Tracy Erasmus

From:

Cc:

Subject:

Soretha Venter <soretha.venter@outa.co.za>

Sent: 12 September 2017 11:16

To: seipati.dlamini@dmr.gov.za; mosebenziz.mail@gmail.com;

Kefilwe.chibogo@dmr.gov.za; mamabefu.modipa@dmr.gov.za;

khayalethu.matrose@dmr.gov.za; enquiries@dmr.gov.za

ben.theron@outa.co.za; queen.poolo@dmr.gov.za; martin.madlala@dmr.gov.za;

thabo.mokoena@dmr.gov.za; shrikem@mweb.co.za; jlorimer@parliament.gov.za RE: IMPLICATIONS FOR REHABILITATION FUNDS IN CONNECTION WITH MINES

RELATED TO OPTIMUM COAL MINE HOLDING (PTY) LTD AND TEGETA

EXPLORATION AND RESOURCES (PTY) LTD

Attachments: 12_09_2017 2nd Letter to Minister.pdf; 12_09_2017 2nd Letter to

Minister_Reports.pdf; 25_08_2017 1st Letter to Minister.pdf

Importance: High

ear Sirs,

CLOSING OF GUPTA OWNED BANK ACCOUNTS BY BANK OF BARODA AND IMPLICATIONS FOR REHABILITATION FUNDS IN CONNECTION WITH MINES RELATED TO OPTIMUM COAL MINE HOLDING (PTY) LTD AND TEGETA **EXPLORATION AND RESOURCES (PTY) LTD**

OUR REF: SP/ZUMA01/TEGETA

YOUR REF: UNKNOWN

1. Please find attached correspondence for your urgent attention.

2. For any media queries kindly contact Mr Ben Theron, OUTA Chief Operating Officer, on 082 941 8444.

Regards,



Soretha Venter

Legal Manager soretha.venter@outa.co.za Office: 0871700639 Cell: 0718691959 **OUTA - Organisation Undoing Tax Abuse**

From: Soretha Venter [mailto:soretha.venter@outa.co.za]

Sent: Friday, 25 August 2017 8:39 PM

To: 'seipati.dlamini@dmr.gov.za' <seipati.dlamini@dmr.gov.za>; 'mosebenziz.mail@gmail.com'

<mosebenziz.mail@gmail.com>

Cc: ben.theron@outa.co.za; 'queen.poolo@dmr.gov.za' <queen.poolo@dmr.gov.za>; 'martin.madlala@dmr.gov.za' <martin.madlala@dmr.gov.za>; 'mamabefu.modipa@dmr.gov.za' <mamabefu.modipa@dmr.gov.za>;

'thabo.mokoena@dmr.gov.za' <thabo.mokoena@dmr.gov.za>; 'khayalethu.matrose@dmr.gov.za'

<khayalethu.matrose@dmr.gov.za>; 'shrikem@mweb.co.za' <shrikem@mweb.co.za>; 'jlorimer@parliament.gov.za' <jlorimer@parliament.gov.za>

Subject: IMPLICATIONS FOR REHABILITATION FUNDS IN CONNECTION WITH MINES RELATED TO OPTIMUM COAL

MINE HOLDING (PTY) LTD AND TEGETA EXPLORATION AND RESOURCES (PTY) LTD

Dear Sir,

CLOSING OF GUPTA OWNED BANK ACCOUNTS BY BANK OF BARODA AND IMPLICATIONS FOR REHABILITATION FUNDS IN CONNECTION WITH MINES RELATED TO OPTIMUM COAL MINE HOLDING (PTY) LTD AND TEGETA **EXPLORATION AND RESOURCES (PTY) LTD**

OUR REF: SP/ZUMA01/TEGETA

YOUR REF: UNKNOWN

1. Please find attached correspondence for your urgent attention.

2. For any media queries kindly contact Mr Ben Theron, OUTA Chief Operating Officer, on 082 941 8444.

Regards,



Soretha Venter

Senior Legal Advisor soretha.venter@outa.co.za Office: 0871700639

Cell: 0718691959

OUTA - Organisation Undoing Tax Abuse

www.outa.co.za





Hillview Building, 318 Oak Avenue, Randburg PO Box 2627, Northriding, 2162 +27 (87) 170 0639 • info@outa.co.za www.outa.co.za

12 September 2017

To: The Honourable Minister:

Mineral Resources and Energy

Mosebenzi Zwane

CC: Deputy Minister:

Mineral Resources and Energy

Godfrey Oliphant

The Director General:

Mineral Resources and Energy

David Msiza

Per: E-mail (seipati.dlamini@dmr.gov.za)

(mosebenziz.mail@gmail.com)

(Kefilwe.chibogo@dmr.gov.za)

(mamabefu.modipa@dmr.gov.za)

(khayalethu.matrose@dmr.gov.za)

(enquiries@dmr.gov.za)

(gueen.poolo@dmr.gov.za)

(martin.madlala@dmr.gov.za)

(thabo,mokoena@dmr.gov.za)

(shrikem@mweb.co.za)

(jlorimer@parliament.gov.za)

Dear Minister

CLOSING OF GUPTA OWNED BANK ACCOUNTS BY BANK OF BARODA AND IMPLICATIONS FOR REHABILITATION FUNDS IN CONNECTION WITH MINES RELATED TO OPTIMUM COAL MINE HOLDING (PTY) LTD AND TEGETA EXPLORATION AND RESOURCES (PTY) LTD

OUR REF: SP/ZUMA01/TEGETA

YOUR REF: UNKNOWN

- 1. Our letter dated 25 August 2017 refers.
- A copy of the letter is attached for your ease of reference. We have received no response from you to date nor any acknowledgement of receipt. We have accordingly now copied the Deputy Minister and the





Director-General on this correspondence and request that in the absence of a response from you, that they respond on your behalf to both letters.

- As you know, in our letter of 25 August 2017, we wrote in connection with the rehabilitation funds held for the rehabilitation of coal mines in which Tegeta Exploration and Resources (Pty) Ltd has an interest. The mines are coal mines located in Mpumalanga.
- 4. More particularly, we wrote in connection with the funds held in the Optimum Mine Rehabilitation Trust¹ and the Koornfontein Mine Rehabilitation Trust² ('the Trusts'). As you must be aware, OUTA has a direct interest in the safety and integrity of the Trusts' property, as contemplated by section 32 of the National Environmental Management Act 107 of 1998.
- Since we sent our letter, we have become apprised of information supplied to the Pretoria High Court in interdict proceedings instituted by inter alia the Trusts against the Bank of Baroda ('BOB'). The proceedings proceeded on Friday 8 September 2017 ('the BOB proceedings').
- 6. In the BOB proceedings, it was confirmed that the BOB will, unless interdicted, close the Trusts' accounts at the end of September 2017. We understand that the Court will deliver its judgment in the BOB proceedings (in which interim relief was sought)³ on Thursday 14 September 2017. If no interim interdict is granted the accounts will be closed very shortly and on the applicants' version, irreparable harm will be suffered in respect of the Trusts.
- 7. Other information has come to light as a result of the BOB proceedings. This includes, *inter alia*:
 - 7.1. Confirmation that the Trusts' funds are currently being used for concurrent rehabilitation purposes.
 - 7.2. Evidence that the Koornfontein Trust's funds were used in 2016 to secure loans of Koornfontein Mines (Pty) Ltd.

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¹ Registration No IT/13693/07

² Registration No IT/7563/07

³ Indeed, we understand they were cast as 'interim' interim proceedings.





- 8. This is unlawful and demonstrates that the Trusts' funds are not only already compromised but such funds as remain are clearly at risk.
- 9. We trust that you are also aware of the following:
 - The findings of the Public Protector relating to the Trusts' funds in the State of Capture report;
 - 9.2. The report made in terms of section 29 of the Financial Intelligence Centre Act 38 of 2001 in respect of the Optimum Mine Rehabilitation Trust.
- To facilitate your ease of reference, copies of relevant extracts of the abovementioned reports are supplied herewith.
- 11. We now request an urgent response to our letter of 25 August 2017.
- 12. In addition to the queries and requests made in that letter, we require:
 - 12.1. Full details regarding precisely what will happen to the Trusts' funds should the BOB accounts be closed by the end of September 2017 and more particularly what arrangements have been made to your satisfaction to ensure their safety and integrity.
 - 12.2. Confirmation that you will take urgent steps to prevent the use of any further Trust funds to secure or pay loans or other liability of a related company or entity.
 - 12.3. Confirmation that you will take such steps as are necessary immediately to prevent the further unlawful use of trust funds for concurrent rehabilitation.





- 13. Kindly contact our Legal Manager Ms. S Venter at soretha.venter@outa.co.za in the event of any queries.
- 14. We trust that you find the above in order and look forward to receiving your response on or before 10:00am on Thursday, 14 September 2017.
- 15. Should you fail to respond and provide the requested information and assurances, OUTA may have no option but to approach a court for appropriate relief.

16. Kindly acknowledge receipt of this letter.

Yours Sincerely,

Stefanie Fick

Head of Legal Affairs

OUTA - Organisation Undoing Tax Abuse

E-mail: stefanie.fick@outa.co.za



Tracy Erasmus

From: Soretha Venter <soretha.venter@outa.co.za>

Sent: 12 September 2017 14:50

To: Ivs@tabacks.com

Cc: stefanie.fick@outa.co.za; ben.theron@outa.co.za; 'Julius Kleynhans'; Jeremy Gobetz;

Bernard Hotz; cjerasmus@npa.gov.za

Subject: FW: CLOSING OF GUPTA OWNED BANK ACCOUNTS BY BANK OF BARODA AND

IMPLICATIONS FOR REHABILITATION FUNDS

Attachments: 12_09_2017 Letter to Bank of Baroda and other.pdf

Importance: High

Dear Mr van Staaden.

CLOSING OF GUPTA OWNED BANK ACCOUNTS BY BANK OF BARODA AND IMPLICATIONS FOR REHABILITATION FUNDS RELATED TO OPTIMUM MINE REHABILITATION TRUST (IT/13693/07) AND THE DORNFONTIEN MINE REHABILITATION TRUST (IT/7563/07)

JUR REF: SP/ZUMA01/TEGETA

YOUR REF: UNKNOWN

- 1. The attached correspondence directed at the Bank of Baroda refers.
- 2. We thought it prudent to forward same to you as attorneys of record in the abovementioned matter.
- 3. Kindly contact us should you have any questions or queries.

Kind regards.



Soretha Venter
Legal Manager
soretha.venter@outa.co,za
Office: 0871700639
Cell: 0718691959
OUTA - Organisation Undoing Tax Abuse

From: Soretha Venter [mailto:soretha.venter@outa.co.za]

Sent: Tuesday, 12 September 2017 2:26 PM

To: 'lesetja.kganyago@resbank.co.za' <lesetja.kganyago@resbank.co.za>; 'tmoyane@sars.gov.za' <tmoyane@sars.gov.za>; 'hlekani@yahoo.com' <hlekani@yahoo.com>; 'joburg@bankofbaroda.com' <joburg@bankofbaroda.com>

Cc: 'Sim.Tshabalala@standardbank.co.za' <Sim.Tshabalala@standardbank.co.za>;

'Anthony.Arnold@standardbank.co.za' <Anthony.Arnold@standardbank.co.za'; 'abak@nedbank.co.za' abak@nedbank.co.za; 'unice.baloyi@absa.co.za' <unice.baloyi@absa.co.za'; 'thabo.molamu@absa.co.za' <thabo.molamu@absa.co.za'; 'jazques.celliers@fnb.co.za' <jazques.celliers@fnb.co.za'; 'frik.basson@fnb.co.za' <frik.basson@fnb.co.za'; ben.theron@outa.co.za

Subject: CLOSING OF GUPTA OWNED BANK ACCOUNTS BY BANK OF BARODA AND IMPLICATIONS FOR

REHABILITATION FUNDS

Importance: High

Dear Sirs / Madams

TON

CLOSING OF GUPTA OWNED BANK ACCOUNTS BY BANK OF BARODA AND IMPLICATIONS FOR REHABILITATION FUNDS RELATED TO OPTIMUM MINE REHABILITATION TRUST (IT/13693/07) AND THE KOORNFONTIEN MINE REHABILITATION TRUST (IT/7563/07)

OUR REF: SP/ZUMA01/TEGETA

YOUR REF: UNKNOWN

1. Kindly find attached correspondence for your urgent attention.

www.outa.co.za

2. For any media queries kindly contact Mr Ben Theron, OUTA Chief Operating Officer, on 082 941 8444.

Kind regards,



Soretha Venter
Legal Manager
soretha.venter@outa.co.za
Office: 0871700639
Cell: 0718691959
OUTA - Organisation Undoing Tax Abuse

7 9





Hillview Building, 318 Oak Avenue, Randburg PO Box 2627, Northriding, 2162 +27 (87) 170 0639 • info@outa.co.za

12 September 2017

To: BARODA BANK

CC: SOUTH AFRICAN RESERVE BANK

NEDBANK LIMITED

FIRST NATIONAL BANK LIMITED

STANDARD BANK LIMITED

ABSA LIMITED

Per: E-mail

Dear Sirs / Madams

CLOSING OF GUPTA OWNED BANK ACCOUNTS BY BANK OF BARODA AND IMPLICATIONS FOR REHABILITATION FUNDS RELATED TO OPTIMUM MINE REHABILITATION TRUST (IT/13693/07) AND THE KOORNFONTIEN MINE REHABILITATION TRUST (IT/7563/07)

OUR REF: SP/ZUMA01/TEGETA

YOUR REF: UNKNOWN

- Outa is a non-profit civil action organisation, funded by tens of thousands of individuals and businesses, whose main aim is to hold government accountable for the abuse of power, corruption and maladministration. In doing our work, we ensure that more tax revenues are made available and protected to the benefit of all in South Africa, especially the poor and vulnerable.
- We write in connection with the rehabilitation funds held for the rehabilitation of coal mines in which Tegeta Exploration and Resources (Pty) Ltd ('Tegeta') have an interest. The mines are coal mines in Mpumalanga. The rehabilitation funds in questions are held by the Optimum Mine Rehabilitation Trust (IT/13693/07) and the Koornfontein Mine Rehabilitation Trust (IT/7563/07).
- As you are aware, both of these Trusts have various bank accounts with Bank of Baroda (Baroda).
- 4. On 25 August 2017, you were copied on correspondence from OUTA to the Trustees of the Trusts and to the Minister of Mineral Resources in connection with the trusts' funds and inter alia OUTA's concerns arising thereto as a result

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of the imminent closure by Baroda of Gupta-linked accounts. At that stage OUTA did not know whether the Trusts were amongst the entities whose accounts were due to be closed.

- OUTA received no substantive response to the correspondence from either the Minister or the Trustees. A response was however, received from Ms Ronica Ragavan, who in effect declined to engage with OUTA.
- 6. OUTA has since obtained access to some of the court papers that were exchanged in the High Court interdict proceedings instituted by twenty applicants against Baroda Bank seeking inter alia to interdict the closure of the bank accounts. As you are aware, the Trusts were two of the applicants and the court papers confirm that their accounts are amongst the accounts that Baroda will be closing.
- 7. It is also apparent from Baroda's court papers that it has concluded agreements with the Trusts that entail the use of the Koornfontein Trust's funds for security against the loans of Koornfontein Mines (Pty) Ltd. Furthermore, it is clear that Baroda is seeking to call up all of its loans.
- 8. Baroda is and has at all times been aware that these accounts are held by Trusts as contemplated by the Mineral and Petroleum Development and Resources Act 28 of 2002 (MPRDA) and the National Environmental Management Act 107 of 1998, which entails that they can only be used for the purposes contemplated by those laws and in accordance with section 37A of the Income Tax 58 of 1962.
- 9. Insofar as Baroda has concluded any contracts with one or both of the Trusts for purposes of securing any loans or any other similar transaction that may entail the use of these funds for any purpose other than the purposes sanctioned by the above-mentioned legislation this is patently unlawful and such agreements are unlawful, unenforceable and against public policy.
- Furthermore, to the extent that Baroda may already have had resource to any funds of the Trusts to realise any security or similar right, the funds would have to be repaid.
- On 11 September 2017, it was reported in the Business Day that the R1.9 billion of the Trusts represents more than 90% of the deposits held by Baroda in South Africa.



- 12. In circumstances where Baroda is calling up loans linked to businesses associated with Gupta-linked companies, and against the background referred to in paragraphs 7 10 *supra*, it appears reasonable to be concerned that Baroda may be conducting itself in an unlawful manner.
- Against this background we request that you urgently, and no later than close of business on Wednesday 13th September 2017, provide us with the following undertakings:
 - 13.1. That Baroda will not seek to enforce any agreement it or its related undertakings may have with or relating to the use of the funds of the Trusts for purposes of realising any security (or other similar transaction) in connection with the financial arrangements of any of the Gupta-related companies including but not limited to those whose accounts are intended to be closed.
 - 13.2. That if and insofar as Baroda has already conducted itself as aforesaid, that it will immediately restore such funds as constituted Trust funds to the Trusts.
 - 13.3. Whether you dispute any obligation to restore such fund (as referred to in paragraph 12.2 supra), you undertake to hold such funds pending resolution of the dispute.
- If you fail to provide us with the undertakings sought, OUTA may have no option but to approach a Court for urgent relief.
- 15. Should you dispute any obligation either not to enforce such agreement or to restore any related funds, kindly advise on what basis you do so to enable the swift resolution of the dispute.
- 16. It has come to our attention that the Bank of Baroda may hold one or more accounts with one or more of the four major banks in South Africa, namely Nedbank, Standard Bank, ABSA and First National Bank. We have copied this letter to these banks because they too will have an obligation to ensure that no Trust funds are used to make unlawful payments of the sort referred to above and to restore any such funds as have been.

ORGANISATION UNDOING TAX ABUSE (OUTA)

Co Rag: 2012/064213/08 NPO #: 124381NPO
DIRECTORS: Wayne L Duvenage (Chairman), Robert N Hutchinson, Leopold J J Pauwen,
NON EXECUTIVE DIRECTORS: Phumlani M Majozi, Ms Ferrial Adam



- 17. In view of contentions made by the Bank of Baroda during the High Court litigation that ensued last week about its concerns about continuing a banking relationship with Gupta-owned companies, we trust that you will co-operate with OUTA to protect the Trusts' funds and to ensure compliance with law including the MPRDA, the Income Tax Act and the Financial Institutions (Protection of Funds) Act.
- 18. Kindly contact our Legal Manager Ms. S Venter at soretha.venter@outa.co.za in the event of any queries.
- We trust that you find the above in order and look forward to receiving your response on or before close of business on Wednesday, 13 September 2017.

20. Kindly acknowledge receipt of this letter.

Yours Sincerely,

Stefanie Fick

Head of Legal Affairs

OUTA -- Organisation Undoing Tax Abuse

E-mail: stefanie.fick@outa.co.za



Tracy Erasmus

From:

Lourens van Staden < LVS@Tabacks.com>

Sent:

14 September 2017 17:05

To:

Soretha Venter

Cc:

stefanie.fick@outa.co.za; ben.theron@outa.co.za; 'Julius Kleynhans'; Jeremy Gobetz;

Bernard Hotz; cjerasmus@npa.gov.za; Lourens van Staden; ni@tabacks.com ('nl@tabacks.com'); Bank of Baroda _BANK0002_ _ _LV0002_ The Group E_Mails

<(F263334).Docs@docs.tabacks.com>

Subject:

RE: CLOSING OF GUPTA OWNED BANK ACCOUNTS BY BANK OF BARODA AND

IMPLICATIONS FOR REHABILITATION FUNDS [IWOV-Docs.FID263334]

Attachments:

letter outa.pdf

Importance:

High

Dear Sirs

'ease see attached correspondence for your attention.

Yours faithfully,

L van Staden

TABACKS

MERVYN TABACK INC.

13 Eton Road, Parktown. Johannesburg, 2193

Tel: +27 11 358 7700 Fax: +27 11 358 7800 Cell: +27 (0)76 754 0251

From: Soretha Venter [mailto:soretha.venter@outa.co.za]

Sent: Tuesday, September 12, 2017 2:50 PM

To: Lourens van Staden

Cc: stefanie.fick@outa.co.za; ben.theron@outa.co.za; 'Julius Kleynhans'; 'Jeremy Gobetz'; 'Bernard Hotz';

cjerasmus@npa.gov.za

Subject: FW: CLOSING OF GUPTA OWNED BANK ACCOUNTS BY BANK OF BARODA AND IMPLICATIONS FOR

REHABILITATION FUNDS

Importance: High

Dear Mr van Staaden,

CLOSING OF GUPTA OWNED BANK ACCOUNTS BY BANK OF BARODA AND IMPLICATIONS FOR REHABILITATION FUNDS RELATED TO OPTIMUM MINE REHABILITATION TRUST (IT/13693/07) AND THE **KOORNFONTIEN MINE REHABILITATION TRUST (IT/7563/07)**

OUR REF: SP/ZUMA01/TEGETA

1

YOUR REF: UNKNOWN

- 1. The attached correspondence directed at the Bank of Baroda refers.
- 2. We thought it prudent to forward same to you as attorneys of record in the abovementioned matter.
- 3. Kindly contact us should you have any questions or queries.

Kind regards.



Soretha Venter

Legal Manager soretha.venter@outa.co.za

Office: 0871700639 Cell: 0718691959

OUTA - Organisation Undoing Tax Abuse

www.outa.co.za

om: Soretha Venter [mailto:soretha.venter@outa.co.za]

ent: Tuesday, 12 September 2017 2:26 PM

To: 'lesetja.kganyago@resbank.co.za' <lesetja.kganyago@resbank.co.za>; 'tmoyane@sars.gov.za'

<tmoyane@sars.gov.za>; 'hlekani@yahoo.com' <hlekani@yahoo.com>; 'joburg@bankofbaroda.com'

<ioburg@bankofbaroda.com>

Cc: 'Sim.Tshabalala@standardbank.co.za' <Sim.Tshabalala@standardbank.co.za>;

'Anthony.Arnold@standardbank.co.za' < Anthony.Arnold@standardbank.co.za'; 'abak@nedbank.co.za'

 (unice.baloyi@absa.co.za unice.baloyi@absa.co.za thabo.molamu@absa.co.za unice.baloyi@absa.co.za thabo.molamu@absa.co.za unice.baloyi@absa.co.za thabo.molamu@absa.co.za unice.baloyi@absa.co.za (unice.baloyi@absa.co.za unice.baloyi@absa.co.za unice.baloyi@ab

<thabo.molamu@absa.co.za>; 'jazques.celliers@fnb.co.za' <jazques.celliers@fnb.co.za>; 'frik.basson@fnb.co.za'

<frik.basson@fnb.co.za>; ben.theron@outa.co.za

Subject: CLOSING OF GUPTA OWNED BANK ACCOUNTS BY BANK OF BARODA AND IMPLICATIONS FOR

REHABILITATION FUNDS

Importance: High

Dear Sirs / Madams

CLOSING OF GUPTA OWNED BANK ACCOUNTS BY BANK OF BARODA AND IMPLICATIONS FOR HABILITATION FUNDS RELATED TO OPTIMUM MINE REHABILITATION TRUST (IT/13693/07) AND THE **KOORNFONTIEN MINE REHABILITATION TRUST (IT/7563/07)**

OUR REF: SP/ZUMA01/TEGETA

YOUR REF: UNKNOWN

- 1. Kindly find attached correspondence for your urgent attention.
- 2. For any media gueries kindly contact Mr Ben Theron, OUTA Chief Operating Officer, on 082 941 8444.

Kind regards,



Soretha Venter Legal Manager soretha.venter@outa.co.za

Office: 0871700639

Cell: 0718691959

OUTA - Organisation Undoing Tax Abuse

www.outa.co.za

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TABACKS

Your Ref

Our Ref

BANK2-LV2

Email

ivs@tabacks.com/nl@tabacks.com

Date

14 September 2017

OUTA

Attention: Ms S Fick

Email address: stefanie.fick@outa.co.za

Copied to:

South African Reserve Bank Nedbank Limited First National Bank Limited Standard Bank Limited ABSA Limited

Dear Sirs

RE: CLOSURE OF BANK ACCOUNTS

- 1. Your letter to our client of 12 September 2017 refers.
- Our client sympathises with your aims and purposes as set out in paragraph 1 of your letter.
 You will however understand that the relationship between a bank and its customers is
 regulated by contractual terms, including requirements of confidentiality, operating as
 between a bank and its customers only.
- On the basis that third parties, including you, are not privy to those contractual
 arrangements, our client is not in any position to engage with you on the issues raised in
 your letter. More particularly, our client is unable to extend the undertakings you seek from
 it.
- 4. We can confirm however that our client conducts its operations in accordance with all legislative and contractual obligations, and no basis exists to assume otherwise. In addition, we confirm that such amounts as standing to the credit of the Koornfontein and Optimum rehabilitation trust funds according to our client's records are not encumbered in any way, whether as security for any loan facilities or otherwise.

Mervyn Taback Incorporated Reg No 2000/024541/21

13 Eton Road Parktown 2193 Johannesburg South Africa PO Box 3334 Houghton 2041 Johannesburg South Africa Tel +27 (0)11 358-7700 Fax +27 (0)11 358-7800 Fax: +27(0)86 771 2628 Website www.tabacks.com
Directors D Cithi TJ Cross M Grobbelaar DA Kaufmann CM Keene TL Makhetha BD Masuku N Mather

E Serfonlein M Taback BD Tate L van Staden D Woodhouse

Associates NE Labuschagne D Lemmen MJA Mabaso J Mankoe SM Moodley MF Schepers MG Thomas SM Tumber

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5. As for customer's deposits held by our client you will of course appreciate that that also constitutes confidential information which we could not share with the public. However, we invite you to peruse our audited annual financial statements for the 2016 / 2017 financial year which are available for inspection at the offices of our attorneys, Tabacks at —

13 Eton Road, Parktown Tel: 011 358 7800 Reference: Mr L van Staden

 No reasonable basis exists on which you may have the necessary standing to initiate any legal proceedings against our client. If you were to do so, our client would be compelled to oppose such steps and, regrettably, also seek costs orders against you.

Yours faithfully

L VAN STADEN

MERVYN TABACK INC.

Досимер



DELIVERED BY EMAIL

Tabacks Attorneys

E-mail:

lvs@tabacks.com/nl@tabacks.com

Johannesburg Office 155 5th Street Sandton 2196 South Africa Private Bag 10015 Sandton 2146 Docex 111 Sandton Tel +27 11 535 8000 Fax +27 11 535 8600 www.werksmans.com

enquiries@werksmans.com

YOUR REFERENCE: BANK2-LV2

OUR REFERENCE: Mr B Hotz/te/ORGA36432.2/#5088801v1

DIRECT PHONE: DIRECT FAX:

+27 11 535 8106 +27 11 535 8606

EMAIL ADDRESS: bhotz@werksmans.com

9/18/2017

Dear Mr van Staden,

KOORNFONTEIN AND OPTIMUM REHABILITATION TRUSTS' FUNDS

- We act for the Organisation Undoing Tax Abuse ("OUTA/our client"). OUTA is concerned about the preservation of the funds of the Koornfontein and Optimum Mine Rehabilitation Trusts ("the Trusts") and has requested us to engage with you in this regard.
- 2 We refer to the following correspondence:
- 2.1 Your letter to OUTA dated 14 September 2017.
- 2.2 OUTA's letter to you dated 12 September 2017.
- 2.3 OUTA's letters to the Trustees dated 25 August 2017 and 12 September 2017 respectively.
- 2.4 OUTA's letters to the Minister of Mineral Resources of the same dates.
- We also refer to the legal proceedings instituted by various Gupta-controlled companies and the Trusts seeking an interim interdict to prevent your client from closing inter alla the Trusts' accounts and calling up certain loans. Judgment is to be delivered on 21 September 2017. Should the court rule in your client's favour, as we expect it may, your client intends to close the Trusts' accounts at the end of September 2017. Our client appreciates the reputational and other risks associated with continuing any bank-client relationship with inter alia the Trusts, at least under their current trusteeship.

Werksmans Inc. Reg. No. 1990/007215/21 Registered Office 155 5th Street Sandton 2196 South Africa Directors D Hertz (Chairman) C Andropoulos AL Armstrong BA Aronoff DA Arteiro T Bata LM Becker JD Behr AR Berman NMN Bhengu Z Blieden HGB Boshoff GT Bossr TJ Boswell MC Brönn W Brown PF Burger PG Cleland JG Cloete PPJ Coetser C ColeMorgan JN de Villiers R Driman S Fodor SJ Gardiner D Gewer JA Gobetz R Gootkin ID Gouws GF Griessel J Hollesen MGH Honiball VR Hoslosky BB Hotz HC Jacobs TL Janse van Rensburg N Harduth G Johannes S July J Kallmeyer SLG Kayana A Kenny BM Kew R Killoran N Kirby HA Kotze S Krige PJ Krusche P Le Roux MM Lessing E Levenstein JS Lothere K Louw JS Lubbe BS Mabasa PK Mabaso MPC Manaka H Masondo SM Moerane C Moraitis PM Mosebo KO Motshwane L Naidoo J Nicklg JJ Niemand BPF Olivier WE Oosthuizen S Padayachy M Pansegrouw S Passmoor AV Pillay D PIsanti T Potter BC Price AA Pyzikowski RJ Raath A Ramdhin MDF Rogtigues L Rood BR Roothman W Rosenberg NL Scott TA Sibidla LK Silberman JA Smit JS Smit BM Sono CJ Stevens PO Stevyn J Stockwell JS Theron PW Tindie JJ Truter KJ Trudgeon DN van den Berg AA van der Merwe HA van Niekerk FJ van Tonder JP van Wyk A Vatalidis RN Wakefield DC Walker L Watson JD Wegierski

JOHANNESBURG . CAPE TOWN . STELLENBOSCH . TYGER VALLEY



- OUTA notes and appreciates your advice contained in your letter of 14 September 2017, that the amounts standing as credit of the Trusts are, according to your client's records, 'not encumbered in any way, whether as security for any loan facilities or otherwise.'
- Ronica Ragavan's founding affidavit in the interdict proceedings reveals that if the court finds in your client's favour, there will probably be no banking facilities available to the Trustees as at 30 September 2017. This alone places the Trusts' funds at risk. The Trusts' funds are furthermore at risk in the hands of the current trustee(s).
- We are instructed that there may at present be only one trustee, a Ms Pushpaveni Govender.¹
 As at end August 2017, there was a second trustee being Mr Trevor Scott. OUTA understands that Mr Scott has now resigned as a trustee although he may be serving out a notice period and he may still be a signatory on the Trusts' accounts.² OUTA understands that Ronica Ragavan, while not a trustee (as at the end of August 2017), may have de facto control over the Trusts' affairs and accounts.³
- In the correspondence dated 25 August 2017 to the Trustees and the Minister, OUTA sought information and assurances relating to the safety and integrity of the funds in light of the imminent closure of the Trusts' accounts. OUTA did so asserting its rights to act inter alia in the public interest and in the interests of the environment as contemplated by section 32 of the National Environmental Management Act 1998. The information has not been supplied and no assurances have been given. This is despite follow up in correspondence dated 12 September 2017.
- In all of the circumstances, OUTA has reason to believe that the requirements of NEMA, which governs the legal position relating to financial provision for rehabilitation, have been breached by *inter alia* the trustees and the rights-holders. OUTA has a reasonable apprehension that these provisions will continue to be breached unless the Court intervenes to protect the funds in the hands of the current trustee(s).
- We hold instructions to institute urgent legal proceedings on behalf of OUTA to protect and preserve the Trusts' funds pending the conclusion of proceedings to ensure alternative satisfactory arrangements as contemplated by NEMA for their long-term protection. OUTA appreciates that this may entail the removal of the current trustee(s). To this end, and in the event that the Court rules in your client's favour on 21 September 2017, OUTA intends to institute urgent proceedings to freeze and preserve the funds whether in the Trusts' existing accounts or in another account as may be agreed or directed by the Court. In this regard, OUTA is mindful that your client will if it is to continue holding the Trusts' funds reasonably require the protection of a court order.
- 10 We have noted in your letter dated 14 September 2017 that your client sympathises with OUTA's objectives and your client in its affidavits in the interdict proceedings evinces an intention on the part of your client to ensure that the laws of South Africa are observed.

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¹ According to Annexure 9 of Mr Jha's answering affidavit in the interdict proceedings, Govender is a director of Optimum Coal Mine (Pty) Ltd, Sahara Computers (Pty) Ltd and VR Lazer Services (Pty) Ltd. According to Annexure 8.1, she is also a 15% shareholder of Mfazi Investments (Pty) Ltd, which in turn has a 3% interest Mabengela Investments (Pty) Ltd. Mabengela has a 29% interest in Tegeta Exploration and Resources (Pty) Ltd ('Tegeta') which owns both Koornfontein Mines (Pty) Ltd ('Koornfontein') and Optimum Coal Mine (Pty) Ltd ('Optimum'), being the mines associated with the Trusts.

² According to Annexures 8.1 and 9 to Mr Jha's answering affidavit, Scott is a director of Koornfontein and Oakbay Resources and Energy (Pty) Ltd.

Ragavan is a central role-player in the Gupta-group, as you are aware. She has an indirect interest in Tegeta (and thus both Koornfontein and Optimum) through Aerohaven Trading (Pty) Ltd. She is also a director of several companies including Tegeta, Optimum and Koornfontein

ORGA36432.2/#5088801v1 9/18/2017



- 11 Against this background, we seek confirmation and an undertaking from your client that it will continue to hold such of the Trusts' monies as remain to the credit of the Trusts pending the outcome of the urgent application that OUTA intends to launch should your client obtain a ruling in its favour on 21 September 2017, as we expect it will.
- Save to thank you for tendering inspection of your client's financial statements, the arrangements for which we shall engage with you separately, we do not for present purposes deal with the remainder of the content of your letter dated 14 September 2017. Our failure to do so at this stage should not be construed as an admission of any of its contents. Rather, our client's rights are reserved.

Yours faithfully

Werksmans Inc THIS E-MAIL HAS BEEN ELECTRONICALLY TRANSMITTED WITH NO SIGNATURE.

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THE PETER PETER

TABACKS

Your Ref Mr B Hotz/te/nl@tabacks.com

Our Ref BANK2-LV2

Email lvs@tabacks.com/nl@tabacks.com

Date 19 September 2017

Werksmans Attorneys Attention: Mr B Hotz

Email address: bhotz@werksmans.com

Dear Sirs

KOORNFONTEIN AND OPTIMUM REHABILITATION TRUSTS' FUNDS

- 1. Your letter dated 18 September 2017 refers.
- 2. It is required of us to respond only to paragraph 11 of that letter. We accept that you appreciate that our client is not in a position to deal with funds standing to the credit of any customer's account (or prevent any such dealing) otherwise than in accordance with either the proper instructions of the customer, or any binding legal or statutory directive.
- Our client will obviously take notice of the urgent application referred to by your client, should
 it be issued. It will likely abide the outcome thereof without opposition, depending on the
 relief then actually sought.
- Our client will also do whatever could reasonably and lawfully be done to prevent any frustration of such order as your client might seek to obtain.
- 5. Save as aforesaid, our client is unfortunately unable to extend the undertaking sought in paragraph 11 of your letter.

Yours faithfully,

L van Staden

MERVYN TABACK INC.

Mervyn Taback Incorporated Reg No 2000/024541/21

13 Eton Road Parktown 2193 Johannesburg South Africa PO Box 3334 Houghton 2041 Johannesburg South Africa Tel +27 (0)11 358-7700 Fax +27 (0)11 358-7800 Fax: +27 (0)86 771 2628 Website www.tabacks.com Directors D Cithi TJ Cross M Grobbelaar DA Kaufmann CM Keene TL Makhetha BD Masuku N Mather E Serfontein M Taback BD Tate L van Staden D Woodhouse Associates NE Labuschagne D Lemmen MJA Mabaso J Mankoe SM Moodley MF Schepers MG Thomas SM Tumber

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IN THE HIGH COURT OF SOUTH AFRICA GAUTENG DIVISION, PRETORIA

CASE NO: 65616 17

In the matter between:

ORGANISATION UNDOING TAX ABUSE

Applicant

and

THE TRUSTEE(S) FOR THE TIME BEING OF THE OPTIMUM MINE REHABILITATION TRUST

First Respondent

THE TRUSTEE(S) FOR THE TIME BEING OF THE KOORNFONTEIN MINE REHABILITATION TRUST

Second Respondent

PUSHPAVENI GOVENDER

Third Respondent

Fourth Respondent

OPTIMUM COAL MINE (PTY) LTD

Fifth Respondent

KOORNFONTEIN MINE (PTY) LTD

Sixth Respondent

BANK OF BARODA

TREVOR SCOTT

Seventh Respondent

MINISTER OF MINERAL RESOURCES

Eighth Respondent

AFFIDAVIT

I, the undersigned,

MARTIN LANGE

do hereby make oath and say:

1. I am the director of ML Advisory (Pty) Ltd and expert consultant to Horwath Forensics SA (Pty) Ltd ('Horwath').

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- 2. The contents of this affidavit are within my personal knowledge, unless the context indicates otherwise, and are to the best of my belief true and correct.
- 3. I am a qualified chartered accountant, a member of the South African Institute of Chartered Accountants, a certified internal auditor, a member of the Institute of Internal Auditors South Africa and a registered auditor. A summarised version of my curriculum vitae is attached as annexure "ML1". I refer to its contents from which my areas of specialisation and expertise appear.
- 4. On 15 September 2017, I was requested by Werksmans attorneys (through Horwath) to prepare a report relating to any points of concern with regard to the conduct of the Trustees of both the Koornfontein Mine Rehabilitation Trust and the Optimum Mine Rehabilitation Trust based on documentation provided to me. I was also requested to raise queries and comments relating to the financial information reviewed.
- 5. A copy of the report that I prepared in response to this request and which contains my preliminary findings, comments and opinions is attached as "ML2". As appears therefrom, it was supplied to Werksmans under cover of a letter from Ryan Sacks of Horwath. In view of the urgency with which the report was prepared and the limited documentation and information to hand, the findings are considered to be preliminary and additional investigation would be required to supplement these preliminary findings.
- 6. The documents in respect of which I have expressed my comments as contained in the report are those listed in the second column of the table under item 2 of my report. My comment is in the third column.

DEPONENT

The Deponent has acknowledged that he knows and understands the contents of this affidavit, which was signed and sworn to or solemnly affirmed before me at on this the ar day of Santa 20 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

Full Names: Capacity:

Designation:

Designation SH. Address:
CONTROL STOMER OF CATHS
Practising Attomay R.S.A.
Hatfield Floor Street
Hatfield, Pretoria,0083

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" MLI"

Martin Lange: CA(SA) RA CIA

Director ML Advisory (Pty) Ltd South Africa, Midrand

Tel: +27 11 217 8281 Mobile: +27 83 33+ 223+

martin.lange@crowehorwath.co.za

Martin is a Director of ML Advisory (Pty) Ltd and expert consultant to Horwath Forensics SA (Pty) Ltd.

Experience, expertise and clients

Martin has been a director of ML Advisory since March 2014, specializing in technical auditing, accounting and risk consulting services to audit practices. Martin was previously the Quality Assurance Director for Horwath Technical Services SA where he was for over 4 years. He regularly consults to Horwath Forensics SA as a technical expert, having assisted in numerous forensic investigations for an array of clients across diverse industries, including both public and private sectors. Martin has extensive external and internal technical audit experience as well technical financial reporting experience. Martin has been a designated expert in various legal proceedings.

Before joining Horwath Technical Services SA, Martin was a practice reviewer for the Independent Regulatory Board for Auditors for more than 2 years, performing reviews of the audit practices and audit engagement files of registered auditors in South Africa to ensure their compliance with auditing and accounting standards. Audit files for all sizes of companies across all industries were reviewed.

Martin also has more than 5 years of direct banking experience, having worked for Barclays Bank PLC as a Finance Projects Manager and as an internal auditor across the Barclays Africa and Middle East countries in each Barclays operated as well as having worked for Nedbank group internal audit, focusing on the financial controls in Nedbank financial reporting areas.

Martin also worked for in commerce for over two years for a BHP Billiton owned chrome smelter in Witbank as a financial and management accountant.

Martin completed his auditing articles with BDO Pretoria.

Professional Background

Bachelor of Commerce (Accounting) – University of Pretoria
Bachelor of Accountancy Honours – University of South Africa
Chartered Accountant (South Africa)
Advanced Diploma in Banking Law (cum laude) – Rand Afrikaans University
Member of the South African Institute of Chartered Accountants (SAICA)
Certified Internal Auditor (CIA)
Registered Auditor (RA)

Jon

Horwath Forensics SA (Pty) Ltd

Horwath Forensics SA (Pty) Ltd was incepted in September 2005, and is an independent firm of specialised Chartered Accountants and financial analysts, operating in Johannesburg and Cape Town. We are affiliated to the accounting firm Horwath Leveton Boner and in association with the Crowe Horwath International network of companies, represented by 400 firms in over 90 countries.

The company is run by Terence Hatzkilson and Ryan Sacks, both Chartered Accountants and Certified Fraud Examiners (CFE's). We offer specialised forensic accounting, litigation support, expert witness and transaction support services, including financial due diligence and business valuation services.

Horwath Forensics was established as an independent private company, allowing it to operate without audit or regulatory conflicts. We offer clients a team equipped with extensive local and international experience and a proven track record of success in many high-profile matters. Our staff complement consists of Chartered Accountants as well as experienced financial analysts and Certified Fraud Examiners (CFE's).

Horwath Forensics provides ongoing services to a number of leading South African law firms and our track record includes numerous high-profile investigations on behalf of private and public companies, banks, financial institutions, as well as government departments and non-profit organisations.

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Horwath Forensics SA (Pty) Ltd In association with Crowe Horwath International

3 Sandown Valley Crescent, Sandown, 2196 P.O. Box 652550, Benmore, 2010, South Africa Docex 12, Nelson Mandela Square +27 11 217 8000 Tel +27 11 217 8001 Fax www.crowehorwath.co.za Info@crowehorwath.co.za Reg no: 2005/003963/07

20 September 2017

FAO Jeremy Gobetz Director Werksmans Attorneys 155 - 5th Street, Sandton, 2196

RE: Preliminary findings relating to points of concern identified with regard to the conduct of the Trustees of both the Koornfontein Mine Rehabilitation Trust and Optimum Mine Rehabilitation Trust based on a review of documentation provided as well as findings pertaining to the activities of the Bank of Baroda South African Operations (or "Bank of Baroda" or the "bank", unless where otherwise specified) in relation to those trusts and their trust funds

Dear Mr Gobetz

Please find attached to this covering letter our preliminary findings in relation to the aforementioned matter. The findings have been compiled by Martin Lange CA (SA) RA CIA technical accounting (IFRS) specialist consulting to Horwath Forensics.

It is our understanding that that the findings will be utilised to support OUTA's urgent application against inter alia the Bank of Baroda (in order to act as set out in section G of the PAIA request).

Please note that in order to meet the urgent deadline for the urgent application we have submitted our findings as they stand. The findings are considered to be preliminary and additional investigation would be required to supplement these preliminary findings. Furthermore these findings are based on the documents provided and that documents may need to be expanded upon in those further investigations.

Sincerely

Ryan Sacks CA(SA) CFE

Directors: L Defries CA(SA) T Hatzkilson CA(SA) P Katz CA(SA) R Sacks CA(SA)

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Director, Horwath Forensics

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Preliminary findings relating to points of concern identified with regard to the conduct of the Trustees of both the Koornfontein Mine Rehabilitation Trust and Optimum Mine Rehabilitation Trust based on a review of documentation provided as well as findings pertaining to the activities of the Bank of Baroda South African Operations (or "Bank of Baroda" or the "bank", unless where otherwise specified) in relation to those trusts and their trust funds

1. Scope:

Horwath Forensics was instructed to draft a summary with respect to any points of concern with regard to the conduct of the Trustees of both the Koornfontein Mine Rehabilitation Trust and Optimum Mine Rehabilitation Trust, based on a review of the documentation provided. In addition, we were instructed to raise any queries and comments relating to the financial information reviewed.

Refer to Section 2 below for listing of documents reviewed and our applicable comments.

2. Documents reviewed and comments:

COMMENT:	We reviewed the Bank of Baroda BA900 submission to determine if the Rehabilitation Trust funds were reflected in the banks submission. Due to the size of the bank considered to be small, and the large value of the Trust funds, being R1 469 916 933, there is only one line that exceeds this amount in the BA900 return. This line represents "Non-profit organisations serving households and other".	On the face of it, the deposit does not appear to be correctly reported to the SARB when one as regard to the reference.	In addition, per the BA900 report, the funds appear to be in a cheque account rather than an investment account, as it is listed as being in the cheque account column. Cheque accounts offer the lowest interest rates on funds, which would make this a
DOCUMENT REVIEWED	Bank of Baroda BA900 – July 2017		
No.	-i		4

low or even no yield return on the trust monies since the fixed deposit matured.	If the Trustees had reinvested the funds in one of the fixed deposit accounts the date that the deposits matured on 6 June 2017 till the end of September, they would have earned a substantial amount of interest on the funds. The current rate offered by Bank of Baroda for a 1 month fixed investment is 5.9% per annum.	Therefore, assuming only the R1 459 916 933 was invested for the approximately 4 months till when the bank advised they were withdrawing the banking facilities at the end of September, the Trust has lost over R28 million in interest income which cannot be recovered.	Without explanation, this shows that the Trustees are amiss in their duty to obtain a return on investment on the Trust fund.	In the letter Ragavan makes a request to use the KMRT funds for mining rehabilitation purposes. However, the reasons provided do not have any relevance with the rehabilitation of the mine.	Ragavan cites "the current situation with our group and the big 4 Banks and Insurance Companies seizing (sic) to provide services to all our Group companies as is widely mentioned in the media, had led to a critical situation hampering our ability to keep the business and its related jobs afloat. As a result, TER hereby requests that the DMR grants it approval to use the ubove (sic) mentioned funds for mining rehabilitation purposes".	None of the reasons provided by Ragavan relate to the rehabilitation liability, which is a financial provision to remediate environmental damage. This financial provision is calculated based on a rehabilitation program which is then assessed by an independent auditor.	An extract of section 54 of the Mineral and Petroleum Resources Development Act
				Letter from Ronica Ragavan: Director of Tegeta to the Regional Manager DMR, dated 4 May 2016, requesting use of the Koornfontein Mine Rehabilitation Trust "(KMRT)" money.			

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(a) premature closing

(i) the rehabilitation of the surface area

(ii) the prevention and management of pollution of the atmosphere; and

(iii) the prevention and management of pollution of water and the soil; and

(iv) the prevention of leakage of water and minerals between subsurface formations and the surface.

(b) decommissioning and final closure of the operation; and

(c) post closure management of residual and latent environmental impacts.

(2) The holder of a prospecting right, mining right or mining permit must annually update and review the quantum of the financial provision-

(a) in consultation with a competent person;

(b) as required in terms of the approved environmental management programme or environmental management plan; or

(c) as requested by the Minister.

(3) Any inadequacies with regard to the financial provision must be rectified by the holder of a prospecting right, mining right or mining permit-

in an amendment of the environmental management programme environmental

management plan, as the case may be;

(b) within the timeframe provided for; or (c) as determined by the Minister.

Per section 24P of National Environmental Management Act ("NEMA")

post An applicant for an environmental authorisation relating to prospecting, exploration, mining or production must, before the Minister responsible for mineral resources issues the environmental authorisation, comply with the prescribed ongoing decommissioning management of negative environmental impacts. provision for the rehabilitation, closure and financial

(2) If any holder or any holder of an old order right fails to rehabilitate or to

manage any impact on the environment, or is unable to undertake such provision contemplated in subsection (1) to rehabilitate or manage the rehabilitation or to manage such impact, the Minister responsible for mineral resources may, upon written notice to such holder, use all or part of the financial environmental impact in question.

(3) Every holder must annually-

increase his or her financial provision to the satisfaction of the Minister responsible (a) assess his or her environmental liability in a prescribed manner and must for mineral resources; and

(b) submit an audit report to the Minister responsible for mineral resources on the

assessment and financial provision contemplated in this section, the Minister responsible for mineral resources may appoint an independent assessor to conduct (4) (a) If the Minister responsible for mineral resources is not satisfied with the of the financial provision from an independent auditor. the assessment and determine the financial provision.

the Minister responsible for mineral resources in terms of the Mineral and financial provision as may be required to rehabilitate the closed mining or this section remains in force notwithstanding the issuing of a closure certificate by Petroleum Resources Development Act, 2002 to the holder or owner concerned and the Minister responsible for mineral resources may retain such portion of the impacts, including the pumping of polluted or extraneous water, for a prescribed prospecting operation in respect of latent, residual or any other environmental (b) Any cost in respect of such assessment must be borne by the holder in question. (5) The requirement to maintain and retain the financial provision contemplated in

(6) The Insolvency Act, 1936 (Act 24 of 1936), does not apply to any form of financial provision contemplated in subsection (1) and all amounts arising from that provision.

(7) The Minister, or an MEC in concurrence with the Minister, may in writing make subsections (1) to (6) with the changes required by the context applicable to any other application in terms of this Act.

.		specifically provided for in the MPRDA or NEMA, as the laws only refers to the increase in the provision, it does not refer to a decrease or to a concurrent rehabilitation.
· · · · · · · · · · · · · · · · · · ·		It is therefore questionable whether a reduction in the provision is legal when the mine is not being closed in terms of the requirements of the Act, but this is a matter for legal input.
		It is noted that the Trustees are not cc'd in the response possibly as a consequence of them not being included in the initial application letter to the DMR.
	**	Also, it should be noted that this approval occurred within 1 day. From a financial and accounting perspective, this is considered to be an <u>unusually</u> swift response from a public (state) department on a request considered to be of such a serious nature due to the amount of money involved, the considerations to be taken into account and the impact on the state should the state have to pay for the rehabilitation.
4.	Moneyweb article dated 4 September 2017 – FIC fines Bank of Baroda for flouting anti-corruption laws.	It was noted in the article that the SARB fined the Bank of Baroda R11m for non-compliance with FICA requirements. The bank reportedly failed to identify all the related parties in its transactions with the parties identified in the Public Protector Report on State of Capture.
۸.	Responding affidavit of Manoj Kumar Jha — Acting Chief executive of Bank of Baroda (South Africa).	In his responding affidavit Kumar Jha states reasons why the continued association of the Bank of Baroda with the Applicants, being the Oakbay group of companies and the Trusts, should be terminated. Jha's view, with which I agree, is that this association poses real risks to the continued viability of the bank here in South Africa, and there is a very real risk to the banks operations internationally.
#		It should be noted that Banks can only operate if their customers have confidence in them. If an event occurs which causes their customers to lose their confidence in a bank, and this causes these customers to withdraw their funds and place the funds

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		in another bank, this will cause the bank to fail as it will not have sufficient funds to pay all the customers that are withdrawing their money.
		The nature of a bank is to accept money in the form of a deposit and then make a loan using that same money to another customer. The bank then pays a lower interest to the client making the deposit, and charges a higher interest to the client that took the loan. The difference is a net positive figure called net interest.
		If a bank no longer had deposits due to customers withdrawing their money and potential customers not making deposit, the bank would not have any money to loan to its customers, so it would fail. This is termed "a run on the bank"
		In his affidavit, Tha states that Ragavan has been untruthful in her affidavit. Tha provides evidence that Ragavan's signature appears on agreements she has signed with pay agents. In paragraph 31.4 of Ragavan's affidavit she states "that they do not have any other pay agent, apart from Terbium." She also claims that "they will be unable to secure new pay agents while doubt remains over their banking facilities". This could lead to further consequences.
9	Bank of Baroda "to whorn it may concern" letter dated 5 October 2016	A list of accounts related to Optimum Mine Rehabilitation Trust confirming bank balances at 5 October 2016. Current Account: 920202000000524 – R9 338 316.18 Fixed deposit acc: 92020300000653 – R500 000 000.00 Fixed deposit acc: 92020300000654 – R500 000 000.00 Fixed deposit acc: 92020300000655 – R461 000 000.00 Certificate is issued at the request of Optimum Mine Rehabilitation Trust.
		This letter confirms that the Optimum Mine Rehabilitation funds are held by Bank of Baroda.
	Deed of Trust template (Individual beneficiary) for a Rehabilitation Trust to confirm with the	The Deed of Trust details when a trustee can be removed in terms of section 6.3, and also that at least two Trustees are required for a quorum is implied by 6.1.3.

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If there is only one Trustee that remains, the Trust will not be able to act until another Trustee is appointed.

requirements of the MPRDA and Income Tax Act

Section 14 and 16 of the Trust deed, provides the Trustees with their responsibilities in terms of how the cost of compliance with the statutory obligations and the contributions to the Trust are determined as well as how the annual contribution is made.

Section 14.1 of the Trust deed template details that,

"at least 90 days before the end of the financial year, the beneficiary shall cause written estimates to be prepared, by suitably qualified persons, of the probable cost of measures on an ongoing basis during the life of a mine or part of a mine. The estimates shall be certified as being fair by the beneficiary and shall thereafter be forwarded together with the calculations per formula referred to in clause 14.2 to the RM, on an annual basis."

In Section 14.2 "The beneficiary shall before the end of the financial year concerned pay into the bank account of the Trust the approved contribution towards the estimated cost of implementing the measures so approved. The contributions shall be calculated as set out in s 11 (hA) of the IT Act. If for any reason such contributions has not yet been considered and approved by the RM by the time such payment must be made, then such payment shall be made conditionally on obtaining such approval

In section 14.3 "Provided the RM shall give his prior approval in each case it shall be competent for the beneficiaries and trustees to revise estimates of the cost of measures required in the event of changed circumstances and on adjusted payment, certified in terms of clause 14.1, may be made in accordance with clause 14.2 above.

The above extracts show that in the normal course the Company as well as the

Trustees have a responsibility to approve the revision of any estimates made, the beneficiary does not have the authority to do so by themselves.

On information to hand, Ragavan appears to have exceeded her authority in requesting a reduction of the rehabilitation fund from the DMR and it appears that the Trustees have not acted in accordance with their responsibilities in approving the revision of the estimate of costs which would allow the reduction of the provision for rehabilitation costs or censuring Ragavan for acting without their approval in relation to the Trust money.

Section 16 of the Trust deed template refers to the compliance with the statutory obligations by the Trustees

It states.

"16.1 The trustees undertake to ensure that the funds are utilised to discharge the statutory obligations in accordance with the requirements laid down by the RM. The funds will be placed at the disposal of such beneficiary to carry out the statutory obligations as and when so required. This undertaking shall be a stipulation in favour of the RM and be enforceable by him."

The requirement in the standard Trust deed clearly states that the Trustees are in the usual course responsible for ensuring that the Trust funds are utilised by the company to discharge the statutory obligations in accordance with the requirements laid down by the Regional Manager of the DMR, and that the funds are only made available to the Company to allow the company to apply the funds for the mine rehabilitation.

It appears that as the funds were used as security by the company, which would place the funds at risk, this cannot be seen as being utilised to enable the company to perform work related to the rehabilitation of the mine in the manner required by the Act.

			From an accounting perspective, the Trustees appear to have failed in their duties to ensure that the funds are used in accordance with section 16.1.
	8. Oakbay Group shareholding organogram as prepared by Bank of Baroda	ganogram as	The organogram details the record of the understanding by Bank of Baroda of the Oakbay Group. There are a number of shareholdings that are indicated with a "?".
			This indicates that the Bank may not have applied with its own requirements for enhanced KYC (Know your Client) procedures. The bank has not properly recorded its understanding of its clients, which places it at risk of non-compliance.
			The organogram also shows that the Trusts are 100% owned by the related companies. This is wholly incorrect, as the Trusts are controlled by the Trustees who are required to act in terms of the Trust deed, and not in the interest of the company.
6	9. Letter from the Chief Executive of the Bank of Baroda South African Operations to Koornfontein Mines Proprietary Limited dated 23 August 2016	of the Bank of s to Koornfontein 23 August 2016	These letters indicate that a R150m facility of which R100m was utilised was made available on 6 June 2016 with the R170m fixed deposit being security for the loan.
	requesting repayment of loan advanced and the Letter from the Chief Executive of the Bank of Baroda South African Operations to Koornfontein Rehabilitation Trust dated 23 August 2016 requesting repayment of loan advanced.	vanced and the of the Bank of s to Koornfontein lgust 2016	The letters record that a meeting took place on 26 July 2016 between the bank and persons representing Koornfontein Rehabilitation Trust and Koornfontein Mines Proprietary Limited, confirming that the loan would be repaid by 30 September 2016, failing which, the fixed deposit would be liquidated prematurely by the bank to pay for any amount of the R100m loan that was still outstanding.
7-1	<u></u>		It is noted that the Deloitte Report (referred to in section 16 below), dated 24 February 2017, covered this period, but it does not mention that the fixed deposits were used as security for the R100m loan advanced on 6 June 2016. It appears that this loan was not reported in the monthly returns to the SARB, and was also not disclosed to Deloitte when they performed their Section 7 procedures.
\downarrow			For present purposes, I do not deal further with the above non-compliance of the

-

bank, which could result in further, more serious regulatory problems for the bank.	It should be noted that this action placed the Rehabilitation Funds at risk as the bank could set off the liability against the Trust funds that were used to secure the R100m loan.	The MPRDA and NEMA do not envisage the using of the funds as security for the loan.	As the letters refer to the same security, it indicates that the directors of Koornfontein Mines and Trustees of Koornforntein Mine Rehabilitation Trust acted together to use the Trust funds as security for a loan.	The Trustees have not acted in the interest of the Trust. By allowing the Trust funds to be used as security for a loan, the Trustees placed the funds at risk.	Based on the nature of the email, which is unusual it, would also appear that there is not much supporting documentation for the transaction.	If so, this also indicates that the Trustees did not act in the best interest of the Trust, as the rights and obligations and terms of the guarantee could be disputed, causing the Trust funds again to be at risk.	The letter from the Acting CEO informs the Trust that their deposits accounts will be deactivated, that all loans will be settled no later than 30 September 2017, and that if there are any non-fund based facilities, that these have a 100% cash margin.	The letter confirms that the bank still holds Trust funds and intends to close the accounts related to the Koornfontein Mine Rehabilitation Trust.	The letter from the Acting CEO informs the Trust that their deposits accounts will be deactivated, that all loans will be settled no later than 30 September 2017, and
							10. Letter from Acting Chief Executive of the Bank of Baroda to Koornfontein Mine Rehabilitation Trust. Dated 6 July 2017 re: Account 92020200000519		11. Letter from Acting Chief Executive of the Bank of Baroda to Optimum Mine Rehabilitation Trust.

(

	Dated 6 July 2017 re: Account 92020200000524	that if there are any non-fund based facilities, that these have a 100% cash margin.
		The letter confirms that the bank still holds Trust funds and intends to close the accounts related to the Optimum Mine Rehabilitation Trust.
12.	Application to open account with Bank of Baroda by Koornfontein Rehabilitation Trust dated 6 th May 2016	The completed application form signed by the three Trustees (of the Koornfontein Rehabilitation Trust) to open a bank account with Bank of Baroda in South Africa in the name of the Koornfontein Rehabilitation Trust.
		Per the application form, the Trustees at the time were Pushpaveni Ugeshni Govender and Trevor William Scott and, Althaf Emmalmally, who was not listed as a signatory.
		Also noted is that the Trustees do not name the entity correctly in the application, as the name should be "Koornfontein Mine Rehabilitation Trust" and not "Koornfontein Rehabilitation Trust".
		The Trustees in the application form were dishonest in stating that the Trust's holding company is Tegeta Exploration and Resources Proprietary Limited.
13.	Internal note to Chief Executive and Territory Head of the Bank of Baroda South Africa Operations to approve opening of bank account for Koornfontein Rehabilitation Trust dated 6 May 2016.	The note from the Chief Executive states that "the application is approved but that enhanced due diligence, KYC and AML documents must be obtained before opening the accounts. Transactions will be monitored for these." Approval is dated 30 May 2016.
		It is unclear at this stage if the procedures required per the Chief Executives instructions were performed, however, indications that these procedures were possibly not performed by the bank are shown by the incomplete organogram of the Oakbay group.
H.	Bank of Baroda, South Africa Report in terms of Section 7 of the Banks Act, 1990 as prepared by	The Deloitte report was mandated by the SARB leading from the State of Capture Report by the Public Protector as well as a meeting that was held on 8 November

M

This can be due to the Directors and/or the Trustees suspecting that the encumbering of the Trust money is in contravention of the requirements of the If the bank had done its KYC procedures as comprehensively as it was required to funds can be used, the bank could be prohibited from applying set-off for a This provides further evidence that the security for the loan did not go through the required procedures for granting a security as the documentation to support it does It is unlikely that the bank would provide security against these Trust funds in future due to the legal complications that could arise. If the bank needed to apply do, it would have been aware that there are legal restrictions related to how the recovery of a debt that has been secured by the Trust funds as the bank should have internal policy regarding the mine rehabilitation trust funds and its respective legal set-off to recover a debt, the funds would potentially result in non-compliance by requirements and that they recommend that the bank formalise such a policy. known that the funds have a specific statutory purpose, its customer with the MPRDA/NEMA. Trust deed and the NEMA/MPRDA. not appear to be in place.

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IN THE HIGH COURT OF SOUTH AFRICA GAUTENG DIVISION, PRETORIA

CASE NO: 65616 17

In the matter between:

ORGANISATION UNDOING TAX ABUSE

Applicant

and

THE TRUSTEE(S) FOR THE TIME BEING OF THE OPTIMUM MINE REHABILITATION TRUST

First Respondent

THE TRUSTEE(S) FOR THE TIME BEING OF THE KOORNFONTEIN MINE REHABILITATION TRUST

Second Respondent

PUSHPAVENI GOVENDER

Third Respondent

TREVOR SCOTT

Fourth Respondent

OPTIMUM COAL MINE (PTY) LTD

Fifth Respondent

KOORNFONTEIN MINES (PTY) LTD

Sixth Respondent

BANK OF BARODA

Seventh Respondent

MINISTER OF MINERAL RESOURCES

Eighth Respondent

CONFIRMATORY AFFIDAVIT

I, the undersigned,

SORETHA VENTER

do hereby make oath and say -

1. I am an adult female senior legal advisor employed by the Organisation Undoing Tax Abuse, the applicant in the above application.

1

- 2. The facts contained in this affidavit are within my own personal knowledge and are both true and correct.
- 3. I have read the founding affidavit deposed to by STEPHANIE FICK ("Fick") and confirm as true and correct the allegations contained therein insofar as they relate to me.
- 4. Furthermore, I confirm the following:
 - 4.1. I was requested by Werksmans to conduct CIPC searches on Optimum Coal Mine (Pty) Ltd and Koornfontein Mines (Pty) Ltd in order to confirm the details of the duly appointed directors of those companies. I attach as annexures SV1 and SV2, the results of those searches which confirm the allegations set out in the section headed 'The Trusts and Gupta/Oakbay Group'.
 - 4.2. I received an email from Trevor Scott on 15 September 2017 (but dated 1 September) in response to OUTA's letter of 25 August 2017 stating inter alia:
 - 4.2.1. He had resigned as Trustee of the Optimum Mine Rehabilitation

 Trust and the Koornfontein Mine Rehabilitation Trust;
 - 4.2.2. OUTA's queries should rather be directed to the remaining trustee and Group CEO; and

4.2.3. He has passed OUTA's correspondence on to the remaining

trustee and Group CEO for their response.

A copy of this email is attached as "SV3".

SORETHIA VENTER

I certify that this affidavit was signed and sworn to before me at day of September 2017 by the deponent who acknowledged that she knew and understood the contents of this affidavit, had no objection to taking this oath, considered this oath to be binding on her conscience and uttered the following words: 'I swear that the contents of this affidavit are both true and correct, so help me God."

COMMISSIONER OF OATHS

Name:

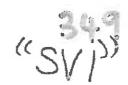
Address:

SHAUM SAVE COLLINS COMMISSIONER OF OATHS (SK DEFICE)

Capacity

Processing Account R.S.A. Hatfled F. J. za, Morth Tower 314 Frien & met

Hadroid, Protoria,0033



Free Disclosure Certificate: Companies and Close Corporations

Registration Number:

Enlerprise Name:

KOORNFONTEIN MINER



Companies and Intellectual Property Commission

A member of sky ski group

ENTERPRISE INFORMATION

Registration Number

2006 / 013073 / 07

Enterprise Name

KOORNFONTEIN MINES (PTY) LTD

Registration Date

02/05/2006

Business Start Date

02/05/2006

Enterprise Type

Private Company

Enterprise Status

Compliance Status

in Business Compliant

Financial Year End

February

TAX Number

9378849153

Addresses

POSTAL ADDRESS

GRAYSTONE RIDGE OFFICE PARK BLOCK A LOWER GROUND FLOOR 144 KATHERINE STREET SANDTON

GAUTENG

ADDRESS OF REGISTERED OFFICE

OFFICIAL USE

GRAYSTONE RIDGE OFFICE PARK **BLOCK A LOWER GROUND FLOOR** 144 KATHERINE STREET SANDTON

GAUTENG 2196

Interest

(%)

0.00

NOT FOR

ACTIVE MEMBERS / DIRECTORS

Surname and First Names

Type

ID Number / Date of Birth Contrib (R)

Appoint, Date

Address

RAGAVAN, RONICA

Director

779917XXXX 05 X

6.00

15/04/2016

Postal: PRIVATE BAG X180. HALFWAY HOUSE, HALFWAY

HOUSE, GAUTENG, 1685 Residential: 129A 6/5HOP 6:RD STREET, ROOHUISKRAAL, ROOHUISKRAAL, GAUTENG,

LOURENS, LOUIS BOTHA

620531XXXX ла х

0.00

0.00 15/04/2016

Postal: 66A SANTOLEVA

RUSTENBURG, RUSTENBURG, GAUTENG, 0299

Residential: 68A SANTOLINA RUSTENBURG, RUSTENBURG, GAUTENG 0290

AUDITOR DETAILS

Auditor Name

Туре

Status

Appointment Date

Resignation

Email Address

DELOTTE & TOUCHE

Auditor

Profession Number: 902276 KPMG INC

Audilor

Resign

2008-01-25

Profession Number: 922234E

Page 1 of 17

Physical Address the dif Campus - Block F 77 Maintijies Street

Sunnyside DOG 1

Postal Address: Companies P O Box 429

Pretoria D004

Docen: 256 Web: www.clpc.co.za

Contact Centre: 086 100 2472 (CIPC)

Free Disclosure Certificate: Companies and Close Corporations

Registration Number:

2006 / 013073 / 07

Enterprise Name:

KOGRNFONTEN MINES



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SIZWENTSALUBAGOBODO INC

Profession Number: 945016

ALEXANDROS PHILIPPOU

Designated Auditor

Auditor

Cuttent

Current

ACTIVE

Profession Number: 854379

CHANGE SUMMARY

2008-10-27

Accounting Officer Change on 27/10/2008.

