

COURT ONLINE COVER PAGE

IN THE HIGH COURT OF SOUTH AFRICA
Gauteng Local Division, Johannesburg

CASE NO: 2025-001473

In the matter between:

**SALUNGANO GROUP
LIMITED, WESTCOAL MINING
PROPRIETARY LIMITED (IN BUSINESS
RESCUE)**

Plaintiff / Applicant / Appellant

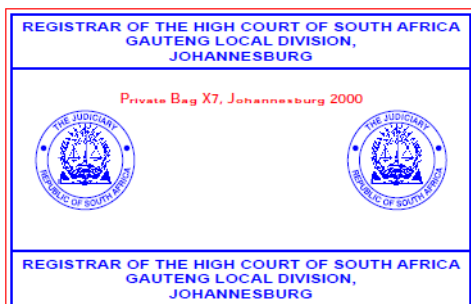
and

**PHAHLANI LINCOLN MKHOMBO
, ARNOT OPCO PROPRIETARY
LIMITED, COMPANIES AND
INTELLECTUAL PROPERTY
COMMISSION**

Defendant / Respondent

Founding Affidavit

NOTE: This document was filed electronically by the Registrar on 9/1/2025 at 2:54:11 PM South African Standard Time (SAST). The time and date the document was filed by the party is presented on the header of each page of this document.



ELECTRONICALLY SIGNED BY:

**Registrar of High Court , Gauteng
Local Division, Johannesburg**

IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG LOCAL DIVISION, JOHANNESBURG

CASE NO:

In the matter between:

SALUNGANO GROUP LIMITED

First Applicant

WESCOAL MINING PROPRIETARY LIMITED
(in business rescue)

Second Applicant

and



PHAHLANI LINCOLN MKHOMBO N.O.

First Respondent

ARNOT OPCO PROPRIETARY LIMITED
(in business rescue)

Second Respondent

COMPANIES AND INTELLECTUAL PROPERTY COMMISSION

Third Respondent

FOUNDING AFFIDAVIT

I, the undersigned

MUTHANYI ROBINSON RAMAITE

do hereby make oath and say:

MS
Ruh

- 1 I am an adult male and the Group Chief Executive Officer of the first applicant, which is a wholly owned subsidiary of the second applicant. Both applicants have a substantial interest in the rescue proceedings of the second respondent.
- 2 The facts deposed to in this affidavit are within my personal knowledge save where the context indicates otherwise, and they are furthermore to the best of my knowledge both true and correct.
- 3 Where I make submissions of a legal nature, I do so on the advice given to me by the applicants' legal representatives, which I accept as being correct.
- 4 I confirm that the applicants have authorised Mkhabela Huntley Attorneys ("MHA") to bring these proceedings on their behalf, and to the extent necessary, I further confirm that I am duly authorised to depose to this affidavit and bring this application on behalf of both applicants.



THE PARTIES

- 5 The first applicant is **SALUNGANO GROUP LIMITED** ("Salungano"), a public company duly registered and incorporated in terms of laws of the Republic of South Africa with registration number 2005/006913/06, having its principal place of business at 142 Western Service Road, Woodmead Business Park, Sandton.
 - 5.1 Salungano is a public company, listed on the Johannesburg Stock Exchange and is subject to the stock exchange's listing requirements.

N.S
Luh

- 5.2 Salungano has an indirect interest in Arnot Opco through the 50% shareholding of its wholly owned subsidiary, Wescoal.
- 5.3 Salungano's claim and voting interest are in the sum of R317,576.00 and 0,1% respectively in respect of the approved business rescue plan.
- 6 The second applicant is **WESCOAL MINING PROPRIETARY LIMITED** (in **business rescue**) ("**Wescoal**"), a company duly registered and incorporated in terms of laws of the Republic of South Africa with registration number (1999/005845/07), having its principal place of business is at Woodmead Business Park Building, Cypress Place South A, 142 Western Service Road, Woodmead, Johannesburg.
- 6.1 Wescoal is a wholly owned subsidiary of Salungano Group Limited.
- 6.2 Wescoal is a 50% indirect shareholder in Arnot Opco Proprietary Limited (in business rescue) ("**the Company**" or "**Arnot Opco**"). The indirect shareholding arises as a result of the following facts. Wescoal holds a 50% shareholding interest in Arnot Holdco Proprietary Limited ("**Arnot Holdco**"). Arnot Holdco holds all the shares in Arnot Opco, a company under business rescue in relation to which this application is brought, which is the second respondent herein represented by the first respondent in his capacity as the incumbent business rescue practitioner.
- 6.3 Wescoal has, in respect of the properly adopted business rescue plan, the largest claim and voting interest in relation to the business rescue plan approved and adopted by the majority of creditors at a meeting of creditors of



N.S.
Kub

the Company held in terms of section 151 of the Companies Act, 71 of 2008 (“the Companies Act”) on 28 July 2023.

- 6.4 Wescoal’s claim is pursuant to a management agreement entered into between Wescoal and the Company, in terms of which Wescoal would provide management services to the Company, including financial and legal support.
- 7 Wescoal and Salungano make common cause in relation to the relief sought in this application. I refer to Wescoal and Salungano collectively as “the applicants”.
- 8 The first respondent is **PHAHLANI LINCOLN MKHOMBO**, herein cited in his capacity as the duly appointed Business Rescue Practitioner (“the BRP”) of the Company, an adult male director of Genesis Corporate Solutions, GCS House, 61 Akkerboom Street, Zwartkop Ext 4, Centurion. Upon his appointment as the BRP, the first respondent was bestowed with the general powers and duties set forth in section 140(1) and (1A) of the Companies Act.
- 9 The second respondent is **ARNOT OPCO PROPRIETARY LIMITED** (in business rescue) (“the Company”), a company under business rescue by order of this Honourable Court granted on 10 October 2022, registered and incorporated in terms of the laws of the Republic of South Africa with registration number (2019/072282/07), having its registered address at Woodmead Business Park Building, Cypress Place South A, 142 Western Service Road, Woodmead, Johannesburg
- 10 The third respondent is the Companies and Intellectual Property Commission (“CIPC”), a juristic person and an organ of state established in terms of section 185(1) of the



N.S

Companies Act and with its registered office at DTI Campus, Block F, 77 Meintjies Street, Sunnyside, Pretoria. No relief is sought against the CIPC.

INTRODUCTION AND OVERVIEW

- 11 On 10 October 2022 the applicants caused for the Company to be placed under business rescue and the first respondent was appointed as its BRP. A true copy of the court order is annexed hereto marked "FA1".
- 12 There is a history of litigation between the applicants and the BRP. That litigation is directly relevant to this application. I will make mention of it to the extent that it is necessary.
- 13 The applicants seek an order for the removal of the BRP on the twin bases that he has shown a degree of incompetence in executing his duties as the BRP of the Company and has failed to exercise a proper degree of care in the performance of his functions as a BRP of the Company, as contemplated in terms of section 139(2)(a) and (b) of the Companies Act.

The BRP's incompetence and failure to perform his duties has resulted in the termination of the single most lucrative and important contract of the Company, which was for the supply of coal to Eskom Holdings Limited ("Eskom"), the Company's biggest customer, in terms of a coal supply agreement concluded between Eskom and the Company in November 2021 ("the CSA"). The CSA between the Company and Eskom is for the term of 10 years and the contract upon which the existence of the Company and the prospects of a successful business rescue of the Company ultimately depends.



N.S.
Kuk

- 14 Under the full management and control of the BRP as contemplated in section 140(1)(b) of the Companies Act, and notwithstanding the CSA effectively constituting the cornerstone of the Company's continued existence, the BRP allowed the Company to act in breach of the provisions of the CSA, failed to remedy the breach once notified by Eskom on or about 20 November 2024 and, as a result, Eskom terminated the CSA on 27 December 2024.
- 15 Moreover, on 28 July 2023 the majority of the creditors of the Company adopted and approved a business rescue plan as contemplated in section 152(2) of the Companies Act. Instead of implementing that approved and adopted business rescue plan which the majority of creditors had deemed to be the most viable option to salvage the Company, the BRP set forth a series of events that resulted in extensive litigation between the applicants (and other affected parties) and the BRP, jeopardising the implementation of the approved business rescue plan. That litigation has gone all the way to the Supreme Court of Appeal that heard the appeal in August 2024. The Supreme Court of Appeal is yet to deliver its judgment. The facts of that litigation are not directly relevant to this application.
- 16 In the intervening period, the BRP has, in managing the affairs of the Company, breached or allowed the breach of the CSA. Prior to the breach, the Company had failed to meet the supply targets stipulated in terms of the CSA. Nevertheless, following negotiations, Eskom had permitted the Company to source coal from third party companies in order to meet the prescribed target of coal supply of 200,000 tons per month subject to Eskom granting its approval of the third party supplier who meets its quality standards. This arrangement is referred to below as the "rectification plan". The rectification plan between the Company and Eskom is to allow the Company to catchup on the coal



N.S
 [Handwritten signature]

undersupplied since February 2022. The volumes for the rectification are communicated with Eskom on a month to month basis.

- 17 The applicants are aware that Eskom had only approved a Uitspan Colliery as an approved source for the coal supply (the company that conducts the mining operations at the Uitspan Colliery is Masemanzi Mining Holdings (Pty) Ltd) as the qualifying alternative coal supplier. It is the only third-party coal source that is approved and authorised to supply coal to Eskom, via the Company, in terms of the Coal Supply Agreement and rectification plan adopted and agreed between the Company and Eskom.



- 18 Eskom became aware in May 2024 that the Company, under the management and supervision of the BRP, had been sourcing coal from an unauthorised coal supplier. Eskom notified the BRP of the above information and proceeded to conduct an investigation to determine the veracity of the information. The investigation by Eskom eventually confirmed that the Company was supplying unauthorised coal in breach of the CSA and the rectification plan. Given the discovery, Eskom then issued a notice of breach in terms of clause 30.2 of the CSA on 20 November 2024 informing the Company of the breach and requiring the Company to stop the supply of coal from unapproved sources with immediate effect.
- 19 Save to acknowledge receipt of the notice of breach, the BRP did not ensure that the Company ceases with sourcing and supplying coal to Eskom from an unapproved coal supplier. Instead, the BRP and the Company continued sourcing coal from an unauthorised supplier.

N.S
 [Handwritten signature]

- 20 As a result, on 27 December 2024, Eskom directed a cancellation notice to the BRP, terminating the CSA with immediate effect and indicating that Eskom intends to institute legal proceedings to claim damages in the amount of **R262,328,534.33** for the breach of contract. A copy of the cancellation notice is annexure "FA2" hereto.
- 21 The cancellation of the CSA is catastrophic to the survival of the Company. Without mincing words, the Company cannot and will not exist without the CSA. The business rescue of the Company will fail, and the Company will be placed in liquidation.
- 22 The BRP is fully aware of the importance of the CSA to the survival of the Company and the success of business rescue. Yet he has acted in the manner that jeopardised the survival of the Company by allowing the Company to breach the singular most important contract necessary for its survival and failing to remedy that breach when given an opportunity to do so. The BRP has not acted in the best interests of the Company, has shown incompetence in managing affairs of the Company and/or has failed to exercise a proper degree of care in the performance of his functions as a BRP of the Company.
- 23 Furthermore, the applicants have also noted from the management accounts prepared by the BRP that during the business rescue period, the liabilities of the Company are increasing at a concerning rate. The termination of the CSA that was the primary and most lucrative source of revenue severely compromised the prospects of the Company trading out of business rescue.
- 24 Furthermore, as I shall elaborate below, the applicants have recently been made aware that in December 2024 the Department of Mineral Resources and Energy (DMRE) issued notices to the mine in terms of Mine Health and Safety Act, 29 of 1996 because the mine



N.S.
Luk

has failed to, amongst others, submit proof that the annual performance testing on SCSRs was conducted for the year 2024 and generally ensuring the safety of employees in the mine. The mine was instructed to halt mining activities until there is compliance.

- 25 There has been a partial upliftment of the suspensions but the statutory non-compliances of the mine under the management of the incumbent are a cause for concern and support the applicants' apprehension that the incumbent BRP's continued occupation of the role of BRP is not be in the best interests of the Company and justify his removal as sought herein.



- 26 In the circumstances, the applicants believe that there is a good basis for the removal of the BRP from office. In terms of section 139(2)(a) and (b) of the Companies Act, the applicants as affected persons are entitled to make application to court for the removal of the BRP from office on the ground of his incompetence or failure to perform duties as a business rescue practitioner of the Company, and failure to exercise proper degree of care in the performance of his functions as a BRP of the Company.
- 27 The applicants will nominate a replacement business rescue practitioner whom they believe has the requisite skill to manage the affairs of the Company and, importantly, salvage the relationship with Eskom and secure a reinstatement of the CSA. I will deal with this point further below in this affidavit.

GROUNDS OF URGENCY

- 28 I am advised that an applicant seeking to obtain relief on an urgent basis must satisfy the requirements in Rule 6(12)(a) of the Uniform Rules of Court by setting forth the

N.S.
huh

circumstances that render the matter urgent and the basis why they contend that they could not obtain similar relief in the ordinary course.

29 I begin by mentioning that the application to commence business rescue of the Company was heard on an urgent basis by Judge Crutchfield on 30 August 2022. Her Ladyship considered that the importance of the supply of coal by the Company to Eskom for the production of the electricity and potential disruption in the production and supply of coal to the prevailing shortage of electricity to the country, the possible liquidation of the Company and resultant prejudice to the body of investors rendered the hearing of the business rescue application, urgent.



30 Secondly, in another urgent application brought by the applicants, His Lordship Mr Justice Wilson heard the application on an urgent basis holding that the wellbeing of hundreds, if not thousands, of people hinges on the outcome of the business rescue process.

31 The above twin considerations have not lessened in their importance.

32 The success of the business rescue largely depends on the CSA with Eskom. On 27 December 2024, the applicants discovered that Eskom had terminated the CSA because, under the supervision of the BRP, had been sourcing coal from a supplier that is not authorised and approved by Eskom in breach of the provisions of the CSA.

33 Upon reading the cancellation notice, the applicants noted that the BRP had also been given an opportunity to rectify the breach of the CSA by simply stopping the supply of

huk ^{NS}

coal from an unapproved source. But the BRP failed to comply with a simple demand and continued to supply coal to Eskom from an unauthorised supplier.

34 On the following Monday of 30 December 2024, the applicants' attorneys sent a letter to the BRP noting, *inter alia*, the breach of the CSA in terms of the supply of coal from unauthorised coal suppliers, and the failure of the BRP to rectify that breach upon being requested to do so by Eskom.

35 The above letter concluded by stating that the BRP's conduct has led to the cancellation of the CSA which constitutes a serious and existential threat to the viability of the Company and the ability of the Company to trade out of business rescue. The applicants therefore demanded the BRP to provide a formal resignation as the BRP by close of business on Thursday, 2 January 2025. A true copy of the letter is annexed hereto marked "FA3".



36 On 2 January 2025, the applicants' attorneys received an e-mail from the BRP blithely indicating that he has forwarded the letter to his attorneys. A copy of the email is annexed hereto marked "FA4". As at the time of deposing to this affidavit, the BRP's attorneys have not responded to the letter, and nor has the BRP tendered his formal resignation to the applicants.

37 On 2 January 2025, Mr Ehi Enabor of the applicants' attorneys, telephoned counsel to provide instructions for the institution of the urgent application. Counsel was travelling in Europe and only returned to South Africa on 4 January 2025. A consultation was scheduled with counsel on the morning of Sunday, 5 January 2025.

huk N.S

- 38 The applicants have ensured that the application is launched by no later than close of business on 9 January 2025, this is five days after the lapse of the period given to the BRP to tender his resignation. The applicants submit that there has been no undue delay in bringing the application.
- 39 The applicants cannot wait for the issues raised in this application and the relief sought to be decided by the court in the normal course because the relationship between the Company and Eskom can and must immediately be salvaged and the applicants believe that the CSA can be reinstated under the stewardship of a different business rescue practitioner. But the applicants have absolutely no confidence in this being achieved whilst the first respondent remains the BRP of the Company. The lack of confidence in the first respondent is justified given the litany of missteps and non-compliances highlighted above in relation to the incumbent BRP.
- 40 It is clear from the correspondence from Eskom that it had been consistently raising the issue of sourcing and supply of coal from an unauthorised source with the BRP. Yet the BRP and the Company continued to act in breach of the most important agreement to the Company's existence. Eskom granted the BRP an opportunity to remedy the breach of the CSA by stopping this unlawful conduct. The demand to stop the supply of coal from an unauthorised source was not a difficult task. The BRP should simply have stopped supplying coal from an unauthorised supplier.
- 41 On 27 December 2024, the BRP responded to Eskom's cancellation notice indicating that cancellation of the CSA will lead to liquidation of the Company. In the letter, the BRP denies that the Company delivered coal via its conveyor belt from an unapproved and unauthorised source without providing any evidence to substantiate his assertion in this



Handwritten signature

regard. The bare denial is unhelpful given that Eskom has fully investigated the breach and would not terminate the CSA without being certain of the breach. The inference to be drawn is that Eskom is probably correct that there has been a breach of the CSA due to the Company, under the management and supervision of the BRP, supplying coal from an unauthorised source.

