

**COURT ONLINE COVER PAGE**

IN THE HIGH COURT OF SOUTH AFRICA  
KWAZULU-NATAL LOCAL DIVISION,  
DURBAN

CASE NO: **2026-031780**

In the matter between:

**Gerhard Conrad Albertyn NO ,Trevor  
John Murgatroyd NO ,Petrus Francois  
Van Den Steen NO**

Plaintiff / Applicant / Appellant

and

**Tongaat Hulett Limited,The Affected  
Persons**

Defendant / Respondent

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**Replying Affidavit**

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BY:

**Registrar of The High Court,  
KwaZulu-Natal, Durban.**

**IN THE HIGH COURT OF SOUTH AFRICA  
(KWA-ZULU NATAL DIVISION, DURBAN)**

Case number: 2026 – 031780

In the application of:

**RGS GROUP HOLDINGS LIMITED**

Applicant

and

**GERHARD CONRAD ALBERTYN N.O.**

First Respondent

**TREVOR JOHN MURGATROYD N.O.**

Second Respondent

**PETRUS FRANCOIS VAN DEN STEEN N.O.**

Third Respondent

**TONGAAT HULETT LIMITED**

Fourth Respondent

(IN BUSINESS RESCUE)

**THE AFFECTED PERSONS IN THE BUSINESS  
RESCUE OF THE FOURTH RESPONDENT**

Fifth Respondents

**VISION INVESTMENTS 155 (PTY) LTD**

Sixth Respondent

**TERRIS AGRIPRO (MAURITIUS)**

Seventh Respondent

**REMOGGO (MAURITIUS) PCC**

Eighth Respondent

**GUMA AGRI AND FOOD SECURITY LTD  
(MAURITIUS)**

Ninth Respondent

**ALMOIZ NA HOLDINGS LIMITED (UNITED  
ARAB EMIRATES)**

Tenth Respondent

**STANDARD BANK OF SOUTH AFRICA LTD**

Eleventh Respondent

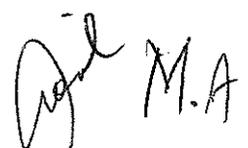
*In re* the matter between

**GERHARD CONRAD ALBERTYN N.O.**

First Applicant

**TREVOR JOHN MURGATROYD N.O.**

Second Applicant



**PETRUS FRANCOIS VAN DEN STEEN N.O.**

Third Applicant

and

**TONGAAT HULETT LIMITED**  
(IN BUSINESS RESCUE)

First Respondent

**THE AFFECTED PERSONS**

Further Respondents

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**RGS JOINT REPLYING AFFIDAVIT  
(RGS COUNTER APPLICATION)**

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I, the undersigned,

**MOMADE AQUIL RAJAHUSSEN**

do hereby make oath and say that:

1. I am an adult male and the chairman of the applicant ("**RGS**") which is an admitted creditor in the business rescue of the fourth respondent ("**THL**"). I deposed to the answering affidavit in the Liquidation Application and the founding affidavit in the Counter Application and am duly authorised to depose to this affidavit.
2. The facts contained in this affidavit are within my personal knowledge, save where the context indicates otherwise and are, to the best of my belief, both true and correct. Where I rely on information provided to me by others, I believe such information to be true and correct. Where I make legal submissions, I do so on the advice of the RGS' legal representatives.

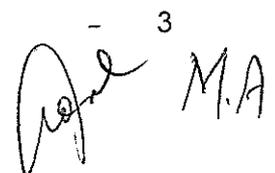
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3. This replying affidavit contains RGS' joint responses to the answering affidavits filed in the Counter Application by the BRPs ("the BRP AA") and Vision ("the Vision AA").
4. Neither the BRPs nor Vision have addressed the case put forward by RGS in the Counter Application on its merits. They have either failed to respond to relevant allegations or made allegations that cannot be sustained on the papers filed of record. The majority of their answering affidavits do not therefore require specific responses and will instead be addressed in legal argument.
5. For these reasons, I do not intend to respond to every allegation contained in either the BRP AA or the Vision AA. The allegations contained in those affidavits are denied to the extent that they are inconsistent with what is set out in RGS' answering affidavit to the Liquidation Application, its founding affidavit in the Counter Application, and the contents of this affidavit below.



