



# **PRASA**

## **BUNDLE F**

AFFIDAVIT & ANNEXURES  
OF

**EXHIBIT SS 5**

ACHMAT

**EXHIBIT SS 8**

DINGISWAYO

**EXHIBIT SS 9**

KWEYAMA

**EXHIBIT SS 10**

HOLELE

**EXHIBIT SS 11**

RAKGOATHE

**EXHIBIT SS 12**

MULLER



## **EXHIBIT SS 12**

**JOHANNES ZACHARIAS  
HUMAN MULLER**



**JUDICIAL COMMISSION OF INQUIRY INTO ALLEGATIONS OF STATE CAPTURE,  
CORRUPTION AND FRAUD IN THE PUBLIC SECTOR INCLUDING ORGANS OF STATE**

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1.	Affidavit of Johannes Zacharias Human Muller	01 to 02
2.	Annexure "A"	03 to 62

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**AFFIDAVIT**

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I the undersigned,

**JOHANNES ZACHARIAS HUMAN MULLER**

do hereby declare under oath and state as follows:

1.

- 1.1. The contents of this Affidavit is true and correct and falls within my personal knowledge unless otherwise indicated.
- 1.2. I confirm that I am one of the joint liquidators in the Estate of Swifambo Rail Leasing (Pty) Ltd. (in liquidation).
- 1.3. I confirm that in the course of the administration, we have investigated documents and various bank statements obtained, and that from the said documents a report was prepared, which report was forwarded to all stake holders in the Estate being creditors and other effected persons.
- 1.4. I confirm the correctness of the facts contained in the report and that the facts were obtained from documentation and bank statements, which were investigated in the course of the administration of the Estate.
- 1.5. I furthermore confirm that the report is only a preliminary report as we have difficulty in obtaining co-operation from the director of the company in



liquidation and that new facts might come to hand which will amplify the report, which is attached hereto marked as annexure "A".



DEPONENT

I certify that the deponent has acknowledged that he knows and understands the contents of this affidavit which was signed and sworn to before me at Pretoria on this the 5 day of March 2020, the regulations contained in Government Notice R1258 published in the Government Gazette No 3619 dated 21 July 1972 (as amended) having been complied with.



COMMISSIONER OF OATHS

FULL NAMES:

**CINDY PESTANA**

ADDRESS:

Praktiserende Prokureur/Practising Attorney  
Kommissaris Van Ede / Commissioner Of Oaths  
1213 COBHAM RD

DESIGNATION:

COBHAMWEG 1213 QUEENSWOOD  
SUID-AFRIKA/SOUTH AFRICA

# Annexure "A"



## TSHWANE TRUST CO. (PTY) LTD

1207 Cobham Road, Queenswood, 0186 | P.O. Box 2101, Pretoria, 0001, Docex 51, Pretoria

Tel: 0861 874 926 | Fax: (012) 333 4672 | e-mail: michelle@tshwanetrust.co.za

Reg No: 1973 / 011373 / 07 | VAT 4860191891

Our Ref/Oms Verw: J Z H MULLER/ms

Your Ref/U Verw:

18/02/2020

### REPORT TO STAKEHOLDERS

Dear Sir / Madam,

**RE: SWIFAMBO RAIL LEASING (PTY) LTD (IN LIQUIDATION)  
REPORT ON THE ADMINISTRATION OF THE ESTATES OF SWIFAMBO  
RAIL LEASING (PTY) LTD. (IN LIQUIDATION) AND RAILPRO HOLDINGS  
(PTY) LTD. (IN LIQUIDATION)**

1. On the 18th of December 2018 both the abovementioned companies were liquidated by way of a special resolution. Subsequent to the resolutions being registered Mr. Aviwe Ntandazo Ndyamara and Mr. Mandla Professor Madlala were appointed as the Provisional Liquidators of "Swifambo". A copy of their certificate of appointment is attached hereto marked as **annexure "A"**. Likewise in the estate of "Railpro+" Mr. Aviwe Ntandazo Ndyamara and Mr. Nicolas Timkoe were appointed as provisional liquidators, a copy of their Certificate of Appointment is attached hereto marked as **annexure "B"**.
2. Subsequent to the appointment of the provisional liquidators, on the request of the Director of the Company, Mr. Mashaba, an Appeal was launched to the Constitutional Court regarding the judgment that PRASA obtained against "Swifambo" with reference to the tender contract awarded to "Swifambo". In this regard an Application was brought for the extension of the powers of the provisional liquidators which Application were funded by Mr. Mashaba. A copy of the order extending the powers of the provisional liquidators is attached hereto marked as **annexure "C"**. The Appeal to the Constitutional Court was dismissed with costs.

Tshwane Trust Co. (Pty) Ltd is a proud **LEVEL 2** Broad-Based BEE contributor

LIQUIDATORS ARE MEMBERS OF SARIPA AND ABRIPSA  
Directors: L. Sibiyi | A.N. Ndyamara | J.Z.H. Müller  
Consultant: Y Ebrahim

3. On the 6th of March 2019 the Master convened the first meeting of creditors and members in the estate of "Swifambo". At the first meeting of the creditors Mr. Johannes Zacharias Human Muller was appointed as joint final liquidator based on the vote of the members at the members meeting. A copy of the amended Certificate of Appointment, reflecting the appointment of the final liquidators is attached hereto marked as **annexure "D"**.
4. The final liquidators, obtained documents and information from the Attorneys representing PRASA and decided to hold an inquiry into the affairs of "Swifambo" and "Railpro". In this regard Applications were brought to obtain authority to convene an inquiry in terms of Section 417 of the Companies Act which orders were granted by the High Court in Pretoria. Copies of these orders is attached hereto marked as **annexures "E" and "F"**.
5. From the info obtained, flow of funds can be summarised as follows:

5.1.1 Monies received:

**Railpro Holdings (Account number: 20 253 811 7)**

5.1.1.1	05/04/2013	R 460 526 315.79
5.1.1.2	12/01/2015	R 444 565 613.96

**Swifambo Rail Leasing (Account number: 02 268 257 0)**

5.1.1.3	06/12/2013	R 64 473 684.21
5.1.1.4	13/05/2014	R 335 308 062.36
5.1.1.5	01/07/2014	R 430 166 416.92
5.1.1.6	24/12/2014	R 468 672 880.80
5.1.1.7	05/06/2015	R 182 424 651.62
5.1.1.8	07/07/2015	R 264 070 324.63

**TOTAL R2 650 207 950.29**

5.2.2 **Payments made from Railpro Holdings:**

5.2.2.1	Landgrebe	R 30 554 056.52
5.2.2.2	A. Mashaba	R 1 680 000.00

5.2.2.3 Entities under control of Mashaba:

5.2.2.3.1	Britewave	R 9 293 000.00
5.2.2.3.2	AM Investments	R 31 066 859.88
5.2.2.3.3	AMCE	R 29 816 020.28
5.2.2.3.4	MM Trust	R 50 000 000.00
5.2.2.3.5	Manoroko Makol	R 26 200 000.00

**TOTAL R146 375 880.16**





5.2.2.4	Makhensa Mabunda	R 22 664 000.00
5.2.2.5.	Entities under control of Mabunda	
5.2.2.5.1	Siyaya Energy	R 2 030 515.00
5.2.2.5.2	Siyaya Rail Infrastructure	R 5 140 000.00
5.2.2.5.3	Bahn Wheels	R 28 320 000.00
5.2.2.5.4	Enerwaste	R 27 880 000.00
	<b>TOTAL</b>	<b><u>R 63 370 515.00</u></b>
5.2.2.6	Musa Capital	R 13 500 000.00
5.2.2.7	Mj Mboweni	R 1 000 000.00
5.2.2.8	Payments to Similex / Gomes	
5.2.2.8.1	Nkosi Sabelo Inc.	R 31 000 000.00
5.2.2.8.2	Knowles Hussain	R 10 400 000.00
	<b>TOTAL</b>	<b><u>R 41 400 000.00</u></b>
5.2.2.9	SANCO	R 500 000.00
5.2.2.10	Payments to be investigated further	
5.2.2.10.1	Beyond Capital	R 2 850 000.00
5.2.2.10.2	Freeland Cons.	R 4 990 650.00
5.2.2.10.3	Van Rooyen Family Trust	R 2 750 000.00
5.2.2.10.4	van Stryp Family Trust	R 8 250 000.00
5.2.2.10.5	Strauss Daly	R 1 140 000.00
	<b>TOTAL</b>	<b><u>R19 980 650.00</u></b>
5.2.3	Payment from Swifambo Rail Leasing (Pty) Ltd.	
5.2.3.1	Mabunda	R 1 230 000.00
5.2.3.2	Entities under the control of Mabunda	
5.2.3.2.1	Siyaya DB Con. (In Liquidation)	R 6 076 895.48
5.2.3.2.2	S. Group	R 1 870 949.38
5.2.3.2.3	Nsovo Holdings	R 1 273 511.52
5.2.3.2.4	Rishi Rishile Inv.	R 1 631 290.07
5.2.3.2.5	Ntshovelo Logist.	R 1 710 000.00
5.2.3.2.6	Sterlings Living	R 5 000 000.00
	<b>TOTAL</b>	<b><u>R 17 562 646.45</u></b>
5.2.3.3	Entities under the control of Mashaba	
5.2.3.3.1	Bahn Wheels	R 7 500 000.00
5.2.3.3.2	Mizana	R 5 859 658.03
5.2.3.3.3	Mizana	R 399 256.00
5.2.3.3.4	AM Luxury Lodge	R 10 870.00
5.2.3.3.5	Manoroko Makol	R 9 000 000.00
	<b>TOTAL</b>	<b><u>R 22 769 784.03</u></b>

5.2.3.4	Jacob Zuma Foundation	R	150 000.00
5.2.3.5	Motor Vehicles	R	1 023 230.99
	Motor Vehicles	R	893 019.00
	<b>TOTAL</b>	<b>R</b>	<b><u>1 916 249.99</u></b>

## 5.2.3.6 Payments to be investigated further

5.2.3.6.1	Clifton Renovation	R	471 046.50
5.2.3.6.2	Kapital Mindz	R	256 500.00

**TOTAL** **R** **727 546.50**

## 5.2.4 Payments from AMCE

5.2.4.1 Landgrebe R55 139 540.00

5.2.4.2 A. Mashaba R 1 334 450.00

## 5.2.4.3 Entities under the control of Mashaba

5.2.4.3.1	AMCE (Absa)	R	4 800 000.00
5.2.4.3.2	S le Rinene	R	2 585 933.13
5.2.4.3.3	AM Inv.	R	1 500 000.00
5.2.4.3.4	Britewave	R	1 650 000.00
5.2.4.3.5	MA Minerals	R	401 875.00
5.2.4.3.6	Vuyaninah Prop.	R	674 369.00
5.2.4.3.7	Clear Bubbles Trading (VFV)	R	5 000 000.00