42 The BRP has requested a meeting with Eskom on 8 January 2025. The applicants do not trust that the BRP is competent to have a meeting with Eskom that will result in the reinstatement of the CSA. Eskom has no reason to trust a BRP that has allowed for the Company to act in breach of a very important contract. The applicants would rather prefer that there is no meeting held by the incumbent BRP with Eskom but that any further discussions with Eskom are led by a newly appointed business rescue practitioner with the requisite skill and competency.



43 The applicants' need for the process of salvaging the relationship with Eskom to commence without delay arises from, *inter alia*, the fact that the mining operations are due to commence shortly after the December break. There are many contractors and employees that need certainty on the mining operations for the new year and will know that the termination of the CSA will likely lead to the closure of the mine.

44 The applicants require for the first respondent to be removed as a BRP so that that process is commenced immediately, by a different BRP. The removal of the first respondent as the BRP is therefore urgent and cannot wait to be decided many months later on the normal roll of this Court.

huk N/S

- 45 The incumbent BRP has done enough damage to the Company. The applicants wish for his removal without delay to avoid any further damage to the Company and its ability to trade out of business rescue. As a result, the applicants seek for this application to be enrolled as soon as possible. But, in order to afford the respondents sufficient time to consider the application and deliver affidavits should they elect to oppose the relief sought in the application, the applicants shall enrol the application on the urgent court roll of 21 January 2025.

RELEVANT FACTS



- 46 The Company owns and operates a coalmine in Middleburg, Mpumalanga, and under the CSA, is required to supply at least 180 tons of coal to Eskom a month.
- 47 The CSA incorporates a Standard Terms and Conditions of Coal Supply Agreement. These agreements contain sensitive commercial information and are confidential in nature and cannot be disclosed without the consent of Eskom. For those reasons, copies of the agreements are not annexed to this affidavit.
- 48 In August 2022 Wescoal brought an application in terms of section 131(1) of the Companies Act for an order placing the Company under supervision and commencing business rescue proceedings.
- 49 On 10 October 2022, this Honourable Court placed the Company under supervision and commenced business rescue proceedings and appointed the first respondent as the BRP of the Company. Wescoal nominated the first respondent as a BRP.

Handwritten signature: "Luk NS"

- 50 The application to place the Company under business rescue was brought pursuant to an application to liquidate the Company brought by various other creditors on the basis that the Company was indebted to them for approximately R50 million.
- 51 Wescoal believed that, notwithstanding the debt, there were reasonable prospects of saving the Company through the commencement of business rescue proceedings and in particular the existence of the CSA with Eskom provided an opportunity for the Company to continue trading and could be rescued.
- 52 On 14 July 2023, the BRP published in terms of section 150(5) of the Companies Act, a business rescue plan for consideration by the creditors and adoption at a meeting that was scheduled for 10h00 on 28 July 2023. Wescoal's claim was valued by the BRP at R104.39 million. In addition to the above monetary value, Wescoal's voting interest was stipulated as 25.3%. Salungano's claim was valued at approximately R317,000 and 0.1%.
- 53 Notably from the approved business rescue plan, the BRP made the following statements:
- "The company continued trading and remains operational. The business rescue process has provided an opportunity for the BRP to continue with the business so as to preserve its goodwill through an effective moratorium in respect of all legal proceedings and claims against the Company. A failure of operations would have resulted in financial collapse of the Company and an outcome detrimental to the interest of the stakeholders including creditors and employees".*
- 54 Further on, the BRP made the following statement:
- "The BRP's main focus has been to stabilise the business in order to ensure that the Company continues with the business operations as*



huk N.S

normal without any disruptions, and that the economic value of the business is maintained, and that jobs are preserved."

55 A copy of the relevant part of the business rescue plan is annexed hereto marked "FA5".

56 Prior to the commencement of business rescue, the Company had been under-delivering on the required tons of coal to Eskom. The Company was engaging with Eskom to rectify the position. Part of the rectification strategies included an option for the Company to supply coal from other coal suppliers through what was known as buy-ins from Qualifying Alternative Source. Eskom, however, reserved for itself the right to approve those third party coal suppliers as stipulated in clause 10.1.2 of the Standard Terms and Conditions of Coal Supply Agreement.



57 The BRP provided monthly reports to creditors, including the applicants, on the business rescue process. As an example, I refer to the following reports:

57.1 The 10th Business Rescue Status Report dated 11 December 2023 where in paragraph 3.2.1 the BRP recorded that the mine started with coal rectification supply through an Eskom-approved source in October 2023 as in the process of ramping up the rectification quota deliveries from the source to 50,000 tons in December 2023. Additional potential rectification sources are being engaged in an effort to accelerate the catch-up on the under-delivered tons to Eskom. A true copy of the report is annexure FA6.1 hereto.

57.2 The 11th Business Rescue Status Report dated 24 January 2024 where in paragraph 3.2.1 the BRP reported that during December 2023 *circa* 80,000

Handwritten signature: Luk NS

tons were delivered to Eskom from the rectification source, and the process of implementing plant initiatives to ramp up rectification supply to approximately 100,000 for January 2024 and 150,000 tons for February 2024. Several potential rectification sources are being engaged and presented to Eskom for approval as the Company continues to implement other strategic initiatives. A true copy of the report is annexure "FA6.2" hereto.

57.3 The 12th Business Rescue Status Report dated 21 February 2024 where in paragraph 3.2.1 the BRP recorded that during January 2024 the Company delivered 116,000 tons through the rectification process to Eskom and seeks to ramp up the rectification supply to approximately 150,000 tons from February 2024. Several potential rectification sources are being engaged and presented to Eskom for approval. A true copy of the report is annexure "FA6.3" hereto.



57.4 The 13th Business Rescue Status Report dated 19 March 2024 where again the BRP reported on the delivery of 132,785 tons in February 2024 and that the Company continues to engage Eskom on the approval of additional sources for the rectification as part of the turnaround strategy to deal with the supply of under-delivery. A true copy of the report is annexure "FA6.4" hereto.

57.5 The 14th Business Rescue Status Report dated 15 April 2024 which records that the Company is engaging with Eskom in approving additional sources for rectification as part of the turnaround strategy. A true copy of the report is annexure "FA6.5" hereto.

huk NS

- 57.6 The BRP further recorded this engagement to seek Eskom's approval for additional third party sources in the 15th Business Rescue Status Report dated 15 May 2024, the 16th Business Rescue Status Report dated 14 June 2024, the 18th Business Rescue Status Report dated 20 August 2024 and the 19th Business Rescue Status Report dated 13 September 2024. True copies of the reports are annexed hereto marked "FA6.6" to "FA6.10" respectively.
- 58 The applicants are aware that Eskom has approved Uitspan Colliery as the qualifying alternative source in terms of the rectification plan. There is no other supplier approved by Eskom for the Company.
- 59 It was totally concerning and disappointing for the applicants to learn through the cancellation notice from Eskom of 27 December 2024 that, in May 2024, Eskom became aware that the Company had been supplying coal from an unauthorised and unapproved source. The Company was informed of the matter and vehemently refuted the allegations.
- 60 But, investigations conducted by Eskom revealed that the Company was indeed supplying coal from an unauthorised source. The information was shared with the Company.
- 61 On or about 20 November 2024, Eskom issued a notice of breach in terms of clause 30.2 of the CSA requesting the Company to stop the supply of coal from an unapproved source with immediate effect. It would appear that the BRP responded by acknowledging receipt of the breach notice 12 days later, on 6 December 2024. This is untenable given the importance of the Coal Supply Agreement and the relationship with Eskom. The applicants do not have a copy of the BRP's response to the breach notice from the Eskom.



Handwritten signature NS

- 62 The BRP and the Company clearly did not respond to the reasonable demand from Eskom that the Company must stop sourcing and supplying coal from an unauthorised supplier in breach of the terms of the CSA. The failure to remedy the breach left Eskom with no other option but to terminate the CSA.
- 63 According to the cancellation notice of 27 December 2024, the Company acknowledged receipt of the notice of breach but failed to rectify the breach. As at 10 December 2024, Eskom determined that the Company was still sourcing coal from an unauthorised rectification source and supplying that coal to Eskom under the CSA. The supply of coal from unapproved and unauthored sources in contravention of clause 1.1.42 of the CSA and clause 3.2 of the coal quality management procedure of the CSA.
- 64 The BRP's response to the cancelation notice was entirely inadequate in taking steps to regain the trust of Eskom and the reinstatement of the cancelled CSA. A copy of the letter from the BRP dated 27 December 2024 is annexed hereto marked "FA7". In paragraph 5 of the response, the BRP recorded that after receipt of the breach notice he requested certain information from the management of the Company on the coal quality management procedures, instructions to stop coal supply from the alleged unapproved source and tonnage of coal supplied from the alleged unapproved source from July 2024 to November 2024.
- 65 Eskom's cancellation notice had, however, already provided details of the unauthorised coal supplier. The BRP could not allege ignorance under those circumstances. Thus the statement in paragraph 8 of the BRP's response letter that *"to this day, Eskom has not disclosed the identity of the alleged unapproved and unauthorised source to me as the appointed BRP"*, does not appear to be true.



Sub *N.S*

- 66 What the response letter from the BRP failed to say to Eskom was that the BRP had taken steps to cease with the sourcing and supplying of coal from the unauthorised and unapproved supplier.
- 67 The BRP also records that the Company has on numerous occasions requested Eskom to grant approval to rectify from additional sources and that those requests have not been received favourably by Eskom. The incumbent BPR seems to place the blame of the doorstep of Eskom. But Eskom is of course well within its rights to only approve the supply of coal from collieries that meet its quality standards and specifications.
- 68 The BRP then mentions the Company's intention to remedy the breach in respect of the 360,000 tons unaccounted for from its underground and opencast operations at a discount to the prevailing Contract Coal Price. But this is not the breach that Eskom had raised with the BRP and the Company. In any event, it appears prejudicial to the Company to sell such substantial quantities of coal to Eskom at a discounted price simply hoping to persuade Eskom not to cancel the CSA. Eskom simply wanted the BRP and the Company to cease with supplying coal from an unauthorised supplier.
- 69 In paragraph 4 of the letter, the BRP requested a meeting with Eskom for 8 January 2025. I am unaware whether this meeting has finally been convened.
- 70 On or about 9 December 2024, the Department of Mineral Resources and Energy (DMRE) issued a notice in terms of section 54 of the Mine Health and Safety Act, 29 of 1996 (MHSA) wherein it identified ten different contraventions of the MHSA by the Company at the mine. The aforementioned contraventions are set out below:



huk N.S

- 70.1 *There is no proof that the annual performance testing on SCSRs was conducted for the year 2024. Previously, the units were collected November 2023 and there is no report from the CSIR. The report available is for the year 2022.*
- 70.2 *The sentinel calibration stations (1) and (2) testing station were due for calibration. Certificate expiry date: 05/12/2024.*
- 70.3 *Lamproom attendant's annual refresher training on cap lamps and rescue packs was not done for the year 2024 the training was due by March and August 2024 respectively.*
- 70.4 *There is no separate room for gas instrument maintenance and cap lamps maintenance as per the lamp room guidance note.*
- 70.5 *The first aid box at the lamproom was checked and found that some items had expired in August 2023.*
- 70.6 *The air conditioning system at the lamproom was found not working which led to high temperatures.*
- 70.7 *Poor housekeeping, broken glass window and a broken door at the laundry was observed.*
- 70.8 *The tumble dryer air discharge pipe was found not sealed to stop the recirculation of the heat generated by the tumble dry.*



huk N.S

70.9 *Poor housekeeping was observed at the ladies change houses and there is no proof that the hygiene bins are being serviced.*

70.10 *Operations at the plant are running normal but no monitoring is done for airborne pollutants.*

71 In light of the above contraventions, the DMRE instructed the Company to (with immediate effect):

71.1 Halt the use of all the SCSRs that were not subjected to the annual performance testing.



71.2 Stop the use of the testing and calibration station which their calibration certificates dates had expired.

71.3 Withdraw the lamproom personnel from managing the SCSR and cap lamps.

71.4 Withdraw all employees who are exposed to airborne pollutants and exposure monitoring is not done.

72 A true copy of the Section 54 Notice is annexed hereto marked "FA8".

73 The applicants have been made aware that the suspension to mining activities has been uplifted by the DMRE. The failure of the BRP, however, to ensure the Company's compliance with its statutory obligations as outlined in the statutory notice above, a failure identified by the regulatory authorities that has led to the issuance of a notice in

Amk *NS*

terms of section 54, is another instance of incompetence and/or failure to exercise the degree of care required in his performance of his duties.

74 The applicants also became aware that a mining right for Strathrae mineral area which is adjacent to the Arnot OpCo Mine that was meant to have been transferred to the Company pursuant to a Transfer of Business Agreement between the Company and Exxaro Resources Ltd was never transferred to the Company and remains part of the Strathrae mineral area.

75 In terms of the Transfer of Business Agreement, certain portions of the land of the Strathrae mining area were to be transferred to the Company and as a result, the mining right attaching to those portions of land was to be excluded from the Strathrae mining right and incorporated to the mining right of the Company's property.



76 The Company had launched an application in terms of section 102 of the Mineral & Petroleum Resources Development Act, 2002, to exclude a portion of the Strathrae mineral area from the primary Strathrae mining right and to include it into the Company's mining right. On 6 August 2021, the Regional Manager in the Mpumalanga Region of the Department of Mineral Resources acknowledged receipt of the application dated 19 May 2021 with reference number MP30/5/1/2/2/328MR and MP30/5/1/2/2/325MR. A true copy of the letter is annexure "FA9" hereto.

77 That application however was never finally approved. As a result, on 4 August 2023, the BRP and Company submitted a re-application for consent in terms of section 102 of the MPRDA to include the Strathrae properties into the Arnot Mining Right. I attach hereto

Handwritten signature: Luk N.S.

marked "FA10" an undated letter from the Regional Manager of the Department of Mineral Resources acknowledging receipt of the renewal application.

78 On 3 June 2023, Strathrae Colliery Pty Ltd informed the BRP and members of the board of the Company that the Strathrae mining right transferred to Strathrae Colliery Pty Ltd includes portions of land that was meant to have been transferred to the Company.

79 On 5 June 2024, the interim Chief Executive of the Company, Enos Lentsoane sent a letter to the DMRE purporting to object to the incorporation of land and mining rights belonging to Company, to a mining right of Strathrae. The letter refers to the section 102 application submitted by the Company, in collaboration with Exxaro Resources Ltd and requests the DRME to exclude those listed portions of land from the Strathrae mining right.



80 The applicant has been made aware that the Company, under the supervision and management of the BRP, failed to take steps to ensure the finalisation of the section 102 application submitted to the DRME for approximately a period of a year. Apart from the letter of 5 June 2024, there is no other indication that the Company and the BRP had been following up on the approval of the section 102 application and consequently the Strahrea mining right now also includes property belonging to the Company.

81 I am advised that the BRP has failed to take steps to address the situation with Strathrae Colliers Pty Ltd or legal action to compel the DRME to approve the section 102 application. The status of the application is unknown to the applicants.

Enk NS

- 82 The BRP has not shown a duty of care, skill and diligence that a reasonable director would have done in the same position, being to keep a close eye on the Company's section 102 application and ensure that the application to amend the Strathrae mining right to exclude those portions of land that now belong to the Company is approved.

GROUND OF REMOVAL

Relevant statutory provisions

- 83 Section 139 of the Companies Act provides for removal and replacement of a BRP and provides as follows, in relevant parts:



"The practitioner may be removed only by

(a) a court order in terms of section 130; or

(b) as provided for in this section.

(2) Upon request of an affected person, or on its own motion, the court may remove the practitioner from office on any of the following grounds –

(a) incompetence or failure to perform the duties of the business rescue practitioner of the particular company;

(b) failure to exercise proper degree of care in the performance of the practitioner's functions;

...

(3) The company, or the creditor who nominated the practitioner, as the case may be, must appoint a new practitioner if the practitioner dies, resigns or is removed from office, subject to the right of an affected person to bring a fresh application in terms of section 130(1)(b) to set aside the appointment."

huk NS

- 84 Section 140(3)(b) of the Companies Act provides that during a company's business rescue proceedings, the practitioner has the responsibilities, duties and liabilities of a director of the company, as set out in sections 75 to 77.
- 85 Section 76(3)(b) of the Companies Act places a duty on a director of the company and, for the present purposes, a business rescue practitioner, when acting in that capacity, to exercise powers and perform functions of the BRP –
- 85.1 in good faith and for a proper purpose;
- 85.2 in the best interests of the company;
- 85.3 with the degree of care, skill and diligence that may reasonably be expected of the person –
- 85.3.1 carrying out the same functions in relation to the company as those carried out by the director; and
- 85.3.2 having the general knowledge, skill and experience of the director.



The BRP's conduct

- 86 The manner in which the BRP managed the affairs of the Company has shown a degree of incompetence and failure to perform the duties of a BRP of the Company. Upon his appointment as BRP, the first respondent took over the full management control of the

huk N.S.

