



FOURTH APPLICANTS' REPLYING AFFIDAVIT

IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, PRETORIA

COPY

CASE NO: 49616/13

In the matter between:

LE GRELLIER, GAIL	First Applicant
BOTHA, RENIER	Second Applicant
LEPAR, DAVID	Third Applicant
SMITH, CAREL	Fourth Applicant

and

LUKHIMANE NO	First Respondent
AFFIRM MARKETING SERVICES (PTY) LTD	Second Respondent
BEEFMASTER (PTY) LTD	Third Respondent
H BIRKENMEYER (PTY) LTD	Fourth Respondent
DR GEBKA, HELING & KLUG INC	Fifth Respondent
DR RITZ INC	Sixth Respondent
ETERNAL FLAME INVESTMENTS (PTY) LTD	Seventh Respondent
EXPECTRA 89 (PTY) LTD	Eighth Respondent
HESTICO (PTY) LTD	Ninth Respondent
HETTAS CC	Tenth Respondent
CONVISTA CONSULTING (PTY) LTD	Eleventh Respondent
IDI TECHNOLOGY SOLUTIONS (PTY) LTD	Twelfth Respondent
PROGRESSIVE PACKAGING (PTY) LTD	Thirteenth Respondent
WORLD CARGO SERVICES (PTY) LTD	Fourteenth Respondent
CONDUIT RISK AND INSURANCE HOLDINGS (PTY) LTD	Fifteenth Respondent

DELL COMPUTERS (PTY) LTD	Sixteenth Respondent
THE BRAND UNION (PTY) LTD	Seventeenth Respondent
ULTRA LITHO (PTY) LTD	Eighteenth Respondent
NEWSCLIP MEDIA MONITORING (PTY) LTD	Nineteenth Respondent
MIXTEC CC	Twentieth Respondent
PETROMARK (PTY) LTD	Twenty-First Respondent
DEHTRQ (PTY) LTD	Twenty-Second Respondent
WAVELENGTHS 32 (PTY) LTD	Twenty-Third Respondent
PANORAMIC COMPONENTS (PTY) LTD	Twenty-Fourth Respondent
CHICKEN MANAGEMENT SERVICES (PTY) LTD	Twenty-Fifth Respondent
HANSEN TRANSMISSIONS (PTY) LTD	Twenty-Sixth Respondent
ENABLEMED (PTY) LTD	Twenty-Seventh Respondent
PRIMESERV GROUP (PTY) LTD	Twenty-Eighth Respondent
THE CHURCH OF JESUS CHRIST OF THE LATTER-DAY SAINTS	Twenty-Ninth Respondent
JOHANNESBURG CHILD WELFARE SOCIETY	Thirtieth Respondent
THE EMPLOYEES OF THE 2 nd – 30 th RESPONDENTS WHO ARE MEMBERS OF THE IF UMBRELLA PROVIDENT FUND AND THE IF UMBRELLA PENSION FUND	Thirty-First Respondent
IF UMBRELLA PROVIDENT FUND	Thirty-Second Respondent
IF UMBRELLA PENSION FUND	Thirty-Third Respondent
TONY KAMIONSKY	Thirty-Fourth Respondent

FILING SHEET

The Fourth Applicant's Replying Affidavit presented for filing by Norton Rose Fulbright.

SIGNED AT SANDTON ON THIS 20th DAY OF JANUARY 2016



NORTON ROSE FULBRIGHT

Fourth Applicant's Attorneys
15 Alice Lane
Sandton
Ref: ARC127 Mr MJ Hart
**c/o FRIEDLAND HART
SOLOMON & NICOLSON**
4-301 Monument Office Park
79 Steenbok Ave
Monument Park
Pretoria
Ref: G Painter / 321827

**TO: THE REGISTRAR OF THE ABOVE HONOURABLE COURT
PRETORIA**

AND TO:

JACOBS GONYORA INC
1st – 3rd Applicants' Attorneys
c/o BARES & BASSON ATTORNEYS
Woltemade Building 1st Floor
118 Paul Kruger Street
Pretoria
Tel: 012 324 4375/6/7
Fax: 012 324 4013
Ref: LJ285/C Liebenberg

AND TO:

M A LUKHIMANE N.O.
1st Respondent
PENSION FUND ADJUDICATOR
4th Floor
Riverwalk Office Park
Block A
41 Matroosburg Road
Ashley Gardens
Pretoria