**TOTAL** **R** **16 612 177.13**

5.2.4.4 Siyaya Rail (Mabunda) R 5 999 000.00

5.2.4.5 Snyman de Jager (Att) R 2 180 000.00

5.2.4.6 Similex R 28 600 000.00

5.2.4.7 Hover Dynamics (Helicopter) R 11 074 049.02

5.2.4.8 Motor Vehicles R 8 664 990.76

5.2.4.9 Cartier Jewellers R 445 000.00

5.2.4.10 Discovery Life R 1 000 000.00

## 5.2.5 Transactions to be investigated further

5.2.5.1	AWA World	R	4 000 000.00
5.2.5.2	220405328	R	10 000 000.00
5.2.5.3	748554718	R	2 500 000.00
5.2.5.4	202447618	R	2 000 000.00
5.2.5.5	XJV Inv	R	2 050 000.00
5.2.5.6	Tshovo	R	2 000 000.00
5.2.5.7	TA Tshaka	R	6 237 374.15

**TOTAL** **R** **19 787 374.15**

5.2.6 Properties acquired by Mashaba and entities under his control after payments from PRASA:

<b>Property</b>	<b>After 4/13</b>
<b>Zetacor Six (Pty) Ltd. (In Business)</b>	
Farm Welverdiend 243 (14) (10/04/2014)	R12 084 000.00
Farm Guemesy 81 (158) (21/06/2013)	R17 000 000.00
Farm Fleur de Lys 195 (1) (21/06/2013)	R 7 000 000.00

<b>No 33 Sturdee Mews (Pty) Ltd. (In Business)</b>	
Erf Edenburg 203 (8) (14/07/2016)	R9 302 000.00
SS Leopard Rock Unit 85 (996/2005) (25/07/2015)	R 450 000.00
Erf Maroeladal Ext 12 1128 (0) (23/10/2014)	R3 750 000.00

3.2.6 Properties acquired by Mabunda and entities under his control after payments from PRASA

<b>PERSONAL</b>	
Bond – SS Sable Hills 3 Unit 39 (961/2007) (23/06/2015)	R3 800 000.00

<b>Nsovo Holdings (Pty) Ltd. (In Business)</b>	
Erf Kosmosdal Ext. 80 4639 (0) (13/06/2016)	R 670 000.00
Erf Kosmosdal Ext. 80 4640 (0) (13/06/2016)	R 670 000.00
Erf Waltloo 78 (0) (07/04/2014)	R15 000 000.00
Farm Legend 788 (197) (30/07/2013)	R 7 500 000.00
Erf Kosmosdal Ext. 55 3288 (0) (22/10/2013)	R 2 850 000.00
Erf Kosmosdal Ext. 31 1864 (0) (23/07/2013)	R 3 385 000.00

<b>Siyazi Holdings (Pty) Ltd. (Voluntary Liquidation)</b>	
SS Kingsplace (374/1984) Unit 11 (27/03/2015)	R525 000.00
SS Kingsplace (374/1984) Unit 18 (27/03/2015)	R525 000.00

<b>Nyavani Beef Masters (Pty) Ltd. (In Business)</b>	
Farm Limpopo 944 (21/04/2016)	R13 850 000.00

5.3 It appears from the above that huge amounts of monies were channelled to Mr. Mashaba and various entities under his control as well as Mr. Mabunda and various entities under his control.

5.4 We also embarked on a marketing drive to market the locomotives and after proper research and consideration WH Auctioneers were appointed as they were part of the Richie Group which gave us access to an international platform. Attached hereto please find the auctioneers report marked as **annexure "G"**

Subsequent to the dismissal of the urgent application, the liquidators managed to sell 8 of the locomotives for R95 335 000,00. The liquidators have since received payment of the aforesaid purchase price.

5.5. An auction was arranged by the liquidators for the 13 locomotives which were by agreement handed over to the liquidators. Before the auction could commence, Mr. Mashaba issued a Combined Summons against the liquidators and PRASA. A copy of the Summons is attached hereto marked as **annexure "H"**.

5.6. After the Summons was issued an urgent interdict Application was launched by Mr. Mashaba to stop the auction from proceeding. The said Application was dismissed with costs. The cost order against Mr. Mashaba, is to be taxed during March this year.

5.7 Subsequent to the dismissal of the urgent application, the liquidators managed to sell 8 of the locomotives for R95 335 000.00 excluding commission and VAT. The liquidators have since received payment of the aforesaid purchase price.

## 6. **STEPS TAKEN WITH REFERENCE TO THE INFORMATION OBTAINED AT THE INQUIRY**

### 6.1 **LEGAL PROCEEDINGS**

6.1.1. Application for 417 Enquiry - Swifambo Rail Leasing (Pty) Ltd. - Granted - Court Order dated 28 May 2019

6.1.2. Application for 417 Enquiry - Railpro Holdings (Pty) Ltd. - Granted - Court Order dated 17 September 2019

6.1.3. Extension of Powers - Granted - Court Order dated 13 August 2019

6.2 Enquiry:

**29 June 2019**

Mr. A. Mashaba

Mr. G. Sabelo

**05 August 2019**

Mr. A. Mabunda

**27 August 2019**

Mr. AA Mashaba

Mr. LZ Cele

**28 August 2019**

Mr. A Mashaba

**19 September 2019**

Mr. AA Mashaba

Mr. LZ Cele

**26 September 2019**

Mr. MSR Mabunda

**25 October 2019**

Mr. G. Sabelo

Mr. VA Mabunda

**24 February 2020**

Anthony Jack Feldman (Hover Dynamics)

Thaniel Makhosini Mashele

Standard Bank

Absa Bank

Carlos Alberto Fernandes Araujo

Cindy Mabunda

Tshepo John Molapo

Daniel Hayward

6.5 Mr. Mashaba did not give his co-operation at the inquiry and did not supply us with any documentation.

6.7. Bahn Wheels Solutions (Liquidation Application) (R28 320 000.00) - Granted - Court Order dated 15 October 2019

6.8. Gomes (Ad fundandam aut confirmandam jurisdictionem)  
Application (R40 140 000.00) - Granted - Court order 14/01/20)

7. Mabunda and entities Actions:

7.1 **Makensa Solly Risimati Mabunda - Leasing (R7 460 000.00)**

Received Notice of Intention to Oppose on the 21<sup>st</sup> of January 2020. Time till the 18<sup>th</sup> of February 2020 to deliver plea.

7.2 **Makensa Solly Risimati Mabunda - Railpro (R22 664 000.00)**

Received Notice of Intention to Oppose on the 21<sup>st</sup> of January 2020. Time till the 18<sup>th</sup> of February 2020 to deliver plea.

7.3 **Enerwaste Solutions (Pty) Ltd. - Railpro (R27 880 000.00)**

Received Notice of Intention to Oppose on the 21<sup>st</sup> of January 2020. Time till the 18<sup>th</sup> of February 2020 to deliver plea.

7.4 **Beyond Corporate (Pty) Ltd. - Railpro (R2 850 000.00)**

Received Notice of Intention to Oppose on the 21<sup>st</sup> of January 2020. Time till the 18<sup>th</sup> of February 2020 to deliver plea.

7.5 **Nsovo Holdings (Pty) Ltd. - Leasing (R4 571 374.28)**

Received Notice of Intention to Oppose on the 21<sup>st</sup> of January 2020. Time till the 18<sup>th</sup> of February 2020 to deliver plea.

7.6 **S. Group Holding (Pty) Ltd. - Leasing (R1 870 949.38)**

Received Notice of Intention to Oppose on the 21<sup>st</sup> of January 2020. Time till the 18<sup>th</sup> of February 2020 to deliver plea.

7.7 **Sterlings Living (Pty) Ltd. - Leasing (R5 000 000.00)**

Receive a Notice of Intention to Defend on the 9<sup>th</sup> of December 2019. Time till the 6<sup>th</sup> February 2020 to file plea. No plea received as yet.

8. **APPLICATIONS OPPOSED**

8.1.1. A. Mashaba (interdicting the auction) - Application dismissed - Court Order dated 11 September 2019

8.1.2. Review Application (Mabunda, Landgrebe and others) - Still in process

9. **ACTIONS IN PROCESS FOR RECOVERING OF MONIES**

9.1.1. Against the Directors of "Swifambo" inter alia Mashaba (Action in terms of Section 424 of the Companies Act) for the amount of R3 005 300 000.00 and against the Directors of "Railpro" for the amount of R905 091 929.42.

9.1.2 Against AM Investments - Case number: 4287/2020

- 9.1.2.1 AM Investments - R31 066 859.88.
- 9.1.2.2 A M Luxury Game Reserve - R5 021 080,00
- 9.1.2.3 WKH Landgrebe & Co - R10 530 796,07
- 9.1.2.4 Xinjovo Enterprises CC - R6 275 000,00
- 9.1.2.5 Openprops 1012 CC - R3 694 335,00

9.1.3. Against MM Trust - Case number: 4273/2020

- 9.1.3.1 MM Trust - R26 200 000,00 alternatively R50 711 077,00
- 9.1.3.2 WKH Landgrebe & Co - R30 551 206,52



9.1.4. Against Mashaba, WKH Landgrebe - Case number: 4272/2020

9.1.4.1 First to Seventh Defendants - R2 650 207 950,30

9.1.4.2 First, Third, Fifth, Sixth, Seventh and Eight Defendants - R905 091 929,42

9.1.5. Against AM Consulting Engineers - Case number: 4271/2020

AM Consulting Engineers (Pty) Ltd - R29 117 065,22

10. The liquidators also entered into negotiations with Stadler, the company which bought Vossloh, the supplier of the locomotives regarding a possible commercial settlement of the disputes between "Swifambo" and themselves. In this regard certain proposals were made regarding the assets in Valencia, Spain as well as the manufacturing of the further locomotives. These proposals are summarised as follows:

Scenario 1:

That the 7(seven) Afro 4000 locomotives, manufactured, completed and stored in the yard of Stadler in Valencia be sold by agreement between the parties for an amount of approximately €2.8 million (two point eight million euros) each and that the proceeds be paid to Swifambo Rail Leasing (Pty) Ltd (in liquidation) minus expenses in relation to the storage, conversion and marketing of the said locomotives. That the liquidator of Swifambo Rail Leasing (Pty) Ltd (in liquidation) at all times be kept abreast and any offers regarding the sale of the locomotives and that any offer be agreed upon by both parties.

The 5(five) EuroDual locomotives be sold and the proceeds to be paid to Swifambo Rail Leasing (Pty) Ltd (in liquidation) minus costs incidental to the storage conversion and marketing of the said locomotives. That the liquidator of Swifambo Rail Leasing (Pty) Ltd (in liquidation) at all times be kept abreast and any offers regarding the sale of the locomotives and that any offer be agreed upon by both parties.

Scenario 2:

Delivery of the 5(five) EuroDual locomotives together with a calculation of the number of EuroDual locomotives to be manufactured for the amount of ZAR 1 873 474 161.62 already paid to Vossloh by Swifambo Rail Leasing (Pty) Ltd (in liquidation).

Scenario 3:

Delivery of the 5(five) Euro dual locomotives plus a calculation of the number of Eurodual locomotives to be manufactured for the value already received as well as the proceeds of the 7(seven) Afro 4000 locomotives to be sold above.

Subsequent to the above, a letter was sent to Stadler on the 6<sup>th</sup> of December 2019 in order to reach a commercial settlement. Attached hereto the reply from Stadler dated the 22<sup>nd</sup> of January 2020 marked as **annexure I** wherein Stadler mentioned their counter-proposal.

These scenarios are without prejudice communications between the liquidators and Stadler. It is however of the utmost importance that Prasa together with the liquidators, meet with Stadler (Vossloh) to discuss the above mentioned scenarios and or other options for the benefit of Prasa.