Company in substitution of its board and pre-existing management as contemplated in section 140(1)(a) of the Companies Act.

- 87 The BRP took over the management of all contracts of the Company and importantly, the CSA which is the single largest source of revenue for the Company. It is clear from the business rescue status reports prepared by the BRP that he was aware that the appointment of third party coal suppliers to Eskom in terms of the rectification strategies were to be approved by Eskom. Eskom reserved the right to approve such suppliers in terms of the provisions of the Coal Supply Agreement.
- 88 The BRP, however, proceeded to appoint, alternatively allowed the appointment, of a source not approved by Eskom to supply coal to Eskom. Eskom raised this issue with the BRP and provided the BRP and the Company with details of the unauthorised coal supplier.
- 89 Eskom further raised the breach of contract in the breach notice and granted the BRP an opportunity to remedy the breach by simply ceasing to source and supply coal from the unauthorised supplier. A competent BRP exercising a proper degree of care in the performance of his functions would not have, firstly, acted in a manner that breached the CSA by appointing an unauthorised and unapproved coal supplier and, secondly, failing to comply with the breach notice in taking simple steps to cease with sourcing coal from the unauthorised supplier.
- 90 The BRP ought to have appreciated that the CSA with Eskom is the singular most important contract for the survival of the Company and its sole remaining opportunity to succeed in rescuing and rehabilitating the Company. The Company could not afford to



huk N.S.

lose that contract. The BRP was fully aware that the cancellation of the CSA would lead to the liquidation of the Company.

- 91 The termination of the CSA is undoubtedly catastrophic to the life of the Company. Without this agreement, the Company will lose hundreds of millions rands in revenue per month. The Company employs over 1500 employees (full time and those from the service providers) who will lose their jobs. The Company will simply not be able to trade out of business rescue and will ultimately be liquidated.
- 92 The liquidation of the Company will further result in its creditors, including the applicants, receiving far less value in the dividend share. The destruction of the Company as a result of the termination of the CSA will likely also have an impact on the supply of coal to Eskom and the generation of electricity in the country.
- 93 It is in the interest of all stakeholders and creditors that the Company continues to trade. There is still a term of six years remaining of the CSA. There are still large amount of coal to be mined by the Company at the operations and the Company can only optimize the value of the coal under the CSA with Eskom. The demise of the Company can be avoided if the CSA is reinstated with Eskom and the business rescue continues under the watch of a different and competent BRP.
- 94 The Company has now been placed in a position where its most important contract has been terminated because of the BRP's conduct. Eskom now has a claim of damages in the amount of R262,328,534.33 against the Company as a result of the cancellation of the CSA. The BRP thus failed to exercise a proper degree of care in performing his



Handwritten signature: hsk NS

functions in that there is now an additional claim against the Company that is already under financial distress.

95 Furthermore, the mine was issued with statutory notices suspending operations because of non-compliances with requirements of MHA, and further lost a right to mine on portions land belonging to it in terms of a sale of a business agreement with Exarro Resources Ltd. All of this occurred under the watch and supervision of the BRP in managing the affairs of the Company.

96 The applicants are affected persons contemplated in section 139 of the Companies Act and are entitled to approach the Court for the removal of the BRP. The applicants submit that the facts set forth above establish a justified basis for the court to exercise its discretion in favour of removing the first respondent as BRP of this Company so that the business rescue of the Company can have better prospects of success.



97 Wescoal wishes to nominate a replacement BRP, being Refilwe Ndlovu, her profile is attached herewith for ease of reference and marked "FA11".

98 The nominated practitioner will provide her consent to her appointment as a business rescue practitioner of the Company in due course and same will be made available to the Court prior to the hearing of the application.

NOTICE TO AFFECTED PERSONS

99 The Company has an extensive contingency of affected persons listed in annexure "A" to the Notice of Motion. I am advised that a copy of this application will be duly served

Ref N.S

on the affected persons of the Company listed in the aforementioned annexure and a service affidavit by a representative of MHA shall be filed with this Honourable Court regarding the manner and proof of service of this application.

100 Section 145(1)(b) provides that each creditor is entitled to participate in any court proceedings arising during the business rescue proceedings. The applicants shall cause for all known creditors of the Company to be notified of this application by email transmission to each creditor at the last known email address.

101 This application will further be served on other affected persons such as registered trade unions and employees of the Company through email transmission, and where possible, by Sheriff of the Court.



WHEREFORE the applicants pray for the relief set out in the Notice of Motion to which this affidavit is attached.

Rulani

DEPONENT

I hereby certify that the deponent knows and understands the contents of this affidavit and that it is to the best of the deponent's knowledge both true and correct. This affidavit was signed and sworn to before me at Sandton on this the 9th day of January, 2025, and that the Regulations contained in Government Notice R.1258 of 21 July 1972, as amended by R1648 of 19 August 1977, and as further amended by R1428 of 11 July 1989, having been complied with.

NS

Nomonde

COMMISSIONER OF OATHS

Full names: *Nomonde Shelembe*

Address: *85 Western Service, Sandton*

Capacity: *practising attorney.*

NOMONDE SHELEMBE
COMMISSIONER OF OATHS: Ex OFFICIO
PRACTISING ATTORNEY: R.S.A.
85 WESTERN SERVICE ROAD
WENDYWOOD, SANDTON, 2090



Sub 1

NS

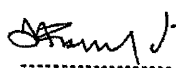
0001-3

"FA 1"



IN THE HIGH COURT OF SOUTH AFRICA,
GAUTENG LOCAL DIVISION, JOHANNESBURG

CASE NO: 2022/13485

(1)	REPORTABLE: NO
(2)	OF INTEREST TO OTHER JUDGES: NO
(3)	REVISED.
10 October 2022	
DATE	SIGNATURE



In the matter between:

WESCOAL MINING (PROPRIETARY) LIMITED
(Registration No: 1999/005845/07)

Applicant

and

ARNOT OPCO (PROPRIETARY) LIMITED
(Registration No: 2019/072282/07)

First Respondent

COMPANIES AND INTELLECTUAL PROPERTY COMMISSION

Second Respondent

LEGARE MINING SERVICES (PROPRIETARY) LIMITED

Third Respondent

MAN MINING AND BUSINESS IMPROVEMENT CONSULTANTS (PROPRIETARY) LIMITED


Fourth Respondent

ARNOT INVESTCO (PROPRIETARY) LIMITED

Fifth Respondent

MMAKGOGE GROUP CC

Sixth Respondent

 0001-3
MS

JUDGMENT

CRUTCHFIELD J:

[1] The applicant, Wescoal Mining (Proprietary) Limited ('Wescoal'), a registered company engaged in mining operations, brought this application by way of urgency to place the first respondent, Arnot OpCo (Proprietary) Limited, ('ArnotOpCo') under temporary business rescue and supervision.



[2] Wescoal is wholly owned by Salungano Group Limited ('Salungano'). Wescoal qualified itself as a creditor of Arnot OpCo and an 'affected person', entitling it to bring the application.

[3] The second respondent is the Companies and Intellectual Property Commission ('CIPC'), against which no relief was sought.

[4] The third respondent is Legare Mining Services (Pty) Ltd ('Legare'), a creditor of Arnot OpCo, against which no relief was sought.

[5] The fourth respondent is MAN Mining and Business Improvement Consultants (Pty) Ltd ('MAN Mining') against which no relief was sought and in respect of which there was no appearance.

[6] On 30 August 2022, I granted an order joining the first intervening party, Arnot InvestCo (Proprietary) Limited ('InvestCo') and the second intervening party,

0001-4

NS

Mmakgoge Group CC ('Mmakgoge'), to the main application as the fifth and sixth respondents respectively.

[7] InvestCo's 50% shareholder, Innovators Resources (Pty) Ltd ('Innovators') comprised a consortium of employees, former employees of Exxaro Resources Limited ('Exxaro').

[8] Wescoal and InvestCo each hold a 50% shareholding in Arnot HoldCo (Pty) Ltd ('Arnot HoldCo'), the holding company of Arnot OpCo. The latter operates as a joint venture between Wescoal and InvestCo,

[9] Wescoal sought the following relief urgently:

- 9.1 Placing Arnot OpCo under temporary supervision and commencing business rescue proceedings in terms of s 131(1) of the Companies Act, 71 of 2008 (the 'Act'); and
- 9.2 Appointing Mr Phahlani Lincoln Mkhombo as the interim business rescue practitioner of Arnot OpCo in terms of s 131(5) of the Act.

[10] The respondents all opposed the alleged urgency of the application, arguing that the urgency was self-created and that the application was set down on 30 August 2022 due to Legare's liquidation application being set down on the same date. Furthermore, the respondents contended that the factors that led to Arnot OpCo's financial position had been ongoing since the end of 2021 or thereabouts and that the application ought to be struck from the roll due to a lack of urgency.



huk 0001-5
NS

[11] The respondents all argued that Wescoal did not comply with the requirements of s 131(2)(b) of the Act and that the application ought to be struck from the roll according to InvestCo or dismissed with costs according to Mmakgoge

Notice to affected persons.

[12] Notification of the application is a statutory requirement in terms of s 131(2)(b). The "prescribed manner" is specified by regulation 124 of the Act.

[13] An applicant must demonstrate that all 'reasonable steps have been taken to establish the identity of the affected persons and their addresses to which the relevant notices are to be delivered'.¹ The requirement of notification to each affected person is not merely procedural but a substantive requirement of the application.²



[14] The respondents all contended that Wescoal failed to comply with the requirement of notice to all affected persons in that it failed to include proof of delivery of the application to each affected person. I deal with the arguments below.

Urgency.

[15] Wescoal relied primarily on the alleged inherently urgent³ nature of business rescue proceedings for its urgency.

¹ *Engen Petroleum Ltd v Multi Waste (Pty) Ltd & Others* 2012 (5) SA 596 (GSJ) at para [24] ('Engen Petroleum').

² *Taboo Trading 232 (Pty) Ltd v Pro Wreck Scrap Metal CC; Joubert v Pro Wreck Scrap Metal CC & Others* 2013 (6) SA 141 KZP at para [11.3] ('Taboo').

³ *Shiva Uranium (Pty) Ltd (in business rescue) v Tayob* 2022 (3) SA 432 (CC) at para [55] ('Shiva'); *Diener NO v Minister of Justice and Correctional Services* 2019 (4) SA 374 (CC) at para [38].

0001-6
huf
 1/5

persisted for some time, it deteriorated progressively to the prevailing intolerable position and required urgent intervention by way of this application.

[20] Counsel for Legare submitted that business rescue proceedings could be instituted post-liquidation. I accept that that is correct but once a liquidation order is granted, Arnot OpCo's position changes fundamentally. The destruction of value in Arnot OpCo, uncertainty for the employees, the potential loss of employment and financial insecurity *inter alia* will result from liquidation.

[21] Wescoal alleged that the underlying reason for Arnot OpCo's alleged financial distress was its governance failure, resulting in Wescoal's progressively aging creditors' position worsening. Arnot OpCo was in critical need of funding in order to stabilise those creditors and thus ensure a continuous supply of goods and services to Arnot OpCo. Approximately R48 million was required to fund Arnot OpCo's critical services.



[22] InvestCo's attorneys of record, on 29 August 2022, directed correspondence to Wescoal's attorneys setting out reasons why the application did not require determination urgently during the week of 30 August 2022 and why the respondents should not be prejudiced by the extremely limited time periods afforded to them. InvestCo's attorneys undertook to approach the Deputy Judge President of this Division jointly with Wescoal, for the allocation of a date in respect of the matter as a special motion. Wescoal rejected the suggestion.

[23] InvestCo's approach in this regard was cogent and well-founded. The difficulty, however, is that special motion dates are not available until the first term of 2023.

[24] Arnot OpCo supplies coal to Arnot Power Station for the production of electricity by Eskom. Disruption in the production and supply of coal to Arnot Power Station is a

0001-8 NS
huk

matter of concern to me given the prevailing shortage of electricity being experienced by South Africa and the massively adverse impact thereof on the economy.

[25] Whilst Wescoal referred to two existing applications for liquidation brought by creditors to date, Arnot OpCo's aging creditors and progressively worsening financial plight means that additional liquidation applications should be expected, imperiling attempts to stabilise Arnot OpCo.

[26] Furthermore, Arnot OpCo's executive committee furnished a memorandum to the effect that this application was of an urgent nature in the light *inter alia* of Arnot OpCo's funding shortfall of R37.4 million as at 29 August 2022. InvestCo's funding proposal dated 28 June 2022,⁵ for funding of R100 million for Arnot OpCo, concluded with a statement that it was important that Arnot OpCo received the required funding as a matter of urgency. I mention that the latter funding proposal had since lapsed.



[27] There was no apparent end in sight to the disputes between Arnot OpCo's shareholders or those crippling the board of directors, and the delay in resolving Arnot OpCo's funding issues all contributed to the urgency of the application.

[28] The former employees of the mine, being the body of investors holding shares in InvestCo, should not be prejudiced by a liquidation.

[29] Accordingly, this is an appropriate case in which to avoid the strict application of this Court's rules on urgency in order to preclude prejudice to those having an interest in the ongoing operation of Arnot OpCo.⁶

⁵ CaseLines 003-195.

⁶ *Matshazi v Mezepoli Melrose Arch (Pty) Ltd* (2021) 42 ILJ 600 (GJ) at para [78].

0001-9
N.S.

[30] In the circumstances, I find that this matter is urgent and I intend to deal with it accordingly.

The requirements of Business Rescue.

[31] Section 128(1)(b) provides that 'business rescue' means to facilitate the 'rehabilitation' of a company that is financially distressed.

[32] Section 131(4)(a)(i) of the Act provides that for a company to be eligible for supervision and the commencement of business rescue ('business rescue'), it must be financially distressed and there must be a reasonable prospect of rescuing the company.



[33] Section 128(1)(f) of the Act defines 'financially distressed' as envisaged in s 131(4)(a)(iii) of the Act, as meaning that:

33.1 It appears to be reasonably unlikely that the company will be able to pay all of its debts as they fall due and payable within the immediately ensuing six-month period; or

33.2 If it appears to be reasonably likely that the company will become insolvent within the immediately ensuing six months.

[34] The requirement that there be a reasonable prospect of 'rescuing the company'⁷ in order that it be eligible for business rescue, means a reasonable prospect of 'the company continuing in existence on a solvent basis' or 'if that is not possible, achieving

⁷ Section 131(4)(a) of the Act.

a better return for the company's creditors or shareholders than would result from the immediate liquidation of the company'.⁸

[35] If it appears from the outset that only an improved return will be achieved from the business rescue process, that is sufficient to meet the test of a 'reasonable prospect' in terms of the Act.

[36] A 'reasonable prospect'⁹ of rescuing the company means less than a 'reasonable probability' but more than a '*prima facie* case or arguable possibility, and the prospect has to be based on reasonable grounds' – speculative suggestions being insufficient. However, a detailed (business rescue) plan is not required.¹⁰ The applicant must establish 'reasonable grounds,' a factual foundation for the existence of the reasonable prospect that the desired object can be achieved'¹¹ must be set out in the founding papers.



[37] InvestCo argued that Arnot OpCo was not financially distressed and should not be experiencing a funding shortfall. Arnot OpCo was supported by stakeholders with access to significant funds that could (and should) be used to fund Arnot OpCo. In particular, Innovators secured funding of R250 million from a leading South African bank for the benefit of Arnot OpCo ('Innovators' funding of R250 million"). Importantly for the purposes of this application, the terms and conditions of Innovators' funding of R250 million were confidential and not disclosed to the Court.

⁸ *Oakdene Square Properties (Pty) Ltd and Others v Farm Bothasfontein (Kyalami) (Pty) Ltd and Others* 2013 (4) SA 539 (SCA) ('*Oakdene*'); S 128(1)(b)(iii) of the Act.

⁹ Section 131(4)(a) of the Act.

¹⁰ *Oakdene* note 8 above at paras [29] – [31].

¹¹ *Prospect Investments (Pty) Ltd v Pacific Coast Investments 97 Ltd & Another* 2013 (1) SA 542 (FB) para [11] as quoted in *Oakdene* at para [30].

0001-11

huk *MS*

[38] Eskom was involved in funding Arnot OpCo in the hundreds of millions and Salungano, in a proposal dated 14 July 2022, undertook to make post-rescue funding of R150 million available for Arnot OpCo. The latter was subject to the resolution of the governance issues at Arnot OpCo that allegedly could only be achieved by Arnot OpCo being placed under supervision and the commencement of business rescue proceedings.

[39] The issue of shareholder funding of Arnot OpCo in terms of its memorandum of incorporation was undergoing expedited arbitration. Those proceedings, however, were at an early stage. Both Wescoal and InvestCo had made proposals regarding the identity of arbitrators to be appointed but there was no certainty as to when those proceedings would be finalised or that they would be completed within sufficient time to permit funding under the MOI to flow to Arnot OpCo.



