**THE CONSTITUTIONAL COURT TRUST  
(TRUST NUMBER 3836/95)**

**Report on the financial statements**

We have audited the accompanying financial statements of The Constitutional Court Trust, which comprise the trustees' report, statement of financial position as at 31 March 2011, and the statement of comprehensive income, statement of changes in equity and statement of cash flows for the year then ended, and a summary of significant accounting policies and other explanatory notes set out on pages 4 to 20.

**Trustees' responsibility for the financial statements**

The trustees are responsible for the preparation and the fair presentation of these financial statements in accordance with accounting policies that are considered appropriate for such an entity. This responsibility includes: designing, implementing and maintaining internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error; selecting and applying appropriate accounting policies; and making accounting estimates that are reasonable in the circumstances.

**Auditor's responsibility**

Our responsibility is to express an opinion on these financial statements based on our audit. We conducted our audit in accordance with International Standards on Auditing. These standards require that we comply with ethical requirements and plan and perform the audit to obtain reasonable assurance whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgement, including the assessment of the risk of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

**Basis for qualified opinion**

In common with similar organisations, it is not feasible for the trust to institute accounting controls over income received by way of donations prior to the initial entry of the income in the accounting records. Accordingly, it was impracticable for us to extend our examination beyond the receipts actually recorded.

**Qualified Opinion**

In our opinion, except for the effects of the matter described in the Basis for Qualified Opinion paragraph, these financial statements fairly present, in all material respects, the financial position of The Constitutional Court Trust as at 31 March 2011, and of its financial performance and its cash flows for the year then ended in accordance with its accounting policies.

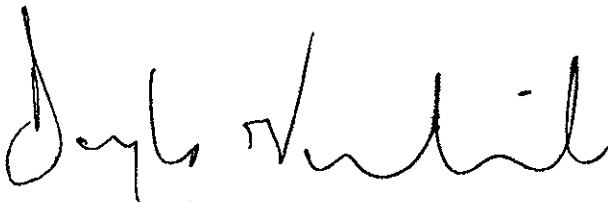
**Emphasis of Matter**

Without qualifying our opinion we draw attention to the following matter :

1. As explained in note 1.7 to the annual financial statements, the management of the trust allocates project related expenses against grant income on the basis of budgets and its assessment as to which project has incurred the expense concerned. We have relied on management's allocations of such costs, and the resultant accrual or deferral of grant income on the basis set out in notes 1.5 and 1.7, for the purposes of our audit.

**Supplementary information**

The supplementary schedules set out on pages 21 to 22 do not form part of the annual financial statements and are presented as additional information. We have not audited these schedules and accordingly we do not express an opinion on them.



**Douglas & Velcich**  
**Chartered Accountants (S.A.)**  
**Registered Accountants and Auditors**

**Johannesburg**  
**23 January 2011**

# THE CONSTITUTIONAL COURT TRUST

## TRUSTEES' REPORT

for the year ended 31 March 2011

### **1. Introduction**

During the year 2010 – 2011, the Constitutional Court Trust continued to pursue its objectives: support for the Court library, including the development of the Court's website and SAFLII, a web-based virtual library accessible to users via the world wide web, support for the Constitutional Court law clerks' fellowship programme, as well as support for the artworks housed at the Court. Support for the administration of the Southern African Chief Justices' Forum continued but with the development of the Office of the Chief Justice under Chief Justice SS Ngcobo, less support is required for this project.

### **2. New project of the Trust – The Oral History of the Constitutional Court**

A new project identified for the coming year is the recording of an Oral History of the Constitutional Court. The purpose of the project is to record the history of the first fifteen years of the Constitutional Court from 1994 till 2009. An experienced oral historian has been identified who will interview key people involved in the work of the Court in those years, including judges, members of the Court administration and staff, law clerks and lawyers who appeared before the Court. Interviews will be recorded and transcribed. Arrangements have been made to archive the interview materials both at the Constitutional Court Library and at the Cullen Library at the University of the Witwatersrand. A subcommittee of the Constitutional Court Trust, chaired by the former Chief Justice, Justice Chaskalson, will guide the project. The Trust has already received indications of financial support for this project from the Ford Foundation and the Mott Foundation.

### **3. Southern African Legal Information Institute (SAFLII) – [www.saflii.org](http://www.saflii.org)**

The objective of SAFLII is to provide free access to the law of southern and eastern Africa on the web. At present, the main materials made available are judgments but it is hoped, in the future, that legislation will also be included. In its fourth year of operation, the project continues to grow. By the end of this financial year, SAFLII website hosted 16,833 South

African judgments and 19,188 judgments from other countries in the region. SAFLII has an average of 6000 unique visitors per month.