Change Record

2008-10-27 *

Status. = Current long Officer Change on 27/10/2008.

Change Record Name: = KPMG

2008-10-27 *

Statut: = Current ared Address Change on 17/11/2008.

12TH FLOOR, NEDBANK BUILDING

NO 81 MAIN STREET JOHANNESBURG

2008-10-27

Postal Address Change on 17/11/2008.

PO BOX 12756

2008-10-27

1686 ared Address Change on 17/11/2008.

12TH FLOOR, NEDBANK BUILDING

NO 61 MAIN STREET **JOHANNESBURG**

2008-10-27

Postal Address Change on 17/11/2008.

PO BOX 62203

2008-11-12

2008-12-18 *

2107

or Change on 23/07/2008

Sumame*LOUW

Full ForeNames=GIDEON PETRUS

ld No=6207135011663

Status : ACTIVENSILIS of Change * APPOINTMENT AS DIRECTOR * Chango on 23/07/2008.

2008-11-12 *

Surname=BERRY Full ForeNames ROBIN CRAIG

Mo+8208025155083

Status :ACTIVENature of Change=APPOINTMENT AS DIRECTOR Change on 08/12/2008

Full ForeNames=AttCHAEL SOLOMON to No=6408:55713083

Status :ACTIVENature of Change *ALTERNATE DIRECTOR Member Change on 03/12/2008.

2008-12-18

Page 2 of 17

Physical Address

the dtl Campus - Block F 77 Meintiles Street Sunnyside 0001

Postal Address: Companies

P O Box 429 Pretoria 0001

Docex: 256

Web: www.cipc.co.za

Contact Centre: 086 100 2472 (CIPC)





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Free Disclosure Certificate: Companies and Close Corporations

Registration Number:

2006/813073/07

Enterprise Name:

KOORNFOHTEIN MINES

Sumame*TEKE

Full ForeNames MICHAEL SOLOMON

ld No=8498155713083

2008-12-18

Status : ACTIVENature of Change - ALTERNATE DIRECTOR

nber Changa en 08/12/2008.

SummerTEKE

Full ForeNames=MICHAEL SOLOMON

ld No=6408155713083

Status :ACTIVENSIUM of Change-ALTERNATE DIRECTOR

2008-12-18 Nember Change on 08/12/2008.

Sumame=TEKE

Full ForeNames=MICHAEL SOLOMON

Mt No=6408155713083

Status :ACTIVENISHING of Change=ALTERNATE DIRECTOR

2009-02-02 Member Change on 02/02/2009

Sumanie=TEKE

Full ForeNerms=NICHAEL SQLOMON Id No=6408155713083

Status :ACTIVENIANS of Change#RESIGNED ON 08/12/2008

2009-02-02 * Member Change on 02/02/2009.

Full ForeNames=MICHAEL SOLOMON M No=6408155713083

States :ACTIVENature of Change=RESIGNED 08/12/2008
Member Change on 02/02/2009.

2009-02-02

ame=TEKE

Full ForeNames=MICHAEL SOLOMON

ld No=8408155713083

Status :ACTIVENeurs of Change=RESKINED ON 08/12/2009
Mamber Change on 06/02/2009 2009-02-08

Sumame-TEKE

Full ForeNames=MICHAEL SOLGMON

ld No=6408155713083

Status : RESIGNEDNature of Change-RESIGNED ON THE 04/12/2008 2009-02-08 Member Change on 05/02/2009.

SumamesTEKE

Full ForeNomps=MICHAEL SOLOMON

Id No=6408156713083

Status :RESIGNEDNature of Change RESIGNED ON THE 04/12/2008

er Change on 06/02/2009, 2009-02-08

SumamonTEKE

Full ForeNames-MICHAEL SOLOMON

ld No=6408155713083

Status : RESIGNEONaure of Change=RESIGNED ON THE 0U12/2008.

2009-02-06 * or Change on 96/92/2009.

Sumamu=TEKE

Full ForeNames=MICHAEL SOLOMON

ki No=6408155713063

Status :ACTIVENDIUM of Change=ND CHANGE.

2009-02-06 * Member Change on 06/02/2009.

Summer Otil

Full ForeNames=GIDEON PETRUS

td No+6207135011083

Status :ACTIVENature of Change=NO CHANGE. Member Change on 06/02/2009.

2009-02-08

SemiamesHERRY

Full ForeNames=ROBIN CRAIG Id No=8208025155083

Status :ACTIVENSIUM of Change (NO CHANGE)

Page 1 of 17

Physical Address the dtl Campus - Block F 77 Meintiles Street

Sunnyside 0001

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P Q Box 429

Pretoria 0001

Docex; 256

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Contact Centre: 086 100 2472 (CIPC)



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2006 / 813073 / 87

Enlerprise Name:

KOORNFONTEIN LINES

2009-07-08 *

Member Change on 05/02/2009.

Sumame authorized

Full ForeNames=LINDANI BENNET

Id No=8909235106085 Status :ACTIVENature of Change=NO CHANGE

2009-02-06 Member Changs on 05/02/2009.

> Sumamo=NEMATSWERANI Full ForeNemen*NKHUMELENI SAMUEL

Id No=6107280000000

Status :AGTIVENature of Change=NO CHANGE.

2006-05-04 Registration of CC/CO on 02/05/2006

2006-07-12

2006-07-12 -

2006-10-23

2008-10-23

2007-01-24 *

Member Change on 12/07/2005.

Sumame-PETERS

Full ForeNames=JACQUES THEODOR CARL

ld No-8707205017001

Status :RESIGNEDNature of Change-REGISNED: 12/07/2006

2008-07-12 * Member Change on 12/07/2006.

Sumame-MTHWA

Full ForeNames=LINDANI BENNET M No=8909235406085

Status :ACTIVENAME of Change=NEW APPOINTMENT: 12/07/2006 Member Change on 12/07/2006.

Sumanu=SCHROEDER

Full ForeMames=WILRICH id No=5409155147083

Status : ACTIVENSIARE of Change NEW APPOINTMENT: 12/07/2008 2005-10-13 Wember Change on 13/10/2006

ame = SCHROEDER Full ForeNames=Wit.RICH

Id No=5409155147083

Status : RESIGNED Nature of Change * DIRECTOR RESIGNED-21/08/08

Member Change on 23/10/2006.

SumamonATHWA

Full ForeNames LINDANI BENNET

ld No=8909235408085

Status : ACTIVENSIUM of Change=NO CHANGE Member Change on 23/19/2005

2006-10-23

Sumame=NEMATSWERAN

Full ForeNames NIKHUMELEND SAMUEL

ld No=6107280000000

Status : ACTIVENSIANS OF Change NEW APPOINTMENT: 21/08/2005 r Change on 23/10/2008

Sumann=KYLE

Full ForeNames=DEREK LYNDON

ld No=3709125030083

Status: ACTIVENsture of Change*NEW APPOINTMENT: 21/08/2006 Registered Address Change on 14/02/2007.

12TH FLOOR, NEOBANK BUILDING NO 81 MAIN STREET

JOHANNESBURG

2007-01-24

Postal Address Change on 14/02/2007.

PO BOX 12756

VORNA VALLEY

1666

Page 4 of 17

Physical Address

Postal Address: Companies

P O Box 429 Pretoria

0001

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Contact Centre (International): +27 12 394 9500

the att Campus - Block F 77 Maintjies Street Sunnyside 0001



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Registration Number:

2006/013073/07

Enterprise Name:

KOORNFONTEN KINES

Companies and Intellectual **Property Commission**

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2007-01-31

Change of Financial Year End on 30/06/2007.

2007-05-11

Member Change on 15/09/2006.

SumamacKYLE

Full ForeNames=DEREK LYNDON

id No.:3709125030063

Status : RESIGNEDNature of Change=DIRECTOR RESIGNED Name Change on 20/09/2007,

2007-09-20 2007-09-21

MAIN STREET 432 Change of Financial Year End on 28/02/2008.

2007-10-02 *

Name Change on 02/10/2007,

MOORNFONTEIN COLLIERIES

2007-10-02

Principle Business Change on 02/10/2007.

6Z

2008-01-29 -

Accounting Officer Change on 25/01/2008.

PO BOX ROA SECUNDA

2302

2008-01-29

Status Address Change Accounting Officer Change on 25/01/2006.

2008-02-06

Monther Change on 01/01/2008

SumamesPOWART Full ForeNames=MICHAEL BERRIE Id No=5408215133087 Birth Date #21 JUNE 1954 Nationality#SOUTH AFRICA RSA Resident#1

Date of Appointment=1 JANUARY 2008

Profession*

Designation*COMPANY SECRETARY (NATURAL PERSON)

Residential Address 304 DUNKELD SQUARE 15 NORTH ROAD **OUNKELD WEST**

2196

Business Address 308 DUNKELD SQUARE 15 NORTH ROAD DUNKELD WEST

2196

Postal Address POSTNET SUITE 10 PRIVATE BAG X1 MELROSE ARCH

Nature of Change=APPOINTMENT

Status :ACTIVE

Accounting Officer Change on 22/08/2008.

SPOWART MICHAEL BERRIE Status : Resign

Page 5 of 17

Postal Address: Companies

P Q Box 429 Pretoria

0001

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Physical Address the dil Campus - Block F 77 Meintjies Street

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2008-09-08



Free Disclosure Certificate: Companies and Close Corporations

Registration Number:

2006/013073/07

Enterprise Name:

KOORNFONTEIN MINES

Companies and intellectual **Property Commission**

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2008-10-25

Member Change on 15/10/2008

SUMMERSTATICOR

Full ForeNamous

Registration No=1989005394J/ Nationality=SOUTH AFRICA

RSA Resident=0

Date of Appointment of OCTOBER 2008

Protession=

Designation*SECRETARY (COMPANIES AND CC'S)
Residental Address

Butiness Address
NO 13 WELLINGTON ROAD

2193

Postal Address

PRIVATE BAG X60500

HOUGHTON

Nature of Change APPOINTMENT

Status ACT/VR per Change on 03/09/2009. 2009-09-03

Sumame=TEKE

Full ForeNames=MICHAEL SOLUMON

ld No=8408155713083

Status .ACTIVENature of Change=NO CHANGE Member Change on 03/09/2009,

2009-09-03

SumamerLOLAV
Full ForeNamer-GIDEON PETRUS

ld No=6207135011083

Status :ACTIVENature of Change=NO CHANGE

2009-09-03 or Change on 03/09/2009

SUTTEMBRERERRY

Full ForeNames=ROBIN CRAIG

ld No=6206025155083 Status :ACTIVENSIAM of ChangesNO CHANGE

2009-09-03 Member Change on 02/09/2009.

Sumame=MTHWA

Full ForeNames=LINDANI SENNET

fit Na>5909235406085

Status :ACTIVENglure of Change=NO CHANGE

2009-09-03 * nber Change on 93/99/2009.

Sumamer NEWATSWERANI

Full ForeNames=NKHUMELENI SAMUEL

td No=\$107280000000

Status :ACTIVENature of Change=NO CHANGE 2009-09-03 iber Change on 03/09/2009.

Sumame=MOGOROSI

Full ForeNames=NICKY FRANCINAH

Ma=8506160838082

Status :ACTIVENBIUM of Change=NEW APPOINTMENT 12/05/2009 2009-12-08 Member Change on 22/04/2009.

Page 8 of 17

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Sunnyside 0001

Postal Address: Companies

P O Box 429

Pretoria 0001

Docex: 255

Web: www.cipc.co.za

Contact Centre: B86 100 2472 (CIPC)







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Free Disclosure Certificate: Companies and Close Corporations

Registration Number:

2086/813073/07

Enterprise Name:

KOORNFONTEN MINES

n==ZUNGV

PLE FORNOMOS=THEMBA CLIFFORD Id No=64 12245596888

2010-02-08

Stells :ACTIVENSIAN of Change=NEW APPOINTMENT 22/04/2009

Member Change on 05/02/2010.

Sumame=ZUNGU

Full ForeNames=THEMBA CLIFFORD Id No=6412245896066

Sietus :ACTIVENsiere of Change=NO CHANGE Nember Change on 04/12/2008,

2010-02-08

Sameme=TEKE

Full ForeNames=MICHAEL SOLOMON

ld No=6408155713083

Status: RESIGNEONature of Change * ERROR APPOINTMENT 04/12/2005 Marrier Change on 08/02/2010.

2010-02-08 -

SumamenLDUW

Full ForeNames=GIDEON PETRUS

id No=6207135011083

Status :ACTIVENSIUM of Change=NO CHANGE 2010-02-08

iber Change on 08/02/2010

SumamerBERRY

Full FormNames*ROSIN CRAIG ki No=6206026155083

Status :ACTIVENature of ChangesNO CHANGE 2010-02-08

Member Change on 05/02/2010.

SumamarMTHMA

Full ForeNamou=LINDAM BEARNET

ld Na=6909235408085

Status :ACTIVENature of Change=ND CHANGE

2010-02-08 Member Change on 08/02/2010

SUMMO=NEMATEWERANI

Full ForoNames NICHUMELENI SAMUEL

ld No=6107280000000

Status :RESIGNEDNature of Change=DIRECTOR RESIGNED 30/03/2009

2010-02-08 Member Change on 08/02/2010.

Sumama=MOGOROSI

Full FareNameseNICKY FRANCINAH Id No-6506 160836062 Status :ACTIVENelure of Change-NO CHANGE

2010-04-26 Registered Address Change on 17/05/2010. UNIT 81003

MARLBOROUGH GATE HYDE PARK LANE

2196 Postal Address Change on 17/05/2010.

2010-04-26 *

P O BOX 411333

CRAIGHALL

2010-04-13

2024

Member Change on 08/04/2010.

Sumana=GAIN

Full ForeNames=DOUGLAS ROBERT ld No=7612295021086

Status :ACTIVENature of Change=NEW APPOINTMENT 2010-04-13 * Member Change on 08/64/2010.

Sumame*LOUW

Full ForeNames=GIDSON PETRUS

ld No=6207135011883

Status : RESIGNEDNature of Change=DIRECTOR RESIGNED

Page 7 of 17

Physical Address

Sunnyside 0001

the dil Campus - Block F 77 Meintlies Street

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0001

Donex: 256

Web: www.cipc.co.za

Contact Centre: 986 100 2472 (CIPC)



Free Disclosure Certificate: Companies and Close Corporations

2006/013073/07

Enterprise Name:

KOCKNFONTEN MINES



Companies and Intellectual Property Commission

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2010-04-13

Member Change on 08/04/2010

Sumame=V/HITE

Full ForeNamos=HENRY CHRISTO

ld No=6106305127085

Status ACTIVENSture of ChangesNEW APPOINTMENT

2010-04-16 -

r Change on 15/04/2010 STATUCOR

2010-04-21 -

Status : Resign Member Change on 20/04/2010

Sumame=ZUNGU

Full ForeNames=THEMBA CLIFFORD

ld No=6412245596088

Status : RESIGNEONature of Change-DIRECTOR RESIGNED

2010-08-21 Mamber Change on 21/04/2010

Sumamer@ARN
Full ForeNamer=DQUGLAS ROBERT
Id No=7612295021688

Sistus ACTIVENIQUE of Change NO CHANGE

2010-04-21

Member Change on 21/04/2010

Sumame=WHITE Full ForeNames=HENRY CHRISTO Id No=6106305127065

Status :ACTIVENature of Change=NO CHANGE

2010-04-21 *

Member Change on 08/04/2010. name=BERRY

Full PoreNames=ROBIN CRAIG

M No=8206025155083

Status : RESIGNEDNature of Change *DIRECTOR RESIGNED

2010-04-21 Member Change on 20/11/2009

Full ForeNames=LINDANI BENNET Id No=6909235406085

Status :RESIGNEDNatu re of Change=DIRECTOR RESIGNED

2010-04-21 Member Change on 21/04/2010

Sumame=MOGOROSI

FUIL FORDNAMUSENICKY FRANCINAH

ld No=6506160638082

Status : RESIGNEDNature of Change-DIRECTOR RESIGNED

2010-04-21 or Change on 21/04/2010

Burname/GAIN

Full ForeNames=DOLIGLAS ROBERT Id No=7612295021088

Status ACTIVENature of Change=NO CHANGE or Change on 21/04/2010

2010-04-21

Sumame=WHITE

Full FereNames*HENRY CHRISTO Id No=8106305127065

Status :ACTIVENature of Change=NO CHANGE Member Change on 20/04/2018.

2010-04-21

Sumame=TEKE

Full ForeNamessMiCHARL SOLOMON

id No=8408155713083

Status :ACTIVENature of Change-NEW APPOINTMENT

2010-04-21 or Change on 20/04/2010

Summan GOUNDEN

Full ForeNemes=StVANDRAN MUNSARI

ki No=5908025174086

Status : ACTIVENISHING of Change-NEW APPOINTMENT 2010-04-30

Name Change on 38/04/2010.

SIYANDA COAL

Physical Address the dif Camous - Block F.

Postal Address; Companies

Docex: 256

77 Maintiles Street

P C Box 429 Pretoria

Web: www.cipc.co.za

Sunnyside 0001

0001

Contact Centre: 086 100 2472 (CIPC)





Free Disclosure Certificate: Companies and Close Corporations

Registration Number

2006 / 013073 / 07

Enterprise Numer:

KOORNFONTEIN MINES

Companies and Intellectual Property Commission

a member of the still group

Registered Address Change on 24/05/2010.

UNIT B1003 MARLBOROUGH GATE

HYDE PARK LANE 2198

2010-05-03

Postal Address Change on 24/05/2010,

P 0 80X 411333 CRAIGHALL

2010-05-28

2024

Namber Change on 28/05/2010.

SURNAME SCOTT

FIALL FORENAMES-MICHAEL BOYD NATIONALITY-SOUTH AFRICA

DATE OF APPOINTMENT-28 MAY 2018

PROFESSION=

DESIGNATION FCOMPANY SECRETARY (NATURAL PERSON)

RESIDENTIAL ADDRESS 1 FRANCKEN CLOSE 95A LANCASTER AVE CRAIGHALL PARK

2196

BUSINESS ADDRESS

UNIT B 1003, MARLBOUROUGH GATE UNIT B1003, MARLEDUROUGH GATE

HYDE PARK LANE HYDE PARK

POSTAL ADDRESS P O BOX 411333 CRAIGHALL.

2024

NATURE OF CHANGE APPOINTMENT

STATUS ACTIVE ber Change on 28/05/2010

2010-05-28 *

Sumame=SCOTT

Full ForeNames=MiCHAEL BOYD ld No=6306095230186

Status :ACTIVENature of Change=NEW APPOINTMENT

2010-07-01 ber Chance on 21/06/2010

SumamerGOUNDEN

Full ForeNames=StVANDRAN MUNSAULI Id No=5908025174086

Status : RESIGNEDNATURE of Changes DIRECTOR RESIGNED Member Change on 22/06/2010.

2010-07-01

Sumame=KHDZA

Full Foreflames=PRINCESS NONDUMISO 14 No=7203300326082

Status : ACTIVENSIUM of Change *NEW APPOINTMENT or Change on 01/09/2018 2010-09-26 *

SCOTT

Status : Resign 2010-09-28 Member Change on 01/09/2010.

Page 8 of 17

Physical Address

Sunnyside 0001

the dtl Campus - Block F 77 Maintijes Street

Postal Address: Companies

P O Box 429 Pretoria

0001

Docax: 256

Web: www.cipc.cg.za

Contact Centre: 086 100 2472 (CIPC)







Companies and intellectual **Property Commission**

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Free Disclosure Certificate: Companies and Close Corporations

Registration Number

2005 / 013072 / 07

Enterprise Name:

KOORNFONTEIN MINES

SURNAMEESWART LARMIGNY FULL FORENAMES ANNA CECILIA NATIONALITY=SOUTH AFRICA RSA RESIDENT=

DATE OF APPOINTMENT-1 SEPTEMBER 2010

PROFESSION:

DESIGNATION-COMPANY SECRETARY (NATURAL PERSON)

RESIDENTIAL ADDRESS 13 WOODSTREAM LOFTS PIET RETIEF RD NOORDHEUWEL

1739 BUSINESS ADDRESS UNIT 91003 MARLBOROUGH GATE **LINIT B 1003 MARLBOROUGH GATE** HYDE PARK LANE HYDE PARK

POSTAL ADDRESS P O BOX 411333 CRAIGHALL

NATURE OF CHANGE APPOINTMENT

STATUS ACTIVE

2011-01-03 Change of Financial Year End on 30/06/2011.

2011-07-09 Status changed to Concellation of Deregistration Process on 09/07/2011.

Annual Ratum Non Compliance - Concellation of Daregistration

2011-11-04 Member Change on 04/11/2011,

Authorising Director Delais Director Full ForeNames MICHAEL SOLOMON

(D Number=6408155713083 Director Full ForeNames=MARINA

Sumamo=SCHUSTER ID Number=8212220105087

2011-11-01 Member Change on 04/11/2011

Authorizing Director DetailsDirector Full ForeNames=MICHAEL, SOLOMON

\$umame=TEKE 1D Number=6498155713083

2011-11-07 r Change on 08/94/2010.

Full ForeNames=HENRY CHRISTO

Sumame=WHITE AppointmentDate=08/94/2010 Sistus=C

2011-11-07 Member Change on 26/05/2010.

Full ForeNames=MICHAEL 80YO Sumama=SCOTT

AppointmentDate=26/05/2010 Sistes=C

Member Change on 03/06/2011. 2011-11-07

Full ForeNames=JAN JOHANNES Sumame=BRONKHORST AppointmentUsie=03/08/2011

Member Change on 08/04/2010. 2011-11-07

Page 19 of 17

Physical Address the dtl Campus - Block F 77 Maintiles Street Sunnyeide 0001

Postal Address; Companies P O Box 429

Pretoria 0001

Docey: 256 Web: www.cipc.co.za

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Free Disclosure Certificate: Companies and Close Corporations

2008/013073/07

Enterprise Name KOORNFONTEN MINES

Companies and Intellectual Property Commission

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Full ForeNames=DOUGLAS ROBERT Surname=GAIN

AppointmentDate=06/04/2010 Status=A

2011-11-07 Member Change on 20/04/2010.

Full ForeNames=MICHAEL SOLOMON

Sumame=TEKE AppointmentDate=20/04/2010 Signisaa

2011-11-07 -Member Change on 22/95/2018.

Full ForeNames*PRINCESS NONDUMISO

Sumames KHD74 AppointmentDate=22/06/2010

Status =A 2011-11-07 ber Change on 08/04/2010.

Full ForeNames#HENRY CHRISTO

Sumanne-WHITE AppointmentDate=05/04/2010 StatusaiC

2011-11-07 Member Change on 28/05/2010

> Full ForeNames=MICHAEL BOYD Sumama*\$COTT AppointmentDate=28/05/2010

Status=C 2011-11-07 * Member Change on 03/06/2011

Full ForeNormer JAN JOHANNES Sumame=BROMOKORST

AppointmentDate=03/06/2011 Status=A

2011-11-07 Member Change on 08/04/2010.

FIM ForeNames=DOUGLAS ROBERT

Surrama=GAM AppointmentDate=08/04/2010

2011-11-07 Member Change on 20/04/2018

Full ForeNames#MICHAEL SOLOMON

Sumane TEKE Appointment(Letex20004/2017)

2011-11-07 Member Change on 22/06/2010.

Full ForeNames=PRINCESS NONDUMISO

Sumame=KHOZA AppointmentDate=22/06/2010

2011-11-07 Member Change on 97/11/2011.

Authorising Director Details Director Full Fore Names - MICHAEL SOLOMON

Sumame=TEKE ID Number=6408155713083 Director Full ForeNames=MARINA

Sumane=SCHUSTER ID Number=8212220105087

2011-11-07 Member Change on 07/11/2011

Authorizing Director DelaitsDirector Full ForeNames=MICHAEL SOLOMON

Sumame*TEKE fD Number=6408155713083

2015-11-07 * Member Change on 20/04/2010

Full ForeNames=MICHAEL SOLOMON

0001

Sumame*TEKE AppointmentDets=20/04/2010 Status=A

Page 11 of 17

Physical Address the dtl Campus - Block F

77 Maintjies Streat

Sunnyside 0001

Postal Address; Companies

P O Box 429 Pretoria

Web: www.cipc.co.za

Contact Centre: 086 100 2472 (C(PC)





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Free Disclosure Certificate: Companies and Close Corporations

2006 / 013073 / 07

Enterprise Name:

KOORNFONTEIN MINES

Member Change on 08/94/2010. 2011-11-07 *

> Full ForeNames - DOUGLAS ROBERT Communication CANA

AppointmentDate=08/04/2010

Status=A

Member Change on 22/06/2010 2013-11-07

Full ForeNames PRINCESS NONDUMISO

Sumama-KHOZA AppointmentDate=22/06/2010

StatuerA

Member Change on 03/05/2011. 2011-11-07

> Full ForeNames LAN JOHANNES Sumama BRONKHORST AppointmentDate=03/06/2011

SlavenC

2011-11-07 Member Change on 07/11/2011.

Authorising Develor DetailsDirector Full ForeNames*PRINCESS NONDUMISO

Sumama*KHOZA ID Number=7203300326082 Customer Delaits Director Full ForeNames#MARINA Sumame=SCHUSTER ID Number=8212220105087

2011-11-07 er Change on 07/11/2011.

Authorising Director Details Director Full ForeNamess PRINCESS NONDLIMISO

Sumome KHOZA ID Number=7203300326082 Member Change on 20/04/2010.

2013-11-10 Full ForeNames=MICHAEL SOLOMON

Sumame=TEKE Appointment/Date=20/04/2010

Status 2011-11-10 * per Change on 03/08/2011,

Full Fore Names ZIAN JOHANNES Sumane=BRONKHORST Appointment/Dela-03/95/2011 Stokes=A

2011-11-10 Member Change on 10/11/2011.

Authorising Director Detr.2sDirector Full ForeNames=DOL/GLAS ROBERT

Sumamo=GAIN ID Number=7612295021088 Customer Details Director Full ForoNomes=MARINA Sumeme*SCHUSTER ID Number#8212220105067

2011-11-10 Member Change on 10/11/2011.

Authorising Orector Details Director Full ForeNames=DOUGLAS ROBERT

Sumeme=GAIN ID Number=7612295021088

2011-11-14 1 er Change on 20/04/2010.

Full ForeNames=MICHAEL SOLOMON Sumame*TEKE
AppointmentDate*20704:2010

Status=A Postal Address Change on 27/10/2011. 2011-15-18 *

POBOX 411333 CRAIGHALL

2024

Page 12 of 17

Physical Address the dti Campus - Block F 77 Maintjies Street Sunnyside 0001

Postal Address: Companies

P O Box 429 Pretoria 0001

Docex: 256 Web; www.cipc.co.za

Contact Centre: 086 100 2472 (CIPC) Contact Centre (International): +27 12 394 9500







Free Disclosure Certificate: Companies and Close Corporations

2006/013073/67

Enterprise Name:

KOORKPONTEW KINES

Companies and intellectual **Property Commission**

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2011-11-18

Registered Address Change on 27/10/2011.

UNIT 81003 HARLBOROUGH GATE

HYDE PARK LANE HYDE PARK 2198

2012-09-14

sting Officer Change on 30/06/2012.

Change Record

Nome : = DELOITTE & TOUCHE

Status : = Current nting Officer Change on 30/08/2012. 2012-09-14

Change Record

Name : - KPMG INC Sinher : = Region

2012-09-17 Change of Financial Year End on 31/12/2012.

2013-01-04 * Member Change on 22/11/2012.

> Change Record Sumame = GAIN

First Names = DOUGLAS ROBERT

Status = Resigned or Change on 22/11/2012, 2013-01-04

Change Record

Sumame = KHOZA

First Names = PRINCESS NONDUMISO Status = Resigned

2013-01-04

r Change on 22/11/2012

Change Record

Sumama * TEKE

First Names = MICHAEL SOLOMON

Sistus = Resigned
Member Change on 22/11/2012 2013-01-04

Change Record

me = BRONKHORST First Names = JAN JOHANNES

Status = Resigned
Member Change on 22/11/2012. 2013-01-04

Change Record

Sumame = EPHRON
First Names = CLINTON MARTIN

Status = Active
Member Change on 22/11/2012, 2013-01-04

Change Record Surrame = COHEN First Names = RICHARD

2013-01-04 Member Change on 22/11/2012.

> Change Record Surrame = BLANKFIELD First Names = SHAUN MARCO

Status = Active Mamber Change on 10/04/2013. 2013-04-10

Authorising Director DetailsDirector Full ForeNames*Richard

Sumame=Cohem (D:Number=6502145076058 Customer Balaitt

Orector Full ForeNames=Solete de Soute

ID Number=8708130194089

Page 13 of 17

the dtl Campus - Block F 77 Meinijies Street

Sunnyside 0001

Postal Address: Companies P O Box 429

Docex: 258 Web: www.cipc.co.za

Pretoria 0001

Contact Centre: 086 100 2472 (CIPC) Contact Centre (International): +27 12 394 9500





Free Disclosure Certificate: Companies and Close Corporations

Recisitation Number

2006 (013672) 47

Enterprise Name:

KOORNFONTEN MINES

Companies and Intellectual Property Commission

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2013-04-10

Mamber Change on 10/04/2013.

Authorising Director Details Director Full ForeNerses*Richard

SumamoxColum ID Number=6502145076088

2013-04-12

Member Change on 12/04/2013.

Unlock PasswordUnlocked by GRIAASUP assword successfully sent to sw@premcurp.co.za

2013-04-16

Member Change on 19/09/2012.

Full ForeNames+SHAUN MARCO Sumame-BLANKFIELD

2010-04-16

AppointmentDate=19/09/2012 Status=C Member Change on 18/01/2013.

Full ForeNames*Thundeka Tosans Sumame*Ncube AppointmentDate*16/01/2013

Status A

2013-04-16 Nember Change on 16/01/2013.

> Full Forettemes=Phulid Sumame-Malaba

AppointmentDate=16/01/2013

StatuseA

2013-07-03 * Member Change on 12/06/2013.

Change Record

Surrame w SWART LARATIGAY First Names = ANNA CECILIA

2012-07-03 *

Status = Resigned ber Change on 12/05/2013.

Add Record

Company Name = XSTRATA SOUTH AFRICA

First Names = Status or Active

2013-08-07 *

Postal Address Change on 24/07/2013

PO 80X411313 CRAIGHALL

2024

2013-08-07 Registered Address Change on 24/07/2013.

36 FRICKER ROAD **ILLOVO** JOHANNESBURG GAUTENG

2196

2014-01-16 Member Change on 16/01/2014.

Authorising Director Details Director Full ForeNames ** CLINTON MARTIN

Sumame#EPHRON ID Number=6905025002084 Customer Dotalis Director Full ForeNi Sumame=Wilke

ID Number=5708130194089

2014-01-18 Member Change on 16/01/2014.

Authorising Director DetailsDirector Full ForeNames#CLINTON MARTIN

ID Number=6505025002084 2014-01-21 Member Change on 21/01/2014.

Liniock PasswordLiniocked by TOMMYSPassword successfully sent to surgipremising accessfully

2014-01-21 Member Change on 21/01/2014.

Unlock PasswordUnlocked byTOMMYSPassword successfully sent to sw@premcorp.co.za

Page 14 of 17

Physical Address the dtl Campus - Block F

Postal Address: Companies P O Box 429

Docex: 256 Web: www.cipe.co.za

77 Meintjies Street

Contact Centre: 086 100 2472 (CIPC)

Contact Centre (International): +27 12 394 9500



Sunnyside 0001

0001

Pretness



Free Disclosure Certificate: Companies and Close Corporations

Reculation Number

2005/013073/07

Entotpilte Name:

KOGRNFONTEM LINES

Companies and Intellectual Property Commission

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2014-01-24

Member Change on 18/01/2013

Full ForeNames • PHUTHI Sumame+MAHANYELE AppointmentDets=16/01/2013

2014-03-13

Member Change on 04/03/2014

Change Record

Company Name = GLENCORE OPERATIONS SOUTH AFRICA First Names =

Status = Active
Postal Address Change on 18/03/2014 2014-03-27 *

> POSTNET SUITE 19 PRIVATE BAG X1 MELROSE ARCH

2014-03-27

Registered Address Change on 18/03/2014

1ST FLOOR

23 MELROSE BOULEVARD MELROSE ARCH

GAUTENG 2196

2014-04-08

Postal Address Change on 11/03/2014.

POSTNET BUITE 19 PRIVATE BAG X1 MELROSÉ ARCH

2014-04-08

Registered Address Change on 1143/2014

1ST FLOOR, NEDBANK BUILDING 23 MELROSE BOULEVARD MELROSE ARCH JOHANNESBURG

2196

2014-06-25 -

Annual Return complated on 25/06/2014

Company / Close Corporation AR Filing - Web Services : Raf No. 52211210

2014-09-02 * Status changed to Unknown,

2014-09-02 Status charged to Unknown.

2014-09-02 Status chanced to Unknown.

2014-09-02 Statut changed to Unknown,

2014-09-02 Status changed to Unknown.

SMS Notification that Annual Return is due was sent on 14/05/2015.

E-Mail sand to CLINTON MARTIN EPHRON for 2015

SMS Notification that Annual Return is due was sent on 14/05/2015. E-Mail send to RICHARD COHEN for 2015

2015-08-12 Annual Return completed on 12/06/2015,

Company / Close Corporation AR Filing - Wab Services : Ref No ... 527249113

Registered Address Change on 15/12/2015.

1ST FLOOR 23 MELROSE BOULEVARD MELROSE ARCH JOHANNESBURG GAUTENG2198

Page 15 of 17

Physical Address the dti Camous - Block F

Pretoria

0001

Docax: 258 Web: www.clpc.co.za

Contact Centre: 886 100 2472 (CIPC)

Contact Centre (International): +27 12 394 9500

2015-05-14

2015-05-14

2015-12-15

77 Mainlijes Street Sunnyside 0001

Postal Address: Companies P O Box 429



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Free Disclosure Certificate: Companies and Close Corporations

Renstration Monthag

2006 7 043023 7 02

Enterprise Name:

KOORNFONTEIN MINES

Member Change on 11/02/2018.

Director PHUTHI MAHANYELE details was Changed

2016-02-11 -

Member Change on 11/02/2016.

2016-02-11

Director THANDEKA TOSANA NOUBE details was Changed

Member Change on 11/02/2016.

Director RICHARD COHEN details was Changed

2016-02-11

Member Change on 11/02/2016

Director CLINTON MARTIN EPHRON details was Changed

2015-04-19 *

Member Change on 15/04/2016.

Change Record

Company Name = GLENCORE OPERATIONS SOUTH AFRICA First Names =

2016-64-19

tatus # Flesign Member Change on 15/04/2016.

Change Record

Sumame = EPHRON First Names = CLINTON MARTIN

2016-04-19

Simus = Activ Sishis = Active Member Change on 15/04/2016,

Change Record

Sumama = COHEN First Names = RICHARD

Status = Active

2018-04-19

Member Change on 15/04/2018.

Change Record

Sumama = NCLIBE First Names = THANDEKA TOSANA

2016-05-05 *

Status & Active SAIS Notification that Annual Robert is due was must on 05/05/2016.

E-Mail send to CLINTON MARTIN EPHRON for 2016

2016 05-05

SMS Notification that Annual Return it this was sent on 05/05/2016

E-Mail send in RICHARD COHEN for 2016

2016-05-05

SUS Notification that Annual Return is due was sent on 05/05/2016. E-Mail send to THANDEKA TOSANA NOUBE for 2016

2016-05-06

Member Chance on 05/05/2016.

Director RONICA RAGAVAN was added

2016-05-06 *

Member Change on 06/05/2016,

2016-05-06

Director TREVOR WILLIAM SCOTT was added

Member Chance on 06/05/2016

2016-05-06

Girector LOUIS BOTHA LOURENS was added

Member Change on 05/05/2018. Director RIAZ YOOSUF BOSAT was added

2018-05-08

Member Change on 05/05/2016.

Director CLINTON MARTIN EPHRON dotails was Changed

2016-05-08

Member Change on 05/05/2016.

Director RICHARD COHEN details was Changed

2016-05-05 1

Member Change on 06/05/2016.

Director THANDEKA TOSANA MCUBE details was Changed

2018-05-16

Change of Financial Year End on 16/05/2018,

The feencial year and was changed from December 2015 to February 2017

Registered Address Change on 06/09/2016

2016-08-06

GRAYSTONE RIDGE OFFICE PARK BLOCK A LOWER GROUND FLOOR 144 KATHERINE STREET SANDTON GALITEMS2196

Page 16 of 17

Physical Address the dli Camous - Block F

77 Meintiles Street

Sunnyside 0001

Postal Address: Companies

P O 8ax 429 Pretoria

0001

Docex: 256 Web: www.cipc.co.za

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Free Disclosure Certificate: Companies and Close Corporations

Registration Number: Enterprise Name:

2004 / 013073 / 07 KOOKNFONTEN MINES Companies and intellectual Property Commission

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2016-08-31 *

Member Change on 31/08/2016

Change Record Sumame = BOBAY
First Names = RIAZ YOOSUF

Status = Resigned
Annual Return completed on 05/09/2016. 2016-09-85

Company / Close Corporation AR Filing - Web Services : Rol No. 549372344

2016-11-22 ming Officer Change on 18/11/2015.

> Change Record Name: . DELOITTE & TOUCHE Status - Rosign

2016-11-22 Accounting Officer Change on 18/11/2016.

Change Record Name: = SIZWENTSALUBAGOBODO INC

2016-11-22 ting Officer Change on 18/11/2016.

Chance Record Name : = ALEXANDROS FIGLIPPOU

Status : = Current 2017-01-30 Member Change on 07/11/2016

Add Record Sumame = JOSEPH First Names • RE-ANA CATHLEEN Status & Active

2017-01-30 Member Change on 30/01/2017. Change Record

Sumame = JOSEPH First Names = RE-ANA CATHLEEN Status = Resigned

Email Notification that Annual Return is due was sent on 08/05/2017 2017-05-05 * E-Mail sent to RONICA RAGAVAN for 2017

2017-05-08 · Email Noblication that Annual Return is due was sent on 08/05/2017. E-Mail sent to TREVOR WILLIAM SCOTT for 2017

Entoil Net/instion that Armusi Rotum is due was sent on 08/05/2017. 2017-05-08 * E-Mail sent to LOUIS BOTHA LOURENS for 2017 2017-06-29

Annual Return completed on 29/06/2017 Company / Close Corporation AR Filing - Wab Services Ref No. 575924270

2017-09-13 Member Change on 13/09/2017. Director RONICA RAGAVAN details was Changed

Member Change on 13/09/2017 **Director TREVOR WILLIAM SCOTT datails was Changed**

2017-09-13 * Member Change on 13/09/2017 Director LOUIS BOTHA LOURENS details was Changed

Page 17 of 17

Physical Address the dtl Campus - Block F 77 Meintjies Street Sumposide 0001

Postal Address: Companies P O Box 429

Pretoria 0001

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Free Disclosure Certificate: Companies and Close Corporations

2007/005308/07

Enterpose Name:

OPTIMULI COAL MINE



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ENTERPRISE INFORMATION

Registration Number

2007 / 005308 / 07

Enterprise Name

OPTIMUM GOAL MINE (PTY) LTD

Registration Data

20/02/2007

Business Start Date

20/02/2007

Enterprise Type

Private Company

Enterprise Status

In Businese

Compliance Status Financial Year End

Compliant

February 9291321173

TAX Number Addresses

POSTAL ADDRESS

GRAYSTONE RIDGE OFFICE PARK **BLOCK A LOWER GROUND FLOOR**

144 KATHERINE STREET SANDTON GAUTENG

2196

OFFICIAL USE

ADDRESS OF REGISTERED OFFICE

GRAYSTONE RIDGE OFFICE PARK BLOCK A LOWER GROUND FLOOR 144 KATHERINE STREET SANDTON GAUTENG

2196

NOT FOR

ACTIVE MEMBERS / DIRECTORS

Surname and First Names

Туре

ID Number /

Contrib.

6.00

Interest

0.00

Appoint. Addrage

GOVENDER, PUSHPAVENI UGESHNI

Directo

Dale of Birth 750424XXXXX 88 X (R)

(%) Date

15/04/2016

Postal PRIVATE BAG X180, HALFWAY HOUSE, HALFWAY HOUSE, GAUTENG, 1685

Residential: UNIT 7 SUMMERFUELD PLACE HALFWAY GARDENS, MIDRAND, GAUTENG, 1685

AUDITOR DETAILS

Auditor Name

Type

Status

Appointment Date

Resignation Date

Email Address

PKF (JHB) INC

Region

2007-03-01

Profession Number: 906393E

KPMG INC Profession Number: 922234E

Auditor Auditor

Resign Region

2009-10-22

HOMANN AND ASSOCIATES Profession Number: 901494

KPMG INC

Auditor

2007-03-01

yvonne duplopy@kpmg.co.za

Profession Number: 9222346

Page 1 of 11

Physical Address the dti Campus - Block F 77 Meintjies Street Sunnyeide 0001

Postal Address: Companies

P O Box 429 Pretoria 0001

Web: www.cipc.co.za

Contact Centre: 086 100 2472 (CIPC)



Free Disclosure Certificate: Companies and Close Corporations Registration Number: 2007 / 005308 / 07

Enterprise Name:

OPTIMUM COAL MINE

Companies and Intellectual Property Commission

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DELOITTE AND TOUCHE

Audito

Profession Number: 902776 SIZWENTSALUBAGOBOOD INC

Auditor

Current

Resign

ACTIVE

Profession Number: 946016

ALEXANDROS PHILIPPOLI

Designated Auditor

Current

ACTIVE:

Profession Number: 854379

CHANGE SUMMARY

Member Change on 01/11/2008.

Sumame=BRONICHORST

Full ForeNames JAN JOHANNES Id No=5705085044088

Status : RESIGNEDNature of Change=OFFICER RESIGNED

2006-11-05 * Member Change on 01/11/2008.

Sumeme-SCOTT

Full ForeNemes-MICHAEL BOYD Id Ne=6306095230186

Status : ACTIVENIANCE of ChangesNEW APPOINTMENT 2008-11-07 -

rting Officer Change on 01/03/2027.

PO BOX 904 SECUNDA

Status : Address Charge Registration of CC/CO on 20/02/2007. 2007-02-20

2007-02-28 * Member Change on 27/02/2007,

Sumame=BOSMAN Full ForeNames*ANNERSE ki No=7412030012082

Status RESIGNEDNature of Change=DIRECTOR RESIGNED 2007-02-28 Member Change on 27/02/2007.

SunamerGAIN

Full ForeNames=PETER KENNEDY Id No=7505025048080

Status :ACTIVENature of Changs NEW APPOINTMENT Registered Address Change on 22/03/2007. 2007-03-01

UNIT B1002 MARLBOROUGH GATE HYDE PARK LANE HYDE PARK

2166

2007-03-01 Postal Address Change on 22/03/2007.

P O BOX 411233 CHAIGHALL

2024 2007-03-15 -

Accounting Officer Change on 07/03/2007.

2007-03-27 . Membar Change on 27/03/2007.

Page 2 of 11

Physical Address the dt/ Campus - Block F 77 Meintjies Street

Sunnyside 0001

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Web: www.cipc.co.za

Contact Centre: 886 100 2472 (CIPC)



Free Disclosure Certificate: Companies and Close Corporations

Registration Number:

7007 / 805308 / 07

Enlequire Name:

OPTIMUM COAL MINE



Companies and Intellectual Property Commission

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Sumamu=BRONKHORST Full ForeNames #JAN JOHANNES

Id Norsynspanae

Status ACTIVENISHE of Change-NEW APPOINTMENT

2007-04-16 Namo Change on 16/04/2007

LEXSHELL 68 GENERAL TRADING

2007-04-16 Principle Business Change on 15/04/2007 62

2007-09-17 Member Change on 17/09/2007

Sumame=MONKOE

Full ForeNemes=ELIPHUS CK)
Id No=5910106288082

Status :ACTIVENature of Change NEW APPOINTMENT Member Change on 17/09/2007

2007-09-17

Sumame-BORMAN

Full ForeNames=THOMAS IGNATIUS

£i No≠6703225517906

Stakes ACTIVENALUM of Change=NEW APPOINTMENT

2007-10-18 Member Change on 18/10/2007.

Sumame=KWINI Full ForeNames #MLUNGISI

ld No=\$809015805081

Status :ACTIVENSture of Change=NEW APPOINTMENT

2007-10-18 -Member Change on 18/10/2007

Sumame=TEKE

Full ForeNernes+MICHAEL SOLOMON

ld No=6408155713083

Status .ACTIVENsture of Changes NEW APPOINTMENT ber Change on 24/10/2007.

2007-10-24

Sumame=TEKE

Full ForeNerman-MICHAEL SOLOMON

ld No=8468155713083

Status :ACTIVENature of Chango=RESIDENT Change of Financial Year End on 30/06/2008 2007-11-18

2

2508-03-07

2008-03-07 4

2007-02-20 Registration of CC/CO on 20/02/2007.

2098-03-07 * Accounting Officer Change on 07/03/2006.

Add Record

Name: = HOMANN & ASSOCIATES

Status = Current Member Change on 07/03/2005.

Change Record

Sumame = GAM

First Names; = PETER KENNEDY

Status = Active

Member Change on 07/03/2008

Change Record

Sumame: = MONKOE First Names: = ELIPHUS OKI

2008-03-07 Member Change on 97/03/2008.

Change Recurd

Sumame: = SORMAN

First Names: = THOMAS IGNATHES

2008-03-07 Member Change on 07/03/2008

Page 3 of 11

Physical Address the dtt Campus - Block F

77 Meintjies Streat

Sunnysida 0001

Postal Address: Companios P O Box 429

0001

Pretoria

Docex: 256 Web: www.cipc.co.za

Contact Centre: 086 100 2472 (CIPC)

Free Disclosure Certificate: Companies and Close Corporations

Registration Number: Enterprise Name; 2007 / 006305 / 07

OPTINUM COAL MINE

(Ga)

Companies and intellectual Property Commission

a member of the dit group

Change Record
Sumome: = KWR8
First Names: = MLUNGISE
Status. = Active
2008-03-07 • Member Change on 07/03/2008

Change Record
Stantage * TEKE

First Names: * MICHAEL SOLOMON Status: * Active

2006-03-07 Member Change on 07/03/2008. Change Record

Sumano = BRONKHORST First Names: = JAN JOHANNES Status = Active

2008-07-22 Member Change on 17/09/2007

Sumame=BORMAN Full ForeNames=THOMAS IGNATIUS Id No=6703265179080

States .ACTIVENature of Change=FIX to NUMBER

Accounting Officer Change on 22/10/2009.
HOMANN AND ASSOCIATESSUITE 15

HOMANN AND ASSOCIATE 14TH AVENUE CENTRE KESSEL STREET FAIRLAND 2195

P Ø BOX 35011 NORTHCLIFF

2115

STATUS ADDRESS CHANGE 2009-10-22 Accessing Officer Change on 22/10/2009

2009-11-85 * Accounting Officer Change on 05/11/2009

2010-01-25 * Registered Address Charge on 15/02/2010.

UNIT 81003 MARLEOROUGH GATE HYDE PARK LANE HYDE PARK 2196

2016-01-25 Postal Address Change on 15/02/2010

P 0 BOX 411333 CRAIGHALL

2010-01-26 · Postal Address Change on 31/01/2010

P G BOX 41:333 CRAIGHALL

2024 2010-01-28 - Registered Address Change on 21/01/2010.

Page 4 of 11

Physical Address the dtl Campus - Block F 77 Meinijies Street Sunnyside 0001

Postal Address: Companies P O Box 429 Pretoria 0001

Docex: 256
Web: www.cipc.co.za
Contact Centre: 066 100 2472 (CIPC)
Contact Centre (International): +27 12 394 9500



105



Free Disclosure Certificate: Companies and Close Corporations

Registration Number: Enterprise Name:

2007 / 00530# / 07

OPTIMUM COAL MINE

Companies and Intellectual Property Commission

4 member of the dtl group

UNIT #1003 MARLEOROUGH GATE HYDE PARK LANE HYDE PARK 2196

2010-05-31 ning Officer Change on 01/03/2007.

KPMGSECUNDA MEDFORUM BUILDING SUITE 301

HEUNIS STREET SECUNDA

P D BOX 904 SECUNDA

2302

STATUS ADDRESS CHANGE 2011-01-18

Member Change on 01/09/2010,

SURNAME=SWART LARMIGNY FULL FORENAMES-ANNA CECRIA NATIONALITY=SOUTH AFRICA RSA RESIDENT

DATE OF APPOINTMENT=1 SEPTEMBER 2010

DESIGNATION=COMPANY SECRETARY (NATURAL PERSON)

RESIDENTIAL ADDRESS 13 WOODSTREAM LOFTS PIETRETIEF ROAD NOORDHEUWEL

BUSINESS ADDRESS LINIT B1003 MARLBOROLIGH GATE HYDE PARK LANE HYDE PARK POSTAL ADDRESS P.O BOX 411333 CRAIGHALL

2196

NATURE OF CHANGE APPOINTMENT

STATUS :ACTIVE er Change on 26/11/2010

Sumamo=GAIN

Full ForeNames=PETER KENNEDY ki No=7505925098089

Status : RESIGNEDNature of Change * RESIGNATION

2011-04-29 * er Change on 26/11/2010.

Sumame=MONKQE Full ForeNames=ELIPHUS OKI

ld No=5910106288082 Status :RESIGNEDNan of Change=RESIGNATION

2011-04-29 * r Change on 26/11/2010

Sumeme-BORMAN

Full ForeNames=THOMAS IGNATILIS

ld No=8703255179980

Stobs: RESIGNEDNature of Change-RESIGNATION

Page 5 of 11

Physical Address the dtl Campus - Block F 77 Maintjias Street Summyside 0001

2011-04-29

Postal Address: Companies

P O Box 429 Pretoda

0001

Dacex: 256

Web: www.cigc.co.za

Contact Centre: 086 100 2472 (CIPC)

Free Disclosure Certificate: Companies and Close Corporations

Registration Number: 3507 / 005348 / 07 Enterprise Name:

OPTIMUM COAL MINE

Companies and intellectual **Property Commission**

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2011-04-29 * Member Change on 25/11/2019

> Sumama-KWINI Full ForeNames=MLUNDIST Id No=5809015808081

Status : RESIGNEDNature of Changes RESIGNED

2011-04-29 • Member Change on 28/11/2010.

Sumame=TEKE Full ForeNames=MICHAEL SOLOWON

id No=6408155713083

Status :ACTIVENSIANS of Change+NO CHANGE 2011-04-29 Member Change on 01/09/2010

SumamesSCOTT

Full ForeNames=MICHAEL BOYD Id No=6306095230186

Status :RESIGNEDNature of Change=RESIGNATION 2011-04-29 -

Member Change on 26/11/2010

Sumame#GAIN Full ForeNames DOUGLAS ROBERT

ld No=7612295021058

Status :ACTIVENOLUTE of Chango=NEW APPOINTMENT 2011-04-29 *

ber Change on 25/11/2010

mame=KHOZA

Full ForeNames=PRINCESS NONDUMISO Id No=7203300326082

Status : ACTIVENSIMS of Change NEW APPOINTMENT

2011-17-07 Member Change on 07/11/2011.

Authorising Director DetailsDirector Full ForeNames=MICHAEL SQLOMON

Sumame=TEKE 10 Number=6408155713083 **Customer Details**

Director Full Foreste SumamerSCHUSTER ID Number=8212220105083

2011-11-07 -Change on 07/11/2011.

Authorising Desctor DetailsDirector Full ForeNames=MICHAEL SOLOMON

Surrama=TEICE ID Number=8498155713083

2011-11-10 ther Change on 18/10/2007

Full ForeNames MICHAEL SOLOMON

Sumame=TEKE AppointmentOute=18/19/2007

Status=A 2011-11-10 or Change on 26/11/2010.

Full ForeNames=DOUGLAS ROBERT SumamerGAIN

AppointmentOute=26/11/2010

Status=A Member Change on 26/11/2010 2011-11-10

Full ForeNames PRINCESS NONDUMISO

Sumame+KHOZA

AppointmentDate=26/11/2010

Stricera 2011-11-10 *

Member Change on 93/96/2011.

FUI FORNAMESTIAN JOHANNES Sumame=BRONKHORST AppointmentDate=03/06/2011

Statuswa

2012-03-09 Postal Address Change on 29/02/2012.

Physical Address the dti Campus - Block F

77 Maintjies Street

Sunnyside 0001

Postal Address: Companios

P O Box 429

Pretoria 0001

Docex: 256 Web: www.clpc.co.za

Contact Centre: 086 100 2472 (CIPC)

Free Disclosure Certificate: Companies and Close Corporations

2007 / 009308 / 87

Enterprise Name:

OPTURIM COAL MINE

Companies and intellectual **Property Commission**

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P 0 80X 411333

CRAIGHALL

2012-03-09

2024

2196

ared Address Change on 29/02/2012

UNIT 8 1003 MARLBOROUGH GATE HYDE PARK LANE HYDE PARK

2012-09-14 -

ing Officer Change on \$2/08/2012.

Change Record Name : # KPMQ INC

2012-09-14

Status := Resign nting Officer Change on 30 38/2512.

Change Record Name : = KPMG INC

2012-09-14

nling Officer Change on 30/08/2012.

Status : = Resign Change Record

2012-09-14

Namo : ≥ PKF (JHB) NC

Status : = Resign nting Officer Change on 30:48/2012. Change Record

Name . . HOMANN AND ASSOCIATES

2012-09-14

Status : = Resign ling Officer Change on 30/08/2012.

Add Record

Name : . DELOTTE AND TOUCHE Status : = Current
Change of Financial Year End on 31/12/2012.

2012-09-17

2013-01-04 Member Chance on 22/11/2012

Change Record Sumame = TEKE First Names = MICHAEL SOLOMON

2013-01-04

Status = Resigned per Change on 22/11/2012.

Change Record Sumame = GAIN First Names = DOUGLAS ROBERT

2013-01-04 *

Status = Resigned ser Change on 22/11/2012

Change Record

Sumamo + KHOZA First Names + PRINCESS NONDUMISO

2013-01-04 -

Status = Resigned Member Change on 22/11/2012.

Change Record Sumana = BRONKHORST First Names . JAN JOHANNES

2013-01-04

Status = Resigned
Member Change on 22/11/2012

Change Record

Sumame = EFHRON First Names = CLINTON MARTIN

Status = Active

Page 7 of 11

the dil Campus - Block F

Postal Address; Companies

P O Bax 429 Pretoria 0001

Docex: 258 Web: www.cipc.co.za

Contact Centre: 086 180 2472 (CIPC)

Contact Centre (international): +27 12 394 9500





Physical Address 77 Meinlijes Street Sunnyside 0001

Free Disclosure Certificate: Companies and Close Corporations

2007 / 805300 / 87

Enterwise Name

OPTIMUM COAL MINE



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2013-01-04 --

Member Change on 22/11/2012

Change Record

Sumame = CONFN First Names # RICHARD

Status z Artho 2013-01-04 Member Change on 22/11/2012

Change Record

Sumame = BLANKFIELD

First Names = SHALIN MARCO Status = Active

2013-04-10 *

Member Change on 10/04/2013

Authorising Director Details Director Full FereNames - Richard

Sumame Cohen

ID Numbor=8502145076088

Customer Details

Oirector Full ForeNames=Scieto de Sousa

Sumame=Wilks

ID Number=6708130194289

2013-04-10 Member Change on 10/04/2013.

Authorising Director Details Director Full ForeNames*Richard

Surrame=Cohen ID Number=6502145078088

2013-04-16 Member Change on 16/04/2013

Change of contact detailst/semanne PREMCOID number 6502145076088Ce8 number 0114655142Ema address sw@premcorp.oc.ze

2013-04-17 Member Change on 17/64/2013

Change of contact details Approved by JMUSBID number 6502145075085Cell number 5114655142Email address sw@premcurp on za

2013-04-17 Member Chango on 17/04/2013,

Unlock Password Inlocked by JMJ35Password successfully sent to evolpremourp.co.2a

2013-04-17 Member Change on 19/09/2012,

Full ForeNames=SHAUN MARCO Surrame=BLANKFIELD AppointmentDatc=19/09/2012 States=C

2013-04-17 Member Change on 16/01/2013.

Full ForeNamos=Thandelus Tosans Sumame=Ncube

AppointmentDate+16/01/2013 Status=A

2013-04-17 Member Change on 16/01/2013.

Full ForeNames=Phut Sumame=Melabie AppointmentDate=16/01/2013

2013-07-03 Member Change on 12/06/2013

> Change Record SUMME O SWART LARADGNY First Names = ANNA CECKLIA

Status * Resigned
Member Change on 12/08/2013. 2013-07-03

Add Record

Company Name = XSTRATA SOUTH AFRICA

Fitst Nomer a

Status = Active

2013-08-02 Postal Address Change on 23/07/2013,

P O BOX 411333 CRAIGHALL

2196

Page 6 of 11

Physical Address the dtl Campus - Block F 77 Maintjies Street

Sunnyside 0001

Postal Address: Companies

P D Box 429 Pretoria

0001

Docex: 256

Web: www.cipc.co.za

Contact Centre: 086 100 2472 (CIPC)







Free Disclosure Certificate: Companies and Close Corporations

2007 / 005382 / 07

Enterprise Name:

OPTIMUM COAL LINE

Companies and intellectual **Property Commission**

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2013-06-02 * Registered Address Change on 23/07/2013.

> 36 FRICKER ROAD ILLOVO

JOHANNESBURG GAUTENG

2014-01-24

Member Change on 24/21/2014

Authorising Overtor Details Director Full ForeNames #Clinton Martin

Sumamin=Ephron ID Number=6905025002084 Customer Details

Director Full ForeNames=Solete de Sousa

Sumame=Wike

ID Number=6708130194089

2014-01-24 Member Change on 24/01/2014

Authorising Director DatalksDirector Full ForeNames=Clinton Martin

Sumama=Ephron ID Number=6905025002084

2014-01-27

Member Change on 27/31/2014

Linkock Possword Linkocked by TOMMYSP assword successfully sent to an @premisorp.co.zz

2014-01-28 * Member Change on 16/01/2013

> Full ForeNames=PHUTHI Sumame MAHANYELE AppointmentDate=16/01/2013 Status=A

2014-02-21

Annual Return completed on 21/02/2014.

Company / Close Corporation AR Filing - Web Services - Ref No. 64104880

2014-03-12 Member Change on 03/03/2014

> Change Record Company Name • GLENCORE OPERATIONS SOLITH AFRICA First Names »

Status = Active Postal Address Change on 27/08/2014

SUITE 19 PRIVATE BAG XI MELROSE ARCH

2076

2014-08-27 Registered Address Change on 27/08/2014.

1ST FLOOR 23 MELROSE BOULEVARD MELROSE ARCH COHANNESBURG 2196

2014-09-16 Status changed to Unknown.

2015-02-04 * SMS Notification that Annual Return is due was sent on 04/02/2015

> E-Mail send to CLINTON MARTIN EPHRON for 2015 SMS Notification that Annual Return to due was sent on 04/02/2015.

E-Mail send to RICHARD COHEN for 2015

2015-03-31 Annual Return campleted on 31/03/2015.

Company / Close Corporation AR Filing - Wab Services. Ref No.: 525461088

Status changed to Unknown.

CoR123,1 received and processed

111201363 Status Change on 04/01/2016

2016-01-19 .

Page 9 of 11

Physical Address the dti Campus - Block F 77 Maintjies Street Sunnyside 0001

Postal Address: Companies

P O Box 429 Pretoria

Web: www.clpc.co.za

Contact Centre: 086 100 2472 (CIPC)

Contact Centre (International): +27 (2 394 9500



2014-08-27

2016-02-04 *

2015-08-05 1

0001



Free Disclosure Certificate: Companies and Close Corporations

Registration Number: Enterprise Name:

2007 / 085388 / ev OPTIMUM COAL MINE Companies and intellectual **Property Commission**

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CoR125.1 received and processed

111295552

Status Change on 84/12/2015.

CoR125,1 received and processed

111302127

2016-02-11 Alember Change on 11/02/2016.

Director PHUTH) MAHANYELE dolaids was Changed

2018-02-11 *

2015-12-04 -

Mamber Change on 11/02/2015.

Director THANDEKA TOSANA NOUSE details was Changed

2016-02-11

Member Change on 11/02/2016,

Director RICHARD COHEN details was Changed

2016-02-11

Member Change on 11/02/2016.

Director CLINTON MARTIN EPHRON details was Changed

2016-02-26

Annual Return completed on 26/02/2015

Company / Close Corporation AR Filing - Web Services Rel No. : 532731984

2016-04-19 *

Member Change on 15/04/2016.

Change Record

Company Name = GLENCORE OPERATIONS SOUTH AFRICA

First Names = Slatus = Resign

2018-04-19

Member Change on 15/04/2016.

Change Record Sumana a EPHRON First Names = CLINTON MARTIN

2016-04-19 -

Status = Active Member Change on 15/04/2016.

Change Record Sumame = COHEN

First Names - RICHARD

2015-04-19

Status a Action Member Change on 15/04/2016.

Change Record Sumomo = NCLIRE

First Names = THANDEKA TOSANA

Status = Active 2016-04-19 *

Accounting Officer Change on 19/04/2016. CHANGE STATUS OF COMPANY TO BY BUSINESS TO ALLOW CAPTURING AND THEN BACK TO IN BUSINESS RESCUE

2016-05-09

Member Change on 09/05/2016,

Director NAZEEM HOWA was added 2016-05-09 Mamber Change on 39/05/2016.

Director PUSHPAVERI UGESHINI GOVENDER was added

2016-05-09 *

Member Change on 09/05/2016.

Director JACQUES ROUX was added

Member Change on 09/05/2016.

Director CLINTON MARTIN EPHRON details was Changed

2016-05-09

Member Change on 09/05/2016.

Director RICHARD COHEN details was Changed

2016-05-09

Member Change on 99/05/2016.

Director THANDEKA TOSANA NCUBE debits was Changed

2016-08-08 *

Registered Address Change on 06/06/2015.

GRAYSTONE RIDGE OFFICE PARK BLOCK A LOWER GROUND FLOOR 144 KATHERINE STREET SANDTON GAUTENGE196 2016-00-02 *

CoR 125.2 termination of business rescue received

Page 15 of 11

Physical Address

the dti Campus - Block F

77 Mainijies Street Sunnyside 0001

Postal Address: Companies

P O Box 429 Pretoria 0001

Docex: 256

Web: www.clpc.co.za

Contact Centre: 986 100 2472 (CIPC)



Companies and intellectual **Property Commission**

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Free Disclosure Certificate: Companies and Close Corporations

2007/005308/07

Enterprise Name:

OPTIMISM COAL MINE

2016-11-04

Change of Financial Year End on 04/11/2018

The financial year and was changed from December 2015 to February 2017

2016-11-30

Accounting Officer Change on 22/11/2018.

Change Record

Name : - DELOITTE AND TOUCHE

Status : = Resign
Accounting Officer Change on 22/11/2016. 2016-11-30

Change Record

Name: = SIZWENTSALUBAGOSCOO INC Status : = Gurrent Accounting Officer Change on 22/11/2016.

2016-11-30 *

Change Record

Name : = ALEXANDROS PHILIPPOU

Status : • Current

2017-01-28 1

Member Change on 26/01/2017 Change Record

Sumamo = HOWA
First Names = NAZEEM

2017-02-12

Email Notification that Arinual Ratum is due was sent on 12/02/2017

E-Mail sent to PUSHPAVENI UGESHNI GOVENDER for 2017

2017-02-12 *

Email Nobilication that Annual Return is due was sent on 12/02/2017.

E-Mail sent to JACQUES ROUX for 2017

2017-03-02

Member Change on 02/03/2017.

Add Record

Sumame = CHAUKE First Names = HLAYISEKA MORGAN

Status = Active 2017-03-09

Member Change on 01/11/2016

CORRECT DIRECTOR APPOINT DATE

2017-03-27

Member Change on 27/03/2017

Director JACQUES ROUX details was Changed

2017-03-27

Member Change on 27/03/2017.

Director PUSHPAVENI UGESHNI GOVENDER details was Changed

2017-03-27

Member Change on 27/03/2017

Director HLAYISEKA MORGAN CHALRE details was Changed

2017-04-03

Annual Return completed on 03/04/2017.

Company / Close Corporation AR Filing - Web Services : Ref No. : \$87507459

2017-07-17 2017-07-17 Member Change on 17/07/2017.

Director HLAY SEKA MORGAN CHAUKE details was Changed Member Change on 17/07/2017.

Oirector PUSHPAVENI UGESHNI GOVENDER details was Cranged

Page 11 of 11

Physical Address the dtl Campus - Block F 77 Maintijes Street Sunavside 0001

Postal Address; Companies

P-O 8ox 429 Pretoria 9001

Web: www.cipc.co.za Contact Centre: 086 100 2472 (CIPC) Contact Centre (International): +27 12 394 9500





Subject: RE: IMPLICATIONS FOR REHABILITATION FUNDS IN CONNECTION WITH MINES RELATED TO OPTIMUM COAL MINE HOLDING (PTY) LTD AND TEGETA EXPLORATION AND RESOURCES (PTY)

Friday, 15 September 2017 at 9:42:24 AM South Africa Standard Time Date:

From: Soretha Venter To: 'Trevor Scott'

stefanie.fick@outa.co.za, 'Bernard Hotz', cjerasmus@npa.gov.za, 'Jeremy Gobetz'

Dear Sir.

CC:

I. Your e-mail below refers.

- 2. We acknowledge receipt of your response on even date and place on record that we have no record of your response dated 1 September 2017.
- 3. Be that as it may, we now take note of your response.