[40] InvestCo's submission that Arnot OpCo should not be financially distressed was correct, as was the submission that the prospect of business rescue was proposed on behalf of Wescoal in November 2021 as an alternative to business rescue. However, the proposed shareholder funding from InvestCo and Salungano had not materialised in the interim notwithstanding Arnot OpCo's critical need as long ago as June 2022.

[41] Notwithstanding the alleged financing available to Arnot OpCo from its shareholders, the fact remained that the dispute in respect of shareholder funding in terms of the MOI, the disputes between the shareholders as well as those paralysing Arnot OpCo's board of directors were precluding Arnot OpCo from receiving the funding that it required.

[42] The funding from InvestCo was not forthcoming and I was not made aware of when or the conditions under which that funding would be made available to Arnot

0001-12
Handwritten signature
 N.S.

InvestCo's failure, whatever their respective reasons, to make the required funds available to Arnot OpCo, together with the uncertainty of the expedited arbitration process, In the circumstances, Arnot OpCo meets the requirements of s 131(4)(a)(1) red together with s 128(1)(f)(i) and (ii) of the Act.

[49] Accordingly, I find that Arnot OpCo is in financial distress.

[50] The next requirement for consideration is whether or not Arnot OpCo is capable of being rescued.

[51] Arnot OpCo has a product, lots of product, that is much in demand. Arnot OpCo also has a buyer, Eskom. In the event that Arnot OpCo receives the funding that it requires and stabilises its governance and operations, there is a reasonable prospect of it being returned to solvency



[52] Wescoal submitted that the source of Arnot OpCo's financial distress was the mismanagement of funds and operations at the mine. Furthermore, that the appointment of a business rescue practitioner together with Salungano's capital injection of R150 million in post-commencement funding, would resolve the cause of Arnot OpCo's financial distress.

[53] None of the respondents contended that Arnot OpCo, given its vast coal reserves and Eskom an ever ready customer, could not be rescued if it received the required funding injection and stabilised its operations and governance. Finance options in addition to Salungano's tender of R150 million, were being finalised by Arnot OpCo.

0001-14

Handwritten signature NS

[54] Legare and Mmakgoge's counsel both submitted that Salungano's funding offer was nothing but a *spes*. If that is so and the funding does not transpire, then Arnot OpCo will, in all probability, be wound up.

[55] Wescoal contended that the resolution of Arnot OpCo's governance issues would be achieved by the appointment of a business rescue practitioner and lead to improved coal production and sales to Eskom, resulting in greater profits to Arnot OpCo.

[56] Wescoal's plan set out the methodology behind resolving Arnot OpCo's alleged governance issues, including reviewing policies, processes and control mechanisms, developing such processes where required and undertaking an internal audit into Arnot OpCo. The overall improvement of operations and coal production was included in the plan as well as engaging with Arnot OpCo's service providers and creditors.



[57] Legare justifiably criticised the proposed plan as vague and argued that business rescue proceedings are not intended to, and, are not able to resolve circumstances such as the acrimony and absence of cooperation between Wescoal and InvestCo. Time may well prove Legare's counsel correct.

[58] Wescoal's plan was indeed somewhat vague and lacking in detail. However, in the event that a business rescue practitioner fleshes out the details of the broad principles submitted by Wescoal and executes the plan accordingly, then there are grounds for a reasonable prospect of Arnot OpCo's restoration as a solvent entity.¹³ Furthermore, if Arnot OpCo receives the required funding and stabilises its creditors, that will serve as a sound first step towards returning Arnot OpCo to solvency.

¹³ *Oakdene* note 8 above at para [29].

[59] The proposed plan will allow Arnot OpCo sufficient 'breathing space' as envisaged in business rescue proceedings.¹⁴

[60] Wescoal relied on s 140(1) of the Act, which vests the appointed business rescue practitioner with the powers of management and the board, providing a means by which to deal with the alleged corruption and financial mismanagement at Arnot OpCo, including either renegotiating or cancelling contracts not in Arnot OpCo's interests and reducing costs.

[61] Insofar as Wescoal's proposed business rescue plan addressed the cause of Arnot OpCo's distress and proffered a remedy; the proposed plan is sufficient and provides a basis for a reasonable prospect of Arnot OpCo's rescue.¹⁵



[62] Additionally, given that the likely return to creditors and shareholders in the event of an immediate liquidation is expected to be minimal, being only a few cents in the rand, and that Wescoal's plan, if implemented, will facilitate a better than minimal return for creditors and shareholders, that improvement is sufficient to meet the test of Arnot OpCo being capable of rescue.

[63] Accordingly, I find that there is a reasonable prospect of rescuing Arnot OpCo,

Notice.

¹⁴ *Chetty t/a Nationwide Electrical v Hart NNO* 2015 (6) SA 424 (SCA) at para [29]; *Airports Co SA Ltd v Spain NO* 2021 (1) SA 97 (KZD) at para [2].

¹⁵ *Southern Palace Investments 265 (Pty) Ltd v Midnight Storm Investments 386 Ltd* 2012 (2) SA 423 (WCC).

0001-16 NS
[Handwritten signature]

[64] All of the respondents raised the issue of notice to affected persons in terms of s 131(2) of the Act and referred to Wescoal's alleged failure to 'notify each affected person of the application in the prescribed manner'.¹⁶

[65] I did not understand the respondents' arguments to be that the affected persons ought to have been joined as parties to the application but that Wescoal did not meet its obligations to notify the affected persons as required. The respondents contended that Wescoal's failure to disclose the identities, addresses and values of the creditors' claims, resulted in the notification being insufficient.

[66] The service and notification requirements of s 131(2) are not merely procedural but constitute substantive requirements.¹⁷ Strict compliance¹⁸ is required in order to prevent abuse of business rescue proceedings. 'The use of business rescue proceedings to delay a winding-up, or to afford an opportunity to those who were behind its business operations not to account for their stewardship, should not be permitted'.¹⁹

[67] Section 131(2) required service of the application by the sheriff on the company, Arnot OpCo, and the CIPC²⁰ and that Wescoal took all reasonable steps to identify the affected persons and their addresses and to notify them of the application in the prescribed manner.²¹



¹⁶ Section 131(2) of the Companies Act, 71 of 2008.

¹⁷ *Lutchman NO v African Global Holdings (Pty) Ltd* 2022 (4) SA 529 (SCA) at para [39] ('Lutchman') with reference to *Taboo* note 2 above.

¹⁸ *Lutchman* id.

¹⁹ *Van Staden NO & Others v Pro-Wiz Group (Pty) Ltd* 2019 (4) SA 532 (SCA) ('Pro-Wiz Group') at para [22]; *Lutchman* id; *Engen Petroleum Ltd v Multi-Waste (Pty) Ltd* 2012 (5) SA 596 (GSJ) ('Multi-Waste') at para 24.

²⁰ *Lutchman* id; *Pro-Wiz Group* id.

²¹ *Rogal Holdings (Pty) Ltd & Another v Victor Turnkey Projects (Pty) Ltd* [2022] ZAGPPHC 167 (28 March 2022) ('Rogal Holdings') at para [11].

0001-17

N.S

Handwritten signature

[68] Section 131(2)(b) of the Act specifies the prescribed manner of notification to affected persons.²² Regulation 124 provides for notification in terms of regulation 7.

[69] Wescoal was obliged to satisfy this Court that it had taken all reasonable steps to identify the affected persons and their addresses and to notify them of the application in terms of regulation 7.²³

[70] Wescoal furnished a service affidavit setting out the steps taken by it to identify and notify the affected persons as required.

[71] Arnot OpCo's counsel contended that Arnot OpCo did not receive the application. However, the service affidavit demonstrated that the sheriff served the application on Arnot OpCo at the company secretary and at the registered address on 12 August 2022 and at its principal place of business 16 August 2022. Service on the CIPC by the sheriff took place on 11 August 2022.



[72] Wescoal obtained a list of the identities of Arnot OpCo's creditors together with their last known electronic mail addresses from Arnot OpCo. Wescoal's attorney of record stated in terms of the service affidavit, that it transmitted by way of electronic mail ('email') to each creditor at the last known email address of each, a copy of the application. Wescoal disclosed the list of creditors' names to which the application was transmitted. The last known email address of each creditor was not included. Proof of the email transmission to each of the more than 600 names was not disclosed but was tendered by Wescoal to the court.

²² *Multi-Waste* note 19 above at paras [19] – [24].

²³ *Multi-Waste* id; *Lutchman* note 17 above at para [41]; *Rogal Holdings* id.

0001-18

huk

N.S

[73] Wescoal contended that the provisions of the Protection of Personal Information Act 4 of 2013 ('POPIA'), precluded it from furnishing the names and the email addresses of the specific persons to whom notice was given. Wescoal did not refer to the section of POPIA upon which it placed reliance.

[74] InvestCo correctly referred to s 6(1)(e) of POPIA that provides that POPIA 'does not apply to the processing of personal information ... relating to the judicial functions of a court referred to in s 166 of the Constitution.'

[75] POPIA defines 'processing' as including receiving, using, sharing and distributing personal information. The definition of personal information includes names, email and telephone addresses.



[76] The common law and the Constitutional rights of privacy remain applicable. They are not excluded by s 6(1)(e) of POPIA. In the light of my findings below, it is not necessary to deal further with these issues.

[77] Section 131(2) of the Act does not require disclosure of the email addresses or the identities of the specific persons to whom Wescoal transmitted the email enclosing the application on behalf of the affected persons. Wescoal's obligation²⁴ was to '(state) what steps, if any, were taken to identify affected persons and their addresses and to deliver the business rescue application to them in order for the high court to have considered whether all reasonable steps had been taken to identify affected persons and their addresses and to deliver the application to them.

[78] Wescoal's attorneys deposed to an affidavit setting out the steps taken by it to identify the affected persons and their addresses. Wescoal procured a list of the

²⁴ *Lutchman* note 17 above at para [41].

0001-19

N.S.
huk

creditors and their last known email addresses from Arnot OpCo and transmitted a copy of the application to each creditor at the given address. Wescoal demonstrated that it took all reasonable steps to identify all affected persons and their addresses and to notify them of the application. The absence of proof of the email transmission to each affected person, absent anything more, does not diminish Wescoal's compliance with the requirements referred to in *Lutchman*.²⁵

[79] Mmakgoge alleged that Wescoal informed the affected parties that it brought the application as a shareholder and not as a creditor. Accepting that that did indeed occur, Mmakgoge's averment demonstrated that notification of the application took place as required. The application itself stated that Wescoal acted as a creditor.



[80] There is no requirement that the values of the creditors' claims of be disclosed be disclosed by Wescoal.

[81] Service on Arnot OpCo's employees transpired by way of the sheriff on the principal door of the company's registered address and at the principal place of business by affixing it to the main entrances. Wescoal demonstrated that it took all reasonable steps to notify the employees of the application. Wescoal ascertained that Arnot OpCo's employees were not represented by any trade unions.

[82] Service of the application by the sheriff on Arnot HoldCo, the 90% shareholder of Arnot OpCo, at its registered address occurred on 19 August 2022.

[83] Service on the two trusts each holding 5% of Arnot OpCo was not possible as Wescoal was not in possession of the trust deeds. However, given that the trusts were employee benefit trusts and service of the application took place on the employees by

²⁵ *Lutchman* id.

0001-20

N.S.
huk

affixing at the main addresses of the principal place of business, that suffices as reasonable steps and meets the test.²⁶

[84] The steps taken by Wescoal were reasonable in the circumstances and complied with the requirements.

The identity of the business rescue practitioner.

[85] Wescoal, InvestCo, Arnot OpCo and Mmakgoge each nominated a business rescue practitioner to take up a joint appointment. No objection was raised by any one party to the proceedings against the Wescoal's proposed business rescue practitioner.



[86] Wescoal argued that s 131(5) of the Act did not permit the respondents to propose alternate business rescue practitioners as s 131(5) provides specifically for nomination by an applicant.

[87] InvestCo alleged and Wescoal denied that Wescoal's purpose in bringing the application was to achieve sole control of Arnot OpCo and not with the sole purpose of rehabilitating Arnot OpCo as required by the Act. I am not able to determine, in these urgent proceedings, whether or not that is correct. Whilst I considered a joint appointment of the three practitioners proposed by Wescoal, InvestCo and Arnot OpCo, the Act provides only for the appointment of an applicant's nominated practitioner.

[88] Section 131(5) of the Act provides for the appointment of a nominated business rescue practitioner by the affected person who applies for the order, being Wescoal. Section 128(1)(d) defines a business rescue practitioner as 'a person appointed or two or more persons jointly appointed in terms of the chapter'. Given the qualification of 'in

²⁶ *Rogal Holdings* note 23 above.

0001-21
N.S
Luk

terms of the chapter' read together with s 131(5) of the Act, it appears that a joint appointment of more than one practitioner is competent if the nomination of the joint appointment is made by the applicant affected person.

[89] Section 138 of the Act provides that a practitioner may only be appointed if they comply with the prescribed qualifications set out in s 138 of the Act. Wescoal only qualified its nominee accordingly.

[90] At this stage, the appointment is interim in nature and subject to ratification by those holding a majority of the independent creditors' voting interests at the first meeting of creditors.²⁷



[91] Accordingly, the applicant met the requirements for the grant of an order that Arnot OpCo be placed under supervision and business rescue and that Mr Phahlani Lincoln Mkhombo be appointed as interim business rescue practitioner to Arnot OpCo in terms of section 131(5) of the Act.

[92] As regards the costs of the application, they should follow the order on the merits. Accordingly, the costs of the application are in the business rescue application whilst the respondents should be ordered to pay the costs of the opposition jointly and severally the one paying the others to be absolved.

[93] By reason of the aforementioned, I grant an order in the following terms:

²⁷ Section 147 of the Act; *Shiva* note 3 above at para [24]; *African Banking Corporation of Botswana v Kariba Furniture Manufacturers* 2015 (5) SA 192 (SCA) at para [13].

0001-22

Handwritten signature
N.S.

1. Arnot OpCo (Proprietary) Limited ('the first respondent') is hereby placed under supervision and business rescue proceedings in terms of section 131(4) of the Companies Act, 71 of 2008 ('the Act').
2. Mr Phahlani Lincoln Mkhombo is appointed as interim business rescue practitioner to the first respondent in terms of section 131(5) of the Act with all the powers and duties entrusted to him in terms of the Act, pending ratification of such appointment by the creditors at their first meeting.
3. The costs of the application are costs in the business rescue application.
4. The respondents are ordered to pay the costs of the opposition to the application jointly and severally the one paying the others to be absolved.



[Handwritten signature]

**A A CRUTCHFIELD
 JUDGE OF THE HIGH COURT OF SOUTH AFRICA
 GAUTENG LOCAL DIVISION
 JOHANNESBURG**

Delivered: This judgment was prepared and authored by the Judge whose name is reflected and is handed down electronically by circulation to the Parties / their legal representatives by email and by uploading it to the electronic file of this matter on CaseLines. The date of the judgment is deemed to be 10 October 2022.

0001-23

[Handwritten signature] NS

COUNSEL FOR THE APPLICANT: Mr P Ngcongco.

INSTRUCTED BY: Edward Nathan Sonnenbergs Inc.

COUNSEL FOR THE FIRST RESPONDENT Mr T Moloi.

INSTRUCTED BY: Ram Attorneys.

COUNSEL FOR THE THIRD RESPONDENT Mr J C Viljoen.

INSTRUCTED BY: M C Steyn Inc.



COUNSEL FOR THE FIFTH RESPONDENT Mr V Maleka SC and Mr T Scott.

INSTRUCTED BY: Bowman Gilfillan Attorneys.

COUNSEL FOR THE SIXTH RESPONDENT: Mr A A R Marques.

INSTRUCTED BY: Goitseona Pilane Attorneys Inc.

DATE OF THE HEARING: 30 August 2022, 2 September 2022.

DATE OF JUDGMENT: 10 October 2022.

0001-24

Handwritten signature N.S.

"FA 2"

Mr Phahlani Mkhombo
 Business Rescue Practitioner Arnot Opco (Pty) Ltd (in business rescue)
 GCS House
 61 Akkerboom Street
 Zwartkop Ext4
 CENTURION
 0157

Dear Mr Mkhombo

CANCELLATION NOTICE IN TERMS OF CLAUSE 30.2 OF THE COAL SUPPLY AGREEMENT BETWEEN ARNOT OPCO (PTY) LTD AND ESKOM HOLDINGS SOC LTD – CONTRACT NUMBER 4600071242 – REF NUMBER 735013



1. We refer to Coal Supply Agreement entered into between Eskom Holdings SOC Ltd ("Eskom") and Arnot Opco (Pty) Ltd ("Arnot Opco"), for the supply of coal from Arnot Mine to Arnot Power Station commenced on 1 November 2021 ("CSA").
2. In terms of clause 7.4 of the CSA, Arnot OPCO agreed to supply and deliver approximately 200 000 tons of coal to Eskom monthly. Should Arnot Opco fail to supply the quantities of coal in terms of clause 7.4 of the CSA, this shall be regarded as an under delivery/supply. Clause 10 of the Terms and Conditions of Coal Supply in CSA, provides for the mechanisms to deal with events of Under Delivery by the Supplier.
3. Arnot Opco has undersupplied the quantities of coal for the period November 2021 to September 2023. Subsequently on 05 September 2023, Arnot Opco requested Eskom's approval to rectify the under supply of coal from Qualifying Alternative Coal from Uitspan Colliery. A due diligence of the Qualifying Alternative Coal (Uitspan Colliery) was conducted by the Eskom's Primary Energy ("PED") Technical team regarding Arnot Opco's request and Eskom approved the request, with road coal deliveries commencing in October 2023 while also supplying coal from Arnot Opco underground operations..
4. In May 2024, Eskom was made aware of an unauthorised and unapproved source delivering coal to Eskom via Arnot Opco mine CSA. Arnot Opco was informed of the matter which it vehemently refuted indicating that the coal supplied to Eskom was sourced from the approved and authorised source. Eskom informed Arnot Opco that the matter will be investigated. After various engagements and apparent resistance from Arnot Opco, the requested information was shared with Eskom.

