



Attention: All Creditors of Bashee River Trading (Pty) Ltd t/a Seemann's (in business rescue)

Per Email/Facsimile

27 March 2014

Dear Sir/Madam

NOTICE TO THE CREDITORS OF BASHEE RIVER TRADING (PTY) LTD T/A SEEMANN'S (IN BUSINESS RESCUE) ("the company") OF THE FIRST MEETING OF CREDITORS TO BE HELD IN TERMS OF SECTION 147(1) OF THE COMPANIES ACT, 71 OF 2008 ("the Act")

1. Notice is hereby given in terms of section 147(2) of the Act that the first meeting of creditors of the company will be held on Tuesday, 01 April 2014 at 11h00, at the offices of Webber Wentzel Attorneys, situated at 10 Fricker Road, Illovo Boulevard, Johannesburg.
2. Please be advised that the agenda for the meeting is to:
 - 2.1 report on the progress made in the business rescue proceedings of the company;
 - 2.2 discuss the prospects of rescuing the company;
 - 2.3 discuss and possibly receive proof of claims by creditors;
 - 2.4 discuss and, if deemed fit, appoint the members of a committee of creditors; and
 - 2.5 discuss and vote on an extension of the time within which the business rescue plan of the company must be published, in accordance with the provisions of section 150(5)(b) of the Act.

Yours sincerely

Peter van den Steen

Business Rescue Practitioner for Bashee River Trading (Pty) Ltd t/a Seemann's (in business rescue)

Letter may be sent electronically if so signed copy will be sent on request



NOTES FOR THE COMPLETION OF CLAIM DOCUMENTS

Claims must be proved to the satisfaction of the BRP. In order to facilitate this process and to ensure that commencement date creditors complete their claim documents correctly, the following guidance note was compiled.

1. DEFINITIONS

- 1.1 The following terms shall have the following defined meanings for the purposes of the claim documents, namely:
- 1.1.1 "BRP" means Peter van den Steen (identity number: 601205 0097 08 7), the person appointed in accordance with the applicable provisions of the Companies Act as the business rescue practitioner of the company;
- 1.1.2 "business day" means every day of the week other than a Saturday, Sunday or public holiday;
- 1.1.3 "business rescue" means business rescue as defined in section 128(1) of the Companies Act;
- 1.1.4 "business rescue proceedings" means the proceedings set out in Chapter 6 of the Companies Act which commence and terminate in accordance with the provisions of section 132 of the Companies Act;
- 1.1.5 "claim documents" means:
- 1.1.5.1 the proof of claim form;
- 1.1.5.2 the statement of account (if applicable);
- 1.1.5.3 the affidavit;
- 1.1.5.4 the power of attorney / proxy form; and
- 1.1.5.5 the resolution of the commencement date creditor (if applicable).
- 1.1.6 "commencement date" means 14 March 2014, being the date upon which the business rescue of the company commenced in accordance with section 132 of the Companies Act;
- 1.1.7 "commencement date creditors" means all natural and legal persons having claims against the company as at the commencement date;
- 1.1.8 "Companies Act" means the Companies Act, No. 71 of 2008;
- 1.1.9 "company" means Bashee River Trading (Pty) Ltd t/a Seemann's with

registration number: 2005/009715/07, being a company incorporated and carrying on business in accordance with the laws of South Africa;

- 1.1.10 "South Africa" means the Republic of South Africa;
- 1.1.11 "VAT" means value-added tax levied in terms of the Value-added Tax Act, No. 89 of 1991;
- 1.1.12 "ZAR" or "R" means South African Rand, the lawful currency of South Africa.

2. CLAIM DOCUMENTS

- 2.1 The claim documents consists of:
 - 2.1.1 the proof of claim form;
 - 2.1.2 the statement of account (which must be completed only when goods have been sold and/or services have been rendered on open account);
 - 2.1.3 the affidavit (which must be attested to before a commissioner of oaths);
 - 2.1.4 the power of attorney / proxy form; and
 - 2.1.5 a resolution by the commencement date creditor (if the commencement date creditor is a legal entity).
- 2.2 The applicable claim documents must be completed for all claims against the company as at the commencement date.
- 2.3 Any supporting documentation (e.g. invoices, statements, agreements, security documents, credit insurance policies etc.) must be attached to the claim documents and submitted to the BRP by no later than 20 business days after receipt of the claim documents.
- 2.4 The claim documents can be submitted to seemanns.rescue@webberwentzel.com.