SAFLII faced tremendous financial challenges in 2009-2010, which resulted in an unavoidable retrenchment exercise at the end of March 2010. The retrenchment resulted in a dramatic saving in costs but also inevitably harmed SAFLII's ability to grow during 2010-2011. Although day-to-day operations and web-hosting were effectively maintained, the absence of a manager was a challenge and staff morale, particularly at the start of the year, was low due to financial uncertainties.

During 2011, however, the Trust received funding of R450 000 from the Claude Leon Foundation, R519 000 from the Open Society Foundation (OSF) and R137 000 from the Open Society Initiative for Southern Africa (OSISA). With this funding, and the appointment of a full time Trust Manager and a legal information expert on a part-time basis to lead and strengthen the team, the situation improved.

Towards the end of the year, a large grant to cover costs for the next three years was received from the Andrew W Mellon Foundation. The improved financial outlook, and the appointment of new staff, enabled the team to upgrade hardware and software and to engage in capacity building. In addition to the other grants mentioned, Freedom House (USAID) provided funds of approximately R800 000 for work related specifically to two countries (Swaziland and Zambia).

The trustees would like to thank the Andrew W Mellon Foundation, the Open Society Foundation, the Open Society Institute for Southern Africa, the Claude Leon Foundation and Freedom House for their continued support for SAFLII in the year under review.

SAFLII is to be found on the web at [www.saflii.org](http://www.saflii.org).

#### **4. Kindred bodies**

The Friends of the South African Constitutional Court in the United Kingdom and the United States of America are two charitable organisations with the object of supporting the work of the Constitutional Court. These bodies are independent of the Court, and the Trust and of one another, with their own boards and administration. Their reports are provided

annually to the Constitutional Court Trust.

### **5. Constitutional Court library**

During the year, the Trust continued its support of the library in various ways including support for SAFLII, which was reported on under paragraph 3 above. Notably, the Bertha Foundation made a grant to the Trust of R1 million to support the development of a web-enabled archive of materials related to South Africa's constitution-making process. A skilled archivist has been employed to work on making the electronic records of the Constitutional Assembly process available on the Court's website by 2012. The Library has a range of other archival documents which, it is hoped, will also be scanned and web-enabled in the coming years. A list of the books acquired by the Trust for the library during the year under review is annexed to this Report.

### **6. Law clerks' programme**

#### **6.1 General support**

As in previous years, a donation from Atlantic Philanthropies received many years ago continued to be expended to support the orientation programme for law clerks held in January and July. The clerks programme remains an important one, both for the work of the Court and as a contribution to the training and advancement of aspirant constitutional lawyers.

#### **6.2 Franklin Thomas Fellowship**

This fellowship was established in honour of Franklin Thomas, former president of the Ford Foundation and now a board member of the Friends of the SA Constitutional Court (US). The fellowship enables former clerks of the Constitutional Court, preferably from a disadvantaged background, to study for a master's degree in the United States of America. Ms Lerato Thulo has been awarded the fellowship for 2011–2012 at Notre Dame University. No donations towards the fellowship were received by the Trust during the financial year under review.



### **6.3 Ismail Mahomed Fellowship**

This fellowship, established in honour of the late Chief Justice Ismail Mahomed, was made possible by a generous donation from Atlantic Philanthropies. A significant proportion of that donation is now held on behalf of the Trust by the UK Trust. Ms Joelle Barnes has been awarded the Ismail Mahomed fellowship for 2011 – 2012 tenable at the University of Michigan. No donations towards the fellowship were received by the Trust during the financial year under review.

### **6.4 LWH Ackermann Fellowship**

No scholarship was awarded for the forthcoming academic year due to financial constraints at the University of Virginia.

## **7. Artworks Collection**

The artwork collection continues to grow with donations received by international artists and court supporters both locally and abroad. The Trust owns the artworks collection at the Constitutional Court and holds it in trust. The artworks collection includes works by artists such as Marlene Dumas, Gerard Sekoto, William Kentridge, Dumile Feni, Judith Mason, Willie Bester, Cecil Skotnes, Hamilton Budaza, Kim Berman, Sue Williamson, Anton van Wouw, John Baloyi, Andrew Verster and Marc Chagall. The collection attracts many visitors to the Court. A sub-committee of the Trust chaired by Justice Van der Westhuizen manages the collection. The Trust employs a curator on a part-time basis (Ms Jane Lane). During 2011, Ms Lane commenced conducting evening tours of the Court and its artwork collection in March 2011. The tours are generally held on the last Thursday of the month at 5.30pm. However special arrangements are made for visitors who cannot make the last Thursday of the month.

## **8. Southern African Chief Justices' Forum**

The Southern African Chief Justices' Forum (previously known as the Southern African Judges Commission) was established in December 2003 to strengthen respect for human rights and the rule of law in the Southern African region by promoting judicial independence through liaison and cooperation between judges. The Commission's founding document has been duly signed and ratified by the chief justices and/or senior judges of Angola, Botswana, Lesotho, Malawi, Mauritius, Mozambique, Namibia, the Seychelles, South Africa, Swaziland, Tanzania, Uganda, Zambia and Zimbabwe.