Primary Energy
 Megawatt Park Maxwell Drive Sunninghill Sandton
 PO Box 1091 Johannesburg 2000 SA
 Tel +27 11 800 5633 Fax +27 86 663 9855 www.eskom.co.za

Eskom Holdings SOC Ltd Reg No 2002/015527/30

Handwritten signature
 N.S.

CANCELLATION NOTICE IN TERMS OF CLAUSE 30.2 OF THE COAL SUPPLY AGREEMENT BETWEEN ARNOT OPCO (PTY) LTD AND ESKOM HOLDINGS SOC LTD – CONTRACT NUMBER 4600071242 – REF NUMBER 735013

- 5. The investigations conducted by Eskom revealed that Arnot Opco was indeed supplying coal from an unauthorised source. The information was shared with Arnot Opco. It is recorded that Eskom received 360 000 tons of coal amounting to R262 million from the unapproved and unauthorised source.
- 6. On or about 20 November 2024, Eskom issued a notice of breach in terms of clause 30.2 of the Standard Terms and Conditions of Coal Supply in CSA to Arnot Opco. The notice of breach informed Arnot Opco to stop the supply of coal from unapproved source with immediate effect and Eskom's intention to recover all monies paid to Arnot Opco for the supply of coal from unapproved and unauthorised source. Arnot Opco only acknowledged the receipt of the notice of breach but failed to rectify that breach. As on the 10th December 2024, it was brought Eskom's attention that Arnot Opco is still sourcing coal from an unauthorised rectification source and supplying same to Eskom under the CSA.
- 7. The supply of coal from unapproved and unauthorised source is in contravention of clause 1.1.42 of the Standard Terms and Condition of the CSA and Clause 3.2 of the Coal Quality management Procedure of the CSA.
- 8. Eskom hereby cancel the CSA in terms of clause 30.2.2 of the CSA, for contravention of clause 1.1.42 of the Standard Terms and Condition of the CSA and Clause 3.2 of the Coal Quality management Procedure of the CSA. This notice of cancellation shall take effect from the date of despatch.
- 9. As a result of the breach of Arnot Opco's obligations under the CSA, Eskom has suffered damages in the amount of R 262 328 534.33 which is amount is due and payable to Eskom by Arnot OPCO.



Nothing stated or omitted from this letter shall prejudice Eskom's rights, which remain fully reserved.

Yours sincerely

John Mamabolo
SENIOR MANAGER: COAL OPERATIONS
Date: 27.12.2024

"FA 3"

▪ MKHABELA HUNTLEY ATTORNEYS INC ▪

To: Genesis Corporate Solutions

30 December 2024

Attention: Mr. P.L Mkhombo

Our Reference:
SAL4/0007/EE/Bg

Email: arnotopcoabr@gcs-sa.co.za

And To: Mr. Enos Lentsoane

Email: enos@arnotopco.com

And To: Ms. B. Aphane

Email: bontle@innovatorsresources.co.za

Dear Sir,



RE: ARNOT OPCO (PTY) LTD (IN BUSINESS RESCUE) ("Arnot Opco") – LETTER OF DEMAND

1. As you are aware, we act on behalf of Wescoal Mining (Pty) Ltd (in business rescue) and Salungano Group Limited ("our clients") in relation to the above matter.
2. We are instructed as follows:
 - 2.1. our clients note the regular update reports provided by you, in your capacity as business rescue practitioner, in relation to the ongoing business rescue process of Arnot Opco (the "update reports");
 - 2.2. our clients have considered the update reports and are of the view that they do not provide sufficient detail in respect of various matters which have a material impact on the business rescue process and our clients' interests both in their capacities as creditors and shareholders of Arnot Opco;
 - 2.3. given the paucity of detail in the reports, our clients do not have the required level of insight into Arnot Opco's affairs to enable them to, *inter alia*, assess their exposure, any potential prejudice to their claims and other matters which could generally affect the body of creditors;
 - 2.4. in this regard, our clients have been made aware of the following developments which are a grave threat to the viability of Arnot Opco and our clients' interests:
 - 2.4.1. on or about 27 December 2024, Eskom transmitted correspondence to you in terms of which it stated, *inter alia*, as follows:
 - 2.4.1.1. investigations conducted by Eskom revealed that Arnot Opco was indeed supplying coal from an unauthorised source;
 - 2.4.1.2. in terms of the aforementioned investigations, Eskom contended that it had received 360 000 tons of coal amounting to R262 million from the

Company Registration No: 2000/029792/21

Directors: Lesia Mkhabela, Jackie Huntley, Jim Matemane, Dawn Norton, Ebrahim Enobar, Gwyn Mkhambane
Senior Associates: Refina Mlambo | Associates: Bianca Manonga, Mmasetshaba Tsele, Oorabla Nodilo
Consultant: Basl Mashobane. Luke Lagasse | Financial Manager: Motlwa Mqolofane | Office Manager: Nella Mungadi

☎ 011 783 8020 ✉ 011 783 3842 📧 enobar@mhalaw.co.za
🌐 www.mhalaw.co.za 📍 Block B, Wierda Court, 107 Johan Avenue, Sandton

Enobar NS

unapproved and unauthorised source, which constituted a breach of the Coal Supply Agreement concluded with Arnot Opco ("CSA");

- 2.4.1.3. Eskom delivered a notice of breach on or about 20 November 2024 in terms of which it required Arnot Opco to rectify the breach, which Arnot Opco failed to do;
 - 2.4.1.4. accordingly, Eskom thereby cancelled, with immediate effect, the CSA in terms of clause 30.2.2 of the CSA, for contravention of clause 1.1.42 of the Standard Terms and Condition of the CSA and Clause 3.2 of the Coal Quality management Procedure of the CSA; and
 - 2.4.1.5. as a result of the breach of Arnot Opco's obligations under the CSA, Eskom has suffered damages in the amount of R 262 328 534.33 which is amount is due and payable to Eskom by Arnot Opco.
3. The breach of the CSA through the undersupply of coal and delivery of unauthorised coal to Eskom, which was then compounded by your failure to rectify the breach despite being afforded an opportunity to do so by Eskom, all transpired under your stewardship. These incidents constitute, in our clients' view, clear instances of gross negligence in relation to the performance of your duties as business rescue practitioner.
 4. Given the fact that the CSA is the single largest source of revenue for Arnot Opco, the cancellation thereof constitutes a serious and existential threat to, among others, the viability of Arnot Opco, the business rescue plan, and threatens the ability of Arnot Opco to trade out of business rescue. As such, your tenure as business rescue practitioner has been plainly unsuccessful and your continued occupation of the role is likely to result in Arnot Opco failing to return to a healthy profitable position.
 5. In the circumstances, we are instructed to demand, which demand we hereby make, that you furnish our clients with your formal written resignation as business rescue practitioner of Arnot Opco by close of business on **2 January 2025**.
 6. Should you fail to comply with our clients' demand by the stipulated deadline, we hold instructions to institute urgent legal proceedings to protect our clients' interests including but not limited to an application for your removal as business rescue practitioner and the recovery of damages suffered by our clients.
 7. Our clients' rights are wholly reserved.



Yours faithfully,

Transmitted electronically herewith without signature

▪ **MKHABELA HUNTLEY ATTORNEYS INC** ▪

Per: Ehi Enabor / Mmasetshaba Taelo

Ehi Enabor *MS*
2

"FA 4"

Mmasetshaba Taele

From: Phahlani Mkhombo <phahlani@gcs-sa.co.za>
Sent: Thursday, 02 January 2025 16:50
To: Ehi Enabor
Cc: enos@arnotopco.com; bontle@innovatorsresources.co.za; Mmasetshaba Taele; Berlinah Gashula; Gareth Cremen; Moses Singo
Subject: Re: ARNOT OPCO (PTY) LTD (IN BUSINESS RESCUE) ("Arnot Opco") – LETTER OF DEMAND

Dear Mr Enabor,

We acknowledge receipt of your letter dated 30 December 2024, the content of which has been noted with keen interest.

We have forwarded your letter to our legal representative, Mr Gareth Cremen of Cox Yeats copied in this email. Mr Cremen will revert to you once he has considered your letter.

In the meantime, our rights remain strictly reserved.

Regards,



Phahlani Mkhombo
Managing Director
 B.Proc LLB, LL.M, Dip Insolvency & Practice,
 Adv Cert in Business Rescue

m. +27 (0) 83 - 206 - 0809
 t. +27 (0) 10 - 020 - 5044
 www.gcs-sa.co.za

GCS House, 61 Akkerboom Street, Zwartkop, Ext4,
 Centurion 0157
 P.O Box 12369, Hatfield, 0028



From: Ehi Enabor <enabor@mhalaw.co.za>
Sent: Monday, December 30, 2024 20:12
To: Phahlani Mkhombo <phahlani@gcs-sa.co.za>
Cc: enos@arnotopco.com <enos@arnotopco.com>; bontle@innovatorsresources.co.za <bontle@innovatorsresources.co.za>; Mmasetshaba Taele <masetshaba@mhalaw.co.za>; Berlinah Gashula <berlinah@mhalaw.co.za>
Subject: ARNOT OPCO (PTY) LTD (IN BUSINESS RESCUE) ("Arnot Opco") – LETTER OF DEMAND

Dear Sir,

We refer to the above matter in respect of which we act on behalf of Wescoal Mining (Pty) Ltd (in business Rescue) and Salungano Group Limited.

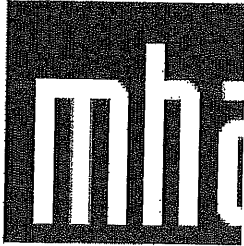
Please find attached herewith a letter for your urgent attention.

Yours faithfully,

Ehi Enabor
 Director

☎ 011 783 8020
 ☎ 011 783 3842

Handwritten signature and initials: Ehi Enabor NS



083 420 1260
enabor@mhalaw.co.za
www.mhalaw.co.za

Block B, Wierda Court, 107 Johan Avenue, Sandton

DISCLAIMER AND CONFIDENTIALITY: This document is confidential and issued only for the information of the addressee. If you are not the intended recipient, any viewing, disclosure, copying, or distribution is prohibited and may be unlawful. Should you have received this email in error, please notify us immediately by returning the email.

EXTREMELY IMPORTANT: Due to the risk of email related fraud, we will never notify you by email of any change to our bank account details. You should not act on an email purportedly from us changing our bank details, but kindly inform us immediately. Before depositing funds, please call the person responsible for your matter to verify that the bank account you have on record is a legitimate bank account of Mkhabela Huntley Attorneys Inc.



huk N.S

"FA 5"

that would maximise the likelihood of the Company being rescued and avoid liquidation.

7.5.10.3 The details of the Proposed Restructure are set out in paragraph 19 and 20.

8 TRADING ACTIVITIES FOLLOWING THE COMMENCEMENT DATE

- 8.1 The Company continued trading and remains operational. The Business Rescue process has provided an opportunity for the BRP to continue with the Business so as to preserve its goodwill through an effective moratorium in respect of all legal proceedings and claims against the Company. A failure of operations would have resulted in the financial collapse of the Company and an outcome detrimental to the interests of all stakeholders including Creditors and Employees.
- 8.2 The BRP's main focus has been to stabilise the Business in order to ensure that the Company continues with the business operations as normal without any disruptions, and that the economic value of the business is maintained, and that jobs are preserved.
- 8.3 Both Management and the BRP have continuously engaged with employees and critical suppliers, all of whom have expressed support to the Company. This is demonstrated largely, by the fact that service providers and other suppliers continued providing goods and services on the same terms and conditions that existed before the commencement of Business Rescue proceedings.
- 8.4 In order to maintain the solvency of the Company during this Business Rescue, the BRP continuously monitors cash flow and financial projections, performs regular bank reconciliations, controls payments and enforces general financial and operational controls.
- 8.5 The BRP and Management have identified and implemented a number of key strategic interventions and cost containment measures, which resulted in significant cost savings and at the same time improve operational efficiency.
- 8.6 The approval process for all expenditure has been rigorously policed.
- 8.7 As of the date of Publication, the Company remains trading and operational.



huk N.S



ARNOTOPCO

"FA 6.1"

TENTH 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

Contact us
011 513 3000
013 297 8008
talktous@arnotopco.com
www.arnotopco.com

Head Office
Spaces Broadacres
Willow Wood Office Park
Cnr 3rd Ave &, Cedar Rd,
Johannesburg, 2021

Physical Address
Farm Rietkuil 491 JS
Private Bag X3
Rietkuil
1097

Handwritten signature: Paul N.S.

Arnot Opco | Registration Number 2019/072282/07 | VAT Number 4640285690
Directors: Bontle Ivy Aphane | Mxolisi Hoboyi | Thivhafuni Tshithavhane | Enos Lentsoane

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. Court Case

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.

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.

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 business rescue plan ("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.

The application for leave to appeal was heard on 30 October 2023 in the High Court of South Africa, Gauteng Division, Johannesburg.

N.S.
huk

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:

- 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;
- The third respondent's application for interim execution is refused; and
- The costs of the application for leave to appeal, and the application for interim execution, will be costs in the appeal.

3. Operational Update and Business Rescue Initiatives

3.1. Operational Update

The Company continues to mine only from 11 shaft, producing coal from section 1 and section 2 which has been deployed at the south main panel ("SMD") area.



The Company is forecasting the following production for December 2023 and January 2024:

- **December 2023 (51 663 tons)**
 - ☞ Section 1: 29 784 tons
 - ☞ Section 2: 21 879 tons
- **January 2024 (70 750 tons)**
 - ☞ Section 1: 35 882 tons
 - ☞ Section 2: 34 928 tons

3.2. Business Rescue Initiatives

- 3.2.1. Rectification: The mine started with coal rectification supply through an Eskom Holdings SOC Ltd ("Eskom") approved source in October 2023 and is in the process of ramping up the rectification coal deliveries from the source to 50,000 tons in December 2023. Additional potential rectification sources are being engaged in an effort to accelerate the catch-up on the under-delivered tonnages to Eskom.
- 3.2.2. Toll Washing: In addition, the Company is in the process of securing clients for toll-washing purposes following the recent recommissioning of the DMS Wash Plant. The allocated capacity for third-party coal processing is 90,000 tons a month, and for the

Handwritten signature: N.S.

month of December 2023, the Company has received an order for 50,000 tons of toll washing, which order will increase to 90,000 tons in Q1 2024.

3.2.3. Mini Pits: The Company has been engaging surface rights owners of the identified opencast mini pits. The surface rights are amenable to concluding discussions with the Company pending the finalization of the ongoing commercial negotiations and granting the Integrated Water Use License over the properties. The latter is imminent. Additional drilling programme will be required on the properties, including the appointment of a contract miner.

4. Closing Remarks

- 4.1. The BRP will keep creditors and other affected persons abreast of any developments, should a need arise.
- 4.2. 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.
- 4.3. 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 (including the Applications) are available online at this link: <https://arnot-opco.com/business-rescue/>



Yours faithfully,

Phahlani Mkhombo
Business Rescue Practitioner
Arnot Opco Proprietary Limited (in Business Rescue)
11 December 2023



"FA 6.10"

ARNOTOPCO

NINETEENTH 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



Contact us
011 513 3000
013 297 8008
talktous@arnotopco.com
www.arnot-opco.com



Head Office
Farm Rietkuil 491 JS
Private Bag X3
Rietkuil
1097



Physical Address
Farm Rietkuil 491 JS
Private Bag X3
Rietkuil
1097

Handwritten signature: Lul N.S.

Arnot Opco (Pty) Ltd (In Business Rescue) | Registration Number 2019/072282/07 | VAT Number 4640285690
Directors: Bontle Aphane | Mxolisi Hoboyi | Thivha Tshilavhane
Enos Lentsoane (Interim CEO)



ARNOTOPCO

of the contract entered by the parties in November 2021, which contract was terminated by the contractor in March 2023 with a view to concluding an interim agreement with the mine. However, having considered and evaluated various factors since the commencement of the underground mining services, I issued a termination of services notice to the underground miner in December 2023, with a de-establishment date of 31 January 2024. The parties are still engaging through their legal representatives and further updates will be provided in due course.

