

**IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, PRETORIA**

Case no: 26433/20

In the matter between:

KINGSGATE CLOTHING (PTY) LTD

First Applicant

CLEMATIS TRADING (PTY) LTD

Second Applicant

and

PIERS MICHAEL MARSDEN

First Respondent

LANCE SCHAPIRO

Second Respondent

EDCON LTD IN BUSINESS RESCUE

Third Respondent

THE COMPANIES AND INTELLECTUAL PROPERTY

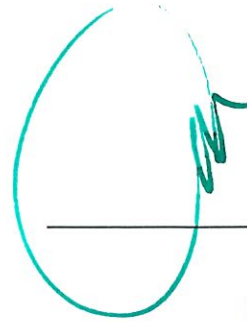
COMMISSION

Fourth Respondent

FILING NOTICE

KINDLY TAKE NOTICE that the above mentioned first and second applicants file evenly herewith their replying affidavit in the above matter.

DATED AT DURBAN THIS 21ST DAY OF JUNE 2020.



PATHER AND PATHER ATTORNEYS INC.
APPLICANTS' ATTORNEYS
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PRETORIA
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Ref: AVN/sg

TO: THE REGISTRAR OF THE ABOVE HONOURABLE COURT
PRETORIA

AND TO: PIERS MICHAEL MARSDEN and
LANCE SHAPIRO
BUSINESS RESCUE PRACTITIONERS FOR EDCON LIMITED
EDCON LIMITED IN BUSINESS RESCUE
Per E-mail: creditors@edconbr.co.za

AND TO: THE COMPANIES AND INTELLECTUAL PROPERTY COMMISSION
THE DTI CAMPUS
BLOCK F
77 MEINTJIES STREET
SUNNYSIDE
PRETORIA

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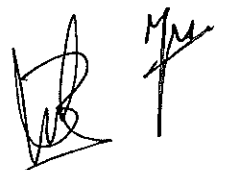
Fourth Respondent

APPLICANT'S REPLYING ARGUMENT

I, the undersigned,

YUSUF AHMED SADEK VAHED

do hereby make oath and state:-



INTRODUCTION

1. I deposed to the founding affidavit in this urgent application.
2. The facts deposed to herein fall within my personal knowledge and are, to the best of my knowledge, true and correct.
3. Where I make submissions, I rely on advice duly received.

REPLYING AFFIDAVIT

4. In accordance with the practice in this Division, the respondents were given until midday on Saturday, 20 June 2020, by when to file notice of opposition. Marsden and Schapiro did so.
5. They were also required to deliver their answering papers by 09h00 on Sunday, 21 June 2020, but failed to do so. I am advised that while it is open to a respondent to argue the question of urgency, he or she ignores the requirement to deliver answering papers by a set deadline at his or her own peril.
6. Instead, their attorney sent an email on Sunday, 21 June 2020, advising that their papers will be delivered during the course of the day. Annexed hereto marked "YV13" is a copy of that email.

Two handwritten signatures in black ink are located in the bottom right corner of the page. The first signature is a stylized, cursive name, and the second is a more vertical, angular signature.

7. It is simply not practical, in the circumstances of this matter, for the applicants to await delivery by Marsden and Schapiro of their answering papers.
8. However, after this urgent applicant was launched on Friday, 19 June 2020, Marsden and Schapiro's attorney emailed a detailed letter a copy of which is annexed hereto marked "YV14".
9. In the circumstances, the applicants are preparing this replying affidavit based on the contentions, assertions and allegations contained in "YV14" and will deliver this reply soon after receipt of any answering papers.
10. Just as the applicants foreshadowed their application in "YV4", the applicants can only assume that Marsden and Schapiro are doing likewise with "YV14".
11. In any event, if their position shifts seismically between "YV14" and their answering papers, they will have a great deal of explaining to do.

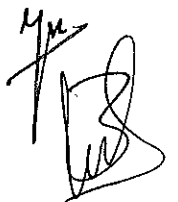
RUBRICS UNDER WHICH REPLY TO BE DELIVERED

12. In keeping with the structure of the founding affidavit, the applicants, in this reply, will maintain the broad pattern of the various headings found in that affidavit.


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Issues Relating Personally to Marsden and Schapiro

13. Marsden and Schapiro adopt the position that the physical location of Marsden is not germane to his alleged ability to discharge his responsibilities and obligations as joint BRP. They base this contention on the assertion that he, despite being in Canada, is in receipt of all information.
14. This betrays a total lack of understanding of what the statutory role of a BRP is.
15. A BRP is required to take over the active management of a company in distress. In fact, the directors and executives of the company in rescue have to report to the BRPs in their roles *qua* management. The BRPs effectively take over the running of the company and its business.
16. Whilst the law does allow a measure of delegation, it certainly does not countenance an abrogation of responsibility.
17. It is instructive that Marsden is not able to take this Honourable Court into his confidence in regard to how it is that he is managing a company as massive as Edcon from halfway across the world.
18. The appointment of Marsden as a joint BRP to Edcon is a shocking travesty given the fact that he is situate in Canada.

A handwritten signature in black ink, appearing to be 'M. Schapiro', located in the bottom right corner of the page.

19. This only serves to exacerbate the concerns of the applicants as to exactly what Marsden's role in this matter is. More so considering that the firm of which he is a member or partner advised Edcon on liquidation during 2019.
20. This might also possibly explain the inability of Marsden and Schapiro to supply information.
21. It is either that they have the information but do not want to share it because they are hiding something *alternatively*, they simply do not know. The applicants are not sure which is worse!
22. A business rescue is a notion that has been introduced into our law as something that lies in between solvency and liquidation. At the heart of both are the interests of the creditors.
23. With a liquidator, creditors are aware that there is a tariff and have a fairly clear idea of what the liquidator's fees would amount to.
24. By comparison, the legislature has created a different structure for the remuneration of BRPs who are compensated at an hourly rate. There is no magic to this. The reason is quite simply that it is hoped and anticipated that a company in distress can be saved, that its assets will not be realised and therefore there is no tariff against realisation of assets.

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25. It is not at all clear to the applicants where the respondents get the notion that they may, with impunity, refuse to disclose what it is that they have earned and what it is that they anticipate earning in a rescue. After all it is the creditors' money that is paying those fees.
26. In "YV14", they offer the explanation that their fees have been taken into account in calculating the possible dividends!
27. This can never be countenanced in law.
28. It is, *inter alia*, for these reasons that the applicants ask for the relief set out in paragraph three of the notice of motion which provides leave for them to approach this Court again, on these papers, supplemented insofar as it may be necessary, for an order, *inter alia*, removing Marsden and Schapiro as BRPs to Edcon.
29. Without making too fine a point of it, the applicants feel constrained to draw attention to the fact that they are not acting in this regard with any sense of indecent haste. In other words, whilst they seek to have the Court grant that relief to them, they have not, at this stage, sought the removal of Marsden and Schapiro.

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Enquiries/Information Sought/Documents

30. Here again, the applicants cannot divine whether Marsden and Schapiro genuinely do not understand the Act or whether they pretend not to do so.
31. The first point worth making in regard to the position of Marsden and Schapiro in "YV14" is that they say they have ticked all the boxes as required by Section 150 of the Act.
32. Not only is this entirely incorrect, but they also palpably fail to deal with what the legislative framework requires antecedent to the publication of a rescue plan.
33. Because it respectfully makes more sense to do so, I will deal with the antecedent issues first and then cryptically demonstrate why there has not been compliance with Section 150 of the Act.
34. In terms of Section 141 of the Act, the BRPs are required to form a view on whether rescue is possible. Even at this stage, they are required to consult with creditors.
35. Moving on from there, under Section 141 of the Act, creditors are given the express right to participate in the development of a business plan.

