



AGRI BEE & TRANSFORMATION
SYMPOSIUM
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INTRODUCTION

- └ BEE a challenge for every business
- └ Every business unique
- └ Determine specific BEE needs of business
- └ Paul Steyn Boerdery (Pty) Ltd



BACKGROUND: Paul Steyn Boerdery

- └ Big farming enterprise in the Eastern Free State
- └ Father and son currently the shareholders of Paul Steyn Boerdery (“Existing Company”)
- └ Produce and sells both live stock and fresh produce to individuals, small businesses and national chains
- └ Clients starting to demand BEE compliance as requirement for future business transactions
- └ Financiers starting to demand BEE compliance as requirement for financing of working capital, grants, etc.
- └ Size of enterprise an obstacle for BEE transformation of the Existing Company.





BEE REQUIREMENTS OF BUSINESS

- ↳ BEE compliance by the Existing Company in terms of agricultural BEE codes (Basically entry level compliance)
- ↳ BEE compliance at a higher BEE compliance level for certain strategic clients
- ↳ BEE compliance at a higher BEE compliance level for financing of working capital and grants
- ↳ BEE compliance at entry level to retain existing water rights of Existing Company
- ↳ BEE compliance at a higher BEE compliance level in order to obtain new water rights

STRUCTURE BUSINESS TO MEET BEE REQUIREMENTS

- └ Identified ownership and management two challenging BEE elements of existing company structure
- └ Identified potential strategic historically disadvantaged person ("BEE Partner")
- └ Restructure Existing Company to meet entry level BEE compliance level
- └ Incorporate new company ("the New Company") to achieve higher level BEE compliance



RESTRUCTURING OF EXISTING COMPANY

- └ Father and son the directors and shareholders of Existing Company
- └ Son and BEE Partner incorporated the New Company with the following shareholding:
 - └ Son 49%
 - └ BEE Partner 51%
- └ Father sold 10% of his shares in the Existing Company to the New Company ("BEE Transaction")
- └ Shareholding in Existing Company after BEE Transaction:
 - └ Father 50%
 - └ Son 40%
 - └ New Company 10%
- └ Father, Son and BEE Partner the directors of the Existing Company after BEE Transaction
- └ Existing Company 33% BEE management company after BEE Transaction.



RESTRUCTURING OF EXISTING COMPANY

- └ Existing Company 10% BEE owned after BEE Transaction (Modified flow through principle)
- └ Financing of BEE Transaction
 - └ Financed by third party
 - └ Shares unencumbered
 - └ 50% of purchase price paid within 1 (ONE) year
 - └ Directors of New Company signed surety (Pro Rata)
- └ Financing therefore has no negative effect on economic interest of New Company as BEE shareholder in Existing Company
- └ Important factors
 - └ BEE Transaction market related
 - └ Dividend policy of Existing Company to pay dividends pro rata to shareholding
 - └ No dividend “stripping”
- └ Shareholders’ Agreement with necessary protective provisions





STRUCTURING OF NEW COMPANY

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New Company shareholding:

- └ Son 49%
- └ BEE Partner 51%
- └ Son and BEE Partner directors of New Company (50% BEE managed)
- └ Market related distribution agreement between Existing and New Company
- └ New Company sells to national chains and clients requiring higher BEE compliance level
- └ New Company applies for grants or financing for working capital
- └ New Company applies for or purchase new water rights
- └ Important factors
 - └ All transactions market related
 - └ Dividend policy of Existing Company to pay dividends pro rata to shareholding
 - └ No dividend “stripping”
- └ Shareholders’ Agreement with necessary protective provisions



BEE COMPLIANCE LEVEL

- └ Existing Company
 - └ Project level 6 compliance
- └ New Company
 - └ Project level 3 compliance
- └ Level 4 regarded as 100% BEE compliance



SUPPORT WITH BEE COMPLIANCE

- └ Individualised solutions
- └ Member of Phatshoane Henney Group of Attorneys
- └ Agreement with BEE rating solutions
- └ Our services:
 - └ **BEE advice**
 - └ The implication of BEE compliance for your business
 - └ BEE scorecard
 - └ Required information and documentation
 - └ Support with implementation of sustainable BEE structures
 - └ **Verification preparation**
 - └ **Procurement verification**
 - └ **Law services**
 - └ Preparation of documentation and agreements necessary for BEE verification





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