The accounts of the commission have since been managed by the Trust. However, during the year under review the establishment of the Office of the Chief Justice resulted in that office undertaking the work of the Commission. During the year under review, the Trust received no donations to support the work of the Commission.

#### **9. Trustees**

During this year under review, the Board of Trustees comprised of Justice E Cameron, Justice A Chaskalson, Professor M.M Katz, Justice S.S Khampepe, Justice PN Langa, Ms H Masondo, Mr TN Ngcukaitobi, Justice CME O'Regan, Advocate RJG Rasethaba, Ms KM Savage, Advocate PFD Tlakula, Justice JV van der Westhuizen, Justice Z Yacoob and Mr JWD Brand, chairperson of the Trust who prepared this report.

#### **10. Administration of Trust**

Ms Mimi Williams and Ms Elizabeth Moloto continued, during the period under review to provide services to the trust as bookkeeper and administrator respectively. Mr Kevin Daly served as administrator for the Trust from January 2011 – March 2011 when Ms Mildred Shabangu became the Manager of the Trust. The trustees note their gratitude to each of them for their dedication to the work of the Trust.

#### **11. Donors**

Once again, the board wishes to express its gratitude to all its donors, not only for the generous grants made to the Trust but also for their enthusiasm for and interest in its various projects. Without their support, the Trust would not be able to continue.

Mr JWD Brand

Chairperson

17 August 2011

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#### **9. Trustees**

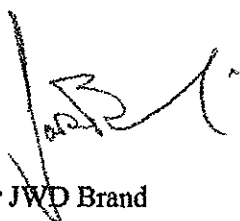
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Mr JWD Brand

Chairperson

17 August 2011

**THE CONSTITUTIONAL COURT TRUST  
(TRUST NUMBER 3836/95)**

**LIST OF TRUSTEES FOR THE YEAR  
ENDED 31 MARCH 2011**

E Cameron  
A Chaskalson  
MM Katz  
SV Khampepe  
H Masondo  
TN Ngcukaitobi  
CME O'Regan

GJ Rasethaba  
KM Savage  
FDP Tlakula  
JV van der Westhuizen  
MZ Yacoob  
JWD Brand - appointed 30 June 2011  
PN Langa - appointed 30 June 2011

**THE CONSTITUTIONAL COURT TRUST  
(TRUST NUMBER 3836/95)**

**STATEMENT OF FINANCIAL POSITION AS AT 31 MARCH 2011**

	Note	2011 R	2010 R
<b>ASSETS</b>		<b>7,478,826</b>	<b>4,478,085</b>
<b>Non current assets</b>		<b>1,431,390</b>	<b>1,298,880</b>
Equipment	2	1	1
Artworks	2	1	1
Investments	3	1,431,388	1,298,878
<b>Current assets</b>		<b>6,047,436</b>	<b>3,179,205</b>
Accounts receivable		3,500	6,894
S.A. Constitutional Court Trust UK	4	565,418	1,114,200
Cash and cash equivalents	5	5,478,518	2,058,111
<b>TOTAL ASSETS</b>		<b>7,478,826</b>	<b>4,478,085</b>
<b>RESERVES AND LIABILITIES</b>		<b>7,478,826</b>	<b>4,478,085</b>
<b>Equity and reserves</b>		<b>3,337,255</b>	<b>4,287,807</b>
Trust capital		1,949,391	2,351,549
Operating reserve		1,387,864	1,936,258
<b>Current liabilities</b>		<b>4,141,571</b>	<b>190,278</b>
Accounts payable	6	67,571	190,278
Deferred income		4,074,000	-
<b>TOTAL RESERVES AND LIABILITIES</b>		<b>7,478,826</b>	<b>4,478,085</b>

**THE CONSTITUTIONAL COURT TRUST  
(TRUST NUMBER 3836/95)**

**TRUST CAPITAL**

**STATEMENT OF INCOME AND  
DISTRIBUTIONS FOR THE YEAR  
ENDED 31 MARCH 2011**

	Note	2011 R	2010 R
<b>Income</b>		<b>1,791,292</b>	<b>4,763,899</b>
Grants and donations	7	1,743,642	4,706,625
Interest received		47,650	57,274
<b>Direct project distributions</b>		<b>(2,193,450)</b>	<b>(6,195,453)</b>
Constitutional Court Library		(429,613)	(634,727)
Supreme Court of Appeal		-	(5,613)
Flemish clerkship programme		(51,309)	(81,000)
Franklin Thomas Fellowship		-	(123,266)
Constitutional Court Trust Artworks Project		(301,872)	(414,685)
Research Assistants Programme		(45,374)	(45,374)
Ismail Mahomed Fellowship		-	(196,635)
SAFLII		(1,365,282)	(3,992,563)
South African Judges Commission		-	(661,590)
Landmark		-	(40,000)
<b>(Deficit) for the year</b>		<b>(402,158)</b>	<b>(1,431,554)</b>