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36. Marsden and Schapiro record in “YV14” that the applicants have not explained why they require financial information. That is a startling statement seeking as it does to render nugatory the afore stated rights of the applicants.
37. The simple questions have to be asked as to how would it be possible for the applicants to meaningfully and substantively participate in any discussion as to whether Edcon can be rescued and as to how it would be possible for them to meaningfully and substantively engage in the development of a rescue plan unless they are furnished with the information and documents specified in the notice of motion, to wit:-

37.1 The delivery to the applicants by the first and second respondents of the following information and/or documents:-

37.1.1 A copy of the advice provided to Edcon Limited in 2019 by the first and second respondents in regard to a possible winding up of the company.

37.1.2 A copy of the exercise in terms of which Deloitte calculated the anticipated dividend or lack thereof on liquidation.

37.1.3 A copy of the audited financial statements of Edcon Limited as at March 2018 and March 2019.

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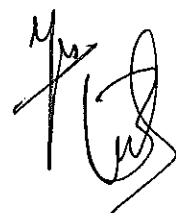
- 37.1.4 A copy of the unaudited financial statements of Edcon Limited as at end March 2020.
 - 37.1.5 A detailed itemisation of how the R2.7-million which was raised by Edcon Limited in 2019 was utilised.
 - 37.1.6 The revenue generated for the month of May 2020 by Edcon Limited as well as the breakdown of the expenses met by this revenue.
 - 37.1.7 A balance sheet for the third respondent as at 8 June 2020.
 - 37.1.8 The fees earned by the first and second respondents to date hereof as well as their anticipated fees in the entire Business Rescue of the third respondent.
 - 37.1.9 An explanation of why there is such a material difference between the figures furnished by the first and second respondents and the audited financial statements for the years 2016 and 2017 of Edcon Limited.
38. It is for this reason also that the applicants seek an order directing Marsden and Schapiro to substantively engage with the applicants as contemplated in the Act.

A handwritten signature in black ink, appearing to be 'Ms. [unclear]', located in the bottom right corner of the page.

39. "YV4" contains a whole series of enquiries directed at Marsden and Schapiro which they simply refused to respond to meaningfully in "YV14".
40. They simply refuse to answer, for example, as to why the Rescue Plan reflects liabilities of R6-billion whilst the balance sheet as at 30 April 2020 (drawn from management accounts apparently and unaudited) reflects liabilities of R11-billion. That is almost double and does not fall under *de minimus*.
41. Annexed hereto marked "YV15" is a copy of the balance sheet of Edcon as at 30 April 2020. This has now become germane because of the position adopted by Marsden and Schapiro in "YV14".
42. In similar vein, their failure and refusal to make available to the creditors the trading of Edcon from 1 May 2020 to 7 June 2020 is absolutely inexplicable.
43. At the expense of repetition, the applicants again ask the question as to how it is that they are supposed to exercise these statutory rights unless they are furnished with the necessary information. This has already been referred to earlier but is raised in the present context on the basis that the applicants have calculated that there is some R800-million that is unaccounted for. Marsden and Schapiro fail and refuse to explain this. On what lawful basis can they do so?

A handwritten signature in black ink, appearing to be 'M. Schapiro', located in the bottom right corner of the page.

44. I also refer to annexure “YV7” which shows a startling discrepancy between the figures provided by Marsden and Schapiro for the financial years 2016 and 2017 when those figures are compared to the audited financial statements of Edcon for the same period. These differences range from hundreds of millions into billions, raising the question as to whether Marsden and Schapiro have done their calculations on correct figures?
45. I indicated earlier that I would return to the issue of Section 150. This is the Section of the Act which Marsden and Schapiro rely upon in “YV14” in support of their assertion that they have complied with their obligations to provide information in the Rescue Plan.
46. I have already demonstrated how the Rescue Plan is the culmination of a process and is not an isolated event.
47. But even with the Rescue Plan, what Marsden and Schapiro have done is sought to suggest that they have ticked the boxes as it were, as aforesaid.
48. But that is not what Section 150 requires. Each one of Sections 150(2) (a)(b)(c) say that the three parts in the Business Plan must “*at least include*”.
49. What the Act says is that what is set out in Section 150(2) is the minimum that must be contained in the Plan. The items catalogued under that Sub-Section are not exhaustive.

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50. Here again, Marsden and Schapiro betray a fatal lack of understanding of the very statutory framework that governs them in law.

51. The overall position in the Plan is that Edcon cannot be saved and that a better dividend will allegedly be yielded upon a sale and wind down process.

52. That notwithstanding, the Rescue Plan records the following at Clause 17.3 on page 41 of the Plan:-

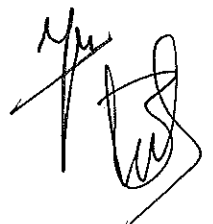
"17.3 This Business Rescue Plan seeks to:

17.3.1 Rescue the company by implementing the proposal set out herein."

53. What the applicants point out to this Honourable Court is that Marsden and Schapiro are simply attempting to tick the boxes as it were. It is plain that they have used a template from previous matters and have not even bothered to edit the template properly to cater for the particular factual matrix of this matter.

54. Quite apart from this being impermissible, it is also shocking given the amount of monies earned by BRPs from rescuing companies.

55. In regard to reservation of ownership, they say that they have asked creditors to submit claims. This in "YV14".

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56. Annexed hereto marked "YV16" is a letter that I sent on behalf of Kingsgate to Schapiro setting out its reservation of ownership. The letter is dated 8 June 2020. To date thereof there has not even been an acknowledgement to that letter.
57. In the circumstances, the pretence by Marsden and Schapiro that they are in fact dealing with this issue in a *bona fide* manner, is simply untrue.
58. Many of the other Concurrent Creditors that Kingsgate represents on the Creditors Committee have had exactly the same experience with the issue of reservation of ownership of their goods.
59. In "YV14" they say that they are busy investigating the serious alleged misrepresentation made by executives at Edcon. But they have never once, over the meetings held with them, ever suggested that they were doing so. This is a rear guard response and is palpably hollow.

Irregularities Attendant Upon the Convening of the Meetings

60. In "YV14", Marsden and Schapiro assert that the manner in which they have convened the meetings on 22 June 2020 are entirely in keeping with their obligations under the Act.

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61. It grieves the applicants to repeat that this again betrays a total lack of understanding on the part of Marsden and Schapiro to their obligations under the Act.

62. In the founding affidavit, I alluded to the fact that what Marsden and Schapiro have done is that they have adopted the expedient of proxy forms for purposes of voting by the creditors on 22 June 2020.

63. Annexed hereto marked "YV17" is a copy of the proxy form circulated by them.

64. At the meeting of Concurrent Creditors on 15 June 2020, they advised that they would review the form to make it more user friendly. In passing, I mention that the form has not been amended whatsoever. I mention this not because the proxy form expedient has any efficacy in law but rather to support applicants' contention in the founding affidavit that Marsden and Schapiro are doing this deliberately so that Concurrent Creditors, who are obviously very aggrieved as the notion of a dividend of 4 cents in the rand, remain confused and do not vote.

65. The genesis for the alleged review of the proxy form were complaints by Concurrent Creditors, during the meeting of 15 June 2020 that they found the forms to be confusing.

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66. What other explanation can there be for Marsden and Schapiro not simplifying the form as they undertook to do?
67. More importantly, the law is not entirely clear as to whether it is lawful for proxies to be used for purposes of voting at creditor meetings.
68. That said, however, there is no doubt that in practice that such proxies are indeed used.
69. What makes the expedient adopted by Marsden and Schapiro to be entirely irregular and unlawful, is their insistence that these forms must be filled out and returned to them, with the vote indicated thereon, by no later than 17h00 on Friday, 19 June 2020, as recorded in "YV9" attached to the founding affidavit.
70. Section 152 of the Act provides for a presentation by the practitioners of the proposed Plan, a discussion together with a consideration of any proposed amendment to the Plan or postponement of the meeting.
71. This is just like a meeting of directors where there is a discussion that is held after which a resolution is tabled for adoption or rejection.
72. What Marsden and Schapiro have done is that they have made a mockery of Section 152 of the Act.

