

## Other workshops and presentations

During the course of the project, a number of other workshops and presentations were held with the trustees and Aon. The purpose of these workshops can be summarized into the following 2 categories:

### Methodology and approach detail

The methodology and approach to be used in the re-build was proposed at a high level at the project inception. It was then tested and piloted with the re-build of the Dynam-Ique Pension Fund. Some modifications to the methodology were made, and the final version was presented to the Aon team for their input and sign-off. The methodology and approach was then presented to the trustees for their sign-off.

Further presentations of the methodology and approach were made to the Trustees and Aon management for their insight and input. This included a presentation to the new Board of Trustees in March 2011.

A copy of a typical presentation (excluding the on-line data used) is attached in Annexure D.

### Issues Logs by Umbrella Fund

We submitted in a workshop format, the full details of the Issue Logs by fund for each of the umbrella funds and their respective participating employers to Aon and the Trustees. The purpose of this was to consider, amend if required, and sign-off all the assumptions made during the build and would include confirmation of the agreed base assumptions applied and sign-off of the individual or particular assumptions or how a situation was treated, on a case by case basis. The agreed base assumptions are summarized later in this report, and the consolidated Issues Log, by umbrella fund are attached in Annexure E.

## Formal meetings held

The table below sets out the dates and purpose of the formal meetings held. Note, that in addition to the meetings listed, there were a number of adhoc meetings called / telephone conferences held to discuss:

- Various specific issues related to the re-build
- Issue resolution relating to specific participating employers
- The requirements of the final deliverable for upload
- 2008 / 2009 audit progress and matters arising
- IT related matters pertaining to the upload
- Meeting with brokers to obtain data
- Feedback and reporting to other management within Aon

Date	Attendees	Purpose
2 July 2010	Trustees and Aon representatives	Steercom
6 August 2010	Trustees and Aon representatives	Steercom
2 September 2010	Trustees and Aon representatives	Steercom
29 September 2010	Trustees and Aon representatives	Dynam-ique Pension Issues Log workshop
7 October 2010	Trustees and Aon representatives	Steercom
6 October 2010	Aon representatives including James White	Methodology and approach detail – first presentation
29 October 2010	Trustees and Aon Representatives	Methodology and approach detail
9 December 2010	Trustees (new) and Aon Representatives	Steercom
27 January 2011	Trustees (new) and Aon Representatives	Steercom
21 February 2011	Webcast with Aon representatives including James White	Methodology and approach update, Phase 2 concept
23 February 2011	Trustees (new) and Aon Representatives	IF Pension Issues Log workshop
9 March 2011	Trustees (new) and Aon Representatives	Steercom
9 March 2011	Trustees (new) and Aon Representatives	Methodology and approach detail
6 April 2011	Trustees (new) and Aon Representatives	Steercom
4 May 2011	Trustees (new) and Aon Representatives	Steercom
8 June 2011	Trustees (new) and Aon Representatives	Steercom
26 July 2011	Trustees (new) and Aon Representatives	Dynam-ique Provident Issues Log workshop
22 August 2011	Trustees (new) and Aon Representatives	IF Provident Issues Log workshop
5 September 2011	Trustees (new) and Aon Representatives	Steercom
6 October 2011	Trustees (new) and Aon Representatives	Steercom
3 November 2011	Trustees (new) and Aon Representatives	Steercom

Date	Attendees	Purpose
5 December 2011	Trustees (new) and Aon Representatives	Steercom
19 January 2012	Trustees (new) and Aon Representatives	Steercom
6 February 2012	Trustees (new) and Aon Representatives	Steercom
8 March 2012	Trustees (new) and Aon Representatives	Steercom

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# Approach and Methodology

## Information provided

Aon provided Deloitte with a complete download of the electronic supporting data and emails contained in their "G" drive.

A full download of the Everest database for all 4 umbrella funds was provided. This database covered the period to 31 January 2008.

No files or paper copies of any data was provided. We were advised that there was no paper based information for the 4 umbrella funds for the period to 31 January 2008.

Deloitte undertook a comprehensive data trawling and analysis process of the data to determine the quality and completeness of the data provided. Our process included the following:

- Full data search performed by Deloitte Forensics, utilising special data search and identification tools and methodology of the "G" drive provided
- Sorting of data found in the "G" drive by umbrella fund, and by participating employer
- Analysis of data by data type and checking for completeness
  - Fund rules
  - Member contribution schedules
  - Section 14 transfer notifications
  - Switch Instructions
  - Investment manager statements
  - Administration Agreements
  - Premium documents from insurance provider (TSA)
- Preparation of an initial summary of data provided and identification of missing data for distribution to Aon to request assistance with location of missing data

Our assessment of the supporting data provided found that it was substantially incomplete and that a significant amount of information required as per the listing above was missing or not provided. The following additional steps were put in place to try to source as much supporting data as possible:

- Aon were requested to search and provide as much of the missing data as possible
- Aon sent out communications to all brokers requesting that they provide as much data as they may have to Deloitte for the purposes of the exercise
- Where brokers were forthcoming with information (only a few) such data was further analysed and incorporated into the full data set
- A full set of the bank statements for the period to 31 January 2008 for all 4 bank accounts was requested directly from the bank
- Most of the missing fund rules were obtained from two sources, namely the FSB and from the auditor
- Investment managers were requested to provide fund investment statements by participating employer and / or umbrella fund

The standard of the data on the Everest database provided was assessed as not fully reliable based on the following factors identified:

- Incomplete data
- Duplicated data
- Certain transactions were grouped or backdated therefore not presenting an accurate record of transactions
- The bank accounts in Everest had not been reconciled and could not be relied on
- The static data such as risk premiums and administration cost allocation percentages / rates were inconsistent / did not tie up to fund rules / were incomplete

Aon located a number of boxes that included supporting documentation relating to the umbrella funds and in respect of the 2008 period. This data was found after the 2008 re-build had been completed and the audits for the umbrella funds for the 2007 and 2008 years were finalised. The changes flowing from these data pieces related to the 2008 period and the decision taken at a Steering Committee level was to make the required adjustments to the opening balances of the re-build for the 2009 year. A summary of the changes were forwarded to Aon to ensure they were noted on the member statements as at the 2008 year end.

### Data management and security

Deloitte acquired a server for the sole purpose of storing the data as well as work papers and deliverables for the project. The server was maintained independently from the main Deloitte IT infrastructure but was housed within the Secure Deloitte server room, where it was maintained under the same strict controls as all other Deloitte infrastructure.

The server is backed up daily and the backup data maintained under the same controls and conditions as that applying to Deloitte data.

On completion of each phase of the project, the relevant data comprising the deliverables was transferred onto an external hard drive and submitted to Aon and the umbrella fund auditors. At the conclusion of the project the data pertaining to the project will be archived in accordance with Deloitte procedures and policy.

### Agreed base assumptions

In addition to the Trustee defined parameters and exclusions as set out in the scope section above, it was necessary to determine and then apply certain base assumptions to the re-build. This was largely because of the limitations placed on the re-build approach due to the lack of supporting information and the need to create as fair a base line for the re-build as possible.

The following base assumptions were applied to the re-build:

- Given the known Issues with Everest, no reliance can be placed on its data. Rather Everest is to be used as a supporting tool and in instances where it was appropriate, the output can be compared to Everest
- The re-build is based on source documentation / information as far as possible
- Cash Is King principle. Given that much of the source data for transactions was missing, it was decided that any decision on how to treat a transaction, would be based on the evidence of a cash transaction, and this would take precedent over any transaction recorded in Everest which could not be supported
- All investments and withdrawals from the markets were recorded in the re-build based on what actually happened in the market as evidenced in investment manager statements.

Note: This assumption was actioned in the build as follows:

Investments in the market were based on actual dates where the specific month's contribution could be allocated to an investment in the market with a degree of certainty.

Where we could not allocate investments in the market to specific transactions (contributions, ROT's, S14's etc.) these investments were treated as "unknown" investments and formed part of the total assets allocated to a participating employer.

Where a contribution could not be found to be invested in the market a "should have happened" investment was done in the market based on the principles signed off by the Trustees.

It was also agreed that the timing of investments was outside of scope and therefore the re-build was done on what actually happened even if the date was late/wrong.

- Uninvested contributions are priced on the 15th of the current month if the cash was received prior to the 7th of the month. Where the cash was received post the 7th of the month it has been assumed that the investment was made on the 15th of the next month. If it can be found that a partial investment was made into another fund, the stated date has been used for the uninvested amount
- Where source documents were not located for withdrawals in the market, the withdrawals has not been allocated and taken as a reduction against the net asset value of the fund without a corresponding reduction to the member liability
- All amounts which have been received from employers and not invested has been shown as uninvested cash on the member liability summary
- Where source documents could not be found for investment elections the investment manager statements were used as guidance for the investment split and the investment election per Everest as a second option. Where an investment option could not be found for a member or fund, it has been assumed that the monies are in the cash management account
- Where a disinvestment and/or pay-out have not been identified for a terminated fund it has been assumed that the amount is still owed as at the umbrella fund's year end
- Investments made in the market that could not be allocated to corresponding contributions or S14/ROT's has been ignored and treated as a surplus to the fund's assets without a corresponding addition to the member liability

The umbrella funds' auditor was fully involved in the project methodology, and approach formulation as well as in the sign-off of key assumption / and policies

## Detailed re-build approach

Set out below is a summary of the approach and methodology applied to the re-build:

### Reconciliation of the cashbook to bank statements

- Original electronic bank statements for the period were obtained from Standard Bank
- The cashbook download from Everest was reconciled to the actual bank statements
- Converted the electronic download of the bank statements into a usable format to supplement the incomplete transaction descriptions on Everest

### Allocation of deposits to participating employers

- The deposits in the cashbook were then analysed and allocated to the respective participating employers
- This was done based on either the description used in the bank account or on information found using the forensic search tool

### Reconciliation of bank account movements to investment managers

Comprising:

- Payments to Investment Managers
- Deposits / Receipts from Investment Managers

### Dynam-ique Pension and Provident Fund:

The assets with Investment Managers for the Dynam-ique Pension and Provident funds are held in segregated accounts.

- The investments, i.e. payments out of the bank account, were allocated to the participating employers:
  - Based on the assets invested in each employer's asset account as set out in the Investment Managers' statements obtained
  - By matching payments to Investment Managers as identified in the bank account

### IF Pension and Provident Fund

Investments are not held in segregated accounts but are paid to investment houses in lump sums and invested into pooled asset accounts.

- The investments, i.e. payments out of the bank account, were matched to investments identified on the Investment Managers' statements
- Using Everest reports, pooled investments in the market were split per participating employer where possible

## Scope of funds to be re-built

We identified all the participating employers classified as still existing (i.e. not terminated). We then identified all the members to the active funds and then in turn identified those fund members that were classified as still existing (i.e. not terminated).

Funds marked as terminated but where the S14 payment or payout had not been made as at the year end, were subsequently included in the re-build. This in effect, resulted in all the participating employers in the Dynamique Pension Fund and Dynamique Provident Fund as listed on the database provided being included. In the case of the IF Pension Fund and the IF Provident Fund, certain funds as listed below, were excluded from the re-build.

### IF Pension Fund - Outside of Scope (due to outgoing S14 already settled and paid out):

- Glencalrn Insurance Brokers SA (Pty) Ltd
- Saxum Consulting (Pty) Ltd

### IF Provident Fund - Outside of Scope for IF Provident Fund:

- |  |   |
|--|---|
| • Coastal Tool Hire - Vanderbijlpark - Bonus Way | Terminated Outgoing S14 already settled and paid over         |
| • Expectra 89                                    | Fund inception 1 December 2008<br>(Included in Phase 2)       |
| • Garrun Group Employee Benefits (Pty) Ltd       | Stand alone Umbrella fund                                     |
| • Goat and Elephant Holdings (Pty) Ltd           | Included in Dynam-ique Provident Fund                         |
| • Heltas (272)                                   | Fund Inception date is 1 Feb 2009<br>(Included in Phase 2)    |
| • Leeron Mazor & Associates CC                   | Fund never became active (Inception date = Termination Date)  |
| • Maranatha Ceramic Products CC                  | Fund Inception date is 1 Sep 2009<br>(Included in Phase 2)    |
| • Media Mache cc                                 | Fund never became active (Inception date = Termination Date)  |
| • Mega Mica Nigel                                | Fund Inception date is 1 August 2009<br>(Included in Phase 2) |
| • Orfeo Project (Pty) Ltd (21)                   | Terminated Outgoing S14 already settled and paid over         |
| • Xelcona Medical Solutions (Pty) Ltd (22)       | Terminated Outgoing S14 already settled and paid over         |

A comprehensive list of the funds and members in scope was provided to Aon and the Trustees for review. Any exceptions that we were advised of were investigated and resolved. (Please refer Annexure B for a full listing of the funds included in the re-build.)

## Building of information per participating employer

The final list of funds and members comprised the "in scope funds" for re-build. The building of the participating employer / member information was undertaken as follows:

### What you need:

- Salary schedules and / or pre-billing statements
- Monthly Contributions per participating employer, per member (Source: Employer contributions and / or Fund Rules)
- Admin & Consulting Rates (Source: Quote / Admin Agreement / Addendum to Admin Agreement)
- Risk Premium % (Quote / Renewal Letter from TSA)
- Single premium supporting data

### Steps to perform:

- The available supporting documents were sourced from Aon's G-Drive obtained by the sourcing and matching done by Data Analytics and a manual search by the fund build team
- Using the above documents, obtain the following:
  - Monthly contribution rates or percentage for employees and employers
  - Admin & consulting rates or percentage
  - Risk premium (could also be on TSA renewal letter)
  - Investment selection / split
- Obtain source documents to identify monthly members' salaries
  - Salary schedules received from the employer or pre-billing statements
- The recalculated monthly contribution is then agreed to cash deposited
- Analyse the transactional history from Everest for any single premium investments
- Complete a schedule of all members with their salary information and recalculated monthly contributions and any single premium investments per member
- Where possible this information was reconciled back to the deposit received in the bank account from the employer (based on cash is king principle)
- The investments in the market were then matched to the various months' contributions in order to utilise the monthly Rand contribution per member. This was done firstly at a participating employer level
- Once this was done a "market transactional history" was completed for each member within the fund in order to calculate a unit holding as at 28/02/2008 and 31/05/2008
- Where a fund had less than 20 members this was done manually but where a fund had more than 20 members, the 1st member was prepared by ourselves and then sent to the actuaries to build macros to populate the remaining members histories
- Once all the members' histories had been built, a summary showing each members unit holding as at the 2008 year ends was prepared. A year end market value was then calculated using the market price at year end for each portfolio held by each member and summarised
- The summary included each members unit holding and market value per portfolio, any termination dates and benefit payments identified, any cash received not yet invested, any contributions receivable and the Everest member credit per member

## Final Bank Account Analysis

The transactions in the bank account were analysed and allocated based on the supporting information available and various Everest reports, during the bank reconciliation and detailed fund re-build phases. On conclusion of the re-build the remaining transactions not yet allocated or cleared, are once again analysed through the following steps:

- Further data trawl
- Matching of transactions to Everest date through using the following fields to determine a match
- Various Everest reports
- Unique Everest Identifier
- Transaction type
- Value of transaction
- Rounded Rand value of transaction

Following these processes, there are a number of transactions for which there is no detail and are therefore not analysed at the date of the completion of the project. These transactions are treated as timing differences in the trial balance and are shown as a separate line item in the trial balance to simplify the balancing process.

## Trial Balance Preparation

The Trial Balances per participating employer needed to be prepared in order to prepare a Trial Balance for the umbrella funds to be audited at each of the financial year ends falling in the scope period. The Trial Balance preparation was also used as a final check to determine the accuracy of the member build-ups.

