

**UMKHOMBE BULK BAGS (PTY) LTD (IN LIQUIDATION) formerly trading at 12 NEBULA
CRESCENT, RANGE PARK, BLACKHEATH, WESTERN CAPE
REGISTRATION NO: 2002/019596/07
MASTER'S REFERENCE NO: C850/2019**

REPORT BY THE JOINT LIQUIDATORS, CHRISTOPHER PETER VAN ZYL and ANNEKE BARNARD TO BE SUBMITTED AT THE STATUTORY SECOND MEETING OF CREDITORS AND CONTRIBUTORIES CONVENED TO BE HELD BEFORE THE MAGISTRATE, KUILS RIVER ON WEDNESDAY 2 DECEMBER 2020 AT 09H00

The company was placed into provisional liquidation by Order of the High Court of South Africa (Western Cape Division Cape Town) on 1 November 2019. This Order was subsequently made final on 29 November 2019. We were thereafter appointed as the joint provisional liquidators by the Master of the High Court Cape Town per his Certificate of Appointment dated 25 November 2019.

No claims were submitted to proof at the First Meeting of Creditors held before the Magistrate, Kuils River on 22 January 2020. We were thereafter appointed joint liquidators by the Master of the High Court in terms of his Certificate of Appointment dated 29 January 2020.

REPORT

SECTION 402(a) : CAPITAL ASSETS AND LIABILITIES

The company, having its registered office at 12 Nebula Crescent, Range Park, Blackheath, 7580 was incorporated on 12 August 2002 under registration no. 2002/019596/07.

The company was founded in 2002 as a manufacturer of quality woven polypropylene bulk bags and sacks.

The sole director of the company as at the date of the grant of the provisional Order of liquidation was Henning Johannes Swanepoel.

The authorised share capital is 1000 shares of R1 each.

It would appear that as at the grant of the provisional Order of liquidation 100 shares had been issued and were held by the Henning Swanepoel Family Trust.

ASSETS

The only known assets of the company at this stage are debtors of approximately R300 000 but we have not been provided with the information or the documents to substantiate these amounts and we have to date been unable to collect them.

LIABILITIES

Secured Creditors

There are no known secured creditors.

Preferent Creditors

There are no known preferent creditors at this stage.

Concurrent Creditors

Comprising of trade creditors with claims totalling approximately

R3 263 000

SECTION 402(b) : CAUSES OF THE COMPANY'S FAILURE

Our investigations have revealed that the company was incurring ongoing financial losses which is evident from its financial statements at the year ended 28 February 2018 whilst the tough economic circumstances in the Republic of South Africa also effected the profitability of the company.

In early June 2019 the company sold its business to Cape Bulk Bag (Pty) Ltd comprising of its assets, stock, intellectual property, goodwill and rights arising in terms of ongoing contracts and orders to various customers.

The Agreement of Sale specifically excluded debtors and cash on hand.

The purchase price of R3 500 000 together with the excluded assets was insufficient to discharge the liabilities of the company and thus the claims by trade creditors as referred to in this report.

It should be noted that in terms of the Sale of Business Agreement all of the employees were transferred in terms of Section 197 of the Labour Relationship Act to the purchaser.

SECTION 402(c) - CONTRAVENTIONS AND OFFENSES

A report will be submitted in due course to the Master of the High Court in compliance with Section 400(2) of the Companies Act No. 61 of 1973 (as amended).

SECTION 402(d) : LIABILITY OF DIRECTORS AND/OR OFFICERS

At this stage there may be a reason to believe that the directors or officers or former directors or officers of the company can be held personally liable for damages or compensation or for any debts or liabilities of the company.

SECTION 402(e) : LEGAL PROCEEDINGS

We are not aware of any legal proceedings by or against the company which were suspended by the liquidation proceedings.

SECTION 402(f) : FURTHER ENQUIRY

At this stage there would appear to be reason to conduct an enquiry into the affairs of the company to investigate the formation, promotion or failure of the company.

SECTION 402(g) : BOOKS AND RECORDS

We have received no books and records of the company so we cannot comment as to whether they comply with Section 284 of the Companies Act.

SECTION 402(h) : PROGRESS AND PROSPECTS OF LIQUIDATION

1. Our investigations have revealed that the sale of the business took place in June 2019 and was not advertised as is contemplated by Section 34 of the Insolvency Act No.24 of 1936 (as amended).

The sale may thus be void and set aside.

2. In the event that the sale is impeachable and may be set aside, the business has in the meantime been amalgamated into that of Cape Bulk Bag (Pty) Ltd whilst all of the employees have transferred to Cape Bulk Bag (Pty) Ltd and the premises of the company are no longer leased by the company so it is not certain what business would be restored to the liquidators given these circumstances.
3. We are awaiting information from the director of the company Mr Henning Johannes Swanepoel to establish how the purchase consideration of approximately R3 500 000 was utilised once received.

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It was apparently utilised to pay the applicant's staff and creditors to the extent of the funds available and what we need to do is secure this information so that we can establish whether any specific creditors were preferred or not.

4. Once we have this information we would be able to, on an informed basis, decide whether or not any of the payments made to specific creditors only constitute undue preferences and can be set aside.
5. There are debtors of the company owing approximately R300 000 and we have not received this information and once we have received this information steps will be taken to institute legal proceedings for the recovery of these debts if applicable.

SECTION 402(i) : MATTERS REQUIRING THE FURTHER DIRECTIONS OF CREDITORS

Such directions as we require of the creditors are contained in the resolutions numbers 1 to 16 which are submitted for consideration and adoption by creditors at today's meeting in conjunction with this report.