We have been informed that Peter Jennelton of Stadler has arranged a meeting with the Administrator of PRASA, which meeting is to be held on the 13<sup>th</sup> of March 2020. It will be to the benefit of PRASA to consult with the Liquidators before the abovementioned meeting.

11. **Liquidation & Distribution Account.**

As undertaken by the liquidators, the First L & D Account was drawn immediately upon receipt of the proceeds of the auction. This account was done with the aim of paying a dividend to PRASA as soon as possible. As per the attached account attached as **annexure "J"**. According to the account, Prasa would receive a substantial dividend of well over R63mil.

The account was sent to both the Auditor General as well as Prasa's legal team before lodgement of the account.

After lodgement and inspection by the Master of the account the account was advertised to lie open for inspection from 29 November 2019 to 13 December 2019. During this period, on the 26th of November 2019 a review application was served on the liquidators. The applicants in the review application are W K H Landgrebe & Co, A M Investments (Pty) Ltd & Auswell Mashaba.

We also received an objection against the account by the same applicants as mentioned above.

The crux of the objection was against the liquidators fees which was taken according to the tariff of the Insolvency Act and more importantly the admission and validity of Prasa's claim.

The liquidators have already entered an appearance to oppose the said application and the opposing papers are in an advance stage of preparation.

It is however imperative that Prasa enter an appearance to defend and file opposing papers as soon as possible, in order to protect their claim against the estate.

The liquidators have decided to withdraw this account pending the finalisation of the review application.

A copy of the application of the extension of this account is attached hereto as **annexure "K"**.

12. The liquidators are currently marketing the remaining 6 Afro Diesel Locomotives by way of an online Auction. This auction was to end on the 27<sup>th</sup> of February 2020 at 13:00. This deadline has however been postponed till the 25<sup>th</sup> of March 2020 at 13:00. The reason for this is that there are two parties one being an American company and the other a French company who are interested in buying but need time to arrange finance. I attach a copy of the marketing report which shows that the auction has already had 15 793 visits from various countries as set in **annexure "L"** hereto.



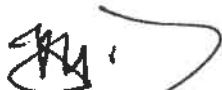


It is important for Prasa to consider the effect of having their claim expunged. The effect will be that the proceeds realised in the company in liquidation will inevitably flow to its shareholders and ultimately to Mr Mashaba.

The recoveries mentioned earlier in this letter will also be on risk.

Please feel free to contact writer here off should you have any queries.

Yours Faithfully

A handwritten signature in black ink, appearing to be 'JZH', enclosed within a large, loopy circular flourish.

J Z H MÜLLER  
obo JOINT LIQUIDATORS

"A"  
J.465

the doj &amp; cd

Department:  
Justice and Constitutional Development  
REPUBLIC OF SOUTH AFRICA

SERTIFIKAAT VAN AANSTELLING VAN \*VOORLOPIGE LIKWIDATEUR(S)/  
~~LIKWIDATEUR(S)/VOORLOPIGE GERECHTELIIKE BESTUURDER/~~  
 GERECHTELIIKE BESTUURDER

[Maatskappywet, No. 61 van 1973 (soos gewysig); Wet op Beslote Korporasies, No. 69 van 1984]

CERTIFICATE OF APPOINTMENT OF \*PROVISIONAL LIQUIDATOR(S)/  
~~LIQUIDATOR(S)/PROVISIONAL JUDICIAL MANAGER/~~  
 JUDICIAL MANAGER

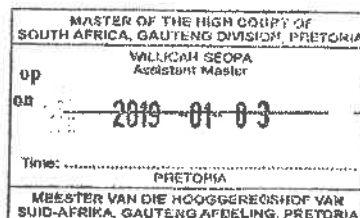
[Companies Act, No. 71 of 2008 (as amended); Close Corporations Act, No. 69 of 1984]

No: T 2979/18

Hierby word gesertifiseer dat /

This is to certify that AVIWE NTANAZO NDYAMARA & MANDLA PROFESSOR MADLALATSHWANE TRUST CO. (PTY) LTDPO BOX 2101PRETORIA0001aangestel is as \*Voorlopige Likwidateur / ~~Voorlopige Geregte Like Bestuurder~~ met die magte soos uitengesit in Artikel  
 van Wet No van vanis/are appointed \*Provisional Liquidators / ~~Provisional Judicial Manager~~ with the powers as set out in Section  
386(1)(a)(b)(c)(e) and 4(f) of Act No 61 of 1973 ofdie \*Maatskappy / ~~Beslote Korporasie~~ bekend asthe \*Company / ~~Close Corporation~~ known as SWIFAMBO RAIL LEASING (PTY) LTDREG NO: 2010/007968/07wat onder \*Voorlopige Likwidate / ~~Voorlopige Geregte Like Bestuur~~ geplaas is \*op Bevel van die Hooggeregshof  
 which has been placed under \*Provisional Liquidation / ~~Provisional Judicial Management~~ \*by Order of thevan Suid-Afrika  
 High Court of South AfricaAfdeling/Landdroshof  
 Division/Magistrate'svir die distrik van  
 Court for the district of/deur  
 /bySpesiale Besluit geregistreer op  
 Special Resolution registered-on18<sup>TH</sup> DECEMBER2018

Geteken te

Signed at PRETORIA

ASST MEESTER VAN DIE HOOGGEREGSHOF

Namens Departement van Justisie en Konstitusionele Ontwikkeling

ASST MASTER OF THE HIGH COURT

On behalf of the Department of Justice and Constitutional Development

\*B"  
J.465

the doj &amp; cd

Department:  
Justice and Constitutional Development  
REPUBLIC OF SOUTH AFRICA

**SERTIFIKAAT VAN AANSTELLING VAN \*VOORLOPIGE LIKWIDATEUR(S)/  
LIKWIDATEUR(S)/VOORLOPIGE GERECHTELIIKE BESTUURDER/  
GERECHTELIIKE BESTUURDER**

[Maatskappywet, No. 61 van 1973 (soos gewysig); Wet op Beslote Korporasies, No. 69 van 1984]

**CERTIFICATE OF APPOINTMENT OF \*PROVISIONAL LIQUIDATOR(S)/  
LIQUIDATOR(S)/PROVISIONAL JUDICIAL MANAGER/  
JUDICIAL MANAGER**

[Companies Act, No. 71 of 2008 (as amended); Close Corporations Act, No. 69 of 1984]

No: T 2978/18

Hierby word gesertifiseer dat /

This is to certify that

AVIWE NTANDAZO NDYAMARA &amp; NICHOLAS TIMKOE

TSHWANE TRUST CO. (PTY) LTD

PO BOX 2101

PRETORIA

0001

aangestel is as \*Voorlopige Likwidateur / Voorlopige Geregte Like Bestuurder met die magte soos uiteengesit in Artikel

van Wet No van van

\*ie/are appointed \*Provisional Liquidators / Provisional Judicial Manager with the powers as set out in Section  
386(1)(a)(b)(c)(e) and 4(f) of Act No 61 of 1973 ofdie \*Maatskappy / Beslote Korporasie bekend as  
the \*Company / Close Corporation known as

RAILPRO HOLDINGS (PTY) LTD

REG NO: 2011/109702/07

wat onder \*Voorlopige Likwidasie / Voorlopige Geregte Like Bestuur geplaas is \*op Bevel van die Hooggeregshof  
which has been placed under \*Provisional Liquidation / Provisional Judicial Management \*by Order of thevan Suid-Afrika  
High Court of South AfricaAfdeling/Landdroshof  
Division/Magistrate'svir die distrik van  
Court for the district of/deur  
/bySpesiale Besluit geregistreer op  
Special Resolution registered on18<sup>TH</sup> DECEMBER

2018

Geteken te

Signed at

PRETORIA

ASST MEESTER VAN DIE HOOGGEREGSHOF

Namens Departement van Justisie en Konstitusionele Ontwikkeling

ASST MASTER OF THE HIGH COURT

On behalf of the Department of Justice and Constitutional Development

MASTER OF THE HIGH COURT OF SOUTH AFRICA, GAUTENG DIVISION, PRETORIA	
OP	WILLIAM SEOPA Assistant Master
2019	2019
2019 -01- 07	
Tinec: PRETORIA	
MEESTER VAN DIE HOOGGEREGSHOF VAN SUID-APRIKA, GAUTENG AFDELING, PRETORIA	

IN THE HIGH COURT OF SOUTH AFRICA  
GAUTENG DIVISION, PRETORIA

BEFORE THE HONOURABLE MR JUSTICE FOURIE (J), ON THIS THE  
12<sup>TH</sup> DAY OF FEBRUARY 2019, IN COURT 6F

CASE NO: 8214/2019

In the *ex parte* application of:

AVIWE NTANDAZO NDYAMARA N.O.

First Applicant

MANDLA PROFESSOR MADLALA N.O.

Second Applicant

[in their capacity as the joint provisional liquidators of  
SWIFAMBO RAIL LEASING (PTY) LTD (Reg no: 2010/007968/07)]

DRAFT ORDER

AFTER HAVING HEARD COUNSEL FOR THE APPLICANTS AND HAVING  
CONSIDERED THE PAPERS FILED OF RECORD, THE COURT GRANTS  
THE FOLLOWING ORDER:

1. The forms and service are dispensed with and the matter is heard as one of urgency in terms of Uniform Rule 6(12);
2. The Applicants' powers as joint provisional liquidators of SWIFAMBO RAIL LEASING (PTY) LTD (Reg no: 2010/007968/07) ("Swifambo") are hereby extended in terms of Sections 386(5), read with Section 387(3) of the Companies Act, 61 of 1973, to include:
  - 2.1. To enter into short term lease agreements on behalf of Swifambo;
  - 2.2. To sell and transfer any property belonging to Swifambo;

RECEIVED BY THE DEPUTY CLERK OF COURT Private Bag 267, Pretoria 0001 2019 -02- 14 GD-PRET-026
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- 2 -

- 2.3. The engaging of attorneys to act on behalf of the Applicants in order to give legal advice and to prosecute an appeal against the judgment and order so made by the Supreme Court of Appeal of South Africa on 30 November 2018, under case number: 1030/2017, to the Constitutional Court of the South Africa;
- 2.4. The employment of agents in as far as may be necessary to collect and locate assets of Swifambo;
- 2.5. To negotiate with debtors of Swifambo, and to enter into agreements with such debtors;
- 2.6. The appointment of an engineering company or firm with the requisite skill and qualification to conduct an inspection, research and to do all that is necessary to compile a report on the various assets of Swifambo – in particular railway locomotives currently situated in the Republic of South Africa and / or Spain, or wherever such locomotives may be found – and to report back to the Applicants in this regard;
- 2.7. The appointment of a firm of auditors to conduct a full financial audit of Swifambo financial affairs – in particular the income tax, pay-as-you-earn tax, Value Added Tax and any other charges imposed by the South African Revenue Service which are due, owing and payable and / or reimbursable – and to do all that is necessary to report back to the Applicants in this regard;

Private Bag X67, Pretoria 0001

2019 -02- 14

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- 2.8. Elect whether or not to abide by certain agreements concluded by Swifambo prior to its liquidation, subject to advice received from duly appointed attorneys;
- 2.9. Compromise or accept any claim by or against Swifambo;
- 2.10. the exercise of the powers as provided for in Section 386(4)(l) of the Companies Act;
- 2.11. the extended powers as granted in paragraphs 2.1. to 2.10. above, shall be exercised subject to the approval of the Master of the High Court.
3. The Applicants are authorised to approach this Court on the same papers, supplemented as may be necessary, to obtain further powers in relation to the administration of the insolvent estate of Swifambo.
4. The costs of this application shall be costs in the winding-up of Swifambo.