The member liability build was performed on a "Cash Is King" basis – therefore, the liability is only recognised once contributions are invested in the market.

The following principle was applied:

**Equity:** Member Liability -- Based on what should have happened ("WSHH") on the accrual basis

**Liability:** Recognise timing differences (contributions receivable, contributions received not yet invested). Recognise permanent differences remaining in bank

**Assets:** Actual Investments in the market

The following table outlines the treatment approach for specific transactions applied in the Trial Balance preparation, taking into account the treatment of these transactions in the build.

Category	Treatment in build	Treatment in TB
Disinvestment in market allocated to specific member	Member Liability becomes zero regardless of accuracy of disinvestment	Member Liability becomes zero regardless of accuracy of disinvestment
Disinvestment in market not allocated to specific member	Ignored	Assumed to remain as cash in bank account
Terminations without payment	Ignored	Recognised as expense + related benefit payable
Payment in bank account allocated to specific member	Ignored in member build BUT full member liability for these members deducted before reporting Net Current Member Liability	Member liability assumed to be settled, full amount assumed to be paid from the bank account

**Calculation and allocation of adhoc fees**

Aon provided us with a full schedule of the expenses per umbrella fund per annum.

The allocation to each participating employer is done pro-rata based on the total member liability at the end of the 2008, 2009 and 2010 financial years. The split is therefore always 100%. When the adhoc expense per member is calculated, only members with a positive share of umbrella fund value are allocated an expense. This creates a difference between what was allocated to the participating employer and the total allocated to each of the members.

Once the adhoc expense per member is calculated, these adhoc expenses are shown as a "negative" cash holding and deducted from the member's final share of fund value as at the 2010 financial year end.

This process was agreed with the Trustees as well as Aon representatives, to ensure all members are treated as fairly as possible.

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# Project Outcomes

## Overview of project outcome

The project was completed within the agreed timelines and in our estimation achieved the following objectives:

- Consistently applied re-build methodology to all members and participating employers, thereby providing Trustees with a defensible approach to the re-build
- Reconciliation and analysis of the bank account for the full period from inception to end of the 2008 financial year for all 4 umbrella funds
- Reconciliation and analysis of investment manager statements for the full period from inception to end of the 2008 financial year for all 4 umbrella funds
- Fully re-built member liabilities by participating employer, by umbrella fund, supported by available data together with assumptions applied uniformly throughout
- Completed Trial Balances and supporting work papers in a "ready for audit" state for all umbrella funds, for the 2007 and 2008 financial year
- Support to Aon, the Trustees and the auditors through the audit process
- Documented issues identified during the build and how these were dealt with

Subsequent to the completion of Phase 1 and the finalisation of the 2007 and 2008 year end audits, Aon located a number of boxes that included supporting documentation relating to the umbrella funds and in respect of the 2008 period. After a decision was made at Steering Committee level, we were requested to make the required adjustments to the opening balances of the re-build for the 2009 year. A summary of the changes were forwarded to Aon to ensure they were noted on the member statements as at the 2008 year end.

## Project deliverables

The project commenced in July 2009 and the deliverables were submitted to Aon in a "ready for audit" state on the following dates:

- |                              |                  |
|------------------------------|------------------|
| • Dynam-ique Pension Fund:   | 8 June 2011      |
| • Dynam-ique Provident Fund: | 12 July 2011     |
| • IF Pension Fund            | 22 August 2011   |
| • IF Provident Fund          | 7 September 2011 |

Note that due to the challenges in finalising the bank account analysis caused by the extent of missing information, there were some resultant journal entries passed post-delivery of the completed umbrella funds that affected the Trial Balances. The adjusting journals were provided in good time for the finalization of the annual financial statements and the completion of the audit process. Any changes that were needed to be made to individual member build-ups were made to the opening balances on commencement of Phase 2.

The deliverables comprised the following:

- Full Member Re-build Databases, by participating employer by umbrella fund for the periods to:
  - 28 February 2008      Dynam-ique Funds
  - 31 May 2008          IF Funds

The database comprised:

- A schedule of members with closing units and values as at the year-end date
  - Details of contributions, investments, and any voluntary contributions identified
  - Details of calculated deductions, based on fund rules and administration account guidelines
  - Section 14 transfers that could be identified and allocated
  - Any cash/contributions received, not yet invested at the relevant year ends
- Bank reconciliations for each of the umbrella funds for the period from inception to the end of the 2008 financial year
  - Schedule of transactions in the bank account that could not be allocated to participating employers and / or fund members
  - Trial Balances by umbrella fund and by participating employer within each of the umbrella funds for the 2007 and the 2008 financial years, together with accounting adjustments made at trial balance stage
  - Consolidated Issues Logs by umbrella fund
  - Detailed Issues Logs by participating employer (Attached in Annexure F)

The project deliverables were consolidated and submitted to Aon in the form of an electronic download comprising the following details:

- For each participating employer the following workings are included:
  - Individual Member Build
  - Bank and IM Summary
  - Detailed Issues Log, by participating employer
- Price of all investment products used in the individual member build
- Consolidated Investment Manager Statement (IF)
- Individual Investment Manager Statement per participating employer (Dynam-ique)
- Bank Statements and Bank reconciliation, including bank transaction analyses
- Trial Balance for each participating employer
- Final Consolidated Trial Balance by umbrella fund, including adjusting journal entries
- Supportive workings relating to adjusting journal entries
- Asset Liability Comparison, for umbrella funds and underlying participating employers

Confirmation of the receipt of the full data set was provided by Aon.

**Data Summary**

The net asset / liability position of the four umbrella funds has been summarized in the table below:

	Total R'000	Dynamis		
		Handl	Provident	
		R'000	R'000	
Total Assets	559 981	123 70	43 204	
Other Liabilities	(207 724)	(6 500)	(72 155)	
Member liability	(532 781)	(222 50)	(310 280)	
Cash Asset / (Liability)	29 574	(1 576)	(2 243)	
Asset / Liability Surplus (Deficit), per Trial Balance	(150 950)	(10 876)	(18 683)	
Asset / Liability Surplus (Deficit) - per re-build	(2 327)	(2 50)	(1 827)	
Difference	(148 623)	(2 326)	(1 827)	
Unallocated Deposits per bank statement *	148 652	2 300	1 827	
Other**	(33)	(23)	(10)	

The full detail of the umbrella funds' net asset/liability position is attached as Annexure G.

Note: The asset/liability surplus/deficit per Annexure G will not agree to the surplus/deficit per the Issues Log as the annexure G surplus/deficit is calculated from the Trial Balance which is prepared on the accrual basis whereas the surplus/deficit on the Issues log is calculated on the cash basis.

\*Unallocated deposits: These are deposits in the bank account that remain unallocated to any participating employer or member due to unavailable information. It is assumed that these deposits may well relate to contributions made by a member and ultimately will form part of member liabilities.

\*\*Other: Comprise "Real" adjustments to member funds - which were adjusted in the opening balance of the Phase 2 build as well as reclassifications between assets and liabilities.

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## Specific Reconstruction Issues / Findings

We have summarized below the status of the supporting information as well as the quality and state of the member data as recorded on the Everest database provided to us at the commencement of the project.

- Payments made into the incorrect bank accounts from participating employers
- Transactions allocated to the incorrect umbrella fund
- Investments in Everest and in the market allocated to incorrect participating employers
- Missing investments in the market for various months' contributions
- Lack of member information from participating employers
- Timing of investments in the market not in line with Fund's service level agreement
- Risk rates not consistently applied
- Assets allocated to the incorrect products in the market
- Switches not done in accordance with the switch instructions
- Fund rules not always loaded correctly on Everest (exclusive versus inclusive, incorrect contribution and expense rates)
- Duplicate / missing members recorded on Everest
- Everest reports for the same period and funds show different member details
- Missing member investment elections in Everest for some months
- Pooled asset accounts for IF pension and provident funds

Our overall assessment of the quality of the data provided is that the status of the member data was for the most part inaccurate and given the number and nature of problems encountered it was not easy to resolve the issues other than through a full re-build.

## Matters for the Trustees to be aware of / address

The re-build covered the period during which the umbrella funds were being administered by the previous administrators. There is some evidence however that some of the deficiencies in the period of the re-build may have still occurred in the period under Aon. We have highlighted below the key items of administration which, in our view should be considered for assessment by the Trustees to ensure the processes have been improved.

### Reconciliation and clearing of the cashbook on a daily basis

All transactions should be analysed and allocated on a daily basis and any unallocated transactions followed up timeously and reversed or allocated as soon as possible. This will prevent any backlog in unallocated transactions in the bank account and will ensure that transactions are correctly and timeously dealt with.

### Reconciliation and clearing of investment manager statements

The investment manager statements should be analysed and cleared regularly to ensure that any unallocated transactions are followed up timeously and reversed or allocated as soon as possible. This applies in the main to the IF Funds where assets are pooled. We would recommend that controls be put in place to check for any unallocated or misallocated transactions for both the IF and Dynam-Ique Funds.

### Retention of records

We recommend that the Trustees follow up with the administrators to confirm the suitability and completeness of the access and retention of documentation. Documentation should be properly filed, referenced and maintained – both electronically and in physical files.

### Timing of investments in the market

The timing of the allocation and payment of funds received into the respective investments in the market may be an area that still requires monitoring. It is important that the investments are executed in compliance with the service level agreement as well as regulatory requirements i.e.: contributions to be invested within 7 days of receipt of contribution etc.

### Benefit payments and payments to SARS

Where a benefit payment is made to a member on withdrawal or termination, the administrator must maintain full records regarding such payments. IT88 payments to SARS must be accompanied by a remittance advice if the amount paid over includes tax on behalf of more than one member.

### Bulk payments to investment managers

Where bulk payments are made to the investment managers, the administrators must maintain the full details of such payments including the investment instructions and ensure these payments are properly allocated to the relevant participating employers.

### Third party deductions and payments

The reconstruction / reconciliation of the third party deductions / payments were not included in our scope. We would recommend that trustees follow up with the administrators to ensure that the status of the third party payments is up to date.



DELL COMPUTER (PTY) LIMITED	Sixteenth Respondent
THE BRAND UNION (PTY) LIMITED	Seventeenth Respondent
ULTRA LITHO (PTY) LIMITED	Eighteenth Respondent
NEWSCLIP MEDIA MONITORING (PTY) LIMITED	Nineteenth Respondent
MIXTEC CC	Twentieth Respondent
PETROMARK (PTY) LIMITED	Twenty-First Respondent
DEHTEQ (PTY) LIMITED	Twenty-Second Respondent
WAVELENGTHS 32 (PTY) LIMITED t/a INSALO COMMUNICATIONS	Twenty-Third Respondent
PANORAMIC COMPONENTS (PTY) LIMITED	Twenty-Fourth Respondent
CHICKEN MANAGEMENT SERVICES (PTY) LIMITED	Twenty-Fifth Respondent
HANSEN TRANSMISSIONS (PTY) LIMITED	Twenty-Sixth Respondent
ENABLEMED (PTY) LIMITED	Twenty-Seventh Respondent
PRIMESERV GROUP LIMITED	Twenty-Eight Respondent
THE CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS	Twenty-Ninth Respondent
JOHANNESBURG CHILD WELFARE SOCIETY	Thirtieth Respondent
THE EMPLOYEES OF THE SECOND TO THIRTIETH 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

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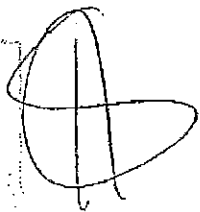
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**TO: THE REGISTRAR OF THIS  
HONOURABLE COURT  
PRETORIA**

**AND TO: M A LUKHIMANE N.O.  
THE FIRST RESPONDENT  
PENSION FUNDS ADJUDICATOR  
4<sup>TH</sup> FLOOR  
RIVERWALK OFFICE PARK  
BLOCK A,  
41 MATROOSBERG ROAD  
ASHLEA GARDENS  
PRETORIA**

OFFICE OF THE  
2013-10-29  
PENSION FUNDS ADJUDICATOR



AND TO: DUNSTER & ASSOCIATES  
 c/o SAVAGE JOOSTE & ADAMS  
 ATTORNEYS FOR 32<sup>ND</sup> & 23<sup>RD</sup> RESPONDENTS  
 141 BOSHOFF STREET  
 NIEUW MUCKLENEUK  
 PRETORIA

TSK/AF/75738

SAVAGE JOOSTE & ADAMS  
 Accepted without Prejudice  
 Ontvang sonder benadelling van regte  
 2013-10-29

AND TO: BROOKS & LUYT INC  
 ATTORNEYS FOR 16<sup>TH</sup> RESPONDENT  
 C/O NEWTONS INC  
 2<sup>ND</sup> FLOOR (LOBBY 3) BROOKLYN FORUM BUILDING  
 337 VEALE STREET  
 BROOKLYN  
 PRETORIA  
 REF: I BREDEKAMP / B&L

Received copy hereof  
 without prejudice  
 2013-10-29  
 NEWTONS Incorporated

AND TO: THE SECOND 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 THIRTY-FIRST RESPONDENTS  
 3A SIR GEORGE GREY STREET  
 ORANJEZICHT  
 8001

① 09/12/13

BY REGISTERED MAIL

IN THE NORTH GAUTENG HIGH COURT, PRETORIA

(REPUBLIC OF SOUTH AFRICA)

In the matter between:

CASE NO: 49616/2013

LE GRELLIER GAIL	First Applicant
BOTHA RENIER	Second Applicant
LEPAR DAVID	Third Applicant
SMITH CAREL	Fourth Applicant
and	
LUKHIMANE M.A. N.O.	First Respondent
AFFIRM MARKETING SERVICES (PTY) LIMITED	Second Respondent
BEEFMASTER (PTY) LIMITED	Third Respondent
H BIRKENMEYER (PTY) LIMITED	Fourth Respondent
DR GEBKA, HELBIG & KLUG INC.	Fifth Respondent
DR RITZ INC.	Sixth Respondent
ETERNAL FLAME INVESTMENTS (PTY) LIMITED	Seventh Respondent
EXPECTRA 89 (PTY) LIMITED	Eighth Respondent
HESTICO (PTY) LIMITED	Ninth Respondent
HETTAS CC	Tenth Respondent
CONVISTA CONSULTING (PTY) LIMITED	Eleventh Respondent
IDI TECHNOLOGY SOLUTIONS (PTY) LIMITED	Twelfth Respondent
PROGRESSIVE PACKAGING (PTY) LIMITED	Thirteenth Respondent
WORLD CARGO SERVICES (PTY) LIMITED	Fourteenth Respondent
CONDUIT RISK AND INSURANCE HOLDINGS (PTY) LIMITED	Fifteenth Respondent

*intels*

DELL COMPUTER (PTY) LIMITED	Sixteenth Respondent
THE BRAND UNION (PTY) LIMITED	Seventeenth Respondent
ULTRA LITHO (PTY) LIMITED	Eighteenth Respondent
NEWSCLIP MEDIA MONITORING (PTY) LIMITED	Nineteenth Respondent
MIXTEC CC	Twentieth Respondent
PETROMARK (PTY) LIMITED	Twenty-First Respondent
DEHTEQ (PTY) LIMITED	Twenty-Second Respondent
WAVELENGTHS 32 (PTY) LIMITED t/a INSALO COMMUNICATIONS	Twenty-Third Respondent
PANORAMIC COMPONENTS (PTY) LIMITED	Twenty-Fourth Respondent
CHICKEN MANAGEMENT SERVICES (PTY) LIMITED	Twenty-Fifth Respondent
HANSEN TRANSMISSIONS (PTY) LIMITED	Twenty-Sixth Respondent
ENABLEMED (PTY) LIMITED	Twenty-Seventh Respondent
PRIMESERV GROUP LIMITED	Twenty-Eight Respondent
THE CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS	Twenty-Ninth Respondent
JOHANNESBURG CHILD WELFARE SOCIETY	Thirtieth Respondent
THE EMPLOYEES OF THE SECOND TO THIRTIETH 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