Creditors are requested to adopt these resolutions to enable the administration of the company in liquidation to continue.

Dated at CAPE TOWN this day of NOVEMBER 2020.

C P VAN ZYL
JOINT LIQUIDATOR

C/O MAZARS RECOVERY AND RESTRUCTURING (PTY) LTD
Mazars House
Rialto Road
Grand Moorings Precinct
CENTURY CITY
7441


A BARNARD
JOINT LIQUIDATOR

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RESOLUTIONS SUBMITTED FOR ADOPTION AT THE STATUTORY SECOND MEETING OF CREDITORS AND CONTRIBUTORIES TO BE HELD BEFORE THE MAGISTRATE, KUILS RIVER ON WEDNESDAY 2 DECEMBER 2020 AT 09H00.

RESOLVED :

1. THAT the actions of the Liquidator/s to date be and are hereby approved, confirmed and ratified including the sale of the company's movable assets and immovable properties. The reference to Liquidator/s in all Resolutions includes or refers to Provisional Liquidator/s where applicable and the reference to a male includes the reference to a female, where applicable.
2. THAT the Report of the Liquidator/s be and is/are hereby approved and adopted.
3. THAT the Liquidator/s be and is/are hereby authorised and empowered to take legal opinion or to institute or defend any action or application in respect of any matter affecting the company in any competent Court of Law and for those purposes he/they be and is/are hereby authorised and empowered to engage the services of Attorneys and/or Counsel; such legal costs as may be incurred to be costs in the winding-up of the company.
4. THAT the Liquidator/s be and is/are hereby authorised and empowered to dispose of the assets of the company by public auction and/or public tender and/or private treaty as he/they in his/their discretion may deem fit.
5. THAT the Liquidator/s be and is/are hereby authorised and empowered to sign all the necessary documents as may be required to effect transfer of the ownership of the assets, including fixed property, to the purchaser thereof.
6. THAT the Liquidator/s be and is/are hereby authorised and empowered to compromise any claim against the company, provided that proof thereof has been tendered at a meeting of creditors.
7. THAT the Liquidator/s be and is/are hereby authorised and empowered to hold a Commission of Enquiry or an Enquiry before the Magistrate or Master of the High Court and the costs of Counsel, Attorneys, Court Application and all related costs to be costs in the winding-up of the company.
8. THAT the Liquidator/s be authorised to pursue the collection of the outstanding debts, if any, and for that purpose to engage whatever legal assistance he/they may require as costs of administration and paid accordingly. Provided further that the Liquidator/s be authorised to dispose of the outstanding debts, if any, by public auction, public tender or private treaty on such terms and conditions as he/they in his/their discretion deem/s fit, provided that in a sale by private treaty the minimum amount to be obtained be not less than R2,00. Further that the Liquidator/s be authorised to abandon the outstanding debts should he/they deem these to be bad and/or irrecoverable or uneconomical and the costs so incurred to be treated as costs in the winding-up of the company.

9. THAT the Liquidator/s be and is/are hereby authorised to abandon any assets which are the subject of Instalment Sale Agreements or other right of security, to the creditor concerned in full settlement of that creditor's claim or at an agreed valuation as the case may be, provided that the Liquidator/s is/are satisfied that no benefit could accrue the concurrent creditors of the company were the assets in question to be realised in the ordinary course, subject to the secured creditors concerned paying the costs of the realisation attributable to their security in terms of Section 89(1) of the Insolvency Act.
10. THAT the action/s of the Liquidator/s in having continued trading operations be and is/are hereby ratified and confirmed and any losses that may have been sustained during such trading period be treated as costs of liquidation.
11. THAT the Liquidator/s be and is/are hereby authorised to make application for the destruction of the books and records of the company six (6) months after confirmation of the final Liquidation account.
12. THAT any excess in premiums and stamp duty on Security Bonds or asset insurance which is more than that prescribed by the Master of the High Court be and is hereby authorised as an administration expense to be borne by the company in liquidation.
13. THAT the Liquidator/s be and is/are hereby authorised to employ auditors/accountants to investigate and write up the books of the estate and to produce an audited balance sheet as at that date, and to complete any necessary Income Tax and other statutory Returns and that all costs so incurred shall be costs in the liquidation of the company.
14. THAT the Liquidator/s be and is/are hereby authorised and empowered in his/their discretion to hold an enquiry into the formation and affairs of the company, and/or any matter relating hereto, should he/they deem it to be in the interests of creditors, and to employ Attorneys and/or Counsel and/or Recording Agents, to assist in the said enquiry, and to summons any person who he/they should deem necessary to be present at the enquiry, all costs so incurred to be costs of administration.
15. THAT the action/s of the Liquidator/s in utilising the services of former officials of the company and/or representative/s for the purpose of tracing assets, compiling an inventory of stock and taking possession of the assets including the actions in appointing agents in respect of money market corporate saver accounts and that such commission be a cost of administration of the estate, be and is/are hereby confirmed, their remuneration plus travelling expenses to be paid by the company as a cost of administration.
16. THAT the further administration of the liquidation be left in the hands of the Liquidator/s who is/are hereby authorised and empowered, in his/their discretion, for the purposes hereof and for the purposes of the abovementioned Resolutions, to employ such individuals, organisations or other entities to assist them for whatever purposes he/they may deem fit to give effect to and carry out their duties and obligations as set out herein and as abovementioned and to settle the fees and charges of such individuals, organisations and other entities, in his/their sole discretion and to pay same as a cost of administration in the winding-up.

q.q. PROVED CREDITORS NO'S:

PRESIDING OFFICER: