

**IN THE SOUTH GAUTENG HIGH COURT
(JOHANNESBURG)**

CASE NO: 2010/43399

P/H NO: 45

JOHANNESBURG, 04 May 2011

BEFORE THE HONOURABLE JUDGE MOKGOATLHENG

In the matter between:-

PHEME PAUL

Applicant

and

ROSSO MOTO (PTY) LIMITED

1st Respondent

WARHOG TRADING 2 (PTY) LIMITED

2nd Respondent

*formerly known as Daytona Bikes (Pty) Limited
(Registration No. 2006/016072/07)*

In re:

ROSSO MOTO (PTY) LIMITED

Applicant

and

WARHOG TRADING 2 (PTY) LIMITED

Respondent

*formerly known as Daytona Bikes (Pty) Limited
(Registration No. 2006/016072/07)*

for the setting aside of the winding-up of the Second Respondent under Section 354 of the Companies Act, 61 of 1973 (as read (if applicable) with item 9 Schedule 5 of the Companies Act, 71 of 2008).

HAVING read the documents filed of record and having considered the matter:-

IT IS ORDERED THAT:-

1. The draft order marked "X" and initialled is hereby made an order of Court.

BY THE COURT


REGISTRAR
/sg

"X" name 65

IN THE SOUTH GAUTENG HIGH COURT
(JOHANNESBURG)

CASE NO. 2010/43399

Before the Honourable Justice Masipa

In the matter between:

PHUME, PAUL

Applicant

and

ROSSO MOTO (PTY) LIMITED

First Respondent

WARHOG TRADING 2 (PTY) LIMITED
formerly known as Daytona Bikes (Pty) Ltd
(Registration No. 2006/016072/07)

Second Respondent

In re:

ROSSO MOTO (PTY) LIMITED

Applicant

and

WARHOG TRADING 2 (PTY) LIMITED
formerly known as Daytona Bikes (Pty) Ltd
(Registration No. 2006/016072/07)

Respondent

for the setting aside of the winding-up of the Second Respondent under s354 of the Companies Act, 61 of 1973 (as read (if applicable) with item 9 of Schedule 5 of the Companies Act, 71 of 2008

ORDER

Having heard Counsel for the parties, and by agreement, it is ordered as follows –

1. Second Respondent (Warhog Trading 2 (Pty) Limited "Warhog") will, in full and final settlement of any financial claims which First Respondent, (Rosso Moto (Pty) Limited ("Rosso") and/or its managing director, Mr Jo Jacinto, have against Warhog, pay to), Rosso the sum of R2,010,000.00 (two million ten thousand rand) as follows –
 - 1.1. R760,000.00 (seven hundred and sixty thousand rand) within seven days of the signature of this agreement;
 - 1.2. the balance of R1,250,000.00 (one million two hundred and fifty thousand rand) in 25 equal installments of R50,000.00 (fifty thousand rand) per month commencing on 1 June 2011, each such instalment to be paid by the first day of each and every subsequent month thereafter;
 - 1.3.
2. The application will be withdrawn, and the liquidation order against Warhog will be discharged against receipt by Rosso of payment of the sum set out in sub-paragraph 1.1 above –
 - 2.1. ;
3. Applicant, (Paul Phume ("Phume")), will guarantee the obligations of Warhog to Rosso in terms of paragraph 1 above;

4. In the event that Warhog defaults on any of its obligations in terms of the settlement agreement, the full amount then outstanding, should any such default not be remedied after 7 days written notice, will immediately become due and payable by Warhog and/or Phume;
5. Warhog and Phume will sign an Acknowledgment of Debt and guarantee respectively incorporating the terms of settlement set out herein;
6. Second Respondent will pay liquidators' fees upon presentation of account in an agreed amount of R35,000.00 plus VAT, plus locksmith's costs incurred by the liquidator;
7. The parties agree that this settlement may be made an Order of Court.

BY ORDER OF COURT


COURT REGISTRAR