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REPLYING AFFIDAVIT TO THE SIXTEENTH RESPONDENT'S ANSWERING  
AFFIDAVIT

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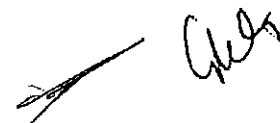
*[Handwritten signature]*

I, the undersigned

GAIL DENISE LE GRELLIER

do hereby make oath as follows:

1. I am the deponent to the applicants' founding affidavit and remain duly authorised to depose to this affidavit on behalf of the second to fourth applicants.
2. The facts contained herein fall within my personal knowledge, unless the context indicates otherwise, and are to the best of my belief both true and correct.
3. Legal conclusions arrived at herein are on the advice of the applicants' legal representatives, which I accept as correct.
4. I have read the answering affidavit deposed to by Ms Yolanda Petronella van Wyk ("van Wyk") on behalf of the 16<sup>th</sup> respondent ("Dell"). I wish to make the following preliminary observations:
  - 4.1. firstly, Dell has elected not to deal with any of the allegations contained under the heading "*Factual Matrix*" in paragraphs 46 to 104 of the founding affidavit. Dell has moreover accepted the correctness of what is contained in the various minutes which I have attached to my founding affidavit;
  - 4.2. secondly, Dell appears to suggest that the applicants as trustees should be held liable for failing to pick up that the Funds' administrators had been mal-administering the Funds. But, as is



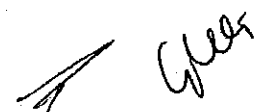
evident from the minutes which I have attached, the applicants exercised their oversight functions reasonably and appropriately;

4.3. thirdly, the complaint that the applicants should not have undertaken a rebuild exercise or should not have attributed the costs of that exercise to the Funds' members, presupposes that the applicants were somehow responsible for the Funds' administrators' lack of proper administration. But, as I have already demonstrated in my founding affidavit, the applicants could not have done anything more and accordingly acted reasonably in detecting the maladministration and taking steps to rectify it;

4.4. fourthly, it is significant that Dell does not explain what steps we, as trustees, should have taken to unearth the maladministration by the Funds' administrators and when we should have done so. This, of course, must be seen against the context of the dates of our appointment as trustees, our entitlement to rely on administration reports by the Funds' approved benefits administrators and the convey of information at quarterly meetings of the board of trustees where issues such as governance were raised and addressed;

4.5. fifthly, the approach adopted by Dell is divorced of any reality and is very much an armchair critic approach. It ignores, amongst other things, that:

4.5.1. the applicants were external trustees who had not appointed the Funds' benefit administrators;



4.5.2. the applicants were consistently being reassured by Mr Tony Kamionsky ("Kamionsky") that the administration of the Funds were in order and that any issues which were raised were being attended to; and

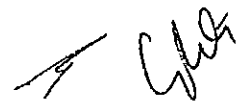
4.5.3. a decision to terminate the administrators' contract and to replace them could not have been taken overnight and would not, in any event, have resolved the underlying problems that subsequently surfaced.

5. Against these preliminary observations, I do not propose to deal extensively with the allegations contained in Dell's answering affidavit and will only deal with those allegations which require a response. Any allegation in Dell's answering affidavit not dealt with by me and which is in conflict with what is stated in the founding affidavit and this affidavit is denied.

6. AD PARAGRAPH 6.4

6.1. I deny that the second applicant ("Botha") was a trustee of the Funds from their inception. Botha has stated under oath that he was appointed as a trustee of the Funds on 13 March 2006 and is, with respect, the person best placed to attest to this fact.

6.2. Dell fails to state how it "*ascertained*" that Botha was in fact a trustee of the Funds from 1 January 2004 and has furnished no evidence in support of this bald allegation.



7. AD PARAGRAPH 6.6

7.1. I admit that the minutes were not furnished to the first respondent ("the Adjudicator"). In my response to the Adjudicator on 1 May 2013 (attached to the founding affidavit marked GL31) I, however, referred to what was discussed at the relevant meetings over the period November 2006 to February 2008. Notwithstanding my reference to these meetings, at no stage did the Adjudicator ever request copies of the minutes. Nor did Dell or any of the other complainants. That was why the minutes were never put before the Adjudicator.

7.2. In any event, having already referred to what was discussed at the relevant meetings in my response to the Adjudicator, the minutes of those very meetings thus do not constitute new evidence.

7.3. Furthermore, I have been advised that an application under section 30P is regarded as an appeal in the wide sense, which means that it constitutes a complete re-hearing of, and fresh determination on, the merits of the matter with or without additional information.

7.4. To the extent that this honourable Court may regard the minutes as new evidence, I would respectfully beg leave for the Court to have regard thereto. There can be no prejudice to Dell since it has had an opportunity to consider the minutes, and after having done so, does not dispute what is recorded therein.

—  
GWA

8. AD PARAGRAPH 7

8.1. I deny that the applicants have failed to engage with the Adjudicator's second determination or motivate why that decision falls to be set aside.

8.2. In the founding affidavit I have set out in detail both mine and Botha's conduct over the period March 2006 (in respect of Botha) and November 2006 (in respect of myself) to 31 January 2008. The correspondence and minutes over that period show that both Botha and I carried out our duties as trustees diligently and as reasonably as could have been expected of us in the circumstances. Such detail was set out in order to demonstrate that the Adjudicator's finding that Botha and I were negligent, let alone grossly negligent, dishonest or fraudulent, was simply factually incorrect.

9. AD PARAGRAPHS 9 TO 11

9.1. I note that Dell has now conceded that the record-keeping in respect of the Funds from their establishment in January 2004 until at least 31 January 2008 was grossly deficient.

9.2. It would seem that Dell is now distancing itself from its supplementary complaint in which it endorsed Kamionsky's allegation that the applicants were reckless and grossly negligent in authorising the rebuild, since, according to Kamionsky, the rebuild was unnecessary because all, or at least most, of the record-keeping was in order.

*[Handwritten signature]*

10. AD PARAGRAPHS 12 AND 13

10.1. Dell fails to state the manner in which the applicants are alleged to have breached their fiduciary and statutory duties and what they ought to have done as reasonable trustees in the circumstances.

10.2. The mere fact that the rebuild exercise was necessary does not, in itself, mean that the applicants breached their fiduciary and statutory duties.

10.3. I deny that the blame for the failings of the Funds' benefit administrators fall on the applicants.

10.4. Whilst Botha and I were trustees, we resolved to institute action against Kamionsky and Aon South Africa (Pty) Limited ("Aon"). Subsequently, the newly elected trustees of the Funds elected to settle with Kamionsky for R1 million. The action against Aon is, I believe, still ongoing.

10.5. It is thus unclear how Dell can blame the applicants for failing to recover the rebuild costs from the relevant administrators.

11. AD PARAGRAPH 15

11.1. It was never the applicants' duties to construct the Funds' records. That was the function of the Funds' administrators, being Integrated Futures (Pty) Limited ("Integrated") and thereafter Dynam-ique Consultants & Actuaries (Pty) Limited ("Dynam-ique").

11.2. The applicants were moreover never paid to construct member

*[Handwritten signature]*

records. We do not possess the actuarial knowledge or skill that generally resides in an administrator.

- 11.3. Significantly, neither of these two administrators were appointed by the applicants. We, however, took comfort from the fact that both Integrated and Dynam-ique were approved by the Registrar in terms of section 13B(1) of the Pension Funds Act 24 of 1956 ("the PFA") and, at least insofar as Dynam-ique is concerned, would have had to comply with section 13B(5) of the PFA.

12. AD PARAGRAPH 16

The relevance of these allegations is unclear. The rebuild exercise was limited to the period 1 January 2004 to 31 January 2008. The fact that the communication was sent four months after Deloitte's appointment had no bearing on the need for, or the cost of, the rebuild exercise.

13. AD PARAGRAPHS 17, 22 AND 23

- 13.1. The complaint relating to the insurance cover is misconceived for two reasons. The first is that it ignores the fact that until the rebuild exercise was done, there was in fact no claim and no loss suffered by the Funds. The second is that the policies of insurance in any event excluded liability relating to "*Any claim/loss arising in any way from the issues raised by the Auditors following their audit for the year ended 28 February 2006*".
- 13.2. The first time that a potential claim was made against the Funds concerning the alleged negligence of the trustees and/or the


\_\_\_\_\_ *hph*

administrators was on 8 December 2010 in Jonathan Mort Inc's letter dated 8 December 2010, writing on behalf of Chartered Employee Benefits (annexure B to the original complaint attached as annexure GL26 to the founding affidavit).

13.3. Over the period 1 August 2010 to 31 July 2011, policy number FGPC463908368 was operative in respect of the IF Umbrella Pension Fund and policy number FGPC 463908365 was operative in respect of the IF Umbrella Provident Fund. Copies of the policy schedules and the policy wording applicable thereto are annexed hereto marked RA1, RA2, and RA3 respectively.

13.4. The issues raised by the auditors related to the unreliability and material weaknesses in the Funds' records which, as I have set out in detail in the founding affidavit, stemmed from a time prior to the appointment of Botha and I as trustees, and which ultimately led to the rebuild exercise. This supports what I have said in the founding affidavit that when Botha and I were appointed as trustees in 2006 (March 2006 in respect of Botha and November 2006 in respect of myself) we inherited Funds that had already been mal-administered by their administrators (although unbeknown to us at the time). We subsequently took all reasonable steps to ensure compliance and thereafter the decision to undertake a rebuild exercise to rectify the Funds' records in the interests of the Funds and its members.

13.5. Aon were tasked with the responsibility to ensure that the premiums for the period 1 August 2010 to 31 July 2011 were paid. As trustees,

 C. G.

we were under the impression that this was being done. Aon, however, failed to do so. The Funds made full disclosure of this issue to the Adjudicator, in the annual financial reports and confirmed the lapsing of cover in the reports to members. The cover was subsequently reinstated retroactively, however, the specific exclusion relating to any claim or loss arising from the issues raised by the auditors following their audit for the year ended 28 February 2006 remained.

13.6. The result is that even if the premiums had been paid, any claims which the Funds may have made to the insurers relating to the rebuild exercise would have been rejected anyway. The costs of the rebuild exercise could accordingly not have been met from the insurance cover held by the Funds.

13.7. This is confirmed in paragraph 15 of the Funds' affidavit dated 20 September 2013.

13.8. Significantly, the Adjudicator made no adverse finding against the applicants in respect of the insurance issue.

13.9. Accordingly, I deny the allegations and conclusions drawn in these paragraphs and in particular that the applicants are to make good members' losses.

14. AD PARAGRAPH 26

14.1. I agree that there is no need for any oral evidence to be heard by the Adjudicator. The only reason why this relief was sought in the

*Handwritten signature*

alternative was to cater for the situation where this honourable Court may find that there are irresolvable disputes of fact on the papers. From both the Funds' and Dell's answering affidavits, it is clear that this is not the case.

14.2. I have set out the circumstances warranting a decision by this honourable Court and reiterate that this honourable Court is able to and should determine on the papers before it whether or not the applicants ought to be held liable for the costs of the rebuild exercise.

14.3. I deny the remaining allegations.

15. AD PARAGRAPH 27

15.1. It would appear that van Wyk has not read paragraph 6 of the original complaint, which was summarised by me in paragraph 107 of the founding affidavit.

15.2. That was the complaint which the applicants have been called upon to meet. Dell cannot now try to distance itself from it.

16. AD PARAGRAPH 28

The supplementary complaint sought to "piggyback" on Kamionsky's assertion that the decision to authorise the rebuild exercise was reckless and grossly negligent. Significantly, Kamionsky's assertion, which Dell seemed to endorse in its supplementary complaint, was based on the fact that the rebuild exercise was unnecessary as the Funds' records were, according to Kamionsky, in

*Calder*

order. As I have stated above, it would appear that Dell no longer aligns itself with this contention.

17. AD PARAGRAPH 29

There are no paragraphs in the Adjudicator's second determination for the applicants to "engage" as the Adjudicator, like Dell, incorrectly found that the mere fact that the rebuild exercise was necessary in itself meant that the applicants were guilty of maladministration. From the correspondence and minutes attached to the founding affidavit this is clearly a conclusion without any factual basis or support. There was no breach of any statutory or fiduciary duty by the applicants.

18. AD PARAGRAPH 30.7

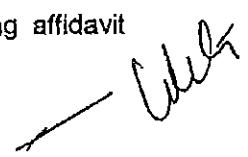
18.1. It is clear from the minutes that we tried to explore other options and gave Dynam-ique an opportunity to rectify the problems.

18.2. After this proved unsuccessful, the decision to authorise the rebuild exercise was made which was, in the circumstances, the only reasonable option available.

CONDONATION

19. I have been advised that this affidavit was due on 9 October 2013. The applicants' lead counsel was unavailable to settle the affidavit by this time as he was acting as a Judge in the South Gauteng High Court from Monday, 30 September 2013 until Friday, 18 October 2013.

20. We thus foresaw that we would not be able to deliver our replying affidavit



timeously and sought an extension of time from Dell. A copy of our attorneys' letter in this regard is annexed hereto marked RA4.

21. Dells' attorneys replied and granted us an "extension" until Monday, 21 October 2013 within which to deliver our replying affidavit. A copy of Dells' attorneys' letter is annexed hereto marked RA5. Given the fact that our lead counsel only returned to chambers on Monday, 21 October 2013 after his acting as a Judge in the South Gauteng High Court, this was, in reality, no extension at all.

22. In the circumstances, I respectfully request that this honourable Court condone the late delivery of this replying affidavit. There can, I submit, be no prejudice suffered by the late delivery of the replying affidavit.

WHEREFORE the applicants persist with their application.

GAIL DENISE LE GRELLIER

I HEREBY CERTIFY THAT THE DEPONENT HAS ACKNOWLEDGED THAT SHE KNOWS AND UNDERSTANDS THE CONTENTS OF THIS AFFIDAVIT, WHICH WAS SIGNED AND SWORN TO BEFORE ME AT Sandton ON THIS THE 28 DAY OF OCTOBER 2013, THE REGULATIONS CONTAINED IN GOVERNMENT NOTICE NO 3619 OF 21 JULY 1972 AND NO 1648 OF 19 AUGUST 1977 HAVING BEEN COMPLIED WITH.

COMMISSIONER OF OATHS

PATRICIA FREDA BLAAUW  
Commissioner of Oaths  
Reference 107/7/10 Randburg 05/07/2010  
22 Fredman Drive  
Sandton



Camargue Underwriting Managers (Pty) Ltd Reg No. 2000/028098/07  
 1st Floor 16 Elon Road Parktown 2193  
 Postnet Suite 250 Private Bag X4  
 Bedfordview 2008  
 Tel: +27 11 356 4846/4880/4833  
 Fax: +27 11 356 4847  
 E-mail: camargue@camargueum.co.za

**Tax Invoice**

To:  
 Aon Risk Services  
 The Place  
 1 Sandton Drive  
 Sandton  
 2198

Date: 17 September 2010  
 Debit Note No: DR-463977599  
 Due Date: 01 August 2010  
 Your VAT Number: 4320101498

Policy Number: FGPC463908368  
 Insured: IF Umbrella Pension Fund

Transaction Type: Policy - Renewal Prep

DESCRIPTION	AMOUNT
Pension Fund Trustees Liability	R 12,500.00
Net Premium	R 9,320.18
VAT @ 14%	R 1,304.82
Risk Management Fee	R 1,644.74
VAT @ 14%	R 230.26
Commission	R -2,192.98
VAT @ 14%	R -307.02
<b>Amount payable</b>	<b>R 10,000.00</b>

**Payment:**

Cheques should be made payable to Camargue Underwriting Managers (Pty) Ltd.  
 Please deposit cheque payments and fax proof of payment to: (011) 356-4847  
 Monies may be deposited into the following account:  
 Account: Camargue Premium Account 1  
 Bank: Nedbank  
 Branch Code: 146-406  
 Account No: 1464097428

On payment of the total due this document becomes a VAT Invoice  
 Camargue Underwriting Managers VAT No. 4050204447



## CAMARGUE UNDERWRITING MANAGERS

This insurance is effected with certain Underwriters at Lloyd's, London and other Insurers.