AND TO:

CLIFFE DEKKER HOFMEYER
16th Respondent's Attorneys
c/o JACOBSON & LEVY
215 Orient Street
Arcadia
Pretoria
Ref: Mr J Levy/DB/L11752

AND TO:

DUNSTER & ASSOCIATES
32nd and 33rd Respondent's Attorneys
c/o SAVAGE JOOSTE AND ADAMS
141 Boshoff Street
Nieuw Muckleneuk
Pretoria
Ref: K R Toudes/75738

AND TO:

TONY KAMIONSKY
The 34th Respondent
tony.kamionsky@gmail.com

AND TO:

**THE SECOND TO THE FIFTEENTH AND THE
SEVENTEENTH TO THIRTY-FIRST RESPONDENTS**

who by agreement will accept service at the address of their
attorneys at **JONATHAN MORT INC**

at *c/o* **JONATHAN MORT INC**

Attorneys for the second to the fifteenth and the seventeenth to
the thirty-first respondents

3a Sir George Grey Street

Oranjezicht

8001

BY REGISTERED MAIL

IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, PRETORIA

CASE NO: 49616/13

In the matter between:

LE GRELLIER, GAIL	First Applicant
BOTHA, RENIER	Second Applicant
LEPAR, DAVID	Third Applicant
SMITH, CAREL	Fourth Applicant
and	
LUKHIMANE NO	First Respondent
AFFIRM MARKETING SERVICES (PTY) LTD	Second Respondent
BEEFMASTER (PTY) LTD	Third Respondent
H BIRKENMEYER (PTY) LTD	Fourth Respondent
DR GEBKA, HELLING & KLUG INC	Fifth Respondent
DR RITZ INC	Sixth Respondent
ETERNAL FLAME INVESTMENTS (PTY) LTD	Seventh Respondent
EXPECTRA 89 (PTY) LTD	Eighth Respondent
HESTICO (PTY) LTD	Ninth Respondent
HETTAS CC	Tenth Respondent
CONVISTA CONSULTING (PTY) LTD	Eleventh Respondent
IDI TECHNOLOGY SOLUTIONS (PTY) LTD	Twelfth Respondent
PROGRESSIVE PACKAGING (PTY) LTD	Thirteenth Respondent
WORLD CARGO SERVICES (PTY) LTD	Fourteenth Respondent



CONDUIT RISK AND INSURANCE HOLDINGS (PTY) LTD	Fifteenth Respondent
DELL COMPUTERS (PTY) LTD	Sixteenth Respondent
THE BRAND UNION (PTY) LTD	Seventeenth Respondent
ULTRA LITHO (PTY) LTD	Eighteenth Respondent
NEWSCLIP MEDIA MONITORING (PTY) LTD	Nineteenth Respondent
MIXTEC CC	Twentieth Respondent
PETROMARK (PTY) LTD	Twenty-First Respondent
DEHTRQ (PTY) LTD	Twenty-Second Respondent
WAVELENGTHS 32 (PTY) LTD	Twenty-Third Respondent
PANORAMIC COMPONENTS (PTY) LTD	Twenty-Fourth Respondent
CHICKEN MANAGEMENT SERVICES (PTY) LTD	Twenty-Fifth Respondent
HANSEN TRANSMISSIONS (PTY) LTD	Twenty-Sixth Respondent
ENABLEMED (PTY) LTD	Twenty-Seventh Respondent
PRIMESERV GROUP (PTY) LTD	Twenty-Eighth Respondent
THE CHURCH OF JESUS CHRIST OF THE LATTER-DAY SAINTS	Twenty-Ninth Respondent
JOHANNESBURG CHILD WELFARE SOCIETY	Thirtieth Respondent
THE EMPLOYEES OF THE 2nd – 30th RESPONDENTS WHO ARE MEMBERS OF THE IF UMBRELLA PROVIDENT FUND AND THE IF UMBRELLA PENSION FUND	Thirty-First Respondent
IF UMBRELLA PROVIDENT FUND	Thirty-Second Respondent
IF UMBRELLA PENSION FUND	Thirty-Third Respondent
TONY KAMIONSKY	Thirty-Fourth Respondent

FOURTH APPLICANT'S REPLYING AFFIDAVIT

I, the undersigned

CAREL PETRUS SMITH

do hereby make oath and say as follows:

1. I am a major male former trustee of the 32nd and 33rd Respondents.
2. The facts in this affidavit fall within my personal knowledge, unless the context indicates otherwise. Everything I say is, to the best of my knowledge and belief, true and correct.
3. I am the same Carel Smith who deposed to the confirmatory affidavit which appears as GL3 to the founding affidavit.
4. Since June 2014 I have been represented separately from the 1st – 3rd Applicants.
5. I have read the:
 - 5.1. Answering affidavit filed by the intervening 34th Respondent;
 - 5.2. The Replying Affidavit filed by the 1st – 3rd Applicants in response to the 34th Respondent's answering affidavit;
 - 5.3. The 32nd and 33rd Respondent's further supplementary / replying affidavit; and
 - 5.4. The 34th Respondent's supplementary affidavit.



C.P.S.

6. I confirm the content of the Applicants' replying affidavit to 34th Respondent's answering affidavit to the extent that it applies to me.
7. I deny the allegations made by the 34th Respondent to the extent that those allegations are inconsistent with the facts stated by the Applicants.
8. This affidavit is being served long after the service of the remaining Applicants' replying affidavit to the 34th Respondent's answering affidavit, and I ask the Court for condonation for this late filing, in so far as it is necessary to do so.
9. I was aware that the Applicants were intending to file a reply to the 34th Respondent's answering affidavit and was advised to await the service of that reply before filing an affidavit of my own, given how voluminous the papers in this application have become.
10. The Applicants' replying affidavit was only formally served on my attorneys on 26 November 2015. After receipt of that affidavit my legal representatives had to peruse it as well as the affidavits of the 32nd – 33rd Respondents and the 34th Respondent which were received on 20 November and 25 November respectively.
11. Given the volume of the record in this matter and the time needed to peruse and consider it, I submit that the delay in filing this affidavit has not been substantial relative to the time periods which have already elapsed in this matter. Nor, in my submission, are any of the parties likely to be prejudiced by the late filing of this affidavit given the brevity of it and given that it introduces no new allegations.
12. As the remaining Applicants have done, I am taking this opportunity to seek the amendment of the notice of motion in so far as it applies to me. The amendment is the same as that which has been moved by the remaining Applicants and to which no objection has been taken.



CLT

13. Accordingly I seek the relief set out in the notice of motion, as amended.


CAREL PETRUS SMITH

Thus signed and sworn to at Sandton..... on this ^{20th} day of January..... 2016, after the deponent declared that she/he knows and understands the contents hereof, that it is true and correct, that she/he has no objection to taking the prescribe oath and that she/he regards the prescribed oath as binding on her/his conscience.

Candice Laura Jooste
155 - 5th Street
Sandown, Sandton, 2196
Commissioner of Oaths
Ex-Officio / Practising Attorney R.S.A.


COMMISSIONER OF OATHS



IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, PRETORIA

COPY

CASE NO: 49616/13

In the matter between:

LE GRELLIER, GAIL	First Applicant
BOTHA, RENIER	Second Applicant
LEPAR, DAVID	Third Applicant
SMITH, CAREL	Fourth Applicant

and

LUKHIMANE NO	First Respondent
AFFIRM MARKETING SERVICES (PTY) LTD	Second Respondent
BEEFMASTER (PTY) LTD	Third Respondent
H BIRKENMEYER (PTY) LTD	Fourth Respondent
DR GEBKA, HELING & KLUG INC	Fifth Respondent
DR RITZ INC	Sixth Respondent
ETERNAL FLAME INVESTMENTS (PTY) LTD	Seventh Respondent
EXPECTRA 89 (PTY) LTD	Eighth Respondent
HESTICO (PTY) LTD	Ninth Respondent
HETTAS CC	Tenth Respondent
CONVISTA CONSULTING (PTY) LTD	Eleventh Respondent
IDI TECHNOLOGY SOLUTIONS (PTY) LTD	Twelfth Respondent
PROGRESSIVE PACKAGING (PTY) LTD	Thirteenth Respondent
WORLD CARGO SERVICES (PTY) LTD	Fourteenth Respondent
CONDUIT RISK AND INSURANCE HOLDINGS (PTY) LTD	Fifteenth Respondent