  
BY ORDER

Private Bag X87, Pretoria 0001

2019-02-14

GD-PRET-028

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the doj &amp; cd

Department:  
Justice and Constitutional Development  
REPUBLIC OF SOUTH AFRICA

**SERTIFIKAAT VAN AANSTELLING VAN \*VOORLOPIGE LIKWIDATEUR(S)/  
LIKWIDATEUR(S)/VOORLOPIGE GEREGETELIKE BESTUURDER/  
GEREGTELIKE BESTUURDER**

[Maatskappywet, No. 61 van 1973 (soos gewysig); Wet op Beslote Korporasies, No. 69 van 1984]

**CERTIFICATE OF APPOINTMENT OF \*PROVISIONAL LIQUIDATOR(S)/  
LIQUIDATOR(S)/PROVISIONAL JUDICIAL MANAGER/  
JUDICIAL MANAGER**

[Companies Act, No. 61 of 1973 (as amended); Close Corporations Act, No. 69 of 1984]

No: T2979/18

Hierby word gesertifiseer dat

This is to certify that

**AVIWE NTANDAZO NDYAMARA, JOHANNES ZACHARIAS HUMAN  
MULLER & MANDLA PROFESSOR MADLALA**

**TSHWANE TRUST**

**P O BOX 2101**

**PRETORIA**

**0001**

aangestel is as \*Voorlopige Likwidateur / Voorlopige Geregtelike Bestuurder met die magte soos uiteengesit in Artikel  
van Wet No van van  
\*is/are appointed \*Provisional Liquidator / Provisional Judicial Manager with the powers as set out in Section  
386 (1) of Act No 61 of 1973 of

die \*Maatskappy / Beslote Korporasie bekend as  
the \*Company / Close Corporation known as

**SWIFAMBO RAIL LEASING (PTY) LIMITED**

**REG NO: 2010/007968/07**

wat onder \*Voorlopige Likwidasie / Voorlopige Geregtelike Bestuur geplaas is \*op Bevel van die Hooggeregshof  
which has been placed under \*Provisional Liquidation / Provisional Judicial Management \*by Order of the

van Suid-Afrika

High Court of South Africa

Gauteng Division: Pretoria

/Landdroshof

/Magistrate's

vir die distrik van

Court for the district of

/deur

/by

Spesiale Besluit geregistreer op  
Special Resolution registered on

18<sup>th</sup> DECEMBER 2018

Geteken te

Signed at

PRETORIA

op

on

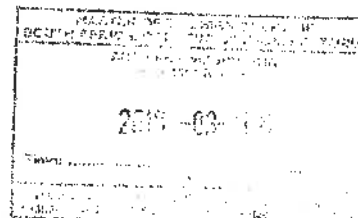
2019

**MEESTER VAN DIE HOOGEREGSHOF**

Namens Departement van Justisie en Konstitusionele Ontwikkeling

MASTER OF THE HIGH COURT

On behalf of the Department of Justice and Constitutional Development





"E"

IN THE HIGH COURT OF SOUTH AFRICA  
GAUTENG DIVISION, PRETORIA

Case number: 35727/2019

On 28 May 2019 before his Lordship Justice Vorster AJ:

In the *ex parte* application of:

AVIWE NTANDAZO NDYAMARA N.O.

FIRST APPLICANT

JOHANNES ZACHARIAS HUMAN MULLER N.O.

SECOND APPLICANT

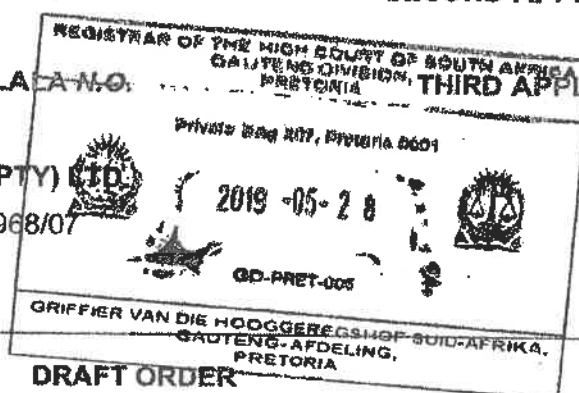
MANTLA PROFESSOR MADLALA N.O.

THIRD APPLICANT

SWIFAMBO RAIL LEASING (PTY) LTD

Registration number 2010/007968/07

(In liquidation)

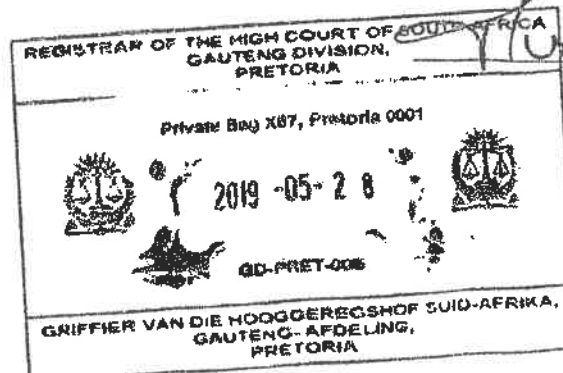


After the hearing of counsel on behalf of the Applicants and after perusal of the papers filed the court orders as follows:

1. The company **SWIFAMBO RAIL LEASING (PTY) LTD** with Registration number 2010/007968/07 (in liquidation) is declared to be unable to pay its debts in accordance with the provisions of Section 388 of the Companies Act, Act 61 of 1973, as read with Schedule 9 of Schedule 5 of the Companies Act, Act 71 of 2008;



2. Leave is granted to the Applicants to hold a Commission of Inquiry into the affairs of the company in terms of the provisions of Section 417 and 418 of Act 61 of 1973.
3. The scope of the inquiry shall be to investigate the financial affairs of the company, including its trade, dealings, affairs and property;
4. Neil Krige is appointed in terms of Section 418(1)(a) of the Act as the Commissioner with the authority to fix the times and places of the inquiry in his sole discretion;
5. All the provisions of Section 418 of the Act shall apply to the inquiry;
6. These court papers and all proceedings shall be forwarded to the Commissioner and shall be kept private and confidential;
7. The costs of this application shall be costs in the liquidation;
8. A copy of this application and the order granted by this Court shall be delivered by hand, alternatively fax, further alternatively electronic mail to the Master of the High Court, Pretoria prior to the commencement of the inquiry.



IN THE HIGH COURT OF SOUTH AFRICA  
GAUTENG DIVISION, PRETORIA

*[Handwritten signature]* "F"

Case number: 68573/19

ON THIS 17<sup>th</sup> DAY OF SEPTEMBER 2019 BEFORE THE HONOURABLE JUSTICE  
SARDIWALLA J:

In the *ex parte* application of:

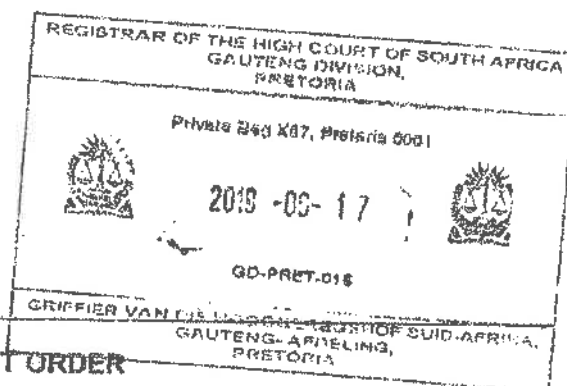
AVIWE NTANDAZO NDYAMARA N.O.

FIRST APPLICANT

NICHOLAS TIMKOE N.O.

SECOND APPLICANT

RAILPRO HOLDINGS (PTY) LTD  
Registration number 2011/109702/07  
(In liquidation)



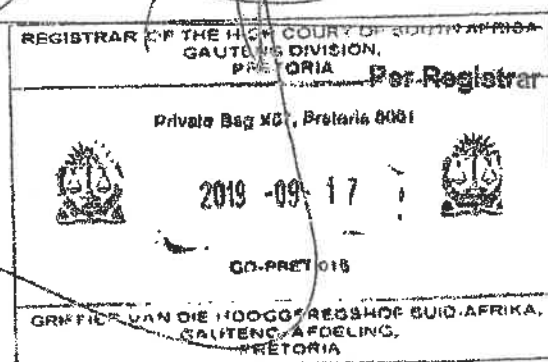
DRAFT ORDER

Having heard counsel on behalf of the Applicants and having read the papers the court order as follows:

1. The company RAILPRO HOLDINGS (PTY) LTD with Registration number 2011/109702/07 (in liquidation) is declared to be unable to pay its debts in accordance with the provisions of Section 388 of the Old Companies Act, Act 61 of 1973, as read with Schedule 9 of Schedule 5 of the Companies Act, Act 71 of 2008;
2. A Commission of Inquiry ("*the inquiry*") into the affairs of the company may be held in terms of the provisions of Section 417 and 418 of Act 61 of 1973.

*[Handwritten signature]*

3. The scope of the inquiry shall be to investigate the financial affairs of the company, including its trade, dealings, affairs and property;
4. Neil Krige ("*the Commissioner*") is appointed in terms of Section 418(1)(a) of the Act and he is authorised to fix the times and places of the inquiry in his sole discretion;
5. All the provisions of Section 418 of the Act shall apply to the inquiry;
6. These court papers and all proceedings must be forwarded to the Commissioner and shall be kept private and confidential;
7. The costs of this application shall be costs in the liquidation;
8. A copy of this application and the order granted by this Honourable Court shall be delivered by hand, alternatively fax, further alternatively electronic mail to the Master of the High Court, Pretoria prior to the commencement of the inquiry; and



h~



To Tshwane Trust Co. (Pty) Ltd  
C/O: Hannes Muller  
1207 Cobham Road, Queenswood  
Pretoria, 0186

16 October 2019

Per E-mail: [hannes@tshwanetrust.co.za](mailto:hannes@tshwanetrust.co.za); [michelle@tshwanetrust.co.za](mailto:michelle@tshwanetrust.co.za)

**RE: SWIFAMBO RAIL LEASING (IN LIQUIDATION) – SALES REPORT**

Dear Mr. Muller,

With reference to the above-mentioned matter, kindly find below the breakdown of the sales in respect of the locomotives sold.