### **THE BRPs' AND VISION's DEFAMATORY ALLEGATIONS OF FRAUD AND IMPROPRIETY**

6. Both the BRPs and Vision have levelled unsubstantiated and defamatory allegations against me which, although irrelevant to the merits of either the Liquidation Application or the Counter Application, must be answered.
7. I am advised that the Supreme Court of Appeal has warned litigants that unsubstantiated allegations and innuendo of impropriety have no place in the courts and that it is unfair and improper to make such allegations to create a desired atmosphere without providing evidence in support thereof.

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 M.A.

8. Before dealing with the allegations made in the answering affidavits, I wish to point out that I have, in every application that RGS has brought, disclosed upfront the circumstances surrounding the ABSA Mozambique Letter (as I have again done presently in RGS' answering affidavit in the Liquidation Application from paragraph 317, record 009-104.)
9. Neither the BRPs nor Vision exposed those facts, I provided them freely in the interests of transparency and they have been a matter of record for years before this Court (i.e. since the first application filed by RGS in February 2024).
10. I reiterate what is set out in RGS's answering affidavit but wish to emphasise again that the ABSA Mozambique Letter was procured specifically to enable ABSA South Africa to have sight of the extent of funds held by RGS in its ABSA Mozambique account, and the letter was provided to ABSA South Africa so that it could then confirm the existence of the relevant funds (i.e. because ABSA South Africa could see into ABSA Mozambique accounts).
11. RGS would never have provided ABSA South Africa with a letter from ABSA Mozambique confirming funds and inviting ABSA South Africa to check the existence of those funds if RGS senior management (myself included) were aware that the relevant funds had not been transferred into RGS' Mozambiquan account.
12. I reported the matter to the police and also commissioned an independent investigation by an international law firm in Maputo to investigate how and why ABSA Mozambique provided a proof of funds letter in circumstances where those funds had not been transferred into RGS' account. In doing so I provided all the



information I had on the issue. Neither the police nor the law firm could verify what occurred and no arrests were made.

13. Regrettable as these events remain, they did not prejudice THL (i.e. the ABSA Mozambique Letter was provided to ABSA South Africa in negotiations that were undertaken separately between it and RGS). The prejudice was and remains only to RGS.

14. The ABSA Mozambique Letter is, however, of no continued significance and is now raised by Vision and the BRPs only to tarnish RGS' credibility and, in addition to the false and defamatory allegations made against me which I address below, in an attempt to ensure that THL is liquidated (i.e. to create the atmosphere that RGS cannot present a viable alternative business rescue plan).



15. RGS did not withdraw its business rescue plan because of the ABSA Mozambique Letter. It did so for two reasons: first, because the BRPs had taken confidential information relating to the settlement that was negotiated with SASA by RGS and provided that information to Vision for insertion into the Vision Plan (in circumstances where Vision had not reached any such settlement and the BRPs knew the information was confidential), and second, because Vision had concluded the LG Claims Acquisition Agreement and stated publicly that it would only vote for its own plan.

### **The BRP AA**

16. At paragraphs 54 to 56 of the BRP AA, the BRPs refer in relation to RGS to "a broader and deeply troubling pattern of conduct which, taken together, raises serious questions as to whether RGS is capable of banking in South Africa at all,

*and by, extension, whether any proposal it advances can ever be regarded as credible or capable of implementation."*

17. The BRPs state in paragraph 55 of the BRP AA that they are *"aware of serious allegations made against Mr Rajahussen in a money laundering scheme in proceedings before both a United States Federal Court and the London Court of International Arbitration."*
18. These "allegations" are baseless and untrue. I have never participated in any money laundering and have not been cited as a party in or summonsed to appear in any such proceedings, nor have I been charged with or convicted of any such offence.
19. Considering how intent the BRPs are to discredit RGS and me personally, they would no doubt have attached evidence to substantiate my involvement in criminal activity if it existed. Instead, they are content simply to defame me without substantiation which does not put me in a position to respond.
20. Moreover, the BRPs proceed on the basis of these allegations to suggest that RGS is not capable of passing FICA checks in South Africa. This allegation beggars belief. RGS conducts significant business in South Africa and is FICAed on a routine basis.
21. The BRPs are moreover aware that in terms of the Afrexim term sheet, RGS has already obtained KYC and Tier 1 credit approval for the Afrexim Facility. These checks are more strenuous than mere FICA compliance since they involve both identity and financial reliability confirmations. KYC in particular contemplates the verification of source of funds which FICA does not.