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73. The equivalent of what they have done is to ask for a vote on a resolution, for which here we can read Business Plan, and to then have a discussion. That is an absurdity.
74. What it does demonstrate, however, is that there is no substance or integrity in their assertion, in "YV14", that the applicants must table whatever they want to do at the meeting. It will make no difference because Marsden and Schapiro already have votes in favour of adopting the plan.
75. What is note worthy from "YV14" is that they now appear to have moved from the Webinar platform to a more interactive one but nowhere in that letter do they say that voting will be permitted at the meeting itself. The fact of the matter is that they have made no practical arrangements for any such voting at the meeting.
76. This begs the question then as to how any notion to postpone the meeting is going to be voted on if there is no facility to vote on the day? They cannot deprive the applicants of rights that the law specifically grants to them and to other creditors.
77. It is also no answer to say, even assuming that voting was made possible on 22 June 2020, that if a majority of creditors vote against any postponement or revision of the Plan, the applicants and the Concurrent Creditors that they represent must accept the outcome of that vote.

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78. There are circumstances under both Business Rescue as well as under Liquidation where a minority of creditors can be bound by the decision of the majority, but this is not such an instance.
79. Section 145 of the Act says that “each” creditor has the right to participate in the development of the Plan. No majority can take that right away and the applicants have simply been denied that right in the present matter.
80. In all the circumstances, this Honourable Court, simply cannot, with respect, permit these meetings to proceed in some kind of truncated, irregular, illegitimate and illogical manner. To do otherwise would be a travesty.
81. Furthermore, given the lack of *bona fides* of Marsden and Schapiro the applicants and the parties that they represent are simply not prepared to accept their word on the outcome of the voting. Neither are they prepared to accept that the so-called independent Chairperson will verify the voting as she is anything but independent. It is critical that an independent third party with integrity be appointed to do so and be appointed by the creditors and not by Marsden and Schapiro.

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Issues of Labour


82. The applicants understand that the potential retrenchment of employees by Marsden and Schapiro has not been met with favour by the employees of Edcon.
83. The notional retrenchment is to the understanding of the applicants to be the biggest in South African history. This at a time of a pandemic where the economy is in dire straits.
84. The potential loss of jobs is not limited to Edcon with its seventeen thousand full time employees and five thousand casual workers.
85. Concurrent Creditors wrote to Marsden and Schapiro setting out the impact that this Business rescue and the measly dividend of four cents in the rand would have on them, their employees and the supply chain downstream.
86. Annexed hereto marked "YV18" is a copy of such a letter addressed by me on behalf of Kingsgate to Marsden and Schapiro. This letter is dated 4 June 2020.
87. To date there has been no response or acknowledgment of this.

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88. In the respectful view of the applicant this particular Plan has the potential of loss of jobs running into the hundreds of thousands and we have a BRP sitting in a first world country in Canada deciding the fate of these workers based on information that he is receiving electronically!
89. How can this ever be countenanced in law or in fact?
90. The applicants reiterate their concern that either the management of Edcon or the shareholders sitting in the new company or some third party is going to be delivered an Edcon without debt and with only a limited number of employees being effectively retained, with loss making stores being gotten rid of and all at the expense of people such as the Concurrent Creditors and employees who are being made the sacrificial lambs at the altar of commercial avarice and expediency.

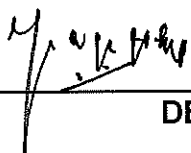
SLIGHTLY AMENDED RELIEF

91. The applicants humbly apologise for their omission of something in their relief sought in the notice of motion. They pray that the court overlooks this omission because of the time constraints under which this application was drafted.

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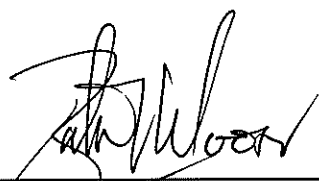
92. If this Honourable Court is amenable, then, they would ask that the meetings also be postponed subject to satisfactory arrangements be made for the convening and conducting of audio-visual meetings in accordance with the Act.
93. Annexed hereto marked "YV19" is a copy of the amended notice of motion in this regard.

Wherefor applicants persist with the relief sought in this matter.



DEPONENT

I hereby certify that the deponent has acknowledged that he knows and understands the contents of this Affidavit which was signed and sworn before me at Durban on this the 21st day of **JUNE 2020**, the regulations contained in government notice no. 1258 of 21 July 1972, as amended, and government notice no. R1648 of 19 August 1977, as amended, having been complied with.



COMMISSIONER OF OATHS

<p>ZAHIR MOOSA COMMISSIONER OF OATHS ATTORNEY R.S.A. 242 MATHEWS MEYIWA ROAD DURBAN, 4001</p>
--

"YV13"

From: Letitia Field <lfield@ensafrica.com>
Sent: Sunday, 21 June 2020 08:32
To: Sivi Pather <Sivi@patherandpather.co.za>
Cc: Gary Oertel <goertel@ensafrica.com>; Manchadi Kekana <mkekana@ensafrica.com>
Subject: RE: KINGSGATE CLOTHING (PTY) LTD & ANOTHER / MARSDEN & OTHERS - CASE NO.: 26433/20

Dear Sirs

Please note that our clients will be filing their answering affidavit during the course of today.

Regards



Letitia Field

Director

Insolvency, Restructuring and Business Rescue



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level 1 BBBEE rating

Coronavirus (COVID-19) in these times of uncertainty it is good to know you are not alone.
be well | be safe

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Pather & Pather Attorneys
By email

L Field our ref
your ref
19 June 2020 date

Dear Sirs

RE: EDCON LIMITED (IN BUSINESS RESCUE) ("Edcon")

1. We confirm that we act on behalf of the business rescue practitioners of Edcon, who have furnished us with your 21 page letter dated 17 June 2020 ("17 June letter") and your letter dated 18 June 2020 ("18 June letter") for reply.
2. We do not propose dealing with all of the allegations contained in your letters and all of our clients' rights to do so at a later stage, should same become necessary, are reserved.

Legal and Factual Position

3. The Companies Act, 71 of 2008 ("Companies Act") is clear in regard to:
 - 3.1. our clients' powers, duties and obligations as the business rescue practitioners of Edcon;
 - 3.2. the rights of all affected persons; and
 - 3.3. the contents of the business rescue plan and voting rights in respect thereof.
4. Our clients have been, and will continue, exercising their statutory powers, duties and obligations throughout the business rescue proceedings of Edcon.
5. In regard to the rights of and participation by creditors:
 - 5.1. Section 145 of the Companies Act sets out the rights of creditors to:
 - 5.1.1. notice and participation;
 - 5.1.2. form a committee, and through that committee are entitled to be consulted by the business rescue practitioners during the development of the business rescue plan; and
 - 5.1.3. vote to amend, approve or reject a proposed business rescue plan in the manner contemplated in section 152 of the Companies Act.

