

AGRIPOTS (PTY) LTD (IN LIQUIDATION)
("the Company")

MASTER'S REFERENCE NUMBER : T1844/00

**REPORT OF THE LIQUIDATOR, J F KLOPPER OF HANS KLOPPER TRUSTEES (PTY) LTD., IN TERMS
OF SECTION 402 OF THE COMPANIES ACT NO 61 OF 1973 AS AMENDED TO BE SUBMITTED AT A
SECOND MEETING OF CREDITORS AND CONTRIBUTORIES TO BE HELD BEFORE THE MAGISTRATE
OF JOHANNESBURG ON TUESDAY 27 FEBRUARY 2001 AT 09:00**

ORDER OF THE COURT AND MEETINGS

- 1 I confirm that upon an Ex Parte application, the Company was placed in final liquidation by Order of the High Court of South Africa (Witwatersrand Local Division) on 4 April 2000. I was appointed by The Master of the High Court as Provisional Liquidator on 17 April 2000.
- 2 The first meeting of creditors and contributories was held before the Magistrate of Johannesburg on 1 August 2000. At the meeting no claims were proved.
- 3 No voting took place at the first meeting of creditors and I was appointed as Liquidator by the Master of the High Court.

History and information of the Company

- 4 According to the Registrar of Companies the company was incorporated under registration number 96/03982/07.

Registered Address

- 5 The registered address of the company is Hall 7, Johannesburg National Fresh Produce Market, Heidelberg Road, City Deep.

Directors

- 6 It appears from my investigations, the following persons consented to serve as directors:
 - 6.1 Uys Johannes Botha
 - 6.2 Dirk Schlebusch
 - 6.3 Andries Johannes Pyper Erasmus

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Share Capital

- 7 The authorised share capital of the company is R100 divided into 100 ordinary shares par value shares of R1 each.
- 8 The issued share capital of the company is 100 ordinary par value shares of R1 each.
- 9 It appears from information on hand that the shareholding as at the date of liquidation was as follows:
- 9.1 Uys Botha (33,3%)
- 9.2 Johannes Erasmus (33,3%)
- 9.3 Dirk Schlebusch (33,3%)

Business of the Company

- 10 The main business of the company was in the fresh produce retail field as commission agent and distributor of fresh vegetables.

Auditors

- 11 The auditors of the company as at date of liquidation was Tsiki Cohen and Gmeiner, who also acted as Company Secretary.

STATEMENT OF AFFAIRS

- 12 I am in possession of a Statement of Affairs as required in terms of Section 363 of the Companies Act No 61 of 1973 as amended.

SECTION 79(A): FINANCIAL STATEMENT OF ASSETS AND LIABILITIES

- 13 The following represents the assets and liabilities of the company at date of liquidation. Unless otherwise stated, these figures only represent estimates of the assets and liabilities and will change depending on the amounts of realisation of unsold assets and claims submitted for proof.

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ASSETS

IMMOVABLE PROPERTY	NOTES	AMOUNT	AMOUNT
			NIL
MOVABLE ASSETS			
Motor vehicles	1		176,571.00
Office furniture and Equipment	2		3,000.00
Debts (collected to date)	3		245,789.14
TOTAL ASSETS			425,360.14
LIABILITIES			
Secured			
Bankfin	1	111,695.65	
Daimler Chrysler Financial Services (Pty) Ltd		41,256.62	
Preferent Creditors			
Receiver of Revenue		1,170,002.89	
Unemployment Insurance Fund		37,737.28	
TOTAL LIABILITIES		1,360,692.30	
DEFICIT			935,332.26

NOTES

The statement of assets and liabilities must be read in conjunction with the following notes:

- 1.1 A motor vehicle, 1988 BMW M5, is subject to an Instalment Sale Agreement in favour of ABSA Bank Limited trading as Bankfin. The vehicle has been realised in terms of Section 83 of the Insolvency Act for an amount of R33,000.00.
- 1.2 A motor vehicle, 1996 Nissan Patrol, is subject to an Instalment Sale Agreement in favour of ABSA Bank Limited trading as Bankfin and has been realised in terms of Section 83 of the Insolvency Act for an amount of R100,000.00.
- 1.3 The motor vehicle, Mercedes Benz 230EA, is also subject to an Instalment Sale Agreement in favour of Daimler Chrysler Financial Services (Pty) Ltd. The vehicle has been realised by the creditor for an amount of R43,570.80.

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Office Furniture & Equipment

2. The liquidator sold the office furniture and equipment, which consist of a desk, two chairs and a computer to the previous directors of The Company for an amount of R3,000.00

Debts collected

- 3 Debts collected to date total R245,789.14. This amount is available for distribution to concurrent creditors after administration costs have been paid.

CAUSES OF THE COMPANY'S FAILURE

- 14 The Directors attribute the failure of the company to the following:

- 14.1 The Company traded in the Fresh Produce Retail Field as commission agent and distributor of fresh vegetables. The Company commenced its business during April 1996 whereof Nicolas Dirk Schlebusch ("Schlebusch"), Andries Johannes Pyper Erasmus ("Erasmus") and Uys Johannes Botha ("Botha") were the only directors and shareholders.
- 14.2 The business of The Company expanded drastically and the directors required a person who could see to the administration and financial affairs of The Company. During the middle of 1997, Mr Pieter Van Zyl ("Van Zyl") was employed by The Company as a full time accountant. Van Zyl previously practised as a Chartered Accountant and sought a position in the private sector. Shortly after his appointment, Van Zyl's responsibilities and duties were extended and he became responsible for the entire spectrum of Financial Management of The Company. In terms of his duties, Van Zyl, from time to time, provided the directors of The Company with Management statements in terms of which he reported to the directors on the financial position of The Company. The directors left the Financial Management in the hands of Van Zyl, as they were confident that he was attending to the best interest of The Company and its directors.
- 14.3 Although January 2000 was a month in which The Company recorded an extraordinary turnover the bank account did not reflect the proceeds of such a turnover. The directors investigated this aspect and immediately called for a meeting with Van Zyl to discuss why the turnover was not reflected in the bank account. Van Zyl informed the directors that this was a result of repayments to creditors and market losses suffered by The Company. The directors did not accept the explanation and

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requested Van Zyl to provide them with comprehensive reports regarding the financial affairs of The Company for the year ending 29 February 2000. These financial statements were never prepared by Van Zyl.

