



ARNOTOPCO

NINTH BUSINESS RESCUE STATUS REPORT

Report in terms of Section 132(3) of the Companies Act 71 of 2008 (as amended)

Full Name: Arnot Opco Proprietary Limited (in business rescue)

Registration Number: 2019/072282/07

Registered Office: Farm Rietkuil 491 JS

Private Bag X3

Rietkuil

1097

BRP: Phahlani Mkhombo – Genesis Corporate Solutions

Address: GCS House, 61 Akkerboom Street,
Zwartkop Ext4, Centurion 0157

Date of Appointment: 10 October 2022



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1. Introduction

- 1.1. This Report is prepared in terms of section 132(3) of the Companies Act, 2008 (as amended) ("**the Companies Act**") in respect of the business rescue proceedings of Arnot Opco Proprietary Limited (in business rescue) ("**the Company**").
- 1.2. The purpose of this Report is to update creditors and affected persons on the progress of the business rescue proceedings of the Company.
- 1.3. This Report is required if a company's business rescue proceedings have not been finalised within three months after the commencement of the business rescue proceedings.
- 1.4. The Report must be read together with other reports previously issued, in the business rescue proceedings of the Company, in terms of section 132(3) of the Act.

2. Business Rescue Update

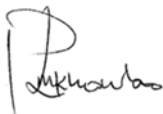
- 2.1. Creditors will recall that Wescoal Mining Proprietary Limited (in business rescue) ("**Wescoal**") and Salungano Group Limited ("**Salungano**") launched an urgent court application ("**the application**"), as first and second applicants against the Company, Mr. Phahlani Lincoln Mkhombo ("**Mkhombo**") in his capacity as the business rescue practitioner of the Company ("**the BRP**"), Ndalamo Coal Proprietary Limited ("**Ndalamo**") and Mashwayi Projects Proprietary Limited ("**Mashwayi**") as the first, second, third and fourth respondents, respectively.
- 2.2. The application was heard on 21 September 2023 in the High Court of South Africa, Gauteng Division, Johannesburg. Judgement was handed down on 02 October 2023 by Judge Stuart Wilson, who heard the same application.
- 2.3. Following the judgement, the first and fourth respondents, respectively Mr. Mkhombo, Arnot and Mashwayi sought leave to appeal against the judgement of 02 October 2023, wherein the judge concluded that a variant of the plan to rescue Arnot under the provision of Chapter 6 of the companies act 71 of 2008 ("**the Act**") had been lawfully adopted at a meeting of Arnot's creditors on 28 July 2023.
- 2.4. The effect of the adoption of the plan would mean the implementation of the sale of Arnot to the third respondent, Ndalamo. Ndalamo did not oppose the applications for leave to appeal, but it sought the interim execution of the court order under section 18 (3) of the Superior Courts Act 10 of 2013.
- 2.5. The application for leave to appeal was heard on 30 October 2023 in the High Court of South Africa, Gauteng Division, Johannesburg.
- 2.6. Judgment for leave to appeal and interim execution of the plan was handed down on 31 October 2023 by Judge Stuart Wilson who heard the same application. The following order was granted:

- 2.6.1. The first, second and fourth respondents are granted leave to appeal to the Supreme Court of Appeal against the whole judgment and order dated 2 October 2023.
- 2.6.2. The third respondent's application for interim execution is refused.
- 2.6.3. The costs of the application for leave to appeal, and the application for interim execution, will be costs in the appeal.
- 2.7. The BRP will keep creditors and other affected persons abreast of any developments, should a need arise.

3. Closing Remarks

- 3.1. The BRP undertakes to continue providing monthly reports to the Creditors, CIPC and other affected persons on the progress of the business rescue proceedings as required by Act.
- 3.2. All queries regarding the business rescue proceedings of the Company may be addressed to: ArnotOpcobr@gcs-sa.co.za. Creditors are reminded that all relevant notices and documents (including the Applications) are available online at this link: <https://arnot-opco.com/business-resscue/>

Yours faithfully,



Phahlani Mkhombo
Business Rescue Practitioner
Arnot Opco Proprietary Limited (in Business Rescue)
09 November 2023