**THE CONSTITUTIONAL COURT TRUST  
(TRUST NUMBER 3836/95)**

**OPERATING RESERVE**

**STATEMENT OF COMPREHENSIVE INCOME  
FOR THE YEAR ENDED 31 MARCH 2011**

	Note	2011 R	2010 R
<b>Income</b>		<b>132,727</b>	<b>481,258</b>
Dividends received		13,054	12,809
Interest received		24,353	33,365
Profit on disposal of investments	3	-	236,461
Revaluation of investments		95,320	198,623
<b>Expenditure</b>		<b>(681,121)</b>	<b>(448,451)</b>
Audit fees		(38,260)	(29,676)
Bank charges		(14,651)	(23,994)
Computer expenses		(364,769)	(50,800)
Consulting fees		(30,722)	(152,401)
General expenses		(13,722)	(26,212)
Interest and penalties		(6,807)	-
Portfolio administration fee		(218)	(263)
Travel - local		(199,333)	(27,042)
Unrealised forex loss on UK bank balance		(12,639)	(138,063)
<b>(Deficit)/surplus for the year</b>		<b>(548,394)</b>	<b>32,807</b>

**THE CONSTITUTIONAL COURT TRUST  
(TRUST NUMBER 3836/95)**

**STATEMENT OF CHANGES IN THE TRUST  
CAPITAL AND RESERVES FOR THE YEAR  
ENDED 31 MARCH 2011**

	Trust capital R	Operating reserve R	Total R
<b>Balance at 31 March 2009</b>	<b>3,819,654</b>	<b>1,903,451</b>	<b>5,723,105</b>
(Deficit) on trust projects	(1,431,554)	-	(1,431,554)
Surplus on operating reserve	-	32,807	32,807
Equipment acquisitions	(36,551)	-	(36,551)
<b>Balance at 31 March 2010</b>	<b>2,351,549</b>	<b>1,936,258</b>	<b>4,287,807</b>
(Deficit) on trust projects	(402,158)	-	(402,158)
(Deficit) on operating reserve	-	(548,394)	(548,394)
Equipment acquisitions	-	-	-
<b>Balance at 31 March 2011</b>	<b>1,949,391</b>	<b>1,387,864</b>	<b>3,337,255</b>



**THE CONSTITUTIONAL COURT TRUST  
(TRUST NUMBER 3836/95)**

**STATEMENT OF CASH FLOWS FOR  
THE YEAR ENDED 31 MARCH 2011**

	Note	2011 R	2010 R
<b>Cash flows from operating activities</b>			
Cash received from funders		6,417,468	3,655,047
Cash paid to suppliers, employees and projects		(2,997,281)	(6,658,663)
		<hr/>	<hr/>
<b>Cash generated from/(utilised in) operations</b>	<b>8</b>	<b>3,420,187</b>	<b>(3,003,616)</b>
Dividends received		13,054	12,809
Interest received		24,353	33,365
		<hr/>	<hr/>
<b>Net cash inflow/(outflow) from operating activities</b>		<b>3,457,594</b>	<b>(2,957,442)</b>
<b>Cash flows (utilised in)/generated by investing activities</b>			
		<b>(37,190)</b>	<b>2,317,538</b>
Acquisition of equipment		-	(36,551)
Acquisition of and additions to investments		(37,190)	(45,911)
Proceeds on disposal of investments		-	2,400,000
		<hr/>	<hr/>
<b>Net increase/(decrease) in cash resources</b>		<b>3,420,405</b>	<b>(639,904)</b>
<b>Cash and cash equivalents at beginning of year</b>		<b>2,058,111</b>	<b>2,698,013</b>
		<hr/>	<hr/>
<b>Cash and cash equivalents at end of year</b>	<b>5</b>	<b>5,478,518</b>	<b>2,058,111</b>
		<hr/> <hr/>	<hr/> <hr/>

**THE CONSTITUTIONAL COURT TRUST  
(TRUST NUMBER 3836/95)**

**NOTES TO THE ANNUAL FINANCIAL STATEMENTS  
FOR THE YEAR ENDED 31 MARCH 2011**

**ACCOUNTING POLICIES**

**1. PRESENTATION OF ANNUAL FINANCIAL STATEMENTS**

The annual financial statements are prepared on the historical cost basis, except for financial instruments, which are reflected at fair value. Policies applied include the following principal accounting policies which, are consistent with those applied in the previous year :

**1.1 EQUIPMENT**

Equipment is reflected in the balance sheet at nominal value, in accordance with a decision made by trustees with effect from the 2006/7 financial year. The trust acquires equipment with funds raised from donors, and trustees have taken the view that the accounting treatment adopted is more appropriate for a donor-funded organisation.