This Certificate is issued in accordance with the authorisation granted to the Coverholder by certain Underwriters at Lloyd's, whose syndicate numbers and the proportions underwritten by them can be ascertained from the offices of said Coverholder, and Mutual & Federal Insurance Company Ltd (hereinafter jointly referred to as Insurers) and in consideration of the premium specified herein, Insurers do hereby bind themselves, severally and not jointly, each for his own part and not one for another, their Executors and Administrators.

The Coverholder referred to herein is

Camargue Underwriting Managers (Pty) Ltd  
1st Floor Elon House, 15 Elon Road, Parktown, Johannesburg  
Reg No: 2000/028098/07  
Authorised Financial Services Provider License No. 6344.

The Insured is requested to read this Certificate, and if not correct, return it immediately to the Coverholder for appropriate alteration.

In the event of a claim under this Certificate, please notify the Coverholder who is acting as the agent of Insurers.

### CERTIFICATE PROVISIONS

- 1 **Service of Suit:** In the event of any litigation arising out of insurance assumed hereunder, Lloyd's South Africa (Pty) Ltd, 7th Floor The Forum, 2 Maude Street, Sandton, South Africa is required, in terms of the Short Term Insurance Act No. 63 of 1998, to accept service of suit against Underwriters.
- 2 **Assignment:** this Certificate shall not be assigned either in whole or in part without the written consent of the Coverholder endorsed hereon.
- 3 **Complaints:** If you have any complaints concerning your insurance, please contact the Coverholder.
- 4 **Attached Conditions Incorporated:** this Certificate is issued and accepted subject to all the provisions, conditions and warranties set forth herein, attached or endorsed, all of which are to be considered incorporated herein.

This insurance shall be governed by the laws of the Republic of South Africa, whose courts shall have jurisdiction in any dispute arising hereunder.



**SCHEDULE**

**POLICY NO:** FGPC463908368 **INTERMEDIARY:** Aon Risk Services

**THE INSURERS:**

Lloyds Lloyds Syndicate 2987 (Brit) as evidenced by  
Contract No. SOL043/10 for 50%  
Mutual & Federal Insurance Company Ltd for 50%

Important: The Insurers named hereon bind themselves each for their own part and not one for another. Each Insurer's liability under this certificate shall not exceed the percentage or amount of the risk shown against that Insurer's name.

**THE INSURED:**

IF Umbrella Pension Fund

**VAT No:**  
**ADDRESS:**

1  
PO Box 1874 PARKLANDS JOHANNESBURG 2121

**PERIOD OF INSURANCE:**

From: 01 August 2010  
To: 31 July 2011  
both dates inclusive and any subsequent period for  
which the Insurer accepts a premium.

**RENEWAL/ANNIVERSARY DATE:**

01 August 2011

**ANNUAL PREMIUM:**

R 12,500.00

**PREMIUM DUE:**

Premium:	R 10,964.91
VAT @ 14%:	R 1,536.09
Total now payable:	R 12,500.00

Commission payable to Intermediary R 2,500.00 Including VAT



Date: 17 September 2010

Signed for Camargue Underwriting Managers (Pty) Ltd

Reason for issue:  
Policy - Renewal Prep

**COVERED DETAILS**

**INSURED :** IF Umbrella Pension Fund  
**POLICY NUMBER :** FGPC463908368  
**POLICY TYPE:** Pension Fund Trustees

**Limit of Indemnity** R 10,000,000  
**First Amount Payable** Nil  
**Retroactive Date:** 21 November 2008

**Extensions and Endorsements Applicable:**

Reinstatement Option  
**Claims Preparation Costs:** 2% of Limit of Indemnity  
**Costs of Recovery:** 3% of Limit of Indemnity  
**Costs of Reinstating Office Records:** 2% of Limit of Indemnity

**Specific Exclusion:** Any claim/loss arising in any way from the issues raised by the Auditors following their audit for the year ended 28 February 2008.

The Insurers shall not be liable for loss arising from:  
Any claim based on, arising out of, relating to or involving, directly or indirectly any form of Investment into:

Corporate Money Managers (Pty) Ltd and any subsidiary or associated company and/or any affiliated entity and/or any related entities subsequently involved as a result of the ongoing FSB investigation and/or any investigation conducted by any other equivalent authority under any other jurisdiction;

Frederick Benjamin Andalaft and/or any of his associates and/or National Financial Partners (Pty) Ltd and/or Finshare Financial Services (Pty) Ltd and/or Progressive Investment Trust and any subsidiary or associated company and/or any affiliated entity and/or any related entities subsequently involved as a result of the ongoing FSB investigation and/or any investigation conducted by any other equivalent authority under any other jurisdiction;

J Arthur Brown and/or any of his associates and/or Eldenla Asset Management (Pty) Ltd and/or Common Cents Investment Portfolio Strategists (Pty) Ltd and any subsidiary or associated company and/or any affiliated entity and/or any related entities subsequently involved as a result of the ongoing FSB investigation and/or any investigation conducted by any other equivalent authority under any other jurisdiction.

Subject otherwise to the Terms, Conditions and Exclusions of the Policy.

**ADDITIONAL BENEFITS**

The Insured is entitled to the following additional benefit(s):

- 1. Access to a professional arbitration service to resolve disputes between the Fund and its member(s).

**ADDITIONAL CONDITIONS OF POLICY****SEVERAL LIABILITY CLAUSE**

PLEASE NOTE - This notice contains important information. PLEASE READ CAREFULLY.

The liability of an insurer under this contract is several and not joint with any other insurers party to this contract. An insurer is liable only for the proportion of liability it has underwritten. An insurer is not jointly liable for the proportion of liability underwritten by any other insurer. Nor is an insurer otherwise responsible for any liability of any other insurer that may underwrite this contract.

The proportion of liability under this contract underwritten by an insurer (or, in the case of a Lloyd's syndicate, the total of the proportions underwritten by all the members of the syndicate taken together) is shown in this contract.

In the case of a Lloyd's syndicate, each member of the syndicate (rather than the syndicate itself) is an insurer. Each member has underwritten a proportion of the total shown for the syndicate (that total itself being the total of the proportions underwritten by all the members of the syndicate taken together). The liability of each member of the syndicate is several and not joint with other members. A member is liable only for that member's proportion. A member is not jointly liable for any other member's proportion. Nor is any member otherwise responsible for any liability of any other insurer that may underwrite this contract. The business address of each member is Lloyd's, One Lime Street, London EC3M 7HA. The identity of each member of a Lloyd's syndicate and their respective proportion may be obtained by writing to Market Services, Lloyd's at the above address.

Although reference is made at various points in this clause to "this contract" in the singular, where circumstances so require this should be read as a reference to contracts in the plural.



**IMPORTANT INFORMATION FOR ALL OUR CLIENTS**

(This notice does not form part of the Insurance Contract or any other document)

**Policy Reference Number:** FGPC463908368

**About ourselves, your Underwriting Manager**

**Company Name :** Camargue Underwriting Managers (Pty) Ltd  
(Reg No. 2000/028098/07)

**Physical Address:** 1st Floor Elon House, 15 Elon Road, Parktown, Johannesburg

**Postal Address:** Postnet Suite 260, Private Bag X4, Bedfordview 2008

**Telephone No:** 011-356-4845      **Fax No:** 011-356-4847

**Website & e-mail:** www.camargueum.co.za / camargue@camargueum.co.za

**Our Compliance Officer:** Craig Ormrod – telephone no. 0861 226 6759

**Our license to operate as a Financial Service Provider** License No: 8344.  
Category I Short Term Insurance Commercial Lines & Personal Lines

**We have the following Insurance coverage in place:** Professional Indemnity Insurer: Zurich Risk Financing SA Limited.  
Fidelity Guarantee Insurer: Zurich Risk Financing SA Limited.  
IGF Guarantee

**How we are paid for our services:** We are paid a fee by insurers for managing your policy on their behalf. In addition we have a vested interest in this transaction by virtue of a profit share agreement between ourselves and insurers.

Over 30% of our income is derived from both Lloyd's and from Mutual & Federal

**About your Insurer**

**Name:** Mutual & Federal Insurance Company Ltd. Reg. No. 70/06819/06

**Address:** 76 President Street, Johannesburg 2001  
PO Box 1120, Johannesburg 2000

**Phone & Fax:** Phone 011-374-9111; Fax 011-374-2852

**Compliance Officer:** Ms J Hurter - phone 011 374 2315

**Name:** Lloyd's Syndicate 2987 (Managing Agent: Brit Syndicates Ltd)

**Address:** Lloyd's South Africa (Pty) Ltd, The Forum, 7th Floor, Sandton, Johannesburg. PO Box 787163 Sandton 2146.

**Phone & Fax:** Phone 011 884 0486; Fax 011 884 0384.

**How your Insurer is paid:** The premium shown on your quote, policy or renewal schedule, less the risk management fee described below, will be paid to your Insurer. Any additional fee charged will be shown separately.

**Ownership:** We own no shares in Brit or in Mutual & Federal Insurance Company  
Neither Brit nor Mutual & Federal Insurance Company own any shares in us.

**Type of policy:** This is a Pension Fund Trustees Liability Policy

**Our mandate:** We have written mandates from Brit and Mutual & Federal Insurance Company authorising us to transact this class of business on their behalf.

**Premium obligation:** This policy is subject to payment of an annual premium, the amount of which is shown in the policy schedule. The premium includes a risk management fee of 15% which is used by Camargue to pay for the additional benefits described in your policy documentation. The premium is payable on or before the inception date or renewal date shown in the policy schedule. Failure to pay the premium by this date may result in your policy being cancelled and any claim rejected.

**How to institute a claim:** Inform your intermediary as soon as you become aware of a situation or event that may give rise to a claim under the policy; they will advise us, and tell you what procedure to follow.

**Complaint process:** 1. If you have a complaint about our service, staff or products please contact the following person with full details of the problem:

Mr P Downham  
Telephone no. 011 366 4833  
E-mail: peter@camargueum.co.za

2. If you wish to lodge a complaint direct with insurers please contact;

Lloyd's South Africa (Pty) Ltd  
Tel: 011 884 0488 Fax: 011 884 0384  
and/or  
Mutual & Federal Insurance Company Ltd.  
Phone 011-374-9111; Fax 011-374-2652

3. If your problem is not resolved to your satisfaction you may refer your complaint to the Ombud for Financial Service Providers at

PO Box 74671, Lynwood Ridge, 0040  
Telephone 0860 324766, Fax 012 348 3447  
Website: www.falsombud.co.za  
e-mail: info@falsombud

**Service of suit:** In the event of any litigation arising out of this insurance, Lloyd's South Africa (Pty) Ltd, 7th Floor, The Forum, 2 Maude Street, Sandton, South Africa is required in terms of the Short Term Insurance Act No. 53 of 1998 to accept service of suit against Underwriters at Lloyd's.



Camargue Underwriting Managers (Pty) Ltd Reg No. 2000/028098/07  
 1st Floor 15 Elton Road Parktown 2193  
 Postnet Suite 250 Private Bag X4  
 Bedfordview 2008  
 Tel: +27 11 356 4845/4880/4833  
 Fax: +27 11 356 4847  
 E-mail: camargue@camargueum.co.za

**Tax Invoice**

To:  
 Aon Risk Services  
 The Place  
 1 Sandton Drive  
 Sandton  
 2196

Date: 17 September 2010  
 Debit Note No: DR-463977602  
 Due Date: 01 August 2010  
 Your VAT Number: 4320101498

Policy Number: FGPC463908365  
 Insured: IF Umbrella Provident Fund

Transaction Type: Policy - Renewal Prep

DESCRIPTION	AMOUNT
Pension Fund Trustees Liability	R 12,500.00
Net Premium	R 0,320.18
VAT @ 14%	R 1,304.82
Risk Management Fee	R 1,844.74
VAT @ 14%	R 230.26
Commission	R -2,192.98
VAT @ 14%	R -307.02
<b>Amount Payable</b>	<b>R 10,000.00</b>

**Payment:**

Cheques should be made payable to Camargue Underwriting Managers (Pty) Ltd.  
 Please deposit cheque payments and fax proof of payment to: (011) 356-4847  
 Monies may be deposited into the following account:  
 Account: Camargue Premium Account 1  
 Bank: Nedbank  
 Branch Code: 145-405  
 Account No: 1454087428

On payment of the total due this document becomes a VAT invoice  
 Camargue Underwriting Managers VAT No. 4050204447



# CAMARGUE UNDERWRITING MANAGERS

This insurance is effected with certain Underwriters at Lloyd's, London and other Insurers.

This Certificate is issued in accordance with the authorisation granted to the Coverholder by certain Underwriters at Lloyd's, whose syndicate numbers and the proportions underwritten by them can be ascertained from the offices of said Coverholder, and Mutual & Federal Insurance Company Ltd (hereinafter jointly referred to as Insurers) and in consideration of the premium specified herein, Insurers do hereby bind themselves, severally and not jointly, each for his own part and not one for another, their Executors and Administrators.

The Coverholder referred to herein is

Camargue Underwriting Managers (Pty) Ltd  
1st Floor Eton House, 15 Eton Road, Parktown, Johannesburg  
Reg No: 2000/028096/07  
Authorised Financial Services Provider License No. 6344.

The Insured is requested to read this Certificate, and if not correct, return it immediately to the Coverholder for appropriate alteration.

In the event of a claim under this Certificate, please notify the Coverholder who is acting as the agent of Insurers.

### CERTIFICATE PROVISIONS

- 1 **Service of Suit:** In the event of any litigation arising out of insurance assumed hereunder, Lloyd's South Africa (Pty) Ltd, 7th Floor The Forum, 2 Maude Street, Sandton, South Africa is required, in terms of the Short Term Insurance Act No. 53 of 1998, to accept service of suit against Underwriters.
- 2 **Assignment:** This Certificate shall not be assigned either in whole or in part without the written consent of the Coverholder endorsed hereon.
- 3 **Complaints:** If you have any complaints concerning your insurance, please contact the Coverholder.
- 4 **Attached Conditions Incorporated:** This Certificate is issued and accepted subject to all the provisions, conditions and warranties set forth herein, attached or endorsed, all of which are to be considered incorporated herein.

This insurance shall be governed by the laws of the Republic of South Africa, whose courts shall have jurisdiction in any dispute arising hereunder.



SCHEDULE

POLICY NO: FGPC463908365 INTERMEDIARY: Aon Risk Services

THE INSURERS: Lloyds Lloyds Syndicate 2987 (Brit) as evidenced by Contract No. SOL043/10 for 50% Mutual & Federal Insurance Company Ltd for 50%

Important: The insurers named hereon bind themselves each for their own part and not one for another. Each insurer's liability under this certificate shall not exceed the percentage or amount of the risk shown against that insurer's name.

THE INSURED: IF Umbrella Provident Fund
VAT No: 1
ADDRESS: PO Box 1874 PARKLANDS JOHANNESBURG 2121

PERIOD OF INSURANCE: From: 01 August 2010 To: 31 July 2011 both dates inclusive and any subsequent period for which the insurer accepts a premium.