Soretha Venter

4. Trusting that you find above in order.

Kind regards,



Legal Manager soretha.venter@outa.co.za Office: 0871700639 Cell: 0718691959 OUTA - Organisation Undoing Tax Abuse www.outa.co.za

From: Trevor Scott (mailto:trevor@bearingway.co.za)

Sent: Friday, 15 September 2017 5:33 AM

To: soretha.venter@outa.co.za

Subject: Fwd: IMPLICATIONS FOR REHABILITATION FUNDS IN CONNECTION WITH MINES RELATED TO OPTIMUM COAL MINE HOLDING (PTY) LTD AND TEGETA EXPLORATION AND RESOURCES (PTY) LTD

Sent from my iPhone

Begin forwarded message:

From: Trevor Scott < trevor@bearingway.co.za> Date: 15 September 2017 at 1:38:28 AM SAST To: Soretha Venter < soretha.venter @outa.co.za>

Subject: Fwd: RE: IMPLICATIONS FOR REHABILITATION FUNDS IN CONNECTION WITH MINES RELATED TO OPTIMUM COAL MINE HOLDING (PTY) LTD AND TEGETA EXPLORATION AND RESOURCES (PTY) LTD

---- Forwarded Message -----

From: Trevor Scott < trevor@bearingway.co.za> To: Soretha Venter < soretha venter (touta.co.za> Sent: Fri, 15 Sep 2017 00:15:08 +0200 (SAST)

Subject: RE: IMPLICATIONS FOR REHABILITATION FUNDS IN CONNECTION

WITH MINES RELATED TO OPTIMUM COAL MINE HOLDING (PTY) LTD AND TEGETA EXPLORATION AND RESOURCES (PTY) LTD

Dear Ms. Venter,

Your letter of 12 September 2017 refers.

As indicated in my emailed response (of I September 2017; which I have attached to this email) to your previous correspondence of 25 August 2017, I am no longer a trustee of the Optimum Mine Rehabilitation Trust and the Koornfontein Rehabilitation Trust. Accordingly, the remaining trustee, Ms Naidu, would be better placed to provide you with information as to the status of the trust.

Regards,

T. Scott

---- Original Message -----

From: Soretha Venter < soretha, venter@outa.co.za>

To: ugeshnin@sahara.co.za, althafe@spoornet.co.za, trevor@bearingway.co.za.althafe@spoornet.co.za, althafe@spoornet.co.za, althafe@telkomsa.net, althafe@ce-commerce.biz,

althaf@commerce.co.za, aemmamally@gmail.com

Cc: ben theron < ben, theron@outa.co.za>, ronicar@oakbay.co.za

Sent: Tue. 12 Sep 2017 11:05:53 +0200 (SAST)

Subject: RE: IMPLICATIONS FOR REHABILITATION FUNDS IN CONNECTION WITH MINES RELATED TO OPTIMUM COAL MINE HOLDING (PTY) LTD AND TEGETA EXPLORATION AND RESOURCES (PTY) LTD

Dear Sirs,

CLOSING OF GUPTA OWNED BANK ACCOUNTS BY BANK OF BARODA AND IMPLICATIONS FOR REHABILITATION FUNDS IN CONNECTION WITH MINES RELATED TO OPTIMUM COAL MINE HOLDING (PTY) LTD AND TEGETA EXPLORATION AND RESOURCES (PTY) LTD

OUR REF: SP/ZUMA01/TEGETA

YOUR REF. UNKNOWN

- 1. Please find attached correspondence for your urgent attention.
- 2. For any media queries kindly contact Mr Ben Theron. OUTA Chief Operating Officer, on 082 941 8444.

Page 2 of 4

From: Trevor Scott <trevor@bearingway.co.za> To: Soretha Venter <soretha.venter@outa.co.za> Sent: Fri, 01 Sep 2017 09:30:02 +0200 (SAST) Subject: Re: IMPLICATIONS FOR REHABILITATION FUNDS IN CONNECTION WITH MINES RELATED TO OPTIMUM COAL MINE HOLDING (PTY) LTD AND TEGETA EXPLORATION AND RESOURCES (PTY) LTD

Dear Ms Venter,

Please note that I have resigned as a trustee of the Optimum Mine Rehabilitation Trust and the Koornfontein Rehabilitation Trust. Accordingly, I'm not in a position to respond to your queries; which should rather be directed to the remaining trustee, Ms Naidu and the group CEO, Ms Ragavan. I have passed your correspondence of 25 October 2017 onto them and I did recommend that they respond to you.

Regards, T. Scott

---- Original Message ----

From: Soretha Venter <soretha.venter@outa.co.za>

To: ronicar@oakbay.co.za, ugeshnin@sahara.co.za, althafe@spoornet.co.za,

trevor@bearingway.co.za

Cc: ben theron <ben.theron@outa.co.za>

Sent: Fri, 25 Aug 2017 20:38:36 +0200 (SAST)

Subject: IMPLICATIONS FOR REHABILITATION FUNDS IN CONNECTION WITH MINES RELATED TO OPTIMUM COAL MINE HOLDING (PTY) LTD AND TEGETA EXPLORATION AND RESOURCES (PTY) LTD

Dear Sir,

CLOSING OF GUPTA OWNED BANK ACCOUNTS BY BANK OF BARCDA AND IMPLICATIONS FOR REHABILITATION FUNDS IN CONNECTION WITH MINES RELATED TO OPTIMUM COAL MINE HOLDING (PTY) LTD AND TEGETA EXPLORATION AND RESOURCES (PTY) LTD

OUR REF: SP/ZUMA01/TEGETA

YOUR REF: UNKNOWN

1.

Please find attached correspondence for your urgent attention.

2.

For any media queries kindly contact Mr Ben Theron, OUTA Chief Operating Officer, on 082 941 8444.

Regards,

<http://www.outa.co.za/>

<https://twitter.com/OUTASA> <http://www.outa.co.za/sigs/spacer.gif> <https://www.facebook.com/outasa> <http://www.outa.co.za/sigs/spacer.gif>

Soretha Venter

Senior Legal Advisor

<mailto:soretha.venter@outa.co.za> soretha.venter@outa.co.za

Office: 0871700639

Cell: 0718691959

í

OUTA - Organisation Undoing Tax Abuse http://www.outa.co.za

705

Regards,

<http://www.outa.co.za/>

https://www.facebook.com/outasa https://www.facebook.com/outasa https://www.outa.co.za/sigs/spacer.gif

Soretha Venter

Legal Manager

<mailto:soretha.venter@outa.co.za</p>
soretha.venter@outa.co.za

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OUTA - Organisation Undoing Tax Abuse www.outa.co.za http://www.outa.co.za/

From: Soretha Venter [mailto:soretha.venter@outa.co.za]

Sent: Friday, 25 August 2017 8:39 PM

To: 'ronicar'@oakbay.co.za' <ronicar@oakbay.co.za>; 'ugeshnin@sahara.co.za' <ugeshnin@sahara.co.za>; 'althafe@spoornet.co.za>; 'trevor@bearingway.co.za' <trevor@bearingway.co.za' <trevor@bearingway.co.za>

Cc: ben.theron'a outa.co.za

Subject: IMPLICATIONS FOR REHABILITATION FUNDS IN CONNECTION

WITH MINES

RELATED TO OPTIMUM COAL MINE HOLDING (PTY) LTD AND TEGETA

EXPLORATION AND RESOURCES (PTY) LTD

Dear Sir,

CLOSING OF GUPTA OWNED BANK ACCOUNTS BY BANK OF BARODA AND IMPLICATIONS FOR REHABILITATION FUNDS IN CONNECTION WITH MINES RELATED TO OPTIMUM COAL MINE HOLDING (PTY) LTD AND TEGETA EXPLORATION AND RESOURCES (PTY) LTD

OUR REF: SP/ZUMA01/TEGETA

Page 3 of 4

YOUR REF: UNKNOWN

- 1. Please find attached correspondence for your urgent attention.
- 2. For any media queries kindly contact Mr Ben Theron, OUTA Chief Operating Officer, on 082 941 8444.

Regards,

<http://www.outa.co.za/>

<https://twitter.com/OUTASA> <http://www.outa.co.za/sigs/spacer.gif> <https://www.facebook.com/outasa> <http://www.outa.co.za/sigs/spacer.gif>

Soretha Venter

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Page 4 of 4

IN THE HIGH COURT OF SOUTH AFRICA **GAUTENG DIVISION, PRETORIA**

Case No. 65616/17

In the matter between:

ORGANISATION UNDOING TAX ABUSE

Applicant

and

THE TRUSTEE(S) FOR THE TIME BEING OF THE OPTIMUM MINE REHABILITATION TRUST

First Respondent

THE TRUSTEE(S) FOR THE TIME BEING.

OF THE KOORNFONTEIN MINE REHABILITATION TRUST Second Respondent

PUSHPAVENI GOVENDER

Third Respondent

TREVOR SCOTT

Fourth Respondent

OPTIMUM COAL MINE (PTY) LIMITED

Fifth Respondent

KOORNFONTEIN MINE (PTY) LIMITED

Sixth Respondent

BANK OF BARODA

Seventh Respondent

MINISTER OF MINERAL RESOURCES

Eighth Respondent

RONICA RAGAVAN

Ninth Respondent

THE MASTER OF THE HIGH COURT, PRETORIA

Tenth Respondent

ANSWERING AFFIDAVIT FILED ON BEHALF OF THE FIRST TO THIRD AND FIFTH TO SIXTH RESPONDENTS

I, the undersigned,

PUSHPAVENI UGESHNI GOVENDER

do hereby make oath and state as follows:

DEPONENT AND AUTHORITY

- I am an adult female cited in my personal capacity as the third respondent and having my place of business at Grayston Ridge Office Park, no. 144, Katherine Street, Sandown, Sandton.
- 2. The facts herein contained are within my personal knowledge, save where otherwise stated or the contrary appears from the context, and are to the best of my knowledge and belief both true and correct.
- I am the director of the fifth respondent ("Optimum Coal") and the trustee of both the Optimum Mine Rehabilitation Trust ("the Optimum Trust") and the Koornfontein Rehabilitation Trust ("the Koornfontein Trust"), cited as the first and second respondents respectively with reference to their trustees for the time being.
- 4. Letters of authority issued by the Master of the High Court ("the Master") for the Optimum and Koornfontein Trusts are annexed hereto marked "PG1" and "PG2" respectively. As appears therefrom the remaining trustees are listed as Althaf Emmamally and Trevor Scott, both of whom have resigned. In the case of Emmamally his resignation was with effect from 15 July 2016. Scott resigned on 31 August 2017.
- 5. I annex as "PG3" a printout from the records of the Companies and Intellectual Property Commission ("the CIPC") in confirmation of my status as director of

Optimum Coal. The sole director of the sixth respondent ("Koornfontein Mine") is Ronica Ragavan who is cited as the ninth respondent. A printout from the records of the CIPC in confirmation of her status as director is annexed marked "PG4". Ragavan's confirmatory affidavit is annexed hereto as "PG5".

- 6. I am duly authorised to represent the Optimum and Koomfontein Trusts as well as Optimum Coal and Koomfontein Mine in opposing this application and to depose to this affidavit on their behalf. I annex hereto marked "PG6" to "PG9" respectively resolutions from which my authority appears more fully. Where I rely on information furnished to me by others, the necessary confirmatory affidavits are annexed.
- 7. For ease of reference I refer to each of these respondents including myself collectively as "the mining respondents". Where I refer to the Optimum and Koornfontein Trusts jointly I simply describe them as "the Trusts".

THE STRUCTURE ADOPTED IN THIS AFFIDAVIT

- 8. I have read the notice of motion, founding and supplementary founding affidavit deposed to by Stefanie Fick ("Fick") filed on behalf of the applicant ("OUTA") together with the annexes thereto. I answer thereto below.
- 9. Before I address the allegations contained therein ad seriatim, it is convenient to make a number of observations of a general nature so as to set out our summary position in answer to the case advanced against us which for the most



part, is characterised by vague generalisations that not only fail to provide the type of particularity one would ordinarily expect from a litigant desirous of vindicating matters of high principle, but which is based on aimless conjecture that does little to address the true facts. This is a wholly unsatisfactory approach to litigation in motion proceedings which has left OUTA straining to find a basis for the relief which is aimed at impugning the integrity of the mining respondents.

- OUTA seemingly has no difficulty in confusing the position of "the Gupta family" with that of the mining respondents, this despite the fact that no factual foundation for any alleged wrongdoing on the part of the mining respondents having been established.
- 11. Setting out the summary position of the mining respondents is necessary in order to place matters in their proper context and to demonstrate that the application is without foundation in a number of fundamental respects, all of which show that OUTA has misconceived its legal position.
- As a matter of convenience, I therefore propose at the outset of this affidavit to set out the main themes that will be advanced on behalf of the mining respondents that underpin our opposition to the merits of the relief sought. I then deal with the allegations in the founding affidavit and supplementary founding affidavit ad seriatim.

13. To the extent necessary I also address the allegations made by Mr Martin Lange ("Lange") insofar as they warrant a specific response.

THE SUMMARY POSITION OF THE MINING RESPONDENTS

- 14. Firstly, and as a primary submission, the mining respondents challenge OUTA's standing to institute these proceedings and procure the relief sought in the amended notice of motion. While it is accepted that section 38 grants anyone acting in the public interest the right to approach a competent court, alleging that a right in the Bill of Rights has been infringed or threatened, the papers filed by OUTA do not make out a proper case for the violation or threatened violation of any right contained in the Bill of Rights. Its concerns rather relate to the proper administration of the Trusts, a subject not addressed in the Bill of Rights and which does not implicate any of the rights protected by the Bill of Rights.
- The provisions of section 32(1) of the National Environmental Management Act 32 of 1998 ("NEMA") are equally of no application in that the section is only of relevance where a person or group of persons seek appropriate relief in respect of any breach or threatened breach of any provision of NEMA, any provision of a specific environmental management Act, or of any other statutory provision concerned with the protection of the environment or the use of natural resources.

- The relief is not aimed at addressing a breach or threatened breach of NEMA or any other statutory instrument concerned with environmental management, the protection of the environment or use of natural resources. When properly characterised, and as is evident from the amended notice of motion, the relief sought instead has a threefold objective in mind, namely to:
 - 16.1. remove the trustees of the Optimum and Koornfontein Trusts;
 - 16.2. secure the appointment of independent trustees;
 - 16.3. direct that the trustees render a full accounting relating to the property of each Trust.
- 17. I respectfully submit that none of these heads of relief fall within the ambit of section 32 of NEMA or section 38 of the Constitution. Reliance on NEMA and the Constitution in order to find a basis for OUTA's standing is accordingly bad in law with the result that the application should be dismissed on this basis alone.
- 18. Secondly, I submit that OUTA cannot show that my removal will be in the interests of the Trusts or their beneficiaries being Optimum Coal and Koomfontein Mine as required by section 20 of the Trust Property Control Act 57 of 1988 ("the Trust Property Control Act"). My removal is instead sought on the basis that it will serve the greater public interest which is with respect not

the test under section 20. Equally, OUTA does not satisfy the requirements under section 20 to bring the present application as it is neither a trustee, beneficiary, nor truly a person having an interest in the trust property in question.

- Thirdly, OUTA is not entitled to demand an accounting in relation to the two Trusts. Only a trust beneficiary or co-trustee is entitled to demand an accounting. OUTA does not fit into either category. It has not referred to any principle of law that entitles it to demand an extension or relaxation of this principle. While the Master may further call upon a trustee to account in terms of section 16 of the Trust Property Control Act, the section is of no application in these proceedings as OUTA is not entitled to usurp the statutory powers of the Master.
- 20. Fourthly, the mining respondents take issue with OUTA's construction of section 24P of NEMA read with the applicable Regulations thereto and referred to below. Section 24P provides that an applicant for an environmental authorisation relating to prospecting, exploration, mining or production must, before the Minister responsible for mineral resources issues the environmental authorisation, comply with the prescribed financial provision for the rehabilitation, closure and ongoing post decommissioning management of negative environmental impacts.
- 21. Section 24P itself does not bar concurrent rehabilitation and does not seek to prescribe the regulatory framework within which financial provision to be



furnished. One must instead turn to the Regulations promulgated under NEMA that pertain to financial provision for prospecting, exploration, mining or production operations (Government Gazette No R1147 of 20 November 2015).

22. The purpose of the Regulations is instructive as set out in Regulation 2:

"The purpose of these Regulations is to regulate the determine [sic] and making of financial provision as contemplated in the Act for the costs associated with the undertaking of management, rehabilitation and remediation of environmental impacts from prospecting, exploration, mining or production operations through the lifespan of such operations and latent or residual environmental impacts that may become known in the future."

(my emphasis)

- 23. The obligation to make financial provision for rehabilitation and remediation of environmental impacts is therefore not only relevant at the time of the mine's life but a positive obligation is imposed that remains operative throughout the lifespan of the mine's operations. Concurrent rehabilitation is therefore not excluded.
- While Regulation 8(1)(c) permits an applicant or holder of a right obliged to make financial provision to make use of a financial vehicle in the form of a trust fund established in terms of the applicable legislation, a trust may not be used for annual rehabilitation (Regulation 6(a) and Regulation 11(1)(a)) or final rehabilitation, decommissioning and closure of the mining operations at the end of the life of the operations as reflected in a final rehabilitation and mine closure plan (Regulation 6(b) and Regulation 11(1)(b)).

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- Regulation 8(1)(c) however does not preclude the employment of trust funds to address concurrent rehabilitation where the need to do so arises in circumstances outside an annual rehabilitation plan. This is consistent with and gives effect to section 24 of the Constitution. Regulation 5 which in addressing the scope of financial provision, provides that an applicant or holder of a right or permit must make financial provision for "rehabilitation and remediation" which clearly carries a meaning broader than annual or end-of-life rehabilitation.
- 26. Contrary to the approach adopted by OUTA which amounts to no more than baseless speculation, the trustees of the Optimum and the Koornfontein Trusts have not employed the capital reserves of the funds reserved for financial provision in terms of section 24P for concurrent rehabilitation. The funds have further not been put to use for any operational reason and are housed with the Bank of Baroda in line with their statutory purpose.
- With regards to the affairs of the Optimum Trust, Scott, Emmamally and I only assumed the office of trustee on 26 April 2016 following the resignation of the previous trustees who had been appointed by Glencore. Their resignation was the result of Tegeta Exploration and Resources (Pty) Limited's ("Tegeta") acquisition of the business of Optimum Coal as a going concern. Optimum Coal's holding company, Optimum Coal Holdings (Pty) Limited was in business rescue at the time.

- Since inception there has been no withdrawal of the funds held by the Optimum Trust save for one withdrawal of R7.5 million on 23 May 2016 which was transferred from the current account of the Trust to the mine current account of Optimum Coal. The Trust current account was credited with R7 882 389.04, being the interest on the Trust call deposit account. Thereafter, R7.5 million representing a part of the interest earned was transferred from the current account of the Trust to the mine current account of Optimum Coal, which at the time was being operated by the Business Rescue Practitioner. These funds were transferred to cover the immediate rehabilitation requirements of the mine. Cash flow was extremely constrained due to the mine's holding company having been in business rescue. Rehabilitation had been severely neglected during the business rescue process and during the tenure of the mine's previous management. Incidentally, the Business Rescue Practitioner was represented by the same firm of attorneys who now act for OUTA.
- The amount so transferred represented R7.5 million of the approximately R7.9 million earned in interest for the month of April 2016. For the 2017 tax year an amount of R115 million was earned in interest on the funds of the Optimum Trust held with the Bank of Baroda. While Optimum Coal should have provision for R1.298 billion according to the assessment report conducted by Cabanga Environment Concepts, the Optimum Trust in fact has an amount of R1.470 billion invested with the Bank of Baroda with the result that it has surplus funds available for rehabilitation purposes as required by section 24P of NEMA read

with the applicable Regulations. A copy of Cabanga's assessment report is annexed hereto marked "PG10".

- 30. In the case of the Koomfontein Trust, Scott, Emmamally and I assumed the office of trustee on 26 April 2016 following the resignation of the previous trustees who had been appointed by Glencore. Their resignation was the result of Tegeta's acquisition of Koomfontein Mine's business as a going concern. Since inception of our take-over of the affairs of the Trust, no amount has been withdrawn from the Trust's funds held in terms of section 24P of NEMA.
- As dealt with below in more detail, and during the 2017 tax year the Koornfontein Mine specifically requested approval from the Department to access funds from the Trust for purposes of performing rehabilitation work at the mine. The Department granted approval pursuant to this request subject to certain conditions.
- None of the Koornfontein Trust's funds were ultimately used for concurrent rehabilitation or put to any other purpose but an amount of R150 million was sanctioned by the Bank of Baroda to Koornfontein Mine against security of a deposit by the Koornfontein Trust. The loan was intended to be used to effect rehabilitation work at the mine. As Koornfontein Mine was not satisfied with the work assigned to the rehabilitation contractor, the funds were returned by Koornfontein Mine to the Bank of Baroda with interest. The Koornfontein Trust's



funds were released as security as there was no continued need for this loan to persist.

- In the process there was no cost or loss to the Koornfontein Trust. By having put up the funds of the Trust as security, there was also no risk to the Trust or any contravention of the law in that as at 28 February 2017, the Koornfontein Trust was required to keep no more than R128 million for financial provision purposes whereas the Trust was in fact holding a deposit of R305 million at the time in its current account with the Bank of Baroda. This translates into a net surplus of R177 million. I refer the Court to Cabanga's assessment report annexed hereto marked "PG11" dated March 2017. The funds employed for collateral purposes were sourced from this surplus with the result that no amount of money statutorily earmarked for rehabilitation was placed at any risk.
- 34. I now deal with the allegations in the founding affidavit ad seriatim. Allegations not specifically dealt with should be taken as having been denied.

AD SERIATIM RESPONSE TO FOUNDING AFFIDAVIT

35. Ad paragraphs 1 to 2

I admit that Fick is an adult female and that OUTA is the applicant. I have no knowledge of the position occupied by her. I deny that all of the allegations are all true and correct and within Fick's personal knowledge. Such inaccuracies as may be found in the founding papers are dealt with elsewhere in this affidavit.

36. Ad paragraphs 3 to 4

I take note of the allegations contained in paragraph 3. On Fick's own version she does not have personal knowledge of these matters with OUTA left to rely on the evidence presented before the Court in unrelated proceedings. I admit the allegations in paragraph 4. As already advised, the necessary interim relief was secured in the Baroda interdict proceedings pending the final determination of an application for such appropriate relief as the applicants in those proceedings deem fit concerning the validity of the termination notices issued by the Bank of Baroda on 6 July 2017. The applicants in the Baroda interdict proceedings are currently preparing papers for the necessary final relief which will be launched within the fifteen day time period stipulated in the order of Makgoka J dated 9 October 2017.

37. Ad paragraphs 5 to 6

I take note of the stated purpose of the application. As is demonstrated elsewhere in this affidavit, the concerns expressed by OUTA are putative at best and not based on a correct understanding of the facts. The rehabilitation funds for both Optimum and Koornfontein are not at risk. The relief sought is a needless attempt at grandstanding by OUTA. Albeit that the companies listed in paragraph 6 are part of the Oakbay group of companies, each of the companies in question enjoy a discrete existence from the members of the



Gupta family. To refer to them as being part of the Gupta group of companies is inaccurate. Save as aforesaid these allegations are admitted.

38. Ad paragraphs 7 to 9

- 38.1. I admit the allegations in paragraph 7. The relief in Part A is of academic importance only for three reasons. Firstly, the parties agreed to a draft consent order which was made an order of Court by Msimeki J on 26 September 2017 so as to put in place a practical arrangement pending the outcome of Part B. A copy of the order is annexed hereto marked "PG12". As appears therefrom the order was agreed upon with reservation of all rights by all respondents and without any concessions in respect of any of the issues as they appear from the papers.
- 38.2. Secondly, any urgency as there may have been (which is denied) through the closure of the accounts by the Bank of Baroda was effectively sterilized through the order of Makgoka J of 9 October 2017. The effect of this order was to supersede the judgment of Fabricius J handed down on 21 September 2017.
- 38.3. Thirdly, and most importantly, the funds held by each of the Trusts are segregated and maintained for their specific statutory purpose. The funds are in the circumstances not subject to imminent risk as alleged by Fick.

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39. Ad paragraph 10

I take note of the stated purpose of Part B of the application. As should be evident from what is stated elsewhere in this affidavit, the measures taken by each of the Trusts are both adequate and satisfactory to ensure the long-term protection of the trust property as contemplated by the applicable legislation. I deny that OUTA is entitled to an order removing me as a trustee or entitled to demand an accounting. The relief sought against the Minister is similarly unnecessary as sufficient arrangements are in place for the financial provision for rehabilitation of both the mines. Save as aforesaid these allegations are denied.

40. Ad paragraph 11

There is no risk of the imminent closure of the accounts of the Trusts as is evident from the order of Makgoka J dated 9 October 2017. A copy of the judgment is annexed hereto marked "PG13". The Trusts do not require alternative facilities in South Africa at this stage. I deny any breach of my fiduciary or statutory duties as alleged. As I explain elsewhere in this affidavit my conduct at trustee has at all times been beyond reproach. I am fully cognisant of the rehabilitation obligations of each mine. There is no risk of burdening the public purse as the funds earmarked for rehabilitation are sufficient to meet this purpose. Save as aforesaid these allegations are denied.



41. Ad paragraph 12

I deal below with the preliminary report of Lange whose observations for the most part constitute a matter of speculation which do little to address the true facts.

42. Ad paragraphs 13 to 14

- 42.1. Save to admit that the applicant is cited as OUTA, I have no knowledge of the balance of the allegations contained in paragraph 13 which are not admitted and OUTA is put to the proof thereof. OUTA's mission statement found at https://www.outa.co.za/about-outa/our-vision-and-mission/ only speaks of:
 - 42.1.1. "Challenging the taxation policy and the regulatory environment (as a whole or part), as and when deemed as being irrational, unfit or ineffective for their intended purpose"; and
 - 42.1.2. "Questioning and challenging the squandering, maladministration and corrupt use of taxes, using our clear and effective methodology, and then to hold those responsible for the maladministration and / or corruption, to account for their behaviour and actions."

- While its mission statement states that its values are "Integrity and accountability" as well as "Responsible stewardship of our resources", OUTA does not appear to have a direct focus on the protection of the environment with its core activities instead channelled towards holding state owned enterprises to account as appears from the numerous press releases found on its website. It is denied that environmental protection constitutes a focus area of OUTA. For ease of reference I annex a copy of the mission statement hereto marked "PG14".
- 42.3. OUTA is invited to take this Court into its confidence by furnishing full particulars of all other environmental protection work previously and currently undertaken by it, and more specifically whether it has demonstrated the same kind of enthusiasm in holding other more established mining companies to account. Save as aforesaid the allegations in paragraph 14 are admitted.

43. Ad paragraphs 15 to 16

I have no knowledge of who funds OUTA, the composition of its funders or whether some of its funders live and work in Mpumalanga. These allegations are denied and OUTA is put to the proof thereof. There is no risk of rehabilitation failures in the case of the two mines. The funds earmarked for this purpose have been adequately segregated for this very purpose in line with the applicable legislation. Save to deny the standing of OUTA to bring these proceedings, I

take note of the allegations in paragraph 16. Not only is the institution of these proceedings unnecessary but they have been brought with an ulterior objective altogether in light of the fact that the funds earmarked for rehabilitation have not been misused with the result that there is no legitimate reason to conclude that there is a risk of failure to undertake rehabilitation activities. The only reasonable conclusion to be drawn is that OUTA has brought this misconceived application to drive its own agenda or that of its funders with little true concern for the environment.

44. Ad paragraphs 17 to 18

- 44.1. I am at present the trustee for the Optimum Trust and the Koornfontein Trust following the resignation of Emmamally and most recently Scott.

 The Optimum Trust's registration number is as indicated in paragraph 5.2 of the founding affidavit as IT/13693/07.
- 44.2. Save as aforesaid, I admit the allegations in these paragraphs.
- 44.3. As Fick correctly points out, both Trusts are duly constituted in terms of the provisions of the Mineral and Petroleum Resources Development Act 28 of 2002 ("the MPRDA") and NEMA for purposes of mining land rehabilitation and have at all times been contacted in line with this statutory objective.

45. Ad paragraphs 19 to 20

I have no knowledge of the contents of the telephonic discussion between Scott and Ms Soretha Venter ("Venter"). Although Ragavan is not a trustee or a signatory on the accounts of the Trusts with the Bank of Baroda, she is specifically tasked with certain administrative tasks which she performs on behalf of both Trusts subject to my control and supervision. All decisions are taken by me acting qua trustee. During the tenure of Scott and Emmamally this was also the case. She enjoys personal knowledge of the affairs of the Trusts. Save as aforesaid I admit the allegations in these paragraphs.

46. Ad paragraph 21

I admit the resignation of Scott. While he remains a signatory of the bank accounts for the Trusts, he no longer plays any role concerning the administration of the Trusts. I admit the balance of the allegations in this paragraph insofar as they pertain to me. Save as aforesaid I have no knowledge of the allegations in this paragraph concerning the investigations of Venter.

47 Ad paragraphs 22 to 24

I take note of the allegations in paragraphs 22 and 23. I am at present the trustee. I deny that I have a personal interest in the outcome of the application.



My interest if any arises only by virtue of the office of trustee which I hold. Fick appears to disregard the distinction which I submit is legally impermissible.

48. Ad paragraphs 25 to 27

I take note of the allegations in paragraph 25. I admit the allegations in paragraphs 26 to 27.

49. Ad paragraph 28

- 49.1. I admit the first sentence of this paragraph. Both Optimum Coal and Koornfontein Mine are cognisant of the legal obligation to make adequate pecuniary provision at all material times during the mining project for rehabilitation. Optimum Coal is the beneficiary of the Optimum Trust while Koornfontein Mine is the beneficiary of the Koornfontein Trust.
- 49.2. As dealt with elsewhere in this affidavit, the statutory matrix in terms of which the two Trusts and mining companies operate do not preclude concurrent rehabilitation, but the difference of interpretation is of no moment in the context of these proceedings since neither Trust has employed its capital reserve funds to service any concurrent rehabilitation obligation. Save as aforesaid, I admit the allegations contained in this paragraph.



50. Ad paragraphs 29 to 33

- I admit the allegations in paragraphs 29 and 30. If take note of the allegations in paragraph 31 but point out that the basis for the Bank of Baroda's decision to terminate its banking relationship with the Trusts is questionable to say the least. Having consented to an order of this Court on 26 September 2017 requiring the Bank of Baroda to keep open the accounts of the Trusts, any reputational harm to the bank was clearly more speculative than real as was correctly found by Makgoka J in paragraph 82 of his judgment of 9 October 2017.
- The learned judge correctly held that given that the purpose of reasonable notice in the closure of bank accounts was aimed to provide the banking client with sufficient opportunity to regulate its affairs, the period of six days given by the Bank of Baroda did not "by any stretch of imagination, constitute reasonable notice." The Court is referred to paragraph 76 of the judgment. These remarks are particularly apposite in the context of the Trusts which are statutory vehicles required to hold funds for mining rehabilitation purposes.
- 50.3. I admit the citation of the Minister as described in paragraph 32. For the reasons dealt with elsewhere in this affidavit, I submit that the Minister is under no obligation to come to the assistance of OUTA. Adequate measures are in place to safeguard the funds of each Trust

with the result that there is no basis for the Minister to intervene through the exercise of such legislative powers as may be entrusted to him.

51. Ad paragraphs 34 to 35

I admit the allegations in paragraph 34. The mining respondents do not take issue with Fick's characterisation of the legislative purpose behind the legal framework governing financial provision for rehabilitation of mines. The allegations in paragraph 35 are admitted.

52. Ad paragraphs 36 to 37.5.

- 52.1. I take note of the allegations in these paragraphs which more appropriately constitute a matter for legal argument. The Mineral and Petroleum Resources Development Regulations of 2004 as promulgated under the MPRDA are however no longer of primary importance in view of the Regulations referred to above as promulgated under NEMA which came into effect on 20 November 2015.
- 52.2. While the mining respondents disagree with paragraph 37.5 to the effect that concurrent rehabilitation is excluded, this is of no moment in the context of these proceedings since the funds have not been employed to service concurrent rehabilitation requirement save for the

instance referred to above involving the Business Rescue Practitioner which was limited to interest only in relation to Optimum Coal.

53. Ad paragraphs 38 to 39

I admit the allegations in paragraph 38. The allegations in paragraph 39 are only admitted insofar as they are consistent with the interpretation advanced by the mining respondents in the introductory portion of this affidavit. Save as aforesaid these allegations are denied.

54. Ad paragraph 40

I submit that the exercise of interpretation is objective with the result that no weight can be attached to the interpretation of any particular person including the Department of Mineral Resources ("the Department"). OUTA is nevertheless invited to make available the Clarification Note. Save as aforesaid these allegations are denied.

55. Ad paragraph 41

Having been created in 2007, each of the Trusts procured approval in terms of what was then section 41 of the MPRDA which was subsequently repealed by the Mineral and Petroleum Resources Development Amendment Act 49 of 2008



which came into effect on 7 June 2013. Save as aforesaid I admit the allegations in this paragraph.

56. Ad paragraph 42

Ideny the correctness of these paragraphs. As the third and fourth respondents Scott and I are not the rights holders. These are Optimum Coal and Koornfontein Mine who are cited as the fifth and sixth respondents. I admit the final sentence of this paragraph insofar as it relates to Optimum Coal and Koornfontein Mine.

57 Ad paragraph 43

- 57.1. I have no knowledge of the steps taken by OUTA to procure such copies. I am not surprised that the Master's Office has not furnished OUTA with copies since the documents described by the applicant are, by their very nature not public documents or made available for public inspection.
- 57.2. Thave no knowledge of the discussions between Scott and Venter but confirm the correctness of his advice to her as set out in paragraph 43. There is no obligation to provide OUTA with the documents sought by it. OUTA's standing under section 38 of the Constitution and section 32.

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of NEMA to vindicate environmental matters does not entitle it to meddle in the affairs of the Trusts.

58. Ad paragraphs 44 to 46

I admit the allegations in paragraph 44 insofar as Fick has correctly recorded the salient portions of Regulation 53. Save as aforesaid the allegations are denied. I admit the allegations in paragraph 45 and that there has been compliance with the Regulations promulgated under NEMA.

59. Ad paragraphs 47 to 49

I admit the allegations in paragraph 47 insofar as Fick has correctly set out the applicable statutory provisions. Both Trusts are conducted in compliance with section 37A(5)(a) of the Income Tax Act 58 of 1962 ("the Income Tax Act"). Save to deny that concurrent rehabilitation is not permitted, I do not take issue with the allegations in paragraph 48. There is no obligation on the mining respondents to furnish OUTA with the trust deeds. Save as aforesaid I take note of the allegations in paragraph 49.

60. Ad paragraphs 50 to 52

60.1. I admit that trustees are enjoined by the applicable common law provisions relating to Trusts and the provisions of the Trust Property



Control Act. It goes without saying that insofar as trust property is held in bank accounts, the necessary banking facilities must be secured and maintained. Fick ignores the fact that sufficient pecuniary provision for rehabilitation can be held through a variety of vehicles such as a deposit with the DMR or another appropriate secured investment vehicle permitted by the Regulations under NEMA.

60.2. I admit that the MPRDA and NEMA impose obligations concerning the financial provision for mine rehabilitation. Save as aforesaid these allegations are denied.

61. Ad paragraphs 53 to 54

I admit the allegations in paragraph 53 insofar as they constitute an accurate recordal of the Minister's obligations. Save as aforesaid the allegations in paragraph 53 are denied. I take note of the allegations in paragraph 54.

62. Ad paragraphs 55 to 56

Tegeta acquired its interest in Optimum Coal and Koornfontein Mine with effect from 15 April 2016. Save as aforesaid I admit the allegations in paragraph 55. I deny the correctness of the allegations in paragraph 56 insofar as it seeks to cast the transaction in a negative light. Eskom was not a party to the transaction. Optimum Coal had an existing coal supply agreement with Eskom



which was already in place, which collectively were acquired as part of the business. The Public Protector's Report is in any event *sub judice* in that it is the subject of judicial review and not germane to these proceedings.

63. Ad paragraphs 57 to 60

The combined value of the Trust funds at the time of the transaction referred to in paragraph 57 was R1 737 497 831.97. The funds of the Trusts were previously held with Standard Bank but were transferred to the Bank of Baroda on 21 June 2016 with approval from the Department. I admit the values of the Optimum Trust and the Koomfontein Trust as at 23 May 2016 and 21 June 2016. The collective interest that has accrued since comprises the amount of R170 317 696.22. Save as aforesaid I take note of these allegations.

64. Ad paragraphs 61 and 62

I admit the allegations in paragraph 61. Emmamally resigned on 15 July 2016. I have no knowledge of the discussion between Scott and Venter. I can accordingly not comment thereon save to point out that Scott would have been correct to direct any queries to me and Ragavan who as I have already indicated, plays an important role in the administration of the Trusts which she conducts under my direct control and supervision. Save as aforesaid these allegations are denied.



65. Ad paragraphs 63 to 65

I deny the existence of any conflict of interest either as alleged or at all. I take note of the allegations in paragraph 63 but point out that they do little to come to terms with the true issues in dispute between the parties. I admit the allegations in paragraphs 64 and 65 which are irrelevant to these proceedings.

66. Ad paragraph 66

I admit the first sentence of paragraph 66. Mr Jha relied in the Baroda interdict proceedings upon a list of shareholders and an organogram. His suggestion that each of the applicants in those proceedings is "owned and controlled by members of the Gupta family, either directly or indirectly" belies the fact that no member of that family is currently a director of any of the applicants and there is no evidence anywhere in the answer affidavit filed by the Bank of Baroda at the time of control by any member of the Gupta family, whether direct or otherwise. The alleged control complained of has a decidedly hollow ring that is unsubstantiated by the facts. OUTA is warned not to rely on these unsubstantiated allegations. Save as aforesaid these allegations are denied.

67. Ad paragraph 67

I admit that both Optimum Coal and Koornfontein Mine are owned by Tegeta of which Ragavan is a director. Scott resigned as a director of Koornfontein Mine on 31 August 2017. I admit the allegations in paragraph 67.2,

68. Ad paragraph 68

I deny holding an interest in Tegeta. Ragavan's role has been explained elsewhere in this affidavit. I dispute the alleged conflict of interest which Fick seeks to create. It is not uncommon for persons with an interest or association with the mine or beneficiary to be appointed as trustee. While the Regulations promulgated under NEMA provide that no more than one trustee may be in the employ of the mine, I confirm that I am not in the employ of Koornfontein Mine although I am a trustee of the Koornfontein Trust. I hold the office of director of Optimum Coal and am in the employ of Oakbay Investments (Pty) Limited. The required threshold stipulated by NEMA is not exceeded.

69. Ad paragraphs 69 to 70

69.1. I take note of the allegations in paragraph 69. Albeit that Scott has resigned as trustee, he remains a signatory on the Koornfontein Trust's account with the Bank of Baroda. In view of the litigation with the bank which only produced a favourable outcome on 9 October 2017, it was

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deemed best to adopt a wait and see approach in light of the fact that the applicants in the Baroda interdict proceedings still faced the risk of the closure of the accounts held with the bank. Until some semblance of certainty was established, there was little point in effecting a change to the signatories.

- 69.2. In light of Scott's resignation, a second trustee who is not in the employ of either Optimum Mine or Koornfontein Mine, is in the process of being appointed to the Trusts. The appointment and revised letters of authority is awaited from the Master of the High Court.
- 69.3. With reference to the allegations by Lange, the incorrect description of the Trust was an oversight and nothing turns on it. The same holds true for the erroneous description of the Trust's holding company as Tegeta.
- 69.4. I accept that a Trust is not a separate juristic entity but a collection of assets held by the trustees in their official capacity with the result that a Trust cannot have a holding company.
- 69.5. The error was entirely bona fide and not the result of any attempt at dishonesty or to defraud the Bank of Baroda who no doubt, and in view of the fact that it does business in South Africa, would have been alive to the fact that Tegeta cannot be the holding company of the Trust.

70. Ad paragraphs 71 to 73

I admit the allegations in paragraph 71. I admit the contents of SF6A. I admit the allegations in paragraph 73 insofar as Fick has accurately recorded the contents of the letter.

71 Ad paragraphs 74 to 75

- 71.1. The request was made with a view to secure Departmental approval to make use of the funds for concurrent rehabilitation purposes which was deemed necessary at the time following Tegeta's acquisition of the Koornfontein Mine from Glencore. The latter had neglected its ongoing rehabilitation obligations. As highlighted elsewhere in this affidavit the funds were not used for this purpose and a loan was instead secured from the Bank of Baroda.
- 71.2. While Ragavan is not a trustee, she was duly authorised to address the letter annexed as SF6A to the Regional Manager. Since the Koornfontein Trust was required to keep no more than R128 million for financial provision purposes but was in fact holding a deposit R305 million at the time in its current account with the Bank of Baroda, there was a surplus available to use as security for the loan. Because the funds employed for collateral purposes were sourced from this surplus

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no funds statutorily earmarked for rehabilitation were placed at any risk.

Save as aforesaid these allegations are denied.

72. Ad paragraph 76

I fail to see the relevance of these allegations. There is nothing untoward in the expeditious conduct by an organ of state. To the extent that OUTA is of the view that the approval was unlawful, it must approach the High Court to have same set aside by way of judicial review or exhaust an internal appeal as envisaged by section 96 of the MPRDA insofar as OUTA qualifies for protection under the section. I submit that there is no point in treating the approval as unlawful since it remains presumptively valid until set aside. OUTA like everyone else in a constitutional state, cannot be selective in its treatment of decisions which it considers lawful and binding.

73. Ad paragraphs 77 to 78.

The fact that the trustees were not mentioned is of no moment. The tenor of the letter was clear. Ragavan was duly authorised to represent the trustees insofar as may have been necessary. I emphasise the point that even though Departmental approval was secured, the funds were not used for concurrent rehabilitation purposes but a loan was instead procured from the Bank of Baroda for this purpose. Save as aforesaid these allegations are denied.



74. Ad paragraph 79

Ragavan acted with full authority from the trustees. Her conduct is not unlawful as NEMA does not exclude the use of the funds for concurrent rehabilitation purposes. Save as aforesaid these allegations are denied.

75. Ad paragraphs 80 to 82

I have no knowledge of the AmaBhungane report and cannot account for how it reported on the Department's conduct. I fail to see the relevance of the allegations in paragraph 81. Optimum Coal at the time required access to the funds to undertake concurrent rehabilitation work. The business rescue practitioner was not inclined to permit such work to be undertaken from the funds under his control which necessifated in Ragavan seeking to access the funds of the Optimum Trust. Ragavan was acting under the direction and supervision of the trustees. Save as aforesaid these allegations are denied.

76. Ad paragraphs 83 to 85

76.1. I admit the allegations in paragraphs 83 and 84. The reference to "outstanding" amounts is a reference to a credit balance. With reference to paragraph 85, I do not know which media reports Fick purports to be referring to.

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Tam therefore unable to address these allegations meaningfully save to point out that the Bank of Baroda issued termination notices on 6 July 2017 which culminated in the launching of urgent proceedings to interdict the bank from terminating the applicants' bank accounts held with it pending the determination of an application to be launched in which the applicants would challenge the validity of the notices given by the bank to close their accounts. Save as aforesaid the allegations in paragraph 85 are denied.

77. Ad paragraphs 86 to 89

I admit the allegations in paragraph 86. I admit the transmission of the letter to Scott, Ragavan and me on 25 August 2017. I have no knowledge of the correspondence addressed to the Minister. Save to note that Fick has sought to rely on various news reports, I am unable to comment on OUTA's state of knowledge at the time. I take note of the allegations in paragraph 89.

78. Ad paragraphs 90 to 91

I take note of the allegations in paragraph 90 insofar as Fick has correctly summarised the salient part of the letter. OUTA was plainly not entitled to any of the information sought. There was in the circumstances no need to favour OUTA with a favourable response.

79. Ad paragraphs 92 to 96

I have no knowledge of the contents of the letter addressed to the Minister. I admit the allegations in paragraphs 92 to 93 to the extent that Fick has correctly summarised the key demands contained therein. There would have been no reason to respond to OUTA as its concerns were not only ill founded and lacking if any justification, but it was furthermore not entitled to any of the information sought.

80. Ad paragraphs 97 to 98

- 80.1. I admit the publication of the Sunday Times article. I would not be surprised if OUTA was the source to the newspaper since it appears to thrive on publicity of this kind so as to aid it in its fundraising activities.
 I confirm that the Department advised that the rehabilitation funds remained intact.
- 80.2. On reflection it appears that OUTA has overreacted having regard to the effect of the judgment of Makgoka J which has preserved the status quo pending final determination of the dispute with the Bank of Baroda. I admit Ragavan's response to OUTA. She was under no obligation to come to OUTA's assistance. Save as aforesaid these allegations are denied.

81. Ad paragraphs 99 to 100

Save to deny the allegation in paragraph 99 that the 18 companies are Gupta controlled, I admit the allegations in these paragraphs. The motivation behind the application stemmed from the fact that the Bank of Baroda refused to keep the accounts of the applicants open until the set down date of 7 and 8 December 2017. The application having been set down for 7 and 8 December 2017 by the directive of the Deputy Judge President, the bank refused to furnish an undertaking that pending the determination of that application, they would not proceed to close the applicants' accounts. This was found by Makgoka J to have been unreasonable.

82. Ad paragraphs 101 to 102

I admit the allegations in paragraph 101. The extreme urgency of the situation did not allow for confirmatory affidavits to be filed on behalf of all twenty applicants in those proceedings which would have presented a huge administrative burden that would only have served to delay the hearing of the application. This the applicants could ill afford given the Bank of Baroda's stated desire to close the accounts by Saturday 30 September 2017. I admit the allegations in paragraph 102.

83. Ad paragraphs 103

I deny the correctness of these allegations. The Trusts were two of twenty of the applicants in the Baroda interdict proceedings. Reference was made to them as was required in the context of procuring the necessary relief which I point out, is of specific application to them as appears from the order of Makgoka J dated 9 October 2017. I deny the risks contended for in this paragraph. The only risk to which the Trust was exposed was the risk of the closure of its bank account. That risk is adequately ameliorated at least on a temporary basis.

84. Ad paragraphs 104 to 104.3

I admit these paragraphs. Not only were the letters of termination unlawful in that the Bank of Baroda sought to terminate the accounts for spurious reasons but the notice period of six days was hopelessly inadequate.

85. Ad paragraph 105

The account numbers reflected in paragraphs 104.1.1 and 104.1.2 are the accounts of the Trusts held with the Bank of Baroda. The funds standing to the credit of the Trusts were previously invested in fixed deposit accounts which matured on 6 June 2017 in respect of Koornfontein Trust and 24 June 2017 in respect of Optimum Trust. In view of the litigation which subsequently ensued

with the Bank of Baroda, and the uncertainty which this brought about insofar as the continued banking relationship with the bank was concerned, no reinvestment instruction could legitimately have been given to the bank. The blame for the failure to employ fixed deposit accounts after this date can therefore not be laid at the door of the trustees.

86. Ad paragraph 106

I admit the contents of paragraph 106. This was the precise motivation for the launching of the application. The allegations in paragraph 106.1 to 106.3 are admitted insofar as Fick has correctly recorded the contents of Ragavan's founding affidavit. Save as aforesaid the allegations in these subparagraphs are denied.

87. Ad paragraph 107

I admit the allegations contained in this paragraph insofar as they accord with what is stated in Ragavan's founding affidavit in the Baroda interdict proceedings. Having succeeded with interim relief the position of the applicants in those proceedings are secured for the foreseeable future. I point out that under the umbrella of a restructuring which I address elsewhere in this affidavit, there ought to be no basis why the Trusts will not secure suitable alternative banking facilities of their choice.

88. Ad paragraphs 107.1 to 107.7

The allegations in paragraph 107.1 to 107.7 are admitted insofar as Fick has correctly recorded the contents of Mr Jha's affidavit. The reasons advanced by the Bank of Baroda were bad in law and in fact. Contrary to what Fick contends, the bank's attitude was not understandable and, as Makgoka J found, the reputational harm to the bank was of a speculative nature only. Save as aforesaid the allegations in these subparagraphs are denied.

89. Ad paragraph 108

Mr Jha was in no position to take a stance on the veracity of the allegations as he had no personal knowledge on the matters in respect to which he purported to testify. These allegations by Mr Jha are in any event irrelevant to this application and introduced for no other reason but to sully my reputation as trustee even though I have not been complicit in any wrongdoing. I take strong exception thereto. To the extent that they are relevant at all, which I deny, I refer the Court to "PG15" hereto being an extract from Ragavan's replying affidavit in the Baroda interdict proceedings where she deals specifically with paragraphs 149 to 241 of Mr Jha's answering affidavit. Clearly these allegations were not persuasive as Makgoka J was still minded to grant the applicants interim relief, this despite the Bank of Baroda's attempt to tarnish their reputations so as to bolster what otherwise amounted to poor reasons for the issue of the termination notices.

90. Ad paragraphs 109 to 110

I deny these allegations. It is notable that at no stage did the Bank of Baroda advise that if would consider keeping open the accounts for the Trusts if new trustees are appointed. The decision to terminate had nothing to do with the trustees and was not informed by our conduct. These allegations therefore smack of opportunism. As the order of Makgoka J demonstrated, the Bank of Baroda is obliged to hold the funds. The learned judge made no finding against me or the Trusts per se with the result that there is no causal connection between my role as trustee and the bank's continued obligation to hold the funds on behalf of the Trusts. Lange's views are of no probative value and are certainly at odds with the view of expressed by this Court on 9 October 2017.

91. Ad paragraphs 111 to 112

91.1. I admit the allegations in paragraph 111. The bank's decision to terminate the transactional and loan facilities of the applicants in the Baroda interdict proceedings had little if anything to do with the array of negative publicity or reputational risk upon which the bank sought to rely and everything to do with the commitment given by the bank's Mr Eric Tucker to the Chief Executive of the Bank's South African Branch on 1 July 2017. A copy is annexure "PG16" to the answering affidavit.

- 91.2. In paragraph 3 of that letter, its author states that the "Loan/Overdraft facilities granted to the group and its subsidiaries should be settled by 30th September 2017, as per commitment given to the Regulator" (my underlining). Despite having had an opportunity to do so, Mr Jha never took the Court into his confidence by explaining who "the Regulator" is.
- 91.3. It is apparent from this letter that the proximate cause of the Bank's decision to terminate the transactional and loan facilities was that commitment. I have already dealt with the allegations in paragraph 112 and the circumstances around the loan from the Bank of Baroda. I refer the Court to what is stated elsewhere in this affidavit.

92. Ad paragraphs 113 to 115

I admit the allegations in paragraphs 113 and 115 only to the extent that Fick has accurately summarised the relevant portion of Mr Jha's answering affidavit read with the annexes thereto. There was not a shred of evidence that any of the securities which the Bank held (and which Mr Jha failed entirely to address) were at risk, whether "legally" or for any other reason. Despite having had these alleged concerns in 2016 already, Mr Jha provided no explanation for why it was not until July 2017 (following a commitment around 1 July 2017 to an unnamed "regulator") that the Bank decided to terminate the transactional and loan facilities. The loan made to Koomfontein Mine was repaid in short order but importantly, not on account of any desire by Baroda to bring its relationship

with the applicants to an end but because there was ultimately no need for the loan to persist. Save as aforesaid these allegations are denied.

93. Ad paragraphs 116 to 117

I admit receipt of the letter referred to in paragraph 116. I have already dealt with the circumstances around the loan to Koornfontein Mine. The collateral put forward by the Koornfontein Trust was limited to surplus funds held in the account over and above the funds held to meet the requirements for financial provision. As I have already indicated, the reserves of the Koornfontein Trust were not used to meet the liability as it was repaid directly by Koornfontein Mine.

94. Ad paragraphs 118 to 119

I deny the correctness of the allegations contained in paragraph 118. The legal restriction imposed on the use of trust funds pertains to funds specifically earmarked for rehabilitation purposes in terms of section 24P of NEMA and not to any surplus funds over and above that which is held for financial provision as determined from time to time by way of assessment reports. Lange's views are inconsequential. He does not have an understanding of the true facts and like Fick, has had to resort to suppositions. No conflict of interest arose since the funds kept for rehabilitation purposes and ring fenced to meet this liability remained untouched.



95. Ad paragraphs 120 to 121

I admit the allegations in paragraph 120. Paragraph 121 is admitted insofar as Fick has correctly quoted from Ragavan's founding affidavit. Save as aforesaid the allegations in paragraph 121 are denied.

96. Ad paragraph 122

- 96.1. I fail to understand how Fick comes to the conclusion that Trust funds are being used for rehabilitation purposes. Ragavan does not say that. The point made by her in paragraph 43.9 of the founding affidavit was simply that upon closure of the bank accounts for the Trusts, the Trusts would be deprived of banking facilities which are essential tools for purposes of making financial provision as required in terms of section 24P of NEMA.
- 96.2. The keeping of funds for purposes of making financial provision would be rendered exceedingly difficult in that event which would expose the beneficiaries (i.e. Optimum Coal and Koornfontein Mine) as the respective mining rights holders to the risk of possible sanction under the MPRDA.
- 96.3. Save for the one instance involving the Business Rescue Practitioner referred to above that pertained to Optimum Coal, no trust funds are or

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have been used for rehabilitation with the mines budgeting therefor from their respective operational budgets. Importantly, no capital reserves were employed by him. Save as aforesaid these allegations are denied.

97 Ad paragraph 123

- 97.1 The inference sought to be drawn by Fick in this paragraph is demonstrably false. While it is so that government resources may have to be allocated to continue with rehabilitation where provision has not been made, Ragavan's remarks here were made within the context of the practical difficulties that would follow in managing rehabilitation funds over the long-term if the Trusts are left without a bank account.
- 97.2. As should be evident from what is stated elsewhere in this affidavit that risk has been ameliorated for the time being following the judgment of Makgoka J while alternative investment vehicles are also being explored in line with the Regulations promulgated under NEMA.
- 97.3. I deny that funds belonging to the Trusts have been used for rehabilitation purposes save for the instance referred to above involving the Business Rescue Practitioner which was limited in its use to interest only. Save as aforesaid these allegations are denied.

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98. Ad paragraph 124

OUTA is not entitled to an accounting for the reasons dealt with elsewhere in this affidavit. Save as aforesaid these allegations are denied.

99. Ad paragraph 125

Ragavan was making submissions in general terms and not specifically with reference to the Trusts. At no stage did she attempt to elevate the risk of losing the mining rights above the mines' environmental statutory obligations. The two go hand in hand and are truly co-extensive in that sustainable mining is not possible in today's regulatory regime without regard to a variety of other considerations including environmental and social factors.

100. Ad paragraph 126

These allegations speak for themselves and go the root of the irreparable harm. which Makgoka J identified in his judgment of 9 October 2017.

101. Ad paragraph 127 to 129

I have no knowledge of the circumstances that led to the preparation of a report by Deloitte. Fick herself clearly does not have personal knowledge either and is left with having to build OUTA's case on the basis of newspaper articles. Save as aforesaid I do not have personal knowledge of the report, its delivery date or the instructions said to have been issued by the South African Reserve Bank to the Bank of Baroda. It is notable that having regard to SF19, Mr Shipp made it clear in no uncertain terms that the report should not be used, reproduced or circulated for any other purpose without the prior written consent of Deloitte as it was provided solely for the purpose of meeting the Bank of Baroda's responsibility to report to the Registrar of Banks (see page 275 of the record). Fick is invited to state whether Deloitte consented to the use of the report in these proceedings before they were launched.

102. Ad paragraphs 129.1 to paragraph 130

- 102.1. I admit the allegations in paragraph 129. With reference to the allegations in paragraph 130, I point out that despite OUTA's reliance on the report by Deloitte, it seeks to place selective evidence before this Court. Fick has chosen to ignore the fact that the report concluded in Appendix 1 (see page 291 of the record) that no transfer or withdrawals of funds relating to Trust monies were made out of the Bank of Baroda's accounts other than the investment of the funds into internal fixed deposit investments.
- 102.2. The fact that the Bank of Baroda may not have an internal policy regarding mine rehabilitation trust funds is not the responsibility of the

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Trusts. OUTA is invited to address the matter further with the Bank itself. Save as aforesaid these allegations are denied.

103. Ad paragraphs 131 to 137

- 103.1. I admit the allegations contained in these paragraphs to the extent that they represent an accurate recordal of the Deloitte report read with the annexes thereto. As can be gleaned from these allegations, Fick is left with no basis to impugn the conduct of the trustees. What Fick seemingly does not acknowledge despite the Deloitte report constituting objective evidence in confirmation thereof, is that no capital reserves have been used for rehabilitation purposes.
- 103.2. Despite the evidence annexed to its own founding affidavit confirming this, OUTA has deemed fit to make unsubstantiated allegations that seek to discredit the trustees in their administration of the Trusts. At no stage did the Optimum Trust allow any fixed deposits to be used as collateral or security of any kind. Save as aforesaid these allegations are denied.

104. Ad paragraphs 138 to 144

104.1. I admit the allegations contained in these paragraphs to the extent that they represent an accurate recordal of the Deloitte report read with the

annexes thereto. Fick is yet again left with no basis to discredit the trustee in their administration of the Trusts.

104.2. I have already dealt with the circumstances around the loan to Koornfontein Mine by the Bank of Baroda. The collateral put forward by the Koornfontein Trust was limited to surplus funds held in the account over and above the funds held to meet the requirements for financial provision. None of the funds standing to the credit of the Koornfontein Trust have been used for concurrent rehabilitation, Save as aforesaid these allegations are denied.

105. Ad paragraphs 145 to 148

I admit the receipt of the correspondence addressed by OUTA dated 12 September 2017. As OUTA is not entitled to the information set out in paragraph 145.1 to 145.6; there was no corresponding obligation to respond to OUTA. I have no knowledge of the correspondence directed at the Minister referred to in paragraph 147. Save as aforesaid I admit the allegations in these paragraphs.

106. Ad paragraphs 149 to 150

I have no knowledge of the correspondence directed by OUTA to the Bank of Baroda. It is instructive to note that the bank confirmed in unequivocal terms to

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OUTA that the funds held by it and standing to the credit of the two Trusts "are not encumbered in any way". It begs the question why OUTA deemed fit to continue with the prosecution of this application. It has elected to do so for reasons that are clearly self-serving. I have already addressed the factual allegations relative to paragraph 150 elsewhere in this affidavit.

107. Ad paragraphs 151 to 152

I admit the allegations contained in these paragraphs to the extent that Fick has correctly set out the correspondence exchanged between Werksmans and Tabacks. Save as aforesaid these allegations are denied.

108. Ad paragraph 153

I admit that Fabricius J handed down judgment on 21 September 2017. The findings made by the learned judge are of academic importance only in that it has been superseded by the judgment of Makgoka J of 9 October 2017. No purpose will therefore be achieved by dissecting those findings.

109. Ad paragraph 154 to 155

109.1. I deny that the Trust funds are at risk. The judgment of Makgoka J makes it clear that there is no risk of imminent closure of the accounts of the Trusts held with the Bank of Baroda. There is accordingly no



need to secure alternative banking facilities here and now and no risk of flight of the funds which is an opportunistic allegation made without a proper factual basis. Steps have been taken to explore all options with regard to the opening of new accounts.

109.2. A new bank, known as "Post Bank", will soon commence offering full banking services. It is hoped that since it will be unbiased it will consider requests for opening accounts in the name of the Trusts favourably. I deny any conflict of interest either as alleged or at all. I deny that the capital of the Trust funds have been used for concurrent rehabilitation. Ragavan has at all times acted under the control and supervision of the trustees. Fick is simply not in a position to counter this and has been left to make bald sweeping allegations not borne out by the facts. I point out that I explored alternative investment vehicles for the trust funds at a much better interest rate. The Department has consented to this new investment vehicle which can unfortunately not be implemented as long as the current Court order remains in place. Save as aforesaid these allegations are denied.

110. Ad paragraphs 156 to 157

I reiterate that the Bank of Baroda had no good reason to terminate its contractual relationship with the Trusts. A final determination of the issue will be made in due course. I take note of the admission that the Bank of Baroda



appears to be sympathetic towards OUTA. This is consistent with the order to which it consented to so as to keep the Trust accounts open, this notwithstanding the alleged reputational harm it complained of which Makgoka J found to have been of a speculative nature only. I admit the allegations in paragraphs 157 and 158 insofar as they constitute an accurate recordal of the relevant provisions of the applicable legislation reliant upon. Save as aforesaid these allegations are denied.

111. Ad paragraphs 159 to 160

I admit the allegations in paragraph 159. For the very reasons advanced by Fick in this paragraph, the Bank of Baroda's summary decision to terminate the accounts of the Trust was unlawful. No basis exists to remove me as trustee. I discharge my duties as trustee in accordance with the prescripts of the common law and obligations imposed on me by the Trust Property Control Act. As already highlighted, OUTA is not entitled to demand an accounting. Save as aforesaid the allegations in paragraph 160 are denied.

112. Ad paragraphs 161 to 163

I deny that OUTA has made out a prima facie case. I do not deem it necessary to respond to paragraph 162 in view of the consent order made an order of Court by Msimeki J on 26 September 2017 which effectively addressed Part A of the relief. I deny that the allegations in paragraph 163 sets out adequate



grounds for urgency. The hearing before Fabricius J took place as early as 8 September 2017 with the Bank of Baroda having advised as far back as 6 July 2017 of its intention to close the accounts. No explanation is furnished for why OUTA did not bring this application earlier if it truly had legitimate concerns.

113. Ad paragraphs 164 to 165

The time period afforded to the mining respondents within which to respond was hopelessly inadequate. No basis exists for the Minister to intervene. Save as aforesaid these allegations are denied.

114. Ad paragraphs 166 to 167

In view of the fact that the relief sought in Part A is of academic importance only, I do not deem it necessary to respond to these allegations save to point out that the Trusts have never disputed the very specific statutory purpose for which the funds are held.

115. Ad paragraphs 168 to 169

I take note of the allegations contained in paragraph 168. OUTA ought to have joined the Master from inception who has an interest in any proceedings that have a direct bearing on the administration of the Trusts. I deny that OUTA is entitled to the relief set out in the notice of motion.

116. I now deal with the allegations contained in Fick's supplementary founding affidavit. Allegations not specifically dealt with should be taken as having been denied.

AD SERIATIM RESPONSE TO SUPPLEMENTARY FOUNDING AFFIDAVIT

117. Ad paragraphs 1 to 5

I admit that Fick is an adult female and that OUTA is the applicant. I have no knowledge of the position occupied by her. I deny that all of the allegations are all true and correct and within Fick's personal knowledge. I admit the allegations in paragraph 3 insofar as they are consistent with the order of Msimeki J dated 26 September 2017. Save as aforesaid the allegations in paragraph 3 are denied. I admit the allegations in paragraphs 4 to 5.

118. Ad paragraph 6 to 7

I take note of the allegations contained in these paragraphs.

119. Ad paragraphs 8 to 11

I take note of the allegations in paragraph 8. I admit that Scott tendered his resignation on 31 August 2017. I take note of the fact that Scott did not supply OUTA with copies of the documents OUTA is on a fishing expedition for. It would have been inappropriate for him to do so given his resignation as trustee



of the Trusts. Scott's resignation was effective immediately. Save as aforesaid. I admit the allegations contained in these paragraphs.

120. Ad paragraphs 12 to 14

I admit the exchange of correspondence between Werksmans and de Oliveira whose letter of 3 October 2017 speaks for itself. I cannot speak for why OUTA has not secured copies of the documents referred to by it from the Master, but do not find this unusual as trust deeds by their very nature are not public documents like a memorandum of incorporation. Fick has not disclosed what further steps have been taken to procure the trust deeds.

121. Ad paragraphs 15 to 18

I admit the allegations in paragraph 15. The Master ought to have been joined from inception. I confirm that I am at present the sole trustee. I admit the allegations in paragraphs 17 and 18 insofar as they concern the joinder of Ragavan who performs administrative tasks in relation to both Trusts from time to time but subject to my control and supervision. Ragavan is only a director of Koornfontein Mine and not Optimum Coal. Save as aforesaid these allegations are denied.

122. Ad paragraphs 19 to 21

I admit the allegations in paragraph 19 relating to the circumstances which led to Ragavan expressing an interest in becoming joined as a party to these proceedings. Save as aforesaid the allegations in paragraph 19 are denied. It is not for the Court to appoint trustees. As appears from section 7(1) of the Trust Property Control Act, the power is specifically entrusted to the Master who is entitled to exercise the power where the office of trustee cannot be filled or becomes vacant but subject to qualification. I admit the allegations in paragraph 21.

123. Ad paragraphs 22 to 24

- 123.1. I admit the launch of a further urgent application and the filing of a replying affidavit which was not possible nor necessary at the time of the hearing of the application for interim relief before Fabricius J on 8 September 2017 which sought to preserve the status *quo* insofar as the relationship with the Bank of Baroda was concerned pending the hearing of an application for an interim interdict that was specifically enrolled for 7 and 8 December 2017.
- 123.2. Following the application for interim relief having been set down for 7 and 8 December 2017 by the directive of the Deputy Judge President, the Bank of Baroda refused to furnish an undertaking that pending the

determination of that application, they would not proceed to close the applicants' accounts. As Makgoka J correctly found, this was a particularly unreasonable stance on the part of the Bank of Baroda and justified the proceedings heard before the learned judge on 28 and 29 September 2017.

123.3. I admit that OUTA was not advised of the further urgent application.

The insinuation that there may have been an obligation to do so is startling to say the least. Save as aforesaid these allegations are admitted.

124. Ad paragraphs 25 to 26

I take note of the allegations in paragraph 25. I admit that no confirmatory affidavits were filed on behalf of the Trusts. The extreme urgency of the situation did not allow for confirmatory affidavits to be filed on behalf of all twenty applicants in those proceedings which would have presented a huge administrative burden that would only have served to delay the hearing of the application. This the applicants could ill afford given the Bank of Baroda's stated desire to close the accounts by Saturday 30 September 2017. It hardly bears mentioning that the bank was particularly fortified in its views and entitlement to adopt this particular course of action following the judgment of Fabricius J handed down on 21 September 2017. Ragavan has personal knowledge of the affairs of the Trusts as I have already demonstrated.

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125. Ad paragraphs 27 to 32

I admit the allegations in paragraphs 27.1 to 27.2 insofar as they represent an accurate recordal of the contents of Ragavan's replying affidavit. I deny any suggestion of unlawfulness. OUTA ignores the fact that the collateral was put forward in respect of surplus funds available to the Koomfontein Trust which were in excess of funds required to be kept for financial provision purposes. I have already addressed this theme elsewhere in this affidavit. No funds statutorily earmarked for rehabilitation were placed at any risk. Koomfontein Mine repaid the loan in November 2016. The Trusts owe OUTA no explanation of any kind on the basis sought in paragraph 32. Save as aforesaid these allegations are denied.

