CONNIE MYBURGH (PROPRIETARY) LIMITED

CORPORATE LAW ADVISERS

Date 31 January 2025

TO: ALL KNOWN CREDITORS OF HLUMISA INVESTMENT HOLDINGS (RF) LTD (2008/008839/06)

Dear Sir/Madam

RE: STATUS REPORT

I refer to the matter where I am the appointed Business Rescue Practitioner of Hlumisa Investment Holdings (RF) Ltd ("the Company").

1. The Business Rescue Plan for the Company was published on Friday 24 June 2016.

2. The meeting to consider the BR Plan in terms of Section 151 of the Companies Act was convened on 8 July 2016, which meeting was adjourned to 22 July 2016.

3. Certain amendments to the BR Plan were unanimously voted into the BR Plan at the meeting in terms of Section 152(1)(d)(i).

4. Since the BR Plan was supported by the holders of more than 75% of the voting interests that were voted, and these included at least 50% of the independent creditors voting interests that were voted, the BR Plan was adopted in terms of Section 152(2).

5. At the shareholders meeting held on 22 July 2016 the majority of shareholders of the Company voted in favour of utilising the Company's available cash to fund the litigation proceedings referred to below and/ or any other legal proceedings that may arise.

6. Since the adoption of the BR Plan, I attended to payments to creditors, dealt with disputed claims and attended to shareholder related issues, which latter process is continuing.

7. In respect of the litigation proceedings against the previous directors and auditors of ABIL, which proceedings were ongoing, the defendants raised certain preliminary issues. These preliminary issues were heard by the Court on 7 and 8 November 2017.

8. After hearing argument, the judge who heard the matter, reserved judgement.

9. Judgement was handed down on 30 August 2018, in favour of the defendants and against the Company.

10. The awaited reasons for the Court's decision were received.

11. The legal team considered the Court's reasons, and advised that an Appeal process be embarked upon, in order to Appeal the decision of the Court as the representatives of the Company did not agree with the reasoning of the Honourable Court.

12. An application for Leave to Appeal the Court's decision, was lodged on 20 September 2018.

13. The date for the hearing of the application for Leave to Appeal, was 16 November 2018.

14. On 16 November 2018, the Company's Application for Leave to Appeal was granted in favour of the Company.

15. The Company lodged a formal Appeal to the Supreme Court of Appeal, in Bloemfontein, against the 30 August 2018 Court Judgement.

16. The Appeal Record and the Company's Heads of Argument were filed.

17. A date for the hearing of the Appeal was set for 9 March 2020 at 09h45 in the Supreme Court of Appeal in Bloemfontein. Any interested party was entitled to attend.

18. Counsel for the Company had been instructed to appear and conduct the Court Case on the above Court Hearing date.

19. The Appeal hearing took place on 9 March 2020.

20. Judgement was handed down on 3 July 2020, and the Supreme Court of Appeal dismissed the Company's Appeal.

21. The legal team for the Company filed an application for leave to Appeal to the Constitution Court on 23 July 2020.

22. Unfortunately, and contrary to expectations, the Constitutional Court declined the application for leave to Appeal on 4 January 2021.

23. Pursuant to the Constitutional Court's refusal to entertain the matter, the legal team was instructed to consider other alternatives, including a possible amendment to the Company's case.

24. The legal team, having considered all of the options, have concluded that in the light of the Constitutional Court's unwillingness to test very important points of company law and statutory interpretation and in the light of the conservative stance taken by the Supreme Court of Appeal on the issue of shareholders claims (in the like of those of the Company), that regrettably there are no further avenues by which the Company and its shareholders can pursue their loss, be it by means of an amendment to the existing claim, or otherwise.

25. The law thus stated is that notwithstanding the existence of certain sections of the Company's Act, that were relied on to sustain such a claim, the Courts have now definitively held that shareholders of companies (like the Company in this case) do not have a claim against third parties for the decrease in value of their shares as a result of the losses suffered by the company (in this case African Bank).

26. It will be recalled that the Business Rescue Plan was conceived, mainly, as a vehicle to pursue the Company's possible claim against the previous auditors and directors of African Bank.

27. As the claim cannot now be pursued, all that remained was for the legal process to be terminated and the costs orders granted in favour of the Defendants in the action brought against the Defendants to be settled.

28. The costs orders having been granted against the H&E Companies were paid.

29. The BRP has received a request to approach the South African Reserve Bank (SARB) for assistance in procuring payment of the losses of H&E shareholders from the SARB. This possible avenue is being investigated and legal advice in this regard is awaited.

30. The audit process was abandoned, as same would have been to costly for no real purpose.

31. Given the fact that the shareholders of the H&E companies number some 17 000, the available amount is insufficient to make any meaningful distribution to shareholders of the Company, also given the additional costs that would need to be incurred to make such a distribution.

32. The possibility of a future distribution will depend on whether or not an approach to the SARB, as indicated above, yields any result. We will keep shareholders appraised of developments in this regard.

33. Full implementation achieved as far as possible claims against the erstwhile directors and auditors of African Bank is concerned. Constitutional Court held that no claims exist for the companies under Business Rescue against the erstwhile directors and auditors of African Bank.

34. Actions are being pursued to investigate the possibility of instituting claims against the South African Reserve Bank, or to approach the SARB to make an ex-gratia payment to the companies under Business Rescue.

35. There has been no meaningful progress since August 2024, as the Company's attorney passed away in August 2024. There are many thought processes underway, and new attorneys are sought who might be prepared to act against the SARB. It is not possible to provide a timeline for concluding matters.

36. Further reports and updates will follow.

Should you have any queries, please contact us by email at admin@businessrescuepartner.co.za.

Yours sincerely,

Signed
CF Myburgh
Business Rescue Practitioner