CHOPPIES ENTERPRISES LIMITED Co. Reg: BW00001142508

Incorporated in the Republic of Botswana

(" Choppies"or"the Company" or "the Group")

BSE Share Code: CHOPPIES

JSE Share Code: CHP

ISIN Number: BW0000001072

UPDATE ON FOCUSED INVESTIGATION IN RESPECT OF ALLEGATIONS OF FRAUD IN RESPECT OF STOCK HELD BY CHOPPIES SUBSIDIARIES, AND BULK SALES OF SUCH STOCK AND NOTICE TO PERSONS IMPLICATED IN THE REPORT

Shareholders are referred to the opinion by Advocates Hoffman SC and Meyerowitz dated 5 December 2019 ("the Hoffman Opinion") and the opinion by Advocates Redding SC and Meyerowitz dated 6 December 2019 ("the Redding Opinion") placed on XNews and SENS on 11 December 2019, and subsequent update announcements in respect thereof.

The Hoffman Opinion recommended that the Board of the Company undertake a further investigation to determine the veracity of the stock fraud allegations.

The Redding Opinion specified that the form of such investigation may be that of a "Focused Investigation".

Pursuant to the Hoffman and Redding Opinions, the Board through the office of its legal advisor Neill Armstrong ("the Legal Advisor") briefed Advocate Meyerowitz ("Counsel") to undertake a focused investigation of the facts and provide an opinion on whether the allegations of fraud in respect of stock losses and bulk sales were true or otherwise sustainable in a court of law or quasi-judicial setting.

In the brief, Counsel was provided with extensive documentary evidence in addition to the documents furnished to Advocates Hoffman SC, Redding SC and Meyerowitz, for preparation of the Hoffmann and the Redding Opinions.

Counsel in considering the documentation, in particular the Ernst & Young Report (the subject of the Hoffman and Redding Opinions), identified key witnesses.

It was the intention that Counsel would interview such witnesses and take statements from those witnesses, in order to establish the facts in respect of the allegations of fraud in respect of the holding of stock and bulk sales.

With the advent of the Covid-19 pandemic and travel and lockdown restrictions imposed by the governments of South Africa, Botswana and Zimbabwe, Counsel was not able to meet with the witnesses to conduct the intended interview.

After considering the additional evidence provided by the extensive documentary evidence referred to hereinbefore, Counsel issued written interrogatories to each of the identified witnesses through the offices of the Legal Advisor and requested written submissions in response thereto accompanied by appropriate documentary evidence.

Certain of the witnesses identified did respond to the interrogatories and provide additional documentary evidence. In particular the internal auditor to the Company at the time, who raised the issues in respect of stock losses and bulk sales, who it appears did not respond to queries raised by Ernst & Young did make not available an address to which Counsel's questions to him could be sent.

Counsel has considered all the evidence provided to him and has come to the conclusions that the allegations of fraud in respect of stock in both South Africa and Zimbabwe would not likely succeed in a court of law nor in a formal quasi-judicial setting such as a disciplinary hearing. Counsel is satisfied that the evidence before him (which is almost entirely circumstantial) can do no better than establish equal probability which means that the case of fraud will likely fail on the onus, placed on the entity alleging the fraud.

The case for the allegation of fraud in respect of stock in South Africa was that management had orchestrated an elaborate scheme to hide stock losses ostensibly identified by the internal auditor, by using a stock management system called "Rebate SKU" and then pretending to sell 129 million rands worth of non-existent stock to a purchaser identified in the Report ("the Purchaser"), receiving the money from the Purchaser, then sending the money back to the Purchaser in exchange for the acquisition of four retail stores at artificially inflated prices, the result of the scheme being that the Purchaser pretended to sell the stores at the inflated price of R146 million, but in reality sold the stores at the price of R55 million the artificially inflated portion of the sale price (R91 million) being compensated for with 129 million rands worth of non-existing stock and another R38 million in smaller fictional transactions It was alleged that the stock loss would be hidden "on the books" and concealed by the artificially inflated goodwill in the recently purchased stores.

However, the evidence provided suggests that the purchase prices in respect of the purchased stores were not artificially inflated based on the fact that: -

(1) the target stores were producing an annual turnover of R500 million;
(2) Choppies had recently purchased eight similarly well performing stores using the same "three times average monthly turnover" based price determination;
(3) Choppies auditors, PricewaterhouseCoopers (" PwC") had conducted due diligences on both of the respective transactions prior to the acquisitions;
(4) it appears the internal auditor of the Company did not conduct a physical count when he identified the alleged losses but rather identified a variance "on the books" between the stock status report and MIS stock figures;
(5) in the absence of a physical stock count it is likely that the internal auditor was (based on the evidence of the operations team) mistaken due to the intricacies of the Rebate SKU System; and
(6) after the bulk sales of the allegedly missing stock, the external auditors at the time, PwC, confirmed that no stock was missing and that all money had been received for the stock.

Counsel comes to the conclusion that the above facts are inconsistent with the purely circumstantial case of fraud in respect of the stock and therefore the inference that fraud in respect of the stock took place cannot be sustained.