**1.2 ARTWORKS**

Although artworks acquired through purchase and donation are assets of the trust, they are reflected in the statement of financial position at nominal value, as the trustees are not at liberty to dispose of them.

**1.3 FINANCIAL INSTRUMENTS**

**Measurement**

Financial instruments carried on the statement of financial position include investments, bank balances, accounts receivable and accounts payable. Financial instruments are initially measured at cost as at trade date, which includes transaction costs. Subsequent to initial recognition, the following instruments are measured as set out below :-

**Investments**

Investments in financial assets are initially recognised at cost. Subsequently, financial assets are re-measured at fair value through profit and loss.

**Accounts receivable**

Accounts receivable are stated at cost less provision for impairment losses.

**Cash and cash equivalents**

Cash and cash equivalents are measured at fair value.

**Accounts payable**

Accounts payable are stated at actual invoiced value.

**THE CONSTITUTIONAL COURT TRUST  
(TRUST NUMBER 3836/95)**

**NOTES TO THE ANNUAL FINANCIAL STATEMENTS  
FOR THE YEAR ENDED 31 MARCH 2011 (Continued)**

**ACCOUNTING POLICIES (Continued)**

**1.4 PROVISIONS**

Provisions are recognised when the trust has a present legal or constructive obligation as a result of past events, it is probable that an outflow of resources embodying economic benefits will be required to settle the obligation and a reliable estimate of the amount of the obligation can be made.

**1.5 REVENUE**

**Grants and donations**

Grants and donations are generally accounted for in the year in which they are received. Where the donor contract explicitly makes allowance for retrospective expenditure, income will be accrued. Similarly, where donor funds are received in advance of the period specified by the contract, or in circumstances where funds received are earmarked for use in more than one year, the deferral of all or portion of the donor funds will be processed.

**Dividends**

Dividends on invested funds are brought to account when reflected for by portfolio managers.

**Interest**

Interest is accounted for on the accrual basis.

**1.6 EXPENDITURE**

Expenditure is accounted for on the accrual basis.

**1.7 PROJECT INCOME AND EXPENDITURE**

In terms of its contractual obligations to donors, the trust's policy is to allocate project costs that are clearly identifiable as such directly against the donor funds. Where funding agreements permit, shared costs and income items other than grants are allocated between project funds on the basis of estimated activity within the individual projects.

**1.8 FOREIGN CURRENCIES**

Income accrued in a foreign currency is accounted for at the year end exchange rate. Gains or losses resulting from the settlement of such accruals are recognised in the statement of comprehensive income for the operating reserve.

Foreign currency balances held at year end are translated at year end exchange rates.

**THE CONSTITUTIONAL COURT TRUST  
(TRUST NUMBER 3836/95)**

**NOTES TO THE ANNUAL FINANCIAL STATEMENTS  
FOR THE YEAR ENDED 31 MARCH 2011 (Continued)**

	2011 R	2010 R
<b>2. EQUIPMENT AND ARTWORKS</b>		
Equipment - at nominal value	3	3
Artworks - at nominal value	1	1

Trustees decided with effect from the 2006/7 year to write off costs incurred for additions to fixed assets and the artworks collection in the year of acquisition. The reason for this is that the trust is donor-funded and raises money specifically for the acquisition of such assets.

It is the view of trustees that writing off such assets against funds raised by the trust is more appropriate than the conventional accounting treatment of capitalising and depreciating such assets.

The trust will continue to maintain registers containing all necessary details of equipment and artworks acquired, as this is needed for control and insurance purposes. (Refer to note 15.)

**3. INVESTMENTS**

<b>Opening balance</b>	1,298,878	3,217,883
Movements for the year	37,190	(2,117,628)
Disposal of investments	-	(2,400,000)
Profit/(loss) on disposal of investments	-	236,461
Administration costs	(218)	(263)
Distributions - Dividends	13,054	12,809
Distributions - Local interest	24,353	33,365
	<b>1,336,068</b>	<b>1,100,255</b>
Revaluation to market value	95,320	198,623
<b>Closing balance</b>	<b>1,431,388</b>	<b>1,298,878</b>

Investments are stated at market value.