Lot	Asset Number	Serial	Description	Location	Bid Amount	Vat On Bid Amount	Total
1	4013	2783	Afro 4000 Diesel Electric Locomotive	Braamfontein	R 13 050 000.00	R 1 857 500.00	R 15 007 500.00
2	4009	2789	Afro 4000 Diesel Electric Locomotive	Braamfontein	R 13 550 000.00	R 2 032 500.00	R 15 682 500.00
3	4008	2788	Afro 4000 Diesel Electric Locomotive	Braamfontein	R 13 050 000.00	R 1 857 500.00	R 15 007 500.00
4	4005	2785	Afro 4000 Diesel Electric Locomotive	Braamfontein	R 13 500 000.00	R 2 025 000.00	R 15 525 000.00
5	4003	2783	Afro 4000 Diesel Electric Locomotive	Braamfontein	R 13 450 000.00	R 2 017 500.00	R 15 467 500.00
6	4010	2790	Afro 4000 Diesel Electric Locomotive	Braamfontein	R 2 800 000.00	R 420 000.00	R 3 220 000.00
8	4001	2761	Afro 4000 Diesel Electric Locomotive	Bloemfontein	R 13 500 000.00	R 2 025 000.00	R 15 525 000.00
			<b>Total</b>		<b>R 82 900 000.00</b>	<b>R 12 435 000.00</b>	<b>R 95 335 000.00</b>

Payments Received by Tshwane Trust		
1st		R 3 000 000.00
2nd		R 3 658 200.00
3rd		R 3 500 000.00
4th		R 85 176 800.00

**Total Payments Received** **R 95 335 000.00**

Less Costs for Advertising	R 609 761.64
VAT	R 91 464.26

**Total Costs for Advertising Inc Vat** **R 701 225.89**

*The way auctions should be.*

**WH AUCTIONEERS (PTY) LTD.**

Company Registration Nr.: 2010/023906/07 • VAT Nr: 4370258388

Directors: Mr. S. Winterstein, Mr. N. Hunraj & Ms. P. Numsany

578 16<sup>TH</sup> ROAD, RANDJES PARK, MIDRAND, 1685 • PO BOX 557, KELVIN, 2034

TEL: 011 574 5700 • EMAIL: [INFO@WHAUCTIONS.COM](mailto:INFO@WHAUCTIONS.COM)

[WWW.WHAUCTIONS.COM](http://WWW.WHAUCTIONS.COM)



"5"

Please do not hesitate to contact me should you require any further information.

Kind Regards,

Ms. Prolena Naralingamy  
Director

*The way auctions should be.*

**WH AUCTIONEERS (PTY) LTD.**

Company Registration Nr.: 2010/023906/07 • VAT Nr: 4370258388

Directors: Mr. S. Winterstein, Mr. N. Hunsraj & Ms. P. Naralingamy

578 16<sup>TH</sup> ROAD, RANDJES PARK, MIDRAND, 1685 • PO BOX 557, KELVIN, 2054

TEL: 011 574 5700 • EMAIL: [INFO@WHAUCTIONS.COM](mailto:INFO@WHAUCTIONS.COM)

[WWW.WHAUCTIONS.COM](http://WWW.WHAUCTIONS.COM)

8/30/2019

WH Auctioneers | Truck Auctions, Construction Plant Auctions, Parkhome Auctions, Catering Auctions, Online Auctions. Auction bid...

[Back To My Sales \(/auction-011/mySales\)](#)

# 13x Afro 4000 Diesel Electric Locomotives - Online Auction - Swifambo Rail Leasing (Pty) Ltd (In Liquidation) T2979/18 Ending On 12 Sep 2019 at 11:00 AM SAST

16

Auctions Items

## Sale Information

Vendor Name	Number of Lots	Number of Bids	Pending Offers	Currency	Selling	Not Selling	Sold	Unsold
WH Auctioneers	13	0	0	ZAR	0	0	0	0
			<a href="#">VIEW ITEMS</a>		<a href="#">VIEW ITEMS</a>	<a href="#">VIEW ITEMS</a>	<a href="#">VIEW ITEMS</a>	<a href="#">VIEW ITEMS</a>

## Bidders

Approved / Not Approved

1 12

## Auction Visits

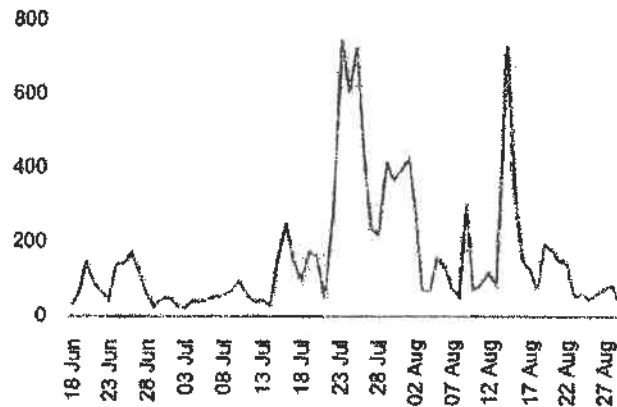
11,686

8/30/2019

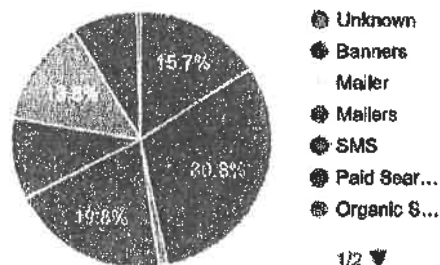
WH Auctioneers | Truck Auctions, Construction Plant Auctions, Parkhome Auctions, Catering Auctions, Online Auctions, Auction bid...

## Visits Over Time

"G"



## Visits By Source



1/2 ▼

## Visits By Country

### Top Locations



South Africa

### Visits

7043



United States

921



















[Show more...](#)

8/30/2019

WH Auctioneers | Truck Auctions, Construction Plant Auctions, Parkhome Auctions, Catering Auctions, Online Auctions. Auction bid...

## Top Locations

## Visits

	United Kingdom	613
	Australia	426
	Sweden	371
	India	281
	Germany	208
	Spain	199
	Switzerland	127
	Canada	103
	Zimbabwe	82
	France	76
	Mozambique	72
	New Zealand	69
	Netherlands	66
	Portugal	57
	Norway	54
	Denmark	48
	Botswana	39
	Tanzania	36

Show more...

3 7,043



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28

(COMBINED SUMMONS)  
IN THE HIGH COURT OF SOUTH AFRICA  
(GAUTENG DIVISION, PRETORIA)

CASE NUMBER: 63178/19

In the matter between:

**AUSWELL MASHABA**

**PLAINTIFF**

and

**THE PASSENGER RAIL AGENCY OF SOUTH AFRICA ;**

**FIRST DEFENDANT**

**VOSSLOH**

**SECOND DEFENDANT**

**SWIFAMBO RAIL LEASING PROPRIETARY LIMITED**

**THIRD DEFENDANT**

**RAILPRO HOLDINGS PROPRIETARY LIMITED**

**FOURTH DEFENDANT**



**TO: THE SHERIFF OR HIS DEPUTY:**

**INFORM:**

**THE PASSENGER RAIL AGENCY OF SOUTH AFRICA** a legal person established in terms of Section 22 of the Legal Succession of the South African Transport Services Act, Act 9 of 1989, with its principle place of business situated within the area of jurisdiction of the above Honourable Court at PRASA HOUSE, 1040 BURNETT STREET, HATFIELD, PRETORIA, GAUTENG PROVINCE.  
(hereinafter called the FIRST DEFENDANT)

**AND INFORM:**

**VOSSLOH**; a company duly incorporated in accordance with the Laws of Spain and having its main place of business in South African situated within the area of jurisdiction of the above Honourable Court at 38 NEDERBERG CRESCENT, HURLINGHAM MANOR, SANDTON, JOHANNESBURG, GAUTENG PROVINCE.  
(hereinafter called the SECOND DEFENDANT)

**AND INFORM:**

**SWIFAMBO RAIL LEASING PROPRIETARY LIMITED; (REG NO: 2010/007968/07)**  
 (in liquidation). The joint liquidators of the Third Defendant are Mr JZH Muller and N  
 Ndyamara of Tshwane Trust and MP Madlala with main place of business at 1207  
**COBHAM ROAD, COLBYN PRETORIA, SOUTH AFRICA.**  
 (hereinafter called the THIRD DEFENDANT)

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**AND INFORM:**

**RAILPRO HOLDINGS PROPRIETARY LIMITED; (REG NO: 2011/109702/07)** (in  
 liquidation). The provisional joint liquidators are Mr. A Ndyamara of Tshwane Trust and  
 Mr N Timkoe. Tshwane Trust's main place of business is 1207 COBHAM ROAD  
**COLBYN, PRETORIA, SOUTH AFRICA.**  
 (hereinafter called the FOURTH DEFENDANT)

**THAT:**

**AUSWELL MASHABA**, an adult male businessman of No 400 on 16<sup>th</sup> Road Central  
 Park Block G Midrand  
 (hereinafter referred to as the PLAINTIFF)

hereby institutes action against the Defendants in which action the Plaintiff claims the  
 relief on the grounds as set out in the Particulars of Claim annexed hereto.

**INFORM** the Defendants further that if any Defendant disputes the claim and wishes  
 to defend the action, the Defendant shall-

- (i) Within TEN (10) Court days of the service upon the Defendant of this Summons,  
 file with the Registrar of this Court at High Court, corner Vermeulen & Paul Kruger  
 Streets, Pretoria, Notice of Defendant's intention to defend and serve a copy  
 thereof on the Attorneys of the Plaintiff, which notice shall give an address (not  
 being a post office or poste restante) referred to in Rule 19(3) for the service upon  
 the Plaintiff of all notices and documents in the action;
- (ii) Thereafter, and within twenty (20) Court days after filing and serving notice of  
 intention to defend as aforesaid, file with the Registrar and serve upon the Plaintiff  
 a plea or exception, notice to strike out, with or without a counterclaim.

INFORM the Defendant further that if the Defendant fails/fail to file and serve notice as aforesaid, judgment as claimed may be given against the Defendant without further notice to the Defendant, or if, having filed and served such notice, the Defendant fails/fail to plead, except, make application to strike out or to counterclaim, judgment may be given against the Defendant.

30

AND immediately thereafter serve on the Defendant a copy of this Summons and return the same to the Registrar with whatsoever you have done thereupon.

DATED AT PRETORIA ON THIS THE 23<sup>rd</sup> DAY OF AUGUST 2019.



(SGD) MARTHELI KRUGER  
CORNE WILKENS ATTORNEYS  
ATTORNEYS FOR PLAINTIFF  
3<sup>RD</sup> FLOOR, BURLINGTON HOUSE  
BURLINGTON ARCADE  
235 CHURCH STREET  
PRETORIA  
REF: WM61

REGISTRAR OF THE HIGH COURT

31

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**PARTICULARS OF CLAIM**

---

**1.**

- 1.1** The Plaintiff is **AUSWELL MASHABA**, an adult male businessman of No 400 on 16<sup>th</sup> Road Central Park Block G Midrand
- 1.2** The Plaintiff is a Director of Swifambo Rail Leasing (Pty) Limited (in liquidation) (the Third Defendant) (hereinafter referred to as **SWIFAMBO**).
- 1.3** The Plaintiff is a director of Railpro Holdings (Pty) Ltd (Reg No 2011/109702/07) (in liquidation) (the Fourth Defendant) (hereinafter referred to as **RAILPRO**).
- 1.4** The Plaintiff holds 80 of the 100 issued shares in Railpro. Railpro in turn holds 100 of the 100 issued shares in SWIFAMBO.

**2.**

The First Defendant is **THE PASSENGER RAIL AGENCY OF SOUTH AFRICA** (hereinafter referred to as "**PRASA**"); a legal person established in terms of Section 22 of the Legal Succession of the South African Transport Services Act, Act 9 of 1989, with its principle place of business at Prasa House, 1040 Burnett Street, Hatfield, Pretoria, Gauteng Province.

3.

