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CIRCULAR 03

THIS DOCUMENT IS A CIRCULAR TO THE AFFECTED PERSONS RELATING TO THE BUSINESS RESCUE PROCESS OF **BEE PACKAGING (PTY) LTD** WITH REGISTRATION NUMBER **2014 / 283042 / 07** IN TERMS OF SECTION 129 OF THE COMPANIES ACT, 71 OF 2008 AS AMENDED (THE ACT).

OUTCOME OF THE 1ST MEETING OF CREDITORS

The business rescue practitioner wishes to advise all the affected parties the outcome of the 1st meeting of creditors held on **13th of September 2022**.

Mr Durandt gave a brief introduction of the Business Rescue team and welcomed all the affected persons to the meeting.

CONDITIONS FOR BUSINESS RESCUE

The practitioner explained the process of filing for business rescue and why a business would consider business rescue and the conditions of filing for business rescue.

1. The first question - Is the Company Financially distressed?

YES

- 1.1. Based on information at hand, yes, the business cannot pay its debts as and when they become due and payable, therefore it is clear that the business is in financial distress in terms of Section 128(1)(f) of the Companies Act and has filed for Business Rescue in terms of Section 129 of the Companies Act.



2. Second Question - Does a reasonable prospect of a rescue exist?

YES

- 2.1. Based on the information provided, the total indebtedness of the business (including longer term loans) is approximately R7million – Rough estimate to be confirmed.
- 2.2. Mr Koopman is well known in town and will easily be considered for new projects going forward. He also has some great blue-chip clients who will continue to do business with BEE Packaging and ensuring its continuation into the future.
- 2.3. The combination of the above provides the practitioner with sufficient motivation to conclude that a “reasonable prospect” does exist to rehabilitate the business.
- 2.4. As a last and ultimate consideration, it is understood that the assets of the business could be sold in a more structured manner resulting in a better outcome to all affected parties than in immediate and traditional liquidation as required by the Companies Act and confirmed in the Carrol vs Michael Carrol judgement.
- 2.5. The wind down of the business is not a current consideration but was purely mentioned as an option.
 - 2.5.1. There was some debate over the possibility of a structured winding down of the business due to the security held over the assets. The mention of a structured winding down in this meeting outcome is purely for the purpose of stating that, should the business not be in a position to continue trading into the future on a solvent basis, that a better result will be sought than the immediate and traditional liquidation of the business.

3. Reason for Financial Distress

- 3.1. Late payments from Clients causing a real cashflow problem.
 - 3.1.1. Systems will be implemented to ensure that if there are any clients who do not pay timeously, that the supply to these clients will cease immediately.
- 3.2. The continued strain that Covid-19 has placed on business all around the world simply cannot be ignored.
 - 3.2.1. This also led to an exodus of clients for the business as they, like many others, were unable to trade for a large portion of time due to various lockdowns.
- 3.3. The business does not generate a sufficient income to justify the types of overheads that the business has.



3.3.1. As a point of clarification, the blame is not being placed on any of the service providers such as landlords, it is just worth mentioning that the business cannot afford to pay all the overhead expenses that it currently has, with the current income generating capacity of the business. That is why the practitioner, and the directors are working diligently to secure alternate premises that is more in line with the needs and affordability of the business.

BUSINESS RESCUE PROCESS TO DATE

4. The Business became financially distressed and had no option, but to file for Business Rescue on the 29th of August 2022, the stamped confirmation was received back from the CIPC on the 29th of August 2022. This is when the Section 133 protection takes effect.
5. The practitioner applied to the CIPC for the confirmation of his appointment as the business rescue practitioner for this matter on the 29th of August 2022 and received confirmation of his appointment from the CIPC on even date.
6. The first meeting of creditors was all held on the 13th of September 2022.
7. The first meeting of staff was held on the 2nd of September 2022.

PRACTITIONER'S FEES

8. An hourly rate of R1250/hour with a maximum of R 15 625 per day (inclusive of VAT) as prescribed in regulation 128 of the Companies Act when appointed to a small size business rescue.
 - 8.1. The practitioner has however agreed to limit this to a retainer of R20 000/month in the interest of saving the business some money on the cost of the business rescue process.
9. Contingency Fees:
 - 9.1. The practitioner will be entitled to an additional 15 hours' worth of fees on the successful adoption of the business rescue plan.
 - 9.2. The practitioner will further be entitled to an additional 15 hours' worth of fees on the successful substantial implementation of the business rescue plan.
 - 9.3. The practitioner will further be entitled to 10% of the income generated from assets sold during the business rescue process.
 - 9.4. The practitioner will further be entitled to 10% of the income generated from the sale of the business during the business rescue process.
 - 9.5. The practitioner will further be entitled to 2.5% of any capital raised in terms of the business rescue process.



10. The attendees to the meeting discussed the matter at length and voted AGAINST of this proposal.

10.1. This simply means that the practitioner will revert to the hourly rate as charged by a practitioner appointed to a small business rescue of R1 250/hr. These fees will be payable to the practitioner as and when invoices are presented to the business for these fees.

FORMING A COMMITTEE

11. The Business Rescue Practitioner advised the attendees that they can form a committee of creditors in terms of section 147 of the Act.

11.1. The attendees voted against this proposal.

11.1.1. The business rescue practitioner will thus interact with all the creditors of the business directly.

11.2. The practitioner is however open to the formation of a creditors committee in the future.

REQUEST FOR AN EXTENSION

12. The plan is currently due to be published on the 3rd of October 2022, but the practitioner has asked for an extension until 10 days after the next meeting to be held on the 18th of October 2022.

13. The practitioner confirmed that he will ask for an extension of the publication date, if needed, on a month-to-month basis.

14. The practitioner will hold and preside over a creditor's meeting on a monthly basis where he will provide details of the progress made including but not limited to:

14.1. a basic summary of the Income and expenses

14.2. the costs of the business rescue to date

14.3. and the stance on work in progress.

15. The practitioner will then at this meeting request an extension for a further month, should it be needed.

16. The attendees to the meeting discussed the matter and voted in favour of this proposal and agreed to have the next meeting on the 18th of October 2022.



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PROOF OF CLAIMS

17. The practitioner confirmed that he has sent out the proof of claim forms and these proof of claim forms must be completed and returned to him on the prescribed document.
18. No fixed deadline for these submissions was provided during the meeting, but the practitioner will provide this deadline once the publication date of the proposed plan is confirmed.
 - 18.1. It was stated that all proof of claims must be provided at least 5 days prior to the publication of the proposed business rescue plan, allowing sufficient time to incorporate all the details into the plan.

All forms and circulars relating to the Business Rescue process for BEE Packaging (Pty) Ltd can be accessed at <https://pattinson.biz/document-library>

Kind Regards

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