

LE ROUX CONSTRUCTION (PTY) LIMITED (IN LIQUIDATION)

("THE COMPANY")

MASTER'S REFERENCE NUMBER : C147/2001

REPORT OF THE JOINT LIQUIDATORS, JOHANNES FREDERICK KLOPPER AND PATRICIA ANNE GROBBELAAR, IN TERMS OF SECTION 402 OF THE COMPANIES ACT, ACT NO. 61 OF 1973, AS AMENDED, ("THE ACT"), TO BE SUBMITTED TO CREDITORS AT THE SECOND MEETING OF CREDITORS TO BE HELD BEFORE THE MAGISTRATE, BELLVILLE, ON FRIDAY, 23 NOVEMBER 2001 AT 11H00

ORDER OF COURT AND MEETINGS

The company was placed under provisional liquidation by an Order of the High Court of South Africa (Cape of Good Hope Provincial Division) dated 15 February 2001 pursuant to an application by Parow Hardware (Pty) Limited under Case Number 1058/2001. Johannes Frederick Klopper ("Klopper") of Hans Klopper Trustees (Pty) Limited and Patricia Anne Grobbelaar ("Grobbelaar") of Antrust (Cape) (Pty) Limited have been appointed as Joint Provisional Liquidators by the Master of the High Court, Cape Town, as per Certificate of Appointment dated 01 March 2001.

The Provisional Order of Liquidation was made final on 15 March 2001.

The First Meeting of Creditors was held before the Magistrate, Bellville, on 12 October 2001. No claims were submitted and proved at this meeting.

Klopper and Grobbelaar have been appointed as Joint Liquidators by the Master of the High Court, Cape Town, as per Certificate of Appointment dated 14 November 2001.

FORMATION AND HISTORY OF THE COMPANY

The company was duly registered and incorporated with limited liability in accordance with the provisions of the Companies Act, Act No. 61 of 1973, with its registered address situated at 27 Jones Street, Parow, Western Cape, and its principal place of business situated at 30 Huguenot Street, Parow, Western Cape, with plant yard situated at 17 Glenhurst Street, Beaconvale, Western Cape.

The company carried on the business as a property developer and building contractor.

The Shareholders and Directors of the company were Messrs. M W J Oosthuizen (14,6%), W M Oosthuizen (13,3%), R A Loots (6,1%), D J Holtzhausen (9,1%), L S Holtzhausen (9,1%), R E F Kraemer (3,0%), J S Coetzee (3,0%), C G Noland (6,1%), M Smuts (8,5%), E Schifer (24,2%), and G W Padley (3,0%).

CAUSES OF THE FAILURE OF THE COMPANY

The Directors have not provided us with a Statement of Affairs, but according to investigations conducted the following are the main reasons for the liquidation of the company:

The Directors of the company attributed the company's failure to the fact that the company had cash flow problems during the latter part of the year 2000. It is customary for building companies to close over the Christmas period and when the company commenced with business activities in January 2001 it did not have access to sufficient cash to commence all its projects.

As a result of the afore-mentioned, creditors started exerting pressure for payment, which eventually culminated in the company's liquidation.

SECTION 402(a) : ASSETS AND LIABILITIES

According to the application for liquidation and investigations conducted, the financial position of the company as at date of liquidation appears to be as follows:

ASSETS:

Movable assets sold for	R 211 914,53
Immovable property (Unit 12, Kusweg, Strand) sold for <i>(Mortgage Bond in favour of AIG South Africa)</i>	R 510 000,00
Immovable property (Unit 11, Two Oceans, Parow) sold for <i>(Mortgage Bond in favour of AIG South Africa)</i>	R 195 000,00
Immovable property (Unit 13, Two Oceans, Parow) sold for <i>(Mortgage Bond in favour of AIG South Africa)</i>	R 190 000,00