Africa's largest law firm

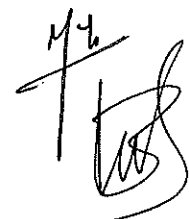
Edward Nathan Sonnenbergs Incorporated | registration number 2006/018200/21
M.M. Katz (chairman) M. Mgudiwa (chief executive) M.W. Matlou (chief operating officer) Y.A. Mendelsohn (chief operating officer)
a list of directors is available on our website ENSafrica.com/footerheadSA
level 1 BBBEE rating

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- 5.2. Section 149 of the Companies Act sets out the functions, duties and membership of committees of affected persons, which is limited to consultation and the receipt and consideration of reports. Notably, this section specifically prohibits the committees from directing or instructing the business rescue practitioners.
6. In regard to the business rescue plan, section 150 of the Companies Act deals with the proposal of the business rescue plan and details the information and documentation which must be provided to affected persons. In particular, this section provides that the business rescue plan "*must contain all the information reasonably required to facilitate affected persons in deciding whether or not to accept or reject the plan, and must be divided into three Parts..., which must include at least - ...*" (emphasis added).
7. After consultation with the respective committees, our clients prepared and published a business rescue plan. The published business rescue plan:
- 7.1. complies with section 150 of the Companies Act; and
- 7.2. seeks to rescue Edcon in a manner that balances the rights and interests of all relevant stakeholders (i.e. not just one category of affected persons), as contemplated in section 7(k) of the Companies Act.
8. The published business rescue plan clearly provides that the proposal to rescue Edcon is to achieve a better return through the implementation of the Sales Process. This is what creditors have been requested to approve and affected persons have been provided with all of the information reasonably required to facilitate them in deciding whether or not to accept or reject this proposal.
9. Moreover, since the publication of the business rescue plan, our clients have consulted with the respective committees to clarify any questions and, although not required for purposes of voting on the business rescue plan, have provided additional information and documentation. In this regard, we are instructed that our clients have furnished a further document explaining the business rescue dividend calculation as well as Edcon's income statement and balance sheet for the 2016 to 2020 financial years and Edcon's balance sheet as at 30 April 2020 together with supporting schedules.
10. Against the aforesaid legal and factual position, we deal below with the matters raised in your respective letters.

17 June letter

11. Role of the business rescue practitioners and purported lack of information (paragraphs 5 to 12):
- 11.1. We have already recorded the factual and legal position above.
- 11.2. To the extent that your clients hold the view that additional information and responses must be furnished to meet "*their expectations*", we reiterate that the Companies Act is clear in regard to

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what the business rescue plan must contain and does not require individual expectations to be met for the purposes of such compliance.

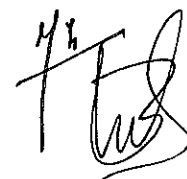
- 11.3. The additional financial information and documentation which your clients seek are not necessary for the purposes of facilitating affected persons in deciding whether or not to accept or reject the business rescue plan, which, as set out above, proposes to rescue Edcon through the implementation of the Sales Process. Indeed, no explanation is furnished as to why your clients view this information as reasonably required to facilitate them in deciding whether or not to accept or reject the business rescue plan.

12. Capacity as the business rescue practitioners (paragraphs 13 to 16):

- 12.1. The physical location of a business rescue practitioner, particularly in light of the current COVID-19 pandemic, is irrelevant. The exercise of a business rescue practitioner's statutory powers, duties and obligations is a factual and legal enquiry. As recorded above, our clients have been, and will continue, exercising their statutory powers, duties and obligations throughout the business rescue proceedings. To the extent that it has not become clear throughout the numerous meetings held with both of our clients and the contents of the business rescue plan, our clients have indeed effectively taken over the management of Edcon and we note that no allegations to the contrary have been made in your letters.
- 12.2. In regard to our clients' fees, and as stated above, our clients have provided a further document explaining the calculation of the business rescue dividend. The anticipated receipts and expenses (including the costs of business rescue), based on the Wind-Down Process, are included in the business rescue dividend calculation.
- 12.3. In regard to the agreement for increased remuneration, the business rescue plan states that the increase is in accordance with market related hourly rates. This proposal is far less than what many business rescue practitioners propose in the form of a percentage or set amount based on the conclusion of sale agreements and/or realisation proceeds.
- 12.4. The contents of paragraph 16 are misplaced and appear to be based on a misunderstanding of the comparison being made in the business rescue plan. The comparison of fees which are likely to arise in a liquidation and the fees which are likely to arise in a business rescue is not "self-serving", it is a factual comparison based on the prescribed liquidators' fees in a liquidation and the anticipated business rescue practitioners' fees in the business rescue. There is also no suggestion in the business rescue plan that our clients would be appointed as liquidators should Edcon be wound up.

13. Reservation of ownership (paragraphs 17 to 24):

- 13.1. There is no need to deal specifically with reservation of ownership claims in the business rescue plan. Claims are dealt with in terms of the provisions of the business rescue plan and any

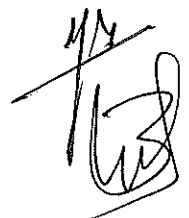
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suppliers who have proved a reservation of ownership over stock are dealt with in terms of section 134 of the Companies Act and the provisions of agreements concluded with such suppliers in regard to ongoing sales during the business rescue.

- 13.2. Your surprise and allegations in paragraphs 18, 21, 22, 23 and 24 are unfounded as our clients have invited creditors to submit their claims since the first meeting of creditors and have repeatedly recorded that those creditors asserting a retention of ownership must follow a process of proving the existence of the reservation of ownership and thereafter identifying the stock subject to the reservation of ownership and reaching an agreement with our clients in regard to the further treatment of such stock. Our clients have also provided the contact details of the relevant person in the business rescue team dealing specifically with reservation of ownership claims. The minutes of the respective meetings clearly record the aforesaid.
- 13.3. In the circumstances, those of your clients who are asserting a reservation of ownership must immediately notify our clients accordingly so that the necessary steps can be taken to establish whether there is indeed a valid reservation of ownership.
- 13.4. Please clarify which clients you are referring to in paragraph 19.
14. Current inventory and cash balance and trading from 1 May 2020 to 1 June 2020 (paragraphs 25 to 31):
- 14.1. We have already dealt with what the business rescue plan is required to contain and the information and documentation to which your clients are entitled for purposes of voting on the business rescue plan.
- 14.2. As set out above:
- 14.2.1. Your clients have been furnished with additional documentation and information, which is not required for purposes of voting on the business rescue plan.
- 14.2.2. Your letter fails to set out why the further information and documentation is necessary for the purposes of voting on the business rescue plan.
15. Alleged misrepresentations (paragraphs 32 to 38):
- 15.1. These paragraphs fail to take into account that Edcon recently commenced business rescue.
- 15.2. Our clients are well aware of their statutory duties, including their duties in terms of section 141 of the Companies Act, and will duly exercise same.
- 15.3. Our clients have already started investigating the concerns raised in these paragraphs and your clients will be advised of the outcome of our clients' investigations.

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- 15.4. Your allegations that our clients have "*fobbed off*" the concerns raised by your clients are accordingly without merit and denied.
16. Reliance on Deloitte (paragraphs 39 to 43):
- 16.1. Paragraph 40 of your letter correctly points out that the Companies Act does not prescribe that an independent party must calculate the probable dividend.
- 16.2. Notwithstanding this, the liquidation calculation was prepared by Deloitte, which, despite being Edcon's auditors, remains an external and independent third party.
- 16.3. The anticipated business rescue dividend was calculated by our clients.
- 16.4. Our clients have carefully considered the asset and liability position of Edcon and are satisfied with the probable dividend indicated in the business rescue plan to be received by creditors if Edcon were to be placed in liquidation.
17. Apparent favouring of secured/preferred creditors (paragraphs 44 to 50):
- 17.1. The allegations contained in these paragraphs are denied for the reasons already set out herein.
- 17.2. Our clients have and will continue to act in the interests of all stakeholders.
- 17.3. The amounts reflected in the list of creditors are amounts reflected in Edcon's records as at the commencement date. As recorded in the plan, all creditors will still be required to prove their claims to the satisfaction of our clients.
18. Alleged secured/preferred creditors (paragraphs 51 to 55):
- 18.1. The contents of these paragraphs are noted and we will address you separately in regard to the provision of these documents.
19. Additional enquiries/information and documents (paragraphs 56 to 71):
- 19.1. The Sales Process proposed in the business rescue plan is not "*unprecedented and audacious*".
- 19.2. Insofar as your clients raise concerns with the Sales Process, we reiterate that the business rescue plan specifically records that our clients will convene meetings with the respective committees to discuss:
- 19.2.1. the binding offers received and the acceptance of one of more of the binding offers in the Accelerated Sales Process; and
- 19.2.2. updates on the Wind-Down Process.