RENEWAL/ANNIVERSARY DATE: 01 August 2011

ANNUAL PREMIUM: R 12,600.00

Table with 2 columns: Description, Amount. Rows: Premium: R 10,864.91; VAT @ 14%: R 1,636.09; Total now payable: R 12,600.00

Commission payable to intermediary R 2,500.00 including VAT



Date: 17 September 2010

Signed for Camargue Underwriting Managers (Pty) Ltd

Reason for issue: Policy - Renewal Prep

Handwritten signature

**COVER DETAILS**

**INSURED :** IF Umbrella Provident Fund  
**POLICY NUMBER :** FGPC403908365  
**POLICY TYPE:** Pension Fund Trustees

**Limit of indemnity** R 10,000,000  
**First Amount Payable** Nil  
**Retroactive Date:** 21 November 2006

**Extensions and Endorsements Applicable:**

Reinstatement Option  
Claims Preparation Costs: 2% of Limit of Indemnity  
Costs of Recovery: 3% of Limit of Indemnity  
Costs of Reinstating Office Records: 2% of Limit of Indemnity

**Specific Exclusion:** Any claim/loss arising in any way from the issues raised by the Auditors following their audit for the year ended 28 February 2008.

The Insurers shall not be liable for loss arising from:  
Any claim based on, arising out of, relating to or involving, directly or indirectly any form of investment into:

Corporate Money Managers (Pty) Ltd and any subsidiary or associated company and/or any affiliated entity and/or any related entities subsequently involved as a result of the ongoing FSB investigation and/or any investigation conducted by any other equivalent authority under any other jurisdiction;

Frederick Benjamin Andajft and/or any of his associates and/or National Financial Partners (Pty) Ltd and/or Finshare Financial Services (Pty) Ltd and/or Progressive Investment Trust and any subsidiary or associated company and/or any affiliated entity and/or any related entities subsequently involved as a result of the ongoing FSB investigation and/or any investigation conducted by any other equivalent authority under any other jurisdiction;

J Arthur Brown and/or any of his associates and/or Fidentia Asset Management (Pty) Ltd and/or Common Cents Investment Portfolio Strategists (Pty) Ltd and any subsidiary or associated company and/or any affiliated entity and/or any related entities subsequently involved as a result of the ongoing FSB investigation and/or any investigation conducted by any other equivalent authority under any other jurisdiction.

Subject otherwise to the Terms, Conditions and Exclusions of the Policy.

**ADDITIONAL BENEFITS**

The Insured is entitled to the following additional benefit(s):

- 1. Access to a professional arbitration service to resolve disputes between the Fund and its member(s).

## ADDITIONAL EXTENSIONS/EXCLUSIONS

## SEVERAL LIABILITY CLAUSE

PLEASE NOTE - This notice contains important information. PLEASE READ CAREFULLY.

The liability of an insurer under this contract is several and not joint with any other insurers party to this contract. An insurer is liable only for the proportion of liability it has underwritten. An insurer is not jointly liable for the proportion of liability underwritten by any other insurer. Nor is an insurer otherwise responsible for any liability of any other insurer that may underwrite this contract.

The proportion of liability under this contract underwritten by an insurer (or, in the case of a Lloyd's syndicate, the total of the proportions underwritten by all the members of the syndicate taken together) is shown in this contract.

In the case of a Lloyd's syndicate, each member of the syndicate (rather than the syndicate itself) is an insurer. Each member has underwritten a proportion of the total shown for the syndicate (that total itself being the total of the proportions underwritten by all the members of the syndicate taken together). The liability of each member of the syndicate is several and not joint with other members. A member is liable only for that member's proportion. A member is not jointly liable for any other member's proportion. Nor is any member otherwise responsible for any liability of any other insurer that may underwrite this contract. The business address of each member is Lloyd's, One Lime Street, London EC3M 7HA. The identity of each member of a Lloyd's syndicate and their respective proportion may be obtained by writing to Market Services, Lloyd's at the above address.

Although reference is made at various points in this clause to "this contract" in the singular, where circumstances so require this should be read as a reference to contracts in the plural.



### IMPORTANT INFORMATION FOR ALL OUR CLIENTS

(This notice does not form part of the Insurance Contract or any other document)

**Policy Reference Number:** FGPC463908365

**About ourselves, your Underwriting Manager**

**Company Name :** Camargue Underwriting Managers (Pty) Ltd  
(Reg No. 2000/028098/07)

**Physical Address:** 1st Floor Eton House, 15 Eton Road, Parktown, Johannesburg

**Postal Address:** Posinet Suite 250, Private Bag X4, Bedfordview 2008

**Telephone No:** 011-358-4845 **Fax No:** 011-358-4847

**Website & e-mail:** www.camargueum.co.za / camargue@camargueum.co.za

**Our Compliance Officer:** Craig Ormrod – telephone no. 0861 226 8759

**Our license to operate as a Financial Service Provider** License No: 6344.  
Category I Short Term Insurance Commercial Lines & Personal Lines

**We have the following Insurance coverage in place:** Professional Indemnity Insurer: Zurich Risk Financing SA Limited.  
Fidelity Guarantee Insurer: Zurich Risk Financing SA Limited.  
IGF Guarantee

**How we are paid for our services:** We are paid a fee by insurers for managing your policy on their behalf. In addition we have a vested interest in this transaction by virtue of a profit share agreement between ourselves and insurers.

Over 30% of our income is derived from both Lloyd's and from Mutual & Federal

**About your Insurer**

**Name:** Mutual & Federal Insurance Company Ltd. Reg. No. 70/06619/06

**Address:** 75 President Street, Johannesburg 2001  
PO Box 1120, Johannesburg 2000

**Phone & Fax:** Phone 011-374-9111; Fax 011-374-2652

**Compliance Officer:** Ms J Hurter - phone 011 374 2316

**Name:** Lloyd's Syndicate 2987 (Managing Agent: Brit Syndicates Ltd)

**Address:** Lloyd's South Africa (Pty) Ltd, The Forum, 7th Floor, Sandton,  
Johannesburg. PO Box 787163 Sandton 2146.

**Phone & Fax:** Phone 011 884 0486; Fax 011 884 0384.

**How your insurer is paid:** The premium shown on your quote, policy or renewal schedule, less the risk management fee described below, will be paid to your insurer. Any additional fee charged will be shown separately.

**Ownership:** We own no shares in Brit or in Mutual & Federal Insurance Company  
Neither Brit nor Mutual & Federal insurance Company own any shares in us.

**Type of policy:** This is a Pension Fund Trustees Liability Policy

**Our mandate:** We have written mandates from Brit and Mutual & Federal Insurance Company authorising us to transact this class of business on their behalf.

**Premium obligation:** This policy is subject to payment of an annual premium, the amount of which is shown in the policy schedule. The premium includes a risk management fee of 15% which is used by Camargue to pay for the additional benefits described in your policy documentation. The premium is payable on or before the inception date or renewal date shown in the policy schedule. Failure to pay the premium by this date may result in your policy being cancelled and any claim rejected.

**How to institute a claim:** Inform your Intermediary as soon as you become aware of a situation or event that may give rise to a claim under the policy; they will advise us, and tell you what procedure to follow.

**Complaint process:** 1. If you have a complaint about our service, staff or products please contact the following person with full details of the problem:

Mr P Downham  
Telephone no. 011 356 4833  
E-mail: peter@camargueum.co.za

2. If you wish to lodge a complaint direct with insurers please contact;

Lloyd's South Africa (Pty) Ltd  
Tel: 011 884 0486 Fax: 011 884 0384  
and/or  
Mutual & Federal Insurance Company Ltd.  
Phone 011-374-9111; Fax 011-374-2852

3. If your problem is not resolved to your satisfaction you may refer your complaint to the Ombud for Financial Service Providers at

PO Box 74571, Lynwood Ridge, 0040  
Telephone 0860 324766, Fax 012 348 3447  
Website: www.falsombud.co.za  
e-mail: info@falsombud

**Service of suit:** In the event of any litigation arising out of this insurance, Lloyd's South Africa (Pty) Ltd, 7th Floor, The Forum, 2 Maude Street, Sandton, South Africa is required in terms of the Short Term Insurance Act No. 53 of 1998 to accept service of suit against Underwriters at Lloyd's.

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**PENSION FUND TRUSTEES LIABILITY  
INSURANCE POLICY**

Subject to the terms, exclusions and conditions (precedent or otherwise) and in consideration of, and conditional upon the prior payment of the premium by or on behalf of the Insured and receipt thereof by or on behalf of the Insurers, the Insurers agree to indemnify the Insured in respect of the defined events occurring during the period of insurance and as otherwise provided under the policy up to the limit of indemnity specified.

**CONDITIONS**

**1. Conditions Precedent to Liability**

Insofar as they relate to anything to be done or complied with by the Insured, the due observance and fulfilment of the following conditions and stipulations and of any further conditions and stipulations that may be endorsed hereon or added hereto is a condition precedent to any liability of the Insurers under this policy and no waiver of any of the terms, conditions or stipulations of this policy shall be valid unless made in writing upon this policy and signed on behalf of the Insurers. The head notes to any paragraph are for reference purposes and shall not effect the interpretation of the policy.

**2. Claims Notification**

Notification of any claim or circumstance which may give rise to a claim shall be given in writing as soon as is reasonably possible, with the fullest information thereof. The Insured shall also furnish all such information and assistance as the Insurers may require.

If the Insured, or any representative of the Insured to whom is entrusted the duty of superintendence or audit, suspect or become aware of the negligence or dishonesty of an officer, they shall report such negligence or dishonesty as soon as possible.

**3. Prosecution**

The Insured shall, if and when required by the Insurers, and at the expense of the Insurers, use all diligence in prosecuting the officer to conviction for any criminal act which he/she shall have committed and in consequence of which a claim shall have been made under this policy and shall, at the Insurers' expense, give all information and assistance to enable the Insurers to sue for and obtain reimbursement from the officer or his/her estate of any monies which the Insurers shall have become liable to pay hereunder.

**4. Litigation costs**

The Insurers agree to pay litigation expenses in prosecuting or defending any claim where such litigation expenses are incurred with the written consent of the Insurers. Such payment to be part of and not in addition to the limit of indemnity.

**5. Admission of Liability**

The Insured shall not, without the written authority of the Insurers, voluntarily incur any liability (including litigation expenses) or voluntarily give any undertaking to make any payment, or settlement of or admission of liability for, any event for which the Insurers would be liable under this policy.

**6. Access to the Fund's Records**

The Insurers or its duly authorised representative shall have reasonable access to the Insured's records and books after receiving notice of a loss and may call for sworn declarations by the Insured or their representative in support of any claim submitted.

**7. Subrogation**

When a loss has been made good by the Insurers, a discharge thereof shall be made by the Insured and the Insured shall, when required by and at the expense of the Insurers, assign to the Insurers claims and rights of action competent to the Insured against the persons concerned in respect of the loss sustained. However, this shall not apply to any natural person(s) acting as an officer where they are indemnified under defined event 1.

**8. Assets of Officer Held by Insured**

Any sum of money, estate or effects which shall come into the possession or power of the Insured for or on account of any person whose act or acts give rise to a claim under defined events 2 or 3 shall, insofar as it is competent for the Insured to do so, be realised by the Insured to the best advantage and the proceeds shall be accounted for by the Insured to the Insurers and treated as a deduction from the loss.

**9. Control of Proceedings**

The Insurers shall be entitled to undertake the conduct and control of all or any proceedings in respect of any claim for which the Insurers may be liable under defined event 1 which may be commenced by or against the Insured, and to use the name of the Insured to enforce, for the benefit of the Insurers, any order made for costs or otherwise and to make or defend any claim for indemnity or damages against any person or insurers or for any other purpose connected with this policy.

9.1 The Insured shall not be required to contest any legal proceedings unless counsel (to be mutually agreed upon by the Insured and the Insurers) shall advise that such proceedings should be contested.

9.2 The Insurers shall not settle any claim without the consent of the Insured. If however the Insured shall refuse to consent to any settlement recommended by the Insurers, and shall elect to contest or continue any legal proceedings in connection with such claim then the Insurers' liability for the claim shall not exceed the amount by which the claim could have been so settled plus the costs, charges and expenses incurred with their consent up to the date of such refusal, and then only up to the limit of indemnity.

**10. Recoveries Where a Loss Exceeds the Limit of Indemnity**

In the case of recovery on account of any loss covered under this policy the amount recovered, after deducting the actual cost of obtaining or making such recovery but excluding the Insured's own labour and/or establishment costs, shall be applied in the following order:

10.1 To reimburse the Insured in full for that part, if any, of such loss that exceeds the amount of coverage provided by this policy (disregarding the amount of any first amount payable);

10.2 The balance, if any, or the entire net recovery if no part of such loss which exceeds the amount of coverage by this policy, to reduction of that part of such loss covered by this policy, or if payment thereof shall have been made, to the reimbursement of the Insurers;

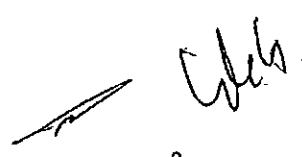
10.3 Finally, to that part of such loss sustained by the Insured by reason of any first amount payable.

**11. Signing of Proposal**

It is understood and agreed that knowledge in respect of any act or acts which may have been committed by the person signing any proposal form or giving renewal or other instructions shall not prejudice any claim under this policy.

**12. First Amount Payable**

The Insurers shall not be liable for the first amount payable stated in the schedule, which shall apply separately in respect of each and every claim.



**13. Fraudulent Claims**

If any claim under this policy is in any respect fraudulent, or if any fraudulent means or devices are used by the Insured or anyone acting on their behalf or with their knowledge or consent to obtain any benefit under this policy, or if any event is occasioned by the wilful act or with the connivance of the Insured, the benefit afforded under this policy in respect of such claim shall be forfeited.

**14. South African Jurisdiction**

This policy shall be governed by the laws of the Republic of South Africa whose courts shall have jurisdiction in any dispute arising hereunder.

**15. Cancellation**

This policy may be cancelled at any time by the Insurers giving 30 days' notice in writing to the Insured, or by the Insured giving immediate notice. The Insured shall be entitled to a refund of premium for the unexpired period of insurance.

**DEFINED EVENTS**

**1. Negligence**

Any claim first made against any officer during the period of insurance resulting from any wrongful act committed by an officer anywhere in the world but not in respect of any judgement, award or settlement made within countries which operate under the laws of the United States of America or to any order made anywhere in the world to enforce such judgement, award or settlement in whole or in part.

If, during the period of insurance, written notice of a claim against the Insured has been given to the Insurers, then any claim which is subsequently made against the Insured and reported to the Insurers alleging, arising out of, based upon or attributable to the facts alleged in the claim of which such notice has been given or alleging any wrongful act which is the same, related, continuous or repeated wrongful act alleged or contained in such claim, shall be considered made against the Insured and reported to the Insurers at the time such notice of such claim was given.

If, during the period of insurance, or during the discovery period (if applicable) the Insured shall become aware of any circumstances which may reasonably be expected to give rise to a claim being made against the Insured and shall give written notice to the Insurers of the circumstances and the reasons for anticipating such claim, without full particulars as to dates and persons involved, then any claim which is subsequently made against the Insured and reported to the Insurers alleging, arising out of, based upon or attributable to such circumstances or alleging any wrongful act which is the same, related, continuous or repeated wrongful act alleged or contained in such circumstances, shall be considered made against the Insured and reported to the Insurers at the time such notice of such circumstances was given.

**2. Theft, Fraud and Dishonesty**

2.1 Loss of money and/or other property belonging to the Insured or for which they are responsible, which is stolen or removed without the Insured's authority by an officer;

2.2 Direct financial loss sustained by the Insured as a result of fraud or dishonesty of an officer and which results in dishonest personal financial gain for the officer concerned;

all of which occurs during the period of insurance or after the retroactive date and which is discovered during the period of insurance or within 12 months of the termination of this policy.