32

The Second Defendant is **VOSSLOH ESPAÑA, S.A.** (hereinafter referred to as "VOSSLOH"); a company duly incorporated in accordance with the Laws of Spain and having its main place of business in South African at 38 Nederberg Crescent, Hurlingham Manor, Sandton, Johannesburg, Gauteng Province.

4.

4.1 The Third Defendant is **SWIFAMBO RAIL LEASING PROPRIETARY LIMITED;** (REG NO: 2010/007968/07) (in liquidation) (hereinafter referred to as "SWIFAMBO).

4.2 The joint liquidators of the Third Defendant are Mr JZH Muller and N Ndyamara of Tshwane Trust and MP Madlala, whose further particulars are unknown.

4.3 Tshwane Trust's main place of business is 1207 Cobham Road Colbyn Pretoria.

5.

5.1 The Fourth Defendant is **RAILPRO HOLDINGS PROPRIETARY LIMITED;** (REG NO: 2011/109702/07) (in liquidation).

5.2 The provisional joint liquidators are Mr. A Ndyamara of Tshwane Trust and Mr N Timkoe, whose further particulars are unknown.

- 5.3 Tshwane Trust's main place of business is 1207 Cobham Road Colbyn Pretoria.

6.

- 6.1 On the 30<sup>th</sup> of November 2018, the Supreme Court of Appeal of South Africa confirmed an order setting aside a contract for the supply of AFRO 4000 locomotives.

- 6.2 The Supreme Court of Appeal of South Africa found that:

6.2.1 There was no change of asset holding between SWIFAMBO and PRASA.

6.2.2 VOSSLOH had complete control over every aspect of the contract for the supply of locomotives manufactured by VOSSLOH to PRASA.

6.2.3 The involvement of SWIFAMBO took place as a front for VOSSLOH.

6.2.4 The real role of SWIFAMBO was to enable VOSSLOH to become the real bidder to the tender which lead to the contract (that was set aside).

6.2.5 The contract for the supply of locomotives to PRASA was set aside with retrospective effect.

- 6.3 In terms of the contract, 13 AFRO 4000 locomotives were supplied by VOSSLOH to PRASA.

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34

6.4 The 13 AFRO 4000 locomotives are currently in the possession of PRASA.

6.5 As a result of the contract having been set aside, the restitution of the locomotives supplied follows by operation of South African Law.

7.

On the 4<sup>th</sup> of December 2018, Werkmans Attorneys ostensibly representing PRASA, wrote a letter to SWIFAMBO and RAILPRO wherein they:

7.1 demanded payment of the amount of R2,650,208,400.35 as claimed in the action instituted in the High Court, Gauteng Local Division, Johannesburg (Case Number: 16/20101); and

7.2 tendered return of the locomotives supplied to them.

8.

8.1 Werkmans Attorneys ostensibly on behalf of PRASA has subsequently presented a claim to a meeting of creditors of SWIFAMBO in the amount of R2,650,208,400.38 premised on the repayment of the amounts paid for the purchase on the premise that SWIFAMBO is bound to make restitution based on the decision of the Supreme Court of Appeal as set out above.

8.2 The authority furnished to Werkmans to present the claim was ostensibly provided by Ms. Martha Ngoye.

A

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**9.**

- 9.1** On the 12<sup>th</sup> of February 2019, PRASA reported in writing on the "feasibility of the re-introduction of the AFRO 400 locomotives". A copy of the report is attached hereto as annexure "A".
- 9.2** The report concluded that subject to some modifications and tests being conducted made that the locomotives could be deployed in the Free State, Northern Cape and Eastern Cape.
- 9.3** The report was prepared with regard to the input and requirements of the Railway Safety Regulation.

**10.**

The joint liquidators of SWIFAMBO have taken steps to market and sell the 13 AFRO 4000 locomotives as part of the assets of SWIFAMBO in liquidation.

**11.**

In the light of the finding of the Supreme Court of Appeal of South Africa the Plaintiff contends that the restitution should take place between PRASA and VOSSLOH.



12.

The actions of the joint liquidators in dealing with the locomotives as property of SWIFAMBO and together with the claims of PRASA against SWIFAMBO prejudices the position of SWIFAMBO, its shareholder and Plaintiff as a director.

13.

In the above premise, a declaratory order should be granted.

Wherefore Plaintiff seeks the following orders:


1. A declaratory order that the locomotives supplied by the Second Defendant to First Defendant (PRASA) be restituted to Second Defendant;
2. A declaratory order that the Third Defendant [SWIFAMBO (in liquidation)] is not entitled to deal with the 13 locomotives supplied by VOSSLOH to PRASA as assets of SWIFAMBO in liquidation;
3. A declaratory order that restitution of funds take place between the Second Defendant, in its position as the real bidder, to the First Defendant;
4. Costs be paid by any party opposing the relief sought.
5. Further or alternative relief.

DATED AND SIGNED AT PRETORIA THIS 23<sup>rd</sup> DAY OF AUGUST 2019

37

  
**MARTHELI KRUGER**

Attorney duly admitted with  
the right of appearance in  
terms of section 4 (2) of the Right  
of Appearance in Courts Act 60/1995  
Certificate no: 12535/ 2009

  
**(SGD) MARTHELI KRUGER**  
**CORNE WILKENS ATTORNEYS**  
**ATTORNEYS FOR PLAINTIFF**  
**235 CHURCH STREET**  
**3RD FLOOR, BURLINGTON HOUSE**  
**BURLINGTON ARCADE**  
**PRETORIA**  
**REF: WM61**

"WITHOUT PREJUDICE"

STADLER

To:  
**Schabert Potgieter Attorneys Inc**  
 189 Soutpansberg Road, Riviera, Pretoria, 0083  
 PO Box 2147, Pretoria, 0001  
 Tel no: +27 12 329 0179  
 Fax no: +27 86 226 0089

AUTHOR: Rafael Montesinos  
 PHONE: +34961416032  
 CELLPHONE:  
 EMAIL: Rafael.montesinos@stadlerrail.com

DOCUMENT  
 FILE

Albuixech, 22 January 2020

Dear Sir,

"WITHOUT PREJUDICE"

RE: COMMERCIAL SETTLEMENT

1. We refer to:

- 1.1 your letter dated 6 December 2020 where you recorded certain scenarios described by the liquidators of Swifambo Rail Leasing Proprietary Limited ("Swifambo") to reach a commercial settlement; and
  - 1.2 the sub-contract between Stadler Rail Valencia, S.A. (formerly Vossloh España S.A.) ("STAV" or "we") and Swifambo dated 4 July 2013 ("Sub-Contract").
2. Words and expressions that are defined in the Sub-Contract shall, where used in this letter, have the meaning given to them in the Sub-Contract.
  3. In our meeting held on 28 November 2019 in Valencia, at your suggestion, we agreed to adjourn, for the time being, the legal/contractual discussions on the termination of the Subcontract – for our position in that respect we refer to our letter dated 19<sup>th</sup> July 2019 – and to explore an amicable termination and commercial settlement in the best interest of Swifambo, STAV and PRASA. As you have informed us you have initiated contact with PRASA (in its capacity as the main creditor of Swifambo) in that respect.

"WITHOUT PREJUDICE"

**STADLER**

4. As we explained, we are a rolling stock manufacturer and are still very much interested in the South African market and for that reason we might be open to discuss a commercial settlement for the ultimate benefit of PRASA as a potential operator of our locomotives.
5. In fact, as we also explained, we have already, as a basis for further discussions amongst all parties involved, sketched for PRASA some scenarios and some of the principal commercial parameters we conceived as commercially feasible with respect to the further (full or partial) performance of our Subcontract, which scenarios are set forth/described in Appendix A. hereto.
6. We believe these scenarios to be the best starting point to explore the feasibility of a commercial settlement as you requested. The scenarios of course can be further developed jointly and may be compatible with some of your suggestions. For the sake of clarity we did not amend the number of Locomotives still in the possession of Swifambo as you are in a better position to do that.
7. All of the Seller's rights remain strictly and entirely reserved.

Yours faithfully



For and on behalf of Stadler Rail Valencia, S.A.

Name: Rafael Montesinos Llovet

Designation: Legal Director and Secretary of the board

"WITHOUT PREJUDICE"

**STADLER****APPENDIX A****Scenario 1: Delivery of locomotives with the received payments**

This scenario focuses on providing the best value for the amounts already paid to Stadler Valencia S.A.U. by Swifambo under the subcontract without any additional payments to Stadler.

Delivery of a total of 29<sup>1</sup> locomotives (20x AFRO4000, 9x AFRODual) of which 13x<sup>2</sup> AFRO4000 are already in South Africa:

	Delivery First Locomotive [T <sub>0</sub> +xM]	Delivery Last Locomotive [T <sub>0</sub> +xM]
Recommissioning of the 12x AFRO4000 in South Africa <sup>3</sup>	8	14
Recommissioning and delivery of 7x AFRO4000 currently in Valencia	10	13
Recommissioning, delivery and homologating of 5x AFRODual currently in Valencia	9	10
Production and delivery of additional 4x AFRODual	19	20

Where T<sub>0</sub> is the signature date of the new or amended agreement and delivery dates are start of commercial operation for the locomotives. Please note that the locomotives are shipped earlier to South Africa to allow testing. For the AFRODual 4 months are needed assuming available tracks and drivers. This scenario includes a two year warranty period from the new delivery dates as well as the capital spares for both fleets.

<sup>1</sup> This number should be adjusted on the basis of the Locomotives still in the possession of Swifambo.

<sup>2</sup> Same comment.

<sup>3</sup> Since the condition of the AFRO4010 involved in an accident is not known, Stadler cannot at this point include the repair of this locomotive since the technical feasibility is not certain. However, Stadler is committed to provide an offer for the repair.

"WITHOUT PREJUDICE"

**STADLER****Scenario 2: Delivery of the original contract of 70 locomotives**

Stadler is still committed to fully performing the subcontract originally entered into in 2013 with Swifambo. This scenario requires the full payment of all amounts due to Stadler Valencia S.A.U. under the Subcontract (123.4 Mio.) and additional EUR 34.5 Mio. for the additional tasks and services.

Delivery of a total of 70<sup>4</sup> locomotives (20x AFRO4000, 50x AFRODual) which 13<sup>5</sup>x AFRO4000 are already in South Africa:

	Delivery First Locomotive [T <sub>0</sub> +x10]	Delivery Last Locomotive [T <sub>0</sub> +x10]
Recommissioning of the 12x AFRO4000 in South Africa <sup>6</sup>	8	14
Recommissioning and delivery of 7x AFRO4000 currently in Valencia	10	13
Recommissioning, delivery and homologating of 5x AFRODual currently in Valencia	9	10
Production and delivery of additional 4x AFRODual	19	37

Where T<sub>0</sub> is the signature date of the new or amended agreement and delivery dates are start of commercial operation for the locomotives. Please note that the locomotives are shipped earlier to South Africa to allow testing. For the AFRODual 5 months are needed assuming available tracks and drivers. The proposal includes a two year warranty period from the new delivery dates as well as the capital spares for both fleets.

**Scenario 3: Delivery of 29 to 70 locomotives**

Stadler is committed to contribute towards providing PRASA with the best possible solution, tailored to PRASA's current and future needs. Therefore Stadler is also willing to consider any options pertaining to a number of locomotives anywhere between the number of locomotives reflected in scenario 1 and scenario 2 as well as contractual options for locomotives which could be ordered at a later date.