126. Ad paragraphs 33 to 34

I fail to understand the allegations in paragraph 33. Koornfontein Mine paid the loan back to the Bank of Baroda without delay. I deny that the trustees were reckless as funds maintained for rehabilitation were at no stage subjected to any risk. The security pertained only to the surplus funds kept by the Koornfontein Trusts. Contrary to the suggestion in paragraph 35, Trust funds were never utilised for any other purpose. This is in fact borne by the Deloitte report which Fick referred to in her founding affidavit. I fail to understand why OUTA persists with this line in the face of the evidence annexed to its founding affidavit. Save as aforesaid these allegations are denied.



127 Ad paragraphs 35 to 36

I admit the allegations in paragraph 35. The replying affidavit speaks for itself in this regard. I deny the allegations in paragraph 36 insofar as it is suggested that the Trusts cannot operate under my control and supervision in the manner required of a trustee.

128. Ad paragraphs 37 to 39

I admit the allegations in paragraph 37. I admit the first sentence of paragraph 38 but point out that this is not the sum total of the restructuring taking place. While the transaction with Charles King SA has been concluded, the parties are in the process of applying for regulatory approvals. I admit the allegations in paragraph 39.

129. Ad paragraph 40

I have no knowledge of Charles King SA's trading history or experience in the mining industry. OUTA should welcome the fact that the transaction represents an opportunity to secure much needed foreign direct investment for South Africa. I do not know why OUTA treats the transaction with suspicion but suspect its motives are not *bona fide*.



130. Ad paragraphs 41 and 42

There was no obligation on the trustees to favour OUTA with an explanation of any kind. Regardless of who the party is that acquires a South African mining asset, it must adhere to the South African regulatory framework within which mines operate as set out in the MPRDA and NEMA. The Trusts will therefore continue to serve their purpose should the transaction with Charles King SA secure regulatory approval. Save to admit the allegations in paragraph 42, I deny the balance of the allegations in these paragraphs.

131. Ad paragraphs 43 to 44

The transaction is awaiting regulatory approvals as advised elsewhere in this affidavit. Save as aforesaid I admit the balance of the allegations in paragraph 43 which are uncontroversial to say the least. In my capacity as trustee I am and have never been under any illusion as to the statutory purpose for which the funds are being kept. I take note of the allegations in paragraph 44.

132. Ad paragraphs 45 to 46

I do not specifically deal with the allegations in paragraph 45 since they have been overtaken by the judgment handed down by Makgoka J on 9 October 2017. I take issue with the suggestion in paragraph 46 that the Trusts cannot



readily retain banking and other services while under their existing control. The judgment of Makgoka J is destructive of an inability to retain banking services.

133. Ad paragraph 47

I deny the allegations in this paragraph. The conclusion drawn here is simply not borne by the objective facts. The affairs of the Trusts are segregated and dealt with separately on the basis of a clear distinction drawn between trust property and property vesting in other companies within the group of companies falling within the Oakbay stable. The fact that it was convenient for the Trusts to be co-applicants in the Baroda interdict proceedings given that they too faced the prospect of the imminent unlawful closure of their accounts does not give rise to any inference that the affairs of the Trusts are dealt with on the basis suggested in this paragraph.

134. Ad paragraphs 48 to 49

I admit the allegations in paragraph 48. I admit the decision of ABSA to terminate its relationship companies within the Oakbay Group. This has no bearing on these proceedings since the Trusts never held accounts with ABSA with the result that I fail to see the relevance of these allegations in the context of these proceedings. Save as aforesaid these allegations are denied.



135. Ad paragraphs 50 to 55

- 135.1. I admit KPMG's decision to terminate its relationship with the companies within the Oakbay Group. Following ABSA's decision, I admit that the remaining large banks followed suit. Although the Bank of Baroda had rendered banking services to companies within the group previously, it was following the decision of the major banks to close the accounts of these companies that the role of the Bank of Baroda became more central as a banker to the Oakbay stable as a whole.
- 135:2. The Bank of Baroda for instance opened new accounts for Tegeta and advanced some R1.25bn in capital in April 2016. The last accounts which opened with the Bank of Baroda were for the Koornfontein Trust and the Optimum Trust which were opened on 21 May 2016 and 21 June 2016 respectively.
- 135.3. This was following Standard Bank having given notice of its intention to close the accounts of all clients falling in the Oakbay stable.

 Whatever the reasons advanced by the four banks at the time, they are of no relevance to these proceedings. Save as aforesaid these allegations are denied.

136. Ad paragraphs 56 to 57

While it is correct that Sizwe Ntsaluba and Gobodo ("SNG") have resigned as the auditors of the Trusts, they remain in position at least until such time as the latest financial statements as at 28 February 2017 have been prepared which it is expected will be available in November 2017.

137 Ad paragraphs 58 to 59

I admit the allegations in paragraph 58 insofar as they represent an accurate recordal of the contents of Ragavan's replying affidavit. It was never stated that there is no prospect of finding alternative banking facilities, but rather that time will be required to do so. As I have set out elsewhere in this affidavit steps towards the achievement of this objective are already underway. It is noteworthy that Fick does not accuse the Trusts of having a poor reputation. Save as aforesaid these allegations are denied.

138. Ad paragraphs 60 to 62

Save to state that the conclusions drawn by Lange are not correct, I take note of the allegations in paragraph 60. I deal with Lange's report separately insofar as it is necessary to do so.

139. Ad paragraph 63

I take note of the terms of the amended notice of motion. I deny that OUTA is entitled to the relief sought.

140. Ad paragraphs 64 to 66

- 140.1. I deny that OUTA has made out an adequate case for my removal from the office of trustee. OUTA cannot show that my removal will be in the interests of the Trusts or their beneficiaries being Optimum Coal and Koornfontein Mine as required by section 20 of the Trust Property Control Act. My removal is instead sought on the basis that it will serve the greater public interest which is with respect not the test under section 20. I, in any event, deny that the public interest is relevant in the context of the Court determining whether grounds for my removal have been established.
- 140.2. OUTA has no interest in the administration of the Trusts. It is not a beneficiary and enjoys no right or interest in the property of each Trust. I deny that my removal will be in the interests of the Trusts. There is no reason to conclude that my removal will enable the Trusts to act differently since the trustees have at all times acted in accordance with their statutory obligations.

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140.3. I fail to see how my holding office imperils the property of the Trusts or their continued administration. The funds are held for rehabilitation purposes and have at all times been dealt with in accordance with the applicable statutory provisions. Save as aforesaid I deny the allegations in paragraph 66.

141 Ad paragraph 67

I deny that I have breached by fiduciary or statutory duties. At no stage has there been a violation by the trustees of the obligations imposed by the MPRDA, NEMA or the Income Tax Act. The conflict of interest complained of is putative at best. The MPRDA does not prescribe who can be appointed trustees of mine rehabilitation trusts with the result that it does not follow that because I am also a director of Optimum Coal that I am thereby disqualified from holding the office of trustee. Save as aforesaid these allegations are denied.

142. Ad paragraph 68

142.1. I deny these allegations. The order of Makgoka J has shown that the Bank of Baroda has a case to answer with regards to its sudden decision to terminate the bank accounts of the various entities in the Oakbay Group.

W \$

- 142.2. While it is so that the four large commercial banks are not prepared to conduct business with *inter alia* the Optimum Trust and Koornfontein Trust, earnest attempts have been made to explore all options with regard to the opening of new accounts. As highlighted by Ragavan in the founding affidavit in the Bank of Baroda interdict proceedings, various measures have been taken to engage with various local and international financial institutions to explore the possibility of obtaining a viable operational solution to put in place, even temporarily.
- 142.3. Whilst all reasonable endeavours to open new accounts are being made, the termination of the banker-customer relationship in the event that final relief against the Bank of Baroda is not secured, will leave the Trusts like other parties to those proceedings unbanked in South Africa. To this end, contingency measures have been put in place aimed at brokering a restructuring of Optimum Coal and Koornfontein Mine.
- 142,4. That process has, in fact, already begun and as discussed elsewhere in this affidavit, we are in the process of applying for regulatory approvals to the transaction with Charles King SA. The intended closing date of the transaction is 31 August 2018.
- 142.5. Should the transaction materialise there ought to be no reason why the Trusts will not secure suitable alternative banking facilities of their



choice. It is only intended as a last resort in the event that final relief is not granted against the Bank of Baroda.

142.6: I submit there are reasonably good prospects that final relief will be granted against the bank.

143. Ad paragraphs 69 to 70

I deny that the Court is empowered to appoint trustees. The power to do so lies with the Master but I deny that there is any basis to do so. I deny that OUTA is entitled to an order on the basis outline in prayer three of the notice of motion.

144. Ad paragraph 71

I take note of the relief sought in prayer 4 but submit that no basis exists for an order to this effect for the reasons already dealt with elsewhere in this affidavit.

145. Ad paragraphs 72 to 73

Save to note that an accounting in respect of the Trusts is sought in prayer five on the notice of motion, I deny that OUTA is entitled to an accounting. Only a trust beneficiary or co-trustee is entitled to demand an accounting or any information of and concerning the state of the investments and a trustee's dealings with the trust property. OUTA plainly does not fall into either category.

I deny any suggestion that the funds of the two Trusts have been utilised for an unlawful purposes either as alleged or at all. The allegation is not consistent with the objective facts.

146. Ad paragraphs 74 to 76

As these allegations do not specifically concern the mining respondents, I deem it unnecessary to respond thereto specifically save to point out that no basis exists for the Minister to exercise his statutory powers as adequate arrangements are in place for the financial provision for rehabilitation in respect of both Koornfontein Mine and Optimum Coal.

147. Ad paragraphs 77 to 79

I submit that the relief sought against the Bank of Baroda has been rendered nugatory by the order of Makgoka J dated 9 October 2017 since the final determination of the dispute with the bank will invariably only take place well after the finalisation of Part B of these proceedings. In the interim period the Bank of Baroda is interdicted from deactivating and/or closing the bank accounts of the Trusts held with the bank and/or from terminating the banker-customer relationship that currently subsists on the basis of the reasons advanced in its termination notices dated 6 July 2017. This order constitutes a satisfactory arrangement with there being no basis for this Court to pronounce

on the issue again by means of a further order. Save as aforesaid I take note of the allegations.

148. I now briefly deal with the allegations made by Lange to the extent that it is necessary to do so. Allegations not specifically dealt with should be taken as denied.

149. Ad paragraph 1 of Lange's affidavit deposed to on 21 September 2017

I have no knowledge of these allegations which are denied.

150. Ad paragraphs 2 to 3

I deny that the allegations are true and correct or fall within Lange's personal knowledge. As should be evident from what is stated elsewhere in this affidavit Lange has relied on assumptions which are not consistent with the true facts. Save to note that Lange claims to describe himself as a chartered accountant, I have no knowledge of these allegations which are denied.

151. Ad paragraphs 4 to 6

Save to note that Werksmans requested Lange to prepare a report annexed as "ML2" to his affidavit, I have no knowledge of these allegations.

152. I now deal his report insofar as is necessary. For ease of reference I employ the item numbers used by him in the first column. At the outset, it is important to note that Lange on his own version only made preliminary findings.

153. Item 2: Ragavan's lefter of 4 May 2016

- 153.1. Lange appears to lose sight of the fact that the need for concurrent rehabilitation was identified which informed the letter to the Regional Manager. Approval was necessary as the funds could not be used without such approval.
- 153.2. The letter speaks for itself insofar as the reasons advanced. If he is indeed a chartered accountant, Lange has no business relying on the provisions of section 54 of the MPRDA or making legal submissions of any kind. Matters of law are beyond the scope of his claimed expertise. The Trust had a surplus of funds available. The suggestion that she was not acting in the best interests of the Trust is demonstrably false.

154. Item 3: letter from the DMR dated 5 May 2016

I have already dealt with the interpretation contended for by the mining respondents as to why concurrent rehabilitation is permitted. Given his lack of legal expertise, it is remarkable that Lange has taken it upon himself to express legal views here. It OUTA feels so strongly about the matter, it must challenge



the decision by the Regional Manager in Court. Lange's attempt to cast aspersions on the Regional Manager given the swift response is unhelpful. OUTA is the first to complain when state functionaries are tardy. It cannot have it both ways.

155. Item 9

I have already dealt with the circumstances of the loan to Koomfontein Mine and so as to avoid unnecessary repetition, do not repeat those allegations. The collateral put forward was in respect of surplus funds with the result that no capital reserves held under the auspices of section 24P of NEMA read with the Regulations were employed.

156. Item 12

I deny the suggestion that we were dishonest. The error referred to here was entirely bona fide and not the result of any attempt at dishonesty or to defraud the Bank of Baroda who no doubt, and in view of the fact that it does business in South Africa, would have been alive to the fact that Tegeta cannot be the holding company of the Trust. Nothing turns on this. Lange's emphasis of this point shows that OUTA would go to extreme levels to cast the mining respondents in a negative light and to his end, appear to have no difficulty in finding fault with what is really a minor error.

157. Item 14

The funds of the Koomfontein Trust was held at Rand Merchant Bank and was transferred to the Bank of Baroda on 23 May 2016 and the funds of Optimum Mine Trust was previously held with Standard Bank but was transferred to the Bank of Baroda on 21 June 2016 with approval from the Department. Ladmit the allegations herein insofar as Lange has correctly recorded the conclusions drawn in the report by Deloitte. Save as aforesaid these allegations are denied.

- I do not address the supplementary affidavit deposed to by Lange. I have already dealt with the matters set out therein in the context of the answer to Fick's supplementary affidavit. The balance of the issue raised by him pertain for the most part to matters which are before the Court in the Bank of Baroda interdict proceedings. The evidence which Lange claims he has not had sight of is in any event not matter to which he is entitled to. OUTA is also not entitled to seek discovery from the mining respondents. The failure to furnish any of the documents mentioned by Lange should therefore not give rise to any inferences of wrongdoing. As trustee I have not asked him to express any views on matters pertaining to the Trusts which is in any event not qualified to do.
- 159. Wherefore I pray that the application be dismissed with the costs including the costs occasioned by the employment of two counsel.

DEPONENT

COMMISSIONER OF OATHS

MARGO-ANN PALANI
COMMISSIONER OF CATHS
PRACTISING ATTORNEY, RSA
FASKEN MARTINEAU
INANDA GREENS
84 WIERDA ROAD WEST
SANDTON





MAGTIGINGSBRIEF LETTERS OF AUTHORITY

Ingevolge Artikel 6(1) van die Wet op Beheer oor Trustgoed, 1988 (Wet 57 van 1988) In terms of Section 6(1) of the Trust Property Control Act, 1988 (Act 57 of 1988)

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DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT





MAGTIGINGSBRIEF LETTERS OF AUTHORITY

Ingevoige Artikel 6(1) van die Wet op Beheer oor Trustgoed, 1988 (Wet 57 van 1988) In terms of Section 6(1) of the Trust Property Control Act, 1988 (Act 57 of 1988)

No:,
Hiermee word gesertifiseer dat /
This is to certify that ALTHAF EMMANALLY - 6907145142089 PUSHPAYENI LIGESHINI GOVENDER - 7504240157085
TREVOR WILLIAM SCOTT - 7812315130069
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DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT





OPTIMUM COAL MINE (2007/005308/07) CIPC Company

"PG3"

Unit B4: Arden Grove, Montague Gardens Tet +27 85 044 3333, Fex. +27 21 555 3327 Website http://www.searchworks.co.za

SEARCH INFORMATION

Summary

Search Type

CIPC COMPANY

Search Description

OPTIMUM COAL MINE (2007/005308/07)

Reference

VASCO

Date

17/10/2017

COMPANY INFORMATION

Summary

Name

OPTIMUM COAL MINE

Registration Number

2007/005308/07

Түре

PRIVATE COMPANY (PTY) LTD

Lutus

IN BUSINESS

Registration Date

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20/02/2007

Average Age of Director

42

SARS VERIFICATION MATCHES

Trading Name

VAT Registration Number

Area

OPTIMUM COAL MINE

4540235613

LARGE BUSINESS CENTRE

ACTIVE DIRECTOR(S)

Director Name

1D Number

Status

Appointed

PUSHPAVENÍ UGESHNÍ GOVENĎER:

7504240157085

ACTIVE

15/04/2016

RESIGNED DIRECTOR(S)				
Director Name	ID Number	Status	Appointed	Resigned
ANNERIE BOSMAN	7.412030012082	RESIGNED	20/02/2007	*
PETER KENNEDY GAIN	7505025098089	RESIGNED	27/02/2007	26/11/2010
JAN JOHANNES BRONKHORST	5705085044088	RESIGNED	27/03/2007	L.
THOMAS IGNATIUS BORMAN	6703255179080	RÉSIGNED	17/09/2007	26/11/2010
ELIPHUS ÓKI MONKOÉ	5910106288082	RESIGNED	17/09/2007	26/11/2010
MLUNGISI KWINI	5809015808081	RESIGNED	18/10/2007	26/11/2010
MICHAEL SOLOMON TEKE	6408155713083	RESIGNED.	18/30/2007	19/09/2012
MICHAEL BOYD SCOTT	6306095230186	RESIGNED	01/11/2008	01/09/2010
ANNA CECILIA SWART	6709120109087	RESIGNED	01/09/2010	31/01/2013
DOUGLAS ROBERT GAIN	7612295021088	RESIGNED	26/11/2010	19/09/2012
PRINCESS NONDUMISO KHOZA	7203300326082	RESIGNED	26/11/2010	19/09/2012
JAN JOHANNES BRONKHORST	5705085044088	RESIGNED	03/06/2011	25/06/2012
SHAUN MARCO BLANKFJELD	8206085380082	RESIGNED	19/09/2012	19/09/2012
RICHARD COHEN	6502145076088	RESIGNED	19/09/2012	15/04/2016
CLINTON MARTIN EPHRON	6905025002084	RESIGNED	19/09/2012	15/04/2016
PHUTHI MAHANYELE	7103150410087	RESIGNED	16/01/2013	11/12/2015
THANDEKA TOSANA NCUBE	6812160871085	RESIGNED	16/01/2013	15/04/2016
GLENCORE OPERATIONS SOUTH AFRICA	81	RESIGNED	01/02/2013	15/04/2016
NAZEEM HOWA	6210295101082	RESIGNED	15/04/2016	15/10/2016
JACOUES:ROUX	7401315087083	RESIGNED	15/04/2016	01/03/2017
HLAŸISEKA MORĞAN ÇHAUKE	7908023849081	RESIGNED	01/41/2016	19/06/2017

DECEASED DIRECTOR(S)

No information available.

Director Name

ID Number

Status

Appointed

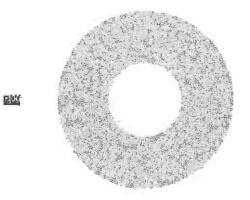
DIRECTOR TIMELINE

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Gender Breakdown (%)



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AUDITOR(S)			
Auditor Name	Profession Code	Status	Start Date
ALEXANDROS PHILIPPOU	IRBA	CURRENT	R
THOUGH DING THE	SAICA	RESIGN	21
HOMANN AND ASSOCIATES	SAICA	RESIGN	22/10/2009
KPMG-INC	SAICA	RESIGN	01/03/2007
KPMG.INC	SAIČA	RESIGN	01/03/2007
PKF (JHB) INC	SAICA	RESIGN	©:
SIZWENTSÄLUBAGOBODO INC	IRBA	CURRENT	Ş.



COMPANY INFORMATION

Summary-

OPTIMUM COAL MINE Name

Short Name

Translated Name

2007/005308/07 Registration Number

Old Registration Number

PRIVATE COMPANY (PTY) LTD Туре

(PTY) LTD Short Type

COMPANY (REGISTERED ACCORDING TO OLD CO ACT) CIPO Company Act Type

IN BUSINESS Status

Tax Number 9291321173 20/02/2007 Type Date

20/02/2007 Registration Date

20/02/2007 Start Date

Status Date

COAL MINING COMPANY mindpal Description

Details Withdrawn From Public NO

OTHER MINING AND QUARRYING Standard Industrial Classification

Financial Year End **FEBRUARY**

28/02/2017 Financial Effective Date

GRAYSTONE RIDGE OFFICE PARK, BLOCK A LOWER GROUND FLOOR, 144 KATHERINE STREET SANDTON, GAUTENG, 2196

GRAYSTONE RIDGE OFFICE PARK, BLOCK A LOWER GROUND FLOOR, 144 KATHERINE STREET SANDTON, GAUTENG, 2196 Postal Address

GAUTENG Region.

Country of Origin

Registered.Address

Country

1000 Authorised Capital

100 Issued Capital

thorised Shares 1000

Issued Shares 100

Form Received Date

Date on Form

Conversion Number



NO IMAGE AVAILABLE



DIRECTOR(S)

Director 1 of 22

First Name ANNERIE

Surname BOSMAN

ID Number 7412030012082

Date of Birth 03/12/1974
Gender FEMALE

Age 42

Residential Address 265 HANS STRIJDOM AVENUE, LYTELTON MANOR, CENTURION, 0157

Postal Address PRIVATE BAG 10015, SANDTON, 2)46

Type DIRECTOR
Status RESIGNED
A Dintment Date 20/02/2007

Resignation Date

Member Contribution .0%

MemberSize 0%

Director 2 of 22

First Name PETER KENNEDY

Surname GAIN

ID-Number 7505025098089

Date of Birth 02/05/1975

Gender MALE

42 Age

Residential Address 41 8TH AVENUE, PARKTOWN NORTH, 2193

0%

Postal Address P O BOX 411333, CRAIGHALL, 2024

Туре DIRECTOR

Status RESIGNED

27/02/2007 Appointment Date

26/11/2010 Resignation Date

Member Contribution Momber Size 0%

Director 3 of 22

First Name JAN JOHANNES

Surname **BRONKHORST**

ID Number 5705085044088

Date of Birth 08/05/1957

Gender MALE,

Age 60

9 DORMEHL STREET, BRACKENHURST, 1448 Residential Address

Postal Address P O BOX 411333, CRAIGHALL, 2024

Туре OFFICER Status RESIGNED

Appointment Date 27/03/2007

....ignation Date

Member Contribution 0%

Member Size 0%

Director 4 of 22

First Name THOMAS IGNATIUS

Surname BORMAN

ID Number 6703255179080

Date of Birth 25/03/1967

Gender MALE

Áge 5Ö

Residential Address 77 WESTWOLD WAY, PARKWOOD, 2193

Postal Address P O BOX 72216; PARKVIEW, 2193

Type DIRECTOR
Status RESIGNED
Appointment Date 17/09/2007

Appointment Date 17/09/2007
Resignation Date 26/11/2010

Member Contribution 0%

**mbër Size · 0%

Director 5 of 22

First Name ELIPHÜS:OKI
Sumane MONKOE

ID Number 5910106288082

Date of Birth 10/10/1959
Gender MALE
Age 58

Residential Address 27A TOULOUSE DRIVE, EVANDER, 2280

Postal Address P O BOX 642, TRICHARDT, 2280

Type DIRECTOR
Status RESIGNED
Appointment Date 17/09/2007
assignation Date: 26/11/2010

Member Contribution 0%

Member Size 0%.

Director 6 of 22

First Name MLUNGISI
Surname KWINI

ID Number 5809015808081

Date of Birth 01/09/1958.
Gender MALE

Age 59

Residential Address 204 ANDERSON AVENUE, NORTHCLIFF, 2195

Postal Address P.O BOX 31727, BRAAMFONTEIN, 2017

Type DIRECTOR
Status RESIGNED
Appointment Date 18/10/2007
Resignation Date 26/11/2010

Member Contribution 0%

Member Size 0%

Director 7 of 22

First Name MICHAEL SOLOMON

Surname TEKE

 ID Number
 -6408155713083

 Date of Birth
 15/08/1964

 Gender
 MALE

Age .53

Residential Address 4 ATLAS ROAD, SONNEVELD EXT 12, BRAKFAN, 1541

Postal Address P Q BOX 10288, DALVIEW, 1541

Type DIRECTOR

Status RESIGNED

Appointment Date 18/10/2007

Resignation Date 19/09/2012



Director 8 of 22

First Name MICHAEL BOYD

.Surname SCOTT

ID Number 6306095230186

Date of Birth 09/06/1963

Gender MALE

Age 54

Residential Address 1 FRANKEN CLOSE, 95A LANCASTER AVENUE, CRAIGHALL PARK, 2196

Postal Address P O BOX 411333, CRAIGHALL, 2024

Type OFFICER
Status RESIGNED
Appointment Date 01/11/2008

Resignation Date 01/09/2010

Member Contribution 0%

Member Size 0%

Director 9.of 22

First Name: ANNA CECILIA

Surname SWART

ID Number 6709120109087

Date of Birth 12/09/1967
Gender FEMALE

Äge 50

Residential Address 13 WOODSTREAM LOFTS, PIET RETIEF ROAD, NOORDHEUWEL, 1739

Postal Address P.O.BOX 411333, CRAIGHALL, 2196

Type SECRETARIES (NATURAL PERSON)

Status RESIGNED
Appointment Date 01/09/2010
Signation Date 31/01/2013

Member Contribution 0%

Member Sizè 0%

Director 10 of 22

First Name DOUGLAS ROBERT

Surname GAIN

ID Number 7612295021088

Date of Birth 29/12/1976

Gender MALE

Age: 40

Residential Address. LITTLE HERTFORD, 44 8TH AVENUE, PARKTOWN, 2193

Postal Address. P.O BOX 411333, CRAIGHALL, 2024

Type. DIRECTOR
Status RESIGNED
Appointment Date 26/11/2010.
Resignation Date 19/09/2012

Member Contribution 0%

N* Thorasize 0%

Director 11 of 22

kesignation Date

First Name PRINCESS NONDUMISO

Surname KHOZA

ID Number 7203300326082

Date of Birth 30/03/1972
Gender FEMALE

Age 45

Résidential Address 3341 STIRLING AVENUE, BLUE VALLEY GOLF ESTATE, 2000

19/09/2012

Postal Address P.O BOX 411333, CRAIGHALL, 2024

Type DIRECTOR
Status RESIGNED
Andointment Date 26/11/2010

Member Contribution 0%

Member Size 0%

Director 12 of 22

First Name JAN JOHANNES
Surname BRONKHORST
ID Number 5705085044088
Date of Birth 08/05/1957

Gender MALE Age 60

Residential Address. 9 DORMEHL STREET, BRACKENHURST, 1448

Posial Address 9 DORMEHL STREET, BRACKENHURST, 1448

Type OFFICER
Status RESIGNED
Appointment Date 03/06/2011
Resignation Date 25/06/2012

Member Contribution 0%

*4-ember Size 0%

Director 13 of 22

Age

 First Name
 SHAUN MARCO

 Surname
 BLANKFIELD

 ID Number
 \$206,08538,0082

Date of Birth 08/06/1982
Gender MALE

Residerilial Address 21 BAUHUS GRAND, 116 ATHOL OAKLANDS ROAD, ETON HIL EXT 2, JOHAN NESBURG, 2196

Postal Address P Q BOX 78902, SANDTON, JOHAN NESBURG, 2196

35

Type DIRECTOR
Status RESIGNED
Appointment Date 19/09/2012

Member Contribution 0%

Member Size: 0%

Director 14 of 22

First Name RICHARD
Sumame COHEN

ID Number 6502145076088

Date of Birth 14/02/1965

Gender MALE
Age 52

Residential Address 32 4TH AVENUE, PARKTOWN NORTH, JOHANNESBURG, GAUTENG, 2193

Postal Address P O BOX 78902, SANDTON, JOHANNESBURG, GAUTENG, 2196

Type DIRECTOR
Status RESIGNED
Appointment Date 19/09/2012
Resignation Date 15/04/2016

Director 15 of 22

Eirst Name .CLINTON MARTIN

Surname EPHRON

 ID Number
 6905025002084

 Cate of Birth
 02/05/1969

 Gender
 MALE

Age 48

Residential Address 8 VILLA ROSA, 55 WEST ROAD SOUTH, MORNINGSIDE, GAUTENG, 2057

Postal Address P Q BOX 1724, MORNINGSIDE, SANDTON, GAUTENG, 2057

Type DIRECTOR.
Status RESIGNED
Appointment Date 19/09/2012
Signation Date 15/04/2016

Member Contribution 0%

Member Size 0%

Director 16 of 22

PHUTH First Name

MAHANYELE Surname

7103150410087 ID Number

15/03/1971 Date of Birth

FEMALE Gender

Age 46

41 SAXON ROAD, HURLINGHAM, GAUTENG, GAUTENG, 2196 Residential Address

POSTNET SUITE 167, PRIVATE BAG X9924, PRIVATE BAG X9924, GAUTENG, 2146 Postal Address

DIRECTOR Type

RESIGNED Status

16/01/2013 Appointment Date

11/12/2015 Resignation Date

0% Member Contribution Member Size 0%

Director 17 of 22

THANDEKA TOSANA First Name

NCUBE Surname

6812160871085 ID Number

16/12/1968 Date of Birth FEMALE Gender

48 Age

68 16TH STR FOREST TOWN; PARKHURST, GAUTENG, GAUTENG, 2193 Residential Address

SUITE 19 PRIVATE BAG XI, MELROSE ARCH, MELROSE ARCH, GAUTENG. 2076. Postal Address.

DIRECTOR Type RESIGNED Status 16/01/2013 Appointment Date

15/04/2016 ...signation Date

0% Member Contribution

0% Member Size

Director 18 of 22

First Name

73

Surname

GLENCORE OPERATIONS SOUTH AFRICA

1D Number

-

Date of Birth

Date of BIHT

Gender

Age

120

Residential Address

563

Postal Address

PIO BOX 2131, RUSTENBURG, 03.00

Туре

SECRETARY COMPANY/CLOSE CORPORATION

Status

RESIGNED

Appointment Date

01/02/2013

Resignation Date

15/04/2016

Member Contribution

1000 1120

0%

Minute Size

0%

Director 19 of 22

First Name

PUSHPAVENI UGESHNI

Surname

GOVENDER

ID Number

7504240157085

Date of Birth

24/04/1975

Gender

FEMALE

Age

42

Residential Address

UNIT 7 SUMMERFIELD PLACE, HALFWAY GARDENS, MIDRAND, GAUTENG, 1685

Postal Address

PRIVATE BAG X180; HALFWAY HOUSE, HALFWAY HOUSE, GAUTENG, 1685-

Туре

DIRECTOR.

Status

ACTIVE

Annointment Date

15/04/2016

kesignation Date

Member Size

-

Member Contribution

0% 0%

\$

Director 20 of 22

NAŻEEM First Name HOWA Surhame

6210295101082 ID Number 29/10/1962 Date of Birth MALE Gender 54 Age

24 GREENFIELD ROAD, GREENSIDE, GREENSIDE, GAUTENG, 2193 Residential Address PO BOX 5728; HALFWAY HOUSE, MIDRAND, GAUTENG, 1685 Postal Address

DIRECTOR Туре RESIGNED Status Appointment Date 15/04/2016 15/10/2016 Resignation Date

0% Member Contribution * '>mber Size 0%

Director 21 of 22

JACQUES First Name ROUX Surname

7401315087083 ID Number 31/01/1974 Date of Birth MALE Gender

43 Age

211 ELANDS STREET, WIERDAPARK, CENTURION, GAUTENG, 0157 Residential Address. PO BOX 1501, HALFWAY HOUSE, HALFWAY HOUSE, GAUTENG, 1685 Postal Address

DIRECTOR Type RESIGNED Status 15/04/2016 Appointment Date, neşignatlon Date 01/03/2017 0%

Member Contribution 0% Member Size

Director 22 of 22

First Name. HLAYISEKA MORGAN

Surname - CHAUKÉ

ID Number 7908025849081

Date of Birth 02/08/1979

Gender MALE

Age 38

Residential Address 73 DERDE AVENUE, RIETKOL, GAUTENG, 2200

Postal Address 73 DERDE AVENUE, RIETKOL, RIETKOL, GAUTENG, 2200

Type DIRECTOR
Status RESIGNED

Appointment Date 01/11/2016

Resignation Date: 19/06/2017

Member Contribution 0%

**Symbor Size 0%

AUDITOR(S)

Auditor 1 of 7

Auditor Name ALEXANDROS PHILIPPOU

Profession Number 854379

Profession Code IRBA

Business Address

Postal Address P O BOX 2939, SAXONWOLD, 2132

Type. DESIGNATED AUDITOR (NATURAL PERSON)

Status CURRENT

Start Date

End Date

Form Date (CM1 Date)

iry Date -

Registration Entry Date

Form Received Date

Details Withdrawn From Public

ACT_IND_MPY_NO_SP -

Fine Letter

Reference Number -



AUDITOR(S) (CONTINUED)

Auditor 2 of 7

Auditor Name DELOITTE AND TOUCHE

Profession Number 902276
Profession Code SAICA

Business Address 36 FRICKER ROAD, ILLOVO, JOHANNESBURG, 2196

Postal Address PiO BOX 411333; CRAIGHALL, 2020

Type AUDITOR: Status RESIGN

Start Date -

Form Date (CMI Date)

Expiry Date

Registration Entry Date
Form Received Date

Chails Withdrawn From Public

ACT_IND_MPY_NO_SP

Fine Letter

Reference Number

Auditor 3 of 7

Auditor Name HOMANN AND ASSOCIATES

Profession Number 901494
Profession Code SAICA

Business Address Suite 15, 14TH AVENUE CENTRE, KESSEL STREET, FAIRLAND, 2195

Poşlaj Address Pio Box 35011, NORTHCLIFF, 2115

 Type
 AUDITOR

 Status
 RESIGN

 Start Date
 22/10/2009

 Leid Date
 05/11/2009

 Form Date (CMI Date)
 22/10/2009

Expiry Date

Registration Entry Date 22/10/2009
Form Received Date 22/10/2009

Details Withdrawn From Public

ACT_IND_MPY_NG_SP

Fine Letter

Reference Number

AUDITORIS) (CONTINUED)

Auditor 4 of 7

Auditor Name KPMG INC

Profession Number 922234E

Profession Code SAICA

Business Address SEÇUNDA MEDFORUM BUILDING SUITE 301. HEUNIS STREET, SECUNDA, 2302

Postal Address P O BOX 904, SECUNDA, 2302

Type AUDITOR
Status RESIGN

Start Date 01/03/2007

End Date

Form Date (CM1 Date) 31/05/2010

Expiry Date :

Registration Entry Date 31/05/2010
Form Received Date 31/05/2010

rialls Withdrawn From Public

ACT_IND_MPY_NO_SP

Fine Letter

Reference Number

Auditor 5 of 7

Auditor Name KPMG INC

Profession Number 922234E

Profession Cöde SAICA

Business Address SUITE 301 3RD FLOOR, MEDFORUM BUILDING, SECUNDA, 2302

07/11/2008.

Postal Address P O 80X 904, SECUNDA, 2302

Type AUDITOR
Status RESIGN
Start Date 01/03/2007
Engl Date 22/10/2009

Expiry Date

Form Date (CM1 Date)

Registration Entry Date 07/11/2008
Form Received Date 07/11/2008

Details Withdrawn From Public

ACT_IND_MPY_NO_SP

Fine Letter

Reference Number



AUDITOR(S) (CONTINUED)

Auditor 6 of 7

Auditor Name PKF (JHB) INC

Profession Number 906393E

Profession Code SAICA

Business Address 15 GIRTON ROAD, PARKTOWN, 7764

Postal Address Postnet Sult 200, Sulte 200 X30500, Houghton, 2041

Type AUDITOR
Status RESIGN

Start Date -

End Date 07/03/2007

Form Date (CMI Date)

Expiry Date

Registration Entry Date

Form Recoived Date

'alls Withdrawn From Public

ACT_IND_MPY_NO_SP

Fine Letter

Reference Number

Auditor 7 of 7

Auditor Name SIZWENTSALUBAGOBODO INC

Profession Number 946016
Profession Code IRBA

Business Address 20 MORRIS STREET EAST, WOODMEAD, 2191

Postal Address P O BOX 2939, SAXONWOLD, 2132

Type AUDITOR Status CURRENT

Stad Date

End Date

Form Date (CMI Date)

Expiry Date

Registration Entry Date

Form Received Date

AĞT_IND_MPY_NO_SP

Details Withdrawn From Public

Fine Letter

Reference Number -

CAPITAL INFORMATION					
Туре	Capital Amount	Capital Premium	Number of Shares	Parri Value	
AUTHORIZED ORDINARY	R-1,00	Ó	1000	Ö	
ISSUED ORDINARY	R 1,00	Ω	100	O.	

CHANGE HISTORY

History 1 of 117

Effective Date 17/07/2017

Change Type DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND/OFFICE

Memp DIRECTOR HLAYISEKA MORGAN CHAUKE DETAILS WAS CHANGED

History 2 of 117

Effective Date 17/07/2017

Change Type DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE

Merrio DIRECTOR PUSHPAVENI UGESHNI GOVENDER DETAILS WAS CHANGED.

History 3 of 117

Effective Date 03/04/2017

"Change Type CO/CC ANNUAL RETURN

Memo COMPANY / CLOSE CORPORATION AR FILING - WEB SERVICES : REF NO. : 567507459

History 4 of 117

Effective Date 27/03/2017

Change Type DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE

Memo DIRECTOR JACQUES ROUX DETAILS WAS CHANGED

History 5 of 117

Effective Date 27/03/2017

Change Type DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE

Memo DIRECTOR PUSHPAVENI UGESHNI GOVENDER DETAILS WAS CHANGED

History 6 of 117

Effective Date 27/03/2017

Change Type DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE

MELIO DIRECTOR HLAYISEKA MORGAN CHAUKE DETAILS WAS CHANGED

History 7 of 117

Effective Date: 02/03/2017

Change Type DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE

Memo ADD REGORDSURNAME = CHAUKEFIRST NAMES = HLAYISEKA MORGAN STATUS = ACTIVE.

History 8 of 117

Effective Date

26/01/2017

Change Type

DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE

Memo

CHANGE RECORDSURNAME = HOWAFIRST NAMES = NAZEEMSTATUS = RESIGNED

History 9 of 117

Effective Date:

22/11/2016

Change Type

AUDITOR/ACC OFFICER CHANGE

Memo

CHANGE RECORDNAME: = DELOITTE AND TOUCHESTATUS: = RESIGN

History 10 of 117

Effective Date

22/11/2016

Change Type

AUDITOR/ACC OFFICER CHANGE

Memp

CHANGE RECORDNAME; = SIZWENTSALUBAGOBODO INCSTATUS; = CÜRRENT

History 11 of 117

Effective Date

22/11/2016

Change Type

AUDITOR/ACC OFFICER CHANGE

Memo

CHANGE RECORDNAME : = ALEXANDROS PHILIPPOUSTATUS : = CURRENT

History 12 of 117

Effective Date

04/11/2016.

Change Type

CHANGE OF BOOK YEAR

Memo

THE FINANCIAL YEAR END WAS CHANGED FROM DECEMBER 2015 TO FEBRUARY 2017

History 13 of 117

Effective Date

01/11/2016

Change Type

DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE

Vierno

CORRECT DIRECTOR APPOINT DATE

History 14 of 117

Effective Date

31/08/2016

Change Type

TERMINATION OF BUSINESS RESCUE

Memo

COR125.2 TERMINATION OF BUSINESS RESCUE RECEIVED

History 15 of 117

06/08/2016 **Effective Date**

REGISTERED ADDRESS CHANGE Change Type

GRAYSTONE RIDGE OFFICE PARK BLOCK A LOWER GROUND FLOOR 144 KATHERINE STREET SANDTON GAUTENG2196 Memo

History 16 of 117

Effective Date 09/05/2016

DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE Change Type

DIRECTOR NAZEEM HOWA WAS ADDED Memo

History 17 of 117

Effective Date 09/05/2016

DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE Change Type

DIRECTOR PUSHPAVENI UGESHNI-GOVENDER WAS ADDED Memo

History 18 of 117

09/05/2016 Effective Date

DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE Change Type

DIRECTOR JACQUES ROUX WAS ADDED Memo

History 19 of 117

09/05/2016 Effective Date

DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE Change Type

DIRECTOR CLINTON MARTIN EPHRON DETAILS WAS CHANGED. Memo

History 20 of 117

Effective Date 09/05/2016

DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE nge Type

DIRECTOR RIGHARD COHEN DETAILS WAS CHANGED Memo

History 21 of 117

09/05/2016 Effective Date

DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE Change Type

DIRECTOR THANDEKA TOSANA NCUBE DETAILS WAS CHANGED Memo

History 22 of 117

19/04/2016 Effective Date

AUDITOR/ACC OFFICER CHANGE Change Type

CHANGE STATUS OF COMPANY TO IN BUSINESS TO ALLOW CAPTURING AND THEN BACK TO IN BUSINESS RESCUE Memo

History 23 of 117

15/04/2016 Effective Date

DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE Change Type

CHANGE RECORD COMPANY NAME = GLENCORE OPERATIONS SOUTH AFRICAFIRST NAMES = STATUS Memo

History 24 of 117

15/04/2016 Effective Date

DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE Change Type

CHANGE RECORDSURNAME * EPHRONFIRST NAMES = CLINTON MARTINSTATUS = ACTIVE ^{a J}ejmö

History 25 of 117

15/04/2016 Effective Date

DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE Change Type

CHANGE RECORDSURNAME = COHENFIRST NAMES = RICHARDSTATUS = ACTIVE Memo

History 26 of 117

15/04/2016 **Effective Date**

DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE Change Type

CHANGE RECORDSURNAME = NCUBEFIRST NAMES = THANDEKA TOSANASTATUS = ACTIVE Memo

History 27 of 117

Effective Date: 26/02/2016

CO/CC ANNUAL RETURN ⊶iange Type

COMPANY / CLOSE CORPORATION AR FILING - WEB SERVICES : REF NO. : 532731964 Memo

History 28 of 117

11/02/2016 **Effective Date**

DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE Change Type

DIRECTOR PHUTHI MAHANYELE DETAILS WAS CHANGED Memo.

History 29 of 117

Effective Date 11/02/2016

Change Type DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE

Memo DIRECTOR THANDEKA TOSANA NCUBE DETAILS WAS CHANGED

History 30 of 117

Effective Date 11/02/2016

Change Type DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE

Memo DIRECTOR RICHARD COHEN DETAILS WAS CHANGED

History 31 of 117

Effective Date. 11/02/2016

Change Type DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE

Memo DIRECTOR CLINTON MARTIN EPHRON DETAILS WAS CHANGED

History 32 of 117

Effective Date 04/01/2016

Change Type STATUS CHANGE

Memo COR125.1 RECEIVED AND PROCESSED111295552

History 33 of 117

Effective Date 05/08/2015

Change Type START OF BUSINESS RESCUE PROCEEDINGS

Memo COR123.1 RECEIVED AND PROCESSED111201363

History 34 of 117

Effective Date 31/03/2015

Change Type CO/CC ANNUAL RETURN

gompany / Close corporation ar filing - Web services : Ref No : 525461086

History 35 of 117

Effective Date 27/08/2014

Change Type: POSTAL ADDRESS CHANGE

Memo SUITE 19PRIVATE BAG XIMELROSE ARCH2076



History 36 of 117

Effective Date 27/08/2014

REGISTERED ADDRESS CHANGE Change Type

Memo 1ST FLOOR23 MELROSE BOULEVARDMELROSE ARCHJOHANNESBURG2196

History 37 of 117

Effective Date 08/07/2014

Change Type LOCATION OF COMPANY RECORDS

Memo

History 38 of 117

Effective Date 03/03/2014

Change Type DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE

Memo CHANGE RECORD.COMPANY NAME = GLENCORE OPERATIONS SOUTH AFRICAFIRST NAMES = STATUS

= ACTIVE

History 39 of 117

Effective Date 21/02/2014

CO/CC ANNUAL RETURN Change Type

-COMPANY / CLOSE CORPORATION AR FILING - WEB SERVICES ; REF NO. : 54104680 Мето

History 40 of 117

Effective Date 27/01/2014

Change Type DIRECTORS/MEMBER CHANGE/SECRÉTARY/TRUST/BOTH DIR AND OFFICE

Unlock PasswordUnlocked byTOMMY5Password successfully sent to sw@premcorp.co za Memo

History 41 of 117

Effective Date 24/01/2014

заде Туре DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE

AUTHORISING DIRECTOR DETAILSDIRECTOR FULL FORENAMES=CLINTON MARTINSURNAME=EPHRONID NUMBER=6905025002084CUSTOMER DETAILS DIRECTOR FULL FORENAMES=SOLETE DE SOUSASURNAME=WILKEID NUMBER=6708130194089 Memo

History 42 of 117

24/01/2014 Effective Date

DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE Change Type

AUTHORISING DIRECTOR DETAILSDIRECTOR FULL FORENAMES=CLINTON MARTINSURNAME=EPHRONID NUMBER=6905025002084 Memo

History 43 of 117

Effective Date

23/07/2013

Change Type

POSTAL ADDRESS CHANGE

Memo

P O BOX 411333CRAIGHALL2196

History 44 of 117

Effective Date

23/07/2013

Change Type

REGISTERED ADDRESS CHANGE

Memo

36 FRICKER ROADILLOVOJOHANNESBURGGAUTENG2196

History 45 of 117

Effective Date

12/06/2013

Change Type

DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE

Memo

CHANGE RECORDSURNAME * SWART LARMIGNYFIRST NAMES * ANNA CECILIASTATUS * RESIGNED

History 46 of 117

Effective Date

12/06/2013

Change Type

DIRECTORS/MEMBER CHANGE/SECRÉTARY/TRUST/BOTH DIR AND ÖFFICE

Memo

ADD RECORDCOMPANY NAME = XSTRATA SOUTH AFRICAFIRST NAMES = STATUS = ACTIVE

History 47 of 117

Effective Date

17/04/2013

Change Type

DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE

Memo

Change of contact detailsApproved by JMU39ID number 65D2145076088Cell number 0114655142Email

address sw@premcorp.co.za

History 48 of 117

Elfective Date

17/04/2013

ange Type

DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE

Memo

Unlock Password Unlocked by JMU39 Password successfully sent to sw@premcorp.co.za.

History 49 of 117

Effective Date

16/04/2013

Change Type

DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE

Memo

Change of contact details Username PREMICOID number 6502145076088Cell number 0114655142Email

address sw@premcorp.co.za

History 50 of 117

10/04/2013 Effective Date

DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE Change Type

AUTHORISING DIRECTOR DETAILSDIRECTOR FULL FORENAMES=RIGHARDSURNAME=COHENID NUMBER=6502)45076088CUSTOMER DETAILS DIRECTOR FULL FORENAMES=SOLETE DE SOUSASURNAME=WILKE ID NUMBER=6708130194089 Memo

History 51 of 117

10/04/2013 Effective Date

DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE Change Type

AUTHORISING DIRECTOR DETAILSDIRECTOR FULL FORENAMES-RICHARDSURNAME-COHENID Memo

NUMBER=6502145076088

History 52 of 117

Effective Date 16/01/2013

DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE Change Type

FULL FORENAMES THANDEKA TOSANASURNAME NCUBEAPPOINTMENTDATE 16/01/2013STATUS A 10

History 53 of 117

16/01/2013 Effective Date

DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE Change Type

FULL FORENAMES * PHUTISURNAME = MALABIEAPPOINTMENTO ATE = 16/01/2013STATUS = A Memo

History 54 of 117

16/01/2013 Effective Date

DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE Change Type

FULL FORENAMES-PHUTHISURNAME-MAHANYELEAPPOINTMENTDATE-16/01/2013STATUS-A Memo

History 55 of 117

ctive Date 31/12/2012

CHANGE OF BOOK YEAR Change Type

Memo 6

History 56 of 117

22/11/2012 Effective Date

DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE Change Type

CHANGE RECORDSURNAME * TEKEFIRST NAMES = MICHAEL SOLOMONSTATUS = RESIGNED Memo

History 57 of 117

Effective Date

22/11/2012

Change Type.

DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE

Метю

CHANGE RECORDSURNAME . GAINFIRST NAMES . DOUGLAS ROBERTSTATUS = RESIGNED

History 58 of 117.

Effective Date

22/11/2012

Change Type

DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE

Memo

CHANGE RECORDSURNAME = KHOZAFIRST NAMES = PRINCESS NONDUMISOSTATUS = RESIGNED

History 59 of 117

Effective Date

22/11/2012

Change Type

DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE

Memo

CHANGE RECORDSURNAME # BRONKHORSTFIRST NAMES # JAN JOHANNESSTATUS = RESIGNED

History 60 of 117

Effective Date

22/11/2012

Change Type

DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE

Memo

CHANGE RECORDSURNAME = EPHRON FIRST NAMES = CLINTON MARTIN STATUS = ACTIVE

History 61 of 117

Effective Date

22/1/2012

Change Type.

DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE

Memo

CHANGE RECORDSURNAME = COHEN FIRST NAMES = RICHARD STATUS = ACTIVE

History 62 of 117

Effective Date

22/11/2012

Change Type

DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE

мето

CHANGE RECORDSURNAME = BLANKFIELD FIRST NAMES = SHAUN MARCOSTATUS = ACTIVE

History 63 of 117

Effective Date

19/09/2012

Change Type

DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE

Memo

FULL FORENAMES & SHAUN MARCOSURNAME = BLANKFIELDAPPOINTMENTDATE = 19/09/2012STATUS = C

History 64 of 117

30/08/2012 Effective Date

AUDITOR/ACC OFFICER CHANGE Change Type

CHANGE RECORDNAME; * KPMG INCSTATUS; * RESIGN Memo

History 65 of 117

30/08/2012 Effective Date

AUDITOR/ACG OFFICER CHANGE Change Type

CHANGE RECORDNAME: = PKF (JHB) INCSTATUS: = RESIGN Мето

History 66 of 117

30/08/2012 Effective Date:

AUDITOR/ACC OFFICER CHANGE Change Type

CHANGE RECORDNAME: . HOMANN AND ASSOCIATESSTATUS: . RESIGN Memo.

History 67 of 117

30/08/2012 **Effective Date**

AUDITORIACC OFFICER CHANGE Change Type

ADD RECORDNAME : * DELOITTE AND TOUCHESTATUS : * CURRENT Memo

History 68 of 117

29/02/2012 Effective Date

POSTAL ADDRESS CHANGE Change Type

P O BOX 411333CRAIGHALL2024 Memo.

History 69 of 117

29/02/2012 Effective Date.

REGISTERED ADDRESS CHANGE C'ange Type

UNIT BIOO3MARLBOROUGH GATEHYDE PARK LANEHYDE PARK 2196 **Memo**

History 70 of 117

07/11/2011 **Effective Date**

DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE Change Type

AUTHORISING DIRECTOR DETAILSDIRECTOR FULL FORENAMES=MICHAEL SOLOMONSURNAME=TEKEID NUMBER=0408155713083CUSTOMER DETAILS DIRECTOR FULL FORENAMES=MARINASURNAME=SCHUSTERID NUMBER=8212220105087 Memo

History 71 of 117

07/11/2011 **Effective Date**

DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE Change Type

AUTHORISING DIRECTOR DETAILSDIRECTOR FULL FORENAMES=MICHAEL SOLOMONSURNAME+TEKEID NUMBER=6408155713083 Memo

History 72 of 117

03/06/2011 Effective Date

DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE Change Type

FÜLL FORENAMES=JAN JOHANNESSURNAME=BRONKHORSTAPPOINTMENTDATE=03/06/2011STATUS=A Memo

History 73 of 117

26/11/2010 **Effective Date**

DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE Change Type

FULL FORENAMES DOUGLAS ROBERT SURNAME & GAINAPPOINTMENTDATE = 26/11/2010 STATUS = A 70

History 74 of 117

26/11/2010 Effective Date

DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE Chánge Type

FULL FORENAMES=PRINCESS NONDUMISOSURNAME=KHOZAAPPOINTMENTDATE=26/11/2010STATUS=A Memo

History 75 of 117

26/11/2010 Effective Date

DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE Change Type

SURNAME=GAINFULL FORENAMES=DOUGLAS ROBERTID NO=7612295021088STATUS ;ACTIVENATURE OF CHANGE=NEW APPOINTMENT Memo

History 76 of 117

26/11/2010 **Enective Date**

DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE Change Type

SURNAME=KHOZAFULL FORENAMES=PRINCESS NONDUMISOID NO=7203300326082STATUS :ACTIVENATURE OF CHANGE=NEW APPOINTMENT Memo

History 77 of 117

26/11/2010 Effective Date

DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE Change Type

SURNAME=GAINFULL FORENAMES=PETER KENNEDYID NO=7505025098089STATUS RESIGNEDNATURE OF CHANGE=RESIGNATION Memo



History 78 of 117

26/11/2010. Effective Date

DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE Change Type

SURNAME=MONKOEFULL FORENAMES=ELIPHUS OKIID NO=5910106288082STATUS Memo

RESIGNEDNATURE OF CHANGE-RESIGNATION

History 79 of 117

26/11/2010 Effective Date

DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE Change Type

SURNAME-BORMANFULL FORENAMES-THOMAS IGNATIUSID NO-6703255179080STATUS Memo

RESIGNEDNATURE OF CHANGE=RESIGNATION

History 80 of 117

Effective Date 26/11/2010

DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE Change Type

SURNAME=KWINIFULL FORENAMES=MLUNGISIID NO=5809015808081STATUS :RESIGNEDNATURE OF ٦ø

CHANGE=RESIGNED

History 81 of 117

26/11/2010 Effective Date

DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE Change Type

SURNAME=TEKEFUEL FORENAMES=MICHAEL SOLOMONID NO=6408155713083STATUS::ACTIVENATURE OF CHANGE=NO CHANGE Memo

History 82 of 117

01/09/2010 Effective Date

DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE Change Type

SURNAME-SCOTTFULL FORENAMES-MICHAEL BOYDID NO-6306095230186STATUS RESIGNEDNATURE OF CHANGE-RESIGNATION Memo

жу 83 of 117

01/09/2010 Effective Date

DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE Change Type

Memo

SURNAME:SWART LARMIGNYFULL FORENAMES-ANNA CECILIANATIONALITY=SOUTH AFRICARSA RESIDENT-DATE OF APPOINTMENT: SEPTEMBER:2010PROFESSION-DESIGNATION-COMPANY SECRETARY (NATURAL PERSON)RESIDENTIAL ADDRESS:3 WOODSTREAM LOFTSPIET RETIEF ROADNOORDHEUWELI7:39BUSINES

History 84 of 117

15/02/2010 Effective Date

REGISTERED ADDRESS CHANGE Change Type

UNIT BIOO3MARLBOROUGH GATEHYDE PARK LANEHYDE PARK2196 Memo

History 85 of 117

15/02/2010 Effective Date

POSTAL ADDRESS CHANGE Change Type

P O BOX 411333 CRAIGHALL, 2024 Memo

History 86 of 117

31/01/2010 Effective Date

POSTAL ADDRESS CHANGE Change Type

P O BOX 411333CRAIGHALL2024 Memo

History 87 of 117

Effective Date 31/01/2010

REGISTERED ADDRESS CHANGE Change Type

UNIT BIQO3MARLBOROUGH GATEHYDE PARK LANEHYDE PARK2196 Memo

History 88 of 117

05/11/2009 Effective Date

AUDITOR/ACC OFFICER CHANGE Change Type

Метю

History 89 of 117

22/10/2009 Effective Date

AUDITOR/AGC OFFICER CHANGE Change Type

HOMANN AND ASSOCIATESSUITE 1514TH AVENUE CENTREKESSEL STREETFAIRLAND 2195P Q BOX 35011NORTHOLIFF 2115 STATUS : ADDRESS CHANGE Memo

History 90 of 117

22/10/2009 Effective Date

AUDITOR/ACC OFFICER CHANGE .ge Type

Memo

History 91 of 117

01/11/2008 Effective Date

DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE ·Change Type

SURNAME=BRONKHORSTFULL FORENAMES=JAN JOHANNESID NO=5705085044088STATUS RESIGNEDNATURE OF CHANGE=OFFIGER RESIGNED Memo

History 92 of 117

Effective Date.

01/11/2008

Change Type

DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE

Memö

SURNAME=SCOTTFULL FÖRENAMES=MIGHAEL BOYDID NO=6306095230186STÄTUS :ACTIVENATURE OF CHANGE=NEW APPOINTMENT

History 93 of 117

Effective Date

30/06/2008

Change Type

CHANGE OF BOOK YEAR

Memo

History 94 of 117

Effective Date

07/03/2008

Change Type

AUDITOR/ACC OFFICER CHANGE

Memo

ADD RECORDNAME: = HOMANN & ASSOCIATESSTATUS: = CURRENT

History 95 of 117

Effective Date

07/03/2008

Change Type

DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE

Memo

CHANGE RECORDSURNAME: = GAINFIRST NAMES: = PETER KENNEDYSTATUS: = ACTIVE

History 96 of 117

Effective Date

07/03/2008

Change Type

DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE

Memo

CHANGE RECORDSURNAME: # MONKOEFIRST NAMES: # ELIPHUS OKISTATUS: # ACTIVE

History 97 of 117

Effective Date

07/03/2008

ange Type

DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE

Memo

CHANGE RECORDSURNAME: = BORMANFIRST NAMES: = THOMAS IGNATIUSSTATUS: = ACTIVE

History 98 of 117

Effective Date

07/03/2008

Change Type

DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE

Memo

CHANGE RECORDSURNAME: * KWINIFIRST NAMES: * MLUNGISISTATUS: * ACTIVE

History 99 of 117

67/03/2008 Effective Date

DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE Change Type

CHANGE RECORDSURNAME: = TEKEFIRST NAMES: = MICHAEL SOLOMONSTATUS: = ACTIVE Memo

History 100 of 117

07/03/2008 Effective Date

DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE Change Type

CHANGE RECORDSURNAME: - BRONKHORSTFIRST NAMES: - JAN JOHANNESSTATUS: - ACTIVE Memo

History 101 of 117

24/10/2007 Effective Date

DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE Change Type

SURNAME*TEKEFULL FORENAMES*MICHAEL SOLOMONID NO*6408155713083STATUS.:ACTIVENATURE OF CHANGE*RESIDENT Memo

History 102 of 117

18/10/2007 Effective Date

DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE Change Type

SURNAME=KWINIFULL FORENAMES=MLUNGISIID NO=5809015808081STATUS :ACTIVENATURE OF CHANGE=NEW APPOINTMENT Memo

History 103 of 117

18/10/2007 Effective Date

DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE Change Type

SURNAME=TEKEFULL FORENAMES=MICHAEL SOLOMONID NO+6408155713083STATUS :ACTIVENATURE OF CHANGE=NEW APPOINTMENT Memo-

History 10:4 of 117

18/10/2007 ective Date

DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE Change Type

FULL FORENAMEŞ=MICHAEL ŞOLOMONSURNAME=TEKEAPPOINTMENTDATE+18/10/2007STATUS=A Memo

History 105 of 117

17/09/2007 Effective Date

DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE Change Type

SURNAME BORMAN FULL FORENAMES THOMAS IGNATIONAL NO.6703255179080STATUS ACTIVENATURE OF CHANGE-FIX IO NUMBER. Memo.

History 106 of 117

Effective Date 17/09/2007

Change Type DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE

Memo SURNAME=MONKOEFULL FORENAMES=ELIPHUS OKIID NO=5910106288082STATUS :ACTIVENATURE OF CHANGE=NEW APPOINTMENT

History 107 of 117

Effective Date 17/09/2007

Change Type DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE

SURNAME-BORMANFULL FORENAMES-THOMAS IGNATIVED NO -6703225517908STATUS ACTIVENATURE OF CHANGE-NEW APPOINTMENT Memo

History 108 of 117

Effective Date 16/04/2007

Change Type NAME CHANGE

^L*nmo LEXSHELL 66 GENERAL TRADING

History 109 of 117

Effective Date 16/04/2007

Change Type NATURE OF BUSINESS CHANGE

Memo 62

History 110 of 117

Effective Date 27/03/2007

·Change Type DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE

SURNAME-BRONKHORSTFULL FÖRENAMES#JAN JOHANNESID NO#57/05085/044/088STATUS-ACTIVENATURE OF CHÄNGE«NEW APPOINTMENT Memo

History 111 of 117

octive Date 22/03/2007

Change Type REGISTERED ADDRESS CHANGE

Mema UNIT BIOO2MARLBOROUGH GATEHYDE PARK LANEHYDE PARK2196

History 112 of 117

Effective Date 22/03/2007

Change Type POSTAL ADDRESS CHANGE

Memo P O BOX 417333CRAIGHALL2024

History 113 of 117

.07/03/2007 **Effective Date**

AUDITOR/ACC OFFICER CHANGE Change Type

Memo

History 114 of 117

01/03/2007 Effective Date

AUDITOR/ACC OFFICER CHANGE Change Type

P O BOX 904SECUNDA2302STATUS : ADDRESS CHANGE Memo

History 115 of 117

01/03/2007 Effective Date

AUDITOR/ACC OFFICER CHANGE Chánge Type

KPMGSECUNDA MEDFORUM BUILDING SUITE 301HEUNIŞ STREETSEÇUNDA2302P O BOX 904SECUNDA2302STATUS (ADDRESS CHANGE Memo

History 116 of 117

27/02/2007 Effective Date

DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE Change Type

SURNAME=BOSMANFULL FORENAMES=ANNERIEID NO=7412030012082STATUS :RESIGNED NATURE-OF CHÂNGE=DIRECTOR RESIGNED Memo

History 117 of 117

27/02/2007 Effective Date

DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE Change Type

SURNAME-GAINFULL FORENAMES=PETER KENNEDYID NO=7505025098089STATUS: ACTIVENATURE OF GHANGE-NEW APPOINTMENT Memo

REPORT INFORMATION

17/10/2017 14:17 Date of Information

17-10-2017 14:17 runt Date

VASCO DE OLIVEIRA Generated By

VASCO Reference

Report Type CIPC COMPANY

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KOORNFONTEIN MINES (2006/013073/07) CIPC Company

"PG 4"

Unit B4, Arden Grove, Montague Gardens Tel: •27 86 044 3333, Fax: •27 21 556 3127 Website: http://www.searchworks.co.za

SEARCH INFORMATION

Summary

Search Type

CIPC COMPANY

Search Description

KOORNFONTEIN MINES (2006/013073/07)

Reference

VASCO

Date

17/10/2017

COMPANY INFORMATION

Summary

Name

KOORNFONTEIN MINES

Registration Number

2006/013073/07

T...7@

PRIVATE COMPANY (PTY) LTD.

Status

IN BUSINESS

Registration Date

02/05/2006

Average Age of Director

40

SARS VERIFICATION MATCHES

Trading Name.

VAT Registration Number

. Алеа

KOORNFONTEIN MINES PTY LTD

4010244640

LARGE BUSINESS CENTRE

ACTIVE DIRECTOR(S)

Director Name

ID Number

Status

Appointed

RONICA RAGAVAN

7709170007081

ACTIVE

15/04/2016

RESIGNED DIRECTOR(S)				
Director Name	ID Number	Status	Appointed	Resigned
JACQUES THEODOR CARL PETERS	6707205017001	ŘESIGNÉD	02/05/2006	21
WILRICH SCHROEDER	5409155147083	RESIGNED	12/07/2006	(*)
LINDANI BENNET MTHWA	6909235406085	RESIGNED	12/07/2006	20/11/2009
DEREK LYNDON KYLE	3709125030083	RESIGNED	21/08/2006	150
NKHUMELENI SAMUEL NEMATSWERANI	6107280000000	RESIGNED.	21/08/2006	08/02/2010
MICHAEL BERRIE SPOWART	5406215133087	RESIGNED	01/01/20/08	(12)
ROBÍN CRAIG BERRY	6206025155083	RESIGNED	23/07/2008	08/04/2010
GIDEON PETRUS LOUW	6207135011083	RESIGNED	23/07/2008	08/04/2010
STATUCOR	3	RESIGNED.	0.6/10/2008	1.70
THEMBA: GLIFFÖRD ZUNGU	6412245596086	RESIGNED	22/04/2009	20/04/2010
NICKY FRANCINAH MOGOROSI	6506160838082	RESIGNED.	12/05/2009	21/04/2010
HENRY CHRISTO WHITE	6106305127085	RESIGNED	08/04/2010	08/04/2010
DOUGLAS ROBERT GAIN	7612295021088	RESIGNED	08/04/2010	19/09/2012
HAEL SOLOMON TEKE	.6408156713083	RESIGNED	20/04/2010	20/04/2010
MIGHAEL SOLOMON TEKE	6408155713083	RESIGNED	20/04/2010	20/04/2010
MICHAEL SOLOMON TEKE	6408155713083	RESIGNED	20/04/2010	20/04/2010
MICHAEL SÖLÖMÖN TEKE	6408155713083	RESIGNED	20/04/2010	20/04/2010
MICHAEL SOLOMON TEKE	6408155713 Q 83	RESIGNED	20/04/2010	20/04/2010
SĮVANDRAN MUNSAMI GOUNDEN	5908025174086	RESIGNED	20/04/2010	21/06/2010
MÍCHÁEL SOLOMÓN TÉKE	6408155713083	RESIGNED	20/04/2010	19/09/2012
MICHAEL BOYD SCOTT	6306095230186	RESIGNED	28/05/2010	28/05/2010
MICHAEL BOYD SCOTT	6306095230186	RESIGNED	28/05/2010	28/05/2010
PRINCESS NONDUMISO KHOZA	7203300326082	RESIGNED	22/06/2010	19/09/2012
ANNA CECILIA SWART LARMIGNY	6709)20109087	RESIGNED	01/09/2010	31/01/2013
JAN JOHANNES BRONKHORST	5705085044088	RESIGNED	03/06/2011	03/06/2011
JAN JOHANNES BRONKHORST	5705085044088	RESIGNED	03/06/2011	03/06/2011
*V JOHANNES BRONKHORST	5705085044088	RESIGNED	03/06/2011	25/06/2012
SHAUN MARÇO BLANKFIELD	8206085380082	RESIGNED	19/09/2012	19/09/2012
RICHARD COHEN	6502145076088	RESIGNED	19/09/2012	15/04/2016
CLINTON MARTIN EPHRON.	6905025002084	RESIGNED'	19/09/2012	15/04/2016
.PHUTHI MAHANYELE	7103150410087	RESIGNED	16/01/2013	11/12/2015
THANDEKA TOSÁNA NCUBE	6812160871085	RESIGNED	16/01/2013	15/04/2016
GLENCORE OPERATIONS SOUTH AFRICA	÷	RESIGNED	01/02/2013	15/04/2016
RIAZ YOOSUF BOBAT	8108225156085	RESIGNED:	15/04/2016	15/07/2016
TREVOR WILLIAM SCOTT	7812315130089	RESIGNED	15/04/2016	31/08/2017
LOUIS BOTHA LOURENS	6205315076082	RESIGNED	15/04/2016	.07/09/2017
RE-ANA CATHLEEN JOSEPH	8205060009088	RES(GNED:	01/11/2016	01/12/2016

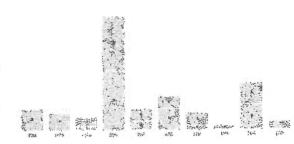
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DECE	Kent of a Vi	territori	and the last	100 to 14.50 E
BBB/JAIMA	Page 27.2	e and	(10, 10)	1,000,000,000,000

Director Name ID Number Status Appointed

No information available.