The term "money" shall include securities, derivative instruments, cheques, bills of exchange, investments, certificates of deposit, shares, letters of credit or orders upon public treasuries, promissory notes, currency notes, coins and bonds.

**3. Computer Crime**

Loss resulting directly from fraudulent or dishonest

3.1 entry of data into, or

3.2 change of data or programmes within

the officer's computer system, provided such entry or change causes

- (I) property to be transferred, paid or delivered;
- (II) an account of the Fund, or of its member(s) to be added, deleted, debited or credited;
- (III) an unauthorised account or fictitious account to be debited or credited

all of which occurs during the period of insurance or after the retroactive date and which is discovered during the period of insurance or within 12 months of the termination of this policy.

**Provided that**

- (a) Renewal of this insurance from period to period or any extension of any period of insurance shall not have the effect of accumulating or increasing the liability of the Insurers beyond the limit of indemnity stated in the schedule.
- (b) The Insurers' total aggregate liability under all defined events together shall not exceed the limit of indemnity shown in the schedule.
- (c) The Insured shall be responsible for the first amount payable shown in the schedule. Such first amount payable is to apply without aggregation to each and every claim hereunder.
- (d) The liability of the Insurers is limited to losses incurred by the Insured relative to pension / provident / disability / trust monies in respect of past, present or future employee benefits.

**DEFINITIONS**

The following definitions shall have the same meaning throughout the policy where ever they appear.

**1. Officer**

Any of the following who provides services to or for the Insured:

a present or past committee member, individual, manager, trustee, administrator, third party service provider, controller, principal officer, treasurer, clerk, employee or agent of the employer company.

**2. Wrongful Act**

Any actual or alleged breach of duty, statutory duty or trust, neglect, error, misstatement, misleading statement, omission, defamation, *injuria*, unintentional breach of confidentiality or other act wrongfully committed, omitted or attempted by an officer and which arises by reason of their being an officer of the Insured other than as insured under defined event 2 or 3.

**3. Insured**

The fund described in the schedule.

**4. Fund**

Any fund declared to the Insurers which was, on or prior to the inception of the policy, established and maintained for the benefit of the past, present and future employees of the employer company or their respective beneficiaries.

**5. Loss**

**5.1** Damages, judgements or settlements;

**5.2** Costs and expenses awarded against any Insured through any claimant or claimants;

**5.3** All other costs and expenses incurred with the written consent of the Insurers including but not limited to

(I) Insurers' costs and expenses

(II) costs, charges and expenses of legal representation.

Wherever the terms "loss" or "claim" are used in this policy it is understood to mean any losses or series of losses arising out of the same event.

A loss, losses or series of losses caused by wrongful acts of, or involving any one person whether acting alone or in collusion, whether with one of the officers of the Insured or not, or wrongful acts in which any one person whether acting alone or in collusion is concerned or implicated, shall be deemed as being the same event.

**6. Dishonesty**

- 6.1 Theft as provided for in defined event 2.1;
- 6.2 Fraud as provided for in defined event 2.2.

"Dishonesty" shall not include gain by an officer in the form of salary, salary increases, fees, commissions, bonuses, promotions or other emoluments.

**EXTENSIONS AND CLAUSES**

**1. Discovery Clause**

In the event that the Insurers refuse to renew this insurance then subject to all the terms, exceptions and conditions of this policy the Insurers agree to extend the period during which the Insured may report a claim for a period of 12 months (hereinafter referred to as the discovery period) provided that:

- (a) the Insurers shall not be liable for wrongful acts which occurred after the period of insurance;
- (b) any such reported claim shall be treated as if it had been reported on the last day of the period of insurance;
- (c) the total amount payable by the Insurers for a claim reported during the discovery period shall not have the effect of increasing the limit of indemnity under the policy;
- (d) the Insured has not obtained insurance providing substantially the same cover as granted under this policy.

**2. Claims Preparation Costs**

The insurance under the policy is extended to include costs reasonably incurred by the Insured in producing and certifying any particulars or details required by the Insurers in terms of Condition 2 or to substantiate the amount of any claim provided that the liability of the Insurers for such costs in respect of any one claim shall not exceed 2% of the limit of liability or the amount stated in the schedule whichever is the greater amount.

**3. Costs of recovery**


If the Insured shall sustain any loss to which the policy applies which exceeds the limit of indemnity, the Insurers will in addition pay to the Insured costs and expenses not exceeding 3% of the limit of indemnity, or the amount stated in the schedule whichever is the greater, necessarily incurred with the consent of the Insurers (which consent shall not unreasonably be withheld) for the recovery or attempted recovery from the officer in regard to whom the claim is made, of that part of the loss which exceeds the limit of indemnity hereunder. All amounts recovered by the Insured in excess of the said part of the loss shall be for the benefit of the Insurers.

**4. Costs of Reinstating Office Records**

The policy is extended to include costs, charges and expenses incurred by the Insured in replacing and/or restoring any computer files and data media documents, manuscripts, business books, plans, design specifications or programmes destroyed, damaged or lost as a result of loss insured by this policy, provided that the liability of the Insurers shall not exceed 2% of the limit of indemnity or the amount stated in the schedule, whichever is the greater amount.

**5. Reinstatement of Sum Insured**

The payment by the Insurers of any loss involving one officer or any number of officers shall not reduce

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the Insurers' liability in respect of the remaining insured officers provided that the maximum amount payable by the Insurers for all losses (including defence costs) shall not exceed, during any one period of insurance, double the limit of indemnity shown in the schedule.

**6. Extended Cover for Former Officers**

Any person who ceases to be an officer shall for the purposes of the policy be considered as being an officer for a period of 30 (thirty) days after he ceased to be an officer.

**7. Accountants Clause**

Any particulars or details contained in the Insured's books of account or other business books or documents which may be required by the Insurers for the purpose of investigating or verifying any claim hereunder may be produced and certified by the Insured's auditors or professional accountants and their certificate shall be prima facie evidence of the particulars and details to which it relates.

**8. Unidentifiable Officer Clause**

If a loss is alleged to have been caused by the fraud or dishonesty of any of the officers and the Insured shall be unable to designate the specific officer or officers causing the loss, the Insured's claim in respect of such loss shall not be invalidated by their inability to do so provided the Insured is able to furnish evidence to the reasonable satisfaction of the Insurers that the loss was in fact due to the fraud or dishonesty of one or more of the officers.

**9. VAT Exclusive**

The limit of indemnity is expressed on a VAT-exclusive basis and the Insurers agree to indemnify the Insured over and above the limit of indemnity for any VAT obligation the Insured may incur arising out of any claim settlement made hereunder.

**10. Retroactive Date**

The Insurers shall not be liable to provide indemnity hereunder for any event(s) which occurred prior to the retroactive date stated in the schedule, provided that nothing contained within this condition shall be interpreted as releasing the Insured from their obligation to reveal as a material fact all details of claims made or outstanding or events likely to give rise to a claim.

**11. Increase in Limit of Indemnity**

If the limit of indemnity is increased, such increased limit of indemnity shall only apply to the defined event(s) occurring after the date of such increase.

**12. Fraudulent Signatory Extension**

The misrepresentation or non disclosure of any matter by the Insured and/or any covered individual or entity or their agent will render the policy void. However any loss caused by the dishonest or fraudulent act(s) of any signatory to the proposal form committed whilst acting in the capacity of an officer prior to the signing of such proposal form shall not be excluded solely by the fact that such loss has not been notified to the Insurers in the proposal form.

**EXCLUSIONS**

The Insurers shall not be liable for any claim(s)

1. for any actual or alleged bodily injury, sickness, disease or death of any person or any actual or alleged loss or destruction of or damage to any tangible property including loss of use thereof;
2. based upon, arising out of, directly or indirectly resulting from, or in consequence of, or in any way involving actual or alleged seepage, pollution or contamination of any kind;
3. any third party claim arising from or contributed to by depreciation (or failure to appreciate) in value of any investment, including loans, securities, commodities, currencies, options and futures transactions, or as a result of any actual or alleged representation, guarantee or warranty provided by or on behalf of the Insured as to the performance of any such investments where such matters are outside the influence or control of the officer;

*Chd*

It is agreed however, that this exclusion shall not apply to any loss due solely to negligence on the part of an officer in failing to effect a specific investment transaction in accordance with specific prior instructions.

4. resulting from the intentional suspension of contributions to the fund by the employer company;
5. resulting from the fraud or dishonesty of any officer from the time the Insured shall become aware that such officer has committed any fraud or dishonesty indemnifiable in terms of the policy. Any wrongful act pertaining to any Insured shall not be imputed to any other Insured;
6. In respect of which the Insured is entitled to indemnity under any other policy except in respect of any excess beyond the amount which would have been payable under such policy had this policy not been effected;
7. for loss or damage caused directly or indirectly by or through or in consequence of any occurrence for which a fund has been established in terms of the War Damage Insurance and Compensation Act 1976 (No. 85 of 1976) or any similar Act operative in any territory to which this policy applies;
8. for loss of or damage to property directly or indirectly caused by or in any way related to:
  - (a) civil commotion, labour disturbances, riot, strike, lockout or public disorder or any act or activity which is calculated or directed to bring about any of the foregoing;
  - (b) war, invasion, act of foreign enemy, hostilities or warlike operations (whether war be declared or not) or civil war;
  - (c)
    - (i) mutiny, military rising, military or usurped power, martial law or state of siege or any other event or cause which determines the proclamation or maintenance of martial law or state of siege;
    - (ii) insurrection, rebellion or revolution;
  - (d) any act (whether on behalf of any organisation, body or person or group of persons) calculated to
    - (i) overthrow or influence any State or Government or any provincial, local or tribal authority with force or by means of fear, terrorism or violence;
    - (ii) bring about loss or damage in order to further any political, religious, social, ideological or similar purpose, aim, objective or cause or to bring about any social, ideological or economic change or in protest against any State, Government or any provincial, local or tribal authority or for the purpose of inspiring fear in the public or any section thereof;
  - (e) any attempt to perform any act referred to in clause (d) above;
  - (f) the act of any lawfully established authority in controlling, preventing, suppressing or in any way dealing with any occurrence referred to in clauses (a), (b), (c), (d) or (e) of this exception.

If the Insurers allege that by reason of clauses (a), (b), (c), (d), (e) or (f) of this exception loss or damage is not covered by this policy the burden of proving the contrary shall rest on the Insured.

9. This policy does not cover
  - (a) loss or destruction of or damage to any property whatsoever or any loss or expense whatsoever resulting therefrom or any consequential loss
  - (b) any legal liability of whatsoever nature
 

directly or indirectly caused by or contributed to by or arising from ionising radiations or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel. For the purpose of this exclusion only combustion shall include any self-sustaining process of nuclear fission. The indemnity provided by this policy shall not apply to nor include any loss, destruction, damage or legal liability directly or indirectly caused by or contributed to by or arising from nuclear weapons material.

10. **Special War and Terrorism Exclusion.**

Notwithstanding any provision to the contrary within this Insurance or any endorsement thereto it is agreed that this insurance excludes loss, damage, cost or expense of whatsoever nature directly or indirectly caused by, resulting from or in connection with

- (a) war, invasion, acts of foreign enemies, hostilities or warlike operations (whether war be declared or not), civil war, mutiny, Insurrection, rebellion, revolution, military or usurped power, or confiscation or nationalisation or requisition or destruction of or damage to property by or under the control of any Government or Public or Local Authority; or
- (b) directly or indirectly caused by, resulting from happening through or in connection with any act of terrorism regardless of any other cause contributing concurrently or in any other sequence to the loss.

For the purpose of this exclusion terrorism means an act of violence or any act dangerous to human life, tangible property or infrastructure with the intention or effect to influence any government or to put the public or any section of the public in fear.

In any action, suit or proceedings where the Insurers allege that by reason of this exclusion a loss is not covered by this insurance the burden of proving that such loss is covered shall be upon the Insured.

**11. Special Computer Loss General Exclusion**

Notwithstanding any provision of this policy including any special exclusion or extension or other provision not included herein which would otherwise override a general exclusion, this policy does not cover any legal liability of whatsoever nature directly or indirectly caused by or contributed to by or consisting of or arising from the incapacity or failure of any computer, correctly or at all

- (a) to treat any date as the correct date or true calendar date, or correctly or appropriately to recognise, manipulate, interpret, process, store, receive or to respond to any date or information, or to carry out any command or instruction, in regard to or in connection with any such date or
- (b) to capture, save, retain or process any information or code as a result of the operation of any command which has been programmed into any computer, being a command which causes the loss of data or the inability to capture, save, retain or correctly to process such data in regard to or in connection with any such date or
- (c) to capture, save, retain or to process any data as a result of the action of any computer virus, or other corrupting, harmful or otherwise unauthorised code or instruction including any trojan horse, time or logic bomb or worm or any other destructive code, media or programme or interference.

A computer includes any computer, data processing equipment, microchip, integrated circuit or similar device in computer or non-computer equipment or any computer software, tools, operating system or any computer hardware or peripherals and the information or data electronically or otherwise stored in or on any of the above, whether the property of the Insured or other person.

**rm**  
**routledgemodise**  
 attorneys est.1992

For the attention of Mr RYAN DE KLERK  
 BROOKS LUYT INC.  
[ryandeklerk@brooksluyt.co.za](mailto:ryandeklerk@brooksluyt.co.za)

Date 7 October 2013  
 Your ref R De Klerk/Dell Computers/IF Funds/D138  
 Our ref Hunter Thyne/Johann Basson/cdk/I33187  
 Direct dial (27 11) 523-6286  
 Direct fax 086-743-2729  
[huntert@rmlaw.co.za](mailto:huntert@rmlaw.co.za)

By e-mail

**CONFIDENTIALITY CAUTION**

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Dear Sirs

**LE GRELLIER GAIL & OTHERS / PFA COMPLAINT; LUKHAINÉ MA N.O. & THIRTY ONE OTHERS**

1. Previous correspondence herein refers.
2. We have been informed that our lead counsel is acting as a Judge in the South Gauteng High Court until 18 October 2013. Accordingly, we will be unable to finalise our client's replying affidavit by the due date of 9 October 2013.
3. In light of the above we would appreciate your kindly granting us an extension of time to file our clients' replying affidavit until 25 October 2013.
4. We await your response.