<sup>4</sup> This number should be adjusted on the basis of the Locomotives still in the possession of Swifambo.

<sup>5</sup> Same comment.

<sup>6</sup> Since the condition of the AFRO4010 involved in an accident is not known, Stadler cannot at this point include the repair of this locomotive since the technical feasibility is not certain. However, Stadler is committed to provide an offer for the repair.

"WITHOUT PREJUDICE"

**STADLER****Commercial and project conditions for the delivery of the locomotives (applicable to both scenarios):**

- Scenarios exclude all services done by Swifambo (directly or through PRASA):
  - All import duties and costs are under Swifambo/PRASA responsibility
  - Swifambo/PRASA to provide all the transports from the harbour unloading facilities to the delivery sites free of charge
  - All transports from the delivery sites to the testing sites/tracks to be provided by Swifambo/PRASA free of charge
  - All homologation activities (RSR) to be requested are excluded
  - A depot is provided free of charge for all commissioning, testing activities and stabling
  - Drivers/controllers are provided by Swifambo /PRASA free of charge for the testing and commissioning within South Africa as well as track access, supporting locomotives, wagons and fuel required
- 12x AFRO4000 locomotives in South Africa have not been cannibalized
- 12x AFRO4000 locomotives in South Africa have been stopped without moving.
- No component has been disassembled or modified of 12x AFRO4000 locomotives in South Africa
- No major corrective work to be done
- Prices in EUR and fix
- Payment terms allowing for a neutral cash-flow
- A depot of PRASA is provided free of charge for all the commissioning and testing activities



SWIFAMBO RAIL LEASING (PTY) LTD (IN LIQUIDATION)

REGISTERED ADDRESS: 294 MILNER STREET, WATERKLOOF, PRETORIA

REG NO: 2010/007968/07

MASTERS REFERENCE : T2979/18

(Date of Registration of CM26 - 18/12/18 )

FIRST LIQUIDATION AND DISTRIBUTION ACCOUNT

LODGED BY :

A N NDYAMARA, J Z H MULLER & M P. MADLALA  
JOINT LIQUIDATORS

TSHWANE TRUST CO (PTY) LTD  
1207 COBHAM AVENUE  
QUEENSWOOD  
PRETORIA



**SWIFAMBO RAIL LEASING (PTY) LTD (IN LIQUIDATION)****MASTERS REFERENCE: T2879/18****RECONCILIATION STATEMENT**

<b>BALANCE AS PER BANK STATEMENT</b>			(85 451,00)
<b>ADD: Investment</b>	8 200 000,00		
	85 176 800,00		
Deposit (cancelled sale)	500 000,00		93 876 800,00
			93 791 349,00
<b>Less: Outstanding payments</b>	10 000,00		
	796 163,44		
	155 132,00		960 295,44
<b>BALANCE AS PER CASH BOOK</b>			92 831 053,56
<b>MASTERS FEES</b>		275 000,00	
<b>PROVISION FOR ADVERTISING</b>		113,48	
<b>SARS</b>			
Output VAT	12 435 000,00		
<b>Less: Input VAT</b>	1 806 848,68	10 528 151,32	
<b>W H AUCTIONEERS</b>		701 225,89	
Advertising costs			
<b>TSHWANE TRUST CO (PTY) LTD</b>			
Storage of records	1 030,00		
Petries, Postage & Stationery	600,00		
Book	328,38		
Citizen	417,70	2 376,06	
<b>LIQUIDATORS FEES</b>			
Free Residue Account	9 583 500,00		
<b>Add: VAT 15%</b>	1 437 525,00	11 021 025,00	
<b>BALANCE AVAILABLE FOR DISTRIBUTION AND AWARDED AS FOLLOWS :-</b>			
<b>Preferent Creditors</b>			
Section 100(b)		5 000,00	
Claim no 1			
First dividend payable to concurrent creditors		65 298 161,83	
		5 000 000,00	
<b>BALANCE TRANSFERRED TO SECOND ACCOUNT</b>		<b>R92 831 053,56</b>	<b>R92 831 053,56</b>

**SWIFAMBO RAIL LEASING (PTY) LTD IN LIQUIDATION****MASTERS REFERENCE : T2878/18****FIRST LIQUIDATION ACCOUNT****FREE RESIDUE ACCOUNT**

<b>RECEIPTS OF WHOM RECEIVED AND NATURE OF ASSETS</b>	<b>VOUCHER NO</b>	<b>INPUT VAT</b>	<b>OUTPUT VAT</b>	
<b>W.H AUCTIONEERS</b>	1			
Proceeds of 7 locomotives			12 435 000,00	95 335 000,00
<b>W.H AUCTIONEERS</b>	2			
Deposit (sale cancelled)				500 000,00
			<b>R12 435 000,00</b>	<b>R95 835 000,00</b>
<b>DISBURSEMENTS NATURE OF DISBURSEMENTS</b>	<b>VOUCHER NO</b>	<b>INPUT VAT</b>	<b>OUTPUT VAT</b>	
<b>LIQUIDATION BONDING SERVICES</b>				
Asset Cover	4	10 737,39	82 320,00	
Additional Asset Cover	5	20 234,81	155 132,00	
Premium and stamp duty on security bond from 24/12/18 - 20	6	75 883,84	581 622,74	819 074,74
<b>SARS</b>				
Output VAT			12 435 000,00	
Less: Input VAT			1 906 848,68	10 528 151,32
<b>EXPENSES</b> (as per Schedule "B")	7	270 901,81		2 184 181,39
<b>W.H AUCTIONEERS</b>				
Advertising costs			809 761,64	
Add: VAT		91 464,25	91 464,25	701 225,89
<b>ADVERTISING SECOND MEETING OF CREDITORS</b>				
Government Gazette (General)		19,74	151,32	
Government Gazette (F1)		4,93	37,82	
The Citizen	10	54,48	417,70	
Die Beeld	11	42,83	328,39	935,20
<b>STORAGE OF RECORDS</b>				1 030,00
<b>BANK CHARGES</b>				501,17
<b>PROVISION FOR ADVERTISING</b>				113,46
<b>PETITIES, POSTAGE &amp; STATIONERY</b>				800,00
<b>LIQUIDATORS FEES</b>				
10% on R95 835 000,00			9 583 500,00	
10% on R500 000,00			50 000,00	
			9 583 500,00	
<b>ADD : VAT 15%</b>		1 437 525,00	1 437 525,00	11 021 025,00
<b>MASTERS FEES</b>				
Gross Realisations			<b>R95 835 000,00</b>	
Over R50 000,00			1 000,00	
Over R150 000,00			5 262 875,00	
R275 x R5 000,00 (19 137 x R275)			<b>R5 283 875,00</b>	
<b>MAXIMUM MASTER FEES</b>				275 000,00
Balance carried forward		1 906 848,68		26 531 838,17

**SWIFAMBO RAIL LEASING (PTY) LTD (IN LIQUIDATION)**  
**MASTERS REFERENCE: T2879/18**  
**FIRST LIQUIDATION ACCOUNT**  
**FREE RESIDUE ACCOUNT (Continued)**

<u>DISBURSEMENTS</u>	<u>VOUCHER</u>	<u>INPUT</u>	<u>OUTPUT</u>
<u>NATURE OF DISBURSEMENTS</u>	<u>NO</u>	<u>VAT</u>	<u>VAT</u>
Balance brought forward		1 906 848,68	25 531 838,17
<b><u>BALANCE AVAILABLE FOR DISTRIBUTION</u></b> <b><u>AND AWARDED AS FOLLOWS :-</u></b>			
Preferent Creditor			
Claim no 1			5 000,00
First dividend payable to concurrent creditors			65 290 161,63
<b><u>BALANCE TRANSFERRED TO SECOND</u></b> <b><u>ACCOUNT</u></b>		<u>R1 906 848,68</u>	<u>5 000 000,00</u> <u>R85 835 000,00</u>

**SWIFAMBO RAIL LEASING (PTY) LTD. (IN LIQUIDATION)****MASTERS REFERENCE : T2979/18****EXPENSES AS PER COURT ORDER DATED 12/2/19****SCHEDULE "B"**

19/8/19	Schabert Inc - 417 application	65 217,39	500 000,00
	Niel Krige - 417 enquiry	-	20 000,00
	Conference facility - 417 appl	-	15 500,00
19/19/19	Conference facility - 417 appl	-	4 400,00
	Schabert Inc - Machaba appl	95 347,37	730 996,53
	Conference facility - 417 appl	-	6 000,00
	Conference facility - 417 appl	-	6 000,00
	Werksmans Attorneys -	6 619,88	79 597,42
	Constitutional court	-	-
	Crimpton Transcriptions	-	16 524,00
	Niel Krige - 417 enquiry	-	10 000,00
	Schabert Inc - 417 application	103 716,97	795 163,44
		<u>R270 901,61</u>	<u>R2 184 181,39</u>

SWIFAMBO RAIL LEASING (PTY) LTD (IN LIQUIDATION)MASTERS REFERENCE : T2979/18INTEREST AND BANK CHARGESANNEXURE "A"INTERESTBANK  
CHARGES

BANKSTATEMENT NO 1

501,17R501,17

## SHIFAMBO RAIL LEASING (PTY) LTD (IN LIQUIDATION)

MASTERS REFERENCE: 17257/9/15

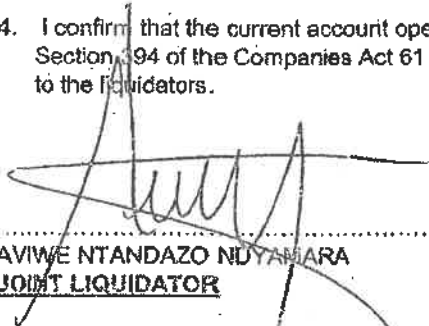
## FIRST DISTRIBUTION ACCOUNT

CLAIM NO	NAME & ADDRESS OF CREDITOR	NATURE OF CLAIMS	TOTAL CLAIM	CLAIMS		CLAIMS		AWARDS		DEFICIENCY
				PREFERENT	SECURED	CONCURRENT	SECURED	PREFERENT	CONCURRENT	
1	WKH Landgrebe & Co	Withdrawn (1st mtg)								
2	AM Investments (Pty) Ltd	Withdrawn (1st mtg)								
1	WKH Landgrebe & Co	Professional services rendered (auditor)	665 215,70	5 000,00		660 215,70	5 000,00		16 531,58	
2	AM Investments (Pty) Ltd	Withdrawn (2nd mtg)								
3	Passenger Rail Agency of SA c/o Werksmans Attorneys Private Bag 10015, Sandton, 2146 Ref: SARC0001.788	Taxed bill of costs	369 124,62			369 124,62			9 242,76	359 881,86
4	Passenger Rail Agency of SA c/o Werksmans Attorneys Private Bag 10015, Sandton, 2146 Ref: SARC0001.788		2 605 208 400,53			2 605 208 400,53		65 233 550,24		2 539 974 850,29
5	Passenger Rail Agency of SA c/o Werksmans Attorneys Private Bag 10015, Sandton, 2146 Ref: SARC0001.788	Judgement	1 551 029,06			1 551 029,06		38 837,25		1 512 191,81
				R2 607 793 769,91	R5 000,00	R2 607 788 769,91	R5 000,00	R65 298 161,83	R2 541 846 923,96	

SWIFAMBO RAIL LEASING (PTY) LTD (IN LIQUIDATION)MASTERS REFERENCE : T2979/18AFFIDAVIT

I, the undersigned, AVIWE NTANDAZO NDYAMARA, of P.O. Box 2101, PRETORIA, 0001  
JOINT LIQUIDATOR, of the abovementioned estate hereby declares as follows :-

1. The Account hereto annexed contains a full and true account of the administration of the estate.
2. The Claims have been inspected by me in terms of Section 45 of the Insolvency Act as read with the Close Corporations and Companies Act.
3. There is still 8 locomotives to be realized.
4. I confirm that the current account opened in this matter complies with the provisions of Section 94 of the Companies Act 61 of 1973 and does not include any agency fee payable to the liquidators.

