

Reportable:	YES/NO
Circulate to Judges:	YES/NO
Circulate to Magistrates:	YES/NO
Circulate to Regional Magistrates:	YES/NO



IN THE HIGH COURT OF SOUTH AFRICA
NORTHERN CAPE DIVISION, KIMBERLEY

Case No: 131/2022

In the matter between:

THE STANDARD BANK OF SOUTH AFRICA LTD
(Registration Number: 1962/000738/06)

Applicant

And

TORNADO BOERDERY EN ALGEMENE
HANDELAARS CC
(Registration Number: 2006/080705/23)

Respondent

Coram: Lever J

JUDGMENT

Lever J

1. This is an application to place the respondent under provisional liquidation in the hands of the Master of this court. This application for provisional liquidation of the respondent had reached an advanced stage when the sole interest holder in the respondent launched an application under case number 854/2022 to place the respondent under supervision and initiate business rescue proceedings.
2. The said application for business rescue proceedings and the present application for provisional liquidation were set down before me for argument and consideration as two separate matters to be heard on the same day.
3. The judgment in the business rescue proceedings under case number 854/2022 will be handed down before this judgment. I have, for the reasons set out in that judgment, dismissed the business rescue application. That leaves the application for provisional liquidation for consideration.
4. In the submissions made in the business rescue proceedings and in the provisional liquidation proceedings, Mr Olivier who appeared for applicant in the business rescue proceedings and for the respondent in the present application, conceded that the respondent is financially distressed that if the respondent herein was unsuccessful in the business rescue proceedings, then a provisional winding up order should be granted.

5. It appears from the papers that all the formal requirements for a provisional winding up order have been duly met.
6. The debt owed to the applicant is acknowledged by the respondent. The respondent has acknowledged in the business rescue proceedings that it is not servicing this debt and that it cannot meet its obligations in terms of this debt as and when such obligations fall due for payment.
7. It appears that a provisional liquidation order is appropriate in the circumstances.
8. The costs of this application should be costs in the liquidation.

Accordingly, it is ordered that:

1. The respondent is placed under provisional liquidation in the hands of the Master of this court.
2. A *rule nisi* is hereby issued calling upon all interested parties to furnish reasons, if any, to this Court at 09H30 on Friday the 16th August 2024, to show why a final order of liquidation should not be granted against the respondent.
3. This order must be served on the registered address of the respondent.
4. A copy of this Order must be served on:

- a. Any registered Trade Union that, as far as the Sheriff can reasonably ascertain, represents any of the employees of the respondent;
 - b. The respondent's employees, if any, by affixing a copy of this Order to any notice board to which the employees have access inside the respondent's premises, alternatively, by affixing a copy of this Order to the front gate or the front door of the business premises of the respondent;
 - c. The South African Revenue Service.
5. A copy of this Order must be published once in the Government Gazette and once in the Citizen newspaper.
 6. The costs of this application are to be costs in the liquidation.


Lawrence Lever
Judge
Northern Cape Division, Kimberley.

Representation:

*For The Applicants:
Instructed by:*

*Adv J Els
Roux Welgemoed & Du Plooy*

*For The Respondents:
Instructed by:*

*Adv D Olivier
Van De Waal & Vennote*

Date of Hearing:

27 January 2023

Date of Judgment:

12 July 2024