*M.A.*<sup>6</sup>

22. While I reserve my rights to take appropriate action in response to the BRPs' defamatory remarks, I submit that the BRPs' strategy to distract attention from the merits of this case should not be entertained.

**The Vision AA**

23. I first disclosed the circumstances surrounding the ABSA Mozambique Letter in an affidavit filed in this Court during February 2024.
24. Vision's principals Mr Robert Gumede and Mr Rute Moyo then sought to lay criminal charges against me personally suggesting that I had admitted to the commission of a fraud under oath in the affidavit filed in February 2024 (the contents of that affidavit were materially identical to those contained in RGS' answering affidavit in the Liquidation Application from paragraph 317, record 009-104).
25. They did not do so directly after my disclosure of the circumstances surrounding the ABSA Mozambique Letter during February 2024, but rather when RGS proceeded to launch further proceedings against Vision and the BRPs.
26. Vision then immediately attached media articles to their answering affidavits in the previous applications brought by RGS to discredit RGS (the BRPs did not attach the articles but referred to the charges pursued by Mr Gumede and Mr Moyo) and both Vision and the BRPs relied on this in argument to persuade this Court not to entertain RGS' urgent applications.
27. Vision and the BRPs have done the same in every application brought by RGS since.



28. While the police / Hawks have not taken a warning statement from me, a clear pattern has emerged in terms of which media articles are often published, always in the same newspaper, to coincide with the next RGS hearing.
29. The Hawks did contact me requesting an interview, but I was in Europe at the time and informed them when I would be back in South Africa.
30. It is of interest to me that Mr Moyo states at paragraph 131 of the Vision AA that he “has been advised that the investigation, which is prosecution-driven, has been finalised and that a decision to prosecute is imminent.”
31. I am surprised by the amount of insight Mr Moyo has on prosecutorial intent and decision making but I have not been informed of the conclusion of any investigation.
32. In disclosing the circumstances surrounding the ABSA Mozambique Letter I have not admitted to the commission of a fraud, I have however voluntarily made full and transparent disclosure of the relevant facts.



#### **RGS' RESPONSES TO THE ALLEGATIONS IN THE BRP AA**

**Ad BRP AA paragraphs 75 to 80, 85 to 86, 107 and the heading above paragraph 20**

33. It is clear that the BRPs are resolved not to consider any alternatives to the Vision Plan and have decided that its failure must result in THL's liquidation.
34. Their views are neatly summarised in the heading above paragraph 20 which reads "*The vision plan and the business rescue of THL is impossible in the absence of significant funding and a reinstatement of the sale of business*

*agreement*", the latter being a reference to Vision's agreement to buy THL's businesses in terms of the Asset Transaction.

35. I note the BRPs' newly made allegations regarding THL's liquidation, especially as now provided at paragraph 85. This information was not provided in the founding affidavit in the Liquidation Application.

36. Despite a mandatory statutory obligation to do so, the BRPs have not published any financial statements in relation to THL since the commencement of business rescue in 2022 (which obligation is not suspended by business rescue).



37. The BRPs have moreover failed to provide Affected Persons with any meaningful information regarding THL's financial position / the status of its business rescue, as they are also obligated to do.

38. I am not therefore in a position to respond to the new allegations made by the BRPs regarding THL's current financial position but note in this regard the countervailing allegations advanced in the answering affidavits filed by the IDC and the DTI.