DELL COMPUTERS (PTY) LTD	Sixteenth Respondent
THE BRAND UNION (PTY) LTD	Seventeenth Respondent
ULTRA LITHO (PTY) LTD	Eighteenth Respondent
NEWSCLIP MEDIA MONITORING (PTY) LTD	Nineteenth Respondent
MIXTEC CC	Twentieth Respondent
PETROMARK (PTY) LTD	Twenty-First Respondent
DEHTRQ (PTY) LTD	Twenty-Second Respondent
WAVELENGTHS 32 (PTY) LTD	Twenty-Third Respondent
PANORAMIC COMPONENTS (PTY) LTD	Twenty-Fourth Respondent
CHICKEN MANAGEMENT SERVICES (PTY) LTD	Twenty-Fifth Respondent
HANSEN TRANSMISSIONS (PTY) LTD	Twenty-Sixth Respondent
ENABLEMED (PTY) LTD	Twenty-Seventh Respondent
PRIMESERV GROUP (PTY) LTD	Twenty-Eighth Respondent
THE CHURCH OF JESUS CHRIST OF THE LATTER-DAY SAINTS	Twenty-Ninth Respondent
JOHANNESBURG CHILD WELFARE SOCIETY	Thirtieth Respondent
THE EMPLOYEES OF THE 2 nd – 30 th RESPONDENTS WHO ARE MEMBERS OF THE IF UMBRELLA PROVIDENT FUND AND THE IF UMBRELLA PENSION FUND	Thirty-First Respondent
IF UMBRELLA PROVIDENT FUND	Thirty-Second Respondent
IF UMBRELLA PENSION FUND	Thirty-Third Respondent
TONY KAMIONSKY	Thirty-Fourth Respondent

FOURTH APPLICANT'S NOTICE OF INTENTION TO AMEND

TAKE NOTICE THAT the 4th Applicant intends amending his notice of motion by inserting the following new prayer as prayer 2A, and by deleting prayer 3 and substituting it with prayer 3 as it appears below:

"2A Alternatively to prayers 1 and 2, the applicants be relieved from liability from the 1st Respondent's determination in terms of section 7F of the Pension Funds Act 24 of 1956.

3 The 16th and 34th Respondents be ordered to pay the costs of this application jointly and severally."

TAKE NOTICE THAT further that unless written objection is received to the proposed amendment within 10 days of the date of delivery of this notice, the amendment will be effected accordingly.

TAKE NOTICE FURTHER that the 4th Applicant tenders any wasted costs occasioned by this amendment.

SIGNED AT SANDTON ON THIS 20th DAY OF JANUARY 2016



NORTON ROSE FULBRIGHT

Fourth Applicant's Attorneys
15 Alice Lane
Sandton

Ref: ARC127 Mr MJ Hart

**c/o FRIEDLAND HART
SOLOMON & NICOLSON**

4-301 Monument Office Park
79 Steenbok Ave
Monument Park
Pretoria

Ref: G Painter / 321827

**TO: THE REGISTRAR OF THE ABOVE HONOURABLE COURT
PRETORIA**

AND TO:

JACOBS GONYORA INC
1st – 3rd Applicants' Attorneys
C/O BARES & BASSON ATTORNEYS
Woltemade Building 1st Floor
118 Paul Kruger Street
Pretoria
Tel: 012 324 4375/6/7
Fax: 012 324 4013
Ref: LJ285/C Liebenberg

AND TO:

M A LUKHIMANE N.O.
1st Respondent
PENSION FUND ADJUDICATOR
4th Floor
Riverwalk Office Park
Block A
41 Matroosburg Road
Ashley Gardens
Pretoria

AND TO:

CLIFFE DEKKER HOFMEYER
16th Respondent's Attorneys
c/o JACOBSON & LEVY
215 Orient Street
Arcadia
Pretoria
Ref: Mr J Levy/DB/L11752

AND TO:

DUNSTER & ASSOCIATES
32nd and 33rd Respondent's Attorneys
c/o SAVAGE JOOSTE AND ADAMS
141 Boshoff Street
Nieuw Muckleneuk
Pretoria
Ref: K R Toudes/75738

AND TO:

TONY KAMIONSKY
The 34th Respondent
tony.kamionsky@gmail.com

AND TO:

**THE SECOND TO THE FIFTEENTH AND THE
SEVENTEENTH TO THIRTY-FIRST RESPONDENTS**
who by agreement will accept service at the address of their
attorneys at **JONATHAN MORT INC**
at **c/o JONATHAN MORT INC**
Attorneys for the second to the fifteenth and the seventeenth to
the thirty-first respondents
3a Sir George Grey Street
Oranjezicht
8001

BY REGISTERED MAIL