

28 April 2022

## CIRCULAR 16

THIS DOCUMENT IS A CIRCULAR TO THE AFFECTED PERSONS RELATING TO THE BUSINESS RESCUE PROCESS OF **UPAHLA CONSTRUCTION** IN TERMS OF THE COMPANIES ACT, 71 OF 2008 AS AMENDED (THE ACT).

### **OUTCOME OF THE 6TH MEETING OF CREDITORS AND AFFECTED PERSONS**

---

The practitioner wishes to inform all affected persons of the outcome of the 6<sup>th</sup> meeting of creditors and affected persons for Upahla Construction. The practitioner started the meeting with a brief introduction and overview of what the meeting would entail in the form of an agenda.

#### **BR Cost to date:**

It was confirmed that the business rescue practitioner's<sup>1</sup> fees are as per the previous circulars and confirmed in the second meeting of creditors and amended in the third meeting of creditors. The practitioners are working for retainers as opposed to the hourly rate as agreed to previously.

The only other current cost is for Mr Jaco Durandt from PE Paralegal, as agreed to during the business rescue process.

The business has also recently contracted the assistance of Van Zyl and Associates for the collection of the outstanding debt due to the business in a timely manner to assist with the business rescue process.

#### **Income and Expenses:**

The practitioner confirmed that the business is still operating and at current, the debt of the business is not getting any bigger.

The income for the last month was R1 902 758.40

The cost of sales was R1 456 895.44

The expenses were R450 000

Showing that the business is in fact still trading and the debt is not increasing, thus the practitioners are still of the opinion that a successful rehabilitation of this business is still possible.

---

<sup>1</sup> Mr Quinton Pattinson, Senior Business Rescue Practitioner and Mr David Masterton, Experienced Business Rescue Practitioner

### **Adjudication:**

The practitioner confirmed in the meeting that the adjudication process was due to commence shortly, and that the adjudicator/mediator was appointed on the day of the meeting and the process was to start the next day. The process is a lengthy one as described by Van Zyl and Associates in the previous meeting, but we are confident now that the appointment of this adjudicator has been made, that the process will run seamlessly and that a result will be reached within due time.

We again ask the creditors to bear with us during this process and we will be able to give a more detailed update at the next meeting of Creditors with regards to any progress made.

### **Creditors:**

The total creditors of the business currently total R32 230 817.14, up from the R24 888 229.08 but this is including all new claims received, of which the practitioner is confident, much will be reduced. This is also higher than what was originally anticipated for the business.

The practitioners are still hard at work busy scrutinising claims to ensure that amounts claimed for are not excessive and are in line with what was originally agreed upon. There are currently 84 creditors, after scrutiny, who have provided claims, - this includes the 7 additional claims received - originally there were 96.

### **Questions:**

A question was raised regarding the Cape Town project and Luan confirmed that there has been no further progress on this matter since the last meeting.

Another question was raised regarding post commencement debts that are still not being paid and it was confirmed that this is an ongoing issue and will be dealt with. It is clear that cash flow is a bit of an issue but the business is operating and this will be addressed in the next meeting.

### **Next Meeting / Publication Date:**

The current due date for the publication of the business rescue plan, should an extension not be given, is the 12<sup>th</sup> of May 2022.

Based on the discussions had in this meeting and other reasons including but not limited to the finalising of the creditor's lists, the valuation of the assets, the preparation of the LND account and feedback regarding the quantum of the various projects and pending the outcome of the adjudication process, it is proposed that another meeting similar to this one is held on the Monday 6<sup>th</sup> of June 2022 so that we can provide further feedback to assist in the drafting of a business rescue plan.

Although the practitioner has requested that the plan be postponed pending the outcome of the adjudication process, it was clarified that this is not a request for an indefinite extension. At the meeting of the 6<sup>th</sup> of June 2022, the practitioner will give an update on the business rescue process to date and will at that meeting request a further extension. Should the creditors not grant that extension, the business rescue plan will be published within a reasonable time period after the conclusion of that meeting.

A unanimous vote was achieved in this regard and therefore the next meeting will be on the 6<sup>th</sup> of June 2022 where a further update will be given.

Kind Regards

Quinton Pattinson  
[patp@businessrescue360.co.za](mailto:patp@businessrescue360.co.za)  
082 749 6462

David Masterton  
[david@businessrescue360.co.za](mailto:david@businessrescue360.co.za)  
082 569 3813

Jaco Durandt (Assistant)  
[jaco@pe-paralegal.co.za](mailto:jaco@pe-paralegal.co.za)  
076 773 4595

BR360