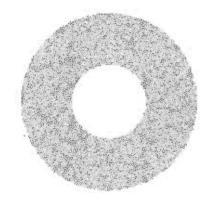


DIRECTOR TIMELINE



DIRECTOR GENDER

Gender Breakdown (%)



Ŋ,

AUDITOR(S)		MELLON THE PER	A STATE OF THE STA
Auditor Name	Profession Code	Status	Start Date
ALEXANDRO'S PHILIPPOU	IRBA	CURRENT	Yay
DELOITTE & TOUCHE	SAICA	RESIGN	120
KPMĞ INC	SAIĆĀ	RESIGN	25/01/2008
SIZWENTSALUBAGOBODO INC	IRBA	CÜRRENT	(6)

COMPANY INFORMATION

Summary

KOORNFONTEIN MINES Name

Short Name

Translated Name

2006/013073/07 Registration Number

Old Registration Number

PRIVATE COMPANY (PTY) LTD Type

(PTY) LTD Short Type

COMPANY (REGISTERED ACCORDING TO OLD CO ACT) CIPC Company Act Type

IN BUSINESS **Status** 9378849153. Tax Number 02/05/2006 Type Date 02/05/2006 Registration Date 02/05/2006 Start Date

tus Date

COAL MINING AND EXPLORATION Principal Description

NO Details Withdrawn From Public

OTHER MINING AND QUARRYING Standard Industrial Classification

FEBRUARY Financial Year End 28/02/2017 Financial Effective Date

GRAYSTONE RIDGE OFFICE PARK, BLOCK A LOWER GROUND FLOOR, 144 KATHERINE STREET SANDTON, GAUTENG, 2196 Registered Address

GRAYSTONE RIDGE OFFICE PARK, BLOCK A LOWER GROUND FLOOR, 144 KATHERINE STREET SANDTON, GAUTENG, 2196 Postal Address

GAUTENG Region

Country of Origin

Cauntry

1000 Authorised Capital

Insued Capital

1000 Authorised Shares

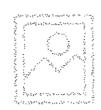
Issued Shares

Form Received Date

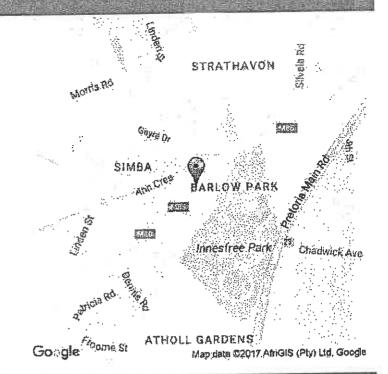
Date on Form

Conversion Number

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NO IMAGE AVAILABLE



DIRECTOR(S)

Director 1 of 38

First Name JACQUES THEODOR CARL

Surname PETERS

 ID Number
 6707205017001

 Date of Birth
 20/07/1967

 Gender
 MALE

Age 50

Residential Address 10 FRICKER RAOD, ILLOVO, BOULEVARD, ILLOVO, 2196

Postal Address P O BOX 61771, MARSHALLTOWN, 2107

Type DIRECTOR Status RESIGNED

ruppointment Date 02/05/2006

Resignation Date

Member Contribution 0%

Member Size 0%

Director 2 of 38

WILRICH First Name

SCHROEDER Surname

ID. Number 5409155147083

15/09/1954 Date of Birth

MALE Gender

63 Age

ERF 376, DE ZALZE WINELANDS ESTATE, STELLENBOSCH, 7600 Residential Address

C/O IMALIVEST, 17 TERMO AVENUE, TECHNO PARK, STELLENBOSCH, 7600 Postal Address

DIRECTOR Type RESIGNED Status 12/07/2006

Appointment Date

0% Member Contribution 0% iber Size

Director 3 of 38

Resignation Date

LINDANI BËNNET First Name

MTHWA Surname

6909235406085 ID Number

23/09/1969 Date of Birth MALE Gender

48 Age

18 ADAR GARDENS, MIDRAND, 1682 Residential Address

PO BOX 12756, VORNA VALLEY, 2001 Postal Address

DIRECTOR Type RESIGNED Status 12/07/2006 / pintment Date 20/11/2009 Resignation Date

Ö% Member Contribution 0% Member Size

Director 4 of 38

DEREK LYNDON First Name

KYLE Surname

3709125030083 ID Number

12/09/1937 Date of Birth

MALE Gender

80 Age

84 SHEPHERD AVENUE, BRYANSTON, 2191 Residential Address

PO:BOX 69886, BRYANSTON, 2021 Postal Address

DIRECTOR Type RESIGNED Status 21/08/2006 Appointment Date:

Resignation Date

0% Member Contribution .0%. mber Size

Director 5 of 38

NKHUMELENI SAMUEL First Name

NEMATSWERANI Surname. 61072800000000 (D'Number

28/07/1961 Date of Birth FEMALE Gerider 56 Age

7 CARNATION STREET, GALLO MANOR, SANDTON, 2196 Residential Address

PO BOX 786683, SANDTON, 2021 Postal Address.

DIRECTOR Туре RESIGNED Status 21/08/2006 * pointment Date 08/02/2010 Resignation Date

0% Member Contribution 0% Member Size

Director 6 of 38

First Name MICHAEL BERRIE

Surname SPOWART

ID Number 5406215133087

Date of Birth 21/06/1954

Gender MALE

Age 63

Residential Address 308 DUNKELD SQUARE, 15 NORTH ROAD, DUNKELD WEST, 2196

Postal Address Postnet Suite 10, PRIVATE BAG X1, MELROSE ARCH, 2076

Type SECRETARIES (NATURAL PERSON)

Status RESIGNED
Appointment Date 01/01/2008

Resignation Date

Member Contribution 0%

nber Size 0%

Director 7 of 38

First Name ROBIN CRAIG

Surname BERRY

ID Number 6206025155083

Date of Birth 02/06/1962
Gender MALE

Age .55

Residential Address 28 WILD PEAR CRESCENT, FOURWAYS GARDENS, SANDTON, 2055

Postal Address P O BOX 30193, JET PARK, 1459

Type DIRECTOR

Status RESIGNED

' nointment Date 23/07/2008

Resignation Date 08/04/2010

Member Contribution 0%

Member Size 0%

Director 8 of 38

First Name GIDEON PETRUS

Sumame LOUW.

ID Number .6207135011083
Date of Birth .13/07/1962

Gender 'MALE

Age 55

Residential Address 110 BAGLEY TERRACE, VALERIEDENE, 2195

Postal Address P O BOX 30193, JET PARK, 1469.

Type DIRECTOR
Status RESIGNED
Appointment Date 23/07/2008
Resignation Date 08/04/2010

Member Contribution 0% mber Size 0%

Director 9 of 38

First Name --

Surname STATUCOR

ID Number

Date of Birth

Gender

Age

Residential Address

Postal Address PRIVATE BAG X60500, HOUGHTON, 2041

Type SECRETARY COMPANY/CLOSE CORPORATION

Status RESIGNED

^ppointment:Date 06/10/2008

Resignation Date

Member Contribution 0%

Member Size 0%

Director 10 of 38

First Name THEMBA CLIFFORD

Surriame ZUNGU

IQ Number 6412245596086
Date of Birth 24/12/1964

Geridër MALE

Age 52

Residential Address LOT 1906 NOORDWYK EXT 41, STONERIDGE ESTATE, NOORDWYK, MIDRAND, 1687

Postel Address PO BOX 50368, RANDJIEFONTEIN, 1683

Type DIRECTOR

Status RESIGNED

Appointment Date 22/04/2009

Resignation Date 20/04/2010

Member Contribution 0%
mber Size 0%

Director 11 of 38

First Name NICKY FRANCINAH

Surname MOGOROSI

ID Number 6506160838082

Date of Birth 16/06/1965
Gender FEMALE
Age 52

Age 52

Residential Address 72 AMBLESIDE, DOUGLAS ROAD, SUNDOWNER, 2161

Postal Address PRIVATE BAG X402, BUNKPAN, 2250

Type OFFICER
Status RESIGNED
repointment Date 12/05/2009
Resignation Date 21/04/2010

Member Contribution 0%
Member Size 0%

Director 12 of 38

First Name HENRY CHRISTO

Surname WHITE

 ID Number
 6106305127085

 Date of Birth
 30/06/1961

Gender MALE

Age. 56

Residential Address 51 BERGWATER PLACE, BANKENVELD ESTATES, WITBANK, 1035

Postal Address P.O BOX 411333, CRAIGHALL, 2024

Type DIRECTOR
Status RESIGNED
Appointment Date: 08/04/2010
Resignation Date 08/04/2010

Member Contribution 0%
Inher Size 0%

Director 13 of 38

Resignation Date

First Name DOUGLAS ROBERT

Surname GAIN

 ID Number
 7612295021088

 Date of Birth
 29/12/1976

 Gender
 MALE

Gender MALE Age 40

Residential Address LITTLE HERTFORD, 44 8TH AVE. PARKTOWN, 2193.

19/09/2012

Postal Address P O BOX 411333, CRA/GHALL, 2024

Type DIRECTOR
Status RESIGNED
holpitment Date 08/04/2010:

Member Contribution 0%

Member Size 0%

Director 14 of 38

First Name MICHAEL SOLOMON

Surname TEKE-

Daie of Birth 6408155713083

Gender MALE
Age 53

Residential Address 4 ATLAS ROAD, SONNEVELD EXT 12, BRAKPAN, 1541

Postal Address P Ø BOX 411333, CRAIGHALL, 2024

Type DIRECTOR
Status RESIGNED
Appointment Date 20/04/2010
Resignation Date 20/04/2010

Director 15 of 38

Resignation Date

First Name MICHAEL SOLOMON

Surname TEKE

 ID. Number
 6498155713083

 Date of Birth
 15/08/1964

 Gender:
 MALE

Gender MALE Age 53

Residential Address 4 ATLAS ROAD, SONNEVELD EXT 12, BRAKPAN, 1541

20/04/2010

Postal Address Pio Box 411333, CRAIGHALL, 2024

Typer DIRECTOR
Status RESIGNED
Pointment Date 20/04/2010

Member Contribution 0%

Member Sizë 0%

W 88

Director 16 of 38

First Name MICHAEL SOLOMON

Sumame TEKE

ID Number 6408155713083
Date of Birth 15/08/1964

Gender MALE

Age 53

Residential Address 4 ATLAS ROAD, SONNEVELD EXT 12, BRAKPAN, 1541

Postal Address P.O.BOX 411333, CRAIGHALL, 2024

Type DIRECTOR
Status RESIGNED
Appointment Date 20/04/2010
Resignation Date: 20/04/2010

Member Contribution .0%

hber Size .0%

Director 17 of 38

Resignation Date

First Name MICHAEL SOLOMON

Sumaine TEKE

ID Number 6408155713083Date of Birth 15/08/1964

Gender MALE Age 53

Residential Address 4 ATLAS ROAD, SONNEVELD EXT 12, BRAKPAN, 1541

20/04/2010

Postal Address P.O.BOX 411333, CRAIGHALL, 2024

Type DIRECTOR
Status RESIGNED
Solntment Date 20/04/2010

Member Contribution 0%

Member Size 0%

Director 18 of 38

First Name MICHAEL SOLOMON

Surname TEKE

1D Number 6408155713083
Date of Birth 15/08/1964

Gender MALE

Age 53

Residential Address 4 ATLAS ROAD, SONNEVELD EXT 12, BRAKPAN, 1541

Postal Address P O BOX 411333, CRAIGHALL, 2024

Type. DIRECTOR
Status RESIGNED
Appointment Date 20/04/2010
Resignation Date 20/04/2010

Member Contribution .0% ber Size .0%

Director 19 of 38.

First Name SIVANDRAN MUNSAMI

Surname GOUNDEN

ID Number .5908Q25174086

Date of Birth .02/08/1959

Gender MALE Age 58

Residential Address 218 BOOTES STREET, WATERKLOOF RIDGE, 0181

21/06/2010

Postal Address Pro Box 1825, BROOKLYN SQUARE, 0075.

Type DIRECTOR
Status RESIGNED
7 Sintment Date 20/04/2010

Resignation Date 21/06/
Member Contribution 0%
Member Size b%

Director 20 of 38

MICHAEL SOLOMON First Name

TEKE Surname

6408155713083 ID Number

15/08/1964 Date of Birth

MALE Gerider

53. Age

36 NEDERBURG STREET, SONNEVELD ESTATE, BRAKPAN, 1541 Residential Address

P.O BOX 411333, CRAIGHALL, CRAIGHALL, JOHANNESBURG, 2024 Postal Address

DIRECTOR Туре RESIGNED Status

20/04/2010 Appointment Date

19/09/2012 Resignation Date

0% Member Contribution 0%

Director 21 of 38

mber Size

MICHAEL BOYD First Name

SCOTT Surname:

6306095230186 IO Number

09/06/1963 Date of Birth

MALE Gender

54 Age

1 FRANCKEN CLOSE, 95A LANCASTER AVE, CRAIGHALL PARK, 2196 Residential Address

P G BOX 411333, CRAIGHALL, 2024 Postal Address

DIRECTOR. Туре RESIGNED Status

28/05/2010 Andointment Date-28/05/2010 Resignation Date

0% Member Contribution

0% Member Size

Director 22 of 38

First Name. MICHAEL BOYD

Surname SCOTT

1D Number 6306096230186

Date of Birth 09/06/1963

Gender MALE

Age 54

Residential Address 1 FRANCKEN CLOSE, 95A LANCASTER AVE, CRAIGHALL PARK, 2196

Postal Address P O BÖX 411333, CRAIGHALL, 2024

Type DIRECTOR
Status RESIGNED
Appointment Date 28/05/2010
Resignation Date 28/05/2010

Member Contribution .0% mber Size .0%

Director 23 of 38

First Name PRINCESS NONDUMISO

Surname KHOZA

ID Number 7203300326082

Date of Birth 30/03/1972
Gender FEMALE

Age 45

Residential Address 3341 STIRLING PLACE, BLUE VALLEY, 0096.

Posial Address 3341 STIRLING PLACE, BLUE VALLEY, 0096

Type DIRECTOR

Status RESIGNED

Coolintment Date 22/06/2010

Resignation Date: 19/09/2012

Member Contribution 0%

Member Size 0%

Director 24 of 38

First Name ANNA CECILIA

Sumame SWART LARMIGNY

ID Number 6709120109087

Date of Birth 12/09/1967

Gender FEMALE

Age. .50

Residential Address 13 WOODSTREAM LOFTS, PIET RETIEF RD, NOORDHEUWEL, 1739

Postal Address P O BOX 411333, CRAIGHALL, 2196

Type SECRETARIES (NATURAL PERSON)

Status RESIGNED

Appointment Date 01/09/2010

Resignation Date 31/01/2013

Member Contribution 0%
mber Size 0%

Director 25 of 38:

First Name, JAN JOHANNES

Surname BRONKHÖRST

ID.Number 5705085044088

Date of Birth 08/05/1957

Gender MALE
Age 60

Residential Address 9 DORMEHL STREET, BRACKENHURST, GAUTENG, 2196

Postal Address 9 DORMEHL STREET, BRACKENHURST, BRACKENHURST, GAUTENG, 1448

Type OFFICER

Status RESIGNED

'voointment Date 03/06/2011

Resignation Date 03/06/2011

Member Gontribution 0%
Member Size 0%



Director 26 of 38

JAN JOHANNES First Name

BRONKHORST Surname

5705085044088 ID Number

08/05/1957 Date of Birth

MALE Gender

60 Age

9 DORMEHU STREET, BRACKENHURST, GAUTENG, 2196 Residential Address

9 DORMEHL STREET, BRACKENHURST, BRACKENHURST, GAUTENG. 1448 Postal Address

OFFICER. Type RESIGNED Status 03/06/2011 Appointment Date.

03/06/2011 Resignation Date

0% Member Contribution 0% viper Size

Director 27 of 38

JAN JOHANNES First Name

BRONKHORST Surname 5705085044088 ID Number

08/05/1957 Date of Birth

MALE Gender 60

Age

9 DÖRMEHL STREET, BRACKENHURST, GAUTENG, 1448 Residential Address

9 DORMEHL STREET, BRACKENHURST, BRACKENHURST, GAUTENG, 1448 **Postal Address**

OFFICER Typė **RESIGNED** Status 03/06/2011 ointment Date

25/06/2012 Resignation Date

0% Member Contribution 0% Member Size

Director 28 of 38

First Name SHAUN MARCO

Surname BLANKFIELD

ID Number 8206085380082

Date of Birth 08/06/1982

Gender MALE

Age .35:

Residential Address 21 BAUHUS GRAND, 116 ATHOL QAKLANDS ROAD, ETON HIL EXT 2, JOHAN NESBURG, 2196

Postal Address P O BOX 78902, SANDTON, JOHAN NESBURG, 2196

Type DIRECTOR
Status RESIGNED
Appointment Date 19/09/2012

Resignation Date 19/09/2012

Member Contribution 0%.

To her Size 0%

Director 29 of 38

First Name RICHARD
Surname COHEN

ID Numbër 6502145076088

:Date of Birth 14/02/1965

Gender MALE Age 52

Residential Address 32 4TH AVENUE, PARKTOWN NORTH, JOHANNESBURG, GAUTENG, 2193

Postal Address P O BOX 78902, SANDTON, JOHANNESBURG, GAUTENG, 2196

Type DIRECTOR

Status RESIGNED

/ pintment Date 19/09/2012

Resignation Date 15/04/2016

Member Contribution 9%.

Member Size 9%

Director 30 of 38

CLINTON MARTIN First Name

EPHRON Surname

6905025002084 ID Number 02/05/1969 Date of Birth

MALE Gender

48 Age

8 VILLA ROSA, 55 WEST ROAD SOUTH, MORNINGSIDE, GAUTENG, 2057 Residential Address

P O BOX,1724, MORNINGSIDE, SANDTON, GAUTENG, 2057 Postal Address

15/04/2016

DIRECTOR Type RESIGNED. Status 19/09/2012 Appointment Date

Resignation Date 0% Member Contribution

0% ber Size

Director 31 of 38

PHUTH First Name

MAHANYELE Surname

.7103150410087 (D Number 15/03/1971

Date of Birth FEMALE: Gender

Agë

41 SAXON ROAD HURLINGHAM, SANDTON, GAUTENG, GAUTENG, 2196 Residential Address

POSTNET SUITE 167, PRIVATE BAG X9 924, PRIVATE BAG X9 924, GAUTENG, 2198 Postal Address

DIRECTOR Type RESIGNED Status 16/01/2013 nintment Date 11/12/2015 Resignation Date:

0% Member Contribution 0% Member Size

Director 32 of 38

First Name THANDEKA TOSANA

Surname NCUBE

 ID Number
 6812160874085

 Date of Birth
 16/12/1968

 Gender
 FEMALE

Age 48

Residential Address 68 16TH STR FOREST TOWN, PARKHURST, GAUTENG, GAUTENG, 2193

Postal Address SUITE 19 PRIVATE BAG X1, MELROSE ARCH, MELROSE ARCH, GAUTENG, 2076

Type DIRECTOR
Stalus RESIGNED
Appointment Date 16/01/2013
Resignation Date 15/04/2016

Member Contribution 0% mber Size 0%

Director 33 of 38

First Name

Surname GLENCORE OPERATIONS SOUTH AFRICA

ID Number

Date of Birth

Gender

Age

Residential Address

Postal Address P O BOX 2131, RUSTENBURG, 0300

Type SECRETARY COMPANY/CLOSE CORPORATION

Status RESIGNED

Toolintment Date 01/02/2013

Resignation Date 15/04/2016

Member Contribution 0%

Member Size 0%

Director 34 of 38

First Name RONICA

Surname RAGAVAN

ID Number 7709170007081

Date of Birth 17/09/1977

Gender .FEMALE

Age 40

Residential Address 129A BISHOP BIRD STREET, ROOHUJSKRAAL, ROOHUJSKRAAL, GAUTENG, 0157

Postal Address PRIVATE BAG X180, HALFWAY HOUSE, HALFWAY HOUSE, GAUTENG, 1685

Type DIRECTOR
Status ACTIVE

Appointment Date 15/04/2016

Resignation Date

Member Contribution 0%

Ther Size 0%

Director 35 of 38

First Name RIAZ YOOSUF

Sumame BOBAT

 ID Number
 8108225156085

 Date of Birth
 22/08/1981

 Gender
 MALE

Age MAI

Residential Address 15 ST ELMO AVENUE, MAYFAIR WEST, MAYFAIR WEST, GAUTENG, 2092

Postal Address PO BOX 1215, CROWN MINES, CROWN MINES, GAUTENG, 2022

Type DIRECTOR
Status RESIGNED

/ nointment Date 15/04/2016
Resignation Date 15/07/2016

Member Contribution 0%

Member Size 0%

Director 36 of 38

TREVOR WILLIAM First Name

SCOTT Surname

7812315130089 ID Number 31/12/1978 Date of Birth

MALE Gender

38 Age

11 GLENDOWER AVENUE, DUNVEGAN, EDENVALE, GAUTENG, 1609 Residential Address

PO BOX 563, CRESTA, CRESTA, GAUTENG, 2118 Postal Address

DIRECTOR Type RESIGNED Status 15/04/2016 Appointment Date 31/08/2017

0% Member Contribution 0% mber Size

Director 37 of 38

Resignation Date

LOUIS BOTHA First Name

LOURENS Surname

620531507.6082 1D Number

31/05/1962 Date of Birth MALE Gender

55 Age

66A SANTOLINA: RUSTENBURG, RUSTENBURG, GAUTENG, 0299 Residential Address

66A SANTOLINA, RUSTENBURG, RUSTENBURG, GAUTENG, 0299 Postal Address

DIRECTOR Type RESIGNED Status: 15/04/2016 pointment Date 07/09/2017 Resignation Date

0% Member Contribution 0% Member Size

Director 38 of 38

First Name RE-ANA CATHLEEN

-Surname JOSEPH

D Number 8205060009088

Date of Birth 06/05/1982

Gender FEMALE

Age 35

Residential Address 5 BAREND STREET, DEL JUDOR X 5, WITBANK, 1034

Postal Address PRIVATE BAG X 402, BLINKPAN, 2250

Type DIRECTOR
Status RESIGNED
Appointment Date 01/11/2016

Resignation Date 01/12/2016

Member Contribution 0%:

AUDITOR(S)

Auditor 1 of 4

Auditor Name ALEXANDROS PHILIPPOU

Profession Number 854379
Profession Cade IRBÁ

Business Address

Postal Address. P.O BOX 2939, SAXONWOLD, 2132

Type DESIGNATED AUDITOR (NATURAL PERSON)

Status

Start Date

End Date

Form Date (CM) Date)

L., ry Date

Registration Entry Date

Form Received Date

Details Withdrawn From Public

ACT_IND_MPY_NO_SP

Fine Letter

Reference Number

AUDITOR(S) (CONTINUED)

Auditor 2 of 4

Auditor Name DELOITTE & TOUCHE

Profession Number 902276
Profession Code SAICA

Business Address 36 FRICKER ROAD, ILLOVO, JOHANNESBURG, 2196

Postal Address P O BOX 411333, CRAIGHALL, 2020

Type AUDITOR
Status RESIGN

Start Date

End Date 25/01/2008

Form Date (CMI Date) -

Expiry Date -

Registration Entry Date

Form Received Date

Is Withdrawn From Public

ACT_IND_MPY_NO_SP

Fine Letter

Reference Number

Auditor 3 of 4

Auditor Name. KPMG INC
Profession Number 922234E
Profession Code SAICA

Business Address 36 FRICKER ROAD, ILLOVO, JOHANNESBURG, 2196

Posial Address P O BOX 904, SECUNDA, 2302

Type AUDITOR Status RESIGN 5 Date 25/01/2008.

End Date 55

Form Date (CMI Date) 29/01/2008

Explry Date

Registration Entry Date 29/01/2008
Form Received Date 29/01/2008

Details Withdrawn From Public

ACT_IND_MPY_NO_SP

Fine Letter

Reference Number

AUDITOR(S) (CONTINUED)

Auditor 4 of 4

Auditor Name SIZWENTSALUBAGOBODO INC

Profession Number 946016

Profession Code IRBA

Business Address 20 MORRIS STREET EAST, WOODMEAD, 2191

Postal Address P O BOX 2939, SAXONWOLD, 2132

Type AUDITOR
Status CURRENT

Start Date

End Date

Form Date (CM1 Date)

Expiry Date

Registration Entry Date

Form Received Date -

ails Withdrawn From Public

ACT_IND_MPY_NO_SP

Fine Letter

Reference Number

CAPITAL INFORMATION			acid rank 11 AVIII		03
Туре	Capital Amount	Capital Premium	Number of Shares	Parri Value	
AUTHORIZED ORDINARY	R1,00	·O.	10.00	Ö	
ISSUED ORDINARY	R 1,90°	.Q.	1.	·O	

CHANGE HISTORY

History 1 of 159

Effective Date 02/10/2017

Change Type DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE

mo DIRECTOR RONICA RAGAVAN DETAILS WAS CHANGED

History 2 of 159

Effective Date 02/10/2017

Change Type DIRECTORS/MENBER CHANGE/SECRETARY/TRUST/BOTH DIR AND ÖFFICE

Memo DIRECTOR LOUIS BOTHA LOURENS DETAILS WAS CHANGED

History 3 of 159

Effective Date 13/09/2017

Change Type DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE

Memo DIRECTOR RONICA RAGAVAN DETAILS WAS CHANGED



History 4 of 159

Effective Date

13/09/2017

Change Type

DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE

Memo

DIRECTOR TREVOR WILLIAM SCOTT DETAILS WAS CHANGED

History 5 of 159

Effective Date:

13/09/2017

Change Type

DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE

Memo

DIRECTOR LOUIS BOTHA LOURENS DETAILS WAS CHANGED

History 6 of 159

Effective Date

08/09/2017

Change Type

LOCATION OF COMPANY RECORDS

Memó

History 7 of 159

Effective Date

29/06/2017

Change Type

COICC ANNUAL RETURN

Memp

COMPANY / CLOSE CORPORATION AR FILING - WEB SERVICES : REF NO. : 575924270

History 8 of 159

Effective Date

30/01/2017

Change Type

DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE

Memo

CHANGE RECORDSURNAME = JOSEPHFIRST NAMES = RE-ANA CATHLEENSTATUS = RESIGNED

History 9 of 159

Effective Date.

18/11/2016

nge Type

AUDITOR/ACC OFFICER CHANGE

Memo

CHANGE RECORDNAME: = DELORTE & TOUCHESTATUS: = RESIGN

History 10 of 159

Effective Oate

18/11/2016

Change Type

AUDITOR/ACC OFFICER CHANGE

Memo

CHANGE RECORDNAME := SIZWENTSALUBAGOBODO INCSTAŢUS := CURRENT

History 11 of 159

Effective Date

18/11/2016

Change Type

AUDITOR/ACC OFFICER CHANGE

Memo

CHANGE RECORDNAME : = ALEXANDROS PHILIPPOUSTATUS : = CURRENT

History 12 of 159

Effective Date

07/11/2016

Change Type

DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/80TH DIR AND OFFICE

Viemo

ADD RECORDSURNAME - JOSEPHFIRST NAMES - RE-ANA CATHLEENSTATUS - ACTIVE

History 13 of 159

Effective Date

05/09/2016.

Change Type

CO/CC ANNUAL RETURN

Memo

COMPANY / CLOSE CORPORATION AR FILING - WEB SERVICES : REF NO. : 549372344

History 14 of 159

Effective Date

31/08/2016

Change Type

DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE

Memo-

CHANGE RECORDSURNAME = BOBATFIRST NAMES = RIAZ YOOSUFSTATUS = RESIGNED

History 15 of 159

Effective Date

06/08/2016

Change Type

REGISTERED ADDRESS CHANGE

Memo

GRAYSTONE RIDGE OFFICE PARK BLOCK A LOWER GROUND FLOOR 144 KATHERINE STREET SANDTON GAUTENG2196

History 16 of 159

Effective Date

16/05/2016

inge Type

CHANGE OF BOOK YEAR

Memo:

THE FINANCIAL YEAR END WAS CHANGED FROM DECEMBER 2015 TO FEBRUARY 2017

History 17 of 159

Effective Date

06/05/2016

Change Type

DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE

Memo

DIRECTOR RONICA RAGAVAN WAS ADDED

History 18 of 159

.06/05/2016 Effective Date

DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE Change Type

DIRECTOR TREVOR WILLIAM SCOTT WAS ADDED Memo

History 19 of 159

06/05/2016. Effective Date

DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE Change Type

DIRECTOR LOUIS BOTHA LOURENS WAS ADDED Memo

History 20 of 159

06/05/2016 Effective Date

DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE Change Type

DIRECTOR RIAZ YOOSUF BOBAT WAS ADDED Memo

History 21 of 159

06/05/2016 Effective Date

DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE Change Type

DIRECTOR CLINTON MARTIN EPHRON DETAILS WAS CHANGED Memo

History 22 of 159

06/05/2016 Effective Date

DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE Change Type

DIRECTOR RICHARD COHEN DETAILS WAS CHANGED Memo

History 23 of 159

06/05/2016 Effective Date

DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE arige Type

DIRECTOR THANDEKA TOSANA NCUBE DETAILS WAS CHANGED Memo

History 24 of 159

15/04/2016 Effective Date

DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE Change Type

CHANGE RECORDCOMPANY NAME = GLENCORE OPERATIONS SOUTH AFRICAFIRST NAMES = STATUS Memo = RESIGNED

History 25 of 159

Effective Date 15/04/2016.

Change Type DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE

Memo: CHANGE RECORDSURNAME: EPHRONFIRST NAMES * CLINTON MARTINSTATUS * ACTIVE

History 26 of 159

Effective Date 15/04/2016.

Change Type DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE

Memo CHANGE RECORDSURNAME = COHENFIRST NAMES = RICHARDSTATUS:= ACTIVE

History 27 of 159

Effective Date 15/04/2016

Change Type DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE

Memo CHANGE RECORDSURNAME = NCUBEFIRST NAMES - THANDEKA TOSANASTATUS - ACTIVE

History 28 of 159

Effective Date 11/02/2016

Change Type DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE

Memo DIRECTOR PHUTHI MAHANYELE DETAILS WAS CHANGED

History 29 of 159

Effective Date 11/02/2016

Change Type DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE

Memo DIRECTOR THANDEKA TOSANA NCUBE DETAILS WAS CHANGED

History 30 of 159

Effective Date 11/02/2016

© inge Type DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE

Memo DIRECTOR RIGHARD COHEN DETAILS WAS CHANGED

History 31 of 159

Effective Date 11/02/2016

Change Type DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE

Memo DIRECTOR CLINTON MARTIN EPHRON DETAILS WAS CHANGED

History 32 of 159

Effective Date 15/12/2015

Change Type REGISTERED ADDRESS CHANGE

Memo 1ST FLOOR 23 MELROSE BOULEVARD MELROSE ARCH JOHANNESBURG GALITENG2196

History 33 of 159

Effective Date 12/06/2015

Change Type CO/CC ANNUAL RETURN

Memo COMPANY / CLOSE CORPORATION AR FILING - WEB SERVICES : REF NO. : 527249113

History 34 of 159

Effective Date 25/06/2014

Change Type CO/CC ANNUAL RETURN

Memo. COMPANY / CLOSE CORPORATION AR FILING - WEB SERVICES : REF NO. : 52211210

History.35 of 159

Effective Date 18/03/2014

Change Type POSTAL ADDRESS CHANGE

Memo POSTNET SUITE 19PRIVATE BAG XI MELROSE ARCH2076

History 36 of 159

Effective Date 18/03/2014

Change Type REGISTERED ADDRESS CHANGE

Memo 1ST FLOOR23 MELROSE BOULEVARDMELROSE ARCHGAUTENG2196

History 37 of 159

Effective Date 11/03/2014

ange Type POSTAL ADDRESS CHANGE

Memo POSTNET SUITE 19PRIVATE BAG X1:MELROSE ARCH2076

History 38 of 159

Effective Date 11/03/2014

Change Type REGISTERED ADDRESS CHANGE

Memo 1ST FLOOR, NEDBANK BUILDING 23 MELROSE BOULEVARDMELROSE ARCHJOHANNESBURG 2196

History 39 of 159

Effective Date

04/03/2014

Change Type

DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE

Memo

CHANGE RECORDCOMPANY NAME = GLENCORE OPERATIONS SOUTH AFRICAFIRST NAMES = STATUS

- ACTIVE

History 40 of 159

Effective Date

09/02/2014

Change Type

LOCATION OF COMPANY RECORDS

Memo

History 41 of 159

Effective Date

21/01/2014

Change Type

DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE

Memo

Unlock PasswordUnlocked.byTOMMY5Password successfully sent to sw@promcorp.co.za

History 42 of 159

Effective Date

16/01/2014

Change Type

DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE

Memo

AUTHORISING DIRECTOR DETAILS DIRECTOR FULL FORENAMES CLINTON MARTINSURNAME EPHRONID NUMBER-6905025002084CUSTOMER DETAILS DIRECTOR FULL FORENAMES SOLETE DE SOSASURNAME WILKEID NUMBER-6708130194089

History 43 of 159

Effective Date

16/01/2014

Change Type

DIRECTORS/MEMBER GHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE

Memo

AUTHORISING DIRECTOR DETAILSDIRECTOR FULL FORENAMES-GLINTON MARTINSURNAME-EPHRONID NUMBER-6905025002084

□ story 44 of 159

Elfective. Date

24/07/2013

Change Type

POSTAL ADDRESS CHANGE

Memo

P O BOX 411333CRAIGHALL2024

History 45 of 159

Effective Date

24/07/2013

Change Type

REGISTERED ADDRESS CHANGE

Nemo

36 FRICKER ROADILLOVOJOHANNESBURGGAUTENG2196

History 46 of 159

12/06/2013 Effective Date

DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE Change Type

CHANGE RECORDSURNAME = SWART LARMIGNYFIRST NAMES = ANNA CECILIASTATUS * RESIGNED Memo

History 47 of 159

12/06/2013 Effective Date

DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE Change Type

ADD RECORDCOMPANY NAME = XSTRATA SOUTH AFRICAFIRST NAMES = STATUS = ACTIVE Memo

History 48 of 159

12/04/2013 Effective Date

DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE Change Type

Unlock PasswordUnlocked byGRMASUPassword successfully sont to sweepremcorp.co.za Memo

History 49 of 159

10/04/2013 **Effective Date**

DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE Change: Type

AUTHORÍSING DIRECTOR DETAILSDIRECTOR FULL FORENAMES=RICHARDSURNAME=COHENID NUMBER=6502165076088CUSTOMER DETAILS DIRECTOR FULL FORENAMES=SOLETE DE SOUSASURNAME=WILKEID NUMBER=6708130194089 Memo

History 50 of 159

10/04/2013 **Effective Date**

DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH/DIR AND OFFICE Change Type

AUTHORISING DIRECTOR DETAILS DIRECTOR FULL FORENAMES-RICHARDSURNAME-COHENID Mèmo

NUMBER=6502145076088

History 51 of 159

16/01/2013 ative Date

DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE Change Type

FULL FORENAMES=THANDEKA TOSANASURNAME=NCUBEAPPOINTMENTDATE=16/01/2013STATUS=A Memo

History 52 of 159

16/01/2013 **Effective Date**

DIRECTORS/MEMBER GHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE Change Type

FULL FORENAMES=PHUTHISURNAME=MALABIEAPPOINTMENTDATE=16/01/2013STATUS*A Memo

History 53 of 159

Effective Date

16/01/2013

Change Type

DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE

Memo

FULL FORENAMES=PHUTHISURNAME=MÄHANYELEAPPOINTMENTDATE=16/01/2013STATUS=A

History 54 of 159

Effective Date

31/12/2012

Change Type

CHANGE OF BOOK YEAR

Memo

6

History 55 of 159

Effective Date

22/11/2012

Change Type

DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE

Memo

CHANGE RECORDSURNAME - GAINFIRST NAMES - DOUGLAS ROBERTSTATUS - RESIGNED

History 56 of 159

Effective Date

22/11/2012

Change Type

DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE

Memo

CHANGE RECORDSURNAME = KHOZAFIRST NAMES = PRINCESS NONDUMISOSTATUS = RESIGNED

History 57 of 159

Effective Date

22/11/2012

Change Type

DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE

Memo

CHANGE RECORDSURNAME = TEKEFIRST NAMES = MICHAEL SOLOMONSTATUS = RESIGNED

History 58 of 159

Effective Date

22/11/2012

inge Type

DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE

Memo

CHANGE RECORDSURNAME - BRONKHORSTFIRST NAMES = JAN JOHANNESSTATUS - RESIGNED

History 59 of 159

Effective Date

22/11/2012.

Change Type

DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE

Memo:

CHANGE RECORDSURNAME - EPHRON FIRST NAMES - CLINTON MARTIN STATUS - ACTIVE

History 60 of 159

Effective Date

22/11/2012

Change Type

DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE

Memo-

CHANGE RECORDSURNAME = COHEN FIRST NAMES = RICHARDSTATUS = ACTIVE

History 61 of 159

Effective Date

22/11/2012

Change Type

DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE

Memo

CHANGE RECORDSURNAME = BLANKFIELD FIRST NAMES = SHAUN MARCOSTÁTUS = ACTIVE

History 62 of 159

Effective Date

19/09/2012

Change Type

DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE

Mema

FULL FORENAMES-SHAUN MARCOSURNAME=BLANKFIELDAPPOINTMENTDATE=19/09/2012STATUS-C

History 63 of 159

Effective Date

30/08/2012

Change Type

AUDITOR/ACC OFFICER CHANGE

Memo

CHÄNGE RECORDNAME: = DELOITTE & TOUCHESTATUS: = CURRENT

History 64 of 159

Effective Date

30/08/2012

Change Type

AUDITOR/ACC OFFICER CHANGE

Memo

CHANGE RECORDNAME : = KPMG INCSTATUS : = RESIGN

History 65 of 159

Effective Date

10/11/2011

ange Type

DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE

Memo

AUTHORISING DIRECTOR DETAILSDIRECTOR FULL FORENAMES-DOUGLAS ROBERTSURNAME-GAIND NUMBER-7612295021088CUSTOMER DETAILS DIRECTOR FULL FORENAMES-MARINASURNAME-SCHUSTERID NUMBER-8212220105087

History 66 of 159

Effective Date

10/11/2011

Change Type

DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE

Memo

AUTHORISING DIRECTOR DETAILSDIRECTOR FULL FORENAMES-DOUGLAS ROBERTSURNAME-GAINID NUMBER-7612295021088

History 67 of 159

Effective Date

07/11/2011

Change Type

DIRECTORS/MEMBER CHANGE/SEGRETARY/TRUST/BOTH DIR AND OFFIGE

Memo

AUTHORISING DIRECTOR DETAILS DIRECTOR FULL FORENAMES=MICHAEL SOLOMONSURNAME*TEKEID NUMBER=640B1557130B3CUSTOMER DETAILS DIRECTOR FULL FORENAMES=MARINASURNAME*SCHUSTERID NUMBER=8212220105087

History 68 of 159

Effective Date

07/11/2011

Change Type

DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE

Memo

AUTHORISING DIRECTOR DETAILSDIRECTOR FULL FORENAMES=MICHAEL SOLOMONSURNAME=TEKEID: NUMBER=6408155713083

History 69 of 159

Effective Date

07/11/2011

Change Type

ത്ത

DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE

AUTHORISING DIRECTOR DETAILSDIRECTOR FULL FORENAMES=PRINCESS NONDUMISOSURNAME=KHOZAID NUMBER=7203300326082CUSTOMER DETAILS DIRECTOR FULL FORENAMES=MARINASURNAME=SCHUSTERID NUMBER=8212220105087

History 70 of 159

Effective Date

.07/11/2011

Change Type

DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE

Memo

AUTHORISING DIRECTOR DETAILSDIRECTOR FULL FORENAMES=PRINCESS NONDUMISOSURNAME=KHOZAID NUMBER#7203300326082

History 71 of 159

Effective Date

04/11/2011

Change Type

DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE

Memo

AUTHORISING DIRECTOR DETAILS DIRECTOR FULL FORENAMES=MICHAEL SOLOMONSURNAME=TEKEID NUMBER=6408155713083CUSTOMER DETAILS DIRECTOR FULL FORENAMES=MARINASURNAME=SCHUSTERID NUMBER=8212220105087

History 72 of 159

Effective Date

04/11/2011

Change Type

DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE

Momo

AUTHORISING DIRECTOR DETAILSDIRECTOR FULL FORENAMES=MICHAEL SOLOMONSURNAME=TEKEID NUMBER=6408155713083

History 73 of 159

Effective Date

27/10/2011

Change Type:

POSTAL ADDRESS CHANGE

Memo

P O BOX 411333CRAIGHALL2024

MI \$

History 74 of 159

Effective Date

.27/10/2011

Change Type

REGISTERED ADDRESS CHANGE

Memo

UNIT BIOO3MARLBOROUGH GATEHYDE PARK LANEHYDE PARK2196

History 75 of 159

Effective Date

09/07/2011

Change Type

CANCELLATION OF DEREGISTRATION PROCESS

Memo

ANNUAL RETURN NON COMPLIANCE - CANCELLATION OF DEREGISTRATION

History 76 of 159

Effective Date

30/06/2011

Change Type

CHANGE OF BOOK YEAR

Memo

2

History 77 of 159

Effective Date

03/06/2011

Change Type

DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE

Memo

FULL FORENAMES=JAN JOHANNESSURNÁME=BRONKHORSTAPPOINTMENTDATE=03/06/2011STATUS=A

History 78 of 159

Effective Date

03/06/2011

Change Type

DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE

Memo

FULL FORENAMES*JAN JOHANNESSURNAME*BRONKHORSTAPPOINTMENTDATE=03/06/2011STATUS*A

History 79 of 159

Frective Date

03/06/2011

Change Type

DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE

Memo

FULL FORENAMES=JAN JOHANNESSURNAME=BRONKHORSTAPPOINTMENTDATE=03/06/2011STATUS=C.

History 80 of 159

Effective Date

01/09/2010

Change Type

DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE

Memo

SCOTTSTATUS: RESIGN

History 81 of 159

01/09/2010 Effective Date

DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE Change Type

SURNAME-SWART LARMIGNYFULL FORENAMES-ANNA CECILIANATIONALITY-SOUTH AFRICARSA RESIDENT-DATE OF APPOINTMENT-1 SEPTEMBER 2010PROPESSION-DESIGNATION-COMPANY SECRETARY (NATURAL PERSON)RESIDENTIAL ADDRESS13 WOODSTREAM LOFTSPIET RETILEF RDNOORDHEUWEL1739BUSINESS Memo

History 82 of 159

22/06/2010 Effective Date

DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE Change Type

SURNAME=KHOZAFULL FORENAMES=PRINCESS NONDUMISOID NO=7203300326082STATUS Memo

ACTIVENATURE OF CHANGE-NEW APPOINTMENT

History 83 of 159

22/06/2010 Effective Date

DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE ‴ ≒nge Typë

FULL FÖRENAMES=PRINCESS NONDUMISOSURNAME=KHÖZÄAPPOINTMENTDATE=22/06/2010STATUS=A Memo

History 84 of 159

21/06/2010 Effective Date

DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE Change Type

SURNAME-GOUNDENFULL FORENAMES-SIVANDRAN MUNSAMID NO-5908025174086STATUS RESIGNEDNATURE OF CHANGE-DIRECTOR RESIGNED Nemo

History 85 of 159

28/05/2010 Effective Date

DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE Change Type

SURNAME-SCOTTFULL FORENAMES-MICHAEL BOYDNATIONALITY-SOUTH AFRICARSA
RESIDENT-DATE OF APPOINTMENT-28 MAY 2010PROFESSION-DESIGNATION-COMPANY SECRETARY
(NATURAL PERSON)RESIDENTIAL ADDRESSI FRANCKEN CLOSE95A LANCASTER AVECRAIGHALL Memo

PARK 2196 BUSINESS ADDRESSUNIT

History 86 of 159

28/05/2010 Effective: Date

DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE Change Type

SURNAME=SCOTTFULL FORENAMES=MICHAEL BOYDID NO=6306095230186STATUS :ACTIVENATURE OF CHANGE=NEW APPOINTMENT Memo

History 87 of:159

28/05/2010 Effective Date

DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE Change Type

FULL FORENAMES=MICHAEL BOYDSURNAME=SCOTTAPPOINTMENTDATE=28/05/2010STATUS=C Memo

History 88 of 159

24/05/2010 Effective Date

REGISTERED ADDRESS CHANGE Change Type

UNIT BIOD3MARLBOROUGH GATEHYDE PARK LANEHYDE PARK2496 Memo

History 89 of 159

24/05/2010 **Effective Date**

POSTAL ADDRESS CHANGE Change Type

PO BOX 411333CRAIGHALL2024 Memo

History 90 of 159

17/05/2010 Effective Date

REGISTERED ADDRESS CHANGE Change Type

UNIT BIOO3MARLBOROUGH GATEHYDE PARK LANE 2196 Memo

History 91 of 159

17/05/2010 Effective Date

POSTAL ADDRESS CHANGE Change Type

P O BOX 411333CRAIGHALL 2024 Memo

History 92 of 159

30/04/2010 Effective Date NAME CHANGE Change Type SIYANDA COAL Memo

History 93 of 159

21/04/2010 Effective Date

DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH:DIR:AND OFFICE n'inge Type

SURNAME-GAINFULL FORENAMES-DOUGLAS ROBERTID NO-7612295021088STATUS :ACTIVENATURE OF CHANGE-NO CHANGE Memo

History 94 of 159

21/04/2010 Effective Date

DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE Change Type

SURNAME=WHITEFULL FORENAMES=HENRY CHRISTOID NO=6106305127085STATUS :ACTIVENATURE OF CHANGE-NO CHANGE Memo

History 95 of 159

Effective Date

21/04/2010

DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE

Change Type

Memo

SURNAME=MOGOROSIFULL FORENAMES=NICKY FRANCINAHID-NO=6506160838082STATUS RESIGNEDNATURE OF CHANGE=DIRECTOR RESIGNED

History 96 of 159

Effective Date

20/04/2010

Change Type

DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE

Memo

SURNAME-TEKEFULL FORENAMES-MICHAEL SOLOMONID NO-6408155713083STATUS ACTIVENATURE OF CHANGE-NEW APPOINTMENT

History 97 of 159

Effective Date

20/04/2010

Change Type

DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE

mo

SURNAME=GOUNDENFULL FORENAMES#SIVANDRAN MUNSAMIID NO=5908025174Q86STATUS ACTIVENATURE OF CHANGE-NEW APPOINTMENT

History 98 of 159

Effective Date

20/04/2010

Change Type

DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE

Memo

SURNAME=ZUNGUFULL FORENAMES=THEMBA CLIFFORDID NO=6412245596086STATUS RESIGNEDNATURE OF CHANGE DIRECTOR RESIGNED

History 99 of 159

Effective Date

20/04/2010

Change Type

DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE

Memo

FULL FORENAMES - MICHAEL SOLOMONSURNAME=TEKEAPPOINTMENTDATE=20/04/2010STATUS=A

History 100 of 159

Eucctive Date

20/04/2010

Change Type

DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND/OFFICE

Memo.

FULL FORENAMES-MICHAEL SOLOMONSURNAME-TEKEAPPOINTMENTDATE-20/04/2010STATUS-C

History 101 of 159

Effective Date

20/04/2010

Change Type

DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE

Memo

FULL FORENAMES#MICHAEL SOLOMONSURNAME=TEKEAPPOINTMENTDATE#20/04/2010STATUS#A

History 102 of 159

Effective Date

15/04/2010

Change Type

DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE

Memo

STATUCORSTATUS : RESIGN

History 103 of 159

Effective Date

.08/04/2010

Change Type

DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE

Memo

SURNAME-BERRYFULL FORENAMES-ROBIN CRAIGID NO-6206025155083STATUS: RESIGNEDNATURE OF CHANGE-DIRECTOR RESIGNED

History 104 of 159

Effective Date

08/04/2010

Change Type

DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR, AND OFFICE

Memo

SURNAME=GAINFULL FORENAMES=DOUGLAS ROBERTID NO=7612295021088STATUS ACTIVENATURE OF CHANGE=NEW APPOINTMENT

History 105 of 159

Effective Date

08/04/2010

Change Type

DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE

Memo

SURNAME-LOUWFULL FORENAMES-GIDEON PETRUSID NO-6207135011083STATUS RESIGNED RESIGNED.

History 106 of 159

Effective Date

08/04/2010

Change Type

DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE

Memo

SURNAME#WHITEFULL FORENAMES=HENRY CHRISTOID NO=6106305127085STATUS::ACTIVENATURE. OF CHANGE=NEW APPOINTMENT

14-tory 107 of 159

Enective Date

08/04/2010

Change Type

DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE

Memo

FULL FORENAMES=DOUGLAS ROBERTSURNAME=GAINAPPOINTMENTDATE=08/04/2010STATUS=A

History 108 of 159

Effective Date

08/04/2010

Change Type

DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR:AND OFFICE

Memò

FULL FORENAMES=HENRY CHRISTOSURNAME=WHITEAPPOINTMENTDATE=08/04/2010STATUS=C

History 109 of 159

Effective Date

08/02/2010

Change Type

DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE

Memo

SURNAME-ZUNGUFULL FORENAMES=THEMBA CLIFFORDID NO+6412Z45596086STATUS :ACTIVENATURE OF CHANGE=NO CHANGE

History 110 of 159

Effective Date

08/02/2010

Change Type

DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE

Memo

SURNAME-LOUWFULL FÖRENAMES-GIDEON PETRUSID NO-6207135011083STATUS ACTIVENATURE OF CHANGE-NO CHANGE

History 111 of 159

Effective Date

08/02/2010

Change Type

DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE

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SURNAME-BERRYFULL FORENAMES-ROBIN CRAIGID NO-6206025155083STATUS ACTIVENATURE OF

CHANGE-NO CHANGE

History 112 of 159

Effective Date

08/02/2010

Change Type

DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE

Memo

SURNAME=MTHWAFULL FORENAMES=LINDANI BENNETID NO=6909235406085STATUS :ACTIVENATURE OF CHANGE=NO CHANGE

History 113 of 159

Effective Date

08/02/2010

Change Type

DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE

Memo

SURNAME=NEMATSWERANIFULL FORENAMES=NKHUMELENI SAMUELID NO=610728D000000STATUS :RESIGNEDNATURE OF CHANGE=DIRECTOR RESIGNED 30/03/2009

story 114 of 159

Effective Date

08/02/2010

Change Type

DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE

SURNAME=MOGOROSIFULL FORENAMES=NICKY FRANCINAHID NO=6506160838082STATUS Memo ACTIVENATURE OF CHANGE-NO CHANGE

History 115 of 159

Effective Date

20/11/2009

Change Type

DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE

Memo

SURNAME=MTHWAFULL FORENAMES=LINDANI BENNETID NO=6909235406085STATUS RESIGNEDNATURE OF CHANGE=DIRECTOR RESIGNED



History 116 of 159

Effective Date

03/09/2009

Change Type

DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE

Memo

SURNAME=TEKEFULL FORENAMES=MIGHAEL SOLOMONID NO=6408155713083STATUS ::ACTIVENATURE OF CHANGE=NO CHANGE

History 117 of 159

Effective Date

03/09/2009

Change Type

DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE

Memo

SURNAME=LOUWFULL FORENAMES=GIDEON PETRUSID NO=6207135011083STATUS:ACTIVENATURE OF CHANGE=NO CHANGE

History 118 of 159

Effective Date

03/09/2009

Change Type

DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE

"emo

SURNAME=BERRYFULL FORENAMES=ROBIN CRAIGID NO=6206025155083STATUS :ACTIVENATURE OF CHANGE=NO CHANGE

History 119 of 159

Effective Date

03/09/2009

Change Type

DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE

Memo

SURNAME=MTHWAFULL FORENAMES=UNDANI BENNETID NO=6909235406085STATUS :ACTIVENATURE OF CHANGE=NO CHANGE

History 120 of 159

Effective Date

03/09/2009

Change Type

DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE

Memo

SURNAME-NEMATSWERANIFULL FORENAMES=NKHUMELENI SAMUELID NO=6107280000000STATUS :ACTIVENATURE OF CHANGE=NO CHANGE

tory 121 of 159

Effective Date

03/09/2009

Change Type:

DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE

Memo:

SURNAME=MOGOROSIFULL FORENAMES=NICKY FRANCINAHID NO+6506160838082STATUS :ACTIVENATURE OF CHANGE=NEW APPOINTMENT 12/05/2009

History 122 of 159

Effective Date

22/04/2009

Change Type

DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE

Memo

SURNAME-ZUNGÜ FULL FORENAMES-THEMBA CLIFFORDID NO-6412245596086STATUS :ACTIVENATURE OF CHANGE-NEW APPOINTMENT 22/04/2009

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History 123 of 159

06/02/2009 Effective Date

DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE Change Type

SURNAME=TEKEFULL FORENAMES=MICHAEL SOLOMONID NO+6408155713083STATUS RESIGNEDNATURE OF CHANGE=RESIGNED ON THE 04/12/2008 Memo

History 124 of 159

06/02/2009 Effective Date

DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE Change Type

SURNAME=TEKEFULL FORENAMES=MICHAEL SOLOMONID NO=6408155713083STATUS RESIGNEDNATURE OF CHANGE=RESIGNED ON THE 04/12/2008 Memo

History 125 of 159

06/02/2009 Effective Date

DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH-DIR AND OFFICE Change Type

SURNAME=TEKEFULL FORENAMES=MICHAEL SOLOMONID NO=6408155713083STATUS :ACTIVENATURE OF CHANGE=NO:CHANGE. `*amio

History 126 of 159

06/02/2009 Effective Date

DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE Change Type

SURNAME=LOUWFULL FORENAMES=GIDEON PETRUSID NO+6207135011083STATUS :ACTIVENATURE Memo

OF CHANGE-NO CHANGE.

History 127 of 159

06/02/2009 **Effective Date**

DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE Change Type

SURNAME=BERRYFULL FORENAMES*ROBIN CRAIGID NO=6206025155083STATUS :ACTIVENATURE OF Memio

CHANGE-NO CHANGE

tory 128 of 159

06/02/2009 Effective Date

DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE Change Type

SURNAME=MTHWAFULL:FORENAMES=LINDANI BENNETID NO=6909235406085STATUS Memo

ACTIVENATURE OF CHANGE=NO CHANGE

History 129 of 159

06/02/2009 Effective Date

DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE Change Type

SURNAME=NEMATSWERANIFULL FORENAMES=NKHUMELENI SAMUELID NO=6107280000000STATUS :ACTIVENATURE OF CHANGE=NO CHANGE. Memo

History 130 of 159

Effective Date

02/02/2009

Change Type

DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE

Memo

SURNAME=TEKEFULL FORENAMES=MICHAEL SOLOMONID NO=64081557(3083STATUS :ACTIVENATURE OF CHANGE=RESIGNED ON 08/12/2008

History 131 of 159

Effective Date

02/02/2009

Change Type

DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE

Memo

SURNAME=TEKEFULL FORENAMES=MICHAEL SOLOMONID NO=6408155713083STATUS -ACTIVENATURE OF CHANGE=RESIGNED 08/12/2008

History 132 of 159

Effective Date

08/12/2008

Change Type

DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE

mo

SURNAME=TEKEFULL FORENAMES=MIGHAEL SOLOMONID NO=6408155713083STATUS :ACTIVENATURE OF CHANGE=ALTERNATE DIRECTOR

History 133 of 159

Effective Date

04/12/2008

Change Type

DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE

Memo

SURNAME=TEKEFÜLL FORENAMES=MICHAEL SOLOMONID NO=6408155713083STATUS RESIGNEDNATURE OF CHANGE=ERROR APPOINTMENT 04/12/2008

History 134 of 159

Effective Date

17/11/2008

Change Type

REGISTERED ADDRESS CHANGE

Memo.

12TH FLOOR, NEDBANK BUILDINGNO, 81 MAIN STREETJOHANNESBURG2000

History 135 of 159

Enective Date

17/11/2008

Change Type

POSTAL ADDRESS CHANGE

Memo

PO BOX 12756VORNA VALLEY1686

History 136 of 159

Effective Date

17/11/2008

Change Type

POSTAL ADDRESS CHANGE

Memo

PO BOX 62203MARSHALLTOWN2107

History 137 of 159

27/10/2008 Effective Date

AUDITOR/ACC-OFFICER CHANGE Change Type

CHANGE RECORDNAME; = KPMG\$TATUS; = CURRENT .Vemo

History 138 of 159

15/10/2008 Effective Date

DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE Change Type

Viemo

SURNAME-STATUCORFULL FORENAMES=REGISTRATION NO-198900539407NATIONALITY=SOUTH AFRICARSA RESIDENT=ODATE OF APPOINTMENT=6 OCTOBER 2008PROFESSION=DESIGNATION=SECRETARY (COMPANIES AND CCS)RESIDENTIAL ADDRESSBUSINESS ADDRESSNO 13 WELLINGTON ROADPARKTOWNJHB2193

History 139 of 159

22/08/2008 Effective Date

AUDITOR/ACC OFFICER CHANGE Change Type

SPOWART MICHAEL BERRIESTATUS RESIGN mo

History 140 of 159

23/07/2008 **Effective Date**

DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE Change Type

SURNAME=LOUWFULL FORENAMES=GIDEON PETRUSID NO=62071350110835TATUS :ACTIVENATURE OF CHANGE=APPOINTMENT AS DIRECTOR Memo

History 141 of 159

23/07/2008 Effective Date

DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE Change Type

SURNAME=BERRYFULL FORENAMES=ROBIN CRAIGID NO+6206025155083STATUS :ACTIVENATURE OF CHANGE-APPOINTMENT AS DIRECTOR Memö

ory 142 of 159

28/02/2008 Effective Date

CHANGE OF BOOK YEAR Change Type

6 Memo

History 143 of 159

25/01/2008 Effective Date

AUDITOR/ACC OFFICER CHANGE Change Type

PO BOX:904SECUNDA2302STATUS: ADDRESS CHANGE Memo

History 144 of 159

25/01/2008 Effective Date

AUDITOR/ACC OFFICER CHANGE Change Type

Memo

History 145 of 159

01/01/2008 Effective Date

DIRECTORS MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE Change Type

SURNAME-SPOWARTFULL FORENAMES-MICHAEL BERRIEID NO-5406215133087BIRTH DATE-21 JUNE 1954NATIONALITY-SOUTH AFRICARSA RESIDENT-1DATE OF APPOINTMENT-1 JANUARY 2008PROFESSION-DESIGNATION-COMPANY SECRETARY (NATURAL PERSON)RESIDENTIAL ADDRESS308 DUNKELD SQUAREIS Memo

History 146 of 159

02/10/2007 Effective Date

NAMÉ CHANGE Change Type

KOORNFONTEIN COLLIERIES: emio

History 147 of 159

02/10/2007 **Effective Date**

NATURE OF BUSINESS CHANGE Change Type

62 Memo.

History 148 of 159

20/09/2007 Effective Date

NAME CHANGE. Change Typė

MAIN STREET 432 Memo

History 149 of 159

30/06/2007 sctive Date

CHANGE OF BOOK YEAR Change Type

Memo

History 150 of 159

14/02/2007 Effective Date

REGISTERED, ADDRESS CHANGE Change Type

12TH FLOOR, NEDBANK BUILDINGNO 81 MAIN STREET JOHANNESBURG2000 Memo:

History 151 of 159

Effective Date

14/02/2007

Change Type

POSTAL ADDRESS CHANGE

Memo

PO BOX 12756VORNA VALLEY1686

History 152 of 159

Effective Date

23/10/2006

Change Type

DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE

Memo

SURNAME-MTHWAFULL FORENAMES-LINDANI BENNETID NO=6909235406085STATUS ACTIVENATURE OF CHANGE-NO GHANGE

History 153 of 159

Effective Date:

23/10/2006

Change Type

DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE

Memo

SURNAME-NEMATSWERANIFULL FORENAMES-NKHUMELENI SAMUELID NO+6107280000000STATUS :ACTIVENATURE OF CHANGE-NEW APPOINTMENT: 21/08/2006

History 154 of 159

Effective Date

23/10/2006

Change Type

DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE

Memo

SURNAME=KYLEFULL FORENAMES=DEREK LYNDONID NO±3709125030083STATUS :ACTIVENATURE OF CHANGE=NEW APPOINTMENT: 21/08/2006

History 155 of 159

Effective Date

13/10/2006

Change Type

DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE

Memo

SURNAME#SCHROEDERFULL FORENAMES=WILRICHID NO=5409155147083\$TATUS :RESIGNEDNATURE OF CHANGE*DIRECTOR RESIGNED-21/08/06

History 156 of 159

Effective Date

15/09/2006

Change Type

DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE

Memo

SURNAME-KYLEFULL FORENAMES-DEREK LYNDONID NO-3709125030083STATUS RESIGNEDNATURE OF CHANGE-DIRECTOR RESIGNED

History 157 of 159

Effective Date

12/07/2006

Change Type

DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE

Memo:

SURNAME=PETERSFULL FORENAMES=JACQUES THEODOR, CARLID NO=6707205017001STATUS :RESIGNEDNATURE OF CHANGE=REGISNED: 12/07/2006

History 158 of 159

Effective Date

12/07/2006

Change Type

DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE

Мето

SURNAME=MTHWAFULL FORENAMES=LINDANI BENNETID NO=6909235406085STATUS :ACTIVENATURE OF CHANGE=NEW APPOINTMENT: 12/07/2006

History 159 of 159

Effective Date

12/07/2006

Change Type

DIRECTORS/MEMBER CHANGE/SECRETARY/TRUST/BOTH DIR AND OFFICE

Memo

SURNAME-SCHROEDERFULL FORENAMES-WILRICHID NO-5409155147083STATUS ACTIVENATURE OF CHANGE-NEW APPOINTMENT: 12/07/2006

REPORT INFORMATION

Date of information

17/10/2017 14:18

Print Date

17-10-2017 14:19

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VASCO DE OLIVEIRA

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VASCO

Report Type

CIPC COMPANY

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IN THE HIGH COURT OF SOUTH AFRICA **GAUTENG DIVISION**

Case No. 65616/17

In the matter between:

ORGANISATION UNDOING TAX ABUSE

Applicant

and

44

THE TRUSTEES FOR THE TIME BEING OF THE OPTIMUM MINE REHABILITATION TRUST

First Respondent

THE TRUSTEES FOR THE TIME BEING OF THE KOORNFONTEIN MINE REHABILITATION TRUST Second Respondent

PUSHPAVENI GOVENDER

Third Respondent

TREVOR SCOTT

Fourth Respondent

OPTIMUM COAL MINE (PTY) LIMITED.

Fifth Respondent

KOORNFONTEIN MINE (PTY) LIMITED

Sixth Respondent

BANK OF BARODA

Seventh Respondent

MINISTER OF MINERAL RESOURCES

Eighth Respondent

RONICA RAGAVAN

Ninth Respondent

THE MASTER OF THE HIGH COURT, PRETORIA

Tenth Respondent

CONFIRMATORY AFFIDAVIT

I, the undersigned,

RONICA RAGAVAN

do hereby state and declare under oath:

- I am an adult female businesswoman and sole director of Koornfontein Mine (Pty)
 Ltd, being the sixth respondent to this matter. My business address is 144
 Katherine Street, Sandown, Sandton, Gauteng
- 2. I am duly authorised to depose to this affidavit on behalf of the sixth respondent.
- 3. I have read the contents of the affidavit of Pushpaveni Ugeshni Govender and confirm the contents thereof in as far as they relate to me.

DEPONENT

I hereby certify that the deponent declares that the deponent knows and understands the contents of this affidavit and that it is, to the best of the deponent's knowledge, both true and correct. This affidavit was signed and sworn to before me at on this 18 day of OCTOBER 2017 and that the Regulations contained in Government Notice R1258 of 21 July 1972, as amended, have been complied with.

COMMISSIONER OF OATHS

FULL NAMES:

MARGO-ANN PALANI
COMMISSIONER OF OATHS
PRACTISING ATTORNEY, RSA
FASKEN MARTINEAU
INANDA GREENS
54 WIERDA ROAD WEST
SANDTON

CAPACITY:

ADDRESS:

W *



RESOLUTION OF THE TRUSTEES OF THE OPTIMUM MINE REHABILITATION TRUST MASTER'S REFERENCE: 1713693/07

DATE:

18 OCTOBER 2017

IT IS HEREBY RESOLVED THAT:

1. Ms. Pushpaveni Ugeshni Govender, in her capacity as a trustee is hereby authorized to sign all affidavits and other documents as may be necessary in connection with and relating to such litigation proceedings commenced on behalf of the Optimum Mine Rehabilitation Trust of to oppose any litigation proceedings launched against Optimum Mine Rehabilitation Trust:

It is agreed that the contents hereof are not precluded by any provision of the Deed of Trust.

THUS SIGNED AND RESOLVED AT SANDTON ON 18 OCTOBER 2017.

PUSHPAVENI UGESHNI GOVENDER

TRUSTEE

W

\$

RESOLUTION OF THE TRUSTEES OF THE KOORNFONTEIN REHABILITATION TRUST MASTER'S REFERENCE: 177563/07

DATE:

18 OCTOBER 2017

IT IS HEREBY RESOLVED THAT:

1. Ms. Pushpayeni Ugeshni Govender, in her capacity as a trustee is hereby authorized to sign all affidavits and other documents as may be necessary in connection with and relating to such litigation proceedings commenced on behalf of the Koornfontein Rehabilitation Trust onto oppose any litigation proceedings launched against Koornfontein Rehabilitation Trust.

It is agreed that the contents hereof are not precluded by any provision of the Deed of Trust.

THUS SIGNED AND RESOLVED AT SANDTON ON 18 OCTOBER 2017.

PUSHPAVENI ÜĞESHNI GOVENDER.