3. PROOF OF CLAIM FORM

- 3.1 The proof of claim form must be completed in full and must set out the nature and particulars of the claim.
- 3.2 Please bear in mind the following when completing the proof of claim form:
 - 3.2.1 The claim documents are only in respect of claims against the company that arose prior to the commencement date.
 - 3.2.2 Interest may only be claimed if an agreement by the company to pay interest is attached to the claim documents and submitted to the BRP. If such an

agreement exists, interest may only be calculated and claimed up to the commencement date.

- 3.2.3 Where legal charges have been incurred, creditors must attach their attorney's detailed taxed bill of costs to the claim documents. Only legal charges incurred up to the commencement date may be claimed.
- 3.2.4 Where a claim is in respect of rent, the original lease agreement (if any) must be attached to the claim documents and submitted to the BRP. A detailed statement of rent due up to the commencement date must be completed, together with a separate statement showing the rental payable after the commencement date.
- 3.2.5 If any security is held by the commencement date creditor for the claim (e.g. a suretyship, pledge, mortgage bond, notarial bond) the nature and particulars of the security must be stated, together with the amount at which such security is valued.
- 3.2.6 Where claims are in respect of a mortgage or notarial bond, cession, suretyship or an acknowledgment of debt, commencement date creditors must attach the original documents in respect thereof, together with a detailed statement of the claim against the company, to the claim documents.
- 3.2.7 Where the commencement date creditor obtained any form of credit insurance in respect of the claim, at any time before or after the commencement date, a copy of the credit insurance policy must be attached to the claim documents.

4. STATEMENT OF ACCOUNT

- 4.1 The statement of account needs to be completed by all commencement date creditors who wish to prove a claim for goods sold and/or services rendered on open account.
- 4.2 Creditors are requested to include as attachments all invoices, statements and vouchers in support of their claim.

5. AFFIDAVIT

- 5.1 The affidavit must be attested to before a commissioner of oaths, who must:
 - 5.1.1 sign the affidavit and print his full names and business address below his signature; and
 - 5.1.2 state his designation and the area for which he holds his appointment (or the office held by him if he holds his appointment *ex officio*).
- 5.2 Please note that each and every page of the affidavit must be initialed by the deponent and the commissioner.

5.3 Any amendments must be initialed by both the deponent and the commissioner.

6. **POWER OF ATTORNEY / PROXY FORM**

6.1 Any commencement date creditor who wishes to attend the meetings of creditors may do so in person.

6.2 Should the authorised person be unable to attend any meeting of creditors, a representative may be appointed using the proxy form.

6.3 Please ensure that the proxy is properly executed.

7. **RESOLUTION**

7.1 Where a legal entity proves a claim, the affidavit and the proxy form must be signed by a director or any other person properly authorised thereto.

7.2 A resolution authorising the said director or other person to sign the abovementioned documents on behalf of the legal entity must therefore be completed.

PROOF OF CLAIM FORM

In the business rescue proceedings of Bashee River Trading (Pty) Ltd t/a Seemann's, with registration number: 2005/009715/07 (hereinafter referred to as "the company")

1. **Registered name of commencement date creditor:**

2. **Commencement date creditor's registration/identity number:**

3. **Commencement date creditor's VAT registration number:**

4. **Physical address of commencement date creditor:**

5. **Contact details of commencement date creditor:**

5.1 Contact person: _____

5.2 Telephone number: _____

5.3 Fax number: _____

5.4 Email address: _____

5.5 PO Box address: _____

6. **Bank account details of commencement date creditor:**

6.1 Bank: _____

6.2 Branch: _____

6.3 Branch code: _____

6.4 Account holder's name: _____

6.5 Account number: _____

6.6 Account type: _____

6.7 Reference: _____

7. **Total amount of claim against the company as at the commencement date:**

R_____

8. **Does the abovementioned claimed amount include interest calculated up to the commencement date? If so, please specify:**