  
.....  
AVIWE NTANDAZO NDYAMARA  
JOINT LIQUIDATOR

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 PRETORIA, on the 21 day of October 2019 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

Commissioner of Oaths  
ANCHEN BASSON  
Ad - Hoc: Office Manager  
(Ref 9/1/8/2 Pretoria)  
1207 Cobham Road  
Queenswood, Pretoria  
0188

SWIFAMBO RAIL LEASING (PTY) LTD (IN LIQUIDATION)MASTERS REFERENCE : T2979/18AFFIDAVIT

I, the undersigned, JOHANNES ZACHARIAS HUMAN MULLER, of P.O. Box 2101, PRETORIA, 0001  
JOINT LIQUIDATOR, of the abovementioned estate hereby declares as follows :-

1. The Account hereto annexed contains a full and true account of the administration of the estate.
2. The Claims have been inspected by me in terms of Section 45 of the Insolvency Act as read with the Close Corporations and Companies Act.
3. There is still 8 locomotives to be realized.
4. I confirm that the current account opened in this matter complies with the provisions of Section 394 of the Companies Act 61 of 1973 and does not include any agency fee payable to the liquidators.



.....  
JOHANNES ZACHARIAS HUMAN MULLER  
JOINT LIQUIDATOR

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 Pretoria, on the 21<sup>st</sup> day of October 2019, 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


Commissioner of Oaths  
DEIDRE BASSON  
Ad - Hoc: Insolvency Practitioner  
(Ref 61/10/2016 Pretoria)  
1207 Cobham Road  
Queenswood, Pretoria  
0186



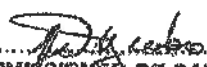
SWIFAMBO RAIL LEASING (PTY) LTD (IN LIQUIDATION)MASTERS REFERENCE : T2973/16AFFIDAVIT

I, the undersigned, **MANDLA PROFESSOR MADLALA**, of **MANCI KNOOP & CO**,  
**JOINT LIQUIDATOR**, of the abovementioned estate hereby declares as follows :-

1. The Account hereto annexed contains a full and true account of the administration of the estate.
2. The Claims have been inspected by me in terms of Section 45 of the Insolvency Act as read with the Close Corporations and Companies Act.
3. There is still 8 locomotives to be realized.
4. I confirm that the current account opened in this matter complies with the provisions of Section 394 of the Companies Act 61 of 1973 and does not include any agency fee payable to the liquidators.

  
**MANDLA PROFESSOR MADLALA**  
**JOINT LIQUIDATOR**

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 Pretoria on the 25th day of October 2019, 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.

  
**JOYCE DUDUZILE NGCOBO**  
**COMMISSIONER OF OATHS**  
**EX-OFFICIO OFFICER**  
**234 BERG STREET**  
**PIETERMARITZBURG**

"K"

**TSHWANE TRUST CO. (PTY) LTD**

1207 Cobham Road, Queenswood, 0186 | P.O. Box 2101, Pretoria, 0001, Docex 51, Pretoria  
Tel: 0861 874 926 | Fax: (012) 333 4672 | e-mail: michelle@tshwanetrust.co.za  
Reg No: 1973 / 011373 / 07 | VAT 4860191891

/ur Ref/Oms Verw: J Z H MULLER/ms

Your Ref/U Verw: T2979/18

14/01/2020

THE MASTER OF THE HIGH COURT  
PRETORIA

BY HAND

Dear Sir,

r/e: **SWIFAMBO RAIL LEASING (PTY) LTD (IN LIQUIDATION)**  
**MASTER'S REF: T2979/18**

1. We refer to the above as well as your letter dated 27 November 2019.
2. You requested a motivation for the Liquidator's fee reflected in the First Liquidation Distribution Account, calculated in accordance with Schedule B of the Insolvency Act.
3. We furthermore received an objection to the First Liquidation & Distribution Account by Mr Cameron *inter alia* against the fee.
4. It would also be premature to respond to the objection prior to the hearing and finalisation of the Review Application.
5. We attach hereto sworn affidavits in respect of our application for an extension of time to lodge an Amended / Second Liquidation & Distribution Account. (This will be sent to all proven creditors via registered mail)

Yours Faithfully

**J Z H MULLER**  
**JOINT LIQUIDATOR**

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Tshwane Trust Co. (Pty) Ltd is a proud **LEVEL 2** Broad-Based BEE contributor

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LIQUIDATORS ARE MEMBERS OF SARIPA AND ABRIPSA  
Directors: L Sibiya | A.N. Ndyamara | J.Z.H. Müller  
Consultant: Y Ebrahim

**SWIFAMBO RAIL LEASING (PTY) LTD (IN LIQUIDATION)**  
**MASTER'S REF: T2979/18**

**SWORN AFFIDAVIT IN TERMS OF SECTION 404 OF THE COMPANIES ACT OF 1973, AS AMENDED, READ WITH SECTION 66 OF THE CLOSE CORPORATION ACT OF 1984**

1. The First Liquidation & Distribution Account 'the Account' was lodged on 28 October 2019.
2. On 26 November 2019, a Review Application 'the Application' was served on the Liquidators. A copy of the application was also served on your office.
3. The Account lay open for inspection from 29 November 2019 to 13 December 2019.
4. On 10 December 2019, an objection to the Account was lodged. The crux of the objection is that the Account, in its current form, cannot be confirmed pending adjudication of the Application.
5. We estimate that the Application will be heard some time during the third quarter of this year (2020).
6. The outcome of the Application will determine the amendments to be made to the Account, if any.
7. Considering the above, we hereby request an extension of time to lodge an Amended / Second Account for a period of six (6) months following which a further report and/or application will be submitted.

Yours Faithfully



**JOHANNES ZACHARIAS HUMAN MULLER**  
**JOINT LIQUIDATOR**

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 1610111 on the 20 day of January 2020, 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.

17. 1250  
**COMMISSIONER OF OATHS**

Commissioner of Oaths  
**ANCHEN BASSON**  
 Ad - Hoc: Office Manager  
 (Ref 9/1/8/2 Pretoria)  
 1207 Cobham Road  
 Queenswood, Pretoria  
 0186

**SWIFAMBO RAIL LEASING (PTY) LTD (IN LIQUIDATION)**  
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Yours Faithfully

  
**AVIVE NTANDAZO NDYAMARA**  
**JOINT LIQUIDATOR**

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 Pretoria on the 21 day of January 2020, 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**

**Commissioner of Oaths**  
**LEAH HLARENG MAPHOSA**  
**Ad - Hoc: Liquidator**  
**(Ref 62/10/2016 Pretoria)**  
**1207 Cobham Road**  
**Queenswood, Pretoria**  
**0186**

**SWIFAMBO RAIL LEASING (PTY) LTD (IN LIQUIDATION)**  
**MASTER'S REF: T2979/18**

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Yours Faithfully



ADCHCA

**MANDLA PROFESSOR MADLALA**  
**JOINT LIQUIDATOR**

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 Pietermaritzburg on the 20th day of January 2020, 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**

**Rozena Mahomed**  
 Commissioner of Oaths  
 Practising Attorney  
 181 Burger Street  
 Pietermaritzburg, 3201

2/14/2020

WH Auctioneers | Truck Auctions, Construction Plant Auctions, Parkhome Auctions, Catering Auctions, Online Auctions. Auction bid...  
[Back To My Sales \(/auction-011/mySales\)](#)

# 6x Afro 4000 Diesel Electric Locomotives - Online Auction - Swifambo Rail Leasing (Pty) Ltd (In Liquidation) T2979/18 Ending On 27 Feb 2020 at 1:00 PM SAST

Auctions Items

## Sale Information

Vendor Name	Number of Lots	Number of Bids	Pending Offers	Currency	Selling	Not Selling	Sold	Unsold
WH Auctioneers	6	0	0	ZAR	0	0	0	0
			<a href="#">VIEW ITEMS</a>		<a href="#">VIEW ITEMS</a>	<a href="#">VIEW ITEMS</a>	<a href="#">VIEW ITEMS</a>	<a href="#">VIEW ITEMS</a>

## Bidders

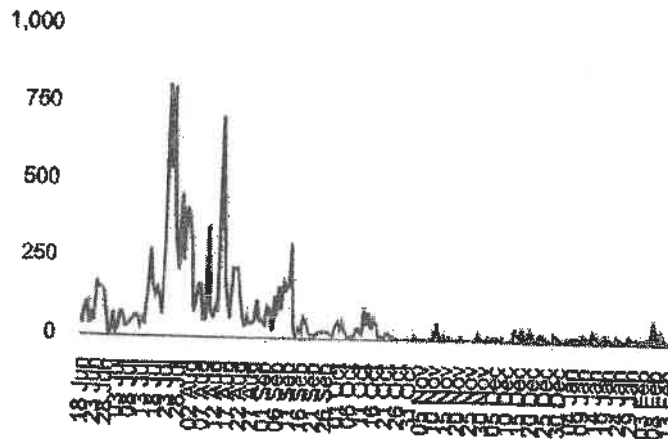
Approved / Not Approved

8 14

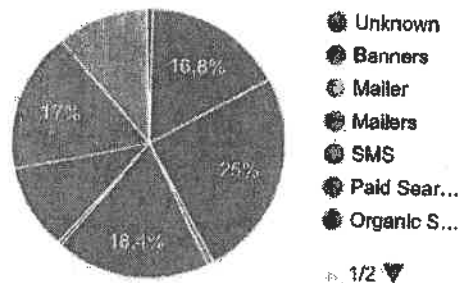
## Auction Visits

15,793

## Visits Over Time






## Visits By Source






























## Visits By Country

### Top Locations

	Visits
 South Africa	10054
 United States	1011
 United Kingdom	747




	Australia	516
	India	396
	Sweden	385
	Spain	319
	Switzerland	297
	Germany	231
	Bulgaria	99
	Mozambique	99
	Zimbabwe	99
	France	88
	Portugal	88
	Zambia	88
	Netherlands	77
	New Zealand	77
	Canada	66
	Turkey	55
	Botswana	44
	Denmark	44
	Norway	44
	Czechia	33
	Hungary	33
	Italy	33
	Namibia	33
	Pakistan	33
	Panama	33
	Romania	33
	Sri Lanka	33
	Tanzania	33



2/14/2020

WH Auctioneers | Truck Auctions, Construction Plant Auctions, Parkhome Auctions, Catering Auctions, Online Auctions. Auction bid...

	Austria	22
	China	22
	Finland	22
	Indonesia	22
	Iran	22
	Kazakhstan	22
	Kenya	22
	Malaysia	22
	Myanmar (Burma)	22

11 10,054

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