39. In terms of the IDC answering affidavit, the IDC has *inter alia*:

39.1. confirmed that PCF Funding remains available to THL;

39.2. confirmed that THL can sustain itself without liquidity support until June 2026;

39.3. confirmed that THL's operational outcomes from trading over 2024 and 2025 have been positive;

- 39.4. confirmed that it is willing to provide additional funding to float THL provided THL remains in business rescue;
- 39.5. expressed its firm views that THL remains capable of rescue;
- 39.6. recommended that the BRPs consider *inter alia* the offer made by RGS with reference to the Afrexim Facility in formulating a new rescue plan.
40. In the DTI answering affidavit, the Minister of Trade, Industry, and Competition has not only affirmed the IDC's position but correctly referred (at paragraph 13.1) to the Liquidation Application as amounting to an abuse and perversion of the Act.
41. The Minister further states that:
- 41.1. the BRPs' application for liquidation amounts to a misuse specifically because they do not in good faith pursue THL's rescue but rather "*seek liquidation as a shortcut*" contrary to the purpose of the Act in circumstances where "*the IDC affidavit demonstrates that viable rescue options exist.*" The latter is reference *inter alia* to the offer made by RGS on strength of the Afrexim Facility (DTI AA at paragraph 13.1);
- 41.2. the failure of THL's rescue "*lies not in THL's viability but in Vision's unwillingness to honour its commitments. This conduct should not be rewarded by liquidation, nor should it be allowed to derail a rescue process that remains capable of success*" (DTI AA at paragraph 12).
42. RGS wrote to the BRPs (copying the IDC and DTI) on 1 March 2026 requesting permission to commence a due diligence investigation and offering to sign any



relevant non-disclosure agreements the BRPs may require. A copy of this letter is annexed, marked "RGS RA1".

43. In terms of its letter, RGS informed the BRPs that it is "of the view that it is imperative that the BRPs take immediate proactive steps to progress an alternative rescue plan in anticipation of the real possibility that the Liquidation Application, and the termination of THL's business rescue proceedings sought in terms thereof, will be dismissed."

44. No response has been received from the BRPs, nor has receipt of the letter been acknowledged.



45. The BRPs' suggestion at paragraph 107 that RGS has sought this Court's approval of a new RGS rescue plan intentionally misconstrues the relief sought by RGS in the Counter Application. None of the relief sought by RGS deprives any other creditor(s) of any of their rights or advantages.

#### **Ad BRP AA paragraphs 33 to 38 and 57 to 74**

46. I deny that the relief sought in this application is *res judicata*.

47. I deny that RGS conducted litigation in the name of other parties. The litigation brought by other Affected Persons is clearly motivated by the papers filed of record in those applications.

48. The fact that multiple Affected Persons identified the same problems, irregularities, and unlawful aspects of the Vision Plan is unsurprising and was in fact acknowledged by the BRPs themselves in correspondence to Vision and the

Lender Group on 16 October 2024 (see RGS answering affidavit at paragraph 245).

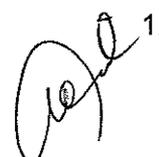
**Ad BRP AA paragraph 97**

49. The BRPs do not respond to the issues raised by RGS in relation to the Agency Agreements and the validity of Vision's security and it is noted that they provide no substantiation whatsoever for their assertion that THL's listed subsidiaries, e.g. Tongaat Hullett Sugar Limited, own no assets.



**Ad BRP AA paragraphs 136 to 140**

50. The contents of these paragraphs are denied.
51. RGS has *always* acknowledged that the Equity Conversion did not entail a conversion of 100% of the LG Claims and Security.
52. The point is that in terms of the express provisions of the Plan:
- 52.1. Vision had to acquire 100% of the LG Claims and Security and Vision (not the Lender Group) had to hold the portion of the LG Claims and Security that was left unconverted, i.e. the amount valued at R3.6 billion;
- 52.2. Vision could not proceed with either the Equity Conversion or the Asset Transaction until it had acquired 100% of the LG Claims and Security.
53. It did not therefore matter whether the Lender Group agreed to allow Vision to pay it at a later stage. The BRPs acted unlawfully in proceeding with the Equity Conversion before Vision had acquired 100% of the LG Claims and Security.