- 19.3. Your clients will accordingly be fully appraised of developments throughout the different stages of the Sales Process and will have an opportunity to address any concerns and/or views in regard to same during such meetings. Our clients will carefully consider the views of the respective committees and will act in the best interests of all Affected Persons.
- 19.4. As stated above, our clients will conduct the necessary investigations in regard to Edcon's affairs, business, property and financial position and take the necessary steps pursuant to same.
- 19.5. The loans to lenders have not been subordinated.
- 19.6. In regard to:
- 19.6.1. Paragraph 63, the increased anticipated dividend was explained during the meeting, which is due to the allocation of proceeds from unencumbered assets.
 - 19.6.2. Paragraph 64, the business rescue plan sets out the proposed allocation of proceeds to the respective creditors. Creditors have been requested to approve this allocation of proceeds.
 - 19.6.3. Paragraph 65, value in regard to mobile related income has been included in the forecasts.
 - 19.6.4. Paragraphs 66 and 68, please explain why such information is required by your clients.
 - 19.6.5. Paragraph 67, we have already dealt with the list of creditors and treatment of claims above.
 - 19.6.6. Paragraph 69, our clients will make the report prepared by Deloitte available to your clients upon signature of a "no harm document".
 - 19.6.7. Paragraph 70, our clients calculated the business rescue dividend and have already provided the calculations in support thereof.
 - 19.6.8. Paragraph 71, our clients will provide the minutes of the respective meetings, where such minutes were taken.
20. Concerns with meeting procedure (paragraphs 72 to 76):
- 20.1. As set out in the business rescue plan, the advent of COVID-19 has resulted in the meeting in terms of section 151 of the Companies Act ("section 151 meeting") having to be held electronically. As you are aware, Edcon has numerous affected persons and our clients have attempted to make the section 151 meeting as accessible as possible (arguably more accessible



than in person meetings). Contrary to your allegations, proper consideration has been given to the "*mechanics of holding*" the section 151 meeting.

20.2. Our clients are satisfied that paragraph 11.5 of the plan provides effective compliance with the provisions of the Companies Act and provides creditors with a proper and fair opportunity to provide proxy forms and to change same prior to the announcement of the final outcome of the vote. Moreover, the reason for the adjournment provided for in paragraph 11.5 is to deal with any queries and/or motions and verify the votes received.

20.3. Creditors will be afforded an opportunity to address any queries and submit any motions contemplated in terms of section 152 of the Companies Act in writing during the section 151 meeting.

20.4. In regard to enquiries about proxy forms, creditors are being reminded to submit their proxy forms as soon as possible.

20.5. The allegations contained in paragraph 76 are denied. Our clients are in a position to convene and conduct a legitimate and lawful meeting.

21. Role of independent chairperson (paragraphs 77 to 87):

21.1. The involvement of our clients' offices in another matter as well as the chairperson's involvement in another matter are irrelevant.

21.2. Our clients are appointed in their individual representative capacities as the business rescue practitioners of Edcon, not their offices. We note, however, that these paragraphs do not take this issue further but rather challenge the appointment of the independent chairperson based on a perception of your clients. These paragraphs do not set out any facts justifying the perception of your clients, or whether the same the perception is held by other members of the committee.

21.3. In the circumstances, our clients will address this issue at the next creditors' committee meeting to ascertain if the committee wishes to appoint another chairperson.

22. Urgency (paragraphs 88 to 93):

22.1. It is denied that there is "*indecent haste*" and that our clients are "*trying to steamroll*" the business rescue plan. your clients are also not being "*cajoled into a vote*". You are well aware that your clients can exercise their votes on the business rescue plan as they deem fit.

22.2. Our clients have set out the reasons why it is imperative for the section 151 meeting to be held on 22 June 2020. We reiterate what has been advised before, being that the proposal to rescue Edcon is to achieve a better return through the implementation of the Sales Process. This is what creditors have been requested to approve.

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22.3. You will appreciate that before our clients can proceed further with such process, our clients and interested parties require confirmation that the Sales Process has been approved by creditors in terms of the plan.

22.4. As set out above, to allay any concerns which your clients may have in regard to the Sales Process and our clients' discretion in regard to the business rescue proceedings, in particular, the determination of the final binding offer/s in the Accelerated Sales Process and implementation of the Wind-Down Process, we confirm that our clients will consult with creditors throughout the business rescue process on these aspects.

23. Conclusion (paragraphs 94 to 101):

23.1. The section 151 meeting is a statutory meeting which our clients are obliged to convene within the stipulated statutory timeframe. The legal options available to your clients are to exercise their voting rights in terms of section 152 of the Companies Act at the section 151 meeting. As stated above, affected persons will be afforded an opportunity to make motions and submit questions in terms of section 152 of the Companies Act in writing during the section 151 meeting.

23.2. Consequently, there is no legal basis to approach the court, let alone seek any punitive costs order against our clients for complying with their statutory obligations. Any attempt to do so will be opposed by our clients and the appropriate costs order will be sought.

23.3. Moreover, and as is evident from what has been set out herein, our clients have properly consulted with all affected persons and provided additional information and documentation, over and above what is reasonably required to facilitate affected persons in deciding whether or not to accept or reject the plan.

18 June letter

24. The queries raised in this letter have been dealt with above.

Conclusion

25. We reiterate that our clients:

25.1. have developed a business rescue plan which seeks to rescue Edcon in a manner that balances the rights and interests of all relevant stakeholders;

25.2. have provided affected persons with all of the information reasonably required to facilitate them in deciding whether or not to accept or reject the business rescue plan;

25.3. have been, and will continue, exercising their statutory powers, duties and obligations throughout the business rescue proceedings of Edcon; and

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25.4. will continue to consult with the respective committees throughout the business rescue process.

26. In addition, your clients:

26.1. will be afforded an opportunity to make motions and submit questions in terms of section 152 of the Companies Act in writing during the section 151 meeting; and

26.2. are entitled to exercise their voting rights in terms of the business rescue plan as they deem fit by way of submitting their completed proxy forms.

27. All of our clients' rights are reserved.

Yours faithfully

Edward Nathan Sonnenbergs Inc.

Per:

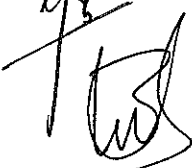
Letitia Field

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" YV15 "

EDCON LIMITED - BALANCE SHEET	
	FY21 R April
ASSETS	
Non-current assets	
Properties, fixtures, equipment and vehicles	1,103,984,701
Right of use assets	4,100,737,990
Intangible assets	-
Investment in subsidiaries and associates	369,147,764
Deferred tax	-
Employee benefit asset	5,995,000
Total non-current assets	<u>5,579,865,455</u>
Current assets	
Amounts owing by Group companies and related parties	930,030,139
Inventories	2,445,815,599
Trade receivables	798,077,150
Sundry receivables and prepayments	621,532,049
Derivative financial instruments	24,198,339
Cash and cash equivalents	524,782,433
Total current assets	<u>5,344,435,709</u>
Total assets	<u><u>10,924,301,164</u></u>
EQUITY & LIABILITIES	
Equity attributable to shareholders	
Share capital	902
Share premium	26,688,034,367
Contributed capital	444,000,000
Other reserves	2,877,454
Retained loss	(29,658,510,477)
Total equity	<u>(2,523,597,754)</u>
Non-current liabilities	
Interest free debt	3,444,345,538
Amounts owing to Group companies and related parties	
Finance lease liability	3,340,602,797
Lease equalisation	-
Onerous leases	-
Employee benefit liability	85,189,000
Deferred revenue	14,898,112
Total non-current liabilities	<u>6,885,035,447</u>
Current liabilities	
Amounts owing to Group companies and related parties	362,173,684
Interest-bearing debt	12,724,249
Finance lease liability	1,800,486,881
Current taxation	137,050
Deferred revenue	134,393,184
Derivative financial instruments	
Provisions	29,207,757
Trade and other payables	4,223,740,666
Total current liabilities	<u>6,562,863,471</u>
Total equity and liabilities	<u><u>10,924,301,164</u></u>
Check	-