Immovable property (Unit 66, Two Oceans, Parow) sold for <i>(Mortgage Bond in favour of AIG South Africa)</i>	R 160 000,00
Caterpillar sold for <i>(Subject to Instalment Sale Agreement in favour of Bankfin)</i>	R 236 550,00
Various vehicles (1997 Colt Bakkies) sold for <i>(Subject to Instalment Sale Agreements in favour of Bankfin)</i>	R 156 000,00
1995 Mercedes Benz E220 sold for <i>(Subject to Instalment Sale Agreement in favour of Wesbank)</i>	R 6 690,00
Sanlam Policy : surrender value <i>(Ceded in favour of Nedbank : proceeds retained)</i>	<u>R 423 808,06</u>
TOTAL ASSETS	<u>R2 149 962,59</u>

LIABILITIES:

Secured Creditors:

Estimated at	R 500 000,00
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Preferent Creditors:

Estimated at	R 100 000,00
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Concurrent Creditors:

Estimated at	<u>R18 000 000,00</u>
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TOTAL LIABILITIES	<u>R18 600 000,00</u>
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COMMENT ON THE ASSETS

Pursuant to an extension of our powers granted to us by the Master of the High Court, Cape Town, and with the consent of the majority of creditors, the movable assets were sold by way of a public auction.

The vehicles were sold by the various financial institutions.

We have to date collected the amount of R10 034,68 in outstanding debts.

SECTION 402(b) : REASON FOR THE COMPANY'S FAILURE

This section has been dealt with earlier in the report.

SECTION 402(c) : CONTRAVENTIONS AND OFFENCES

The Directors have contravened provisions of the Companies Act through their failure to furnish us with a Statement of Affairs of the company.

Investigations in this regard will continue.

SECTION 402(d) : LIABILITIES OF DIRECTORS & PUBLIC OFFICERS

It is not as yet certain whether there are grounds on which the Directors can be held personally liable for any debts of the company.

The estate of the Applicant Creditor, Parow Hardware (Pty) Limited, has subsequently been liquidated.

SECTION 402(e) : LEGAL PROCEEDINGS

We have no knowledge of any legal proceedings pending or threatened by or against the company as at date of liquidation other than an application by the company to prevent a client from calling up a guarantee issued by an insurance company and litigation for the recovery of debt.

SECTION 402(f) : ENQUIRY INTO FORMATION & FAILURE

In our opinion a further enquiry might be necessary with regard to matters relating to the history and affairs of the company. This aspect will however be assessed and a decision in this regard will still be taken.

SECTION 402(g) : BOOKS AND RECORDS

Certain books and records were handed to us but a computer which allegedly contained all the company's accounting records was stolen from the company's premises whilst under the control of the Directors and an insurance company.

SECTION 402(h) : DIVIDEND PROSPECTS AND FURTHER ADMINISTRATION

It should be clear from the above that there is no danger of a contribution in this estate based on the figures available to us at this stage.

SECTION 402(i) : DIRECTIONS OF CREDITORS

Resolutions are submitted with this report and creditors are urged to adopt these Resolutions and to leave the further and final winding up of the company in the hands of the Joint Liquidators.

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JOHANNES FREDERICK KLOPPER
JOINT LIQUIDATOR

.....
PATRICIA ANNE GROBBELAAR
JOINT LIQUIDATOR

C/O HANS KLOPPER TRUSTEES (PTY) LIMITED
P O BOX 820
STELLENBOSCH
7599

TELEPHONE: 021 - 8879992
TELEFAX: 021 - 8879993

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RESOLUTIONS

RESOLUTIONS TO BE SUBMITTED AT THE SECOND MEETING OF CREDITORS TO BE HELD BEFORE THE MAGISTRATE, BELLVILLE, ON FRIDAY, 23 NOVEMBER 2001 AT 11H00

RESOLVED THAT:

- 1 The report of Liquidator or Joint Liquidators, as the case may be, hereinafter referred to as ("the Joint Liquidators"), as submitted, be received and adopted and all their actions referred to therein be and are hereby confirmed, ratified and approved.
- 2 All actions of whatsoever nature heretofore taken by the Provisional Joint Liquidators and/or Joint Liquidators be and are hereby confirmed, ratified and approved.
- 3 The Joint Liquidators be granted the authority and is vested with all the powers mentioned in Section 386(4)(a) – (i) of the Companies Act No 61 of 1973, as amended, such powers to be exercised at their sole and absolute discretion.
- 4 The Joint Liquidators be and are hereby authorised in their sole and absolute discretion to:
 - 4.1 Take legal advice on any question of law affecting the administration and distribution of the company;

