

CIRCULAR 31

THIS DOCUMENT IS A CIRCULAR TO THE AFFECTED PERSONS RELATING TO THE BUSINESS RESCUE PROCESS OF **PROXIMITAS INVESTMENTS 60 (PTY) LTD** IN TERMS OF THE COMPANIES ACT, 71 OF 2008 AS AMENDED (THE ACT).

UPDATE ON PROGRESS TO DATE

PROCESS TO DATE:

1. A proposed business rescue plan was published and unanimously adopted by creditors during a meeting held on the 28th of October 2024, in terms of Section 152 of the Act.
2. As per Circular 26, a further meeting was held to provide an extension so that the intended investor, Mr Kiran Moodley could secure his funding in terms of phase one of the adopted business rescue plan.
3. The adopted business rescue plan made provisions for three phases.
 - 3.1. **Phase One:** To minimize disruption and preserve jobs, a buyer will be sought for the entire business and its assets. The sale will be subject to auction conditions and secured creditor approval.
 - 3.2. **Phase Two:** If a single buyer is not secured, individual buyers will be sought for different farms or groups of farms under auction conditions, again requiring secured creditor approval.
 - 3.3. **Phase Three:** If Phases One and Two fail or are not concluded within the allowed timeframes, an independent auctioneering business will auction any unsold immovable assets. This auction was originally scheduled for the 29th of November 2024.
 - 3.3.1. An offer to purchase the immovable assets of the business was received from Mr Moodley, and a meeting to consider this offer and allow an extension to secure funding was held on the 3rd of December 2024.
 - 3.3.2. It was agreed to provide an extension. Mr Moodley failed to secure funding. In the premises the auction was arranged for February 2025 as discussed and approved in the meeting of 3 December 2024. This was agreed to by all parties in a recorded creditors meeting. The circular of this meeting is on the website.

4. As phases one and two have failed or were not concluded within the allowed timeframes, phase three was implemented, requiring any unsold immovable assets to be auctioned by an independent auctioneering business as going concerns.
5. Auctioneers were duly appointed, and the auction was set for the 27th of February 2025, according to the conditions set out in the adopted business rescue plan.
 - 5.1. However, the practitioners received an urgent application to stop the auction on the 26th of February 2025, which gave them about six hours to oppose the application in Grahamstown High Court under case number 735/2025.
6. The court dismissed the application, with costs (Scale C), and the auction proceeded as planned on the 27th of February 2025.
 - 6.1. All immovable assets were sold as part of the process, and consent was received from ABSA bank as the only secured creditor, which was in line with the provisions of the adopted business rescue plan.
7. However, on the 10th of March 2025, the morning that the successful bidder was to take occupation, certain staff of the Blackie Swart Familie Trust refused access to the bidders, and security was placed at the gates with clear instructions that the sales were not acknowledged and that the bidders may not enter the premises.
 - 7.1. Threats emanated from Mr Moodley's legal representation that the auction would be set aside, however, to date, nothing has materialised.
8. The successful bidders contacted the practitioners in this regard, and the practitioners arranged a meeting with their attorney, Mr Paul Bester, to discuss the options. It was decided:
 - 8.1.1. That, an urgent application would be placed before the court to grant the bidders access and to implement the adopted business rescue plan.
 - 8.1.2. That, Mr Paul Bester would represent the bidders in this matter as he has all the information relating to the business rescue process, the sale of the immovable assets and that the practitioners and the bidders have a common goal in this regard.
 - 8.1.3. The application was drafted and submitted to all parties to be heard in the Grahamstown Court yesterday the 18th of March 2025.
 - 8.1.4. The defendants were to provide their replying papers to court by no later than close of business on Friday the 14th of March 2025, but failed to do so.
 - 8.1.5. The matter was heard by the judge, but he reluctantly provided the respondents with a 48-hour extension to provide opposing papers.
 - 8.1.6. The matter will thus be in front of the judge again on Saturday the 22nd of March 2025.

9. Please note the attached report of MR Bester.
10. What is important to note is that the practitioners are unduly frustrated in the implementation of the adopted business rescue plan and are considering their options in terms of Section 141 of the Companies Act.

Please do not hesitate to contact the practitioners on this matter if there are any questions, comments or concerns.

Kind Regards

Quinton Pattinson
patp@businessrescue360.co.za
082 749 6462

David Masterton
davidm@businessrescue360.co.za
082 569 3813

BR360

Your Ref:

Our Ref: P Bester/Debbie

19 March 2025

BR32 (PTY) LTD
MR D. MASTERTON
MR Q. PATTINSON

Dear Sirs

re: TWENTE PARTNERS FARMS (PTY) LTD & OTHERS // J. SWART & OTHERS

Further to my Whatsapp message distributed last night, I wish to advise as follow:

On Monday, 17 March 2025, I was advised by Philip Tibshraeny that his gates are closed and he cannot get access to the premises. Similarly Andries also let me know that they have been advised that the gates have been closed to their farms and they couldn't gain access. Francois also provided me with video recordings and photographs that Mr Moodley, through his company Blue Crane Organics (Pty) Ltd, is taking applications for employment at the packhouse. This information was pertinent to our application and I prepared supplementary affidavits to hand in to court at the hearing of the matter.

Adv du Toit and I travelled to Grahamstown and found that our application was number 107 on the roll and one of four urgent applications on the roll for the day. Our matter was called at 13h30 whereafter an argument ensued as to the admissibility or not of the further affidavits we had prepared placing the events over the weekend before court. The relevance hereof was inter alia that we had in our heads of argument presented to court, stated that we would only seek a cost order insofar as Lafranette is concerned as there was access but that changed over the weekend. You are in possession of the sheriff's return of service which states the condition and entrance possibilities to the farms.

In the end the Presiding Judge ruled that some of the affidavits are admissible whereafter the Respondents sought leave that the matter stand down for 10 minutes. When it was called again after 10 minutes, they made formal application from the Bar for a postponement of the matter in order to file opposing papers. An argument then ensued as to whether they would be entitled to file opposing papers to the main application or only to the supplementary affidavits handed in. We argued that they are not entitled to file opposing papers to the main application as the ruling of the judge was that those papers were to be filed by 16h00 last Friday. The Respondents elected to not do so and cannot now merely file those papers. Should they attempt to do so, they would in my opinion be compelled to seek condonation for the late filing thereof and give proper reasons to why they elected not to file opposing papers. In the end, the judge will make a judgment as to whether papers ought to be allowed or not.

The result of the proceedings are that the Respondents were given 48 hours, thus by close of business Thursday, 20 March 2025, to file whatever opposing papers they wish to place before court and that we (the Applicants) are entitled to reply to those papers by 16h00 on Friday, 21 March 2025. The case was postponed for hearing Saturday, 22 March 2025 at 10h00.

The costs incurred thus far were reserved. I shall keep you abreast of developments as and when they happen.

Yours faithfully

BESTERS