4/8


	Notes	April 2020
ASSETS		
Non-Current Assets		
Property, Plant, Equipment and Vehicles	1	1 103 984 701
Right of Use Assets (Leased Assets)		4 100 737 990
Investment in Subsidiaries and Associates	2	369 147 764
Employee Benefit Asset		5 995 000
Total Non-Current Assets		5 579 865 455
Current Assets		
Inventories	3	2 445 815 599
Trade Receivables	4	798 077 150
Amounts owed by Related Parties	5	930 030 139
Sundry Receivables and Prepayments	6	621 532 049
Derivative Financial Instruments		24 198 339
Cash and Cash Equivalents		524 782 433
Total Current Assets		5 344 435 709
TOTAL ASSETS		10 924 301 164

Notes

1 Property, Plant and Equipment		
Land and buildings		1 171 291
Leasehold improvements		189 899 194
Fixtures and fittings		690 868 522
Computer equipment and software		216 519 193
Machinery and vehicles		5 526 501
Total Property, Plant and Equipment		1 103 984 701
2 Investment in Subsidiaries and Associates		
Jet Supermarkets Botswana Proprietary Limited		131 263 235
Edgars Stores (Namibia) Limited		128 766 841
Edgars Stores Swaziland Limited		109 057 264
Edcon International Hong Kong Limited		59 415
Edcon International (Singapore) Proprietary Limited		9
TSTM Proprietary Limited		1 000
Net Investment Value		369 147 764
3 Inventories		
Merchandise		2 435 623 695
Consumables		8 183 482
Customer right of return asset		2 008 422
Total Inventories		2 445 815 599
4 Trade Receivables		
Trade accounts receivable		1 292 582 984
Loss allowance for expected credit losses		(494 505 834)
Total Receivables		798 077 150
5 Amounts owed by Related Parties		
Edgars Stores Swaziland Limited		18 193 426
Edgars Stores Lesotho Proprietary Limited		6 577 141

Y/a


Jet Supermarkets Botswana Proprietary Limited	41 810 566
Edgars Stores (Namibia) Limited	9 484 795
Cosyro Proprietary Limited	38 494 346
Edcon (Shanghai) Co. Limited	3 195 857
Bangladesh Liaison Office	4 909 451
Securex Security Services Proprietary Limited	9 343 044
Edcon Limitada	163 898 041
Jet Supermarkets Zambia Limited	286 844 323
Jetcon Mart Ghana Limited	255 889 940
Perfume Shop by RS Proprietary Limited	1 876 604
Topshop partnership	89 512 605
Total Amounts owed by Related Parties	930 030 139

6 Sundry Receivables and Prepayments

Sundry receivable	491 468 933
Prepayments	130 063 116
Total Sundry Receivables and Prepayments	621 532 049

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Asset for Realisation	Balance Sheet	Trade Out	Liquidation	
			High	Low
Inventory	2,446	1,328	491	223
Properties, fixtures, equipment and vehicles	1,104	158	158	89
Trade receivables	798	318	202	121
Intergroup	930	67	67	49
Other receivables and prepayments	622	36	29	36
Right of use of Assets	4,101	-	-	-
Cash	525	-	3	3
Derivative Financial Instruments	24	-	-	-
Employee Benefit Asset	6	-	-	-
Investment In Subsidiaries And Associates	369	-	-	-
Total	10,924	1,908	950	521
Estimated Recovery			10%	1%

Debt Position		ZARm
GNB Noteholders	A	3,800
Concurrent Creditors	B	4,388
Total	C	8,188

Waterfall		ZARm
Inventory		1,328
Properties, fixtures, equipment and vehicles		158
Less Retrenchment Cost	-	597
Less PCF Rental	-	408
Amount Available for distribution		482
Attributable to GNB Noteholders	D	224
Attributable to Concurrent Creditors	E	258

Remaining Assets Secured to GNB Noteholders		
Trade receivables		318
Intergroup		67
Other receivables and prepayments		36
Total	F	421

Summary		ZARm
Total Estimated Recovery GNB Noteholders	G = D + F	645
Recovery %	H = G / C	17%
Estimated Recovery for Employees - Retrenchment		597
Recovery %		100%
PCF Rental		408
Recovery %		100%
Estimated Recovery for Concurrent Creditors	I = E / C	258
Recovery %		6%

"YV16"

Yusuf Vahed

From: Roheeth Roshenlall <roheeth@kingsgate.co.za>
Sent: 08 June 2020 05:03 PM
To: Yusuf Vahed
Subject: FW: RESERVATION OF OWNERSHIP
Attachments: scan.pdf

Fyi.

REGARDS,
ROHEETH ROSHENLALL

From: Roheeth Roshenlall [mailto:roheeth@kingsgate.co.za]
Sent: 08 June 2020 05:02 PM
To: 'lrabinowitz@matusonassociates.co.za'
Cc: 'creditors@edconbr.co.za'
Subject: RESERVATION OF OWNERSHIP

Dear Lesly Rabinowitz,

Please find attached our letter regarding our reservation of ownership for goods that were sold and delivered to Edcon, prior to their application for Business Rescue, but for which payment remains outstanding.

Regards,

ROHEETH ROSHENLALL
KINGSGATE CLOTHING (PTY) LTD
TEL: 031 - 300 8132
FAX: 031 - 3012489
EMAIL: Roheeth@kingsgate.co.za
240/2 Mathews Meyiwa Road, Durban, 4001





KINGSGATE CLOTHING (PTY) LTD.

(REG. No. 1998/021893/07)

HEAD OFFICE
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P.O. BOX 872 DURBAN 4000
FACSIMILE: (031) 300-8117
INTERNATIONAL: +(27) (31) 300-8117
WEBSITE: <http://www.kingsgate.co.za>
E-MAIL: kingsgate@kingsgate.co.za

8 June, 2020

Mr Lance Shapiro & Mr Piers Marsden
Matuson & Associates
P O Box 92796
Norwood
2117

Dear Sirs,

RE: RESERVATION OF OWNERSHIP

We refer to orders invoiced and delivered to Edcon prior to the announcement of their application for Business Rescue on 29th April 2019 and for which payment is outstanding.

In this respect, we have lodged claims through the Business Rescue Practitioners office for the outstanding amounts under cover of our various supplier numbers as follows:

<u>Supplier No.</u>	<u>Supplier Name</u>	<u>Amount of Claim</u>
11398	Kingsgate Clothing (Pty) Ltd t/a Majestic Clothing Mnfrs	R 1,671,850.14
16802	Kingsgate Clothing (Pty) Ltd t/a Princeton Schoolwear Mnfrs	R 3,196,954.89
12378	Kingsgate Clothing (Pty) Ltd t/a Star Clothing Mnfrs	R 19,608,340.51

Total Claim Amount: R24,477,145.54

Further to the above claims, we herewith advise that we reserve ownership in respect of the goods sold under the invoices making up the outstanding balance in terms of clause 9. of the Conditions of Sale contained at the back of our invoice which states: "Ownership of the goods sold by the seller to the purchaser is reserved until payment in respect thereof has



A Truly Remarkable And Leading South African Company

Executive Directors:
YUSUF A S VAHED (Chief Executive Officer);
MEHMOUD HAFEEJEE (Deputy Chairman); ASHRAF MOOLLA;
MAHOMED F KAJEE

been received by the seller in full."

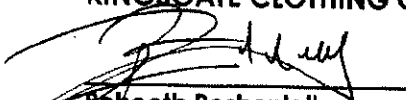
In the circumstances, kindly confirm that all unsold goods will not form part of the Business Rescue process and that such goods will be returned to us.

We would appreciate it if you would kindly respond to us within 7 (seven) days from date hereof.

Yours sincerely,

For: KINGSGATE CLOTHING (PTY) LTD./

KINGSGATE CLOTHING GROUP (KCG)


Roneeth Roshenlall
Group Executive - Head of Credit



"YV17"

EDCON LIMITED (IN BUSINESS RESCUE) ("COMPANY") (REGISTRATION NO. 2007/003525/06)

FORM OF PROXY

For use by creditors of the Company at meetings convened in terms of section 151 and section 143(3) of the Companies Act No. 71 of 2008 to be held electronically on 22 June 2020.