- 4.2 Institute or defend on behalf of the company any action or other legal proceedings of a civil nature for the recovery of monies due to the company or otherwise and subject to the provisions of any law relating to criminal procedure, institute any criminal proceedings;
 - 4.3 Hold any enquiry into the affairs of the company and/or any matter relating thereto;
 - 4.4 Investigate and institute legal proceedings for the recovery of any voidable or undue preferences, voidable dispositions of property or any other impeachable transactions of whatsoever nature and to abandon same at any time;
 - 4.5 Write up the books of the company as may be required, and if necessary, to produce a balance sheet, audited or not, as at the date of liquidation, either for the purpose of investigating the affairs of the company, establishing the claims of creditors, or any other purpose.
- 5 The Joint Liquidators be and are hereby authorised in their sole and absolute discretion to employ and engage the services of attorneys and/or counsel (senior and/or junior) and/or accountants and/or bookkeepers and/or any employee of the insolvent and/or recording agents and/or any other person who in the sole discretion of the Joint Liquidators may be of assistance in the winding-up of the company in relation to any matter referred to in 4 above and further to pay all the costs thereof of whatsoever nature out of the estate as costs incurred in the liquidation.
 - 6 The Joint Liquidators be and are hereby authorised to collect any debts due to the company and for the purpose thereof to sell or compound or compromise any of these debts for such sum and upon such terms and conditions as they in their sole discretion may deem fit, and to accept any part of the debt in settlement thereof, and to grant an extension of time for the payment of any such debt, and to abandon any debt which they in their sole discretion may deem to be irrecoverable.
 - 7 The Joint Liquidators be and are hereby authorised to dispose of any movable and immovable property of the company, whether in their possession or under their control now or to come into their possession or under their control in the future by public auction, private treaty or public tender upon such terms and conditions as they in their sole and absolute discretion shall determine and to abandon any such assets for which they can find no purchaser or abandon them to a secured creditor at the value placed thereon by such creditor or at such value as is agreed upon by the Joint Liquidators and the creditor if such creditor's claim is secured by such assets and to sign all such documents as may be necessary to give effect to such disposition.

- 8 The Joint Liquidators be and are hereby authorised and empowered in their sole discretion to compromise and admit any claim against the company of whatsoever nature and howsoever arising and whether disputed or not and whether actual, contingent, prospective, conditional, unconditional, assessed, unassessed, liquidated or unliquidated as a liquidated claim in terms of Section 78(3) of the Insolvency Act No 24 of 1936, as amended, read with Section 339 of the Companies Act No 61 of 1973, as amended, at such amount as may be agreed upon by the Joint Liquidators, provided that proof thereof has been tendered at a meeting of creditors.
- 9 The Joint Liquidators be and are hereby authorised to make application for the destruction of books and records of the estate six months after the confirmation of the Final Liquidation and Distribution Account.
- 10 The Joint Liquidators be and are hereby authorised to perform any act or exercise any power for which they are not expressly required by the Companies Act No. 61 of 1973, as amended, to obtain the leave of the Court.
- 11 The Joint Liquidators be and are hereby authorised to submit to the determination of arbitrators any dispute concerning the company or any claim or demand by or upon the company.
- 12 The Joint Liquidators be and are hereby authorised to carry on or discontinue any part of the business of the company insofar as may be necessary for the beneficial winding-up thereof.
- 13 The Joint Liquidators be and are hereby authorised to exercise *mutatis mutandis* the powers conferred upon a Liquidator by Section 35 (uncompleted acquisition of immovable property before liquidation) and 37 (effect of liquidation upon a lease) of the Insolvency Act No 24 of 1936, as amended, read with Section 339 of the Companies Act No 61 of 1973, as amended.
- 14 The further administration of the affairs of the company be left entirely in the hands and at the discretion of the Joint Liquidators.

CREDITORS