**4. DUE BY S A CONSTITUTIONAL COURT TRUST U.K.**

Accrued at 31 March 2010 - for SAFLII (£100,000)	-	1,114,200
Amount due at 31 March 2011 (£51,626)	565,418	-
	<b>565,418</b>	<b>1,114,200</b>

**5. CASH AND CASH EQUIVALENTS**

Standard bank current account	38,976	354,254
Standard bank current account - Freedom House	261,603	-
Standard bank current account - Library Funds	11,224	9,575
Funds held as nominee by S A Constitutional Court Trust UK (Ismail Mahomed Fellowship)	-	575,217
Cash on short term deposit	5,166,715	1,119,065
	<b>5,478,518</b>	<b>2,058,111</b>

THE CONSTITUTIONAL COURT TRUST  
(TRUST NUMBER 3836/95)

NOTES TO THE ANNUAL FINANCIAL STATEMENTS  
FOR THE YEAR ENDED 31 MARCH 2011 (Continued)

	2011 R	2010 R
<b>6. ACCOUNTS PAYABLE</b>		
Accruals	37,972	50,066
SARS payables	29,599	140,212
	<u>67,571</u>	<u>190,278</u>
<b>7. GRANTS AND DONATIONS</b>		
The Andrew W. Mellon Foundation (Received \$600,000 grant for the period April 2011 to March 2013 - SAFLII)	-	-
Received	4,074,000	-
Deferred to 2012	(4,074,000)	-
The Atlantic Philanthropies - no. 19440 (Received \$50,000 of a \$100,000 grant for the period August 2010 to July 2012 - Artwork)	361,850	-
CanLII (Received CAN\$12,000 for conference - SAFLII)	-	81,855
Carnegie Corporation of New York ( Received \$60,000 of a \$200,000 grant for the period October 2007 to September 2010 - SAFLII)	-	442,809
Claude Leon Foundation - SAFLII	450,000	100,000
Commonwealth Judicial Education Institute - SAFLII and SAJC)	-	374,035
The Ford Foundation (Received final tranche of \$50,000 of the \$150,000 for 2 years, January 2009 to December 2010 - refund)	(18,814)	-
Foundation Open Society Institute (OSI - ZUG) (Received \$35,000 for November 2009 to January 2010 - SAFLII)	-	255,279
Freedom House - no. 11-RFA05 - 03 (Received \$38,800 of a \$120,000 grant for the period February 2011 to September 2011 for the SAFLII programme)	262,213	-
Friends of the South African Constitutional Court (USA), Inc.	-	242,987
ICJ (Received Swiss Francs 30,000 for the Chief Justice Conference - SAJC)	-	260,906
Konrad Adenauer Foundation (Received \$10,000 for the Chief Justice Conference - SAJC)	-	79,973
Open Society Foundation for South Africa - no. 02743 for November 2009 to October 2010 - SAFLII)	509,600	509,600
Open Society Foundation for South Africa - no. 02907 Recieved R10,000 for SAFLII - webhosting	10,000	-
Open Society Initiative for Southern Africa (Received \$20,000 for Access to primary legal materials - SAFLII)	137,628	-
Open Society Initiative for Southern Africa (Received \$55,000 for the Chief Justices' Annual Conference and the Judges Summer Colloquium - SAJC)	-	430,056
Open Society Initiative for Southern Africa (Received \$20,000 for Law Via Internet Conference - SAFLII)	-	160,952
Open Society Initiative for Southern Africa (Received \$15,930 for work in Malawi, Swaziland and Mozambique - SAFLII)	-	120,557
<b>Balance carried forward</b>	<u>1,712,477</u>	<u>3,059,009</u>

THE CONSTITUTIONAL COURT TRUST  
(TRUST NUMBER 3836/95)

NOTES TO THE ANNUAL FINANCIAL STATEMENTS  
FOR THE YEAR ENDED 31 MARCH 2011 (Continued)

	2011 R	2010 R
<b>7. GRANTS AND DONATIONS (Continued)</b>		
Balance brought forward	1,712,477	3,059,009
SA Constitutional Court Trust UK (Accrued GB Pounds 100,000 for SAFLII)	-	1,114,200
Received	1,114,200	-
Accrued in 2010	(1,114,200)	1,114,200
University of Montreal (Received CAN\$21,590 for workshop in April 2009 - SAFLII)	-	143,553
Venice Commission (Received Euro 19.047 for the Chief Justice Conference - SAJC)	-	201,829
Sundry donations	31,165	188,034
	<u>1,743,642</u>	<u>4,706,625</u>
<b>8. CASH GENERATED FROM/(UTILISED IN) OPERATIONS</b>		
(Deficit)/surplus for the year on operating reserve	(548,394)	32,807
(Deficit) for the year on trust projects	(402,158)	(1,431,554)
Adjusted for :		
Dividend received	(13,054)	(12,809)
Interest received	(24,353)	(33,365)
Amount due by UK entity	548,782	(1,114,200)
Increase in deferred income	4,074,000	-
Revaluation of investments	(95,320)	(198,623)
(Profit)/loss on disposal of investments	-	(236,461)
Operating surplus/(deficit) before working capital changes	3,539,503	(2,994,205)
Changes in working capital	(119,316)	(9,411)
Decrease in accounts receivable	3,394	5,348
(Decrease) in accounts payable	(122,710)	(14,759)
Cash generated from/(utilised in) operations	<u>3,420,187</u>	<u>(3,003,616)</u>
<b>9. TAXATION</b>		

No provision has been made for taxation as the trust is exempt from income tax in terms of section 10(1)(cN) as read with Section 30 of the Act.