Completed Proxy Forms must be submitted to creditors@edconbr.co.za by 17h00 on 19 June 2020.

I/We the undersigned (*full name of creditor*): _____

a creditor of the Company in the sum of R_____ do hereby appoint:

- 1. _____ or;
- 2. _____ or;
- 3. the business rescue practitioners,

as my / our proxy to act for me / us for on my / our behalf at the meeting for purposes of **voting on the Business Rescue Plan** and to vote in accordance with my / our instructions below. (*mark which is applicable*)

	Adopt	Reject	Abstain
The Adoption of the Business Rescue Plan (as amended, if applicable)			

As my / our proxy to act for me / us for on my / our behalf at the meeting for purposes of **voting on the agreement for further remuneration of the Joint Business Rescue Practitioners** as detailed in Annexure D of the Business Rescue Plan and to vote in accordance with my / our instructions below. (*mark which is applicable*)

	Approve	Reject	Abstain
Agreement for further remuneration of the Business Rescue Practitioners			

Signed at _____ on _____ for and


on behalf of _____ (*the creditor*)

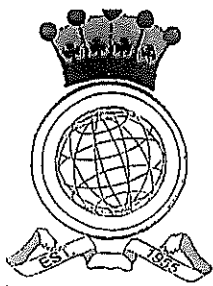
Signature _____

Name _____

Date _____

IF SIGNED BY A REPRESENTATIVE OF THE COMPANY, CLOSE CORPORATION OR TRUST, THE PROXY FORM WILL NEED TO BE SUBMITTED TOGETHER WITH AN APPROPRIATE RESOLUTION GIVING SUCH REPRESENTATIVE THE AUTHORITY TO VOTE AT THE MEETING ON BEHALF OF SUCH COMPANY, CLOSE CORPORATION OR TRUST.

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**KINGSGATE
CLOTHING GROUP**

KINGSGATE CLOTHING (PTY) LTD. "YV18"

(REG. No. 1998/021893/07)

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E-MAIL: kingsgate@kingsgate.co.za

4 June, 2020

Mr Lance Shapiro & Mr Piers Marsden
Matuson & Associates
P O Box 92796
Norwood
2117

Dear Sirs,

RE: JOB LOSS IMPACT OF AN EDCON FAILURE

A select few of the creditors on the Edcon Creditors committee undertook during a meeting held on the 01st of June 2020 to compile information statistics representing potential job losses within their entities as well as through their supply chains as a result of an Edcon failure, in order to emphasise the catastrophic impact that will befall the industry and the economy as a whole.

As a nominee on the said committee, we also represent the interests of other creditors, five of whom have provided their information independently, which has been consolidated on the attached schedule together with our company's information. As you will note the numbers are staggering albeit over just six creditors and if extrapolated over the full population of creditors it will be devastating.

We trust that you will find the information in order to champion our cause.

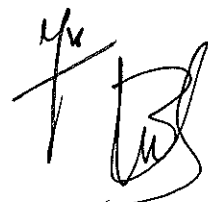
Yours sincerely,

**For: KINGSGATE CLOTHING (PTY) LTD./
KINGSGATE CLOTHING GROUP (KCG)**


Roheeth Roshentall
Group Executive - Head of Creditors

A Truly Remarkable And Leading South African Company

Executive Directors:
YUSUF A S VAHED (Chief Executive Officer);
MEHMOUD HAFJEJEE (Deputy Chairman); ASHRAF MOOLLA;
MAHOMED E KAJEE



CONSOLIDATED SCHEDULE - JOB LOSS IMPACT OF AND EDCON FAILURE

- ENTITIES REPRESENTED:
- 1 Kingsgate Clothing (Pty) Ltd
 - 2 Cruise Collections Investments CC
 - 3 Alydar Investments (Pty) Ltd (Limco Group)
 - 4 Maytex Group
 - 5 Ellesse (Pty) Ltd
 - 6 Enzo Clothing CC

Notes: Direct - represents immediate job loss within the organization / entity being represented.

Indirect - represents job loss through the manufacturing chain viz. CMT Factories, Printers, Embroiders, Laundries,

Other - represents job losses at raw material supplier level, viz. Fabric & Trims suppliers

	Entity						Grand Total
	Kingsgate	Cruise	Alydar	Maytex	Ellesse	Enzo	
	Total	Total	Total	Total	Total	Total	
Direct	307	550	407	194	10	30	1498
Indirect	2404	200	0	46	50	1000	3700
Other	127	1000	118	29	15	300	1589
TOTAL	2838	1750	525	269	75	1330	6787

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3 June 2020

Mr Lance Schapiro & Mr Piers Marsden
Matuson & Associates
Johannesburg

RE: CRUISE COLLECTIONS CC
SUPPLIER NUMBER: 50611

Dear Sirs,

We refer to the second Creditors Committee meeting held on Monday, 01st June 2020 in respect to Edcon.

This letter serves to illustrate the impact of job losses in the event of Edcon business liquidation.

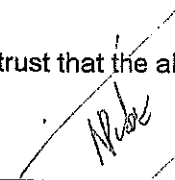
- **DIRECT:**

- **INTERNAL**
Departments: Office, Warehouse & Our Factory
Number of Employees affected: 550

- **INDIRECT:**

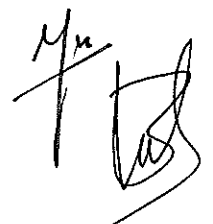
- **CMT FACTORIES**
Factories affected: 3
Number of Employees affected: 200
- **DOWNSTREAM**
Supply Chain: Button, Zip, Carton & Packaging, Elastic Suppliers & Freight Services
Number of Employees affected: 1000

We trust that the above is on order.



Naseem Paruk
Member

Cruise Collections Investments CC
39 Churchill Road, Stamford Hill, Durban, 4000
P. O. Box 47796, Greyville, 4001
T: +27(31) 303 4652
Member: Naseem Paruk
CC Registration No.: 2004/000444/23 VAT Registration No.: 47402 12867



ALYDAR INVESTMENTS (Pty) Ltd

Reg No: 2017/352858/07

15/17 JACO PLACE
ROSSBURG
DURBAN
SOUTH AFRICA

TEL: +2731 4657747/19
FAX: +2731 4658064
Email: mohamed@limcogroup.co.za

03 June 2020

Attention: Mr Roheeth Roshenlall
C/o Kingsgate Clothing

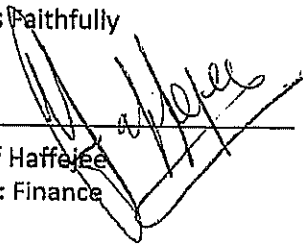
Reference: Your request on staff

The number of employees and downstream employers including external transporters, trims and packaging affected by an Edcon failure is as follows.

407 workers including seasonal casual workers.
18 Staff from our four external transporters.
100 Staff from ten trims and packaging companies.

Please note that Edcon makes up a major component of our business and obviously it varies from seasons therefore it is sometimes higher.

Yours Faithfully



Yusuf Haffee
Head: Finance





MAYTEX

148 Lansdowne Road, Jacobs, Durban, 4061
P.O. Box 33174, Montclair, 4061

T +2731 461 4131
F +2731 461 4195

info@maytex.co.za

www.maytex.co.za

3 June 2020

Att : Roheeth Roshenlall

Kingsgate Clothing Group

RE: EDCON CREDITORS COMMITTEE – REQUEST FOR INFORMATION

Dear Roheeth

With reference to the Whatsapp message posted on the Edcon Creditors Committee, please find below the information for the Maytex Group of Companies.

The Maytex Group trades with Edcon under the following Companies:

- Maytex Linen CC
- Superocean Trading CC
- Maytex Carding CC.

