

MEMORANDUM TO ALL AFFECTED PERSONS

30 June 2016

Dear Sir/Madam

STATUS REPORT IN TERMS OF SECTION 132 (3) (a) OF THE COMPANIES ACT 71 OF 2008 (“THE ACT”) RELATING TO FOLLOWING COMPANIES IN THE PLATINUM GROUP:

JENNI BUTTON (PTY) LTD:	REGISTRATION NUMBER 1997/009010/07
RAPITRADE 6 (PTY) LTD:	REGISTRATION NUMBER 2002/011253/07
RAPITRADE 7 (PTY) LTD:	REGISTRATION NUMBER 2002/011160/07
RAPITRADE 9 (PTY) LTD:	REGISTRATION NUMBER 2002/011294/07
RAPITRADE 26 (PTY) LTD:	REGISTRATION NUMBER 2002/013216/07
TRESSO TRADING 102 (PTY) LTD:	REGISTRATION NUMBER 2000/015521/07
ROWMOOR INVESTMENTS 329 (PTY) LTD	REGISTRATION NUMBER 2001/021287/07

1. We refer to the above matter and to our previous monthly reports since November 2015.
2. This is a joint status report by J. du Toit (“Jacques”) and J.F Klopper (“Hans”) as the duly appointed joint business rescue practitioners (“BRP’s”) in all the above companies save for Rowmoor Investments 329 (Pty) Limited (“Rowmoor”) where Jacques was appointed as the sole BRP.
3. The BRP’s, management and shareholders of the abovementioned companies have been engaged in on-going discussions with various parties since the commencement of proceedings in all of the above entities in July to August 2015.
4. The BRP’s have been advised that trading has now commenced in Gateway under the auspices of separate unrelated entities.
5. The BRP’s, management and shareholders still do not have, as was repeatedly reported during the past few months, access to funding and the position still remains that no funds are as yet available for payment to the BRP’s for their remuneration and expenses or to any other parties who have a right of preference as provided for in terms of section 135 of the Companies Act 71 of 2008 (“the Act”) as referred to in more detail in 19.1 below.
6. The exploring of various options with a view to third parties entering into agreements in respect of the acquisition of stock, as was mentioned in previous status reports, have culminated in arrangements with suppliers to procure stock for the Gateway operations.

7. Since late 2015 the BRP's have been receiving regular communications from the forwarding and clearing agents of Rowmoor informing the BRP's that certain stock in their controlled bond store had or was about to reach time expiry. During the course of May 2016 the BRP's were informed by the clearing agent that no further extensions on the stock was to be granted by South African Revenue Services ("SARS"). This left the clearing agents with no alternative but to apply for abandonment which would entail the destruction of the stock by SARS for unpaid Duty and VAT.
8. Affected persons should bear in mind that the BRP of Rowmoor was at no time given unfettered access to the stock to enable him to determine the value and saleability of the stock but was instead at all times advised that he would not be given access to or control over the stock until such time as the Duty and VAT owing to SARS had been paid in full. The lack of funding, as was alluded to in paragraph 5 above, made this impossible.
9. We are of the view that even had the BRP of Rowmoor, at the outset in 2015, placed Rowmoor under liquidation and the appointed liquidators had been provided with the opportunity to exercise control over the stock held in the bond stores in order to deal with such stock as an asset of Rowmoor, subject to the rights of creditors who held such assets as security, the net realisation under forced sale circumstances would not have been sufficient to cover the secured creditors being:
 - 9.1. SARS, with a statutory lien in terms of section 114 of the Customs and Excise Duty Act 91 of 1964, as a first charge; and
 - 9.2. the clearing agent on a storage lien as a second charge.
10. The BRP's have consulted with three independent professional valuers who all expressed the view that clothing, on a forced sale under liquidation circumstances, would realise, at best, 30% of cost. They cited the main reasons for this to be that purchasers of such stock buy "job-lots" and expect bargains under liquidation circumstances. The costs of liquidation would have depleted the gross realisation by a further 25% which would eventuate in only some 22.5% of cost being available for distribution to the secured creditors stated in paragraphs 9.1 and 9.2 above.
11. The scenario set out in paragraphs 9 and 10 above would however have only unfolded if SARS agreed to relinquish possession in terms of section 47 of the Insolvency Act 24 of 1936. This has however in recent times proved to be a challenge as SARS contended at all times that they would only give up possession to a BRP or liquidator under circumstances where the VAT and Duty is paid in full. The BRP's were at all times of the view that SARS's interpretation of the law is incorrect but did not have the funding (for the same reasons mentioned in paragraphs 5 and 8 above) to pursue this issue.