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54. The allegation contained in paragraph 139 is incomprehensible and cannot be sustained on the objective facts before this Court:

54.1. Prior to amendment at the Creditors Meeting, the Vision Plan stated both that Vision had a cash deposit and that the BRPs had proof that Vision had sufficient funds in cash to implement the plan (this is also what was represented to creditors);

54.2. The deletion of the material representation that Vision had sufficient funds in cash to implement the plan therefore could not possibly have left the BRPs with "greater comfort" (i.e. on the basis of the pre-existing fact of the deposit.)



**Ad BRP AA paragraphs 148 to 178**

55. The contents of these paragraphs have been copied and pasted verbatim from the BRPs' answering affidavit filed in RGS' August 2025 Application.

56. The BRPs have mistakenly referred in these paragraphs, see e.g. BRP AA 169, to RGS' previous answering filed in other proceedings, not to the answering affidavit filed by RGS in the present proceedings.

57. These allegations in any event continue to misconstrue RGS' case – the point is not whether Vision now holds the LG Claims and Security.

58. The BRPs have refused to verify whether Vision acted lawfully (in terms of the Vision Plan, as approved by creditors, and the Act) in concluding the LG Claims Acquisition Agreement.

59. The BRPs are ignorant of this essential fact because they have never had a copy of the LG Claims Acquisition Agreement and have taken no steps to procure it despite *inter alia* Vision's admission that it was leveraging THL's assets to settle the Lender Group.

**Ad BRP AA paragraphs 179 to 180**

60. The BRPs intentionally misconstrue RGS' position regarding the timing and urgency of the Liquidation Application (which is as set out in the RGS' answering affidavit).



**Ad BRP AA paragraph 181**

61. RGS denies that the BRPs are entitled to punitive costs.

**RGS' RESPONSES TO THE ALLEGATIONS IN THE VISION AA**

**Ad Vision AA paragraphs 14 to 16 and 82.13**

62. It is denied that the proximate cause of THL's liquidation is the working capital requirement of R600 million.
63. Vision has never been in funds to implement its plan, which was on its own terms, to have been implemented by April 2024.
64. The delays caused by Vision's inability to fund the plan meant that THL was stuck in business rescue in circumstances where Vision failed to refinance any of its operations in breach of Vision's obligations under the plan.
65. To the extent that issues in the sugar industry added to THL's woes, these were business risks assumed by Vision and that it should have absorbed as the new

owner of THL at a time when THL should no longer have been in business rescue.

66. Vision cannot rely on its own delays and lack of funds to refuse to accept responsibility for THL's further working capital requirement of R600 million. I refer in this regard to the contents of the DTI answering affidavit that I quote below at paragraph 78.

**Ad Vision AA paragraph 20.1**

67. I admit that RGS took cession of a small claim to gain its status as a creditor.



68. Vision, being a SPV shelf company, did exactly the same long before it took possession of the LG Claims and Security.

**Ad Vision AA paragraphs 27.4.2 to 27.5**

69. In terms of these paragraphs Vision confirms the allegations made by RGS to the effect that Vision intends to use to LG Claims and Security to block any other viable business rescue plan to be proposed in THL's rescue proceedings.

70. Vision's purported position of neither opposing nor supporting the Liquidation Application is a façade. It clearly intends to obstruct any efforts to rescue THL to enable itself to assert the LG Claims and Security against THL's assets in liquidation.

71. This conclusion is supported by e.g. the allegations made by Vision at paragraphs 45 to 46 of the Vision AA which ignore both the warnings of THL's CEO and the IDC regarding the immediate devastation that liquidation will cause

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(and the negligible prospects of success that any renewed attempt at business rescue brought after liquidation would carry).

#### Ad Vision AA paragraph 71

72. It is denied that the record of proceedings in the Disclosure Application is either required or relevant to the relief RGS seeks in terms of section 18(1) of the Superior Courts Act.