TRUSTEE

M

RESOLUTION OF THE BOARD OF DIRECTORS OF OPTIMUM COAL MINE (PTY) LTD

At a meeting of the board of directors of Optimum Coal Mine (Pty) Ltd, held at Sandton on 18 October 2017, it was resolved that:

INTRODUCTION

Optimum Coal Mine (Pty) Ltd is cited as the fifth respondent in proceedings launched against it by OUTA under case number 65616/2017.

RESOLUTION OF THE DIRECTORS

In consequence of the above, the board of directors of Optimum Coal Mine (Pty) Lid resolve as follows:

1. Ms. Pushpaveni Ligeshni Govender, in her capacity as a director is hereby authorized to sigh all affidavits and other documents as may be necessary in connection with and relating to such litigation proceedings commenced on behalf of Optimum Coal Mine (Pty) Ltd or to oppose any litigation proceedings launched against Optimum Coal Mine (Pty) Ltd.

Incorporation of the Company.				
DATEDAT SAUCTON	THIS THE 18	OF	October.	2017

It is agreed that the contents hereof are not precluded by any provision of the Memorardum of

BOARD OF DIRECTORS OF OPTIMUM COAL MINE (PTY) LTD:

Director

Name: PUSHPANENT CICESHAT GOVERDER

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RESOLUTION OF THE BOARD OF DIRECTORS OF KOORNFONTEIN MINES (PTY) LTD

At a meeting of the board of directors of Koomfontein Mines (Pty) Ltd, held at Sandton on 18 October 2017, it was resolved that:

INTRODUCTION

Koomfontein Mines (Pty) Ltd is cited as the sixth respondent in proceedings launched against it by OUTA under case number 65616/2017.

RESOLUTION OF THE DIRECTORS

in consequence of the above, the board of directors of Koomfontein Mines (Pfy) Ltd resolve as follows:

1. Ms. Pushpaveni Ugeshni Govender, in her capacity as a director is hereby authorized to sign all affidavits and other documents as may be necessary in connection with and relating to such litigation proceedings commenced on behalf of Koorniontein Miries (Pty) Ltd or to oppose any litigation proceedings launched against Koomfontein Mines (Pty) Ltd.

It is agreed that the contents hereof are not precluded by any provision of the Memorandum of Incorporation of the Company,

DATED AT Jandson THIS THE 18 OF October 2017.

BOARD OF DIRECTORS OF KOORNFONTEIN MINES (PTY) LTD:

Director: R. PAGALAN

Name:

M) \$







Optimum Rehabilitation Plan Amalgamated EMPR OT 6/2/2/132 FEBRUARY 2017

Introduction

Cabonga Environmental was contracted by Optimum Coal Mine to evaluate the rehabilitation progress and financial contributions thus for to the rehabilitation fund.

Oplimum's Mining Right is held by Optimum Coal Mine (Ply) Ltd (Optimum) which intern is held by Tegeta Exploration and Resources (Ply) Itd. Optimum which has a supply agreement with Eskam also exports coal via the Richards bay Coal terminal. The mining complex is straddles the Middleburg-Hendrina road and is approximately 20km north of the town of Hendrina. This mine is located within the Steve Tshwete Local Municipality and Nkangala District Municipality.

From the onset it was evident that rehabilitation had fallen behind over the past couple of years. Tegeta/Optimum has requested that a plan be put in place to ensure the back log of rehabilitation is brought up to date, it is also imperative that the current mining operation returns to the steady state roll over rehabilitation to ensure that the backlog does not grow.

From the Digby Wells Ply Lld report dated February 2016 Project Number: X\$T3444 Prepared for: Glencore Operation South Africa (Pty) Ltd. it was highlighted that the mine had fallen behind with the rehabilitation.

The existing mine learn were extremely helpful in supplying the necessary survey data and documentation. This mine team, although highlighted in the Digby Wells report as being extremely understaffed, still managed to keep the necessary data up to date and reporting structure in place.

The falling behind of the rehabilitation has repercussions on the environment which would need to be discussed so as to explain why it is imperative to ensure that the rehabilitation is brought up to date. Of these impacts, surface run off and ground weter infiltration are by fair the most significant.





and material types, the next step was to look at the mass and area balance. Although the modeling program levels off the spoils and creates a final profile, the movement of materials to achieve this balance is critical. It is thus important to assess all the areas which either require or have been leveled, top solled and grassed.

Table 1, below highlights the areas disturbed and leveled. The backlog which can be rehabilitated starts with areas not leveled, through to areas to be grassed. These are the areas which require urgent attention, it is important to note that this back log is due to past poor rehabilitation performances.

Table 1 Total areas disturbed and leveled but not rehabilitated.

			A CARL		OTAL REHAB		[SE 22]
			Outstanding .	Completed	Outstanding	Completed	Outstanding
AREA	DISTURBED	LEVELED	cover 1	esta 1	A STATE OF THE PARTY OF THE PAR		5 7
OPTMUM	2453:47	526.48	1964 99	1865 41	206 PC	1965 20	5/8 2
PULLENSHOPE	857 9d	498.49	359 JH	152.14	748 0	85.07	Tryth
KWAGGA .	2225.80	#19 50	4本語(語	246J)	1974 次	130 59	2016 C
ZEVENEONTEIN	2027 75	1462.54	多级 四	1,330 65	EFF T	1134 44	R(0) (1)
KROMDRAAI	35 81	1 93	34 88	0.00	36.41	0.00	352
BOTHASHOEK	275.32	336,08	\$7 °C	178.%	終額	1955 49	105 (2)
BOSCHMANSPOORT	A6 97	25 73	22:36	29.73	28.16		
Optimum TOTALS	7923,90	3509,04	4317.86	3647.66	4276,25		
KLIPBANK 6/7	514.83	419.79	92°, 57	367.02	247 83	362 94	361 6
C5/Driehočk	161,08	107 09	-0 671	101.09	. 49.9%	15.72	37,5
Elkeboom TOTALE	615.91	53G 85	9F 48	468 11	147 9	374.60	
GRAND TOTALS	8539.81	4126,89	4412.92	4115,76	4424.05	3811.95	4727,8

Il must be further stressed that although these areas show as backtog or available for rehabilitation, certain areas cannot be rehabilitated as these are required for the continuation of mining such as the access ramps, active spoil areas and the box-cuts themselves. These areas are tabulated below in table 2.

tuble 2. Areas not avuitable for rehabilitation.

	UNAVAILABLE FOR REHAB						
	Opencuts	Ramps	Two rows Spoil	Total Umavajjable			
AREA		April 18 Mary 11 A	and the second	1000			
OPTIMUM	51.04	33 55	0.00	84 59			
PULLENSHOPE	43.93	121 18	16.93	183.04			
KWAGGA	99 07		87.03	637.67			
ZEVENFONTEIN	74,69	159 95		293.22			
KROMDRAAI	11.01.	G 25	15 51	26.77			
BOTHASHOEK	1G.56	1 76	D 60	12.32			
BOSCHMANSFOORT	. 3.14	12.49		15.63			
Optimum TOTALS	293,44	774.75		1252,24			
KLIPBANK 6/7	7,41	18.1	4.18	29.69			
C5/Driehoek	0	0	0	.0			
Eikeboom TOTALS	7,41		4,18				
GRAND TOTALS	300.85	792.85	188.23	1281.93			

It is therefore calculated that the following areas alone are available for rehabilitation, it must be further noted that this should not detract from the current roll over rehabilitation. The hectares for concurrent rehabilitation are labulated separately from the backlag







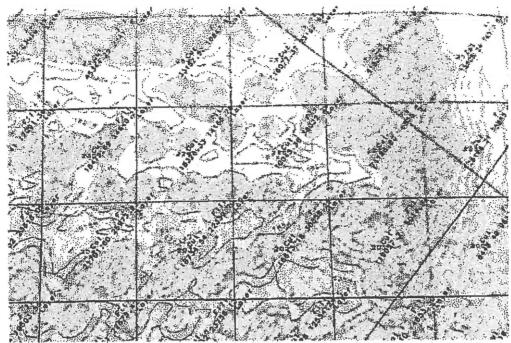


Figure 2. Cut to fill for each trectore black (plak = cut)

As the rehabilitation is based on movement of Cubic meters of material and not hectares, the total of material movement which is to be performed over the life of mine was then divided into this time frame. This was done to assess the equipment required to perform the task on hand. The list of equipment required is labulated in table 4 below. This calculation highlighted that approximately 32 000m³ of material must be moved per month to achieve the goal within the allotted time frame. For monitoring and reporting processes, the mine then opted to have this converted to ha per month. The total backlog of material movement was then averaged out for the halplocks, which gave an average volume to be moved per halplock at 561.4m³/ha. This could then be translated into the tables for leveling, top sailing and grassing, which would therefor require 57ha to be completed per month.





false Stratures values and are area

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DECLARATION

I. Kenneth Carl van Rooven, hereby declare that I am currently registered as a Professional Natural Scientist in terms of Section 11 of the Natural and Scientific Professions Act, 1993 and have been involved in environmental management and rehabilitation for approximately 29 years, 1 cm a member of an independent environmental consulting company: Cabanga Concepts ac. Cabanga Concepts is not a subsidiary, legally or financially, of Tegela Exploration & Resources (PTY) Ltd. or any subsidiary thereof.

I have inspected Optimum Mine and determined the rehabilitation requirements based on personal observations, survey plans provided by the client and the regulæments of the approved EMPR. The quantum of pecuniary provision indicated in this document is, to the best of my knowledge, a true reflection of the rehabilitation cost for the year ending December 2016.

K.C.van Rodyen [Pr.Sci.Nat (Reg. No. 121/93)]

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Tegeta (Pty) Ltd

FINANCIAL PROVISION & **CLOSURE COST ASSESSMENT**

Koornfontein Mine MP30/5/1/2/3/2/1/1(56) EM

March 2017

Unit 5-8 6 Beyers Office Park, Bosbok id Rendpatieridge Postnot suite 470, P/bag X3 Northridging 2162. <u>www.tahaneagnvironmechtal.co.zal</u> Members: J Barrett, K van Rodyen, OM Sanost, B Kasi

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INTRODUCTION

Cabanga Concepts were appointed by Koomfontein to assess the quantum for financial provision for the Brakfontein Mine near the rown of Delmas, Manmalanga Province.

The quantum of peruniary provision is based on the requirements outlined in the approved Environmental Management Programme Report (EMPR) as well as the Department of Mineral Resources' (DMR) guidefines, and reflects the provision necessary in finalise the rehabilitation at the mine assuming closure.

It is important to note that the requirements for financial provision are regulated under the National Environmental Management Act, Act 107 of 1998. As no new guidelines have been published in terms of the NEMA regulations, the original DMR guidelines have been utilised.

2 GENERAL INFORMATION

Name of Company:	Oakbay Resources
Name of Mine:	Koomfonteln Mines Pty Ltd
Postal Address:	Private Bag X402; Blinkpan;2250
Telephone:	
Fax Number:	
Responsible Persons:	George vd Merwe
E-mail:	Georgev@optimumcoal.com

Koornfontoin mine is located adjacent to the Kometi powerstation along the R542. The mine is highlighted in yellow on Figure. This mine is predominantly an underground mine with some small caninable of opencast mining. Although the mine has been mainly a high extraction underground mine, the collapse of pillars have only reflected on the surface at a few small localised areas.

LW &

3 DMR FINANCIAL PROVISION

TABLE 1: DMR Financial Provision Guideline

Step	DMR Guideline
l: Mineral mined and soleable by products	Fabies B.12, B.15 and B.14
COAL	
LA/B: Primary risk class: CLASS A (HIGH)	Table B.12 or B.13
: Environmental sensitivity of mine area:	Table B4
Area of Medium sensitivity - Sos Appendix A	
i: For Class A or B mining operations	
'kulus-based" approach was used.	
i.l.: Level of information available: EXTENSIVE	Section 1.4.1
4.2: Litentify closurs components	Section 1.4.2 & Table B.
See Appendix B for a list of components applicable to the oper	qtioπ.
1,3: Identify unit rates for closure components	Table B.6
See Appendix C for the unit rates for each relevant component	
4.4: Identify and apply weighting factors	Table B.7 & B.8
Weighting Factor 1. Nature of the terrain / Accessibility is 1.188	,
Weighting Factor 3: Proximity to urban area is 1.415, perjorby	n .
4.5: Identify areas of disturbance: SURVEY PLAN I	
4,65 Identify closure costs from specialist studies	Table B.9
Cluss A Mine - risk of water pollution	
4.7: Calculate closure costs: APPENDIX D	Table B.10
5: For Class C Mining operations: N/A - Class A mine	
5,1. Identify minimum rates per becipre for closure	Table B.11
5.2: Determine overall size of the mine (ha)	
53: Culculate closure cost OR follow "rules based" approach	
6: Independent review by competent person	
Client campleted competent purson review	



4 CONCLUDING REMARKS

The site has brick, steel concrete reinforced and mobile buildings and saluctures on site. Mobile infrastructure will cities be moved to new operations or sold / donated to interested parties. Other buildings that may be useful to fixure land owners Ausers will be retained on site. The remaining builtings will be destroyed with scrap material sold where possible and concrete waste utilised in backfilling where possible.

Sections of read no longer required by the mine or potential future land owner / user will be ripped to, 150 mm and rehabilizated.

The Surface will be monitored for subsidence and those will be repaired as soon as they are recorded. This repair will entail the gradding closed of all surface cracks

The general surface reliabilitation includes the general olean up and removal of waste material from site, as well as grassing the denuded areas.

Maintenance and after is required for at least 2 + 3 years post closure. This will focus on tertilizer program and revegetation. Exosion and alten invasive should also be monitored. Weter monitoring will equilibre to a period of 2-3 years after closure and if issues are observed, actions will be taken and monitoring continued, for another 2-3 years.

5 DECLARATION

I Kenneth Carl van Rooyen, hereby declare that I am currently registered as a Professional Natural Scientist in terms of Section I.I of the Natural and Scientific Professions Act, 1993 and have been involved in environmental and management for approximately 30 years.

I am a member of an independent environmental consulting company, Cabanga Environmental.

Cabanga is not a subsidiary, legally or financially of Tegera Exploration & resources (Pry) Lut or any of its subsidiaries.

I have personally inspected the operations and reviewed its documentation provided to me by the mine, in confunction with its approved EMPR.

The quantum of pecuniary provisions indicated in this document is to the best of my knowledge, a true reflection of the rehabilitation costs for the financial year ending February 2017

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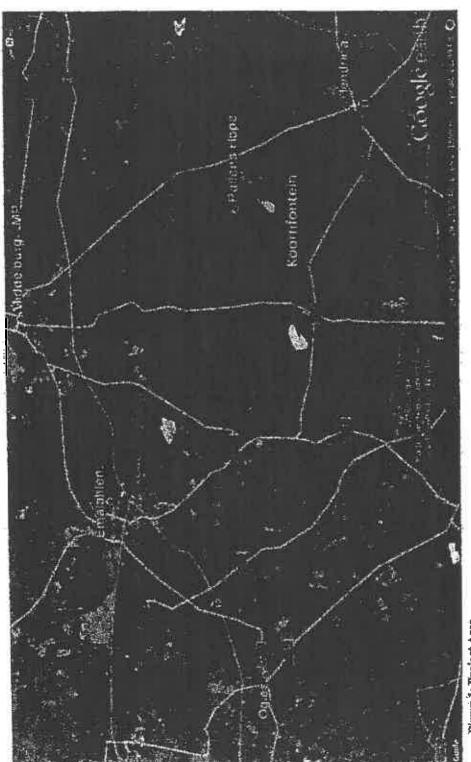
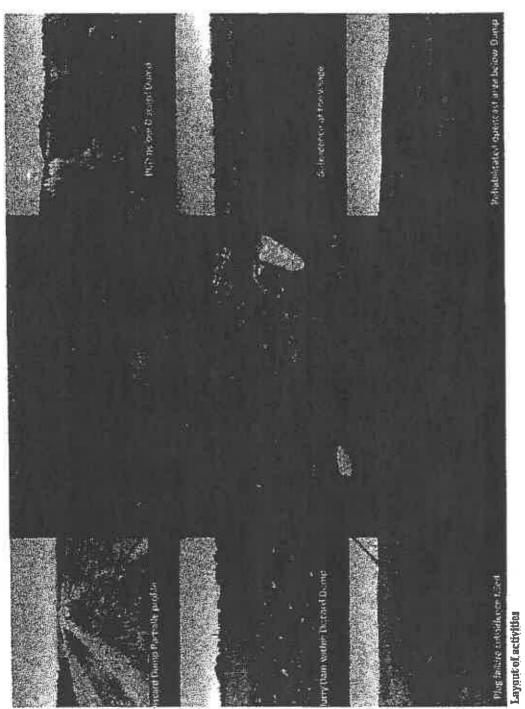


Figure 1: Project Area

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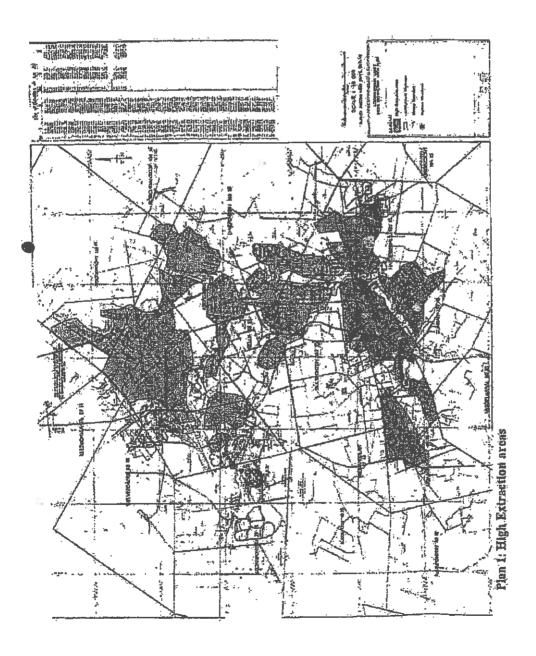
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Plan 1: Infrastructure layout plan

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- 100 m	Dismantling of pro	oceasing plant and	
Сопіропеят І	related structures (including overland		
	conveyors and power lines)		
Quantity	Unit .	Master Rate	
149257	an ³	13,84	
	Multiplication factor		
Risk Class (A, B, C)	1.00		
	Environmental Sen	sitivity (H, M or L)	

Campanent 2(A)	Demolition of su		
Quantity	Unit	Master Rate	
30.650	m²	192,82	
	Multiplica	tion factor	
Risk Class (A, B, C)	1,00		
	Environmental Sen	sitivity (H; M or L)	

Component 2(B)	Demolition of reinforced concrets indidings and structures				
Quantity	Unit	Master Rare			
60000	(231) ²	284.16			
	Multiplika	ition factor			
Risk Class (A, B, C)	1,00				
	Environmental Ser	sitivity (H. M or L)			

Component 3						
Quantity	Unit	Master Rose				
6435.00	m²	34.51				
·	Multiplication factor					
Risk Class (A, B, C)	1,00					
	Environmental Sensitivity (H. M or L					

Camponent 4(A) Scientific under the property of the Camponent 4(A)						
Quantity	Unit	Master Rate				
2386200	211	334:90				
	Multiplication factor					
Risk Class (A, B, C)						
	Environmental Se	asitivity (H, M or L)				

Component 4(B)		nabilitation of non-
Quantity	Unit	Master Rate
0.00	· п	182.67
	Maitiplic	stion factor
Risk Class (A, B, C)		.00
	Environmental Se	nstrivity (H, M or L)

Component S	Demolition of ho	using and facilities
Quantity	Ugit	Master Rate



	<u> </u>		
	2832.45	·m²	385,64
		Multiplica	tion factor
Risk Class (A. B	, C)	1.	00:
		Environmental Sea	sitivity (H, M or L)

Companent 6	Ора	neast rehabilitation inclu	ding fi	sl'voids and	rimps
Quantity		Unit		Maste	r Rate
(1.55) (2.45) (2.45)		Ha.		2021	59.28
		Multiplicati	on fact	XIII:	
	A.	1,1,		0.52	1.0
Risk Class	B.		6,04	0.52	1.0
	C		0.04	0.52	1.0
		Low		Medium.	High
		Eny	ironne	ntal Sensitiv	ity

Сопронен 7					
Quantity	Unit	Master Rate			
200	m²	103.52			
	Multiplic	stion factor			
Risk Class (A.B, C)	1.00				
	Erivironmental Sci	esitivity (H, M-or L)			

Component 8(A)	Rehabilitation of o	verburden & spoils
Quantity	Unit	Master Rate
0.00	Ha	134772.85
	Multiplier	tion factor
Risk Class (A, B, C)	T:00,	
	Environmental Sensitivity (H, M or L)	

Component 8(B)	Rehabilitation of deposits and gyapo shit-produ	processing waste ration ponds (basic, ring waste)
Quantity	Unit	Master Rate
540.00	Hn	167857.15
	Multiplica	tion factor
Risk Class (A. B. C)	1:00	
	Environmental Sen	sitivity (H, M or L)

Component 8(C)		processing waste de ids (acidlo metal-no		spoistion
Quantity	Unit Master Rate			r Rate
15768	J	la .	4874	17.05
		Multiplication fac	ior	
	A	0.59	25-37/40/80	1,0
Risk Class	В	. 0.55	0.76	
	C	0.51	0.66	0.8
		Low	Medium:	High
		Environmental Sensitivity		ity

Consponent 1	Rehabilitation	of subsided areas
Quantity	Unit	Master Rate
1.23	. Fla	1,12851.96

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·	<u> </u>
	Multiplication factor
Risk Class (A, B, C)	1.00
	Environmental Sensitivity (H, M or L)

Component 10	General surface of	ehabilitation, including	
Quentily	Unix	Master Rate	
	Ha	106762.83	
	Muliipi	ication factor	
Risk Class (A, B, C)	1:00		
	Environmental S	ensitivity (H, M or L)	

Component 11.	". River di	versions .	
Quantity	Unit	Master Rate	
1246	Ha	106762.83	
	Multiplica	tion factor	
Risk Class (A, B, E)	15.00		
	Environmental Sensitivity (FL M or L)		

Component II	Fen	cing 1	
Quantity	Unit	Master Rate	
0.00		121.79	
	Multiplica	tion factor	
Risk Class (A, B, C)	1.00		
	Environmental Scusitivity (H, M or L)		

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Quantity	U1	if.		t Rate
	. B		.4059	24:23
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	A!		0.67	1.00
Risk Class	В	0.41	0.60	0.67
	C	.0.17	0.25	0.33
		Low	Medium.	Hìgh
		Епунопия	ntal Sensitiv	ity

	2 to 3 years of	maintenance and
Quantity	Unit.	Muster Rate
41532	Ha	14207,98
	Multiplic	ation factor
Risk Class (A. B. C)	1.00	
	Environmental Sensitivity (H, M of L)	

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IN THE HIGH COURT OF SOUTH AFRICA GAUTENG DIWSION, PRETORIA

CASE NO: 65616/17

Before the Honourable Justice Msimeki On 26 September 2017

In the matter between:

ORGANISATION UNDOING TAX ABUSE

Applicant

and

THE TRUSTEE(S) FOR THE TIME BEING OF THE OPTIMUM MINE REHABILITATION TRUST

First Respondent

THE TRUSTEE(S) FOR THE TIME BEING OF THE KOORNFONTEIN MINE REHABILITATION TRUST

Second Respondent

PUSHPAVENI GOVENDER

Third Respondent

TREVOR SCOTT

Fourth Respondent

OPTIMUM COAL MINE (PTY) LTD

Fifth Respondent

KOORNFONTEIN MINES (PTY) LTD

Sixth Respondent

BANK OF BARODA

Seventh Respondent

MINISTER OF MINERAL RESOURCES

Eighth Respondent

DRAFT ORDER

Having read the papers filed of record and heard relevant submissions, the following order is made by agreement between the applicant and the first, second, third, tifth, sixth, seventh and eighth respondents:

- Under reservation of all rights by all respondents and without any concessions in respect of any of the issues as they appear from the papers, and pending a decision on the relief sought in the notice of motion or a further order by this Court:
- The Bank of Baroda is directed to continue to hold the Trust funds of the Optimum Mine Rehabilitation Trust ('the Optimum Trust') and the Koomfontein Mine Rehabilitation Trust ('the Koomfontein Trust'), in an interest-bearing bank account or accounts in the name of the Trusts.
- The Trustee(s) for the time being of the Optimum Trust and any signatory on its bank account(s) or any other person who may have been authorised by the trustees to act on behalf of the Optimum Trust are interdicted.
- from directly or indirectly dealing in any way with, disposing of or removing from the Republic of South Africa any of the funds or assets of the Trust including but not limited to the Trust's funds held in any account of or at the Bank of Baroda;
- 1:2.2 without detracting from the generality of 1.2.1 above, from ceding, assigning, delegating, making over, diverting or diluting any present or future funds, and including further all moneys received or receivable in future owed to the Trusts.

The Trustee(s) for the time being of the Koomfontein Trust and any signatory on its bank account(s) or any other person who may have been authorised by the Trustees to act on behalf of the Koomfontein Trust are interdicted:

1.3.1 From directly or Indirectly dealing in any way with, disposing of or removing from the Republic of South Africa any of the funds or assets of the Trust including but not limited to the Trust's funds held in any account of or at the Bank of Baroda;

1.3.2 Without detracting from the generality of 1.3.1 above, from ceding, assigning, delegating, making over, diverting or diluting any present or future funds, and including further all moneys received or receivable in future owed to the Trusts.

- Any party may, upon reasonable notice and good cause shown, apply to the Court to vary the order in paragraph 1 above.
- The matter is postponed for hearing on 7 and 8 December 2017 and the matter will proceed as follows:
- The applicant will amend its notice of motion, effect any necessary

 Joinder (including amongst-others of Ronica Ragavan) and supplement

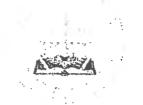
 its founding affidavit by 4 October 2017

- 3.2 The respondents will file their answering affidavits on or before 18 October 2017;
- 3.3 The applicant will file its replying affidavit on or before 30 October 2017;
- The applicant will file its heads of argument, chronology and practice note on 6 November 2017;
- The respondents will file their heads of argument, chronology and practice note on 10 November 2017.
- 4 The costs of this application are reserved,

BY ORDER

THE REGISTRAR





HIGH COURT OF SOUTH AFRICA (GAUTENG DIVISION, PRETORIA)

Not reportable

Not of interest to other Judges

CASE NO: 52590/2017

ANNEX DISTRTIBUTION (PTY) LTD	First Applicant
CONFIDENT CONCEPTS (PTY) LTD	Second Applicant
SAHARA COMPUTERS (PTY) LTD	Third Applicant
VR LASER SERVICES (PTY) LTD	Fourth Applicant
SAHARA CONSUMABLES (PTY) LTD	Fifth Applicant
INFINITY MEDIA NETWORKS (PTY) LTD	Sixth Applicant
ISLANDSITE INVESTMENTS ONE HUNDRED AND EIGHTY (PTY) LTD	Seventh Applicant
KOORNFONTEIN MINES (PTY) LTD	Eighth Applicant
OAKBAY INVESTMENTS (PTY) LTD	Ninth Applicant
OAKBAY RESOURCES & ENERGY (PTY) LTD	Tenth Applicant
OPTIMUM COAL MINE (PTY) LTD	Eleventh Applicant
SHIVA URANIUM (PTY) LTD	Twelfth Applicant
TEGETA EXPLORATION AND RESOURCES (PTY) LTD	Thirteenth Applicant
WESTDAWN INVESTMENTS (PTY) LTD	Fourteenth Applicant
IDWALA COAL (PTY) LTD	Fifteen Applicant
TEGETA RESOURCES (PTY) LTD	Sixteenth Applicant

MABENGELA INVESTMANETS (PTY) LTD

Seventeenth Applicant

MABENGELA RESOURCES AND ENERGY (PTY) LTD

Eighteenth Applicant

KOORNFONTEIN REHABILITATION TRUST

Nineteenth Applicant

OPTIMUM REHABILITATION TRUST

Twentieth Applicant

and

BANK OF BARODA

Respondent

Heard:

28 and 29 September 2017

Delivered:

9 October 2017

Coram:

Makgoka J

Summary: Urgency – Rule 6(12) of the Uniform Rules of Court - application for Interim interdict - matter specially enrolled by directive of Deputy Judge President – respondent refusing to preserve status quo until the determination of application for interim interdict – applicants' bringing an application for an interim interdict pending interim interdict – such application refused – whether such dismissal constitutes res judicata and whether issue estoppel applicable when applicants seek to argue the main interim application.

Application to strike out — applicants alleging that the respondent's answering affidavit contains vexatious and irrelevant matter—the overriding consideration that of prejudice.

Bank-client relationship – right of bank to close client's account – bank alleging reputational harm by being associated with the applicants- applicants alleging notices of termination of relationship invalid as being unreasonable and against public policy, and seeking to challenge them in an application for a final interdict.

Requisites for an interim interdict - whether the applicants have established such requisites.



ORDER

- 1. Pending the final determination of the application referred to in paragraph 2. of this order, the respondent is interdicted from:
 - 1.1 de-activating and/or closing the applicants' banking accounts. held with the respondent and/or from terminating the bankercustomer relationship between the applicants and the respondent for the reasons stated in the termination notices dated 6 July 2017;
 - 1.2 demanding the first to fourth applicants to repay the sums owed by each of these applicants to the respondent in terms of their loan and overdraft agreements with the respondent for the reasons stated in the termination notices dated 6 July 2017;
 - in any way limiting the manner in which the banking accounts 1.3 are operated by the applicants so as to ensure that the applicants are permitted to operate the banking accounts in the same manner as they did immediately prior to the notices of termination dated 6 July 2017, subject to the respondent's terms and conditions as may be applicable from time to time;
- 2. Within 15 days of the granting of this order, the applicants shall launch an application against the respondent for the final relief the applicants deem appropriate concerning the validity or otherwise of the termination notices dated 6 July 2017 issued by the respondent:
- 3. The interim order referred to in paragraph 1 above shall lapse should the applicants fail to launch the application referred to in paragraph 2 above within the time frame stipulated in the order;





- 4. The respondent shall pay the costs of the application, including the costs of four counsel employed by the first to fourth applicants, and of three counsel employed by the fifth to twentieth applicants;
- The applicants shall pay the costs of the application for the striking off, 5. jointly and severally, the one paying the others to be absolved.

JUDGMENT

MAKGOKA, J

Introduction

This is an urgent application in which the applicants seek an order in two-fold. [1] First, that the urgent application which was enrolled for hearing on 7 and 8 December 2017 be removed from that roll and be enrolled, heard and determined prior to 30 September 2017. Second, having so enrolled the matter, that an interim interdict be granted precluding the respondent, the Bank of Baroda (the bank) from closing the applicants' bank accounts held with it, pending the determination of an application to be launched in which the applicants would challenge the validity of the notices given by the bank to close their accounts, and for such notices to be set aside, alternatively for the court to impose time frames for the closure of the applicants' accounts. By the directive of the Deputy Judge President, the matter was enrolled for argument on 28 and 29 September 2017

The parties

The applicants are all large commercial entities operating in various sectors [2] of the South African economy. They each have a bank-client relationship with the bank. The first applicant, Annex Distribution (Pty) Ltd (Annex), the second applicant, Confident Concepts (Pty) Ltd (Confident); the third applicant, Sahara Computers (Pty) Ltd, (Sahara Computers) and the fourth applicant, VR Laser Services (Pty) Ltd (VR Laser) have loan and/or overdraft facilities with the bank in terms of facility agreements. In addition, together with each of the fifth to twentieth applicants, they have one or more trading or transactional accounts with the bank.





- [3] The banks alleges that the applicants are all owned and controlled by members of the Gupta family and their close associates, either directly or indirectly, or that they form part of the Oakbay Group of companies, or are otherwise closely affiliated with this group. Although it is denied by the applicants that all of them can be characterised as above, I shall, for the present purposes, accepted the characterization of the applicants by the bank. I am satisfied, on the consideration of the detailed list of shareholders and an organogram illustrating the applicants' relationship, that the characterization is not far off the mark.
- [4] The bank is an Indian international bank and was incorporated in the Republic of India in 1908. Its majority shareholder is the Government of India and its holding company in India is regulated by the Reserve Bank of that country. It has its principal place of business in South Africa in Sandton, Johannesburg. The bank's operations in South Africa consist of only two branches (one in Durban and one in Johannesburg) together with a regional office (which is attached to the Johannesburg branch). It employs a total of only 16 people across its entire South African operations. The bank does not operate as a clearing bank in South Africa. Instead, it conducts a correspondent banking relationship with Nedbank, one of the country's leading commercial banks.

Background to the litigation

The main application for interim interdict

[5] As foreshadowed above, the issue in the application is the stated intention of the bank to close the applicants' accounts held with it on 30 September 2017. That intention gave rise to an urgent application by the applicants on 28 July 2017, seeking in prayer 2 of the notice of motion, an interim interdict against the bank from proceeding with its intention to close the accounts, and the ancillary orders. Prayer 3 of the notice of motion made provision, upon granting of the interim interdict, for the launching of an application by the applicants in terms of which they seek orders declaring invalid, the bank's notices of terminating the bank-client relationship with

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¹ A clearing bank is a bank that directly transfers funds from its own infrastructure to any third party bank account.

At the conclusion of the hearing, and upon agreement of the parties, an order was made that pending the handing down of this judgment, the bank would not proceed to close the applicants' accounts.

them, and for discovery of documents in terms of rule 35(12) of the Uniform Rules of Court. The application was enrolled for 15 August 2017. The parties were in agreement that the application required a special allocation. The Deputy Judge President directed that the application be heard on 7 and 8 December 2017.

Application for an 'interim-interim' interdict

The matter having been so enrolled, the bank, however, refused to provide an undertaking not to close the applicants' bank accounts on 30 September, pending the hearing in December. As a result, the applicants brought another application in which they sought an order preserving the status quo until the interim interdict was determined by the court. At that stage, the applicants had not yet filed their answering affidavit in the application for an interim interdict, which was filed after the judgment in the interim-interim application had been made. By the directive of the Deputy Judge President the application for the 'interim-interim' relief came before court (Fabricius J) on 8 September 2017. In terms of a judgment delivered on 21 September 2017 the application was dismissed. In the wake of that dismissal, the applicants launched the present application, in essence seeking to bring forward the hearing scheduled for 7 and 8 December 2017, in the light of the looming deadline of 30 September 2017 on which date the bank intended to close their bank accounts.

General observations

[7] At this early stage, I wish to make three observations. All of them are obvious, but which I feel, in the context of this application, need to be made. The first concerns the association of the applicants with the Gupta family. The second and third, concern, respectively, the nature of the hearing on 21 September 2017, and of the current hearing. I discuss these briefly.

The Gupta link

[8] As stated earlier, I proceed on the acceptance that all the applicants are either controlled by, or have association, with the Gupta family. There are serious allegations of unlawful conduct, including corruption and money-laundering against some members of that family. They also allegedly have influence over the President



of the Republic as to the appointment and removal of cabinet ministers, and appointments to key positions in state-owned entities, for financial gain. The latter allegations, by their mere existence, concern the very fundament of our nationhood and statehood. They go to the foundation and architecture of our constitutional sovereignty. Thus, there is an understandable outrage in certain sectors of the public. But, for us in our capacity as judiciary officers, when adjudicating matters involving members of this family or their associated entities, we must not allow the legitimate public outrage against that family, or even our own inclinations, to influence our judicial-making processes. Thus, this case, like any other, must be decided by the application of the law, without fear, favour or prejudice. This is an obvious point, given the explicit prescripts of section 165(2)3 of the Constitution, but which must be made in the context of what I have stated above.

The hearing on 8 September 2017

Before this court on 8 September 2017, the applicants sought an interim interdict pending the hearing of the interim interdict on 7 and 8 December 2017, which was referred to in those proceedings as an 'interim-interim interdict'. The applicants there sought to preserve the status quo until their application for an interim interdict was heard in December. But how did the need for the interim-interim relief arise? As explained earlier, the application having been set down for 7 and 8 December 2017 by the directive of the Deputy Judge President, the bank refused to furnish an undertaking that pending the determination of that application, they would not proceed to close the applicants' accounts.

[10] In my view, this was a particularly unreasonable stance on the part of the bank. If it retained the right to close the applicants' accounts before the determination of the interim application in December, and in fact did so, the relief

3 Section 165 of the Constitution provides:

The judiciary authority of the Republic is vested in the courts
 The courts are independent and subject only to the Constitution and the law, which they must apply impartially and without fear, favour or prejudice.

^{3.} No person or organ of state may interfere with the functioning of the courts.

^{4.} Organs of state, through legislative and other measures, must assist and protect the courts to ensure the independence, impartiality, dignity, accessibility and effectiveness of the courts.

^{5.} An order or decision issued by a court binds all persons to whom and organs of state to which it applies.

sought by the applicants in the main application for an interim interdict would be rendered nugatory, and an exercise in futility. As it is often said, the proverbial horse would have bolted. Thus, the applicants were left with no choice but to approach the court on an urgent basis to seek an order that pending the determination of the application in December, the bank be interdicted from closing their accounts. That application was dismissed on 21 September 2017. But the court was not called upon to decide the parties' rights in the pending application which had been set down by for December. It could not, and did not, pronounce on the applicants' entitlement to an interim interdict, which could only be determined by the court in the December proceedings.

[11] In National Treasury v OUTA⁴it was held that where an interim interdict was sought pending the institution and finalization of a review application the court hearing the application for an interim 'need not determine the cogency of the review grounds.' It would not be appropriate to usurp the pending function of the review court and thereby anticipate its function. Although these observations were made in the context of an interim interdict where separation of powers was implicated, and the pending proceedings were review proceedings, I am of the view that the principles are opposite to the present case. This must be so, especially given the fact that the applicants' replying affidavit was not before court when the application for an interim-interim relief was considered. Thus, in sum, to the extent the court in the 'interim-interim' application have purported to determine the issues in the main application, its pronouncements should be regarded as obiter. This is addressed more fully when I consider the *res judicatal* issue estoppel argument.

[12] I make these obvious observations particularly for the public and the media. Unfortunately, some media reports on the judgment of 21 September 2017 seem to suggest that the rights of the parties concerning the closing of the applicants' bank accounts had been finally disposed of in terms of that judgment. As I demonstrate elsewhere in this judgment, that is an incorrect supposition. The order of 21 September 2017 concerned only a limited period before the determination of the

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⁴ National Treasury and others v Opposition to Urban Tolling Alliance (OUTA) and Others 2012 (6) SA 223 (CC) para 31.

main application for an interim interdict in December (now brought forward in the current hearing). Had the bank adopted a sensible and reasonable position, the proceedings on 8 September 2017 would not have been necessary, and all the confusion and uncertainty would have been avoided.

The current hearing

[13] That brings me to the nature of the current hearing. As I explain fully later, this is not a 're-hearing' of the issues dealt with on 21 September 2017, nor is this 'an appeal' against the order made in those proceedings. This is the 'December hearing' brought forward on an accelerated basis because of the order of 21 September 2017. What is purpose of this hearing? It is perhaps easy to answer that question in the negative. This hearing is not meant to determine whether the bank is ultimately entitled to close the applicants' bank accounts. The applicants seek an interim interdict preserving the status quo, pending an application to be launched, challenging the validity of the notices given by the bank to terminate its relationship with them.

<u>Preliminary issues</u>

- [14] There are five preliminary issues to dispose of, namely:
- (a) urgency:
- (b) abuse of process;
- (c) res judicata;
- (d) issue estoppel; and
- (e) application to strike out.
- [15] I consider them in turn.

Urgency

[16] It was submitted on behalf of the bank that the matter is not urgent in the context of what transpired before Fabricius J and the fact that the Deputy Judge. President had given a directive enrolling the matter in December. After hearing brief

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submissions on this aspect. I ruled the matter to be urgent and made an order to that effect; together with the ancillary order removing the matter from the roll of 7 and 8 December 2017 and enrolling it for hearing on 28 and 29 September 2017. I had no difficulty in arriving at that conclusion. The urgency of the matter is self-evident. The bank intended to close the applicants' bank accounts on 30 September 2017.

As stated elsewhere in this judgment, the December hearing would have been [17] rendered meaningless and academic, since an interim interdict cannot be sought against past conduct.5 In the circumstances, it is clear that were this application not heard as one of extreme urgency, the applicants would not be afforded any, let alone. substantial, redress in due course.

Abuse of process

[18] The bank contends that by bringing this application, the applicants are abusing the process of this court because they seek to 're-litigate the same issue' as was argued before the court on 8 September 2017. I find it difficult to accept this proposition. An abuse of process takes place where the procedures permitted by the rules of the court to facilitate the pursuit of the truth are used for a purpose extraneous to that objective. See Beinash v Wixley, Lawyers for Human Rights v Minister in the Presidency 7 As explained earlier, the court on 8 September 2017 was not called upon to determine the main application for an interim interdict, which, by the directive of the Deputy Judge President, was enrolled for hearing in December. That hearing is taking place now, on an accelerated basis. I fail to see how that can amount to abuse. What is more, the bank is being disingenuous in advancing this argument.

Before the court on 8 September 2017, the bank argued that the claim for [19] interim-interim relief was unsustainable, among others, because the main application for an interim relief was pending, and had been enrolled for December, and if granted the relief would amount to an abuse of process because it would permit the applicants to re-litigate the same issue in due course. The bank urged the court to

⁶ Beinash v Wixley 1997 (3) SA 721 (SCA).

⁷ Lawyers for Human Rights v Minister in the Presidency and others 2017 (1) SA 645 (CC) para 20.

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City f Tshwane Metropolitan Municipality v Afriforum and another 2016 (6) SA 279 (CC) para 55.

Now that the December hearing is taking place (brought forward to 28 September) the bank says that the hearing should not take place because the issues have been determined in the judgment of 21 September 2017. This is circular reasoning. There is no abuse of process by the applicants. Quite the contrary, the applicants found themselves in an impossible position when the bank refused to agree to the Deputy Judge President's sensible suggestion to furnish an undertaking not to close the applicants' accounts, pending the determination of the application in December. The bank's stance is thus untenable, and its arguments in this regard are mentioned to be rejected.

Res judicata/issue estoppel

[20] The bank argues that the issues raised in this application are *res judicata*, having been determined by the court on 21 September 2017. The parties, the relief and the underlying cause of action are all identical to that which served before court on 21 September 2017. According to the bank, the claim of irreparable harm is identical to that which served before court on 8 September 2017. The cause of action is also said to be identical, as the application before that court was properly determined to be an application for an interim interdict. The applicants again claim that unless this relief is granted, they will be deprived of an effective remedy in terms of section 34 of the Constitution, which issue has been determined by the court. This too is an application for an interim interdict. Moreover, argues the bank, the applicants neglect its section 34 right to a fair hearing, as well as its further rights: not to associate or be associated with the applicants; to protect its reputation; and to contractual autonomy, freedom and dignity.

[21] Issue estopped is a species of res iudicata. See Smith v Portit.⁸ Generally, a party will be estopped from raising issues that have been finally determined in previous litigation, even if the cause of action and relief are different. The purpose is obviously to prevent the repetition of lawsuit between the same parties, the

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⁸ Smith v Porritt and Others 2008 (6) SA 303 (SCA) para 10.

harassment of a defendant by a multiplicity of actions and the possibility of conflicting decisions by the different courts on the same issue. 9

The requirements for res judicata are that the same cause of action, for the [22] same relief and involving the same parties, was determined by a court previously. In assessing whether the matter raises the same cause of action, the question is whether the judgment of 21 September 2017 involved the determination of questions that are necessary for the determination of the present case and substantially determine the outcome of this case.' See Caesarstone Sdot-Yam. 10

On behalf of the applicants, counsel submitted that there are material differences between the relief sought in the interim-interim interdict and that sought in the present proceedings. The argument is as follows. The point of focus in the application for interim-interim relief, against which the prima facie right was considered, was the applicants' claimed right in terms of section 34 of the Constitution. Although this was not expressly mentioned in the founding affidavit, it was squarely raised in both the written and oral submissions before court. The prima facie right of the applicants was their right of access to courts in terms of section 34, whereas in this application the focus is on their right to reasonable notice of termination. In order to test whether the s 34 right of access to court had been established the court 'looked through' to the applicants' claimed right to reasonable notice in the main application. The extent and degree to which the court was required to do so was a matter of dispute.

Counsel further submitted that the irreparable harm that the applicants would suffer in the interim-interim application similarly focused on the denial of the applicants' right in terms of section 34. In other words, if the applicants were not granted an interim interdict, their meaningful access to court and their right to an

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⁹ Prinsloo NO v Goldex 2014 (5) SA 297 (SCA) para 23; Jansen Van Rensburg and others NNO v Steenkamp 2010 (1) SA 649 (SCA) paras 20-26.

¹⁰ Caeserstone Sdot-Yam Ltd v World of Marble and Granite 2000 CC and others 2013 (6) SA 499 (SCA) paras 20-21,

effective remedy (in the event that they were ultimately successful), would be unjustifiably violated. The additional harm that would ensue to their employees, suppliers and creditors was, at best, ancillary during the hearing of the application for an interim-interim interdict. That harm arises squarely in this application.

[25] The balance of convenience enquiry in the interim-interim application also turned on section 34. If the interdict sought was not granted and the bank closed the applicants' accounts prior to the December hearing, they would be denied meaningful access to court. If the applicants ultimately were successful, they would also be denied an effective remedy. In contrast, if the interdict was granted, the bank would still be able to ventilate its dispute in the December hearing. In other words, the bank would still have a meaningful right of access to court and still be able to claim effective relief (in the event that it was successful).

[26] I agree broadly with these submissions. It be must be borne in mind that the defence of res judicatalestoppel is underpinned by fairness and prevention of injustice. The application of the principles of res judicata in the form of issue estoppel was discussed by the Appellant Division in Kommissaris van Binnelandse Inkomste¹¹ in which Botha JA rejected the proposition that the parties were bound by a general practice in respect of something not in issue in earlier proceedings and about which it was unnecessary to make a finding. The learned judge of appeal said the following at 676B:

'To allow the defence of res judicata in the form of issue estoppel in these circumstances, would be to go further than has previously happened, whether in cases at Provincial level or in England. It would be unfair to the Commissioner, and run counter to the considerations of fairness which underpin such a defence. The common-law requirements of the defence of res judicata were strictly circumscribed, precisely to avoid injustice (see e.g. Bertram v Wood [(1893) 10 SC 177 at 180]). Considerations of fairness are also decisive importance in the application of issue estoppel in the English case-law (see e.g. Re State of Norway's Application (No 2) [[1989] 1 All ER 701 (CA) at 714]]). Consequently the possibility of extending the principles of res judicata to any particular case of issue estoppel must be approached with great circumspection.' (Translation from Afrikaans by Heher JA in Jansen Van Rensburg NO and others v Steenkamp 2010 (1) SA 649 (SCA)).

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¹¹ Kommissaris van Binnelandse inkomste v Absa Bank Bpk 1995 (1) SA 653 (A).

[27] In my view, this is exactly what happened here. I have been at pains to explain the nature of the hearing before court on 8 September 2017, and the ambit of the order which permissibly could be made by that court. At the risk of repetition, I emphasise that the court there was only called upon to determine whether the applicants were entitled to an interim relief pending the determination of the main application in December, and not the merits of the pending application.

As correctly submitted on behalf of the applicants, the mere fact that the judgment of 21 September 2017 dealing with the interim-interim application can, on an incorrect and strained construction, be read as dealing with the relief sought in the main application, does not result in the main application being res judicata. To my mind, it would be unfair and unjust for the applicants to be non-suited, and denied a hearing in the main application under circumstances which they had no control over, and were not of their making. Faced with a similar situation, the Supreme Court of Appeal (Brand JA) said the following in Prinsloo NO v Goldex: 12

[16] The appellants' argument that the application of issue estoppel in these proceedings would result in unfairness and inequity derives from two hypotheses. First, that it was not necessary for Webster J to arrive at any final decision as to whether or not Prinsloo committed fraud in order to dismiss the trust's application to compel specific performance. Secondly, that Webster J could not and should not have decided the disputed issue of whether fraud was committed on motion proceedings without the benefits inherent in the hearing of oral evidence, including discovery of documents, cross-examination of witnesses, and so forth.

[17] I think both these propositions are well supported by authority....'

In Smith v Porritt the Supreme Court of Appeal observed that relevant considerations will include questions of equity and fairness not only to the parties themselves but also to others. In the present case, there are the interests of the applicants' employees, among others, to take into consideration. See also De Frieitas v Jonopro 13 where Spitg J explained that where only the elements to support issue estoppel arise there is no hard-and-fast rule that a court is compelled to preclude a party from revisiting the issue. The question is not determined as a

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Prinsloo NO v Goldex 15 (Pty) Ltd 2014 (5) SA 297 (SCA).
 De Frieitas v Jonopro (Pty) Ltd and others 2017 (2) SA 450 (GJ) para 35.

matter of principle but is dealt with casuistically. Factors such as equity and fairness may in a particular case militate against applying issue estoppel.

[30] In all circumstances, I conclude that the issues are not *res judicata*. In any event, I am of the view that the application of issue estoppel in the circumstances of the case is not appropriate. It would be inequitable and unjust to the applicants.

Application to strike out

- [31] The applicants seek to strike out certain paragraphs of the bank's answering affidavit on the basis that they contain hearsay evidence; are irrelevant and vexatious; and are sub-judice:
- [32] Applications to strike out are governed by rule 23(2) of the Uniform Rules. The rule provides that where a pleading contains averments which are scandalous, vexatious or irrelevant, a party may apply for striking out such matter. The court shall not grant the application unless it is satisfied that the applicant will be prejudiced in the conduct of his/her claim or defence if is not granted.
- [33] With regard to the hearsay complaint, the paragraphs mainly concern the allegations against the Gupta family. It is said that the deponent to the bank's answering affidavit does not bear personal knowledge of those allegations. The vexatious and irrelevant complaint is directed to the veracity of the allegations contained in the so-called Gupta-leaks, which are tomes of emails allegedly demonstrating the Gupta family's influence on state machinery and appointment to key positions, both in government and state-owned enterprises.
- [34] I find no merit in this submission. First, as the bank correctly pointed out, it is the applicants themselves who, in their founding affidavit, raised the question of adverse publicity by reason of association with the Gupta family. There, they claimed that not all of the applicants had been the subject of adverse publicity and they downplayed the extent of this publicity. In these circumstances, the bank was fully entitled to refute these allegations. In the circumstances I agree with the submissions



on behalf of the bank that, having raised the issue, the applicants cannot complain when that evidence is rebutted.

[35] The evidence of allegations against the Gupta family and the applicants is not tendered for the truth of its contents, but to place before court that such allegations have been made and are out there in the public domain. The applicants have totally misconstrued this point. As Nugent JA explained in *The Public Protector v Mail & Guardian*.¹⁴

'Courts will generally not rely upon reported statements by persons who do not give evidence (hearsay) for the truth of their contents. Because that is not acceptable evidence upon which the court will rely for factual findings such statements are not admissible in trial proceedings and are liable to be struck out from affidavits in application proceedings. But there are cases in which the relevance of the statement lies in the fact that it was made, irrespective of the truth of the statement. In those cases the statement is not hearsay and is admissible to prove the fact that it was made. In this case many such reported statements, mainly in documents, have been placed before us. What is relevant to this case is that the document exists or that the statement was made and for that purpose those documents and statements are admissible evidence.

See also Maharaj and others v Mandag Centre of Investigative Journalism NPC and others. 16

[36] For the vexatious, irrelevant and sub-judice arguments, counsel for the applicants sought reliance on *Minister of Finance v Oakbay*. ¹⁶ There, the Full Court struck out two paragraphs from the Minister's founding affidavit. In one of the paragraphs [para 27] reference had been made to a certificate detailing certain 'suspicious transactions' made by the Financial Intelligence Centre to the banks against various entities in the Oakbay Group and several associated individuals. The Minister sought the court to draw an adverse inference from the certificate. It is clear from the reasoning of the Full Court (paras 39 and 40) that the allegations were

¹⁵ Maharaj and others v Mandag Centre of Investigative Journalism NPC and others (844/2016) [2017] ZASCA 138 (29 September 2017).

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¹⁴ The Public Protector v Mail & guardian Ltd & others 2011 (4) SA 420 (SCA) para 14.

Minister of Finance v Oakbay Investments (Pty) Ltd and others; Oakbay Investments (Pty) Ltd and others v Director of the Financial Intelligence Centre (80978/2016) [2017] ZAGPPHC576 (18 August 2017).

struck off because they were irrelevant to the determination of the crisp issue in that case, namely, whether the Minister was legally empowered or obliged to intervene in a bank-client relationship where the bank wishes to close a client's bank account.

[37] In my view, the Oakbay case is distinguishable. In the present case, the allegations against the Gupta family and their associated entities - whether those contained in the Public Protector's report or in the so-called Gupta leaks - are not only relevant, but germane to the issue of reputational harm alleged by the bank. As stated earlier, the allegations relied on by the bank, not to prove the truth of their content, but to demonstrate that the information was already in the public domain.

[38] In any event, I see no demonstrable harm attendant upon the applicants if the allegations are not struck out. Prejudice is the over-arching consideration when a court determines an application for striking out. In this regard, Rule 6(15) of the Uniform Rules is clear. The court may not grant the application unless it is satisfied that the applicant will be prejudiced if the application is not granted. As stated earlier, the applicants introduced these allegations themselves in their founding affidavit. I therefore conclude that the applicants have not made out a case for the striking off.

The main application

[39] Having disposed of the preliminary issues, I turn now to the main application. I first set out the factual background to the agreements and the termination notices, after which I shall consider the applicants' claim for an interim interdict.

The agreements

[40] All applicants have transactional facilities with the bank. The first, second, third and fourth applicants (Annex; Confident Concepts, Sahara Computers and VR Laser) have, in addition, loan and overdraft facilities. The loan agreements were concluded on different dates. Annex has an overdraft facility of R75 million and a non-fund facility of USD 5 million. Confident Concepts has two facilities: a term loan facility for R59,6 million and a further facility of R86,5 million. Sahara Computers has an overdraft facility of R50 million. VR Laser has an overdraft facility of R30 million. The facility agreement and sanction letters each provide that those facilities,



overdrafts and terms loans are repayable on demand by bank. Each agreement expressly incorporates a 'sanction letter' which 'must be read as if specifically incorporated herein'. A clause of the sanction letter reads:

'Notwithstanding anything to the contrary contained herein, the credit facilities granted in terms of this agreement may be terminated by the bank in its sole discretion by written notice to that effect, either forthwith or from the date stated in such notice, in which event the facilities in question shall be deemed cancelled and any indebtedness to the bank shall become due owing and payable: (a) immediately if the facilities are terminated forthwith; or (b) otherwise on the date stated in that notice.'

[41] The loan and overdraft facilities in respect of each of Annex, Sahara Computers and VR Laser were extended from time to time after periods of review, subject to the standard termination clauses contained in the original sanction letters. Annex' loan facility was extended on 23 May 2017 for six months, with a view to closing the loan account. Sahara's overdraft facility was extended for another period of six months, until 20 October 2017 on 4 May 2017. VR Laser's loan facility was extended on 2 March 2017 until 26 August 2017, and the bank demanded that the loan be repaid by that date. Confident Concepts stands on a slightly different footing, because its facilities were term loans with specific repayment schedules, and according to the sanction letter and terms and conditions thereto, the facilities were not subject to renewal.

[42] On 24 May 2017, the bank requested the first to fourth applicants to provide an 'action plan' for early re-payment of the loan facilities. In the letter, the bank recorded the details of each of the loan facilities and how each had been reviewed. It demanded immediate payment from VR Laser, and in respect of Confident Concepts, it was requested to pay the total outstanding amount 'at the earliest.' In response, Annex proposed to pay the principal amount outstanding in 12 monthly instalments of R8,34 million commencing September 2017. In the last paragraph of the letter it was requested of the bank to 'advise [Annex] accordingly so that necessary arrangements may be made for the repayment of the loan.

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[43] Confident Concepts also responded, and pointed out that its loans were term loans. The first sanctioned in August 2015 and repayable in 12 quarterly instalments, with the last instalment payable in May 2018 and the second sanctioned in February 2016, with the last instalment payable in May 2019. Confident Concepts also pointed out that according to the sanctions letter and terms and conditions, the facility was not subject to renewal. Accordingly, Confident Concepts indicated that it would continue to make payments in accordance with the schedules agreed upon in the sanction letters.

Termination notices

- [44] On 6 July 2017 bank furnished each of the applicants with termination notices, informing them that their transactional banking facilities would be terminated and deactivated completely within six business days, being 17 July 2017, whilst all the loan facilities provided to Annex, Confident, Sahara Computers and VR Laser were required to be settled by no later than 30 September 2017. There are essentially two templates followed in the termination notices. The first template is addressed to the four applicants with loan facilities, and the second template is addressed to the applicants with transactional accounts, the wording of which is essentially the same.
- [45] Each notice states that the recipient was 'aware that the firm group' had been reported on in the media and attracted 'adverse publicity for quite some time'; the adverse media attention is a 'potential risk and that it may affect the interests of the bank to its detriment; its concerns had been conveyed to the recipient several times, telephonically 'but to no avail.' Consequently, according to the bank, it had no alternative but to cut its ties with the individual entities by deactivating all deposit accounts that were in operation by 17 July 2017, that all advance accounts must be settled by no later than 30 September 2017, and that all non-fund based facilities should be supported by a 100% cash margin in the respective current account.
- [46] After receiving the termination notices, the same day, 6 July 2017, the applicants addressed a joint letter of demand to the bank, asserting that the notices were unlawful and unreasonable, without any reasonable justification and precipitated hardship for thousands of the applicants' employees. The applicants



requested the bank to extend the termination and deactivation notices in respect of the transactional accounts at least until 30 September 2017, being the date by which the bank required the advance facilities to be settled. In making this request, the applicants specifically recorded that the applicants did not accept that the bank was entitled to terminate any account, even on 30 September 2017. The applicants also expressly reserved their rights to challenge the lawfulness and reasonability of the termination notices.

[47] On 7 July 2017 the bank agreed to extend the effective date of its termination notices until 30 September 2017, subject to an 'action plan' for the closure of the accounts. On the same day, before the applicants had responded to the bank's proposal, the bank sent another letter in which it was further demanded that an undertaking from Mr Gupta, chairman and promoter of the group' that all accounts will be closed by 30 September 2017.

[48] On 11 July 2017 the applicants responded to both letters, and reiterated their non-accept of the bank's entitlement to terminate their facilities and continued to dispute the lawfulness of the termination, and of the proposed termination date. They further indicated their rejection of the conditions proposed by the bank, and sought an undertaking from bank that their respective accounts would remain open, unconditionally, until at least 30 September 2017, failing which they would launch an urgent application.

[49] On 13 July 2017, the bank responded and advised that it was only willing to extend the termination date to 30 September 2017 if it received an action plan in respect of the closure of all of the accounts, and an undertaking by 'Mr Gupta' that all accounts would be closed by 30 September 2017, as demanded in its letters dated 7 and 10 July 2017, referred to above, and that the applicants would be afforded until 31 July 2017 to comply with those two conditions, failing which the termination notices would be given effect on 14 August 2017. The applicants responded to the bank's letter on 17 July 2017, indicating their inability and unwillingness to accede to the bank's demands, because, among others, it was confended, they were unreasonable. Further correspondence between the parties yielded no solution to

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the impasse, as the bank stuck to its demands stated in their letter 13 July 2017, referred to above. This culminated in the urgent application launched by the applicant on 28 July 2017.

The parties' argument on the lawfulness of the termination notices

The applicants

[50] The applicants say that the interaction with the bank, set out above, demonstrates that in relation to the loan facilities, the bank had only ever been in contact with the respective applicants to discuss the review/renewal of their facilities and to make arrangements for the reduction of exposure to the bank. At no point was the question of cancellation of their facilities considered or addressed, and the Bank never referred to 'adverse publicity' or any such allegations as the reasons for its seeking the reduction of exposure in the loan facilities. With regard to the transactional accounts, it is also said that the applicants never asked for their closure before 6 July 2017. As regards the alleged adverse media reports, such had been ongoing in respect of some applicants for some time, from at least as early as 2015. Despite this, the applicants contend, the bank has never before questioned those reports or advised the implicated applicants that it believed the adverse attention created a risk for it.

[51] In light of this, the applicants say they were surprised by the termination notices, particularly in view of the fact that the bank had not engaged them directly about its concerns, and what, in the particular circumstances applicants, would constitute a reasonable notice period. According to the applicants, the bank's reasons as set out in the termination notices are not the true reasons for the decisions taken. Those reasons, according to the applicants, are contrived, and 'smack of an ulterior motive or undue pressure being brought to bear' on the bank by third parties. Thus, so is the argument by the applicants, the bank is not acting in good faith 'as it is required to do.' In this regard, mention is made of a letter dated 1 July 2017 from head of the bank's head office in Mumbal, India to the bank's Johannesburg branch. In that letter, termination of the accounts of the 'Sahara Group' is discussed, and among others, the following is stated:

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We advise you to issue suitable communication to the Group Companies/Promoters for closure of their accounts with us. The loan/overdraft facilities granted to the group and its subsidiaries should be settled by 30 September 2017, as per commitment given to the Regulator...,

[52] It is suggested that the reference to an unnamed 'Regulator' evidences pressure being brought to bear on the bank by third parties; for reasons totally unrelated to those stated in the termination letters.

The bank

[53] For its part, the bank says that it took the decision to terminate the accounts and loan facilities on the basis of the substantial risks involved in providing banking service to the Gupta family and the applicants. The so-called 'GuptaLeaks' 17 since the end of May 2017 have added fuel to the allegations of unlawful and corrupt conduct against the Gupta family. Irrespective of the truth of these allegations, the volume and seriousness of these allegations has already caused the bank significant prejudice and poses real risks to the bank. The bank has suffered reputational damage as a result of the extensive media reports and public allegations against the applicants. It also has a well-founded fear that it will suffer further reputational and commercial risks if this relationship continues beyond 30 September 2017. The bank further says that it faces substantial legal risks and mounting costs by continuing to provide banking services to the applicants, who are all classified as 'high risk' clients and 'politically exposed persons'. This imposes onerous legal duties on the bank to monitor the applicants' transactions and to report on suspicious and unusual transactions. It also exposes the bank to serve fines and other sanctions if it should in any way fail in these duties, Given these risks, the bank was merely one of a long line of banks and other firms that had decided to sever ties with the applicants and the Gupta family.

[54] With regard to the loan and overdraft facility agreements, the bank contends that the first to fourth applicants have no legal rights to any relief would allow them to

A collection of approximately 100, 000 to 200, 000 emails which were leaked to investigative journalists and civil society groups, which have featured in media reports, with new allegations of unlawful conduct by members of the Gupta family.



avoid repaying their loans, since those agreements give the bank the express right to cancel these agreements and to claim repayment at any time. On the express terms of these agreements, the bank is entitled terminate the loan and overdraft facilities at any time by means of written notice, either forthwith or on the date specified in the notice, and to demand repayment of all amounts owed, either forthwith or on a date specified in that notice. Thus, it is argued, the bank duly exercised this right when it gave notice to the first to fourth applicants that it was terminating their accounts and calling up all outstanding loans.

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[55] In light of the express terms of the agreements, there is no basis for the applicants' claim that they are entitled to 'reasonable notice'. It is thus denied that the first to fourth applicants have made out a case for an interdict. With regard to the transactional accounts, the bank submitted that: the applicants have had ample and reasonable notice of the closure of their transactional account on 30 September 2017; no irreparable harm would be suffered by the applicants if their accounts are closed on 30 September 2017; the bank will suffer severe prejudice if it is forced to continue to provide banking service to the applicants after 30 September 2017 in circumstances where, on the applicants' own version, no other bank is willing to provide these services.

In any event, the applicants have had, according to the bank, an effective notice period of almost three months from the date that the initial notice of termination was given on 6 July 2017 until the date that termination would take effect on 30 September 2017, Also, long before the 6 July 2017 notices were delivered, the applicants were provided with informal notice that the bank was considering terminating its relationship with the applicants. The bank refused to open any new accounts for the applicants, the Gupta family and associated companies from at least June 2016. From August 2016, the bank set about reducing its exposure by calling up loans granted to the applicants, which at that time, had an approximate value of R1.5 billion. During this time, the bank's representatives advised the applicants' representatives that it intended to sever ties with the Oakbay group. Over this period, the bank succeeded in recovering approximately R1.2 billion from the applicants.

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In addition, argues the bank, the fact that the largest banks in South Africa [57] and other firms chose to terminate their relationship with the applicants in 2016 ought to have provided a clear indication that the bank and other banks would also consider this option. In this light, the bank denies the applicants' assertion that the 6 July 2017 termination notices came without warning.

Interim interdict

It is in the light of the above background that the applicants' application for an interim interdict should be considered. To recap, the applicants seek an interim interdict restraining the bank from closing their accounts, pending the determination of an application in which they will seek final relief for either the setting aside of the bank's notices of termination or for the court-imposed time periods for such termination. Accordingly, I do not have to concern myself with the merits of the applicants' contention that the notices are invalid for the reasons they proffer.

- This being an application for an interim interdict, I must confine myself to an enquiry whether the applicants have satisfied the requisites for an interim interdict, which are well-established and trite, 18 namely:
- (a) a clear right, which though prima facie established, is open to some doubt (prima facie right);
- (b) a well-grounded apprehension of irreparable harm;
- (c) that the balance of convenience favours the granting of such interdict,
- (d) and the absence of an alternative relief.

These requirements have now received the imprimatur of the Constitutional Court. See, for example, City of Tshwane v Afriforum. 18

An interim interdict is a court order preserving or restoring the status quo pending the determination of rights of the parties. It is important to emphasize that an interim interdict does not involve a final determination of these rights and does not

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See Setlogelo v Setlogelo 1914 AD 221 at 227.
 City of Tshwane Metropolitan Municipality v Afriforum and another 2016 (9) BCLR 1133; 2016 (6) SA 279 (CC) para 49.

affect their final determination. In *National Gambling Board*²⁰ the Constitutional Court explained the nature of the order as follows:

'An interim interdict is by definition a court order preserving or restoring the status quo pending the final determination of the rights of the parties. It does not involve a final determination of these rights and does not affect their final determination.' The dispute in an application for an interim interdict is therefore not the same as that in the main application to which the interim interdict relates. In an application for an interim interdict the dispute is whether, applying the relevant legal requirements, the status quo should be preserved or restored pending the decision of the main dispute. At common law, a count's jurisdiction to entertain an application for an interim interdict depends on whether it has jurisdiction to preserve or restore the status quo.²¹

[61] In Eriksen Motors²² Holmes JA explained the approach to be adopted in applying the requirements for an interim interdict:

'In exercising its discretion the Court weighs, inter alia, the prejudice to the applicant, if the interdict is withheld, against the prejudice to the respondent if it is granted. This is sometimes called the balance of convenience. The foregoing considerations are not individually decisive, but are interrelated; for example, the stronger the applicant's prospects of success the less his need to rely on prejudice to himself. Conversely, the more the element of 'some doubt', the greater the need for the other factors to favour him. The Court considers the affidavits as a whole, and the interrelation of the foregoing considerations, according to the facts and probabilities; see *Olympic Passenger Service (Pty.) Ltd. v Ramlagan*, 1957 (2) SA 382 (D) at p. 383D - G. Viewed in that light, the reference to a right which, 'though prima facie established, is open to some doubt' is apt, flexible and practical, and needs no further elaboration.²³

Prima facie right

[62] The question therefore is whether the applicants have established a prima facie right. In this enquiry, the accepted test is to take the facts averred by the applicants, together with such facts set out by the bank that are not or cannot be

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²⁰ National Gambling Board v Premier, Kwa-Zulu Natal and Others 2002(2) BCLR 156; 2002(2) SA 715 CC.