3.1.3. Pursuant to the above, no underground tonnages were produced in December 2023 and only supply of coal through the rectification process was made to the Arnot power station, in terms of which 79 912 tonnes were delivered.



3.1.4. The termination of the underground mining services has necessitated the suspension and termination of some related services, and termination letters have been issued to the concerned service providers, and where services are retained, the mine has de-scoped such services significantly as a cost containment exercise while other strategic initiatives are being implemented.

3.1.5. Key stakeholders have been notified of this development, and to ensure the health and safety of the workings, as well as ensuring adequate care and maintenance during this interim period, the mine continues to monitor the workings through fire patrols and monitoring of pumping infrastructure as well as other support equipment. Further updates will be provided on the resumption of coal winning activities at 11 Shaft in due course.

3.2. Business Rescue Initiatives

3.2.1. Coal Rectification

The Company started with coal rectification supply in respect of the under-delivered tonnages through a qualifying alternative source in October 2023. During December 2023 *circa*.80 000 tonnes were delivered to Eskom from the rectification source, and



Contact us
011 513 3000
013 297 8008
talktous@arnotopco.com
www.arnot-opco.com



Head Office
Farm Rietkuil 491 JS
Private Bag X3
Rietkuil
1097



Physical Address
Farm Rietkuil 491 JS
Private Bag X3
Rietkuil
1097

Handwritten signature and initials: N.S.



ARNOTOPCO

the mine is in the process of implementing plant and logistics initiatives to ramp up rectification supply to approximately 100,000 tonnes for January 2024 and 150 000 tonnes for February 2024. Several potential rectification sources are being engaged and presented to Eskom for approval as the company continues to implement other strategic initiatives. The achievement of the above rectification tonnages, together with the cost containment initiatives will ensure that the mine is able to operate with minimal operational losses.

3.2.2. Third-Party Coal Processing

The Company has been engaging its coal handling and processing contractor to start up the DMS Wash Plant pursuant to the conclusion of a coal processing agreement with a third party i.e., toll washing agreement. The agreement contemplates a minimum of 50 000 tonnes a month of coal to be processed through the wash plant on a prepaid basis. First payment has been received and the plant processing contractor is preparing to start up the wash plant to kick start this initiative. The realised margin will be utilized to fund working capital requirements of the business. The current plant configuration can accommodate up to 90 000 tonnes a month.



3.2.3. Opencast Mining

There are mini/small opencast mining pits within the Arnot mining right that have been identified for mining through strategic partnerships with the surface right owners. Collectively, the pits comprise an estimated mineable reserve of between 5 million to 10 million tonnes. Management and I have been engaging the surface rights owners as a further means of generating additional income for Arnot. Other than the conclusion of commercial terms with the surface right owners, a key condition precedent for the mining of these pits was the granting of the Integrated Water Use License ("IWUL") by the Department of Water and Sanitation ("DWS"). The IWUL was awarded in December 2023, however, with exclusions on some of the targeted mini



Contact us
011 513 3000
013 297 8008
talktous@arnotopco.com
www.arnot-opco.com



Head Office
Farm Rietkuil 491 JS
Private Bag X3
Rietkuil
1097



Physical Address
Farm Rietkuil 491 JS
Private Bag X3
Rietkuil
1097

Handwritten signature and initials 'M.S.'



"FA 6.3"

ARNOTOPCO

TWELFTH 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



Contact us
011 513 3000
013 297 8008
talktous@arnotopco.com
www.arnot-opco.com



Head Office
Farm Rietkuil 491 JS
Private Bag X3
Rietkuil
1097



Physical Address
Farm Rietkuil 491 JS
Private Bag X3
Rietkuil
1097

huk NS

Arnot Opco (Pty) Ltd (In Business Rescue) | Registration Number 2019/072282/07 | VAT Number 4640285690
Directors: Bonile Aphane | Mxolisi Hoboyi | Thivha Tshilthavhane
Enos Lentsoane (Interim CEO)



ARNOTOPCO

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. You will recall that the application for leave to appeal was heard on 30 October 2023 in the High Court of South Africa, Gauteng Division, Johannesburg, and the judgment for leave to appeal and interim execution of the Business Rescue Plan ("Plan") was handed down on 31 October 2023.
- 2.2. The appeal process in the Supreme Court of Appeal ("SCA") remains pending and have not been finalised.
- 2.3. The parties have applied for an expedited date and agreed on dates to filing of their respective heads of argument. The affected persons will be advised once a date has been set for the hearing of the appeal.

3. Operational Update and Business Rescue Initiatives

3.1. Operational Update



Contact us
011 513 3000
013 297 8008
talktous@arnotopco.com
www.arnot-opco.com



Head Office
Farm Rietkuil 491 JS
Private Bag X3
Rietkuil
1097



Physical Address
Farm Rietkuil 491 JS
Private Bag X3
Rietkuil
1097

Handwritten signature and initials 'N/S'.



ARNOTOPCO

The Company signed the Mooifontein surface rights purchase agreement with Eskom in December 2023 on terms that allow the mine immediate access to the properties to commence with mining activities.

Pursuant to the above, there has been various engagements and discussions with key stakeholders and discussions are at an advanced stage with a potential party identified to mine the Mooifontein pits.

The Company has initiated a process of engaging the Department of Water and Sanitation ("DWS") on the amendment of the Integrated Water Use License ("IWUL") in respect of the mini/small pits.



4. Closing Remarks

- 4.1. The BRP will keep creditors and other affected persons abreast of any developments, should a need arise.
- 4.2. 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.
- 4.3. 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 (including the Applications) are available online on this link: <https://arnot-opco.com/business-resscue/>

Yours faithfully,



Contact us
011 513 3000
013 297 8008
talktous@arnotopco.com
www.arnot-opco.com



Head Office
Farm Rietkuil 491 JS
Private Bag X3
Rietkuil
1097



Physical Address
Farm Rietkuil 491 JS
Private Bag X3
Rietkuil
1097



ARNOTOPCO

Phahlani Mkhombo
Business Rescue Practitioner
Arnot Opco Proprietary Limited (in Business Rescue)
21 February 2024



Contact us
011 513 3000
013 297 8008
talktous@arnotopco.com
www.arnot-opco.com



Head Office
Farm Rietkuil 491 JS
Private Bag X3
Rietkuil
1097



Physical Address
Farm Rietkuil 491 JS
Private Bag X3
Rietkuil
1097

Handwritten initials/signature: N.S.

Arnot Opco (Pty) Ltd (In Business Rescue) | Registration Number 2019/072282/07 | VAT Number 4640285690
Directors: Bontle Aphane | Mxolisi Hoboyi | Thivha Tshithavhane
Enos Lenjisoane (Interim CEO)



"FA 6.3"

ARNOTOPCO

TWELFTH 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



Contact us
011 513 3000
013 297 8008
talktous@arnotopco.com
www.arnot-opco.com



Head Office
Farm Rietkuil 491 JS
Private Bag X3
Rietkuil
1097



Physical Address
Farm Rietkuil 491 JS
Private Bag X3
Rietkuil
1097

Handwritten signature and initials 'M.S.'

Arnot Opco (Pty) Ltd (In Business Rescue) | Registration Number 2019/072282/07 | VAT Number 4640285690
Directors: Bonille Aphane | Mxolisi Hoboyi | Thivha Tshihavhane
Enos Lentsoane (Interim CEO)



ARNOTOPCO

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. You will recall that the application for leave to appeal was heard on 30 October 2023 in the High Court of South Africa, Gauteng Division, Johannesburg, and the judgment for leave to appeal and interim execution of the Business Rescue Plan ("Plan") was handed down on 31 October 2023.
- 2.2. The appeal process in the Supreme Court of Appeal ("SCA") remains pending and have not been finalised.
- 2.3. The parties have applied for an expedited date and agreed on dates to filing of their respective heads of argument. The affected persons will be advised once a date has been set for the hearing of the appeal.

3. Operational Update and Business Rescue Initiatives

3.1. Operational Update



Contact us
011 513 3000
013 297 8008
talktous@arnotopco.com
www.arnot-opco.com



Head Office
Farm Rietkuil 491 JS
Private Bag X3
Rietkuil
1097



Physical Address
Farm Rietkuil 491 JS
Private Bag X3
Rietkuil
1097

NS
huk



ARNOTOPCO

The underground coal-winning activities at 11 Shaft are still on stoppage until termination discussions with the underground contractor are concluded, which will be followed by site de-establishment. The Company continues to supply coal to the Arnot power station through the approved rectification process, while ensuring adequate care and maintenance of the underground workings as previously reported.

3.2. Business Rescue Initiatives

3.2.1 Coal Rectification

During January 2024, the Company delivered 116 000 tonnes through the rectification process to Eskom. The mine continues implementing plant and logistics initiatives to ramp up the rectification supply to approximately 150 000 tonnes starting from February 2024, and it is well on track to achieving this target.



Several potential rectification sources are being engaged and presented to Eskom for approval. The achievement of the above rectification tonnages and cost-containment initiatives will ensure that the mine can operate with minimal operational losses while implementing other strategic initiatives.

3.2.2 Third-Party Coal Processing

The Company has been engaging its coal handling and processing contractor to start up the DMS Wash Plant pursuant to the conclusion of a coal processing agreement with a third party i.e., toll washing agreement. The agreement contemplates a minimum of 50 000 tonnes a month of coal to be processed through the wash plant on a prepaid basis. The current plant configuration can accommodate up to 90 000 tonnes a month.

3.2.3 Opencast Mining



Contact us
011 513 3000
013 297 8008
talktous@arnotopco.com
www.arnot-opco.com



Head Office
Farm Rietkuil 491 JS
Private Bag X3
Rietkuil
1097



Physical Address
Farm Rietkuil 491 JS
Private Bag X3
Rietkuil
1097

Handwritten signature/initials



ARNOTOPCO

The Company signed the Mooifontein surface rights purchase agreement with Eskom in December 2023 on terms that allow the mine immediate access to the properties to commence with mining activities.

Pursuant to the above, there has been various engagements and discussions with key stakeholders and discussions are at an advanced stage with a potential party identified to mine the Mooifontein pits.

The Company has initiated a process of engaging the Department of Water and Sanitation ("DWS") on the amendment of the Integrated Water Use License ("IWUL") in respect of the mini/small pits.



4. Closing Remarks

- 4.1. The BRP will keep creditors and other affected persons abreast of any developments, should a need arise.
- 4.2. 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.
- 4.3. 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 (including the Applications) are available online on this link: <https://arnot-opco.com/business-resscue/>

Yours faithfully,



Contact us
011 513 3000
013 297 8008
talktous@arnotopco.com
www.arnot-opco.com



Head Office
Farm Rietkuil 491 JS
Private Bag X3
Rietkuil
1097



Physical Address
Farm Rietkuil 491 JS
Private Bag X3
Rietkuil
1097

Handwritten signature and initials 'MS'.



ARNOTOPCO

Phahlani Mkhombo
Business Rescue Practitioner
Arnot Opco Proprietary Limited (in Business Rescue)
21 February 2024



Contact us
011 513 3000
013 297 8008
talktous@arnotopco.com
www.arnot-opco.com



Head Office
Farm Rietkuil 491 JS
Private Bag X3
Rietkuil
1097



Physical Address
Farm Rietkuil 491 JS
Private Bag X3
Rietkuil
1097

Arnot Opco (Pty) Ltd (In Business Rescue) | Registration Number 2019/072282/07 | VAT Number 4640285690
Directors: Bonille Aphane | Mxolisi Hoboyi | Thivha Tshithavhane
Enos Lentsoane (Interim CEO)



"FA 6.4"

ARNOTOPCO

THIRTEENTH 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



Contact us
011 513 3000
013 297 8008
talktous@arnotopco.com
www.arnot-opco.com



Head Office
Farm Rietkuil 491 JS
Private Bag X3
Rietkuil
1097



Physical Address
Farm Rietkuil 491 JS
Private Bag X3
Rietkuil
1097

Handwritten signature and initials
N.S.

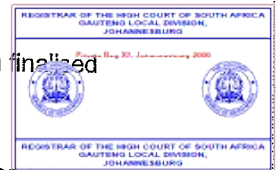
Arnot Opco (Pty) Ltd (In Business Rescue) | Registration Number 2019/072282/07 | VAT Number 4640285690
Directors: Bonlle Aphane | Mxolisi Hoboyi | Thivha Tshithavhane
Enos Lentsoane (Interim CEO)



ARNOTOPCO

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 finalized 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 the application for leave to appeal was heard on 30 October 2023 in the High Court of South Africa, Gauteng Division, Johannesburg, and the judgment for leave to appeal and interim execution of the Business Rescue Plan ("Plan") was handed down on 31 October 2023.
- 2.2. The appeal process in the Supreme Court of Appeal ("SCA") remains pending and have not been finalised.
- 2.3. The parties have applied for an accelerated schedule and have agreed on dates to filing of their respective heads of argument. Creditors and other affected persons will be advised once a date has been set for the hearing of the appeal.



Contact us
011 513 3000
013 297 8008
talktous@arnotopco.com
www.arnot-opco.com



Head Office
Farm Rietkuil 491 JS
Private Bag X3
Rietkuil
1097



Physical Address
Farm Rietkuil 491 JS
Private Bag X3
Rietkuil
1097

N.S.



ARNOTOPCO

3. Operational Update and Business Rescue Initiatives

3.1. Operational Update

The underground coal-winning activities at 11 Shaft are still on stoppage until termination discussions with the underground contractor are concluded, which discussions are at an advanced stage. In the interim, the Company continues to supply coal to Eskom through the rectification process while ensuring adequate care and maintenance of the underground workings.

3.2. Business Rescue Initiatives

3.2.1 Coal Rectification

In February 2024, the Company delivered 132,785 tonnes through rectification process to Eskom, falling slightly short of the previously communicated target of 150,000 tonnes for the month. The rectification ramp-up follows a change to 3-shift cycle on logistics operations and will further be bolstered by the recently completed belt extension project at the rectification coal stockpiling area aimed at increasing handling and loading capacity.

The Company continues to engage Eskom on the approval of additional sources for rectification as part of the turnaround strategy to deal with the supply under-delivery. The interventions mentioned above, together with other cost-containment measures have started to improve monthly operational losses.

3.2.2 DMS Wash Plant

The Company has concluded discussions with the coal handling and processing contractor on the start-up of the DMS Wash Plant. It is anticipated that with effect from 1 April 2024, the DMS Wash Plant will be operational. This development will enable the Company to improve on its coal quality management processes, including fulfilling toll washing commitments reported previously.



Contact us
011 513 3000
013 297 8008
talktous@arnotopco.com
www.arnot-opco.com



Head Office
Farm Rietkuil 491 JS
Private Bag X3
Rietkuil
1097



Physical Address
Farm Rietkuil 491 JS
Private Bag X3
Rietkuil
1097

Handwritten signature and initials 'NS'.



ARNOTOPCO

A steering committee ("SteerCo") has been established by the parties to commence with project execution across all key workstreams. The creditors will be informed of project timelines relating to establishment, commencement of the works and expected date for 'first coal' once the SteerCo has considered all key workstreams and developed a schedule.

4. Closing Remarks

- 4.1. The BRP will keep creditors and other affected persons abreast of any developments, should a need arise.
- 4.2. 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.
- 4.3. All queries regarding the business rescue proceedings of the Company may be addressed to: ArnotOpcobr@qcs-sa.co.za. Creditors are reminded that all relevant notices and documents (including the Applications) 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)
 19 March 2024



Contact us
 011 513 3000
 013 297 8008
talktous@arnotopco.com
www.arnot-opco.com



Head Office
 Farm Rietkuil 491 JS
 Private Bag X3
 Rietkuil
 1097



Physical Address
 Farm Rietkuil 491 JS
 Private Bag X3
 Rietkuil
 1097

M.S.



"FA 6.5"

ARNOTOPCO

FOURTEENTH 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



Contact us
011 513 3000
013 297 8008
talktous@arnotopco.com
www.arnot-opco.com



Head Office
Farm Rietkuil 491 JS
Private Bag X3
Rietkuil
1097



Physical Address
Farm Rietkuil 491 JS
Private Bag X3
Rietkuil
1097

Handwritten signature and initials: "Mkh" and "MS"

Arnot Opco (Pty) Ltd (In Business Rescue) | Registration Number 2019/072282/07 | VAT Number 4640285690
Directors: Bontle Aphane | Mxolisi Hoboyi | Thivha Tshithavhane
Enos Lentsoane (Interim CEO)



ARNOTOPCO

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 appeal process in the Supreme Court of Appeal ("SCA") remains pending and have not been finalised. A date for the hearing is yet to be established. Creditors and other affected persons will be advised once a date has been set for the hearing of the appeal.

3. Operational Update and Business Rescue Initiatives

3.1. Operational Update

The underground coal-winning activities at 11 Shaft are still on stoppage until termination discussions with the underground contractor are concluded. The discussions are at an advanced stage. In the interim, the Company continues to supply coal to Eskom through the rectification process while ensuring adequate care and maintenance of the underground workings.