9. **Does the abovementioned claimed amount include legal charges incurred prior to the commencement date? If so, please specify:**

10. **Cause of action for claim (e.g. goods sold and delivered, services rendered or in terms of an agreement):**

11. **Details of any security held by the commencement date creditor:**

12. **Total value of such security held by the commencement date creditor :**

R_____

13. **Details of any equipment/assets belonging to the company that are in the possession of the commencement date creditor:**

14. **Is the commencement date creditor an employee to whom any remuneration, reimbursement for expenses or other amount of money relating to employment became due and payable prior to the commencement date, and who had not been paid by the company as at the commencement date? If so, please specify:**

15. **Is the commencement date creditor in any way related to the company, a director of the company or the BRP? If so, please specify:**

16. **Did the commencement date creditor take out any form of credit insurance at any time before or after the commencement date? If so, please specify:**

17. **Has the claim in any way been acquired by cession after the commencement date? If so, please specify:**

DATED at

this

day of

2014.

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For and on behalf of the Creditor

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Capacity

In the business rescue proceedings of Bashee River Trading (Pty) Ltd t/a Seemann's, with registration number: 2005/009715/07 (hereinafter referred to as "the company") in respect of

(registered name of commencement date creditor)

with registration / identity number: _____
(hereinafter referred to as "the commencement date creditor")

AFFIDAVIT

I, the undersigned, _____
(full names as they appear on identity document)

do hereby make oath and say that:

1. I am the commencement date creditor / I am a duly authorised representative of the commencement date creditor.
2. The facts contained herein are, to the best of my knowledge and belief, true and correct.
3. The company was at the commencement date of its business rescue proceedings, and still is, indebted to the commencement date creditor in the sum of:

(words)

for

(cause of action)

4. I have perused and considered the proof of claim form and the statement of account (if applicable), that was completed as part of the business rescue proceedings of the company by _____ and dated _____, and confirm that the information furnished therein is, to the best of my knowledge and belief, true and correct.

DEPONENT

The Deponent has acknowledged that the deponent knows and understands the contents of this affidavit, which was signed and sworn to or solemnly affirmed before me at _____ on this _____ day of _____ 2014, the regulations contained in Government Notice No. R1258 of 21 July 1972, as amended, and Government Notice No. R1648 of 19 August 1977, as amended, having been complied with.

COMMISSIONER OF OATHS

Full names:
Business address:
Designation:
Capacity:

POWER OF ATTORNEY / PROXY FORM

I, the undersigned

in my capacity as _____ of

(hereinafter referred to as the creditor)

do hereby nominate, constitute and appoint:

with powers of substitution to be the said creditor's lawful attorney and/or agent in the creditor's name, place and stead, to attend all meetings of creditors in the matter of Bashee River Trading (Pty) Ltd t/a Seemann's (in business rescue) ("the company");

on the creditors behalf to prove the creditor's claim and to exercise on the creditor's behalf all voting and other powers in respect of such claim and generally to act on the creditor's behalf at all meetings of the company in all matters and things in which the creditor's interests are concerned, hereby promising to ratify and confirm whatsoever the said agent may do or perform by virtue of these presents.

DATED at _____ this _____ day of _____ 2014.

AS WITNESSES:

1. _____

2. _____

SIGNATURE

CERTIFIED EXTRACT FROM THE MINUTES OF A MEETING OF DIRECTORS OF

(full name of the commencement date creditor if the said creditor is a company)

HELD AT _____ ON THE _____ DAY OF _____ 2014

IT WAS RESOLVED THAT:

_____ be and is hereby authorised and empowered to sign all the necessary documents to enable the abovementioned company to prove its claim against Bashee River Trading (Pty) Ltd t/a Seemann's (in business rescue) ("Seemann's") and to attend meetings of creditors (and subsequent postponements of such meetings) of Seemann's, and to speak and vote on behalf of the abovementioned company, with power, in his discretion to substitute and appoint any other person or persons to attend such meetings on the abovementioned company's behalf.

CERTIFIED A TRUE COPY

AUTHORISED OFFICIAL