Under these Trading entities, the following is the number of Direct and Indirect number of employees involved:

Direct	-	194 employees
Indirect	-	<u>75 employees</u>
Total	-	269 employees

Regards

M ADAMJEE
CHIEF FINANCIAL OFFICER

Elesse (Pty) Ltd

(Prop : Elesse (Pty) Ltd~Reg. No. : 1984/000391/07)

Postal Address : P O Box 2151 Durban, 4000
Physical Address : Cnr. Seaward / Soupan Roads
Clairwood, 4052
South Africa

Tel. No : (031) 465 6429
Fax No : (031) 465 4522
e-mail : bella@sebal.co.za

Edcon Business Rescue Committee

03/06/2020

To Whom It may Concern

RE: Staff Directly and Indirectly effected by an Edcon failure

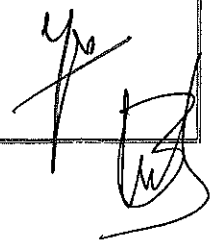
Please note that the failure of Edcon will result in numerous job losses, below is an estimate of the numbers.

Directly Elesse – +-10 staff
Cmt Companies – +-50 staff
Other Suppliers of raw materials trims & services - +-15

Regards

Hassan Cassim
Financial Director

Directors: Y.S. Motala; M.S. Motala; H Cassim



Roheeth Roshenlall

From: Deepesh <Deepesh@enzoclothing.co.za>
Sent: 03 June 2020 04:26 PM
To: roheeth@kingsgate.co.za
Cc: Suren
Subject: Enzo Clothing c.c - Edcon Creditors

Importance: High

Good day Roheet

Hope you are well.

As discussed on the chat please see info as requested.

Employee info

A). Direct

30 employees

B). Indirect

+1000 employees

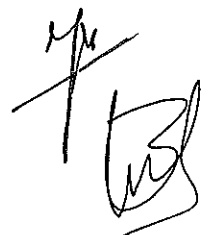
C). Indirect downstream

+300 employees

Please advise if you require any further info.

Regards

Deepesh Narsey
Enzo Clothing c.c
Durban
Tel : 031 205 0436
Cell: 082 612 4695



"YV19"

IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, PRETORIA

Case no:

In the matter between:

KINGSGATE CLOTHING (PTY) LTD

First Applicant

CLEMATIS TRADING (PTY) LTD

Second Applicant

and

PIERS MICHAEL MARSDEN

First Respondent

LANCE SCHAPIRO

Second Respondent

EDCON LTD IN BUSINESS RESCUE

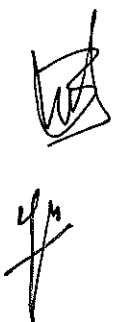
Third Respondent

**THE COMPANIES AND INTELLECTUAL PROPERTY
COMMISSION**

Fourth Respondent

AMENDED NOTICE OF MOTION

BE PLEASED TO TAKE NOTICE that the applicants will make application to the above Honourable Court on Monday, 22 June 2020 at 10:00 or so soon thereafter as counsel may be heard for an order in the following terms:-



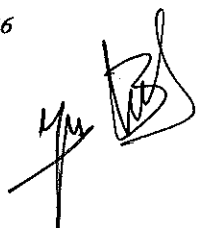
1. An order dispensing with the normal forms of service and processes and that the application be enrolled as an urgent application in terms of Rule 6(12).

2. The meetings scheduled for 13:45 and 14:00 on Monday, 22 June 2020 to approve the increased remuneration sought by the first and second respondents and to consider the Business Rescue Plan as contemplated in Sections 151 and 152 of the Companies Act 71 of 2008 ("the Act") are postponed pending:-
 - 2.1 Consultation between the first and second respondents and the applicants, as contemplated in Section 150(1) of the Act.

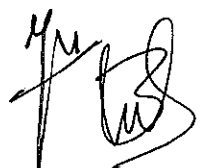
 - 2.2 The delivery to the applicants by the first and second respondents of the following information and/or documents:-
 - 2.2.1 A copy of the advice provided to Edcon Limited in 2019 by the first and second respondents in regard to a possible winding up of the company.

 - 2.2.2 A copy of the exercise in terms of which Deloitte calculated the anticipated dividend or lack thereof on liquidation.

A copy of the exercise in terms of which Deloitte calculated the anticipated dividend in a winding down process.

A handwritten signature in black ink, consisting of a stylized 'Y' followed by a large, looped flourish.

- 2.2.3 Copies of minutes of all meetings of the Landlords' Committee as well as the Lenders'/Secured Creditors Committee.
- 2.2.4 A copy of the audited financial statements of Edcon Limited as at March 2018 and March 2019.
- 2.2.5 A copy of the unaudited financial statements of Edcon Limited as at end March 2020.
- 2.2.6 A detailed itemisation of how the R2.7-million which was raised by Edcon Limited in 2019 was utilised.
- 2.2.7 The revenue generated for the month of May 2020 by Edcon Limited as well as the breakdown of the expenses met by this revenue.
- 2.2.8 A balance sheet for the third respondent as at 8 June 2020.
- 2.2.9 The fees earned by the first and second respondents to date hereof as well as their anticipated fees in the entire Business Rescue of the third respondent.
- 2.2.10 An explanation of why there is such a material difference between the figures furnished by the first and second respondents and the audited financial statements for the years 2016 and 2017 of Edcon Limited.

A handwritten signature in black ink, appearing to be a stylized name or set of initials, located in the bottom right corner of the page.

- 2.3 The establishment by the first and second respondents of satisfactory arrangements, via audio-visual means, for the holding of the meetings in contemplation such that they comply with the substance of the peremptory requirements of the Act in regard to such meetings.
3. The applicants be and are hereby granted leave to approach this court on these papers, supplemented insofar as may be necessary, for relief in the following terms:-
- 3.1 Setting aside the Business Rescue Plan published on 8 June 2020 and/or setting aside the Business Rescue Proceedings initiated by a resolution of the third respondent on 28 April 2020 and/or removing the first and second respondents as the appointed practitioners to the third respondent and/or to place the third respondent into liquidation.
4. The first and second respondents shall pay the costs of this application to include those costs consequent upon the employment of two counsel, with such costs on a punitive scale.


TAKE NOTICE FURTHER that the affidavits of the first and second applicants annexed hereto will be used in support hereof.



TAKE NOTICE FURTHER that should any of the respondents wish to oppose this application, they are required to deliver their notice of intention to oppose this application by midday on Saturday, 20 June 2020 by way of e-mail to sivi@patherandpather.co.za and to deliver their answering affidavits, if any, by 09:00 on Sunday, 21 June 2020.

Kindly enroll the matter for hearing accordingly.

Dated at DURBAN this the 19th day of JUNE 2020.



PATHER AND PATHER ATTORNEYS INC.
PLAINTIFFS' ATTORNEYS
3 NOLLSWORTH CRESCENT
NOLLSWORTH PARK
LA LUCIA
REF: SIVI PATHER/rg/
TEL: 031 3044 212
FAX: 031 3044 208
E-MAIL: sivi@patherandpather.co.za
c/o MacRoberts Inc.
MacRobert Building
cnr. Justice Mahomed & Jan Shoba Streets
Brooklyn
PRETORIA
Tel: (012) 425 3451
Ref: AVN/sg



TO: THE REGISTRAR OF THE ABOVE HONOURABLE COURT
PRETORIA

AND TO: PIERS MICHAEL MARSDEN and
LANCE SHAPIRO
BUSINESS RESCUE PRACTITIONERS FOR EDCON LIMITED
EDCON LIMITED IN BUSINESS RESCUE
Per E-mail: creditors@edconbr.co.za

AND TO: THE COMPANIES AND INTELLECTUAL PROPERTY COMMISSION
THE DTI CAMPUS
BLOCK F
77 MEINTJIES STREET
SUNNYSIDE
PRETORIA

Two handwritten signatures in black ink. The first signature is a stylized 'M' with a vertical line through it. The second signature is a more complex, cursive-style signature.