Yours faithfully

*Hunter Thyne*  
**HUNTER THYNE**  
**DIRECTOR**

**rm** *routledgemodise*  
attorneys

Copy to Deborah Di Stena [deborahd@rmlaw.co.za](mailto:deborahd@rmlaw.co.za)  
 Ahmed Mokdad [ahmedm@rmlaw.co.za](mailto:ahmedm@rmlaw.co.za)  
 Johann Basson [johannb@rmlaw.co.za](mailto:johannb@rmlaw.co.za)

Tel +27 11 286 6900  
 Fax +27 11 286 6901  
 DX 7 Sandton Square  
 DX 4 Johannesburg

22 Fredman Drive  
 Sandton, Johannesburg  
 P O Box 78333  
 Sandton City, 2146

**Routledge Modise Inc**  
 Registration Number 1992/006150/21  
 VAT Registration Number 4430134611  
[www.rmlaw.co.za](http://www.rmlaw.co.za)



ROUTLEDGE MODISE INCORPORATED DIRECTORS Lavery Modise (Chairman), Dave Adams, Jane Andropoulos, Wessel Badenhorst, Warren Beach, Brian Biebuyck, Keith Braatvedt, Tony Canny, Peiny Cheney, Sue Collier, Deborah Di Stena, Warren Druce, Alex Eddle, Hicliel Elz, Dean Francis, Haleshild Govender, Jaro Ghundling, Johan Jacobs, Ian Jacobsberg, Dimitra Kouralakis, Prince Mafjane, Darlela Hagelsson, Imran Mahomed, Lerato Monnagsoa, Sibona Morko, Esslin (le), Debbie Numbela, Dava Parnington, Candice Piny, Reshona Pillay, Gary Pritchard, Rajen Ranchorooze, Clive Rumsey, Hedda Schenseren, CRY Serobe, Arnold Shapiro, Errol Soudis, Murray Stewart, Selthephi Jehudi Thema, Hunter Thyne, Veronika Vargateer, Nikki Webb CONSULTANTS Hilton Cochran, Selwyn Cohen, Charles Marais, Maryann Muddleton, Doreen Rabin SENIOR ASSOCIATES Sashi Baker, Jean Erang, Ravle Govender, Michal Johnson, Wayne Josselson, Hlissa Labornir, Rene Makue, Themba Mlambele, Ayanda Nookwana, Janine Reddi, Hoyd Selomo ASSOCIATES Keneleka Bunde, Johann Basson, Sifiso Chuku, Thokozani Dlongolo, David Donaldson, Sakhosha Khanyile, Kelly Kramer, Phillip Lourens, Leisha Mahabeet, Hestem Mahomed, Thandi Majoko, Peggy Malele, Lesley Marazo, Tledi Marumo, Ndlethethala Mochale, Ahmed Mokdad, James Patel, Terriy Poppasou, Thabang Raputeng, Assia Seldunker, Deborah Sebota, Lerato Silekhane, Sibongile SibaKhana, Ashlen Steenkamp, Charles You, Oyce Wray CHIEF EXECUTIVE OFFICER Hay-Elaine Thomson\* CHIEF FINANCIAL OFFICER Paul Lubudagie\*

\*not attorney/not director

n:\hunter thyne\gail le grellier, david lepar & renier botha\I33187 - tony kamlonsky in re affirm marketing & others v lf funds\correspondence\2013 - letter to brooks luyt -ryan de klerk.docx

*Ches*



ATTORNEYS • NOTARIES • CONVEYANCERS

## BROOKS LUYT INC

Reg No. 2001/003608/21

VAT Reg No. 4230192462

Your Ref : Hunter Thyne/sp/33187  
 Our Ref : R de Klerk/Dell Computers/IF Funds/D138  
 Date : 8 October 2013

PHYSICAL ADDRESS  
 Building 20, Suite 301 C  
 The Waverley Business Park  
 Wyecroft Road  
 Mowbray  
 Cape Town, 7925

TELEPHONE NO  
 National (021) 447 5322  
 International (+27) 21 447 5322

POSTAL ADDRESS  
 P O Box 1400  
 Parklands  
 2121

FACSIMILE NO  
 National 086 549 1632  
 International (+27) 86 549 1632

ATTENTION:  
 Hunter Thyne

DOCEX  
 DX 226 Cape Town

EMAIL  
[ryandeklerk@brooksluyt.co.za](mailto:ryandeklerk@brooksluyt.co.za)

By email: [huntert@rmlaw.co.za](mailto:huntert@rmlaw.co.za)  
[deborahd@rmlaw.co.za](mailto:deborahd@rmlaw.co.za)  
[ahmedm@rmlaw.co.za](mailto:ahmedm@rmlaw.co.za)  
[lohannb@rmlaw.co.za](mailto:lohannb@rmlaw.co.za)

Dear Sirs,

**RE: LE GRELLIER GAIL & 3 OTHERS // LUKHAIMANE MA N.O. & THIRTY ONE OTHERS**

1. Your letter dated 7 October 2013 refers.
2. We note your request for an extension within which to file your clients replying affidavit, however, our client cannot agree to extend the time for filing your clients replying affidavit until 25 October 2013.
3. Our client is willing to grant you an indulgence to file your clients affidavit by no later than close of business on Monday, 21 October 2013.
4. We trust this is in order.

DIRECTORS: Guy Brooks & Co. LLB; Claudette Brodie-Smith & Co. LLB  
 ASSOCIATES: Adelo Adam Blyth LLB; Sonja Combout LLB; Ryan De Klerk BA LLB; Natasha Jardine BA LLB; Raquel Andrews LLB & BSc; Schak Raah LLB  
 HUMAN DEVELOPMENT MANAGER: Lynn Mayot BA HOE IUU  
 IT MANAGER: Hannes Becker (MSCO)  
 FINANCIAL MANAGER: Theresa Garcia

JOHANNESBURG HEAD OFFICE: 57 Hecresl Ave, Oeder Park, Braamfontein, Sandburg Tel: 011 543 9000 Fax: 011 543 9500; DX 18 Rosebank;



**BROOKS LUYT INC**  
Reg No. 2001/003800/21

ATTORNEYS • NOTARIES • CONVEYANCERS

---

Yours faithfully,



**R DE KLERK**  
**BROOKS & LUYT INC**

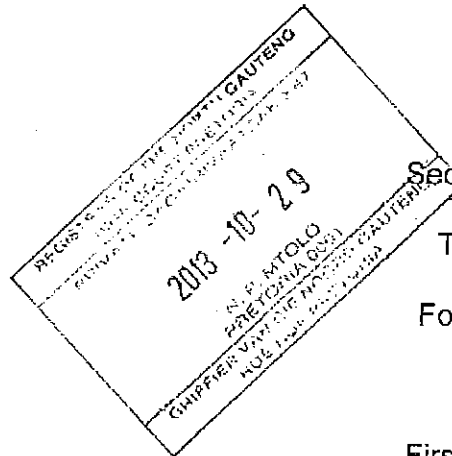
*Cher*

IN THE NORTH GAUTENG HIGH COURT, PRETORIA  
(REPUBLIC OF SOUTH AFRICA)

Case No: 49616/2013

In the matter between:

LE GRELLIER GAIL	First Applicant
BOTHA RENIER	Second Applicant
LEPAR DAVID	Third Applicant
SMITH CAREL	Fourth Applicant
and	
LUKHIMANE M.A. N.O.	First Respondent
AFFIRM MARKETING SERVICES (PTY) LIMITED	Second Respondent
BEEFMASTER (PTY) LIMITED	Third Respondent
H BIRKENMEYER (PTY) LIMITED	Fourth Respondent
DR GEBKA, HELLIG & KLUG INC.	Fifth Respondent
DR RITZ INC.	Sixth Respondent
ETERNAL FLAME INVESTMENTS (PTY) LIMITED	Seventh Respondent
EXPECTRA 89 (PTY) LIMITED	Eighth Respondent
HESTICO (PTY) LIMITED	Ninth Respondent
HETTAS CC	Tenth Respondent
CONVISTA CONSULTING (PTY) LIMITED	Eleventh Respondent
IDI TECHNOLOGY SOLUTIONS (PTY) LIMITED	Twelfth Respondent
PROGRESSIVE PACKAGING (PTY) LIMITED	Thirteenth Respondent
WORLD CARGO SERVICES (PTY) LIMITED	Fourteenth Respondent
CONDUIT RISK AND INSURANCE HOLDINGS (PTY) LIMITED	Fifteenth Respondent



DELL COMPUTER (PTY) LIMITED	Sixteenth Respondent
THE BRAND UNION (PTY) LIMITED	Seventeenth Respondent
ULTRA LITHO (PTY) LIMITED	Eighteenth Respondent
NEWSCLIP MEDIA MONITORING (PTY) LIMITED	Nineteenth Respondent
MIXTEC CC	Twentieth Respondent
PETROMARK (PTY) LIMITED	Twenty-First Respondent
DEHTEQ (PTY) LIMITED	Twenty-Second Respondent
WAVELENGTHS 32 (PTY) LIMITED t/a INSALO COMMUNICATIONS	Twenty-Third Respondent
PANORAMIC COMPONENTS (PTY) LIMITED	Twenty-Fourth Respondent
CHICKEN MANAGEMENT SERVICES (PTY) LIMITED	Twenty-Fifth Respondent
HANSEN TRANSMISSIONS (PTY) LIMITED	Twenty-Sixth Respondent
ENABLEMED (PTY) LIMITED	Twenty-Seventh Respondent
PRIMESERV GROUP LIMITED	Twenty-Eight Respondent
THE CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS	Twenty-Ninth Respondent
JOHANNESBURG CHILD WELFARE SOCIETY	Thirtieth Respondent
THE EMPLOYEES OF THE SECOND TO THIRTIETH 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

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## FILING NOTICE

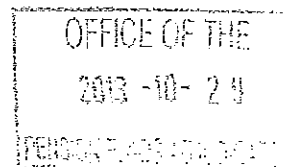
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DOCUMENT FILED: REPLY AFFIDAVIT TO THE FUNDS' AFFIDAVIT DATED  
20 SEPTEMBER 2013

FILED BY: ROUTLEDGE MODISE INC.  
ATTORNEYS FOR THE APPLICANTS ( MAIN APPLICATION)  
TEL: 011 523 6286  
FAX: 086 743 2729  
EMAIL: [hunter@rmlaw.co.za](mailto:hunter@rmlaw.co.za)  
REF: I33213/MR THYNE/MS DI SIENA  
C/O JACOBSON & LEVY INC  
215 ORIENT STREET  
ARCADIA  
PRETORIA  
TEL: 012 342 3311  
FAX: 012 342 3313  
E-MAIL: [dene@jllaw.co.za](mailto:dene@jllaw.co.za)  
REF: J LEVY /DB/ L11752

TO: THE REGISTRAR OF THIS  
HONOURABLE COURT  
PRETORIA

AND TO: M A LUKHIMANE N.O.  
THE FIRST RESPONDENT  
PENSION FUNDS ADJUDICATOR  
4<sup>TH</sup> FLOOR  
RIVERWALK OFFICE PARK  
BLOCK A,  
41 MATROOSBERG ROAD  
ASHLEA GARDENS  
PRETORIA



AND TO: **DUNSTER & ASSOCIATES**  
 c/o **SAVAGE JOOSTE & ADAMS**  
**ATTORNEYS FOR 32<sup>ND</sup> & 33<sup>RD</sup> RESPONDENTS**  
 141 BOSHOF STREET  
 NIEUW MUCKLENEUK  
 PRETORIA

**SAVAGE JOOSTE & ADAMS**  
 Accepted without Prejudice  
 Ontvang sonder benadeling van regte  
 2013 -10- 29  
*[Signature]*

AND TO: **BROOKS & LUYT INC**  
**ATTORNEYS FOR 16<sup>th</sup> RESPONDENT**  
**C/O NEWTONS INC**  
 2<sup>ND</sup> FLOOR (LOBBY 3) BROOKLYN FORUM BUILDING  
 337 VEALE STREET  
 BROOKLYN  
 PRETORIA  
 REF: I BREDEKAMP / B&L

**NEWTONS Incorporated**  
 2013 -10- 29  
 Received copy hereof  
 without prejudice

*[Handwritten signature]*

AND TO: **THE SECOND 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 THIRTY-FIRST RESPONDENTS**  
 3A SIR GEORGE GREY STREET  
 ORANJEZICHT  
 8001

BY REGISTERED MAIL

IN THE NORTH GAUTENG HIGH COURT, PRETORIA

(REPUBLIC OF SOUTH AFRICA)

In the matter between:

CASE NO: 49616/2013

LE GRELLIER GAIL	First Applicant
BOTHA RENIER	Second Applicant
LEPAR DAVID	Third Applicant
SMITH CAREL	Fourth Applicant
and	
LUKHIMANE M.A. N.O.	First Respondent
AFFIRM MARKETING SERVICES (PTY) LIMITED	Second Respondent
BEEFMASTER (PTY) LIMITED	Third Respondent
H BIRKENMEYER (PTY) LIMITED	Fourth Respondent
DR GEBKA, HELLIG & KLUG INC.	Fifth Respondent
DR RITZ INC.	Sixth Respondent
ETERNAL FLAME INVESTMENTS (PTY) LIMITED	Seventh Respondent
EXPECTRA 89 (PTY) LIMITED	Eighth Respondent
HESTICO (PTY) LIMITED	Ninth Respondent
HETTAS CC	Tenth Respondent
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DELL COMPUTER (PTY) LIMITED	Sixteenth Respondent
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NEWSCLIP MEDIA MONITORING (PTY) LIMITED	Nineteenth Respondent
MIXTEC CC.	Twentieth Respondent
PETROMARK (PTY) LIMITED	Twenty-First Respondent
DEHTEQ (PTY) LIMITED	Twenty-Second Respondent
WAVELENGTHS 32 (PTY) LIMITED t/a INSALO COMMUNICATIONS.	Twenty-Third Respondent
PANORAMIC COMPONENTS (PTY) LIMITED	Twenty-Fourth Respondent
CHICKEN MANAGEMENT SERVICES (PTY) LIMITED	Twenty-Fifth Respondent
HANSEN TRANSMISSIONS (PTY) LIMITED	Twenty-Sixth Respondent
ENABLEMED (PTY) LIMITED	Twenty-Seventh Respondent
PRIMESERV GROUP LIMITED	Twenty-Eight Respondent
THE CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS	Twenty-Ninth Respondent
JOHANNESBURG CHILD WELFARE SOCIETY	Thirtieth Respondent
THE EMPLOYEES OF THE SECOND TO THIRTIETH 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

---

REPLYING AFFIDAVIT TO THE FUNDS' AFFIDAVIT DATED 20 SEPTEMBER 2013

---

*Chels*

I, the undersigned

GAIL DENISE LE GRELLIER

do hereby make oath as follows:

1. I am the deponent to the applicants' founding affidavit and remain duly authorised to depose to this affidavit on behalf of the second to fourth applicants.
2. The facts contained herein fall within my personal knowledge, unless the context indicates otherwise, and are to the best of my belief both true and correct.
3. Legal conclusions arrived at herein are on the advice of the applicants' legal representatives, which I accept as correct.
4. I have read the affidavit deposed to by Mr Francisco Khoza, on behalf of the 32<sup>nd</sup> and 33<sup>rd</sup> respondents ("the Funds") and I am in agreement that the 1<sup>st</sup> respondent's ("the Adjudicator") second determination is erroneous for the further reasons advanced by Khoza. I also note that the Funds have elected to abide by this honourable Court's decision. I do however take issue with the Funds' suggestions that the most appropriate order would be for this matter to be remitted back to the Adjudicator, either with directions and/or for the hearing of oral evidence. The reasons therefor appear below.
5. Firstly, the only reason why the applicants sought, in the alternative, that the matter be remitted to the Adjudicator for the hearing of oral evidence was to cater for the possibility that irresolvable disputes of fact, which could not be determined on the papers, may have arisen after the respondents had delivered their answering affidavits. It is, however, clear from both the Funds' affidavit and the 16<sup>th</sup>

 *Wes*

respondent's ("Dell") affidavit that no such factual disputes exist. In fact in paragraph 6.7 of Dell's answering affidavit, Van Wyk expressly admits the contents of the minutes and correspondence attached to my founding affidavit marked GL6 to GL25.

6. Furthermore, having regard to my founding affidavit and the annexures thereto, there is sufficient evidence before this honourable Court to dismiss the complaint and the supplementary complaint, at least insofar as they relate to the applicants.

7. Secondly, the Funds' reasons in support of their contention that the matter be remitted to the Adjudicator are without merit. In essence, the Funds wish for the matter to be remitted to the Adjudicator so that a full investigation can be done to ascertain who presided on the Funds' boards of trustees when the maladministration occurred and who may have been responsible for the maladministration.