**THE CONSTITUTIONAL COURT TRUST  
(TRUST NUMBER 3836/95)**

**NOTES TO THE ANNUAL FINANCIAL STATEMENTS  
FOR THE YEAR ENDED 31 MARCH 2011 (Continued)**

**10. GOING CONCERN**

The existence of the trust is dependent on the continued support of its donors.

**11. CURRENCY RISK**

The trust is exposed to currency risk to the extent that funds are received from foreign donors, and that some funds are held on behalf of the trust by its kindred bodies in the United Kingdom and United States of America.

**12. INTEREST RATE RISK**

The trust is exposed to interest rate risk, as it places funds at both fixed and floating interest rates. The risk is managed by maintaining an appropriate mix between fixed and floating rates and placings within market expectations.

**13. CREDIT RISK**

The trust's credit risk is attributable to investments and liquid funds. The credit risk on liquid funds is limited because the counter parties are banks with credit ratings assigned by international credit-rating agencies. The risk relating to the trust's investments is dealt with through an ongoing review of the risk profile provided to the fund managers.

**14. LIQUIDITY RISK**

The trust manages liquidity risk by monitoring forecast cash flows and ensuring that adequate reserves are maintained to meet anticipated obligations.

**15. COLLECTION OF ARTWORKS**

A detailed listing of artworks is appended to these annual financial statements, and a detailed register has been compiled and will be maintained for control purposes.

**16. LIBRARY**

The trust purchases books and publications for the library and donates these on the condition that they remain the property of the Constitutional Court.

ANALYSIS OF TRUST ACCOUNTS FOR  
THE YEAR ENDED 31 MARCH 2011

2011

	Library Fund R	Franklin Thomas Fellowship R	Flemish Clerkship Programme R	Constitutional Court Research Programme R	Supreme Court of Appeal Programme R	Artworks Project Fund R	Ismael Mahomed Fellowship Fund R	Southern African Judges Commission R	SAFLII R	Administration R	Total R
Opening balance	1,454,505	172,114	61,338	80,514	8,128	123,492	2,228,123	17,239	142,356	-	4,287,808
Donations received	2,469	-	-	-	-	390,547	-	-	1,350,826	-	1,743,641
Distributions made	(429,613)	-	(51,309)	(45,374)	-	(301,872)	-	-	(1,365,282)	-	(2,193,450)
Share of interest income	12,755	2,137	125	436	101	2,634	27,663	214	1,585	-	47,650
Share of dividend income	-	-	-	-	-	-	-	-	-	13,054	13,054
Share of interest income - investments	-	-	-	-	-	-	-	-	-	24,353	24,353
Share of other operating costs	(17,063)	-	(6,320)	(5,849)	-	(24,447)	(189,469)	-	(418,528)	-	(661,676)
Share of interest and penalties	-	-	-	-	-	-	-	-	-	(6,807)	(6,807)
Fixed assets acquired	-	-	-	-	-	-	-	-	-	-	-
Unrealised adjustments :	1,023,053	174,251	3,833	29,728	8,229	190,354	2,066,317	17,453	(289,243)	30,600	3,254,574
Share of revaluation of investments	-	-	-	-	-	-	-	-	-	95,320	95,320
Direct allocation of unrealised and realised losses relating to the UK bank account	-	-	-	-	-	-	(12,639)	-	-	-	(12,639)
<b>Closing Balance</b>	<b>1,023,053</b>	<b>174,251</b>	<b>3,833</b>	<b>29,728</b>	<b>8,229</b>	<b>190,354</b>	<b>2,053,678</b>	<b>17,453</b>	<b>(289,243)</b>	<b>125,920</b>	<b>3,337,255</b>

Total movements for the year :

Donations Received	2,469	-	-	-	-	390,547	-	-	1,350,826	-	1,743,641
Distributions made	(429,613)	-	(51,309)	(45,374)	-	(301,872)	-	-	(1,365,282)	-	(2,193,450)
Share of interest income	12,755	2,137	125	436	101	2,634	27,663	214	1,585	-	47,650
Share of dividend income	-	-	-	-	-	-	-	-	-	13,054	13,054
Share of interest income - investments	-	-	-	-	-	-	-	-	-	24,353	24,353
Share of other operating costs	(17,063)	-	(6,320)	(5,849)	-	(24,447)	(189,469)	-	(418,528)	-	(661,676)
Share of interest and penalties	-	-	-	-	-	-	-	-	-	(6,807)	(6,807)
Direct allocation of unrealised and realised losses relating to the UK bank account	-	-	-	-	-	-	(12,639)	-	-	-	(12,639)
<b>Net movements</b>	<b>(431,453)</b>	<b>2,137</b>	<b>(57,504)</b>	<b>(50,786)</b>	<b>101</b>	<b>66,862</b>	<b>(174,445)</b>	<b>214</b>	<b>(431,599)</b>	<b>125,920</b>	<b>(1,076,474)</b>