3.2. Business Rescue Initiatives

3.2.1 Coal Rectification

In March 2024, the Company delivered 156,165 tonnes through the rectification process to Eskom, marginally higher than the 150,000 tonnes target for March 2024. The rectification ramp-up follows a change to a 3-shift cycle in logistics operations. It will further be bolstered by the recently completed belt extension project at the rectification coal stockpiling area, which aims to increase handling and loading capacity.



Contact us
011 513 3000
013 297 8008
talktous@arnotopco.com
www.arnot-opco.com



Head Office
Farm Rietkuil 491 JS
Private Bag X3
Rietkuil
1097



Physical Address
Farm Rietkuil 491 JS
Private Bag X3
Rietkuil
1097

Handwritten signature: huf N.S.



ARNOTOPCO

The Company continues to engage Eskom in approving additional sources for rectification as part of the turnaround strategy to deal with the supply under-delivery. The interventions mentioned above, together with other cost-containment measures, have started to improve monthly operational losses.

3.2.2 DMS Wash Plant

The Company has commenced the recommissioning of the DMS Wash Plant on 1 April 2024. This development will enable the Company to improve its coal quality management processes, including fulfilling toll washing commitments reported previously. As expected, the plant is experiencing minor operational glitches, but the operational team is managing these challenges as they encounter them.

3.2.3 Opencast Mining

The Company signed the Mooifontein surface rights purchase agreement with Eskom in December 2023, which allows the mine immediate access to the properties and commencement of mining activities.

As previously reported, the Company has been engaging various stakeholders and potential parties to mine the Mooifontein reserve, including providing the necessary capital to fund the establishment, box cut construction, associated surface, and auxiliary infrastructure.

Following from the above, the creditors are hereby informed that I have appointed Plantcor Mining and Plant Hire (Pty) Ltd ("Plantcor") as the contract miner to mine the Mooifontein pits, Pit 1A and Pit 2, concurrently. This follows the conclusion and signature of Heads of Agreement ("HoA") by the parties on 6 March 2024.

The HoA sets out the key terms and conditions of definitive agreements currently being drafted and outlined below are the salient terms of the HoA:

1. The contract mining shall be for 5 years for the concurrent mining of the Pits;
2. Plantcor will fund the required capital expenditure for the box cut development and associated infrastructure up to an amount of R102 million ("CAPEX PCF");
3. Plantcor will be the sole marketer of coal earmarked for export markets over the contract term; and
4. Plantcor will provide a working capital facility of up to R20 million.

The legal teams of the respective companies are finalising definitive agreements with respect to the above.



Contact us
011 513 3000
013 297 8008
talktous@arnotopco.com
www.arnot-opco.com



Head Office
Farm Rietkuil 491 JS
Private Bag X3
Rietkuil
1097



Physical Address
Farm Rietkuil 491 JS
Private Bag X3
Rietkuil
1097

Handwritten signature/initials



ARNOTOPCO

A steering committee ("SteerCo") has been established by the parties to commence with project execution across all key workstreams. The creditors will be informed of project timelines relating to the establishment, the commencement of the works, and the expected date for 'first coal' once the SteerCo has considered all key workstreams and developed a schedule.

4. Closing Remarks

- 4.1. The BRP will keep creditors and other affected persons abreast of any developments.
- 4.2. 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.
- 4.3. 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)
15 April 2024



Contact us
011 513 3000
013 297 8008
talktous@arnotopco.com
www.arnot-opco.com



Head Office
Farm Rietkuil 491 JS
Private Bag X3
Rietkuil
1097



Physical Address
Farm Rietkuil 491 JS
Private Bag X3
Rietkuil
1097

Handwritten initials: N.S. and a signature.



"FA 6.6"

ARNOTOPCO

FIFTEENTH 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



Contact us
011 513 3000
013 297 8008
talktous@arnotopco.com
www.arnot-opco.com



Head Office
Farm Rietkuil 491 JS
Private Bag X3
Rietkuil
1097



Physical Address
Farm Rietkuil 491 JS
Private Bag X3
Rietkuil
1097

Handwritten signature and initials: "N.S" and "Kul"

Arnot Opco (Pty) Ltd (In Business Rescue) | Registration Number 2019/072282/07 | VAT Number 4640285690
Directors: Bonle Aphane | Mxolisi Hoboyi | Thivha Tshithavhane
Enos Lentsoane (Interim CEO)



ARNOTOPCO

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 appeal process in the Supreme Court of Appeal ("SCA") remains pending and has not been finalised. Correspondence has been received from the Registrar of the Supreme Court of Appeal advising that the matter will be enrolled for the third term. Dates for the third term will only be released at the end of the second term. Creditors and other affected persons will be advised once a date has been set for the hearing of the appeal.

3. Operational Update and Business Rescue Initiatives

3.1. Operational Update

The Company continues to supply coal to Eskom through rectification while ensuring adequate care and maintenance of the underground workings pending the finalisation of the underground contract miner de-establishment.

3.2. Business Rescue Initiatives

3.2.1 Coal Rectification

The Company delivered 154000 tonnes through the rectification process to Eskom. The Company continues to engage Eskom in approving additional sources for rectification as part of the turnaround strategy to deal with the supply under-delivery.



Contact us
011 513 3000
013 297 8008
talktous@arnotopco.com
www.arnot-opco.com



Head Office
Farm Rietkuil 491 JS
Private Bag X3
Rietkuil
1097



Physical Address
Farm Rietkuil 491 JS
Private Bag X3
Rietkuil
1097

Handwritten signature and initials: 'A.S.' and 'M.S.' with a flourish.



ARNOTOPCO

Yours faithfully,

Phahlani Mkhombo
Business Rescue Practitioner
Arnot Opco Proprietary Limited (In Business Rescue)
15 May 2024



Contact us
011 513 3000
013 297 8008
talktous@arnotopco.com
www.arnot-opco.com



Head Office
Farm Rietkuil 491 JS
Private Bag X3
Rietkuil
1097



Physical Address
Farm Rietkuil 491 JS
Private Bag X3
Rietkuil
1097

huk NS

"FA 6.7"



ARNOTOPCO

SIXTEENTH 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



Contact us
011 513 3000
013 297 8008
talktous@arnotopco.com
www.arnot-opco.com



Head Office
Farm Rietkuil 491 JS
Private Bag X3
Rietkuil
1097



Physical Address
Farm Rietkuil 491 JS
Private Bag X3
Rietkuil
1097

Handwritten signature: Phahlani M.S.

Arnot Opco (Pty) Ltd (In Business Rescue) | Registration Number 2019/072282/07 | VAT Number 4640285690
Directors: Bonle Aphane | Mxolisi Hoboyi | Thivha Tshithavhane
Enos Lentsoane (Interim CEO)



ARNOTOPCO

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 appeal process in the Supreme Court of Appeal ("SCA") remains pending and has not been finalised. Correspondence has been received from the Registrar of the Supreme Court of Appeal advising that the appeal has been set down for hearing on 30 August 2024.

3. Operational Update and Business Rescue Initiatives

3.1. Operational Update

The Company continues to supply coal to Eskom through rectification while ensuring adequate care and maintenance of the underground workings pending the finalisation of the underground contract miner de-establishment.

3.2. Business Rescue Initiatives

3.2.1 Coal Rectification

The Company continues to deliver coal to Eskom through the rectification process and continues to engage with Eskom on strategic initiatives that will address the supply under-delivery in the medium to long term.

3.2.2. DMS Wash Plant

The recommissioning of the DMS Wash Plant by the plant processing contractor is near completion. This development will enable the Company to improve its coal quality management processes, including fulfilling toll-washing commitments reported previously.



Contact us
011 513 3000
013 297 8008
talktous@arnotopco.com
www.arnot-opco.com



Head Office
Farm Rietkuil 491 JS
Private Bag X3
Rietkuil
1097



Physical Address
Farm Rietkuil 491 JS
Private Bag X3
Rietkuil
1097

Handwritten signature and initials: N.S. and a large signature.



ARNOTOPCO

3.2.3. Opencast Mining

As previously reported, the Company has appointed a contract miner to mine the Mooifontein pits, Pit 1A and Pit 2, concurrently, including the provision of the necessary capital for the establishment, box-cut construction, associated surface, and auxiliary infrastructure development. The legal teams of the respective companies are currently finalising the transaction agreements.

Contractor mobilisation and site establishment will commence during Q2 FY2025, followed by early-works infrastructure construction activities.

3.2.4. Underground Mining

As previously reported, the Company intends resuming underground mining activities immediately after the previous contractor de-mobilizes from site on or before 30 June 2024. Several discussions are underway with potential underground mining contractors and it is the objective of the Company to deliver coal from underground in August 2024.



4. Closing Remarks

- 4.1. The BRP will keep creditors and other affected persons abreast of any new developments.
- 4.2. 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.
- 4.3. 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)
 14 June 2024



Contact us
 011 513 3000
 013 297 8008
talktous@arnotopco.com
www.arnot-opco.com



Head Office
 Farm Rietkuil 491 JS
 Private Bag X3
 Rietkuil
 1097



Physical Address
 Farm Rietkuil 491 JS
 Private Bag X3
 Rietkuil
 1097

Handwritten signature/initials: "huk NS"



"FA 6.8"

ARNOTOPCO

SEVENTEENTH 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



Contact us
011 513 3000
013 297 8008
talktous@arnotopco.com
www.arnot-opco.com



Head Office
Farm Rietkuil 491 JS
Private Bag X3
Rietkuil
1097



Physical Address
Farm Rietkuil 491 JS
Private Bag X3
Rietkuil
1097

Handwritten signature: Phahlani Mkhombo

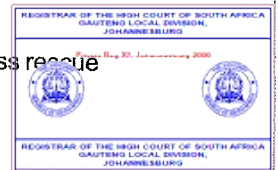
Arnot Opco (Pty) Ltd (In Business Rescue) | Registration Number 2019/072282/07 | VAT Number 4640285690
Directors: Bonle Aphane | Mxolisi Hoboyi | Thivha Tshilthavhane
Enos Lentsoane (Interim CEO)



ARNOTOPCO

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 appeal in the Supreme Court of Appeal ("SCA") remains pending and has not been finalised. The matter is set down for hearing at the SCA on 30 August 2024.

3. Operational Update and Business Rescue Initiatives

3.1. Operational Update

The underground coal-winning activities at 11 Shaft have since stopped. In the interim, the Company continues to supply coal to Eskom through rectification while ensuring adequate care and maintenance of the underground workings.

3.2. Business Rescue Initiatives

3.2.1 Coal Rectification

Arnot OpCo continues to deliver coal to Eskom through the rectification process and engage with Eskom on strategic initiatives that will address the supply underdelivery in the medium to long term.

3.2.2 DMS Wash Plant

The Company commenced the recommissioning of the DMS Wash Plant. This development will enable the Company to improve its coal quality management processes, including



Contact us
011 513 3000
013 297 8008
talktous@arnotopco.com
www.arnot-opco.com



Head Office
Farm Rietkuil 491 JS
Private Bag X3
Rietkuil
1097



Physical Address
Farm Rietkuil 491 JS
Private Bag X3
Rietkuil
1097

Handwritten signature and initials: 'Luk' and 'MS'



ARNOTOPCO

fulfilling toll-washing commitments reported previously. As expected, the plant is experiencing minor operational glitches, but the operational team is managing these challenges as they occur.

3.2.3 Opencast Mining

As previously reported, I have appointed Plantcor Mining and Plant Hire (Pty) Ltd ("Plantcor") as the contract miner to mine the Mooifontein pits, Pit 1A and Pit 2, concurrently. Plantcor will provide all the necessary capital to fund the establishment, box cut construction associated surface, and auxiliary infrastructure to enable the mining of both pits. On 6 March 2024, both parties concluded and signed the Heads of Agreement ("HoA"). The legal terms of the respective parties are currently finalising the Contract Mining Agreement.



The parties have established a steering committee ("SteerCo") to commence project execution across all key workstreams. Once the SteerCo has considered all key workstreams and developed a schedule, the creditors will be informed of project timelines relating to the establishment, the commencement of the works, and the expected date for 'first coal'.

3.2.4 Underground Mining

Arnot OpCo is engaging with a potential underground mining contractor to re-establish 11-shaft and 10-shaft and to resume production. The BRP will share detailed information regarding the process and the potential contractor in due course.

4. Closing Remarks

- 4.1. The BRP will keep creditors and other affected persons abreast of any new developments.
- 4.2. 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.
- 4.3. 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/>



Contact us
011 513 3000
013 297 8008
talktous@arnotopco.com
www.arnot-opco.com



Head Office
Farm Rietkuil 491 JS
Private Bag X3
Rietkuil
1097



Physical Address
Farm Rietkuil 491 JS
Private Bag X3
Rietkuil
1097

MS
huk



ARNOTOPCO

Yours faithfully,

Phahlani Mkhombo
Business Rescue Practitioner
Arnot Opco Proprietary Limited (in Business Rescue)
10 July 2024



Contact us
011 513 3000
013 297 8008
talktous@arnotopco.com
www.arnot-opco.com



Head Office
Farm Rietkuil 491 JS
Private Bag X3
Rietkuil
1097



Physical Address
Farm Rietkuil 491 JS
Private Bag X3
Rietkuil
1097



"FA 6.8"

ARNOTOPCO

SEVENTEENTH 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



Contact us
011 513 3000
013 297 8008
talktous@arnotopco.com
www.arnot-opco.com



Head Office
Farm Rietkuil 491 JS
Private Bag X3
Rietkuil
1097



Physical Address
Farm Rietkuil 491 JS
Private Bag X3
Rietkuil
1097

Handwritten signature and initials: "luk" and "Ns"

Arnot Opco (Pty) Ltd (In Business Rescue) | Registration Number: 2019/072282/07 | VAT Number: 4640285690
Directors: Bonile Aphane | Mxolisi Hoboyi | Thivha Tshilavhane
Enos Lenisoane (Interim CEO)



ARNOTOPCO

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 appeal in the Supreme Court of Appeal ("SCA") remains pending and has not been finalised. The matter is set down for hearing at the SCA on 30 August 2024.

3. Operational Update and Business Rescue Initiatives

3.1. Operational Update

The underground coal-winning activities at 11 Shaft have since stopped. In the interim, the Company continues to supply coal to Eskom through rectification while ensuring adequate care and maintenance of the underground workings.

3.2. Business Rescue Initiatives

3.2.1 Coal Rectification

Arnot OpCo continues to deliver coal to Eskom through the rectification process and engage with Eskom on strategic initiatives that will address the supply underdelivery in the medium to long term.

3.2.2 DMS Wash Plant

The Company commenced the recommissioning of the DMS Wash Plant. This development will enable the Company to improve its coal quality management processes, including



Contact us
011 513 3000
013 297 8008
talktous@arnotopco.com
www.arnot-opco.com



Head Office
Farm Rietkuil 491 JS
Private Bag X3
Rietkuil
1097



Physical Address
Farm Rietkuil 491 JS
Private Bag X3
Rietkuil
1097

N.S.
pub



ARNOTOPCO

fulfilling toll-washing commitments reported previously. As expected, the plant is experiencing minor operational glitches, but the operational team is managing these challenges as they occur.

3.2.3 Opencast Mining

As previously reported, I have appointed Plantcor Mining and Plant Hire (Pty) Ltd ("Plantcor") as the contract miner to mine the Mooifontein pits, Pit 1A and Pit 2, concurrently. Plantcor will provide all the necessary capital to fund the establishment, box cut construction, associated surface, and auxiliary infrastructure to enable the mining of both pits. On 6 March 2024, both parties concluded and signed the Heads of Agreement ("HoA"). The legal teams of the respective parties are currently finalising the Contract Mining Agreement.



The parties have established a steering committee ("SteerCo") to commence project execution across all key workstreams. Once the SteerCo has considered all key workstreams and developed a schedule, the creditors will be informed of project timelines relating to the establishment, the commencement of the works, and the expected date for 'first coal'.

3.2.4 Underground Mining

Arnot OpCo is engaging with a potential underground mining contractor to re-establish 11-shaft and 10-shaft and to resume production. The BRP will share detailed information regarding the process and the potential contractor in due course.