12. However, as a result of the time that elapsed, the storage and other costs escalated. Based on the expert opinions mentioned in paragraph 10, the BRP's concluded that the value of the stock was, as at June 2016, even further below the amounts outstanding on VAT, Duty and Storage.
13. As the imminent abandonment and destruction was repeatedly communicated to the BRP's the BRP of Rowmoor engaged with SARS and the clearing agents as the major secured affected persons as defined in the Act. In addition, they are the only persons with a security interest as is envisaged in terms of section 134 (3) of the Act ("the security interest persons").
14. As a consequence of this engagement the destruction of the stock was averted and it was decided, together with the security interest persons, to move all the stock, with VAT and Duty in excess of some R7m outstanding, to a third party bond store to be cleared in small increments. It was recorded in writing by SARS that there would be a blanket 6 month's extension granted by them on the time barred stock.
15. We sent communications to suppliers on 31 May and 17 June 2016 requesting them to inform us of any basis upon which they were able to assert that they had retained ownership or title of the stock supplied by them. This was done to enable us to engage with them should they were persons with a title interest as envisaged in terms of section 134 (3) of the Act. We received no reaction save for the supplier mentioned in paragraph 16 below.
16. One supplier asserted rights on a portion of the stock supplied by them and which the BRP's acknowledged. This issue was subsequently dealt with.
17. We therefore reiterate that all suppliers had therefore been provided with an opportunity to:
 - 17.1. assert their title interest; and
 - 17.2. object to the release of stock on the basis of rights which they might have had in terms of section 134 (3) of the Act.
18. Upon confirmation of the time barred extension, the security interest persons agreed to the process of transferring the stock to a third party bond store subject to a portion of the storage fees owing to them being settled.
19. Under circumstances where the BRP of Rowmoor averted the destruction of the stock in conjunction with the security interest persons he acted in terms of section 134(1) (a)(ii) of the Act in a bona fide transaction at arm's length.
20. This was done with a view procuring a substantially better position for:

- 20.1. The parties who are entitled to preference in terms of section 135¹ for claims rank in the following order of preference:
 - 20.1.1. The BRP's, for remuneration and expenses, and other persons (including legal and other professionals) for costs of business rescue proceedings;
 - 20.1.2. Employees for any remuneration which became due and payable after business rescue proceedings began;
 - 20.1.3. The security interest persons for their supplies made after business rescue proceedings began, i.e. post commencement finance;
 - 20.1.4. Secured creditors (i.e. the security interest persons for their claims or supply made before business rescue proceedings began);
 - 20.1.5. Employees for any remuneration which became due and payable before business rescue proceedings began; and thereafter
 - 20.1.6. Unsecured lenders or other creditors for any loan or supply made before business rescue proceedings began.
21. The security interest persons and hopefully, in due course, unsecured creditors, will all in due course benefit from the releasing of stock from the third party bond store in small increments. This will facilitate the process of gradually developing a proposal to place all creditors in a substantially better position going forward.
22. During the course of the last days we were informed that certain parties were enquiring about the process that was taking place and were casting aspersions on the manner which the above arrangement amongst the parties was arrived at.
23. Under the circumstances we hereby advise that we acted in terms of the Act as set out above and with the consent of the security interest persons. Eventually, the general body of creditors could all still benefit from the sale of the stock as opposed to the alternative scenario in terms of which the stock was to be destroyed.
24. We invite any affected persons with a concern to address us in writing on this issue openly to enable us to discuss and debate such concerns.
25. We therefore remain hopeful that the general position with regard to the above companies will improve and are confident that commercially sound proposals may be made going forward.

JF KLOPPER & J DU TOIT

BUSINESS RESCUE PRACTITIONERS (Sent electronically and therefore not signed)

1. See Merchant West Working Capital Solutions (Pty) Ltd v Advanced Technologies and Engineering Company Ltd 13/12406 10 May 2013 (GSJ) and also Delpont P.A and Vorster Q, Henochsberg on the Companies Act 71 of 2008.