#### Ad Vision AA paragraph 82.5

73. What Vision refers to as a "refinancing" is in fact a reference to its demands that the IDC pay for the implementation of the Vision Plan in its entirety as well as providing Vision with the funds necessary to run THL's businesses as its own after closure of business rescue (i.e. after THL is liquidated and its businesses have been transferred to Vision).
74. This has been confirmed in the IDC's answering affidavit and it is *inter alia* for this reason that the IDC states at paragraph 122.1 of its affidavit that "[t]he [Vision] Plan is not business rescue."
75. The Vision Plan failed, and liquidation has ensued, because Vision still cannot not fund the implementation of the plan today, i.e. more than two years after the adoption of the plan and despite its material misrepresentations that it had cash funding sufficient to implement the plan.



**Ad Vision AA paragraph 82.17**

76. The suggestion that Vision's enforcement of the LG Claims of R11.73 billion against THL on 8 February 2026 "had no real impact on THL" is absurd and Vision's reliance on the moratorium in this regard is self serving.
77. Vision's actions in enforcing that debt against THL during the currency of Vision's own purported "rescue" of THL had a devastating impact on THL and resulted directly in the filing of the Liquidation Application.
78. In this regard, the Minister of Trade, Industry, and Competition states the following at paragraphs 11 and 12 of the DTI answering affidavit:

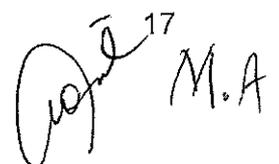


"As further set out in the IDC answering affidavit, the BRPs' reliance on Vision's refusal to extend the validity of its agreement **undermines the rescue process itself.**

I submit that a **business rescue plan cannot succeed if stakeholders deliberately frustrate its implementation.** The IDC affidavit makes clear that the rescue plan was designed to secure continuity but Vision's failure to extend validity weakens the framework. **The failure lies not in THL's viability but in Vision's unwillingness to honour its commitments.** This conduct should not be rewarded with liquidation, nor should it be allowed to derail a rescue process that remains capable of success." (emphasis added.)

**Ad Vision AA paragraphs 117 to 118 and 143.1 to 143.3**

79. The contents of these paragraphs are denied.

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80. The allegations made by Vision with regard to the material misrepresentations it made regarding its access to cash funding to implement the Vision Plan cannot be sustained on the objective facts before this Court and will be addressed fully in argument.

**Ad Vision AA paragraph 196**

81. Shareholders rejected the Equity Conversion on the express basis that Vision had failed to acquire the LG Claims and Security (i.e. because it did not have funds to do so).



**Ad Vision AA paragraph 223.6**

82. This statement is false. Vision did not initially agree to pay the Lender Group by 31 December 2024.
83. It initially agreed to pay the Lender Group by 6 December 2023 (see paragraph 82.2 of RGS' answering affidavit) and represented to creditors that it would have completed the acquisition by the time the creditors meeting was convened.

**Ad Vision AA paragraph 263**

84. The relief sought by RGS in the August 2025 Application (i.e. that the BRPs render a full report to the Court on the status of THL's business rescue) is entirely distinct from the relief RGS seeks now in response to the Liquidation Application.
85. The August 2025 Application was enrolled for hearing on 2 February 2026 by special allocation of the Deputy Judge President. When notice to this effect was provided, Vision and the BRPs however wrote numerous letters to the judge that had been allocated to hear the matter and succeeded in persuading her that the

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matter could not proceed *inter alia* on the basis that they had not had sufficient notice to prepare (despite having participated actively in the preferential allocation process).

**CONCLUSION**

86. RGS therefore persists in seeking an order in terms of the notice of motion to the Counter Application.

**MOMADE AQUIL RAJAHUSSEN**

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 Durban on this the 6<sup>th</sup> day of **MARCH 2026**, the regulations contained in Government Notice No. 1258 of 21 July 1972, as amended by Government Notice No. 1648 of 17 August 1977, as amended having been complied with.

**COMMISSIONER OF OATHS**

**MUHAMMED AKOON  
COMMISSIONER OF OATHS  
PRACTISING ATTORNEY  
331 ST THOMAS ROAD  
MUSGRAVE, DURBAN**