ANALYSIS OF TRUST ACCOUNTS FOR  
THE YEAR ENDED 31 MARCH 2010

2010

	Library Fund R	Franklin Thomas Fellowship R	Flemish Clerkship Programme R	Constitutional Court Research Programme R	Supreme Court of Appeal Programme R	Artworks Project Fund R	Ismail Mahomed Fellowship Fund R	Southern African Judges Commission R	SAFLII R	Landmark Fund R	Total R
Opening balance	2 079 762	35 664	(97 138)	335 481	11 924	497 454	2 316 818	195 090	348 048	-	5 723 105
Adjustment from the 2007 - FCP	-	-	233 805	(208 114)	968	(26 659)	-	-	-	-	-
Adjustment in 2009 - Ford Foundation	-	-	-	-	-	-	-	(482 025)	482 025	-	-
Donations received	2 014	242 987	-	-	-	75 861	-	(972 765)	3 412 998	-	4 706 625
Distributions made	(634 727)	(123 266)	(81 000)	(45 374)	(5 613)	(414 685)	(196 635)	(661 590)	(3 992 563)	(40 000)	(6 195 453)
Share of interest income	4 309	463	166	244	22	393	6 314	72	746	44 546	57 274
Share of dividend income	4 377	470	168	248	22	399	6 414	73	758	(121)	12 809
Share of interest income - investments	11 402	1 224	439	646	57	1 040	16 706	191	1 974	(315)	33 965
Share of profit on disposal of investments	80 810	8 677	3 109	4 579	406	7 370	118 401	1 354	13 990	(2 234)	236 461
Share of other operating costs	(161 321)	(1 395)	(822)	(11 042)	-	(23 872)	(1 286)	(9 829)	(100 820)	-	(310 387)
Fixed assets acquired	-	-	-	-	-	-	-	-	(36 551)	-	(36 551)
Unrealised adjustments:	1 388 627	164 825	58 727	76 668	7 787	117 301	2 266 732	16 102	130 605	1 876	4 227 248
Share of revaluation of investments	67 879	7 289	2 611	3 846	341	6 191	99 454	1 137	11 751	(1 876)	198 623
Direct allocation of unrealised and realised losses relating to the UK bank account	-	-	-	-	-	-	(138 063)	-	-	-	(138 063)
<b>Closing Balance</b>	<b>1 454 505</b>	<b>172 114</b>	<b>61 338</b>	<b>80 514</b>	<b>8 128</b>	<b>123 492</b>	<b>2 228 123</b>	<b>17 239</b>	<b>142 356</b>	<b>-</b>	<b>4 287 808</b>

Total movements for the year:

Donations Received	2 014	242 987	-	-	-	75 861	-	972 765	3 412 998	-	4 706 625
Distributions made	(634 727)	(123 266)	(81 000)	(45 374)	(5 613)	(414 685)	(196 635)	(661 590)	(3 992 563)	(40 000)	(6 195 453)
Share of interest income	4 309	463	166	244	22	393	6 314	72	746	44 546	57 274
Share of dividend income	4 377	470	168	248	22	399	6 414	73	758	(121)	12 809
Share of interest income - investments	11 402	1 224	439	646	57	1 040	16 706	191	1 974	(315)	33 965
Share of (loss) on disposal of investments	80 810	8 677	3 109	4 579	406	7 370	118 401	1 354	13 990	(2 234)	236 461
Share of revaluation of investments	67 879	7 289	2 611	3 846	341	6 191	99 454	1 137	11 751	(1 876)	198 623
Fixed assets acquired	-	-	-	-	-	-	-	-	(36 551)	-	(36 551)
Share of other operating costs	(161 321)	(1 395)	(822)	(11 042)	-	(23 872)	(1 286)	(9 829)	(100 820)	-	(310 387)
Direct allocation of unrealised and realised losses relating to the UK bank account	-	-	-	-	-	-	(138 063)	-	-	-	(138 063)
<b>Net movements</b>	<b>(625 257)</b>	<b>136 449</b>	<b>(75 329)</b>	<b>(46 853)</b>	<b>(4 764)</b>	<b>(347 303)</b>	<b>(88 695)</b>	<b>304 173</b>	<b>(687 718)</b>	<b>-</b>	<b>(1 435 297)</b>