4. Closing Remarks

- 4.1. The BRP will keep creditors and other affected persons abreast of any new developments.
- 4.2. 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.
- 4.3. 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/>



Contact us
011 513 3000
013 297 8008
talktous@arnotopco.com
www.arnot-opco.com



Head Office
Farm Rietkuil 491 JS
Private Bag X3
Rietkuil
1097



Physical Address
Farm Rietkuil 491 JS
Private Bag X3
Rietkuil
1097

NS



"FA 6.9"

ARNOTOPCO

EIGHTEENTH 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



Contact us
011 513 3000
013 297 8008
talktous@arnotopco.com
www.arnot-opco.com



Head Office
Farm Rietkuil 491 JS
Private Bag X3
Rietkuil
1097



Physical Address
Farm Rietkuil 491 JS
Private Bag X3
Rietkuil
1097

lul N/S

Arnot Opco (Pty) Ltd (In Business Rescue) | Registration Number 2019/072282/07 | VAT Number 4640285690
Directors: Bonille Aphane | Mxolisi Hoboyi | Thivha Tshithavhane
Enos Lentsoane (Interim CEO)



"FA 7"



Private and Confidential

27 December 2024

Mr. John Mamabolo
Senior Manager: Coal Operations
Eskom Holdings SOC Limited
Primary Energy Department
Megawatt Park
Maxwell Drive
Sunninghill

By email : mamabojs@eskom.co.za



Attention: Mr. John Mamabolo

RE: CANCELLATION NOTICE IN TERMS OF CLAUSE 30.2 OF THE COAL SUPPLY AGREEMENT ("CSA") BETWEEN ARNOT OPCO (PTY) LTD ("SUPPLIER") AND ESKOM HOLDINGS SOC LTD ("ESKOM")

1. I refer to the letter received from your office dated 27 December 2024 in terms of which you are notifying the Supplier about Eskom's decision to cancel the CSA with immediate effect.
2. The cancellation is pursuant to Eskom's allegation that the Supplier *continues* to receive coal from an unapproved and unauthorized source, which in terms of the CSA constitutes a material breach.
3. The cancellation of the CSA will leave me no choice, as the appointed business rescue practitioner, but to place the Supplier and its operation under liquidation, which will have a systemic impact on the Supplier and must be avoided as the Supplier has reasonable prospects of being rescued.
4. For this purpose, I would like to request an official meeting with your office on or about 8 January 2025, so we address all issues before us.

GCS House, 81 Akkerboom Street, Zwartkop Ext4, Centurion 0157,
P.O Box 12369, Hatfield, 0028
t. +27 (0) 16 - 020 - 5044
Info@gcs-sa.co.za | www.gcs-sa.co.za

Handwritten signature and initials



5. Regarding your letter dated 20 November 2024, which I acknowledged receipt thereof on 6 December 2024, I had requested certain information from management so I can fully respond to the letter, specifically the following:
- 5.1. Coal quality management procedures ("CQMP");
 - 5.2. Instructions to stop coal supply from the alleged unapproved source; and
 - 5.3. Tonnage of coal supplied from the alleged unapproved source from July 2024 to date (November 2024).
6. Regarding 5.1, our technical teams have been engaging extensively on general CQMP issues. The related offtake suspension imposed by Eskom on or about 6 November 2024 was uplifted on 13 November 2024 following representations by the Supplier wherein the Supplier recommended, amongst others, that the manual sampling procedure employed by Eskom through its appointed service provider be replaced by an automated sampling procedure.
7. As of the date of this letter, the Supplier deliveries have yet again been placed on suspension by Eskom on 9 December 2024 with the Supplier having delivered *circa* 15Kt to Eskom at the time of suspension. The verification diligence undertaken by Eskom on the approved rectification source has taken extremely long and poses a systemic risk while the Supplier continues to hemorrhage operationally and financially.
8. Regarding 5.2 and 5.3, the Supplier has not delivered coal via its conveyor belt over the stated period from the alleged unapproved and unauthorized source. To this day, Eskom has not disclosed the identity of the alleged unapproved and unauthorized source to me as the appointed BRP.
9. The Supplier had rollover tonnages of more than 40Kt from the month of June 2024 to July 2024, and with the offtake suspensions imposed by Eskom, the Supplier has allowed the approved rectification source to continue delivering coal to the Supplier (pending upliftment) which has the effect of increasing month to month inventory roll-ups.
10. The Supplier has, on numerous occasions, requested Eskom to grant the Supplier an approval to rectify from additional sources while contracts with the appointed opencast and underground mining contractors for the resumption of operations are being concluded. This request has not been received favorably by Eskom.



Handwritten signature: Luk N.S.



11. The cancellation of the CSA places at risk at least 1500 direct jobs envisaged to be created in peak production, which jobs will be replacing the jobs lost during the mine closure in 2015.
12. I hereby plead with Eskom that it reconsiders its decision to cancel the CSA and allow the BRP the opportunity to implement the turnaround initiatives communicated with Eskom.
13. The BRP further requests Eskom to reconsider its decision to allow only one qualifying source for rectification purposes until such time the Supplier resumes mining from underground and develops the open-cast areas in Mooifontein.
14. The business turnaround of the Supplier is predicated on the operational turnaround of the Supplier, particularly the operationalization of the opencast projects.
15. Some of the interventions implemented by the Supplier to ensure sufficient coal is delivered to Eskom via conveyors while ensuring that qualities delivered are optimized were merely a desperate effort to keep the business afloat.
16. Throughout the entire process, the Supplier has been able to preserve jobs and serviced its critical service providers from the break-even margin generated from sales to Eskom.
17. The Supplier has already indicated to Eskom that it intends remedying the breach in respect of the 360kt unaccounted tons from its underground and opencast operations at a discount to the prevailing Contract Coal Price. Eskom has not communicated its acceptance or rejection of this request.
18. It will be in the best interests of the Supplier to supply Eskom from its own operations as this is the most practical way to pay creditors and affected persons of the Supplier and ultimately take the Supplier out of business rescue. Importantly, the Supplier will be able to continue with preservation of jobs and value creation for all the previously retrenched employees who are now beneficiaries and owners of the mine.
19. In conclusion,
- 19.1. I would like to take this opportunity to thank you for your understanding and continued support since the commencement of business rescue proceedings, without which this business would have collapsed and placed into liquidation.



luk N.S



- 19.2. Please reconsider your decision to cancel the CSA per representations made in this letter, including granting the Supplier the approval to rectify from an additional source.
- 19.3. We further request that the offtake suspension imposed on 9 December 2024 be uplifted to allow the Supplier to process c.40kt inventory from the approved rectification source for urgent delivery to the power station pending the proposed meeting of 8 January 2025.
- 19.4. I trust you will consider my requests favorably and look forward to engaging with you positively going forward in the best interests of all stakeholders.
- 19.5. Should you have any queries or require any clarity, please feel free to contact me at phahlani@gcs-sa.co.za and cell number is 083 206 0809.
- 20. Nothing stated or omitted from this letter shall prejudice the Supplier's rights, which remain fully reserved.



Yours sincerely,

Phahlani Mkhombo
 Business Rescue Practitioner
 Arnot Opco Proprietary Limited (in business rescue)
 27 December 2024

"FA 8"
**mineral resources
& energy**

 Department:
 Mineral Resources and Energy
 REPUBLIC OF SOUTH AFRICA

**NOTICE OF ORDERS, SUSPENSIONS AND INSTRUCTIONS IN TERMS OF
 SECTION 54(1) (a) AND 54(1)(b) OF THE MINE HEALTH AND SAFETY ACT,
 1996 (ACT 29 OF 1996), AS AMENDED.**

Name of Regional Office : MPUMALANGA

Name of Mines : ARNOT

Employer : ARNOTOPCO

Shaft : 11# LAMPROOM

Date : 09 DECEMBER 2024


A. List the Dangerous Occurrence/Practice/Conditions observed:

1. There is no proof that the annual performance testing on SCSRs was conducted for the year 2024. Previously, the units were collected November 2023 and there is no report from the CSIR. The report available is for the year 2022.
2. The sentinel calibration stations (1) and (2) testing station were due for calibration. Certificate expiry date: 05/12/2024
3. Lamproom attendant's annual refresher training on cap lamps and rescue packs was not done for the year 2024 the training was due by March and August 2024 respectively.
4. There is no separate room for gas instrument maintenance and cap lamps maintenance as per the lamp room guidance note.
5. The first aid box at the lamproom was checked and found that some items had expired in August 2023.
6. The air conditioning system at the lamproom was found not working which led to high temperatures.
7. Poor housekeeping, broken glass window and a broken door at the laundry was observed.
8. The tumble dryer air discharge pipe was found not sealed to stop the recirculation of the heat generated by the tumble dry.
9. Poor housekeeping was observed at the ladies change houses and there is no proof that the hygiene bins are being serviced.
10. Operations at the plant are running normal but no monitoring is done for airborne pollutants.

huk N.S

B. The orders and instructions (N.B directly linked to the above transgression(s))

Transgression(s)	Orders / Instructions given
1 to 10	<p>Based on the above and in an attempt to safeguard the lives of persons at the mine, the employer is hereby instructed to:</p> <ol style="list-style-type: none"> 1. Halt the use of all the SCSRs that were not subjected to the annual performance testing. 2. Stop the use of the testing and calibration station which their calibration certificates dates had expired. 3. Withdraw the lamproom personnel from managing the SCSR and cap lamps. 4. Withdraw all employees who are exposed to airborne pollutants and exposure monitoring is not done.



C. The employer is further instructed to; jointly with member(s) of health and safety committee or unions; fix the deviation(s); conduct comprehensive audit for similar deviation(s); investigate reasons for system failures and institute an action plan to prevent further recurrences of system failures. This instruction shall remain in force until such time that the employer has complied with the instructions and presentations made to the office of the principal inspector of mines by the said employer and the member(s) of health and safety committee or unions

In terms of section 54 (6); the instruction(s) take effect on 09/12/2024 at 15:33

[Handwritten signature]
 MA Simelane
 Inspector of Mines

[Handwritten signature]
 Employer

[Handwritten signature]
 H & S Union Representative

 Principal Inspector

 Date

[Handwritten signature] N.S

"FA 9"



mineral resources

Department:
Mineral Resources
REPUBLIC OF SOUTH AFRICA

Private Bag X7279, Witbank, 1035, Tel: 013 663 0500, Fax 013 690 3288
Sayeways Centre, Mandela Drive, First Floor, Witbank, 1035
From Directorate: Mineral Regulation: Mpumalanga Region
Enquiries: Mr V S Mayekiso Ref: MP 30/5/1/2/2/328MR and MP 30/5/1/2/2/325MR
Subdirector: Mineral Laws

Registered Mail

The Directors
Exxaro Coal Mpumalanga (Pty) Ltd
P O Box 9229
Pretoria
0001

Fax No. 012 307 4612

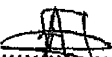
Attention: Ntebaleng Molewa

APPLICATION FOR CONSENT IN TERMS OF SECTION 102 OF THE MINERAL AND PETROLEUM RESOURCES DEVELOPMENT ACT, 2002 (ACT 28 OF 2002): TO EXCLUDE A PORTION OF THE STRATHAE MINERAL AREA FROM THE PRIMARY STRATHAE MINING RIGHT MP 30/5/1/2/2/328 MR AND INCLUDE IT INTO ARNOT OPCO'S MINING RIGHT MP 30/5/1/2/2/325 MR

Receipt of your application dated 19 May 2021 for consent in terms of section 102 is hereby acknowledged.

Kindly note that the reference numbers MP 30/5/1/2/2/328 MR and MP30/5/1/2/2/325 MR have been allocated to the file on which the application is being dealt with. It would be appreciated if this reference number could be quoted in all future correspondence or enquiries.

Yours faithfully


REGIONAL MANAGER:
MPUMALANGA REGION
DATE: 06/08/2021

Dept. of Mineral Resources & Energy
Private Bag x7279
2024 -05- 06
Witbank 1035



Handwritten signature and initials
N.S.



mineral resources

Department:
Mineral Resources
REPUBLIC OF SOUTH AFRICA

Private Bag X7279, Witbank, 1035, Tel: 013 653 0500, Fax 013 690 3288
Saveways Centre, Mandela Drive, First Floor, Witbank, 1035
From: Directorate: Mineral Regulation: Mpumalanga Region
Enquiries: Mr. V.S Mayekiso Ref: MP 30/5/1/2/2/328MRC
MP 30/5/1/2/2/326MR
MP-00188-MR/102
Subdirectorates: Mineral Laws

"FA 10"

Registered Mail

The Directors
Arnot OpCo (Pty) Ltd
142 Western Road
Woodmead
Johannesburg
2191

APPLICATION FOR CONSENT IN TERMS OF SECTION 102 OF THE MINERAL AND PETROLEUM RESOURCES DEVELOPMENT ACT, 2002 (ACT 28 OF 2002): TO INCLUDE THE STRATHRAE BLOCK INTO THE ARNOT MINING RIGHT MP 30/5/1/2/2/326 MR HELD BY ARNOT OPCO PTY LTD

Receipt of your application dated 04 August 2023 for consent in terms of section 102 is hereby acknowledged.

Kindly note that the reference number MP-00188-MR/102 has been allocated to the file on which the application is being dealt with. It would be appreciated if this reference number could be quoted in all future correspondence or enquiries.

Yours faithfully

REGIONAL MANAGER:
MPUMALANGA REGION
DATE:

Dept. of Mineral Resources & Energy
Private Bag x7279
2024 -06- 06
Witbank 1035
Dept. of Mineral Resources & Energy



Handwritten signature: Luk NS

SENIOR BUSINESS DEVELOPMENT MANAGER, STANDARD BANK

- Sourcing of new business, deal structuring including financial model and capital restructuring, client advisory work and ensuring compliance with internal processes until pay out.
- Support business with implementation of takeover, merger, or expansion strategies.
- Internal and external stakeholder engagement.

01 SEPTEMBER 2015 TO SEPTEMBER 2016**HEAD OF STRUCTURED LENDING, STANDARD BANK**

- Managing a team responsible for assessing and approving/declining complex, high valued transactions including acquisition and leveraged, projects, strategy and expansion and BEE transactions. Well vested in various funding instruments for short term, long term and working capital requirements funding.
- Assess and approve turnaround intervention by Business Support Unit, and support distressed business through various forums.
- Strategy formulation, policy formulation and ensuring compliance with internal policies and relevant regulatory bodies.

**01 NOVEMBER 2011 TO AUGUST 2015****SENIOR ACCOUNT MANAGER - WORKOUT & RESTRUCTURING, INDUSTRIAL DEVELOPMENT CORPORATION**

- Business Rescue and Turnarounds Specialist.
- Due diligence, formulation, and implementation of turnaround strategy together with client's management team.
- Providing on-going monitoring and business support services to ensure sustainable business growth.

OCTOBER 2007 TO OCTOBER 2011**SENIOR CREDIT EVALUATIONS MANAGER – SPECIALISED LENDING, STANDARD BANK**

- Deal structuring, assessment and approval/decline of high value and complex transactions.
- Present transactions above mandate to Credit and/or Board committees.
- On-going review and update of credit policy, credit & risk, and compliance processes.
- Assess and approve/decline turnaround plans and recommend solution and covenants.
- Sitting in the distressed committee to provide guidance and support to the Business Support and Recoveries team.

SENIOR CREDIT RISK MANAGER – SPECIALISED LENDING, STANDARD BANK

- Review credit sanctions in line with credit policy and ensure that the transaction is complete.
- Jointly draft legal agreement and security documents with the Legal team.
- Monitor compliance of terms of sanction and ensure that collateral is in place and is enforceable.
- Facilitate drawdown of the facility and monitor compliance to on-going credit terms.
- Monitor repayments in line with sanctions and terms of lending.
- Recommend transfer of clients in breach to Business Support and Recoveries team.
- Review turnaround and recommend collateral, covenants measures and repayment terms based on financial modelling.

Handwritten signature: Luk N.S.

- Provide support for the effective turnaround of the client.

AUGUST 2001 TO SEPTEMBER 2007

DEAL ADMINISTRATOR – STRUCTURED FINANCE, RAND MERCHANT BANK

- Review credit sanctions in line with credit policy and ensure that the transaction is complete.
- Monitor compliance of terms of sanction and ensure that collateral is in place and is enforceable.
- Facilitate drawdown of the facility and monitor compliance to on-going credit terms.
- Monitor repayments in line with sanctions and terms of lending.
- Manage internal SPV – Performing accounting, tax, and corporate secretarial work.
- Performing transaction derivatives, including interest and currency swaps.

JANUARY 1998 TO MAY 2001

TRAINEE ACCOUNTANT – AUDIT DEPT, MEYNELL, BUYS & PARTNERS

- Performing Accounting services up to Financial Statements.
- Putting together an audit working file and performing all audit functions.
- Perform tax computation, submission of all returns, and continuously engage with SARS to resolve any tax issues.
- Completed articles.



EDUCATIONAL BACKGROUND

- **DECEMBER 1997 - BCOM, UNIVERSITY OF SOUTH AFRICA**
- **DECEMBER 2002 - CERTIFICATE IN TAX, UNIVERSITY OF SOUTH AFRICA**
- **DECEMBER 2014 – MBA, UNIVERSITY OF PRETORIA (GORDON INSTITUTE OF BUSINESS SCIENCE)**

SKILLS AND CERTIFICATES

- 1 year - Leadership course – Blue Hills: Women in Leadership (Standard Bank).
- Completed Accounting & Auditing Articles.
- Financial Accountant in Practice with IAC.
- Certified Tax Practitioner with IAC.
- Certified Director with IODSA.
- Member of TMA and SARIPA.
- Strong Analytical skills.
- Strategy formulation & implementation.
- Deep understating of the Companies Act, PFMA, MFMA and Income Tax Act.
- Chaired the Board of Omega Refrigerators.
- Turnaround Specialist and Registered Business Rescue Practitioner with CIPC.

ACTIVITIES

Refilwe is passionate about contributing to building and supporting sustainable black businesses. I mentor Black entrepreneurs. I am also a member of Thari Gender Economic Empowerment, which is a group of African women working towards empowering our historically disadvantaged communities.

Refilwe 48