8. Such an approach is misconceived insofar as the applicants are concerned. I say so for the following reasons:

8.1. it is common cause that the third and fourth applicants were only appointed as trustees in July 2008. They were therefore not trustees over the period relating to the rebuild exercise (i.e. 1 January 2004 to 31 January 2008) and can thus never be held liable for what was or was not done over that period. There can accordingly be no reason why they have to continue to endure a further remission to the Adjudicator and further unnecessary investigations into other trustees;

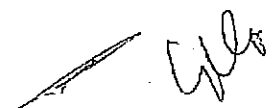
8.2. insofar as the second applicant and I are concerned, we have attached the minutes of all the trustees meetings that were held over the relevant

period to our founding affidavit. Those minutes speak for themselves and, with respect, show that we did not abdicate our responsibilities but diligently sought to exercise oversight over Dynamique as best as we could in the circumstances;

8.3. this honourable Court is therefore in as good, if not a better, position than the Adjudicator to have regard to the papers before it and to determine once and for all whether or not the second applicant and I were negligent, let alone grossly negligent, dishonest or fraudulent as required by the Funds' Rules;

8.4. if this honourable Court were to find that we were not grossly negligent, dishonest, fraudulent or, to the extent that the Funds' Rules can be ignored (which is denied), negligent, then that should be the end of the matter and the complaint and supplementary complaint, at least insofar as they relate to the applicants, ought to be dismissed;

8.5. if the Funds and/or Dell wish to pursue any complaints against the remaining trustees who presided over the period 1 January 2004 to 31 January 2008 then they are at liberty to do so. That, however, has nothing to do with the present application and is not something which ought to be taken into consideration for purposes of the relief sought by the applicants. It would be unfair and inconvenient if the applicants were to be drawn into this further dispute at this stage, bearing in mind that the original complaint against us was lodged almost two and a half years ago on 3 May 2011, and continues to loom over us like a dark cloud, causing us severe prejudice in a very close knit industry.



9. Thirdly, it would be undesirable for the matter to be remitted to the Adjudicator for a third time in circumstances where she has already found, albeit incorrectly, in favour of the complainants on two previous occasions. To the extent that this honourable Court may be inclined to order that oral evidence be heard then I would respectfully state that such referral should be to a Judge of this Court and not the Adjudicator.
10. Fourthly, the Adjudicator has seen fit to hold the applicants liable in our personal capacities. The costs of having to defend our names and reputations and to resist the complaints have had to be borne by us personally. Those costs are substantial and it would be unfair, I submit, for us to have to incur additional costs by having the matter remitted to the Adjudicator in circumstances when it can be disposed of at this hearing.
11. Any allegation in the Funds' affidavit that is inconsistent with what is stated in the founding affidavit and in this affidavit is denied.

WHEREFORE the applicants persist with their application.



GAIL DENISE LE GRELLIER

I HEREBY CERTIFY THAT THE DEPONENT HAS ACKNOWLEDGED THAT SHE KNOWS AND UNDERSTANDS THE CONTENTS OF THIS AFFIDAVIT, WHICH WAS SIGNED AND SWORN TO BEFORE ME AT Sandton ON THIS THE 28 DAY OF OCTOBER 2013, THE REGULATIONS CONTAINED IN GOVERNMENT NOTICE NO 3619 OF 21 JULY 1972 AND NO 1648 OF 19 AUGUST 1977 HAVING BEEN COMPLIED WITH.



COMMISSIONER OF OATHS

PATRICIA FREDA BLAAUW  
 Commissioner of Oaths  
 Reference 10717/10 Randburg 05/07/2010  
 22 Fredman Drive  
 Sandton

IN THE NORTH GAUTENG HIGH COURT, PRETORIA  
[REPUBLIC OF SOUTH AFRICA]

Case No: 49616/13

In the matter between:-

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

and

LUKHIMANE M.A. N.O.	First Respondent
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HESTICO (PTY) LIMITED	Ninth Respondent
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CONVISTA CONSULTING (PTY) LIMITED	Eleventh Respondent
IDI TECHNOLOGY SOLUTIONS (PTY) LIMITED	Twelfth Respondent
PROGRESSIVE PACKAGING (PTY) LIMITED	Thirteenth Respondent



WORLD CARGO SERVICES (PTY) LIMITED	Fourteenth Respondent
CONDUIT RISK AND INSURANCE HOLDINGS (PTY) LIMITED	Fifteenth Respondent
DELL COMPUTERS (PTY) LIMITED	Sixteenth Respondent
THE BRAND UNION (PTY) LIMITED	Seventeenth Respondent
ULTRA LITHO (PTY) LIMITED	Eighteenth Respondent
NEWSCLIP MEDIA MONITORING (PTY) LIMITED	Nineteenth Respondent
MIXTEC CC	Twentieth Respondent
PETROMARK (PTY) LIMITED	Twenty-First Respondent
DEHTEQ (PTY) LIMITED	Twenty-Second Respondent
WAVELENGTHS 32 (PTY) LIMITED t/a INSALO COMMUNICATIONS	Twenty-Third Respondent
PANORAMIC COMPONENTS (PTY) LIMITED	Twenty-Fourth Respondent
CHICKEN MANAGEMENT SERVICES (PTY) LIMITED	Twenty-Fifth Respondent
HANSEN TRANSMISSIONS (PTY) LIMITED	Twenty-Sixth Respondent
ENABLEMED (PTY) LIMITED	Twenty-Seventh Respondent
PRIMESERV GROUP LIMITED	Twenty-Eight Respondent
THE CHURCH OF JESUS CHRIST OF THE LATTER-DAY SAINTS	Twenty-Ninth Respondent
JOHANNESBURG CHILD WELFARE SOCIETY	Thirtieth Respondent
THE EMPLOYEES OF THE SECOND TO THIRTIETH 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

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**FILING NOTICE**

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**DOCUMENT FILED HEREWITH:** Supplementary Affidavit of Francisco Jabulane  
Khoza on behalf of 32<sup>nd</sup> & 33<sup>rd</sup> Respondents.

SIGNED AND DATED AT CAPE TOWN ON THIS THE 30<sup>th</sup> DAY OF OCTOBER 2013.



---

**DUNSTER & ASSOCIATES**  
R DUNSTER  
Attorneys for 32<sup>nd</sup> & 33<sup>rd</sup> Respondents  
Ref: DYN1-0005  
C/O: **SAVAGE JOOSTE & ADAMS**  
**ATTORNEYS**  
142 Boshof Street  
Brooklyn  
PRETORIA  
Ref: Mrs Kartoudes/ 757 > 8

**TO: THE REGISTRAR**  
High Court  
PRETORIA

TO: **ROUTLEDGE MODISE ATTORNEYS**

Attorneys for the Applicants  
22 Fredman Drive  
SANDTON

By e-mail: [hunter@rmlaw.co.za](mailto:hunter@rmlaw.co.za)  
Ref:1133213/Mr Thyne/Ms Di Siena

C/O **JACONS & LEVY**

215 Orient Street  
Arcadia  
Pretoria  
J Levy/DB/L11752

**JACOBSON & LEVY INC**

RECEIVED WITHOUT PREJUDICE  
ONTVANG SONDER BENADELING

DATE: 31. 10. 2013

TIME: 08:44

AND TO: **M A LUKHIMANE N.O.**  
The First Respondent  
Pension Funds Adjudicator  
4<sup>th</sup> Floor  
Riverwalk Office Park  
Block A  
41 Matroosberg Road  
Ashlea Gardens  
Pretoria

AND TO: **BROOKS & LUYT INC.**  
Attorneys for 16<sup>th</sup> Respondent  
By e-mail: [ryandeklerk@brooksluyt.co.za](mailto:ryandeklerk@brooksluyt.co.za)

AND TO: **CHARTERED EMPLOYEE BENEFITS**  
For 19<sup>th</sup> to 26<sup>th</sup>, 29<sup>th</sup> & 30<sup>th</sup> Respondents  
By E-mail: [trevor@charteredeb.co.za](mailto:trevor@charteredeb.co.za)

AND TO: **SAINT ANDREWS BROKERS**  
For 31<sup>st</sup> Respondent  
By E-mail: [ericj@saintandrews.co.za](mailto:ericj@saintandrews.co.za)

AND TO: **HERITAGE GROUP**  
For 2<sup>nd</sup> to 10<sup>th</sup>, 27<sup>th</sup>, 28<sup>th</sup> & 31<sup>st</sup> Respondents  
By e-mail: [anthonyc@heritagegroup.co.za](mailto:anthonyc@heritagegroup.co.za)

AND TO: **CONVISTA CONSULTING (PTY) LTD**  
11<sup>th</sup> Respondent  
By e-mail: [Sheryl.cooke@convista.com](mailto:Sheryl.cooke@convista.com)

- AND TO: **IDI TECHNOLOGY SOLUTIONS (PTY) LTD**  
12<sup>th</sup> Respondent  
By e-mail: [gblunn@idi.co.za](mailto:gblunn@idi.co.za)
- AND TO: **PROGRESSIVE PACKAGING (PTY) LTD**  
13<sup>th</sup> Respondent  
By E-mail: [Sonia@hixnet.co.za](mailto:Sonia@hixnet.co.za)
- AND TO: **WORLD CARGO SERVICES (PTY) LTD**  
14<sup>th</sup> Respondent  
By E-mail: [colin@worldcargo.co.za](mailto:colin@worldcargo.co.za)
- AND TO: **CONDUIT RISK AND INSURANCE HOLDINGS (PTY) LTD**  
15<sup>th</sup> Respondent  
By E-mail: [gavint@conduitcapital.co.za](mailto:gavint@conduitcapital.co.za)
- AND TO: **THE BRAND UNION (PTY) LTD**  
17<sup>th</sup> Respondent  
By E-mail: [Manuela.fachin@thebrandunion.com](mailto:Manuela.fachin@thebrandunion.com)
- AND TO: **ULTRA LITHO (PTY) LTD**  
18<sup>th</sup> Respondent  
By E-mail: [vaughann@ultra-litho.co.za](mailto:vaughann@ultra-litho.co.za)

**Bridget Ellender | Dunster & Associates**

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**From:** Bridget Ellender | Dunster & Associates <bridget@dunster.co.za>  
**Sent:** 30 October 2013 10:58 AM  
**To:** huntert@rmlaw.co.za; ryandeklerk@brooksluyt.co.za; trevor@charteredebe.co.za;  
ericj@saintandrews.co.za; anthonyc@heritagegroup.co.za;  
sheryl.cooke@convista.com; gblunn@idi.co.za; sonia@hixnet.co.za;  
colin@worldcargo.co.za; gavint@conduitcapital.co.za;  
'manuela.fachin@thebrandunion.com'; 'vaughann@ultra-litho.co.za'  
**Cc:** ren@dunster.co.za  
**Subject:** LE GRELLIER & 3 OTHERS / LUKHIMANE M.A. N.O. & 32 OTHERS [CASE NO.  
49616/13]  
**Attachments:** doc20131030095732007973.pdf; FILING NOTICE 30.10.13.pdf

Dear Sirs,

Kindly find a filing notice and supplementary affidavit filed on behalf of 32<sup>nd</sup> and 33<sup>rd</sup> Respondents for your records.

Kindly acknowledge receipt of this e-mail.

Kind regards

IN THE NORTH GAUTENG HIGH COURT, PRETORIA  
[REPUBLIC OF SOUTH AFRICA]


Case No: 49616/13

In the matter between:-

LE GRELLIER GAIL	First Applicant
BOTHA REINIER	Second Applicant
LEPAR DAVID	Third Applicant
SMITH CAREL	Fourth Applicant
and	
LUKHIMANE M.A. N.O.	First Respondent
AFFIRM MARKETING SERVICES (PTY) LIMITED	Second Respondent
BEEFMASTER (PTY) LIMITED	Third Respondent
H BIRKENMEYER (PTY) LIMITED	Fourth Respondent
DR GEBKA, HELBIG & KLUG INC.	Fifth Respondent
DR RITZ INC.	Sixth Respondent
ETERNAL FLAME INVESTMENTS (PTY) LIMITED	Seventh Respondent
EXPECTRA 89 (PTY) LIMITED	Eight Respondent
HESTICO (PTY) LIMITED	Ninth Respondent
HETTAS CC	Tenth Respondent
CONVISTA CONSULTING (PTY) LIMITED	Eleventh Respondent
IDI TECHNOLOGY SOLUTIONS (PTY) LIMITED	Twelfth Respondent

7 P. APC

PROGRESSIVE PACKAGING (PTY) LIMITED	Thirteenth Respondent
WORLD CARGO SERVICES (PTY) LIMITED	Fourteenth Respondent
CONDUIT RISK AND INSURANCE HOLDINGS (PTY) LIMITED	Fifteenth Respondent
DELL COMPUTERS (PTY) LIMITED	Sixteenth Respondent
THE BRAND UNION (PTY) LIMITED	Seventeenth Respondent
ULTRA LITHO (PTY) LIMITED	Eighteenth Respondent
NEWSCLIP MEDIA MONITORING (PTY) LIMITED	Nineteenth Respondent
MIXTEC CC	Twentieth Respondent
PETROMARK (PTY) LIMITED	Twenty-First Respondent
DEHTEQ (PTY) LIMITED	Twenty-Second Respondent
WAVELENGTHS 32 (PTY) LIMITED t/a INSALO COMMUNICATIONS	Twenty-Third Respondent
PANORAMIC COMPONENTS (PTY) LIMITED	Twenty-Fourth Respondent
CHICKEN MANAGEMENT SERVICES (PTY) LIMITED	Twenty-Fifth Respondent
HANSEN TRANSMISSIONS (PTY) LIMITED	Twenty-Sixth Respondent
ENABLEMED (PTY) LIMITED	Twenty-Seventh Respondent
PRIMESERV GROUP LIMITED	Twenty-Eight Respondent
THE CHURCH OF JESUS CHRIST OF THE LATTER-DAY SAINTS	Twenty-Ninth Respondent
JOHANNESBURG CHILD WELFARE SOCIETY	Thirtieth Respondent
THE EMPLOYEES OF THE SECOND TO THIRTIETH RESPONDENTS WHO ARE MEMBERS OF THE IF UMBRELLA PROVIDENT FUND AND THE IF UMBRELLA PENSION FUND	Thirty-First Respondent

~i.P  


IF UMBRELLA PROVIDENT FUND

Thirty-Second  
Respondent

IF UMBRELLA PENSION FUND

Thirty-Third  
Respondent

32<sup>ND</sup> AND 33<sup>RD</sup> RESPONDENT'S SUPPLEMENTARY AFFIDAVIT

I, the undersigned,

FRANCISCO JABULANE KHOZA

do hereby make oath and state that:

1. I am an adult male and a member of the board of trustees of the thirty-second and thirty-third respondents, referred to collectively as the "the Funds".
2. I am duly authorised to depose to this affidavit on behalf of the Funds.
3. The contents of this affidavit are, unless the context indicates otherwise, within my personal knowledge and belief, and are true and correct. To the extent that I may depose to facts which are not within my personal knowledge, I have indicated the source of my information, and I state that I believe such facts to be true and correct. To the extent that I may make submissions of a legal nature in this affidavit, I do so

F.P.  
04/4

on the advice of the Funds' legal representatives, which advice I believe to be correct.

**Purpose of this affidavit**

4. I depose to this affidavit to place the correct facts on record in relation to a narrow issue raised in paragraphs 23 and 30.7 of the answering affidavit of the 16<sup>th</sup> Respondent, viz: the Funds' indemnity insurance cover. If necessary, application will be made at the hearing of this matter for leave to file this supplementary affidavit based on the circumstances set out hereunder. To this end, this affidavit will be accompanied by a formal notice of motion seeking the appropriate relief.

5. In paragraph 23 of its answering affidavit the 16<sup>th</sup> Respondent states "*it subsequently transpired that the insurance premiums for the professional indemnity insurance cover for the trustees and the funds had not been paid, and so the insurer repudiated the claims. That was another instance of gross maladministration. The effect thereof is that the trustees must make good the members' loss themselves, and then look to any third parties who in their view may also have been liable for full or partial redress*".

6. The above remark appears to be based upon a statement made in paragraph 28 of the response to the complaint by Tony Kamionsky dated 29 April 2013, annexure GL34 to the founding affidavit, where

T.P.  
DTR