Counsel makes the point as to the probabilities even if the allegations were true, no single party would have benefitted from the fraud and it appears the only tangible result thereof would have been to conceal a fractional stock loss of approximately 0.8% of the turnover of the Company which would likely not have affected the share price thereof.

The case for the allegation of fraud in respect of the stock in Zimbabwe was that management had orchestrated a similar scheme to hide stock losses extensively identified by the internal auditor, by using a stock management system called "Grocery SKU" (essentially the same system as the Rebate SKU). In this regard the allegation was that the Zimbabwean subsidiary sold 4.5 million US Dollars worth of non-existent stock over March and April 2018 to various entities without ever receiving money in return and that, in an attempt to hide the fact that no money was received management purported to pay the missing USD 4.5 million to a contractor identified in the Report ("the Contractor") ostensibly in exchange for construction services pertaining to the renovation of various Choppies stores across Zimbabwe. The allegation was that this "payment" did not actually take place and was only ever done on the "books" giving rise to further allegations that the Contractor was paid a non-existent amount for non-existing services which were never rendered.

Counsel is of the view that the evidence suggests that the internal auditor was mistaken on the same basis as in South Africa. Furthermore, the internal auditor appears to have identified 7.3 million US Dollars' worth of missing stock but only USD6 million of that "missing" (Rebate) stock was sold in March and April 2018. The remaining 1.3 million US Dollars' worth of missing stock was actually accounted for by auditors PwC, post the bulk sales, (as was the money was received for the sale of the 6 million US Dollars' worth of Rebate Stock). However, Ernst & Young found that only USD1.5 million of the USD6 million sales had been banked (which itself suggests at least 1.5 million US Dollars' worth of sold Rebate Stock actually existed) but could not find paper trail for the remaining USD4.5 million ostensibly received in cash.

Choppies management produced documentation in support of a claim that the USD4.5 million was indeed received in cash and applied to various legitimate construction projects around Zimbabwe. Counsel was provided with extensive documents regarding these construction projects including invoices, construction plans and photographs of the completed project.

Counsel makes the point again that even if the allegations were true, there is no evidence that any one party personally benefitted from the alleged fraud. If the loss of USD4.5 million worth of stock was fraudulently concealed, it is also doubtful that such a comparatively fractional loss would have had an effect on the holding company share price.

Averments in the Ernst & Young Report and evidence provided to Counsel suggests that certain of management staff of the Company "backdated" certain documents pertaining to the targets store acquisition. Counsel is of the view that this appears to have been done to ensure that transaction was recorded in the 2018 financial year, rather than to perpetrate some sort of fraud. Counsel is satisfied that the backdating was not done in pursuant of the allegedly fraudulent stock manipulation in South Africa. Counsel makes that point that he cannot know the consequences of what the backdating might have for the audit responsibility of the Company or towards any third party. Counsel therefore recommends that the Board takes the matter further to establish possible consequences of this backdating (which investigation was beyond the mandate of Counsel's focused investigation). Counsel points that while backdating a document is per se a fraudulent representation the moral and legal liability for doing so depends largely on the consequences of that action. If it turns out that the backdating was for an innocent reason and was without consequence it is likely that such action should attract little more than a reprimand from the Board of the Company.

Counsel has recommended, to ensure the integrity of the process of investigation, that the Report (for this reason entitled a "Preliminary Report") be made available to persons implicated by the Preliminary Report which persons would then be accorded an opportunity of three weeks, post publication of the Preliminary Report, to provide Counsel with relevant evidence which may be new or different, for examination, interrogation and ultimately conclusion as to whether or not such evidence would alter the Preliminary Report.

The Board, upon the recommendation of Counsel and pursuant to publication of this synopsis of the Preliminary Report on XNews and SENS, will make a full copy of the Preliminary Report available to persons implicated by the Preliminary Report, and accord such persons an opportunity for a period of three weeks post publication of the said Report, to present evidence whether new or different, to Counsel for interrogation and consideration whether conclusions in the Preliminary Report should be altered.

Accordingly, persons implicated by the Preliminary Report are given notice of the fact that the full report is available at the principal place of business of the Company at Plot 169, Gaborone International Commerce Park, Gaborone during business hours Monday to Friday each week for inspection, and at request, for a copy.

Any material new and different evidence should be provided by a person implicated in the Preliminary Report to the Legal Advisor to the Company Mr. Neill Armstrong at nwa@neillarmstrong.com or marked for his attention at the offices of Botlhole Law Group, Plot 33957, Matlapaneng Street, Block 8, Gaborone.

It is to be noted that it is unethical for Counsel to entertain representations directly from members of the public (or to discuss his investigation with anyone including the media) and all submissions should be made through the attorney Mr. Neill Armstrong.

Only evidence that is material, relevant, new or different from the evidence already in possession of Counsel and put forward by the individuals implicated in the Preliminary Report, with a genuine, direct and material interest in the outcome of the investigation will be entertained.

By order of the Board

23 July 2020

JSE Sponsor
RAND MERCHANT BANK (A division of FirstRand Bank Limited)