14.4 After further investigations, the directors found that Van Zyl misappropriated funds. The practise used to be that Van Zyl had to co-sign cheques with one of the directors. Van Zyl would then approach one of the directors with a request to co-sign a blank cheque explaining that he still had to calculate the amount payable to either a creditor or the Receiver of Revenue. None of the directors had reason to doubt Van Zyl's conduct therefore they would sign the cheque. Van Zyl then issued the cheque in favour of himself, but on the cheque counterfold he reflected payment to the Receiver of Revenue.

14.5 As a result of the misappropriation of funds by Van Zyl, there was an outstanding amount in respect of VAT payable to the Receiver in excess of R1,000,000.00. Consequently, The Company, being unable to trade itself out of financial difficulties was placed under final winding up on 4 April 2000.

REPORT TO THE MASTER IN TERMS OF SECTION 400 OF THE COMPANIES ACT

15 I will submit a report in terms of Section 400(2) of the Companies Act, No 61 of 1973 as amended, prior to submitting the First & Final Liquidation and Distribution Account for possible onward transmission to the Attorney-General.

SECTION 402(d) : PERSONAL LIABILITIES OF DIRECTORS OR OFFICERS

16 At this stage it is not known whether the former director or officer of the company can be held personally liable for the debts of the company. A report will be submitted, should it become necessary.

LEGAL PROCEEDINGS

17 I have no knowledge of any legal proceedings pending by or against the company.

ENQUIRY

18 An enquiry in terms of Section 417 read with Section 418 of the Companies Act, No. 61 of 1973, as amended, proceeded on 23 & 24 October 2000. During the enquiry, Van Zyl admitted to defrauding the company with approximately R383,000.00. This amount can be proved by way of deposits made into the bank account of Van Zyl. A further amount of approximately R600,000.00 is unaccounted for. Large amounts of cash were received in the Company, but were never deposited into the bank account of the Company. It is uncertain and difficult to prove who should be held accountable for these funds. I have

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requested the Commissioner, Mr A Brooks, an expert in the field of Insolvency Law to prepare a report which will be submitted to the Master of the High Court.

BOOKS AND RECORDS

19 I have taken control of the books and records found at the offices of the auditors of the company.

PROGRESS AND PROSPECTS OF WINDING UP

20 Three motor vehicles, the only assets of the Company have been sold and all cash on hand has been collected.

I will continue to collect outstanding debts.

LEASES

21 There are no lease agreements in place.

ESTIMATED DIVIDEND

22 It appears at present that only the secured and preferent creditors are to receive an award. I will advise concurrent creditors if the prospect of a dividend herein arises.

MATTERS REQUIRING THE FURTHER DIRECTIONS OF CREDITORS

23 Such directions as required of creditors are contained in the draft resolutions numbers 1 – 14 which is submitted for consideration and adoption by the creditors at the second meeting of creditors in conjunction with this report. Creditors are requested to adopt these resolutions to enable the administration of the company in liquidation to continue.

SIGNED at SANDTON on this _____ day of February 2001.

J F KLOPPER

LIQUIDATOR

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RESOLUTIONS SUBMITTED AND ADOPTED AT THE SECOND MEETING OF CREDITORS HELD BEFORE THE MAGISTRATE JOHANNESBURG, ON TUESDAY, 27 FEBRUARY 2001 at 09:00

RESOLVED THAT:

- 1 The report of Liquidator or Joint Liquidators, as the case may be, hereinafter referred to as (the Liquidator"), as submitted be received and adopted and all his actions referred to therein be and are hereby confirmed, ratified and approved.
- 2 All actions of whatsoever nature heretobefore taken by the Provisional Liquidator and/or Liquidator be and are hereby confirmed, ratified and approved.
- 3 The Liquidator 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 his sole and absolute discretion.
- 4 The Liquidator be and is hereby authorised in his 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;

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- 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 Liquidator be and is hereby authorised in his 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 Liquidator 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 Liquidator be and is hereby authorised to collection 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 he in his 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 he in his sole discretion may deem to be irrecoverable.
- 7 The Liquidator be and is hereby authorised to dispose of any movable and immovable property of the company, whether in his possession or under his control now or to come into his possession or under his control in the future by public auction, private treaty or public tender upon such terms and conditions as he in his sole and absolute discretion shall determine and to abandon any such assets for which he 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 Liquidator 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.

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- 8 The Liquidator be and is hereby authorised and empowered in his 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 Liquidator, provided that proof thereof has been tendered at a meeting of creditors.
- 9 The Liquidator be and is 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 Liquidator be and is hereby authorised to perform any act or exercise any power for which he is not expressly required by the Companies Act No 61 of 1973, as amended, to obtain the leave of the Court.
- 11 The Liquidator be and is 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 Liquidator be and is 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 Liquidator be and is 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.

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- 14 The further administration of the affairs of the company be left entirely in the hands and at the discretion of the Liquidator.

q.q. CREDITORS