

13 July 2023

## CIRCULAR 03

THIS DOCUMENT IS A CIRCULAR TO THE AFFECTED PERSONS RELATING TO THE BUSINESS RESCUE PROCESS OF **MACHINECORP DIESEL (PTY) LTD T/A JEG DIESEL** IN TERMS OF THE COMPANIES ACT, 71 OF 2008 AS AMENDED (THE ACT).

### OUTCOME OF THE 1<sup>ST</sup> MEETING OF CREDITORS

---

The business rescue practitioners<sup>1</sup> wish to advise all the affected parties the outcome of the 1<sup>st</sup> meeting of creditors of **MachineCorp Diesel (Pty) Ltd t/a JEG Diesel** (Herein after referred to as “JEG Diesel” or “The Business”) - held on 13 July 2023.

Mr. Durandt gave a brief introduction of the Business Rescue team and welcomed all of 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 the Act<sup>2</sup> and has filed for Business Rescue in terms of the Act<sup>3</sup>.

---

<sup>1</sup> Jaco Durandt, Junior Business Rescue Practitioner and David Masterton, Experienced Business Rescue Practitioner.

<sup>2</sup> Section 128(1)(f) of the Companies Act 71 of 2008.

<sup>3</sup> Section 129 of the Companies Act.

1.2. Had the directors decided not to file for business rescue, they would be compelled in terms of the Act<sup>4</sup> to deliver a formal written notice to every affected person detailing:

1.2.1. That the business is in financial distress.

1.2.2. The reasons for the financial distress.

1.2.3. The reasons for the company's decision to not file for business rescue.

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

2.1. Based on the information provided to the practitioners to date.

2.2. The practitioners believe that with some guidance and some drastic changes to SOP's and other operational improvements, the business should be in a position to trade its way out of the financial distress it is currently experiencing.

2.2.1. At minimum a better outcome than traditional liquidation will be sought.

2.3. The practitioner believes there to be a reasonable prospect of success as was discussed in the meeting.

2.3.1. Further, should a rehabilitation of the business not be possible, the practitioners will be required to at the very least seek a better outcome for the affected persons than that which they would receive in an immediate and traditional liquidation. As provided for in terms of the Act<sup>5</sup> and the judgment of *Carroll v Michael Carroll*.<sup>6</sup>

### **REASONS FOR THE FINANCIAL DISTRESS:**

1. COVID – 19 effects (Such as inability to obtain spares)
2. Availability of spares became a big problem.
3. Increase in operational costs as a result – declining margins (causing a cash flow problem)
4. Moved away from doing pumps & Injectors – more focused on servicing of vehicles.
5. Services provided little margin, continued cash flow problem.
6. Some operational issues have been identified and will be dealt with immediately.

---

<sup>4</sup> Section 129(7) of the Act.

<sup>5</sup> Section 128(1)(b)(ii) of the Act.

<sup>6</sup> *Carroll v Michael Carroll* CC In Re: In the application for the Liquidation of: Michael Carroll CC (under supervision) (2018/22808) [2019] ZAGPPHC 74.

## **INFORMATION PROVIDED:**

- **Liabilities**
  - A detailed list of the liabilities/creditors of the business will be provided by the next meeting of creditors. The practitioner is still waiting for some certificates of balances and will be in a better position to answer this question at the next meeting.
- **Debtors**
  - This information has been requested by the practitioner, and will be provided to him by the business soonest. A further update will again be provided at the follow up meeting.

## **FORMING A COMMITTEE**

1. The Business Rescue Practitioner advised the attendees that they can form a committee of creditors in terms of the Act.<sup>7</sup>

1.1. The attendees voted against this proposal.

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

## **REQUEST FOR AN EXTENSION**

1. The plan is currently due to be published on the 26<sup>th</sup> of July 2023.
2. Based on the discussions had in this meeting, it is proposed that another meeting similar to this one is held on the 23<sup>rd</sup> of August 2023 so that the practitioner can provide further feedback to the creditors. At this meeting, the practitioner will request a further extension if required and should this not be granted, the plan will be due within 10 business days thereafter.
3. A unanimous vote was achieved in this regard and therefore the next meeting will be on the 23<sup>rd</sup> of August 2023 where a further update will be given, and further extensions be given should it be necessary.

---

<sup>7</sup> Section 147.

## **PROOF OF CLAIMS**

1. 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. Same is also available – along with all other documentation relating to the business rescue – on the website of the practitioner at <https://pattinson.biz/> under the “Business Rescue” tab at the top right of the page.

Kind Regards

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

Jaco Durandt  
[jacod@businessrescue360.co.za](mailto:jacod@businessrescue360.co.za)  
076 773 4595

BR360