



ARNOTOPCO

TWENTY-FIFTH 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

The Constitutional Court appeals

- 2.1. Reference is made to circular Twenty-nine, creditors will recall that Salungano Group Limited ("**Salungano**") and Ndalamo Coal (Pty) Ltd ("**Ndalamo**") have both instituted applications for leave to appeal to the Constitutional Court.
- 2.2. Salungano's application to the Con-Court (served on 19 February 2025) seeks an order in the following terms:
 - 2.2.1. Leave to appeal is granted;
 - 2.2.2. The Appeal against the order of the SCA is upheld with cost, including the cost of the two counsel;
 - 2.2.3. The order of the SCA is set aside and replace by the following order:
 - 2.2.3.1. The appeal is dismissed with costs, including the cost of the two counsel.
- 2.3. Ndalamo's application to the Con-Court (served on 21 February 2025) seeks an order in the following terms:
 - 2.3.1. That the applicant is granted leave to appeal to the Con-Court against the judgement



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and the whole of the order, including the order for costs, of the SCA in the matter of Mashwayi Projects (Pty) Ltd and Others v Wescoal (Pty) Ltd and others (1157/2023) [2025] ZASCA 5 (29 January 2025); and

2.3.2. That the costs of this application be costs in the appeal.

The business rescue circulars, voting and correspondences pursuant to the Supreme Court of Appeal's judgment and order (dated 29 January 2025)

- 2.4. On 29 January 2025, the twenty fifth circular was circulated to creditors notifying creditors of the SCA's judgment and order.
- 2.5. On 04 February 2025, the twenty sixth circular was circulated to creditors notifying creditors of *inter alia*, the BRP's request for an extension of time to prepare and publish a revised plan (the "**motion**").
- 2.6. On 10 February 2025, the twenty seventh circular was circulated to creditors notifying them of the outcome of the vote on the BRP's request for the extension. 7 (seven) creditors voted in favour of the motion, with only 4 (four) creditors having voting rights. The motion passed by 100% of the creditors voting interests.
- 2.6.1. The BRP notified creditors that the preparation and development of a new or revised plan may take up to 6 (six) weeks to complete considering developments that have occurred in the Company since the commencement of the business rescue proceedings due to some creditors' claims having been ceded, re-ceded or having been extinguished.
- 2.6.2. The BRP accordingly requested that the extension of time to prepare and publish a revised plan be approved to 11 April 2025 (the "**extension**").
- 2.7. On 14 February 2025, the twenty eighth circular was circulated to creditors notifying them of the voting outcome for the extension wherein 5 (five) creditors voted in favour of the extension, with only 3 (three) of those creditors having voting rights. The extension motion was passed by 100% of the creditors voting in favour.
- 2.7.1. Creditors were requested to re-submit their claim forms in light of the commencement of the business rescue proceedings, creditors are requested to confirm the balances owing to them as of 10 October 2022 (date of commencement of business rescue proceedings) in respect of the pre-commencement claims and 31 January 2025 in respect of the post-



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commencement claims. As of date only 12 creditors have re-submitted their claims.

2.7.2. The need to re-submit claim forms is for independent verification of the claims submitted prior to the BRP convening a meeting in terms of s151 read with s152 of the Act. This necessity comes in light of developments in the company since the commencement of business rescue proceedings, during which some creditors' claims have been ceded, re-ceded, or potentially extinguished, all of which must be properly considered by the BRP.

2.8. On Tuesday, 18 February 2025, the BRP received a without prejudice offer to settle the ongoing litigation from Ndalamo. This proposal was rejected as the proposal is not commercially tenable as certain proposals contained therein cannot be passed onto creditors.

2.9. On Wednesday, 19 February 2025, Ndalamo served their application for leave to appeal to the Con-Court.

2.10. On Friday, 21 February 2025, Salungano served their application for leave to appeal to the Con-Court and on 3 March 2025, served a supplementary founding affidavit for their application for leave to appeal.

2.11. The BRP and the Company will deliver affidavits opposing the Con-Court appeal applications as the applications are without merit and are a mere stratagem to prolong the business rescue process and incur unnecessary costs for the Company to suit ulterior motives of the parties pursuing the Con-Court appeal

3. Operational Update and Business Rescue Initiatives

3.1. The Company did not supply any coal to Eskom in February 2025 following the withdrawal of the approved rectification plan by Eskom pending resumption of coal deliveries from own underground and opencast reserve.

3.2. The BRP continues to engage with Eskom to facilitate the smooth resumption of coal deliveries in terms of the CSA while also progressing with the implementation of additional turnaround initiatives.

3.3. The BRP and management are exploring various strategies to ensure business continuity, while addressing the ongoing contractual issues with Eskom and finalizing agreements with contractors.



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4. Cost Containment measures

- 4.1. Due to the Company's failure to supply coal, the BRP has implemented further cost-containment measures to manage the Company's finances. These measures include a labour cost restructure involving reduction of salaries across the board, termination of fixed-term contracts and voluntary severance package offer to permanent staff.

5. Closing Remarks

- 5.1. The BRP will keep creditors and other affected persons abreast of any new developments.
- 5.2. 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.
- 5.3. 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 are available online on this link: <https://arnot-opco.com/business-resscue/>

Yours faithfully,

Phahlani Mkhombo
Business Rescue Practitioner
Arnot Opco Proprietary Limited (in business rescue)
28 February 2025



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