

5 September 2023

CIRCULAR 03

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

OUTCOME OF THE 1ST MEETING OF CREDITORS

The business rescue practitioners¹ wish to advise all the affected parties the outcome of the 1st meeting of creditors of **Bizana Builders (Pty) Ltd** (Herein after referred to as “Bizana” or “The Business”) - held on 4 September 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 Act² and has filed for Business Rescue in terms of the Act³.
- 1.2. Had the directors decided not to file for business rescue, they would be compelled in terms of the Act⁴ 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 practitioner to date.

¹ Jaco Durandt, Junior Business Rescue Practitioner and David Masterton, Experienced Business Rescue Practitioner.

² Section 128(1)(f) of the Companies Act 71 of 2008.

³ Section 129 of the Companies Act.

⁴ Section 129(7) of the Act.

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

2.2. The practitioner believes there to be a reasonable prospect of success as will be discussed later in the meeting.

2.2.1. 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 Act⁵ and the judgment of *Carroll v Michael Carroll*.⁶

REASONS FOR THE FINANCIAL DISTRESS:

1. Delayed payments from the department of Human Settlements
 - 1.1. Compounded by non-payment from various other debtors
2. Contractual issues that delayed the commencement of work
 - 2.1. Time over-runs as a result
 - 2.2. Over budget due to increased overheads for the delay period
3. Culminating in effectively a large cash-flow problem

IMPORTANT DATES:

Board Resolution Submitted	:	21 August 2023	(133 Protection date)
Practitioner Submitted	:	21 August 2023	
	CIPC returned	:	21 August 2023
Practitioners Appointed	:	21 August 2023	
1 st Meeting of Creditors	:	04 September 2023	

FORMING A COMMITTEE

1. The Business Rescue Practitioners advised the attendees that they can form a committee of creditors in terms of the Act.⁷
 - 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.

⁵ Section 128(1)(b)(ii) of the Act.

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

⁷ Section 147.

REQUEST FOR AN EXTENSION

1. The plan is currently due to be published on the 29th of September 2023.
2. Based on the discussions had in this meeting, the practitioner confirmed that he will not be seeking an extension of the time to publish the business rescue plan. The reasons for not asking for an extension are as follows:
 - 2.1. The practitioners have already formulated the majority of the plan and the direction is clear.
 - 2.2. The practitioners have already approached an investor who has given to go ahead to continue and this investor will be assisting on multiple fronts, including supply of PCF, assistance with management, use of building equipment and if need be assisting with additional labour to ensure projects are completed on time.
3. For this reason, it was deemed not necessary to request an extension of time and the plan will therefore be published by no later than the 29th of September 2023 – if not earlier.

PROOF OF CLAIMS

1. The practitioner confirmed that Jaco Durandt has sent out the proof of claim forms and these proof of claim forms must be completed and returned to Jaco Durandt 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.

CLAIMS HAVE BEEN RECEIVED FROM THE FOLLOWING CREDITORS:

1. Should your name not be on the list below, this means that a claim has not been received by the practitioners and you should please submit one soonest, on the prescribed form as mentioned above.

Eastern Cape Readymix

BVSA

Wesbank

Brown Braude and Vlok

FIRST NATIONAL BANK

QUESTIONS / COMMENTS

1. A question was asked as to what the total liability of the business was. It is however very difficult to confirm this so early in the process, but of course this will be contained in the published business rescue plan.

Kind Regards

Jaco Durandt
jacod@businessrescue360.co.za
076 773 4595

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