²¹ Para 49.

Eriksen Motors (Welkom) Ltd v Protea Motors Warrenton and another 1973 (3) SA 685 (A). See also Knox D Arcy Ltd v Jamieson and Others 1996 (4) SA 348 (A) at 361.

disputed and to consider whether, having regard to the inherent probabilities, the applicants should on those facts obtain final relief at the envisaged application. The facts set up in contradiction by the bank should then be considered and, if serious doubt is thrown upon the case of the applicants, the applicants cannot succeed.²⁴

[63] The applicant's claim to a prima facie right must be determined against their claimed right to reasonable termination. They also claim that the termination clause in each of the loan agreements, and the manner in which it was enforced by the bank in the particular circumstances of the applicants, is against public policy and unenforceable because it allows the bank to call up the loan at any time, notwithstanding the bank's knowledge of the stated purpose of the loan and of either its periodic nature, or in the case of Confident Concept, which, as explained earlier, is a term loan.

[64] Furthermore, it was submitted on behalf of the first to fourth applicants that the termination letters constitute various breaches of the applicants' contractual rights under the loan agreements. Four propositions were proffered for that submission. First, that the bank had purported to rely on its right to terminate for default in circumstances in which none of the applicants was in default of any of their obligations. Second, that the termination upon demand clause is contrary to public policy. Third, in exercising its right to terminate the agreements upon demand, the bank did not act reasonably nor in good faith, and accordingly its conduct was contrary to public policy. Fourth, that neither of the termination letters of 6 July 2017 nor the bank's attorney's letter of 10 August 2017 gave the applicants reasonable notice, which it was contended, constituted a further beach by the bank of its contractual obligations.

[65] In answer to the applicants' arguments, the bank placed heavy reliance on Bredenkamp. There, the following general principles governing the contractual relationship between a bank and its clients were established. The bank is entitled to terminate the relationship on reasonable notice, without any obligation to give

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²⁴ See Webster v Mitchell 1948 (1) SA 1186 (W) at 1189; Simon NO v Air Operations of Europe AB and Others 1999 (1) SA 217 (SCA) at 228F-H;

reasons. Its motives for terminating the relationship are generally irrelevant, and that there is no self-standing right to reasonableness, fairness or goodwill in the law of contract. Further, commercial entities had no right to insist that banking relationship continue against the bank's will. A bank is entitled to terminate the relationship with a client on the basis of reputational and business risks and courts should be reluctant to second-guess that decision. A bank is fully entitled to terminate the relationship with a client that has bad reputation, irrespective whether the publicity about the client is true. The fact that a client may have difficulty finding another bank does not impose any obligation on a bank to retain the client.

[66] Significantly, despite Harms DP the appellants the fact that theappellants in that case had accepted that the agreement with the bank entitled either party to terminate the relationship on reasonable notice for any reason the learned Deputy President did 'not necessarily subscribe' to the appellants' submission that the entitlement extends to 'bad' reasons, at least by the bank, as this could amount to 'an abuse of the bank's rights. ²⁵ The applicants argue, on the basis of this dictum, that the bank's reasons for terminating its relationship with them has no relation to the reasons stated in the notices of termination, but on extraneous considerations and pressure brought to bear by third parties. They argue that should that turn out to be correct, the bank's reasons for termination would 'bad' reasons, constituting 'an abuse of its rights, as envisaged by Harms DP.

[67] The facts in *Bredenkamp* were briefly these. The appellants, Mr John Bredenkamp and two companies that 'belonged' to him, held a number of accounts with one of the commercial banks in South Africa. On 8 December 2008, the bank notified the appellants that it had suspended their credit card and overdraft facilities and that it intended to withdraw them on 6 January 2009. As far as the other current accounts and the foreign currency accounts were concerned, the bank requested the appellants to make alternative arrangements because these were to be closed on 19 January 2009. Later, the bank disclosed that the decision was based on the fisting of Mr Bredenkamp and a number of entities owned or controlled by him as 'specially designated nationals' by the United States of America (USA) Department of

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²⁵ Para 24, fn 10.

Treasury's Office of Foreign Asset Control. The reason why Mr Bredenkamp was so listed was because he was said to have provided financial and logistical support to the Zimbabwean government, thus enabling President Mugabe 'to pursue policies that seriously undermine democratic processes and institutions in Zimbabwe.'

[68] The *Bredenkamp* appellants' case was based on two propositions: that the benchmark for the constitutional validity of a term of a contract is fairness; and that even if a contract was fair and valid, its enforcement must also be fair in order to survive constitutional scrutiny.

[69] A closer reading of *Bredenkamp* reveals two distinguishing features from the present case. The first is that no public policy considerations were involved in that case, whereas they are squarely raised in the present case, ²⁶ In this regard, it is important to observe that Harms DP (at para 65) implied that a bank's decision to close a client's account could well be subject to judicial scrutiny in circumstances where public policy considerations are involved. Here, the applicants' argument (insofar as the loan and overdraft facilities are concerned) that the 'closure-upon demand clauses' and their enforcement in the circumstances, are against public policy, thus bringing the bank's conduct squarely within the purview of judicial scrutiny envisaged by Harms DP. The second distinguishing feature is that the appellants in *Bredenkamp* had accepted that (a) the agreement entitled either party to terminate the relationship on reasonable notice for any reason and that this clause or the implied term did not offend any constitutional value, and was accordingly valid; and (b) due notice had been given and that a reasonable time had been allowed. The applicants in the present case dispute that reasonable notice has been given.

[70] A public policy challenge is important, and where it is sought to be raised in pending proceedings, a court should, in my view, be slow to deny a party that right at interim stage, except in the clearest of cases. The applicants' public policy argument in respect of the loan agreements may well be rejected by a court in the application for a final relief. But can it be said at this interim stage that their argument is devoid of any merit whatsover? I do not think so.

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²⁸ Founding Affidavit, para 90 at page 51 of the record.

[71] As observed by Harms DP in *Bredenkamp* (para 38) our courts have always been fully prepared to reassess public policy and declare contracts invalid on that ground. He went on to explain:

'Determining whether or not an agreement was contrary to public policy requires a balancing of competing values. That contractual promises should be kept is but one of the values. Reasonable people, irrespective of any philosophical or political bent, might disagree whether any particular value judgment was 'correct', ie, more acceptable. Didcott J, for one, believed in relation to restraint of trade cases that the sanctity of contract trumped freedom of trade whereas AS Botha J... together with Spoelstra AJ, thought otherwise while Vermooten J agreed with Didcott J.'

- [72] On the above considerations, I conclude that the first to fourth applicants have established a prima facie right to the relief envisaged in the envisaged application for a final interdict.
- [73] With regard to the transactional accounts, I accept, for the present purposes, that the applicants and the bank did not intend for their contractual arrangements to continue in perpetuity, and that they are terminable on reasonable notice by either party. On this premise it is common cause that the applicants have a right to a reasonable notice before the bank closes their accounts. It is on the reasonableness of the notices that the parties differ. The applicants say that the bank has failed to give them such notice.
- [74] It would be recalled that the applicants were initially given six business days. Later the period was extended to 23 business days in total (dependent upon certain conditions which the applicants did not meet). On 10 August 2017, in the wake of the urgent application, the notice period was eventually extended to 30 September 2017. The applicants contend that this still falls short of a reasonable notice period, it being just over two months' notice. With regard to the reasonableness of the notice of termination it is the bank's stance that the applicants have had a period of almost three months, which in its view, was reasonable in the circumstances.





[75] In determining what constitutes reasonable notice, regard must be had to the particular circumstances of each case.²⁷ At the very least, this requires that the notice provides a reasonable and sufficient period within which the other party may regularize their affairs,²⁸ In *Amalgamated Beverages Industries*²⁹ it was observed at 545A-C that the time at which reasonableness is to be determined is a question of the proper construction of the contract. Since one of the main objectives of reasonable notice is to provide the other party sufficient time to regulate its affairs, reasonableness will generally require a consideration of the facts and circumstances at the time that notice is given.

[76] In my judgment, given all the circumstances of the case, the time to determine reasonableness should be when the notices were given. Clearly, a period of six days cannot, by any stretch of imagination, constitute reasonable notice. Counsel for the bank did not submit otherwise, but contended that the applicants would have, up to 30 September 2017, been afforded a period of at least three months. It is arguable that even this period does not constitute reasonable notice in the circumstances. On that basis I to incline to the conclusion that the applicants have established a strong prima facie right to a reasonable notice in respect of the termination letters.

Irreparable harm

[77] As aptly observed by Jajohay J, a business entity must, in order to carry out its objects, have one or more bank accounts. This is not simply because transactions through a bank are convenient and customary; in addition, it is because the banks operate an inter-change system that makes it all but impossible for a person to do business without operating through a bank. The applicants are all large commercial entities. The first to fifteenth applicants³¹ collectively employ approximately 7 652

²⁷ Putco Ltd v TV & Radio Guarantee Co (Pty) Ltd 1985 (4) SA 809 (A) at 8301.

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²⁸ Plaaskem (Pty) Ltd v Nippon Africa (Pty) Ltd 2014 (4) SA 287 (SCA) para 21.

Amalgamated Beverage Industries Ltd v. Rond Vista Wholesalers 2004 (1) SA 538 (SCA) at 545A-

C. 30 Breedenkamp v Standard Bank of SA Ltd 2009 (5) SA 304, [2009] 3 Ali SA 339 (GSJ) para 59.

³¹ The sixteenth applicant, Tegeta Resources (Pty) Ltd, the seventeenth applicant, Mabengela Investments (Pty) Ltd, and Mabengela Resources and Energy (Pty) Ltd, are holding companies rather than operating companies and, as such do not have employees. The nineteenth applicant, Koomfontein Rehabilitation Trust and the twentieth applicant, Optimum Rehabilitation Trust, are statutory vehicles that are required to held for mining rehabilitation purposes and, as such do not have employees.

employees across their various businesses, including a large number of mineworkers. It cannot be seriously argued that large scale business entities such as the applicants can survive without banking facilities. The applicants would inevitably be forced out of business. There is indubitably irreparable harm. The suggestion that the employees and suppliers of the applicants can be paid through pay agents ignore the fact that fact that it is nearly impossible to conduct business without banking facilities.

[78] This misses the point completely. The applicants need banking facilities to conduct business and generate profit for them to transact with pay agents. In other words, payment of employees and suppliers is dependent on the applicants being able to conduct business normally and effectively, including having banking facilities. Unavoidably, without such banking facilities, the applicants will be put out of business almost immediately. Perhaps, recognising this, counsel for the bank suggested that some of the applicants have overseas banking accounts which could be used for conducting business. But this suggestion suffers even more pointed criticism, for obvious and manifold reasons. For that to happen, the applicants would have to find a way to physically remove money out of the country. It is therefore not an option.

[79] As far as the bank is concerned, it argues that the allegations associated with the Gupta family has already caused it significant prejudice and poses real risks to it. The bank says that it has already suffered reputational damage as a result of the extensive media reports and public allegations against the applicants. It also has a well-founded fear that it will suffer further reputational and commercial risks if this relationship continues beyond 30 September 2017. The bank further says that it faces substantial legal risks and mounting costs by continuing to provide banking services to the applicants, who are all classified as 'high risk' clients and 'politically exposed persons'. This imposes onerous legal duties on the bank to monitor the applicants' transactions and to report on suspicious and unusual transactions. It also exposes the bank to severe fines and other sanctions should it in any way fail in these duties.

[80] The bank's claim of reputational harm does not bear scrutiny. In the first place, apart from its mere *ipse dixit*, there has not been any demonstrable and concrete evidence of reputational harm to it resulting from the applicants' association with the Gupta family. The allegations against this family have been in the public domain for a few years now. 32 The bank has not presented any evidence that any of its clients or associates, locally or internationally, have threatened to terminate their business relationship with it because of its association with the applicants or the Gupta family. In fact, there is not even an allegation to that effect. If there was any risk of reputational harm, it should have manifested itself by now.

[81] Secondly, and more instructive, is that the bank's association with Nedbank has not been affected. Nedbank is one of the four banks which terminated their relationship with the Gupta family and their associated entities during 2016. But it still maintains a relationship with the bank as a clearing bank. There is no suggestion that Nedbank has threatened to terminate its relationship with the bank.

[82] Thirdly, on 26 September 2017 the bank consented to an order in this court, requiring it to keep open the accounts of the nineteenth and twentieth applicants.³³ What these point to, is that the bank's claim of reputational harm is more speculative than real. But even if it was real, it has to be balanced against the indubitable irreparable harm that the applicants are likely to suffer if an interim interdict is not granted. In any event, if an interim interdict is granted, the risk of reputational harm will be ameliorated by the public knowledge that the bank is in an unwilling relationship with the applicants because of judicial intervention, more than anything else, pending the determination of the contractual issues between the parties.

[83] The rest of the complaints by the bank relating to increased monitoring mechanisms seem to me to be more of an administrative burden - a huge one

applicants.

33 In the matter between Organisation Undoing Tax Abuse v The Trustee(s) for the Time Being of the Optimum Mine Rehabilitation Trust and others, case number 65616/2017.

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³² One of the earlier, noticeable controversies concerning the Gupta family occurred as far back as April 2013, when a private chartered commercial airline from India landed at the Waterkloof Airforce Base in Pretoria, carrying 270 passengers, all of them guests scheduled to attend a Gupta family wedding at Sun City resort. Already then, the bank was having relationship with some of the applicants.

perhaps, especially in respect of an unwanted client. But that does not translate to irreparable harm as that concept is known in the context of interim interdicts.

Balance of convenience

[84] In Cipla Medpro³⁴ the Supreme Court of Appeal recognised that public interest is a relevant consideration when weighing the balance of convenience. In other words, not only the interests of the litigating parties, must be placed in the scales when weighing where the balance of convenience lies. In my view, this is such a case. The dispute transcends the parties' commercial interests. It has a direct impact on the more than 7 600 workers, the majority of whom are Black unskilled and semi-skilled workers. They face a real prospect of losing their jobs if the applicants' businesses collapse. That prospect weighs heavily with me, more than the parties' commercial interests. The balance of convenience clearly favours the granting of an interim interdict. The applicants have no alternate remedy.

Conclusion

[85] The sum total is that the applicants have met the requisites for an interim relief. In their notice of motion, the applicants have sought an order, among others, defining the type of relief it should seek for its final interdict. I do not deem it necessary for the court to make such an order. The applicants are at liberty to bring an application they deem fit in the circumstances. It should suffice for the order to make provision for the institution of proceedings for relief. Also, the relief sought in paragraph 1 of the notice of motion is too broadly stated. I think that it should be restricted by linking it to the termination notices issued by the bank on 6 July 2017, in order for the bank not to be hamstrung in its interim relationship with the applicants, which the orders sought in paragraph 1 as they stand, having that potential. These two concerns would be reflected in the order I am about to make.

Costs

[86] Finally, there remains the issue of costs. The applicants have been successful. Costs should follow the result, except for the costs of the application for

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³⁴ Cipla Medpro (Pty) Ltd v Aventls Pharma SA 2013 (4) SA 579 (SCA) para 46.

the striking out, which the applicants should pay. When I made a rule regarding the urgency of the matter, I stood over the determination of costs regarding that aspect. I am of the view that no stand-alone costs order is necessary in this regard, as the argument did not occupy much time distinct from the main argument. The costs in that regard are to be included in the costs of the application, which are to be paid by the bank. It remains to be determined whether costs of more than one counsel should be allowed. In my view, the issues raised, and the extreme urgency of the application, warrant the employment of more one counsel. All parties employed more than two counsel. The first to fourth applicants employed four counsel, while the fifth to twentieth applicants employed three counsel. The bank employed four counsel, led by two senior counsel. I am therefore of the view that the appointment of three counsel by the first to fourth applicants, and three by the fifth to twentieth counsel, was prudent and warranted.

Order

- [87] In the result the following order is made:
 - 1. Pending the final determination of the application referred to in paragraph 2 of this order, the respondent is interdicted from:
 - 1.1 de-activating and/or closing the applicants' banking accounts held with the respondent and/or from terminating the bankercustomer relationship between the applicants and the respondent for the reasons stated in the termination notices dated 6 July 2017;
 - 1.2 demanding the first to fourth applicants to repay the sums owed by each of these applicants to the respondent in terms of their loan and overdraft agreements with the respondents for the reasons stated in the termination notices dated 6 July 2017;
 - in any way limiting the manner in which the banking accounts are operated by the applicants so as to ensure that the applicants are permitted to operate the banking accounts in the same manner as they did immediately prior to the notices of

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terminations date 6 July 2017, subject to the respondent's terms and conditions applicable from time to time;

- Within 15 days of the granting of this order, the applicants shall launch an application against the respondent for the final relief the applicants deem appropriate concerning the validity or otherwise of the termination notices dated 6 July 2017 issued by the respondent;
- 3. The interim order referred to in paragraph 1 above shall lapse should the applicants fail to launch the application referred to in paragraph 2 above;
- 4. The respondent shall pay the costs of the application, including the costs of four counsel employed by the first to fourth applicants, and of three counsel employed by the fifth to twentieth applicants;
- 5. The applicants shall pay the costs of the application for the striking off, jointly and severally, the one paying the others to be absolved.

TM Makgoka Judge of the High Court





APPEARANCES:

For the First to Fourth Applicants:

JP Daniels SC (with him L Schäfer,

CC Bester and X Hilita)

Instructed by:

Vasco De Oliveira Inc., Sandton

De Oliveira Serrao Attorneys., Pretoria

For the Fifth to Twentieth Applicants:

AR Bhana SC (with him F Ismail

and JL Griffiths)
Instructed by:

Abba Parak Inc., Johannesburg

Ahmed Attorneys, Pretoria

For the Respondent:

D Fine SC (with him G Marcus SC,

M Mgxashe and C McConnachie)

Instructed by:

Mervyn Taback Inc., Johannesburg

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Pretoria

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 effective methodology, and then to hold those responsible for the maladministration and / or corruption, to account for their behaviour and actions,

OUR VALUES

- Integrity and accountability
- Responsible stewardship of our resources

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has more than 5400 branches worldwide. It presumably has several thousand employees. In South Africa, it has only 16 employees. It could have mitigated all of the risk of which it complains simply by taking on a sufficient number of employees. Mr. Jha ignores this point entirely.

105. AD PARAGRAPHS 146

105.1 Neither Mr. Jha nor I is qualified to opine about the content of legal obligations in other jurisdictions. Whatever those obligations may be, the lawfulness of the Bank's decision to terminate the applicants' transactional and loan facilities falls to be assessed in the light of South African law.

106, AD PARAGRAPHS 147 TO 203.

- 106.1 I deny that the contents of these paragraphs are relevant to the present application.

 They are, for the most part, also not in Mr. Jha's personal knowledge. They will be addressed in the striking out application, to which I made reference above.

 Moreover, the Bank has failed to fully comply with the applicants' Rule 35(12) notices. It is therefore precluded from relying upon documents that it has not provided.
- 106.2 Even if the striking out application is not granted, I again invite attention to paragraphs 16 and 17 of the answering affidavit, in which Mr. Jha expressly

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distances himself from the truth of any of the allegations upon which he relies. At best, then, the paragraphs under reply are irrelevant.

- 106.3 Insofar as the allegations in paragraphs 162 and 163 are concerned, I make reference to what I have said elsewhere in this affidavit about Mr. Jha's attempts to make common cause with decisions taken by other banks.
- 106.4 Insofar as the allegations in paragraphs 182 and 183 are concerned, the views expressed by the former CEO of Oakbay Investments in annexure "20" amount to no more than a repetition of advice which had, around May 2016, been received in relation to four other banks. It does not mean that the advice was correct. Moreover, nowhere in annexure "20" did Mr. Howa express a view of general application, nor does it have any bearing on the present application. The views expressed in annexure "20" most certainly do not amount to a "previous concession that any legal challenge" will fail.

107. AD PARAGRAPHS 205 TO 212

107.1 I invite attention to the fact that as early as October 2015, the Bank had recommended that the applicants be classified as "high risk" and "politically exposed persons" and that this recommendation was adopted in December 2015.



107.2 Had the fact of this classification been of any true significance to the Bank, it is inherently unlikely that it would, in 2016, have advanced substantial sums on loan to both Tegeta and Koomfontein. The very fact that those loans were made is indicative of the fact that the Bank did not perceive any intolerable reputational risk in its dealings with the applicants. Moreover, there is no evidence that the Bank, following its classification decisions in 2015, decided to take on additional staff to give effect to what Mr. Jha alleges in paragraphs 210 and 211 to be a heightened set of reporting obligations. That, too, suggests that there was no genuine apprehension of reputational harm on the part of the Bank.

108. AD PARAGRAPHS 213 TO 214

- 108.1 I admit that four of the applicants approached the Bank to open new accounts during May 2016, namely: Koornfontein Mines, Koornfontein Trust, Optimum Coal Mine and Optimum Rehabilitation Trust. The other accounts mentioned in annexure "34" do not belong to the applicants and are therefore irrelevant in the present application.
- 108.2 The allegations in the paragraph under reply, read with annexure "34" to the answering affidavit, illustrate one point above all others: namely, that despite the risks for which Mr. Jha now contends, Baroda was nonetheless willing to open new accounts. It was under no obligation to do so. Moreover, and notwithstanding that handwritten endorsements on the documents in annexure



"34", which seemingly foreshadowed enhanced monitoring obligations, there is no evidence that the Bank took on extra staff. The absence of that evidence, I suggest, indicates that the Bank did not see even those alleged enhanced monitoring obligations as an obstacle to taking on more work (and thereby generating more revenue) from the applicants.

- 108.3 I am not aware that any requests were made to open new transactional accounts after May 2016. I therefore deny that the Bank has "refused" subsequent requests.

 There is no evidence of any such refused requests in the papers, nor any evidence that any decision in this regard was communicated to the applicants.
- 108.4 Accordingly, I deny the contents of the paragraphs under reply.

109. AD PARAGRAPHS 215 TO 216

- 109.1 The allegations concerning Mr Rajesh Gupta and the meeting in Mumbai are inadmissible hearsay evidence and fall to be struck out.
- 109.2 Contrary to what Mr. Jha alleges, the email in annexure "35" is at best inadmissible hearsay in relation to that which is alleged to have been said or done by the General Manager of International Operations. I therefore deny that this email supports the allegations in paragraph 216 of the answering affidavit.



109.3 Save as aforesaid, the content of these paragraphs are denied.

110. AD PARAGRAPH 218

110.1 have no knowledge of how the Bank has calculated the amount of R1,5 billion. I have, elsewhere in this affidavit, provided an account of the Koornfontein and Tegeta loans.

111. AD PARAGRAPH 219

- 111.1 I admit that there were several discussions with me in which the Bank requested that the applicants reduce their overall exposure to the Bank in respect of the three Tegeta loans. I provide an account of those loans elsewhere. I deny that the repayment of these loans foreshadowed the "overall termination" of the Bank's relationship with the applicants.
- 111.2 The allegation, in paragraph 223, that the alleged "permanent reduction" of the applicants' facilities was not satisfactory is unintelligible.
- 111.3 Save as aforesaid, this paragraph is denied.

112. AD PARAGRAPHS 220 TO 223



- 112.1 I have already addressed annexure "FA14" in the founding affidavit.
- 112.2 I deny that annexure "FA14" constituted a demand for repayment. On its own terms, it did not. Nor is there any evidence that the alleged demand was a "precursor to overall termination" of the relationship with the applicants. The letter of 26 September 2016 in annexure "FA14", on its own terms, must be read with the Annexure D that follows. On the first page of Annexure D, adjacent to the box marked "Period", is stipulated "ô months". On a proper construction, annexure "FA14" evidences the fact that, as at 26 September 2016, Baroda had in fact decided to continue Sahara's loan facilities for another six months on the terms set out in annexure D. It does not follow that the loan facilities would terminate six months hence. The facilities would simply be reviewed again after six months.
- The allegations, in paragraphs 221 and 222, as to the proper meaning of "review", amount to sophistry. This is, in any event, a question of contractual interpretation and not a matter for averment by Mr. Jha. Legal argument will addressed on this point.
- 112.4 I deny the allegation that the Bank instructed the applicants that it would not open more accounts.
- 112.5 Save as is consistent with aforegoing, I deny the remaining allegations.



113. AD PARAGRAPHS 224 TO 226

- 113.1 I deny the allegations in the paragraph under reply:
 - There is not a shred of evidence that any of the securities which the Bank held (and which Mr. Jha fails entirely to address) were at risk, whether "legally" or for any other reason.
 - 113.1.2 Even if it is so that, by November 2016, the Bank perceived a greater reputational risk than previously, Mr. Jha provides no explanation for why it was not until July 2017 (following a commitment around 1 July 2017 to an unnamed "regulator") that the Bank decided to terminate the transactional and loan facilities.
 - 113.1.3 I have addressed the Koornfontein and Tegeta loans and the correspondence in annexure "38" to the answer elsewhere in this affidavit.

114. AD PARAGRAPHS 227 TO 242

114.1 There is not a word in any of annexures "39", "40" or "41" that has any bearing on the Bank's relationship with the applicants:

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- 114.1.1 As to annexure "39": it is evident from "3. Findings of Inspection" that the SARB found a wide range of deficiencies in the Bank's processes. None are attributable, whether expressly or by implication, to the relationship with the applicants. The unavoidable conclusion is that all of these findings relate to the Bank's failings to comply with its obligations under the FIC Act and the Money Laundering Control Regulations
- As to annexure "40": it is evident that the SARB concluded that the Bank had failed to comply with its statutory duties and, in consequence, two administrative sanctions were imposed: the first was in respect of the Bank's failure to comply with the cash threshold reporting requirements in section 28; and the second was in respect of the Bank's failure to formulate and implement adequate processes and working methods in accordance with section 42(1)(d) of the FIC Act. Again, nothing is attributable to the relationship with applicants.
- Baroda made representations and, those representations notwithstanding, the Bank imposed the sanctions more fully described in its letter of 12 April 2017. Again, nothing in this document attributes those sanctions to the relationship with the applicants.

- 114.2 The Bank, offering the services of a retail banker at a fee, cannot be heard to complain that having clients exposes it to the risk of sanctions if it fails to perform its obligations in accordance with the law. One solution, as I have already suggested, might be for Baroda to take on more than the sixteen staff which it presently employs nationwide in South Africa.
- 114.3 Save as is consistent with the aforegoing, I deny the remaining allegations.

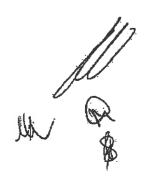
115. AD PARAGRAPHS 240 TO 242

- 115.1 I have already, elsewhere in this affidavit, addressed the list of transactions in annexure "42". The transactions in that list need to be understood in their proper context:
 - 115.1.1 Transactions by only six of the twenty applicants were flagged. In respect of Sahara Computers, Islandsite and Westdawn, only one transaction each was flagged.
 - In respect of Optimum Coal Mine, Tegeta and Tegeta Exploration, the Bank flagged transfers to the holding company (Tegeta Exploration) from the subsidiaries. These amounts were then transferred to



Tegeta's loan account with the Bank for the repayment of the Tegeta loans. These I have explained elsewhere.

- 115.1.3 In June and July 2017, three of the transactions flagged were payments made to Terbium by two of the applicants. I have explained above why it is that payments were made to Terbium. There is nothing inherently suspicious about those payments.
- The vast majority of the flagged transactions were payments to and from Optimum Coal Mine. It appears that they were flagged because they were payments made from abroad for coal or because they were made by Eskom.
- 115.2 In the absence of reports for other periods (which Mr. Jha does not attach), it is not possible for me to ascertain whether the volume of transactions reflected in the period covered by annexure "42" are any different from the volumes in other periods. In the absence of that evidence, I suggest that it is entirely possible that the volume of transactions mentioned in annexure "42" is appropriate for that period and consistent with other periods.
- 115.3 Save as aforesaid, these remaining allegations in the paragraphs under reply are denied.







बैंक ऑफ़ बड़ौदा Bank of Baroda

BCC: INTL: ADV: 109/ 277

July 1, 2017

The Chief Executive Bank of Baroda 2nd Floor, East Wing Sandton City Twin Towers Johannesburg, Sandton South Africa

Dear Sir

Re: Exit from accounts of Sahara Group

We refer to the correspondence made in the past about exit from the Sahara Group of companies' accounts at your territory.

In view of the adverse news items and developments since June 2016 [Local Banks terminating banking relationship with the group, adverse comments in the "State of Capture Report" and KPMG (Group Auditors) having issued notice to the group for terminating the relationship etc.], we reiterate and convey our decision to exit from the group.

We advise you to issue suitable communication to the Group Companies/Promoters for closure of their accounts with us. The Loan/Overdraft facilities granted to the group and its subsidiaries should be settled by 30th September 2017, as per commitment given to the Regulator You are also advised not to renew any of its deposits on maturity (except those kept as security against credit facilities) and seek disposal instructions for the same.

Please acknowledge and keep us informed of the developments.

Yours faithfully

(Eric Tucker)

Head - International Banking

शन्तर्थासूचिय पश्चिमालन : चौथी मंजिल, वड़ीदा कार्नोरेट सेन्टर, सी-26, जी-कॉब, बुग्झ-कुलां कॉम्पलेक्स, शन्द्रा (पू.), मुंबई 400 051, भारत International Operations : 4th Floor, Baroda Corporate Centre, C-26, G-Block, Baridra-Kurle Complex, Bandra (E). Mumbal 400 051, India. फोन / Phone : 91.22 6698 5426 ● फ़ैक्स / Fex : 91 22 2652 3609 ई-मेल / E-right gm;international boc@bankofbaroda.com ● येय / Website : www.bankofbaroda.com ● Jan 2017 - 5000 " X" 26.9.17

IN THE HIGH COURT OF SOUTH AFRICA GAUTENG DIVISION, PRETORIA

CASE NO: 65616/17

Before the Honourable Justice Msimeki On 26 September 2017

In the matter between:

ORGANISATION UNDOING TAX ABUSE

Applicant

and

THE TRUSTEE(S) FOR THE TIME BEING OF THE OPTIMUM MINE REHABILITATION TRUST

First Respondent

THE TRUSTEE(S) FOR THE TIME BEING OF THE KOORNFONTEIN MINE REHABILITATION TRUST

Second Respondent

PUSHPAVENI GOVENDER

Third Respondent

TREVOR SCOTT

Fourth Respondent

OPTIMUM COAL MINE (PTY) LTD

Fifth Respondent

KOORNFONTEIN MINES (PTY) LTD

Sixth Respondent

BANK OF BARODA

Seventh Respondent

MINISTER OF MINERAL RESOURCES

Eighth Respondent

DRAFT ORDER

Having read the papers filed of record and heard relevant submissions, the following order is made by agreement between the applicant and the first, second, third, fifth, sixth, seventh and eighth respondents:

- Under reservation of all rights by all respondents and without any concessions in respect of any of the issues as they appear from the papers, and pending a decision on the relief sought in the notice of motion or a further order by this Court:
- The Bank of Baroda is directed to continue to hold the Trust funds of the Optimum Mine Rehabilitation Trust ('the Optimum Trust') and the Koornfontein Mine Rehabilitation Trust ('the Koornfontein Trust'), in an interest-bearing bank account or accounts in the name of the Trusts.
- The Trustee(s) for the time being of the Optimum Trust and any signatory on its bank account(s) or any other person who may have been authorised by the trustees to act on behalf of the Optimum Trust are interdicted.
- from directly or indirectly dealing in any way with, disposing of or removing from the Republic of South Africa any of the funds or assets of the Trust including but not limited to the Trust's funds held in any account of or at the Bank of Baroda;
- 1.2.2 without detracting from the generality of 1.2.1 above, from cedling, assigning, delegating, making over, diverting or diluting any present or future funds, and including further all moneys received or receivable in future owed to the Trusts.

- The Trustee(s) for the time being of the Koomfontein Trust and any signatory on its bank account(s) or any other person who may have been authorised by the Trustees to act on behalf of the Koomfontein Trust are interdicted:
- 1.3.1 From directly or indirectly dealing in any way with, disposing of or removing from the Republic of South Africa any of the funds or assets of the Trust including but not limited to the Trust's funds held in any account of or at the Bank of Baroda;
- 1.3.2 Without detracting from the generality of 1.3.1 above, from cedling, assigning, delegating, making over, diverting or diluting any present or future funds, and including further all moneys received or receivable in future owed to the Trusts.
- Any party may, upon reasonable notice and good cause shown, apply to the Court to vary the order in paragraph 1 above.
- The matter is postponed for hearing on 7 and 8 December 2017 and the matter will proceed as follows:
- The applicant will amend its notice of motion, effect any necessary joinder (including amongst-others of Ronica Ragavan) and supplement its founding affidavit by 4 October 2017

- The respondents will file their answering affidavits on or before 18 October 2017;
- The applicant will file its replying affidavit on or before 30 October 2017;
- The applicant will file its heads of argument, chronology and practice note on 6 November 2017;
- The respondents will file their heads of argument, chronology and practice note on 10 November 2017.
- 4 The costs of this application are reserved.

BY ORDER

THE REGISTRAR

WAS DESTRUCED IN & ASSOCIATES

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

CASE NUMBER: 65616/17

In the matter between:

CRGANISATION UNDOING TAX ABUSE

APPLICANT

and

THE TRUSTEE(S) FOR THE TIME BEING OF THE **OPTIMUM MINE REHABILITATION TRUST**

FIRST RESPONDENT

THE TRUSTEE(S) FOR THE TIME BEING OF THE

KOORFONTEIN MINE REHABILITATION TRUST

SECOND RESPONDENT

PUCHPAVENI GOVERNDER

THIRD RESPONDENT

TREVOR SCOTT

FOURTH RESPONDENT

OPTIMUM COAL MINE (PTY) LTD

FIFTH RESPONDENT

KOORFONTEIN MINE (PTY) LTD

SIXTH RESPONDENT

BANK OF BARODA

SEVENTH RESPONDENT

MINISTER OF MINERAL RESOURCES

EIGHTH RESPONDENT

RONICA RAGAVAN

NINTH RESPONDENT

THE MASTER OF THE HIGH COURT, PRETORIA

TENTH RESPONDENT

FILING NOTICE

DOCUMENTS FILED

: NINTH

RESPONDENT'S

OPPOSING

AFFIDAVIT

FILED BY

: VAN DER MERWE & ASSOCIATES

ATTORNEYS FOR THE NINTH RESPONDENT

62 RIGEL AVENUE WATERKLOOF PRETORIA

REF: GT VD MERWE/vvd/E80

TEL: 087 654 0209

THE REGISTRAR OF THE HIGH COURT PRETORIA

AND TO:

WERKSMANS ATTORNEYS ATTORNEYS FOR THE APPLICANT C/O BRAZINGTON & McCONNELL **424 HILDA STREET** 2ND FLOOR, HATFIELD PLAZA, NORTH TOWER HATFIELD PRETORIA

TEL: 012 430 4303

REF: MR A McCONNELL

AND TO:

VASCO DE OLIVEIRA ATTORNEYS ATTORNEYS FOR THE FIRST, SECOND, THIRD, FIFTH AND SIXTH RESPONDENTS C/O DE OLIVEIRA SERRAO ATTORNEYS 22 KNOX SHAW STREET STERREWEG PRETORIA

といういじた Fix EJ UBICE BHAZINGTON MECOMNELL

RECEIVED WITHOUT PREJUDICE

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Description Col motor

TEL: 017 460 4321 REF: NIS SERRAO

AND TO:

TREVOR SCOTT **FOURTH RESPONDENT**

EMAIL: trever@bearingway.co.za

(SERVED BY EMAIL)

AND TO:

TABACKS ATTORNEYS ATTORNEYS FOR THE SEVENTH RESPONDENT 13 ETON ROAD **PARKTOWN**

TEL: 011 358 7700

REF: MR L VAN STADEN/MS N LABUSCHAGNE

EMAIL: Ivs@tabacks.com

(SERVED BY EMAIL)

AND TO:

STATE ATTORNEY PRETORIA ATTORNEYS FOR THE EIGHT RESPONDENT 316 SALU BUILDING **CNR FRANCIS BAARD & THABO SEHUME STREET** GROUND ELOOP

TEL: 012 309 1635

REF: 7056/2017/274/PM

AND TO:

MASTER OF THE HIGH COURT, PRETORIA TENTH RESPONDENT 316 SALU BUILDING CNR FRANCIS BAARD & THABO SEHUME STREET GROUND FLOOR PRETORIA VAN DER MERME &

88A

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IN THE HIGH COURT OF SOUTH AFRICA [GAUTENG DIVISION, PRETORIA]

CASE NUMBER: 65616/17

In the matter between

CRGANISATION UNDOING TAX ABUSE

APPLICANT

and

THE TRUSTEE(S) FOR THE TIME BEING OF THE OPTIMUM MINE REHABILITATION TRUST

FIRST RESPONDENT

THE TRUSTEE(S) FOR THE TIME BEING OF THE KOORFONTEIN MINE REHABILITATION TRUST

SECOND RESPONDENT

PUCHPAVENI GOVERNDER

THIRD RESPONDENT

TREVOR SCOTT

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FIFTH RESPONDENT

KOORFONTEIN MINE (PTY) LTD

SIXTH RESPONDENT

SEVENTH RESPONDENT

MINISTER OF MINERAL RESOURCES.

EIGHTH RESPONDENT

RONICA RAGAVAN

BANK OF BARODA

NINTH RESPONDENT

THE MASTER OF THE HIGH COURT, PRETORIA

TENTH RESPONDENT

MINTH RESPONDENT'S OPPOSING AFFIDAVIT

the undersigned,

RONICA RAGAVAN

hereby declare under path and say.



harma major female acting Chief Executive Officer of Oakbay Investments (Pty) Ltd. the holding company of what is commonly referred to as the "Oakbay Group of Companies" indirectly holding a substantial interest in the 5° and the 6° Respondents.

2.

The contents of this affidavit fall within my personal knowledge and belief and are both true and correct.

3.

I depose to this affidavit in response to an application issued by the Applicant as an urgent application on/or about 21 September 2017 consisting of 400 (Four hundred) pages.

4

LATE FILING OF AFFIDAVIT

I was joined to these proceedings by agreement between the parties on 26 September 2017.

9/

Pursuant to the aforesaid my attorney directed a latter to Werksmans Attorneys on a October 2017 of which a copy is appended hereto as Annexure "R1" to which the Honourable Court is kindly referred and from which I take the liberty of quoting the following:

'Kindly ensure that you serve a copy of the papers on our offices together with the application to join our client and the supplementary papers pursuant to the provisions of the interim order.

We, kindly, request you to ensure that the papers are duly endorsed with our file reference in order to prevent any delay and/or confusion."

6.

On 2 October 2017 Werksmans Attorneys acknowledged receipt of the aforesaid letter and replied via email and I take the liberty of appending a copy of the letter hereto as Annexure "R2" from which I quote the following:

We acknowledge receipt of your letter dated 1 October 2017 which we received on 2 October 2017, the contents of which has been noted.

7

On 4 October 2017 at 16h39 an "amended notice of motion - part b" was served on



my atterney of record, same omitting a duly commissioned afficavit of Mr Martin Lange which was served on 9 October 2017 at 16h19.

8.

Neither of these documents carried the reference my attorney requested in the letter dated 1 October 2017 but since these documents were expected to be served it found its way to my afterney's office file without delay.

9.

In the meantime nothing happened and the main application issued on 21 September 2017 was never served on my attorney up and until 20 October 2017 after my attorney had to write a letter on 18 October 2017 advising the Applicant's attorney of the fact that it will not be possible to comply with the provisions of the interim order given the fact that the Applicant neglected to file the documents, not only agreed upon but also pursuant to the provisions of the Uniform Rules of Court.

10.

As a result of the aforesaid I file this affidavit out of time but I submit that the delay was a cirect consequence of an emission and neglect by the Applicant in this matter. To the extent that condonation for the late filing of this affidavit is necessary I submit that the late filing hereof did not cause any prejudice to any of the parties and I beg the Court to accept this affidavit as duly served and filed.



RESPONSE TO THE APPLICANT'S APPLICATION

I have perused the Applicant's application and supporting documents and took note of the references made to myself in the founding papers in an effort to create a climate of imappropriate or sinister conduct by the trustees of the First and Second Respondents.

12

Since there are only a few remarks in the founding papers attempting to portray me as an individual acting without authority or specific permission (or at least full knowledge) of the trustees of the First and Second Respondents, I submit that those allegations were duty addressed in the answering affidavit served on behalf of the First to Third and Fifth to Sixth Respondents. A copy of the affidavit was served on my attorney of record on 19 October 2017 (a day before the Applicant served its application on my attorney).

13

Against perusal of the answering affidavit of the aforesaid Respondents I submit the said affidavit clearly deals with the allegations raised in the Applicant's papers and I will only regurgitate those very same facts if I intend to deal with them in a separate and comprehensive affidavit.

I have, in any event, confirmed those facts in a confirmatory affidavit to the said answering affidavit. My confirmatory affidavit is appended as Annexure "PG5" which was commissioned on 18 October 2017.

15.

in light of the aforesaid I submit that the Applicant's application is doorned to fail and should be dismissed with costs.

DEPONENT
Signed and sworn before me af Sanciton on this 30 day of Contents of this statement and regards the prescribed cath as binding on her conscience and has no objection against taking the said prescribed oath

COMMISSIONER OF OATHS:

ALRIE DU PLESSIS

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Director / Districting Commender Merwer/BLC, LLB)

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Figs No. 22/09/05/3408-21 VATOREW No. 407/02/9152:

Entonia
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Cl. Fogel Avenue, Waterstood,
15-section

Engal Address J. 11 44 Portschiff D. 2012/255 11 24 11 25 25 25 25 Frank 109 Frank 100 25 25 25 Artal Epon Our Buf: MR GT VO MERWE/st/039

You Ref: BHOTZMR J GOBETZ/CRGA59432.2

01/10/2017

Werksmans Atterneys http://www.blinds.com Jgobetz@werksmans.com

Dear Sirs

URGENT APPLICATION: ORGANISATION UNDOING TAX ABUSE I THE TRUSTEES OF THE OPTIMUM MINE REHABILITATION TRUST AND SEVEN OTHERS CASE NUMBER: 65616/17

We refer to the abuvementioned matter and wish to confirm that we received instructions from Renica Ragavan to represent her in this matter going forward.

We instructed Advocate Francois van der Menve to appear on 26 September 2017 and we received a copy of the order granted on that day.

Kindly ensure that you serve a copy of the papers on our offices together with the application to join our client and the supplementary papers pursuant to the provisions of the interim order.

We, kindly, request you to ensure that the papers are duly endorsed with our file reference in order to prevent any delay and/or confusion.

Regards

Gert van der Merwe VAN DER MERWE & ASSOCIATES

Simone Taljeard

Figire

Smorte falleand samone@vonnesco tab

Sant:

Mond y 12 Outower2017 (333)

To.

Photograph wire contributing fields

Subject:

DS OUTA

Attachments:

OBS WERESMAND doc

Wiendelike groots/Kind regards

Smone Taljaard Van der Manwe 8. Ass.Inc. 0876540209 **62 Rigel Avenue** Waterlood Freteria



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เป็นสอยอย์ หนึ่งกรครสดย ขอ

Johannesbau y Defice 155 146 Street

Sonctor (195 Souts Alexa) Private Bog 10015 STARTOR 7146

Letter The Stateson

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TODE REFERENCE: Mr GT VD Merwe/NV 089

OUR RETERENCE: Mr & Hotz/Le/GAGA36432,2/= 5112654v1

DIRECT PRONE: DIRECT FAX:

: .7 11 535 8105 127 11 533 8666

FMALL AND MESSEL Shottag workumant com-

2000 one 2017

Dean Sin

URGENT APPLICATION: ORGANISATION UNDOING TAX ABUSE / THE TRUSTEES OF THE OPTIMUM MINE REHABILITATION TRUST AND SEVEN OTHERS CASE MO: 65616/17

We atknowledge receipt of your letter dated 1 October 2017 which we received on 2 October 2017, the margent of which has been parted.

Yours fact, fully

Werksmank inc.

THIS IN ALL HAS BUY FLECTED ACTIONLY TRANSMITTED WHAT NO RIGHARD BU



"R3"

Attorneys • Notanes • Conveyancers • Prokurours • Notarisse • Arie excursions

Director / Durlacer
Gen van die Merste (BLC, LLB)

Arrestator Associate
Partier Local (LLE)
For Mathewa (H. Corp., 114),
Linkly

Attribut by / Diversition days The van der Merwe (LLB) Dance Malan (B. Com. LLB)

Principality

theog Simil Akten Jöpanden Si Rige: Assene Wumbhot, Lintine

Cott, Andrea Garage

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Facility

Our Ret. MR GT VO MERWEINVOSS

You Ref. BHOTZ/MR J COBETZ/ORGA36432.2

18/18/2017

URGENT

Werksmans Attorneys
bhotz@werksmans.com
Jgobctz@werksmans.com

CC: Vasco do Oliveira Attorneya vasco@oliveira.co.za

CG: Mr Trevor Scott trevor@bearingway.co.xa

CC: Tabacks Attorneys lvs@tabacks.com

Dear Sirs

RONICA RAGAVAN AND OTHERS / ORGANISATION UNDOING TAX ABUSE

CASE NUMBER: 65616/17

We refer to the abovementioned matter.

We act on behalf of the night respendent, as you know.

On 25 September 2017 a draft order was made an order of court pursuant whereto our client would be joined as a party to the processings. In addition our client would be afforded until today to file an opposing affidavit, if any, by close of business

On 5 October 2017 we dispatched a latter to you from which we quote the following:

Youdy ensure that you serve a copy of the papers on our offices together with the application to join our client and the supplementary papers pursuant to the provisions of the interior order.

On 4 October 2017 at 16h13 we received an "Amended Notice of Mation" - Part Bit together with a supplementary founding affidavis commissioned on 4 October 2017.

For some reason there was a delay in serving the affidavit of your expert, for Martin Lange. Mr Lange's affidavit was served on 9 October 2017 at 15h19

We cannot seem to find the application your client had to serve pursuant to the joinder of our client and in compliance with the Uniform Rules of Court and, of course, our request dated 1 October 2017.

As a consequence of the aforesaid you will appreciate that we are left with nothing to respond to and any affidavir we intend to draft at this point in time will be an embarrassment since our client has not been afforded an opportunity to meet the applicants' application.

We are uncertain as to the reason for not serving our client with a copy of the application and we have to reserve our client's rights in loto.

Will you as a maiter of extreme urgency, claborate on the reasons for not serving us with a copy of the main application and, further, do so without delay in order for us to serve our client's response instantly.

We carry instructions to prevent any effort to delay the matter from being heard and in light thereof our call is for your urgent response.

To the extent necessary we request an indulgence for the tate filing of our client's attidavit.

il casa revert without delay.

Regards.

Gert van der Merwe VAN DER MERWE & ASSOCIATES

Simone Taljaard

Francis

Separa Taljsard กระกอกคุณอยู่กรรงของสา

Saut:

Wednesday, 18 October 2017, 16:24

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'varco' (balività koura); 'trevor@hearingwy, torial: La Ublibida com'

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Subject

OBSTRONICA RAGAVAN AND OTHERS / CAGANISATION UNDOING TAX ASSISE

Artischments:

CISE WEF-CENTANTS & doc

Importance:

High

Dear Syllyman,

Vindly find appearing hereto a letter for your organization.

Valendelike groats/kind augards

Simone Taljaard Van der Merwe & Ass Inc 0376540209 62 Rigel Avenue Waterkloof Pretoria



van der Meswe

IN THE HIGH COURT OF SOUTH AFRICA **GAUTENG DIVISION**

Case No. 65616/17

In the most as between.

ORGANISATION UNDOING TAX ABUSE

Ancheant

and

THE TRUSTEES FOR THE TIME BEING OF THE OPTIMUM MINE REHABILITATION TRUST

First Respondent

THE TRUSTEES FOR THE TIME BEING OF THE KOORNFONTEIN MINE REHABILITATION TRUST Sesond Respondent

PUSHPAVEN! GOVENDER

Third Respondent

TREVOR SCOTT

Fourth Respondent

OPTIMUM COAL MINE (PTY) LIMITED

Fifth Respondent

KOORNFONTEIN MINE (PTY) LIMITED

Sixth Respondent

BANK OF BARODA

Sevento Respondent

MINISTER OF MINERAL RESOURCES

Eighth Respondent

RONICA RAGAVAN

1

Ninth Respondent

THE MASTER OF THE HIGH COURT, PRETORIA

Tepth Respondent

CONFIRMATORY AFFIDAVIT

the undersigned,

RONICA RAGAVAN

do hereby state and declare under patri-

- I am en adult female businesswomen and sole director of Koomfontein Mine (Pty).
 Ltd. being the sixth respondent to this matter. My business address is 144.
 Katherine Street, Sandows, Sandion, Gauteng.
- 2. I am duly authorised to depose to this affidavit on behalf of the sixth respondent.
- I have read the contents of the affidavit of Pushpaveni Ugashni Governour and continu the contents thereof in as far as they relate to me.

DEPONENT

Thereby certify that the deponent declares that the deponent knows and understands the contents of this affidavit and that it is, to the best of the deponent's knowledge, both troe and correct. This affidavit was signed and swern to before me at a NUTON on this 18 day of OCTOBER 2017 and that this Regulations contained in Government Notice R1258 of 21 July 1972, as amended, have been complied with.

COMMISSIONER OF DATHS

FULL NAMES:

MARGO-ANN PALANI
COMMISSIONER OF OATHS
PRACTEING ATTORNEY RSA
FASKEN MARTINEAU
INANDA GREENS
54 WIERDA ROAD WEST
SANDTON

CAPACITY:

ADDRESS:

ma/

Yvonne van Deventer

From:

(vonne van Guventer klegaf2@vamass.co.za)

Sent

Tuesday, 31 October 2017 9:14 AM.

To:

"trevore" bearingway.co.za"; "vs@cnacks.com"

Subject

089. ORGANISATION UNDOWG TAX ABUSE / THE TRUSTEL(S) OF THE OPTIMUM

MINE REHABILITATION TRUST AND SEVEN OTHERS - CASE NO. 65516/17

Attachments:

201770310515 pdr

Smar Sas,

Rough find appended hereto the Ninth Respondent's opposing affidavit.

Kind regards.

Hannever Desenter

Degal corretary to Gert von der Menve

Van der Mense & 845 Inc.

0376540209 62 Rigel Avenue Waterkloof Pretoria



Yvonne van Deventer

from:

Yvonne van Deventer «legal2@wdmass.co.za»

Sent:

Tuesday 31 October 2017 9:18 AM

To:

"Iva@tabacks.com"

Subject

FW: 089. ORGANISATION UNDOING TAX ABUSE / THE TRUSTERS) OF THE OPTIMUM MINE REHABILITATION TRUST ANS SEVEN OTHERS - CASE NO.

65616/17

Attachments:

201710310815 pof

From: Yvonne van Deventer (mailto:legal2@vdmass.co.za)

Sent: Tuesday, 31 October 2017 9:14 AM

To: 'trevor@bearingway.co.za' <trevor@bearingway.co.za>; 'lvs@taacks.com' <lvs@taacks.com>
Subject: O89. ORGANISATION UNDOING TAX ABUSE / THE TRUSTEF(S) OF THE OPTIMUM MINE REHABILITATION
TRUST ANS SEVEN OTHERS - CASE NO. 65616/17

Dear Sirs

Kindly find appended hereto the Ninth Respondent's opposing affidavit.

Kind regards.

Young can Describer

Clegal secretary to Gert van der Merwe Van der Merwe & Ass Inc 0876540209 62 Rigel Avenuc Waterkloof

Pretoria



IN THE HIGH COURT OF SOUTH AFRICA GAUTENG DIVISION, PRETORIA

Case no: 65616/17

In the matter between:

THE TRUSTEE(S) FOR THE TIME BEING OF THE OPTIMUM MINE REHABILITATION TRUST

First Applicant

THE TRUSTEE(S) FOR THE TIME BEING OF THE KOORNFONTEIN MINE REHABILITATION TRUST

Second Applicant

and

ORGANISATION UNDOING TAX ABUSE

Respondent

In re:

ORGANISATION UNDOING TAX ABUSE

Applicant

and

THE TRUSTEE(S) FOR THE TIME BEING OF THE OPTIMUM MINE REHABILITATION TRUST

First Respondent

THE TRUSTEE(S) FOR THE TIME BEING OF THE KOORNFONTEIN MINE REHABILITATION TRUST

Second Respondent

PUSHPAVENI GOVENDER

Third Respondent

Fourth Respondent

OPTIMUM COAL MINE (PTY) LTD

Fifth Respondent

KOORNFONTEIN MINES (PTY) LTD

Sixth Respondent

BANK OF BARODA

TREVOR SCOTT

Seventh Respondent

MINISTER OF MINERAL RESOURCES

Eight Respondent

RONICA RAGAVAN

Ninth Respondent

THE MASTER OF THE HIGH COURT, PRETORIA

Tenth Respondent

NOTICE OF MOTION IN TERMS OF RULE 30

TAKE NOTICE that at the hearing of the abovenamed main application, the abovenamed first and second applicants (first and second respondents in the main application) will make application for the following relief:

- 1. That the respondent's (applicant's in the main application) notice in terms of Rule 7 (1) of the Uniform Rules of Court be set aside;
- 2. That the respondent (applicant in the main application) be ordered to pay the costs of this application on an attorney and own client scale, including the cost of two counsel; and
- 3. Further and/or alternative relief.

TAKE FURTHER NOTICE that the affidavit of PUSHPAVENI UGESHNI GOVENDER annexed hereto will be used in support of the application.

Tel: 011 535 8106/8445

Fax: 011 535 8545

Ref: Mr B Hotz/Mr J Gobetz/ORGA36432.2

C/O BRAZINGTON &McCONNELL

424 Hilda Street

2nd Floor, Hatfield Plaza, North Tower

Hatfield

Pretoria

Tel: (012) 430 4303

Email: andrew@bsmlaw.co.za

Ref: Mr A McConnell

Accepted
Without Prejudice
WERKSMANS

Received a copy hereof on this the 23 day of November 2017

For: Attorneys for the Applicant

Tel: 011 535 8106/8445

Fax: 011 535 8545

Ref: Mr B Hotz/Mr J Gobetz/ORGA36432.2

C/O BRAZINGTON &McCONNELL

424 Hilda Street

2nd Floor, Hatfield Plaza, North Tower

Hatfield

Pretoria

Tel: (012) 430 4303

Email: andrew@bsmlaw.co.za

Ref: Mr A McConnell

t

IN THE HIGH COURT OF SOUTH AFRICA GAUTENG DIVISION, PRETORIA

Case no: 65616/17

In the matter between:

THE TRUSTEE(S) FOR THE TIME BEING OF THE OPTIMUM MINE REHABILITATION TRUST

First Applicant

THE TRUSTEE(S) FOR THE TIME BEING OF THE KOORNFONTEIN MINE REHABILITATION TRUST

Second Applicant

and

ORGANISATION UNDOING TAX ABUSE

Respondent

In re:

ORGANISATION UNDOING TAX ABUSE

Applicant

and

THE TRUSTEE(S) FOR THE TIME BEING OF THE OPTIMUM MINE REHABILITATION TRUST

First Respondent

THE TRUSTEE(S) FOR THE TIME BEING OF THE KOORNFONTEIN MINE REHABILITATION TRUST

Second Respondent

PUSHPAVENI GOVENDER

TREVOR SCOTT

Third Respondent

Fourth Respondent
Fifth Respondent

OPTIMUM COAL MINE (PTY) LTD

Sixth Respondent

KOORNFONTEIN MINES (PTY) LTD

BANK OF BARODA

Seventh Respondent

MINISTER OF MINERAL RESOURCES

Eight Respondent

RONICA RAGAVAN

Ninth Respondent

THE MASTER OF THE HIGH COURT, PRETORIA

Tenth Respondent

FOUNDING AFFIDAVIT

I, the undersigned,

PUSHPAVENI UGESHNI GOVENDER

do hereby make oath and state as follows:

- 1. I am an adult female cited in my personal capacity as the third respondent in the main application.
- 2. If am the sole trustee of both the Optimum Mine Rehabilitation Trust ("the Optimum Trust") and the Koornfontein Rehabilitation Trust ("the Koornfontein Trust"), cited as the first and second respondents in the main application. If am duly authorized to depose to this affidavit on behalf of the first and second respondents.
- 3. For the sake of convenience, I will refer to the parties as they are cited in the main application.
 Where I make submissions of a legal nature, I do so upon the advice of my legal representatives.



4. The facts contained herein are within my personal knowledge, save where otherwise stated or the contrary appears from the context, and are to the best of my knowledge and belief both true and correct.

BACKGROUND

- On about 21 September 2017, the applicant launched an urgent application against, inter alios,
 the first and second respondents out of this Honourable Court.
- 6. On 22 September 2017, the first, second, third, fifth and sixth respondents (called the mining respondents) served and filed their notice of intention to oppose the matter.
- 7. The matter was enrolled on the urgent court roll for 26 September 2017. On that date the parties agreed to an order which read, *inter alia*, as follows:
 - 7.1. "...the applicant will amend its notice of motion, effect any necessary joinder...and supplement its founding affidavit by 4 October 2017;
 - 7.2. the respondents will file their answering affidavits on or before 18 October 2017;
 - 7.3. the applicant will file its replying affidavit on or before 30 October 2017...

A copy of the court order is annexed hereto and marked as "A".

8. The applicant delivered its amended notice of motion and supplementary affidavit on about 5
October 2017 and the mining respondents served their answering affidavit on 19 October
2017.



- 9. On 25 October 2017, the applicant served a notice in terms of Rule 35(12) on the mining respondents. The mining respondents responded to the notice on 30 October 2017.
- 10. On 31 October 2017, the applicant served a notice in terms of Rule 7 (1) on the first and second respondents only, which is the offending notice giving rise to this application. A copy of this notice is annexed hereto and marked as "B".
- On 1 November 2017, the first and second respondents, represented by their attorneys of record, directed a letter to the applicant's attorneys affording the applicant an opportunity of withdrawing its notice in terms of Rule 7(1), essentially stating the following:
 - 11.1 "... The notice, which purports to be one in terms of Rule 7 (1), is irregular, ill-advised and an abuse of court process. We say this for the following reasons:
 - 11.1.1 Rule 7(1) encapsulates a time limit for filing such a notice. It provides that "the authority of anyone acting on behalf of a party may, within 10 days after it has come to the notice of a party that such person is so acting, or with the leave of the court on good cause shown at any time before judgment, be disputed ..." [emphasis added]. Your client has known since, at the latest, 26 September 2017, that we represent the mining respondents. The notice, accordingly, falls outside of the 10 days period contemplated by the rule. You have neither sought nor obtained the leave of the court to serve the notice disputing the authority. Until such time as leave is obtained, the notice is irregular.
 - 11.1.2 Furthermore, the rule does not support the notion that the authority of a trustee to represent a trust can be challenged under it. Accordingly, to the extent that you client seeks to challenge the trustee's authority, the rule in question is inapposite. As you are no doubt aware, the rule is designed to test the representative capacity of an attorney representing a client.



- 11.1.3 We note that the notice appears to rely on a reading of the trust deeds to justify the alleged lack of authority. Our clients disagree with your contentions regarding the lack of authority. Moreover, we find it curious that your client should place reliance on the terms of the deeds as, in your client's affidavits, your client claims not to have possession of the trust deeds. Indeed, in your client's recent notice in terms of Rule 35(12), the production of the trust deeds is sought. Will you please clarify this apparent contradiction.
- 11.1.4 We note, furthermore, that you have today written to us requesting that we confirm that you may inspect our clients' documents at our premises. We have confirmed that you may do so. Naturally, we assume that you recognise that we continue to represent the mining respondents.
- 11.1.5 In light of the above, we demand that the notice be withdrawn by close of business tomorrow (2 November 2017), failing which we will invoke irregular step proceedings and seek a punitive costs award against your client.

A copy of the letter is annexed hereto and marked as "C".

- 12. The applicant simply refused to withdraw its notice as can be seen from the contents of the letter from its attorneys on 2 November 2017, annexed hereto and marked as "D".
- On 6 November 2017, the first and second respondent served a notice in terms of Rule 30 on the applicant on the basis that the notice in terms of Rule 7 (1) constituted an irregular step, affording the applicant an opportunity to remove the cause of complaint. A copy of the notice in terms of Rule 30 is annexed hereto and marked as "E".
- 14. Accordingly, the applicant was given an opportunity to withdraw its notice in terms of Rule 7

 (1). It has not done so.

APPLICANT'S IRREGULAR STEP

- The applicant's notice in terms of Rule 7(1) called upon Vasco de Oliveira Incorporated (VDO Inc.) and me to produce proof of our authority to represent the first and second respondents in these proceedings. The applicant also contended that until such time VDO Inc. and I produced proof of our authority so to act, we were not able to act on behalf of the first and second respondents.
- 16. I have been advised that the notice in terms of Rule 7 (1) constitutes an irregular step for the reasons as set out hereunder:
 - 16.1. Rule 7(1) reads as follows:
 - "(1) Subject to the provisions of subrules (2) and (3) a power of attorney to act need not be filed, but the authority of anyone acting on behalf of a party may, within 10 days after it has come to the notice of a party that such person is so acting, or with the leave of the court on good cause shown at any time before judgment, be disputed, whereafter such person may no longer act unless he satisfied the court that he is authorised so to act, and to enable him to do so the court may postpone the hearing of the action or application.

 (2) ..."
 - 16.2. The applicant purported to serve and file a notice in terms of Rule 7(1) outside of the ten-day period provided under the said rule and without the leave of the Court having first been obtained. The applicant has known since about 22 September 2017, but



certainly since 26 September 2017, that VDO Inc. acts for the mining respondents (which includes the first and second respondents), but served its notice on 31 October 2017. The notice is hence irregular and falls to be set aside on this basis alone.

- 16.3. The applicant has, by way of its notice, also sought to challenge my authority to represent the first and second respondents in addition to the authority of VDO Inc. to represent the said respondents in the present proceedings. Rule 7(1) pertains to the authority of an attorney to act in legal proceedings on behalf of a party. The applicant's notice therefore falls outside of the ambit and application of the rule as it is unrelated to challenging the authority of an attorney to represent his/her client. The notice is consequently irregular and stands to be set aside for this reason, as well.
- The first and second respondents acted in good faith and have allowed the applicant ample opportunity to withdraw its irregular notice in terms of Rule 7 (1).

PREJUDICE TO THE APPLICANT

18. The prejudice to the first and second respondents is manifest. The applicant asserts that until such time as proof of authority is supplied to the satisfaction of the Court, VDO Inc. may not act and the first and second respondents are without representation. This state of uncertainty cannot be allowed to prevail. The notice must be set aside.

I therefore pray that the Court grant the application as prayed for in the Notice of Motion to which this affidavit is attached.



Brendu

DEPONENT

I hereby certify that the deponent declares that the deponent knows and understands the contents of this affidavit and that it is, to the best of the deponent's knowledge, both true and correct. This affidavit was signed and sworn to before me at Sandton on this 23 day of November 2017 and that the Regulations contained in Government Notice R1258 of 21 July 1972, as amended, have been

complied with.

ABRIE DU PLESSIS
COMMISSIONER OF OATHS
OFFICIO PRACTICING ATTORNEY R.S.A.
91-1 FLOOR, 209 SMIT STREET
BRAMFONTEIN, JHB 2001
TEL. (011) 444-5171

COMMISSIONER OF OATHS

FULL NAMES

CAPACITY:

ABRIE DU PLESSIS
COMMISSIONER OF OATHS
Y OFF'CIO PRACTICING ATTORNEY R.S.A.
91-1 FLOOR, 209 SMIT STREET
BRAAMFONTEIN, JHB 2011
TEL. (011) 400-5171

ADDRESS:

"A"

IN THE HIGH COURT OF SOUTH AFRICA GAUTENG DIVISION, PRETORIA

CASE NO: 65616/17

Before the Honourable Justice Misimeki On 25 September 2017

In the matter between:

ORGANISATION UNDOING TAX ABUSE

Applicant

and

THE TRUSTEE(S) FOR THE TIME BEING OF THE OPTIMUM MINE REHABILITATION TRUST

First Respondent

THE TRUSTEE(S) FOR THE TIME BEING OF THE KOORMFONTEIN MINE REHABILITATION TRUST

Second Respondent

PUSHPAVENI GOVENDER

Third Respondent

TREVOR SCOTT

Fourth Respondent

OPTIMUM COAL MINE (PTY) LTD

Fifth Respondent

KOORNFONTEIN MINES (PTY) LTD

Sbth Respondent

BANK OF BARODA

Seventh Respondent

MINISTER OF MINERAL RESOURCES

Eighth Respondent

DRAFT ORDER

Having read the papers filed of record and heard relevant submissions, the following order is made by agreement between the applicant and the first, second, third, lifth, sixth, seventh and eighth respondents:

Under reservation of all rights by all respondents and without any concessions in respect of any of the issues as they appear from the papers, and pending a decision on the relief sought in the notice of motion or a further order by this Court:

- The Bank of Baroda is directed to continue to hold the Trust funds of the Optimum Mine Rehabilitation Trust ('the Optimum Trust') and the Koornfontein Mine Rehabilitation Trust ('the Koornfontein Trust'), in an interest-bearing bank account or accounts in the name of the Trusts.
- 1.2 The Trustee(s) for the time being of the Optimum Trust and any signatory on its bank account(s) or any other person who may have been authorised by the trustees to act on behalf of the Optimum Trust are interdicted,
- 1.2.1 from directly or indirectly dealing in any way with, disposing of or removing from the Republic of South Africa any of the funds or assets of the Trust including but not limited to the Trust's funds held in any account of or at the Bank of Baroda;
- 1.2.2 without detracting from the generality of 1.2.1 above, from cedling, assigning, delegating, making over, diverting or diluting any present or future funds, and including further all moneys received or receivable in future owed to the Trusts.



1.3.1 From directly or indirectly dealing in any way with, disposing of or removing from the Republic of South Africa any of the funds or assets of the Trust including but not limited to the Trust's funds held in any account of or at the Bank of Baroda;

1.3.2 Without detracting from the generality of 1.3.1 above, from cedling, assigning, delegating, making over, diverting or diluting any present or future funds, and including further all moneys received or receivable in future owed to the Trusts.

- Any party may, upon reasonable notice and good cause shown, apply to the Court to vary the order in paragraph 1 above.
- The matter is postponed for hearing on 7 and 8 December 2017 and the matter will proceed as follows:
- 3.1 The applicant will amend its notice of motion, effect any necessary joinder (Including amongst-others of Ronica Ragavan) and supplement its founding affidavit by 4 October 2017



- 3.2 The respondents will file their answering affidavits on or before 18
 October 2017;
- 3.3 The applicant will file its replying affidavit on or before 30 October 2017;
- 3.4 The applicant will file its heads of argument, chronology and practice note on 6 November 2017;
- 3.5 The respondents will file their heads of argument, chronology and practice note on 10 November 2017.
- 4 The costs of this application are reserved.

BY ORDER

THE REGISTRAR

"B"

IN THE HIGH COURT OF SOUTH AFRICA GAUTENG DIVISION, PRETORIA

CASE NO: 65616/2017

In the matter between:

ORGANISATION UNDOING TAX ABUSE

Applicant

and

THE TRUSTEE(S) FOR THE TIME BEING OF THE OPTIMUM MINE REHABILITATION TRUST

First Respondent

THE TRUSTEE(S) FOR THE TIME BEING OF THE KOORNFONTEIN MINE REHABILITATION TRUST

Second Respondent

PUSHPAVENI GOVENDER

Third Respondent

TREVOR SCOTT

Fourth Respondent

OPTIMUM COAL MINE (PTY) LTD

Fifth Respondent

KOORNFONTEIN MINES (PTY) LTD

Sixth Respondent

BANK OF BARODA

Seventh Respondent

MINISTER OF MINERAL RESOURCES

Eighth Respondent

RONICA RAGAVAN

Ninth Respondent

THE MASTER OF THE HIGH COURT, PRETORIA

Tenth Respondent

NOTICE IN TERMS OF RULE 7 OF THE UNIFORM RULES OF COURT

TAKE NOTICE THAT the Applicant hereby disputes the authority of Ms Pushpaveni

Govender and Vasco De Oliveira Inc to act on behalf of the Koornfontein



Rehabilitation Trust ('the Koornfontein Trust') and the Optimum Rehabilitation Trust ('the Optimum Trust'), collectively 'the Trusts' or their respective trustees in their official capacity.

TAKE NOTICE FURTHER THAT until such time as Govender and Vasco De Oliveira Inc have satisfied the Court that they are authorised so to act, they may not do so.

TAKE NOTICE FURTHER THAT:

- 1. As a result of the content of the answering affidavit filed on behalf of the first, second, third, fifth and sixth respondents on 18 October 2017, deposed to by Mis Pushpaveni Govender, the applicant has ascertained that with effect from 1 September 2017, Govender has been the sole trustee of the Optimum Trust and the Koomfontein Trust.
- 2. Ms Govender alleges in the answering affidavit that she is duly authorised to oppose any proceedings launched against the Optimum Trust or Koomfontein Trust on behalf of the Trusts by virtue of resolutions dated 18 October 2017 wherein she has authorised herself to do same.
- 3. The Optimum and Koomfontein Trust deeds stipulate that the number of trustees will be not less than two nor more than four and that the quorum is two. The Trust are thus inquorate and were inquorate at the time that Ms



Govender authorised herself to oppose the proceedings for the Trusts and in her official capacity as Trustee.

4. In these circumstances, Ms Govender and the attorney of record for the mining respondents, Vasco De Oliveira incorporated, may no longer act on behalf of the Trusts or the Trustee in her official capacity unless and until the Court is satisfied that they are authorised so to act.

DATED AT PRETORIA ON THIS THE 31ST DAY OF OCTOBER 2017

ANDREW JOHN MCCOMMELL

WERKSMANS ATTORNEYS Applicant's Attorneys 155 - 5th Street Sandown, Sandton. 2196 Johannesburg T: +27 (0)11 535 8106 / +27 (0)11 535 8445 F +27 (0)11 535 8545 Email: <u>bhotz@werksmans.com</u> / <u>jgobetz@werksmans.com</u> Ref. Wir B Hotz/Wir J Gobetz/ORGA36432.2 C/O BRAZINGTON & McCONNELL 424 Hilda Street 2nd Floor, Hatfield Plaza, North Tower Hatfield Pretoria Tel: (012) 430 4303 e-mail: andrew@bsmlaw.co.za

TO: THE REGISTRAR OF THE HIGH COURT (GAUTENG DIVISION, PRETORIA)

Ref. Mr A McConnell



AND TO:	
VASCO DE CLIVEIRA ATTORNEYS	
First, Second, Third, Fifth, and Sixth Respondents	Attorneys
23C Sandton View Office Park	RECEIVED A COPY HEREOF
Conduit Street	ON THIS THE DAY OF
Lyme Park	OCTOBER 2017.
Sandton	
2196	NAME:
Tel: 011 326 2507	TIME:
Fax: 011 326 2507	
E-mail: <u>vasco@oliveira.co.za</u>	SIGNATURE
C/O DE OLIVEIRA SERRAO ATTORNEYS	SIGNATURE
22 Knox Shaw Street	
Sterrewag	DE OLIVEIRA SERRÃO ATTORNEYS
Pretoria	Accepted without Projudice
Tel: 012 460 4321	Data 31 10-117 Time 16:19
Fax: 012 346 8909	The state of the s
Ref: Mrs L Serrao	Accepted without Prejudice Date 31 1 2 7 7 7 7 7 7 7 7 7 7 7 7 7 7 7 7 7
AND TO	
TREVOR SCOTT	
Fourth Respondent	
E-mail: trevor@bearingway.co.za	Service Per E-mail
L-High. Hovonoboginardy.so.28	COLVICE L'AIIBII
AND TO	
TABACKS ATTORNEYS	RECEIVED A COPY HEREOF
Seventh Respondent's Attorneys	ON THIS THE DAY OF
13 Eton Road	OCTOBER 2017.
Parktown	NAME:
2193	TIME:
Tel: 011 358 7700	
Fax: 011 358 7800	
E-mail: <u>lvs@tzbacks.com</u>	SIGNATURE
AND TO	
STATE ATTORNEY PRETORIA	
Eight Respondent's Attorneys	
316 Salu Building	RECEIVED A COPY HEREOF
Corner Francis Baard and Thabo Sehume Street	ON THIS THE DAY OF
Ground Floor	OCTOBER 2017.
Pretoria	NAME:
0001	TIME:
Tel: 012 309 1635	
Fax: 012 309 1649/50	
E-mail: mmatubatuba@justice.gov,za	SIGNATURE
Ref: 7096/2017/Z74/PM	



WATERKLOOF PROGE - PRETORIA
TEL: 012 340 0420 / 102 351 0209

AND TO:
VAN DER MERWE & ASSOCIATES
Ninth Respondent's Attorneys
62 Rigel Avenue
Waterkloof
Pretoria
Tel: 087 654 0209
Fax: 012 343 5435
E-mail: simone@vdmass.co.ze
Wr GT Van Der Merwe

RECEIVED A COPY	
ON THIS THE SI	DAY OF
OCTOBER 2017.	
NAME: letta	
TIME: 16'.10	
SIGNATURE	

AND TO:
MASTER OF THE HIGH COURT, PRETORIA
Tentin Respondent
316 Salu Building
Corner Francis Baard and Thabo Sehume Street
Ground Floor
Pretoria
0001

RECEIVED A COPY HEREOF ON THIS THE DAY OF OCTOBER 2017. NAME: TIME:	
SIGNATURE	





Manesha Govender

From:

Vasco de Oliveira

Sent:

Wednesday, November 1, 2017 3:55 PM

To:

Bernard Hotz

Cc: Subject: Manesha Govender
The Trustees for the Time Being of the Optimum Mine Rehabilitation Trust & Others /

OUTA

Attachments:

SKMBT_42317110115420.pdf

Dear Sir,

Please find herewith <u>urgent</u> correspondence for your attention.

Regards,

Vasco de Oliveira

Attorney

T +27 11 326 2505

F +27 11 326 2507

F +27 86 650 5798

INC.

C +27 83 464 2359

E vasco@oliveira.co.za

《其序》 本名在民间的代码的

23C Sandton View Office Park Conduit Street Lyme Park Sandton

2196

PO Box 4 Cramerview 2060

www.oliveira.co.za

Reg: 2015/175221/21





7. +27.11 326 2505 F. +27.11.328.2507, +27.86 650 5798 F.E. info@oliveira.co.ze

23C Sandton View Office Park I Conduit Street I Lyme Park I Sandton I 2198 PO Box 4 I Cramerview I 2080

WERKSMANS ATTORNEYS ATTENTION: MR B HOTZ

EMAIL: bhotz@werksmans.com

Our Ref: VDO/MG/MAT611
Your Ref:MR B
HOTZ/ORGA36432.2/#5158961V1
1 November 2017

Dear Str/s

RE: THE TRUSTEES FOR THE TIME BEING OF THE OPTIMUM MINE REHABILITATION TRUST & OTHERS / ORGANISATION UNDOING TAX ABUSE

- 1. We refer to the above matter, the respondents whom we represent ("the mining respondents") and your client's notice in terms of Rule 7 (1) ("the notice"), received on 31 October 2017.
- 2. Before addressing the notice, we point out that time for delivery of your client's replying affidavit has passed. Unless we assume that your client has no intention of filing a replying affidavit which seems unlikely it appears to the writer that your client's notice in terms of Rule 35 (12), served recently, and the notice now served, are designed, disingenuously and frivolously to engineer a basis for delaying the filing of your client's replying affidavit with a view to derailing the hearing of the application on 7 December 2017. Please take note that we are mindful of this transparent tactic and this letter will be brought to the Court's attention should you seek to delay the hearing.
- 3. We point out, also, that irrespective of the merits of the notice (which we dispute), a replying affidavit to the answer of the remaining mining respondents whom we represent, is overdue. We do not accept that the notice, on any reading, can serve as a justification for your client's failure to serve and file its replying affidavit within the time frame directed by the order of Court of 26 September 2017.
- 4. The notice, which purports to be one in terms of Rule 7 (1), is irregular, ill-advised and an abuse of court process. We say this for the following reasons:

Page 1 of 3

Rog: 2015/175221/21

3 Ansirez (21)

www.oliveira.co.za

- 4.1 Rule 7(1) encapsulates a time limit for filing such a notice. It provides that "the authority of anyone acting on behalf of a party may, within 10 days after it has come to the notice of a party that such person is so acting, or with the leave of the court on good cause shown at any time before judgment, be disputed ..." [emphasis added]. Your client has known since. at the latest, 26 September 2017, that we represent the mining respondents. The notice, accordingly, falls outside of the 10 days period contemplated by the rule. You have neither sought nor obtained the leave of the court to serve the notice disputing the authority. Until such time as leave is obtained, the notice is irregular.
- 4.2 Furthermore, the rule does not support the notion that the authority of a trustee to represent a trust can be challenged under it. Accordingly, to the extent that your client seeks to challenge the trustee's authority, the rule in question is inapposite. As you are no doubt aware, the rule is designed to test the representative capacity of an attorney representing a client.
- 5. We note that the notice appears to rely on a reading of the trust deeds to justify the alleged lack of authority. Our clients disagree with your contentions regarding the lack of authority. Moreover, we find it curious that your client should place reliance on the terms of the deeds as, in your client's affidavits, your client claims not to have possession of the trust deeds. Indeed, in your client's recent notice in terms of Rule 35(12), the production of the trust deeds is sought. Will you please clarify this apparent contradiction.
- 6. We note, furthermore, that you have today written to us requesting that we confirm that you may inspect our clients' documents at our premises. We have confirmed that you may do so. Naturally, we assume that you recognise that we continue to represent the mining respondents.
- 7 In light of the above, we demand that the notice be withdrawn by close of business tomorrow (2 November 2017), failing which we will invoke irregular step proceedings and seek a punitive costs award against your client.
- 8. Our clients' rights remain strictly reserved herein.

Page 2 of 3

Reg: 2015/175229121

VASCO DE OLIVERA 118C. 7. +27 11 326 2505 | F +27 11 326 2507, +27 86 850 5798 | E Info@eliveira.co.za 23C Sandton View Office Park | Conduit Street | Lyme Park | Sandton | 2198 PO Box 4 | Commention | 2080

PO Box 41 Cramerylew I 2060

Yours faithfully

Vasco de Cliveira Inc

Page 3 of 3

Reg: 2015/175221/7





From:

Tracy Erasmus <terasmus@werksmans.com> on behalf of Bernard Hotz

<BHotz@werksmans.com>

Sent:

Thursday, November 2, 2017 11:35 AM

To; Cc:

Vasco de Oliveira Manesha Govender

Subject:

ORGANISATION UNDOING TAX ABUSE // THE TRUSTEES FOR THE TIME BEING OF THE

OPTIMUM REHABILITATION TRUST AND NINE OTHERS (PRETORIA HIGH COURT CASE

NUMBER: 65616/2017) [IWOV-Litigation.FID391189]

Attachments:

E-mail to De Oliveira Inc (02 11 2017).DOCX

BREAST CANCER AWARENESS MONTH

We piedge our support to Campaigning for Cancer, an organisation that promptes and protects the rights of all those affected by cancer. 1965

> Kirjān jaudzinās Svijena





This email and its attachments are private, confidential, may be subject to legal professional privilege and are only for the use of the intended recipient.

Dear Sir,

Please see attached.

Yours faithfully



Bernard Hotz

Director

T: +27 11 535 8106 | F: +27 11 535 8606 | bhotz@werksmans.com

Werksmans Attorneys

155 5th Street, Sandton, Johannesburg, 2196
Private Bag 10015, Sandton, 2146, South Africa
T: +27 11 535 8000 | F: +27 11 535 8600 | www.werksmans.com

Please note that our banking details have not and will not change, should you have any doubt please confirm the details directly with your contact at Werksmans.

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DELIVERED BY EMAIL

Vasco De Oliveira Inc. Per e-mail: vasco@oliveira.co.za Johannesburg Office 155 5th Street Sandton 2196 South Africa Private Bag 10015 Sandton 2146 Docex 111 Sandton +27 11 535 8000 Tel

+27 11 535 8600 Fax www.werksmans.com enquiries@werksmans.com

YOUR REFERENCE: VDO/PR/Mat660

DIRECT PHONE:

OUR REFERENCE: Mr B Hotz/te/ORGA36432.2/#5176802v1

DIRECT FAX:

+27 11 535 8106 +27 11 535 8606

EMAIL ADDRESS: bhotz@werksmans.com

2 November 2017

Dear Sir

ORGANISATION UNDOING TAX ABUSE // THE TRUSTEES FOR THE TIME BEING OF THE OPTIMUM REHABILITATION TRUST AND NINE OTHERS (PRETORIA HIGH COURT CASE NUMBER: 65616/2017)

- 1 We refer to your letter of 1 November 2017 received at 15h55.
- At the outset, our client has instructed us to record, lest there be any belief to the contrary by 2 either you or your clients, that it is committed to ensuring that this matter is indeed heard on 7 and 8 December 2017. The unfounded negative aspersions which you seek liberally to cast against our client are in the circumstances inappropriate and regrettable.
- Our client is fully entitled to avail itself of the rules of court in order to ensure that the true facts are placed before the court hearing this matter. It is most certainly not the purpose of this letter to debate the difficulties with your clients' affidavits. These will be canvassed in our client's replying affidavit, which will be filed as soon as possible.

Werkamans Inc. Reg. No. 1990/007215/21 Registered Office 155 5th Street Sandton 2196 South Africa

Directors D Hertz (Chairman) C Andropoulos AL Armstrong BA Aronoff DA Arteiro T Bata 1M Becker JD Behr AR Berman NMN Bhengu Z Blieden

HGB Boshoff GT Bossr TJ Boswell MC Brönn W Brown PF Burger PG Cleiand JG Cloete PPJ Coetser C Cole-Morgan JN de Villiers R Driman S Fodor

SJ Gardiner D Gewer JA Gobetz R Gootkin ID Gouws GF Griessel J Hollesen MGH Honiball VR Hoslosky BB Hotz HC Jacobs TL Janse van Rensburg N Hapefülle

G Johanner S July J Kallmeyer A Kenny R Killioran N Kirby HA Kotze S Krige PJ Krusche P Ie Roux MM Lessing E Levenstein JS Lochner K Louw JS Lubbe

BS Mabasa PK Mabaso MPC Manaka H Masondo SM Moerane C Moraltis PM Mosebo KO Motshwane L Naldoo J Nickig 1J Niemand BPF Olivier WE Ooschulzen

S Padayachy M Pansegrouw S Passmoor AV Pillay D Pisanti T Potter BC Price AA Pyzikowski RJ Raath A Ramdhin MDF Rodrigues L Rood BR Ryfothman

V Rosenberg NL Scott TA Sibildia LK Siberman JA Smit JS Smit BM Sono CI Stevens PO Steyn J Stockwell JG Theron PW Tindle JJ Trudgeoy

DN van den Berg AA van der Merwe HA van Niekerk FJ van Tonder JP van Wyk A Vatalidis RN Wakefield DC Walker L Watson D Wegierski B Wicklins

M Wiehahn DC Williams E Wood BW Workman-Davies

JOHANNESBURG - CAPE TOWN - STELLENBOSCH - TYGER VALLEY





- 4 Our client will also not be threatened by your interpretation of its Rule 7 notice. The aforesaid notice stands and you are required to deal with it as prescribed in the rules of court. For sake of clarity, and at this stage, our client accepts that you act for the fifth and sixth respondents.
- Please note that our failure to reply to each and every allegation and submission contained in your letter of 1 November 2017 is most certainly not to be construed as an admission as to the correctness or accuracy of any such allegations and submissions, does not constitute a waiver by our client of its rights and is <u>without prejudice</u> to our client's rights, all of which remain reserved.

· Yours faithfully

Werksmans Inc THIS E-MAIL HAS BEEN ELECTRONICALLY TRANSMITTED WITH NO SIGNATURE.





IN THE HIGH COURT OF SOUTH AFRICA GAUTENG DIVISION, PRETORIA

Case no: 65616/17

In the matter between:

ORGANISATION UNDOING TAX ABUSE

Applicant

and

THE TRUSTEE(S) FOR THE TIME BEING OF THE OPTIMUM MINE REHABILITATION TRUST

First Respondent

THE TRUSTEE(S) FOR THE TIME BEING OF THE KOORNFONTEIN MINE REHABILITATION TRUST

Second Respondent

PUSHPAVENI GOVENDER

Third Respondent

TREVOR SCOTT

Fourth Respondent

OPTIMUM COAL MINE (PTY) LTD

Fifth Respondent

KOORNFONTEIN MINES (PTY) LTD

Sixth Respondent

BANK OF BARODA

Seventh Respondent

MINISTER OF MINERAL RESOURCES

Eight Respondent

RONICA RAGAVAN

Ninth Respondent

THE MASTER OF THE HIGH COURT.

Tenth Respondent

NOTICE IN TERMS OF RULE 30

TAKE NOTICE that the first and second respondents object to the applicant's Rule 7(1) notice dated 31 October 2017 and contend that it constitutes an irregular step.

TAKE NOTICE FURTHER that the grounds on which the first and second respondent object to the Rule 7(1) notice are the following:



2. The applicant has, by way of its notice dated 31 October 2017, sought to challenge the authority of the Trustee of the first and second respondent, to represent the said respondents in the present proceedings. The applicant's notice falls outside of the ambit and application of the Rule in question as it is unrelated to challenging the authority of an attorney to represent his/her client. The notice is consequently irregular and stands to be set aside on the basis of it constituting an irregular step.

TAKE NOTICE FURTHER that the first and second respondents afford the applicant ten (10) days to remedy these causes of complaint by withdrawing the notice in question and tendering the first and second applicants' costs occasioned.

DATED ON THIS THE 2nd DAY OF NOVEMBER 2017.

VASCO DE OLIVEIRA INC.

Attorneys for the First to Third, Fifth and Sixth Respondents

23C Sandton View Office Park

Conduit street

Lyme Park

Sandton

Tel: 011 326 2505

Fax: 086 650 5798

Email: vasco@oliveira.co.za

Ref: V de Oliveira/M Govender

c/o DE OLIVEIRA SERRAO

22 Knox Shaw Street

Sterrewag

Pretoria

rretoria

Tel: 012 460 4321

Fax: 012 346 8908

	THE REGISTRAR OF THE COURT PRETORIA
AND TO:	WERKSMANS ATTORNEYS

Attorneys for the Applicant

155 – 5th Street, Sandown, Sandton

2196

Tel: 011 535 8106/8445 Fax: 011 535 8545

Ref: Mr B Hotz/Mr J Gobetz/ORGA36432.2 C/O BRAZINGTON & McCONNELL

424 Hilda Street

2nd Floor, Hatfield Plaza, North Tower

Hatfield Pretoria

Tel: (012) 430 4303

Email: andrew@bsmlaw.co.za

Ref: Mr A McConnell	
	Received a copy hereof on this theday of 2017
BRAZINGTON McCONNELL RECEIVED WITHOUT PREJUDICE	
ON THIS DEDAY OF NOV 20, 1	For: Attorneys for the Applicant
R4	
W'HO	

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IN THE HIGH COURT OF SOUTH AFRICA **GAUTENG DIVISION, PRETORIA**

Case No. 65616/17

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OF THE KOORNFONTEIN MINE REHABILITATION TRUST Second Respondent

PUSHPAVENI GOVENDER

Third Respondent

TREVOR SCOTT

Fourth Respondent

OPTIMUM COAL MINE (PTY) LIMITED

Fifth Respondent

KOORNFONTEIN MINE (PTY) LIMITED

Sixth Respondent

BANK OF BARODA

Seventh Respondent

MINISTER OF MINERAL RESOURCES

Eighth Respondent

RONICA RAGAVAN

Ninth Respondent

THE MASTER OF THE HIGH COURT, PRETORIA

Tenth Respondent

FILING SHEET

Herewith filed for presentation:

1. The supplementary answering affidavit filed on behalf of the first to third and fifth to sixth respondents.

DATED AT SANDTON THIS 23RD DAY OF NOVEMBER 2017.



VASCO DE OLIVEIRA INC.

Attorneys for the First to Third, Fifth and Sixth Respondents

23C Sandton View Office Park

Conduit street

Lyme Park

Sandton

Tel: 011 326 2505

Fax: 086 650 5798

Email: vasco@oliveira.co.za

Ref: V de Oliveira/M Govender

TO: THE REGISTRAR OF THE COURT

PRETORIA

AND TO: WERKSMANS ATTORNEYS

Attorneys for the Applicant

155 - 5th Street,

Sandown,

Sandton

2196

Tel: 011 535 8106/8445

Fax: 011 535 8545

Accepted
Without Prejudice
WERKSMANS

28/11/2017

Ref: Mr B Hotz/Mr J Gobetz/ORGA36432.2

C/O BRAZINGTON &McCONNELL

424 Hilda Street

2nd Floor, Hatfield Plaza, North Tower

Hatfield

Pretoria

Tel: (012) 430 4303

Email: andrew@bsmlaw.co.za

Ref: Mr A McConnell

Received	а	сору	hereo	on	this	the_	
			day	of	Nov	embe	r 2017

For: Attorneys for the Applicant

IN THE HIGH COURT OF SOUTH AFRICA **GAUTENG DIVISION, PRETORIA**

Case No. 65616/17

In the matter between:

ORGANISATION UNDOING TAX ABUSE

Applicant

and

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PUSHPAVENI GOVENDER

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OPTIMUM COAL MINE (PTY) LIMITED

Fifth Respondent

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Sixth Respondent

BANK OF BARODA

Seventh Respondent

MINISTER OF MINERAL RESOURCES

Eighth Respondent

RONICA RAGAVAN

Ninth Respondent

THE MASTER OF THE HIGH COURT, PRETORIA

Tenth Respondent

SUPPLEMENTARY ANSWERING AFFIDAVIT FILED ON BEHALF OF THE FIRST TO THIRD AND FIFTH TO SIXTH RESPONDENTS

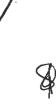
I, the undersigned,

PUSHPAVEN! UGESHNI GOVENDER

do hereby make oath and state as follows:



- I am an adult female cited in my personal capacity as the third respondent and having my place of business at Grayston Ridge Office Park, no. 144, Katherine Street, Sandown, Sandton.
- 2. The facts herein contained are within my personal knowledge, save where otherwise stated or the contrary appears from the context, and are to the best of my knowledge and belief both true and correct.
- 3. The purpose of this supplementary answering affidavit is to clarify certain aspects emanating from the answering affidavit filed on behalf of the mining respondents which were addressed in the replying affidavit filed on behalf of OUTA.
- 4. Firstly, and insofar as the Rule 35(12) inspection at the offices of the attorneys of the mining respondents was concerned, legible copies of the original Cabanga reports (referred to as "PG10" and "PG11" in my answering affidavit) are annexed hereto marked "A" and "B" respectively. Although the figures mentioned in the answering affidavit are correct, the documents attached to the answering affidavit and produced at the inspection were preliminary reports only, rather than the correct final report featuring the figures stated in the affidavit text itself. This was due to confusion at the time between my office and the office of the attorneys for the mining respondents. The failure to produce the original reports was nothing more than an administrative oversight.



- 15. It is notable that Werksmans did not raise the issue with Mr de Oliveira at the time of the inspection by referring to any alleged discrepancy or at any point until receipt of the replying affidavit. A simple enquiry would have been sufficient to clarify matters. OUTA has not proffered an explanation for why it could not have followed such a process. No adverse inference is therefore justified.
 - Secondly, I admit that there was an error in my answering affidavit insofar as it was alleged that the Koornfontein Trust was required to keep no more than R128 million for financial provision purposes. While Cabanga's first calculation for financial provision purposes was in the region of R135 million, it subsequently arrived at a revised calculation of R127 776 879.29. I annex hereto marked "C" correspondence from Cabanga dated 18 August 2017 wherein this aspect is dealt with more thoroughly.
 - Lastly, I enclose herewith marked "D" a copy of the Cabanga Rehabilitation Program presentation prepared by Mr. K van Rooyen of Cabanga.
 - 8. Wherefore I pray that the application be dismissed with the costs including the costs occasioned by the employment of two counsel.



DEPONENT

THUS SIGNED AND SWORN TO at Sand to on this and day of which the deponent having acknowledged that the deponent knows and understands the contents of this affidavit, that the deponent has no objection to taking the prescribed oath, that the oath which the deponent has taken in respect thereof is binding on the deponent's conscience, and that the contents of this affidavit are both true and correct.

COMMISSIONER OF OATHS

NAME:

ABRIE DU PLESSIS
COMMISSIONER OF OATHS
OFFICIO PRACTICING ATTORNEY R.S.A.
9TH FLOOR, 209 SMIT STREET

ADDRESS:

BRA4MFONTEIN, JHB 2001 TEL. (011) 400-5471

DESIGNATION:

ABRIE TO PLESSIS

COMMISSIONER OF OATHS

X OFFICIO PRACTICING ATTORNEY R.S.A.

9TH FLOOR, 209 SMIT STREET

BRAAMFONTEIN, JHB 2001

TEL. (011) 400-5171

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Telephone: 427 M 794 7534 Fax 127 G 794 6946 E-mail a Colonica approximation of the colon

Oakbay Pty Ltd

FINANCIAL PROVISION & CLOSURE COST ASSESSMENT

Optimum colliery Pty Ltd OT 6/2/2/132

March 2017

Cabanga Concepts CC • Reg No: CK2008/024543723 • VAT No: 4740226928

Unit 5 & 6 Beyers Office Park, Bosbok rd Randparkridge
Postnet suite 470, P/bag X3 Northridging 2162. www.cabangaenvironmental.co.za
Members: J Barrett, K van Rooyen, OM Senosi, B Kasl



1 INTRODUCTION

Optimum's Mining Right is held by Optimum Coal Mine (Pty) Ltd which is owned by Oakbay resources(Pty) ltd. Optimum which has a supply agreement with Eskom also exports coal via the Richards bay Coal terminal. The mining complex is straddles the Middleburg-Hendrina road and is approximately 20km north of the town of Hendrina. This mine is located within the Steve Tshwete Local Municipality and Nkangala District Municipality

The quantum of pecuniary provision is based on the requirements outlined in the approved Environmental Management Programme Report (EMPR) as well as the Department of Mineral Resources' (DMR) guidelines, and reflects the provision necessary to finalise the rehabilitation at the mine assuming closure.

It is important to note that the requirements for financial provision are regulated under the National Environmental Management Act, Act 107 of 1998. As no new guidelines have been published in terms of the NEMA regulations, the original DMR guidelines have been utilised.

2 GENERAL INFORMATION

Name of Company:	Oakbay Resources
Name of Mine:	Optimum Colliery
Postal Address:	Private Bag X402; Blinkpan;2250
Telephone:	
Fax Number:	
Responsible Persons:	George vd Merwe
C-mail:	Georgev@optimumcoal.com

This mine is predominantly a Dragline opencast operation with underground mining occurring to the south east. Due to the mine being placed in business rescue in the past, the rehabilitation has fallen behind. It is Optimum's drive to catch this backlog up within the next 6 years. The Mining area layout is depicted in Figure 1



3 DMR FINANCIAL PROVISION

TABLE 1: DMR Financial Provision Guideline

Step	DMR Guideline
l: Mineral mined and salcable by-products	Tables B,12, B,13 and B.14
COAL	
A/B: Primary risk class: CLASS A (HIGH)	Table B.12 or B.13
3: Environmental sensitivity of mine area:	Table B4
Area of Medium sensitivity - See Appendix A	
i: For Class A or B mining operations	
"Rules-based" approach was used.	
4.1: Level of information available: EXTENSIVE	Section 1.4.1
4.1; Level of information available: EXTENSIVE 4.2: Identify closure components	Section 1.4.2 & Table B.
See Appendix b for a flat of components approximation	·
4.3: Identify unit rates for closure components	Table B.6
See Appendix C for the unit rates for each relevant component	
4.4: Identify and apply weighting factors	Table B.7 & B.8
Weighting Factor 1: Nature of the terrain / accessibility is 1.00	
Weighting Factor 2: Proximity to urban area is 1.05, peri-urba	ın
4.5: Identify areas of disturbance; SURVEY PLAN 1	1 600 500 50
4.5: Identify areas of disturbance: SURVEY PLAN 1 4.6: Identify closure casts from specialist studies	Table B.9
Class A Mine - risk of water pollution	
4.7: Calculate clasure costs: APPENDIX D	Table B.10
5: For Class C Mining operations: N/A - Class A mine 5.1: Identify minimum rates per hectare for closure	
	Table B.11
5 2. Determine overall size of the mine (ha)	
5.3: Calculate closure cost OR follow "rules-based" approach 6: Independent review by competent person	
And readow by completent person	_



4 CONCLUDING REMARKS

The site has brick, steel, concrete-reinforced, mobile buildings and structures on site. Mobile infrastructure will either be moved to new operations or sold / donated to interested parties. Other buildings that may be useful to future land owners / users will be retained on site. The remaining buildings will be destroyed with scrap material sold where possible and concrete waste utilised in backfilling where possible.

Sections of road no longer required by the mine or potential future land owner / user will be ripped to 150mm and rebabilitated.

The Surface will be monitored for subsidence and these will be repaired as soon as they are recorded. This repair will entail the grading closed of all surface cracks

The general surface rehabilitation includes the general clean up and removal of waste material from site, as well as grassing the denuded areas.

Maintenance and after is required for at least 2 - 3 years post closure. This will focus on fertilizer program and revegetation. Erosion and alien invasive should also be monitored. Water monitoring will continue for a period of 2-3 years after closure and if issues are observed, actions will be taken and monitoring continued for another 2-3 years.

5 DECLARATION

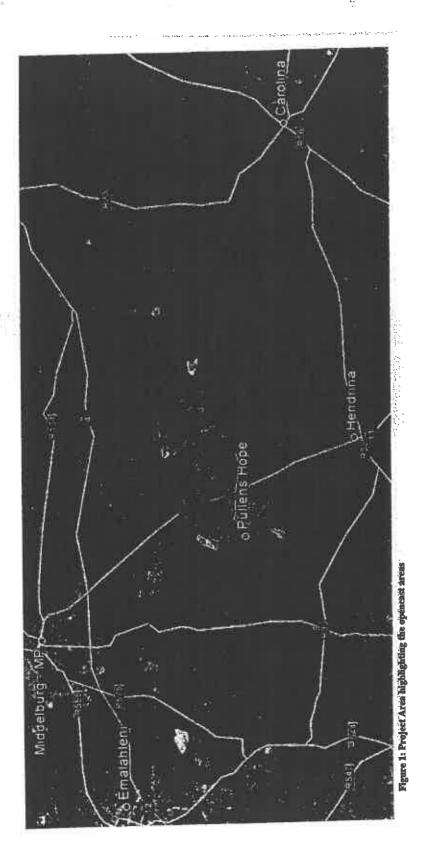
I Kenneth Carl van Rooyen, hereby declare that I am currently registered as a Professional Natural Scientist in terms of Section 11 of the Natural and Scientific Professions Act, 1993 and have been involved in environmental and management for approximately 30 years. I am a member of an independent environmental consulting company, Cabanga Environmental. Cabanga is not a subsidiary, legally or financially of Tegeta Exploration & resources (Pty) Ltd or any of its subsidiaries.

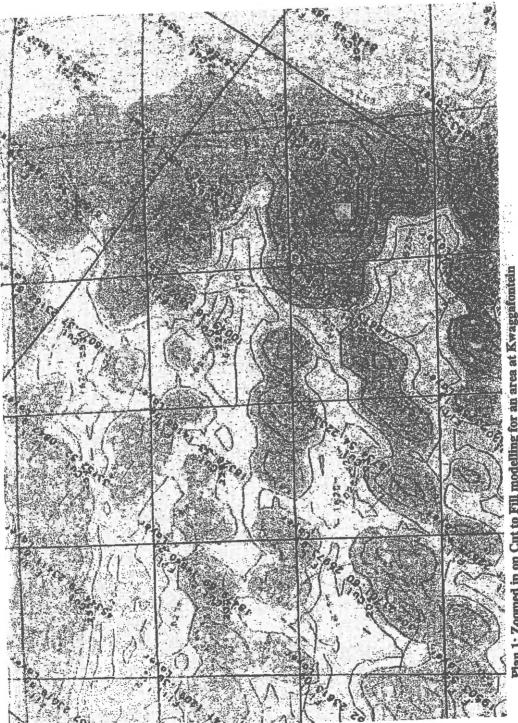
With respect to the Optimum liability calculations, I have personally inspected the operations and reviewed its documentation provided to me by the mine, in conjunction with its approved EMPR.

Finally, the quantum of pecuniary provisions indicated in this document is to the best of my knowledge, a true reflection of the rehabilitation costs for the financial year ending February 2017









Plan 1: Zoomed in on Cut to Fill modelling for an area at Kwaggafontein

Sensitivita	Biophysical		The area is inscribible to drawlependol
	Larguly disturbed from unituals faint Lintheon amenal found & Horn cromkin Except plant special soldent Unitarianted developations		The area is not a major source of insome to the local communities
	Water resources disturbed and impaired	ity of the	The arearthis at helispood sconding development where at degree of income for the
	Max activities de constitues and flore	LINE FOCAL COUNTRICIES HIS IN USE IN COLUMN OF COLUMN PARTIES OF C	of Control to the Control of the Con
MEDIUM	Development its a milk of districted and undistricted upon, without some	Peri-urban area with density aligned with a development framework	The occupanie activity total abase of the sected by inditerininate diverpment
		Area developed with established infrastructure	The second of th
		The local commutates are in close proximity of the mining operation (on the	The local communities derive the bulk of their income directly from the area
	Largely in natural state	benedary of the miss)	and the second s
	Vibrant fama & flore, with species diversity and abundance marching the nature of	Densely inhabited area (urban / dense settlements)	ACTIVITY IS TREASURE to developing and votate companies are votated activities.
мон	the sea Wall olumed development	Developed and well-established communities	
	Ages forms part of an overall ecological regime of conservation value	-	
	Water resources emplate their original state		



	3	The state of the state of
Companent No.	XES.	OX.
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B美元,《《···································	YES	ON.
Market Commission and Commission of the electrified failway lines	XES	NO
A SECTION OF A SEC	YES	ON
Section of the Comment of the Commen	YES	ON
Section 1 Control of the section of	XES	NO
oils	YES	ON
sits and evaporati	SES.	ON
For the state of t	YES	NO
Sept.	SEL	NO
Section (1988) Consequent infrares chapshibition, including grassing of all demaded areas	YES	ON.
Vol. 2. Leaf Control of Control o	NES.	NO
	Y.BS.	NO
18.2. Control of the	YES	NO
14 A. C. C. S. years of thinketsance and afficience	YES	NO
The second of th		

A

Companent I	Dismantling of prelated structures	rocessing plant and (including overland nd power lines)
	Unit	Master Rate
Quantity	m ³	13.84
1/04/1/2/90	Multiplication factor	
Risk Class (A, B, C)	1.00	
RISK CIASS (A, D, C)	Environmental Sc	ensitivity (H, M or L)

Component 2(A)	Demolition of steel buildings and structures		
THE WASHINGTON TO THE PARTY OF	Unit Master Rate		
Quantity	m ²	192.82	
7,000,000	Multiplication factor		
Risk Class (A, B, C)	1.00		
KISE CIASS (73, 21, 9)	Environmental S	ensitivity (H, M or L)	

Component 2(B)	Demolition of retu	nforced concrete 1-structures
	Unit	Master Rate
Quantity	m ²	284.16
	Multiplicat	ion factor
Risk Class (A, B, C)	1.0	0
KISK CIESS (13) D) O)	Environmental Sens	itivity (H, M or L)

N. A. Bergins		of scress roads
Component 3	Vnit	Master Rate
Sea 2090.00	m²	34.51
		ation factor
Risk Class (A, B, C)	1.00 Environmental Sensitivity (H,	
		197

Component 4(A)	Demolition an	d rehabilitation of railway lines
Additional and the second	Unit	Master Rate
Quantity 45500	0 m	334.90
The state of the s	Multiplication factor	
Risk Class (A, B, C)	1.00	
710th	Environmental Sensitivity (H, M	

Component 4(B)		chabilitation of non- railway lines
Quantity	Unit	Master Rate
Quantity 0.00	m	182.67
The state of the s	Multipli	cation factor
Risk Class (A, B, C)	1.00 Environmental Sensitivity (H, M or I	
Kisk Ciase (1-1-1-1		

Company of 5	Demolition of hous	ing and facilities
Champanical	Unit	Master Rate
Quantity		



101479.00	m²	385.64
	Multiplica	tion factor
Risk Class (A, B, C)		00
	Environmental Sen	sitivity (H, M or L)

	Opencast rehabilitation	including fir	ial voids and	ramps
Component 6	Unit		[VI MSUC	1 Kate
Quantity 1067:00	Ha		2021	59.28
1003800	Multi	plication fact	or	4.00
	Δ	0.04		1,00
D1 1. Olem	<u>^</u>	0.04	0.52	1.00
Risk Class	C	0.04		1.00
	Low		Medium	High
		Environme	ntal Sensitiv	ity

Company 7	Sealing of sparts, adits and inclines	
Constitut	Unit	Master Rate
Real Control of the C	m ²	103.52
The second second	Multipli	cation factor
Risk Class (A, B, C)	1.00 Environmental Sensitivity (H, M or L)	
Right Camps (14) = 7		

Component 8(A)	Rehabilitation of overburden & spoil	
Quantity	Unit	Master Rate 134772.85
24 PM 10	Multiplica	tion factor
Risk Class (A, B, C)	1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1	00 sitivity (H, M or L)

Companent 8(B)	deposits and evap	f processing waste oration ponds (basic, ucing waste)
(Chantily	Unit	Master Rate
7/11	Ha	167857.15
	Multiplication factor 1,00	
Risk Class (A, B, C)		
NIAE CHASE (A, B, C)	Environmental Se	ensitivity (H, M or L)

Component 8(C)	Rehabilitation of processing waste dep ponds (acidic, metal-ric	osits and evaporation waste)	JIII.
	Unit	Master Kate	
Quantity 79.00	Ha_	487417.05	
	Multiplication fac	0.80	1.00
Pi-1-Class	A 0.55	0.76	0.90
Risk Class	C 0.51	0.66	0.81
	Low Environm	Medium High ental Sensitivity	

Component 9	Rehabilitation o	f subsided areas
Quantity	Unit	Master Rate
13.00	Ha	112851.96
The second secon		



	Multiplication factor
Risk Class (A, B, C)	
	Environmental Sensitivity (H, M or L)

Component 10	General surface rehabilitation, including grassing of all denuded areas	
Quantity	Unit	Master Rate
285.00	Ha	106762.83
to it will be to be a second	Multiplication factor	
Risk Class (A, B, C)	1.00	
Mar Chab (11 D)	Environmental Sensitivity (H, M or L)	

Component 11	River diversions		
Ouantity	Unit	Master Rate	
S Search CA	DO Ha	106762.83	
34.34.3	Multiplication factor		
Risk Class (A, B, C)		1.00	
Misk Class (14 2 1 47	Environmental Se	Environmental Sensitivity (H, M or L)	

F	ncing
Unit	Master Rate
m	121.79
TATUTUDIA	cation factor
	1700
Environmental S	ensitivity (H, M or L)
֡	m Multipli

	Water management (S polluted water and including	eparating clean an managing the imp ng treatment, when	required)	Idwaller
Output N	Unit		Maste	r Rate
Quantity 3305	ico Ha			4.23
3337. 47. 10. 70. 70.	0.23	Multiplication fact	tor	
	T	0.60	0.67	1.00
Districtions	<u> </u>	0.41	0.60	
Risk Class	<u>B</u>	0.17	0.25	0.33
	1	ow	Medium	High
		Environme	ntal Sensitiv	ity

		of maintenance and aftercare	
Ouganity	Unit	Master Rate	
3451400	Ha	14207.98	
	Multiplication factor		
Risk Class (A, B, C)		1.00	
Risk Class (14 DI -)	Environmental Se	ensitivity (H, M or L)	

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Sing 4.5 Sing 4.5	Part			S Emmonments cannot be	ments resort for day once opening	C	6	E-A'B'C'D
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Tegeta (Pty) Ltd

FINANCIAL PROVISION & CLOSURE COST ASSESSMENT

Koornfontein Mine MP30/5/1/2/3/2/1/1(56) EM

March 2017

Cabanga Concepts CC - Reg No: CK2006/024543/23 - VAT No: 4740226628

Unit 5 & 6 Beyers Office Park, Bosbok rd Randparkridge
Postnet suite 470, P/bag X3 Northridging 2162. www.cabangaenvironmental.co.za
Members: J Barrett, K van Rooyen, OM Senosi, B Kasl



INTRODUCTION 1

Cabanga Concepts were appointed by Koornfontein to assess the quantum for financial provision for the Brakfontein Mine near the town of Delmas, Mpumalanga Province,

The quantum of pecuniary provision is based on the requirements outlined in the approved Environmental Management Programme Report (EMPR) as well as the Department of Mineral Resources' (DMR) guidelines, and reflects the provision necessary to finalise the rehabilitation at the mine assuming closure.

It is important to note that the requirements for financial provision are regulated under the National Environmental Management Act, Act 107 of 1998. As no new guidelines have been published in terms of the NEMA regulations, the original DMR guidelines have been utilised.

GENERAL INFORMATION

GENERAL INFORMATI Name of Company:	Oakbay Resources
Name of Mine:	Koornfontein Mines Pty Ltd
Postal Address:	Private Bag X402; Blinkpan;2250
Telephone:	
Fax Number:	
Responsible Persons:	George vd Merwe
K-meil:	Georgev@optimumcoal.com

Koornfontein mine is located adjacent to the Komati powerstation along the R542. The mine is highlighted in yellow on Figure . This mine is predominantly an underground mine with some small reminants of opencast mining. Although the mine has been mainly a high extraction underground mine, the collapse of pillars have only reflected on the surface at a few small localised areas.



3 DMR FINANCIAL PROVISION

TABLE 1: DMR Financial Provision Guideline

The state of the s	Tables B.12, B.13 and
: Mineral mined and saleable by products	B. 4
COAL	
A/B: Primary risk class: CLASS A (HIGH)	Table B.12 or B.13
: Environmental sensitivity of mine area:	Table B4
Area of Medium sensitivity - See Appendix A	
: For Class A or B mining operations	
'Rules-based'' approach was used.	
4.1: Level of information available: EXTENSIVE	Section 1.4.1
'Ruies-based' approach was lacu. 1.1: Level of information available: EXTENSIVE 1.2: Identify closure components	Section 1.4.2 & Table B.
See Appendix B for a list of components applicable to the oper	ation.
4.3: Identify unit rates for closure components	Table B.6
Coo Appendix I: Int tile fille tares for forms	L
4.4: Identify and apply weighting factors	Table B.7 & B.8
Weighting Factor 1: Nature of the terrain / accessibility is 1.00	0,
Provincty to urban area is 1.05, peri-urb	
4,5; Identify areas of disturbance; SURVEY PLAN 1	
Weighting Factor 2: 1 to annual 4.5; Identify areas of disturbance: SURVEY PLAN 1 4.6; Identify closure costs from specialist studies	Table B.9
or A Mine wick of water nollution	
4.7: Calculate closure costs: APPENDIX D	Table B.10
5: For Class C Mining operations: N/A - Class A mine	- Indiana and a second
4.7: Calculate closure costs: APPENDIX D 5: For Class C Mining operations: N/A - Class A mine 5.1: Identify minimum rates per hectare for closure	Table B.11
5.2: Determine overall size of the mine (ha)	
5.3: Calculate closure cost OR follow "rules-based" approach	1
6: Independent review by competent person	



CONCLUDING REMARKS

The site has brick, steel, concrete-reinforced and mobile buildings and structures on site. Mobile infrastructure will either be moved to new operations or sold / donated to interested parties. Other buildings that may be useful to future land owners / users will be retained on site. The remaining buildings will be destroyed with scrap material sold where possible and concrete waste utilised in backfilling where possible.

Sections of road no longer required by the mine or potential fature land owner / user will be ripped to 150mm and rehabilitated.

The Surface will be monitored for subsidence and these will be repaired as soon as they are recorded. This repair will entail the gradding closed of all surface cracks

The general surface rehabilitation includes the general clean up and removal of waste material from site, as well as grassing the denuded areas.

Maintenance and after is required for at least 2 - 3 years post closure. This will focus on fertilizer program and revegetation. Erosion and alien invasive should also be monitored. Water monitoring will continue for a period of 2-3 years after closure and if issues are observed, actions will be taken and monitoring continued for another 2-3 years.

DECLARATION I Kenneth Carl van Rooyen, hereby declare that I am currently registered as a Professional Natural Scientist in terms of Section 11 of the Natural and Scientific Professions Act, 1993 and have been involved in environmental and management for approximately 30 years.

I am a member of an independent environmental consulting company, Cabanga Environmental. Cabanga is not a subsidiary, legally or financially of Tegeta Exploration & resources (Pty) Ltd or any of its subsidiaries.

I have personally inspected the operations and reviewed its documentation provided to me by the mine, in conjunction with its approved EMPR.

The quantum of pecuniary provisions indicated in this document is to the best of my knowledge, a true reflection of the rehabilitation costs for the financial year ending February 2017





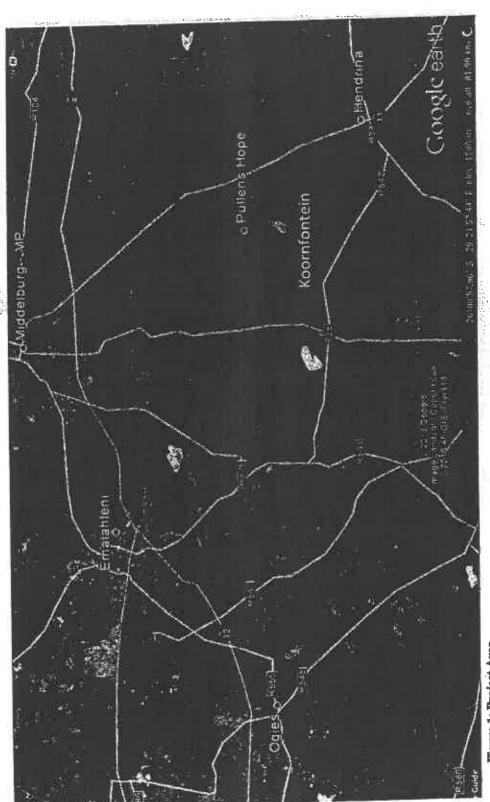
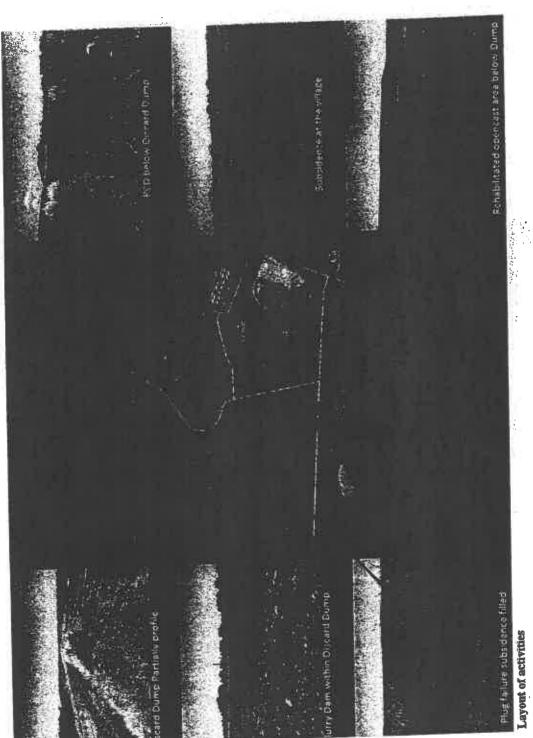


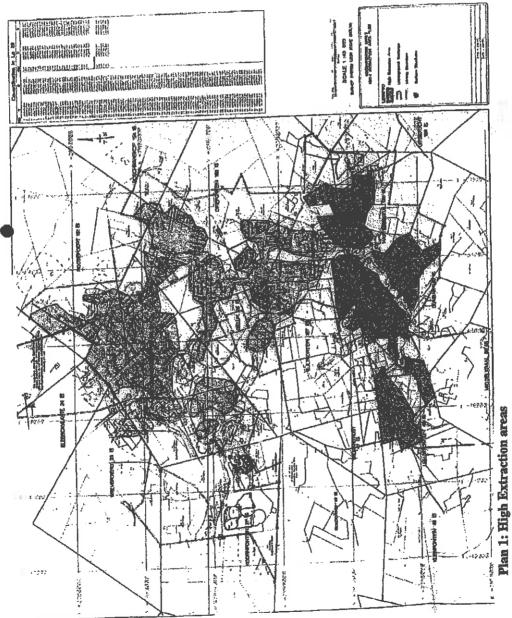
Figure 1: Project Area





Plan 1: Infrastructure layout plan







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(K)) 表現的 (A) Denotition and substitution of electrical analysis and electrical analys	YES	ON
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le deposits and evaporation ponds (actor, metal-non waste)	200	CN
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	YES	NO
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Quantity

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Component 2(A)	Demolition of steel buildings and structures Unit Master Rate	
Quantity "		
Committy	m²	192.82
	Multiplication factor	
Risk Class (A, B, C)	1.00	
Mak Cidos (11) 21 0)	Buvironmental Se	ensitivity (H, M or L)

Component 2(B)	Demolition of reinforced concrete buildings and structures	
r = 4 . Exercises construction	Unit	Master Rate
	m ²	284.16
	Multiplic	ation factor
Risk Class (A, B, C)		.00
Risk Chair (1-1-7-7	Environmental Ser	sitivity (H, M or L)

	·	
Commonent 3	Rehabilitation	n of access roads
Will Will Street Water	Unit	Master Rate
Quantity	m ²	34.51
	Multipli	cation factor
Risk Class (A, B, C)		1.00
RISK CIRSS (A, D, C)	Environmental Se	ensitivity (H, M or L)

Component 4(A)	Demolition and reliabilization of electrified railway lines	
Changery	Unit	Master Rate
2386.00	m	334.90
- James State At 1995	Multiplication factor	
Risk Class (A, B, C)	1.00	
Kisk Ciuse (2.5 = 1 = 7	Environmental Sensitivity (H, M or L)	

Component 4(B)	Demolition and rehabilitation of non- electrified railway lines Unit Master Rate	
Quantity		
0.00	m	182,67
50 Sec. 10 Sec	Multiplication factor	
Risk Class (A, B, C)	1.00 Environmental Sensitivity (H, M or L)	
May Cines (1-1-)		

Component 5	Demolition of housing and facilities
NAME OF A PARTY OF A P	Unit Master Rate
Quantity	



2832.45	m²	385.64
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Risk Class (A, B, C)		00
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Component 6: Quantity	Unit Ha		2021	L Kane
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Risk Class	A B	0.04	0.52	1.00
Risk Olius	C Low	0,04	0.52 Medium	High
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Guantity	Unit	Master Rate
Quantity \$4.00	m ²	103.52
	Multiplication factor	
Risk Class (A, B, C)		.00
I Can City	Environmental Se	nsitivity (H, M or L)

Commission S(A)	Rehabilitation of o	verburden & spoils
Quantity	. Unit	Master Rate 134772.85
20.00	Ha Multiplica	tion factor
Risk Class (A, B, C)		00
	Environmental Ser	sitivity (H, M or L)

Component S(B)	Rehabilitation of deposits and evapo salt-produ	ration ponds (basic; cing waste)
Committee of Falls and Artigly (in	Unit	Master Rate
Comments of the	Ha	167857.15
	Multiplic	ation factor
Risk Class (A, B, C)		.00
Kirk Chos (11, D, C)	Environmental Sensitivity (H, M or	

Component 8(C)	Rehabilitation of processing waste ponds (acidic, metal-	deposits and evaporation rich waste)
Quantity	Unit	Master Rate 487417.05
157.6	Multiplication	59 0.80 1.00
Risk Class	B	0.55 0.76 0.90 0.51 0.66 0.81
	Low	Medium High nmental Sensitivity

Component 9	Rehabilitation of	f subsided areas
D. Alba	Unit	Master Rate
Quantity 1.23	На	112851.96

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	The state of the s
	Multiplication factor
Risk Class (A, B, C)	1.00
RISK CHASE (A, D, C)	Environmental Sensitivity (H, M or L)
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Component 10	General surface regrassing of a	habilitation, including	
Quantity	Unit	Master Rate	
	Ha	106762.83	
	Multiplication factor		
Risk Class (A, B, C)	1.00		
RISK Class (A, B, C)	Bnvironmental Sensitivity (H, M or L		

Component 11	River	diversions:
Quantity	Unit	Master Rate
72.46	Ha	106762.83
- Fig. September 1997	Multipli	cation factor
Risk Class (A, B, C)		1,00
	Environmental Se	ensitivity (H, M or L)

Communent 12	Ren	ding
Quantity : The Transport of the	Unit	Master Rate
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	Un		Maste	
Quantity	Н		4059	4,23
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	<u>^</u>	0.41	0.60	0,67
Risk Class	В	0.17	0.25	0.33
	C		Medium	High
	 		ntal Sensitiv	ity

	2 to 3 years of aft	maintenance and ercare	
Overtity	Unit	Master Rate	
Vilantity 413 32	Ha	14207.98	
NAME OF TAXABLE PARTIES	Multipli	cation factor	
Risk Class (A, B, C)		1.00	
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Telephone: +27 () 794 7534

Fax: (27 11794 6946

E-mail: info@cabangaenvironmental.co.za

Attention: George van der Merwe

Optimum Coal and Koomfontein Coal Mine

18 August 2017

VARIANCE IN THE ASSESSMENT OF FINANCIAL PROVISION BETWEEN DIGBY WELLS AND CABANGA ENVIRONMENT

Following the recent technical review, completed by Digby Wells Environmental; Cabanga has re-assessed the claculations for Financial Provision at the Koornfontein and Optimum Coal Mines.

Where errors in the formulas were highlighted, these have been attended to and corrected. Furthe to this, the DMR's Guideline Document for the Evaluation of the Quantum of Closure-Related Financial Provision, dated January 2005 was consulted and the calculations reassessed:

- Preliminary & General has been re-assessed at 6%
 - The VAT has been re-calculated the formula corrected

Further to this Engineering Specifications & Procurement have been removed, as these are not specifically required by the Guidelines. The recommended Specialist Studies have been detailed and Itemised where applicable.

In light of the above, the Digby Wells calculation for Koomfontein can be reduced to R128,436,504.82 which is comparable to Cabanga's revised calculation of R127,776,879.29 (Incl.).

Table 1: DMR Assessment: Cabanga vs. Digby Wells (Koomfontein)

Cabanga Enviro	nmental		
Sum of DMR 1-15 (1.0)		Sum of DMR 1-15 (1.0)	R 96 624 014,34
P&G 6% >R 100,000,000	R 5 797 499.06	P&G 6% >R 100,000,000	R 5 797 440.86
	R 9 662 498.43	Contingencies 10%	R 10 242 145,52
Confingencies 10%	R 15 691 897.46		R 15 772 904.10
VAT 14% Grand Total (Incl.)	K 13 07 1 077.40	Grand Total (Incl.)	R 128 436 504.82

The same is true for Optimum:

Table 2: DMR Assessment: Cabanga vs. Digby Wells (Optimum)

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R 58 875 525.63	P&G 6% >R 100,000,000	R 67 016 693.82
		R 981 258 760.45 Sum of DMR 1-15 (1.0) R 58 875 525.63 P&G 6% >R 100,000,000

Unit 5 & 6 Beyers Office Park, Bosbok Road, Bondpark Ridge Posiner Sinte 470, Private Bag X3, Northriding, 2162 • www.cabangaenvronmentaricoiza Members: « Cilvan Booyen • Bilkadi • Ul Ferriard • OM Sanosi



Cabanga Concepts CC • Reg No. CK20J6/024543/23 • VAT No. 4740225628



Table 3: Revised Calculation (Koorfontein)

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We trust you find the above in order, and that this clarifies any discrepancies highlighted.

Thank you and regards,

K.C.van Rooyen

(Pr.Sci.Nat)

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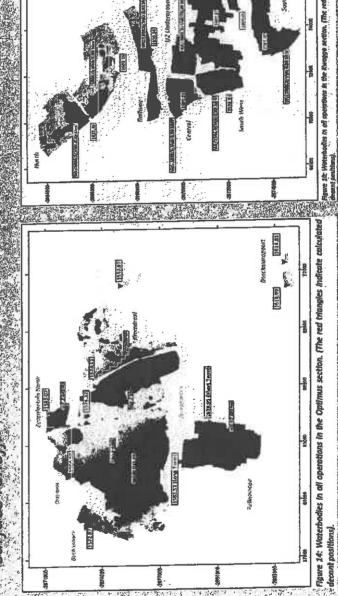
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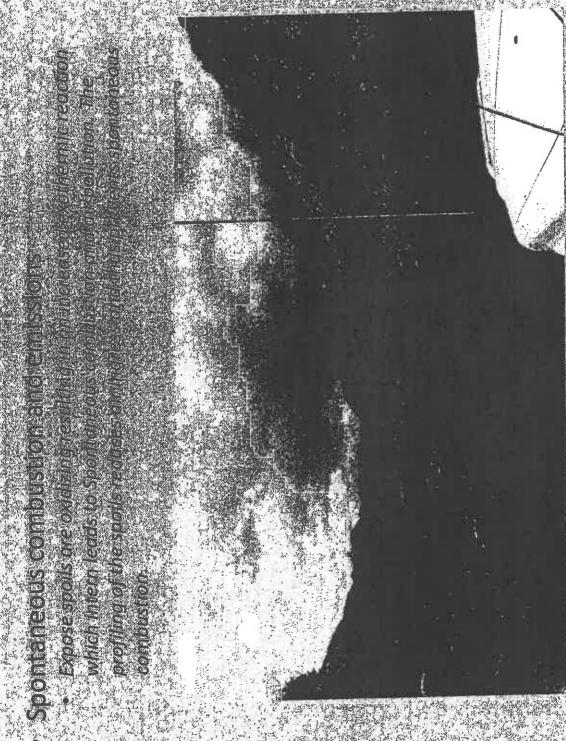
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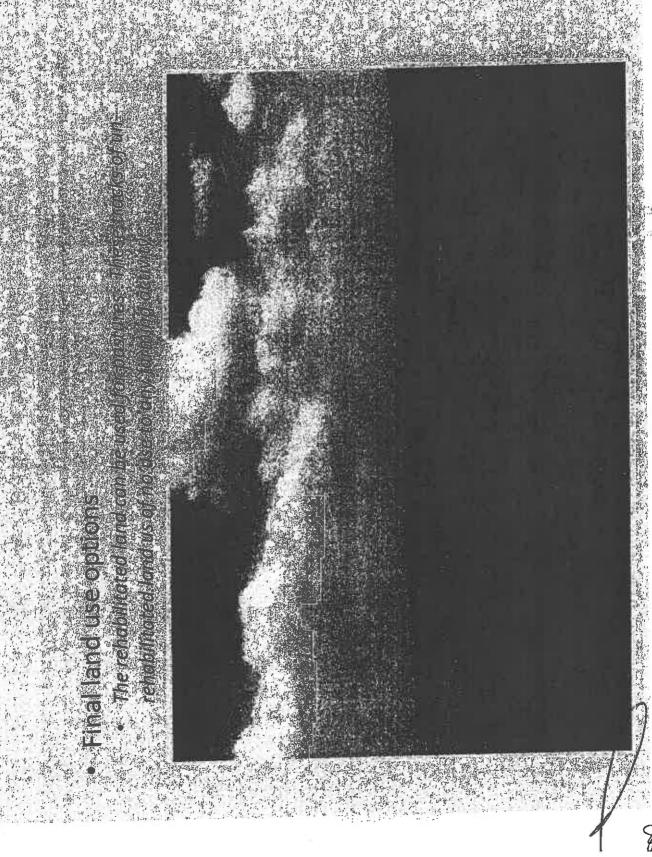


Figure 8: Opencast pit surface elevations showing places where runoff water may accumulate in local

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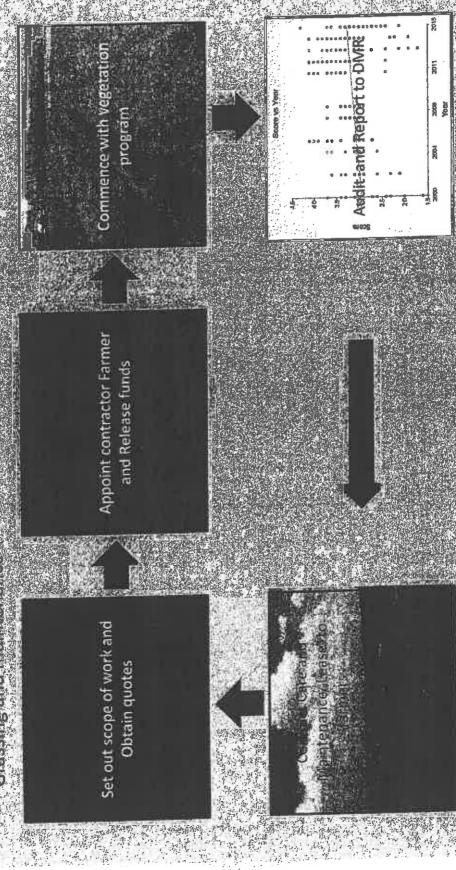
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IN THE HIGH COURT OF SOUTH AFRICA GAUTENG DIVISION, PRETORIA

CASE NO: 65616/17

In the matter between:

THE TRUSTEE(S) FOR THE TIME BEING OF THE OPTIMUM MINE REHABILITATION TRUST

THE TRUSTEE(S) FOR THE TIME BEING OF THE KOORNFONTEIN MINE REHABILITATION TRUST

And

ORGANISATION UNDOING TAX ABUSE

Second Applicant

Respondent

In re:

ORGANISATION UNDOING TAX ABUSE

Applicant

and

THE TRUSTEE(S) FOR THE TIME BEING OF THE OPTIMUM MINE REHABILITATION TRUST

First Respondent

THE TRUSTEE(S) FOR THE TIME BEING OF THE KOORNFONTEIN MINE REHABILITATION TRUST

Second Respondent

PUSHPAVENI GOVENDER

Third Respondent

Fourth Respondent

OPTIMUM COAL MINE (PTY) LTD

Fifth Respondent
Sixth Respondent

KOORNFONTEIN MINES (PTY) LTD

•

BANK OF BARODA

TREVOR SCOTT

Seventh Respondent

MINISTER OF MINERAL RESOURCES

Eighth Respondent

RONICA RAGAVAN

Ninth Respondent

THE MASTER OF THE HIGH COURT, PRETORIA

Tenth Respondent

FILING SHEET

1 PRESENTED FOR FILING HEREWITH – ANSWERING AFFIDAVIT TO RULE 30(2) APPLICATION

DATED at SANDTON on this _____day of DECEMBER 201

WERKSMANS ATTORNEYS

Respondent's Attorneys

155 - 5th Street Sandown, Sandton,

2196

Johannesburg

T: +27 (0)11 535 8106 / +27 (0)11 535 8445

F +27 (0)11 535 8545

Email: bhotz@werksmans.com / jgobetz@werksmans.com

Ref: Mr B Hotz/Mr J Gobetz/ORGA36432.2

C/O BRAZINGTON & McCONNELL ATTORNEYS

424 Hilda Street

2nd Floor, Hatfield Plaza, North Tower

Hatfield Pretoria

Tel: (012) 430 4303

e-mail: andrew@bsmlaw.co.za

Ref: Mr A McConnell

TO:

THE REGISTRAR OF THE HIGH COURT (GAUTENG DIVISION, PRETORIA)

AND TO:

VASCO DE OLIVEIRA ATTORNEYS

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